



CHAPTER 14 & 27 AMENDMENTS RELATED TO LODGING ESTABLISHMENTS AND SHELTERS

South Portland City Council Workshop | December 13, 2022

Shelter Ordinance Amendments

- Staff present
 - Sally Daggett, Corporation Counsel
 - Scott Morelli, City Manager
 - Milan Nevajda, Planning Director
 - Joshua Reny, Asst. City Manager
 - Emily Scully, City Clerk
 - Barb Skelton, Code Enforcement Director
 - Mike Williams, Deputy Fire Chief

Background

- Since onset of pandemic, several licensed lodging establishments have temporarily been operating as *de facto* homeless shelters
 - Two establishments fully leased their facilities to covert to shelters and work exclusively with MaineHousing to provide shelter to domestic unhoused
- Several other lodging establishments have maintained their own staff but rented rooms either exclusively or predominantly to unhoused families/individuals

Background

- Use of lodging establishments as shelters was supposed to be temporary / short-term related to COVID distancing requirements
- Use is not in compliance with existing land use or licensing regulations
- Initially, these facilities were not set up to serve even the basic (let alone more complex) needs of some of the guests
 - Significant strain on Public Safety – calls for service to hotels increased 118% (2020), 256% (2021), and 160% (2022 proj.) from pre-pandemic levels

Background

- Council agreed to renew licenses of lodging establishments operating in whole or in part as shelters, but placed significant requirements on them to both improve the plight of their guests, and in some cases to also set an end date to wind down shelter operations
 - Security, health care, food, interpreter, etc.
 - Days Inn and Comfort Inn: By March 1, 2023 need to transition to pre-pandemic operations or face fines of \$300/day per client
- These requirements appear to have improved the conditions for guests, as calls for service have decreased a projected 27% from 2021 to 2022
 - However, calls remain significantly elevated from pre-pandemic (+160% proj.)

Background

- Existing situation not sustainable
 - Most families/individuals placed in these hotels were done so by other communities or social service agencies simply because we had hotels willing to house unhoused clientele
 - The significant cost to do this (\$7,200/mo avg for 1 room) was mostly covered by federal FEMA and state ERA funds
 - As these state and federal funds begin to run dry, the City's General Assistance (GA) fund is responsible for 30% of expenses (state pays for remaining 70%)
 - State sets GA maximums that can be paid for rent, etc – far less than what ERA and FEMA funds covered

Background

- Existing situation not sustainable
 - Even sticking to these lower GA maximums, the City increased its GA budget \$12.2 million (1,460%!) this year to account for FEMA and ERA funds expiring as of 1/1/23
 - \$2.5 million of this was local share based on half year of costs
 - \$2.4 million taken from ARPA funds to mitigate need for tax increase
 - Less than \$700,000 in ARPA funds available for next year's budget
 - **Anticipate a tax increase of 6% if able to stick to “maximums”, over 20% if required to pay over maximums – does not include additional school enrollment costs, public safety costs, etc.**

Background

- At some point soon, Council will need to have a discussion about winding down the use of lodging establishments operating as shelters, ***but that is not the purpose of tonight's meeting***
- If a hotel wished to convert to a true homeless shelter or an entity applied to the City to build a new shelter, our current land use and licensing ordinances are insufficient and do not address the issue
 - Likely need a moratorium if that happened – let's be proactive

Proposed Ordinance Amendments

- Tonight, Council is being presented with proposed amendments to Ch. 14 and 27 related to lodging establishments and shelters
 - Creates a new land use definition for “shelters” and associated performance standards in zoning
 - Updates the definition of “lodging establishments” to further clarify that current ordinances do not permit them to operate as a homeless shelter or permanent residence
 - Creates a new licensing requirement to operate a shelter, including operating standards to ensure a safe and well-managed environment for the people being served as well as abutters

Shelter Ordinance Amendments

- Today there is hybrid land use and business activity at several licensed lodging establishments, not approved by the City
- Blend of three distinct land uses:
 1. Lodging
 2. Emergency shelter, and
 3. Transitional housing
- There is likely room in the City for all land use types, but they should be in compliance with ordinance and formally approved by the City
- Today, City ordinances do not allow some of these land uses and activities

Current Land Use Regulations

The City expressly allows and regulates:

- Lodging
 - Hotels, Motels, B&B, etc.
- Multi-Family Housing
 - Apartments, Townhomes, etc.
- Facility-based Long-term Care
 - Nursing Homes, Assisted Living Facilities, etc.
- Community Home / Group Home
 - Congregate Housing for Disabled, etc.

The City does NOT allow or regulate:

- Single Room Occupancy as Transitional Housing
 - City may allow this land use, but is not required to do so
- Emergency / Homeless Shelter
 - City may not be able to outright prohibit this type of land use, but is certainly able to regulate and limit the land use

Lodging Establishments

- A commercial activity located in commercial and mixed use districts that provide temporary lodging to visitors to the City
- Open to the general public for nightly sleeping accommodation
- The business and customer have a transactional relationship not protected by landlord/tenant law
- Guests do not typically require full scope of housekeeping amenities, i.e. food preparation, laundry, etc. because of the temporary nature of the stay
- Nightly rates are more expensive than a residential rent because the service is a convenience to the traveler, temporary in nature, and hotels (in a normal market) rarely have 100% occupancy

Multi-Family Housing

- A residential activity located in residential and mixed use districts that provides long term housing and permanent residence to households, whether they be owners or renters
- Independent and self-supported living in code-compliant dwelling units “providing complete housekeeping facilities for one family”
- Residents are protected by landlord/tenant law
- Residential leases are often a year or longer, but almost always greater than a month, and rent is typically paid in monthly installments

Facility-Based Long-Term Care

- Board and care homes, assisted living facilities, nursing homes, and continuing care retirement communities
- Congregate housing for residents who are functionally impaired and cannot live independently without assistance

Community Home as Transitional Housing

- Model of medical care for those with complex health needs
- Often for people in recovery
- 8 or fewer persons with disabilities who live as a single housekeeping unit with on-site staff
- Regulated by City as single family use (as required by Federal law), but requires certification and limits on occupancy per bedroom

Single Room Occupancy as Transitional Housing

- Multi-tenant building where tenants rent a room and share certain facilities in common, i.e. shared kitchen, bathrooms, etc.
- May be temporary or long-term housing arrangement
- Often designed to house individuals; not large family groups
- Regulated as a type of multi-unit residential property; not a hotel/motel
- May include on-site support services
- Not currently allowed or regulated by the City
 - Lawful dwelling units require “complete housekeeping facilities for one family”

Emergency Shelter

- An operation typically run by a local government, non-profit, or charitable organization
- Often located in close proximity to services and amenities serving the homeless population, i.e. healthcare, food and medication, support services, etc.
- Provides nightly shelter and sleeping accommodations, and may provide day space, bathing facilities, and storage space for personal items
- Open to the general public regardless of their ability to pay; inherently a public / social / charitable service

Proposed Ordinance Amendments

- Legal overview of Chapter 14 & 27

Proposed Ordinance Amendments

- Comparison to other communities' shelter ordinances

Shelter Ordinance Amendments

- Key Questions for Council

1. In what zoning districts should shelters be allowed as special exception uses?
2. Should shelters be allowed within a mixed-use development?
3. Does the City want to require day space for every shelter?
4. Should shelter capacity be limited to 50 beds in a single room, or 200 beds if separate bedrooms?
5. If multiple shelters are allowed within the City, should they be separated from one another? If so, what is a reasonable distance?
6. Does the City want to set a numerical cap? If so, this proposal would result in up to 5 shelters; should the cap be some other amount?