



COUNCIL STAFF REPORT

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Nick Tarbet, Policy Analyst

DATE: March 22, 2022

RE: Text Amendment: Prohibition on Homeless
Resource Centers and Homeless Shelters
PLNPCM2021-01033

PROJECT TIMELINE:

Briefing: March 8, 2022

Set Date: March 1, 2022

Public Hearing: March 22, 2022

Potential Action: March 22, 2022

March 8 Work Session Summary

During the work session meeting, Council and Planning staff provided an overview of the proposed text amendment and of HB 440-Homeless Services Amendment, recently adopted legislation by the State.

Some Council Members expressed that while they recognize the current Homeless Resource Center (HRC) and Shelter approval process isn't working and must be improved, they have concerns about removing HRCs and Shelters from the land use tables without a guarantee they will be allowed again with a better process. The Council asked whether options are available to guarantee the HRC/Shelter use would be put back in the ordinance by a certain time.

The Attorney's Office and Planning staff proposed an option for the Council to adopt two ordinances:

- The first ordinance would remove HRCs/Shelters from the Land Use Tables.
- The second ordinance would implement a future date certain that HRC/Shelters would again be allowed in in the zones they are currently located (CG, D2 and D3), unless it is repealed due to the preferred changes that are being reviewed by the Planning Staff are adopted.

The Council expressed support for this plan and asked staff to draft the second ordinance to be considered at the time of potential adoption. The second ordinance is included in the packet.

Planning staff outlined the potential changes and public engagement process for the next steps of the zoning amendment. The next steps will seek to modify conditional use standards for HRCs and shelters and distinguish between temporary overflow shelters and permanent shelters. Planning staff also explained how the updated zoning changes could work either through an overlay zone and improved conditions and standards that would have to be satisfied to be approved.

Planning staff also discussed the Council's legislative intent requesting "*recommendations for prohibiting temporary shelters until other jurisdictions in Salt Lake County permit them*" and how it will be included in the review process.

Based on the Council's discussion, staff drafted a legislative intent encouraging the Administration to include in their research and review for Parts 2 and 3 of this petition, an analysis and recommendation to expand areas of the city where HRCs and Shelters are allowed, with a goal to promote geographic equity. Here is the Legislative Intent that will be included in the motion sheet:

I further move the Council approve a Legislative Intent, urging the Administration to include in their review process for Parts 2 and 3 of the HRC/Shelter text amendment petition, recommendations to promote geographic equity of HRCs/Shelters by expanding the zoning districts where they are allowed in the City.

Policy Questions

- The Draft ordinance that would reinstate HRCs and Shelters as an allowed use has an effective date of January 1, 2023, unless otherwise repealed. This would allow the City nine months to process the other amendments.
 - **Does the Council support this effective date?**

Next Steps

The Council will hold a public hearing on March 22, 2022. During this time the public will be able to provide feedback on the proposed zoning amendments. After the hearing, the Council can consider any of the following options:

- Continue the public hearing to a future Council meeting.
- Close the public hearing and defer action to a future Council meeting.
- Close the public hearing and reject the ordinance.
- Close the public hearing and adopt the ordinances.
 - Two ordinances would be included – one would at future date certain, allow HRC/Shelters in in the zones they are currently allowed (CG, D2 and D3)
 - Include legislative intent promoting geographic equity by expanding the zones where HRC/Shelters are allowed

The following information was provided for the March 8 work session. It is provided again for background purposes.

ISSUE AT-A-GLANCE

The City Council will be briefed on a proposal that would prohibit homeless resource centers and homeless shelters in the city by removing the uses from land use tables in the CG, D2 and D3 zoning districts. According to Planning staff, this is not meant to be a permanent prohibition. It's the first of three planned phases to help the City establish an updated process for locating shelters and HRCs.

Mayor Mendenhall initiated the pending ordinance rule with this petition on October 4, 2021. The pending ordinance rule allows the City to hold any application for a homeless resource center or homeless shelter for a period of 180 days pending a change in City code. This applies to any application that is submitted starting on the day the petition is initiated. The 180-day period expires April 2, 2022.

Last week the Utah Legislature approved [HB 440](#) Homeless Services Amendments. One component of this bill requires cities in Salt Lake County, through the Conference of Mayors, to come up with a winter overflow plan by September 1, 2022.

The ordinance that is now before the Council was forwarded before that legislation was adopted by the State and has been going through the standard planning process for the last few months. The Council hasn't had opportunity to have a discussion since legislative session ended. This briefing will provide the Council an opportunity to consider this text amendment in context of the recently adopted legislation. This is discussed further below, item #4 in Potential Options / Outcomes.

