

To: **Portland Bureau of Planning and Sustainability**
CC: **City Council**
From: **Shelter PDX**
(see signatories at bottom)
Date: **December 21, 2020**
Subj: **Recommendations on Shelter to Housing Continuum Discussion Draft**



Dear Planning and Sustainability Commission:

The Shelter To Housing Continuum (S2HC) Project promises to increase flexibility in our codes to better our community including options to support our unhoused neighbors.

The urgency of the affordability and homelessness needs was underscored by a statement by Mayor Wheeler in a press conference on October 26th (<https://youtu.be/mvt-TaenIGA>). He said we need a "moonshot" to build 5,000 low-income homes in the next three years, on top of existing plans. We are facing concurrent crises, from looming evictions to increasing homelessness. Now more than ever, we need to get this code change right.

We propose that S2HC proposals be evaluated against the sheer scale and urgency of need. Homelessness is the #1 reported public concern in Portland, and we must determine if the regulatory reforms do all that can be done. In that spirit, we offer these recommendations in response to the S2HC Proposed Draft:

- Retain Housing State of Emergency declaration ability, extend the declaration, and create pathways for further adaptation, reform, and innovation in our houselessness response as we learn more about needs and possibilities and impacts of changes made.
- Allow Outdoor Shelters in Open Space zones and in Right of Way areas under certain conditions
- Move towards a system where it is less burdensome to support our community
- Provide greater equity for more housing providers, sites, and housing types to participate and contribute to providing affordable housing in expedited, low-impact alternative housing

1. Retain the City's Housing State of Emergency Declaration Capability, and Recommend Extending the Current State of Emergency

Portland declared a housing emergency on October 7, 2015 to help address the needs of our houseless neighbors and lack of affordable housing is set to expire on April 4, 2021. The 2019 ordinance (189387) that extended the housing emergency given the continued community need stated that "BPS in coordination with the Joint Office of Homelessness Services (JOHS) is directed to develop a legislative proposal to amend City Code to allow for temporary housing, shelters, and alternative shelter siting." The impact statement for Ordinance 189387 states that the amendments to Title 33 are intended to "offer sustainable solutions to...(2) expeditiously allow for temporary housing and issuance of permits related to shelter and

alternative shelter siting and, (3) create an expeditious process for design review of affordable housing projects.”

Many of the findings cited by City Council to justify the extension of the housing emergency have not improved—or have not improved enough—to justify letting the housing emergency expire. Some of the conditions are getting worse or widely predicted to. These include: percentage of households cost-burdened by housing costs, the number of people experiencing houselessness, and the number of people living outside. The current economic crisis and the spike in evictions expected once the moratorium is lifted means our community will, by all predictions, soon see an increase in the number of unhoused neighbors.

The original housing emergency ordinance (187371) which has been extended multiple times gives Portland the “tools and methods not currently available to provide adequate, safe and habitable shelters for persons experiencing homelessness, many of whom are our community's most vulnerable people” (187371 impact statement). City Council is empowered, through the housing emergency declaration, to “[w]aive Portland City Code regulations or administrative rules to the extent necessary to respond to the housing emergency” (15.08.025(B)(7)).

Proposed Draft places too many restrictions—and adds to much cost and time—to strategies to help our unhoused neighbors.

It is not the right time for the city to give up the ability to declare a Housing State of Emergency, or to let it expire, therefore limiting the available tools and new adaptation to meet the needs of our community.

2. Outdoor Shelter Recommendations

2.1. Siting

2.1.1. As in previous testimony, we ask that the use of an Overlay Zone be evaluated, to allow more flexibility when it comes to determining which sites can have outdoor shelters. This would allow, in future when needs are better understood, new outdoor shelter sites to be allowed for example by City Council resolution, rather than a costly and complex Conditional Use permit or requiring revision to the code. We should explore the benefits and drawbacks of each approach with regard to allowing new shelters, especially outdoor shelters.

