

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: March 2, 2022 **Approx. Start Time:** 10:00 am **Approx. Length:** 1 hour

Presentation Title: Administrators Housing Task Force Update #2: HB 2006 (2021),
Emergency Shelter Siting

Department: Transportation and Development

Presenters: Cheryl Bell, Assistant Director of Transportation and Development; Jennifer Hughes, Planning Director; Nate Boderman, Assistant County Counsel

Other Invitees: Rod Cook, Director of Health, Housing and Human Services; Karen Buehrig, Long Range Planning Manager; Martha Fritzie, Principal Planner

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff is requesting that the Board establish a process and criteria for reviewing applications for emergency shelters under House Bill 2006 (2021).

EXECUTIVE SUMMARY:

Last session, the Oregon Legislature approved HB 2006 (attached). It requires the county (and other local governments) to allow an emergency shelter on land inside an urban growth boundary, as well as in rural residential zoned areas outside an urban growth boundary. As long as the standards in the bill are met, typical land use regulations do not apply.

An emergency shelter, defined as a building or cluster of buildings that provides shelter on a temporary basis for individuals and families who lack permanent housing must be operated by a local government, an organization with at least two years' experience operating an emergency shelter (local housing authority, religious corporation, or public benefit corporation), or a non-profit corporation partnering with any listed entity.

Unless extended by the legislature, the bill will lapse on July 1, 2022, though shelters established under the bill will be allowed to remain open after that date, and any application that was completed and submitted will be processed. The bill allows for shelter operations to extend into perpetuity as long as operations have not been abandoned for more than two years and operations were initiated within two years from the date of approval.

Not a Land Use Decision/Notice Requirements

HB 2006 stipulates that the decision is not a land use decision, meaning appeals are to Circuit Court rather than the Land Use Board of Appeals, but it doesn't identify what the review process is. Because it is not a land use decision subject to our adopted Zoning and Development Ordinance, Counsel has advised that typical public notice requirements do not apply. The bill does not require public notice or a public hearing; however, the Board could choose to provide one or both, recognizing that the more complicated the process is, the longer it will take to site an emergency shelter.

Process

The Board may delegate the decisions to staff (likely Planning & Zoning or H3S) or review the applications themselves.

Approval Criteria

The bill includes discretionary approval criteria, including that the emergency shelter:

- Has *adequate transportation access* to commercial and medical services
- Will not pose any *unreasonable risk* to public health or safety

If the Board chooses to delegate the decisions, it would be helpful to get some direction in terms of what the Board considers to be “unreasonable risk” and “adequate transportation access” in the context of the approval criteria.

Adequate transportation access for this type of facility might reasonably require proximity to a transit stop or to the services themselves (e.g., one quarter mile, one half mile) or the provision of transportation services by the shelter operator.

Unreasonable risk may be more challenging to define. One approach is to find that it is a product of several factors, such as:

- Type of shelter
- Shelter activities proposed (e.g., showering/bathing, storage of personal property, laundry facilities, service of food)
- Size of shelter
- Utilities provided to the shelter site
- Consistency with applicable fire and building codes
- Site conditions
- Operational protocols (e.g., code of conduct, screening policy, 24-hour contact information posted for clients to access supportive resources when the facility is not open)

Attached is an HB 2006 shelter siting form recently developed by the City of Oregon City, as a template for discussion on criteria that may be of interest to the Board.

As this presentation is focused on a process around HB 2006, this is the first of a number of conversations concerning shelter service and land use. Additional discussions are needed on HB 3261, legislation to permit shelter services within Hotel/Motel and possible amendments to the zoning and development ordinance to identify a process to entitle shelter services through a land use process.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? Unknown, dependent on review process and number of applications filed

What is the funding source? General fund through reallocation of existing staff time unless a fee is adopted

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals?

This is a requirement of state law. However, establishing processes for review of land use and development is consistent with the purpose of the long-range planning program, which is to provide land use and transportation plan development, analysis, coordination and public engagement services to residents; businesses; local, regional and state partners, and County decision-makers so they can plan and invest based on a coordinated set of goals and policies that guide future development.

- How does this item align with the County's Performance Clackamas goals?

This is a requirement of state law and does not directly align with the strategic goals; however, adopting a process to comply with state law is consistent with the strategic priority of Building Public Trust through Good Government. Establishing emergency shelters for our houseless community members is also consistent with the strategic priority of Ensuring Safe, Healthy and Secure Communities.

