

**Minneapolis City Planning Department Report  
Zoning Code Text Amendment**

**Date:** May 12, 2003

**Initiator Of Amendment:** Council Member Schiff

**Date of Introduction at City Council:** February 28, 2003

**Ward:** All

**Planning Staff And Phone:** Jason Wittenberg, 673-2297

**Intent Of The Ordinance:** To clarify that conditional use permit and site plan review approvals may be revoked if violations have not been corrected following written notice of the violation and a reasonable time period to remedy the violation and that revocation may be used as an alternative to the general violation procedures.

**Appropriate Section(s) of the Zoning Code:** Chapter 525

**Background:** This amendment would add language to section 525.560 of the zoning code, which deals with revocation of conditional use permit and site plan review approvals.

**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?**

Article 10 of Chapter 525 of the zoning code covers zoning enforcement procedures. Section 525.550 deals with procedures upon discovery of violations and section 525.560 deals with revocation of conditional use permit and site plan review approvals. The new ordinance language would clarify that revocation of a c.u.p. or site plan review approval may be used in place of the procedures noted in section 525.550.

With adoption of this amendment, the city could bypass giving the applicant an option to appeal the decision to recommend revocation of a conditional use permit or site plan review approval. This would streamline the site plan review and conditional use permit enforcement process. Prior to reaching the point of revocation, the business or property owner will have had the opportunity to appeal the decision of the planning commission and will have had the opportunity to appeal a determination that the site is not in compliance with the terms of the approval.

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The public purpose underlying the amendment is to streamline the enforcement process, which would save staff time and resources.

The Planning Department does not believe that the proposed amendment would create any problems. The due process rights of property owners or business owners who are facing revocation would be preserved since the legislative body would hear the revocation.

### **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 since its adoption could potentially result in saving city staff time and city resources in the zoning enforcement process.

Other local ordinances include enforcement provisions that vary widely in their specificity. Examples include the following:

- Bloomington zoning code, section 19.21: "...The Zoning Code shall be administered and enforced by the Issuing Authority. The Issuing Authority may institute in the name of the City any appropriate actions or proceedings against a violator as provided by statute or this Code." Section 19.22.01 of the code, "A suspension or revocation of a conditional use permit shall be preceded by written notice to the permittee and a hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the permittee."
- Edina zoning code, section 850.04:
  - "Violation of Conditions in Conditional Use Permits. If any person violates any condition or restriction imposed by the Council in connection with the grant or issuance of a conditional use permit, the City, in addition to other remedies available to it as provided in this Subdivision, may revoke the permit and all rights attributable to such permit. Revocation shall be done in the following manner:
    1. The Manager or Planner shall notify the owner and occupant of the property to which such permit exists insofar as the names and addresses of such owner and occupant can reasonably be determined by the Clerk from records maintained by the Assessor, of the violation and request removal within a stated period, but not less than five days.
    2. If the violation is not removed within the stated period, the Manager or Planner shall submit a report on the matter to the Council and request a hearing.
    3. The Council, upon receipt of the report, shall set a hearing date, and notice shall be given to the owner and occupant at least ten days prior to the hearing.
    4. After receiving the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future date.

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5. If the hearing is continued to a specified future date, no new notice need be given. If such permit is revoked by the Council, all use, activity and rights allowed by and attributable to such permit shall immediately cease.”
- Roseville zoning code, section 104.01: “The zoning code shall be administered and enforced by the community development director. The community development director may institute, in the name of the city, any appropriate actions or proceedings against a violator as provided by law.”

The consequences of denying the amendment are that current enforcement procedures would continue and property owners or business owners facing revocation would still have the ability to appeal to the board of adjustment the director’s recommendation to revoke the permit.

### **Comprehensive Plan:**

#### **How will this amendment implement the Comprehensive Plan?**

Planning Department staff has not identified any provisions of the comprehensive plan that would not support adoption of the amendment.

### **Recommendation Of The City Planning Department:**

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and **approve** the text amendment.

Ordinance by Schiff

**Amending Title 20, Chapter 525 of the Minneapolis Code of Ordinances relating to Zoning Code: Administration and Enforcement.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 525.560 of the above-entitled ordinance be amended to read as follows:

**525.560. Conditional use permit and site plan review revocation.** (a) *In general.*

The director of inspections shall have the authority to recommend revocation of a conditional use permit or site plan review approval to the city council when the director of inspections has determined that the terms of such approval have been violated, ~~subject to section 525.550 above~~ and that the violation has not been corrected following written notice of such violation and a reasonable time period to remedy the violation. Revocation may be used as an alternative or in addition to the procedures provided in section 525.550 above.

(b) *Revocation hearing.* The zoning and planning committee of the city council shall hold a public hearing to determine whether there has been a violation of the conditional use permit or site plan review approval and whether the conditional use permit or site plan review approval shall be revoked. Not less than ten (10) days before such public hearing, the director of inspections shall mail notice of the hearing to any person responsible for such violation, the owner(s) of record of the subject property, all owners of record of property located in whole or in part within three hundred fifty (350) feet of the boundaries of the subject property and the registered neighborhood group(s) for the neighborhood in which the subject property is located. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made.