

**Department of Community Planning and Economic Development - Planning Division
Zoning Code Text Amendment**

Date: November 13, 2012

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: August 3, 2012 and October 5, 2012

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

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Intent of the Ordinance: To revise the definition of and development standards for supportive housings uses, including revisions to the spacing requirements.

Appropriate Section(s) of the Zoning Code: Chapter 520: Introductory Provisions; Chapter 536: Specific Development Standards;

Background: An ordinance was introduced by the City Council on Friday, August 3, 2012, to amend Chapter 536 to revise the development standards for supportive housing uses. Specifically staff was directed to review and consider eliminating the spacing requirements for this use. On Friday, October 5, 2012, this introduction was amended to include Chapter 520 relating to Introductory Provisions. Specifically staff was directed to consider revising the definition of supportive housing. The ordinance introduction stemmed from an appeal of the decision of the Zoning Administrator (ZA) that a proposed project at 1920-2022 West Broadway Avenue (West Broadway Curve) is classified as a supportive housing use. The appeal was heard at the June 28, 2012, Zoning Board of Adjustment (BOA) meeting where the ZA's determination was upheld. The decision of the BOA was appealed to the Zoning & Planning Committee of the City Council on July 26, 2012; in consultation with the applicants this appeal was continued to the first Zoning & Planning Committee meeting in January 2013, to allow time for the Council to consider changes to zoning regulations related to supportive housing uses.

“Supportive housing” is a term used broadly in different settings and within multiple regulatory environments to refer to programs that provide support services to special needs populations in combination with housing assistance. This can range from small group homes, larger institutions or independent apartments. The populations for which supportive housing facilities have been provided vary and include, but are not limited to, homeless, chronically mentally ill, individuals recovering from chemical dependencies, people living with HIV or AIDS and other terminally ill people. In Minneapolis, supportive housing uses by definition are non-licensed facilities that provide housing for twenty-four (24) hours per day and programs or services designed to assist residents with improving daily living skills, securing employment or obtaining permanent housing.

Supportive housing uses are currently listed in the Zoning Code under the broader category of “congregate living.” Other uses that fall under this category include: community residential facilities,

board and care homes, nursing homes, assisted living, faculty homes, fraternities or sororities, hospitality residences and residential hospices. Supportive Housing is currently allowed as a conditional use in the following primary zoning districts: R4, R5, R6, OR2, OR3, C2, C4, B4, B4S, B4C, B4N and in the B4H Downtown Housing and the IL Industrial Living Overlay Districts. In all districts, except for the B4H Downtown Housing Overlay District, this use is subject to a specific development standard that requires that it be located a minimum of one-fourth (1/4) mile from all existing supportive housing uses, community correctional facilities, community residential facilities, inebriate housing uses, motels, and overnight shelters. Community correctional facilities, community residential facilities, and inebriate housing uses are also subject to a one-fourth (1/4) mile spacing requirement. In the table below, the existing definitions for each use categorized as congregate living are listed, who licenses the facility is identified (if applicable), any existing spacing requirements and specific examples for most use categories.

<u>Congregate Living – Uses, Definitions & Spacing Requirements</u>				
<u>Use</u>	<u>Licensed by</u>	<u>Spaced From (1/4 mile)</u>	<u>City Definition</u>	<u>Example</u>
Assisted Living	Minnesota Department of Health	n/a	A facility licensed by the Minnesota Department of Health (DOH) where individualized home care aide services or home management services are provided to residents either by the management or by providers under contract with the management.	Golden Nest, 1919 19 th Avenue NE
Board & Care Home		n/a	A facility licensed by the Minnesota Department of Health (DOH) where one (1) or more persons who are not capable of self-preservation receive personal or custodial care (assistance with bathing, dressing and supervision).	Andrew Residence; 1215 9 th Street S
Nursing Home		n/a	A facility for aged, chronically ill, or incurable persons licensed by the Minnesota Department of Health providing nursing care and related medical services.	Ebenezer Care Center; 2545 Portland Avenue S
Community Correctional Facility	Department of Corrections or Hennepin County	other CCFs	A facility where one (1) or more persons placed by the court, court services department, parole authority, or other correctional agency having dispositional power over a person charged with or convicted of a crime or adjudicated delinquent reside on a twenty-four (24) hours per day basis, under the care and supervision of the Department of Corrections (DOC) or Hennepin County, or licensed by the Department of Corrections as a corrections facility,	Portland House, 514 11 th Avenue SE

