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TO: Neighborhood Planning Committee
FROM: Patricia James
DATE: May 12, 2011

RE: Nonconforming Use Text Amendments

Background

In 2004 and 2005 the Minnesota Legislature adopted changes to Minnesota Statutes (Sec. 462.357) regarding nonconforming uses. Local zoning provisions for continuation of structures and uses made nonconforming by adoption of an additional zoning control are governed by, and must be consistent with, the provisions in Minnesota Statutes Sec. 462.357 for such legal nonconforming uses. Minnesota Statutes sec. 642.357, Subd. 1e, specifically allows legal nonconforming uses to ‘be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless: (1) the nonconformity or occupancy is discontinued for a period of more than one year; or (2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property was damaged.’”

Because the language in Saint Paul’s zoning code differs from the statute, the zoning code must be updated. The nonconforming use text amendments zoning study proposes revisions to Chapter 62 Nonconforming Uses and Chapter 64 Signs of the zoning code to reflect the statutory changes.

In reviewing Chapter 62, staff also determined that some of the language could be made clearer. In addition, the zoning study provides an opportunity to incorporate some zoning administrator interpretations into the text of the code.

Internal staff discussions also raised questions about the requirement for consent petitions for some of the nonconforming use permits. Obtaining consent signatures is becoming more difficult, especially since many properties are owned by financial institutions in other states. Since the petition requirement is a prerequisite to applying for these nonconforming use permits, those wishing to rehabilitate properties are prevented from being able to make their case at a public hearing because they are not able to obtain a sufficient number of signatures.

Finally, the special sign district plans in Chapter 64 also needed amendment to reflect the new statutes. Since much of the language regarding nonconforming signs is repetitive, staff also took this opportunity to update these sections as well.

Staff Recommendation

Staff recommends approval of the proposed nonconforming use text amendments attached to this report.

Nonconforming Use Zoning Code Text Amendments

Chapter 62. Zoning Code – Nonconforming Lots, Uses and Structures

Sec. 62.101. Intent.

There exist within the districts established by this code and subsequent amendments lots, structures, and uses of land and structures that were lawful before this code was passed or amended that would be prohibited, regulated or restricted under the terms of this code or future amendments. It is the intent of this code to permit legal nonconforming lots, structures or uses to continue until they are removed and not replaced in accordance with Minnesota Statutes, section 462.357, subdivision 1e.

The code recognizes that in some circumstances allowing nonconforming uses to be changed to similar or less intense nonconforming uses, or allowing nonconforming uses to be reestablished in vacant buildings may benefit the city and surrounding neighborhood. Some buildings have a long useful life and allowing their continued occupancy for nonconforming uses can be more desirable than requiring them to be vacant if they cannot be converted to conforming uses. Consequently, the code allows conversion of nonconforming uses to similar nonconforming uses and allows the planning commission to reestablish nonconforming uses in vacant buildings if regulated so as to be compatible with the surrounding neighborhood.

The code recognizes that enlargements, expansions or relocations of nonconforming uses which improve the appearance and functioning of the use can benefit the surrounding neighborhood. The code allows these types of changes to enlargement of nonconforming uses when found to be compatible with surrounding neighborhoods.

[Changes in Minnesota Statutes Sec. 462.357, subdivision 1e allow nonconforming structures to be replaced as well as uses to cease for up to one year. This insertion adds an explicit reference to the state statute guiding the ordinance.

There has been confusion about whether different types of “enlargement” can also be approved. The proposed language acknowledges the different types of enlargement so that they can be dealt with individually when appropriate. ‘Enlargement’ of a structure, ‘expansion’ of a use into more space within a structure, ‘relocation’ of a nonconforming use of land on a site or of a nonconforming use to another part of a building.))

Sec. 62.102. Legal nonconforming use.

For the purposes of this ~~section~~ chapter, "use" means the principal purpose for which land or a building is being occupied. A use will be presumed legally nonconforming if it can be demonstrated by clear and convincing evidence that prior to October 25, 1975, the use was established, converted, or enlarged and occupied pursuant to building permits issued by the city; or if the use was allowed in its location at the time the use was established; or if it can be demonstrated by clear and convincing evidence that the particular use ~~had~~ has been in existence continuously ~~for twenty (20) years prior to~~ since December 13, ~~1956~~1976. The burden of proof shall be on the property owner. The

planning commission may approve permits granting nonconforming use status to uses that do not meet these standards; as set forth in section 62.109(a) and (b).

[This amendment is required to comply with state law. Many uses can be established without building permits, and finding building permits can be impossible. If there is evidence that a use now nonconforming was established when the zoning code allowed that use or if the property was rezoned after the use was in existence so that it then became nonconforming, that use has been administratively approved as a legal nonconforming use.]

...

Sec. 62.104. Nonconforming uses of land.

Nonconforming uses of land are subject to the following provisions:

- (a) A legal nonconforming use may continue.
- (b) A nonconforming use shall not be enlarged to a greater height nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this code unless the planning commission approves a permit for the enlargement or extension as set forth in section 62.109(d).
- (c) A nonconforming use shall not be moved in whole or in part to any other portion of the lot unless the planning commission approves a permit for the relocation as set forth in section 62.109(d).

[In some instances moving the location of a nonconforming use of land to another portion of the lot may make sense and further the intent of the zoning code. Planning Commission review of the proposed move under the provisions of Sec. 62.109(d) can accommodate these circumstances.]

