

**FIRST AMENDMENT TO THE DECLARATION OF PROPERTY COVENANTS FOR
TACOMA WEST INDUSTRIAL PARK**

PROPERTY SUBJECT TO THIS DECLARATION

The real property hereinafter referred to as Tacoma West Industrial Park, which is, and shall be, held and shall be conveyed, transferred and sold subject to the conditions, restrictions, Covenants, reservations, easements, liens and charges with the respect to the various portions thereof set forth in the various clauses and subdivisions of this Declaration is located in the County of Carver, State of Minnesota and is more particularly described as in Exhibit A attached hereto. No property other than that described in Exhibit A shall be deemed subject to this Declaration, unless and until specifically made subject thereto. *This Declaration amends that certain Declaration of Property Covenants for Tacoma West Industrial Park adopted July 24, 2006 and filed in the Office of the County Recorder for Carver County on February 5, 2007 as Document No. A458361.*

GENERAL PURPOSES OF CONDITIONS

The real property described above hereto is subjected to the Covenants, restrictions, conditions, reservations, liens and charges hereby declared to insure the best use and the most appropriate development and improvement of building sites thereof; to protect the Owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve so far as practicable, the natural beauty of such property; to guard against the erection thereon of poor designed or proportioned structures, and structures built of improper or unsuitable materials; to insure the highest and best development of said property; to encourage and secure the erection of attractive buildings thereon, with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from streets and adequately for a high type and quality of improvement in said property, and thereby to enhance the values of investments made by purchasers of building sites therein.

These Covenants are to run with the land and shall be binding on all parties and all persons claiming under them until 7-1-2027, at which time said Covenants shall be automatically extended from year-to-year, provided, however, that after 7-1-2027 said Covenants can be amended at any time by a vote of a majority of the then Owners of lots or tracts. Each lot or tract in the original plat shall have one vote. A $\frac{2}{3}$ (two-thirds) majority shall be required to pass an amendment. An adopted amendment shall become effective when an appropriate document signifying and describing such change is filed with the Carver County Recorder, provided also that these Covenants can be added to or made more restrictive at any time prior to 2-1-2027 by following the above procedure. No requirement of these Covenants is intended to usurp the minimum requirements of applicable City of Norwood Young America ordinances and standards. Invalidation of any one of the Covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

DESIGN REVIEW TEAM

The determination of conformance to the Covenants shall be by review of the Norwood Young America Design Review Team (hereafter known as the DRT). The DRT will review all property improvements within the Tacoma West Industrial Park. The DRT shall consist of the City Administrator, Community Development Director, Economic Development Coordinator, the City Engineer, and members of the Norwood Young America Economic Development Commission. The City Council of the City of Norwood Young America shall review and approve all decisions made by the DRT.

DESIGN REVIEW

No building, addition, site improvement or exterior property improvement of any kind shall be erected, placed or altered on any lot until Preliminary Plans prepared by a registered Architect have been submitted to the DRT. In connection with this requirement, Preliminary Plans shall consist of:

1. A site plan indicating the location of the building or improvement on the lot and clearly designating the size and location of Parking, Loading Areas, Access Drives, Utility Services, Yards, Waste Storage, Exterior Lighting, Easements, General Storm Drainage and Grading, Paving Materials, Storage Areas, Waste and Storage Screening and Landscaping. All signage on the site other than traffic control shall be defined.
2. A schematic floor plan showing the general usage inside the building.
3. Exterior elevations of the building screening indicating exterior materials and configuration of the materials and colors on all sides of the building. Elevations of loading area, screening of large mechanical and electrical components and waste screening shall also be provided. All signage on the building exterior shall be defined.
4. Building Sections showing the proposed structural system, mechanical and other screening and typical construction heights.

The DRT shall review the Preliminary Plans for conformance to the requirements of the Covenants and make their findings known, in writing, to the potential purchaser of unimproved property or the Owner of improved property within twenty (20) days from the date in which plans are submitted to the DRT. The Owner of improved property will be required to address any non-conforming items of the proposed construction in writing with re-submittal of applicable Preliminary Plans until such time the DRT is satisfied that all Covenants will be complied with and DRT approval is granted.

