



CPED STAFF REPORT

Prepared for the City Planning Commission

CPC Agenda Item #9
April 7, 2014

ZONING CODE TEXT AMENDMENT SUMMARY

Initiator: Council Member Glidden
Introduction Date: January 11, 2013
Prepared By: [Mei-Ling Anderson](#), City Planner, (612) 673-5342
Specific Site: Citywide
Ward: Citywide
Neighborhood: Citywide
Intent: To allow the additional sale and display of goods outside of business establishments.

APPLICABLE SECTION(S) OF THE ZONING CODE

- Chapter 525, Administration and Enforcement
- Chapter 548, Commercial Districts
- Chapter 549, Downtown Districts
- Chapter 550, Industrial Districts
- Chapter 551, Overlay Districts

The following chapters were also introduced: Chapter 520, Introductory Provisions, Chapter 535, Regulations of General Applicability, Chapter 536, Specific Development Standards, and Chapter 547, Office Residence Districts. However, staff is not recommending changes to these chapters as part of this amendment and is therefore recommending returning them to the author.

BACKGROUND

An ordinance amendment was introduced to the City Council on January 11, 2013, to revise provisions of the zoning code to allow additional outdoor sales and display of goods outside of business establishments.

The zoning ordinance currently requires that all production, processing, storage, sales, display, and other business activities be conducted within a completely enclosed building, with the exception of a limited number of commercial uses in certain zoning districts, including automobile sales, gas stations, lawn and garden sales, permitted drive-through facilities, and building material sales.

The proposed text amendment would allow additional businesses to sell and display merchandise outside of an enclosed building. The zoning code text amendment proposal is proceeding concurrently with an amendment to Title 17, Streets and Sidewalks, which specifically addresses the regulation of outdoor sales and display activities on the public sidewalk. The proposed changes in Title 20, Zoning Code, would also allow businesses to have outdoor sales and displays along their primary storefronts with limitations that are similar to those listed in Title 17.

The amendment would allow businesses occupying ground-level retail spaces to display goods within the first 30 inches (two-and-a-half feet) of their primary building wall, provided they are able to maintain a five-foot wide, straight, unobstructed pedestrian path along the entire length of the storefront. Businesses wishing to sell and display merchandise outdoors as allowed under the proposed ordinance would not be allowed to store or display merchandise outdoors overnight or outside of the hours of 8 a.m. to 10 p.m.

The use would not be allowed to take place in any residential or office residence zoning district, the I3 General Industrial District, or on the Nicollet Mall public right-of-way. In addition, per the zoning code's existing requirements for outdoor sales and displays, businesses would still be required to comply with a 20-foot minimum setback from any adjacent residence or office residence districts as well as with the screening requirements in Chapter 530.

Staff met with multiple internal and external groups to seek input on the proposed amendment, including the Business Advisory Group, the Minneapolis Downtown Improvement District and Downtown Council, the Pedestrian Advisory Committee, and the Advisory Committee on People with Disabilities. The Pedestrian Advisory Committee passed a resolution in support of the ordinance at their meeting of March 5, 2014.

PURPOSE

What is the reason for the amendment?

The purpose of the amendment is to broaden the potential locations for outdoor sales and displays outside of business establishments and to define regulations for these activities. Staff is proposing to amend Chapters 548 and 549 to allow businesses in all commercial and downtown zoning districts, as well as the I1 Light Industrial and I2 Medium Industrial districts, to have outdoor sales and displays of their merchandise.

What problem is the amendment designed to solve?

Currently, the zoning code has an enclosed building requirement for all business activities, with a limited number of exceptions. The amendment would make it possible for ground-floor businesses to place merchandise along their primary building wall on the public sidewalk or on private property, subject to a number of conditions that would maintain unobstructed pedestrian walkways and prevent visual clutter.

What public purpose will be served by the amendment?

The amendment will serve a public purpose by expanding the potential locations for outdoor sales and displays in order to create more active and lively public and pedestrian spaces while attracting commercial activity to local businesses.