2.1.2. **Residential Zones.** We are concerned about the Draft's exclusion of outdoor shelters from all residential zones except for existing Institutional Use sites in multi-dwelling zones. This essentially puts all shelter sites in Commercial or Industrial zones, which generally segregate non-compatible uses away from residential uses, due to issues such as noise, pollution, and traffic. Unhoused Portlanders are residents as well, with the same needs and susceptibilities regarding noise and pollution, and we question why they would not be allowed in residential zones like any other resident.

Also, only allowing one Tiny House on Wheels (THOW) or RV on a property prevents people from creative market-rate naturally affordable housing solutions on residential properties. Therefore, we propose that:

- a) multi-dwelling zoned lots should allow multiple THOW/RVs, at least equal to the number of units allowed via other buildings types;
- b) single-dwelling zoned lots should allow THOW/RVs, at least equal to the number of units allowed via other building types.

If a property wishes to have more than they are entitled to have by right, we propose a Type II adjustment process by which they can apply for that upwards adjustment.

2.13 Multi-use Zones

We propose amending Proposal to allow THOW/RVs on multi-use sites in the same way as described above for Residential zones. I.e. allow THOW/RVs in the same quantities as residential units are allowed by other building types. As one way to facilitate this, we propose reduction in parking-space requirements (if any) on that site, such that THOW/RVs might occupy spaces formerly required for parking, logically since they are types of vehicles.

2.1.4 Open Space zones.

We ask that the blanket exclusion of Outdoor Shelters from city Open Space areas be reexamined. It seems that public, open spaces may offer some of the most appropriate sites for outdoor shelters.

Currently, Community Centers are coded Open Spaces, OS, and Mass Shelter prohibited. Portland is using these resources as Mass Shelters (e.g. Charles Jordan, Mt Scott). Please remove the restrictions on the OS zone to allow for shelters.

Community Centers are positioned throughout our city to support our communities and neighborhoods. Everything they stand for is positive. We should repurpose these huge, valuable assets, that all have bathrooms and showers, at night as shelters. This may help address legal concerns under Anderson and Martin rulings, by adding additional, flexible means to support safe sleep for 100% of our citizens.

As a pilot/model, TriMet leadership and Keith Smith recently partnered on a demonstration (<https://www.facebook.com/100045753248172/videos/194167805451660>) on how this concept would work. They repurposed the Gateway Park & Ride as a Pop-Up Shelter. To learn more, please watch this short video.

2.1.5. FAR

To provide the most flexibility, accommodations in Outdoor Shelters should not count against the FAR (Floor Area Ratio) or building coverage.

2.1.6 Siting time

We request that Outdoor Shelters be allowed for a period of 1 year, rather than 6 months. We see that the Draft proposes a process whereby an Outdoor Shelter could be allowed for a time, then apply for a Conditional Use (CU) permit to continue for longer. However, considering the practicalities of this, a CU takes typically 120 days or more just to process, and so it would seem unfeasible for an Outdoor Shelter site sponsor to, within the currently proposed 180 days siting, be able to produce, pay permit fees (about \$20k) for, and pursue a CU application, let alone any appeal.

2.2 Process

2.2.1 Map representation of code proposals.

We ask that the City produce and publish maps, detailed to the parcel level (i.e. not just static image of a large overall view), giving its best estimate of where outdoor shelters will be allowed given the code it is proposing. This would help the community understand how potential sites are distributed throughout the City. HUCIRP created a list of potential outdoor shelter sites. Ideally, we would evaluate how many of the potential sites could actually be used given the proposed zoning changes, and begin a process of evaluating sites for actual projects.

2.3 Number and types of units.

2.3.1 Number of accommodations.

Increase the number of accommodations allowed by-right for Outdoor Shelters to accommodate 60 accommodations. As we heard from the Low Income Housing Institute, one of the leading providers of outdoor shelters in the nation, that the ideal houseless village has 50-60 residents in order to have enough people to share responsibilities (e.g. security, cleaning, etc.). Another approach would be to have the accommodation limit set by the Fire Marshall based on Life Safety.

