

CITY OF WILLMAR

**Planning and Development Services
City Office Building
333 SW 6th Street
Willmar, MN 56201
320-235-8311**

COUNCIL ACTION REQUEST

DATE: December 15, 2016

SUBJECT: Proposed land acquisition

RECOMMENDATION: To order an appraisal of the property.

BACKGROUND: When the City was purchasing property for the new airport, a transaction occurred between the City and Phil Kvam in which approximately 6.15 acres of the former airport site was traded for Mr. Kvam's building site. Mr. Kvam has expressed a desire to sell the property that he received from the City. That property is in the South one-half of Section 17 of Willmar Township. The property fronts Highway 40, and could possibly be used for the future extension of Willmar Avenue or industrial development.

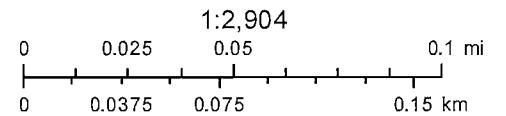
FINANCIAL CONSIDERATION: The initial cost would be the cost of the appraisal that will provide an estimate to use in negotiating the possible purchase.

LEGAL: Any acquisition will require Council action in the form of an ordinance. Real estate documents to be drafted by the City Attorney.

DEPARTMENT/RESPONSIBLE PARTY: Bruce D. Peterson, AICP – Director of Planning and Development Services

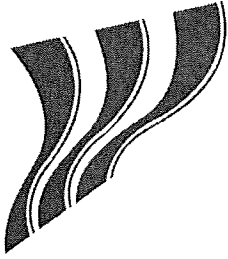


November 22, 2016



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

City of Willmar
This is NOT an Official City Map or Survey



CITY OF WILLMAR

Planning and Development Services
City Office Building
333 SW 6th Street
Willmar, MN 56201
320-235-8311

COUNCIL ACTION REQUEST

DATE: December 15, 2016

SUBJECT: Rental Housing Ordinance text change

RECOMMENDATION: To prepare the ordinance amendments for ordinance introduction at a future Council meeting.

BACKGROUND: The City's Rental Housing Ordinance is lacking in the area of smoke alarms and carbon monoxide detectors. Codes have changed since the City's ordinance was adopted and staff proposes to make changes to the rental ordinance that would make it consistent with the fire code for new construction. The actual changes are detailed in the attached memorandum.

FINANCIAL CONSIDERATION: The cost to the City would be the cost of adopting and amending the ordinance. There would be a marginal cost to property owners if they have to upgrade their smoke and carbon monoxide detectors to be compliant.

LEGAL: This ordinance change would make the City's Rental Housing Ordinance consistent with Minnesota Statutes.

DEPARTMENT/RESPONSIBLE PARTY: Bruce D. Peterson, AICP – Director of Planning and Development Services



PLANNING AND DEVELOPMENT SERVICES

City Office Building
333 SW 6th Street, Box 755
Willmar, MN 56201
320-235-8311
Fax: 320-235-4917
www.willmarmn.gov

MEMORANDUM

TO: Bruce Peterson, Director of Planning and Development Services

FROM: Randy Kardell, Building Official

DATE: December 2, 2016

RE: Rental Housing Ordinance Text Change

I would like to begin the process of a text/requirement change to our rental housing inspection ordinance. The change of requirements would bring several life safety issues in compliance with the 2015 Minnesota State Fire Code. These issues would be the proper locations and requirements of smoke alarms and carbon monoxide detectors in all dwellings as defined in Minnesota Statutes 299F.362 and 299F.51. The City of Willmar has formally adopted the 2015 Fire Code. The provision of Minnesota State Statute 299F.362 Subdivision 9 allows the City to adopt by ordinance smoke detector requirements that are more restrictive than the standard provided within the statute. The more restrictive part would be the dated installation requirements of the Fire Marshall's policy of February, 2008. The new requirement would be in sync with the requirements for new construction. The text change would require battery or hardwired smoke detectors in all sleeping rooms in all hallways leading to sleeping rooms and on all levels of the dwellings. The text change will also require carbon monoxide detectors within 10' of all sleeping rooms. These detectors can be battery or hardwired powered. This can be found in Minnesota State Statute 299F.51.

The implementation and enforcement time frames can be given with each renewal as a separate handout. The handout can be generated by staff.

With all the fire death and damage data that has been collected by difference departments, the main reason for a reduced death and property destruction has been use of smoke and carbon monoxide detection alarms. It is time to bring our 1990 rental housing ordinance to current life safety standards. The text change would occur in Section 6.5-50, item #12.

