

IMPACT STATEMENT

Legislation title: Amend Title 33, Planning and Zoning to reduce regulatory restrictions and processes for short-term housing and mass shelters. (Ordinance)

Contact name: Phil Nameny
Contact phone: 503-823-7709
Presenter name: Joe Zehnder and Phil Nameny

Purpose of proposed legislation and background information:

The code amendments are the result of City Council's direction to "simplify regulations, remove regulatory obstacles, and expedite processes for land use reviews and permits for affordable housing projects, mass shelters, and short-term housing". This direction was given through Resolution 37196 passed in March 2016.

These amendments were recommended by the Planning and Sustainability Commission (PSC) on September 27, 2016 after the public hearing held on September 13. They provide more flexibility for the siting of mass shelters in zones where they are already allowed, including increasing the number of allowed beds and reducing separation requirements. The code also reduces parking requirements for some mass shelters and short-term housing. For mass shelters and short-term housing subject to conditional use review, additional discretionary review alternatives (Type II instead of Type III) are provided for applicants, and an amended set of approval criteria are created for facilities in existing buildings or with existing institutions. The amendments provide additional opportunities for certain institutions to provide limited transitional housing on a short-term basis.

The PSC did not move forward a recommendation on staff's proposal to provide a Type IIX Design and Historic review option for affordable housing projects. This would have codified the temporary measure passed by Council in March 2016. No projects had used this temporary alternative and so the PSC did not feel that there was evidence that the staff proposal would provide any regulatory relief to affordable housing projects.

Financial and budgetary impacts:

This action does not result in any significant long term revenue or expense impacts. There may be some short-term impacts to train relevant bureau staff on the new regulatory code. There may be a slight decrease in revenue if fewer conditional use reviews for mass shelters or short-term housing are required, or if the type of review is a lower process than previous. This will be balanced by a small reduction in staff time to review these projects. Since there are generally fewer than five conditional use reviews regarding these types of facilities in any calendar year, this affects a small proportion of land use staff, so no change in staffing is anticipated.

Community impacts and community involvement:

The main stakeholders affected by these code amendments include those who provide shelters and other forms of transitional housing, those in need of such housing, those who work directly with the homeless, and the residents and businesses who may have an interest or be impacted by

these types of facilities. Other stakeholders include city staff and bureaus who are implementing new policies related to providing shelter. During initial research and discussion, staff met with many of the stakeholders whose goal is to provide shelter to assess the scope of the issue.

As part of the overall outreach for the proposal, staff attended monthly meetings for nine interest and stakeholder groups including land use representatives of the Neighborhood District Coalition offices, business stakeholders including the Portland Business Alliance, Venture Portland and the Central Eastside business land use group. Staff also briefed both the Design Commission and the Landmarks Commission. Staff sent out a notice to over 400 individuals, including those who expressed initial interest in the project as well as individuals with a general interest in BPS legislative projects, informing them of the initial project hearing and open house. On August 31, staff held an open house at the central Multnomah County library to discuss the proposal.

In general, stakeholders were supportive of provisions to provide more opportunity for shelters, although there was not complete agreement on the extent of expansion and the amount of neighborhood involvement that should be required. The stakeholder comments were a factor in limiting the overall number of regulatory changes, so that shelters in certain zones and/or above certain sizes will still need to go through the conditional use process to gain approval.

Budgetary Impact Worksheet

Does this action change appropriations?

☐ **YES:** Please complete the information below.

☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

Amendments
11-2-16

188077

MEMO

DATE: November 2, 2016
TO: Portland City Council
FROM: Phil Nameny (BPS)
CC: Joe Zehnder (BPS)
Rebecca Esau (BDS)
SUBJECT: Mass Shelters and Housing - Potential Zoning Code Changes

We have been notified by the Bureau of Development Services that Commissioner Saltzman's office has suggestions to change the Planning and Sustainability Commission's recommendation on the Mass Shelters and Housing Zoning Code Update.

This memo is the Bureau of Planning and Sustainability's attempt to translate the suggestions into zoning code amendments for consideration by the City Council. There are three suggestions and potential code changes. They include:

1. Clarify what changes to a site/building are allowed in conjunction with a temporary activity.

Response: New language is added to the temporary activities chapter, 33.296, to clarify that certain types of alterations that are normally allowed by the zone, or required for fire/life safety reasons can take place with the temporary activity.

2. Clarify the type of structures for a group living situation.

Response: The definition of a group living structure (Chapter 33.910) is amended to clarify that the group living use can occur in a single structure or in a group of structures, provided that there is at least one kitchen area within the facility. However, not every structure needs a kitchen. The existing definition for short term housing does not need to change.



