



CITY COUNCIL WORKSHOP

Shelter Licensing Discussion

January 5, 2022
5:00 PM

ZOOM INFORMATION:

This meeting will take place remotely using Zoom.

Virtual meetings are allowed using emergency legislation approved by LD 2167; 1 M.R.S. §403A, that authorizes cities and towns to conduct meetings online. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be uploaded to portlandmaine.gov/livestream the next day.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89160619941?pwd=dkJrM0FkUXBRNmxiVDRVRU1TOHlodz09>
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+13126266799,,89160619941#,,, *971546#

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346 248 7799 or +1 669 900 6833

Webinar ID: 891 6061 9941

Passcode: 971546

International numbers available: <https://us02web.zoom.us/j/89160619941>

AGENDA ITEMS:

Staff Presentation

Council discussion of Shelter Licensing Proposal

ADJOURNMENT:

MEMORANDUM
City Council Agenda Item

FROM:

DATE: January 4, 2022

SUBJECT: Staff Presentation

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Most, but not all enforcement costs will be paid for using licensing fees.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Amendment Chapter 15 Re Emergency Shelter License Requirements 11.1.2021
2. Shelter License Requirements
3. Shelter Spacing (1 Mile) (1)
4. Staff Recommendations on Shelter Licensing
5. Reporting and Operational Requirements Memo April.13.2021
6. Committee Request for Staff Recommendations on Shelter Licensing
7. Sec. 15-8
8. Shelter hypothetical buffers
9. Shelter hypothetical spacing
10. Licensing Examples for Emergency Shelters Memo for November 10 HHS & PS Committee Meeting
11. Shelter Licensing Public Comment
12. HHS Memo (buffers and enforcement)
13. Shelter Licensing June 8 2021 HHSPS

Prepared by:

Date: 01/04/2022

Order 88-21/22

Passage: 7-1 (Zarro) on 11/15/2021

Motion to reconsider: 9-0 on 12/6/2021

Motion to postpone to January 19, 2022: 9-0 on 12/6/2021

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 15**

Re: EMERGENCY SHELTER LICENSE REQUIREMENTS

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

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

Sec. 15-12. Fees and expiration dates.

Sec. 15-12. Fees and expiration dates.

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

Location in Code	Description	Fee	Expiration Date
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. . .

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

Sec. 15-44-46. Reserved.

ARTICLE IV.

15-47. Definitions.

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

15-48. Licensing Requirements.

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

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

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

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

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

15-49. Licensing Authority

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

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

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

15-50. Review Procedures.

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

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

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

(c) Before the City Council issues its decision on an initial or renewal application, the Police Department, Fire Department, Permitting and Inspections Department, and the

Health and Human Services Department shall review the application and recommend to the City Council whether to issue, issue with conditions, or deny the license. The Departments shall review the application for the following standards:

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

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

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

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

15-51. Application Submission Requirements

Each applicant for an Emergency Shelter license shall complete and file an application on the form provided by the City, together with the applicable license fee as well as the following supporting materials:

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

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

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

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

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

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

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

(h) An operations plan describing the following:

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

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

f. Incidents involving violence, serious injuries or death;

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

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

15-52. Performance Standards

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

The Licensee shall comply with all of the following standards:

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

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

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

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

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

(f) The facility must have centralized shelter operations on each level of the emergency shelter providing for sight lines to sleeping areas. However, a pre-existing emergency shelter, as defined in Section 15-56(a) below, shall not be required to

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

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

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

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

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

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

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

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

15-53. Review Process for Domestic Violence Shelters

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

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

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

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

15.54. Enforcement and Penalties

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

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

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

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

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

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

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

15-55. Appeals.

(a) Appeals of the suspension or revocation of a license, or of a notice of violation issued pursuant to this Article, shall be to the City Manager within 30 days .

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

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

15-56. Pre-existing Emergency Shelters

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15-57. Severability

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

15-58. Reasonable Modifications

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

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 individuals experiencing homelessness 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 an emergency shelter within the City without first obtaining a license from the City, except that any emergency shelter in operation as of the effective date of this Article must apply for and receive a license within 90 days of the effective date.
- (c) Burden of proof. The applicant for any license under this Article bears the burden of proving that all qualifications for licensure have been satisfied.
- (d) Current information. Any applicant or licensee must keep all information disclosed in their application current and must notify the City of any change in information within ten business days of any such change.

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

[NEW SECTION]. Licensing Authority

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

[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 to protect the public health, safety, and welfare.
 - (iii) Whether the operations and security plans are more likely than not 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 emergency shelter.
- (b) A corporate supplement form that identifies all owners, officers, members, managers, partners, and/or board members of the Applicant, and their ownership interests, if applicable.
- (c) A description of the population to be served by the shelter.
- (d) A description of the premises for which the license is sought, including a floor plan of the premises.

- (e) The name and contact information for a community relations liaison, who shall be responsible for receiving and responding to inquiries from, and reasonably addressing concerns raised by, members of the public and other individuals.
- (f) The name and contact information for an emergency contact, who shall respond to all non-emergency contacts by the City within 72 hours of contact, and to any emergency contact by the City within two hours of contact.
- (g) Whether the applicant has experience running a shelter in Portland or elsewhere and a description of that shelter, including size, location, and population served.
- (h) An operations plan describing the following:
 - (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;
 - (vi) Controls for resident behavior and noise levels;
 - (vii) Security, safety and protective measures:
 - (1) On-site surveillance;
 - (2) Provisions to provide access to recordings of exterior public ways by city staff upon request;
 - (3) Safety measures;
 - (4) Access restrictions;
 - (5) Environmental design, engineering or procedural measures to reduce crime, loitering and disorder in and around the facility;
 - (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
 - (j) 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 must implement strategies to help residents utilize public transit;
- (e) The facility must provide indoor space to permit shelter guests day shelter.
- (f) The facility must have centralized shelter operations on each level of the emergency shelter providing for sight lines to sleeping areas. However, a pre-existing shelter, as defined in [SECTION] below, shall not be required to meet this requirement, so long as alternative measures are provided to ensure resident safety while sleeping. This requirements shall also not apply to apartment-style shelters.

- (g) The facility must provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, or other programs.
- (h) Maximum Density of Beds. The total bed capacity for individual residents within emergency shelters in the City shall not exceed 300 beds within an 1 mile radius. Distance shall be measured between property lines of the emergency shelters.
- (i) Proximity to Other Facilities. There shall be a 1,000 ft buffer between emergency shelters. Distance shall be measured from the nearest property line of each shelter in a straight line.
- (j) Monitoring Reports. Each shelter shall quarterly file a management report with the Department of Health and Human Services, which shall share the report with the other responsible City agencies, including the Police Department. The report shall contain, at a minimum, the following information:
 - (i) Number of unique individuals served at the shelter
 - (ii) Total number of bednights accessed at the 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 individuals who are defined as having long time stayer status
 - (vi) The average length of stay
 - (vii) Number of housing placements
 - (viii) Record of neighborhood concerns and resolutions
 - (ix) Summary of meetings with individual neighbors, neighborhood associations and businesses
 - (x) 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
 - (xi) Record of police calls for service related to mental health, substance use, crime or other reasons and outcomes
 - (xii) Any additional information requested by the Department of Health and Human Services.
- (k) Shelter management will meet with and communicate monthly with neighbors and other stakeholders, that will include the Police Chief or designee, to prevent and/or respond proactively to public safety and quality of life concerns.

[NEW SECTION] Review Process for Domestic Violence Shelters

- (a) Due to the need for confidentiality for safety reasons, a shelter serving solely survivors of domestic violence may request a waiver of any of the provisions of this 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.

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

- (d) Each day that a violation of this 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.
- (e) 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.
- (f) 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.
- (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]. Pre-existing Shelters

- (a) For purposes of this Section, “pre-existing emergency shelter” shall mean (i) an emergency shelter that, as of January 31, 2021, is lawfully operating with all required permits and approvals; (ii) an emergency shelter that, as of January 31, 2021, has received conditional use approval that has not expired, or (iii) the consolidation of the operations of the Joe Kreisler Teen Shelter at 38 Preble Street and the Preble Street Teen Center at 343 Cumberland into one 24/7 emergency shelter facility for teens at 343 Cumberland Avenue provided that there is no

expansion of the number of individuals served or beds currently provided between the two existing locations.

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

(c) Applicability of bed density requirements in [SECTION] (g):

- (i) A pre-existing emergency shelter's inability to meet the maximum density of beds requirement in [SECTION] (g), shall not operate to disqualify that pre-existing emergency shelter from obtaining a license.
- (ii) However, any expansion of a pre-existing emergency shelter shall be required to meet the maximum density of beds requirement in [SECTION] (g).
- (iii) The number of beds at any pre-existing emergency shelter shall still be counted for purposes of determining whether any proposed new shelter is eligible for licensure.

(d) Applicability of proximity requirements in [SECTION] (h):

- (i) A pre-existing emergency shelter's inability to meet the proximity to **other facilities requirement in [SECTION] (h)**, shall not operate to disqualify that pre-existing emergency shelter from obtaining a license.
- (ii) However, a pre-existing emergency shelter may not expand unless it meets the proximity to other facilities requirement in [SECTION] (h).
- (iii) Any new emergency shelter must still meet the proximity to other facilities requirement in [SECTION] (h) with respect to any pre-existing emergency shelter.

(e) Applicability of indoor space performance standards in [SECTION] (e):

- (i) A pre-existing emergency shelter is not required to provide indoor space as required in [SECTION] (e) if it did not have such indoor space at the time of original approval.
- (ii) However, if there is any expansion of a pre-existing emergency shelter, that emergency shelter shall be required to add indoor space sufficient to meet the requirements of [SECTION] (e).

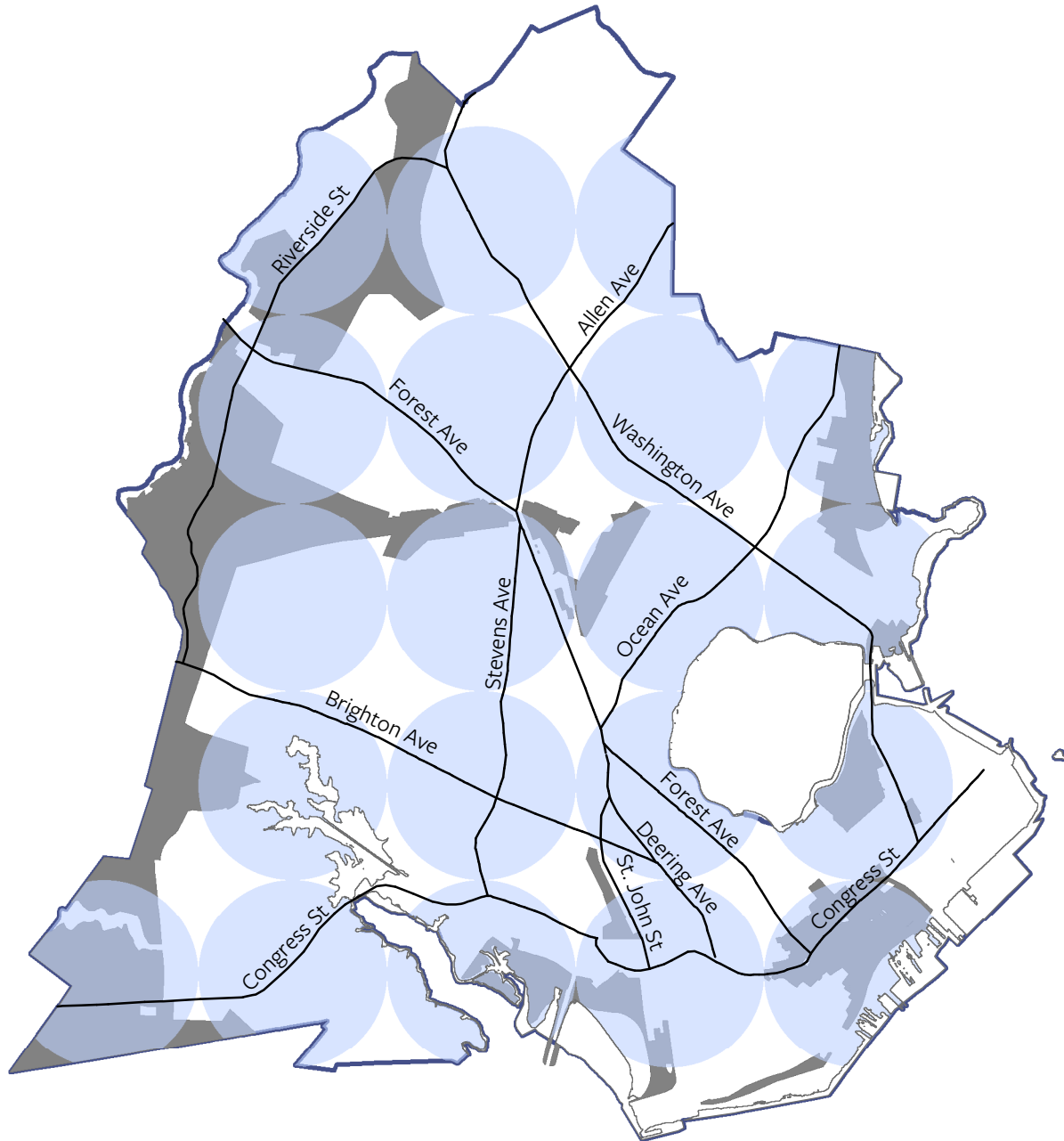
[NEW SECTION]. Severability

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.

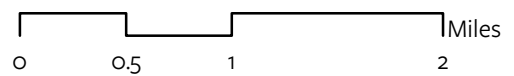
[NEW SECTION]. Reasonable Modifications

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

Shelter Spacing (1 Mile)



-  1/2 Mile Buffer
-  Zones with Emergency Shelter Conditional Use
-  City Boundary





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: May 7, 2021

Re: Staff Recommendations for Maximum Bed Density & Shelter Buffer Zones

At the March 9, 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) for the May 11th, 2021 committee meeting. Since that time, staff from the Health & Human Services Department have met with area social service providers and developed a questionnaire that was sent to residents of Bayside via the Bayside Neighborhood Association. This was done to gather additional information on local concerns to better inform recommendations to the committee.

