

City Council Meeting Date: August 16, 2016

To: Mayor and City Council
City Administrator

From: Scott Tempel, City Planner
Chris Heineman, Community Planning and Development Director

..TITLE

Opt Out of Temporary Health Care Dwellings Legislation Ordinance

..BODY

Action Requested:

Staff recommends approval of the second reading of an ordinance opting out of the requirements of Minnesota Statute, Section 462.3593.

Summary Report:

On May 12, 2016, Governor Dayton signed into law a bill passed during the 2016 legislative session requiring cities to allow temporary family health care dwellings, unless a municipality passes an ordinance before September 1, 2016 opting out of this statute. A temporary health care dwelling would be occupied by a mentally or physically impaired person on a residential lot that is owned and/or occupied by a relative or caregiver of the mentally or physically impaired person occupying the temporary family health care dwelling.

This legislation requires cities to allow temporary family health care dwellings for anyone needing assistance with two or more “instrumental activities of daily life.” These temporary dwellings can be up to 300 square feet in size, not attached to a permanent foundation, and are allowed to be located on a residential lot subject to the setback requirements for the principal building. The caregiver or relative must apply for a “temporary dwelling permit”, with an application fee of up to \$100. The application must include the following:

- Proof of the provider network from which the mentally or physically impaired person may receive care.
- Written certification that the mentally or physically impaired person requires assistance with two or more daily living activities signed by a physician, physician assistant or an advanced practice RN licensed to practice in Minnesota.
- Sanitary sewer and municipal water service standards and maintenance.
- Affidavit that applicant has provided notice to adjacent property owners and residents.

The temporary dwelling permit is valid for up to six months and may be renewed only one time for an additional six months (with a maximum \$50 renewal fee). The City is only allowed up to 15 days to approve or deny a temporary dwelling permit. Northfield does not currently have a temporary dwelling permit, and would need to create a temporary dwelling permit application and amend the fee schedule in order to comply with this legislation.

City staff members from various departments met to discuss this issue on June 28th and noted the following concerns regarding compliance with the Temporary Health Care Dwellings statute:

- The amount of planning and building inspections staff time required associated with reviewing and monitoring temporary family health care dwellings.
- The short timeframe of only 15 days to review and approve (or deny) the temporary dwelling permit application.
- The legislation does not require a survey to ensure setback requirements will be met. Most single family homes do not have adequate side yard setbacks to access the rear yard with one of these units. This means most will be located in the driveway. Since there are no setback requirements set for these units, it is likely that these units will be placed within the 20-30 foot minimum setback.
- There are no building design standards. Any recreational vehicle could become a Temporary Health Care Dwelling unit if it meets the requirements of the law.
- A public hearing is not required to gain neighboring property owner input. In fact, with only 15 days to process the temporary dwelling permit application, there is insufficient time to schedule and hold a public hearing.
- The applicant is only required to provide notice to adjacent property owners and residents and submit an affidavit to the City stating that they have done so.
- Concerns about allowing a second dwelling unit in single-family neighborhoods.
- There are currently other existing options for providing this type of housing in the City of Northfield (Accessory Dwelling Unit, a room within an existing principal building, and senior housing facilities).
- Data management concerns related to private medical information.
- What happens after 12 months (6-month temporary permit with 6-month extension) if the mentally or physically impaired person still requires housing?

The Planning Commission reviewed the law related to Temporary Family Health Care Dwellings at the July 21st Planning Commission meeting. The Planning Commission reviewed the findings laid out in the staff report and concurred the City of Northfield should opt out of the statute. The Planning Commission also added the following clarifications:

- If the City does not opt out, it cannot set its own rules on the matter in the future.
- Access for emergency services access could be limited in rear yard areas.
- Requiring permanent foundations might be better suited for the Minnesota climate.
- Northfield would be better served by adopting customized Land Development Code language addressing Temporary Family Health Care Dwellings as well as standards for Accessory Dwelling Units and Tiny Houses.

The Planning Commission unanimously passed a motion recommending the City Council adopt the ordinance opting out of the legislation.

The ordinance passed first reading at the August 2nd City Council meeting. Staff is working on bringing forward draft language to the Planning Commission and HRA addressing Temporary Health Care Dwellings, Tiny Houses, and Accessory Dwelling Units later this year.

Alternative Options:

1. Allow the legislation to take effect in Northfield. A “temporary dwelling permit” will need to be created. The City will need to amend the current fee schedule to establish a permit fee different than the \$100 default fee. Based on preliminary discussion, the \$100 maximum fee would not be adequate to cover the amount of staff time related to an application for a Temporary Health Care Dwelling.

Financial Impacts:

There are no direct financial impacts to the City associated with opting out of the legislation. Allowing the legislation to take effect will cost an undetermined amount of staff time to create the permit process, amend the fee schedule, and establish a fee adequate to offset the time required to process applications.

Tentative Timelines:

To meet the September 1st opt out deadline, the City must adopt the ordinance in August.

- August 2nd - 1st Reading of Ordinance at City Council
- August 16th - 2nd Reading of Ordinance at City Council
- Publication August 24, 2016
- Ordinance becomes effective September 25, 2016