299F.30 FIRE DRILL IN SCHOOL; DOORS AND EXITS.

Subdivision 1. Duties of fire marshal. Consistent with Sections 121A.035, 121A.037, and this section, it shall be the duty of the state fire marshal, deputies and assistants, to require public and private schools and educational institutions to have at least five fire drills each school year and to keep all doors and exits unlocked from the inside of the building during school hours.

Subd. 2. Fire drill. Each superintendent, principal, or other person in charge of a public or private school, educational institution, children's home or orphanage housing 20 or more students or other persons, shall instruct and train such students or other persons to quickly and expeditiously quit the premises in case of fire or other emergency by means of drills or rapid dismissals while such school, institution, home, or orphanage is in operation. Records of such drills shall be posted so that such records are available for review by the state fire marshal at all times and shall include the drill date and the time required to evacuate the building.

Subd. 3. School doors and exits. Consistent with Section 121A.035 and this section, each superintendent, principal, or other person in charge of a public or private school, educational institution, children's home, or orphanage shall keep all doors and exits of such school, institution, home, or orphanage unlocked so that persons can leave by such doors or exits at any time during the hours of normal operation.

History: (5978) 1913 c 564 s 28; 1971 c 516 s 1; 1973 c 11 s 1; 1986 c 444; 2006 c 263 art 2 s 19

299F.362 SMOKE DETECTOR; INSTALLATION; RULES; PENALTY.

Subdivision 1. Definitions. For the purposes of this section, the following definitions shall apply:

- (a) "Apartment house" is any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the building, and shall include buildings containing three or more flats or apartments.
- (b) "Dwelling" is any building, or any portion thereof, which is not an apartment house, lodging house, or a hotel and which contains one or two "dwelling units" which are, or are intended or designed to be, occupied for living purposes.
- (c) "Dwelling unit" is a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, or a single unit used by one or more persons for sleeping and sanitation pursuant to a work practice or labor agreement.
- (d) "Hotel" is any building, or portion thereof, containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.
- (e) "Lodging house" is any building, or portion thereof, containing not more than five guest rooms which are used or are intended to be used for sleeping purposes by guests and where rent is paid in money, goods, labor, or otherwise.

Subd. 2. Rules, smoke detector location. The commissioner of public safety shall promulgate rules concerning the placement of smoke detectors in dwellings, apartment houses, hotels, and lodging houses. The rules shall take into account designs of the guest rooms or dwelling units.

Subd. 3. Smoke detector for any dwelling. Every dwelling unit within a dwelling must be provided with a smoke detector meeting the requirements of the State Fire Code. The detector must be mounted in accordance with the rules regarding smoke detector location adopted under subdivision 2. When actuated, the detector must provide an alarm in the dwelling unit.

Subd. 3a. Smoke detector for new dwelling. In construction of a new dwelling, each smoke detector must be attached to a centralized power source.

Subd. 4. Smoke detector for apartment, lodging house, or hotel. Every dwelling unit within an apartment house and every guest room in a lodging house or hotel used for sleeping purposes must be provided with a smoke detector conforming to the requirements of the State Fire Code. In dwelling units, detectors must be mounted in accordance with the rules regarding smoke detector location adopted under subdivision 2. When actuated, the detector must provide an alarm in the dwelling unit or guest room.

Subd. 5. Maintenance responsibilities. For all occupancies covered by this section where the occupant is not the owner of the dwelling unit or the guest room, the owner is responsible for maintenance of the smoke detectors. An owner may file inspection and maintenance reports with the local fire marshal for establishing evidence of inspection and maintenance of smoke detectors.

Subd. 5a. Inform owner; no added liability. The occupant of a dwelling unit must inform the owner of the dwelling unit of a nonfunctioning smoke detector within 24 hours of discovering that the smoke detector in the dwelling unit is not functioning. If the occupant fails to inform the owner under this subdivision, the occupant's liability for damages is not greater than it otherwise would be.

SELECTED MINNESOTA FIRE PREVENTION STATUTES

Subd. 6. **Penalties.**

- (a) Any person who violates any provision of this section shall be subject to the same penalty and the enforcement mechanism that is provided for violation of the State Fire Code, as specified in Section 299F.011, subdivision 6.
- (b) An occupant who willfully disables a smoke detector or causes it to be nonfunctioning, resulting in damage or injury to persons or property, is guilty of a misdemeanor.