Information was gathered from social service providers in two separate meetings. The first was a meeting of shelter operators in the city, the other was through ESAC. A total of fourteen organizations were represented in these meetings. The response from area providers was unanimous in that they did not feel that they could provide a recommendation on maximum bed density *or* proximity to other shelters (buffer zone), because they are not supportive of shelter licensing at this point. It was stated that current shelters are already struggling and that placing further restrictions would cause significant issues to the current shelter system. At the ESAC meeting it was mentioned that the biggest threat is that if this is not done correctly, the risk of encampments will grow.

The questionnaire that was distributed to residents through the Bayside Neighborhood Association received a total of fourteen responses. These responses spoke heavily to the need for equitable distribution of services across the city and the existing high number of shelter beds in a one mile radius in the city. A recommendation of 250 beds in a one mile radius was given and a 2500 foot buffer zone was recommended in five different responses. In addition to equitable distribution of services, other reasons given as a need for these parameters were the ability to track and address problems with the correct agency when services are spread out, as well as the safety of shelter guests, particularly women and children.

In November of 2020 at the request of the HHS & PS Committee, staff conducted research on licensing and zoning mechanisms used to regulate privately operated emergency shelters in other municipalities. This was provided to members of the HHS & PS Committee in a November, 2020

memo. The information on buffer zones collected at that time shows a 500 foot buffer zone in several municipalities, including Brunswick, ME. Additionally, after checking with our own Permitting and Inspections Department, currently our most stringent buffer is 500 ft, between marijuana businesses and schools, which is mandated by the state. All others range from 100 to 300 feet.

With all of the above information in mind, staff would recommend a 500ft buffer between shelters with a bed density of 250 beds in a 1 mile radius. This radius allows for equitable shelter distribution throughout the City while allowing for as many as 20 plots. The potential plots would accommodate more than twice the capacity we've seen throughout the pandemic. It is also the recommendation of staff that a legacy clause be put into place to protect existing shelters.

Striking the balance between neighborhood concerns with equity and safety as well as provider concerns for access to emergency shelter services is challenging. Staff worked to strike a balance that will provide shelter options for those in need while also allowing for more equitable placement of shelters throughout the city.



CITY OF PORTLAND
Social Services Division
Aaron Geyer, Director

MEMORANDUM

TO: The Health & Human Services and Public Safety Committee

FROM: Aaron Geyer, Social Services Division Director

DATE: April 13, 2021

RE: Shelter Reporting and Operational Requirements

At the March 9, 2021 meeting, the committee requested that staff determine which data points within the Monitoring Reports emergency shelters already collect and solicited staff recommendations on basic operational requirements. For the Monitoring Reports, staff Identified which items in the list of information required in quarterly reports are already required by MaineHousing, the Maine State Housing Authority:

- (i) Number of unique individuals served at the shelter
- (ii) Total number of bednights accessed at the 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

These data points can be pulled through Service Point reports, the Consolidated Annual Performance and Evaluation Report (CAPER) and Participation Reports for MaineHousing funded shelters. Domestic Violence Shelters use a separate but comparable database in order to protect confidentiality and complete the CAPER in that database. Criminal Trespass Orders are currently collected monthly for report out at Emergency Shelter and Assessment Committee (ESAC) meetings. Collection of neighborhood concerns, meetings and calls for service would be additional data points not currently collected.

Staff recommend modeling minimum operational requirements to align with MaineHousing's eligibility requirements emergency shelters must currently meet to receive Emergency Shelter and Housing Assistance Program (ESHAP) Funds.

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aeg@portlandmaine.gov • www.portlandmaine.gov



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.

concerning fire and safety have been complied with; and if the license is not issuable to any class of persons, the police chief shall cause an investigation to be made of the principal officers or persons to be licensed. All such persons shall report to the Permitting and Inspections Department in writing, and copies of any such report shall be deemed a public record.

(b) Whenever a criminal background check is done prior to issuance of a license, any cost of such background check which is charged to the City by another agency shall be added to the fees to be paid by the applicant.

(Code 1968, § 901.7; Ord. No. 231-80, 12-22-80; Ord. No. 115-84, § 1, 8-6-84; Ord. No. 247-02/03, 5-19-03; Ord. No. 165-15/16, 3-7-2016; Ord. 18-17/18, 8-21-2017)

Sec. 15-8. Standards for denial, suspension or revocation.

(a) *Grounds.* In addition to any other specific provision of this Code authorizing such action, a license or permit may be denied, suspended or revoked upon a determination of the existence of one (1) or more of the following grounds:

- (1) Failure to fully complete the application forms; knowingly making an incorrect statement of a material nature on such form; or failure to supply any additional documentation required or reasonably necessary to determine whether such license is issuable, or failure to pay any fee required hereunder;
- (2) The licensed activity, or persons on the premises for the purpose of participating in the licensed activity, or persons patronizing the licensed device have caused one (1) or more breaches of the peace; or
- (3) There is a clear danger that a breach of the peace will occur if the licensed activity is permitted; or
- (4) The licensed activity or persons patronizing the licensed premises will substantially and adversely affect the peace and quiet of the neighborhood, whether or not residential, or any substantial portion thereof;
- (5) The licensee has violated any provision of this Code in the course of the conduct of the activity or device for which the license or licenses have been applied for, or have been issued; or

- (6) The occurrence of any event subsequent to issuance of the license which event would have been a basis for denial of the license shall be grounds for revocation thereof; or
 - (7) The applicant's or licensee's real or personal property taxes, or final judgments due and payable to the city, are determined to be in arrears as of the date of the license or application; or that real or personal property taxes or final judgments due and payable to the city on account of the premises for which application has been made or a license issued have not been paid in full as of the date of the license or application. Real or personal property taxes or final judgments that are less than thirty (30) days past due at the time of the license or permit application, that are less than \$500.00, or that are determined by the City Manager or his or her designee to not be owed as per §2-203(f) shall not be considered in arrears for purposes of this section.
- (b) *Hearings.*
- (1) Except as expressly provided in this Code, no license to which this chapter applies may be revoked or suspended without prior notice to the licensee, and after a hearing.
 - (2) In the case of the suspension or revocation of a license, a hearing shall be given to the licensee and a generalized statement of the nature of the complaint constituting the basis for the proposed action shall be included in the notice of hearing. Unexcused failure of licensee to appear at the hearing shall be deemed a waiver of the rights to said hearing.
 - (3) Upon a determination that immediate and irreparable harm will be suffered by the public prior to the time that a hearing on suspension or revocation of a license can be scheduled and a finding of probable cause for such suspension or revocation, the Permitting and Inspections Department may suspend a license, pending hearing, effective upon the giving of actual notice to the licensee; provided that the Permitting and Inspections Department shall give an opportunity to be heard as soon as practicable thereafter. At any hearing, the licensee shall be given the opportunity to answer the complaint

and to present evidence. The complainant shall also be notified of the hearing and given the opportunity to be heard.

- (4) All suspensions or revocations shall be upon substantial evidence and all hearings shall be conducted with substantial fairness and strict adherence to the rules of evidence shall not be required.
- (5) All hearings on suspension or revocation of licenses shall be held within thirty (30) days of delivery to licensee of the generalized statement of complaint.

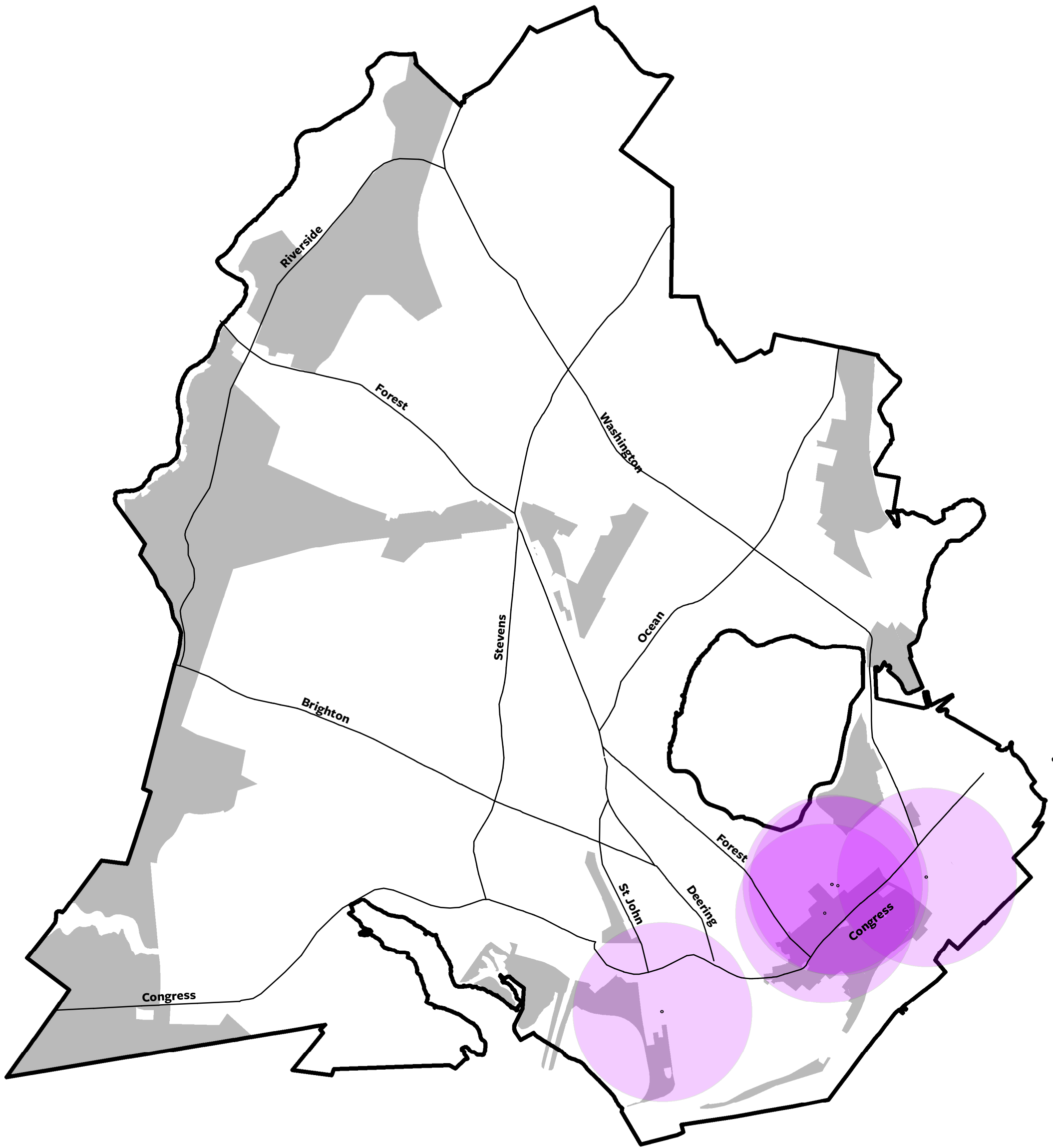
(c) *Abandoned licenses.* The applicant shall pay the issuance fee and obtain any license from the Permitting and Inspections Department within thirty (30) days after it has been approved by the Permitting and Inspections Department. Upon failure to pay the issuance fee and obtain the license within said thirty-day period, the approval shall be void and the application deemed abandoned. For good cause shown, the Permitting and Inspections Department may extend the thirty-day period provided such extension does not result in the issuance of the license being delayed more than one hundred eighty (180) days from its approval by the Permitting and Inspections Department.

(Code 1968, § 901.8; Ord. No. 231-80, 12-22-80; Ord. No. 291-83, 12-5-83; Ord. No. 562-84, §§ 4, 5, 4-23-84; Ord. No. 196-88, 11-7-88; Ord. No. 165-15/16, 3-7-2016; Ord. 18-17/18, 8-21-2017; Ord. No. 220-17/18, 6-4-2018)

Sec. 15-9. Appeals.

(a) *Procedure.* An appeal to the city manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the Permitting and Inspections Department by filing a notice of appeal and the prescribed fee with the city manager within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. Within two (2) business days of the filing of an appeal, the city manager shall designate himself or any agent or employee to act as hearing designee in the appeal. The hearing designee shall hear the appeal within ten (10) business days after the filing of the appeal and may affirm, reverse or modify the decision appealed from. The taking of an appeal shall not stay a decision appealed from, except that at the request of the licensee, the Permitting and Inspections Department may stay the effective date of a suspension, revocation or denial of a renewal license upon a finding that the public is not likely to suffer any harm

Existing Shelters, Shelter Zones, and Spacing

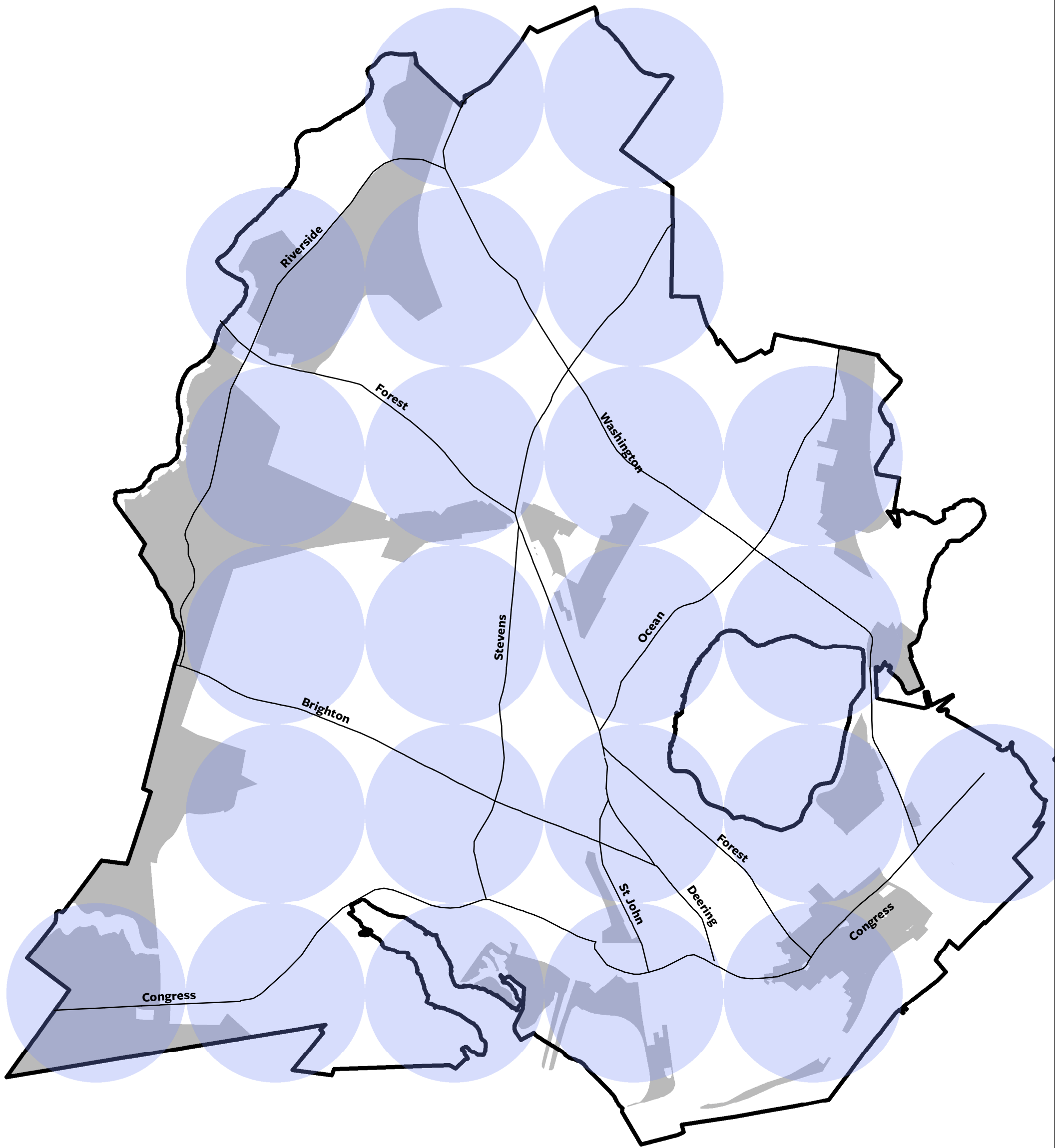


- Shelter*
- City Boundary
- Zones with Emergency Shelter Conditional Use
- 2500 Foot Buffer (Hypothetical)



