

**Remote HHS and Public Safety
Committee Agenda**
October 8, 2024 at 5:30 PM
Remote via Zoom



MEMBERS

Councilor April Fournier, At-Large, Chair
Councilor Roberto Rodriguez, At-Large
Councilor Anna Trevorow, District 1
Councilor Victoria Pelletier, District 2

To submit written public comment on an agenda item, email HHSPS@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Health & Human Services and Public Safety meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

The Health & Human Services and Public Safety Committee will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

You are invited to a Zoom webinar.

When: Oct 4, 2024 05:30 PM Eastern Time (US and Canada)

Topic: Remote HHS and Public Safety Meeting

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/87209320425?pwd=V1nlxp7E5oaSZLcjJNTjXoVKySj2b8.1>

Passcode: 142207

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Webinar ID: 872 0932 0425

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1. Announcements
2. Review and Approval of Minutes from September 10, 2024
 - a. September Minutes
3. Staff Communication (Dena Libner, Assistant City Manager)

Communication regarding winter warming shelters.

4. Shelter Licensing Ordinance (Councilor Sykes)
Councilor Sykes asked to introduce the committee to the proposal of revisiting this policy.
 - a. Amendment Chapter 15
 - b. Homeless Solutions Rule - Maine State Housing Authority
 - c. Memo
 - d. Recode
5. Bayside Update (Chief Mark Dubois, Police Department)
Police Chief to provide information regarding efforts in the Bayside Neighborhood.
6. Staff Update (Maggie McLaughlin, Director of Health & Human Services)
Update on the status of Public Health Director hiring.
7. Next Meeting: November 12, 2024

Tuesday, September 10, 2024, 5:30pm, Remote Meeting

Committee Attendance:

April Fournier, Chair (At-large), Anna Trevorow (District 1), Roberto Rodriguez (At-Large), Victoria Pelletier (District 2), Anna Bullet (District 4), Kate Sykes (District 5), Mark Dion; Mayor.

City Staff:

Jessie Lemieux, Executive Assistant for Fire Department; Keith Gautreau, Fire Chief; Mark Dubois, Police Chief; Nicole Albert, Corporation Council; Dena Libner, Assistant City Manager; Greg Jordan, Assistant City Manager; Maggie McLaughlin, Director of Health and Human Services; Bridger Rauscher, Interim Director to Public Health.

Announcements

Review and Approval of Minutes from July 2024

Minutes moved by Trevorow and seconded by Rodriguez

Unanimous vote

Distribution of Food Public Property –

Dena Libner – This is to get feedback from the committee as to whether there is interest in developing a policy to regulate the impact of the distribution of food on public property. Including the amount of litter. The lack of coordination among different providers. Standardizing food prep and sanitization. Coordinating distribution dates and time. Restricting distribution to specific locations within the city.

Councilor Pelletier- What locations are being suggested/selected? What about trash cans?

Can we have conversations with city providers before we move this forward?

Dena Libner– No known locations, need committee input. Needs to be accessible to people. Setting expectations of food distributors to clean up debris/ provide receptacles.

Mayor Dion- Agree with rationale – would like to see inclusion of neighborhood impact.

Councilor Trevorow – More trash receptacles vs regulations on food preparation.

Councilor Rodriguez – This doesn't meet the needs of food hunger. Trash collection should be managed in a way to not increase workload for staff. Would like to hear alternative proposals.

Dena Libner – Park staff states that regardless of areas that have high numbers of trash cans, there is still a large amount of litter and food waste. Clients/Distributors need to be accountable.

Councilor Bullett- Regulation is a reactionary way to go about this. Need an education campaign to assist. Preble St food service closing has had a huge impact on the community. City Health inspector is a great resource to target an education campaign. Have there been complaints about trash – animals, food poisoning?

Councilor Fournier – Path of least restrictive – education first, and then have panel discussion to work together. Have an additional conversation with providers of food distribution before moving to a policy. Include people who receive the food and the impact on them by having a listening session.

Syringe Services Program Update–

Bridget Rauscher – Proposed action plan to reduce syringe waste, that is likely due to the clients and high exchange rate. Update since July – Strengthen client education on proper disposal. Implemented SSP client education, reinforcing the importance of safe disposal. Establish a harm reduction ambassadors program. Proposed a syringe buy back pilot program. Developed a multipronged approach to syringe pick-up operations. Increasing hours, having a hotline, and adding 5 additional sharps containers. Will be holding community conversations with harm reduction program clients, to gain feedback regarding barriers. Plans to improve data tracking, and reporting tools. Additionally meetings with the most impacted city employees, to provide tools and support.

Councilor Pelletier – Harm reduction ambassador program – how it works, client feedback. Conversations about safe injection sites?

Bridget Rauscher – New program funded by grant money. Allows us to work with the community to train, educate, and give supplies for community members.

Mayor Dion – The community sees this as a larger issue. Intend to propose a resolution to reduce the transaction to 1:1 on syringes.

Councilor Trevorrow- When we see an increase of needles on the ground, we seek to do a progressive approach to address this. Policy should not be routed by fear or stigma, that creates bias proposals.

Councilor Sykes – Needle cost is less than disease control. Education is best – reducing fear of pick up, and informing that it's not a public health risk to picking needles up.

Councilor Bullett- Think about root causes – need to remember systemic long term crime was committed by the pharmaceutical industry, which is why we have folks in this situation and why have the money for this because they were prosecuted. Remember root causes as we frame the work.

Allocating Opioid Settlement funds- Public Forum

Eamonn Dundon- Dayspace and syringe buyback program. Summer showed some improvements on encampments. But also showed some changes, such as individuals are more dispersed amongst the city. Dayspace is a promising solution. Would the city consider operating this directly? On syringe buyback programs, this seems like a low cost way to have a big impact.

Nancy English- Supports the dayspace, with the emphasis on helping people to recover by means of sober housing. The dayspace needs to be structured so as to not become a magnet to drug sales like other centers in the past. Dayspace location would be better served in a non residential neighborhood.

Cheryl Harkins-Advocate from Homeless Voices For Justice. Need a low barrier dayspace. The current unhoused have limited regular contact with accurate housing information, and are being told that voucher assistance is on hold. Need a space where housing navigation and case management is available, and healthcare providers can incorporate services such as medication assisted treatments. If the dayspace goes successfully, perhaps a night space added.

Dani Laliberte- Works as a social worker who is also a medical outreach case manager in a small clinic. During covid the clinic has become a dayshelter, which has overwhelmed the services offered. A daycenter that is accessible to people with housing navigators, rest beds, showers, and laundry. Hopeful for a methadone clinic on the peninsula. Transportation issues inhibit people having access.

John Bradley- Chairman on the board of Greater Portland Peer Services. Believe a dayspace should be run by peers, and people with lived experience, as they project trust. Need to be aware of this space having a supportive, safe injection place or people will leave to go back on the streets and so do the needles. Need to hear from the unhoused population about the space they need and would use.

Terence Miller- Advocacy director of Preble st, and supports the dayspace, methadone clinic and buyback program. Dayspace provides crisis support and de-escalation by maintaining a safe environment. Dayspace will assist in access to housing, health care and substance abuse counseling, equaling recovery. Currently no methadone clinics in Portland. Having one on the peninsula will reduce transportation barriers.