The Norwood Young America City Council shall review all recommendations of the DRT. The City Council shall either approve or disapprove any decision of the DRT within twenty (20) days from the date in which the DRT approves the plans.

Approval or disapproval by the DRT, or Norwood Young America City Council, or failure to approve or disapprove any or all requirements of the Covenants shall not impair, restrict or limit the force, effect and operation of all the other protective Covenants herein contained, which shall apply at all times.

PRINCIPAL AND ACCESSORY USES

The principal and accessory uses permitted by the I1 Zoning District as regulated by the Norwood Young America Zoning Ordinance in effect at the time are permitted by these Covenants.

MINIMUM VALUATION

The minimum total building and land valuation after completion of the project shall not be less than \$42.50 square foot. The City may review and revise this every three (3) years.

SPACE ALLOCATIONS AND DIMENSIONAL STANDARDS

1. Minimum Setback Lines:
 - A. Front and Street Side Yards: There shall be a front and street side yard setback of 30-feet.
 - B. *Interior Side Yards: There shall be side yard setbacks of 15-feet*
 - C. *Rear Yards: There shall be rear yard setbacks of 20-feet, except as stated in Item D below.*
 - D. When the lot or tract is adjacent to a residential district or a street, a 75-foot property setback shall be required on that side of the district adjacent to the residential district.
2. Density:
 - A. The building to site ratio shall not be less than twenty-five (25) percent.
 - B. Site coverage, including all buildings and paved areas, shall not exceed eight (80) percent of site. A minimum of twenty (20) percent of a site shall be devoted to green area.
3. Building Height: No building shall exceed forty- (40) feet in height.
4. Lot Area Regulations: Every individual lot, site or tract shall have an area of not less than two (2) acres or the minimum size established by current zoning ordinance.

5. Frontage Regulations: Every lot or tract shall have a width of not less than 200-feet abutting a public right-of-way.

SUBDIVISION

No lot, as platted by the City of Norwood Young America shall be subdivided and a part thereof sold or leased unless the proposed transfer has received the prior approval, in writing, from the City of Norwood Young America according to its Subdivision Ordinance.

EASEMENTS

Utility and drainage easements shall be as defined on the property plat. Vacation of abutting easements on adjacent commonly owned parcels will be permitted if approved by the City of Norwood Young America.

VARIANCES TO THESE COVENANTS

Any variance to these covenants must be approved by both the City of Norwood Young America, and the Owners desiring to vary from the requirements of these covenants who must first submit the desired variance to the DRT and obtain the DRT's written approval prior to submittal to the lot Owners in the Norwood Young America Tacoma West Industrial Park for their consideration. A $\frac{2}{3}$ (two-thirds) majority of all the lot Owners at the time is required to approve a variance. It will be the responsibility of those seeking the variance to bear any costs associated with obtaining the DRT's and the Owner's approval or disapproval.

CONSTRUCTION

Any building, addition, modification or improvement must conform to all applicable codes and ordinances.

BUILDING STRUCTURE

Building space framing structural systems can be of any materials suitable for the property Owner's business and applicable building codes and ordinances, except, no pole barn or post framed wood buildings will be permitted. Steel framed construction will be allowed.

BUILDING EXTERIOR ENCLOSURE MATERIALS

Building exterior enclosure materials shall be attractive in appearance, durable and of a quality, which is compatible with the adjacent structures and consistent with the intent of these covenants.

The front and street side facades shall be face brick, stone, glass, architectural metals or architectural woods, stucco, or EIFS with integral color or finish painting, architecturally treated concrete, cast in place or pre-cast concrete panels, painted decorative concrete block or integral

color water repellent treated decorative concrete block or an approved equivalent as determined by the DRT.