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			excluding detention facilities. The maximum capacity shall not exceed thirty-two (32) persons.	
Community Residential Facility	Minnesota Department of Human Services	other CRFs	A facility where one (1) or more persons reside on a twenty-four (24) hour per day basis under the care and supervision of a program licensed by the Minnesota Department of Human Services (DHS). Community residential facilities shall not include facilities that are also eligible for licensure by the Minnesota Department of Corrections (DOC).	Kelly Norton Programs, Inc.; 1928 Stevens Avenue
Dormitory	n/a	n/a (must be within ¼ mile of the educational facility served)	A building operated by a college or university offering an accredited course of study, which is occupied only by university or college students and support staff who receive from the dormitory lodging or meals on the premises for compensation.	UMN Campus dorms
Faculty House	n/a	n/a (must be within ½ mile of the educational facility served)	A building used as a residence by staff or faculty members having a contract or agreement with a college or university to teach or conduct research on behalf of the institution.	The Historic Faculty House; 314 10 th Avenue SE
Fraternity or sorority	n/a	n/a (must be within ½ mile of the educational facility served)	A building which is occupied only by a group of university or college students and support staff who are associated together in a fraternity or sorority, which is officially recognized by a college or university offering an accredited course of study, and who receive from the fraternity or sorority lodging or meals on the premises for compensation.	Delta Tau Delta; 1717 University Avenue SE
Hospitality residence	n/a	n/a (must be within ½ mile of a hospital)	A facility owned and operated by a non-profit organization that provides temporary housing to families of children being treated for life-threatening illnesses.	Ronald McDonald House; 621 Ontario Street SE
Inebriate Housing	n/a	other IH uses, CCFs, CRFs, SH, Motels & Overnight Shelters	A facility that provides housing twenty-four (24) hours per day to persons who are chemically dependent and considered to be handicapped persons under the Federal Fair Housing Amendments Act of 1988. It does not include any facility licensed by the Minnesota Department of Human Services (DHS), Minnesota Department of Corrections (DOC), or any other county, state, or federal community correctional facility.	Indian Neighborhood Club; 1805 Portland Avenue

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Residential hospice	n/a	n/a	A facility that provides twenty-four (24) hour per day residential and support services in a home-like setting for hospice patients as an integral part of the continuum of home care provided by a hospice licensed by the Minnesota Department of Health.	
Supportive Housing	n/a	other SH uses, CRFs, CCFs, IH, Motels & Overnight Shelters	A facility that provides housing for twenty-four (24) hours per day and programs or services designed to assist residents with improving daily living skills, securing employment or obtaining permanent housing. It does not include: Senior housing with services designed specifically to serve the needs associated with the aging of the residents.; Inebriate housing.; Any facility licensed by the Minnesota Department of Human Services (DHS), Department of Health (DOH) or Minnesota Department of Corrections (DOC).; Any other county, state or federal community correctional facility; Fraternities, sororities or other student housing. Any facility owned, leased or operated by the Minneapolis Public Housing Authority (MPHA).; The use of one (1) dwelling unit on one (1) zoning lot which meets the occupancy requirements of the zoning district in which it is located	Clare Housing; 929 Central Ave NE

The City’s current definition of supportive housing includes any facility that “provides housing for twenty-four (24) hours per day and programs or services designed to assist residents with improving daily living skills, securing employment or obtaining permanent housing” and does not meet the definition of any other use in the zoning code. This definition was adopted in 1997 and has been applied by staff to include all residential uses that provide any services related to improving daily living skills, securing employment or obtaining permanent housing. Whether residents are required to participate in the programs or not, if the development offers these services in some manner the use has been categorized as supportive housing and is subject to all applicable regulations. While this interpretation has been applied consistently it may not have been the intent of the amendment in 1997. When this definition was adopted, staff noted that the amended text “creates an “umbrella” definition called supportive housing for a variety of program types such as emergency housing, transitional housing, board and lodging facilities and shelters for battered persons.”