- (d) If such nonconforming use of land ceases for any reason for a period of ~~ninety (90) days~~ three hundred sixty-five (365) days or more, any subsequent use of such land shall conform to the regulations specified by this code for the district in which such land is located. ~~This is not intended for those uses which remain on the land but whose activity may cease for a period longer than ninety (90) days due to reasons associated with the customary operation of such use.~~

[State statute provides that nonconformities may continue as long as the nonconformity or occupancy is not discontinued for more than one year. Since the 90 day restriction is changed, the language regarding uses discontinued for 90 days is not needed. Intermittent uses should occur at least once within every 365 day period to maintain their legal nonconforming status.]

...

- (f) An existing off-street parking space for one- and two-family dwellings in a required front or side yard shall be considered a legal nonconforming use provided the parking space was established pursuant to a curb cut permit issued by the department of public works prior to October ~~15~~ 25, 1975, and the parking space has been continuous since the permit was issued or it can be demonstrated by clear and convincing evidence that the

parking space has been in existence and used continuously since October 25, 1975. The burden of proof shall be on the property owner.

[The incorrect date was inserted into the first date listed; the effective date of the rewritten zoning code was October 25, 1975.]

(g) Any replacement of equipment will not result in an increase in noise, vibration, glare, dust, or smoke.

[Ensures that nonconforming uses of land do not become more nonconforming through side effects of equipment replacement. Change is similar to language in the Minneapolis zoning code, Sec. 531.50.(b)(3).]

Sec. 62.105. Nonconforming structures with conforming uses.

Nonconforming structures with conforming uses are subject to the following provisions:

- (a) A legal nonconforming structure may continue.
- (b) A nonconforming structure may be enlarged or altered so long as such enlargement or alteration does not increase its nonconformity. Accessory ~~buildings~~ structures may be added so long as they conform in all respects to the requirements of ~~section 63.501, accessory buildings~~ article 65.900, accessory uses.
- (c) When a nonconforming structure is ~~removed or destroyed by any means to an extent of more than sixty (60) percent of its replacement cost, exclusive of the foundation, at the time of destruction, and no building permit has been applied for within three hundred sixty-five (365) days of the time of the destruction,~~ it shall not be reconstructed except in conformity with the provisions of this code. ~~A nonconforming residential garage, however, may be rebuilt in a rear yard with the same nonconforming setback within one (1) year of its destruction, provided that it is within the maximum height and size limits for an accessory structure outlined in section 63.501(c) and (d).~~

[As part of a package of minor text amendments, the regulations for accessory buildings, structures, and uses are proposed to be combined from three locations in the code to one (article 65.900 making it easier to understand and administer the code).

For nonconforming structures with conforming uses, Minnesota Statute 462.357 Subdivision 1.e.1 applies. This statute allows nonconforming structures to be reconstructed if a building permit application has been made within 365 days. Since any nonconforming structure may be replaced within 365 days under this provision, there is no need for specific reference to residential garage replacement.]

Sec. 62.106. Nonconforming uses of structures, or structures and land in combination.

Nonconforming uses of structures, or structures and land in combination, are subject to the following regulations:

- (a) A legal nonconforming use may continue.
- (b) A legal nonconforming use may be changed to a use permitted in the district in which it is located or to a new nonconforming use if the new nonconforming use is ~~also listed in~~ on the same clause line of the use tables in Chapter 66 of the code as the most recent nonconforming use. A legal nonconforming use may be changed to a use permitted in the district in which the most recent nonconforming use is first allowed, or a principle use permitted in a district that is more restrictive than the district in which the most recent nonconforming use is first allowed, provided the planning commission approves a permit for the change as set forth in section 62.109(c).
- (c) The number of legal nonconforming uses on a zoning lot shall not be increased unless the planning commission approves a change of nonconforming use permit as set forth in section 62.109(c).
- (~~e~~-d) When a nonconforming use changes to a use permitted in the district in which the property is located, a nonconforming use may not thereafter be resumed. When a nonconforming use changes to a use first permitted in a more restrictive district, the nonconforming uses first permitted in less restrictive districts shall not thereafter be resumed.

[Changes to (b) and (d), clarify existing confusing language and update language to be consistent with the 2004 reformatting of the zoning code, which replaced clauses with use tables. New (c) addresses requests to add related nonconforming uses to an existing use – for example dog day care to a pet grooming business or auto sales to an auto repair business. It has been unclear which section of Chapter 62 is best suited to address these types of applications, enlargement of nonconforming use or change of nonconforming use. After discussion, staff is recommending that the findings for change of nonconforming use are most relevant.]

- (~~d~~ e) A legal nonconforming use may be extended throughout any parts of a structure that were manifestly arranged or designed for the use, but it shall not be extended to occupy any land or a larger area of land outside the structure.
- (e f) A nonconforming use shall not be moved to a new location on the zoning lot, expanded or enlarged in any way unless the planning commission approves a permit for an enlargement, expansion or relocation as set forth in section 62.109(d).
- (f) ~~A structure containing a nonconforming use shall not be moved to another location on its lot.~~

[Changes provide options for relocating nonconforming uses when it makes sense to do so.]

- (g) When a legal nonconforming use is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the building, or building and land in combination, shall thereafter be used in conformance with the regulations of the district in which it is located, unless the

planning commission approves a permit to reestablish the nonconforming use as set forth in section 62.109(e). A residential building vacant for more than 365 days may be re-established at the number of units for which it was originally constructed so long as it has not been physically converted to a fewer number of units, in which case it may be re-established at the number of units to which it was converted.

