

SUPPLEMENTAL PACKET

5.D

PROCEEDINGS OF THE AFTON CITY COUNCIL
CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA

DRAFT City Council Special Meeting Minutes
May 7, 2018
Afton City Hall
3033 St. Croix Trail
Afton, MN 55001
5:00 P.M.

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12 1. THE MEETING WAS CALLED TO ORDER at 5:15 P.M. by Mayor Bend.

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14 2. ROLL CALL: Council Members Ross, and Palmquist and Mayor Bend. Members absent, Council
15 members Nelson and Richter. Quorum Present.

16 ALSO PRESENT: City Administrator Ron Moorse

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19 3. APPROVAL OF AGENDA –

20 Motion/Second: Bend/Ross. To approve the meeting agenda as presented. Motion carried 3-0-0.

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22 4. CITY COUNCIL BUSINESS

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24 A. Grading of parking lot area after removal of City garage adjacent to the Afton Historical Museum.

25 Moorse indicated that when the Council approved the demolition of the garage adjacent to the Afton Historical Museum, an
26 amount of \$1,000 was also approved for grading and Class 5 to construct a parking lot. The costs for grading and Class 5 are
27 significantly beyond the authorized \$1,000 cost. In addition, a tree needs to be removed.

28 The itemized costs from Tri County are as follows:

- 29 • Class 5, including delivery: \$2,750
- 30 • Tree removal: \$500
- 31 • Additional fill: \$250
- 32 • Compaction of the Class 5: \$500
- 33 Total: \$4,000

34
35 Moorse indicated that if the work is authorized it can be completed in time to have the parking lot ready for the Jessie Diggins
36 Day event on May 12.

37
38 Motion/Second.: Palmquist/Ross. To approve Tri County to complete the work related to the parking area adjacent to
39 the Afton Historic Museum at a cost not to exceed \$4,500. Motion carried 3-0-0.

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41 B. Expand width of driveway in “Carver Park” area south of Kelle’s Creek to enable parking along the
42 driveway.

43 Moorse indicated the Class 5 driveway planned for the “Carver Park” area south of Kelles Creek has an 18 foot
44 width. The concept plan for the park area includes informal turf parking along both sides of the driveway. This
45 would provide a substantial amount of parking, which would be particularly beneficial during large community
46 events. However, there is a concern that, if a large event was preceded by rain, the parking would significantly
47 damage the grass area. A solution would be to widen the driveway to create a gravel parking area along the inside
48 of the driveway. The grading subcontractor is finishing up work in the area, and needs to know how wide to make
49 the driveway. Nick Guilliams has indicated the cost of expanding the driveway width by 16 feet to enable parking
50 would cost \$6,500. Staff is requesting direction from the Council regarding the desired driveway width.

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52 Motion/Second: Palmquist/Ross. To approve expanding the driveway on one side to provide parking at a
53 cost of \$6,500. Motion carried 3-0-0.

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55 5. ADJOURN –

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57 Motion/Second: Ross/Palmquist. To adjourn the meeting at 5:35 p.m. Motion carried 3-0-0.

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Respectfully submitted by:

Ronald J. Moorse, City Administrator

Approved by Council on July 17, 2018 as (check one): Presented: _____ Amended: _____

Signed by Mayor Richard Bend _____ **Date** _____

Vacant Storefronts

By Emily Northey, Minnesota Main Street Coordinator

Storefront vacancies affect the whole community, not just the building they're in or neighboring buildings. This is often one of the most concrete arguments made for why Main Street programs engage everyone in a community - not just the building and business owners downtown.

house, if you walk past the same peeling paint or overgrown bush every day, after a while you stop seeing it. Photographs have a way of giving people a fresh perspective.

Just as everyone from potential employees to local government to banks and newspapers is affected the vacant storefront, so too should each of these people chip in to make the Main Street district a place where businesses can succeed people want to visit.

In this article I'm going to focus on the small, incremental, first steps that people in a community can take to improve how vacant storefronts are perceived by working in cooperation with property owners. Many types of more complex projects may certainly be completed to recruit businesses into vacant storefronts after basic issues are addressed.

It is very important to build a relationship with the property owner, and educate them about how individual buildings affect the success of the district. To build a trusting relationship, make sure not talk down to the building owner or insult their building - or their maintenance of it.