What problems might the amendment create?

The amendment is not expected to create significant problems, as the text amendment provides for specific regulatory oversight for businesses that fail to comply with the requirements of the ordinance. Staff has some concerns that the amendment could result in visual clutter, however, the ordinance strikes a balance by allowing some flexibility for businesses. While the City would not require businesses to obtain a special permit or license, liability insurance, or plan approvals, all outdoor sales and display activities would be subject to restricted hours of operation and violation inspections. To clarify the enforcement of this use, the amendment includes a revision to Chapter 525 to clarify that the ordinance will be enforced through the Business Licenses division, as consistent with Title 17. The City's Business Licenses division began a public outreach campaign beginning in February 2014 to educate the business community on the City's expectations in conjunction with the proposed relaxation of the enclosed building requirement.

TIMELINESS

Is the amendment timely?

This amendment is timely because the current zoning ordinance is very restrictive toward businesses that wish to display goods on or adjacent to their premises. The amendment, which would allow these activities to take place according to specific guidelines, is part of an ongoing process to improve City processes and streamline regulations. The amendment is also timely given that it supports CPED's departmental goal of promoting private sector growth to build a healthy economy.

Is the amendment consistent with practices in surrounding areas?

Staff performed a code search to obtain information on how other cities treat outdoor sales and display. Most peer cities around the country allow or encourage outdoor displays of merchandise on the public sidewalk. In nearly all cases, these business activities are allowed provided that the use does not encroach on pedestrian or vehicular traffic circulation. The use is also generally subject to screening requirements, restricted hours of operation, and the requirement that all merchandise displayed outdoors must also be regularly sold within the enclosed building, so that the outdoor sales activities are occurring as an incidental part of the retail sales activity.

Are there consequences in denying this amendment?

The main consequence of denying said amendment is that the City of Minneapolis would continue to be very restrictive in its regulation of outdoor sales and display relative to its peers.

COMPREHENSIVE PLAN

The amendment will implement the following applicable policies of [The Minneapolis Plan for Sustainable Growth](#):

Land Use 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.

- I.1.4 Support context-sensitive regulations for development and land use, such as overlay districts, in order to promote additional land use objectives.
- I.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.
- I.1.7 Invest in targeted place-making strategies to build upon and enhance existing community assets and encourage private sector development.

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

- I.2.3 Lessen the negative impacts of non-residential uses on residential areas through controls on noise, odors, and hours open to the public.

Land Use Policy 1.4: Develop and maintain strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users.

- I.4.1 Support a variety of commercial districts and corridors of varying size, intensity of development, mix of uses, and market served.
- I.4.2 Promote standards that help make commercial districts and corridors desirable, viable, and distinctly urban, including: diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements to add interest at the pedestrian level.
- I.4.4 Continue to encourage principles of traditional urban design including site layout that screens off-street parking and loading, buildings that reinforce the street wall, principal entrances that face the public sidewalks, and windows that provide “eyes on the street”.

Land Use Policy 1.5: Promote growth and encourage overall city vitality by directing new commercial and mixed use development to designated corridors and districts.

- I.5.1 Support an appropriate mix of uses within a district or corridor with attention to surrounding uses, community needs and preferences, and availability of public facilities.
- I.5.2 Facilitate the redevelopment of underutilized commercial areas by evaluating possible land use changes against potential impacts on the surrounding neighborhood.

Economic Development 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.

This amendment will promote business growth and retention throughout the City while allowing Business Licenses to eliminate potential impacts, as consistent with the above policies of the comprehensive plan.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development:

The Department of Community Planning and Economic Development recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment, amending Chapters 525, 548, 549, 550, and 551. Staff further recommends that Chapters 520, 535, 536, 547 be **returned** to the author.

ATTACHMENTS

1. Ordinance amending Chapter 525, Administration and Enforcement.
2. Ordinance amending Chapter 548, Commercial Districts.
3. Ordinance amending Chapter 549, Downtown Districts.
4. Ordinance amending Chapter 550, Industrial Districts.
5. Ordinance amending Chapter 551, Overlay Districts.