* Domestic violence shelter is not indicated on this map

Hypothetical Shelter Spacing



-  Zones with Emergency Shelter Conditional Use
-  City Boundary
-  2500 Foot Radius Circle





CITY OF PORTLAND

Health & Human Services Department

Kristen Dow, Director

To: Health and Human Services and Public Safety Committee Members
From: Kristen Dow, Director of Health & Human Services
Date: November 10, 2020
RE: Licensing Examples for Emergency Shelters

At the request of Councilor Ray, staff have conducted research into other jurisdictions, as well as a review of existing City Code to consider mechanisms by which private emergency shelter operations can be regulated in order to better protect the individuals served and manage unintended consequences in the surrounding community.

Summary

While emergency shelters provide a critical service, their impact on the community can be significant, particularly when not properly planned for or in the absence of a strong partnership between a shelter operator and municipality.

To better ensure that privately run emergency shelters are operating in a manner that protects the health, safety, and welfare of individuals experiencing homelessness as well as of the public at large, City staff have compiled relevant research for the review of the Health and Human Services and Public Safety Committee.

This document contains the following:

1. Staff research on licensing and zoning mechanisms used to regulate privately operated emergency shelters in other municipalities;
2. Staff analysis of existing Portland ordinances relevant to the oversight of emergency shelters.

Lastly - it is worth noting that emergency shelters are not the only - or even the primary - source of quality-of-life consequences in Portland neighborhoods. Other sources, such as day service centers, are not addressed in this memo but are believed to have a significant impact on nearby residences and businesses.

Licensing Mechanisms

Staff identified a few municipalities that have designed a program to license homeless or emergency shelters. Of those we identified, none have set clear performance criteria to ensure safe operation or to independently enable City officials to hold shelters accountable for their or their residents' impact on nearby communities (e.g. noise, disturbance of the peace, litter, disorderly conduct, calls for service, etc.). In addition, we were unable to identify any municipalities that require emergency shelters or social service providers to deliver outreach services offsite, in the vicinity of their brick-and-mortar location. Rather, it would appear that programmatic requirements tend to be governed by private grant agreements or state licensure requirements while public safety concerns relating to guest conduct in and outside of shelter property are addressed through generally applicable ordinances or criminal laws.

Some of the requirements established in other municipalities' licensing programs are currently required by Chapter 14 of the City Code as part of the Planning Board's review and approval of emergency shelters as a conditional use. However, there are some noteworthy differences between some of these other municipal programs and the City's conditional use standards, including that Portland does not currently require:

- A mandated buffer between shelters and hospitals, schools, daycares, public buildings, or places of public gathering;
- A mandated buffer between any two shelters;
- A cap on the number of shelter beds allowed in the municipality or in any one facility;
- Restrictions on guests' length of stay.

An overview of other municipalities' licensing programs can be found below. The relevant ordinances are enclosed for further review.

- **Brunswick, ME**

Beginning in early 2019, homeless shelters in Brunswick were required to be licensed by the Town Manager or his/her designee. Existing shelters were grandfathered, and did not require licenses.

Applications for a license must include: governing documents of the owner and/or operating entity; an affidavit identifying all owners, operators, managers, or partners; evidence of all approvals, permits, and/or certificates required to operate the shelter; a description of and plans for the premises. In addition, the applicant must demonstrate that certain operational standards will be met, including hours of operation; staffing; display of license.

The ordinance limits the collective capacity for all homeless shelters in the Town of Brunswick at 85 beds, and that a buffer of at least 500' be maintained between any two shelters. Licenses are valid for a five-year term. Enforcement of licensing requirements are managed by the Town Council or its designee.

- **Phillipsburg, NJ**

Chapter 347 of Phillipsburg's Town Code requires that all operational homeless shelters obtain a license from the Town Clerk. Licenses must be renewed annually.

Shelters are restricted to the B-2 Zone, and deemed a conditional use upon the condition that it must be located immediately adjacent to a highway.

Standards for the issuance of a license include the nature and development of the surrounding property; proximity of churches, schools, public buildings, or other places of public gathering; the effect such business may have upon traffic conditions and the creation of traffic hazards; the sufficiency in number of similar entities; health, safety, and welfare of the public; and the applicant's suitability. Licensing requirements are enforced by the Building Director.

In Phillipsburg, homeless shelters may serve no more than 15 people at the same time, and stays are capped at one month per person. In addition, they are only allowed as accessories to a place of organized worship, and are not permitted principal uses.

- **Oak Lawn, IL**

The Village of Oak Lawn requires that "temporary overnight shelters" are licensed by the Village Manager, and that licenses are renewed annually. In addition, it requires that all shelters proposed in the R-3 Multi-Family Residence District receive a special use permit. License application requirements include a statement that the shelter will maintain a policy of making reasonable efforts to accommodate persons previously residing in the Village of Oak Lawn; operation guidelines; shelter capacity; and the name of the person or entity responsible for the shelter's management.

All operating entities must be not-for-profit, or operate without charge to the shelter occupants. It is also unlawful for any medical care or treatment to be provided as part of the shelter's regular accommodations or services.

Zoning Restrictions

A number of municipalities have introduced amendments to zoning law in order to reduce shelters' impact on other communities.

- **Puyallup, WA**

In 2019, the City of Puyallup passed a law restricting homeless centers to 150 parcels (~400 acres) of land, primarily in industrial zones. It also establishes a 500-foot buffer between

homeless service centers and hospitals or businesses, as well as a 1,000-foot buffer between homeless service centers and daycares or schools.

- **Monterey County, CA**

Monterey County's zoning ordinance establishes size limits, staffing requirements, and requirements related to operational plans (similar to the City of Portland's more comprehensive Master Plan), all of which are reviewed by the Director of Planning.

The zoning ordinance also caps residents' length of stay, establishes a buffer of at least 300 feet between any two shelters, and requires off-street parking.

- **Newport Beach**

California State Law requires that cities articulate their homeless populations' needs and specify where emergency shelters can be built. Newport Beach allows emergency shelters "by right" in areas designated for "private institutions" and "office-airport" zoning, and would require a conditional use permit or rezoning for any other area.

Relevant Portland City Code

Currently, the City of Portland's Land Use Code (Sec. 14-474, enclosed) establishes the use-specific standards applicants must meet as part of the Planning Board review and approval of emergency shelters as a conditional use. Among other things, this section requires a Management Plan outlining management responsibilities; processes for resolving neighborhood concerns; staffing; access restrictions; on-site surveillance; safety measures; controls for resident behavior and noise levels; and monitoring reports.

In addition, the City has in place a number of ordinances outside of Chapter 14 and state land use statutes that protect public safety, health, and welfare by regulating businesses and private individuals' actions. Examples include:

- The requirement for a community relations liaison for marijuana businesses (Chapter 35);
- The requirement for various mitigation plans for odor, waste, loitering, etc. for marijuana businesses (Chapter 35);
- The Sound Oversight Committee process for addressing noise complaints (Chapter 4);
- The disorderly house process for rental properties (Chapter 6);
- Nuisance provisions for a variety of issues (Chapter 17);
- Complaint- or violation-based review of licensees, which may result in fines or license revocation for taxis (Chapter 30);
- The City's ability to deny, revoke, or suspend any business license for cause, including a patron's single breach of the peace (Chapter 15)

Fwd: 5/11/21 HHS&PS: emergency licensing & limited moratorium

2 messages

Kristen Dow <kjd@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>

Sat, May 8, 2021 at 6:52 PM

For backup.

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

From: **Jim Hall** <mtjimhall@gmail.com>

Date: Sat, May 8, 2021 at 3:45 PM

Subject: 5/11/21 HHS&PS: emergency licensing & limited moratorium

To: To: Kate Snyder <ksnyder@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, Pious Ail <pali@portlandmaine.gov>, April Fournier <afournier@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>, Andrew Zarro <azarro@portlandmaine.gov>, Mark Dion <mdion@portlandmaine.gov>

CC: Jon Jennings <jpj@portlandmaine.gov>, City Clerk <cityclerk@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>

Re: Emergency shelter licensing & limited moratorium

Dear Chair Chong, Councilors Ray and Dion,
(CC Mayor & full council, City Manager, DHHS Director)

As a resident with 25 years experience living one block downhill of the Oxford Shetler:

- I support strong licensing that ensures all parties are protected: Clients, staff, and the host community.
- I support a targeted moratorium to provide adequate time to work out all the right details.

But please tighten up code around Day Shelter — especially as the city will be creating an RFP soon.

The current licensing definition explicitly limits its domain to “overnight” emergency shelter, and provides NO GOVERNANCE on a separately created “day shelter space” category — except that this must be within 1/4 mile — which in fact creates a new loophole that could literally *double* whatever spacing / density guardrails the council deems appropriate, and actively forces exactly the kind of neighborhood foot traffic to connect basic services that necessitated such licensing rules in the first place.

Moratorium language fails to define “emergency shelter” at all, carving an even wider loophole given the presence of other weak definitions.

We must learn from (and in fact go back and repair) the unintended consequences of 2017’s conditional use language, which allowed Preble Street to spin up yet another clustering shelter on the failed assumption that inadequate infrastructure is “good enough” for Portland’s regional emergency response. When you let the applicant define their own terms, sometimes you get Orwellian fallacies such as *Day Space = Bed Space // Sight Lines = Curved Spacetime // Onsite Services = Referrals to Offsite Partners*, etc — all in service of retrofitting a building they happen to own that’s really no better suited to this use than cramming 154 poor souls head-to-toe on mats in a former garage... which I thought the city was trying to mend. And I don’t know if I need to remind you, but Preble Street’s published 5 year vision imagines additional shetlers in the area, and they are not shy about marching to their own drum against the stated values of the city.

I have already commented extensively on additional aspects of code that need to be “aligned.”. Please use the moratorium appropriately to allow yourselves the necessary time and careful attention to ensure licensing in conjunction with all other ordinance actually accomplishes what you intend.

Thanks
Jim Hall
Cedar St

--

Kristen Dow
Director of Health & Human Services
City of Portland
389 Congress Street
Portland, ME 04101

Kristen Dow <kjd@portlandmaine.gov>
 To: Adam Harr <ash@portlandmaine.gov>
 Cc: Aaron Geyer <aeg@portlandmaine.gov>

Sat, May 8, 2021 at 8:54 PM

For backup.

Kristen

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

From: **Jim Hall** <mtjimhall@gmail.com>

Date: Sat, May 8, 2021 at 7:09 PM

Subject: Re: 5/11/21 HHS&PS: emergency licensing & limited moratorium

To: To: Kate Snyder <ksnyder@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, Pious Ail <pali@portlandmaine.gov>, April Fournier <afournier@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>, Andrew Zarro <azarro@portlandmaine.gov>, Mark Dion <mdion@portlandmaine.gov>

CC: Jon Jennings <jpj@portlandmaine.gov>, City Clerk <cityclerk@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>

Re: Staff Recommendations for Maximum Bed Density & Shelter Buffer Zones
i.e. yet another critical item on this evening's agenda

So... at a high level we appear to have 14 votes for licensing, and 14 against

However, while long-suffering residents have again and again proven willing to enter into dialog to seek consensus on reasonable parameters — 100% of providers have instead now chosen to form a cabal *against the city*. To equate even a conversation around governance with "*causing significant issues*" and leave it at that is simply irresponsible — and in fact only serves to *prove* that governance is needed in this domain. It's kind of a stupid move if you ask me, since now they'll have no input to a final draft. Assuming our councilors have spine enough to do their jobs in the face of hardball tactics.

Let's say all the industrial operators in the city circled their wagons and cried wolf that limiting noise or dust or other overspill to nearby residences in the covid economy would cause their operations undue harm. Or perhaps all the pubs in the old port would like to refuse to apply for licenses, or claim that policing fights in the streets near their services causes "significant issues" to their clients. It's patently ridiculous. Setting reasonable thresholds is the entire point of government. The social contracts of civil society certainly include appropriate governance of any high-impact use—full stop. Does anyone dare challenge the fact that ungoverned and poorly managed services on Preble Street caused a public health & safety crisis that became "*business as usual*" for years? Flat out refusing to even show up en masse provides zero solutions, and tacitly claims there's no such issue or need to talk about it.

What's worse is that social service operations are ostensibly full of the most caring people in the world — but the "*conditional empathy*" these organizations are all displaying toward their neighbors tells a conditional story about them. I so wish they had risen up to reign in their peers voluntarily when things go so clearly out of hand at 5 Portland Street— but this group has clearly proven unwilling to self-govern up to and including the present.