Speaking with all building owners on a block or district will help them not to feel picked-on or singled out; you're meeting with everyone, not just them. Bringing recent photos of their building to the meeting, especially for absentee owners, can also be helpful. Just like at your

How does a vacant storefront affect me?

According to Don Rypkema, of Place Economics, a storefront* sitting vacant for one year costs an estimated:

- \$250,000 in lost sales
- \$12,500 in lost sales tax revenue to state and local government
- \$15,000 in lost rents to the property owner
- \$1,500 in lost property tax revenue to local government
- \$51,000 in lost loan demand to local banks for the building
- \$15,000 in lost loan demand to local banks for the business
- \$750 in lost property management fees
- \$24,750 in lost business profits and owner compensation
- \$16,250 in lost employee payroll

**For these purposes, one storefront is 25 feet wide. If a building has a 75 foot wide storefront, it counts as three.*

Curb Appeal

The same as selling your house, when a commercial space is for lease/sale, it needs to look well-maintained, attractive, and well-advertised in order to have the best chance of attracting successful tenants. What message does the appearance of the storefront (and the rest of the building) send to prospective tenants or buyers?

The following projects are free to low-cost, can be done right away, and can either be completed by the property owner or volunteers with permission from the property owner (and appropriate insurance, please).

- Cleaning! Using gentle soap and water with rags, sponges, and squeegees, clean all exterior surfaces. Wash the windows, window sills, doors, etc. If possible, use a low powered pressure washer to clean the surrounding sidewalk, bricks or other durable exteriors; do NOT use sandblasting on historic buildings. Often it's amazing the difference simply cleaning a building will make.

- Cleaning the interior. If the property owner grants access, clean up the interior of the storefront - especially the area visible through the storefront. Pick up and throw away any garbage or



Figure 1. New Ulm Retail Development Corporation created this sign and places it in vacant storefronts with the permission of the property owner. To learn more about their incentives, go to www.newulm.com and click on "Development Incentives," and then "Retail Development" on the right hand side.

debris, vacuum, wipe down the walls, and arrange any furniture or fixtures in a pleasing way similar to how they might appear if the space was leased.

- Fresh paint. Here the property owner has a decision to make, and you can help. Do they want to paint colors to be the same or different? If they'll be different, you can help by offering them a few color schemes; many paint companies offer historic color schemes in the paint section of hardware store. After scraping and preparing any surfaces with peeling paint, give it a fresh coat, or two of quality exterior paint. Remember, do not paint unpainted brick or stone surfaces.
- Removing old window stickers. Does the door or storefront window have stickers announcing that the business accepts major credit cards? Removing the stickers without scratching the glass will create a cleaner look for future tenants and give them one less thing to do once they lease/purchase the space. It's also a good practice for current businesses to reduce the amount of "clutter" in their window area; this helps

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Melanie Blanchette, mainstreet manager
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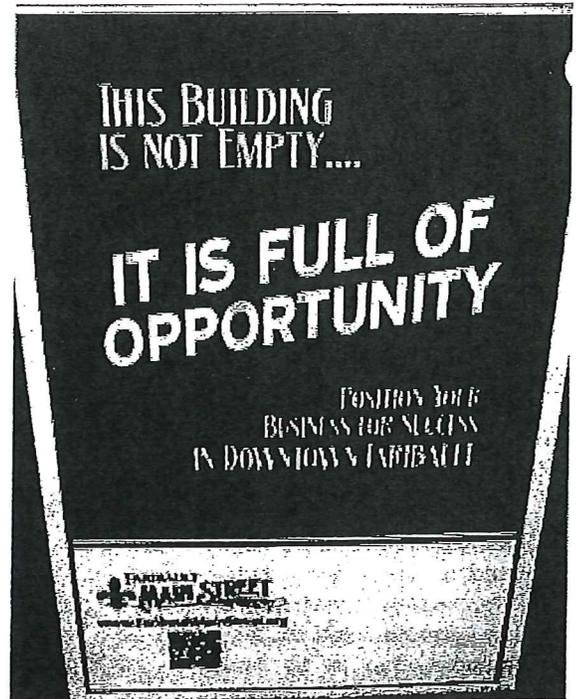


Figure 2. FaribaultMainStreet.org includes a listing of available space in their district. The blank area in the bottom right corner of the sign is for property information, including who to contact for more information about the space. Photo courtesy of Faribault Main Street

people focus on the more important signals (your store name, window display, hours, products/services, etc.).

Window Dressing

Now that the windows and window display area are clean, what will be placed there to tell people that this space is available and ready for business opportunities?