Tess Parks- Policy director for Maine Recovery Advocacy Project. Echo the support for the dayospace that supports more case management, housing navigation, harm reduction and mental health services. Support bringing methadone to the peninsula. Urge committee to earmark some settlement funds for a future overdose center in Portland. This would build on the proposal of a dayospace by offering places for clinically supervised drug use, medical care as well as connection to resources.

Jon Picard- Supports dayospace and methadone clinic. Medicated assisted recovery works. Safe spaces allow for recovery and the ability to sustain the recovery.

Atiim Boykin- Works one night a week at the Living Room crisis center, and Low barrier needs to be defined better. Some people don't meet the low barrier threshold and are at risk in the elements. Safe injection spaces protect people by reducing the needle waste. Option of employing two different types of pilot programs. One that is onsite theoretically plausible and studied, and things that are nationally and internationally studied and true. The lower the barrier, the higher the accountability. We need a robust presence with clinicians, case managers, peers and law enforcement at bay.

Joey Brunelle- Provided an anecdotal story about a friend who had oral surgery and was prescribed opioid painkillers to which they became addicted to. Friend was issued suboxone but had gotten into other drugs and his life ultimately fell apart. Points out this money came about because real peoples lives were massively negatively affected by opioids. Stated, it's easy to dismiss the unwashed masses, but these are real people with real lives.

Allie Hunter- Cofounder of the community syringe redemption program. This program is reducing syringe litter and engaging people who use drugs in a low barrier positive income earning opportunity. Offering to partner if desired, as the pilot program in Boston is successful.

Dena Libner - Staff research and feedback from community partners allowed for the list of recommendations : Dayospace, Seed funding for on peninsula treatment, Peer support services, Syringe buyback program, and an Investment in support of housing development.

Received to date 1.2 million dollars and 235, 000/ year up to FY39 – limited funding and need to be mindful about financial sustainability moving forward.

Councilor Fournier – Prioritize with highest need and lowest barrier - syringe buy back program has immediate impact. Secondly, having a dayospace that is on the peninsula.

Councilor Sykes – Open a dayospace that is run by the city, coordinated, and controlled.

Councilor Bullett- Don't lose sight of the successful way to transport methadone.

Councilor Fournier – Procedurally want to move forward with option 1: buy back, dayspace, and seed funding for a peninsula methadone clinic.

Motion to move out of committee option 1

1 Buy Back

2 Dayspace

3 seed funding for methadone clinic

Moving forward with grant application process

Travorrow seconding

Unanimous vote to move this forward

Police UAS

Em Burnett - Concerns for use of drones. Policy drafted is a police based not council. Expressing privacy concerns, noise, locations of use, and managing the data collection. This opens the door to constant surveillance.

Chief Dubois- Officers already have body cameras, retention records with the same company, all regulated. Less invasive than the body cameras.

Review of attachments. Policies are reviewed weekly to ensure they are updated and changed if needed. Fiscal impact – est \$40k, appropriation was done in January by means of splitting criminal cases. Mostly designed for search and rescue operations, school shootings, accident reconstruction – reduces time. Life cycle of drone is 5-7 years. Same company as the current body cameras. The Maine Criminal Justice Academy is required to report to the legislature the uses statewide from every police department.

Councilor Pelletier- Technology can feel like a heightened level of security.

Councilor Skyes - Do have concerns on privacy. Standard operating guidelines that are created and controlled by the police department not council doesn't feel safe. Would like the council to write a controlling ordinance for it, that lives under the purview of the council.

Councilor Trevorrow- Concerned about the difference between the policy being held by the council vs the police by the police department. What are the ALCUs safeguards?

Councilor Rodriguez- Use of drones exists, borrowed by other towns. Is comfortable with the current regulations, and the annual reporting of every time its utilized.

Councilor Fournier- The state legislature on restrictions are restrictive on how drones are used, with a robust set of guidelines. Aligns with Councilor Rodrigues. Acknowledges the understaffing and sees this as a capacity builder to assist with workload.

Taking action on moving this talking point out of committee.

Vote is split: Pelletier and Trevorrow - No

Rodriguez and Fournier - Yes

Meeting adjourned at 8:05pm

Next Meeting: November 5, 2024

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 15
Re: EMERGENCY SHELTER LICENSE REQUIREMENTS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Section 15-12 of the Portland City Code is hereby amended and a new Article IV. is hereby added to read as follows:*

Sec. 15-12. Fees and expiration dates.

Sec. 15-12. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
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. . .

<u>Ch. 15,</u> <u>Art.</u> <u>IV.</u>	<u>Small Emergency</u> <u>Shelter (1-40 beds)</u>	<u>\$250.00</u>	<u>July 1</u>
	<u>Large Emergency</u> <u>Shelter (41+ beds)</u>	<u>\$500.00</u>	<u>July 1</u>

...

Sec. 15-44-46. Reserved.

ARTICLE IV.

15-47. Definitions.

Emergency Shelter: A facility providing temporary overnight shelter to individuals experiencing homelessness in a dormitory-style or per-bed arrangement.

15-48. Licensing Requirements.

(a) Chapter 15 to apply. Except as otherwise provided in this Article, the provisions of Chapter 15 shall apply to all licenses applied for and issued under this Article.

(b) Operating without a license is prohibited. No individual or entity may operate an emergency shelter within the City without first obtaining a license from the City, except that any emergency shelter in operation as of the effective date of this Article must apply for and receive a license within 90 days of the effective date.

(c) Burden of proof. The applicant for any license under this Article bears the burden of proving that all qualifications for licensure have been satisfied.

(d) Current information. Any applicant or licensee must keep all information disclosed in their application current and must notify the City of any change in information within ten business days of any such change.

(e) No vested rights. No person shall have any entitlement or vested right to a license under this Article, and operating an emergency shelter is a privilege and not a right in the City.

15-49. Licensing Authority

(a) All new license applications shall be reviewed by the City Council. After a public hearing, the Council shall grant, grant with conditions, or deny the license.

(b) Except as provided by Subsection (c) below, all renewal applications shall be reviewed by the Permitting and Inspections Department. The Permitting and Inspections Director shall grant, grant with conditions, or deny the license. Except that, at the request of the City Manager or designee, or at the request of any member of the City Council or the Mayor, a renewal application shall be reviewed by the City Council in accordance with Subsection (a) above..

(c) All renewals of shelter licenses held by the City of Portland shall be reviewed by the City Council in accordance with Subsection (a) above.

15-50. Review Procedures.

The following review procedures shall apply to both initial and renewal applications:

(a) Applications shall be made in writing using a form prepared by the City for the purpose and must include all information required by this Article and by the form. Applications shall be submitted to the Permitting and Inspections Department.

(b) If the Permitting and Inspections Department determines that a submitted application is not complete, he or she shall notify the applicant of the additional information required to process the application. If such additional information is not submitted within thirty (30) days of the Permitting and Inspections Department's request, the application may be denied administratively with no further action.

(c) Before the City Council issues its decision on an initial or renewal application, the Police Department, Fire Department, Permitting and Inspections Department, and the Health and Human Services Department shall review the application and recommend to the City Council whether to issue,

issue with conditions, or deny the license. The Departments shall review the application for the following standards:

- (1) Whether the shelter has complied with its approved operations and security plans;
- (2) Whether the operations and security plans are more likely than not to protect the public health, safety, and welfare;
- (3) Whether the operations and security plans are more likely than not to meet all performance standards and requirements in this Article; and
- (4) Whether there are any outstanding code violations at the shelter.