Subd. 7. **Local government preempted.** This section prohibits a local unit of government from adopting standards different from those provided in this section.

Subd. 8. [Repealed, 1991 c 199 art 1 s 67]

Subd. 9. **Local government ordinance; installation in single-family residence.** Notwithstanding sub-division 7, or other law, a local governing body may adopt, by ordinance, rules for the installation of a smoke detector in single-family homes in the city that are more restrictive than the standards provided by this section. Rules adopted pursuant to this subdivision may be enforced through a truth-in-housing inspection.

Subd. 10. MS 1988 [Repealed, 1989 c 322 s 5]

Subd. 10. **Public fire safety educator.** The position of Minnesota public fire safety educator is established in the Department of Public Safety.

Subd. 11. **Insurance claim.** No insurer shall deny a claim for loss or damage by fire for failure of a person to comply with this section.

History: 1977 c 333 s 2; 1978 c 777 s 7; 1987 c 122 s 1; 1987 c 201 s 4-6; 1989 c 322 s 1-5,7; 1991c 233 s 110; 1993 c 329 s 1,2; 2005 c 136 art 9 s 11,12,14

299F.50 DEFINITIONS (Carbon Monoxide).

Subdivision 1. **Scope.** As used in Sections 299F.50 and 299F.51, the terms defined in this section have the meanings given them.

Subd. 2. MS 2006 [Renumbered subdivision 8]

Subd. 3. MS 2006 [Renumbered subdivision 10]

Subd. 4. MS 2006 [Renumbered subdivision 7]

Subd. 5. **Approved carbon monoxide alarm.** "Approved carbon monoxide alarm" means a device meant for the purpose of detecting carbon monoxide that is certified by a nationally recognized testing laboratory to conform to the latest Underwriters Laboratories Standards (known as UL2034 standards).

Subd. 6. MS 2006 [Renumbered subdivision 9]

Subd. 7. **Dwelling unit.** "Dwelling unit" means an area meant for living or sleeping by human occupants.

Subd. 8. **Installed.** "Installed" means that an approved carbon monoxide alarm is hardwired into the electrical wiring, directly plugged into an electrical outlet without a switch, or, if the alarm is battery-powered, attached to the wall of the dwelling.

Subd. 9. **Operational.** "Operational" means working and in service.

Subd. 10. **Single and multifamily dwelling.** "Single and multifamily dwelling" means any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.

History: 2006 c 260 art 3 s 20

299F.51 REQUIREMENTS FOR CARBON MONOXIDE ALARMS.

Subdivision 1. **Generally.** Every single family dwelling and every dwelling unit in a multifamily dwelling must have an approved and operational carbon monoxide alarm installed within ten feet of each room lawfully used for sleeping purposes.

Subd. 2. **Owner's duties.** The owner of a multifamily dwelling unit which is required to be equipped with one or more approved carbon monoxide alarms must:

- (1) provide and install one approved and operational carbon monoxide alarm within ten feet of each room lawfully used for sleeping; and
- (2) replace any required carbon monoxide alarm that has been stolen, removed, found missing, or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant prior to the commencement of a new occupancy of a dwelling unit.

Subd. 3. **Occupant's duties.** The occupant of each dwelling unit in a multifamily dwelling in which an approved and operational carbon monoxide alarm has been provided and installed by the owner must:

- (1) keep and maintain the device in good repair; and
- (2) replace any device that is stolen, removed, missing, or rendered inoperable during the occupancy of the dwelling unit.

Subd. 4. **Battery removal prohibited.** No person shall remove batteries from, or in any way render inoperable, a required carbon monoxide alarm.

Subd. 5. **Exceptions; certain multifamily dwellings and state-operated facilities.**

- (a) In lieu of requirements of subdivision 1, multifamily dwellings may have approved and operational carbon monoxide alarms installed between 15 and 25 feet of carbon monoxide-producing central fixtures and equipment, provided there is a centralized alarm system or other mechanism for responsible parties to hear the alarm at all times.
- (b) An owner of a multifamily dwelling that contains minimal or no sources of carbon monoxide may be exempted from the requirements of subdivision 1, provided that such owner certifies to the commissioner of public safety that such multifamily dwelling poses no foreseeable carbon monoxide risk to the health and safety of the dwelling units.
- (c) The requirements of this section do not apply to facilities owned or operated by the state of Minnesota.

History: 2006 c 260 art 3 s 21

FIRE SPRINKLER STATUTES

299M.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given them in this section.