"For Rent" Signs

You've seen the black and orange signs with a phone number in permanent marker in windows –and in the hardware store for \$5. What message does this send? "We wanted to find the cheapest and fastest way to tell people to rent here. We didn't think about it too much." Now, if you saw this sign (*above left*) in a window, you might think, "They welcome businesses here and will help me. They have incentives for starting or growing retail businesses and really put a lot of effort into this sign. Geez, if they did this much for an empty storefront, I bet they do a lot of other work to make the downtown a good place to do business. They clearly value their community and its historic buildings."

Don't have an incentives program? No problem. You can still make affordable and reusable signs that tell prospective tenants that they are in a well-managed and cared for district such as this one from Faribault Main Street (*above right*).

Art Displays

Displaying local artists' work in window displays can be

a creative way to brighten up the vacant space while still allowing people to get a good look at what the space has to offer. Make sure that the arrangement is documented in writing: how long will the art will be displayed, who will set up and remove the art, will the lights be on and who will pay the electricity bill. It may surprise you what issues come up when you put artists and property owners in the same room; bring paper and a pen.

The Customer is Always Right

Well, maybe not always, but this is a very (easy and) interactive way to get people walking by excited about the vacant space instead of depressed about how long it's sat empty. It also gives prospective tenants on-the-spot information about what the community desires at that location.

So what is it? People walking past are encouraged to write down on removable vinyl stickers what they wish was in that vacant space before sticking the sticker to the window.

As always, make sure you have the permission of the property owner before putting stickers on their building. More information about the stickers can be found at: iwishthiswas.cc.

Other Window Display Ideas

Many other concepts could be used to temporarily make the windows of vacant storefronts more visually engaging:

- Posters for community events
- Historic photos of the community or building
- Businesses could take turns "renting" the window for advertising space.

Changing the window display on a regular basis, such as quarterly or monthly, will capture people's attention better, just as it will for a business.

More Information

You can read more about methods for addressing vacant retail spaces at the following sites:

- Storefronts Seattle: storefrontsseattle.wordpress.com/about/
- False Haberdashery Storefront Article: tinyurl.com/falsefront
- False Delicatessen Storefront Article: tinyurl.com/delicatessenCA
- Vacant Buildings Issue of Main Street Now: tinyurl.com/MainStreetMagazine
- Art in Storefronts, Whittier neighborhood in Minneapolis: tinyurl.com/StribWhittier
- National Parks Service Preservation Brief #31 on Mothballing Buildings: nps.gov/hps/tps/briefs/brief31.htm

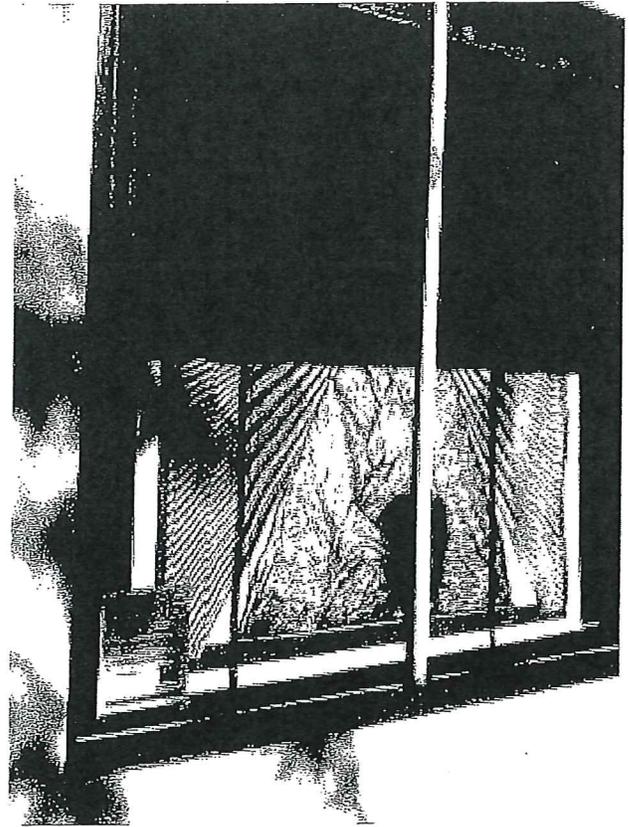
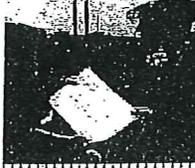


Figure 3. Image courtesy of Emily Northey.