(d) In reviewing license applications, the City Departments and the City Council may consider the approval standards under this Article as well as other applicable local, state or federal laws and, for license renewals, the licensee's record of compliance with the same.

(e) Applications for renewal licenses shall be submitted at least thirty (30) days prior to expiration of the existing term. Any Licensee who fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted.

(f) The City Council shall have the authority to impose any conditions on a license that may be reasonably necessary to insure compliance with the requirements of this Article, to address concerns about operations, or to protect the health, safety, and welfare of the public. Failure of any Licensee to comply with such conditions shall be considered a violation of the license and this Article.

15-51. Application Submission Requirements

Each applicant for an Emergency Shelter license shall complete and file an application on the form provided by the

City, together with the applicable license fee as well as the following supporting materials:

(a) Attested copies of any articles of incorporation, bylaws, operating agreement, management plan, partnership agreement or articles of association that govern the entity that will own and/or operate the emergency shelter.

(b) A corporate supplement form that identifies all owners, officers, members, managers, partners, and/or board members of the Applicant, and their ownership interests, if applicable.

(c) A description of the population to be served by the shelter.

(d) A description of the premises for which the license is sought, including a floor plan of the premises.

(e) The name and contact information for a community relations liaison, who shall be responsible for receiving and responding to inquiries from, and reasonably addressing concerns raised by, members of the public and other individuals.

(f) The name and contact information for an emergency contact, who shall respond to all non-emergency contacts by the City within 72 hours of contact, and to any emergency contact by the City within two hours of contact.

(g) Whether the applicant has experience running a shelter in Portland or elsewhere and a description of that shelter, including size, location, and population served.

(h) An operations plan describing the following:

(1) The experience and qualifications of shelter management and staff, sufficient to demonstrate that the shelter can meet its obligations under this Article, including providing appropriate services to shelter guests;

- (2) How the shelter will meet the performance standards and other requirements of this Article;
- (3) Management responsibilities;
- (4) A process for effectively resolving neighborhood concerns;
- (5) Staffing;
- (6) Controls for resident behavior and noise levels; and
- (7) Security, safety and protective measures:
 - i. On-site surveillance;
 - ii. Provisions to provide access to recordings of exterior public ways by city staff upon request;
 - iii. Safety measures;
 - iv. Access restrictions;
 - v. Environmental design, engineering or procedural measures to reduce crime, loitering and disorder in and around the facility;
 - vi. Emergency and response protocols, including but not limited to:
 - a. Medical emergencies, including overdoses;
 - b. Intruder response;
 - c. Criminal trespass guidance;
 - d. Recovery of weapons;
 - e. Recovery of illicit drugs; and

f. Incidents involving violence, serious injuries or death;

(i) The most recent MaineHousing annual monitoring report shall be provided to the City with any renewal application; and

(j) A description of the strategies to be implemented to help residents utilize public transit, as required by 15-52(d).

15-52. Performance Standards

In order to obtain a license pursuant to this Article, the Licensee shall demonstrate to the City Council that the following requirements will be met, and must maintain compliance throughout their licensure

The Licensee shall comply with all of the following standards.

(a) Display of License. The current License shall be displayed at all times in a conspicuous location within the Premises.

(b) On-Site Supervision. On-site supervision shall be required for any non-apartment style emergency shelter, whenever clients are present.

(c) Maine State Housing Authority Monitoring. Any Emergency Shelter shall participate in the MaineHousing monitoring program.

(d) Adequate access to and from METRO service shall be provided. The facility must implement strategies to help residents utilize public transit;

(e) The facility must provide indoor space to permit shelter guests day shelter.

(f) The facility must have centralized shelter operations on each level of the emergency shelter providing for sight lines to sleeping areas. However, a pre-existing shelter, as defined in [SECTION] below, shall not be required to meet this

requirement, so long as alternative measures are provided to ensure resident safety while sleeping. This requirements shall also not apply to apartment-style shelters.

(g) The facility must provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, or other programs.

(h) Maximum Density of Beds. The total bed capacity for individual residents within emergency shelters in the City shall not exceed 300 beds within a 1 mile radius. Distance shall be measured between property lines of the emergency shelters.

(i) Proximity to Other Facilities. There shall be a 1,000-foot buffer between emergency shelters. Distance shall be measured from the nearest property line of each shelter in a straight line.

(j) Monitoring Reports. Each shelter shall quarterly file a management report with the Department of Health and Human Services, which shall share the report with the other responsible City agencies, including the Police Department. The report shall contain, at a minimum, the following information:

- (1) Number of unique individuals served at the shelter;
- (2) Total number of bednights accessed at the shelter;
- (3) Number of intakes during that reporting period;
- (4) Total number of individuals who had previously been unsheltered and staying outside in Portland;
- (5) Total number of individuals who are defined as having long time stayer status;
- (6) The average length of stay;

- (7) Number of housing placements;
- (8) Record of neighborhood concerns and resolutions;
- (9) Summary of meetings with individual neighbors, neighborhood associations and businesses;
- (10) Number of Criminal Trespass Orders ("CTO") issued, the reasons for those CTOs, the length of those CTOs, and whether the person issued the CTO has been issued a CTO previously;
- (11) Record of police calls for service related to mental health, substance use, crime or other reasons and outcomes; and
- (12) Any additional information requested by the Department of Health and Human Services.

(k) Shelter management will meet with and communicate monthly with neighbors and other stakeholders, that will include the Police Chief or designee, to prevent and/or respond proactively to public safety and quality of life concerns.

15-53. Review Process for Domestic Violence Shelters

(a) Due to the need for confidentiality for safety reasons, a shelter serving solely survivors of domestic violence may request a waiver of any of the provisions of this Article that may jeopardize the confidentiality of the shelter, including, but not limited to, the following:

- (1) The requirement to provide a description of the premises for which the license is sought, including a floor plan of the premises;
- (2) The limitations on the number of beds; and
- (3) The limitation on the distance between shelters.

(b) A shelter applying for this exemption must provide its request for a waiver in writing, including the reasons why a waiver is required, and how the shelter will ensure that the public health, safety, and welfare will not be negatively impacted by that waiver.

(c) At its sole discretion, the City Council may grant a requested waiver if it finds that the waiver is required to protect the confidentiality and safety of the shelter and its guests and that the public health, safety, and welfare will not be negatively impacted by the waiver.

15.54. Enforcement and Penalties

(a) This Article shall be enforced by the City Manager's designee(s) .

(b) Any municipal official with authority to enforce this or other municipal ordinances regulating Emergency Shelters shall have authority to enter the premises of an Applicant or Licensee without notice to make inspection reasonably necessary to ensure compliance with this Article, the applicant or licensee's application or license, or other applicable provisions of the City Code.

(c) Upon finding a violation of this Article, of an application, license or permit, or of any other provision of the City Code, the inspecting municipal official shall issue a notice of violation and provide a reasonable opportunity to correct that violation before issuing civil penalties, taking action to suspend or revoke a licensee's license, or taking court action against the licensee. However, there shall be an exception to this requirement where a violation poses an imminent threat to health or safety, or if the violation is a repeat violation.