When the Mayor initiated the pending ordinance, it included three parts.

- Part 1 - Prohibit new, future homeless shelters or homeless resources centers in all zoning districts in the city - ***Current Transmittal***
- Part 2 - Modify the conditional use standards for homeless shelters or homeless resource centers.
- Part 3 - Distinguish between temporary overflow shelters and permanent shelters and homeless resources centers that operate year-round and potentially allow temporary overflow homeless shelters in certain zones.

Parts 2 and 3 are in the engagement process and will be going to the Planning Commission in the coming months.

This zoning amendment (Part 1) would do the following:

- Remove Homeless Resource Centers and Homeless Shelters as conditional uses from the land use tables for the CG General Commercial, D-2 Downtown Support, and D-3 Downtown Warehouse/Residential Zoning Districts.
- Clarify when listed land uses are prohibited.
- Modify the applicability section of 21A.36.350 Qualifying Provisions for Homeless Resource Centers and Homeless Shelters.
- Modify the definitions of homeless resource centers and homeless shelters in 21A.62.

Planning staff recommended removing homeless resource centers and homeless shelters from the land use tables because they found it was "has ad

The Planning Commission forwarded a negative recommendation for Part 1 of this petition primarily because they were concerned there was no timeline established to replace the conditional use process (Parts 2 and 3). See page 5 for more information on public comments received in the process so far.

Potential Options / Outcomes

1. If the City Council **adopts** the ordinance.
 - a. Homeless Shelters and Homeless Resources Centers will not be permitted in the city.
 - b. Parts 2 and 3 will come to the Council for consideration in the coming months. The Council could have a public process and consider or adjust any proposal for Parts 2 and 3 as part of the regular Council process.
2. If the Council **rejects** the ordinance.
 - a. Homeless Shelters and Homeless Resources Centers will again be permitted in the city as a conditional use in the CG, D2 and D3 zoning districts (see attached map).
 - b. Someone could apply to build/operate a shelter or HRC
 - i. The City would have to process the conditional use application under the current standards, which is a planning commission review process.
3. Let the pending ordinance expire without acting.
 - a. Homeless Shelters and Homeless Resources Centers will again be permitted in the city as a conditional use in the CG, D2 and D3 zoning districts.
 - b. Someone could apply to build/operate a shelter or HRC
 - i. The City would have to process the conditional use application under the current standards, which is a planning commission review process.
4. Ask the Planning Staff / Attorney's Office if there are other options that could be considered to help preserve the City's options.
 - a. Work with the Administration to determine if the Council could adopt an ordinance that would prohibit Shelters and HRCs and include a provision that would expire on a date to be determined and must come back to the Council to renew it and reconsider to make permanent.
 - i. This would allow for a true pause in any additional shelters in Salt Lake City while the conversation with other Mayors in the County takes place.
 - b. In addition to this ordinance, the Council could consider adopting a resolution expressing support for the process outlined in the recently adopted State legislation that requires Salt Lake County cities to come up with a plan to address temporary overflow during the winter months by September 1.

Policy Questions

- The Council may wish to ask how the legislative action adopted by the Council in November 2021 will be included in the research and review process for Parts 2 and 3 of this issue. (*see paragraph below*)
- The Council may wish to ask what the anticipated timeline is for Parts 2 and 3 to be processed and forwarded to the Council for consideration.
- The Council may wish to ask for the administration to provide an overview of potential changes to the conditional use process that Parts 2 of the petition will address.

- The Council may wish to discuss with the Administration if recent state legislation impacts this proposal.

Council Initiated Legislative Action

On November 16, 2021, the Council adopted the following legislative intent, when adopting the ordinance that permitted the temporary shelter on North Temple and Redwood Road.

I further move the Council initiate a legislative action asking the Administration review and come back with recommendations for prohibiting temporary shelters until other jurisdictions in Salt Lake County permit them.

On page 2 of the Transmittal Letter, Planning staff noted this amendment relates directly to the section of City code being revised with these petitions. Additionally, on page 6 on the Planning Commission staff report, staff noted this would require “identifying some criteria for evaluating when other jurisdictions have accomplished this. This likely requires the gathering of data and researching other jurisdiction zoning regulations so that information can be used to establish the criteria. This also requires creating some sort of process to determine when the criteria have been satisfied...”

The Council’s legislative action can be factored into the research and drafting process for Parts 2 and 3 of the petition.

