



THE BUREAU OF
**PLANNING &
SUSTAINABILITY**

Date: February 6, 2023

To: Commissioner Rubio, Mayor Wheeler and City Commissioners

From: Sandra Wood, Principal Planner
JP McNeil, City Planner

Re: Shelter to Housing Continuum – City Council hearing on February 8, 2023

City Council will hold a hearing on the Shelter to Housing Continuum – Part 2 Technical Amendments project on February 8, 2023. This memo describes an amendment we respectfully request Commissioner Rubio introduce at the hearing.

The Shelter to Housing Continuum – Part 2 Recommended Draft exempts outdoor shelters from virtually all development standards in the base zones, overlay zones and plan districts. Zoning Code Chapter 33.285 contains a limited set of development standards that are specific to outdoor shelters. Since the Planning and Sustainability Commission voted to recommend the proposal, staff has discovered a few additional standards that should continue to apply to outdoor shelters. These include standards related to the protection of greenway, environmental, and archeological resources.

The **shaded** text shows the actual amendment language.

Part A Greenway Setback

The proposed amendment includes a prohibition for outdoor shelters within the greenway setback along the shoreline of the Willamette River. The purpose of the greenway regulations is to protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands in the Willamette River Greenway. This requirement is carried out by setback standards in the Greenway and River overlay zones that limit development within or riverward of the setback to



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development that is river-dependent or river-related. A greenway goal exception is required to establish development that is not river-dependent or river-related within or riverward of the setback, which is a much higher bar to cross and can only be approved for development with significant public benefits that cannot reasonably be sited elsewhere.

Proposed amendment:

Amend 33.285.050.C.1

C. Outdoor shelters. Outdoor shelters are exempt from development standards in base zones, overlay zones, and plan districts. Outdoor shelters are subject to the following standards:

1. An outdoor shelter is prohibited in the following:
 - a. Environmental overlay zones;
 - b. Pleasant Valley Natural Resource overlay zone;
 - c. River Natural overlay zones;
 - d. River Environmental overlay zones;
 - e. Scenic overlay zone; ~~and~~
 - f. Within and riverward of the greenway setback;
 - g. Within and riverward of the river setback; and
 - fh. The special flood hazard area.

Revised commentary:

33.285.050.C.1.f and g

The exemption from development standards would also exempt outdoor shelters from the Greenway and River overlay setback requirements for development along the banks of the Willamette River. Typically, the only development allowed within the Greenway and River setbacks is river-dependent development. Since there are no conceivable reasons why an outdoor shelter would need to include river-dependent development and due to the sensitive nature of the riparian resources along the river, a prohibition was added to keep outdoor shelters out of these setbacks.

Part B

Johnson Creek Basin Plan District – South Subdistrict

The proposed amendment reinstates the development standards in the Johnson Creek Basin Plan District South Subdistrict (JCBPDSS) that outdoor shelters would otherwise be exempt from due to the blanket exemption from plan district development standards. The purpose of the JCBPDSS regulations is to mitigate the negative impacts that may result from the development of areas where flooding and landslides are common. Limitations on tree removal and impervious surface area reduce stormwater runoff, provide groundwater recharge, reduce erosion, protect water quality, and retain native vegetation to protect watershed health.



Proposed amendment:
Add 33.285.050.C.9

9. An outdoor shelter located in the South Subdistrict of the Johnson Creek Basin plan district is subject to the development standards in section 33.537.140.

Revised commentary:

33.285.050.C.1.f and g

The JCBPDSS standards protect the watershed health of Johnson Creek. by capturing or slowing down runoff into the creek. The impermeable clay soils of the steep-sided Boring Lava hills to the south of the creek contribute to rapid stormwater runoff in the winter and contribute to flooding. Unlike the flatter areas north of the creek, the South subdistrict contains numerous small streams that can quickly carry stormwater runoff to Johnson Creek and an extensive tree canopy on the hillsides. The limitations on tree removal and impervious surfaces help to capture or slow runoff into the creek. Removal of these standards for outdoor shelters through the blanket exemption could put the health of this sensitive watershed at risk.

Part C

Archeological Resources

Archeological resources are another important resource that could be threatened by a blanket removal of development standards that govern how and if new development can go on sites with identified archeological resources or a high probability that such resources are located there.

Proposed amendment:
Add 33.285.050.C.10

10. An outdoor shelter located in a River overlay zone, the Columbia South Shore plan district, or the Portland International Airport plan district is subject to the respective archeological resource protection standards of the overlay zones or plan districts.

Revised commentary:

33.285.050.C.1.f and g

Archaeological and historical evidence shows that Native Americans lived along the Columbia and Willamette rivers and their tributaries in the Portland region prior to European American contact and settlement. Pre-contact archaeological resources have historic, cultural, and scientific value to the general public and associated Native American tribes, whose ancestors lived in the area and harvested natural resources for subsistence and spiritual/ceremonial uses. The archeological



resource protection standards in the River Overlay Zone, Columbia South Shore Plan District, and the Portland International Airport Plan District provide a process to survey areas with a high probability of having archeological resources prior to ground disturbing activities and development to protect any identified archeological resources. Given the value of the resources and the importance of identifying and preserving them, these standards should continue to apply to outdoor shelters to protect these irreplaceable resources.

Part D

Replace the Documents

Replace the following documents attached to the ordinance to reflect Parts A - C:

- Replace Exhibit A – Findings, dated January 19, 2023 with the As-Amended Findings, dated February 6, 2023
- Replace Exhibit B – Shelter to Housing Continuum – Part 2 - Recommended Draft dated January 19, 2023 with the Shelter to Housing Continuum -Part 2 -As-Amended Draft, dated February 2023.
- Amend finding 22 and 23 and directives a, b, and c to refer to the As-Amended Draft dated February 2023



ORDINANCE No.

