



Shelter ▶ to Housing Continuum

Amendments to the City Code

Volume One, Introduction

Discussion Draft
October 2020

The Shelter to Housing Continuum Project will further fair housing goals by expanding shelter and housing options throughout the city. The Bureau of Planning and Sustainability, the Portland Housing Bureau and the Joint City-County Office of Homeless Services are partnering to retool city codes to better address our homelessness crisis.

Cover illustrations kindly provided with permission:

Josh Chang for a photograph of the Kenton Women’s Village shelter,
Multnomah County Communications for a photograph of the
Laurelwood Center shelter,
Multnomah County Communications for a photograph of the Family
Village shelter, and
Guerilla Development Company for a drawing of the “Jolene's First
Cousin” group living building.

Cover design by Gaby Jenkins, Bureau of Planning and Sustainability.

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How to give feedback:

The Bureau of Planning and Sustainability thanks you for taking time out of your schedule to review these proposed changes to Portland’s City Code. This Discussion Draft is for public review of the proposed code amendments. Your comments will inform the development of a Proposed Draft that is scheduled for release in November 2020. This Proposed Draft will be reviewed by the Planning and Sustainability Commission (PSC) at one or more public hearings. Following any amendments to the proposal, the PSC will forward a Recommended Draft to the Portland City Council. Additional public hearings will be held before the City Council before any changes to the City Code are put into place by ordinance.

Your comments on this Discussion Draft are due by:

5 p.m. on Friday, October 30, 2020

Send your comments to:

Email: s2hc@portlandoregon.gov

Online: www.portlandmaps.com/bps/mapapp/proposals/#/s2hc

For more information:

Visit the project webpage: www.portland.gov/bps/s2hc

Community web forums will be announced on this page.

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Project Timeline:

Public feedback accepted
until October 30, 2020



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Volume One, Introduction

Summary

This report contains amendments to the Portland City Code that would facilitate provision of shelter and allow more affordable forms of housing. None of these amendments would go into effect unless first adopted by an ordinance of the Portland City Council.

The report is in three volumes. This Volume One contains an introduction. Volume Two contains amendments to Title 33 of the Portland City Code. Title 33 contains all the City's planning zoning regulations. Volume Three contains amendments to five other titles of the Portland City Code concerning a variety of matters other than planning and zoning.

Comments describing proposed amendments may be found on the pages facing the code changes in both Volumes Two and Three of this report. Language to be added to City codes is indicated by underlined text and language to be removed is indicated by ~~striketrough~~ text. Language to remain the same is indicated by plain text.

Purpose

The Shelter to Housing Continuum Project (S2HC) is part of a larger multi-jurisdictional effort to provide safe, decent and affordable shelter and housing to every Portlander that needs it. The project scope is limited to reviewing and proposing changes those parts of the Portland City Code having the potential to impede this purpose.

Particularly, the S2HC project will allow accommodations sited as temporary emergency uses to be reviewed and considered for approval through permanent code provisions. The housing emergency declaration allowing temporary siting expires on April 4, 2021. The project schedule allows necessary amendments to be placed into effect before the emergency expires.

The S2HC project will further fair housing laws, expand the range of shelter and housing options, and improve the regulatory environment for nonprofit, for-profit and public-sector shelter and housing providers.

The word "continuum" underscores an intent that the proposed code amendments will help make more low-barrier, entry-level, temporary shelter available to more persons experiencing, or about to experience, a loss of housing; provide for more longer-term transitional shelters with onsite supportive services; and allow construction of a wider variety of more affordable types of permanent housing.

Authorization

The Portland Bureau of Planning and Sustainability was directed by City Council on February 19, 2019 to undertake this work through Ordinance No. 189387. That ordinance extended the City's State of Housing Emergency to April 4, 2021. Background research for the S2HC Project was supported by a grant from the Oregon Department of Land Conservation and Development.

Contributors

The Portland Bureau of Planning and Sustainability (BPS), Bureau of Development Services (BDS), Portland Housing Bureau (PHB) Bureau of Transportation (PBOT) and the Multnomah County/City of Portland Joint Office of Homelessness Services (Joint Office) are the principle contributors to this report.