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DEMOLITION BY NEGLECT

“Demolition by Neglect” is the term used to describe a situation in which a property owner intentionally allows a historic property to suffer severe deterioration, potentially beyond the point of repair. Property owners may use this kind of long-term neglect to circumvent historic preservation regulations.

Contexts in Which Demolition by Neglect Arises

Sometimes demolition by neglect occurs when an owner essentially abandons a historic property. More often, neglect is an affirmative strategy used by an owner who wants to develop the property. The context in which the issue is raised depends on what action the city decides to take, if any.

At one end of the spectrum, some local governments have taken affirmative enforcement actions against the owners of such properties, ultimately going to court if necessary. At the other end of the spectrum, occasionally the owner of a neglected or deteriorating property will file a lawsuit against the local government, challenging the historic designation or some other feature of the preservation ordinance. The problem with both of these extremes is that courts are very unpredictable.

More commonly, demolition by neglect controversies end up somewhere in the middle of this spectrum, with the local government issuing citations to repair the building, and the owner ignoring the citations. The skirmishes involved in this process often result in a statement that leaves all sides frustrated.

Demolition by Neglect and Economic Hardship

Property owners using demolition by neglect as a tactic to work around preservation laws will often argue that the prohibitive cost of repairs and deferred maintenance creates an economic hardship.

Ideally historic preservation ordinances need a safeguard provision to protect against this kind of argument, creating a loophole. Generally, the owner’s own neglect should not be allowed to create an economic hardship. However, it is often difficult to sort out the extent to which an economic hardship is attributable to an owner’s actions, or to things beyond the owner’s control (i.e., circumstances that would have existed in any event). In looking at economic hardship and demolition by neglect, it is important for commissions to look beyond simply the relationship between the cost of repairs and the purchase price or the “as is” value.

Tools for Controlling Demolition by Neglect

The most important tool for controlling demolition by neglect is a carefully drafted provision in the local preservation ordinance requiring affirmative maintenance and ensuring that the local commission is equipped with adequate remedies and enforcement authority. Even if a community already has some type of affirmative maintenance provision, it may want to review your ordinance and amend it in order to increase its effectiveness.

Chapter 34 - BUILDING DEMOLITION^[1]

Sec. 34-1. - Purpose of chapter.

This chapter is adopted for the purpose of protecting the historic and aesthetic qualities of the city by preserving, rehabilitating or restoring, when reasonable, buildings or structures which constitute or reflect distinctive features of the architectural or historical resources of the city, thereby promoting the public welfare and preserving the cultural heritage of the city.

(Ord. No. 1047, § 1, 6-5-12)

Sec. 34-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subdivision, except where the context clearly indicates a different meaning:

Building or structure of potential historic significance means a building or structure or portion of a building or structure built on or prior to December 31, 1945.

Commission means the heritage preservation commission.

Community development director means the Stillwater Community Development Director or his or her designee.

Demolition means one of the following:

- (1) Razing a building.
- (2) Removal of 50 percent or more of the total facade.
- (3) Removal of more than 20 percent of the exterior front facade of a structure including the front facing roof. The amount of front facade that is required to be removed for a front porch shall not be counted toward the 20 percent.
- (4) Demolition by neglect.

A demolition shall not mean any of the following:

- (1) A structure required to be demolished in accordance with Minn. Stat. ch. 463.
- (2) Destruction by fire that has been determined to be a total loss by the community development director. However, a fire that is caused by arson and was proven to be started by an act of the owner or the owner's agent shall be considered a demolition.
- (3) Destruction by a natural disaster or other similar event and which has been determined to be a total loss by the community development director.
- (4) Items that are considered maintenance in the opinion of the community development

director.

- (5) Items that are considered maintenance in the opinion of the community development director.

Historic resource means any building or structure that is not currently designated as a heritage preservation site, but which is worthy of such designation because of its historical, cultural, architectural, archaeological or engineering significance for one of the following reasons:

- (1) The property is associated with significant events or with periods that exemplify broad patterns of cultural, political, economic or social history.
- (2) The property is associated with the lives of significant persons or groups.
- (3) The property contains or is associated with distinctive elements of city or neighborhood identity.
- (4) The property embodies the distinctive characteristics of an architectural or engineering type or style, or method of construction.
- (5) The property exemplifies a landscape design or development pattern distinguished by innovation, rarity, uniqueness or quality of design or detail.
- (6) The property exemplifies works of master builders, engineers, designers, artists, craftsmen or architects.
- (7) The property has yielded, or may be likely to yield, information important in prehistory or history.

