



Request for City Council Committee Action from the Department of Regulatory Services

Date: March 21, 2011

To: Council Member Elizabeth Glidden, Chair – Regulatory, Energy & Environment Committee

Subject: Transfer licensing and enforcement of hours of operation from Community Planning & Economic Development to Licenses & Consumer Services

Recommendation: That the Regulatory, Energy and Environment Committee approve amending the Minneapolis Code of Ordinances by adding hours of operation enforcement to Chapter 259, a new license for Extended Hours of Operation to Chapter 309, and a license fee and an investigative filing fee for Extended Hours of Operation to the License Fee Schedule.

Previous Directives: None

Department Information

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Approved by:

Rocco Forté, Director of Emergency Preparedness & Regulatory Services

Dana Banwer, Director of Licensing & Environmental Services

Grant Wilson, Manager of Business Licenses

Presenters in Committee: Michele Olds

Financial Impact

- Other financial impact: 10 – 15 Extended Hours of Operation licenses are expected annually resulting in an estimated \$1,400 - \$2,100 in license fees with additional one-time payments of \$400 for each new license application. This revenue, transferred from the Zoning Division to the Licenses Division, was calculated on a cost recovery formula and represents an inconsequential financial impact.

Community Impact

- Neighborhood Notification: Public hearing notices were posted on the Licenses and Consumer Services website and sent to all neighborhood organizations and business associations. Two Informational Meetings were held in December 2010.
- City Goals: Jobs and Economic Vitality: Businesses – big and small – start here, stay here, thrive here.

Background and Supporting Information

In 1983 Minneapolis restricted the operating hours for a number of license categories. This primarily impacted food and auto related businesses. In 1987 this language limiting operating hours was removed from Chapter 540 and added to Chapter 530. All establishments with a site plan requirement were then subject to hour limitations as defined by relevant zoning districts. In 1999 Zoning Code amendments restricted hours for businesses open to the public in nearly every zoning district. Prior to these amendments, hours of operation in many districts were without restriction.

Current procedures for businesses that are open to the public and wish to extend operating hours require submitting an application to the Zoning Administrator for a Conditional Use Permit (CUP)¹. Applicants are charged a one-time fee based on the square footage of the lot. The average fee is \$752.22. Food service providers are the most common type of businesses to apply for extended hours CUPs.

Transferring the authority of managing extended hours to Licenses and Consumer Services consolidates the license application review, which is both cost effective and customer-friendly, and improves enforcement outcomes since the majority of businesses are required to have a Minneapolis license. Additionally, CUPs are currently approved for the land. Licenses, including the proposed Extended Hours of Operation, are assigned to a license holder/legal entity. Failure of the license holder to meet license requirements may lead to adverse license action, up to and including revocation, which improves accountability.

If approved, this amendment will require police review and a public hearing as part of the license application process. Routine inspections by License Inspectors will ensure compliance with license requirements throughout the year and annually upon license renewal. Existing CUPs for extended hours of operation will be grandfathered if the business' hours of operation do not deviate from the CUP for a continuous period of one year or more.

Cost recovery for the annual \$140 proposed license fee includes yearly license renewal inspections, complaint and/or random inspections, and processing renewal applications. The estimated cost for these services is approximately \$143. Additionally, staff is recommending a \$400 one-time Investigative Filing Fee to compensate for costs associated with processing a new application and a scheduling a public hearing. Staff costs for these duties are approximately \$434.

Comparable cities' researched indicates hours of operation are regulated by both Zoning and Licensing Divisions and assigned to both land and license holders. Most hours' restrictions are determined by business type. No city restricts hours of operation based on zoning district. The National Bureau of Business Licensing Officials recommends that cities license extended hours rather than grant exceptions.

All neighborhood organizations, business associations and license holders who have email addresses registered with Licenses and Consumer Services received an invitation to the two Informational Meetings in December 2010. Neighborhood groups appreciated the annual inspection and review required to renew a license. Businesses commented that the annual license fee represents an additional financial burden for businesses operating in Minneapolis.

Recommendation

That the Regulatory, Energy and Environment Committee approve amending Minneapolis Code of Ordinances by adding hours of operation enforcement to Chapter 259, a new license for Extended Hours of Operation to Chapter 309, an Extended Hours of Operation License Fee of \$140 and an Extended Hours of Operation Investigative Fee of \$400 to the License Fee Schedule.

ⁱ Conditional Use Permit (CUP) is an approved deviation from the Zoning Code's standards. It allows the city to review requests and grant exceptions to limitations in specific zoning districts. Approval assumes such nonconforming use in a specified location will not compromise the conditions and standards of the Zoning ordinance.