In an effort to clarify which developments or facilities are to be captured under the supportive housing use category, staff is recommending that the definition of supportive housing be amended and that a new definition of “daily living skills” be added to the zoning code. In addition, staff is recommending that the specific development standards be amended to eliminate the spacing requirement for these uses and to eliminate the occupancy standards specific to this use. With this change, the maximum occupancy and number of unit will be regulated by the zoning district and the housing maintenance code.

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 revise the definition of and development standards for supportive housing uses. This will make it easier for supportive housing uses to locate in the City of Minneapolis and provide better access to housing choices for populations seeking these services. Amending the definition for this use will clearly differentiate multiple-family dwellings with optional on-site amenities, programs and services from housing that is clearly designed to provide services for people that need additional support. In addition, a definition for daily living skills is proposed to provide more clarity to staff and applicants when determining the proposed use.

Currently there is a specific development standard that requires supportive housing uses to be located a minimum of one-fourth (1/4) mile from all existing supportive housing uses, community correctional facilities, community residential facilities, inebriate housing uses, motels, and overnight shelters, in all districts, except for the B4H Downtown Housing Overlay District. Clarifying the definition of supportive housing and removing the spacing requirement will eliminate barriers to entry for supportive housing uses and clearly distinguish supportive housing uses from other housing developments that provide optional on-site amenities, programs or services for residents. Amending the regulations related to the maximum number of persons served will eliminate the need to vary this regulation. Staff has reviewed approximately 32 projects that included applications to establish a supportive housing use. Of those projects, 11 developments requested and received approval for a variance to increase the number of persons served. In addition, six additional developments would have required a variance if they were not located in the B4H overlay district.

As mentioned previously, amending the definition of supportive housing and adding a definition for daily living skills will assist staff and applicants in categorizing these uses. It is not uncommon for staff and applicants to spend a significant amount of time in determining if a proposal does or does not meet the definition for supportive housing before the approval process can be outlined. These changes should eliminate these challenges.

Spacing requirements are used to manage the overconcentration of certain types of housing within neighborhoods and aim to disperse these uses across the city. While there is acknowledged merit in this approach, it can have a negative impact on the choice, cost and availability of supportive housing. Removing the spacing requirement will provide more options for where a supportive housing use can be located. Supportive housing developments provide housing for people that benefit from being located in close proximity to jobs, transit and other services. Further, because supportive housing uses, unlike most other congregate living uses, are not only required to be spaced from other supportive housing developments but also from most other congregate living facilities, the options become more limited.

It is the policy of the city, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide reasonable accommodation for persons with disabilities seeking fair and equal access to housing in the application of its zoning regulations. Reasonable accommodation means providing an individual with a disability or developers of housing for an individual with a disability, flexibility in the application of

land use and zoning regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to housing opportunities. Of the 32 previously approved supportive housing projects that were reviewed by staff, 12 projects requested and received approval for reasonable accommodation to the spacing requirement. Five additional projects would have required reasonable accommodation had they not been located in the B4H Downtown Housing Overlay District. Further, of the remaining 14 projects that did not request reasonable accommodation, most if not all would be eligible if the proposed location had not met the minimum spacing requirements. Eliminating the spacing requirement will reduce the number of applications that require reasonable accommodation which will reduce staff time and resources needed to review such applications.

By removing the spacing requirement for this use and easing the requirements for these uses to locate in Minneapolis the City will further several goals outlined in the City's comprehensive plan (outlined in the Comprehensive Plan section below). Further, the city of Minneapolis and Hennepin County partnered to create and adopt a plan to end homelessness in our community by the year 2016. This *10 Year Plan to End Homelessness*, also known as *Heading Home Hennepin*, was developed by business and civic leaders, advocates, community members and individuals who have experienced homelessness. It was created to help address the growing problem of homelessness, and change the paradigm from managing it to ending it. One of the goals in this plan is to develop housing opportunities and states that "through supportive housing, affordable housing is linked with services that help people live more stable, productive lives. It can be either project-based or scattered-site housing. It is permanent because it does not limit the tenant's stay; rather, the individual household decides when to leave." This text amendment will implement the following specific recommendations included in this plan:

- Preserve current stock of affordable and supportive housing; create 5,000 new "housing opportunities" for youth, singles, and families with children over the 10-year implementation period of the plan; and provide the support services people need to maintain housing stability.
- Promote housing opportunities that create more locational choice and Transit Oriented Development (TOD) for homeless singles, families and youth.
- Reduce regulatory barriers to developing a variety of housing options.