Historically significant building or structure means any building or structure or portion of a building or structure on the National Historic Register, a designated local heritage preservation site or a contributing structure or building in a designated national register historic district.

Nonhistoric structure or building means a structure or building built on or after January 1, 1946, or is not on the National Historic Register, or is not a designated local heritage preservation site, or is a noncontributing structure or building in a designated national register historic district.

(Ord. No. 1047, § 1, 6-5-12)

Cross reference— Definitions generally, § 21-2

Sec. 34-3. - Permit required.

No building or structure may be demolished without obtaining a demolition permit. An application for a demolition permit must be filed with the city building official.

(Ord. No. 1047, § 1, 6-5-12)

Sec. 34-4. - Procedure.

The building official must forward a copy of each demolition permit application to the community development director.

Subd. 1. *Community development director review.* The community development director shall review the permit, conduct an on-site visit of the property with the applicant, make one of the following determinations, and take the associated action:

- (1) The building or structure is historically significant. If the building or structure is found to be historically significant, then the application will be sent to the commission for review according to section 34-4, subdivision 2.
- (2) The building or structure is a historic resource. If a building or structure is potentially historic due to being built on or prior to December 31, 1945, and it is determined to be a historic resource, then the application will be sent to the commission for review according to section 34-4, subdivision 2.
- (3) The building or structure is potentially historic but not historically significant or not a historic resource. If a building or structure is found to be potentially historic, but it is determined that it does not meet the definition of a historic resource, then the application for a demolition permit will be referred to the building official for issuance of a demolition permit.
- (4) The building or structure is nonhistoric. If a building or structure is nonhistoric, then the application for a demolition permit will be referred to the building official for issuance of a demolition permit.

Subd. 2. *Heritage preservation commission review.* If the community development director determines that a building or structure is historically significant or a historic resource, then the commission must review the demolition request to determine whether a demolition permit may be issued.

- (1) *Required demolition permit application materials.* An application form and 15 copies for commission review must be submitted to the city in order to place the demolition request on a commission agenda for consideration. The demolition permit application must include the following information:
 - (a) A map showing the location of the building or structure to be demolished on its property and with reference to neighborhood properties;
 - (b) A legal description of property and owner of record;
 - (c) Photographs of all building elevations;
 - (d) A description of the building or structure or portion of building or structure to be demolished;
 - (e) The reason for the proposed demolition and data supporting the reason, including, where applicable, data sufficient to establish any economic justification for demolition to determine why restoration or reuse is not economically feasible;

- (f) Proposed plans and schedule for reuse of the property on which the building or structure is located. The heritage presentation commission may apply the standards set out in the conservation design guidelines when appropriate;
 - (g) Relation of demolition and future site use to the comprehensive plan and zoning requirements; and
 - (h) A description of alternatives to the demolition.
- (2) *Public hearing*. The commission must hold a public hearing according to section 31-204, subdivision 3 of this Code. Additionally, 12 days prior to the public hearing, the applicant shall cause a sign to be installed at the street frontage of the property stating a notification message as prescribed by city staff that is intended to notify the public of the proposed demolition. The commission will conduct the public hearing, review the demolition request, and decide upon one of the following courses of action:
- (a) For a historically significant building or structure:
 - (i) *No feasible alternative to demolition*. If the commission determines that the owner has made a reasonable effort to sell or preserve the structure and after finding that there is no available feasible alternative to demolition, then the commission shall notify the building official that a demolition permit may be issued, as provided in subsection (3) below.
 - (ii) *Feasible alternative to demolition*. If the commission determines that there is a feasible alternative to demolition, the permit must be denied.
 - (b) For a historic resource:
 - (i) *Negative finding*. If the commission finds that the property is not a historic resource, then the commission shall notify the building official that a demolition permit may be issued, as provided in subsection (3) below.
 - (ii) *Positive finding with no feasible alternative to demolition*. If the commission finds that the property is historically significant or a historic resource, but that there is no feasible alternative to demolition, then the commission shall notify the building official that a demolition permit shall be issued, as provided in subsection (3) below.
 - (iii) *Positive finding with feasible alternative to demolition*. If the commission finds that the property is historically significant or a historic resource, and that there is a feasible alternative to demolition, then the commission shall deny the demolition permit and direct the community development director to prepare a designation study of the property, as provided in section 22-7, subdivision 4 [Procedures for the designation of heritage preservation sites].
 - 1. *Failure to designate property*. If the city council does not approve the preparation of the designation study within 30 days of the commission determination, or if the completed designation study is not approved

within 180 days of the commission determination, or if the city council denies implementation of the designation after completion of the designation study, then the building official shall issue the demolition permit.