(d) Each day that a violation of this Article exists shall be a civil violation subject to civil penalties. Each violation of this Article shall be subject to civil penalties in the minimum amount of \$100 and the maximum amount of \$2,500 per day that the violation has existed. However, the maximum amount of

civil penalties may be increased where: (i) There has been a previous violation or judgment against the same party within the past two years for a violation of this Article, except that the maximum civil penalties may not exceed \$25,000 per day; or (ii) The economic benefit resulting from the violation exceeds the applicable penalties, except that the maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation.

(e) The City Manager or his or her designee is authorized to cause to be instituted by the corporation counsel, in the name of the City, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this Article.

(f) If the City is the prevailing party in any legal action to enforce this Article, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

15-55. Appeals.

(a) Appeals of the suspension or revocation of a license, or of a notice of violation issued pursuant to this Article, shall be to the City Manager, pursuant to Sec. 15-9.

(b) Appeals from the grant or denial of a license by the City Council shall be taken to Superior Court.

(c) Appeals from the grant or denial of a renewal license by the Permitting and Inspections Department shall be taken to the City Council within 30 days of the decision.

15-56. Pre-existing Shelters

(a) For purposes of this Section, "pre-existing emergency shelter" shall mean (i) an emergency shelter that, as of January 31, 2021, is lawfully operating with all required permits and approvals; (ii) an emergency shelter that, as of January 31, 2021, has received conditional use approval that has not expired, or

(iii) the consolidation of the operations of the Joe Kreisler Teen Shelter at 38 Preble Street and the Preble Street Teen Center at 343 Cumberland into one 24/7 emergency shelter facility for teens at 343 Cumberland Avenue provided that there is no expansion of the number of individuals served or beds currently provided between the two existing locations.

(b) Pre-existing emergency shelters shall comply with all of the requirements of this Article, except as provided in this section.

(c) Applicability of bed density requirements in Sec. 15-52(h):

(1) A pre-existing emergency shelter's inability to meet the maximum density of beds requirement in Sec. 15-52(h), shall not operate to disqualify that pre-existing emergency shelter from obtaining a license.

(2) However, any expansion of a pre-existing emergency shelter shall be required to meet the maximum density of beds requirement in Sec. 15-52(h).

(3) The number of beds at any pre-existing emergency shelter shall still be counted for purposes of determining whether any proposed new shelter is eligible for licensure.

(d) Applicability of proximity requirements in Sec. 15-52(i):

(1) A pre-existing emergency shelter's inability to meet the proximity to **other facilities requirement** in Sec. 15-52(i), shall not operate to disqualify that pre-existing emergency shelter from obtaining a license.

(2) However, a pre-existing emergency shelter may not expand unless it meets the proximity to other facilities requirement in Sec. 15-52(i).

(3) Any new emergency shelter must still meet the proximity to other facilities requirement in Sec. 15-52(i) with respect to any pre-existing emergency shelter.

(e) Applicability of indoor space performance standards in Sec. 15-52(e):

(1) A pre-existing emergency shelter is not required to provide indoor space as required in Sec. 15-52(e) if it did not have such indoor space at the time of original approval.

(2) However, if there is any expansion of a pre-existing emergency shelter, that emergency shelter shall be required to add indoor space sufficient to meet the requirements of Sec. 15-52(e).

15-57. Severability

The provisions of this Article are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

15-58. Reasonable Modifications

The City of Portland may make reasonable modifications to the requirements of this Article to accommodate the needs of persons with disabilities as defined in Title VII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

99-346 MAINE STATE HOUSING AUTHORITY

Chapter 19: HOMELESS SOLUTIONS RULE

Summary: The Maine State Housing Authority uses funds from certain federal and state resources to give grants to agencies for a variety of activities to assist people who are experiencing homelessness. This Rule governs MaineHousing’s allocation of resources for such programs, program design, the publication and distribution of program guides, basic criteria for determining eligible recipients, and potential selection criteria. Some resources are distributed according to a funding formula set forth in the Rule. Other resources may be distributed according to programs designed by MaineHousing.

1. Definitions

- A. “Act” means the Maine Housing Authorities Act, 30-A M.R.S.A. §4701, *et seq.* as amended.
- B. “Agency Participation Agreement” is a document that sets forth the obligations of service providers participating in HMIS and governs how information regarding clients and the services they receive is treated.
- C. “Applicant” means the municipality or non-profit corporation applying for funds governed by this Rule.
- D. “Bed Capacity” means the maximum number of beds in an Emergency Shelter as indicated on the agency’s Program Guide and Application; provided, however, for purposes of this Rule, the Bed Capacity of a Low Barrier Shelter means its maximum number of beds as indicated on the Program Guide and Application, multiplied by 125%.
- E. “Clients Assessed and Stabilized” means clients who were assessed for program eligibility, and who are receiving housing stabilization services.
- F. “Continuum of Care” or “CoC” is the group organized to carry out the responsibilities required under the CoC Program Interim Rule (24 CFR Part 578) and comprises representatives of organizations that provide a full range of emergency, transitional, and permanent housing and other service resources to address the various needs of Persons Experiencing Homelessness within the State of Maine.
- G. “Coordinated Entry Process” means a process designed to coordinate program participant intake, assessment, and provision of referrals within a geographic area. A Coordinated Entry Process covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.
- H. “Emergency Shelter” means any facility, the primary purpose of which is to provide a temporary shelter for Persons Experiencing Homelessness or for specific populations of Persons Experiencing Homelessness and which meets the criteria set forth in section 3 of this Rule.

- I. “Emergency Solutions Grant” means a grant available under the federal Emergency Solutions Grants Program of the McKinney-Vento Act as amended by the HEARTH Act.
- J. “Funding Formula Allocation” means an annual allocation of funds by MaineHousing for Emergency Shelters as further described in section 4 of this Rule.
- K. “HEARTH Act” means the Homeless Emergency and Rapid Transition to Housing Act of 2009 (P.L. 111-22), and the regulations promulgated thereunder.
- L. “HMIS” means the Homeless Management Information System as further defined in the McKinney-Vento Act as amended by the HEARTH Act.
- M. “HMIS Data Standards” means the baseline data collection requirements developed by each of the federal partners which require participation in HMIS, or a comparable database for those serving survivors of domestic violence, as a condition of their funding.
- N. “Homeless Prevention” means activities or programs designed to prevent persons from experiencing homelessness including without limitation subsidies for rent, utilities, security deposits, and mortgage payments.
- O. “Homeless Service Hub” also referred to as “Hub” or “Service Hub” means a group of regional providers that creates local foundation for the prioritization and case conferencing of the Coordinated Entry Process, as well as working collectively toward ending homelessness. Each Hub supports regional coordination and resource alignment and provides system level data used to improve performance. Maine has nine Service Hubs: 1- York County; 2- Cumberland County minus the towns of Brunswick and Harpswell; 3(Midcoast)-Sagadahoc, Lincoln, Waldo and Knox Counties, plus the towns of Brunswick and Harpswell; 4- Androscoggin County minus the towns of Livermore and Livermore Falls; 5(Western Maine)- Franklin and Oxford Counties, plus the towns of Livermore and Livermore Falls; 6(Central Maine)- Kennebec and Somerset Counties; 7(Penquis)- Penobscot and Piscataquis Counties; 8(Downeast)- Hancock and Washington Counties; 9- Aroostook County.
- P. “Housing First” is an approach to quickly and successfully connect Persons Experiencing Homelessness to permanent housing without preconditions and barriers to entry, such as sobriety, treatment, or service participation requirements.
- Q. “Housing Inventory Count” (HIC) is a point-in-time inventory of beds and units for Persons Experiencing Homelessness within a Continuum of Care categorized by five program types: Emergency Shelter; transitional housing; Rapid Re-housing; safe haven; and permanent supportive housing.
- R. “Housing Stabilization” means assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a program participant who resides in permanent housing or to assist a program participant in overcoming immediate barriers to obtaining housing.
- S. “HUD” means the United States Department of Housing and Urban Development.