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portlandoregon.gov/bps
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

Printed on 100% post-consumer waste recycled paper.

3. Simplify the range of thresholds and conditional use criteria for mass shelters and short term housing in residential zones, and consider how existing facilities should be reviewed.

Response: The attached language replaces the Use Regulations, Section 33.285.040, to provide a simpler set of conditional use thresholds, and allows small expansions of existing facilities as long as they do not increase the number of occupants and they stay in compliance with the previous approval.

The approval criteria are revised to create a single set to apply to conditional use approval for all mass shelters and short term housing in residential zones. This results in a replacement of Section 33.815.107. As part of the change, the criterion related to physical compatibility and public services will be invoked in cases when there are larger building expansions.

Attached are the revised code changes for code sections 33.296.040, 33.910.030, 33.285.040, and 33.815.107.



ITEM #1**Temporary Activities Chapter 33.296**

This code change clarifies that certain work consistent with the uses/development of zone or required for building/life safety may remain on the site.

33.296.040 General Regulations.

All temporary activities are subject to the regulations listed below.

- A. New development or alterations to existing development ~~Permanent changes to the site~~ are prohibited, unless consistent with the development standards for uses allowed by right in the underlying zone or required by applicable building, fire, health, or safety codes.
- B. Temporary activities may not cause the elimination of required off-street parking, except for Farmers Markets. Required parking may be temporarily occupied by a Farmers Market, as follows:
 - 1. The market may occupy up to 3 required spaces or 30 percent of the required spaces, whichever is more; or
 - 2. If the market occurs at a time other than a peak time for the primary use on the site, the market may occupy all of the required spaces. If this option is used, the operator of the market must keep an analysis on file. The analysis must document when the peak times are for the primary use, and the hours of operation (including set-up and take-down) for the market.
- C. Temporary activities that are maintained beyond the allowed time limits are subject to the applicable use and development standards of the zoning code.
- D. Temporary activities on sites where the primary use is a conditional use may not violate the conditions of approval for the primary use, except as allowed by Subsection B.
- E. These regulations do not exempt the operator from any other required permits such as sanitation facility permits or electrical permits.

Highlighted
with Sattzman
amendments
NOV 2, 2016

ITEM #2**Definitions Chapter 33.910**

This code change clarifies the definition of group living facility within the residential structure types to indicate that the group living facility does not have to be a single structure, but can consist of more than one structure, as long as there is one kitchen on the site.

33.910.030 Definitions

The definition of words with specific meaning in the zoning code are as follows:

Residential Structure Types

- **Group Living Facility Structure.** A structure or structures that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for Group Living uses.

No other changes, this is shown for illustration

Short Term Housing. A structure that contains one or more individual sleeping rooms, and where tenancy of all rooms may be arranged for periods of less than one month. The short term housing facility may or may not have food preparation facilities, and shower or bath facilities may or may not be shared. The facility is managed by a public or non-profit agency to provide short term housing, with or without a fee. Examples include transitional housing, and emergency shelter where individual rooms are provided. Where individual rooms are not provided, the facility may be a mass shelter.

ITEM #3**Amendments to Short Term Housing and Mass Shelters Chapter 33.285****Amendments to Conditional Use Chapter 33.815**

The following amendments are made to update the set of thresholds for conditional use review and simplify the sets of approval criteria.

Language is added to allow small alterations/additions to existing mass shelters without triggering a CU review.

A single set of approval criteria (33.815.107) applies for short term housing and mass shelters in R-zones, instead of having two sets. The single set of criteria contains two criteria that apply to existing buildings and/or situations with a small expansion while the other criteria must be met if there is an increase in building area greater than 10% or 1500 sq ft, whichever is greater.

33.285.040 Use Regulations**A. Short term housing.**

1. R zones. New sShort term housing, an expansion of net building area, or an increase in the number of occupants in existing short term housing in R zones is subject to the following regulations:
 - a. Allowed useExisting structures. New short term housing and alteration to existing short term housing is allowed if it meets one of the following:
 - (1) Short term housing for up to 15 beds is an allowed use in the R3 – RX and IR zones if it is provided on the site ofan existing structure Institutional Use and meets the standards of 33.285.050.
 - (2) An alteration or expansion that does not increase net building area of the short term housing by more than 10 percent is allowed if there is no increase in the number of beds or occupants and if the alteration or expansion complies with all conditions of approval.
 - b. Conditional use. If the short term housing does not meet Subparagraph A.1.a, it in-a residential zone is a conditional use and is, reviewed through the following procedures. The approval criteria are in 33.815.107, Short Term Housing and Mass Shelters in R Zones. The short term housing must also meet the standards of 33.285.050:
 - (1) If the short term housing is provided in an existing structure, or is on the site of an existing Institutional Use, the conditional use is reviewed through a Type II procedure. Approval criteria are in Section 33.815.107, Short Term Housing in R Zones. An existing structure is one that is at least 5 years old and has not had any increase of more than 10 percent in net building area in 5 years.
 - b. New or expanded structures. Short term housing provided in a structure that has been built or added net building area within the past 5 years is a conditional use, reviewed through a Type II procedure. Approval criteria are in Section 33.815.105, Institutional and Other Uses in R Zones.
 - (2) All other short term housing proposals are reviewed through a Type III procedure.

