



## **Health & Human Services and Public Safety Committee**

**Tuesday, March 9, 2021, 5:30 PM**  
**Remote Meeting**

Councilor Tae Chong, District 3, Chair  
Councilor Belinda Ray, District 1  
Councilor Mark Dion, District 5

1. Announcements

- a. Zoom information:  
Please click the link below to join the webinar:  
<https://zoom.us/j/94341612823?pwd=bXU5RCtIREh2Y0xMTG9YR3NQaWFjZz09>  
Passcode: 065349  
Or iPhone one-tap :  
US: +19292056099,,94341612823#,,,,\*065349# or +13017158592,,94341612823#,,,,\*065349#  
Or Telephone:  
Dial(for higher quality, dial a number based on your current location):  
US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799  
Webinar ID: 943 4161 2823  
Passcode: 065349  
International numbers available: <https://zoom.us/u/abpC7YRDmK>

2. Review and Approval of Minutes from February 9, 2021

- a. February 9, 2021 draft minutes.

3. Updates

- a. Health & Human Services Department Update for March 9th HHS & PS Committee Updates

4. Shelter Licensing

- a. Staff presentation  
b. Committee questions and discussion.

NOTE: The committee may take action. A public hearing on this item was held at the February meeting (2/9/2021) and public comment will not be taken this evening.

5. Small Shelter Zoning

- a. Staff update
- b. Committee questions and discussion.

NOTE: this is a discussion item and public comment will not be taken at this meeting.

6. Next Meeting: April 13, 2021

NOTE: Please feel free to send comments to members of the committee on any issue at any time via email. Councilors email addresses are available on the city website: [www.portlandmaine.gov](http://www.portlandmaine.gov)

*The meeting can be watched online via livestream: [www.portlandmaine.gov/livestream](http://www.portlandmaine.gov/livestream)*

*Keep up to date with the new shelter design and planning process at the City's website*

*[www.portlandmaine.gov/shelterplanning](http://www.portlandmaine.gov/shelterplanning)*



## **Health & Human Services and Public Safety Committee Minutes**

**Tuesday, February 9, 2021, 5:30pm, Remote Meeting**

### **Committee Attendance:**

Tae Chong, Chair (District 3), Belinda Ray (District 1), Mark Dion (District 5).

Councilors in Attendance: April Fournier (At-Large), Andrew Zarro (District 4)

### **City Staff:**

Kristen Dow, Director of Health and Human Services; Keith Gautreau, Fire Chief; Frank Clark, Police Chief; Anne Torregrossa, Associate Corporation Council; Jessica Hanscombe, Licensing and Housing Safety Manager; Adam Harr, Executive Assistant for Social Services.

Maine Medical Center and Maine Behavioral Healthcare Presenters: Kari Donatelli, Maria Hadjiyane, Robert McCarley, Brian Batson, Randy Morrison and Katie Harris.

Meeting called to order at 5:32 PM.

### **AGENDA ITEM 1 – Announcements**

- Updates are regular parts of the meeting:
- Shelter licensing is on the agenda this evening; small shelter zoning will appear on a future agenda.

### **AGENDA ITEM 2 – Approval of Minutes**

- Councilor Ray moved to approve the minutes, Councilor Dion seconded and the minutes were approved unanimously.

### **AGENDA ITEM 3 – Updates**

- Health and Human Services Department Update
  - General Assistance
    - January: 1,105 applications
      - 1,105 total applications
      - 819 approvals
      - 91 denials, 8.4 %
    - December, 2020 Denial rate was 8.6%.
    - January, 2020 denial rate was 9.5%.
  - OSS in January, 2021
    - 46 stayed at the shelter on average every night.
    - 96 stayed in the hotel shelter on average
    - In outbreak status in Oxford Street and across shelters citywide.
    - Daily talks with the CDC and doing nightly rapid testing of all guests and staff.

- Positive cases are referred to the quarantine shelter operated through a partnership between MaineHousing and Preble Street.
  - OSS staff are being trained to conduct testing.
- Homeless Services Center
  - Council workshop tomorrow night to discuss next steps.
  - Presentation on RFQ last week.
- In Outbreak Status
  - Due to outbreak status new families are entering the hotel instead of the shelter.
  - 24 Families and 77 individuals in the shelter.
  - 66 families for 205 individuals in the hotel.
  - 24 new families new in January; these were not just asylum seekers.
  - In conversations with partners at the southern border on policy changes from the new administration.
    - Partners reported families moving from the southern border.
    - Discussing the possibility of people coming to Portland to be better prepared in the event of an influx similar to 2019.
- Barron Center
  - It experienced an outbreak that started on Christmas Eve and tonight is the 14<sup>th</sup> day with no new cases; if this continues we will be out of outbreak status.
  - On site testing conducted twice a week.
  - Today is the 14<sup>th</sup> day without cases; if this continues we will be out of outbreak status.
  - 2 vaccine clinics conducted with a third next week.
- Needle Exchange
  - 819 exchanges.
  - 29,185 needles collected.
  - 30,006 needles distributed.
  - 136 doses of naran disturbed.
    - Naran is offered to every client at every visit.
  - Distributed 128 more needles than we took in.
    - We are largely following our one-for-one policy but if someone presents with no needles, but there were exceptions. When someone presents with no needles, we are distributing safety supplies including a pack of ten needles, allowable under the governor's order.
  - Evaluating community need, the policies and we are soliciting client and partner feedback.
  - Public Health staff are looking at the placement of community sharps boxes. It was reported that there was increase of needles collected from 598 in 2015 to 6,240 in 2020. Staff looked at 2020 data:
    - 6,240 needles were picked up in the community.
      - Only 1,732 (27.8%) were collected in community sharps boxes.
    - The most used box was on Oxford Street.

- Shelter Resistant Individuals in Portland
  - Solicited provider feedback available in the posted memo.

#### Committee Questions and Discussion

- Councilor Ray has received a lot of community feedback and is interested in discussing the needle exchange at a future meeting.
  - At this committee or at a council workshop?
  - The committee would prepare questions for Director Dow ahead of time.
- Councilor Dion thanked director Dow for the memo on shelter resistant individuals for context for that part of the unhoused population.
- Councilor Dion agrees that a workshop or committee meeting should happen.
  - Needle program should either be organized on a needs basis or one-to-one basis as a public health strategy.
  - He will be coming from a needs based plan of care.
- Councilor Chong agreed on the need to address the needle exchange program in a larger conversation.
  - Heading towards collecting 360,000 needles over the 270,000 collected last year.
  - More needles will be collected this year; policy change or not, more needles will be exchanged this year.
- Councilor Chong asked about the asylum seeker piece: are providers also looking at the other refugees and the families of asylum seekers and refugees?
  - Yes. An update looking at the balance of immigrants coming to Portland is being looked at.
  - What are the numbers of refugees coming?
    - Director Dow can follow up with Catholic Charities, the organization who administers the refugee resettlement program in Portland.
- Mental Health Services offered at MMC
  - <https://civicclerk.blob.core.windows.net/stream/PORTLANDME/21f08a2739.pdf?sv=2015-12-11&sr=b&sig=1MUWJ3WwLMKDtexOEOs4RnXMD06AHo4Tm6%2FVfNzPy1k%3D&st=2021-02-09T22%3A20%3A08Z&se=2022-02-09T22%3A25%3A08Z&sp=r>
  - Councilor Fournier is now working at Maine Behavioral Health at the Lancaster Street location.
  - Maine Medical Center's Outpatient psychiatry clinic is working collaboratively with Maine Behavioral Health.
  - Overview of Maine Health
    - Behavioral Health
      - Exists on a behavioral healthcare continuum of care.
      - Peer services exist at all levels.
      - Patient advocacy committee of patients with lived experience who provide feedback on how services are progressing.
      - If a needed service is not offered, they will find that service in the community.
    - Locations

- MMC has 216 Vaughn for the adult outpatient clinic and 216 Bramhall for children and geriatric.
- Partial hospitalization program with group therapy and family therapy with medication management offered to patients.
- Continuum
  - Acute to ambulatory care.
- Patients
  - Patients have communications of psychiatric, medical and social conditions.
  - Increase in substance use.
- Partners
  - Maine Association of New Americans' (MANA)
    - Peer supports, COVID-19 Transportation, social support events
  - Sweetser NEEDS
    - Eating Disorder
  - Crossroads
    - Eating Disorders and SUD-
  - Universities
    - We are able to provide no cost treatment through interns.
  - United Way
    - Grant funding provided to us directly to the clinic.
  - Avesta
    - Housing for homeless
- Substance Use Disorders Treatment HUB
  - Services in Portland
- Pandemic, Challenges, and Gaps
  - Wait times have increased during the pandemic.
    - No wait time for the Adult Partial Hospital program.
    - Urgent treatment starts at about 2 weeks.
    - Biggest need is in geriatric service as there is an 8 month to one year wait.
      - Lack of board certified geriatric psychiatrists
      - Maine's population is oldest in the nation.
  - Converted from all face-face to telephone then televideo.
  - Now about 30% are face-to-face.
  - No show rate has decreased by 5%, down 10% overall.
    - Telehealth has helped access.
  - Pandemic has intensified needs.
  - Challenges:
    - Zoom fatigue.
    - Lack of internet access for telehealth.
  - Telehealth is here to stay.

- Increase in patients presenting for emergency services.
- There is insufficient funding for the continuum of care of services.
- Limited supply of providers.
- Insufficient capacity for acute and subacute patient services, including ACT Team.
- Need for improved Education/Coordination re involuntary hospitalization (blue paper) between clinic & police.
- Regulatory barriers to harm reduction models of care.
- Geriatric patients are often allocated a limited amount of care.
- Assertive Community Treatment (ACT): team approach to help people be as well as possible without being hospitalized.
  - Experienced funding issues and lost an ACT team; currently, there is one active team in the Lancaster location. It is a struggle to meet patients under Covid.
  - 2/3 positions have been filled.
  - ACT has provided an important resource managing their day to day lives.
  - Can currently take up to 70 patients.
- Seriously and persistently mentally ill population pilot that engages this population with a team approach among a psychiatrist, a therapist, and a case manager.
- Collaboration to bring in case management into the hospital; moving to a single electronic medical record system.
  - Will comply with all state and federal privacy laws.
  - No matter the access point, a patient's history will be seen.
  - Will increase efficiency and quality of care.

#### Committee Questions and Discussion

- Councilor Ray thanked the presents.
- Councilor Dion asked needle exchange programs and the one-to-one model.
  - The organization has not taken a position on this.
  - The harm reduction tactics spoke to barriers more broadly including making Narcan available to all patients.
- Councilor Ray asked if Maine Health has a stance on harm reduction in the form of overdose prevention sites.
  - They do not have a position on those sites and will need to have a conversation internally.
  - Councilor Ray said it will help to have medical providers provide input.
    - Two employees submitted public comment in support on their own as private individuals.
  - Patients can get medications at the ED and transportation to the hub; they are also connected with a peer to navigate treatment.
- Chair Chong thanked Maine Health and those who presented and asked how to create a greater dialogue around mental health to better serve vulnerable populations.
  - Outreach and prevention.

- Make it possible for people to take what they need and walk away with a reusable supports.
- Take away stigma; on insurance cards, behavioral health information is relegated to the back of the card.
- How to increase connection with people struggling in one's family and community.
- People going into primary care fill out an Adverse Childhood Experiences (ACES) questionnaire.
- Community drop in centers would help people who hold a stigma make a supportive connection.
- Councilor Chong asked if Maine Health would support a marketing campaign. Is there grant funding for things like the current mental health check-in program in schools?
  - This is a conversation happening in the community and Maine Health is involved.
- Councilor Chong asked about front line workers such as grocery store works and employee assistance programs. Is Maine Health working with such employers? It is also a racial disparity issue as most essential workers are more likely to be people of color.
  - Actually discussed the topic this morning.
  - The disparity amongst people of color is something being discussed to reach out around vaccines and see the opportunity to do so around mental health.