[This change would allow a vacant building to be restored to its original number of units or fewer without going through the public hearing process to re-establish the nonconforming use. Requiring a true duplex (for example) to go through this process is confusing to purchasers and neighbors. These uses are generally not controversial, and it makes no sense to require the owner to remove kitchens and other features that are part of the building's original construction at great expense.]

- (h) When a building containing a nonconforming use is destroyed by fire or other peril ~~any means~~ to an extent of more than ~~sixty (60)~~ fifty (50) percent of its ~~replacement cost~~ market value, exclusive of the foundation, at the time of the destruction, and no building permit has been applied for within one hundred eighty (180) days of the time of the destruction, it shall not be reconstructed except in conformity with the provisions of this code.

[Minnesota Statutes allows nonconforming uses damaged more than 50% of their "market value" to be replaced as long as a building permit has been applied for within 180 days of the damage. "Replacement cost" and "market value" can differ significantly.]

- (i) On a building devoted in whole or in part to any legal nonconforming use, work may be done on ordinary repairs, or on repair of walls, roofs, fixtures, wiring, or plumbing, or on restoration or improvement provided that the cubic content of the building as it existed at the time of adoption or amendment of this code shall not be increased.

[Adds language to indicate that restoration and improvements are now allowed.]

- (j) Where legal nonconforming use status applies to a building and land in combination, removal or destruction of the building shall eliminate the legal nonconforming status of the land, unless a building permit has been applied for within three hundred sixty-five (365) days of the time of the destruction.

[Replacement is allowed in cases of removal as well as cases of destruction as long as a building permit is applied for within 180 days.]

- (k) ~~Accessory~~ off-street parking lots or structures may be constructed on the site of a nonconforming use, so long as they comply with the requirements of ~~sections~~ articles 63.300 and ~~63.504~~ 65.900 and the setbacks required in the district where the use is first permitted.

[63.300 is an article title, not a section. Minor text amendments propose moving all regulations for accessory uses to article 65.900 rather than the three different locations in the current code.]

- (l) In any RM3, OS, B1, B2, B3, I1, or VP district, nonconforming residential uses may be enlarged, extended, reconstructed or altered provided no additional dwelling units are added on the lot. Any business operated out

of a residence must meet all home occupation standards. Nonconforming residential uses must also meet the requirements (except for lot area per dwelling unit) of section 66.230, residential district density and dimensional standards, for the district in which the use is first permitted and the requirements for off-street parking, ~~section~~ article 63.200.

~~Reconstruction of the uses must begin within one (1) year of the removal of the buildings.~~

[This eliminates redundant language as a timeline for reestablishment is already provided for in Sec. 62.106.h.]

- (m) In RL--R4 districts, existing two-family residential uses may be enlarged, extended, ~~reconstructed~~ or altered. The two-family uses must meet the yard setbacks and the percentage of lot coverage of the schedule of regulations, section ~~61.101~~ 66.231, as required in the zoning district in which located or in the RT1 district, whichever is greater, and the requirements for off-street parking, ~~section~~ article 63.200. ~~Reconstruction of the uses must begin within one (1) year of the removal of the buildings.~~

[Replaces outdated code reference with current reference; eliminates redundant language.]

- (n) In any residential district, existing greenhouses may be enlarged, extended, ~~reconstructed~~ or altered. The greenhouses must meet the height, yard setbacks, and percentage of lot coverage of section 66.230, residential district density and dimensional standards, for the district in which they are located and the requirements for off-street parking, ~~section~~ article 63.200. ~~Reconstruction of the uses must begin within one (1) year of the removal of the buildings.~~

[All nonconforming uses may be reconstructed according to Minnesota Statute. This eliminates redundant language as a timeline for reestablishment is already provided for in Sec. 62.106.h.]

- (p) In RL -RT1 residential districts, a second one-family or two-family dwelling on a single lot is exempt from paragraph (h) above and may be reconstructed provided that the number of total dwelling units on the lot is not increased and the building is not enlarged or extended unless it meets the setback and lot coverage requirements for principal structures of the district. ~~Reconstruction of the building must begin within one (1) year of the removal of the building, unless the board of zoning appeals grants an extension for reconstruction.~~

[This eliminates redundant language as a timeline for reestablishment is already provided for in Sec. 62.106.h.]

Sec. 62.109. Nonconforming use permits.

- (a) Establishment of legal nonconforming use status. The planning commission may grant legal nonconforming use status ~~to the use of structures~~ when such use fails to meet the standards of section 62.102 if the commission makes the following findings:

- ~~(1) — The use occurs entirely within an existing structure;~~
- (21) The use or a nonconforming use of similar or greater intensity first permitted in the same ~~clause of the zoning code~~ district or in a ~~more~~ less restrictive zoning district has been in existence continuously for a period of at least ten (10) years prior to the date of the application.
- [Clarifies language and corrects it to make sense and conform to how this section is actually administered.]
- (32) The off-street parking is adequate to serve the use;
- (43) Hardship would result if the use were discontinued;
- (54) Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses;
- (65) The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
- (76) The use is consistent with the comprehensive plan; ~~and,~~
- ~~(8) — A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the use.~~

[Deleting the language in (a) specific to 'structures' clarifies that the planning commission may approve legal nonconforming use status to outdoor uses as well as uses within a structure. Consent petitions have become increasingly hard to obtain, especially when property owners are commercial enterprises located in other states. This type of application should be based on a public hearing and factual finding that the use has been in existence for ten years, regardless of whether adjacent property owners consent. There is ample opportunity for neighboring property owners to testify on the application as part of the public hearing process.]