Un-faced concrete block, structural concrete, prefabricated metal siding, and the like are prohibited from the front and street side facade areas. The use of these materials elsewhere shall only be in a manner approved by the DRT.

All exterior building materials, which require periodic maintenance, shall be maintained on a regular basis to retain the intent of these covenants as determined by the DRT.

All subsequent additions, outbuildings and screens constructed after the erection of an original building(s) shall be designed in a manner conforming and harmonizing with the original architectural design and general appearance.

LANDSCAPING

Except for property access drives and city approved ground mounted signs, the area between the aforesaid front and side yard setback lines shall be landscaped and properly maintained with grass, trees and shrubs and shall be limited to this use.

All open areas of any site, tract, or parcel be graded to provide proper drainage, and except for areas used for walks, parking, drives or storage, shall be landscaped with trees, shrubs *and/or grass*. *All required landscaping improvements should be installed no later than one year from issuance of the certificate of occupancy. It shall be the Owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition.* All vacant lots, tracts or parcels shall be mowed and also be properly cleaned and maintained.

MATERIAL AND VEHICLE STORAGE (OUTSIDE STORAGE)

Outside storage shall be allowed in the Tacoma West Industrial Park; however, all outside storage, including trucks, or other vehicles in excess of three-quarter ($\frac{3}{4}$) ton capacity, or equipment, shall be screened with an 8-foot high fence, or by a combination of landscape plantings and/or berms, which shall be subject to review by the DRT. Storage shall not be allowed in trucks, trailers or similar containers.

WASTE

All solid waste materials, debris, refuse or garbage shall be kept within a completely enclosed building or properly contained in closed containers and stored in racks designed for such purpose. The covers to all dumpsters and all *refuse* carts shall be closed at all times, except to dispose of items. All liquid wastes containing any organic or toxic matter shall be discharged in a manner prescribed by the Governing Authority.

All waste shall be placed in containers or enclosures in a manner not constituting a nuisance by reason of wind-litter, disorderly appearance or abnormal fire hazard.

All waste containers or racking not in an enclosed building shall be completely screened for its full height or a minimum of eight (8) feet. Screening shall be permanent non-vegetation with one hundred (100) percent opacity constructed of the same matching materials as the buildings on the site. All screening shall have gates or other means of blocking vision through access points. Gates shall match screening, be properly maintained and kept closed except at immediate times of waste handling.

No outside incinerators, trash burners shall be installed, erected or utilized on any lot or plat.

PARKING AND LOADING

The City of Norwood Young America Zoning Ordinance shall set all parking requirements.

No parking shall be permitted on the streets of the Tacoma West Industrial Park.

All off-street parking, drives, loading or maneuvering areas, storage and waste container storage areas shall be surfaced with bituminous or concrete surfacing with concrete curbs.

All parking and loading areas in consideration of proper site development shall take into consideration winter snow accumulation and resulting potential damage to Covenant required landscaping and landscape screening.

NUISANCES

No noxious or offensive trade or activity shall be carried on upon any building site within the Norwood Young America Tacoma West Industrial Park nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. This includes, but is not limited to, excessive smoke, odor or noise:

1. Noise: Noises emanating from any use shall be in compliance with and regulated by the standards set by the Minnesota Pollution Control Agency. Noise shall be measured on any property line of the tract on which the operation is located and shall not exceed the following levels:

<i>Daytime</i>		<i>Nighttime</i>	
<i>L₅₀</i>	<i>L₁₀</i>	<i>L₅₀</i>	<i>L₁₀</i>
75 decibels	80 decibels	75 decibels	80 decibels

"L₁₀" means the sound level, expressed in decibels, which is exceeded ten percent of the time for a one-hour survey, as measured by test procedures approved by the commissioner of the MPCA. "L₅₀" means the sound level, expressed in decibels, which is exceeded 50 percent of the time for a one-hour survey, as measured by test procedures approved by the commissioner of the MPCA.

Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, volume, shrillness or intensity.