- T. “Low Barrier Shelter” means an Emergency Shelter that does not require any of the following for a client to stay at the shelter: (i) criminal background checks, (ii) credit checks or income verification, (iii) program participation, (iv) sobriety, or (v) identification. Low Barrier Shelters may, however, enforce safety requirements for self, staff, place, and others.
- U. “MaineHousing” means Maine State Housing Authority.
- V. “Maine Consolidated Plan” is a plan prepared by MaineHousing and the Maine Department of Community and Economic Development (“DECD”) and approved by HUD in accordance with 24 CFR part 91. The Consolidated Plan serves as the framework for a statewide dialogue to identify housing and community development priorities that align and focus funding from the Community Development Block Grant Program administered by DECD, the HOME Investment Partnerships Program, the Housing Trust Fund, and the Emergency Solutions Grant Program, which are administered by MaineHousing.
- W. “Mainstream Resources” means a variety of Federal and state benefit government assistance programs Persons Experiencing Homelessness may be eligible to receive. These include but are not limited to: Temporary Assistance For Needy Families (TANF), Food Supplement Program, veterans’ benefits, MaineCare, General Assistance, Supplemental Security Income Program (SSI), Social Security Disability Insurance (SSDI), and Housing Choice Voucher Program.
- X. “Maine’s Job Bank” is an on-line job posting and job search system provided by Maine CareerCenter.
- Y. “McKinney-Vento Act” means the Stewart B. McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11301 *et seq.*, and the regulations promulgated thereunder.
- Z. “Persons Experiencing Homelessness” means:
- i. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 1. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 2. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
 3. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

- ii. An individual or family who will imminently lose their primary nighttime residence, provided that:
 1. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 2. No subsequent residence has been identified; and
 3. The individual or family lacks the resources or support networks; e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- iii. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 1. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 2. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 3. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 4. Can be expected to continue such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- iv. Any individual or family who:
 1. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

2. Has no other residence; and
3. Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

As defined in 24 CFR §576.2. Should the applicable federal regulation be changed or amended, this Rule will adhere to the most current regulation.

- AA. “Program” means an offering of grants subject to recapture available to prospective eligible Applicants on certain terms and for certain purposes determined by MaineHousing pursuant to this Rule.
- BB. “Program Guide and Application” means the written procedural and administrative guide for a particular Program governed by the terms and conditions of this Rule. It includes the annual application completed by Applicants.
- CC. “Rapid Re-housing” means housing relocation and stabilization services and short- and/or medium-term rental assistance as necessary to help Persons Experiencing Homelessness move as quickly as possible into permanent housing and achieve stability in that housing.
- DD. “Regional Homeless Council” means one of the following three advisory committees concerning homelessness: Region I comprising York and Cumberland Counties; Region II comprising Androscoggin, Franklin, Kennebec, Knox, Lincoln, Sagadahoc, Somerset, Oxford, and Waldo Counties; and Region III comprising Penobscot, Piscataquis, Aroostook, Washington, and Hancock Counties.
- EE. “Shelter Operations” are the costs of maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies necessary for the operation of an Emergency Shelter.
- FF. “Statewide Homeless Council” means the advisory committee created pursuant to §5046 of the Act.
- GG. “Victim Service Provider” means a private nonprofit organization whose primary mission is to provide direct services to victims of domestic violence.
- HH. “Violence Against Women Act “or “VAWA” is a United States federal law (Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355).

2. Eligible Applicants

To be eligible to receive funds, an Applicant must:

- A. be a non-profit corporation in good standing in the State of Maine qualified for tax exemption under 501(c)(3) of the Internal Revenue Code or a municipal corporation;
- B. be eligible in accordance with the HEARTH Act;

- C. be a provider of homeless services with at least one (1) year of experience providing emergency housing, street outreach, Homeless Prevention, or Rapid Re-housing activities;
- D. be a regular and active participant in the Maine Continuum of Care, in accordance with its governance charter and performance criteria;
- E. be a regular and active participant in their local Homeless Service Hub by participating in Hub meetings and providing relevant data to the Hubs for the generation of a by-name list of Persons Experiencing Homelessness;
- F. have board and or advisory board representation from Persons Experiencing Homelessness or formerly experiencing homelessness who are involved in policy or planning of the organization;
- G. participate in Coordinated Entry Process by acting as an access point to the Coordinated Entry Process, administering the common assessment tools, placing eligible participants on the housing prioritization list, participating in case conferencing meetings, and completing housing referrals utilizing the process and procedures designated by the Maine Continuum of Care;
- H. have the administrative and financial management capacity necessary to administer and to account for the use of the applicable grant in accordance with the funding requirements;
- I. operate in accordance with the homelessness strategy outlined in the Maine Consolidated Plan;
- J. meet the objectives of the Program under which they are applying as set forth in the applicable Program Guide;
- K. participate in and meet the performance and reporting requirements of the Homeless Management Information System (HMIS) or a comparable database if the Applicant is a Victim Service Provider;
- L. not engage in any explicitly religious activities, such as worship, religious instruction, or proselytization, as part of the activities and services funded with any grant for activities or services covered by this Rule; and if religious activities are offered, they must be offered at a separate time or location from the activities and services covered by this Rule; and participation in those religious activities must be voluntary for persons receiving assistance with funds covered by this Rule;
- M. operate its programs free from discrimination on the basis of age, race, color, religion, national origin, physical or mental disability, sexual orientation, or gender in accordance with applicable federal and state fair housing laws;
- N. comply with Section 504 of the Rehabilitation Act of 1973, which prohibits disability discrimination in programs that receive HUD funds; and

- O. comply with MaineHousing requirements.