- (c) *Change of nonconforming use.* The planning commission may allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit a related nonconforming use at the same location if the commission makes the following findings:

- (1) The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use;
- (2) The traffic generated by the proposed use is similar to that generated by the existing nonconforming use;
- (3) The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and

- (4) The use is consistent with the comprehensive plan.

The planning commission's findings may be a general rule or findings in a specific case.

[Responds to requests to add related nonconforming uses to an existing use.]

- (d) Enlargement, expansion or relocation of nonconforming use. The planning commission may permit the enlargement, expansion, or relocation of a legal nonconforming use if the commission makes the following findings:
- (1) In residential districts, tThe enlargement, expansion, or relocation will not result in an increase in the number of dwelling units;
 - (3) The appearance of the enlargement, expansion or relocation will be compatible with the adjacent property and neighborhood;
 - (4) Off-street parking is provided for the enlargement, expansion or relocation that meets the requirements of ~~section~~ article 63.200 for new ~~structures-uses~~;
 - (6) After the enlargement, expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare;
 - (8) A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the enlargement, expansion or relocation.

[These changes clarify what constitutes an “enlargement” by adding more inclusive language. In non-residential districts, density is regulated by floor area ratio (FAR), not number of units. The new language covers enlarging the size of the building in which a nonconforming use occurs but not enlarging the space occupied by the nonconforming use within the existing walls of the building.

- (e) *Reestablishment of nonconforming use.* When a legal nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings:
- (1) A legal nonconforming use existed on the property within ten (10) years of the date of reestablishment and was in existence continuously for a period of at least ten (10) years prior to ceasing.
 - (2+) The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose;

- (32) The proposed use is equally appropriate or more appropriate to the district than the previous nonconforming use;
- (43) The proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
- (54) The proposed use is consistent with the comprehensive plan; and.
- (5) ~~A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the use.~~

[Establishes a sunset date for reestablishing a nonconforming use. 10 years was selected as a threshold because it is the threshold to establish a nonconforming use. If a structure cannot reasonably or economically be used for a conforming purpose, the applicant should not be denied a public hearing due to the inability to get signatures from surrounding property owners. There is ample opportunity for neighbors to testify at the public hearing.]

Amendments to Chapter 64 – Signs

Sec. 64.301. Nonconforming signs.

- (a) No sign or sign structure shall be enlarged or altered in a way which increases its nonconformity except for temporary extensions on billboards as permitted in paragraph (g) of this section. ~~Billboard extensions are not permitted.~~
- (b) Should such sign or sign structure be destroyed by ~~any means~~ fire or peril to an extent greater than ~~fifty-one (51)~~ (50) percent of its ~~replacement cost~~ market value, and no building permit has been applied for within one hundred eighty (180) days of the time of the destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. Should such sign or sign structure be removed for any other reason and no building permit has been applied for within three hundred sixty-five (365) days of the time of the destruction, it shall not be reconstructed except in conformity with the provisions of this code.
- (d) No existing nonconforming sign or sign structure ~~devoted to a use not permitted by the zoning code in the zoning district in which it is located~~ shall be enlarged, extended or moved except in thereafter conforming to the regulations changing the sign to a sign permitted in the zoning district in which is it located.
- (f) Signs may be repainted, reposted or replaced when ~~there is a change of~~ any a nonconforming use is removed or destroyed as set forth in the zoning code, section 62.105(c).
- (g) Any rectangular billboard may contain extensions, cutouts or top lettering which occupy a total area not in excess of fifteen (15) percent of the area of the basic advertising sign and form an integral part of the design thereof; and provided further, that no such extension, cutout or top lettering may project more than six (6) feet from the top, eighteen (18) inches from either side or fifteen (15) inches from the bottom of the basic rectangular advertising message. The area of an extension, cutout or top lettering shall be deemed to be the area of the smallest rectangle into which such extension, cutout or top lettering will fit. A sign permit is required for a temporary billboard extension. Temporary extensions shall be completely removed not later than ninety (90) days after installation and the total combined period of temporary extensions for a sign face shall not exceed one hundred eighty (180) days per year.

- (h) Ordinary repair work may be done on any nonconforming sign. Changes made to the location, size, height or bulk of the sign or addition of illumination are not considered ordinary repair and shall require that a sign be brought into conformance with all requirements of this chapter.

[Changes make explicit that both signs and sign structures are included in the regulations. The prohibition against billboard extensions adopted by the City Council under CF #06-160 on March 8, 2006, was found to be unenforceable by the Eighth Circuit Court of Appeals in a decision filed August 25, 2010.

Minnesota Statute allows nonconforming structures (signs) damaged more the 50% of their market value to be replaced as long as a building permit has been applied for within 180 days of the sign incurred damage. "Replacement cost" was changed to "market value" in Minnesota Statute.

These two measures can differ significantly.

Clarifies existing policy by defining ordinary maintenance and what would constitute an increase in nonconformance. Language based on Minneapolis zoning code 543.150 (c) "Items not considered normal maintenance and repair. Changes made to the location, size, height or bulk of the sign or addition of illumination are not considered normal maintenance and repair and shall require that a nonconforming sign be brought into conformance with all requirements of this chapter."]

