



COUNCIL STAFF REPORT

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Nick Tarbet
Policy Analyst

DATE: August 29, 2017

**RE: Text Amendment: Homeless Resource Center Text Amendment
PLNPCM2016-00910**

Item Schedule:

Briefing: August 29, 2017
Set Date: August 8, 2017
Public Hearing: Sept 19 & Oct 3
Potential Action: Oct 17, 2017

ISSUE AT-A-GLANCE

The Council will be briefed about an ordinance amending various sections of Title 21A of the Salt Lake City Code pertaining to homeless resource centers. The changes define homeless resource centers (HRCs) and allow for them as a conditional use in zoning districts that currently allow homeless shelters. The changes also include “qualifying provisions,” which are requirements homeless resource centers need to comply with in order to operate in the City. The provisions state that the centers:

- May not have an overnight population exceeding 200 people;
- Must have a security and operations plan; and
- Must have a maintenance plan, among other changes.

This action before the Council represents the Council’s most tangible way to influence the operation of the HRCs in neighborhoods. The proposed requirements are largely based on public engagement since over the life of this issue. The Council may consider whether the requirements address the concerns that have been raised, and whether they maximize the City’s role in standardizing how the HRCs will exist.

The Planning Commission forwarded a unanimous favorable recommendation to the City Council.



POLICY QUESTIONS

1. "Neighborhood Coordinating Council" Requirements

The proposed ordinance includes a requirement for Homeless Resource Center or Homeless Shelter operators to "create, participate and support a Neighborhood Coordinating Council, as part of the Security and Operations Plan."

Additionally, the draft ordinance requires the Neighborhood Coordinating Council to be comprised of one representative from each of the following groups and who shall be appointed by the Mayor:

- Staff of the homeless resource center or homeless shelter
- a business within ¼ mile of the site
- a resident within ¼ mile of the site
- a member of a community council whose boundary encompasses the site.

However, the Attorney's Office expressed the following concerns about the neighborhood coordinating council as currently proposed in the draft ordinance:

"The language in the draft ordinance would place an obligation on a development applicant that is wholly out of their control, namely, the creation of an entity that, by the terms of the draft ordinance, shall be populated by mayoral appointees. If adopted, this would place a development applicant in the impossible situation of complying with a condition that it has no ability to satisfy, which would likely expose the city to appeals and frustrate the efforts that the city's elected officials are engaged in to address homelessness. The City Attorney's Office recommends that this element of the draft ordinance be removed or modified to more closely mirror the security and operations plan requirements for alcohol-related conditional uses set forth in Title 21A."

The Transmittal letter notes that Planning Division staff agrees with the Attorney's Office and recommends the provision for the Neighborhood Coordinating Council to be relocated to Title 2 – Administration and Personnel of the City code. This is where the rules for the City's Boards and Commissions are located.

Additionally, the Planning Commission included in their recommendation a request for the City Council to "strongly consider empowering the community more on the proposed neighborhood coordinating council."

In response to the concerns noted above, Council Staff has drafted the following proposal for the Council to consider.

According to the Council's original request, and stated in the draft ordinance, the purpose of the Neighborhood Coordinating Council is to "facilitate regular communication between the operator(s) of the homeless resource center or homeless shelter and the community, and discuss neighborhood concerns."

In order to facilitate regular communication and processes neighborhood concerns resolved, the Council could consider replacing the proposed draft language with a requirement for an operator to provide a detailed community relations and complaint response plan as part of the Security and Operations plan. Staff proposes the plan must include at a minimum, the requirements outlined below.

21A.36.350.A.2 – Homeless Resource Center (HRC) Security and Operations Plan
(Proposed Language - Community Relations and Complaint Response Plan)

2. A security and operations plan shall be prepared by the applicant, and approved by the Salt Lake City Police Department and Community and Neighborhoods Department, prior to conditional use approval, and filed with the recorder's office. A security and operations plan shall include:
 - a. A community relations and complaint response program that identifies specific strategies and methods designed to maintain the premises in a clean and orderly condition, minimize potential conflicts with the owners/operators and uses of neighboring property, and prohibit unlawful behavior by occupants of the homeless resource center on the site or adjacent public right of way. The community relations and complaint response program shall include at least the following elements:
 - i. Identify a representative of the homeless resource center, including the representative's name, telephone number, and email, who will meet with neighbors upon request to attempt to resolve any neighborhood complaints regarding operation of the center;
 - ii. A dedicated twenty four hour telephone line for the purpose of receiving complaints;
 - iii. Quarterly meetings with a community coordinating group to discuss and address concerns and issues that may be occurring as a result of the HRC operation;
 - iv. Representatives from each of the following shall be included in the community coordinating group;
 - i. the homeless resource center or homeless shelter,
 - ii. a business located within ¼ mile of the site,
 - iii. a resident who lives within ¼ mile of the site,
 - iv. a school, if any, located within ¼ mile of the site; and
 - v. chair of the community council, or designee, whose boundary encompasses the site; and
 - v. A written annual report, provided on or before XX of each year, from the operator of the homeless resource center or homeless shelter, provided to the city planning director and any others designated by the city, that includes the following information:
 - i. List of individuals who have participated in the community coordinating group meetings;
 - ii. A summary of each community coordinating group meeting; and
 - iii. A summary of complaints received from the community by the operator of the HRC or homeless shelter; and
 - iv. An explanation of how complaints have been addressed/resolved.
- *Does the Council think this proposed change provides sufficient requirements that will facilitate regular communication between the community and operators of HRC and ensure process are in place to address and resolve neighborhood concerns?*
 - *Does the Council wish to further discuss how to incorporate the proposed Neighborhood Coordinating Council into the final draft?*

3. Currently, an operator for the Homeless Resource Centers has not been identified. Typically, the operator/manager of the center would apply for the conditional use.

- *The Council may wish to discuss with the Administration which organization will submit the application for the conditional use, and provide the information required in the qualifying provisions*

4. Additional requirements in response to community concerns?

Although there has been fair criticism of the City's public engagement process, a large benefit of the public comments that have been submitted to the City is that they have been incorporated into this proposal.

- *The Council may consider whether there are other requests that could be accomplished through these proposed requirements.*

ADDITIONAL INFORMATION

Proposed Definition

Homeless Resource Center: A building or portion thereof in which supportive services such as sleeping, bathing, eating, laundry facilities, and housing case management are provided on an emergency basis for individuals experiencing homelessness. Additional services may include preparation and distribution of food; medical care and treatment; behavioral and mental health counseling; employment counseling; educational instruction, and vocational training.

Proposed Locations (zoning districts)

Homeless Resource Centers would be added to the land use tables as a Conditional Use in the following zoning districts:

- CG – General Commercial
- D-2 – Downtown Support
- D-3 – Downtown Warehouse/Residential

The following provision, proposed to be included as a footnote for HRCs and Homeless Shelters, would specify:

- Those land uses would be required to meet the standards outlined in 21A.36.350 (qualifying provisions); and,
- The City may not prohibit construction if the State Homeless Coordinating Committee funds and approves a site (in accordance with Section 35A-8-604 of the Utah Code).
- **Proposed footnote (*already in draft ordinance*)**
 “Subject to conformance with the provisions of Section 21A.36.350 of this title, the city may not prohibit construction of a homeless resource center or homeless shelter if the site is approved by and receives funding through the State Homeless Coordinating Committee, with the concurrence of the Housing and Community Development Division within the Department of Workforce Services, in accordance with Section 35A-8-604 of the Utah Code.”

Proposed Qualifying Provisions

The goal of the qualifying provisions is to mitigate potential adverse impacts of homeless resource centers and homeless shelters. In order to achieve that goal, it is proposed that the applicant must have a security and operations plan approved by the Salt Lake City Police Department and Community and Neighborhoods Department, prior to conditional use approval. This means, the applicant could have this plan reviewed at the same time they are pursuing a conditional use.

The following requirements have been proposed for the Council to consider:

- Limit the number of occupants to 200
- Applicants must submit to the City a “Security and Operations Plan” that includes:
 1. an agreement to participate in a “neighborhood coordinating council” (*see policy question #1 above*)
 2. procedures for responding to neighborhood complaints and concerns
 3. 24 hour security
 4. noise level controls

- 5. indoor queuing of patrons
- 6. smoking restrictions
- 7. a trash removal plan
- Compliance with crime prevention techniques
 - 1. creates natural surveillance through strategic placement of windows, doors, and pathways
 - 2. provides sufficient exterior lighting
 - 3. ensures landscaping does not create hidden places
- A minimum six foot tall decorative masonry wall along rear and interior side yard property lines, and a three foot tall fence along front property line, to delineate property boundaries and control pedestrian access
- Building maintenance and graffiti removal plan
- Reference to Utah Code 35A-8-604 which states that the city may not deny a conditional use petition for a homeless shelter or homeless resource center if the center receives funding from the State Homeless Coordinating Committee.

Process for Homeless Resource Centers and Homeless Shelters approval

In order to start construction, homeless resource centers and homeless shelters must do the following:

- Meet the qualifying provision as described above.
- Obtain a Conditional Use
 - A Conditional Use is defined by the City's zoning ordinance as:
 - A land use which, because of its unique characteristics or potential impact on the municipality, surrounding neighbors or adjacent land uses, may not be compatible or may be compatible only if certain conditions are required that mitigate or eliminate the negative impacts.
 - Conditional uses are allowed unless appropriate conditions cannot be applied which, in the judgment of the planning commission, or administrative hearing officer, would mitigate adverse impacts that may arise by introducing a conditional use on the particular site.
 - In order to obtain a Conditional Use, an applicant must go through the process outlined below:
 - Submittal of a complete application, which includes a site plan, landscape plan, lighting plan, building elevations, building floor plan, and security and operations plan. Additional application materials may also be required by the City
 - Community Council chair notified of proposed conditional use via email
 - Property owners and residents within 300 feet of proposed conditional use notified via mail Community Council public meeting held on proposal (pending invitation from community council chair)
 - Planning Division Open House public meeting notices mailed to property owners and residents within 300 feet of proposed conditional. Community Council chairs also notified of meeting via email
 - Planning Division Open House public meeting held on proposal
 - Planning Commission public hearing notices published and mailed to property owners, residents, and community council chair
 - Planning Commission public hearing held on proposal
 - Planning Commission decision (approve, or approve with conditions)
 - **Standards for Conditional Uses**

[21.A.54.080: Standards for Conditional Uses](#) outlines the standards that must be met in order for a conditional use to be approved:

- Approval Standards: A conditional use shall be approved unless the planning commission, or in the case of administrative conditional uses, the planning director or designee, concludes that the following standards cannot be met:
 1. The use complies with applicable provisions of this title;
 2. The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;
 3. The use is consistent with applicable adopted city planning policies, documents, and master plans; and
 4. The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions.
- Detrimental Effects Determination: In analyzing the anticipated detrimental effects of a proposed use, the planning commission, or in the case of administrative conditional uses, the planning director or designee, shall determine compliance with each of the following:
 1. This title specifically authorizes the use where it is located;
 2. The use is consistent with applicable policies set forth in adopted citywide, community, and small area master plans and future land use maps;
 3. The use is well suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area;
 4. The mass, scale, style, design, and architectural detailing of the surrounding structures as they relate to the proposed have been considered;
 5. Access points and driveways are designed to minimize grading of natural topography, direct vehicular traffic onto major streets, and not impede traffic flows;
 6. The internal circulation system is designed to mitigate adverse impacts on adjacent property from motorized, nonmotorized, and pedestrian traffic;
 7. The site is designed to enable access and circulation for pedestrian and bicycles;
 8. Access to the site does not unreasonably impact the service level of any abutting or adjacent street;
 9. The location and design of off street parking complies with applicable standards of this code;
 10. Utility capacity is sufficient to support the use at normal service levels;
 11. The use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts;
 12. The use meets city sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or stream, or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke;
 13. The hours of operation and delivery of the use are compatible with surrounding uses;
 14. Signs and lighting are compatible with, and do not negatively impact surrounding uses; and
 15. The proposed use does not undermine preservation of historic resources and structures.

- **Conditions Imposed:** The planning commission may impose on a conditional use any conditions necessary to address the foregoing factors which may include, but are not limited to:
 1. Conditions on the scope of the use; its character, location, hours and methods of operation, architecture, signage, construction, landscaping, access, loading and parking, sanitation, drainage and utilities, fencing and screening, and setbacks; and
 2. Conditions needed to mitigate any natural hazards; assure public safety; address environmental impacts; and mitigate dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, and radiation.