Subd. 2. **Apprentice sprinkler fitter.** "Apprentice sprinkler fitter" means a person, other than a fire protection contractor or journeyman sprinkler fitter, who is regularly engaged in learning the trade under the direct supervision of a licensed fire protection contractor or journeyman sprinkler fitter and is registered with a state or federal approval agency.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subd. 4. **Council.** "Council" means the Minnesota Advisory Council on Fire Protection Systems.

Subd. 5. **Department.** "Department" means the Department of Public Safety.

Subd. 6. **Fire protection contractor.** "Fire protection contractor" means a person who contracts to sell, design, install, modify, alter, or inspect a fire protection system or its parts or related equipment.

Subd. 7. **Fire protection system.** "Fire protection system" means a sprinkler, standpipe, hose system, or other special hazard system for fire protection purposes only, that is composed of an integrated system of underground and overhead piping connected to a water source. "Fire protection system" does not include the water service piping to a city water main, or piping used for potable water purposes, or piping used for heating or cooling purposes. Openings from potable water piping for fire protection systems must be made by persons properly licensed under Section 326B.46. Persons properly licensed under Section 326B.46 may also sell, design, install, modify or inspect a standpipe, hose system only.

Subd. 8. **Journeyman sprinkler fitter.** "Journeyman sprinkler fitter" means a person who is certified as competent to engage in installing, connecting, altering, repairing, or adding to a fire protection system for and under the supervision of a fire protection contractor.

Subd. 8a. **Multipurpose potable water piping system contractor.** "Multipurpose potable water piping system contractor" means a person who contracts to sell, design, install, modify, or inspect a multipurpose potable water piping system, its parts, or related equipment.

Subd. 8b. **Multipurpose potable water piping system.** "Multipurpose potable water piping system" means a potable water piping system that is intended to serve both domestic and fire protection needs throughout a one- or two-family dwelling unit. No person may install a multipurpose potable water piping system unless that person is licensed pursuant to Section 326B.46 and is certified pursuant to Section 299M.03.

Subd. 8c. **Multipurpose potable water piping system installer.** "Multipurpose potable water piping system installer" means a person who is certified as competent to engage in installing, connecting, altering, repairing, or adding to a residential multipurpose potable water piping system in a one- or two-family dwelling unit.

Subd. 9. **Municipality.** "Municipality" means a town or statutory or home rule charter city.

History: 1992 c 508 s 1; 1998 c 367 art 11 s 10; 1Sp2003 c 2 art 4 s 14-16; 2007 c 140 art 6 s 15; art 13 s 4

**Minnesota Department of Public Safety
State Fire Marshal Division**

**Smoke Alarm Information
2/08**

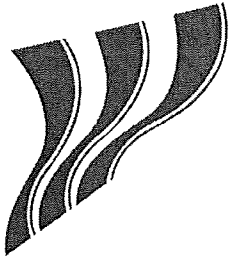
Current Fire Code language dictates that “smoke detectors” now be called “smoke alarms” to denote their true function.

Minnesota Statute 299F.362 Requirements:

- Every dwelling and dwelling unit must be provided with a smoke detector that meets the requirements of the Minnesota State Fire Code. This includes single family homes, townhouses, apartment, hotels (containing six or more guest rooms), lodging houses (containing five or less guest rooms), and similar occupancies.
- Smoke detectors must be mounted in accordance with the requirements of the Minnesota State Fire Code.
- When activated, the smoke detector must sound an alarm in the dwelling unit.
- In new construction, smoke detectors must be directly connected to the dwelling’s central power source.
- The owner of the occupancy is responsible for the maintenance of the smoke detector.
- Occupants are required to inform the owner of a nonfunctioning smoke detector within 24 hours of discovering that the detector is not functioning.
- It is a misdemeanor for an occupant to willfully disable a smoke detector, or cause it to be nonfunctioning, if such an action results in damage or injury to persons or property.
- Local governments may establish ordinances for the installation of smoke detectors in single family homes that are more restrictive than the requirements of statute. Local smoke detector ordinances may be enforced through a truth-in-lending housing inspection.