Spacing requirements are typically implemented for uses that are thought of as having some objectionable characteristics that may have deleterious secondary effects on the use and enjoyment of surrounding areas. By removing the spacing requirement for supportive housing uses the City would be acknowledging that the nature of this use has changed and that concerns related to the concentration of such uses are no longer significant. The delivery of these uses has changed over time; in many cases supportive housing uses essentially function as multi-family residential establishments while simultaneously offering on-site ancillary services for residents of the facility. If this text amendment is approved supportive housing projects would still require an application for a conditional use permit that includes a public hearing where there is opportunity for comment and input by interested parties. Further, when determining whether or not to approve a conditional use permit the City Planning Commission can consider if there is a concentration of similar uses in the area and if that concentration will be detrimental to or endanger the public health, safety, comfort or general welfare or be injurious to the use and enjoyment of other property in the vicinity.

Staff does not anticipate that the proposed definitional changes will create problems. The project at 1920-2022 West Broadway Avenue (West Broadway Curve project) that prompted the dialogue leading

to this text amendment would no longer be classified as supportive housing; however, the majority if not all of the existing uses currently categorized as supportive housing in the City would still be considered supportive housing with this change.

Eliminating the spacing requirement will make it easier for supportive housing uses to locate in the City which may lead to a greater concentration of such uses. Whether or not this will create problems is something that is not easily agreed upon. Often times it becomes a question more about well-managed versus poorly managed facilities, and opposition to development of additional facilities likely is fueled by experiences regarding the latter. Well-managed facilities, on the other hand, can become basically invisible in a community. Concentrating these uses is often described as being a negative impact on a community; however, there is not clear evidence to support this claim.

A report commissioned by the US Department of Housing and Urban Development and published by the Urban Land Institute of Washington in 1999¹ found that supportive housing uses do not generally have negative effects on property values nor do they increase crime. This report notes that “the fears commonly expressed by residents faced with the prospects of a supportive housing facility being developed nearby are exaggerated, at least in Denver. Although our personal reconnaissance, key informant interviews, and focus groups identified cases where particular supportive facilities are reputedly causing problems for the neighborhood, these cases clearly are not the typical pattern in Denver. Overall, there is no statistical evidence that the development of special care supportive housing generally reduces property values or that the development of special care and community correction facilities increases rates of serious crime nearby.” HUD commissioned this study in response to concerns raised about the possible negative effects of supportive housing programs. The American Planning Association published an issue of *Zoning Practice* in 2010 that reiterated that “...the loss of property value due to the concentration of social service agencies was of primary concern. However, few studies substantiate this claim. Many studies show that affordable housing and group homes do not have a negative effect on property values. Some studies even show that property values increase.”²

A map showing the location of congregate living uses that the City currently tracks due to spacing requirements is provided in the appendix. As illustrated by this map, there are already some areas where congregate living facilities in general and in some cases supportive housing uses specifically, are concentrated. This is due in part because of facilities established prior to the establishment of a spacing requirement or, as stated previously, the reasonable accommodation provision has essentially allowed supportive housing facilities to locate close to other supportive housing uses and other congregate living facilities. Given this, if it is verifiable that a concentration of such uses has had negative impacts on a particular area it seems that a spacing requirement is not the appropriate tool to address this issue and perhaps there are other policy and regulatory options that could be investigated further. This could include looking at housing policies related to inclusionary housing and continuing to provide and identify opportunities for city housing finance programs that give preference to projects in non-poverty concentrated areas, and that prioritize high quality mixed-income and market rate housing projects in disadvantaged communities.

Timeliness:

¹ Galster, G.; Pettit, K.; Tatan, P.; Santiago, A.; Newman, S. *The Impacts of Supportive Housing on Neighborhoods and Neighbors in Denver*. The Urban Institute, Washington DC. October 1999

²Wuerstle, Margaret. *A Sound Approach to Regulating Social Service Facilities*. American Planning Association, Zoning Practice, Issue Number 1, January 2010.