Partners

While the proposed code amendments were under development, the Portland Housing Bureau built more apartments with supportive services for extremely low-income individuals and households. The Joint Office of Homeless Services increased its efforts to meet rising demand for emergency and short-term shelter, day storage, and hygiene facilities, while the City provided socially distanced, outdoor tent camping facilities as a COVID-19 response. Metro also made the Oregon Convention Center available as an emergency shelter.



Interior of the Portland Homeless Family Shelter “Family Village.” A Short Term Shelter facility supported by the Joint Office of Homeless Services.

Context

On October 7, 2015, the Portland City Council declared a housing emergency to help address the city’s growing homelessness and housing affordability crises. That declaration allowed for the expedited development of affordable housing projects and made it easier to provide shelter and services to people experiencing homelessness.

Two years later, in partnership with Multnomah County and the Joint Office, the City committed to adding 2,000 units of Permanent Supportive Housing to address chronic homelessness in our community. There are already more than 800 new units of this supportive housing, either open or being built now.

Affordable housing production remained at an all-time high in 2019 for a second consecutive year, with 878 new units — the most ever produced in a single year. Another 3,100 are currently in development. Portland’s Housing Bond has contributed to this robust response. Twelve projects, totaling more than 1,420 units of permanently affordable housing, are either open or in progress across the City since voters overwhelmingly approved the City’s first bond for affordable housing in 2016.

Despite this progress, 4,015 people were counted as experiencing homelessness on a single night during the winter of 2019. The economic downturn caused by the COVID-19 pandemic has placed many more households at risk. So, Portland’s homelessness crisis is far from over.

The S2HC project is informed by this larger context.

A Brief Overview of How the City Code Works

Portland City Code, Title 33, Planning and Zoning (zoning code) contains all City’s land use regulations. These regulations indicate whether a particular use or development is allowed in a particular place. These places are usually a base zone, overlay zone, or a plan district. All these zones and districts are depicted on the City’s zoning map. The S2HC project makes no changes to the zoning map.

While Title 33 contains the City’s land use regulations, other Titles also impact how development occurs or how uses operate. For example, Title 24 contains building regulations governing how development allowed by the zoning code must be built. There are different building standards for single-dwelling residential, multi-dwelling residential, and commercial buildings as well as for low- and high-rise construction. Title 29 contains property management regulations controlling of the types of uses that may occupy various types of structures.

This is an example of how these codes work together. Title 33 would allow building a detached garage in a residential back yard, provided lot line setback and building height and coverage requirements were all met. Title 24 would control how the garage was built by only allowing certain construction methods and materials. Title 29 would then allow the parking of cars and the storage of tools but it would prohibit the owner of the garage from allowing a student to live in it while attending a nearby college.

While Titles 24, 29, and 33 regulate platted lots and parcels, both privately and publicly-owned, Titles 16 and 17 regulate dedicated public rights-of-way. How a street can be used and what can be stored, placed, or parked upon it is controlled by these Titles of the City Code.

The Proposed Code Changes

The three most significant proposed code changes are expanding flexibility for shelter siting, the establishment of a new Community Service use for outdoor shelters, and liberalization of Group Living allowances by eliminating Conditional Use requirements for some projects.

Volumes Two and Three of the S2HCP Project each contain a table of contents citing the report page numbers for each chapter of amended codes. A title is the largest division of the City code; a chapter is a more detailed division of a title. The amended City Code Titles include 8, 15, 17, 24, 29, and 33.

Other changes include:

- Replacement of the several Title 15 Housing Emergency authorities with new authorities in five other Titles of the Portland City Code
- Clarifying how Group Living accommodations that are not complete dwelling units (these are often called “micro apartments” or “single room occupancy units”) are regulated.
- Eliminating the special Group Living conditional use requirement for alternative and post incarceration facilities.
- Allowing transportable day storage locker, and bathroom and shower modules to serve people experiencing homelessness and being served by shelters;
- Providing alternative methods for siting temporary outdoor and mass shelters;
- Exempting outdoor shelters from design review and pedestrian circulation standards; and
- Employing more careful terminology to distinguish shelter from housing, consistent with the principle that there is a tenant to landlord relationship established with housing but not with shelter.