- (3) *Commission findings and conditions.* While reviewing the demolition permit request, the commission shall consider the following findings and conditions:
- (a) *Destruction of a building or structure.* Before approving the demolition of a building, the commission shall make findings that the demolition is necessary to correct an unsafe or dangerous condition on the property, or that there are no reasonable alternatives to the demolition. In determining whether reasonable alternatives exist, the commission shall consider, but not be limited to, the significance of the property, the integrity of the property and the economic value or usefulness of the existing structure, including its current use, costs of renovation and feasible alternative uses. The commission, with the approval of the city council, may delay a final decision for up to 180 days to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it.
 - (b) *Mitigation plan.* The commission may require a mitigation plan as a condition of any approval for demolition of a building. Such plan may include the documentation of the property by measured drawings, photographic recording, historical research or other means appropriate to the significance of the property.
 - (c) *Demolition delay.* With the approval of the city council, the commission may stay the release of the building, wrecking or demolition permit for up to 180 days as a condition of approval for a demolition of a building that has been found to contribute to a potential historic district to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it. The release of the permit may be allowed for emergency exception as required in section 34-5.

(Ord. No. 1047, § 1, 6-5-12)

Sec. 34-5. - Emergency demolition.

If a historically significant building or structure or historic resource poses an immediate threat to health or safety due to its deteriorated condition, the owner of the building or structure may request issuance of an emergency demolition permit. If both the community development director and building official find that the condition of the building or structure poses a serious and imminent threat to public health and safety and that there is no reasonable alternative to the immediate demolition, together the community development director and building official may issue an emergency demolition permit.

(Ord. No. 1047, § 1, 6-5-12)

Sec. 34-6. - Fee.

For purpose of reimbursing the city for administration of this chapter, the city will by resolution, from time to time, set the amount of fees to be charged for processing all applications and appeals.

(Ord. No. 1047, § 1, 6-5-12)

Sec. 34-7. - Injunction.

In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. This application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(Ord. No. 1047, § 1, 6-5-12)

Sec. 34-8. - Violation of chapter.

Any person violating any provision of this chapter shall be guilty of a misdemeanor, and a separate offense shall be deemed committed on each day during on which a violation occurs or continues.

(Ord. No. 1047, § 1, 6-5-12)

Portland, Maine: Portland permits its Department of Planning and Urban Development to order property owners to make necessary repairs to deteriorating buildings within specified time periods. The city also spells out in its ordinance procedures for appealing such orders.

"Section 14-690. Preservation of Protected Structures.

(a) Minimum Maintenance Requirement.

All landmarks, and all contributing structures located in an historic district, shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control thereof.

- (1) Deteriorated or inadequate foundation which jeopardizes its structural integrity;
- (2) Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety which jeopardize its structural integrity;
- (3) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration which jeopardize its structural integrity;
- (4) Structural members of ceilings and roofs, or other horizontal structural members which sag, split or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety which Jeopardize its structural integrity;
- (5) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety which jeopardize its structural integrity;
- (6) Lack of weather protection which jeopardizes the structural integrity of the walls, roofs, or foundation;

(b) The owner or such other person shall repair such building, object, or structure within a specified period of receipt of a written order to correct defects or repairs to any structure as provided by subsection (a) above, so that such structure shall be preserved and protected in accordance with the purposes of this article.

(c) Any such order shall be in writing, shall state the actions to be taken with reasonable particularity, and shall specify dates for compliance which may be extended by the Department (of Urban Planning and Development) for reasonable periods to allow the owner to secure financing, labor or materials. Any such order may be appealed to the Board of Appeals within 30 days. The Board shall reverse such an order only if it finds that the Department had no substantial justification for requiring action to be taken, that the measures required for time periods specified were not reasonable under all of the circumstances. The taking of an appeal to the Board or to Court shall not operate to stay any order requiring structures to be secured or requiring temporary support unless the Board or Court expressly stay such order. The City shall seek preliminary and permanent relief in any court of competent jurisdiction to enforce any order."