2.3.2. Types of units.

The remit stated in City Council ordinance No. 189387, of February 19, 2019, directing BPS and JOHS to undertake this project says:

g. BPS in coordination with the Joint Office of Homelessness Services (JOHS) is directed to develop a legislative proposal to amend City Code to allow for temporary housing, shelters, and alternative shelter siting;

It appears that BPS has chosen to interpret this by following a State guidance on "transitional housing accommodations:

Outdoor shelter is a new type of Community Service use being proposed for addition to the code. What the proposed code calls "outdoor shelter" the state law calls "transitional housing accommodations" but the intent is to conform the City Code to state law with the two terms having the same meaning. The state law says, "Transitional housing accommodations are intended to be used by individuals or families on a limited basis for seasonal, emergency or transitional housing purposes and may include yurts, huts, cabins, fabric structures, tents and similar accommodations.

However, we propose that this is limiting the possible options without presenting any rationale, and beyond what the City Council directed.

"Temporary housing" can and often does include many dwelling types which are building-code compliant, legal housing. For example, homeless or transitional-housing villages in many places including Seattle and San Jose use small homes or duplex cottages or multi-unit modular housing, as does temporary worker housing worldwide. California's Emergency Shelter laws allow for wide variety of structure types including those built to International Residential Code and others.

We propose that it might often be a sensible approach -- and preferable from the standpoint of Outdoor Shelter residents, to have, you know, housing! -- to use forms such as modular housing or tiny houses that aren't trailer mounted.

We also propose, looking forward, that a high-potential way to achieve transition to permanent housing, and a working 'continuum' or shelter to housing, would be to facilitate movable dwelling units being siteable first in Outdoor Shelter or emergency contexts, but relocatable to be siteable as low-cost Accessory Dwelling Units or detached bedrooms on residential property. (See a proposal on how to do this from Village Coalition, McCormick, et al, "[New Starter Homes](https://tjm.org/wp-content/uploads/2019/12/New-Starter-Homes_2019-12-10.pdf)," 2018-2029. https://tjm.org/wp-content/uploads/2019/12/New-Starter-Homes_2019-12-10.pdf).

3. Group Living Recommendations

3.1 Allow Congregate Housing structures by right in all single-dwelling zones.

3.2. Allow short-term shelters with up to 40 beds, not 20.

3.3 Allow easier review procedures for new mass shelters: Change Type II review requirements to Type 1x and change Type III to Type IIX.

3.4 Increase the number of shelter beds allowed in each zone

Zones CR and CM1: 50 bed, not 25

Zones RX, RM3, and RM4: 100 bed, not 50

Zones RM1, RM2, CI1, and IR: 40 beds, not 20

3.5 Allow kitchen facilities, or at least kitchenette facilities such as minifridge, bar sink, and convection hot plates, in sleeping rooms.

2.6 Remove the requirement to have kitchen facilities on each floor of a congregate living facility.

3. Other Recommendations

3.1 Vehicle dwelling on private residential property.

Since 2017, due to the Housing State of Emergency, the Bureau of Development Services has suspended enforcement of the city ordinance prohibiting dwelling in vehicles on private residential property—e.g. in vans, trailers, RVs, or tiny houses on wheels (THOWs). This has effectively allowed one vehicle-dwelling per site with single-dwelling and multi-dwelling residential zoning.

In part due to this decriminalization, such vehicle-dwelling is relatively widespread in Portland, seemingly with little public objection or reported problems. Nationally-known alternative-housing leader Kol Peterson, and Planning & Sustainability Commission Chair Eli Spevak both expressed strong support for permanently legalizing this practice, at the June 25

Portland Forum on Alternative Shelter and Villages. Additionally, Peterson has documented at his web site how the practice is widespread in the Cully neighborhood, as an example.

We believe that due to wide community acceptance and expert endorsement, this decriminalization should be enacted by the City as part of S2HC. Also, we believe this and other allowance for movable housing falls within the remit stated in City Council ordinance No. 189387, of February 19, 2019, directing BPS and JOHS to undertake this project:

g. BPS in coordination with the Joint Office of Homelessness Services (JOHS) is directed to develop a legislative proposal to amend City Code to allow for temporary housing, shelters, and alternative shelter siting;

See 2.13 and 2.14 above for specific recommendations in this area.