Parts 2 and 3 of the Petition

According to the Planning Commission staff report, Mayor Mendenhall initiated a petition to amend the zoning ordinance as it relates to Homeless Resource Centers and Homeless Shelters, and it was divided up into three parts. Staff felt Parts 2 and 3 would need a more thorough discussion with stakeholders and therefore they did not process them with Part 1, currently before the Council.

Pages 5-6 of the Planning Commission’s report provides the following discussion pertaining to the next stages of work that will be done for this issue.

- **Part 2 - Modify the conditional use standards for homeless shelters or homeless resource centers.**
- **Part 3 - Distinguish between temporary overflow shelters and permanent shelters and homeless resources centers that operate year-round and potentially allow temporary overflow homeless shelters in certain zones.**
 - Updating the conditional use standards may not be sufficient to address the full range of impacts, needs, and considerations that are associated with siting, operating, and responding to the variety of needs for these uses.
 - It is possible that a different process will be used that puts the final decision-making authority on new homeless resource centers and homeless shelters with the City Council.

- Options being considered include the use of development agreements and an overlay zone that would be mapped (zoning map amendment) as part of the approval process for future homeless resource centers.
 - As these would be new regulations and processes, it likely requires fairly well researched regulations and discussions with a wider variety of stakeholders.
 - It would be necessary to include not just residents and business owners, but also service providers and other government agencies, including the State of Utah.

Key Considerations

The planning commission staff reported noted four key considerations. Below is a short summary of those consideration.

1. The Conditional Use Process

- State code dictates the conditional use process. The conditional use process is intended to identify impacts to surrounding properties and provide a process to mitigation them, according to standards outlined in City ordinance.
- The Planning Commission reviews conditional uses in the city. Concerns have been raised that the Planning Commission is not able to consider other factors that have an impact on City services such as public safety, fire, EMS.
- Therefore, Part 2 of this petition will consider modifications to the conditional use standards for homeless shelters or homeless resource centers.

2. Impact to Existing Homeless Resource Centers and Homeless Shelters

- Existing homeless resource centers and homeless shelters would technically become nonconforming uses with this change. This does not mean that the conditional approval goes away, it would still apply.
- A technical change will be made that ensures they are still identified as a conditional use.

3. When will Items 2 and 3 be discussed?

- Planning Staff has begun researching and drafting Parts 2 and 3 of this petition.
- It is possible that a different process will be used that puts the final decision-making authority on new homeless resource centers and homeless shelters with the City Council.
- Options being considered include the use of development agreements and an overlay zone that would be mapped (zoning map amendment) as part of the approval process for future homeless resource centers.
- These changes will require well researched regulations and discussions with a wider variety of stakeholders. It would be necessary to include not just residents and business owners, but also service providers and other government agencies, including the State of Utah.
- The Council's Legislative Intent, which will require identifying criteria and a process for when that criterion has been satisfied, will also be part of this process.

4. Community Engagement Please see pages 4-8 of the Planning Commission staff report for full analysis

- *See public process section below*
- The 180-day pending ordinance doctrine and time of year were impediments to good community engagement. This is a major factor in the Planning Division in dividing the proposal into different parts.
- The Planning Commission reviewed and forwarded a negative recommendation for Part 1 of the petition
- Parts 2 and 3 of the petition will be considered in the coming months.

Public Process

A summary of the public process is outlined on pages 2-3 of the Transmittal Letter.

- The text amendment went through the required 45-day notice to all recognized organizations. A virtual public forum was held with community councils.
- Planning staff met with homeless service providers to discuss the proposal on January 4, 2022
- On January 6th a community forum in Spanish was conducted.
- The Planning Commission held the public hearing on January 12, 2022.

Comments have generally been a mix of support and opposition to the proposal. See Attachment E of the Planning Commission staff report to review the submitted comments.

The transmittal letter notes an underlying theme of the public comment was the need to act quickly to have an updated process to allow homeless resource centers in the city. Some have said that removing Shelters/HRCs as an allowed use, even for a short time, will have an impact on planning and fundraising for service providers. Some encouraged the process to spread the uses throughout the city, while others supported the uses to be proximate to needed services. Others expressed concerns about nuisance impacts shelters can have on a neighborhood where they are located.

The Planning Commission adopted a motion to reject Part 1 of this petition, primarily because they were concerned there was no timeline established to replace the conditional use process.

Council Public Engagement

A [project website](#) for the public to follow this issue has been posted on the Council Website. It will be updated as new information becomes available.

Staff included information on this petition in the email updates and social media and sent out an email blast to stakeholders, with the days and times for the work session briefing and public hearing and links to the website.