All of these changes are described in more detail below.

Expanded Flexibility for Shelters

Shelters and Emergencies

The current code requires periodic declarations of an emergency to facilitate siting of some types of temporary shelter. What was initially viewed as a short term need for temporary shelters has become an ongoing need. The proposed codes would allow the quick opening of shelters through new procedures. Outdoor and mass shelters would be allowed for 180 days in certain zones and could be retained for longer periods through conditional use reviews. This is accomplished through changes in Chapters 33.296 and 33.815, and through an amendment to Title 15.

The proposal also increases allowed number of shelter beds in some zones and reduces it in others. These changes are proposed, in part, to correct an oversight made when the then new commercial mixed-use zones were but in place during 2015 and 2016. The changes to the numbers of allowed shelter beds are made in Chapter 33.285.



The Laurelwood Center and Portland Harbor of Hope
Two examples of the Mass Shelter format

Day Facilities and Services

Some shelters need to be served by ancillary facilities, such as lockers and hygiene stations. These facilities may need to be placed in rights-of-way. Existing code is not clear on how these would be permitted. The proposal includes Title 17 amendments to more clearly allow day storage units and hygiene facilities in public right-of-way.

Meal Programs

There have been some cases where existing the code has limited the ability of faith-based institutions to initiate or expand charitable meal programs. Changes are proposed to clarify that operating a “meal program” no longer requires a conditional use, or a conditional use amendment.

Shelter and Housing Terminology

Using the term “housing” for a shelter facility not intended to long-term residential occupancy can create confusion and may imply landlord-tenant relationships exist. In general, housing is intended for permanent occupancy, and shelter is intended to serve transitional or emergency needs. The proposal makes numerous substitutions of terminology in several zoning code chapters to make the distinction between shelter and housing clearer. For example, the proposal changes the name of the Community Service use “Short Term Housing” to “Short Term Shelter” because the relationships in these facilities are provider to client or host to guest rather than landlord to tenant.



An individual bedroom within the Portland Homeless Family Shelter. A facility in the Short Term Shelter format.

Outdoor Shelters

The current zoning code offers no clear path for approving long-term siting of outdoor shelters, such as the Kenton Woman’s Village, Dignity Village, and Right 2 Dream Two. Some existing shelters have been given temporary lawful status through an emergency declaration, or through other project-specific Council actions. The proposal establishes a clearer and more certain path for retention and longer-term approval of outdoor shelters by amending Titles 15 and 33 of the City Code. The new outdoor shelter use would join mass shelters and short term shelters (renamed from short term housing) in the Community Service use category.

Because outdoor shelters are often built with temporary structures and because the individual accommodations within the shelters are often replaced, reconfigured, or moved, exemptions to some zoning standards are proposed. Outdoor shelters are made exempt from design review by a change to 33.420.

A narrow exception has also been added to the blanket prohibition on mass shelters in industrial zones. This is accomplished through modified approval criterion in 33.815.



The Kenton Women's Village
An Example of the
Outdoor Shelter
format.

Housing Flexibility

Household and Group Living

There are two types of residential use defined in the Portland Zoning Code – Household Living and Group Living.

- Household living is currently defined as the residential occupancy of a dwelling unit by a household. A Household is currently defined as one or more persons related by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit. Household Living occurs in houses, duplexes, apartments, condominiums, retirement facilities with self-contained apartments, manufactured housing, houseboats, and other structures with self-contained dwelling units.
- Group Living is currently defined as “the residential occupancy of a structure by a group of people who do not meet the definition of Household Living”. Examples include dormitories; communes; fraternities and sororities; monasteries and convents; nursing and convalescent homes; some group homes for people with disabilities; some residential programs for drug and alcohol treatment; and alternative or post incarceration facilities. Some forms of co-housing, micro-apartment buildings, and retirement communities may also be included in the Group Living category, depending on the number of people and how they share kitchens or bathrooms.