3.2 General vehicle-dwelling permitting.

An important dimension of homeless shelter / low-cost living is on-street vehicle dwelling, which large numbers of people de facto do in Portland today. This also seems to be a major focal point of public concerns about homelessness.

We propose that, beyond just considering case-by-case "Safe Parking" sites, the City and community develop a general vehicle-dwelling permitting program. This would build upon the existing system of parking zones, permitting, and enforcement, to manage allowed vehicle dwelling in specific zones or sites potentially anywhere in the city, in a flexible and at-scale-of-need way, also addressing concerns such a vehicle safety and ensuring services such as waste disposal. See further discussion of concept and precedents at: https://housing.wiki/wiki/Parking_Dwelling_Permit.

A successful near-local model is Eugene's Overnight Parking Program, to provide legal places in the community for unhoused people to sleep in their vehicles.

3.3 Innovative Housing Demonstration Policy

We propose the establishment of a program modeled on the City of Redmond's Innovative Housing Demonstration Policy (IHDP), which would allow development of a limited number of projects to evaluate opportunities to increase the availability of innovative housing in Portland neighborhoods. This small set of pilots provide a pathway to test innovative housing models, study code barriers, and demonstrate viability. The Innovative Housing Demonstration Pilot Policy precedent can be found at <https://www.codepublishing.com/WA/Redmond/CDG/RCDG20C/RCDG20C3062.html>

Ideally using this policy framework as a base for permitting, process, evaluation, and review, this could fill the gap in code now to continue innovation on multifamily and larger single-family zoned sites. Examples could include those models we want to encourage but are challenging to do now (e.g. Tiny Houses and Tiny Houses on Wheels on larger existing developed sites as infill, etc). Until permanent ordinances regarding tiny houses and THOW

housing projects can be implemented, this could allow a limited number of regulated projects with low risk.

We propose that development of pilot Parking Dwelling Permit program be authorized, and resources for it requested, as such an IHDP Ordinance.

3.4 Status of Houseless or Shelter Residents

We propose to remove or revise the provisions in Proposed Draft which *define* 'shelter' as a state of being a 'client' or 'guest'. First, definitions of these terms are not provided or referenced, so the terms shouldn't be put into city code unless they are.

Second, this definition seems to make paternalistic and limiting assumptions without a clear rationale, and may support denying shelter residents rights such as those enjoyed by residents of residential zones. Can we not imagine shelter residents being, say, members of a co-operative, or self-managing?

Margaret Zebroski, of Hazelnut Grove Tiny Homes Village Board notes that villages can and do exist as self-managed entities. Hazelnut Grove has existed for 5 years, and crime rates went down in the area. Residents have worked with fire department to create safe living areas with zero fire emergencies.

We look forward to this code project, and projects based on it, making a positive impact on our community, and thank the City/staff for all work on it so far.

Signatories

- Tim McCormick, PDX Shelter Forum, ShelterPDX / alternative shelter and villages coalition
- Sean Green, co-organizer of alternative shelter and village coalition project
Chair, Northeast Coalition of Neighborhoods
- Sarah Carolus, Interfaith Alliance on Poverty
- Marilyn Mauch, Interfaith Alliance on Poverty
- Helen Ying, Chair, Old Town Community Association
- Matchu Williams, Land Use/Planning Committee Chair/Co-Chair, Mt. Scott-Arleta Neighborhood Association
- Christopher Guthrie, Kenton Neighborhood Association
- Margaret A Zebroski, Poor People's Campaign, Hazelnut Grove Tiny Homes Village Board
- Keith Wilson, PDX Shelter Forum Member
- Brian Hoop, Housing Oregon
- Peter Parks, Overlook Houseless Support Group

- Marisa Espinoza, Northwest Pilot Project
- Heather Flint Chatto, Forage Design & Planning; Designer, [Art Farm Tiny House Artist Eco-Village](#)
- Doug Klotz