#### **AGENDA ITEM 4 – Shelter Licensing**

- Director Dow highlighted the changes made since the last meeting.
  - Two different fees based on the size of the shelter with expiration dates on July 1.
  - 90 days for effective date.
  - Licensing Authority: discuss having the city council approve licenses and renewals.
    - Removed section (b) from the city manager to the council.
  - Review Procedures
    - Added b
    - (c): supports a renewal process.
    - Numbered sections reworded.
    - Added
  - Changed management plan to operations plan.
  - Added “The experience and qualifications of shelter management and staff, sufficient to demonstrate that the shelter can meet its obligations under this ordinance, including providing appropriate services to shelter guests;”
  - Performance Standards
    - (e) changed shall to must.
    - Maximum Density of Beds: shall not exceed 250 beds within a 1 mile radius.
  - Enforcement and Penalties.
    - How would we inspect our own shelters?
      - Standard for the FIRE to be inspected in-house.
      - We will inspect our own facilities.
  - 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”

#### Committee Questions and Discussion

- Councilor Ray asked about July 1; do they renew every year on July 1?
  - Yes; they are prorated to July 1.

A public hearing opened at 7:12 PM.

- Jim Hall of Cedar Street shared what he thought were a few misalignments in the code: conditional use standards, etc. One such is a shelter approved last month that will have an exemption. The planning board was not comfortable with the management plan. He suggests better thresholds. Overall the City has developed good plans based on best practices. All shelters should be required to take referrals from the central intake at the homeless services center. Third parties would demonstrate how they fill a particular service gap and how they will record success. There is a very real need for applicants to prove they will mitigate the known impacts on the host community before operating a shelter.
- Rebecca Hobbs, Executive Director of Through These Doors, a domestic violence shelter in Portland. DV is a major cause of homelessness particularly for women. Lessons learned from the pandemic should be forwarded into the licensing requirements; none of the requirements in the current form demonstrate performance standards that we know we need. It adds oversight and reporting but lacks additional benefit for homeless people or the community. From her reading, it looks like advocacy staff would be supplanted by additional reports and meetings. These don't achieve the goals that the city council would achieve. The bed maximum seems arbitrary. As a resident of Portland, we care about our neighbors not living on the streets. From their perspective, it could prevent people from leaving a dangerous situation. Would the council postpone making a decision this evening to give time to submit written comment? She is grateful for the opportunity to speak tonight.
- Joey Brunelle of Kellogg Street asked questions: At the last meeting, a half mile buffer was suggested; is this particular buffer number from an example in another city? Why not a quarter mile? Where did the density limit come from? Section 15: if these same rules will be used to deny or revoke licenses to these facilities he has concerns: these rules say a license or permit may be denied or revoked by the following grounds: person patronizing the licensed activity have breached the peace or the use would disturb the peace in the neighborhood. These vague standards could be used to remove helpful services. There should be some sort of allowance for things that could happen beyond their control around their facility; he is concerned that one or more breaches of the piece does not make sense.
- Sarah Mchniewicz of the Bayside Neighborhood Organization: She gave a brief history of shelters in Bayside: before the pandemic, there were 329 shelter beds plus up to 150 overflow beds, when adding 5 Portland Street, that becomes 369 permanent beds, 529 total shelter beds in a radius of about 515ft. The two largest shelters in Bayside are 50 ft apart. In the 1 miles radius around 5 Portland Street, there are 451 shelter beds. There should be specific narrow waivers for domestic violence shelters. If the buffers are altered, she asked for a moratorium for new shelter beds in bayside, such as 5 years after

the oxford street shelter leaves. Umber of More protective measures could require a minimum number of random inspections. In the past, vagueness has been used to skirt requirements. All clients should sign a neighborhood contract.

- Mark Swan, executive director of Preble Street. He echoed Rebecca Hobbs' comment on postponing a vote until shelter providers and the emergency shelter committee weighs in. He suggested a couple months. He said the review by HHS, Fire and Police is potentially arbitrary and could limit the number of calls made by shelters, putting people at risk. This could also lead shelters to not admit people in need who may increase calls for services. The buffer and cap seem arbitary; it would effectively close the peninsula. Would the City operated shelters have to meet these same requirements? He thinks logging reports make sense but that it demonstrates how lopsided the licensing is towards neighborhoods over the client needs. Why is there not a system for client concerns?
- Frank D'Alessandro Policy Director of Maine Equal Justice. He highlighted the housing gap identified in the Maine Behavioral Health presentation. Any licensing should focus on the health safety and wellbeing of people staying in shelter. When an existing facility is exempted, it is unclear when they would meet new standards. Existing shelters approved of January 31, 2021 would be exempted; it makes sense any shelter approved as the date of the ordinance's passage would be exempted. The buffer zone should be removed. The number of calls for service threshold should be removed. He is concerned about the disparate impact of homelessness on people of color and people with disabilities and mental illness. The license structure could close shelters and be detriment to these losing shelter.
- Oliver Bradeen, Executive Director of Milestone Recovery, a 41 bed shelter on India Street in Portland. He appreciates that there is an exemption process for existing shelters. His shelter is in outbreak status and making any major changes would be difficult due to staffing and space. He is concerned about the language makes it look like clients are dangerous and we are trying to protect the community from clients, not keeping everyone safe. He is concerned about the amount of oversight written into it as there is already a lot of oversight from MaineHousing. There is no specific training module from the state so that needs to be fleshed out from as it is vague. There should be clear definitions throughout. He is concerned about recording; they already record for safety and is concerned about who can see that in the city. They are covered by a SAHMSA CFR and would need releases. They cannot release videos of people shown in their space without violating their rights. He would like clarify on the crisis call numbers; there are more ways to collect information: HOME team calls, etc. Crisis will not respond unless clients request services. He would like to collaborate further. A lot of these requirements would mean more staff. We need day space; the requirement to create day space should have its own section. Milestone's physical space does not allow for day space and they would need to close under this licensing structure. He will submit written comment.

Public hearing closed at 7:45 PM

- Councilor Ray is ready to ask question but not to make a decision tonight.
- Councilor Dion agreed and would like shelters have the opportunity to send comments in writing. There is plenty of work to be done before going to the full council.
- Councilor Chong agreed.
- Councilor Ray answered questions:

- Where did the half mile buffer come from:
  - Green Bay, Wisconsin.
  - The buffer was a starting point and should be right-sized to Portland.
- Grandfathering existing shelters. Existing shelters would be exempt from the buffer requirements but would need to apply for a license within 90 days.
- Councilor Ray asked about transferability of license.
  - If ownership changes it should be a new license.
- Councilor Dion agreed that there should be more definitions.
- The committee proceeded by section:
- Licensing Authority
  - Councilor Ray said all new applications should be approved by the council and renewals should be handled by permitting and inspections unless it is requested that it come before the council.
    - “May be approved language” allows the council to refuse. It doesn’t mean staff are able to approve them. Only the council is able to approve initial applications; the council can say no.
    - The old language is the committee’s intent.
- Review Procedures
  - Councilor Dion: (c) ii: he does not know what adequate means. He would rather “intended to protect.”
    - Corporation Counsel is cornered about saying intended; she can intend to fly s plane but does not know how.
    - Adequate is a challenging standard to apply.
      - Could department heads provide opinions to the nature of the plan?
      - That is what is laid out in a less formal level from most licenses.
        - Saying in their opinion it is or is not adequate or could be adequate with edits to the plan.
      - Councilor Dion would like a reasonable person standard to apply.
        - What a reasonable fire chief consider sufficient.
          - Is sufficient better than adequate?
        - What standard does the plan have to meet?
          - When a fire chief looks at the plan, they will tell us if the plan does or does not meet public health safety and welfare/
          - The committee agreed that “more likely than not” can replace “adequate.”
      - The language is pulled from other existing license.
      - Councilor Chong asked about approved security plans; if the plans are approved hey would be adequate?
  - Will the license specify the size of license approved or target demographic?
    - The license will show size of the shelter due to the two tiers.
    - Such information can be added to the license.
  - No licenses are transferable outside of specific conditions with marijuana licenses.
  - Councilor Ray would like a question asking if applicants have operated another shelter in the city or elsewhere/similar facility.

- Application submission Requirements.
  - Councilor Ray would like specificity on access to recordings: (g) (vii) (1).
    - Chief Clark said it was a PD ask related to the recent Preble Street shelter.
      - These are limited to public ways on the exterior opposed to private/protected areas.
      - Add language specifying the above that observes the outside and not the clients inside.

#### Performance Standards.

- Councilor Ray said day space should have its own item.
  - Councilor Ray would alter (d).
    - Language makes it sound like you don't need day space if you are within a quarter mile of a metro line.
    - Adequate access to and from metro service shall be provided; facility shall be within X."
    - Facility shall provide sufficient indoor space to provide sufficient day space. She does not want to make it so prohibitive that Milestone could not meet it; could there be a chance to apply for a waiver? Perhaps a contract to supply the day space within a certain radius?
  - Councilor Dion agreed that day space should be separate.
    - He does not like adequate and should be defined having it or not.
  - Councilor Chong agrees about separating it but is not certain about the day space requirement and agrees to some kind of waiver.
  - Councilor Ray thinks the half mile opens up more space for shelters to exist in the city; access to transit should be required. A quarter mile would make it more prohibitive to where shelters could exist in the city if they have to be within ¼ mile to transit.
    - Will start with ½ a mile to continue the conversation.
  - Density of beds.
    - Councilor Ray said we are one city and that concentrating all services in one are in the city has not yielded good results. Setting some of these limits will avoid concentrating and segregating one population in one section of the city.
      - That said, she does not know what the right numbers are.
      - Staff to help work out what works best for Portland.
      - Does a 10 bed facility need a buffer from the next one? Likely not and it needs nuance from staff.
    - Councilor Dion needs to think further and welcomes staff and citizen input.
      - This feels like a zoning exercise over a licensing one.
      - It gives some information to applicants on where they can exist but it feels like zoning.
    - Corporation Counsel explained this would be one of the more restrictive schemes in the city. A 2,500 foot buffer is large compared to other cities. Sarah's testimony pointed out that almost 400 beds in 250 foot radius is not working; what is not working should inform the requirements. This may be worked out in the two tier system.

- It is technically not zoning because zoning is treating different areas of the city differently.
  - We have similar requirements in land use code.
  - These would go to site plan approval with planning board then licensing; not thinking about this before the end step could create problems.
- Monitoring Reports
  - Councilor Ray asked what “specialized” means in specialized shelter.
    - Meeting the need of a specific population/demographic such as adult vs family.
    - It does not speak to a specific type of shelter.
  - 5 & 6: Do people with Long term stayer status vs chronically homeless; what is the difference?
  - Asking for the number of CTOs; it would be helpful to know the reason and the length for the CTOs.
    - Councilor Dion said CTOs and Police calls are best left to sometime of report generated by the police department. There are service concerns and public safety concerns and he would like to see those kept in separate buckets. He would like Public Safety to stay with PD versus going to HHS.
      - Director Dow said that when Mark Swan spoke about this earlier, a lot came from the Preble Street application. This was moved forward for consistency but this will be looked at by PD.
      - Are individuals chronically subject to CTOs?
        - Concerns about CTOs could be addressed by PD reports.
      - Chief Clark said that PD and providers are meeting to discuss CTOs. PD has been releasing CTO lists to HHS to work with other providers around the CTO, including the steps to revoke such CTOs.
      - There is a neighborhood persecutor, Rich Bianculli, reviews appeal requests. Community policing will be involved in these reviews.
  - Councilor Ray mentioned the comment that some reporting requirements are onerous and would take away from staff providing services. How much of the information requested is unique versus already collected?
    - Staff will review.
  - Councilor Ray would like to justify everything we are asking for, that it is all relevant to quality of service being provided and the impact to the surrounding community.
  - Councilor Dion said it was a good point made by Mark Swan: the notion of calling the police. It is important to isolate the calls made by third parties (neighbors, etc.) is relevant to for the PD to review. If staff feel they have done their best to deescalate a situation and PD could resolve a situation, they should not be deterred from doing so. When he enforced liquor licenses, licenses were encouraged to report issues.
    - Third party calls can be used to assess failure.
    - Partnership between shelters and PD should be encouraged.

