CPED Planning Division Report
Zoning Code Text Amendment

Date: November 22, 2004

Initiator Of Amendment: Council Member Schiff

Date of Introduction at City Council: April 30, 2004; October 22, 2004

Ward: All

Planning Staff And Phone: Jason Wittenberg, (612) 673-2297

Intent Of The Ordinance: The amendment would do the following:

- Transfer enforcement of the zoning code to CPED-Planning;
- Specify penalties for zoning violations;
- Increase from 10 to 15 business days the time allowed to determine whether a land use application is incomplete;
- Reduce the time to appeal a decision of the zoning administrator from 20 to 10 days;
- Clarify the scope of the city council's authority on matters appealed to the city council.

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

Background: The proposed amendments would alter the Administration and Enforcement chapter of the zoning code as noted above.

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 general purpose of the amendment is to allow for more effective administration and enforcement of the zoning code. The director of inspections is currently given the authority to enforce the zoning code. Such authority would now be granted to the zoning administrator (in the Community Planning and Economic Development Department). This change is intended to allow for better coordination in zoning enforcement by placing such enforcement under the authority of the department that is also charged with interpreting and administering the zoning code. Note that the amendment still provides the department of regulatory services the authority to issue citations for zoning violations.

The amendment would insert more direct references in the zoning code to an additional relevant section of the City's code of ordinances related to enforcement (i.e., Chapter 2).

Consistent with recent changes to state law, the amendment proposes to provide City staff 15 business days to review a land use application to determine whether the application is incomplete (rather than the current 10 business days).

The amendment would reduce the time to appeal a decision of the zoning administrator from 20 days to 10 days, which would be consistent with the number of days currently allowed for appeals of city planning commission or board of adjustment decisions.

Finally, the amendment clarifies that the city council has the authority to accept new evidence when considering an appeal of a board of adjustment or city planning commission decision and that the city council may impose conditions or otherwise modify projects that have been appealed.

The public purpose(s) that would be served by the amendment include more consistent and effective zoning administration and enforcement and increased clarity in the Administration and Enforcement chapter of the code.

Staff has not identified problems that are likely to result from adoption of the amendment.

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 in that budgetary and staffing decisions related to zoning enforcement personnel are likely to be made at the beginning of 2005.

Practices vary in the administration and enforcement of zoning codes in other communities. In terms of the section specifying that the City Council has the authority to consider new information on appeal and that additional conditions may be adopted, Portland, Oregon, has similar language as follows:

> *Chapter 33.730 Title 33, Planning and Zoning*
> *Quasi-Judicial Procedures 9/3/04*
>
> 33.730.030 H.6.a.
>
> 6. Appeal decision and findings.
> a. The City Council may adopt the review body's decision report, modify it, or reject it based on information presented at the hearing and in the record.
> If City Council modifies or rejects the decision report, an amended report with findings supporting the decision must be prepared as provided in
> 730-10
> Subparagraph b. below. The report must comply with 33.730.090, Reports

and Record Keeping.

The consequences related to denying the amendment would be that enforcement of the zoning code would remain solely with the Inspections Department and that sections of Chapter 525 would remain vague or, in one case, would not reflect recent changes to state law.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The zoning code implements the Minneapolis Plan. More efficient and effective enforcement of the zoning code should therefore result in improved implementation of the policies of the comprehensive plan.

Recommendation Of The CPED Planning Division:

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

Proposed Ordinance (Staff recommendation)
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 525.90(b) of the above-entitled ordinance be amended to read as follows:

525.90. Zoning administrator. (a) *Establishment*. There is hereby established the office of the zoning administrator. The zoning administrator shall be the planning director or his or her authorized representative.

(b) *Jurisdiction and authority*. The zoning administrator shall have the following powers and duties in connection with the administration of this zoning ordinance:

(1) To interpret and administer the provisions of this zoning ordinance and maintain records of such interpretations.

(2) To issue zoning certificates and maintain records thereof.

