



CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

To: Louise M. Kelchner, City Clerk
CC: The Honorable Robert J. Donchez, Mayor; W. Alexander Karras, Chief of Staff
From: Edmund J. Healy, Esquire, Assistant City Solicitor
Re: proposed Zoning Ordinance amendments clarifying meaning of hospital
Date: April 27, 2017

The Administration requests that the attached zoning amendment be considered as originated by City Council pursuant to City Zoning Ordinance section 1326.02(a) ("Proposals for amendment or repeal may be initiated by City Council..., the Planning Commission, or by ... one or more citizens").

The proposed amendment would clarify the definition of the term "hospital" in the Zoning Ordinance and the placement of potential behavioral health facilities and psychiatric hospitals within the City of Bethlehem. Under the proposed amendment, traditional hospitals would be permitted to have behavioral health facilities and psychiatric hospital facilities incidental to its general mission as a hospital, provided those facilities occupy no more than 25% of the floor space of the hospital facilities directly associated with the diagnosis, care, treatment, and sleeping facilities of patients. The amendment would not affect existing hospitals which presently provide behavioral health facilities in excess of 25% of the floor space restriction.

The proposed amendment would also categorize behavioral health facilities and psychiatric hospitals as treatment centers, a use already allowed by special exception as stand-alone uses in the following districts (none of which are residential or institutional):

CG-General Commercial
CS-Shopping Center
LI-Light Industrial
IN-Industrial

The Administration specifically requests City Council to immediately enact the attached resolution to declare this proposed amendment as a "pending ordinance" under the judge-created "pending ordinance doctrine". This would allow the Administration to deny a permit application to conduct the use if the pending zoning amendment would prohibit the use for which the permit is sought. To obtain the benefit of this doctrine, City Council must resolve to (i) *consider* a particular scheme of rezoning, i.e. the attached bill, and (ii) advertise its intention to the public to hold public hearings on such rezoning. Actual enactment of the proposed amendment is not required at this time.

Please place this Interoffice Memorandum and proposed Resolution and attached ordinance on City Council's agenda for review and appropriate action.

RESOLUTION NO. 2017-_____

WHEREAS, community interest has surfaced in steering the placement of hospitals and hospital-styled uses within the City of Bethlehem in more refined ways than recognized in the City Zoning Ordinance;

WHEREAS, the City Zoning Ordinance regulations pertaining to hospitals and treatment centers have certain ambiguities which deserve clarification, including the manner in which behavioral health facilities would be categorized thereunder.

WHEREAS, the City Council is originating a proposed Zoning Ordinance amendment pursuant to section 1326.02(a) of the Zoning Ordinance to address these issues, which proposal is attached hereto as Exhibit "A", for review and recommendations by and from by the City Planning Commission and Lehigh Valley Planning Commission, and all of which will be taken for further consideration by City Council.

NOW THEREFORE, be it resolved by authority of the City Council of the City of Bethlehem as follows:

1. Exhibit "A" attached hereto is declared to be a pending ordinance of the City of Bethlehem.
2. The Director of Planning and Zoning, the City Clerk and all other City officials are hereby directed to advertise to the public the intention of City Council to hold public hearings on such rezoning amendment and to submit the same to the City Planning Commission and the Lehigh Valley Planning Commission for recommendations, and take such other actions in the manner required by the Municipalities Planning Code and City ordinances.

Sponsored by: _____

ADOPTED by Council this _____ day of _____, 2017.

President of Council

ATTEST:

City Clerk

BILL NO. _____

EXHIBIT "A" TO RESOLUTION 2017-_____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BETHLEHEM, PENNSYLVANIA, AS AMENDED, TO CLARIFY REGULATIONS PERTAINING TO BEHAVIORAL HEALTH FACILTITES

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Section 1302.56 of Zoning Ordinance of the City of Bethlehem which presently defines the term "Hospital" as follows:

Hospital. A building(s) which is licensed by the Pennsylvania Department of Health as a Hospital, and which involves the diagnosis and treatment of human ailments.

Shall be amended to read as follows:

Hospital. A building(s) which is licensed by the Pennsylvania Department of Health as a Hospital, and which involves the diagnosis and treatment of human ailments, and which may include behavioral health facilities and psychiatric hospitals operated in accordance with all laws and regulations, provided the behavioral health facilities occupy no more than 25% of the floor space of the hospital facilities directly associated with the diagnosis, care, treatment, and sleeping facilities of patients.

SECTION 2. Section 1302.132 of Zoning Ordinance of the City of Bethlehem which presently defines the term "Treatment Center" as follows:

Treatment Center. A use involving any one or a combination of the following:

- (a) A use (other than a prison or a hospital) providing housing for 3 or more unrelated persons who need specialized housing, treatment and/or counseling because of:
 1. criminal rehabilitation, such as a criminal halfway house, or a facility for the housing of persons judged to be juvenile delinquents, or a criminal work release or pre- release facility;

2. current addiction to a controlled substance that was used in an illegal manner or alcohol; and/or
 3. a type of mental illness or other behavior that causes a person to be a threat to the physical safety of others.
- (b) A residential or non-residential Methadone Treatment Facility, which shall be defined as a facility licensed by the Pennsylvania Department of Health, other than a Hospital, to use the drug methadone in the treatment, maintenance or detoxification of persons.
 - (c) A lot upon which resides 2 or more persons who are required to register their place of residence with the Pennsylvania State Police as a requirement of the Pennsylvania Megan's Law II, or its successor law, as amended.
 - (d) A use that otherwise meets the definition of a Group Home, except that it includes a higher number of residents than is allowed in a Group Home, unless approved otherwise under Section 1325.07(d).

Shall be amended to read as follows:

Treatment Center. A use involving any one or a combination of the following:

- (a) A use (other than a prison or a hospital) providing housing for 3 or more unrelated persons who need specialized housing, treatment and/or counseling because of:
 1. criminal rehabilitation, such as a criminal halfway house, or a facility for the housing of persons judged to be juvenile delinquents, or a criminal work release or pre- release facility;
 2. current addiction to a controlled substance that was used in an illegal manner or alcohol; and/or
 3. a type of mental illness or other behavior that causes a person to be a threat to the physical safety of others.
- (b) A residential or non-residential Methadone Treatment Facility, which shall be defined as a facility licensed by the Pennsylvania Department of Health, other than a Hospital, to use the drug methadone in the treatment, maintenance or detoxification of persons.
- (c) A lot upon which resides 2 or more persons who are required to register their place of residence with the Pennsylvania State Police as a requirement of the Pennsylvania Megan's Law II, or its successor law, as amended.
- (d) A use that otherwise meets the definition of a Group Home, except that it includes a higher number of residents than is allowed in a Group Home, unless approved otherwise under Section 1325.07(d).

(e) A behavioral health facility and a psychiatric hospital meeting the requirements of all laws and regulations shall qualify as a Treatment Center.

SECTION 3. All Ordinances and parts of Ordinances inconsistent herewith are, and the same are hereby repealed.

Sponsored by

PASSED finally in Council on the ____ day of _____, 20__.

President of Council

ATTEST:

City Clerk

This Ordinance approved this ____ day of _____, 20__.

Mayor