- Councilor Chong concurred.
  - Councilor Ray asked: how a domestic violence shelter that doesn't disclose its location fit into this process?
    - How do they factor into buffers?
    - Can corporation counsel develop language to exempt domestic violence shelters?
  - Feedback on whether h-xiv comply with MaineHousing reporting standards.
  - (i) communicating monthly: public meetings should be bifurcated.
    - Minutes from those meetings should be available from the shelter operator. On the website?
    - There would be an exemption for DV shelters.
    - Chief Clark said providing direct feedback to shelter privately and meeting publicly can work.
      - The community relations liaison would hear ongoing concerns from neighbors be part of that conversation.
    - Chief Clark agreed that he doesn't want people working in shelters to feel deterred from calling the police.
- Enforcement and Penalties
  - Councilor Ray appreciates that permitting and inspections inspect other city facilities.
    - Outside of optics, she feels it is important a neutral third party take a look, such as an external auditor.
      - It there an organization or entity that provides this service?
    - Councilor Dion asked for clarification.
      - We will require other organizations running shelters to submit reports to the City and she does not think the City should be inspecting itself. It would be harder to say things are not ok when they are not if they are in the same organization.
      - Councilor Dion is interested in seeing what that would look like.
    - Director Dow thinks this makes sense for transparency and would look to partners at the State and to Corporation Counsel to what that would look like.
      - Does this have to be written into ordinance?
        - It can be.
        - As the city manager's bosses, the council can direct him to do so or it can go in the ordinance. It is a policy decision.
        - Councilor Dion sees the value but does not think it should be included in the ordinance and could be accomplished between a memorandum of understanding between the city manager and the organization inspecting.
          - Would this be the mayor or the council?
    - Councilor Chong asked if a similar shelter in Maine such as the one in Bangor conduct an inspection or what kind of agency?
      - There are requirements for all performing centers but Merrill is inspected in-house. He does see that due to the sensitive nature we could do this to avoid the appearance of a conflict of interest.

- Corporation Counsel is not sure what we are talking about when we say inspections?
    - Reports?
    - Councilor Ray specified that any city official could inspect at any time; she would like the same of City shelters.
    - What are they inspecting; currently fire looks at life safety and fire code.
    - One way to address is that the Council does the renewals so that city inspections does not push through renewals.
      - Councilor Ray thinks that solves it; municipal shelters shall be reviewed annually by the council.
  - Councilor Dion asked about (c) and if it is boilerplate?
    - It mirrors state language.
    - We could just refer to code.
    - Certain types of violations have heightened penalties.
      - Such as \$200/day versus \$100 per day for certain life/safety violation.
    - We could take this out and reference to section 15.
    - It is helpful to know the range of financial consequences.

#### Section 15.8

- Councilor Ray asked about removal of a license. A license could be suspended from one breach of the peace. Is breach of the peace defined? Is a noise complaint breaching the peace? Should a disorderly house ordinance type mechanism apply here?
  - Corporation Counsel said at some point that section needs to be rewritten. If applied strictly, many old port locations would have had licenses revoked. An update needs to be made to make it more practical.
  - Existing licenses spell out certain violation having specific penalties.
    - We don't want to deter calls for service but also use it as a threshold.
      - How to parse out these calls for service is challenging to draft.
  - Severity matters; breaching the piece for yelling at 2:00 am is different than breaching the peace with violence.
    - This would be easier if there was a standard to apply.
  - Councilor Dion understands Mr. Brunelle's concerns but sees that it would be reasonably applied in order of it to stand up in court.
  - Any revocation could result in a large population needing to be cared for.
  - Councilor Chong said that before we get to revocation there would be neighborhood meetings and other opportunities to mitigate situations leading to revocation.
  - This could be added in later if things aren't working; too strict of a standard removes discretion.
    - Calls for service lacks nuance.
    - Analyze a year's worth of reports after the initial scheme would inform new standards if needed.

#### Appeals

- Councilor Ray asked if suspension or revocation can be appealed.
  - Appealed to the city manager but could go to the council.

**AGENDA ITEM 8 – Next Steps**

- The next meeting is March 9, 2021.

The meeting adjourned at approximately 9:07 PM

DRAFT



Health & Human Services Department  
Kristen Dow, Director

## **MEMORANDUM**

**To: Members of the Health & Human Services & Public Safety Committee**  
**From: Kristen Dow, Director of Health & Human Services**  
**Date: March 9, 2021**  
**Re: February Health and Human Services Updates**

The following data and information is to serve as the monthly update from the Health & Human Services Department to the HHS & PS Committee:

### **The February totals for the City's General Assistance Program are as follows:**

- Total Applications: 1355
- Number of approvals: 1124
- Number of denials: 87
- Denial rate: 6.42%

### **Overview of Oxford Street Shelter and contract hotel:**

- OSS average nightly census: 22
- Contract hotel average nightly census: 91
- Staff continue to work closely with the ME CDC and other shelter providers in the City on the outbreak in the homeless community.
  - Nightly testing provided Greater Portland Health has continued throughout the month. Twice weekly testing is occurring at the contract hotel and is provided by the Westbrook Fire Department.
  - All positives and confirmed contacts continue to be referred to the quarantine shelter.

**Homeless Services Center-** The Request for Qualifications/Proposals for the new Homeless Services Center, which was approved by the Housing & Economic Development Committee, is now advertised on the City's website. Proposals will be accepted until 3:00PM on Tuesday, April 27, 2021, at which time they will be opened and read. A copy of the RFP can be obtained by requesting it through the Purchasing Office at (207) 874-8654 or via e-mail at [purchasing@portlandmaine.gov](mailto:purchasing@portlandmaine.gov).



Health & Human Services Department  
Kristen Dow, Director

### **Overview of the Family Shelter:**

- Number of on-site at the family shelter: 20 families/65 individuals
- Number of families at local hotels for shelter overflow: 67 families/ 207 individuals
- Number of new families in February: 22 families/ 69 individuals
- The Family Shelter has been declared out of outbreak status by the ME CDC. We have begun moving families from the overflow hotels to the shelter as rooms become available. As was reported last month, one Family Shelter building is vacant to allow for space for identified close contacts of the shelter.

**Barron Center-** At the February 9th HHS & PS Committee meeting it was reported that if no new positives were identified on that day, we would officially be out of outbreak status. Unfortunately, the universal testing that occurred that day resulted in one positive asymptomatic employee. Because of the new case, our fourteen day cycle restarted. We continued with universal testing and were officially declared out of outbreak status by the ME CDC on February 24th. I would like to thank the staff of the Barron Center. This past year, and in particular these past two months, have easily been the most challenging that the Barron Center has ever seen. Yet through it all the staff's dedication to the residents and each other has remained unwavering.

### **February totals for the Needle Exchange Program (NEP) are as follows:**

- Total number of exchanges: 432
- Total number of needles collected: 21,197
- Total number of needles distributed: 23,163
- Total number of Narcan doses distributed: 218 (109 kits)
- Staffing update: Two of three positions working with the NEP will be filled as of 3/22, including the Substance Use Prevention & Harm Reduction Services Program Coordinator and the Community Health Promotion Specialist who will work in both the Needle Exchange Program and the STD clinic. The third full time position will be reposted.

### **General HHS Department updates:**

In February we posted for two new positions in the department. The first is a Resettlement Coordinator and is funded through CDBG funds from Cumberland County. This position will coordinate reception and placement services to families as they arrive at the City's Family Shelter as well as ongoing adjustment, orientation, and social services for eligible clients. This position and partnership with Cumberland County is a step towards a more regional approach to



Health & Human Services Department  
Kristen Dow, Director

assisting those who are experiencing homelessness in our state. The posting of this position closes on March 9th.

The second position is a Deputy Director for the HHS Department. This is a new position that will assist in the planning, organizing and administering City-wide programs covering major functional areas of the Department, including fiscal and related strategic planning and performance management in a manner that supports departmental program development and decision making. This position will be posted through March 24th and both positions, as well as several other open positions in HHS can be found here:

<https://www.portlandmaine.gov/1107/Current-Job-Opportunities>

Lastly, in an effort to increase transparency in HHS, we have created a data dashboard that is available on the department's homepage. The dashboard includes data from the previous week and will be updated each week by close of business on Friday.

<https://www.portlandmaine.gov/216/Health-Human-Services>



Health & Human Services Department  
Kristen Dow, Director

## **MEMORANDUM**

**To: Members of the Health & Human Services & Public Safety Committee**

**From: Kristen Dow, Director of Health & Human Services**

**Date: March 9, 2021**

**Re: Committee Request for Staff Recommendations**

At the February 9th, 2021 meeting of the Health & Human Services and Public Safety Committee, when reviewing the draft shelter licensing ordinance, it was requested that staff provide recommendations on *maximum density of beds* and *proximity to other shelters* (Performance Standards G & H in the document). Staff from several city departments met to discuss the request and would like to request additional time to meet with community partners and neighborhood associations to gather additional information on these topic areas in order to bring a recommendation back to the committee.

Staff believes they can have this information collected with a recommendation ready for the May 11th, 2021 Health & Human Services Public Safety Committee meeting. Thank you for your consideration of this request.

**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 |
|------------------|-------------|-----|-----------------|
|------------------|-------------|-----|-----------------|

...

|     |                                     |          |        |
|-----|-------------------------------------|----------|--------|
| XXX | Small Emergency Shelter (1-40 beds) | \$250.00 | July 1 |
|     | Large Emergency Shelter (41+ beds)  | \$500.00 | July 1 |

**[NEW ARTICLE]**

**[NEW SECTION]. Definitions.**

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

**[NEW SECTION]. 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 a homeless shelter within the City without first obtaining a license from the City, except that any homeless 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 a homeless shelter is a privilege and not a right in the City.

**[NEW SECTION]. Licensing Authority**

- (a) All new ~~and renewal~~ license applications shall be reviewed ~~and may be approved~~ by the City Council. After a public hearing, the Council shall grant, grant with conditions, or deny the license shall be held prior to the issuance of any initial 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.

Formatted: Indent: Left: 0.5", Hanging: 0.5"

**[NEW SECTION]. 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 Ordinance 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:
- (i) Whether the shelter has complied with its approved operations and security plans.

- (ii) Whether the operations and security plans are more likely than not adequate to protect the public health, safety, and welfare.
  - (iii) Whether the operations and security plans are more likely than not adequate to meet all performance standards and requirements in this ordinance.
  - (iv) 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 Ordinance 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 Ordinance, 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 Ordinance.

**[NEW SECTION]. Application Submission Requirements**

Each applicant for a 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 Homeless 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.

(g)(h) An operations plan describing the following:

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

(ii) How the shelter will meet the performance standards and other requirements of this ordinance;

(iii) Management responsibilities;

(iv) A process for effectively resolving neighborhood concerns;

(v) Staffing; ~~and~~

(vi) Controls for resident behavior and noise levels; ~~and~~

(vii) Security, safety and protective measures:

(1) On-site surveillance;

(1)(2) Provisions to provide ~~and~~ access to recordings of exterior public ways by city staff upon request;

(2)(3) Safety measures;

(3)(4) Access restrictions;

(4)(5) Environmental design, engineering or procedural measures to reduce crime, loitering and disorder in and around the facility;

~~(5)(6)~~ 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;
- 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~~.