- c. ~~Expansion or increase of existing facility. Expansion of net building area or increase in the number of residents in an existing short term housing facility is processed according to SubSection 33.815.040, Review Procedures for Conditional Uses. Approval criteria are in Section 33.815.105, Institutional and Other Uses in R Zones.~~
- 2. C and E zones. Short term housing is allowed in C and E zones if it meets the standards in Section 33.285.050. Expansion of net building area or increase in the number of ~~occupants~~ residents in an existing short term housing facility is allowed if it meets the standards in Section 33.285.050.
- 3. OS and I zones. Short term housing is prohibited in OS and I zones.
- 4. Exemption. Short term housing that exclusively serves victims of sexual or domestic violence is allowed by right in R, C, and E zones if it meets the size limitations for Group Living uses.

B. Mass shelters.

- 1. RF through ~~R2.5R1 and IR~~ zones. Generally, new mass shelters, expansions of net building area and increases in the number of occupants in existing mass shelters in RF through R2.5R1 and IR zones are a conditional use and are reviewed through the following procedures. Certain alterations to existing mass shelters may be allowed if they meet Subparagraph B.1.b. The standards of Section 33.285.050 do not apply to mass shelters reviewed as conditional uses.
 - a. New mass shelters. The following procedures apply to new mass shelters and alterations to mass shelters that do not meet subparagraph B.1.b. The approval criteria are in Section 33.815.107, Short Term Housing and Mass Shelters in R Zones:
 - (1) If the mass shelter is provided in an existing structure or is on a site of an existing Institutional Use, the conditional use is reviewed through a Type III procedure. Approval criteria are in Section 33.815.105, Institutional and Other Uses in R Zones. An existing structure is one that is at least 5 years old and has not had an increase of more than 10 percent in net building area in 5 years.
 - (2) All other mass shelters are reviewed through a Type III procedure. Approval criteria are in Section 33.815.107, Short Term Housing and Mass Shelters in R zones.
 - b. Existing mass shelters. An alteration or expansion that does not increase net building area of the mass shelter by more than 10 percent is allowed if there is no increase in the number of beds or occupants and if the alteration or expansion complies with all conditions of approval.

~~Expansion of net building area or increase in the number of residents in an existing mass shelter is processed according to Section 33.815.040, Review Procedures for Conditional Uses. Approval criteria are in Section 33.815.105, Institutional and Other Uses in R Zones.~~

- ~~— The standards of Section 33.285.050 do not apply to mass shelters reviewed as conditional uses.~~

2. R3 through R1 and IR zones. Applicants for a new mass shelter or expansion of net building area or increase in the number of occupants in an existing mass shelter in R3 through R1 and IR zones may choose to be an allowed use or a conditional use, as stated below.
- a. Allowed use. A new mass shelter and alteration of an existing mass shelter is allowed if it meets one of the following:
 - (1) A mass shelter that meets the standards of Section 33.285.050 is an allowed use.
 - (2) An alteration or expansion that does not increase net building area of the mass shelter by more than 10 percent is allowed if there is no increase in the number of beds or occupants and if the alteration or expansion complies with all conditions of approval.
 - b. Conditional use. If the mass shelter does not meet Subparagraph B.2.a, it is a conditional use as follows. The approval criteria are in Section 33.815.107, Short Term Housing and Mass Shelters in R Zones. The standards of Section 33.285.050 do not apply to a mass shelter reviewed as conditional uses.
 - (1) If the mass shelter is provided in an existing structure or is on a site of an existing Institutional Use, the conditional use is reviewed through a Type II procedure. An existing structure is one that is at least 5 years old and has not had an increase of more than 10 percent in net building area in 5 years.
 - (2) All other mass shelters are reviewed through a Type III procedure.
32. RH and RX zones. Applicants for a new mass shelter or expansion of net building area or increase in the number of occupants in an existing mass shelter in RH and RX zones may choose to be an allowed use or a conditional use, as stated below.
- a. Allowed use. A new mass shelter, or alteration of an existing mass shelter is allowed if it meets one of the following:
 - (1) A mass shelter that meets the standards of Section 33.285.050 is an allowed use.
 - (2) An alteration or expansion that does not increase net building area of the mass shelter by more than 10 percent is allowed if there is no increase in the number of beds or occupants and if the alteration or expansion complies with all conditions of approval.
 - b. Conditional use. If the mass shelter does not meet Subparagraph B.3.a, it is a conditional use as follows. Approval criteria are in Section 33.815.107, Short Term Housing and Mass Shelters in R Zones, Institutional and Other Uses in R Zones. The standards of Section 33.285.050 do not apply to mass shelters reviewed as conditional uses.
 - (1) If the mass shelter is provided in an existing structure or is on a site of an existing Institutional Use, the conditional use is reviewed through a Type II procedure. An existing structure is one that is at least 5 years old and has not had an increase of more than 10 percent in net building area in 5 years.
 - (2) All other mass shelters are reviewed through a Type III procedure.