LEGAL/POLICY REQUIREMENTS:

- Implementation of HB 2006 is mandatory.

PUBLIC/GOVERNMENTAL PARTICIPATION:

- When an application for a shelter is received, coordination and discussion between DTD, H3S and partnering agencies (e.g., Fire District).

Consideration #1: HB 2006 Implementation and Notification Process

OPTIONS:

1. Delegate decisions on applications for emergency shelters to Planning and Zoning staff
 - a. With mailed public notice of application and decision and if so, a notice area consistent with those adopted under the zoning and development ordinance
 - b. With mailed public notice of decision only and if so, a notice area consistent with those adopted under the zoning and development ordinance or
 - c. Without public notice
 2. Delegate decisions on applications for emergency shelters to H3S staff
 - a. With mailed public notice and if so, a notice area consistent with those adopted under the zoning and development ordinance
 - b. With mailed public notice of decision only and if so, a notice area consistent with those adopted under the zoning and development ordinance or
 - c. Without public notice
 3. Retain decision making at the Board level
 - a. With mailed public notice and if so, a notice area consistent with those adopted under the zoning and development ordinance
 - b. With mailed public notice of decision only and if so, a notice area consistent with those adopted under the zoning and development ordinance or
 - c. Without public notice
- and
- d. At a business meeting
 - e. At a business meeting with a public hearing or
 - f. At an Issues session

RECOMMENDATION:

Option 1b: Delegate decisions on applications for emergency shelters to Planning and Zoning staff, with mailed public notice of decision only and if so, a notice area consistent with those adopted under the zoning and development ordinance.

Consideration #2: Determination of *adequate transportation access* to commercial and medical services

OPTIONS:

1. One-quarter mile walking distance to an established transit stop with daily service, one-quarter mile walking distance to commercial and medical services, or transportation to commercial and medical services provided by the shelter operator for clients of the shelter.
2. One-half mile walking distance to an established transit stop with daily service, one-half mile walking distance to commercial and medical services, or transportation to commercial and medical services provided by the shelter operator for clients of the shelter.

RECOMMENDATION:

Option 2: One-half mile walking distance to an established transit stop with daily service, one-half mile walking distance to commercial and medical services, or transportation to commercial and medical services provided by the shelter operator for clients of the shelter.

Consideration #3: Determination of *unreasonable risk* to public health or safety

OPTIONS:

1. Adopt factors identified on the attached HB 2006 shelter siting form produced by the City of Oregon City.
2. Adopt factors similar to those identified on the attached HB 2006 shelter siting form produced by the City of Oregon City but including suggested edits by the Board.
3. Return for an additional Policy Session to discuss.

RECOMMENDATION:

Option 2: Adopt factors similar to those identified on the attached HB 2006 shelter siting form produced by the City of Oregon City but including suggested edits by the Board.

ATTACHMENTS:

1. HB 2006 (2021)
2. City of Oregon City application form for an emergency shelter

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval *Dan Johnson*

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Jennifer Hughes @ 503-742-4518

Enrolled House Bill 2006

Sponsored by Representative KOTEK; Representatives CAMPOS, DEXTER, EVANS, FAHEY, GRAYBER, HOLVEY, KROPF, LEIF, MARSH, MCLAIN, MEEK, MORGAN, NATHANSON, NERON, NOBLE, REARDON, SOLLMAN, WILDE, WILLIAMS, ZIKA, Senator PATTERSON

CHAPTER

AN ACT

Relating to housing; creating new provisions; amending ORS 203.082, 446.265 and 458.650; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS chapter 197.

SECTION 2. (1) As used in this section, “emergency shelter” means a building or cluster of buildings that provides shelter on a temporary basis for individuals and families who lack permanent housing.

(2) A building or cluster of buildings used as an emergency shelter under an approval granted under section 3 of this 2021 Act or section 11, chapter 12, Oregon Laws 2020 (first special session):

(a) May resume its use as an emergency shelter after an interruption or abandonment of that use for two years or less, notwithstanding ORS 215.130 (7).

(b) May not be used for any purpose other than as an emergency shelter except upon application for a permit demonstrating that the construction of the building and its use could be approved under current land use laws and local land use regulations.