Pages 2-8 of the Planning Commission Staff Report identify eight key issues. A short description of each issue and the finding is provided below for reference. Please see the transmittal letter for full analysis.

- **Issue 1 – Use**
 - Homeless Resource Centers (HRCs) will provide services that will assist individuals experiencing homelessness to transition from homelessness to housing, including: sleeping, bathing, eating, laundry facilities, case management, counseling, medical assistance, education and vocational training.
 - Many of these services are similar to other commercial uses permitted in the zones where the HRCs will be allowed.
- **Issue 2 - Applicability**
 - If approved, the new ordinance will not impact existing homeless shelters unless the owner or operator of a homeless shelter seeks permission to expand, remodel, or relocate the shelter, at which time the request will be evaluated for compliance with the ordinance.
 - The proposal may also be subject to limitations of Chapter 21.A.38 of the Zoning Title, which is titled "Nonconforming Uses and Noncomplying Structures."
- **Issue 3 - Suitability**
 - The primary issue is whether the proposed "qualifying provisions" suitably address concerns regarding development and operation of a homeless resource center or homeless shelter.
 - At the time of this transmittal, Staff had not received comments against the proposed provisions.
- **Issue 4 - Safety**
 - The proposed ordinance requires each site to have a "security and operations plan" approved by the Salt Lake City Police Department. The plan must include continuous security and emergency services, and comply with prescribed design requirements that address public safety. These design requirements have largely been derived from a widely used and respected design principle known as Crime Prevention through Environmental Design (CPTED).
 - *See the ordinance for specific details on the proposed CPTED principles.*
- **Issue 5 - Enforceability**
 - The occupancy limit for a homeless shelter will be established by City Code—at 200 beds—and cannot be exceeded through an administrative process, such as conditional use or planned development.
 - Additionally, the proposed qualifying provisions require the owner or operator of a homeless resource center or homeless shelter to submit a "security and operations plan" to the Salt Lake

City Police and Community and Neighborhoods Departments for review prior to conditional use approval.

- **Issue 6 - Proximity**
 - Metrics were used to help inform the City's site selection decision. However, given the fact that the proposed amendment only applies to CG, D-2, and D-3 zoning districts—which is approximately 2% of all parcels located within Salt Lake City—the decision to exclude proximity metrics was based on the limited quantity of eligible parcels, and the practical difficulty in locating a suitable site.

- **Issue 7 – Locality**
 - A majority of public comments were site specific, and most were about sites (Simpson Ave) that are no longer being considered by the City for a homeless resource center.
 - Any future site-specific concerns can be addressed in the conditional use process.

- **Issue 8 - Preemption**
 - According to HB 441, which was adopted in the 2017 Legislative session, a municipality may not:
 - adopt or enforce an ordinance or other regulation that prohibits a homeless shelter from operating year-round if the homeless shelter began operation on or before January 1, 2016; and
 - adopt or enforce an ordinance or other regulation that prohibits a homeless shelter from being built if the site of the homeless shelter is approved by and receive funding through the State) Homeless Coordinating Committee, with the concurrence of the Housing and Community Development Division within the Department of Workforce Services, in accordance with the requirements of Section 35A-8-604 (of Utah Code).
 - However, City staff believes the law does not exempt a homeless resource center from the requirements of Chapter 21.54 Conditional Uses of Salt Lake City Code.
 - Therefore, although State Code will restrict the City's ability to deny a conditional permit for a homeless resource center or homeless shelter (if it receives State funds), Salt Lake City will require compliance with all applicable regulations contained within City Code.

Attachment F of the Planning Commission staff report outline the standards that should be considered as the Council reviews this proposal. An outline of the analysis is summarized below, please see Planning's staff report for full details.

- **Standard 1**

Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents.

 - **Finding:** Complies - the proposed zoning text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents.

- **Standard 2**

Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance.

- **Finding:** Complies - the proposed zoning text amendment is compatible with the specific purpose statements of the zoning ordinance.

- **Standard 3**

Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards;

- **Finding:** Complies - staff finds that there are no provisions within the proposed text amendment that would be inconsistent with the purposes, provisions, or additional standards imposed by any applicable zoning overlay districts.

- **Standard 4**

The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.

- **Finding:** Complies - City administration and staff, as well as partner organizations, have conducted extensive research into “best current, professional practices of urban planning and design” relative to homeless resource centers.