The proposed code would employ a different method to distinguishing Group Living from Household Living. All dwellings, like houses and apartments, with up to six bedrooms would be classified as Household Living, without regard to how the occupants might be related. Dwellings units with more than six bedrooms, and congregant living structures, like dormitories, single room occupancy buildings,

and convents, that do not meet the definition of a dwelling would be classified as Group Living.

Where and How Group Living Would be Allowed

It should be easy to site a residential use in a residential zone. The current code requires that a Group Living use obtain a conditional use approval to locate in single dwelling zones. This requirement is proposed for elimination because it makes siting Group Living harder than it needs to be. Allowing Group Living without a conditional use would promote fair housing and enable a wider variety of solutions to meet present and future housing needs identified in Portland's *2035 Comprehensive Plan*. The proposed code changes would allow Group Living in more base zones as an allowed-by-right use or as a limited use and achieve greater parity between Group Living and Household Living. The amount of Group Living allowed would be regulated by square footage. Additional increments of Group Living would continue to be allowed as conditional uses. These changes are accomplished by amending the use regulations of the base zones, (Chapters 33.110, 120, 130), and by changing definitions (Chapter 33.910) and use category descriptions (33.920).

"Household" no Longer a Basis for Regulation

Because Household and Group Living would be distinguished by structure type or the number of bedrooms contained therein, the proposed code eliminates the definition "household." There are three reasons for elimination. The definition is no longer necessary being the first. Enforceability is a second reason; it is much easier for a plan examiner or a zoning inspector to count rooms than people. The final reason is that the current definitions relies on culturally-specific descriptions family relationships that may no longer reflect the variety of living situations in Portland today. The proposal removes the limitation on the number of people that may live in a dwelling unit from the Zoning Code. Overcrowding would continue to be regulated through a more objective and enforceable provision in Section 29.30.220 of the Portland City Code. That code allows one resident, plus one additional resident for each 100 square feet of habitable room space. For the purpose of this calculation bathrooms, toilet compartments, closets, halls, storage areas, utility areas, and other similar areas are not considered habitable space.

Micro-Apartments and Single Room Occupancies

Buildings where several bedrooms share a common kitchen, common bathroom, or both (sometimes known as “micro-apartments” or “single room occupancies”) can be more affordable than standard apartments, because kitchens and bathrooms are expensive to build. The current code is confusing, with the distinction between Group Living, Household Living, and Single Room Occupancies hanging on obscure technical details that are not particularly meaningful. The proposed code clarifies that there are only two types of residential uses, Household Living and Group Living. The Single Room Occupancy use has been eliminated, but what could be done as single Room Occupancy under the current code could be accomplished as Group Living under the proposed code. These clarifications are made by changing definitions (33.910) and use category descriptions (33.920).



“Jolene’s First Cousin” on SE Gladstone. The green part of the building contains dwelling units rented as apartments. The red part of the building contains ten group living accommodations that share a common kitchen on the ground floor.

Inclusionary Housing

All the proposed code changes described above were made carefully so as to not change existing Inclusionary Housing requirements. Household Living in a dwelling unit counts toward inclusionary housing requirements, which apply when a building contains 20 or more dwelling units. Group Living, whether in a dwelling unit or not, does not count toward inclusionary housing requirements. Inclusionary housing requirements are neither expanded nor contracted by the proposed amendments.

Post-Incarceration Facilities

An “alternative or post incarceration facility” is a Group Living use where the residents are on probation or parole, but not subject to on-site supervision by sworn officers. The condition use requirement for these facilities is being eliminated.

The following chart provides a summary of the various shelter and housing types.

Shelter and Housing Type Comparisons

	In a Building	Has Bedroom(s)	Minimum Stay	Use Category	Occupants Are
Outdoor Shelter	No	No	None	Community Service	Clients or Guests
Mass Shelter	Yes	No	None	Community Service	Clients or Guests
Short Term Shelter	Yes	Yes	None	Community Service	Clients or Guests
Dwelling Unit Household Living	Yes	Yes, 6 or less	30 Days	Residential	Owners or Tenants
Dwelling Unit Group Living	Yes	Yes, 7 or more	30 Days	Residential	Owners or Tenants
Other Structures Group Living	Yes	Not required	30 Days	Residential	Owners or Tenants

Policy Basis

Portland's 2035 Comprehensive Plan contains a housing continuum policy that is informed by the following interjurisdictional guidance on homelessness.

