

Chapter 23B.60: Compliance and Revocation

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COMPLIANCE AND REVOCATION

Sections:

- 23B.60.010 Revocation and Modification of Permits
- 23B.60.020 Findings for Revocation/Modification of Permit
- 23B.60.030 Proceedings for Initiation of Revocation/Modification -- Hearing Required for Recommendation to Revoke or Modify
- 23B.60.040 Recommendation
- 23B.60.050 Council Proceedings -- Notice of Decision
- 23B.60.060 Remedies
- 23B.60.070 Recovery of Costs -- Fees

Section 23B.60.010 Revocation and Modification of Permits

- A. The Council may revoke or modify any Permit if it makes the findings required by this Chapter.
- B. Permits for Temporary Uses may be revoked for non-compliance with any conditions designated therein, and the Zoning Officer may issue an immediate cease and desist order.
- C. Notwithstanding anything to the contrary, no lawful residential use can lapse, regardless of the length of time of the vacancy. (Ord. 6972-NS § 1 (part), 2007: Ord. 6478-NS § 4 (part), 1999)

Section 23B.60.020 Findings for Revocation/Modification of Permit

If the Council makes any of the findings set forth in this Section, it may revoke or modify the permit.

- A. The holder of the permit has failed to comply with at least one or more of the conditions set forth therein.
- B. The use, structure or building permitted has been substantially expanded or changed in character beyond that set forth in the permit.
- C. The property has been vacant for one (1) year and the applicant has not demonstrated a good faith intent to re-occupy the property with the use specified in the approved Permit. In such cases, the burden shall be on the permittee to establish his/her good faith intent, and the Board may require the applicant to produce documentation to substantiate that good faith intent. (Ord. 6972-NS § 1 (part), 2007: Ord. 6478-NS § 4 (part), 1999)

Section 23B.60.030 Proceedings for Initiation of Revocation/Modification -- Hearing Required for Recommendation to Revoke or Modify

- A. Proceedings under this chapter to revoke or modify Permits may be initiated by a referral by the Zoning Officer, Board or Council. Such referral shall identify the Permit being considered, identify the property to which the permit applies, and set forth the reason or reasons for the proposed revocation or modification. A referral by the Board shall fix a time and place for a public hearing on the proposed revocation. The Zoning Officer shall fix a time and place for a public hearing on all other referrals.
- B. Upon such referral, the Zoning Officer shall give notice of a public hearing before the Board as set forth in

Chapter 23B.60: Compliance and Revocation

Section 23B.32.020 and shall also mail, within the prescribed time period, the notice of the hearing to the current holder of the Permit, the owner of the subject property, the person who requested an initiation of revocation proceedings, and any other person who has filed a written request with the Zoning Officer for such notice.

- C. The public hearing before the Board shall be conducted as set forth in Section 23B.32.030. (Ord. 6972-NS § 1 (part), 2007; Ord. 6478-NS § 4 (part), 1999)

Section 23B.60.040 Recommendation

Upon conclusion of the hearing, the Board shall make a written recommendation to the Council whether to revoke or modify the Permit on the grounds specified in section 23B.60.020, based on the evidence, testimony, and facts presented to the Board at the hearing. Such recommendation shall include written findings in support thereof and shall be issued within thirty-five (35) days after the conclusion of the hearing. (Ord. 6972-NS § 1 (part), 2007)

Section 23B.60.050 Council Proceedings -- Notice of Decision

- A. If the Board recommends that the Council revoke or modify the Permit, that recommendation shall be set for public hearing before the Council within 60 days following its issuance, unless all person(s) subject to the Board's recommendation consent to it in writing within 10 days after it is issued, in which case it shall be deemed a final decision by the City to revoke the Use Permit or to impose additional conditions thereon, as the case may be.
- B. A record of the Board's proceedings in all matters under this chapter, including its recommendation, if any, shall be filed with the City Clerk within 14 days following the date the Board either issues or declines to issue a recommendation, and the City Clerk shall present said record to the City Council at its next regular meeting at which it is practicable to do so. Notwithstanding subdivision A of this section, the Council may set the matter for hearing within 30 days thereafter.
- C. Notice and conduct of hearings before the Council shall be as set forth in section 23B.60.030.
- D. After hearing, the Council may find that the Permit should be revoked or modified on the bases set forth in section 23B.60.020 and impose any remedy provided for in this Chapter, or take no action.
- E. If the Council revokes or modifies a Permit, the City Clerk shall issue a Notice of Decision describing the Council's action, with its findings. The City Clerk shall mail the notice to the permit holder, the owner of the subject property, the person who requested proceedings under this chapter, and any person who requests such a notification by filing a written request therefore with the Zoning Officer or the City Clerk, and shall file a copy of the Notice of Decision with the Zoning Officer. (Ord. 6972-NS § 1 (part), 2007)

Section 23B.60.060 Remedies

Upon making any of the findings set forth in Section 23B.60.020, the Council may impose any remedy available at law or in equity which shall include, but is not limited to, any of the following or combination thereof: enjoining the use in whole or in part; imposing reasonable conditions upon any continued operation of the use, including those uses which constitute existing non-conforming uses; requiring continued compliance with any conditions so imposed; requiring the use to guarantee that such conditions shall in all respects be complied with; and, upon a failure of the user to comply with any conditions so imposed, imposing additional conditions or enjoining the use in whole or in part. (Ord. 6972-NS § 1 (part), 2007; Ord. 6578-NS § 5, 2000; Ord. 6478-NS § 4 (part), 1999)

Chapter 23B.60: Compliance and Revocation

Section 23B.60.070 Recovery of Costs -- Fees

- A. The City may recover the costs of any corrective action under this chapter that is effected by the City through its employees (including through litigation) or by contract under this chapter, as set forth in Sections 1.24.140 through 1.24.210, except that the hearing provided by Section 1.24.180 shall be held by the City Manager or his/her designee, and shall be appealable to the Council within 10 days after a decision is mailed. In the event such an appeal is filed within the time period specified above, the Council shall hold a hearing as set forth in Section 1.24.180.
- B. The Council may, by resolution, establish reasonable hourly rates which may be charged for the time spent by City employees in the performance of their employment under this chapter. These hourly rates may be charged on an on-going basis for time spent with respect to any building, structure or use if the Council, takes any action authorized by Section 23B.60.060, in which case payment of costs charged under this paragraph shall be made a condition of continued operation of said building, structure or use.
- C. Any amounts received pursuant to paragraph B above shall be deducted from any recovery of costs under paragraph A above. (Ord. 6972-NS § 1 (part), 2007)