

**Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment**

Date: January 10, 2011

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: June 18, 2010

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

Planning Staff and Phone: Kimberly Holien, (612) 673-2402

Intent of the Ordinance: To eliminate most zoning code references for permitted hours open to the public.

Appropriate Section(s) of the Zoning Code: Chapter 525, Administration and Enforcement; Chapter 536, Specific Development Standards; Chapter 546, Residence Districts; Chapter 547, Office Residence Districts; Chapter 548, Commercial Districts; Chapter 549, Downtown Districts; Chapter 550, Industrial Districts and Chapter 551, Overlay Districts.

Background: On June 18, 2010, an ordinance amendment was introduced at the City Council to amend Chapters 525, 536, 546, 547, 548, 549, 550 and 551 of the zoning code relating to permitted hours open to the public. The purpose of the amendment is to eliminate most references to permitted hours open to the public. The authority for the enforcement of hours of operation and extended hours of operation will be transferred from the zoning code to Licenses and Consumer Services. Upon adoption of the amendment, requests for extended hours of operation would be handled as a business license instead of a conditional use permit. A text amendment to Title 13, Licenses and Business Regulations, is being processed concurrently with the zoning code text amendment.

Regulatory Services staff from the Licenses and Consumer Services division held an industry meeting for interested business owners and business organizations on December 9, 2010 to discuss the changes.

Purpose for the Amendment:

What is the reason for the amendment?

What problem is the Amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The purpose of the amendment is to transfer the authority for hours open to the public from the zoning code to Title 13 of the Minneapolis Code of Ordinances, relating to Licenses and Business Regulations. On average, over the last five years, the City has processed 11 conditional use permits for extended

Minneapolis CPED Planning Division Report

hours annually. However, in 2010 the City processed 18 such applications. The increase is due, in part, to an increase in late hours inspections by Licenses and Consumer Services staff that resulted in citations.

The amendment is intended to address two primary issues. The first issue is simplifying and streamlining the process for applicants. A conditional use permit application can take up to 60 days to process and the amount of information required is significant. The information required with the current application process relates more to the property than the business owner or business operations. Also, because a conditional use permit for extended hours is a general land use application, the information and materials required may not always be relevant to a request for extended hours. Changing to a license for extended hours of operation will reduce the review period in most cases and simplify the materials required for the application.

The amendment is also expected to improve enforcement issues related to businesses operating with extended hours. Under the current process, conditional use permits for extended hours of operation are tied to properties. A property has rights to the hours approved with the conditional use permit in perpetuity, provided there is not a lapse in extended hours for a period of a year or more and the use remains in compliance with the terms and conditions imposed on the permit. With the proposed amendment, licenses for extended hours would be tied to business owners. This will allow more opportunities for enforcement in the event that a particular business or business owner is found to be in violation of the conditions of approval or issues arise with a current business once hours are extended. License and Consumer Services staff will conduct an annual review to ensure that the conditions of each license are met before said license can be renewed.

The amendment will serve a public purpose by streamlining the process for allowing extended hours of operation, while also improving opportunities for enforcement and an annual review. The intent of the companion amendment is that public hearings will still be held for extended hours applications in order to ensure that nearby property owners are informed of such requests and are offered the opportunity to provide input.

Staff does not anticipate that the amendment will create significant problems. All properties that have been issued conditional use permits for extended hours of operation, or are deemed to have conditional use permits, will retain rights to the hours approved under the conditional use permit with this change, provided there is no lapse in extended hours for a period exceeding one year and the use remains in compliance with the terms and conditions of the original approval. Uses that are non-conforming in terms of the zoning code will require a land use application for an expansion of non-conforming use in addition to a license for extended hours of operation.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

The amendment is timely given that it will streamline the process for extending hours of operation, per the policies of the Comprehensive Plan. Transferring the authority for hours open to the public from the Zoning Code to Title 13, Licenses and Business Regulations will simplify the process for applicants and/or business owners while giving the City more discretion in the form of an annual compliance review. The amendment is also timely due to the recent increase in citations for business operating illegally with late night hours. This amendment is part of the continual process of updating the zoning ordinance as well.

Staff researched a number of metro area cities to determine how hours of operation are handled. Cities researched include Bloomington, Brooklyn Park, Burnsville, Eden Prairie, Edina, Maple Grove, Richfield, Saint Louis Park and Saint Paul. None of these area cities have zoning district-based hours of operation. Those that regulated hours have a use-based approach, with the most common uses regulated being automobile convenience facilities, pawn shops and dance halls or reception halls. The cities of Bloomington and Saint Paul both regulate hours through business licensing based on use.

Staff also researched a number of peer cities nationwide. The city of Portland, Oregon regulates hours of operation based on use and regulates the number of hours per day a use may be open to the public, but does not specify times of day. The city of San Diego, California also takes a use-based approach for hours of operation, and said hours are regulated by the police department. The city of Dallas, Texas regulates hours of operation based on use and their police department can issue permits for extended hours of operation. The city of Milwaukee, Wisconsin regulates hours based on use and has a business license available for extended hours of operation, similar to the companion amendment proposed.

If the proposed amendment is denied, hours of operation would continue to be extended by conditional use permit only. This would eliminate an opportunity for an annual review to ensure compliance with the conditions of approval. Denying the amendment would also diminish opportunities to address issues with chronically negligent business owners and/or operations.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following general land use policies of the *Minneapolis Plan for Sustainable Growth* apply:

Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

- 1.1.1 Ensure that the City's zoning code is consistent with The Minneapolis Plan and provides clear, understandable guidance that can readily be administered.

Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.

- 1.2.3 Lessen the negative impacts of non-residential uses on residential areas through controls on noise, odors, and hours open to the public.

Policy 4.1: Support private sector growth to maintain a healthy, diverse economy.

- 4.1.5 Continue to streamline City development review, permitting and licensing to make it easier to develop property in the City of Minneapolis.

Policy 5.6: Improve the safety and security of residents, workers, and visitors.

Policy 5.8: Make city government more responsive to the needs of people who use its services.

- 5.8.3 Effectively engage the public when making decisions that create, remove, or change a city service, project, or policy.

Transferring the regulation of hours open to the public from the Zoning Code to Licenses and Business Regulations will support the above policies of the *Minneapolis Plan for Sustainable Growth*. Hours of operation will continue to be regulated per the policies of the Comprehensive Plan.

Recommendation of the Community Planning and Economic Development--Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment. Staff further recommends that Chapter 551 be returned to author.

Attachments:

1. Amendment to Chapter 525 relating to Zoning Code: Administration and Enforcement
2. Amendment to Chapter 536 relating to Zoning Code: Specific Development Standards
3. Amendment to Chapter 546 relating to Zoning Code: Residence Districts
4. Amendment to Chapter 547 relating to Zoning Code: Office Residence Districts
5. Amendment to Chapter 548 relating to Zoning Code: Commercial Districts
6. Amendment to Chapter 549 relating to Zoning Code: Downtown Districts
7. Amendment to Chapter 550 relating to Zoning Code: Industrial Districts
8. Correspondence