The Minnesota State Fire Code Requirements:

- Smoke alarms installed prior to March 31, 2003. Smoke alarms must be installed in hallways or areas which provide access to each separate sleeping area.
- Smoke alarms installed on or after March 31, 2003. A smoke alarms must be installed in each sleeping room in addition to a point centrally located in the corridor or area providing access to each separate sleeping area. Where more than one smoke alarm is required to be installed in a single family home, the smoke alarms must be interconnected so that the activation of one alarm will activate all the alarms in the home.
- For all smoke alarms installed prior to July 10, 2007. If any residential structure had code compliant smoke alarms installed prior to the current fire code adoption, then those smoke alarms are still permitted.
- For all smoke alarms installed on or after July 10, 2007. Any residential structure installing smoke alarms after this date must install the smoke alarms in all sleeping rooms, in all hallways leading to the exit and on each floor.
- In homes constructed prior to August 1, 1989. Smoke alarms may be battery powered only.
- In homes constructed on or after August 1, 1989. Smoke alarms must receive their power from the home’s permanent primary wiring without a disconnecting switch and be equipped with a battery backup.
- Smoke detector location and spacing must follow manufacturer’s instructions.



CITY OF WILLMAR

**Planning and Development Services
City Office Building
333 SW 6th Street
Willmar, MN 56201
320-235-8311**

COUNCIL ACTION REQUEST

DATE: December 15, 2016

SUBJECT: Assignment of Tax Abatement

RECOMMENDATION: To assign the Donner Tax Abatement to Granite Community Bank.

BACKGROUND: The property on east Highway 12, previously owned by William Donner, went into foreclosure. The proposed assignee is Granite Community Bank. A partial tax abatement had been approved for a company, Oil Air, operating out of that building. They continue to operate on the site. The conditions of the abatement are being met, only with a new agreement assignee. Under the terms of the abatement agreement, it is necessary for the City to formally assign the abatement to any proposed assignee.

FINANCIAL CONSIDERATION: There will be no additional cost to the City above the current abatement being paid to the property owner.

LEGAL: Formally reassigning the abatement will meet the requirements of the abatement agreement.

DEPARTMENT/RESPONSIBLE PARTY: Bruce D. Peterson, AICP – Director of Planning and Development Services



1010 WEST ST. GERMAIN STREET
SUITE 500
ST. CLOUD, MN 56301
MAIN: 320.252.4414
FAX: 320.252.4482

ANDREWJ. STEIL
ATTORNEY
DIRECT DIAL: 320.202.5354
DIRECT FAX: 320.257/5741
ANDREW.STEIL@GPMLAW.COM

August 10, 2016

Mark Thompson
County Auditor
400 Benson Avenue SW
Willmar, MN 56201

Bruce Peterson
City of Willmar
333 6th Street SW
Willmar, MN 56201

Re: Our Client: Granite Community Bank
Tax Abatement for real property located at 1500 Highway 12 East, Willmar,
Minnesota, 362 Lakeland Drive SE, Willmar, Minnesota, 1600 Highway 12 East,
Willmar, Minnesota, and 1405 Becker Avenue SE, Willmar, Minnesota

Dear Messrs. Thompson and Peterson:

Our law firm represents Granite Community Bank, which is the perfected-secured creditor of Donnerite and the Donners' accounts and also holds a perfected assignment of rents on the real property having addresses of 1500 Highway 12 East, Willmar, Minnesota, 362 Lakeland Drive SE, Willmar, Minnesota, 1600 Highway 12 East, Willmar, Minnesota, and 1405 Becker Avenue SE, Willmar, Minnesota. This letter is to notify you that pursuant to Granite Community Bank's security interests, the tax abatement payment must be paid directly to Bank from this point forward.

The Bank is hereby requiring any tax abatement payments relating to the above real estate be made directly to it because under the terms of the security agreements and mortgage between the Bank and Donnerite, and the provisions of Minnesota Statutes Section 336.9-607(a) and § 559.17, the Bank is authorized to take this action to directly collect these payments.

Please send the tax abatement payment directly to the Bank at:

Granite Community Bank
202 2nd Avenue South
Cold Spring, MN 56320
Attn: Michael Schmid

This notice is continuing and any abatement payments owing following receipt of this letter must be paid to the Bank at the address above until otherwise notified in writing by the Bank.

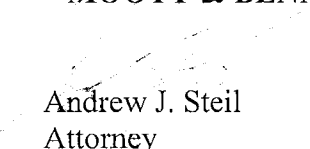
If you have any questions or concerns, do not hesitate to contact me directly at 320.202.5354.

Mark Thompson
Bruce Peterson
Page 2
August 10, 2016

Thank you for your anticipated cooperation.

Respectfully,

**GRAY, PLANT, MOOTY
MOOTY & BENNETT, P.A.**


Andrew J. Steil
Attorney

cc: Jerry Reiter – via email
Mike Schmid – via email