



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: December 19, 2011
To: Honorable Mayor & City Council
From: Susan Healy Keene, AICP, Director of Community Development
Subject: Request by Councilmember Mirisch for a Report on Surgery Centers and the Implementation of the Overnight Stay Permit in the City

INTRODUCTION

Pursuant to a request by Councilmember Mirisch, following is information about the current regulation of surgical centers in the City and implementation of the City's overnight stay permit. Staff is seeking direction as to whether the City Council wishes to explore additional regulation.

DISCUSSION

Regulation of Surgical Centers in the City

Ambulatory surgical centers are considered to be a medical office use in Beverly Hills. Medical uses can be defined in different ways by zoning codes, building codes and tax and licensing codes. The City of Beverly Hills Zoning Code defines "medical office" as follows:

"MEDICAL OFFICE: Any facility providing health service and/or medical, surgical, or dental care. 'Medical office' shall include, but not be limited to, a health center, health clinic, doctor's office, chiropractor's office, dentist's office, or any office offering therapeutic service or care. 'Medical office' shall not include a 'medical laboratory' as defined in this section."

The categories of medical uses generally identified in municipal zoning codes include:

- medical offices/outpatient clinics;
- laboratories;
- hospitals/inpatient care; and, in some cases,
- long-term in-patient care (nursing homes).

The main criterion for classification is whether the medical use operates on an outpatient (medical office/clinic), inpatient (hospital, nursing home), or no patient (medical lab) basis. One of the relatively recent developments in medical uses is the increase in ambulatory surgery centers ("surgi-centers"). Surgi-centers are usually not defined separately in zoning codes and are regulated in the same category as medical offices/clinics because they operate on an outpatient basis.

The outpatient/inpatient distinction stems, in large part, from Building Code classifications. The California Building Code classifies all buildings and structures as to use and occupancy according to fire safety and relative hazard involved. The "Business Group B" occupancy includes the majority of commercial businesses such as banks, salons, outpatient clinics, laboratories, and professional services such as architects, attorneys, dentists, physicians, engineers, etc. Surgi-centers are included in this classification unless accommodating more than five patients receiving outpatient medical care that may render the patient incapable of unassisted self-preservation. In this case the surgi-center occupancy would be classified as "Institutional Group I" along with hospitals, nursing homes, detoxification facilities, residential care facilities, congregate living facilities, and other facilities offering inpatient services. A surgi-center in this category would not be considered a medical office use and would not be a permitted commercial use. In addition to building code regulations, surgi-centers are subject to State health regulations.

During its discussion regarding development of the medical use ordinance adopted last January, the Planning Commission raised the question of whether surgi-centers should be regulated differently from other medical offices. The Planning Commission heard information about traffic and parking impacts (traffic and parking rates at peak times are similar to medical clinics) and how other cities do not regulate surgi-centers separately from other medical offices/clinics. As a result, the Planning Commission decided not to regulate surgi-centers separately from other medical offices in the City. Pursuant to City Council direction during discussion of the medical use ordinance, that ordinance does prohibit surgical centers in newly expanded floor area but surgical centers may still move into existing medical office space.

Summary of Overnight Stay Ordinance

The City's overnight stay permit, also referred to as the "surgical center ordinance," was adopted by the City Council on January 8, 2002. The ordinance allows overnight stays of less than 24 hours for surgical clinics that have existing, on-site parking of at least one space per 350 square feet, and are not located adjacent to areas zoned for single-family residential use. The ordinance was adopted for the purpose of patient recovery from surgery earlier in the day due to health and safety concerns; sleep centers or other types of diagnostic centers requiring overnight observation were expressly prohibited from applying for an overnight stay permit and this prohibition extends to alternative birth centers, chronic dialysis clinics, rehabilitation clinics and urgent care centers and walk-in clinics. It was the City's expressed intention to maintain its prohibition on hospitals. The ordinance was crafted to ensure that medical offices do not become de facto hospitals and do not result in unwanted impacts in the City. This is accomplished through a permit requirement and provisions limiting the location in which permits may be approved, the number of overnight patients allowed, and restrictions on parking, weekend stays, employees and signs.

Reason for Adopting an Overnight Stay Ordinance

With new technologies, more and more surgeries are now performed on an outpatient basis in surgical centers and medical clinics rather than in hospitals. Outpatient surgery centers are regulated by the State as clinics, not hospitals, so long as patients remain in such clinics for less than 24 hours. By the year 2000, Beverly Hills had experienced problems with illegal surgery recovery centers and had received requests from doctors in the City to allow the limited overnight stay which was already allowed at the time in adjacent cities.

As a result of public testimony and extensive discussion, the Planning Commission developed an overnight stay ordinance over three study sessions and five public hearings in 2000 and 2001. The ordinance, intended to address concerns about the health and safety of patients at medical offices and clinics in the City, was recommended to the City Council which adopted the ordinance in January 2002.

Current Status of Overnight Stay Permits

A total of six overnight stay permits have been approved by the City since 2002. Only one permit is active and one permit is under consideration. The City's Code Enforcement Division has not logged any complaints for facilities with overnight stay permits. It has been the City's experience that very few surgical centers apply for the permit and most that do apply decide not to maintain the permit due to the expense and difficulties involved such as insurance and staffing. The permit is available to surgical centers that determine it would be helpful to maintain the health and safety of patients recovering from surgery.

RECOMMENDATION

Staff recommends that the City Council provide direction as to whether additional regulation of surgi-centers or overnight stay permits should be considered.

Susan Healy Keene, AICP

Approved By

A handwritten signature in black ink that reads "Susan Healy Keene". The signature is written in a cursive, flowing style. It is positioned below the printed name and the "Approved By" text, and is partially overlaid by a horizontal line that extends from the left margin to the right margin.