



Development Code Text Amendments Staff Report and Recommendation

Community Development Department, Planning Division

REPORT DATE: August 9, 2019

HEARING DATE: August 19, 2019

REQUEST: Legislative amendments to the Forest Grove Development Code To Permit Seasonal Shelters in the Town Center and Community Commercial Zoning Districts

FILE NUMBER: 311-19-000017-PLNG

PROPERTY LOCATION: Not applicable

LEGAL DESCRIPTION: Not applicable

APPLICANT: City of Forest Grove

APPLICABLE STANDARDS AND CRITERIA: City of Forest Grove Development Code:
§17.1.700 et. seq. *Legislative Land Use Decision*
§17.2.600 et. seq. *Development Code Text Amendment*

REVIEWING STAFF: James Reitz, AICP, Senior Planner
Dan Riordan, Senior Planner
Bryan Pohl, Community Development Director

RECOMMENDATION: Staff recommends approval of the proposed amendments listed in the attached Exhibit A, as well as any revisions found appropriate by the Planning Commission.

I. BACKGROUND

For the past several years, some local religious institutions have regularly opened their doors once or twice a week to provide shelter to the homeless over the November through March period. However, the City does not at present have any code defining what constitutes a seasonal shelter and under what circumstances such a shelter should be allowed.

The proposed ordinance would create a new land use review process for Temporary Uses. They would be defined as "seasonal or short-term in nature" and would be processed using a Type I procedure.

A seasonal shelter would be one such temporary use. The proposed ordinance would also allow shelters hosted by religious institutions in both Town Center zoning districts and the Community Commercial zoning district, for a four-month period between November 15 and March 15.

Public notice of this proposal was provided to the Department of Land Conservation and Development (DLCD) on July 9, 2019, and was published in the *News Times* on August 14, 2019. As of the date of this report, DLCDC staff has not commented, and no comments have been received from the public.

II. PROPOSED AMENDMENTS

Proposed new text in attached Exhibit A is underlined, while text proposed to be deleted is ~~struck through~~.

In summary, the proposed Development Code amendments would:

1. Create a new Land Use Review process in Article 2 for *Temporary Uses*. They would be processed using a Type I procedure.
2. Submittal Requirements and Review Criteria would be established. The Director would have authority to impose conditions to minimize adverse effects.
3. Temporary Uses would be defined in Article 12 as “a use that is temporary in nature...” Examples include seasonal shelters and seasonal businesses. The City has long issued permits for seasonal businesses (such as fireworks stands and Christmas tree vendors) without having a formal process in place to do so.
4. Seasonal Shelters hosted by religious institutions would be Limited Uses in the Town Center and Community Commercial zoning districts. In addition to the Land Use Review process, shelters would have to comply with new §17.5.600 *Seasonal Shelters*. They could only be open two days a week between November 15 and March 15, for a maximum of 35 days annually. At present, there are four religious institutions in the TCC, TCT and CC zoning districts where a seasonal shelter could locate under this proposal.

Recognizing that extreme weather events can occur outside the November 15 - March 15 period, additional language has been proposed to amend the Forest Grove Code (FGC) to provide for severe weather shelters. These would be open only on an as-needed basis, during both extreme cold and hot weather events, and would not be restricted to use by the homeless (e.g., during a heat wave a shelter could offer relief to anyone without home air conditioning). Due to their very limited duration, and because the City’s approval action would need to be taken quickly, this code would not be included in the Development Code, but would instead become new FGC Title IX Chapter 94 *Severe Weather Shelters*. As the Planning Commission does not make recommendations regarding the FGC, the proposed text is included in Exhibit B only for reference purposes.

III. APPROVAL CRITERIA AND FINDINGS

Development Code §17.2.630 *Review Criteria* lists two standards to be satisfied to adopt a text amendment:

- A. The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan; and**

No specific Comprehensive Plans goals or policies pertain directly to the provision of seasonal shelters. The following goals and policies tangentially apply.

