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MEMORANDUM

8/2/16 CC
Mtg.
Agenda Item
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TO: Sunfish Lake Mayor and City Council
Sunfish Lake Planning Commission

FROM: Ryan Gritman

RE: Sunfish Lake – Temporary Family Health Care Facilities

DATE: July 12, 2016

FILE NO: 211.02

BACKGROUND

This spring, the Legislature passed, and the Governor signed, a law purporting to require municipalities to allow “temporary family health care dwellings” under MN Statutes Section 462.3593. The new law defines these dwellings, requires their accommodation, but includes an “opt-out” provision that permits the municipality to exempt themselves from the provisions.

ISSUES ANALYSIS

Intent of the New Law. The statute itself was developed and put forward by a New Brighton firm that builds these units, called “Next Door Housing”. The statute is specific about applying in cases where a municipality has ordinances that would otherwise prohibit the use through a reference to its accessory use provisions or recreational vehicle regulations.

Components of the Statute. The new law includes the following aspects:

- Definitions of caregiver, person needing care, and “relative” providing care.
- Specifies that the subject of the statute is a “mobile” residential dwelling.
- Specifies that the unit must be built off-site.
- Specifies that the unit is no more than 300 square feet, and has no permanent foundation.
- That the unit is “universally” designed and meets accessibility standards.
- That the unit access plumbing and electrical through the principal home, or “other comparable means”.

- That the unit uses exterior materials compatible to “standard residential construction” and has an energy rating of R-15.
- Is sized to be movable with a one-ton pickup truck.
- Provides that such units will be permitted uses.
- Provides for an application and permitting process, including notice to “adjacent” property owners (no public hearing is required).
- Provides that the unit must meet setbacks and floor area ratio requirements.
- Provides that the unit is occupied by only one person.
- Specifies that a lot can only have one unit.
- Provides for one six-month permit term, and one additional six-month term, after which, the permit expires and the unit is to be removed.
- Provides for municipal inspection and a revocation process.
- Provides for a maximum \$100 fee for the initial permit, and \$50 fee for the additional term extension.
- Incorporates MN Stat Section 15.99 for permit review.
- Provides for the opt-out ordinance as noted below.

Opt-out Provision. The new statute, as a part of MN Statutes 462 is incorporated into the municipal planning and zoning regulations, and will become effective on September 1, 2016. The municipality will have to opt out of the regulation prior to that date to avoid its effect. Because this is a zoning regulation, any opt-out will need to be processed as an amendment to the Zoning Ordinance, requiring the typical hearing and ordinance adoption. The only opt-out is an explicit opt-out.

Accessory Dwelling Units Generally. The issue of accessory dwelling units for the purpose of providing living space for family members needing care has been widely discussed. The context for most of these discussions has been for attached units that constitute some form of second dwelling on single family parcels. There are various arguments, pro and con, for these units.

Issues Under the New Law. Apart from the issues raised by accessory dwellings, the temporary family health care dwelling addresses a separate aspect of this issue – mobile, detached “trailer” units that are hauled to the subject residential property, installed with connections to the electrical and plumbing services from the main house, and then detached and removed, theoretically, when their use is no longer needed.

Interestingly, the statute provides for a single six-month period of installation, and the option for one additional six-month period. The statute also provides for an extensive process of permitting and locational regulations that would supersede a community’s normal review process. It is not clear how the statute might apply to somebody who wishes to apply for a third six-month period – it would appear that the statute prohibits that extension.

Issues with Sunfish Lake Design Guidelines. The mobile health care units do not meet the City of Sunfish Lake’s Design Guidelines. The siding on the units appears to be vinyl, and are unlikely to match existing structures and surroundings.

Issues with Sunfish Lake Zoning. The State statute does not specify that these units are only allowed in residential districts. A unit could be placed in the Institutional District based on the loose rules put forth by the State statute.

In regards to setbacks, the State statute requires that these units meet the setbacks of the principal structure. In Sunfish Lake, this may prove difficult on many lots where the principal home is already occupying the only buildable space. If the City wishes to adopt its own ordinance, a setback requirement will be necessary.

Issues with Sunfish Lake Infrastructure. The units come with an optional gray water filter and discharge system that is used as an irrigation system. On many lots in the City, this could cause runoff into the lakes and wetlands. If the City were to consider allowing temporary health care units, an ordinance that would restrict or disallow a gray water discharge system would be necessary.

