



To: Mayor Holladay and City Commission
From: Pete Walter, AICP, Senior Planner
RE: Work Session on Shelters - August 13, 2019
Date: August 6, 2019

Background

The City Commission is considering proposed amendments the Oregon City Municipal Code identifying how and where Shelters should be regulated. Per the Commission's direction, shelters are proposed to be a Conditional Use in the Mixed-Use Downtown (MUD) District, the Mixed-Use Corridor 1 (MUC-1) District, and the R-2 Multi-Family Dwelling District (more than 11 beds). Also, shelters with less than 10 beds would be permitted through the Conditional Use process in medium density residential zones (R-5, R-3.5). Though multiple types of shelters were discussed, they each required a Conditional Use process. Lastly, criteria were established identifying standards, such as yearly meetings, with which all shelters would have to comply.

Staff has prepared this latest memorandum in response to the City Commission discussion regarding shelters on June 5, 2019. More specifically, the Commission directed staff to organize a work session with shelter providers and related entities to review the shelter definitions. The City Commission work session on August 13, 2019 is intended to provide final direction to staff in preparation for the upcoming hearings.

Definitions

Staff met with Nancy Ide and Dan Fowler of the Homeless Solutions Coalition of Clackamas County, and Officer Mike Day, Homeless Liaison Officer with OCPD, on July 17, 2019 to review and discuss definitions for shelters in preparation for a group work session with the City Commission on August 13, 2019. We have also had valuable input on the definitions from Vahid Brown, Senior Analyst with Clackamas County. We discussed the proposed definitions for the various types of shelters (e.g. day shelter, warming / cooling shelter, transitional shelter, etc.), and following a discussion, agreed to propose the following amendments to the proposed definitions for discussion, given the context of the current discussion.

A separate definition for "transitional" shelters is not currently proposed. As discussed later in this memo, the various types of services offered by shelters vary and efforts to define and regulate them should be approached with caution.

The group discussed the definition of “shelter” which is a general definition that includes all types of shelters. Since the Commission had identified that all shelters required a conditional use permit, there is no need to adopt separate definitions for different shelter types unless a specific type of shelter is treated different, for example is permitted outright or is not required to pay a review fee. As all shelters would require a Conditional Use, the single definition would be sufficient. The group decided that the existing definition was clear but suggested that the word “housing” be changed to “overnight sleeping or daytime accommodations”. This change is illustrated in the following definition.

17.04.1117 – Shelter

“Shelter” means a congregate facility designed to provide housingovernight sleeping or daytime accomodation to shelter families and individuals offered on a short-term basis. Shelters may offer meals, lodging and associated services on site, aimed at helping people move towards self-sufficiency. Shelters may include day shelters, temporary cooling or warming shelters and other temporary or permanent spaces made available for sheltering individuals or families. Shelters are not considered bed and breakfast inns/boardingshouses, hotels or motels.

The group identified several reasons why the definition for emergency shelter should be deleted. First, the City Commission may at its discretion declare emergencies pursuant to OCMC 2.52 – Emergency Powers, which allow measures as are necessary for the protection of life or property, or for the recovery from the emergency. This includes suspending certain code requirements, such as the zoning code. It is not necessary to include a definition specific to an emergency. Also, emergency shelters may be needed for multiple situations other than providing temporary overnight homeless shelter, such as longer-term situations for any residents displaced due to natural hazards such as fires, floods, earthquakes, etc.

17.04.1121 – Shelter, Emergency.

“Emergency shelter” means any facility, the primary purpose of which is to provide a temporary overnight shelter for the homeless in general or for specific populations of the homeless under specified circumstances and which does not require occupants to sign leases or occupancy agreements. Emergency shelters include temporary cooling or warming shelters and other temporary spaces made available for sheltering individuals or families in response to emergencies when an emergency has been declared by the City Commission by Resolution.

The group agreed that a separate definition for warming/cooling shelter is not needed because it requires the same review process and fee as all other shelter types. If the Commission chooses to treat warming/cooling shelters differently, the group suggested that the language “...when the outside temperature is...” be changed to “when the outside temperature is **predicted to be...**”. The word “forecast” could also be used instead of “predicted”. This change is illustrated in the following definition.

17.04.1123 – Shelter, Temporary warming/cooling.

“Temporary warming/cooling shelter” means a shelter operating between the of 7pm and 7am when the outside temperature is predicted to be:

- *33 degrees or below, including wind chill factor, as measured by the National Oceanic and Atmospheric Administration; or*

- *95 degrees or above, including wind chill factor, as measured by the National Oceanic and Atmospheric Administration.*

Conditional Use

On May 15, 2019, the City Commission discussed the requirement, as recommended by the Planning Commission, for Conditional Use approval of all shelters pursuant to OCMC 17.56 regardless of location or size, if permitted in the zone district.

