



## Legislation Details (With Text)

**File #:** Ord 22-33      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**In control:** City Council

**Final action:** 8/3/2022

**Title:** Amending Chapters 62 and 65 of the Legislative Code pertaining to consent petition requirements for some nonconforming use permits and some conditional use permits.

**Sponsors:** Amy Brendmoen

**Indexes:**

**Code sections:** Sec. 61.801. - Changes and amendments.

**Attachments:** 1. Planning Commission Resolution, 2. Planning Commission Action Minutes 06.24.22, 3. Consent Petition Zoning Study, 4. Letter of support from Highland District Council, 5. Letter from Mac-Groveland District Council, 6. ENS Notice, 7. Pioneer Press Notice, 8. Zak Yudhishthu public comment

Date	Ver.	Action By	Action	Result
8/5/2022	1	Mayor's Office	Signed	
8/3/2022	1	City Council	Adopted	Pass
7/27/2022	1	City Council	Laid Over to Final Adoption	Pass
7/20/2022	1	City Council	Laid Over to Second Reading	

Amending Chapters 62 and 65 of the Legislative Code pertaining to consent petition requirements for some nonconforming use permits and some conditional use permits.

WHEREAS, the Saint Paul Zoning Code, found in chapters 60 through 69 of the Saint Paul Legislative Code, is established to promote the public health, safety, morals, aesthetics, economic viability and general welfare of the community; and

WHEREAS, Section 61.801(a) of the Zoning Code calls for periodic review of said code to reflect current city policies and to bring the Zoning Code up-to-date; and

WHEREAS, the Saint Paul Planning Commission initiated a zoning study of consent petition requirements for certain zoning applications on February 18, 2022 in response to an implementation item in the 2040 Comprehensive Plan calling for removal of unnecessary hurdles to small-scale commercial and residential development; and

WHEREAS, notice of the public hearing before the Saint Paul Planning Commission was published in the Saint Paul Legal Ledger on April 28, 2022; and

WHEREAS, the Saint Paul Planning Commission held a duly noticed public hearing on May 13, 2022, regarding proposed zoning code text amendments to eliminate the consent petition requirement for applications for some nonconforming use permits and some conditional use permits; and

WHEREAS, the Comprehensive and Neighborhood Planning Committee of the Saint Paul Planning Commission, having reviewed the public hearing testimony and the zoning study, provided a recommendation for consideration by the Saint Paul Planning Commission; and

WHEREAS, on June 24, 2022, the Planning Commission, in resolution 22-28, based upon the Comprehensive and Neighborhood Planning Committee's report and all the testimony received from the May 13, 2022 public hearing, duly submitted its recommendation to amend certain sections of the Zoning Code to eliminate the consent petition requirement for some nonconforming use permit and some conditional use permit applications, to the Mayor and City Council for review and consideration; and

WHEREAS, a public hearing before the City Council, having been duly conducted on July 27, 2022, at which all interested parties were given an opportunity to be heard, and having considered all the testimony and recommendations concerning the proposed text amendments, including the Planning Commission's action minutes and the Comprehensive and Neighborhood Planning Committee's report and their rationale for the recommended zoning code amendments, which the Council finds persuasive and thus hereby incorporates by reference into this ordinance for the specific purpose of articulating the Council's reasons and rationale for enacting the recommended amendments as set forth below in Sections 1 through 3 in addition to any other reasons the Council might articulate on the record in adopting these amendments the Council, having considered all the facts and recommendations concerning the proposed zoning amendments and pursuant to the authority granted by and in accordance with the procedures set forth in Minnesota Statutes 462.357 states as follow:

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

SECTION 1.

**Chapter 62. - Zoning Code-Nonconforming Lots, Uses and Structures**

Section 62.109 of the Saint Paul Legislative Code is hereby amended to read as follows:

**Sec. 62.109. - Nonconforming use permits.**

- ...
- (a) *Establishment of legal nonconforming status.* The planning commission may grant legal nonconforming status to uses or structures that do not meet the standards for legal nonconforming status in section 62.102 if the commission makes the following findings:
- (1) The use or a nonconforming use of similar or greater intensity first permitted in the same zoning district or in a less restrictive zoning district has been in existence continuously for a period of at least ten (10) years prior to the date of the application;
  - (2) The off-street parking is adequate to serve the use;
  - (3) Hardship would result if the use were discontinued;
  - (4) Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses;
  - (5) The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
  - (6) The use is consistent with the comprehensive plan; ~~and~~
  - (7) ~~A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the use.~~

The application for the permit shall include ~~the petition~~, evidence of a ten-year period of existence, evidence that conversion of the use and structure would result in hardship, a site plan meeting the requirements of section 61.401, floor plans, and other information as required to substantiate the

permit.