To be honest I am deeply afraid that the council may lose nerve to do its job properly, which is to insert some semblance of reasonable limits that actively ensure that no "*neighborhood under siege*" can EVER be possible again anywhere in this town. This is dirty politics, hiding behind "Good Works" to pretend there's no such thing as community impacts when you choose to force vulnerable people from all around the region to self-segregate into the streets of one poor neighborhood. Nothing can excuse Portland's past failure to manage these impacts — but with forgiveness we can all move forward into a future with sensible guardrails in place.

I'm not going to comment on the reduction of staff recommended buffers from 2500 to 500. You can probably guess my personal opinion about the usefulness of a 1-2 block buffer. But more importantly: I am advocating for *you* to do your jobs in our representative form of government, and make these very hard and complex decisions by keeping in mind the best available data, and all the humans under your care. If certain stakeholders refuse to participate, even after direct outreach — unfortunately the expected result is that they give up any legitimacy to complain about outcomes. As much as I feel ashamed for them adopting such indefensible posturing — I do hope you continue to move forward with licensing in a fair and balanced way that takes both me and them into account.

Thanks you

Jim Hall
Cedar St

On Sat, May 8, 2021 at 3:44 PM Jim Hall <mtjimhall@gmail.com> wrote:

Re: Emergency shelter licensing & limited moratorium

Dear Chair Chong, Councilors Ray and Dion,
(CC Mayor & full council, City Manager, DHHS Director)

As a resident with 25 years experience living one block downhill of the Oxford Shetler:

- I support strong licensing that ensures all parties are protected: Clients, staff, and the host community.
- I support a targeted moratorium to provide adequate time to work out all the right details.

But please tighten up code around Day Shelter — especially as the city will be creating an RFP soon.

The current licensing definition explicitly limits its domain to “overnight” emergency shelter, and provides NO GOVERNANCE on a separately created “day shelter space” category — except that this must be within 1/4 mile — which in fact creates a new loophole that could literally *double* whatever spacing / density guardrails the council deems appropriate, and actively forces exactly the kind of neighborhood foot traffic to connect basic services that necessitated such licensing rules in the first place.

Moratorium language fails to define “emergency shelter” at all, carving an even wider loophole given the presence of other weak definitions.

We must learn from (and in fact go back and repair) the unintended consequences of 2017’s conditional use language, which allowed Preble Street to spin up yet another clustering shelter on the failed assumption that inadequate infrastructure is “good enough” for Portland’s regional emergency response. When you let the applicant define their own terms, sometimes you get Orwellian fallacies such as *Day Space = Bed Space // Sight Lines = Curved Spacetime // Onsite Services = Referrals to Offsite Partners*, etc — all in service of retrofitting a building they happen to own that’s really no better suited to this use than cramming 154 poor souls head-to-toe on mats in a former garage... which I thought the city was trying to mend. And I don’t know if I need to remind you, but Preble Street’s published 5 year vision imagines additional shetlers in the area, and they are not shy about marching to their own drum against the stated values of the city.

I have already commented extensively on additional aspects of code that need to be “aligned.”. Please use the moratorium appropriately to allow yourselves the necessary time and careful attention to ensure licensing in conjunction with all other ordinance actually accomplishes what you intend.

Thanks
Jim Hall
Cedar St

[Quoted text hidden]

Fwd: Comments on Proposed Emergency Shelter Regulations

1 message

Kristen Dow <kjd@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>

Tue, May 11, 2021 at 5:59 AM

For backup

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

From: **Laura S. Underkuffler** <lu27@cornell.edu>

Date: Mon, May 10, 2021 at 10:02 PM

Subject: Comments on Proposed Emergency Shelter Regulations

To: tchong@portlandmaine.gov <tchong@portlandmaine.gov>, mdion@portlandmaine.gov <mdion@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>

CC: kjd@portlandmaine.gov <kjd@portlandmaine.gov>, cdg@portlandmaine.gov <cdg@portlandmaine.gov>, jpj@portlandmaine.gov <jpj@portlandmaine.gov>, fclark@portlandmaine.gov <fclark@portlandmaine.gov>

Dear Chair Chong, Councilor Dion, and Councilor Ray:

I have read the updated Emergency Shelter Licensing Recommendations and Buffering/Spacing Suggestions. It is entirely heartening to see that the placing of additional shelters in the community, the licensing of shelters, and the extremely critical issue of day shelter space for shelter residents are all taken very seriously in this draft.

I am very glad to see the recommendation that no more than 250 beds within a 1 mile radius will be permitted. As a resident of West Bayside, which has suffered for years as the locus of just about all social services and their externalities in the City, experience has taught that this is a critically needed new rule. I understand the need to allow existing shelters to continue, and that this will not change the existing situation in Bayside for the foreseeable future. However, this new rule will hopefully reflect a basic principle of environmental justice -- that no more of what everyone agrees is a community-wide need and community-wide burden will be shifted to the lower-income, higher-minority area of Bayside.

I do not understand, however, why the space between shelters has been reduced to 500 feet in the proposed regulations. Because the average city block is 323 feet long, this reduces the required buffer between shelters to less than 2 city blocks. This is *precisely* the kind of unacceptable concentration of facilities and externalities in dense urban areas (where homes and businesses are a few feet from public streets, and from each other) that the new rules, and their extremely well-stated rationale, seek to prevent.

Finally, although I *celebrate* the new requirement that shelters provide inside day space for residents, I strongly oppose the idea that this rule can be waived if the shelter operator provides day space within 1/4 of a mile away. To be brutally honest, what good will day space 1/4 of a mile away be for the residents of a homeless shelter? How can the residents even get there? How can they get back? Are they expected to take a bus (if indeed that even exists) in the snow, driving rain, or freezing cold, or when they are ill, elderly, or otherwise bodily infirm? Many times we looked out the window of our house on Oxford Street and saw people in wheelchairs, on crutches, elderly, struggling to get to Preble Street for meals in wind and deep snow. How can day space 1/4 of a mile away possibly address the problem?

When we moved to Oxford Street, twelve years ago, and got to know some of the people who lived at the Oxford Street Shelter, we were shocked to learn that they were forced to leave at 9 am every morning, and to scavenge for a place to be all day (hanging in the Public Library, standing on public sidewalks or private driveways, sitting on guardrails around the private parking lot across the street ...). This was the expectation in rain, wind, cold, snow, and sleet. At the time, no one questioned the humanity of this arrangement, or wanted to recognize the problems that hundreds of people with no place to go in the City inevitably created. Finally, and thankfully, this deep and festering problem has been both recognized and addressed. Please do not completely eviscerate this desperately needed new requirement with a completely inadequate waiver option.

I greatly appreciate your attention to all of these matters.

Sincerely,

Laura Underkuffler
Oxford Street

--

Kristen Dow
Director of Health & Human Services
[City of Portland](#)
[389 Congress Street](#)
[Portland, ME 04101](#)
207-874-8633

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

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

From: **Sarah Michniewicz** <sarahmichniewicz@icloud.com>
Date: Mon, Mar 8, 2021 at 4:38 PM
Subject: Emergency shelter licensing
To: Tae Chong <tchong@portlandmaine.gov>, <mdion@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>
Cc: Kate Snyder <ksnyder@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Ali Pious <pali@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, <afournier@portlandmaine.gov>, <azarro@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>, Frank Clark <fclark@portlandmaine.gov>, Kristen Dow <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.

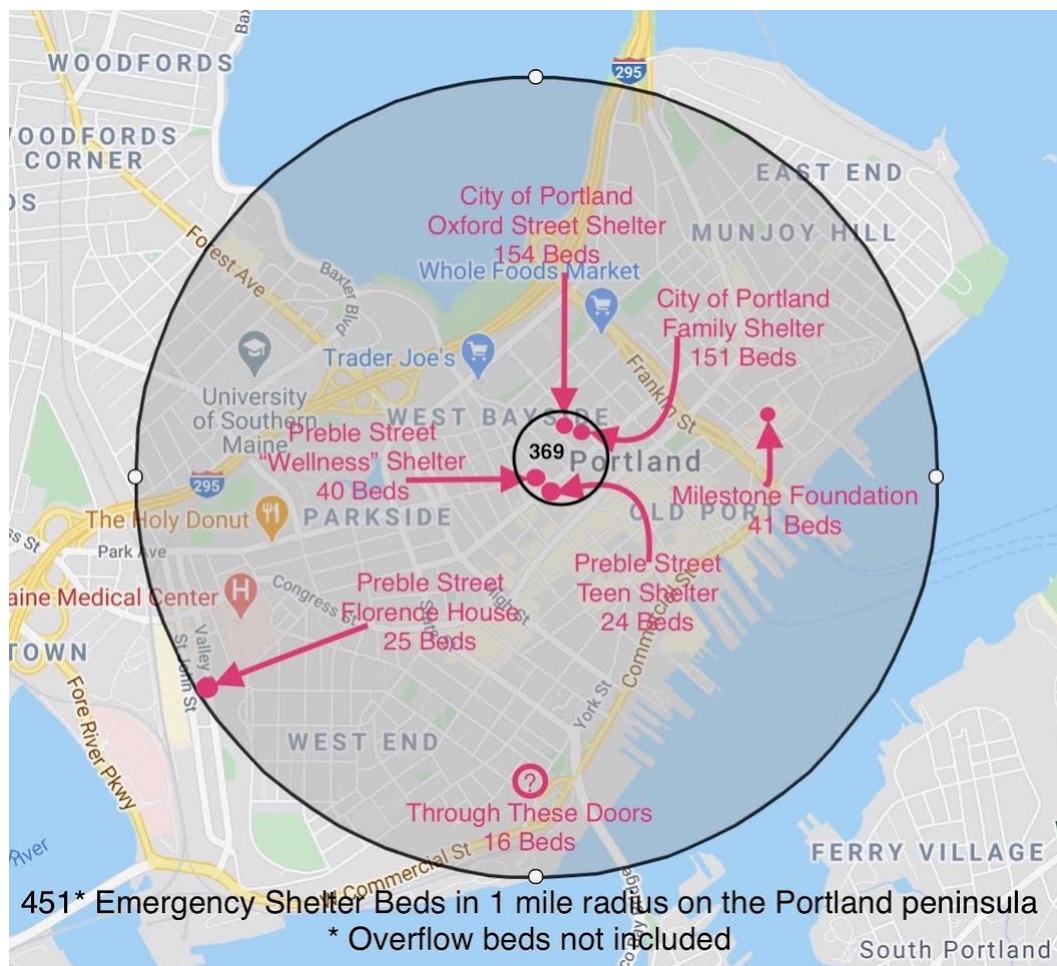
Just as a moratorium on demolitions created a pause to think about the future of Munjoy Hill, a moratorium on new shelters in Bayside will give the neighborhood and the City a safe, depressurized space in which to make fair and durable policy on the location of shelters within the community. But to allow 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.

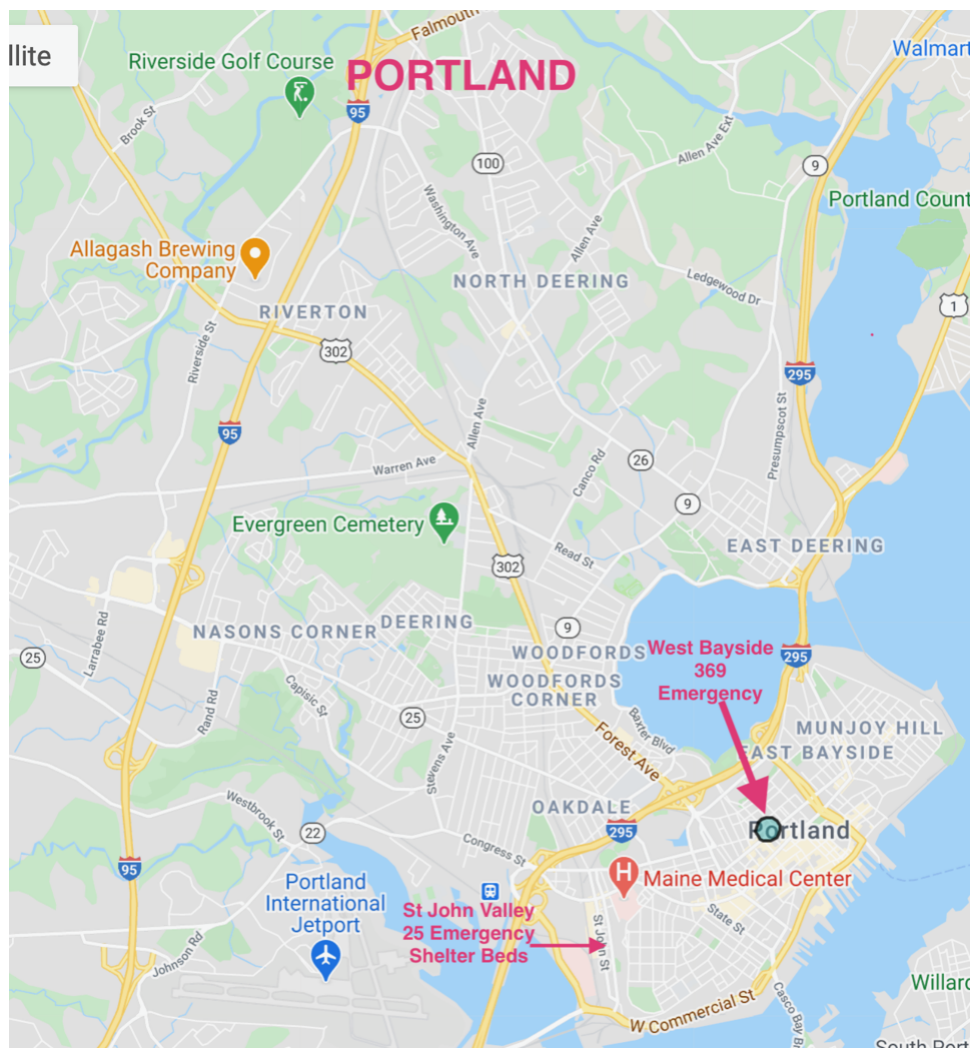
Thank you,

Sarah Michniewicz

Cedar Street, Portland







Fwd: Following up from last week - 39 Forest & Bayside moratorium

1 message

Kristen Dow <kjd@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>

Wed, Apr 21, 2021 at 9:02 AM

Kristen Dow
Director of Health & Human Services
City of Portland
389 Congress Street
Portland, ME 04101
207-874-8633

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

From: **Heidi Souerwine** <heidi.souerwine@gmail.com>
Date: Tue, Apr 20, 2021 at 10:39 PM
Subject: Following up from last week - 39 Forest & Bayside moratorium
To: Belinda Ray <bsr@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>, <mdion@portlandmaine.gov>
Cc: Kristen Dow <kjd@portlandmaine.gov>, Kate Snyder <ksnyder@portlandmaine.gov>, <afournier@portlandmaine.gov>, <azarro@portlandmaine.gov>, Nick Mavodones <nmm@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>

Committee members,

Just a note to say I appreciate you addressing questions after public comment at the HHS meeting last week, and your thoughtful dialogue throughout.