Understandably, the homeless population is most vulnerable to decreasing affordability and declining household prosperity. Unified guidance by the City of Portland, Multnomah County, and Home Forward is provided through their jointly authored plan, *A Home for Everyone: A United Community Plan to End Homelessness in Multnomah County* (2013). This plan focuses resources to support priority populations, particularly families with children, unaccompanied youth, adults with disabilities, women, and veterans. It focuses investments in six program areas to prevent and end homelessness, including housing, income and benefits, health, survival and emergency services, access to services, and systems coordination. The purpose of the plan is to prevent homelessness, and reduce the time people spend being homeless. The following policy provides land use support for the priorities identified by this plan.

The referenced policy states.

Policy 5.46 Housing continuum.

Prevent homelessness and reduce the time spent being homeless by allowing and striving to provide a continuum of safe and affordable housing opportunities and related supportive services including but not limited to rent assistance, permanent supportive housing, transitional housing, micro housing communities, emergency shelters, temporary shelters such as warming centers, and transitional campgrounds/rest areas.

The S2HC project also carries out many other Comprehensive Plan goals and policies. The following are some examples.

Goal 2.B: Social justice and equity

The City of Portland seeks social justice by expanding choice and opportunity for all community members, recognizing a special responsibility to identify and engage, as genuine partners, under-served and under-represented communities in planning, investment, implementation, and enforcement processes, particularly those with potential to be adversely affected by the results of decisions. The City actively works to improve its planning and investment-related decisions to achieve equitable distribution of burdens and benefits and address past injustices.

GOAL 3.A: A city designed for people

Portland's built environment is designed to serve the needs and aspirations of all Portlanders, promoting prosperity, health, equity, and resiliency. New development, redevelopment, and public investments reduce disparities and encourage social interaction to create a healthy connected city.

Policy 3.3.b.

Make needed investments in areas that are deficient in public facilities to reduce disparities and increase equity. Accompany these investments with proactive measures to avoid displacement and increase affordable housing.

Goal 5.A: Housing diversity

Portlanders have access to high-quality affordable housing that accommodates their needs, preferences, and financial capabilities in terms of different types, tenures, density, sizes, costs, and locations.

Goal 5.B: Equitable access to housing.

Portland ensures equitable access to housing, making a special effort to remove disparities in housing access for people with disabilities, people of color, low-income households, diverse household types, and older adults.

Goal 7.D: Environmental equity.

All Portlanders have access to clean air and water, can experience nature in their daily lives, and benefit from development designed to lessen the impacts of natural hazards and environmental contamination.

Policy 9.25 Transit equity.

In partnership with TriMet, maintain and expand high-quality frequent transit service to all Town Centers, Civic Corridors, Neighborhood Centers, Neighborhood Corridors, and other major concentrations of employment, and improve service to areas with high concentrations of poverty and historically under-served and under-represented communities.

Community Engagement

Engagement began on March 10, 2020 when the BPS Community Involvement Committee (CIC) reviewed the proposed scope and work program for the S2HC Project and endorsed an “involvement” as the project’s engagement goal. Involvement means not only helping people know about and understand the project, but also enabling them to influence the project at each decision step along the project’s way to adoption. To do this, the City must not only seek out involvement but ensure that concerns and aspirations of those involved are consistently and properly understood and considered. Here, “considered” means that proposals arising from involvement have real potential to shape final decisions.

The CIC, BPS, and partner agencies are acutely aware that the persons most likely to benefit from this project may also be the persons least able to influence it. It is therefore of utmost importance that involvement be carried out in a manner designed to ameliorate this inverse relationship. Involvement also must be adjusted to observe health advisories for the COVID-19 pandemic. The CIC recommended a mid-point check-in to review and suggest adjustments for project engagement and a post-project “lessons learned” session designed to aid engagement goals for future projects.