ARTICLE VI. 64.600. SPECIAL SIGN DISTRICTS

Special district sign plans are found in Sections 64.610 – 64.750. Language pertaining to nonconforming signs should be deleted from these sections because the text either duplicates the provisions and regulations for nonconforming signs in section 64.301 and is therefore redundant or is inconsistent with Minnesota Statutes. Local zoning provisions for continuation of structures and uses made nonconforming by adoption of an additional zoning control are governed by, and must be consistent with, the provisions in Minnesota Statutes Sec. 462.357 for such legal nonconforming uses. Minnesota Statutes sec. 642.357, Subd. 1e, specifically allows legal nonconforming uses to 'be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless: (1) the nonconformity or occupancy is discontinued for a period of more than one year; or (2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property was damaged.'

The deleted language is essentially the same for all special sign districts, with language variation for Sec. 64.630, West Side special district sign plan and Sec. 64.770, Downtown area special district sign plan, while the content remains the same.

Sec. 64.610. Sunray-Battlecreek-Highwood, district one community council special district sign plan.

- (e) ~~— Nonconforming signs. Regulation of nonconforming signs within the Sunray-Battlecreek-Highwood, district one community council special sign district which lawfully existed prior to the effective date of this sign plan or any amendments hereto and which would be prohibited, regulated, or restricted under the provisions of this plan, may continue to exist as legal nonconforming signs regulated under the provisions of section~~

~~64.300 pertaining to nonconforming signs, subject to the following additional requirements:-~~

- ~~(1) — No nonconforming sign shall be:~~
- ~~a. — Altered or enlarged in any way; or~~
 - ~~b. — Replaced by another nonconforming sign, though a change in the message will not be deemed to be a replacement; or~~
 - ~~c. — Relocated to any other location in the Sunray-Battlecreek-Highwood, district one community council special sign district; or~~
 - ~~d. — Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of the loss, as determined by the city; or~~
 - ~~e. — Maintained through replacement of structural elements.~~
- ~~(2) — A nonconforming sign shall be immediately removed from the Sunray-Battlecreek-Highwood, district one community council special sign district at the cost of the owner if:~~
- ~~a. — It is an imminent danger to life or property; or~~
 - ~~b. — It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~
 - ~~c. — Use of the sign has been discontinued for a period of three (3) consecutive months.~~

~~(e)(g)~~ *Sign permits; administration.* Whenever a permit for a sign in the Sunray-Battlecreek-Highwood, district one community council special sign district is required under the provisions of chapter 64, a permit shall not be issued unless the plans for the sign have been approved by the zoning administrator in conformance with this sign plan. All building permit applications for signs in the Sunray-Battlecreek-Highwood, district one community council special sign district shall be submitted to the zoning administrator for review and approval. A fee to cover the costs of the review shall be established by resolution of the city council. All applications submitted for zoning administrator approval shall be of sufficient detail to demonstrate that the proposed sign complies with the provisions of this sign plan. The zoning administrator shall review the application within thirty (30) days and notify the applicant of any decision

to approve or disapprove the application. Written reasons, prepared by the zoning administrator, shall accompany all application decisions.

Sec. 64.620. Greater Eastside Area special district sign plan.

~~(e) *Nonconforming signs.* Regulation of nonconforming signs within the Greater Eastside Area special sign district which lawfully existed prior to the effective date of this sign plan or any amendments hereto and which would be prohibited, regulated, or restricted under the provisions of this plan, may continue to exist as legal nonconforming signs regulated under the provisions of section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:~~

- ~~(1) No nonconforming sign shall be:~~
- ~~a. Altered or enlarged in any way; or~~
 - ~~b. Replaced by another nonconforming sign, though a change in the message will not be deemed to be a replacement; or~~
 - ~~c. Relocated to any other location in the Greater Eastside Area special sign district; or~~
 - ~~d. Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of the loss, as determined by the city; or~~
 - ~~e. Maintained through replacement of structural elements.~~
- ~~(2) A nonconforming sign shall be immediately removed from the Greater Eastside Area special sign district at the cost of the owner if:~~
- ~~a. It is an imminent danger to life or property; or~~
 - ~~b. It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~
 - ~~c. Use of the sign has been discontinued for a period of three (3) consecutive months.~~

~~(e)(f) *Sign permits; administration.* Whenever a permit for a sign in the Greater Eastside Area special sign district is required under the provisions of chapter 64, a permit shall not be issued unless the plans for the sign have been approved by the zoning administrator in conformance with this sign plan. All building permit applications for signs in the Greater Eastside~~

Area special sign district shall be submitted to the zoning administrator for review and approval. A fee to cover the costs of the review shall be established by resolution of the city council. All applications submitted for zoning administrator approval shall be of sufficient detail to demonstrate that the proposed sign complies with the provisions of this sign plan. The zoning administrator shall review the application within thirty (30) days and notify the applicant of any decision to approve or disapprove the application. Written reasons, prepared by the zoning administrator, shall accompany all application decisions.

Sec. 64.630. West Side special district sign plan.