(3) An approval of an emergency shelter under section 3 of this 2021 Act or section 11, chapter 12, Oregon Laws 2020 (first special session) is void unless the shelter is operating within two years following the approval.

SECTION 3. (1) A local government shall approve an application for the development or use of land for an emergency shelter, as defined in section 2 of this 2021 Act, on any property, notwithstanding ORS chapter 195, 197, 197A, 215 or 227 or any statewide plan, rule of the Land Conservation and Development Commission or local land use regulation, zoning ordinance, regional framework plan, functional plan or comprehensive plan, if the emergency shelter:

(a) Includes sleeping and restroom facilities for clients;

(b) Will comply with applicable building codes;

(c) Is located inside an urban growth boundary or in an area zoned for rural residential use as defined in ORS 215.501;

(d) Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards, in-

cluding flood plains or mapped environmental health hazards, unless the development complies with regulations directly related to the hazard;

(e) Has adequate transportation access to commercial and medical services; and

(f) Will not pose any unreasonable risk to public health or safety.

(2) An emergency shelter allowed under this section must be operated by:

(a) A local government as defined in ORS 174.116;

(b) An organization with at least two years' experience operating an emergency shelter using best practices that is:

(A) A local housing authority as defined in ORS 456.375;

(B) A religious corporation as defined in ORS 65.001; or

(C) A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code on or before January 1, 2018; or

(c) A nonprofit corporation partnering with any other entity described in this subsection.

(3) An emergency shelter approved under this section:

(a) May provide on-site for its clients and at no cost to the clients:

(A) Showering or bathing;

(B) Storage for personal property;

(C) Laundry facilities;

(D) Service of food prepared on-site or off-site;

(E) Recreation areas for children and pets;

(F) Case management services for housing, financial, vocational, educational or physical or behavioral health care services; or

(G) Any other services incidental to shelter.

(b) May include youth shelters, winter or warming shelters, day shelters and family violence shelter homes as defined in ORS 409.290.

(4) An emergency shelter approved under this section may also provide additional services not described in subsection (3) of this section to individuals who are transitioning from unsheltered homeless status. An organization providing services under this subsection may charge a fee of no more than \$300 per month per client and only to clients who are financially able to pay the fee and who request the services.

(5) The approval of an emergency shelter under this section is not a land use decision and is subject to review only under ORS 34.010 to 34.100.

SECTION 4. (1) Section 3 of this 2021 Act is repealed on July 1, 2022.

(2) The repeal of section 3 of this 2021 Act by subsection (1) of this section does not affect an application for the development of land for an emergency shelter that was completed and submitted before the date of the repeal.

SECTION 5. ORS 446.265 is amended to read:

446.265. (1) Inside an urban growth boundary, a local government may authorize the establishment of transitional housing accommodations used as individual living units by one or more individuals. Use of transitional housing accommodations is limited to *[persons]* **individuals** who lack permanent or safe shelter and who cannot be placed in other low income housing. A local government may limit the maximum amount of time that an individual or a family may use the accommodations.

(2) 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, **as well as areas in parking lots or facilities for individuals or families to reside overnight in a motor vehicle, without regard to whether the motor vehicle was designed for use as temporary living quarters.** The transitional housing accommodations may provide parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities.

The Oregon Health Authority may develop public health best practices for shared health and sanitation facilities for transitional housing accommodations.

(3) Transitional housing accommodations are not subject to ORS chapter 90.

(4) As used in this section, “yurt” means a round, domed tent of canvas or other weather resistant material, having a rigid framework, wooden floor, one or more windows or skylights and that may have plumbing, electrical service or heat.

SECTION 6. ORS 203.082 is amended to read:

203.082. *[(1) Any political subdivision in this state may allow churches, synagogues and similar religious institutions to offer overnight camping space on institution property to homeless persons living in vehicles.]*

[(2) In addition to any conditions or limitations imposed by a political subdivision, a religious institution located within the political subdivision and offering camping space described under subsection (1) of this section must:]

[(a) Limit camping space at the institution site to three or fewer vehicles at the same time; and]

[(b) Provide campers with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities.]

(1) Any political subdivision may allow any public or private entity to allow overnight camping by homeless individuals living in vehicles on the property of the entity.

(2) A political subdivision may impose reasonable conditions upon offering camping space under this section, including establishing a maximum number of vehicles allowed.