The discussion & presentation provided some context, which was helpful.

After thinking about it for a few days though, the fact remains: there are MANY other areas on the peninsula besides this already overloaded area. No one was questioning the need for consolidating these interconnected services under one roof. Rather, we're rightly challenging the City's planning strategy to again site more social services in the smallest area on the peninsula, when the most already exist there. This [graphic](#) provides a good snapshot of West Bayside alone. And, as Council Chong pointed out, there are numerous additional social services in the adjacent vicinity as well, immediately surrounding 39 Forest, that are not "technically" Bayside.

Committee members:

As I understand, on-peninsula was on directive, but was the specific area?

During the meeting it sounded like no other areas nor facilities were explored.
Is that correct?

Regarding Councilor Dion's request for boundary clarity re: a shelter moratorium (OR, for any social services facilities), I would challenge everyone to think strategically & holistically, and look at the **summation of similar entities nearby, whether they're technically over a line or not.**

Council Dion: Thank you for calling for safe harbor for west Bayside - it is desperately needed & it was so wonderful to hear it recognized. I hope it's easy to see that shelters are only one piece. My neighbors & I have continually stated that the neighborhood needs BALANCE from the overwhelm & 39 Forrest would continue to tip things in the wrong direction.

Councilor Chong: the moratorium would be a stop-gap, to prevent more projects from being approved in an area that is already so overwhelmed until the new licensing rules. I would plead for you to support it. One shelter has already squeaked in recently before licensing has been established.

When I think about all of this, in combination with the City Manager's CDBG proposals, it's alarming. Portland St, Cumberland Ave, Park Ave & now Forest Ave.

I know turning the corner on Bayside as the default is hard but it HAS to happen, and quickly.

Thank you for your consideration,
Heidi Souerwine
Mechanic St.

On Tue, Apr 13, 2021 at 6:17 PM Heidi Souerwine <heidi.souerwine@gmail.com> wrote:

Dear Committee members, Councilors and Mayor Snyder:

Hoping you all are able to see this. I'm a bit shocked with the lack of advanced notice for public comment tonight on an issue that will have **so much impact**. I'm hoping to try to join tonight, AND I'm also **hoping** the City isn't trying to push this through without careful thought. Regardless, I wanted to send some thoughts in writing.

I'm pleased to see the city is finally preparing to discuss a shelter moratorium in Bayside. However I'm still left questioning whether it's understood that what west Bayside needs is **balance**.

I'm concerned about a number of ideas I've seen come out recently that collectively amount to the City doubling down on the environment that created the instability in Bayside this whole time. In considering the proposal to consolidate DHHS operations at 39 Forest, and in reviewing the various elements proposed in the City Manager's CDBG funds allocation, the City would be creating the same situation along Forest Avenue that it created years ago on Portland Street.

With Portland Housing Authority & Maine Needs on Forest, the Deering Oaks gatherings, the proposed "ultra low to no barrier housing services" at Spurwink on Park, a proposed consolidated DHHS at 39 Forest, reintroducing another day space as well - it seems the City is creating another social services corridor in a different area of Bayside. And, on a much busier thoroughfare in the city with existing significant safety issues. With none of the other consolidated services moving.

For those of you that don't live anywhere nearby, the situation in that immediate area has been extremely tenuous at best for the better part of the last two years. Longtime community members, residents, & neighbors on Forest on the block between Park & Cumberland are already leaving their homes, and abandoning their businesses because they can no longer handle the environment. I would urge you all to consider how these plans benefit the fabric of the neighborhood, and whether this would be reasonable anywhere else.

It often feels defeating trying to create a life here. We want to stay, but the panic, urgency, and stress when it feels like no balance is even desired for this neighborhood, is beyond challenging.

Being a public servant is such a hard job, and I do appreciate all of you. I am hopeful for some clarity, and want to encourage thoughtful urban planning.

Thank you,
Heidi Souerwine (& Jason Tropp)
Mechanic St.

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

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

From: **Laura S. Underkuffler** <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>

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 <tchong@portlandmaine.gov>; mdion@portlandmaine.gov <mdion@portlandmaine.gov>; bray@portlandmaine.gov <bray@portlandmaine.gov>
Cc: dwchuhta@portlandmaine.gov <dwchuhta@portlandmaine.gov>; kjd@portlandmaine.gov <kjd@portlandmaine.gov>; cityclerk@portlandmaine.gov <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

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

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

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

Fwd: In support of Moratorium on emergency shelters in Bayside

1 message

Jon Jennings <jpj@portlandmaine.gov>

Mon, Apr 12, 2021 at 12:59 PM

To: Kristen Dow <kjd@portlandmaine.gov>, Adam Harr <ash@portlandmaine.gov>

For backup.

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

From: **Heidi Souerwine** <heidi.souerwine@gmail.com>

Date: Mon, Apr 12, 2021 at 12:55 PM

Subject: In support of Moratorium on emergency shelters in Bayside

To: Kate Snyder <ksnyder@portlandmaine.gov>, Nick Mavodones <nmm@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, <afournier@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, <azarro@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>, <mdion@portlandmaine.gov>

Cc: Jon Jennings <jpj@portlandmaine.gov>

Mayor Snyder, Councilors:

I know this is a busy week, so I'll be brief: writing in advance of tomorrow's meeting saying I'm in support of a moratorium on emergency shelters in Bayside.

After reading the memo online this weekend it's clear to me that the City should be able to easily and confidently advocate for this. Existing ordinances have already proven to be inadequate to prevent overburdening & public harm, which is why licensing is already in progress. Please allow long-overdue processes and boundaries to be enacted before any future site locations are considered in this already overtapped area.

Thank you for your consideration!

Heidi Souerwine

Mechanic St.

--

Jon P. Jennings

City Manager

City of Portland

389 Congress Street

Portland, ME 04101

(207) 874-8689 Office

(207) 874-8669 Fax

jpj@portlandmaine.gov

www.portlandmaine.gov

Fwd: Moratorium on emergency shelters in Bayside

1 message

Jon Jennings <jpj@portlandmaine.gov>

Mon, Apr 12, 2021 at 5:58 PM

To: Adam Harr <ash@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, Dena Libner <dlibner@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>

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

From: **Carolyn Megan** <carolynmegan@gmail.com>

Date: Mon, Apr 12, 2021 at 5:37 PM

Subject: Moratorium on emergency shelters in Bayside

To: Kate Snyder <ksnyder@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Ali Pious <pali@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, <afournier@portlandmaine.gov>, <azarro@portlandmaine.gov>, <mdion@portlandmaine.gov>, Nicholas Mavodones <NMM@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>

CC: Jon Jennings <jpj@portlandmaine.gov>

Dear Mayor Snyder and Councilors:

We are writing in support of a moratorium on shelters in Bayside and in support of implementation of the licensing process. As you know, Bayside carries the weight of shelters in the city and simply, neighbors have no way to advocate for themselves without licensing guidelines in place.

Additionally, it is the entire city's challenge and obligation for every neighborhood to support those dealing with housing, substance abuse and/or mental health challenges. A moratorium is fair and just governance to protect and to support all you constituents.

Thank you for your attention and good work,
Carolyn Megan
Michael Gelsanliter

Mechanic St
Bayside

--

Jon P. Jennings
City Manager
City of Portland
389 Congress Street
Portland, ME 04101
(207) 874-8689 Office
jpj@portlandmaine.gov
www.portlandmaine.gov

Fwd: open comment item tonight + CDBG plans

1 message

Kristen Dow <kjd@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>

Wed, Apr 14, 2021 at 11:31 AM

Kristen Dow
Director of Health & Human Services
City of Portland
389 Congress Street
Portland, ME 04101
207-874-8633

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

From: **Heidi Souerwine** <heidi.souerwine@gmail.com>
Date: Tue, Apr 13, 2021 at 6:17 PM
Subject: open comment item tonight + CDBG plans
To: Belinda Ray <bsr@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>, <mdion@portlandmaine.gov>
Cc: Kate Snyder <ksnyder@portlandmaine.gov>, <afournier@portlandmaine.gov>, <azarro@portlandmaine.gov>, Nick Mavodones <nmm@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>

Dear Committee members, Councilors and Mayor Snyder:

Hoping you all are able to see this. I'm a bit shocked with the lack of advanced notice for public comment tonight on an issue that will have **so much impact**. I'm hoping to try to join tonight, AND I'm also **hoping** the City isn't trying to push this through without careful thought. Regardless, I wanted to send some thoughts in writing.

I'm pleased to see the city is finally preparing to discuss a shelter moratorium in Bayside. However I'm still left questioning whether it's understood that what west Bayside needs is **balance**.

I'm concerned about a number of ideas I've seen come out recently that collectively amount to the City doubling down on the environment that created the instability in Bayside this whole time. In considering the proposal to consolidate DHHS operations at 39 Forest, and in reviewing the various elements proposed in the City Manager's CDBG funds allocation, the City would be creating the same situation along Forest Avenue that it created years ago on Portland Street.

With Portland Housing Authority & Maine Needs on Forest, the Deering Oaks gatherings, the proposed "ultra low to no barrier housing services" at Spurwink on Park, a proposed consolidated DHHS at 39 Forest, reintroducing another day space as well - it seems the City is creating another social services corridor in a different area of Bayside. And, on a much busier thoroughfare in the city with existing significant safety issues. With none of the other consolidated services moving.

For those of you that don't live anywhere nearby, the situation in that immediate area has been extremely tenuous at best for the better part of the last two years. Longtime community members, residents, & neighbors on Forest on the block between Park & Cumberland are already leaving their homes, and abandoning their businesses because they can no longer handle the environment. I would urge you all to consider how these plans benefit the fabric of the neighborhood, and whether this would be reasonable anywhere else.

It often feels defeating trying to create a life here. We want to stay, but the panic, urgency, and stress when it feels like no balance is even desired for this neighborhood, is beyond challenging.

Being a public servant is such a hard job, and I do appreciate all of you. I am hopeful for some clarity, and want to encourage thoughtful urban planning.

Thank you,
Heidi Souerwine (& Jason Tropp)

Fwd: Portland Homeless Services (HSSPS 4/13/21)

2 messages

Kristen Dow <kjd@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>

Mon, Apr 12, 2021 at 1:02 PM

For backup.

Kristen Dow
Director of Health & Human Services
[City of Portland](#)
[389 Congress Street](#)
[Portland, ME 04101](#)
207-874-8633

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

From: **Jim Hall** <mtjimhall@gmail.com>
Date: Sun, Apr 11, 2021 at 8:27 PM
Subject: Portland Homeless Services (HSSPS 4/13/21)
To: Tae Chong <tchong@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, Mark Dion <mdion@portlandmaine.gov>
Cc: Kate Snyder <ksnyder@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, Pious Ail <pali@portlandmaine.gov>, April Fournier <afournier@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Andrew Zarro <azarro@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>, City Clerk <cityclerk@portlandmaine.gov>

Dear Chair Chong, Councilors Ray and Dion,
(CC full council, city manager, DHHS director)

Re: Items on HSSPS Committee's 4/13/21 meeting relating to homeless services

— **DHHS co-location** —

I'm all for consolidation and facility improvements, from the perspective of administrative efficiency, service coordination, and potential program expansion (also the reason I've advocated for the homeless service center currently requesting proposals). The location on Forest between Congress & Cumberland makes a lot of sense – especially regarding the nascent on-peninsula prevention & diversion program.

My only concern is the potential for unfortunate behavior patterns that are well-documented to follow and cluster around such services. I was glad to learn that DHHS proposes to implement community security protocols in use at other locations. To be specific: **I am advocating for the types of street patrols by security professionals, and immediate response to abutter hotline calls, which have been successful at reducing negative impacts on the properties surrounding the OSS.**

— **Emergency Shelter Moratorium** —

"... a moratorium on certain emergency shelters is appropriate."

The month of February placed fully 33% of all Portland's calls for service within the quarter-mile of the Bayside Neighborhood (only a slight increase from our "normal" load). Passively allowing additional high-impact uses in this geographical location would overburden public facilities even more. In January of this year, the reviewing body for

conditional use standards enacted in 2017 found that current code is inadequate to prevent an operator with a miserable history of failing to manage community impacts from introducing new public harm in the affected area (...as Chief Clark testified: “There *will* be new impacts,” and as one board member stated: “This management plan is about as good as the paper it’s printed on”). Although Portland’s accretion of high-impact services over the decades has somehow progressed with no mechanism for municipal governance – I’m grateful that the committee is taking appropriate time to ensure success, therefore **I am advocating for a targeted moratorium to protect the Bayside Neighborhood while deliberations on licensing proceed.** This would be consistent with the Comp Plan requirement to act toward neighborhood equity in sharing both the benefits & costs of the city.

Portland (Bayside) already contributes so much more than its share in this domain, and I’m not convinced this particular municipality needs to encourage more and more “small” shelters to be sited within our boundaries in order to best serve either clients or the larger community. I would also point out that the Maine Statewide Homeless Council’s current strategy posits only 23 net new emergency beds *across the entire state* – instead following Portland’s lead in focusing on diversion, low-income housing development, rapid rehousing, retention, harm reduction, long-term-stayers, etc. In addition, at the federal level HUD Secretary Fudge has I stated that “Shelters are not the answer”. It’s worth noting that she calls out hotel use similar to temporary GA placement as a way to provide a more private and safe option than congregate settings.

I do hope that the modernization of Portland’s Regional Homeless Service Center will proceed with haste (and that LD-175 bond may eventually help defray funding), as we cannot close shelters before other programs effectively reduce need, and the region’s current facilities are woefully inadequate. I also support the model of a central intake triage collaborating with satellite specialists. But given the history and unfolding events, it could actually be appropriate to pause new shelter applications city-wide.

— Licensing Reporting Requirements —

A way to track neighborhood concerns and resolution is CRITICAL to the success of any new shelter application. If this is not required in the reporting section, it *must* be included via some other mechanism. Information about community meetings attended is less useful, at least in the case of one operator that has proven hostile to its host neighborhood. I feel that it’s important to track CTO reason and recidivism – though I agree with Councilor Dion that this portion of the report could be provided to the operator by the Police Department (thereby removing any hardship around new requirements).