- (c) ~~Advertising sign restrictions. Advertising signs shall not be permitted within the sign plan district except signs on transit shelters and courtesy benches licensed or franchised by the city. Construction, erection, replacement, or renovation of advertising signs shall not be permitted. Existing, nonconforming, advertising signs shall:~~
- (1) ~~Be immediately removed, at the owner's expense, from the special sign district if:~~
- a. ~~It is an imminent danger to life or property; or~~
 - b. ~~It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~
 - c. ~~Use of such sign, signified by a lack of advertising message, has been discontinued for a period of three (3) consecutive months.~~
- (2) ~~Not be:~~
- a. ~~Altered or enlarged in any way; or~~
 - b. ~~Replaced by another nonconforming sign; or~~
 - c. ~~Relocated to any other location in either this district or the Smith Avenue special sign districts; or~~
 - d. ~~Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~
 - e. ~~Maintained through replacement of structural elements.~~

- ~~(c)~~(d) *Administration and enforcement.* Whenever a permit for a sign in this special sign district is required under the provisions of chapter 64, such permit shall not be issued unless the plans for the sign have been approved by the zoning administrator as in conformance with this plan. Provisions of this sign plan that are more restrictive than the provisions of chapter 64 shall prevail and supersede the provision in chapter 64. All other provisions of chapter 64 shall apply to this sign plan district.

Sec. 64.640. Dayton's Bluff special district sign plan.

- ~~(e)~~ — *Nonconforming signs.* Regulation of nonconforming signs within the Dayton's Bluff special sign district which lawfully existed prior to the effective date of this sign plan or any amendments hereto and which would be prohibited, regulated, or restricted under the provisions of this plan, may continue to exist as legal nonconforming signs regulated under the provisions of section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:
- (1) — No nonconforming sign shall be:
- a. — Altered or enlarged in any way; or
 - b. — Replaced by another nonconforming sign, though a change in the message will not be deemed to be a replacement; or
 - c. — Relocated to any other location in the Dayton's Bluff special sign district; or
 - d. — Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of the loss, as determined by the city; or
 - e. — Maintained through replacement of structural elements.
- (2) — A nonconforming sign shall be immediately removed from the Dayton's Bluff special sign district at the cost of the owner if:
- a. — It is an imminent danger to life or property; or
 - b. — It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or
 - c. — Use of the sign has been discontinued for a period of three (3) consecutive months.

- ~~(e)~~(f) *Sign permits; administration.* Whenever a permit for a sign in the Dayton's Bluff special sign district is required under the provisions of chapter 64, a permit shall not be issued unless the plans for the sign have been approved by the zoning administrator in conformance with this sign plan. All building permit applications for signs in the Dayton's Bluff special sign district shall be submitted to the zoning administrator for review and approval. A fee to cover the costs of the review shall be established by resolution of the city council. All applications submitted for zoning administrator approval shall be of sufficient detail to demonstrate that the proposed sign complies with the provisions of this plan. The zoning administrator shall review the application within thirty (30) days and notify the applicant of any decision to approve or disapprove the application. Written reasons, prepared by the zoning administrator, shall accompany all application decisions.

Sec. 64.660. North End/South Como special district sign plan.

- ~~(e)~~ — *Nonconforming signs.* Regulation of nonconforming signs within the North End/South Como special sign district which lawfully existed prior to the effective date of this sign plan or any amendments hereto and which would be prohibited, regulated, or restricted under the provisions of this plan, may continue to exist as legal nonconforming signs regulated under the provisions of section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:

- ~~(1)~~ — No nonconforming sign shall be:

- a. — Altered or enlarged in any way; or
- b. — Replaced by another nonconforming sign, though a change in the message will not be deemed to be a replacement; or
- c. — Relocated to any other location in the North End/South Como special sign district; or
- d. — Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of the loss, as determined by the city; or
- e. — Maintained through replacement of structural elements.

- ~~(2)~~ — A nonconforming sign shall be immediately removed from the North End/South Como special sign district at the cost of the owner if:

- a. — It is an imminent danger to life or property; or

- b. ~~It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~
- e. ~~Use of the sign has been discontinued for a period of three (3) consecutive months.~~

~~(e)~~(g) *Sign permits; administration.* Whenever a permit for a sign in the North End/South Como special sign district is required under the provisions of chapter 64, a permit shall not be issued unless the plans for the sign have been approved by the zoning administrator in conformance with this sign plan. All building permit applications for signs in the North End/South Como special sign district shall be submitted to the zoning administrator for review and approval. A fee to cover the costs of the review shall be established by resolution of the city council. All applications submitted for zoning administrator approval shall be of sufficient detail to demonstrate that the proposed sign complies with the provisions of this sign plan. The zoning administrator shall review the application within thirty (30) days and notify the applicant of any decision to approve or disapprove the application. Written reasons, prepared by the zoning administrator, shall accompany all application decisions.

Sec. 64.670. Thomas/Dale district 7 special district sign plan.