(3) Entities providing camping spaces under this section must also provide access to sanitary facilities, including toilet, handwashing and trash disposal facilities.

SECTION 7. ORS 458.650 is amended to read:

458.650. (1) The Emergency Housing Account *[shall be]* **is** administered by the Housing and Community Services Department to assist homeless *[persons]* **individuals** and those *[persons]* **individuals** who are at risk of becoming homeless. An amount equal to 25 percent of moneys deposited in the account pursuant to ORS 294.187 is dedicated for expenditure for assistance to veterans who are homeless or at risk of becoming homeless. For purposes of this section, “account” means the Emergency Housing Account.

(2) The Oregon Housing Stability Council, with the advice of the Community Action Partnership of Oregon, shall develop policy for awarding grants to organizations that shall use the funds:

(a) To provide to low and very low income *[persons]* **individuals**, including but not limited to, *[persons]* **individuals** more than 65 years of age, persons with disabilities, farmworkers and Native Americans:

(A) Emergency shelters and attendant services;

(B) Transitional housing services designed to assist *[persons]* **individuals** to make the transition from homelessness to permanent housing and economic independence;

(C) Supportive housing services to enable *[persons]* **individuals** to continue living in their own homes or to provide in-home services for such *[persons]* **individuals** for whom suitable programs do not exist in their geographic area;

(D) Programs that provide emergency payment of home payments, rents or utilities; or

(E) Some or all of the needs described in subparagraphs (A) to (D) of this paragraph.

(b) To align with federal strategies and resources that are available to prevent and end homelessness.

(3)(a) The council shall require as a condition of awarding a grant that the organization demonstrate to the satisfaction of the council that the organization has the capacity to deliver any service proposed by the organization.

(b) Any funds granted under this section *[shall]* **may** not be used to replace existing funds. Funds granted under this section may be used to supplement existing funds. An organization may use funds to support existing programs or to establish new programs.

(c) The council, by policy, shall give preference in granting funds to those organizations that receive grants from the Housing Development Grant Program established under ORS 458.625.

(4) The department may expend funds from the account for:

(a) The administration of the account as provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the department.

(b) The development of technical assistance and training resources for organizations developing and operating emergency shelters as defined in section 2 of this 2021 Act and transitional housing accommodations as described in ORS 446.265.

SECTION 8. Section 9 of this 2021 Act is added to and made a part of ORS 458.600 to 458.665.

SECTION 9. (1) As used in this section, “low-barrier emergency shelter” means an emergency shelter, as defined in section 2 of this 2021 Act, that follows established best practices to deliver shelter services that minimize barriers and increase access to individuals and families experiencing homelessness.

(2) The Housing and Community Services Department shall award grants and provide technical assistance to organizations to fund:

(a) The construction, purchase or lease of facilities to be used as low-barrier emergency shelters;

(b) The operation, use or staffing of low-barrier emergency shelters, including the costs to provide clients with access to the shelters;

(c) The development or use of amenities or facilities that provide no-cost services to individuals and families who are homeless, including restroom and hygiene facilities, laundry facilities, dining facilities, storage for personal property, meeting or gathering spaces and facilities providing case management services; or

(d) Rapid rehousing services and supports for individuals and families.

(3) In awarding grants and providing technical assistance under this section, the department shall:

(a) Ensure that funds are distributed among different regions of the state; and

(b) Prioritize funding areas of highest need as identified in the August 2019 Oregon Statewide Shelter Study.

(4) Grants under this section must be awarded:

(a) Through a competitive process that emphasizes collaborative proposals; or

(b) To one or more community action agencies.

SECTION 10. (1) As used in this section, “navigation center” means a low-barrier emergency shelter, as defined in section 9 of this 2021 Act, that is open seven days per week and connects individuals and families with health services, permanent housing and public benefits.

(2) The Oregon Department of Administrative Services may award grants to local governments to:

(a) Plan the location, development or operations of a navigation center;

(b) Construct, purchase or lease a building for use as a navigation center;

(c) Operate a navigation center that has been constructed, purchased or leased under paragraph (b) of this subsection; or

(d) Contract for the performance of activities in this subsection.

(3) The department shall require that each local government receiving a grant under this section agree to return all moneys granted unless the local government has developed a navigation center that is operating on or before July 1, 2022.

SECTION 11. Notwithstanding ORS 458.650 (2) and (3), the Housing and Community Services Department may expend funds from the Emergency Housing Account to award grants and provide technical assistance under section 9 of this 2021 Act.

SECTION 12. Sections 9, 10 and 11 of this 2021 Act are repealed on January 2, 2024.

SECTION 13. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 5, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 3, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

.....
Shemia Fagan, Secretary of State



HB 2006 Shelter Siting

On May 12, 2021, Governor Brown signed into state legislation [HB 2006](#), a bill intended to respond to the current statewide housing crisis authorizing cities to site emergency shelters if certain conditions are met. The new law took effect immediately and requires local governments to approve an application for an emergency shelter regardless of state or local land use laws, if the application meets specific approval criteria outlined in the bill. An "emergency shelter" provides "shelter on a temporary basis for individuals and families who lack permanent housing." Any emergency shelter use or activity specifically authorized below may not be put to any other use without securing the necessary land use approval as required by state law and the Oregon City Municipal Code.

HB 2006 is not a land use decision and it removes state requirements for a mailed notice, public hearing, or solicitation of public comment on an application. Local governments are obligated to approve applications for shelters that meet the criteria below. Decisions under HB 2006 may not be appealed to the Planning Commission, City Commission or the Land Use Board of Appeals but may be appealed using the writ of review process provided under ORS 34.010 – 34.100.

Applicant Information

Site Address or Clackamas County Map and Tax Lot: _____

Applicant Name/Company: _____

Phone Number: _____ Email Address: _____

Shelter Information

Type of Shelter Proposed (Mark all that apply):

- Warming Shelter
- Cooling Shelter
- Day Shelter
- Night Shelter
- Other _____

Shelter Activities Proposed (Mark all that apply):

- Showering/Bathing
- Storage of Personal Property
- Laundry Facilities
- Service of Food (Prepared on-site or off-site)
- Recreation Areas for Children or Pets
- Case Management Services for housing, financial, vocational, educational, physical/behavior health care
- Other Services Incidental to the Shelter _____

Are there any Charges to Clients? Please explain. _____

Hours of Operation: _____

Maximum Number of Clients: _____

Date Beginning Operation: _____

Please note a shelter approved under HB 2006 must be in operation within 2 years of application approval

Will the proposed shelter be operated by one of the following types of entities/organizations?

- A local government
- An organization with at least two years' experience operating an emergency shelter using best practices that is:
 - A housing authority
 - A religious corporation
 - A public benefit corporation whose charitable purpose includes the support of homeless individuals and that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code on or before January 1, 2018
Years Experience: _____
- A nonprofit corporation partnering with any of the above entities.

Partner Entity: _____ Years Experience: _____

<u>Additional Questions</u>	<u>Check if Yes</u>	<u>Check if No</u>	<u>Check if Not Applicable</u>	<u>Staff</u>
Is the proposed use an "emergency shelter", defined as a building or cluster of buildings that provides shelter on a temporary basis for individuals and families who lack permanent housing? <i>Required.</i>				
Is a fee charged to clients? <i>No more than \$300 per month per client and only to clients who are financially able to pay the fee and who request the services.</i>	Fee: _____			
Is the proposed shelter located in an existing building?				
Does the location include a new building or expansion of any existing building located in area within a Natural Resource Overlay, Floodplain Overlay, or Geologic Hazards Overlay?				
Is the subject site (<i>one required</i>): <ul style="list-style-type: none"> <input type="checkbox"/> Within ½ mile of a bus stop with daily service <input type="checkbox"/> Within ½ mile of commercial & medical services, such as grocery, library, hospital or urgent care services necessary to support sheltered individuals <input type="checkbox"/> Provide transportation to commercial & medical services Please explain:				

After submittal of an application, staff will verify all necessary is submitted and contact the applicant to perform a site visit.

Staff use:

Reviewed By (Oregon City Planning): _____ Date: _____

Decision: Approved Approved with Conditions Denied

Reviewed By (Oregon City Building): _____ Date: _____

Decision: Approved Approved with Conditions Denied

Reviewed By (Clackamas County Fire): _____ Date: _____

Decision: Approved Approved with Conditions Denied

OVERALL DECISION: _____ Date: _____

Decision: Approved Approved with Conditions Denied