Forest Grove Comprehensive Plan - Community Sustainability Goals and Policies

Community Sustainability Goal #21: Promote efforts to improve access to housing meeting household needs.

Community Sustainability Policy Measure #11: Ensure that needed housing for all segments of the population in the community is met through land use policy.

Finding: Providing a seasonal shelter would provide short-term temporary housing to those in need due to economic or other circumstances.

Forest Grove Comprehensive Plan - Housing Goals and Policies

Housing Goal #4: Provide and maintain an adequate supply of affordable housing opportunities.

Policy 4.2: Promote the provision of housing assistance to low- and moderate-income individuals in Forest Grove through the Washington County Community Development Block Grant and HOME Investment Partnership programs.

Finding: Providing a seasonal shelter in Forest Grove would, in combination with shelters provided by other Washington County cities, provide short-term temporary housing assistance to low-income individuals.

B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

As above, no specific statewide and regional planning goals, programs or rules pertain directly to the provision of seasonal shelters. The following goals and policies tangentially apply.

Statewide Planning Goal 10 Housing – To provide for the housing needs of citizens of the state.

Metro Regional Framework Plan Policy 1.3 Housing Choices and Opportunities

Finding: Providing a seasonal shelter in Forest Grove would, in combination with shelters provided by other Washington County cities, provide short-term temporary housing assistance to low-income individuals.

IV. ALTERNATIVES

The Planning Commission may recommend that the City Council approve the proposal as submitted, approve it with modifications, deny it, or the Commission may continue deliberations to a date certain.

V. RECOMMENDATION

Based on the findings above, staff recommends approval of the proposed amendments listed in attached Exhibit A as well as any revisions found appropriate by the Planning Commission.

VI. LIST OF EXHIBITS

The following exhibits were received, marked, and entered into the record as evidence for this application at the time this staff report was written. Exhibits received after the date of this report will be marked beginning with the next consecutive letter and will be entered into the record at the time the public hearing is opened, prior to oral testimony.

Exhibit A	Proposed Development Code Text Amendments
Exhibit B	Proposed Severe Weather Shelter Forest Grove Code Amendments

EXHIBIT A

Ordinance to Amend Development Code
Articles 2 *Land Use Reviews*, 5 *Special Provisions*
And 12 *Use Categories and Definitions*

EXHIBIT A
ORDINANCE NO. 2019-

CITY OF FOREST GROVE DEVELOPMENT CODE

ARTICLE 2: LAND USE REVIEWS

TEMPORARY USE PERMITS

§ 17.2.900 PURPOSE. Temporary uses are short-term or seasonal in nature and do not make permanent changes to a site. Temporary uses are subject to review because they may have adverse effects or create nuisances. The temporary use review provides an opportunity to allow the use when there are minimal impacts, but impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved.

§ 17.2.905 PROCEDURE. A request for a temporary use permit shall follow a Type I process.

§ 17.2.910 SUBMITTAL REQUIREMENTS. The application must be submitted at least ten (10) days before the requested date for beginning the temporary use. The following plans and information are required for a temporary use permit review. The Director may waive specific submittal requirements, if warranted.

An application for a temporary use permit shall include the following:

- A. A written description of the proposed temporary use, including but not limited to an overview of the project, reason for use, duration, and day(s) and hour(s) of operation.
- B. A project site plan including the location of the temporary use, access and parking, all temporary signage, and project equipment and materials.
- C. If located within a building, a floor plan showing the location of the temporary use.
- D. The application must include the signature of the property owner, or a letter of authorization from the property owner.
- E. Additional information as determined by the Director.

§ 17.2.920 REVIEW CRITERIA. The Director shall review and approve, conditionally approve, or deny an application for a temporary use based on the following criteria:

- A. The temporary use complies with applicable clear and objective standards of the base zoning district and any overlay district.
- B. The temporary use complies with the Access and Circulation, Off-Street Parking and Loading, and Sign standards of Article 8.
- C. The temporary use complies with applicable fire and life safety building codes.