Some of the units that this company offers can be connected to an existing septic system. However, if the existing septic system on the lot is already at capacity, taking on an additional unit could overwhelm the system. Generally, the units would need to have their own septic tank similar to that of a recreational vehicle. Again, if the City were to consider allowing temporary health care units, an ordinance that would restrict or disallow connecting to an existing septic system would be necessary.

The water and electric connections in these units connect to the main home. The electricity is powered by a 50-amp connection that is mounted to the house prior to the placement of the unit.

SUMMARY AND ALTERNATIVES

1. The City may choose to do nothing, and allow the statute to go into effect. In this case, all of the details of the law, including size, location, construction, delivery, timing, and process would be regulated by the statute.
2. The City may decide that it wishes to allow temporary family health care dwellings, but prefer ordinance details more tuned to its specific requirements and zoning objectives. Examples of alternatives preferred by the City might include:
 - a. Limiting the allowed locations of these units.
 - b. Size or material requirements.
 - c. Screening requirements.
 - d. Septic requirements, and gray water discharge requirements.
 - e. The use of interim use permits or conditional use permits.
 - f. Alternative notice requirements.
 - g. Removal of the unit after services are completed.

In such a case, the City should take action to adopt an ordinance opting-out of the statute, and proceed to adopt its own regulations. It will be important that the City opt-out of the State law, or the statute may have the effect of pre-empting the preferred alternative.

3. The City may decide that only attached accessory units are suitable in their community. Again, the City will need to take specific action to adopt an opt-out ordinance to avoid the effect of MN Statutes 462.3953 prior to September 1, 2016.
4. The City may decide that it does not favor accessory units. Instead, families which are considering providing health care to their family members can do so within the confines of a single family home.

c: Cathy Iago, City Clerk
Mike Andrejka, City Building Official
Don Sterna/Eric Eckman, City Engineers
Ron Wasmund, Septic Inspector
Jim Naves, City Forester
Timothy Kuntz, City Attorney
John Maczko, Fire Chief





**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

ORDINANCE NO. 2016-_____

**AN ORDINANCE OPTING-OUT OF THE REQUIREMENTS OF
MINNESOTA STATUTES, SECTION 462.3593**

THE CITY COUNCIL OF SUNFISH LAKE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 1217.05 of the Sunfish Lake Zoning Code is hereby added to read as follows:

SECTION 1217.05 OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593:

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Sunfish Lake opts-out of the requirements of Minnesota Statutes §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

Section 2. This Ordinance shall be in full force and effective from and after its passage and publication according to law.

ADOPTED this _____ day of _____, 2016 by the City Council of Sunfish Lake.

Molly Park, Mayor

ATTEST:

Catherine Iago, City Clerk

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 16-__

**A RESOLUTION AMENDING THE CITY OF SUNFISH LAKE
ZONING ORDINANCE SECTION 1217 TO OPT OUT OF
STATE STATUTE 462.3593**

WHEREAS, City Staff has reviewed State Statute 462.3593 and prepared a planning memo dated July 12, 2016; and

WHEREAS, the Planning Commission for the City of Sunfish Lake held a public hearing on July 20, 2016 at the regularly scheduled Planning Commission meeting; and

WHEREAS, upon considering the Zoning Ordinance amendment, the July 12, 2016 planning memo, and public testimony, the Planning Commission closed the public hearing and recommended that the City Council approve the Zoning Ordinance amendment on a vote of 5 to 0; and

WHEREAS, the City Council for the City of Sunfish Lake met on August 2, 2016; to consider amending the City of Sunfish Lake Zoning Ordinance Section 1217.05; and

WHEREAS, the City Council for the City of Sunfish Lake has received a draft ordinance; staff review documents; the Planning Commission recommendation; and agrees with the findings and recommendation of the Planning Commission and the July 12, 2016 planning memo; and

WHEREAS, the City Council voted __-__ to approve the Zoning Ordinance amendment at the regularly scheduled City Council Meeting on August 2, 2016

NOW, THEREFORE, be it resolved that the City Council of the City of Sunfish Lake does hereby approve the City of Sunfish Lake Zoning Ordinance amendment Section 1217.05.

Passed this 2nd day of August, 2016.

Molly Park, Mayor

ATTEST:

Catherine Iago, City Clerk