Thank you for your continued important work,
Jim Hall
Cedar St

—

Maine Statewide Homeless Council Analysis
<http://www.mainehomelessplanning.org/wp-content/uploads/2021/03/CSH-Maine-Data-Analysis-for-SHC-2021-03-09.pdf>

HUD Secretary quote
<https://www.washingtonpost.com/us-policy/2021/04/08/homeless-hud-marcia-fudge/>

American Rescue Plan Act HOME Supplemental Allocations
("The first of two funding streams to address homelessness in the American Rescue Plan.")
<https://www.hud.gov/sites/dfiles/CPD/documents/HOME-ARP.pdf>

ME Non Entitlement	\$15,685,918
CNSRT-Auburn	\$ 1,700,829
CNSRT-Portland	\$ 3,594,143

LD 175 An Act To Authorize a General Fund Bond Issue To Create and Enhance Regional Homeless Shelters
<https://trackbill.com/bill/maine-legislative-document-175-an-act-to-authorize-a-general-fund-bond-issue-to-create-and-enhance-regional-homeless-shelters/1993678/>

Jon Jennings <jpj@portlandmaine.gov>

To: Kristen Dow <kjd@portlandmaine.gov>, Adam Harr <ash@portlandmaine.gov>

Mon, Apr 12, 2021 at 2:01 PM

Backup.

[Quoted text hidden]

--

Jon P. Jennings

City Manager

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[389 Congress Street](#)

[Portland, ME 04101](#)

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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

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>

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

Subject: Re: Shelter Licensing & Zoning

To: Tae Chong <tchong@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, Mark Dion <mdion@portlandmaine.gov>

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

Fwd: Shelter licensing general comments

2 messages

Belinda Ray <bsr@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>
Cc: Tae Chong <tchong@portlandmaine.gov>

Tue, Mar 9, 2021 at 5:23 PM

And since I forwarded the ones Mark sent along, I should ask that these be added, too. Again, if not tonight, to the packet for this meeting and then again next month when we are more likely to vote. A couple more coming your way, Adam.

Thanks!

Best,

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

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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>
Date: Tue, Mar 9, 2021 at 3:58 PM
Subject: Shelter licensing general comments
To: Tae Chong <tchong@portlandmaine.gov>, <mdion@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>
Cc: <cityclerk@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Ali Pious <pali@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, Kate Snyder <ksnyder@portlandmaine.gov>, <afournier@portlandmaine.gov>, <azarro@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>, Frank Clark <fclark@portlandmaine.gov>

Hello Chair Chong, Councilor Dion, and Councilor Ray,

Thank you once again for pursuing shelter licensing. I hope you will consider moving this on to the full council with a strong recommendation for passage, after incorporating community feedback on buffers and spacing as recommended by staff. I have a couple of thoughts and questions:

- Allowing separate day space is tantamount to replicating the untenable situation in Bayside; it would contradict the purpose of moving to a best practice model of having all resources in one site and potentially double the amount of shelter space in any given area. This reversion to a campus-style shelter would potentially increase staffing costs for providers and create unnecessary resistance in prospective neighborhoods, thus fulfilling shelter provider prophecies.

Perhaps a better approach would be to allow waivers only for existing shelters. The Oxford Street Shelter has been voluntarily providing day space since 2017 without it being required.

- Regarding waivers for domestic violence shelters, please ask staff for clarification on best practices regarding proximity of DV shelters to general population shelters and how location may effect the goals of operators and the need for confidentiality.

- At the February HHS meeting advocates recommended ditching controls such as retroactive licensing, buffers and spacing, deeming them arbitrary. It was stated that the recommendations are too focused on neighborhoods, an argument echoed by the letter you recently received from the Emergency Shelter Assessment Committee, who went further, asking you to abandon the licensing effort entirely.

If necessary, please clarify at this meeting that the purpose of municipal licensing is to benefit consumers, to be sure, but also ensure the safety of the public, mitigate impacts on abutters, and serve the interests of the City. It's frankly ridiculous to suggest otherwise, or to imply that to do so would unfairly or illegally single out emergency shelters or people experiencing homelessness.

The City has had a wonderful history of caring for people seeking shelter, and a terrible track record for supporting constituents residing near those shelters. That has improved a lot in recent years because of proactive measures taken by the City to provide day space, bathrooms and storage at the OSS. But the biggest limitation to siting shelters in neighborhoods other than Bayside remains a lack of reliable standards that benefit the entire community. Licensing is the next logical step.

Shelter operators fear difficulty siting shelters, based on the pushback from neighborhoods, whose own fears are based on the well-documented crime, disorder, and severe quality of life impacts that have come from having too many services in one area and next to no controls or recourse for mitigation. It's a feedback loop that can only be disrupted by doing something better, something that supports the entire community. Creating a licensing scheme will interrupt that cycle by giving neighborhoods confidence that shelters can be good neighbors, that excessive impacts will be addressed, and will ultimately make it easier to site shelters.

The idea that the City can, should, or will be able to effectively deal with potential impacts from emergency shelters by putting out fires is simply not an acceptable substitute for licensing. It hasn't been for the past 20 years.

No one I know expects utopia, just a fair and reasonable levels of impact. Not fair and reasonable as defined by operators, or by onlookers who insulate themselves in nearby towns that actively prohibit shelters, but fair and reasonable to an average person on an average street in an average Portland neighborhood, deserving to live their life with an average amount of urban disruption. In other words, we expect everyone to act like neighbors.

As I wrote in [this](#) letter to the editor, we must all respect each other. If shelter providers are not willing to voluntarily and proactively consider the needs of the entire community, the City must do it. You have the opportunity to turn things around, to create a framework within which shelters become welcome neighbors. Please take it.

Sincerely,

Sarah Michniewicz
Cedar Street, Portland

PS - Regarding small shelter zoning, it's worth noting that at the Maine Homelessness Planning meeting this morning, the data and recommendations that were shared lean away from increasing permanent shelter bed capacity. In fact, the State sees a current need for only 23 additional shelter beds statewide, based on current data and future predictions, even accounting for evictions and the current economic trajectory. The pandemic-related reduction in shelter beds is seen as an opportunity to not refill them, and move people into permanent housing instead.

- The data and shelter system redesign planning envisions the closing of emergency shelters as the focus on permanent, transitional, supportive, subsidized and affordable housing increases supplies, and prioritizes enhancing diversion programs to keep people out of homelessness in the first place. A specific diversion program has been developed and service hubs are being offered training to implement it.
- Data also shows that compared to other exits to permanent housing from homelessness, exit from emergency shelter has the poorest outcome, 18% compared to roughly 75% for exits via rapid rehousing, transitional housing, and supportive housing.

The slideshow from the meeting is [here](#).

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

Mon, Mar 15, 2021 at 11:58 AM

Here you go, Adam. I'll send the others, too. Sorry it didn't work the other way!!
[Quoted text hidden]

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

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From: **Carolyn Megan** <carolynmegan@gmail.com>

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

Subject: Shelter licensing

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

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

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

From: **Michael Gelsanliter** <mrgelsanliter@gmail.com>

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

Subject: Shelter Licensing

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

Fwd: Shelter spacing recommendations

1 message

Kristen Dow <kjd@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>

Sun, May 9, 2021 at 3:56 PM

For backup

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

From: **Sarah Michniewicz** <sarahmichniewicz@me.com>

Date: Sun, May 9, 2021 at 2:55 PM

Subject: Shelter spacing recommendations

To: Tae Chong <tchong@portlandmaine.gov>, <mdion@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>

CC: Kristen Dow <kjd@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, Jon Jennings

<jpj@portlandmaine.gov>, Frank Clark <fclark@portlandmaine.gov>

Hello Chair Chong, Councilor Dion and Councilor Ray,

I'm writing in regards to the updated emergency shelter licensing recommendations and buffer/spacing suggestions. The recommendation for no more than 250 beds in a 1 mile radius makes good sense and I'm pleased that's been supported even though Bayside will still be far over that limit for the foreseeable future.

However I don't understand how staff came to recommend a mere 500' between any two shelters. This is actually a little less than the current spacing between the Oxford Street Shelter/Family shelter area and Preble Street's teen shelter/5 Portland Street shelter area (formerly consistency utilized as 75 bed overflow site). All evidence points to that being far too dense for one area, as the memo for the shelter moratorium illustrates in detail. Please ask staff to explain this recommendation.

The rationale given in the memo is that 500' is sort of a default setting - it's the maximum buffer used in the City for a potentially high-impact use. But requiring any spacing or buffer for a given use means implicitly that there's something unique about that use that's known to cause, or suspected to cause, excessive impact. So for the 500' spacing recommendation to have any meaning staff must be able to articulate a relationship between impacts of an emergency shelter and, in the example staff gives, a marijuana business.

Additionally, this spacing recommendation has to be considered in the context of LD 1478, the proposed legislation that would legalize the behaviors that are at the heart of the disorder and police calls for service in Bayside. Though the requirement that shelters have adequate day space will certainly be helpful in regards to loitering and other concerns, it's a fact that people will continue to use the public space to engage in behaviors prohibited at shelters. 500' spacing will do next to nothing to prevent any one area from carrying an undue burden, even less so should this bill pass.

Based on what's known about the impacts of current shelter spacing and shelter demographic overlap (families, teens and adults all sheltered in one area), the spacing required in this licensing should be at least 1000', preferably 1200'-1500' in order to reflect current understanding of impacts and support the City's overall goals as an equitable provider of emergency shelter.

As to the rest of the licensing recommendations I'm pleased to see they have continued to be strong and clear. There is one worrying clause though:

Performance Standards, section 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.*

• Please *only* make this waiver available to existing shelters. Allowing new, planned shelters this option of a "campus" approach conflicts with conditional use standards and best practices for emergency shelters, and

undermines the intent of this licensing. On multiple occasions councilors and staff have underscored the folly of pushing people out in the morning and lining them up again at night to get back in, citing it as one of the main factors contributing to the disorder and friction in Bayside. A standard that prevents that scenario shouldn't be considered an undue burden.

- Also, consider amending this section to clarify that any such alternative indoor day shelter space allowed by this waiver is subject to the licensing standards governing operations of the main overnight shelter.

Please also consider making the Pre-existing Shelters section clearer. The goal, as I understand it, is to allow shelters operating or permitted to operate as of Jan 31 2021 to maintain their standing; and to prohibit additional shelters, or relocations, or expansion of existing shelters in excess of the licensing's buffer and spacing requirements. However as written the language in this section is difficult to parse.

Thank you, I appreciate your careful attention to this important matter.

Sarah Michniewicz
Cedar Street

--

Kristen Dow
Director of Health & Human Services
[City of Portland](#)
[389 Congress Street](#)
[Portland, ME 04101](#)
207-874-8633

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

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From: **Heidi Souerwine** <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>, <mdion@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>

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

Fwd: Updated Letter on Shelter Licensing from ESAC

3 messages

Kristen Dow <kjd@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>

Fri, Jun 4, 2021 at 10:26 AM

For backup.

Thank you,
Kristen

Kristen Dow
Director of Health & Human Services
[City of Portland](#)
[389 Congress Street](#)
[Portland, ME 04101](#)
207-874-8633

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

From: **Jon Jennings** <jpj@portlandmaine.gov>
Date: Fri, Jun 4, 2021 at 10:22 AM
Subject: Fwd: Updated Letter on Shelter Licensing from ESAC
To: Kristen Dow <kjd@portlandmaine.gov>

Please add to the backup for the committee meeting.

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

From: **Pious Ali** <pali@portlandmaine.gov>
Date: Fri, Jun 4, 2021 at 10:20 AM
Subject: Re: Updated Letter on Shelter Licensing from ESAC
To: Homeless Voices for Justice <hvj@preblestreet.org>
CC: Kate Snyder <ksnyder@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>, Dena Libner <dlibner@portlandmaine.gov>, Katherine Jones <klj@portlandmaine.gov>

Mayor

Can we add this to the backup materials as well Thanks. I have copied the city clerk and the manager just as FYI.
Thanks

Respectfully

Pious Ali

City Councilor At-Large

City Hall

[389 Congress Street](#)

[Portland, ME 04101](#)

PALI@PortlandMaine.gov

[2078074283](tel:2078074283)

On Thu, Jun 3, 2021 at 3:21 PM Homeless Voices for Justice <hvj@preblestreet.org> wrote:

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

From: Portland's Emergency Shelter Assessment Committee

The Emergency Shelter Assessment Committee (ESAC) was formed in 1987 to monitor and respond to the emergency shelter needs of individuals who are homeless in the City of Portland. One of the ways ESAC works to accomplish this objective is by collecting, aggregating, and disseminating crucial data that illustrates the scope and magnitude of need.

ESAC recognizes that the integrity of our work relies on the accuracy of the data we share. In our March 9th letter to the City Council we wrote, "just last week four people experiencing homelessness died due to shelter occupancy limitations caused by the COVID-19 outbreak." After submission ESAC learned this information was not accurately portrayed. We take full responsibility and want to correct the record. While all of the people referenced in our letter had long histories of homelessness contributing to their deaths, their deaths were not caused by shelter occupancy limitations. We apologize for any confusion this may have caused.

Additionally, we stated that "ESAC has voted unanimously to oppose the proposed shelter licensing regulations." We wish to amend this statement to include ESAC voted unanimously to oppose the proposed shelter licensing regulations with two members abstaining.

Emergency shelter providers have worked tirelessly to help some of our most vulnerable community members during this pandemic and we in no way want to detract from their efforts. The number of individuals experiencing homelessness in Portland has grown exponentially over the last year, recently setting a new record of 321 individuals accessing emergency shelter. 64 people who were homeless died in Portland in 2020, up from 43 the year before. We appreciate the City Council's vote to continue working with community members and providers on this issue and look forward to partnering with the Council to end and prevent homelessness in Portland.