~~(h)(i)~~ A description of the strategies to be implemented to help residents utilize public transit, as required by [Section] (d).

#### **[NEW SECTION]. Performance Standards**

In order to obtain a license pursuant to this Ordinance, 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 ~~shall be within a ¼ mile of a METRO line, or shall be within ½ mile of a METRO line and provide adequate indoor space to permit all shelter guests day shelter, as well as must~~ implement strategies to help residents utilize public transit;
- (e) The facility must provide indoor space to permit shelter guests day shelter. If it would cause the shelter an undue burden to provide the indoor, the shelter may apply for a waiver of this requirement if they are able to provide alternative indoor day shelter space within ¼ mile of the shelter.

(e)(f) 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.

(f)(g) Maximum Density of Beds. The total bed capacity for individual residents within emergency shelters in the City shall not exceed 250 beds within an 1 mile radius. Distance shall be measured between property lines of the homeless shelters.

Commented [KD1]: Please see staff memo

This limitation shall not disqualify any shelters that are operating with all required permits and approvals, have received conditional use approval, or have received a change of use approval as of January 31, 2021.

(g)(h) Proximity to Other Facilities. There shall be a 2,500ft buffer between emergency shelters. Distance shall be measured from the nearest property line of each shelter in a straight line.

Commented [KD2]: Please see staff memo

This limitation shall not disqualify any shelters that are operating with all required permits and approvals, have received conditional use approval, or have received a change of use approval as of January 31, 2021.

(h)(i) 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 containing, at a minimum, the following information:

- (i) Number of unique individuals served at the this specialized shelter
- (ii) Total number of bednights accessed at the this specialized shelter
- (iii) Number of intakes during that reporting period
- (iv) Total number of individuals who had previously been unsheltered and staying outside in Portland
- (v) Total number of chronically homeless individuals accessing the shelter
- (vi) Total number of individuals who are defined as having long time stayer status
- (vii) The average length of stay
- (viii) Number of housing placements
- (ix) Record of neighborhood concerns and resolutions
- (x) Summary of meetings with individual neighbors, neighborhood associations and businesses
- (xi) Number of crisis calls for service
- (xii) 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
- (xiii) Record of police calls for service related to mental health, substance use, crime or other reasons and outcomes

- (xiv) Any additional information requested by the Department of Health and Human Services.

~~(i)~~ 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.

#### Review Process for Domestic Violence Shelters

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

(i) The requirement to provide a description of the premises for which the license is sought, including a floor plan of the premises.

(ii) The limitations on the number of beds.

(iii) 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.

#### **Enforcement and Penalties**

- (a) This Chapter 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.
- (c) Each day that a violation of this Chapter exists shall be a civil violation subject to civil penalties. Each violation of this Chapter 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.

- (d) The City Manager or his/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 Chapter.
- (e) If the City is the prevailing party in any legal action to enforce this chapter, 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.

#### **[NEW SECTION]. 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.
- ~~(b)~~(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.

#### **[NEW SECTION]. Severability**

The provisions of this Ordinance 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.



Adam Harr &lt;ash@portlandmaine.gov&gt;

---

**Fwd: Shelter Licensing**

1 message

---

**Belinda Ray** <bsr@portlandmaine.gov>  
To: Adam Harr <ash@portlandmaine.gov>

Mon, Mar 15, 2021 at 12:04 PM

Belinda S. Ray (*she / her / hers*)  
City Council, District 1  
389 Congress Street  
Portland, ME 04101  
[BSR@portlandmaine.gov](mailto:BSR@portlandmaine.gov)

Sign up for [my newsletter](#) or visit [my blog](#)!

Please Note: Under Maine law, emails sent or received by public officials or city employees may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

----- Forwarded message -----

From: **Michael Gelsanliter** <[mrgelsanliter@gmail.com](mailto:mrgelsanliter@gmail.com)>

Date: Tue, Mar 9, 2021 at 8:36 AM

Subject: Shelter Licensing

To: <[mdion@portlandmaine.gov](mailto:mdion@portlandmaine.gov)>, Belinda Ray <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>, Spencer Thibodeau <[sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov)>, Ali Pious <[pali@portlandmaine.gov](mailto:pali@portlandmaine.gov)>, Nicholas Mavodones <[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)>, <[afournier@portlandmaine.gov](mailto:afournier@portlandmaine.gov)>, <[azarro@portlandmaine.gov](mailto:azarro@portlandmaine.gov)>, Jon Jennings <[jjp@portlandmaine.gov](mailto:jjp@portlandmaine.gov)>, Frank Clark <[fclark@portlandmaine.gov](mailto:fclark@portlandmaine.gov)>, Kristen Dow <[kjd@portlandmaine.gov](mailto:kjd@portlandmaine.gov)>, <[ksnyder@portlandmaine.gov](mailto:ksnyder@portlandmaine.gov)>, <[tchong@portlandmaine.gov](mailto:tchong@portlandmaine.gov)>

Dear Councilors and Mayor Synder,

Please justly consider a moratorium on additional new shelters in Bayside until adequate time can be given to study how shelters can best serve the greater Portland community.  
The effort, time and energy should not be spent on another new Bayside Shelter when we just had one approved. In good conscience shouldn't the location of additional new shelters be more equitable around the city.

Thank you for your consideration and all your hard work,

Sincerely,

Michael Gelsanliter  
32 Mechanic Street



Adam Harr &lt;ash@portlandmaine.gov&gt;

## Fwd: Emergency shelter licensing

1 message

**Belinda Ray** <bsr@portlandmaine.gov>  
To: Adam Harr <ash@portlandmaine.gov>

Mon, Mar 15, 2021 at 12:03 PM

Belinda S. Ray (*she / her / hers*)  
City Council, District 1  
389 Congress Street  
Portland, ME 04101  
[BSR@portlandmaine.gov](mailto:BSR@portlandmaine.gov)

Sign up for [my newsletter](#) or visit [my blog](#)!

Please Note: Under Maine law, emails sent or received by public officials or city employees may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

----- Forwarded message -----

From: **Sarah Michniewicz** <[sarahmichniewicz@icloud.com](mailto:sarahmichniewicz@icloud.com)>

Date: Mon, Mar 8, 2021 at 4:38 PM

Subject: Emergency shelter licensing

To: Tae Chong <[tchong@portlandmaine.gov](mailto:tchong@portlandmaine.gov)>, <[mdion@portlandmaine.gov](mailto:mdion@portlandmaine.gov)>, Belinda Ray <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>

Cc: Kate Snyder <[ksnyder@portlandmaine.gov](mailto:ksnyder@portlandmaine.gov)>, Spencer Thibodeau <[sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov)>, Ali Pious <[pali@portlandmaine.gov](mailto:pali@portlandmaine.gov)>, Nicholas Mavodones <[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)>, <[afournier@portlandmaine.gov](mailto:afournier@portlandmaine.gov)>, <[azarro@portlandmaine.gov](mailto:azarro@portlandmaine.gov)>, Jon Jennings <[jpj@portlandmaine.gov](mailto:jpj@portlandmaine.gov)>, Frank Clark <[fclark@portlandmaine.gov](mailto:fclark@portlandmaine.gov)>, Kristen Dow <[kjd@portlandmaine.gov](mailto:kjd@portlandmaine.gov)>

Hello Chair Chong and Councilors Dion and Ray,

Thank you for continuing to diligently pursue emergency shelter licensing. I'm pleased that City staff is recommending outreach be conducted with neighborhood associations and the community to get feedback regarding buffers and spacing, and asking for a community survey on emergency shelter licensing.

It's refreshing but bittersweet to see support for giving neighbors a voice in the process. It's an opportunity that Bayside has never had. If you choose to vote the current recommendations out of committee at Tuesday's meeting, please require that suggested outreach for when the full council considers them.

Although staff hopes the data gathering will be complete and ready to present in May, between now and then there's still a lot at risk for this neighborhood, with nothing to stop another shelter proposal before licensing is enacted. Please do not discount that possibility. One new Bayside shelter has already been sped through in under three months, increasing the already excessive bed total by 12%, up to 451 within the suggested 1 mile radius. That's 201 (80%) more than the suggested maximum of 250. Please see the attached graphic for reference, and [this](#) BNA blog post for a comprehensive overview of shelter density in Bayside compared to the rest of the City, county, and state.

It would be indefensible to allow yet another shelter to enter the planning pipeline when the City's clear will is to first get its arms around how and where shelters are best able to serve the needs of providers, consumers, and constituents; even more so when there are vast areas in the rest of the City a shelter could be sited, even without additional zoning changes.

So I ask that as part of this licensing conversation this Committee recommend to the City Council an *immediate and complete moratorium on allowing any additional shelters or shelter beds in the Bayside neighborhood*. Although plans for eventually relocating the Oxford Street shelter are in motion, and licensing is presumably proceeding apace, nothing is certain.

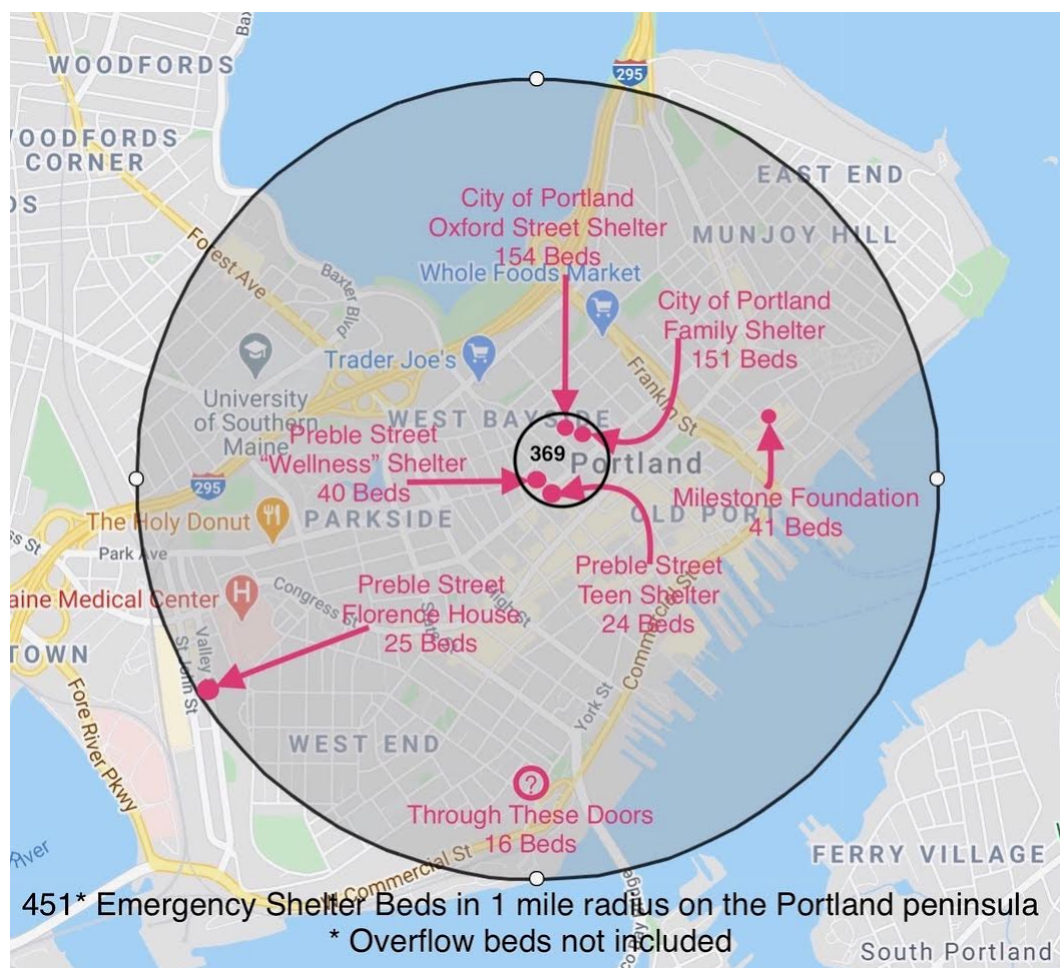
Just as a moratorium on demolitions created a pause to think about the future of Munjoy Hill, a moratorium on new shelters in Bayside will give the neighborhood and the City a safe, depressurized space in which to make fair and durable policy on the location of shelters within the community. But to allow the status quo to continue in Bayside, whilst thoughtfully engaging the rest of City about their preferences, would only serve to affirm that some neighborhoods are more equal than others.