§ 17.2.925 CONDITIONS OF APPROVAL.

- A. The Director may impose conditions to ensure land use compatibility and to minimize the adverse effects on nearby uses, including requirements for hours of operation, frequency of use, parking, traffic circulation, screening, enclosure, site restoration, and cleanup.
- B. The use shall be required to be removed following the expiration of the permit.

ARTICLE 3: ZONING DISTRICTS

COMMERCIAL AND MIXED USE ZONES

§ 17.3.320 USE REGULATIONS

TABLE 3-10: Commercial and Mixed Use Zones Use Table

<i>USE CATEGORY</i>	<i>NC</i>	<i>CC</i>	<i>NMU</i>
RESIDENTIAL			
CIVIC / INSTITUTIONAL			
Basic Utilities	P	P	P
Major Utility Transmission Facilities	C	C	C
Colleges	N	C	N
Community Recreation	N	P	L ^[16]
Cultural Institutions	P	P	L ^[16]
Day Care	P	P	L ^[16]
Emergency Services	C	C	L ^[16]
Postal Services	C	P	L ^[16]
Religious Institutions	C	P	L ^[16]
Schools	C	C	L ^[16]
Seasonal Shelters	N	L ^[19]	N
Social/ Fraternal Clubs / Lodges	C	P	L ^[16]
COMMERCIAL			
INDUSTRIAL			
OTHER			

P = Permitted L = Limited C = Conditional Use N = Not Permitted

Footnotes:

[19] Seasonal Shelters must be located consistent with the provisions of § 17.2.900 et. seq. and §17.5.600 et. seq. of this Code.

TOWN CENTER ZONES

§ 17.3.420 USE REGULATIONS

TABLE 3-12: Town Center Zones Use Table

USE CATEGORY	TC – Core	TC – Transition
RESIDENTIAL		
CIVIC / INSTITUTIONAL		
Basic Utilities	P	P
Major Utility Transmission Facilities	C	C
Colleges	C	C
Community Recreation	N	P
Cultural Institutions	P	P
Day Care	P	P
Emergency Services	C	C
Postal Services	C	P
Religious Institutions	C	P
Schools	C	C
<u>Seasonal Shelters</u>	<u>L</u> ^[9]	<u>L</u> ^[9]
Social/ Fraternal Clubs / Lodges	C	P
COMMERCIAL		
INDUSTRIAL		
OTHER		

P = Permitted L = Limited C = Conditional Use N = Not Permitted

Footnotes:

[9] Seasonal Shelters must be located consistent with the provisions of § 17.2.900 et. seq. and § 17.5.600 et. seq. of this Code.

ARTICLE 5: SPECIAL PROVISIONS

SEASONAL SHELTERS

§ 17.5.600 INTENT.

The purpose of this Code is to allow religious institutions in the TCC, TCT and CC zoning districts to operate seasonal shelters.

§ 17.5.605 PERMITTING OF SEASONAL SHELTERS

- A. A seasonal shelter may be open from November 15 through March 15.
- B. A seasonal shelter may be open not more than two (2) days per week, with an annual maximum of 35 days.
- C. A temporary use permit is required before operating a seasonal shelter. The Director is authorized to issue a temporary use permit. Operation of a seasonal shelter shall not extend beyond the time period specified in the permit.
- D. Notice of a temporary use permit issuance for a seasonal shelter shall be provided to emergency service providers such as the Washington County Department of Housing Services, police and fire departments, other emergency response agencies and social service organizations serving the homeless at the City's discretion.

ARTICLE 12: USE CATEGORIES AND DEFINITIONS

§ 17.12.120 CIVIC USE CATEGORY.

The civic use category includes utility, educational, recreational, cultural, protective, governmental, and other uses strongly vested with public or social importance.