Signed,

ESAC Tri-Chairs: City of Portland, United Way, Homeless Voices for Justice

--
Jon P. Jennings, MPA
City Manager
[City of Portland](#)
[389 Congress Street](#)
[Portland, ME 04101](#)
(207) 874-8689 Office
jpj@portlandmaine.gov
www.portlandmaine.gov

Anna Brewer <abrewer@preblestreet.org>

Mon, Jun 7, 2021 at 4:24 PM

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

From: Pious Ali <pali@portlandmaine.gov>
Sent: Friday, June 4, 2021 1:53 PM
To: Jon Jennings <jjp@portlandmaine.gov>
Cc: Dena Libner <dlibner@portlandmaine.gov>; Homeless Voices for Justice <hvj@preblestreet.org>; Kate Snyder <ksnyder@portlandmaine.gov>; Katherine Jones <klj@portlandmaine.gov>
Subject: Re: Updated Letter on Shelter Licensing from ESAC

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Thank you

Respectfully

Pious Ali

City Councilor At-Large

City Hall

389 Congress Street

Portland, ME 04101

PALI@PortlandMaine.gov

2078074283

<http://www.portlandmaine.gov>

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On Fri, Jun 4, 2021 at 10:23 AM Jon Jennings <jjp@portlandmaine.gov> wrote:

I forwarded this to HHS staff to include in the backup for the committee.

On Fri, Jun 4, 2021 at 10:20 AM Pious Ali <pali@portlandmaine.gov> wrote:

Mayor

Can we add this to the backup materials as well Thanks. I have copied the city clerk and the manager just as FYI. Thanks

Respectfully

Pious Ali

City Councilor At-Large

City Hall

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<http://www.portlandmaine.gov>

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

From: Portland's Emergency Shelter Assessment Committee

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Signed,

ESAC Tri-Chairs: City of Portland, United Way, Homeless Voices for Justice

Jon P. Jennings, MPA
City Manager
City of Portland
389 Congress Street
Portland, ME 04101
(207) 874-8689 Office
jpj@portlandmaine.gov
www.portlandmaine.gov

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Kristen Dow <kjd@portlandmaine.gov>
To: Adam Harr <ash@portlandmaine.gov>
Cc: Aaron Geyer <aeg@portlandmaine.gov>

Mon, Jun 7, 2021 at 5:13 PM

Hi Adam,

This is a correction to an item that is currently in the HHS & PS Committee packet for tomorrow night's meeting and should also be added as backup materials.

Thank you,
Kristen

Kristen Dow
Director of Health & Human Services
City of Portland
389 Congress Street
Portland, ME 04101
207-874-8633

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

From: **Aaron Geyer** <aeg@portlandmaine.gov>
Date: Mon, Jun 7, 2021 at 4:53 PM
Subject: Fwd: FW: Updated Letter on Shelter Licensing from ESAC
To: Dow, Kristen <kjd@portlandmaine.gov>

Good Afternoon Kristen,
I wanted to send this along as an FYI from earlier today.

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

From: **Anna Brewer** <abrewer@preblestreet.org>
Date: Mon, Jun 7, 2021 at 4:47 PM
Subject: FW: Updated Letter on Shelter Licensing from ESAC
To: Aaron Geyer (aeg@portlandmaine.gov) <aeg@portlandmaine.gov>

From: Homeless Voices for Justice
Sent: Monday, June 7, 2021 2:05 PM
To: Homeless Voices for Justice <hvj@preblestreet.org>; tchong@portlandmaine.gov; Mark Dion <mdion@portlandmaine.gov>; Belinda Ray <bsr@portlandmaine.gov>
Cc: Azarro@portlandmaine.gov; afournier@portlandmaine.gov; Nicholas Mavodones <nmm@portlandmaine.gov>; Spencer Thibodeau <sthibodeau@portlandmaine.gov>; Kate Snyder <ksnyder@portlandmaine.gov>; Pious Ali

<pali@portlandmaine.gov>

Subject: RE: Updated Letter on Shelter Licensing from ESAC

Dear City Council Members,

We are emailing to make a correction to the updated ESAC letter on shelter licensing that we sent last Thursday, 6/3. The email was signed the “ESAC Tri-Chairs: City of Portland, United Way, Homeless Voices for Justice.” However, the City of Portland and United Way of Greater Portland abstained from the vote as referenced in the body of the letter. We are emailing to correct the record, noting that the City and UWGP abstained and should be removed as signers.

Thank you,

ESAC

From: Homeless Voices for Justice

Sent: Thursday, June 3, 2021 3:21 PM

To: tchong@portlandmaine.gov; Mark Dion <mdion@portlandmaine.gov>; Belinda Ray <bsr@portlandmaine.gov>

Cc: Azarro@portlandmaine.gov; afournier@portlandmaine.gov; Nicholas Mavodones <nmm@portlandmaine.gov>; Spencer Thibodeau <sthibodeau@portlandmaine.gov>; Kate Snyder <ksnyder@portlandmaine.gov>; 'Pious Ali' <pali@portlandmaine.gov>

Subject: Updated Letter on Shelter Licensing from ESAC

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

From: Portland's Emergency Shelter Assessment Committee

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Signed,

ESAC Tri-Chairs: City of Portland, United Way, 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

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Re: Dion Fwd: Shelter Licensing Ordinance Comments

3 messages

Belinda Ray <bsr@portlandmaine.gov>

Tue, Mar 9, 2021 at 5:21 PM

To: Mark Dion <mdion@portlandmaine.gov>, Adam Harr <ash@portlandmaine.gov>

Cc: Tae Chong <tchong@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>, Kate Snyder <ksnyder@portlandmaine.gov>

I'm forwarding this to Adam to be added to our meeting packet. Adam - I know it's late for this evening, but could you add these to the evening's packet when you get a chance so that they are a part of the public record on this?

We can't discuss this online/via email as it would be a violation of the sunshine/sunlight rules with regard to public meetings.

Thanks for forwarding these along, Mark.

Best,

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

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On Tue, Mar 9, 2021 at 4:09 PM Mark Dion <mdion@portlandmaine.gov> wrote:

Tae, Belinda,

I had a meeting with small shelter operators yesterday that included an attorney from Maine Equal Justice.

I listened to their feedback and can summarize as follows:

1. Grandfathering existing shelters: a concern that the language is not sufficiently clear
2. Rationale: no expression by the Committee as to what we want to accomplish with passage of the ordinance. They believe licensing should be about assuring the "quality" of program and services rather than a tool for policing public conduct.
3. No sense of the adverse fiscal consequences that will fall upon operators as a consequence of the ordinance going into effect.

There was a lot of sentiment and given that condition I asked that they send me a more concrete collective assessment of the ordinance.

I just received that and it is attached below.

Mark

Begin forwarded message:

From: Oliver Bradeen <obradeen@milestone-recovery.org>

Subject: Shelter Licensing Ordinance Comments

Date: March 9, 2021 at 3:19:20 PM EST

To: "mdion@portlandmaine.gov" <mdion@portlandmaine.gov>

Hi Counselor Dion,
I have attached comments regarding the Shelter Licensing Ordinance
Thank you for your time,

Memo:

Date: March 9, 2021

To: The City of Portland Health and Human Services & Public Safety Committee

From: Oliver Bradeen, Milestone Recovery on Behalf of Portland's Private Non-Profit Shelter Providers (Milestone Recovery, Preble Street and Through These Doors)

RE: City of Portland Shelter Licensing Ordinance Comments:

At the February 2021 Health and Human Services & Public Safety Committee meeting councilors suggested that they wanted to hear feedback from the providers of shelter in the city of Portland. As a preliminary response to that request we, Portland's three non-profit shelter providers, have compiled the following feedback on the shelter licensing ordinance.

We want to be clear, that this feedback is based on the February 2021 draft licensing ordinance and a brief review of the March draft posted on Friday March 5th. As the document is revised following this evening's meeting, we request that the HHS & PS committee provide a copy to shelters and other homeless service providers for review at least 2 weeks before a committee meeting where it will be discussed. This will ensure that providers who work closest with individuals experiencing homelessness have the opportunity to provide comprehensive feedback on the potential impacts of the proposed ordinance on services and clients.

Impact on Shelters:

The reporting requirements, mandated meetings and added security requirements will impact staffing. Without clear frameworks it is hard to understand the actual impact on personnel hours. At a minimum this would add duties to already overloaded staff at all levels of shelter operations.

To meet the requirements of the licensure, we may have to hire an additional staff to manage the additional data collection, meetings and engagement with the city. As I am sure you are aware, shelters are notoriously underfunded and most operate at a loss with current funding streams and have to supplement their budgets with donations. In addition, we are currently in the COVID-19 pandemic compounded by a substance use disorder epidemic. Both have already strained our shelter systems.

The cost of licensure probably seems low to the city council. Milestone is a 41 Bed Shelter, we would have an additional cost of \$500/year due to this ordinance. In order to pay for the new expense of licensure, we will have to cut corners somewhere. \$500 a year equals 5 new mats for our shelter. Once again, there is no funding stream for new mats for shelter providers and that does not include the cost of a pillow. We would much rather spend that money on improving services for our clients, than on a fee for licensure.

The ordinance, as it is currently written, takes very limited resources and forces us to prioritize the city's needs and the neighborhood concerns over the client's needs. We need to remember that people experiencing homelessness are disenfranchised, discriminated against, and have trauma histories. Experiencing homelessness itself is a trauma, one that individuals utilizing our shelters are experiencing every day. Collaborating with neighbors and the city are integral to the operation of shelters, but this is already happening out of necessity. The reality is that the problems that exist in our system of care for people experiencing homelessness are very complex, often have no solution and will not be able to remedied without further changes to the larger system, not just the shelter providers. This means that often neighbors will get answers they do not like.

Community Impact:

This licensure ordinance seeks to control neighborhood behavior. The presence of shelters does not dictate behavior in the community. This is a much larger societal problem and to scapegoat it to the shelter systems is misguided and shortsighted. We are in the midst of a substance use epidemic and during the COVID-19 pandemic, people's mental health symptoms have been exacerbated with less access to support services. The increase in mental health and substance use needs are not specific to

the population of people experiencing homelessness but impact all demographics. Often SUD and at times MH disorders lead people to homelessness. These complex issues are not going to be solved by this licensure and much of the unwanted behaviors in community are a result of a broken behavioral health treatment system and not shelter services.

We have sat in collaborative meetings with the City, Fire Department, Police Department, shelter providers, advocates, social service providers and people experiencing homelessness for years in Portland. Other communities in Maine and around the nation look to Portland as an example of community collaboration. These meetings have been filled with bright people, interdisciplinary approaches, local and state officials. Even with pooling all these resources, often challenging situations do not get navigated. The outcome is most often that we have no solution. We can give you case example after case example of how our system will fail the people who need it most. The resource that is there for people when all else fails them are our shelter systems. You don't have to like it, but our system of care has relied on shelters and law enforcement to prop the failing system up for decades. By enacting this licensure and limiting the ability to operate shelters the impact will be increased police and fire calls for service in the city, increased utilization of the emergency departments, camping will increase, and the jail will be the biggest homeless shelter in our city. The "if you build it they will come" narrative is a false one. If you look at any system in which shelter systems close, the people experiencing homelessness do not leave the area. They engage in other methods of seeking shelter, such as camping, tent cities, sleeping in doorways downtown, building temporary shelter and staying in temporary lodging. Regulating the shelters to the point that they cannot operate will negatively impact the community in a larger way than operating the shelters. Licensing shelters is not the appropriate approach to the challenges of the community. If the city wants to figure out a way to tackle the challenges it is seeing, work with ESAC, a group that has existed since 1987 and collaboratively works to end homelessness in the City of Portland.

Final thoughts:

We have many criticisms of this approach to engaging with these problems. If the goal of this ordinance is to make it impossible to operate shelters in the City of Portland, and to block new ones, then this ordinance is extremely successful. If the goal of this ordinance is to reduce the impact of shelter operations on neighbors and communities it misses the mark. It doubles down on an approach that has not been successful; trying to get social services to control community behavior that no other part of the system of care can manage and increased security/policing of individuals experiencing homelessness. We know that the approach and best practice to navigating these challenges is continuing to engage with our clients and global systems of care to foster change.

Oliver Bradeen, LCPC
Executive Director
Milestone Recovery
65 India Street
Portland, ME 04101
www.milestone-recovery.org
(207) 775-4790 ext. 114

Mark Dion
City Council / District 5
[389 Congress Street](#)
[Portland, Me 04101](#)

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.

Adam Harr <ash@portlandmaine.gov>

Tue, Mar 9, 2021 at 5:29 PM

To: Belinda Ray <bsr@portlandmaine.gov>

Cc: Mark Dion <mdion@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>, Kate Snyder <ksnyder@portlandmaine.gov>

It's up now!

Adam Harr (*he / him / his*)
Executive Assistant
Social Services Division
Health & Human Services Department
City of Portland
196 Lancaster Street
Portland, ME 04101
o: (207) 482-5144
f: (207) 775-7918
ash@portlandmaine.gov

[Quoted text hidden]

Mark Dion <mdion@portlandmaine.gov>

Tue, Mar 9, 2021 at 5:31 PM

To: Adam Harr <ash@portlandmaine.gov>

Adam I need a link for yje meeting
Councilor Dion

[Quoted text hidden]

Subject: ESAC votes unanimously on Shelter Licensing ordinance



hvj <hvj@preblestreet.org>
to tchong@portlandmaine.gov, Belinda Ray, Mark Dion

Tue, Mar 9, 2021

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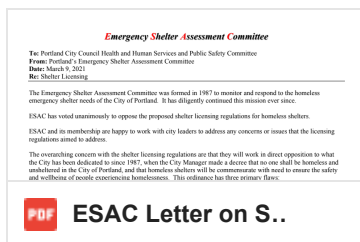
Good afternoon Chairperson Chong, Counselor Ray and Councilor Dion,

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



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.

Subject: Fwd: Shelter licensing general comments



Belinda Ray <bsr@portlandmaine.gov>
to Adam Harr, Tae Chong

Tue, Mar 9, 5:26

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And since I forwarded the ones Mark sent along, I should ask that these be added, too. Again, if not tonight, to the packet for this meeting and then again next month when we are more likely to vote. A couple more coming your way, Adam.

Thanks!

Best,

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

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

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

From: **Sarah Michniewicz** <sarahmichniewicz@icloud.com>

Date: Tue, Mar 9, 2021 at 3:58 PM

Subject: Shelter licensing general comments

To: Tae Chong <tchong@portlandmaine.gov>, <mdion@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>

Cc: <cityclerk@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Ali Pious

<pali@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, Kate Snyder

<ksnyder@portlandmaine.gov>, <afournier@portlandmaine.gov>, <azarro@portlandmaine.gov>, Jon Jennings

<jpj@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>, Frank Clark <fclark@portlandmaine.gov>

Hello Chair Chong, Councilor Dion, and Councilor Ray,

Thank you once again for pursuing shelter licensing. I hope you will consider moving this on to the full council with a strong recommendation for passage, after incorporating community feedback on buffers and spacing as recommended by staff. I have a couple of thoughts and questions:

- Allowing separate day space is tantamount to replicating the untenable situation in Bayside; it would contradict the purpose of moving to a best practice model of having all resources in one site and potential double the amount of shelter space in any given area. This reversion to a campus-style shelter would



Testimony of Frank D'Alessandro, Maine Equal Justice on Proposed Shelter Licensing Ordinance.