Portland is on the cusp of finally creating a thoughtful and intentional shelter system. Please ask the City Council to enact a moratorium on any new shelters in Bayside so that we can honestly assess the City's role in addressing homelessness, and holistically decide how Portland's shelter system can best fill that role.

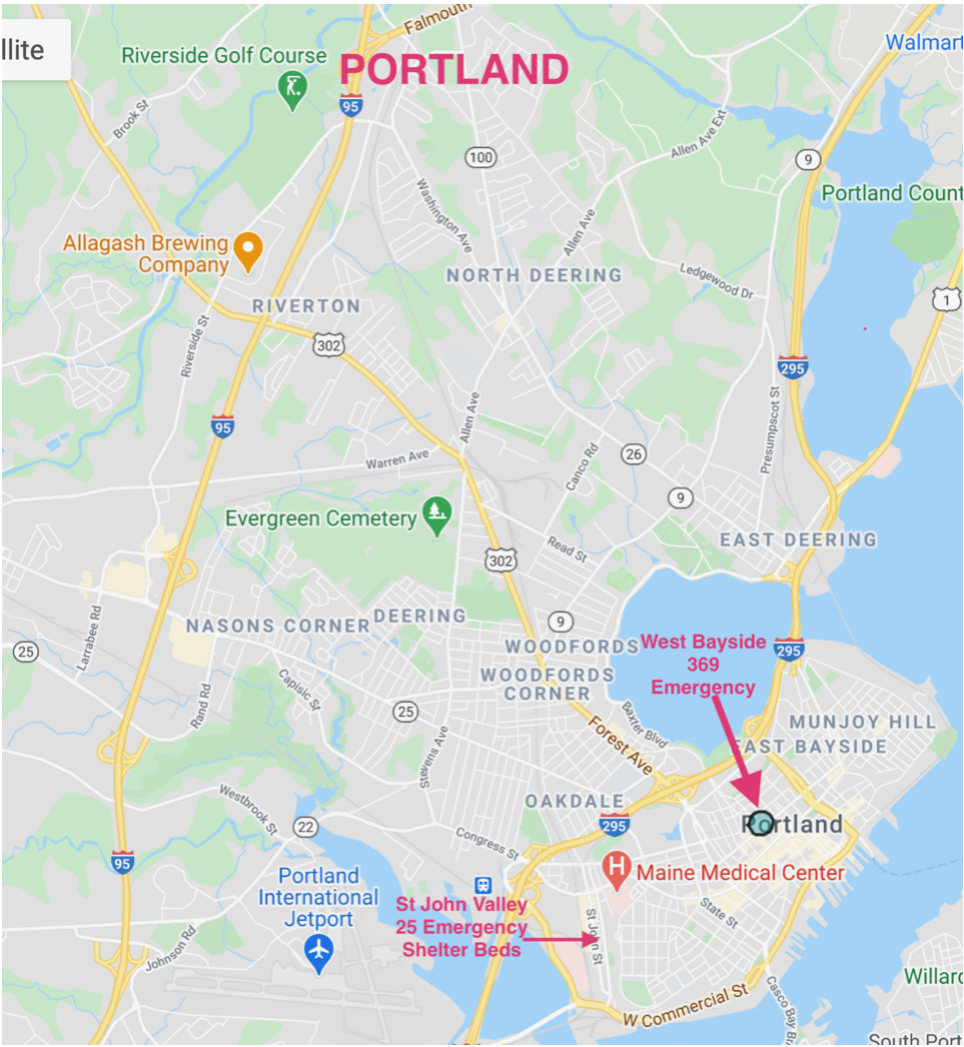
Thank you,

Sarah Michniewicz

Cedar Street, Portland









Adam Harr &lt;ash@portlandmaine.gov&gt;

## Fwd: FW: ESAC votes unanimously on Shelter Licensing ordinance

2 messages

**Aaron Geyer** <aeg@portlandmaine.gov>  
To: "Harr, Adam" <ash@portlandmaine.gov>

Tue, Mar 9, 2021 at 3:34 PM

----- Forwarded message -----

From: hvj <hvj@preblestreet.org>  
Date: Tue, Mar 9, 2021 at 1:24 PM  
Subject: FW: ESAC votes unanimously on Shelter Licensing ordinance  
To: Anna Brewer <abrewer@preblestreet.org>, Aaron Geyer (aeg@portlandmaine.gov) <aeg@portlandmaine.gov>, amy@portlandmaine.com <amy@portlandmaine.com>, billhj5659 <billhj5659@yahoo.com>, Benjamin Martineau <bmartineau0613@gmail.com>, briant@amistadmaine.org <briant@amistadmaine.org>, bstrick@spurwink.org <bstrick@spurwink.org>, Cullen Ryan <cullen@chomhousing.org>, Deb Ibonwa <dibonwa@mejp.org>, Donna Yellen <dyellen@preblestreet.org>, ejackson@greaterportlandhealth.org <ejackson@greaterportlandhealth.org>, Frank D'Alessandro <frank@mejp.org>, Jim Devine <jameswdevine@yahoo.com>, Jennifer S <jennys@throughtheseddoors.org>, Joseph McNally <jmcnally@milestone-recovery.org>, Mary Cook <mary.cook@opportunityalliance.org>, Mary Beth Twomey <marybeth.twomey@opportunityalliance.org>, Mark Swann <Mswann@preblestreet.org>, Norman Maze <NMaze@shalomhouseinc.org>, Oliver Bradeen <obradeen@milestone-recovery.org>, Peter McLaughlin <pretty.purgatory.records@gmail.com>, rebeccah@throughtheseddoors.org <rebeccah@throughtheseddoors.org>, Rob Liscord <rliscord@mejp.org>, Sydney Avitia-Jacques <s.avitia.jacques@gmail.com>, Vickey Rand <vickey@chomhousing.org>, meredithp@amistadmaine.org <meredithp@amistadmaine.org>, Dan Coyne <dcoyne@unitedwaygp.org>, Jess Falero <wanderingpoet97@gmail.com>

Hello ESAC members,

Below is the email sent to the members of the HHS Committee, and attached is the final letter on ESAC letterhead.

**From:** hvj  
**Sent:** Tuesday, March 9, 2021 1:11 PM  
**To:** tchong@portlandmaine.gov; Belinda Ray <bsr@portlandmaine.gov>; Mark Dion <mdion@portlandmaine.gov>  
**Subject:** ESAC votes unanimously on Shelter Licensing ordinance

Good afternoon Chairperson Chong, Counselor Ray and Councilor Dion,

Please consider this urgent request from Portland's Emergency Shelter Assessment Committee (ESAC) recommending you vote against the proposed shelter licensing regulations. ESAC has gathered twice during the last week, discussing this issue for hours in depth. The vote was unanimous, with two abstaining votes.

As a collaboration of more than 15 organizations of homeless service providers, funders and people with lived experience that have expertise and many collective years of experience in addressing shelter needs in Portland, this position is telling. Please read the attached letter. Thank you for your consideration.

On behalf of ESAC,

Jim Devine, Homeless Voices for Justice

--

Aaron Geyer  
Director of Social Services  
[City of Portland](#)  
[196 Lancaster Street](#)  
Portland, ME 04101  
(207) 482-5131

[aeg@portlandmaine.gov](mailto:aeg@portlandmaine.gov)

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient (s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient(s), please contact me by reply email and destroy/delete all copies of the original message. Thank you for your assistance.



**ESAC Letter on Shelter Licensing.pdf**  
111K

---

**Belinda Ray** <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>  
To: Adam Harr <[ash@portlandmaine.gov](mailto:ash@portlandmaine.gov)>

Mon, Mar 15, 2021 at 11:58 AM

Belinda S. Ray (*she / her / hers*)  
City Council, District 1  
[389 Congress Street](#)  
Portland, ME 04101  
[BSR@portlandmaine.gov](mailto:BSR@portlandmaine.gov)

Sign up for [my newsletter](#) or visit [my blog](#)!

Please Note: Under Maine law, emails sent or received by public officials or city employees may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

[Quoted text hidden]



**ESAC Letter on Shelter Licensing.pdf**  
111K

## ***Emergency Shelter Assessment Committee***

**To:** Portland City Council Health and Human Services and Public Safety Committee

**From:** Portland's Emergency Shelter Assessment Committee

**Date:** March 9, 2021

**Re:** Shelter Licensing

---

The Emergency Shelter Assessment Committee was formed in 1987 to monitor and respond to the homeless emergency shelter needs of the City of Portland. It has diligently continued this mission ever since.

ESAC has voted unanimously to oppose the proposed shelter licensing regulations for homeless shelters.

ESAC and its membership are happy to work with city leaders to address any concerns or issues that the licensing regulations aimed to address.

The overarching concern with the shelter licensing regulations are that they will work in direct opposition to what the City has been dedicated to since 1987, when the City Manager made a decree that no one shall be homeless and unsheltered in the City of Portland, and that homeless shelters will be commensurate with need to ensure the safety and wellbeing of people experiencing homelessness. This ordinance has three primary flaws:

1. It demonizes people who experience homelessness rather than supports their needs. It does this by representing them as criminals rather than people facing circumstances beyond their control, including inability to afford housing, mental illness, substance use disorder, being victims of domestic violence, or being temporarily or permanently unable to live with parents/family (unaccompanied youth).
2. It arbitrarily limits the amount of homeless resources based on geography rather than need. It does this by declaring limits on the number of people experiencing homelessness served within a square mile or other measures and it does this in a way that is discriminatory.
3. It offers grandfathering that diminishes the current homeless response, while handicapping future response, ignoring the patterns the City of Portland has seen with unmet homelessness demand, and putting homeless emergency shelter providers in an ultimately failing position to deliver emergency services as needed by the City.

All three of these will expose the City to a failed response to homelessness leading directly to homeless encampments – something counterproductive to the City and counterproductive to efforts to end homelessness.

We are dismayed that the proposed shelter licensing regulations are silent on efficiently, effectively, and ethically meeting the needs of people experiencing homelessness. They instead focused solely on how to manage a misperceived threat of people maligned and ostracized for experiencing the circumstances of homelessness.

We urge the City's Health and Human Services and Public Safety Committee to immediately terminate this proposed ordinance. We urge the City's Health and Human Services and Public Safety Committee to instead undertake efforts to meet with professional homeless service providers to develop strategies to directly and precisely address any concerns experienced by the City and its residents. The proposed ordinance would undo current efforts to end and prevent homelessness, and it would do so cruelly amid a pandemic, at a time where just last week four people experiencing homelessness died due to shelter occupancy limitations caused by a COVID-19 outbreak.

Please terminate this ordinance immediately and allow us to ensure people have safe access to emergency shelter in the City of Portland. Please help us end homelessness rather than exacerbate it.