Amend the Planning and Zoning Code to clarify the rules for shelters to facilitate more shelter options for Portlanders in need. (amend Code Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

1. On October 7, 2015, the Council, through Ordinance 187371, declared a housing emergency for a period of one year.
2. On September 7, 2016, the Council, through Ordinance 187973, extended the housing emergency declared by Ordinance 187371 for an additional one-year period.
3. On October 4, 2017, the Council, through Ordinance 188627, further extended the housing emergency for another eighteen-month duration.
4. On February 19, 2019, the Council, through Ordinance 189387, continued the housing emergency initially declared by Ordinance 187371 until April 4, 2021.
5. Ordinance 189387 also directed the Bureau of Planning and Sustainability (BPS) to develop a legislative proposal making permanent changes to city code to allow for temporary housing, shelters, and alternative shelter siting. This directive led to the Shelter to Housing Continuum Project.
6. On March 31, 2021, the Council, through Ordinance 190342, extended the housing emergency for a twelve month duration.
7. On March 30, 2022, the Council, through Ordinance 190756, extended the housing emergency through March 22, 2025.
8. The State of Emergency Declarations by City Council have allowed for the siting of shelters, and related services, and has expedited the design review process for affordable housing. These operational improvements have provided significant efficiencies and improvements to be able to address expedited affordable housing development, and to provide service locations to people experiencing homelessness.
9. The population experiencing homelessness are amongst the most vulnerable residents of Portland. On a single night during the winter of 2022, a point-in-time (PIT) count recorded 5,228 people as experiencing homelessness. The persistence of people experiencing unsheltered homelessness, the reliance on our emergency shelters, and the severe shortage of affordable housing are circumstances that create an immediate need to provide adequate, safe, and habitable shelter to persons experiencing homelessness.
10. Experiencing homelessness causes tremendous human suffering and demands a spectrum of emergency response that includes adequate, safe, and habitable shelters, affordable housing units, and appropriate supportive services. Since 2015, the Council has recognized and responded to the ongoing affordable housing crisis in an emergency mode.

11. The Bureau of Planning and Sustainability, the Portland Housing Bureau, the Bureau of Development Services, and the Joint City-County Office of Homeless Services partnered on the first Shelter to Housing Continuum Project to retool Portland City Codes to better address the emergency housing needs of people experiencing homelessness or at risk of homelessness or displacement.
12. On April 28, 2021, through Ordinance 190380, adopted the Shelter to Housing Continuum Project. The Shelter to Housing Continuum Project was intended to further fair housing goals by expanding shelter and housing options throughout the city.
13. On June 30, 2021, the Council, through Ordinance 190478, directed the construction of six Safe Rest Village outdoor shelters.
14. As the City launched the Safe Rest Villages Initiative and the Joint City-County Office of Homeless Services sought to open other shelter facilities using the newly codified shelter provisions found in the Shelter to Housing Continuum package of zoning amendments, several additional zoning code barriers and unanticipated technical issues were identified by Bureau of Development Services staff.
15. In June of 2022, Bureau of Planning and Sustainability staff began work on the Shelter to Housing Continuum – Part 2 Project, a refinement package that proposes several Zoning Code amendments to address the issues identified by Bureau of Development Services staff.
16. The Shelter to Housing Continuum – Part 2 Proposed Draft was released for public review on September 2, 2022.
17. On September 1, 2022, notice of the Proposed Draft was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-0020.
18. On October 11, 2022 the Portland Planning and Sustainability Commission (PSC) held a public hearing on the Shelter to Housing Continuum – Part 2 – Proposed Draft. The PSC voted to forward the Shelter to Housing Continuum – Part 2 Project to City Council on November 8, 2022.
19. The Shelter to Housing Continuum – Part 2 – Recommended Draft was released for public review on January 19, 2022.
20. The Shelter to Housing Continuum – Part 2 – Recommended Draft includes a staff report and the PSC-recommended amendments to Title 33, Planning and Zoning.
21. On January 19, 2022, notice of the February, 8 2022 City Council public hearing on the Shelter to Housing Continuum – Part 2 – Recommended Draft was mailed to the those who presented oral and written testimony at the Planning and Sustainability Commission public hearings and those who requested such notice.
22. The Shelter to Housing Continuum – Part 2 – Recommended Draft, as amended by Council in the adopted Shelter to Housing Continuum – Part 2 – As-Amended Draft, includes changes to Portland City Code to remove barriers to the siting of shelters by clarifying the shelter rules that were adopted with the original Shelter

to Housing Continuum package. These changes support a continuum of shelter and housing alternatives for people experiencing homelessness including those currently camping on streets and in open spaces.

23. The Findings of Fact As-Amended Report, attached as Exhibit A, includes additional findings demonstrating consistency with the Statewide Planning Goals, Metro Urban Growth Management Functional Plan, and the City of Portland 2035 *Comprehensive Plan*.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, Findings of Fact Report As-Amended as additional findings.
- b. Adopt Exhibit B, Shelter to Housing Continuum – Part 2 – As-Amended Recommended Draft, dated February 2023, as legislative intent and further findings.
- c. Amend Title 33, Planning and Zoning, of the Municipal Code of the City of Portland as shown in Exhibit B, Shelter to Housing Continuum – Part 2 – As-Amended Recommended Draft, dated February 2023.

Section 2. If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: *[dated by Clerk's office]*

Commissioner Rubio

Prepared by: JP McNeil

Date Prepared: February 1, 2023

Mary Hull Caballero

Auditor of the City of Portland

By *[signed by Clerk's office]*

Deputy