- ~~(f)~~ *Nonconforming signs.* Regulation of nonconforming signs within the Thomas/Dale district 7 special sign district which lawfully existed prior to the effective date of this sign plan or any amendments hereto and which would be prohibited, regulated, or restricted under the provisions of this plan, may continue to exist as legal nonconforming signs regulated under the provisions of section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:
- (1) ~~No nonconforming sign shall be:~~
 - a. ~~Altered or enlarged in any way; or~~
 - b. ~~Replaced by another nonconforming sign, though a change in the message will not be deemed to be a replacement; or~~
 - c. ~~Relocated to any other location in the district 7 special sign district; or~~

- d. ~~Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of the loss, as determined by the city; or~~
 - e. ~~Maintained through replacement of structural elements.~~
- (2) ~~A nonconforming sign shall be immediately removed from the district 7 special sign district at the cost of the owner if:~~
- a. ~~It is an imminent danger to life or property; or~~
 - b. ~~It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~
 - e. ~~Use of the sign has been discontinued for a period of three (3) consecutive months.~~
- (f)(g) *Administration and enforcement.* The zoning administrator shall enforce the provisions of this plan as a supplement to chapter 64, signs. Whenever a permit request for an advertising sign in the Thomas/Dale district 7 special sign district is requested, such permit shall not be issued unless the plans for the advertising sign have been approved by the zoning administrator as in compliance with this supplement and other provisions of chapter 64, signs.

Sec. 64.710. Hamline Midway special district sign plan.

- ~~(f) — *Nonconforming signs.* The regulation of nonconforming signs shall be pursuant to the provisions of article iii, nonconforming signs, of this chapter.~~
- ~~(f)(g) — *Administration and enforcement.* Whenever a permit request for an advertising sign in the Hamline Midway special sign district is requested, such permit shall not be issued unless the plans for the advertising sign have been approved by the zoning administrator as in compliance with this supplement and other provisions of chapter 66, signs.~~

Sec. 64.720. Saint Anthony Park special district sign plan.

~~Signs within the Saint Anthony Park special sign district which lawfully existed prior to the adoption of this sign plan and which would be prohibited, regulated or restricted under the provisions of this sign plan or amendments hereto, may continue to exist as legal nonconforming signs under the provisions of section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:~~

- ~~(1) — No nonconforming sign shall be:~~
- ~~(a) — Altered or enlarged in any way; or~~
 - ~~(b) — Replaced by another nonconforming sign, though a change in the message on a nonconforming sign will not be deemed to be a replacement; or~~
 - ~~(c) — Relocated to any other location in the Saint Anthony park special sign district; or~~
 - ~~(d) — Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~
 - ~~(e) — Maintained through replacement of structural elements; or~~
- ~~(2) — Any nonconforming sign shall be immediately removed from the Saint Anthony Park special sign district at the cost of the owner if:~~
- ~~(a) — It is an imminent danger to life or property; or~~
 - ~~(b) — It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss; or~~

- (e) — Use of such sign has been discontinued for a period of three (3) consecutive months.

Sec. 64.730. Merriam Park special district sign plan.

- (e) — ~~Nonconforming advertising signs.~~ Signs within the Merriam Park special district which lawfully existed prior to the adoption of this sign plan by the city council, and which would be prohibited, regulated or restricted under the provisions of this sign plan or amendments hereto, may continue to exist as legal nonconforming signs under the provisions of section 64.300, nonconforming signs, subject to the following additional requirements:

- (1) — No nonconforming advertising signs shall be:
- a. — Altered in any way, other than changing the message on a painted or printed sign;
 - b. — Replaced by another nonconforming sign;
 - c. — Relocated to any other location in the Merriam Park special district;
 - d. — Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its display surface, as determined by the city; or
 - e. — Maintained through replacement of structural elements.
- (2) — Any nonconforming advertising sign shall be immediately removed from the Merriam Park special district at the cost of the owner:
- a. — If it incurs damage in an amount exceeding fifty (50) percent of its display surface, as determined by the city; or
 - b. — If use of such sign has been discontinued for a period of three (3) consecutive months.

Sec. 64.735. Snelling Hamline special district sign plan.

- (e) — ~~Nonconforming signs.~~ Nonconforming signs within the Snelling Hamline special sign district which lawfully existed prior to the effective date of this sign plan or any amendments hereto and which would be prohibited, regulated, or restricted under the provisions of this plan, may continue to exist as legal nonconforming signs regulated under the provisions of

section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:-

- (1) ~~No nonconforming sign shall be:~~
- a. ~~Altered or enlarged in any way; or~~
 - b. ~~Replaced by another nonconforming sign, though a change in the message will not be deemed to be a replacement; or~~
 - c. ~~Relocated to any other location in the Snelling-Hamline special sign district; or~~
 - d. ~~Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of the loss, as determined by the city; or~~
 - e. ~~Maintained through replacement of structural elements.~~
- (2) ~~A nonconforming sign shall be immediately removed from the Snelling-Hamline special sign district at the cost of the owner if:~~
- a. ~~It is an imminent danger to life or property; or~~
 - b. ~~It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~
 - c. ~~Use of the sign has been discontinued for a period of three (3) consecutive months.~~

~~(e)(f)~~ *Sign permits; administration.* Whenever a permit for a sign in the Snelling-Hamline special sign district is required under the provisions of chapter 64, a permit shall not be issued unless the plans for the sign have been approved by the zoning administrator in conformance with this sign plan. All building permit applications for signs in the Snelling-Hamline special sign district shall be submitted to the zoning administrator for review and approval. A fee to cover the costs of the review shall be established by resolution of the city council. All applications submitted for zoning administrator approval shall be of sufficient detail to demonstrate that the proposed sign complies with the provisions of this sign plan. The zoning administrator shall review the application within thirty (30) days and notify the applicant of any decision to approve or disapprove the application. Written reasons, prepared by the zoning administrator, shall accompany all application decisions.

Sec. 64.740. Macalester-Groveland special district sign plan.