*A Collaborative of Services Providers, Consumer Groups, and Health & Human Services Agencies whose Primary Objective is to Ensure the Safety and Well-Being of Portland's Homeless.*



Adam Harr &lt;ash@portlandmaine.gov&gt;

## Fwd: Fw: New Homeless Shelter Licensing Standards - Legal Application and Critical Role

1 message

**Belinda Ray** <bsr@portlandmaine.gov>  
To: Adam Harr <ash@portlandmaine.gov>

Mon, Mar 15, 2021 at 12:03 PM

Belinda S. Ray (*she / her / hers*)  
City Council, District 1  
[389 Congress Street](#)  
[Portland, ME 04101](#)  
[BSR@portlandmaine.gov](mailto:BSR@portlandmaine.gov)

Sign up for [my newsletter](#) or visit [my blog](#)!

Please Note: Under Maine law, emails sent or received by public officials or city employees may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

----- Forwarded message -----

From: **Laura S. Underkuffler** <[lu27@cornell.edu](mailto:lu27@cornell.edu)>  
Date: Mon, Mar 8, 2021 at 12:08 PM  
Subject: Fw: New Homeless Shelter Licensing Standards - Legal Application and Critical Role  
To: Belinda Ray <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>

Hi Belinda, I used the wrong email for you! I am sorry - here is the email I previously sent. Thank you, Laura

**From:** Laura S. Underkuffler  
**Sent:** Monday, March 8, 2021 5:06 AM  
**To:** [tchong@portlandmaine.gov](mailto:tchong@portlandmaine.gov) <[tchong@portlandmaine.gov](mailto:tchong@portlandmaine.gov)>; [mdion@portlandmaine.gov](mailto:mdion@portlandmaine.gov) <[mdion@portlandmaine.gov](mailto:mdion@portlandmaine.gov)>; [bray@portlandmaine.gov](mailto:bray@portlandmaine.gov) <[bray@portlandmaine.gov](mailto:bray@portlandmaine.gov)>  
**Cc:** [dwchuhta@portlandmaine.gov](mailto:dwchuhta@portlandmaine.gov) <[dwchuhta@portlandmaine.gov](mailto:dwchuhta@portlandmaine.gov)>; [kjd@portlandmaine.gov](mailto:kjd@portlandmaine.gov) <[kjd@portlandmaine.gov](mailto:kjd@portlandmaine.gov)>; [cityclerk@portlandmaine.gov](mailto:cityclerk@portlandmaine.gov) <[cityclerk@portlandmaine.gov](mailto:cityclerk@portlandmaine.gov)>  
**Subject:** New Homeless Shelter Licensing Standards - Legal Application and Critical Role

Dear Counselors Chong, Dion, and Ray:

At the last public hearing on the proposed licensing standards for homeless shelters, an attorney for Maine Equal Justice objected to the Committee's decision that new shelters permitted after January 31, 2021 will be subject to the new licensing requirements.

The grounds for this objection were obscure. To the extent that some rationale was articulated, it seemed to be that because shelters in existence as of January 31, 2021 would be exempt from concentration limits, all shelters which can manage to rush to permitting between January 31, 2021 and the date of adoption of the licensing standards should be, as well. The reason given was that somehow this would be "best practice" (of some sort).

This attorney gave no legal reason for this position, because there is none. In Kittery Retail Ventures, LLC v. Town of Kittery (2004), the Maine Supreme Court unequivocally and finally held that a town can apply new regulations to existing uses and projects. Neither the submission of a development application nor the issuance of a development permit establishes vested rights, and neither the submission nor the issuance of a permit prevents a city from applying later-adopted police power regulations to that project.

Indeed, common sense dictates that this must be the case, in order to prevent a notorious problem in land use law. If entities know that proposed requirements are being considered by a city (which they always will because of public hearing requirements for any change), and (under the law) they are exempt from those new requirements if an application is made or a permit obtained, they can repeatedly defeat the city's attempt at regulation. There are two ways to deal with this problem: for the city to put everyone on notice that all applications after a certain date will be subject to the new regulations (as done here), or for the city to declare a moratorium pending adoption of the new regulations. Either avenue is expressly permitted by Maine law, as stated in the Kittery case.

The reason is this. Prohibitions against retroactivity exist to prevent unfairness to project applicants who have invested large sums of money in reliance on the absence of existing regulations, who have no notice of the pending change in the law. Where this substantial investment occurred before any notice of the pending change was given to the public, the developer could legitimately claim surprise and unfairness. (Thus the common law rule, in all states, that "vested rights" (and exemption from regulatory change) require *both* permitting *and* substantial construction.) However, where -- as here -- any applicant for a new homeless shelter is now aware of the pending adoption of licensing standards, any claim of "surprise" or "unfairness" is specious.

Indeed, if applicants could subvert new regulations every time by rushing to file permit applications before the public processes -- necessary for any adoption of new regulations -- are completed, a city would -- by definition -- be powerless to maintain any status quo while the public adoption processes finish.

Murmurings about "best practices" does not change these fundamental rules.

There is an odd twist to this attorney's remarks that I also want to address. It was stated that any licensing should focus on the health and wellbeing of people in the homeless shelters in question, and (impliedly) that consideration of impacts on others are illegitimate. What this kind of thinking ignores is that *all of us are in this together*. City government and its police power do not exist only to protect one segment of the public; they exist to represent the interests of all. Homeless shelters can exist in harmony with neighbors, as some exemplary homeless shelters now operating in Portland prove. Licensing requirements -- as now exist in other Maine cities -- are critical to the creation and maintenance of homeless shelter operations that protect *both* the homeless populations (as opposed to the criminal elements that are attracted to them) and the residential neighbors (generally low-income) that live there.

We have lived at 215 Oxford Street for 13 years. We have employed -- sometimes for years -- people who stayed at the OSS, and become lasting friends with them. I can tell you that they don't want to live in crowded and dangerous conditions, with a gauntlet of drug dealers on the street outside, any more than we do. They don't want to be relegated to sitting on curbs and parking lot barriers, or in a tiny courtyard mere feet from the street -- and being gawked at by people in passing cars. In short, they don't want to be relegated to the kind of place that the "West Bayside ghetto" has become, any more than those who are trying to scratch out an existence living in West Bayside want to live in those conditions.

The City must get control of this homeless situation, for everyone, and on multiple levels. These licensing standards are a tremendous step forward. For the first time, the City will have the legal authority to control

shelter operations and locations for the good of the homeless population and other city residents. Thank you for taking this very critical and important step.

Sincerely,

Laura Underkuffler  
215 Oxford Street

Work:  
J. DuPratt White Professor of Law - Property and Land Use  
Cornell University



Adam Harr &lt;ash@portlandmaine.gov&gt;

## Fwd: HHS & PS Committee meeting

1 message

**Belinda Ray** <bsr@portlandmaine.gov>  
To: Adam Harr <ash@portlandmaine.gov>

Mon, Mar 15, 2021 at 12:03 PM

Belinda S. Ray (*she / her / hers*)  
City Council, District 1  
[389 Congress Street](#)  
Portland, ME 04101  
[BSR@portlandmaine.gov](mailto:BSR@portlandmaine.gov)

Sign up for [my newsletter](#) or visit [my blog](#)!

Please Note: Under Maine law, emails sent or received by public officials or city employees may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

----- Forwarded message -----

From: **K. Scott Morrison** <[kscottmorrison2@gmail.com](mailto:kscottmorrison2@gmail.com)>  
Date: Mon, Mar 8, 2021 at 11:00 AM  
Subject: HHS & PS Committee meeting  
To: <[tchong@portlandmaine.gov](mailto:tchong@portlandmaine.gov)>, <[mdion@portlandmaine.gov](mailto:mdion@portlandmaine.gov)>, <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>  
Cc: <[knyder@portlandmaine.gov](mailto:knyder@portlandmaine.gov)>, <[sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov)>, <[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)>, <[pali@portlandmaine.gov](mailto:pali@portlandmaine.gov)>, <[azarro@portlandmaine.gov](mailto:azarro@portlandmaine.gov)>, <[afournier@portlandmaine.gov](mailto:afournier@portlandmaine.gov)>, <[cityclerk@portlandmaine.gov](mailto:cityclerk@portlandmaine.gov)>

Good day HHS/PS city council committee members,

We've been following with significant interest your work on shelter licensing and small shelter zoning. From our perspective as 11 year Parris Street residents, shelter licensing and zoning is seriously needed and long overdue.

Your draft recommendations affirm our thoughts that the Bayside neighborhood has unfairly become the default Portland neighborhood for shelters and social services. Recommendations for a reasonable 2,500 foot spacing between facilities, and a buffer of no more than 250 beds within a 1 mile radius, are fair to neighborhoods as well as to recipients of shelter services. The recommendation that all shelters have adequate space for people to stay off the street during the day is essential for neighborhood safety.

While you continue your work we request the city council immediately enact a **moratorium** on allowing additional shelters in Bayside. Recent news that the city of Scarborough opened a new shelter managed by our Preble Street Inc. neighbors clearly demonstrates that new shelters can be established outside of Bayside. A moratorium in Bayside will help direct providers to consider other neighborhoods as locations for any needed shelter expansion or relocation. Given the statistics from our Oxford Street shelter, that upwards of 2/3 of that shelter's residents come from outside Portland, it is encouraging to hear that another municipality shares in providing shelter services.

Thank you again for your work and service to our city.

Best regards,

K. Scott and Mary Beth Morrison  
[9 Parris St.](#)



Adam Harr &lt;ash@portlandmaine.gov&gt;

## Fwd: Shelter Licensing & Zoning

1 message

**Belinda Ray** <bsr@portlandmaine.gov>  
 To: Adam Harr <ash@portlandmaine.gov>

Mon, Mar 15, 2021 at 11:58 AM

Belinda S. Ray (*she / her / hers*)  
 City Council, District 1  
 389 Congress Street  
 Portland, ME 04101  
[BSR@portlandmaine.gov](mailto:BSR@portlandmaine.gov)

Sign up for [my newsletter](#) or visit [my blog](#)!

Please Note: Under Maine law, emails sent or received by public officials or city employees may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

----- Forwarded message -----

From: **Jim Hall** <[mtjimhall@gmail.com](mailto:mtjimhall@gmail.com)>

Date: Sun, Mar 7, 2021 at 10:12 PM

Subject: Re: Shelter Licensing & Zoning

To: Tae Chong <[tchong@portlandmaine.gov](mailto:tchong@portlandmaine.gov)>, Belinda Ray <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>, Mark Dion <[mdion@portlandmaine.gov](mailto:mdion@portlandmaine.gov)>

Cc: Kate Snyder <[ksnyder@portlandmaine.gov](mailto:ksnyder@portlandmaine.gov)>, Nicholas Mavodones <[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)>, Pious Ail <[pali@portlandmaine.gov](mailto:pali@portlandmaine.gov)>, April Fournier <[afournier@portlandmaine.gov](mailto:afournier@portlandmaine.gov)>, Spencer Thibodeau <[sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov)>, Andrew Zarro <[azarro@portlandmaine.gov](mailto:azarro@portlandmaine.gov)>, Jon Jennings <[jjp@portlandmaine.gov](mailto:jjp@portlandmaine.gov)>, Kristen Dow <[kjd@portlandmaine.gov](mailto:kjd@portlandmaine.gov)>, Christine Grimando <[cdg@portlandmaine.gov](mailto:cdg@portlandmaine.gov)>, Jessica Hanscombe <[jhanscombe@portlandmaine.gov](mailto:jhanscombe@portlandmaine.gov)>, Frank Clark <[fclark@portlandmaine.gov](mailto:fclark@portlandmaine.gov)>, Rich Bianculli <[richb@portlandmaine.gov](mailto:richb@portlandmaine.gov)>, Jonathan Sahrbeck <[sahrbeck@cumberlandcounty.org](mailto:sahrbeck@cumberlandcounty.org)>, <[cityclerk@portlandmaine.gov](mailto:cityclerk@portlandmaine.gov)>

Dear HSSPS Chair Chong, Councilors Ray and Dion,

Re: Shelter Licensing & Zoning

Thanks for continuing to prioritize management of the emergency system Portland provides for the region. I'm glad to see baby steps toward county participation in their allocation of federal funds for a resettlement coordinator. And I'd like to applaud the ways staff are clearly taking to heart the public desire for better engagement and transparency, without creating inordinate delay.