3. **Emergency Shelter Requirements**

Applicants that are Emergency Shelters must do the following:

- A. provide access 365 days per year to assist Persons Experiencing Homelessness meet basic emergency shelter needs;
- B. provide adequate sleeping space or beds, and clean and functioning shower and toilet facilities;
- C. provide safe and nutritious food, including breakfast or access to breakfast and, if open 24 hours, also provide lunch and dinner or access to lunch and dinner;
- D. treat all guests with dignity and respect, regardless of religious or political beliefs, cultural background, disability, gender identity or sexual orientation;
- E. provide shelter and housing services based upon a Rapid Re-housing or Housing First approach;
- F. have admittance and stay policies that are appropriate for the population served and do not create unnecessary barriers to guests staying;
- G. provide linkages and access to community resources such as health care, job readiness and employment services, Mainstream Resources, and educational services to assist guests in achieving housing stability;
- H. assess guests for program eligibility and services to enable mobility to permanent housing with adequate supports;
- I. inform guests of their rights and responsibilities, including specific shelter policies and house rules;
- J. accept eligible persons regardless of their ability to pay or their eligibility for reimbursement or actual reimbursements from any third party source, including local, municipal, state, or federal funding sources;
- K. have no lease requirements for guests;
- L. if serving families with children, provide space other than open dormitory style and do not require involuntary family separation for admission;
- M. provide separate accommodations for male and female consumers consistent with their gender identity;
- N. protect the privacy and confidentiality of guests and their personal information;
- O. provide training, policies, procedures and regular maintenance to encourage, improve, and maintain the health and safety of guests, volunteers and staff;

- P. post fire, disaster, and other emergency procedures in a conspicuous place and review the procedures with each guest;
- Q. maintain a daily and confidential census of shelter clients including precise sleeping locations;
- R. operate in compliance with all applicable federal, state and local codes, laws and regulations; and
- S. have written policies and procedures for standards that address the following areas: non-discrimination, client grievance and appeal of termination, approval of financial transactions, record retention, procurement, whistleblowers, access to shelter and services, client rights and responsibilities, program personnel and facility operations, health and safety, food preparation and distribution, electronic data and security, Fair Housing, and Drug Free Workplace. All policies must meet federal guidelines.

4. **Funding Formula Allocation**

From time to time MaineHousing will allocate a certain amount of funds to be distributed, subject to availability, pursuant to the following funding methodology:

- A. **Shelter Operations.** An amount equal to 45% of the Funding Formula Allocation will be disbursed among Emergency Shelters, such that each Emergency Shelter will receive a percentage equal to its Bed Capacity divided by a number equal to the total Bed Capacity available statewide for the calendar year. MaineHousing will review the number of beds reported, along with occupancy data to ensure that bed utilization is commensurate with community need. If a persistent discrepancy is observed, MaineHousing, at its sole discretion, reserves the right to reduce the number of funded beds. Agencies will receive scheduled payments on a quarterly basis.
- B. **Housing Stabilization Share.** An amount equal to 45% of the Funding Formula Allocation will be disbursed among eligible agencies, such that each agency providing staffing for Rapid Re-housing, Housing First and Housing Stabilization services operated by the agency will be eligible to receive a percentage equal to the agency's total number of Clients Assessed and Stabilized, divided by the total number of Clients Assessed and Stabilized statewide. The number of Clients Assessed and Stabilized will be based upon the most recent four quarters of data available to MaineHousing at the start of the grant year. Agencies are reimbursed for costs on a quarterly basis.
- C. **Performance Share.** An amount equal to 10% of the Funding Formula Allocation will be allocated among eligible applicants that in the previous 6 months maintained or increased their data quality for the following data points: Date of Birth, Race, Veteran Status, Destination, Relationship to Head of Household, and Client Location. In January and July of each year, Maine HMIS will report to each eligible applicant their error rate for each of those data points. Victim Service Providers will report from their comparable database. At the conclusion of the six month period, any eligible applicant whose data error rate is equal to or less than it was at the beginning of the period, will be eligible for a portion of Performance Share funds equal to the percentage of the number of Clients

Assessed and Stabilized by the eligible applicant, divided by the number of Clients Assessed and Stabilized by all eligible applicants. The performance share for the first half of the calendar year will be calculated in July and the performance share for the second half of the calendar year will be calculated in the following January.

5. Program Design

- A. **Allocation.** In addition to the Funding Formula Allocation, MaineHousing may allocate other funds for Programs to assist Persons Experiencing Homelessness in accordance with applicable federal and state laws.
- B. **Programs.** MaineHousing shall design and offer Programs based upon available funds, restrictions attached to such funds, best practices, and needs. The funds may be used for shelter services and outreach activities; for Homeless Prevention and Rapid Re-housing activities such as rental assistance, housing search, mediation, outreach to property owners, legal services, security on utility deposits, and moving costs; and to support entities that offer an integrated array of services to meet the health, housing, employment, and other basic needs of Persons Experiencing Homelessness.
- C. **Program Guides.** MaineHousing shall publish on MaineHousing's website a Program Guide with respect to each Program and shall distribute the Program Guide to parties who may be eligible for the Program and who have expressed an interest to MaineHousing in connection with the type of activities eligible under the Program, to parties MaineHousing selects for marketing the particular Program, and upon request.

6. Funding

- A. **Processing of Applications.** MaineHousing may process applications on a first come first served basis or may set an application due date described in the Program Guide for submission for review by a scoring committee. The selection process will be outlined in the Program Guide.
- B. **Selection for Funding.** MaineHousing shall retain final discretion as to whether or not to offer funds to a particular Applicant for a particular purpose.
- C. **Availability of Funds.** Grants are always subject to the availability of funds.
- D. **Selection Criteria.** MaineHousing will set forth requirements and selection and approval criteria germane to a particular Program in the applicable Program Guide. Selection criteria may include but are not limited to the following:
 - i. **Mainstream Resources**
 - 1. how well the Applicant assists clients in the completion and submission of applications for Mainstream Resources; and
 - 2. how well the Applicant captures the results of the actual benefits received.

ii. Housing

1. how well the Applicant assists clients in the completion and submission of applications for client appropriate housing;
2. how well the Applicant assists clients with housing searches;
3. how well the Applicant assists clients with landlord relationships; and
4. how well the Applicant has developed and maintained effective working relationships with local General Assistance offices in assisting clients with access and applications.

iii. Health Care

1. Applicant's relationships and links with one or more local health care providers who provide treatment for clients; and
2. Applicant's ability to provide or refer clients for mental health or substance abuse assessments and treatment.

iv. Employment

1. how well the Applicant assists clients with employment searches, including registering with Maine's Job Bank;
2. how well the Applicant has developed and maintained effective working relationships with local Career Centers in assisting clients; and
3. how well the Applicant has developed and maintained effective working relationships with local employers or employment agencies in assisting clients.

v. Prevention

1. Applicant's knowledge of and ability to refer clients to Pine Tree Legal Assistance for eviction prevention and other legal assistance; and
2. Applicant's knowledge of and ability to actively refer clients to other local and regional resources, as appropriate.

7. Data Collection Requirements

In order to receive funding, eligible Applicants must do the following, unless prohibited by VAWA:

- A. Enter into an Agency Participation Agreement to share certain Homeless Management Information System (HMIS) data with other Emergency Shelters and other providers of services for Persons Experiencing Homelessness;

- B. Enter client data as prescribed by MaineHousing and HUD in accordance with requirements set forth in the HMIS Data Standards as revised, and the HEARTH Act, and ensure data completeness and quality in regard to program performance measures on a monthly basis and submit reports as prescribed by MaineHousing or HUD;
- C. Enter client data on outcomes and housing stability as prescribed by MaineHousing or HUD, which will be used for performance measurement, research, or evaluation;
- D. Have the capacity to enter client level data into the system of the CoC designated vendor for HMIS data entry; and
- E. Submit de-duplicated aggregate reports as required by MaineHousing.

Providers of shelter to victims of domestic violence are required to have the capacity of a comparable database that collects client level data and provides aggregate, de-duplicated data to MaineHousing in electronic form.

