



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Nick Tarbet, Policy Analyst

**DATE:** October 6, 2020

**RE: Eleemosynary/Congregate Care Facility  
Text Amendment  
PLNPCM2016-00024**

## **PROJECT TIMELINE:**

Briefing 1: February 19, 2019

Briefing 2: Oct 6, 2020

Set Date: Oct 6, 2020

Public Hearing 1: Nov 10, 2020

Public Hearing 2: Nov 17, 2020

Potential Action: Nov 17, 2020

## **ISSUE AT-A-GLANCE**

The Council will be briefed on a proposal that would create a land use classification to address short-term housing for the terminally ill and seriously ill. The proposal includes reviewing compatibility concerns for how this land use, and others like it, would impact the adjacent residential neighborhoods, particularly the Institutional Zoning District.

The proposed changes would:

1. Remove the 25-person cap in the definition of Assisted Living Facilities.
2. Remove the 800-foot distance requirements between facilities to become compliant with federal fair housing laws.
3. Rename "Eleemosynary" to "Dwelling, Congregate Care facility" and amend the land use definition.
4. Create two sizes (small /large) of Congregate Care facilities and reorganize the districts where both are allowed.
5. Create a new parking requirement for proposed small Congregate Care facilities.
6. Remove the 25-person cap in the qualifying provisions of the Institutional zoning district for Congregate Care and Assisted Living Facilities.
7. Add a qualifying provision limiting one individual allowed per 950 square feet of lot area for Large Congregate Care and Large Assisted Living facilities in the Institutional Zone.
8. Make Congregate Care and Assisted Living Facilities a conditional use.

**Goal of the briefing:** *To review the proposed text amendment, determine if the Council supports moving forward with the proposal and direct staff to prepare for a public hearing.*

### **Council's Request for Further Analysis of Mitigation Measures**

During the February 19, 2019 work session briefing the Council reviewed the Planning Commission's recommended amendments. During that briefing, the Council requested Planning staff further study the issue and provide additional regulations beyond the conditional use process that would help mitigate development in Institutional zoned parcels located within single family residential neighborhoods.

Pages 4-6 of the Transmittal letter outline the additional research and analysis performed by Planning staff per the Council's request. Based on that analysis, Planning Staff is now recommending replacing the 25-person cap for Large Congregate Care and Large Assisted Living facilities in the Institutional Zone with a limit of one individual per 950 square feet of the lot area.

This recommendation is meant to address the possible impact of removing the 25-person cap in the Institutional Zone and allowing development more in scale with the residential neighborhood.  
*(Transmittal Letter, Page 5)*

Because Planning is proposing a qualifying provision for a 950 square foot of lot area per individual, the definition of the proposed Congregate Care land use needs to explain how we define an individual so it can be calculated. Planning is proposing additional clarification to the definition of the proposed Congregate Care.

The following clarifying language would be added to the definition of small and large congregate care facilities.

**Individuals include residents, family members or caregivers but does not include staff.**

These changes have not been reviewed by the Planning Commission. Legally, the Council may adopt, reject or modify Planning Commission recommendations. Modifications are typically considered if they are within the scope of the Commission's review.

These changes have been found to be within the scope of review, thus they do not need to be sent back to the Planning Commission for a recommendation.

### **Public Comment pertaining to Medical Respite**

The Council held a public hearing on March 26, 2019. During the public hearing many individuals requested the Council create a new land use called Medical Respite Facility. Planning staff included that consideration as part of their additional review.

Planning does not recommend adding this new land use to the zoning ordinance. Planning found that Medical Respite is already addressed and allowed as part of existing land uses in the zoning ordinance, as part of the following uses: Assisted Living, Nursing Home, Homeless Shelter, Homeless Resource

Center and the proposed Congregate Care. *Please see page 7 of the Transmittal letter to review the analysis planning staff provided.*

## **POLICY QUESTIONS**

1. The Council initiated this petition to review and address concerns about this type of land use located in the Institutional Zoning District.
  - **Does the Council feel the proposed changes will adequately address compatibility concerns?**

## **ADDITIONAL INFORMATION**

The Council initiated a legislative action on December 2015 to develop a land use classification for temporary housing for terminally and seriously ill, similar to services provided by the Inn Between. Additionally, the Council requested a review of compatibility concerns for this land use and other similar facilities located in the Institutional Zoning District.