Previously I've made blanket statements on the need for proactive community protections, but considering good actors like Milestone and Through These Doors, I now feel that licensing instead needs to include strong mechanisms to detect and control any specific cases where the operator needs to be compelled to respect their neighbors. It's clearly possible to manage a shelter without pissing off your community. The city shelter has also demonstrated that an honest partner can improve relations after letting impacts get out of hand. But not all actors in this space behave appropriately of their own accord.

I urge the HSSPS committee to recommend a narrow moratorium on new Bayside shelters in particular. The Bayside neighborhood needs more targeted protection than licensing can provide, and requires active healing medicine, not just passive "organic" growth. The so-called neighborhood vision of 20 years ago died on the vine, and this neighborhood is frankly still being abused. Was it right to cram the latest new, permanent emergency shelter into Bayside? Well, it technically met code, and apparently wider neighborhood context is out of scope for reviewing authorities. That leaves the city council as the only body that can produce any kind of holistic oversight.

As to more specific licensing solutions:

- Please consider a sunset provision for grandfathered operations. You've arrived at best practices with thorough research and collaboration, and it would be negligent to allow non-compliance in perpetuity just because a shelter already set up shop.
- The narrative that the proposed licensing language is too focused on neighbors is ridiculous. In the "Requirements" section (h)(vii)(6) is more explicit about internal emergency response than anything to do with community protections. The city shelter's own management model secures residential streets in an appropriate radius, and I'd like to see an explicit requirement to require this at other shelters when necessary. The phrase "around the facility" in (h)(vii)(5) appears similar to conditional use language denoting impact on "surrounding properties", which both planning and zoning have said limits their scope of consideration to abutting buildings, not overall neighborhood impacts. That wider context matters and must be considered at some stage.
- "Review Procedures" (c), (d) and (f) describe protocols only when the City Council reviews; shouldn't these include Permitting and Inspections as well?
- The current language regarding waivers for separate day space could effectively double the number of allowable shelters in a given buffer, and re-create the kind of neighborhood foot traffic that has proved so disastrous in Bayside.
- Removing metro proximity is an improvement that allows for creative strategies to help guests utilize transit in additional areas.
- Please define the domestic violence waiver better. Surely someone must review site plans, safe bed counts and such. The current language appears to give permission to site new shelters without allowing any determination of appropriate facilities. A clause calling for something like executive session seems more appropriate than an outright exemption.
- There are areas where code still needs rationalizing between shelter-specific conditional use standards and licensing. Some examples:
  - Sight-line requirements in conditional use would disallow a dorm/apartment style layout, but it's mentioned twice in licensing.
  - Buffers and densities should be described in shelter conditional use standards (e.g. see ch.14–6.5.6.K.1)
  - Conditional standards still include the loophole allowing zero day space within 1/4 mile of metro.
  - A specific amendment to January's conditional use approval required an advisory panel, and the approved plan included a 24-hour abutter hotline – while licensing requires a named community liaison – all good ideas, but not consistently applied.
  - Some conditional use requirements need clearer definition – for instance what constitutes adequate central office, sight-lines, onsite services & amenities, and day space. Preble Street's 5 Portland Street shelter was allowed to invent definitions that fit their plans, not the other way around, so it seems the current code doesn't produce the intended governance outcome. (... etc...)

I'll close by saying I'm proud of the way this city takes on more than our share when we see a regional problem that needs fixing. I'm grateful for specific attempts to correct previous failures of governance. And I can see that the HHSPS committee is committed to getting this right, and doing so in as timely a manner as possible.

Thanks,  
Jim Hall  
Cedar St

On Feb 8, 2021, at 9:45 PM, Jim Hall <[mtjimhall@gmail.com](mailto:mtjimhall@gmail.com)> wrote:

To HSSPS Chair Chong, Councilors Ray and Dion,

Re: Shelter Licensing

Thank you for continuing to prioritize emergency shelter management. I'm glad to see some urgency now to complete the city's toolkit for overseeing this type of important but high-impact use.

After looking at the proposed ordinance, I have some concerns, comments, questions. I've attached a "redline" version I put together comparing last month's draft since one was not provided.

- **RENEWAL:** Under "Expiration Date"—Is "July 1" an example date, or intended as the actual ordinance (i.e. indicating that all shelters must renew by July 1st each year)? The first draft spelled out "Twelve Months" expiration. Please ensure that code does explicitly require yearly renewal.
- **PUBLIC HEARING:** Please consider requiring public hearing on renewal, not just initial application.
- **TIMING:** There are currently two dates affecting grandfathered locations – in "Licensing Requirements" (b) and "Performance Standards" (f) & (g). My reading is that a shelter use with all permits in hand as of Jan 31 but not technically "*in operation*" as of the effective date would simply need to obtain its initial license at a future date before they could begin operating. Please just make sure there's no loophole created.
- **GRANDFATHERING:** Some but not all of the language regarding shelter-specific conditional use standards is duplicated in this licensing ordinance ("management plan" etc) – but some existing shelters will have other requirements waived (e.g. to provide central office, sight lines, onsite services & amenities). I ask you to ensure that all relevant *operational* requirements *are* applied, even to grandfathered locations.
- **SUNSET:** Please consider a "sunset" for grandfathering, giving prior operations something like 5-10 years to meet ALL conditional use and licensing standards, else relocate to make all code requirements possible. There should not be an option for an inadequate facility to continue operating in perpetuity.
- **ZONING:** It would be appropriate at this time to openly acknowledge that the city is allowing (and operating) illegally zoned shelters, and lay out exactly how / when those need to come up to code.

- **AMENDMENTS:** Last month's planning approval for 5 Portland Street added several amendments creating additional conditions to the permit. and it's worth considering which of these should actually be permanent conditions. Some portion of code should definitely require a maximum allowable capacity both in terms of persons served and space used to be *set in writing*. Most of the monitoring metrics suggested by DHHS have been included in this licensing proposal, which makes conditional use language outdated.
- **ADVISORY PANEL:** This licensing proposal includes a requirement to meet monthly with neighbors – but an advisory panel with a broader array of stakeholders is a more beneficial forum. We have evidence that mere attendance at neighborhood meetings is not adequate to resolving concerns.
- **PUBLIC REPORTS:** There should be a requirement that monitoring reports be made publicly available on the operator's website.
- **CODE LANGUAGE:** I am of the opinion that the approved management plan for 5 Portland did not adequately meet code requirements in several ways - no centralized office; staff workstations will not provide sight lines to all sleeping areas; the only services actually offered "on site" will be case management and housing assistance; there is not a kitchen or pantry "for guests" (only separate production operations that will deliver meals); etc etc... Please consider whether that language needs to be clarified to better instruct the reviewing body as to intention of the law, or to spell out minimum allowable thresholds.
- **DAY SPACE:** Requirements for indoor day space should be tightened up. The current conditional use language has been copied to this licensing proposal, allowing shelters within 1/4 mile of a METRO line to ignore the need for day shelter space. Shelters with no day space force clients out into the neighborhood, and are not considered a best practice. Please consider striking the "*within 1/4 mile OR*" clause entirely – i.e. simply require all new emergency shelters to be located within 1/2 mile of metro AND provide day space AND draw up transit strategies. This is better for clients and for neighborhoods.
- **COMMUNITY PROTECTIONS:** The community must be ACTIVELY protected. Waiting for renewal to count complaints against an unspecified threshold next year is not enough. The proposed licensing language does at least mention things like "security plan", and reducing crime "around" the facility. Please explicitly require *preemptive prevention* of the right kind of neighborhood impacts, not just vague review of an undefined security plan. The proposed licensing language clearly lists many explicit requirements for *internal* safety – it needs to also include equally explicit *community* safety requirements. Please require active mitigation of known community impacts. This is especially important given the overall plan to expand small shelter zoning, which may site future emergency shelters in close proximity to residential homes.
- **THRESHOLDS:** The language around department review removed any mention of appropriate number of calls for service, public safety hazard, or life safety – despite requests from councilors to provide more definition in these areas. In my opinion this can and should operate similarly to the existing "disorderly house" ordinance. Please determine what a reasonable threshold is, enforce penalties, require oversight when necessary, and ultimately revoke the license if a shelter is unable to operate safely at the given location and capacity.

- **SUB-POPULATION:** I'm glad to see applicants will be required to describe the intended population. This language should be stronger to align with city policy and plans. Please require that intake *only* be allowed via the city's central system. I would also suggest any proposed shelter prove it will fill a gap in the existing system. Emergency shelter should not be a "competitive" business; all parties must submit to the fact that this municipality is overseeing a complex system, and has the right and responsibility to manage it appropriately.
- **STANDARDS:** This licensing proposal includes items such as requirements for crime prevention by environmental design; community relations liaison; emergency contact; emergency response protocols, etc. – which need to be included in the conditional use standards.
- **INSPECTIONS:** Last month's minutes show councilors requested that inspections should happen more than twice a year, and that there should be a method of overseeing city operations, but the new language doesn't describe this. Please consider filling this in.
- **ENFORCEMENT:** Generally, this city needs to correct course from a history of failure to actively enforce existing laws surrounding homeless services. Chapter 15.8 is largely reactive unless there is immediate danger of irrevocable harm (I would submit that in many ways irrevocable harm has already been created in the Bayside Neighborhood). The more explicit licensing can be about ways that applicants must *reduce and prevent* known adverse effects, the better.

I'm very hopeful that the full council will soon pass really strong and durable licensing that protects everyone involved – clients, staff, and the host community. I'm also hopeful that the current council & city staff may find ways to encourage other municipalities, regional bodies, the state, and even federal actors, to participate more actively. Many thanks to you and everyone in this city who goes above and beyond to provide regional services, and to ensure they are managed well.

Sincerely,  
Jim Hall  
Cedar St Portland

<Shelter Licensing - ANNOTATED.pdf>



Adam Harr &lt;ash@portlandmaine.gov&gt;

## Fwd: Shelter licensing

1 message

**Belinda Ray** <bsr@portlandmaine.gov>  
 To: Adam Harr <ash@portlandmaine.gov>

Mon, Mar 15, 2021 at 11:59 AM

Belinda S. Ray (*she / her / hers*)  
 City Council, District 1  
 389 Congress Street  
 Portland, ME 04101  
[BSR@portlandmaine.gov](mailto:BSR@portlandmaine.gov)

Sign up for [my newsletter](#) or visit [my blog](#)!