8. Reporting Requirements

- A. **General Reporting Requirements.** An Applicant who receives a grant (“Grantee”) must provide client data prescribed by MaineHousing in a form or forms prescribed by MaineHousing to centralized data collection systems prescribed by MaineHousing as often as required by MaineHousing.
- B. **Missing Reports or Data.** A Grantee must provide all reports and all required client data in accordance with the reporting requirements at the time of funds disbursement in order to receive funding.
- C. **Complete Report.** A report will not be considered submitted unless MaineHousing determines that the report is sufficiently complete and all client data is valid.
- D. **Final Reports.** A Grantee must submit a final report showing its use of a grant within 30 days of the end of the term of the grant.

9. Monitoring and Assessment.

- A. MaineHousing will review for program compliance at least every two years at reasonable times.
- B. MaineHousing may copy and examine all of a Grantee’s records other than medical or other confidential client information protected by privacy laws.
- C. Grantees will maintain records sufficient to meet monitoring and auditing requirements of MaineHousing and HUD including without limitation daily rosters and client files.

In the case of a physical shelter program facility, MaineHousing will inspect to a minimum for compliance with HUD’s minimum emergency shelter standards pursuant to [24 CFR §576.403\(b\)](#).

10. Rule Limitations

- A. **Other Laws.** If this Rule conflicts with any provision of federal or state law, the federal or state law shall control.
 - B. **Waivers.** Upon determination of good cause, the Director of MaineHousing or the Director's designee may, subject to statutory limitations, waive any provision of this Rule. Each waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.
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STATUTORY AUTHORITY: 30-A M.R.S.A. §§4741 (1) and (18); 42 U.S.C.A. §§11301, *et seq.*

EFFECTIVE DATE: DECEMBER 7, 2022

City of Portland | Office of the Mayor and City Council

Kate Sykes, Councilor (District 5)



To: April Fournier, Chair and Members of the HHS Committee

From: Kate Sykes, Councilor

Date: October 8, 2024

Re: Shelter Licensing Ordinance

Chair Fournier and Committee Members,

Thank you for allowing me this opportunity to study the issue of shelter licensing in Portland and offer my recommendations to the Health and Human Services Committee. Over the last several months, I've met and spoken with various stakeholders, including residents, business owners, unhoused individuals, ancillary service providers, MaineHousing representatives, City Staff from many departments, including Police, Fire, HHS, General Assistance, and Public Works. I have also conducted a broad municipal shelter licensing ordinance review and consulted with legal experts and homeless advocates on right-to-shelter legislation. The information I've gathered, while not definitive, provides an overview of the history of this issue in Portland, advances we have made in addressing homelessness, and how a shelter licensing ordinance might help us improve community relations, strengthen our partnerships with State and local service providers, and formalize Portland's long standing commitment to providing emergency shelter to anyone who needs it.

Background

For over 30 years, Portland has pledged to provide emergency shelter to all in need, but we only recently began implementing zoning, land-use regulations, and shelter standards to follow through on that promise.

In 2017, driven by the need for a larger, more comprehensive shelter to replace the inadequate Oxford Street Shelter, the City Council approved a zoning change that cleared the way for the Homeless Services Center (HSC), a low-barrier shelter serving individuals with substance use and mental health issues, to be built on Riverside Street, on city land formerly zoned industrial.

After approval by the City Council in 2021, and in response to increasing demand for shelter driven by the COVID-19 Pandemic and concerns about neighborhood impacts, the City Council voted to adopt a comprehensive shelter licensing ordinance (Ch. 15 Sec. 12-58) ensuring that all homeless shelters meet specific operational criteria and community involvement requirements. This regulatory framework also limited the number of shelter beds within neighborhoods, aiming to keep shelters small and spreading services across the city, in order to minimize impacts to any one neighborhood.

The new licensing program marked a significant change in Portland's approach to managing our shelter network and was met with mixed reactions from residents and service providers. In December of that same year, following the inauguration of new Council members, the shelter licensing ordinance underwent reconsideration and was voted down.

Opponents criticized the new rules for creating unnecessary bureaucracy, fees, and compliance requirements, which they said were likely to deter the expansion and creation of new emergency shelters and risked causing shelter closures. Since many shelters are already regulated and monitored by MaineHousing, the added municipal layer was seen as largely redundant.

Importantly, the ordinance did not formalize a right to shelter, and many felt it did not prioritize the lived experiences of those facing homelessness, or center the challenges of shelter providers. The rules governing proximity between shelters, which could have hindered shelter accessibility, were seen as arbitrary and heavily influenced by NIMBYism. Additionally, the rules were criticized for lacking trauma-informed provisions, and failing to address racial equity, despite an increase in homelessness among BIPOC populations.

Portland's Shelter Response

Portland has since opened two new homeless shelters, the Homeless Services Center (HSC) and 166 Riverside Shelter, which have made significant strides in addressing the city's homelessness crisis. These City-run shelters have played a crucial role in providing wrap-around services such as healthcare, housing assistance, medication assisted therapy for addiction, and specialized services for asylum seekers, alongside programs aimed at reducing homelessness and overdose deaths. However, many challenges remain, particularly around the persistence of small encampments, public safety and community concerns about traffic safety panhandling, drug use, and crime.

Positive Impacts

1. Increased Shelter Capacity.

The HSC, which opened in March 2023, is Maine's largest low-barrier shelter. With 258 beds, it serves a diverse population, including chronically homeless individuals and those facing temporary housing insecurity. In 2023, the 2 shelters housed over 645 individuals through outreach efforts aimed at reducing encampments.

2. Reduction in Overdoses:

Overdose deaths saw a notable decrease, with January 2024 marking the first month in two and a half years without any overdose fatalities and continued suppression of fatal events. The increased use of naloxone (Narcan) and the availability of harm reduction services, such as the needle exchange program, and overdose prevention training, likely contributed to this improvement.

3. Wrap-Around Services:

Both shelters offer essential services such as healthcare, mental health support, housing navigation, and addiction recovery programs. The 166 Riverside Shelter focuses on single individuals seeking asylum, with services tailored to their specific needs.

Challenges:

1. Crime and Public Safety:

Although the shelters have reduced encampments and connected many people with services, areas of the city have faced an increase in visible panhandling and public drug use. The presence of drugs, discarded needles, trash, and violent crime has raised concerns among residents, business owners, and law enforcement.

2. Barriers to Shelter Access:

A significant portion of the chronically homeless population remains resistant to entering shelters. Surveys indicate that many of these individuals prefer living in encampments due to concerns over autonomy, transportation, and the need for secure storage of personal belongings. Many suffer from substance abuse and addiction, compounded by mental health disorders. Despite outreach efforts, these barriers as well as a lack of day space and treatment beds have made it difficult to fully engage this segment of the homeless population.

3. Community Tensions:

As the shelters work to accommodate both traditional homeless populations and asylum seekers, there has been some strain on resources and public perception. While services are being provided, there is an ongoing need for better integration and community outreach to address concerns about safety, sanitation, and resource allocation.

How a Shelter Licensing Ordinance can Help

A shelter licensing ordinance could be an effective tool for Portland to formalize the right to shelter, bring communities into conversation around the challenges of resource allocation, and neighborhood impacts, while supporting rather than burdening shelter providers at a time of critical need. Any such ordinance should be drafted in conjunction with a parallel look into broader zoning and planning regulations, specifically those that arbitrarily limit shelter placement.