(3) To maintain permanent and current records of this zoning ordinance, including but not limited to all maps, amendments, conditional use permits, variances, appeals, site plan reviews and expansions or changes of nonconforming use, and applications therefor.

(4) To provide information relative to all matters arising out of the zoning ordinance.

(5) To receive, review, file and forward all complete land use applications to their respective review bodies, as provided in this zoning ordinance.

(6) To review and make recommendations on proposed amendments to this zoning ordinance.

(7) To issue zoning certificates regulating temporary uses, pursuant to Chapter 535, Regulations of General Applicability.

(8) To issue certificates of nonconforming use for structures, pursuant to Chapter 531, Nonconforming Uses and Structures.

(9) To maintain all zoning records which are a part of the administration of the zoning codes adopted in 1924 and 1963.

(10) To serve as the secretary for the board of adjustment.

(11) To establish and administer rules and regulations relating to the administration of this zoning ordinance, including application forms.

(12) To consult with the city engineer to determine compliance with standards for uses within the FP Floodplain Overlay District, as specified in Chapter 551, Overlay Districts, and maintain records thereof, and notify the Minnesota Commissioner of Natural Resources when the giving of any notice is required by this zoning ordinance.

(13) To perform the administrative review of permitted communication towers, antennas, and base units.

(14) To perform minor site plan administrative review, as specified in Chapter 530, Site Plan Review.

(15) To enforce this zoning ordinance by commencement of appropriate administrative and legal remedies, including but not limited to issuance of citation or written orders, or reference to the city attorney for issuance of a formal complaint.

(1~~5~~6) To take such other actions as reasonable and necessary for the administration and enforcement of this zoning ordinance.

Section 2. That Section 525.95 of the above entitled ordinance be amended to read as follows:

525.95. Director of ~~inspections~~ regulatory services. The director of ~~inspections~~ regulatory services shall have the following powers and duties in connection with the administration of this zoning ordinance:

(1) To enforce this zoning ordinance by commencement of appropriate administrative and legal remedies, including but not limited to issuance of citation or written orders, or reference to the city attorney for issuance of a formal complaint.

(2) To take such other actions as reasonable and necessary for the enforcement of this zoning ordinance.

Section 3. That Section 525.110(b) of the above entitled ordinance be amended to read as follows:

525.110. Board of adjustment. (a) *Establishment*. There is hereby established a board of adjustment, which shall perform its duties and exercise its powers as provided by law in such a way as the objectives of this zoning ordinance shall be observed.

(b) *Jurisdiction and authority*. The board of adjustment shall have the following powers and duties in connection with the administration of this zoning ordinance:

(1) To hear and decide applications for variances from the provisions of this zoning ordinance pursuant to the procedures and standards set forth in this chapter.

(2) To hear and decide appeals from any order, requirement, decision, determination or interpretation made by the zoning administrator, director of ~~inspections~~ regulatory services, planning director or other official in the administration or the enforcement of this zoning ordinance.

(3) To hear and decide applications for certificates of nonconforming use pursuant to the procedures and standards set forth in Chapter 531, Nonconforming Uses and Structures.

Section 4. That Section 525.130 of the above entitled ordinance be amended to read as follows:

525.130. City council. The city council shall have the following powers and duties in connection with the administration of this zoning ordinance:

(1) To initiate amendments to this zoning ordinance.

(2) To adopt amendments to this zoning ordinance.

(3) To adopt and amend a comprehensive plan for the city or portions thereof.

(4) To hear and decide appeals from decisions of the city planning commission and board of adjustment, as authorized by this zoning ordinance. The city council shall have the authority to accept new evidence regarding the matter on appeal. The city council shall have the same authority as the city planning commission or

board of adjustment to approve, deny, modify, grant exceptions or impose conditions on the application or other matter that is the subject of the appeal.

(5) To adopt and amend interim ordinances, and to hear and decide applications for waivers from such ordinances.

(6) To approve interim uses.