Planning staff presented this topic to the Planning Commission during three different meetings: March 8, 2017, May 10, 2017 and June 14, 2017. During the first two meetings the Planning Commission requested modifications to the proposed text amendment.

Through this series of refinements, the Planning Commission ultimately forwarded a positive recommendation. The following outline describes the key changes and at which meeting the key changes were included in the final recommendation.

- 1. Remove the 25-person cap in the definition of Assisted Living Facilities**
  - An error was made in codification as a 25-person cap was inadvertently placed in the definition of “Assisted Living Facility (Large)”. (*March 8 Planning Commission Staff Report, pages 4-5*)
  - The error in the definition results in city-wide occupancy limitation/cap. The City Council’s intent was to place a 25-person cap only in the Institutional Zoning District.
  - The cap in the definition should be removed.
  
- 2. Remove the 800-foot distance requirements between facilities to become compliant with Federal fair housing law.**
  - Eliminate the 800-foot distance requirement from group homes, residential support and eleemosynary facilities to become in compliance with federal law. (*March 8 Planning Commission Staff Report, page 5*)
  - It has been determined that current distance requirements for these residential uses is in violation of the Fair Housing Act. The reason is that they apply to facilities or housing that serve disabled persons, a protected class under the act. The federal Fair Housing Act prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. (*May 10 Planning Commission Staff Report, page 2-3*)
  - The distance requirements are proposed to be removed as a qualifying provision in the land use chart.

**3. Rename “Eleemosynary” to “Dwelling, Congregate Care facility” and redefine the land use definition**

- May 10 Planning Commission briefing – Staff recommends renaming/redefinition to bring clarify the uses’ meaning (*May 10 Planning Commission Staff Report, pages 4-5*)
  - Better explanation of who is housed there--clients and families who suffer from life-threatening illnesses or injury.
  - Further clarify that it is not a homeless shelter nor other defined uses.

**4. Create two sizes (small /large) of Congregate Care facilities and reorganize the districts where both are allowed.**

- May 10 Planning Commission briefing – Staff recommends creating two classes-small and large (*May 10 Planning Commission Staff Report, pages 5-6*)
  - Creating two classes would allow smaller facilities, up to 6 clients, in lower density residential zoning districts and other zoning districts; and allow larger facilities, 7 clients or more, in higher density and mixed-use zoning districts.
  - Currently there is no occupancy limit on an eleemosynary facility other than the 25-person cap in the Institutional zone.

**5. Create a new parking requirement for proposed small Congregate Care facilities.**

- Proposal requirement is: 3 parking spaces per facility and 1 parking space for every 2support staff present during the busiest shift. (*June 14 Planning Commission Staff Report, page 3*)
  - The intent is to simplify the requirement and require a reasonable amount of on-site parking that would still allow a small facility to be compatible with the neighborhood.

**6. Remove the 25-person cap in the qualifying provisions of the Institutional zoning district for Congregate Care and Assisted Living Facilities**

- Planning Commission requested removal of the 25 Cap for the Proposed Congregate Care and Assisted Living Facilities in the Institutional Zoning District and make them conditional uses (*June 14 Planning Commission Staff Report, page 3*)
  - Planning Commission was concerned about the arbitrary nature of the cap

**7. Add a qualifying provision limiting one individual allowed per 950 square feet of lot area for Large Congregate Care and Large Assisted Living facilities.**

- Planning Recommends replacing the 25-person cap for Large Congregate Care and Large Assisted Living facilities in the Institutional Zone with a limit of one individual per 950 square feet of the lot area.
- Amend definition of Congregate Care land use needs to explain how to define an individual so it can be calculated.

**8. Make Congregate Care and Assisted Living Facilities as conditional use.**

- Planning Commission requested Congregate Care and Assisted Living Facilities in the Institutional Zoning District be allowed as a conditional use (*June 14 Planning Commission Staff Report, page 3*)
  - Planning Commission felt the conditional use process could address the impacts of congregate care and assisted living facilities

## Public Input

Pages 2-4 of the Transmittal letter outlines the public engagement process. The summary notes two open houses were held, two community councils were briefed, and three planning commission meetings were held about the proposed text amendment from April 2016 to June 2017.