~~(e) — *Nonconforming signs.* Regulation of nonconforming signs within the Macalester-Groveland special sign district which lawfully existed prior to the effective date of this sign plan or any amendments hereto and which would be prohibited, regulated, or restricted under the provisions of this plan, may continue to exist as legal nonconforming signs regulated under the provisions of section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:~~

~~(1) — No nonconforming sign shall be:~~

~~a. — Altered or enlarged in any way; or~~

~~b. — Replaced by another nonconforming sign, though a change in the message will not be deemed to be a replacement; or~~

~~c. — Relocated to any other location in the Macalester-Groveland special sign district; or~~

~~d. — Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of the loss, as determined by the city; or~~

~~e. — Maintained through replacement of structural elements.~~

~~(2) — A nonconforming sign shall be immediately removed from the Macalester-Groveland special sign district at the cost of the owner if:~~

~~a. — It is an imminent danger to life or property; or~~

~~b. — It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or~~

~~c. — Use of the sign has been discontinued for a period of three (3) consecutive months.~~

~~(e)(g) *Sign permits; administration.* Whenever a permit for a sign in the Macalester-Groveland special sign district is required under the provisions of chapter 64, a permit shall not be issued unless the plans for the sign have been approved by the zoning administrator in conformance with this sign plan. All building permit applications for signs in the Macalester-Groveland special sign district shall be submitted to the zoning administrator for review and approval. A fee to cover the costs of the~~

review shall be established by resolution of the city council. All applications submitted for zoning administrator approval shall be of sufficient detail to demonstrate that the proposed sign complies with the provisions of this sign plan. The zoning administrator shall review the application within thirty (30) days and notify the applicant of any decision to approve or disapprove the application. Written reasons, prepared by the zoning administrator, shall accompany all application decisions.

Sec. 64.755. Shepard Davern special district sign plan.

(e) — ~~Nonconforming signs.~~ Regulation of nonconforming signs within the Shepard Davern special sign district which lawfully existed prior to the effective date of this sign plan or any amendments hereto and which would be prohibited, regulated, or restricted under the provisions of this plan, may continue to exist as legal nonconforming signs regulated under the provisions of section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:

(1) — No nonconforming sign shall be:

- a. — Altered or enlarged in any way; or
- b. — Replaced by another nonconforming sign, though a change in the message will not be deemed to be a replacement; or
- c. — Relocated to any other location in the Shepard Davern special sign district; or
- d. — Reconstructed after incurring damage in an amount exceeding fifty (50) percent of its replacement cost at the time of the loss, as determined by the city; or
- e. — Maintained through replacement of structural elements.

(2) — A nonconforming sign shall be immediately removed from the Shepard Davern special sign district at the cost of the owner if:

- a. — It is an imminent danger to life or property; or
- b. — It incurs damage in an amount exceeding fifty (50) percent of its replacement cost at the time of loss, as determined by the city; or
- c. — Use of the sign has been discontinued for a period of three (3) consecutive months.

~~(e)~~(g) *Sign permits; administration.* Whenever a permit for a sign in the Shepard Davern special sign district is required under the provisions of the chapter 64, a permit shall not be issued unless the plans for the sign have been approved by the zoning administrator in conformance with this sign plan. All building permit applications for signs in the Shepard Davern special sign district shall be submitted to the zoning administrator for review and approval. A fee to cover the costs of the review shall be established by resolution of the city council. All applications submitted for zoning administrator approval shall be of sufficient detail to demonstrate that the proposed sign complies with the provisions of this sign plan. The zoning administrator shall review the application within thirty (30) days and notify the applicant of any decision to approve or disapprove the application. Written reasons, prepared by the zoning administrator, shall accompany all application decisions.

Sec. 64.770. Downtown area special district sign plan.

- (c) Within the downtown special sign district, no advertising signs shall be subject to the following restrictions:
- (1) ~~No advertising signs shall be permitted except signs on transit shelters and courtesy benches licensed or franchised by the city;~~
 - (2) ~~Advertising signs within the downtown special sign district which lawfully existed prior to the adoption of this special sign plan and which would be prohibited, regulated, or restricted under the provisions of this sign plan or amendments hereto, may continue to exist as legal nonconforming signs under the provisions of Legislative Code section 64.300 pertaining to nonconforming signs, subject to the following additional requirements:~~
 - a. ~~No nonconforming advertising sign shall be:~~
 1. ~~Altered or enlarged in any way; or~~
 2. ~~Replaced by another nonconforming advertising sign, though a change in the message on a nonconforming advertising sign will not be deemed to be a replacement; or~~
 3. ~~Relocated to any other location in the downtown special sign district; or~~
 4. ~~Reconstructed after incurring damage to the advertising sign display surface or advertising sign structure in an amount exceeding fifty one (51)~~

~~percent of the replacement cost of the advertising sign display surface or fifty one (51) percent of the replacement cost of the advertising sign structure at the time of loss, as determined by the zoning administrator; or~~

~~5. Maintained through replacement of structural elements.~~

~~b. Any nonconforming advertising sign shall be immediately removed from the downtown special sign district at the cost of the owner if:~~

~~1. It is deemed unsafe or hazardous by the zoning administrator; or~~

~~2. The advertising sign face or advertising sign structure sustains damage in an amount exceeding fifty one (51) percent of the replacement cost of the advertising sign display surface or advertising sign structure at the time of loss; or~~

~~3. Use of such advertising sign has been discontinued for a period of three (3) consecutive months.~~