(b) *Nonconforming commercial and industrial parking use.* The planning commission may grant legal nonconforming status to allow the use of land without completely enclosed buildings as a parking lot to serve abutting property in OS-B5 Business and ITR-I1 industrial districts if the commission makes the following findings:

- (1) The commercial or industrial parking lot has been paved, maintained and used for commercial or industrial parking for at least ten (10) consecutive years prior to the date of the application;
- (2) The parking lot occupies a legally subdivided parcel that is too small for development and has not been owned by a different adjoining property owner for at least ten (10) years prior to the date of the application;
- (3) The parking lot is to serve abutting commercially or industrially zoned property;
- (4) The parking lot will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
- (5) The parking lot is consistent with the comprehensive plan; ~~and~~
- (6) ~~A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the parking lot.~~

The application for the permit shall include ~~the petition~~, evidence of a ten-year period of existence, a site plan meeting the requirements of section 61.401 and other information as required to substantiate the permit.

...

(d) *Expansion or relocation of nonconforming use.* The planning commission may permit the expansion or relocation of a legal nonconforming use if the commission makes the following findings:

- (1) In residential districts, the expansion, or relocation will not result in an increase in the number of dwelling units;
- (2) For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district;
- (3) The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood;
- (4) Off-street parking is provided for the expansion or relocation that meets the requirements of article 63.200 for new uses;
- (5) Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use;
- (6) After the expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare; and
- (7) The use is consistent with the comprehensive plan; ~~and~~
- (8) ~~A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the expansion or relocation.~~

The application for a permit shall include ~~the petition~~, a site plan meeting the requirements of section 61.401, floor plans, and other information as required to substantiate the permit.

- (e) *Reestablishment of nonconforming use.* When a legal nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of more than one (1) year, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings:
- (1) The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose;
  - (2) The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use;
  - (3) The proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
  - (4) The proposed use is consistent with the comprehensive plan; and
  - (5) ~~A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the use.~~

The application for the permit shall include ~~the petition~~, a site plan meeting the requirements of section 61.401, floor plans, and other information as required to substantiate the permit.

SECTION 2.

**Chapter 65. - Zoning Code-Land Use Definitions and Development Standards**  
**Article II - 65.100. Residential Uses Division 1.- 65.110. Dwellings**

Sections 65.121 and 65.132 of the Saint Paul Legislative Code are hereby amended to read as follows:

...

**Sec. 65.121. Dwelling, carriage house.**

An accessory dwelling in a combined residential and garage building, separate from the main building on the lot, located above and/or adjacent to the garage.

*Development standards:*

- (a) A carriage house building may be regulated as an accessory building or as an additional principal residential building.

*Standards and conditions in residential districts:*

- (b) The building planned for use as a carriage house dwelling had space originally built to house domestic employees.
- (c) ~~The applicant shall obtain a petition signed by two-thirds (2/3) of the property owners within one hundred (100) feet of the applicant's property line consenting to the carriage house dwelling.~~
- (d) ~~The applicant shall not reduce the number of existing off-street parking spaces on the property and shall also provide additional off-street parking as required for the carriage house dwelling.~~
- (e) A site plan and a building plan shall be submitted to the planning commission at the time of application.

...

**Sec. 65.132. Reuse of large structures.**

Conversion or reuse of residential structures of over nine thousand (9,000) square feet gross floor area and permitted nonresidential structures such as churches and schools.

*Standards and conditions in residential districts:*

- (a) The planning commission shall find that the structure cannot reasonably be used for a conforming use.
- (b) The planning commission shall find that the proposed use and plans are consistent with the

comprehensive plan.

- (c) The planning commission shall find that the proposed use and structural alterations or additions are compatible with the surrounding neighborhood and land uses.
- (d) Applications for conversion or reuse shall include ~~a notarized petition of two-thirds (2/3) of the property owners within one hundred (100) feet of the property proposed for the reuse,~~ site plans, building elevations, and landscaping plans, and other information which that the planning commission may request. ~~The notarized petition requirement shall be waived for a proposed conversion or reuse to serve residents who are all considered handicapped under the Federal Fair Housing Act Amendments of 1988.~~

### SECTION 3.

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.