The Portland ordinance also deals firmly with people who violate these and other provisions. In addition to having to pay fines for "each day on which there is failure to perform a required act," the ordinance applies a sort of "scorched earth" policy: If a person violates the ordinance either willfully or through gross negligence, he may not obtain a building permit for any alteration or construction on the historic landmark site for five years. Moreover, for a period of 25 years, any alteration or construction on the property is subject to special design standards imposed in the ordinance, whether or not the property involved is historic.

9.C.16

RESOLUTION 2018-35

**A RESOLUTION OF THE CITY COUNCIL OF AFTON, MINNESOTA,
ACTING IN ITS CAPACITY AS THE BOARD OF APPEALS AND
ADJUSTMENT PURSUANT TO AFTON CITY CODE §12-77 ON THE MATTER
OF THE APPEAL OF SCANNELL PROPERTIES
OF JUNE 1, 2018.**

WHEREAS, Scannell Properties (hereinafter, "Applicant") is the owner of a certain parcel of land located in the City of Afton, Minnesota (hereinafter, the "City"), at 14386 Hudson Road South (hereinafter, "the Site"); and

WHEREAS, on or about March 20, 2018, Applicant applied to the City for a Conditional Use Permit that would allow it to use the site as a facility where school buses would be stored and maintained for the Stillwater School District for all of the school buses owned by the District; and

WHEREAS, at the time of the application, the City had in force a moratorium in the zoning district in which the Site was located which prohibited during its pendency any applications for exterior storage in the zoning district that included the Site; and

WHEREAS, City, via its administrator, informed the Applicant in writing that its proposal violated the prohibition of the moratorium against exterior storage and returned the application fee and application to Applicant; and

WHEREAS, the Applicant challenged the determination of the City that its application was in violation of the terms of the moratorium, specifically that placement of a large number of school buses on the site over a period of hours, days, weeks or months, would constitute "exterior storage"; and

WHEREAS, the Applicant further challenged the City's determination by claiming that the response of the City had not been within 60 days and that, therefore, the application of Applicant for the Site had been approved as a matter of law regardless of its legality under the City's moratorium or other ordinances; and

WHEREAS, the Applicant made a timely appeal of the City's determination under the procedure provided in Afton City Code Section 12-77.

NOW, THEREFORE, acting in its capacity as the Board of Adjustments and Appeals for the City of Afton, the City Council (hereinafter, "the Board") makes the following

FINDINGS OF FACT

1. That the foregoing recitation is adopted in its entirety as fact.
2. That the proposed use would involve the utilization of the site by more than twenty school buses which would be warehoused on that site outside of any structure when not in use.
3. That the buses located on the site would both individually and collectively be located there for long intervals, possibly including weeks and months at a time.
4. That buses would be located on the site at least overnight in almost all cases and over weekends in almost all cases, as well as periods of time over summer and school vacations.
5. That City ordinances address the “parking” of commercial vehicles in the City, but such regulations govern incidental, short term placement of vehicles on City streets and private driveways and commercial properties.
6. That the proposed use of the Site, while possibly involving occasional incidental parking of buses, is primarily the warehousing and storage of buses when they are not actively in use for the transportation of children.
7. That the proposed use constitutes exterior storage of vehicles and is expressly prohibited from being considered under the City’s moratorium.
8. That, under the City’s moratorium, a conditional use permit may not be considered for uses involving exterior storage, and the proposed use involves the exterior storage of school buses.
9. That Applicant’s claim that its application for a conditional use permit must be granted pursuant to Minn.Stat.§15.99 is without merit inasmuch as it involves an application for a use not allowed to be considered under the moratorium.

Based on the foregoing, the Board makes the following:

CONCLUSION OF LAW AND DISPOSITION:

1. The proposed use for the Site by Applicant involves the exterior storage of school buses and is not permitted under the City's current moratorium. The Appeal herein is, therefore, denied and the City's position is upheld.

2. The Applicant's assertion that the provisions of Minn.Stat. §15.99 require the issuance of a conditional use permit for the site for school bus storage is without merit inasmuch as it would be permitting, if granted, a use not allowed to be considered under the current moratorium.

ADOPTED this 17th day of July, 2018.

Witness:

Richard Bend, Mayor, as Chairman of the
Afton Board of Adjustments and Appeals

Ronald J. Moorse, City Administrator