A review of shelter licensing practices around the country shows that, when state-level licensing for homeless shelters exists, municipalities wishing to guarantee the right to shelter can adopt several best practices to ensure that local regulations complement state requirements and provide efficient oversight, without risking shelter closures.

The following is a set of suggested guidelines for the committee to consider in developing a shelter licensing ordinance in Portland that meets our high standards:

1. Enshrining the Right to Shelter in the Ordinance

- Explicitly state that all individuals experiencing homelessness have a guaranteed right to shelter within the city. The ordinance should ensure that no person is turned away due to lack of space, particularly during times of crisis, such as extreme weather or health emergencies.
- This right should extend to all populations, including families, youth, and vulnerable individuals such as the elderly or those with disabilities.

2. Coordination with MaineHousing

- Streamline approval processes by aligning municipal regulations with state requirements to avoid duplicative rules, reporting, and inspections.
- Establish clear communication channels between state and local licensing bodies to share information and resolve any compliance issues.

3. Ensure Shelter Accessibility and Capacity

- Mandate sufficient shelter capacity in both permanent and emergency shelters, ensuring enough beds are available to meet needs.
- The ordinance should establish that some shelters must be low-barrier, accessible without strict entry requirements like sobriety or identification, to ensure the most vulnerable individuals are not excluded.
- Create emergency protocols to open temporary shelters when demand exceeds capacity.

4. Set Health, Safety, and Equity Standards

- Implement health and safety standards that are consistent with state requirements, ensuring shelters are clean, safe, and humane while not imposing additional, unnecessary regulations.
- Address equity and racial justice by requiring shelters to implement inclusive practices and accommodate diverse populations, with specific attention to racial disparities in homelessness. The ordinance should include a Racial Equity Impact Assessment to ensure fair distribution of shelter resources and prevent exacerbation of systemic inequalities.
- Integrate trauma-informed care principles into shelter oversight, ensuring that municipal inspections or enforcement actions (such as unscheduled visits) are conducted in a way that minimizes disruption and potential trauma for shelter residents.

5. Community Engagement and Stakeholder Involvement

- Involve local stakeholders (residents, business owners, service providers, law enforcement, and other service providers) in planning and decision-making to minimize community opposition (NIMBYism) and foster cooperation.
- Promote transparency by holding public hearings or information sessions regarding shelter licensing.

6. Minimize Bureaucratic Barriers and Licensing Burdens

- Offer incentives such as fee waivers, grants, or streamlined permitting for shelters that meet both state and local standards.

- Waive licensing fees for non-profit shelters, recognizing that they provide essential public services.
- Provide resources or technical assistance to shelters in navigating both state and local licensing processes.
- Amend zoning regulations to remove arbitrary restrictions like bed limits or proximity requirements between shelters. Instead, ensure flexible zoning and planning rules that allow for equitable shelter distribution across the city.

7. Promote Housing-First and Permanent Supportive Housing Solutions

- Incorporate a housing-first approach into the ordinance, which prioritizes quickly moving individuals into permanent housing with supportive services rather than prolonged shelter stays.
- Encourage partnerships between the city and non-profits or housing providers to facilitate the transition from emergency shelters to permanent housing with wrap-around services (e.g., healthcare, mental health support, job training).

8. Implement Compliance and Oversight Mechanisms

- Ensure compliance through collaborative enforcement. Establish clear roles for city inspectors to ensure shelters meet standards without over-policing or disrupting services. Inspections should be scheduled with adequate notice to shelter operators to maintain a trauma-informed approach.
- Provide a transparent process for resolving non-compliance issues without resorting to shelter closures, which could further exacerbate homelessness. Create accountability measures that ensure the city upholds its obligation to provide shelter, even if individual shelters fall out of compliance.

9. Minimize Criminalization and Foster Supportive Services

- The ordinance should explicitly avoid criminalizing homelessness, in line with recommendations from organizations like the US Interagency Council on Homelessness.
- Establish clear protocols for shelter guests and operators to work with law enforcement in cases of criminal activity but avoid policies that treat homelessness itself as a crime (e.g., restrictions on where individuals can sleep or congregate in public).

10. Monitor, Evaluate, and Adjust

- Regularly assess the city's ability to meet its shelter obligations and publicly report on shelter capacity and operations, relying on data already collected through state systems to minimize additional administrative burdens to shelter operators.
- Adjust shelter licensing and operations as needed based on feedback from shelter users, providers, and local communities.

Thank you again for the opportunity to study the issue of shelter licensing and to offer my recommendations to the Health and Human Services Committee. The insights gathered point to the critical need for shelter accessibility, trauma-informed care, equity standards, and the

alignment of municipal and state regulations to streamline processes and avoid unnecessary burdens on shelters. I strongly believe that a shelter licensing framework can help Portland formalize the right to shelter, improve community relations, and support our local service providers, but I want to emphasize that while I've engaged with a wide range of stakeholders and reviewed many municipal shelter licensing ordinances, this is by no means the end of that process. More research and community engagement should be conducted by this committee as we move forward. I look forward to our discussion and to continuing our work together.

~~containers, shall be no greater than existing residential or nonresidential structures.~~

B. Conversion standards

- ~~1. No multi-family conversion is allowed in an existing structure with less than 1,500 square feet or 10% of the total habitable floor area.~~
- ~~2. Any new off-street parking provided for multi-family conversion of the facility, whichever is less existing residential structures shall be located to the side or rear of the structure.~~

~~C.~~

6.4.9 Correctional pre-release facilities

- ~~6.4.10 No correctional prerelease facility shall be located within 1,000 feet of another, as measured in a radius from the center of the lot~~
- ~~6.4.11 If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a minimum of one staff person for every 10 residents or fraction thereof. The facility shall provide 24-hour supervision of program participants.~~

6.4.13 Dwellings, townhouse

- ~~A. For townhouse dwellings, interior side setback requirements do not apply to the interior side yard where the party wall for the structure is located. Such requirements only apply to end units without an attached party wall.~~
- ~~B. There shall be a minimum separation of 15 feet between exterior sidewalls of townhouse buildings. Where the front or rear wall of a townhouse faces the front or rear wall of another townhouse, the minimum required separation between such buildings shall be 30~~

feet. Driveways and parking areas may located within this minimum separation area.

6.4.14 Emergency shelters

- A. In the B-3 zone, no emergency shelters shall be permitted north of Oxford Street.
- B. The facility shall provide adequate space for conducting security searches and other assessments.
- C. The facility shall be designed with a centralized shelter operations office on each level providing sightlines to sleeping areas.
- D. A management plan adequately outlining the following areas shall be provided: management responsibilities; process for resolving neighborhood concerns; staffing; access restrictions; on-site surveillance; safety measures; controls for resident behavior and noise levels; and monitoring reports.
- A. Adequate access to and from fixed route transit service shall be provided. The facility shall be within a ¼ mile of fixed route transit service, or shall be within ½ mile of fixed route transit service and provide adequate indoor space to permit all shelter guests day shelter, as well as implement strategies to help residents utilize transit.
- B. The facility shall provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.
- C. Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site.
- D. An outdoor area for guest use shall be provided on-site with adequate screening to protect