Please Note: Under Maine law, emails sent or received by public officials or city employees may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

----- Forwarded message -----

From: **Carolyn Megan** <[carolynmegan@gmail.com](mailto:carolynmegan@gmail.com)>

Date: Tue, Mar 9, 2021 at 11:21 AM

Subject: Shelter licensing

To: Tae Chong <[tchong@portlandmaine.gov](mailto:tchong@portlandmaine.gov)>, <[mdion@portlandmaine.gov](mailto:mdion@portlandmaine.gov)>, Belinda Ray <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>, Spencer Thibodeau <[sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov)>, Ali Pious <[pali@portlandmaine.gov](mailto:pali@portlandmaine.gov)>, Nicholas Mavodones <[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)>, <[afournier@portlandmaine.gov](mailto:afournier@portlandmaine.gov)>, <[azarro@portlandmaine.gov](mailto:azarro@portlandmaine.gov)>, Jon Jennings <[jjp@portlandmaine.gov](mailto:jjp@portlandmaine.gov)>, Frank Clark <[fclark@portlandmaine.gov](mailto:fclark@portlandmaine.gov)>, Kristen Dow <[kjd@portlandmaine.gov](mailto:kjd@portlandmaine.gov)>, Kate Snyder <[ksnyder@portlandmaine.gov](mailto:ksnyder@portlandmaine.gov)>

Dear Councilors Chong, Dion and Ray:

Thank you for the time and care you have brought to the discussion of licensing shelters in Portland. This work and conversation is long overdue and is crucial for the well-being of both shelters and the neighborhoods in which they are situated. As there is no recourse for residents to be heard in expressing concerns about shelters' impact on neighborhoods, your work is timely and much needed. Additionally, the work underscores the larger visioning for how the city as whole - each neighborhood - can address issues of homelessness.

As an extension of this work, I ask that you urge the City Council to place a moratorium on any new shelters in Bayside until the city can best address Portland's shelter system as a whole.

No doubt there are difficult conversations ahead but this work is a good first start.

Thank you,  
 Carolyn Megan



Adam Harr &lt;ash@portlandmaine.gov&gt;

## Fwd: tonight's discussion - emergency shelter licensing

1 message

**Belinda Ray** <bsr@portlandmaine.gov>  
 To: Adam Harr <ash@portlandmaine.gov>

Mon, Mar 15, 2021 at 11:59 AM

Belinda S. Ray (*she / her / hers*)  
 City Council, District 1  
 389 Congress Street  
 Portland, ME 04101  
[BSR@portlandmaine.gov](mailto:BSR@portlandmaine.gov)

Sign up for [my newsletter](#) or visit [my blog](#)!

Please Note: Under Maine law, emails sent or received by public officials or city employees may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

----- Forwarded message -----

From: **Heidi Souerwine** <[heidi.souerwine@gmail.com](mailto:heidi.souerwine@gmail.com)>

Date: Tue, Mar 9, 2021 at 3:54 PM

Subject: tonight's discussion - emergency shelter licensing

To: Tae Chong <[tchong@portlandmaine.gov](mailto:tchong@portlandmaine.gov)>, <[mdion@portlandmaine.gov](mailto:mdion@portlandmaine.gov)>, Belinda Ray <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>

Cc: Kate Snyder <[ksnyder@portlandmaine.gov](mailto:ksnyder@portlandmaine.gov)>, Spencer Thibodeau <[sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov)>, Ali Pious <[pali@portlandmaine.gov](mailto:pali@portlandmaine.gov)>, Nicholas Mavodones <[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)>, <[afournier@portlandmaine.gov](mailto:afournier@portlandmaine.gov)>, <[azarro@portlandmaine.gov](mailto:azarro@portlandmaine.gov)>, Jon Jennings <[jpj@portlandmaine.gov](mailto:jpj@portlandmaine.gov)>, Frank Clark <[fclark@portlandmaine.gov](mailto:fclark@portlandmaine.gov)>, Kristen Dow <[kjd@portlandmaine.gov](mailto:kjd@portlandmaine.gov)>

Dear HHS Committee members and Councilors,

Thank you for the continued discussion, consideration of, and movement forward on our city's shelter regulations. I've been encouraged by thoughtful questions during the committee's dialogue on this topic over the past several months. It's complicated, and I know these topics are especially challenging in our current climate, so I thank you for your continued engagement, and desire for alignment.

I write in support of the more thoughtful shelter licensing and zoning policies under discussion. I think these policies help move away from the dense concentration of social services that has neither benefited individuals experiencing homelessness, nor the neighbors who wish to be in community with them.

I encourage you to take action on shelter licensing at the meeting tomorrow, and send it to the full Council. In the documents posted online I see many things I support that will be crucial to building public understanding and support for shelters around our city, and, are normal parts of licensing and zoning regulations:

1. a buffer of no more than 250 beds within a 1 mile radius.
2. spacing of 2500 feet between facilities.
3. requirement that all shelters must have adequate space for people ONSITE to be able to stay off the street during the day.
  1. I see waivers have been suggested, and I would STRONGLY recommend finding a way to limit those. Otherwise, we're setting up a scenario of ping-ponging vulnerable people between spaces, again, which goes against best practices to serve these individuals and help them overcome permanent homelessness.

However, there's one thing I don't see yet that is CRITICAL: strict rules preventing institutions from undermining this process and skirting the policies in progress:

**a moratorium on any new shelters in Bayside.**

Why is this so important? As you all know, one shelter has already been added to Bayside, bringing our tiny half of this neighborhood up to 451 beds within the suggested 1 mile radius. That's almost as many beds OVER (201) the suggested maximum of 250.

The City was able to do something similar for development in Munjoy Hill. Doing so right can only help you, our Council, serve our City better in making sound, thoughtful policy decisions by looking at a complete picture, absent of counterproductive pieces running in parallel.

If the City staff are recommending that before further action is taken, [outreach](#) should be conducted with neighborhood associations and shelter providers to get feedback and information (GREAT idea, wish our neighborhood had this), AND they are also recommending [community surveys](#) be conducted to hear what people think about small shelter zoning, allowing other things to proceed in tandem will undermine these efforts. and the transparency I know you all strive for.

Thank you for your diligent work, and I look forward to the discussion this evening.

Heidi Souerwine  
Mechanic St.



## CITY OF PORTLAND

### Planning & Urban Development Christine Grimando, AICP, Director

To: Chair Chong and members of the Health & Human Services and Public Safety Committee

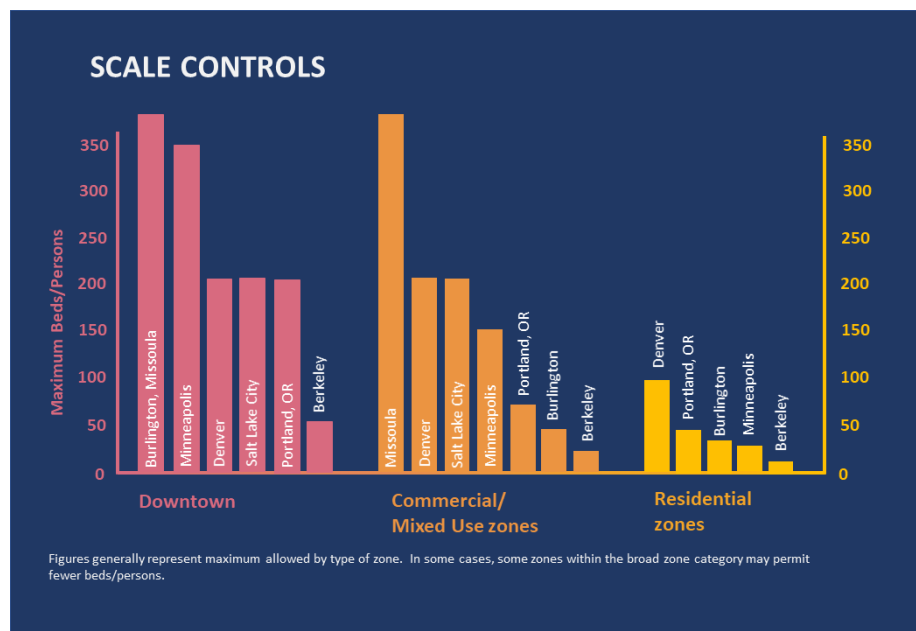
From: Christine Grimando, Director, Planning & Urban Development Department

Date: March 4, 2021

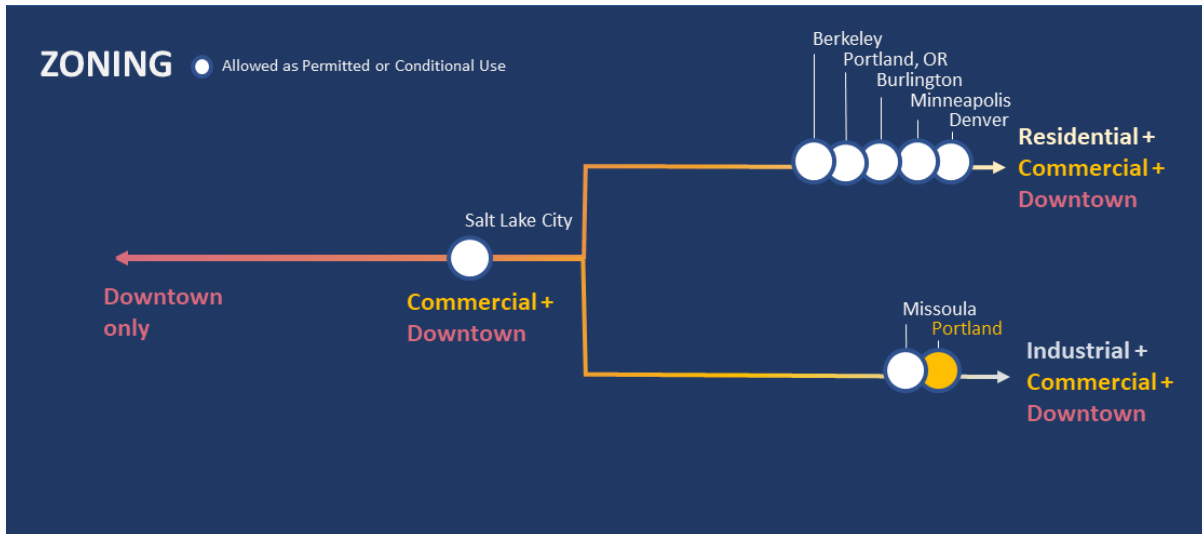
RE: Shelter Zoning Update

At the March 9<sup>th</sup> Health & Human Services and Public Safety Committee meeting, Planning staff will present an update on the small shelter zoning initiative. Since summer 2020, Planning has come before the Committee on the topic of shelter zoning three times. The first, in July, presented an overview of the 2017 shelter zoning amendments that were implemented and are currently in place, as well as the status of where a proposal for small shelter zoning amendments left off that same year. The second, in September, focused on a more in-depth evaluation of the draft small shelter zoning ordinance that had not been implemented, with an evaluation of the draft zoning.

The third, in January of this year, included a brief summary of best practice findings from elsewhere, and a recommendation for additional community outreach. Though it is common practice for us to engage in public outreach for significant policy initiatives, this particular recommendation was made in part because a robust public outreach process is one of the features that marks successful new shelter



development in other communities, as integral to the process as considerations of location, size, or operations. We also recognize the intense amount of community interest in the topic so far.



Prior memos and attachments can be accessed at the links below:

July 2020. <https://portlandme.civicclerk.com/Web/Player.aspx?id=1418&key=-1&mod=-1&mk=-1&nov=0>

Sept. 2020. <https://portlandme.civicclerk.com/Web/Player.aspx?id=1408&key=-1&mod=-1&mk=-1&nov=0>

January 2021. <https://portlandme.civicclerk.com/Web/Player.aspx?id=2190&key=-1&mod=-1&mk=-1&nov=0>

At the March 9<sup>th</sup> meeting, Planning will present an overview of the web content we've developed to-date. The platform is Storymap, and the page is still in draft form, but will be imminently ready to go live. It includes background information, summary of findings elsewhere, and visuals on scale, zoning, and management, among others (two sample visuals from the page are inset in the memo) to help communicate the topic. It includes a short survey where people are invited to provide feedback. We look forward to providing an overview of the website and Committee discussion at the Tuesday meeting.