43. C and EX zones. Applicants for a new mass shelter or expansion of net building area or increase in the number of ~~occupants~~residents in an existing mass shelter in C and EX zones may choose to be an allowed use or a conditional use, as stated below.

a. Allowed use. A new mass shelter, or alteration of an existing mass shelter is allowed if it meets one of the following:

(1) A mMass shelters that meets the standards of Section 33.285.050 is anare allowed uses.

(2) An alteration or expansion that does not increase net building area of the mass shelter by more than 10 percent is allowed if there is no increase in the number of beds or occupants and if the alteration or expansion complies with all conditions of approval.

b. Conditional use. If the mMass shelters does not meet the standards of 33.285.050, it ismay be processed as a conditional use, as followsreviewed through a Type III procedure. Approval criteria are in Section 33.815.140, Mass Shelters and Specified Group Living Uses in the C and EX Zones. The standards of Section 33.285.050 do not apply to mass shelters reviewed as conditional uses.

(1) If the mass shelter is provided within an existing structure, or on a site of an existing Institutional Use, the conditional use is reviewed through a Type II procedure. An existing structure is one that is at least 5 years old and has not had any increase in net building area in 5 years.

(2) All other mass shelters are reviewed through a Type III procedure.

5. EG zones. Generally, mass shelters in EG zones are a conditional use, reviewed through the following procedures. Certain alterations to existing mass shelters may be allowed if they meet Subparagraph B.5.b. Approval criteria are in Section 33.815.140, Mass Shelters and Specified Group Living Uses in the C and E zones. The standards of Section 33.285.050 do not apply to mass shelters reviewed as conditional uses.

a. The following procedures apply to new mass shelters and alterations of mass shelters that do not meet Subparagraph B.5.b:

(1) If the mass shelter is provided within an existing structure, or on a site of an existing Institutional Use, the conditional use is reviewed through a Type II procedure. An existing structure is one that is at least 5 years old and has not had any increase in net building area in 5 years.

(2) All other mass shelters are reviewed through a Type III procedure.

b. Existing mass shelters. An alteration or expansion that does not increase net building area of the mass shelter by more than 10 percent is allowed if there is no increase in the number of beds or occupants and if the alteration or expansion complies with all conditions of approval.

64. OS, ~~EG~~, and I zones. Mass shelters in OS, ~~EG~~, and I zones are prohibited.

75. Exemption. A mass shelter that exclusively serves victims of sexual or domestic violence is allowed by right in R, C, and E zones if it meets the size limitations for Group Living uses.

33.815.107 Short Term Housing and Mass Shelters in R Zones

These approval criteria apply to Community Service uses that provide short term housing and mass shelters in existing structures in R zones. Approval criterion A and C must be met for all mass shelters and short term housing. Criterion A through E must be met for mass shelters and short term housing, where the net building area on the site is increasing by more than 1500 square feet or 10 percent, whichever is greater. The approval criteria are as follows:

- A. Proportion of Household Living uses.** The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:
 - 1. The number, size, and location of other uses not in the Household Living category in the residential area; and
 - 2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.
- B. Physical compatibility.**
 - 1. The proposal will preserve any City-designated scenic resources; and
 - 2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation, and landscaping; or
 - 3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, and other design features.
- ~~**B. Minimum spacing.** The service provided by the proposed use is different from others provided within 750 feet of the site.~~
- C. Livability.** The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:
 - 1. Noise, glare from lights, late-night operations, odors, and litter; and
 - 2. Privacy issues.
- D. Public services.**
 - 1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;
 - 2. The transportation system is capable of supporting the proposal in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;
 - 3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

- E. **Area plans.** The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.