**AN ORDINANCE
OF THE
CITY OF MINNEAPOLIS**
By Glidden

**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 525.580 of the above-entitled ordinance be amended to read as follows:

525.580. Penalties and remedies for violations.

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.
- (c) This zoning ordinance may also be enforced by injunction, abatement, mandamus, or any other appropriate remedy in any court of competent jurisdiction.
- (d) Each day that any violation continues after notification by the city that such violation exists shall be considered a separate offense for purpose of the penalties and remedies specified in this section.
- (e) Violations of the outdoor display and sales of merchandise on the public sidewalk, and within the thirty (30)-inch wide portion extending from the business's primary building wall along the lineal storefront area, shall be enforced as provided for in Title 17, Streets and Sidewalks, of the Minneapolis Code of Ordinances.

**AN ORDINANCE
OF THE
CITY OF MINNEAPOLIS**
By Glidden

**Amending Title 20, Chapter 548 of the Minneapolis Code of Ordinances
relating to Zoning Code: Commercial Districts**

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

Section 1. That Section 548.180 of the above-entitled ordinance be amended to read as follows:

548.180. Enclosed building requirement.

(a) *In general.* All production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in sections (b) and (c) below or elsewhere in this ordinance.

(b) *Outdoor dining.* Outdoor dining shall be allowed, provided the following conditions are met:

- (1) The outdoor dining area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use, as specified in Chapter 530, Site Plan Review.
- (2) Sidewalk cafes shall comply with the requirements contained in Chapter 265 of the Minneapolis Code of Ordinances, Special Permits for Specific Businesses and Uses.

(c) *Outdoor sales and display.* The following may include outdoor sales and display provided such outdoor sales and display area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use, as specified in Chapter 530, Site Plan Review:

- (1) Automobile sales.
- (2) Direct refueling of motor vehicles.
- (3) Lawn and garden sales, provided the outdoor sales and display area shall be included in the maximum gross floor area of such use, as regulated in each district.
- (4) Permitted drive-through facilities.
- (5) Building material sales located in the C4 District only.

(6) Truck, trailer, boat or recreational vehicle sales, service or rental, subject to the regulations of the C4 District governing the outdoor parking of trucks and other commercial vehicles.

(7) Businesses with merchandise for sale on the premises, provided that the outdoor sales and display be limited to the following locations:

a. On the public sidewalk adjacent to a ground level retail space, as provided by Title 17, Streets and Sidewalks, of the Minneapolis Code of Ordinances.

b. On property adjacent to the public right-of-way, within the thirty (30)-inch wide portion extending from the business's primary building wall along the lineal storefront area, provided that all products are sold within the principal use, all merchandise and related fixtures are removed outside of the business's hours of operation, and the use does not encroach on door openings, drive aisles, parking areas, loading zones, fire lanes, or a sixty (60)-inch unobstructed, straight pedestrian way.

(1) Merchandise may only be displayed and sold pursuant to section 427.130 (b) between the hours of 8:00 a.m. and 10:00 p.m.

(2) All merchandise, fixtures, tables, racks, shelving and other related materials must be completely removed when not in use or during restricted hours of operation.

(3) Protruding objects shall not reduce the clear width of an accessible route or maneuvering space.

(4) Liquor, tobacco, tobacco-related products, and sexually oriented images and merchandise, and any otherwise prohibited from being sold outdoors shall be prohibited from being displayed and sold under this ordinance.

**AN ORDINANCE
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By Glidden

**Amending Title 20, Chapter 549 of the Minneapolis Code of Ordinances
relating to Zoning Code: Downtown Districts**

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

Section 1. That Section 549.160 of the above-entitled ordinance be amended to read as follows:

549.160. Enclosed building requirement.

(a) *In general.* All production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in subsections (b) and (c) below or elsewhere in this ordinance.

(b) *Outdoor dining.* Outdoor dining shall be allowed, provided the following conditions are met:

(1) The outdoor dining area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary, as specified in Chapter 530, Site Plan Review.

(2) Sidewalk cafes shall comply with the requirements contained in Chapter 265 of the Minneapolis Code of Ordinances, Special Permits for Specific Businesses and Uses.

(c) *Outdoor sales and display.* The following may include outdoor sales and display provided such outdoor sales and display area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use, as specified in Chapter 530, Site Plan Review:

(1) Automobile sales in the B4C District only.

(2) Direct refueling of motor vehicles.

(3) Lawn and garden sales in the B4C District only.

(4) Permitted drive-through facilities.

(5) Building material sales in the B4C District only.

(6) Truck, trailer, boat or recreational vehicle sales, service or rental, subject to the regulations of the B4C District governing the outdoor parking of trucks and other commercial vehicles.

(7) Businesses with merchandise for sale on the premises, provided that the outdoor sales and display be limited to the following locations:

- a. On the public sidewalk adjacent to a ground level retail space, as provided by Title 17, Streets and Sidewalks, of the Minneapolis Code of Ordinances.
- b. On property adjacent to the public right-of-way, within the thirty (30)-inch wide portion extending from the business's primary building wall along the lineal storefront area, provided that all products are sold within the principal use, all merchandise and related fixtures are removed outside of the business's hours of operation, and the use does not encroach on door openings, drive aisles, parking areas, required landscaped areas, loading zones, fire lanes, or a sixty (60)-inch unobstructed, straight pedestrian way.

(1) Merchandise may only be displayed and sold pursuant to section 427.130 (b) between the hours of 8:00 a.m. and 10:00 p.m.

(2) All merchandise, fixtures, tables, racks, shelving and other related materials must be completely removed when not in use or during restricted hours of operation.

(3) Protruding objects shall not reduce the clear width of an accessible route or maneuvering space.

(4) Liquor, tobacco, tobacco-related products, and sexually oriented images and merchandise, and any otherwise prohibited from being sold outdoors shall be prohibited from being displayed and sold under this ordinance.

**AN ORDINANCE
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By Glidden

**Amending Title 20, Chapter 550 of the Minneapolis Code of Ordinances
relating to Zoning Code: Industrial Districts**

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

Section 1. That Section 550.210 of the above-entitled ordinance be amended to read as follows:

550.210. Enclosed building requirement.

(a) *In general.* All production, processing, storage, sales, display or other business activity in the I1 District shall be conducted within a completely enclosed building, except as otherwise provided in sections (b) through (d) below.

(b) *Outdoor dining.* Outdoor dining shall be allowed, provided the following conditions are met:

(1) The outdoor dining area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use, as specified in Chapter 530, Site Plan Review.

(2) Sidewalk cafes shall comply with the requirements contained in Chapter 265 of the Minneapolis Code of Ordinances, Special Permits for Specific Businesses and Uses.

(c) *Outdoor sales and display.* The following uses may include outdoor sales and display provided such outdoor sales and display area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use as specified in Chapter 530, Site Plan Review:

(1) Building materials sales.

(2) Direct refueling of motor vehicles.

(3) Permitted drive-through facilities.

(4) Truck, trailer, boat, or recreational vehicle, sales, service or rental, subject to the regulations of this chapter governing the outdoor parking of trucks and other commercial vehicles.

(5) Lawn and garden sales.

(6) Businesses with merchandise for sale on the premises, provided that the outdoor sales and display be limited to the following locations:

- a. On the public sidewalk adjacent to a ground level retail space, as provided by Title 17, Streets and Sidewalks, of the Minneapolis Code of Ordinances.
- b. On property adjacent to the public right-of-way, within the thirty (30)-inch wide portion extending from the business's primary building wall along the lineal storefront area, provided that all products are sold within the principal use, all merchandise and related fixtures are removed outside of the business's hours of operation, and the use does not encroach on door openings, drive aisles, parking areas, required landscaped areas, loading zones, fire lanes, or a sixty (60)-inch unobstructed, straight pedestrian way.