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

This amendment is part of the continual process of updating the zoning ordinance in order to improve our processes. As described above, recently the City had to review regulations for supportive housing uses stemming from the appeal related to the West Broadway Curve project that raised the question of whether or not the existing regulations are still meeting the intent of the ordinance. Under the current regulations this specific project could not be approved at the proposed location. The proposed changes will clarify the definition for applicants, the community and staff and will provide new opportunities to fulfill housing needs in the community identified in the adopted Comprehensive Plan by encouraging supportive housing.

Staff performed a code search to obtain information on how other cities treat supportive housing uses. Staff has listed regulations from approximately 20 cities located around the country related to uses defined as, or uses that are similar to, the City’s definition of supportive housing. Through this research staff has found that there is variety of terminology and approaches used in defining and regulating these uses. Spacing requirements are typically included for some or all uses that would fall under the broader category of congregate living. In many examples the definitions for these uses is tied to a specific licensing agency (like the City’s definition for Community Residential Facilities or Assisted Living uses) or specifically ties the use to some communal facility, such as a common eating area for residents. A table summarizing these regulations is included in the appendix.

If the proposed amendment is denied supportive housing projects will still be subject to a spacing requirement and the definition will not differentiate multiple-family projects with optional onsite services from those which require that residents participate in services provided on site. This amendment will provide opportunities for more housing choices in the city, much of which will be affordable, will streamline the approval process and continue to promote fair housing practices.

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 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.

- 1.8.1 Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.

Housing Policy 3.1: Grow by increasing the supply of housing.

- 3.1.1 Support the development of new medium- and high-density housing in appropriate locations throughout the city.
- 3.1.2 Use planning processes and other opportunities for community engagement to build community understanding of the important role that urban density plays in stabilizing and strengthening the city.
- 3.1.3 Continue to streamline city development review, permitting, and licensing to make it easier to develop property in the City of Minneapolis.

Housing Policy 3.3: Increase housing that is affordable to low and moderate income households.

- 3.3.4 Support policies and programs that create long-term and perpetually affordable housing units.
- 3.3.5 Support the development of housing with supportive services that help households gain stability in areas such as employment, housing retention, parenting, and substance abuse challenges.
- 3.3.6 Use planning processes, requests for proposals for city owned properties, and other community engagement processes to engage in dialogue with community participants about affordable housing and its compatibility with all Minneapolis neighborhoods.
- 3.3.8 Foster partnerships with housing developers, financial institutions, faith communities and others to extend the city’s capacity to create affordable housing.

Housing Policy 3.4: Preserve and increase the supply of safe, stable and affordable supportive housing opportunities for homeless youth, singles and families.

- 3.4.1 Promote increased development of housing for very low-income households earning 30% or less of metropolitan median income.
- 3.4.2 Support the creation of additional supportive housing units for homeless youth, singles and families.
- 3.4.4 Evaluate City policies and regulations related to the creation of supportive housing and smaller housing units, including Single Room Occupancy (SRO) housing.
- 3.4.5 Implement and promote additional strategies to reduce homelessness, such as those identified in Heading Home Hennepin.

Housing Policy 3.6: Foster complete communities by preserving and increasing high quality housing opportunities suitable for all ages and household types.

- 3.6.1 Promote the development of housing suitable for people and households in all life stages that can be adapted to accommodate changing housing needs over time.
- 3.6.2 Promote housing development in all communities that meets the needs of households of different sizes and income levels.
- 3.6.6 Actively enforce anti-discrimination laws and act to promote Fair Housing practices.

Economic Development Policy 4.8: Continue to pursue the removal of barriers that prevent residents from holding living wage jobs and achieving economic self-sufficiency.

4.8.1 Improve the affordability and variety of housing choices for Minneapolis workers.

The proposed amendment is consistent with the above policies of the comprehensive plan.

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, amending chapters 520 and 536.

Attachments:

1. Ordinance amending Chapter 520, Introductory provisions, to amend the definition of supportive housing and add a definition of daily living skills.
2. Ordinance amending Chapter 536, Specific Development Standards, to eliminate all spacing requirements related to supportive housing uses and amend the occupancy requirements.
3. Map of existing congregate living facilities
4. Summary of peer research
5. Correspondence