(7) To grant variances from the provisions of this zoning ordinance to historic properties as provided in Chapter 34 of the Minneapolis Code of Ordinances, Heritage Preservation Commission.

(8) To take such other actions not delegated to other bodies which may be desirable and necessary to implement the provisions of this zoning ordinance.

Section 5. That Section 525.140(c) of the above entitled ordinance be amended to read as follows:

525.140. Application procedures. (a) *In general*. All applications submitted shall be processed by the zoning administrator, who shall make a preliminary investigation, in accordance with the procedures set forth in this chapter.

(b) *Determination of completeness of application*. The zoning administrator shall review all applications and determine whether such applications are complete. Applications shall not be accepted as complete until the applicant has complied with all of the following:

(1) A pre-application meeting with city staff during which the appropriate application procedures, requirements and applicable zoning ordinance provisions are reviewed and explained.

(2) Submittal of all required application forms relating to the application, including all additional applications, as required in sections 525.20 and 525.30.

(3) Submittal of all supporting information required by city ordinance, the zoning administrator, the planning director, the application forms, or by law, including a list of 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, as identified in the records of the Hennepin County Department of Property Taxation.

(4) Submittal of all fees.

(5) Submittal of all required environmental reviews.

(6) Submittal of all required state and federal permits for uses located in the FP Floodplain Overlay District.

(7) For all land use applications requiring a public hearing as set forth in this zoning ordinance, except appeals of decisions of the city planning commission or board of adjustment, submittal of evidence that notification of the application has been mailed or delivered to the ward council office and the neighborhood group(s) for the area in which the property is located. The neighborhood group(s) to be notified are those organizations that appear on list maintained by the planning department for this purpose. The notification shall include the following information: a description of the project; the zoning approvals that the applicant is aware are needed for the project; the address of the property for which zoning approval is sought; and the applicant's name, address, telephone number, and e-mail address, if available. Where the property for which zoning approval is sought is located on a public street that acts as a boundary between two neighborhoods, the above information shall also be provided to the neighborhood group(s) representing the adjacent area(s).

(c) *Incomplete applications*. If after the application has been accepted, the zoning administrator determines that the application is not complete, the zoning administrator shall notify the applicant in writing within ~~ten (10)~~ fifteen (15) business days of receipt, ~~or within ten (10) business days of discovering the deficiency,~~

specifying any deficiencies of the application, including any additional information which must be supplied, and that no further action shall be taken by the city on the application until the deficiencies are corrected.

(d) Remedy of deficiencies. If the applicant fails to correct the specified deficiencies within thirty (30) days of the notification of deficiency, the application shall be deemed withdrawn and will be returned to the applicant.

(e) Extensions of time. Upon written request by the applicant, the zoning administrator may, for good cause shown and without any notice or hearing, grant extensions of any time limit imposed on an applicant by these application procedures.

Section 6. That Section 525.170 of the above entitled ordinance be amended to read as follows:

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, director of ~~inspections~~ regulatory services, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ~~twenty (20)~~ ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

Section 7. That Section 525.540 of the above entitled ordinance be amended to read as follows:

525.540. Complaints regarding violations. The zoning administrator and the director of ~~inspections~~ regulatory services shall have the authority to investigate any complaint alleging a violation of the zoning ordinance or the conditions of any zoning approval and to take such action as is warranted in accordance with the procedures set forth in this chapter.

Section 8. That Section 525.550(a) and (b) of the above entitled ordinance be amended to read as follows:

525.550. Procedures upon discovery of violations. (a) *Notice of violation*. The zoning administrator or the director of ~~inspections~~ regulatory services shall provide a written notice to the property owner or to any person responsible for such violation, identifying the property in question, indicating the nature of the violation, and ordering the action necessary to correct it, including a reasonable time period to remedy the violation. The written notice shall advise that the decision or order may be appealed to the board of adjustment in accordance with the provisions of section 525.170. Additional written notices may be provided at the discretion of the ~~director of inspections~~ enforcement official. Where the violation involves work being done contrary to the provisions of this zoning ordinance, the zoning administrator or director of ~~inspections~~ regulatory services may order the work stopped. No further work shall be undertaken while a stop-work order is in effect.