Good afternoon Chairperson Tae Chong and counselors Belinda Ray and Mark Dion sitting as The **Health & Human Services and Public Safety Committee.**

My name is Frank D'Alessandro and I am the Litigation and Policy Director of Maine Equal Justice. We are a civil legal service organization, and we work with and for people with low income seeking solutions to poverty through policy, education and legal representation. Thank for the opportunity to offer you testimony proposed shelter licensing ordinance.

Introduction

Fundamentally, we believe that any licensing ordinance should be focused on the health, safety and care for clients accessing services and not the neighborhood concerns that occur off premises from a given shelter facility or are not tied to the provision of high-quality services to clients. We ask that this Committee and the council as a whole ground its discussion by asking how the licensing ordinance protects those needing access to shelter itself.

In addition, we have the following specific comments concerning the proposed ordinance:

I. The Proposed 1-mile buffer zone and bed cap would impact every shelter located on Peninsula in Portland.

Maine Equal Justice is particularly concerned with the proposed bed limits and distance between shelter requirements.

As the city's own experience with finding the site of the shelter at Riverton and sites for temporary shelter for Covid overflow illustrate, even without ordinances restricting shelter's location, it is very challenging to find land or buildings that work for emergency shelter. The proposed buffer zone restriction adds an artificial barrier to shelter location and relocation. The proposed licensing ordinance will make it even harder for new facilities to open where land and property is available.

Furthermore, it and will also make it difficult for shelters to be renovated, expanded, or moved. This will make it more difficult for shelters to adapt to meet the changing needs of people experiencing homelessness while making it less likely that people experiencing homelessness will have access to adequate, safe, and modern facilities which should be the goal of the licensing scheme. As the Committee is aware, the Preble Street Wellness Shelter, the Joe Kreisler Teen

Shelter, Oxford Street, the family shelter, Florence House, Milestone and the DV Shelter are all located within a mile radius. The buffer zone provision would effectively preclude creation of any new emergency shelter on the peninsula.

While we appreciate that shelters that have been approved prior to January 31, 2021 will be grandfathered in, we recommend that this date be changed to the effective date of any ordinance that is finally passed by the City Council.

II. There is a lack of clarity about when an existing shelter would have to apply for a license to improve or change their facility

The buffer zone requirement may also impact an existing shelter as there is a lack of clarity in the proposed licensing requirement about when a shelter who changes its services or facility in order to make necessary improvements or to meet a new need experienced by the homeless community would be required to submit a new application.

III. The revised proposed ordinance was correct to remove the “unacceptable number of police (and Fire) calls” provision as it could have led to unintended consequences.

We agree that it was appropriate to remove this provision as it would have served to penalize a proactive and productive relationship between city public safety staff and shelter facilities. Law Enforcement calls often stem from an inadequate mental health system or struggles with substance use, precisely the type of circumstances that often lead to homelessness. Those who might interact with law enforcement are often those who most need the services provided by a homeless shelter. The ordinance should avoid such criminalization of homelessness.

Furthermore, police call provisions can have unintended consequences. This is the case with the disorderly house designation currently in city ordinance. Under this ordinance the city is able to designate a property “disorderly” and require the landlord to evict every tenant in the building. We have seen the disorderly house ordinance applied in a manner that allows for the blanket closing down of a building and eviction of lawful tenants who are not themselves engaged in dangerous behavior. Such a provision applied to shelters could result in the unintended closing of needed shelter facilities.

For these reasons among others, we are glad that this provision has been removed.

IV. The Licensing Ordinance raises concerns of disparate impact discrimination against those who access shelter in Portland including people of color, those with disabilities, and those navigating substance use diagnoses.

Finally, according to the Maine State Housing Authority 2019 Point in Time Survey 26% of Maine’s homeless population is Black or African American, and 13% were experiencing substance

abuse issues.¹ According to the same report, there is also a high rate of persons experiencing homelessness who report a disability.

As compared to the overall population, there is a disproportionate number of people of color and those with disabilities who experience homelessness.²

As set forth above, the licensing scheme being considered will negatively impact the availability of homeless shelter and related services. It will do this by requiring a buffer zone and by overemphasizing neighborhood concerns to the detriment of people experiencing homelessness. This will deprive people who are homeless of shelter for reasons unrelated to the behaviors of the vast majority of homeless individuals.

Not only do these requirements impose inappropriate requirements upon shelters, but they will also result in a disparate impact upon both people of color and individuals who suffer from mental illness, potentially violating the Maine Human Rights Act.³

¹ https://www.mainehousing.org/docs/default-source/housing-reports/2019-point-in-time-survey.pdf?sfvrsn=6d6fb415_4

² Only about 1% of the population is Black or African-American, 4.4% of the population suffered from a mental illness.

³ https://www.maine.gov/mhrc/sites/maine.gov/mhrc/files/inline-files/What_it_is.pdf

Subject: Re: Shelter Licensing & Zoning



Jim Hall <mtjimhall@gmail.com>

Tue, Mar 9, 2:14

to Jim Hall, Tae Chong, Belinda Ray, Mark Dion, Kate Snyder, Nicholas Mavodones, Pious Ail, April Fournier, Si

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Hi Councilors Chong, Ray and Dion,

I just learned that ESAC voted in a non-public meeting to oppose shelter licensing altogether (presumably with city staff abstaining). I disagree that creating oversight on a known high-impact use is “demonizing”, “arbitrary”, or “diminishes” response. In fact, as my comments of 3/7 point out, the current licensing proposal is much more explicit about protections inside & “around” the facilities while having almost nothing to say about overall neighborhood impacts. Voluntary behind-the-scenes meetings with city staff may be another welcome solution, but it is NOT an appropriate total response to decades of zero governance. If certain actors in this space had not put the worst externalities of homelessness “on display” while continually disrespecting the community, it would not be so hard to site new shelters in the first place. Homeless services do not need to look like “a neighborhood under siege”, but they did. Please enact oversight that ensures that can never happen again, anywhere.

Jim Hall
Cedar St

On Mar 9, 2021, at 1:47 PM, Jim Hall <mtjimhall@gmail.com> wrote:

Hi Councilors Chong, Ray and Dion,

Apologies for the late add-on. I'm sure some of you are following the Maine Statewide Homeless Council's strategic planning for a better statewide system. I just wanted to point out a few data findings presented today, which may be relevant to Portland's overall strategy regarding management of homeless services.

<http://www.mainehomelessplanning.org/wp-content/uploads/2021/03/CSH-Maine-Data-Analysis-for-SHC-2021-03-09.pdf>

- (p21 of 40) – emergency shelter has the worst record regarding exit to permanent housing, compared to rapid rehousing, transitional housing, and supportive housing (and diversion was not even considered since there is not yet a state system)
- (p29 of 40) – The data suggests adding only 23 emergency beds across the entire state, with spoken analysis pointing to geographical areas that are underserved. Discussion outlined a goal of closing emergency shelters over time as more successful programs reduce the need.

Subject: Shelter licensing



Carolyn Megan <carolynmegan@gmail.com>

Tue, Mar 9, 1'

to Tae Chong, mdion, Belinda Ray, Spencer Thibodeau, Ali Pious, Nicholas Mavodones, afournier, azarro, Jon Jen

You are viewing an attached message. City of Portland Mail can't verify the authenticity of attached messages.

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 the city as a 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 Beaverton 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

Subject: tonight's discussion - emergency shelter licensing



Heidi Souerwine <heidi.souerwine@gmail.com>

Tue, Mar 9, 3:54

to Tae Chong, mdion, Belinda Ray, Kate Snyder, Spencer Thibodeau, Ali Pious, Nicholas Mavodones, afournier,

You are viewing an attached message. City of Portland Mail can't verify the authenticity of attached messages.

Dear HHS Committee members and Councilors,

Thank you for the continued discussion, consideration of, and movement forward on our city's shelter regulations. I have 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 streets during the day.
 1. I see waivers have been suggested, and I would **STRONGLY** recommend finding a way to limit them. 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 the 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 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.

MEMORANDUM

TO: Health and Human Services and Public Safety Committee

FROM: Anne Torregrossa, Associate Corporation Counsel

DATE: July 8, 2021

RE: Measuring distances and enforcement

The HHS Committee raised two questions at its last meeting that I would like to address. The first related to the appropriate way to measure the distance between shelters, and the second related to how enforcement would be conducted. This memo addresses both.

MEASURING

In discussing the way that distances should be measured under the proposed shelter licensing ordinance, the Committee asked for examples of how distances are measured in other areas of the City Code. The key is to consider 1) how the distance is measured; and 2) from where the distance is measured. Here are several examples from the City Code and state law:

1. **Bottle Club Distance from Schools, etc. (§ 3-28(d))**

The three hundred (300) foot distance shall be measured from the principal entrance of the school, dormitory, church, chapel or parish house to the principal entrance of the licensed premises by the ordinary course of travel.

2. **Public Nude Activity Distance from Others and from Schools, etc. (§ 4-91(b))**

The distance must be measured from the main entrance of the premises, as measured in a straight line, without regard to intervening structures or objects.

3. **Certain Marijuana Business Distance from Schools, etc. (§ 14-6.4.10(B)(1))**

Distance shall be measured from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.

4. **Certain Marijuana Business Distance from Residential Properties (§ 14-6.4.10(B)(2))**

Distance shall be measured from the nearest outer wall of the building housing the marijuana cultivation, manufacturing, or testing facility to the nearest applicable residential zone boundary. If the marijuana-related facility leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the nearest outer wall of the room or suite of rooms within which the facility is located shall constitute the nearest outer wall of the building housing that facility.

5. **Entertainment License Holders from Each Other in Downtown Entertainment Overlay District (§ 14-8.2.3)**

A business with an entertainment license as required or authorized by Chapter 4, Section 4-51(a) of the City of Portland Code of Ordinances within the Downtown Entertainment Overlay Zone may not be located within 100 feet of another business with an entertainment

license, as measured along or across public ways from the main entrance or entrances of each.

6. Liquor Licensee Distance from Schools, etc. (28-A M.R.S. § 701)

The distance must be measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel.

ENFORCEMENT

There was a great deal of concern about how enforcement would be conducted in connection with shelter licensing. Hopefully, this brief overview of how the City currently conducts enforcement – and how it would conduct enforcement moving forward – will assuage some of the concerns raised.

With respect to certain City ordinances, as well as state laws enforced by the City, City inspectors already have the authority and jurisdiction to inspect existing shelters. By way of example, this would include the Building, Life Safety, and Fire Codes. Currently, the Fire Department and Permitting and Inspections Department conduct inspections of a variety of commercial and residential buildings, and their jurisdiction extends to all buildings in the City, including existing shelters. When the City conducts an inspection and finds a violation of a code or statute, the inspector issues a Notice of Violation and Order to Correct (NOV). The NOV gives the owner or responsible party time to correct the violations that are commensurate with the difficulty that correcting the violation poses and the threat that allowing the violation to continue poses. For example, missing smoke alarms might have a much shorter timeframe for correction than installing a full sprinkler system in a building. It is only after the owner or responsible party does not take any action will the City proceed to civil penalties or legal action.

One exception to this process is where a building or violation poses an imminent threat to safety, in which case a building might be posted against occupancy, or similar steps taken. Also, if a violation is a frequently repeated violation then the City might proceed directly to civil penalties or court action.

Licensing inspections proceed in the same manner. For example, the City's Health Inspectors regularly inspect City licensed restaurants for compliance with City Code and state statute. Again, a notice of Imminent Health Hazard (IHH) would be issued for any violations found during an inspection and the licensee would be given time to remedy the deficiency. Generally, a restaurant would not be shut down or otherwise impacted while they are correcting the deficiency, unless the deficiency posed an immediate threat to health and safety. Civil penalties, license suspension or revocation, or other legal action would not move forward unless the licensee did not comply with the City's orders.

The City's goal in enforcement has always been compliance, and City inspectors spend significant time and energy working with property and business owners to help them come into compliance. A very, very small percentage of violations end in civil penalties, license suspension or revocation, or other negative impact on the property or business owner. All of those are business

or owners who have been given numerous opportunities to voluntarily comply and have either refused or dragged their feet so long that it becomes clear that compliance is not forthcoming.

The same principles would be applied to shelter licensee inspections. Inspections would be based on City Code, state statute, or conditions of approval in the licensee's license. This would include their operating plan. The inspector's criteria would not be subjective, but would be based only on the code, statute, or license. Unless a violation posed an imminent threat, a license would be given notice and an opportunity to correct any violations. Civil penalties, license suspension or revocation, or other legal action would only be taken for those licensees who refused to correct violations or repeatedly showed the same violations to the point that the licensee is clearly not meeting their obligations.



CITY OF PORTLAND
Social Services Division
Aaron Geyer, Director

MEMORANDUM

TO: The Health & Human Services and Public Safety Committee

FROM: Aaron Geyer, Social Services Division Director

DATE: June 8, 2021

RE: Shelter Licensing Reporting Requirements and Definitions

At the last meeting, Councilor Dion asked if referrals to a different shelter were included in the list of reporting requirements and expressed interest in pairing down the list in order to increase efficiency. Referrals to other shelters are not currently included. Shelter to shelter referrals currently occur informally as a mechanisms to maximize beds across our shelter continuum and provide the best possible options for guests. Adding a shelter referral reporting requirement would be complicated to get accurate reporting given the nightly cross over that occurs.

In an effort to streamline the reporting requirements, I recommend eliminating (v) "total number of chronically homeless individuals accessing the shelter" with (vi) "total number of individuals who are defined as having long time stayer status" due to the overlap with individuals who meet both criteria. I also recommend Eliminating (xi) Crisis Calls for services, as those calls in large part could be captured in (xiii) police calls for service.

Below are two definitions the committee requested, but please note: eliminating (xi) completely removes the term "crisis calls for service" from the proposed ordinance:

- Long Term Stayer - An individual staying over 180 days in shelters (or outdoors) within a 365 day period (not necessarily consecutive).
- Crisis Calls for services- Calls placed to crisis line (774-HELP) and those to the Behavioral Health team within the Police Dept.

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