Also discussed were the following options in residential zones.

- Prohibiting shelters within the low-density residential districts (R-6, R-8, R-10).
- Conditional Use for shelters with up to ten beds within the medium-density residential zones (R-5, R-3.5).
- Conditional Use for shelters (0 to 10+ beds) within the high-density residential zone (R-2).

All shelters, regardless of the Conditional Use requirements, would be subject to a minimum Type II process for Site Plan and Design Review in OCMC 17.62 and shelter-specific standards in the supplementary zoning chapter OCMC 17.54.

Conditional Use Fee

Both the Planning Commission and City Commission heard public testimony regarding the Conditional Use fee. For clarification, the Conditional Use fee is a standard land use application review fee, not a charge or annual permit which needs to be renewed. The Conditional Use planning fee (\$4758 in 2019) is a one-time review fee intended to cover the cost of reviewing Conditional Use applications against the criteria in the Oregon City Municipal Code and facilitating the associated Planning Commission review. It covers the staff time needed to review applications, site plans, and the standard and unique aspects of a proposed conditional use, write a recommendation to the Planning Commission, provide legal public noticing, and other administrative costs associated with rendering a decision on the proposed use.

The commission has heard testimony that shelter operators cannot afford to pay the Conditional Use fee and that money for permits and planning approvals directly affects their ability to provide critical services to needy individuals and families.

For this reason, the Commission may choose to waive, reduce or adopt an alternative fee by resolution for shelters.

For day shelters, the City Commission considered not charging a conditional use fee. The discussion group on July 17 supported a separate definition. The group agreed the following definition was enough and did not identify any changes.

17.04.1119 – Shelter, Day.

“Day shelter” means a shelter utilized between the hours of 7am and 7pm which does not contain sleeping facilities.

What is a service and a bed?

The City Commission discussed potentially regulating, or at least requesting information about specific internal operations of shelters such as:

- What constitutes a “bed” or “sleeping facilities”?
- What constitutes a “service”?
- How many nights / days can someone stay?

Since it is anticipated that shelters will be subject to a Conditional Use review process, much of this information would typically be relevant to the approval of a proposed shelter if it has a discernable impact (either positive or negative) on the surrounding neighborhood. Some of this information could and would be required as part of the Conditional Use application and be required as part of the required community engagement plan for shelters. A conditional use process allows for discretionary review of the unique characteristics of a proposed use. The process also allows the Planning Commission to apply specific conditions of approval to a particular use if they determine those to be necessary. Additionally, the required community engagement plan for shelters must include the following items per the previously proposed code:

H. Shelters.

1. The shelter shall maintain a written community engagement plan include the following information:
 - a. Description of purpose and scope of services of the shelter;
 - b. Population to be housed at the shelter and the process and criteria for the selection of guests;
 - c. Bed capacity for nightly guests;
 - d. Hours of operations and curfew, if applicable;
 - e. 24-hour contact information; and
 - f. Explanation of how the shelter will address concerns/complaints.
2. Shelters shall hold a meeting with the community prior to commencing operation, and a minimum of once a year each year thereafter. The purpose of the meeting is to discuss the community engagement plan and provide an opportunity for greater communication. Mailed notice of the meeting shall be provided to property owners within 300 feet, the neighborhood association, and the City. The meeting shall be open to the public.

The group identified that additional measures to regulate the internal procedures of shelters should be approached with caution and should consider existing laws to protect privacy, health information, and fair housing. Finally, there should be consideration for effective administration and enforcement by the City of any regulations that are adopted. The group suggested avoiding any changes to the existing standards proposed in the code above.

If the Commission feels it necessary to define and regulate “services” and “beds” or “sleeping facilities”, staff will prepare definitions for the Commission’s consideration.

The Father's Heart

The Father's Heart day shelter at 603 12th Street is within the MUC-1 Mixed Use Corridor District. The day shelter has operated at the intersection of 12th and Washington Street since June 2012. The use was approved as a continuation of a previous similar use by Clackamas County for a satellite Sheriff's office, and for the Clackamas County Sheriff's Department Community Corrections program. After receiving a description of the activities occurring onsite the use was identified as permitted in the zoning designation under OCMC 17.29.020.H and P.

H. Offices, including finance, insurance, real estate and government;

P. Services, including personal, professional, educational and financial services; laundry and dry-cleaning;

If the proposed code amendments become effective all shelters would require a Conditional Use. However, since the day shelter is existing legally today, it would become a legally nonconforming use and a Conditional Use permit would not be required unless it is expanded or further developed in the future.

Conclusion

Shelter providers, related entities and staff recommend that the City Commission retain the existing definition of "Shelter" with the minor change identified above. No additional definitions are needed unless the Commission chooses to subsidize the Conditional Use fee for certain shelter types from the general fund rather than charge applicants.