2. Glare: Glare, whether direct or reflected, such as from parking lot lighting, floodlights, spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line.
3. Exterior Lighting: Any lights used for exterior illumination shall have their primary light illuminating source directed away from adjacent properties and public streets.
4. Vibration: Vibration shall not be discernible at any property line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour.
5. Hazard: Every operation shall be carried on with reasonable precautions against fire, explosion and safety, and be in accordance with the codes and ordinances of the City of Norwood Young America.

DWELLINGS

No trailer, basement, tent, shack, garage, barn or other out-buildings shall at any time be used for human habitation, temporarily or permanently; nor shall any structure of temporary character be maintained upon a building site, except as temporarily incidental to building construction.

Watch stations, quarters or similar structures shall be enclosed within a building or otherwise attached thereto in a harmonious manner as permanent enclosures.

ANIMALS

No animals or poultry of any kind shall be kept or maintained on any part of the property.

OUTDOOR AIR QUALITY

Any activity or operation on the lot or tract shall conform with the City and State regulations relating to ambient air quality standards and air pollution control regulations.

TEMPORARY BUILDINGS NOT PERMITTED

No temporary buildings and structures for any purpose shall be erected on the site without approval of the DRT and the Norwood Young America City Council whose authority will be limited to approval for a maximum of one (1) year after which all temporary buildings and their supporting system shall be removed from the site and the original site improvements returned to their original condition. Temporary structures will only be approved for extenuating circumstances. Temporary construction trailers used in conjunction with a building project and removed promptly upon completion are not considered temporary buildings.

SIGNS

The current City of Norwood Young America Sign Ordinance shall govern all signage, except where the following is more stringent:

1. Wall signs shall not project above the top horizontal line of the wall or roof adjacent to the sign.
2. No sign shall be allowed on the roof of any building.
3. No temporary signs will be permitted without the written approval of the Norwood Young America Tacoma West Industrial Park Design Review Team with the exception of construction signs.
4. No political campaign signs announcing the candidates seeking public political office, nor signs advocating political positions or causes, and other information pertinent thereto will be permitted.

MAINTENANCE OF VACANT LOTS OR TRACTS

All Owners of vacant lots or tracts shall keep them clean, mowed and maintained in a manner that will not depreciate others property value within the Norwood Young America Tacoma West Industrial Park.

STORAGE OF FUEL

No tank for the storage of fuel, for the use in heating individual buildings or for processes, except those prohibited for underground locations by Ordinance, shall be placed or maintained above the surface of the ground out-structures for storage of fuels or dispensing equipment thereof required by Ordinance and Utility governing the same shall be screened in a manner similar to waste screening acceptable to the DRT.

TELECOMMUNICATIONS

Telecommunication towers will not be permitted in the Norwood Young America Tacoma West Industrial Park unless approved by the DRT. Primary electrical substations, electrical transmission lines and utility provided voice/data lines and related devices will be permitted in appropriate locations.

SURVIVAL OF TERMS

All of the terms, covenants and conditions set forth in the Declaration of Property Covenants for Tacoma West Industrial Park adopted by the City of Norwood Young America on July 24, 2006 and filed in the Office of the County Recorder for Carver County, Minnesota on February 5, 2006 as Document No. A458361 shall remain in full force and effect unless otherwise changed

or modified by this First Amendment to the Declaration of Property Covenants for Tacoma West Industrial Park.

EFFECTIVE DATE

This Amended Declaration of Property Covenants for Tacoma West Industrial Park is effective _____, the date it was adopted by the City Council of Norwood Young America.

Adopted by the City Council this ____ day of _____ 2012.

Tina Diedrick, Mayor

Diane Frauendienst, City Clerk

State of Minnesota)
)ss.
County of Carver)

The foregoing Instrument was acknowledged before this ____ day of _____, 20____ by Tina Diedrick, the Mayor and Diane Frauendienst, City Clerk of the City of Norwood Young America, a Minnesota municipal corporation.

Notary Public of the State of Minnesota
My commission expires: