

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

Date: June 25, 2012

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: October 20, 2011

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

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Intent of the Ordinance: To allow unattended, automated dispensing of gasoline or other engine fuel.

Appropriate Section(s) of the Zoning Code: Chapter 536, Specific Development Standards.

Background: On October 20, 2011, an ordinance amendment was introduced at the City Council to amend Chapters 520, 525, 536 and 537 of the zoning code as they related to unattended, automated dispensing of gasoline. The specific development standards for automobile convenience facilities, minor auto repair and major auto repair uses currently prohibit this function. The purpose of the amendment is to allow unattended, automated dispensing of gasoline and other engine fuels. Staff is recommending that this activity only be allowed accessory to automobile convenience facilities. Staff is recommending that unattended, automated dispensing of gasoline remain prohibited for auto repair uses due to site design issues and the general operation of such uses.

Planning Division staff consulted with staff from the Police Department, Fire Protection Services, Licenses and Consumer Services and Environmental Services regarding the proposed amendment. The draft language contains performance standards that address issues raised by these departments, including provisions for lighting and fire safety. The Police Department raised additional concerns with public safety, particularly the opportunity for loitering. Any use that allows unattended, automated dispensing of gasoline will need to obtain an extended hours license from Licenses and Consumer Services, as the use would be open to the public beyond the hours allowed as of right. The license requirement will allow for annual review and any conditions that may be necessary to address safety concerns or other issues.

There are 76 automobile convenience facilities currently licensed in the City. Of those, 28 have conditional use permits for extended hours of operation. In addition, there are automobile convenience facilities in the City that are already allowing unattended, automated dispensing of gasoline. Staff has reviewed the automobile convenience facilities at 5355 34th Avenue S, 5400 Penn Avenue S and 5400 Chicago Avenue, all of which allow unattended, automated dispensing of gasoline, and found that the

number of police calls and requests for service are equivalent to those uses that do not allow unattended dispensing of gasoline.

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 allow unattended, automated dispensing of gasoline accessory to automobile convenience facilities and to adopt performance standards for this activity.

The amendment is intended to address the issue of consistency between the zoning code and current practices by automobile convenience facilities within the City and throughout the Twin Cities Metropolitan Area. There are uses in the City that currently allow unattended, automated dispensing of gasoline illegally. Making unattended, automated dispensing permitted and adding performance standards will address and/or eliminate any potential safety or nuisance concerns. Furthermore, requiring an extended hours license will allow for proper oversight of these uses and an annual review of any conditions.

The amendment will serve the public good by legalizing an activity that is already occurring in the City and requiring a license which will allow for annual review to address any potential operating concerns. Furthermore, the amendment will serve a public purpose by allowing for the convenience of fueling vehicles after regular business hours with increased public safety measures.

Staff does not expect that the amendment would create significant problems. As stated above, a number of automobile convenience facilities in the City are already allowing unattended, automated dispensing of gasoline. Furthermore, 28 automobile convenience facilities have received previous approvals to operate 24 hours per day. Therefore, the number of uses expected to change their operations as a result of the proposed amendment is minimal. The requirement of an extended hours license will allow for annual review and proper oversight.

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 the City currently has uses that illegally allow unattended, automated dispensing of gasoline. Adoption of the amendment will allow the City to capture these uses with the requirement of an extended hours license and monitor these and any additional uses that choose to take advantage of the amendment appropriately.

Staff researched a number of metro area cities to determine how unattended, automated dispensing of gasoline is handled. Cities researched include Bloomington, Brooklyn Park, Edina, Richfield, Saint Louis Park and Saint Paul. Every zoning ordinance researched was silent on the issue of unattended or automated gasoline dispensing. The cities of Brooklyn Park and Richfield restrict hours of operation for automobile convenience facilities that are not located on county or state highways through their licensing regulations.

Staff also researched a number of peer cities nationwide. Most peer city zoning codes researched were also silent on the issue of automated dispensing of gasoline. The city of Portland, Oregon regulates hours of operation for such uses, but simply limits the number of hours per day a use may be open to the public without specifying the times of day.

The consequence of denying the amendment is that uses may continue to operate illegally and without the implementation of performance standards. Specifically, automobile convenience facilities that currently allow unattended, automated dispensing may not be providing proper lighting, fire safety equipment or other facilities that would help to implement Crime Prevention Through Environmental Design (CPTED) policies.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following policies of *The Minneapolis Plan for Sustainable Growth* apply:

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.

- 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.

Land Use 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.

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.

Public Services and Facilities 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.

Urban Design Policy 10.22: Use Crime Prevention Through Environmental Design (CPTED) principles when designing all projects that impact the public realm, including open spaces and parks, on publicly owned and private land.

10.22.4 Provide on-site lighting at all building entrances and along walkways that maintains a minimum acceptable level of security while not creating glare or excessive lighting of the site.

10.22.7 Locate entrances, exits, signs, fencing, landscaping, and lighting to distinguish between public and private areas, control access, and to guide people coming to and going from the site.

Allowing unattended, automated dispensing of gasoline will support the above policies of *The Minneapolis Plan for Sustainable Growth*. The performance standards proposed, in addition to those already in place for automobile convenience facilities, will support the CPTED policies of the comprehensive plan and help to mitigate impacts on adjacent uses.

RECOMMENDATIONS

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

The Department of 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 to Chapter 536, Specific Development Standards. Staff further recommends that Chapters 520, 525 and 537 be **returned** to author.

Attachments:

1. Amendment to Chapter 536 relating to Zoning Code: Specific Development Standards.