(1) Merchandise may only be displayed and sold pursuant to section 427.130 (b) between the hours of 8:00 a.m. and 10:00 p.m.

(2) All merchandise, fixtures, tables, racks, shelving and other related materials must be completely removed when not in use or during restricted hours of operation.

(3) Protruding objects shall not reduce the clear width of an accessible route or maneuvering space.

(4) Liquor, tobacco, tobacco-related products, and sexually oriented images and merchandise, and any otherwise prohibited from being sold outdoors shall be prohibited from being displayed and sold under this ordinance.

Section 2. That Section 550.280 of the above-entitled ordinance be amended to read as follows:

550.280. Enclosed building requirement.

(a) *In general.* All production, processing, storage, sales, display or other business activity in the I2 District shall be conducted within a completely enclosed building, except as otherwise provided in sections (b) through (e) below.

(b) *Outdoor dining.* Outdoor dining shall be allowed, provided the following conditions are met:

- (1) The outdoor dining area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from

such district boundary or residential use, as specified in Chapter 530, Site Plan Review.

- (2) Sidewalk cafes shall comply with the requirements contained in Chapter 265 of the Minneapolis Code of Ordinances, Special Permits for Specific Businesses and Uses.
- (c) *Outdoor sales and display.* The following uses may include outdoor sales and display provided such outdoor sales and display area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use as specified in Chapter 530, Site Plan Review:
 - (1) Building materials sales.
 - (2) Direct refueling of motor vehicles.
 - (3) Permitted drive-through facilities.
 - (4) Truck, trailer, boat, or recreational vehicle, sales, service or rental, subject to the regulations of this chapter governing the outdoor parking of trucks and other commercial vehicles.
 - (5) Lawn and garden sales.
 - (7) Businesses with merchandise for sale on the premises, provided that the outdoor sales and display be limited to the following locations:
 - a. On the public sidewalk adjacent to a ground level retail space, as provided by Title 17, Streets and Sidewalks, of the Minneapolis Code of Ordinances.
 - b. On property adjacent to the public right-of-way, within the thirty (30)-inch wide portion extending from the business's primary building wall along the lineal storefront area, provided that all products are sold within the principal use, all merchandise and related fixtures are removed outside of the business's hours of operation, and the use does not encroach on door openings, drive aisles, parking areas, loading zones, fire lanes, or a sixty (60)-inch unobstructed, straight pedestrian way.
 - (1) Merchandise may only be displayed and sold pursuant to section 427.130 (b) between the hours of 8:00 a.m. and 10:00 p.m.
 - (2) All merchandise, fixtures, tables, racks, shelving and other related materials must be completely removed when not in use or during restricted hours of operation.
 - (3) Protruding objects shall not reduce the clear width of an accessible route or maneuvering space.

(4) Liquor, tobacco, tobacco-related products, and sexually oriented images and merchandise, and any otherwise prohibited from being sold outdoors shall be prohibited from being displayed and sold under this ordinance.

**AN ORDINANCE
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By Glidden

**Amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances
relating to Zoning Code: Overlay Districts**

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

Section 1. That Section 551.940 of the above-entitled ordinance be amended to read as follows:

551.940. Street level retail.

(a) In general. All buildings shall contain retail uses at the street level subject to the following standards:

- (1) Retail uses shall include Retail Sales and Services uses and Food and Beverages uses contained in Table 549-1 Principal Uses in the Downtown Districts.
- (2) Retail uses shall occupy at least sixty (60) percent of the gross floor area of the first floor and shall extend along at least sixty (60) percent of the first floor façade fronting on Nicollet Mall.
- (3) Each retail use is encouraged to have at least one (1) separate entrance from Nicollet Mall.
- (4) Retail uses are encouraged to include awnings and canopies to provide protection to pedestrians and to emphasize individual uses and building entrances.

(b) Outdoor sales and display.

- (1) Notwithstanding the provisions of Title 17, Streets and Sidewalks, businesses shall not sell or display merchandise within the Nicollet Mall public right-of-way.