Project Activities to Date

Initial work was aided by a technical assistance grant provided by the Oregon Department of Land Conservation and Development (DLCD). Angelo Planning, under contract with DLCD, prepared a series of reports describing approaches other jurisdictions had taken in facilitating shelter and group living accommodations and suggesting how similar provisions might be added to the Portland City Code. These reports are available at this link: <https://efiles.portlandoregon.gov/record/13829522> .

A standing inter-agency Housing Continuum Committee provided valuable context for further shaping the scope of the S2HC project, helped develop code concepts, and commented on rough drafts of code. Members of this committee attended and provided valuable assistance during community meetings.

A core Technical Advisory Committee (TAC) composed of five members from three city bureaus drafted the proposed amendments, coordinated with the Housing Continuum Committee, and participated in community meetings.

The S2HC Project, including outlines of the proposed code amendments, were presented through video conferencing during the following community meetings:

May 28, 2020, The Build Small Coalition, advisory to Metro;

June 25, 2020, Portland Forum on Alternative Shelters & Villages, sponsored by the Northeast Coalition of Neighborhoods and the Interfaith Alliance on Poverty;

July 15, 2020, Portland Neighbors Welcome; Monthly Meeting;

July 20, 2020, Southeast Uplift, Land Use Committee Meeting;

September 8, Central Eastside Industrial Council, Land Use Committee Meeting; and

September 17, 2020, the Development Review Advisory Committee, advisory to the Portland Bureau of Development Services.

The S2HC Project was the main agenda item in five of these meetings, and the proposals contained within this discussion draft benefited greatly from the comments and suggestions received.

Project Activities Going Forward

Further engagement will be carried out in accord with several best practices identified by the CIC.

Meet with Existing Community Groups

Because the S2HC project is city-wide, code only proposal without focus on any particular sub-geographies, code changes are more likely to affect groups of similarly situated people rather than particular places. Accordingly, engagement will employ a “go there” rather than a “come here” approach. Project staff will attend meetings of concerned organizations rather than hosting large open houses or forums. While pandemic social distancing advisories are in effect, attendance will occur through video conferencing. Priority will be given to attending the meetings of organizations that represent or serve people experiencing homelessness or housing insecurity. This could include organizations and committees affiliated with A Home for Everyone, the Community Alliance of Tenants, Unite Oregon, or other similar organizations. Staff will also attend committee meetings of Neighborhood District Coalitions and Business Associations.

Communicate

Staff will develop blog posts and news releases at several key project milestones and offer briefings to community news organizations. The postings will be tailored to reach underrepresented populations. An example of targeted communication would be briefing offers to Street Roots reporters.

There is a project website that explains the project purpose that will be updated as proposals change. This site will also contain links to documents containing the facts and reasons upon which the proposals are based.

Staff will establish and maintain an email list for interested parties who wish to stay informed of project milestones and engagement opportunities. There is on-line database used to receive, organize and respond to public testimony and comments. The database will be viewable to the public through a web browser.

Three web-based community forums are scheduled for October 2020. Two moderated by BPS and a one by the Joint City-County Office of Homeless Services. No matter the moderator, all forums will be attended by subject matter experts from partner agencies who will be able to answer questions. Forum details will be posted on the project website.

Be Advised

The project will benefit from the continuing advice of five committees.

- A project-specific, city-staffed Technical Advisory Committee that will drafting code.
- The inter-agency Hosing Continuum Committee that will consider the policy implications of the draft code and consider alternative approaches.

- Existing organizations and committees will provide expertise and lived experience, and a modest stipend and transportation expenses for participants. Engaged organizations may include a Home for Everyone, Community Alliance of Tenants, and Unite Oregon.
- The Bureau Planning and Sustainability’s Community Involvement Committee that will review and made recommendations for beneficial changes to community engagement.
- The Portland Planning and Sustainability Commission that will conduct public hearings, consider amendments, and make a recommendation to City Council.

Legal Requirements

This project is a “legislative procedure” under Title 33 of the Portland City Code and a legislative “land use decision” under Chapter 197 of the *Oregon Revised Statutes*. Anytime a quorum of the Portland Planning and Sustainability Commission or the Portland City Council meets to deliberate on this project notice of the time and place of those meetings will be provided. Whenever those meetings are also public hearings, information will also be provided on how to testify.