(b) *Enforcement without notice*. Whenever the zoning administrator or director of ~~inspections~~ regulatory services finds that an emergency exists in relation to the enforcement of the provision of the zoning ordinance which requires immediate action to protect the health, safety or welfare of occupants of any structure, or the public, ~~the director of inspections~~ they may seek immediate enforcement without prior written notice, notwithstanding any other provision of this ordinance.

Section 9. That Section 525.560(a) and (b) 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~~ zoning administrator 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~~ zoning administrator has determined that the terms of such approval have been violated, subject to 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~~ zoning administrator 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.

Section 10. That Section 525.570(d) of the above entitled ordinance be amended to read as follows:

525.570. Fees for reinspection of property to determine abatement. (a) *Initial inspection and first reinspection*. There shall be no fee charged for an initial inspection to determine the existence of a zoning ordinance violation, nor any fee for the first reinspection to determine compliance with an order to correct a zoning ordinance violation.

(b) *Subsequent reinspections*. A fifty dollar ($50.00) fee shall be charged for each subsequent reinspection occurring after the due date for compliance with an order.

(c) *Notice of reinspection fee*. Every notice of violation and order to correct zoning ordinance violations shall contain a clear and conspicuous explanation of the policy in this section requiring reinspection fees for subsequent reinspections.

(d) *Waiver*. Upon written request by the applicant, the zoning administrator or director of ~~inspections~~ regulatory services may, for good cause shown and without any notice or hearing, waive a reinspection fee.

Section 11. That Section 525.580 of the above entitled ordinance be amended to read as follows:

525.580. Penalties and remedies for violations. ~~(a)~~ Violations of the provisions of this zoning ordinance or the conditions of any zoning approval granted thereunder may be enforced by any one (1), all, or any combination of the following penalties and remedies:

(a) Violations shall be punishable as criminal offenses as stated in section 1.30 of the Minneapolis Code of Ordinances.

(b) Violations may be enforced as administrative offenses pursuant to chapter 2 of the Minneapolis Code of Ordinances.

~~(b)~~ (c) This zoning ordinance may also be enforced by injunction, abatement, mandamus, or any other appropriate remedy in any court of competent jurisdiction.

~~(c)~~ (d) Each day that any violation continues after notification by the zoning administrator or director of ~~inspections~~ regulatory services that such violation exists shall be considered a separate offense for purpose of the penalties and remedies specified in this section.

~~(d) Any one (1), all, or any combination of the foregoing penalties and remedies may be used to enforce this zoning ordinance.~~

City Planning Commission Alternative (for Section 525.130)

The City Planning Commission recommends that the City Council substitute the proposed language in section 525.130 with the language noted below. The City Planning Commission recommends adoption of the remainder of the zoning code text amendment as proposed by staff.

525.130. City council. The city council shall have the following powers and duties in connection with the administration of this zoning ordinance:
(1) To initiate amendments to this zoning ordinance.
(2) To adopt amendments to this zoning ordinance.
(3) To adopt and amend a comprehensive plan for the city or portions thereof.
(4) To hear and decide appeals from decisions of the city planning commission and board of adjustment, as authorized by this zoning ordinance. The city council shall have the authority to accept new evidence regarding the matter on appeal. In the event of substantial new evidence not available at the time of the public hearing, the city council shall have the same authority as the city planning commission or board of adjustment to approve, deny, modify, grant exceptions or impose conditions on the application or other matter that is the subject of the appeal.
(5) To adopt and amend interim ordinances, and to hear and decide applications for waivers from such ordinances.
(6) To approve interim uses.
(7) To grant variances from the provisions of this zoning ordinance to historic properties as provided in Chapter 34 of the Minneapolis Code of Ordinances, Heritage Preservation Commission.
(8) To take such other actions not delegated to other bodies which may be desirable and necessary to implement the provisions of this zoning ordinance.