

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

Date: November 1, 2010

Initiator of Amendment: Council Member Lilligren

Date of Introduction at City Council: June 18, 2010

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

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Intent of the Ordinance: to recognize birth centers as an allowed use in certain zoning districts and to establish standards for this use.

Appropriate Section(s) of the Zoning Code: Chapter 520, Introductory Provisions; Chapter 536, Specific Development Standards; Chapter 541, Off-Street Parking and Loading; Chapter 547, Office Residence Districts; Chapter 548, Commercial Districts; Chapter 549, Downtown Districts; Chapter 550, Industrial Districts

Background: On April 16, 2010, the Minnesota Legislature enacted a bill that established definitions, licensure requirements and the authorization of medical assistance coverage for Birth Centers. Beginning January 1, 2011, the Minnesota Department of Health will require licensure, in addition to the accreditation of Birth Centers through the Commission for the Accreditation of Birth Centers in order to establish the use. Birth Centers are defined in §144.615 subd.1 (b) as:

A facility licensed for the primary purpose of performing low-risk deliveries that is not a hospital or licensed as part of a hospital and where births are planned to occur away from the mother's usual residence.

In addition to performing low-risk births, a Birth Center may provide additional services. Those services may include prenatal care, childbirth and parenting classes, early well baby care, obstetrics and gynecological exams and postpartum care.

An ordinance amendment was introduced at the City Council on June 18, 2010, to amend Chapters of the Zoning Code relating to recognize birth centers as an allowed use in certain zoning districts and to establish standards for this use.

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 recognize birth centers as a principal use in certain zoning districts in the zoning code. In addition, this amendment intends to provide specific development standards to address the unique characteristics of this particular use, establish appropriate hours of operation and off-street parking and loading requirements.

The Zoning Administrator has made the determination that a Birth Center is a *hospital* under the existing zoning regulations. This determination was appealed to the Zoning Board of Adjustment on April 22, 2010, and the City Council on May 28, 2010. The Zoning Administrator's decision was upheld at both meetings. The birth center model is expressly defined as not being a hospital by the recently adopted legislation and is not intended to operate or provide the same types of services as a hospital. This amendment is designed to identify birth centers as a principal use and differentiate them from clinics and hospitals.

The proposed amendments to the zoning code will allow for new birth centers to be established in the City of Minneapolis, without having to meet the additional standards for a hospital.

The draft ordinance recognizes that births can occur at any time of the day; therefore, staff is recommending that birth centers be exempt from the limited hours of operation established in each of Office Residence, Commercial, Downtown or Industrial Districts. The proposed text amendment, if adopted, will first allow birth centers as a conditional use in the OR1 Neighborhood Office Residence District. Staff has some concerns about the potential impact to noise and traffic to these uses during the evening and early morning hours. The draft ordinance also includes a specific development standard stating an appropriate transition area between the use and adjacent property be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood. In addition, staff is proposing a minimum lot area requirement in the Office Residence District to ensure sufficient off-street parking and landscaped areas may be provided on the property. Note that birth centers must also comply with applicable building code standards.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

On April 16, 2010, the Minnesota Legislature enacted a bill that established definitions, licensure requirements and the authorization of medical assistance coverage for Birth Centers. Beginning January 1, 2011, the Minnesota Department of Health will require licensure, in addition to the accreditation of Birth Centers through the Commission for the Accreditation of Birth Centers in order to establish the use. The proposed text amendment is intended to coincide with the new Department of Health standards and guidelines.

Staff performed a code search to obtain information on how other cities define birth centers. A birth center was established in the City of St. Paul, MN in 2008. The Zoning Administrator determined that a birth center is substantially similar to a medical clinic. The City of St. Paul, MN defines medical clinic

as “an establishment where human patients who are not lodged overnight are admitted for examination and/or treatment by a group of physicians, dentists or similar professionals.” The City of Santa Barbara defines birth centers as “a structure that contains facilities to assist in human births, but is not licensed as a hospital”. They are first allowed in the C-O Medical Office Zone, which is a zone used for medical, dental and related professional offices as well as residences and similar to the OR1 Neighborhood Office Residence District.

If the proposed amendment is not adopted, birth centers may only be allowed on a parcel at least 20,000 square feet in area with a conditional use permit in the one of the following zoning districts: OR3 Institutional Office Residence District, B4S Downtown Service District, B4C Downtown Commercial District, I1 Light Industrial District and I2 Medium Industrial District. In turn, this may limit opportunities for the City to attract new birth center uses. Further, the birth center definition in the zoning code will not be consistent with the licensing definition recently adopted by the Minnesota Legislature.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following general land use policies of the *Minneapolis Plan for Sustainable Growth* apply:

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.

- 1.1.5 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.
- 1.1.7 Invest in targeted place-making strategies to build upon and enhance existing community assets and encourage private sector development.

Policy 1.6: Recognize that market conditions and neighborhood traditions significantly influence the viability of businesses in areas of the city not designated as commercial corridors and districts.

- 1.6.1 Allow for retention of existing commercial uses and zoning districts in designated Urban Neighborhood areas, to the extent they are consistent with other city goals and do not adversely impact
- 1.6.2 In parts of the city outside of designated corridors, nodes, and centers, limit territorial expansions of commercial uses and districts.

Policy 5.7: Protect and improve individual, community, and environmental health.

- 5.7.1 Support the health of individuals through direct services, initiatives, research, and advocacy.

5.7.4 Implement regulations and incentives that ensure healthy homes, workplaces, and other environments.

Policy 10.11: Seek new commercial development that is attractive, functional and adds value to the physical environment.

10.11.1 Require the location of new commercial development (office, research and development, and related light manufacturing) to take advantage of locational amenities and coexist with neighbors in mixed-use environments.

10.11.2 Ensure that new commercial developments maximize compatibility with surrounding neighborhoods.

Policy 10.13: Work with institutional and public partners to assure that the scale and form of new development or expansion will occur in a manner most compatible with the surrounding area.

10.13.2 Develop building forms on the edges of institutional property which are most reflective of neighboring properties as the preferred option, while recognizing that in certain circumstances greater bulk and density may be preferable to expansion beyond existing campus boundaries.

10.13.3 Encourage institutional uses and public buildings and facilities to incorporate architectural and site design that is reflective of their civic importance and that identifies their role as focal points for the community.

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

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

The 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, 536, 541, 547, 548, 549 and 550.

Attachments:

1. Ordinance amending Chapter 520, Introductory Provisions
2. Ordinance amending Chapter 536, Specific Development Standards
3. Ordinance amending Chapter 541, Off-Street Parking and Loading
4. Ordinance amending Chapter 547, Office Residence Districts
5. Ordinance amending Chapter 548, Commercial Districts
6. Ordinance amending Chapter 549, Downtown Districts
7. Ordinance amending Chapter 550, Industrial Districts