- A. *Basic Utilities:*
- B. *Major Utilities Transmission Facilities:*
- C. *Colleges:*
- D. *Community Recreation:*
- E. *Cultural Institutions:*
- F. *Day Care:*
- G. *Emergency Services:* Facilities that provide protection to a district or entity, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations and ambulance services.
- H. *Postal Service:*
- I. *Religious Institutions:* Places of religious worship such as synagogues, temples, mosques, meeting houses, churches and other nonresidential places of worship[†]. They may include related accessory uses such as offices, classrooms, auditoriums, social halls, gymnasiums, meal programs, child care, affordable housing or space for affordable housing in

[†]Consistent with ORS 215.441(1)

a building that is detached from the place of worship as ~~defined by ORS 215.441(1)(A)~~, provided the housing or space for housing complies with the applicable land use regulations and meets the standards and criteria for residential development in the underlying zone.

J. Seasonal Shelter. A building or portion thereof operated for the purpose of providing temporary shelter for people experiencing homelessness.

~~J.~~ K. *Schools:*

~~K.~~ L. *Social/Fraternal Clubs/Lodges:* Typical uses include meeting places for civic clubs, lodges, or fraternal or veteran organizations.

§ 17.12.210 MEANING OF SPECIFIC WORDS AND TERMS.

T1. **TEMPORARY USE.** A use that is: 1) seasonal or directed toward a specific event; 2) occasioned by an unforeseen event; or 3) sales offices and model homes for the sale of homes.

T2. **TEMPORARY USE PERMIT.** A permit for a use that is temporary in nature and is required to be removed following the expiration of the permit. Temporary Use Permits are required for uses such as seasonal shelters and seasonal businesses (including Christmas tree lots and firework stands).

~~T2.~~ T3. **TRANSIT STREET.**

~~T3.~~ T4. **TRANSIT-ORIENTED USES.**

~~T4.~~ T5. **TREE-RELATED DEFINITIONS.**

EXHIBIT B

Ordinance to Amend Forest Grove Code
Title IX General Regulations

ORDINANCE NO. 2019-00

ORDINANCE TO ALLOW SEVERE WEATHER SHELTERS IN THE
TOWN CENTER CORE (TCC), TOWN CENTER TRANSITION (TCT)
AND COMMUNITY COMMERCIAL (CC) ZONING DISTRICTS
FILE NO. 311-19-000017-PLNG

WHEREAS, no legally-sanctioned severe weather shelter is currently permitted in the city; and

WHEREAS, the City recognizes that providing opportunities for shelter and services requires a high level of coordination between services, facilities, policies, and enforcement; and

WHEREAS, notice of the proposed amendments were published in the *Forest Grove News Times* on September 4, 2019; and

WHEREAS, the City Council held a duly-noticed public hearing on the proposed ordinance on September 9, 2019.

NOW THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1: The City Council of the City of Forest Grove hereby establishes new Forest Grove Code Title IX Chapter 94 *Severe Weather Shelters* as follows (new text is underlined):

CHAPTER 94: SEVERE WEATHER SHELTERS

<u>Section 94.01</u>	<u>Intent</u>
<u>Section 94.02</u>	<u>Definitions</u>
<u>Section 94.03</u>	<u>Determination of a Severe Weather Event</u>
<u>Section 94.04</u>	<u>Permitting of Severe Weather Shelters</u>

§ 94.01 **INTENT.**

The purpose of this Code is to allow religious institutions in the TCC, TCT and CC zoning districts to operate on-site severe weather shelters.

§ 94.02 **DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

RELIGIOUS INSTITUTIONS: A place of religious worship such as a synagogue, temple, mosque, meeting house, church or other nonresidential place of worship that is located in the TCC, TCT or CC zone. A religious institution may include related accessory uses such as offices, classrooms, auditoriums, social halls, gymnasiums,

meal programs, child care, affordable housing or space for affordable housing in a building that is detached from the place of worship, provided the housing or space for housing complies with the applicable land use regulations and meets the standards and criteria for residential development in the underlying zone.

SEVERE WEATHER.

(A) A period of two or more days where temperatures are forecasted by the National Weather Service (National Oceanic and Atmospheric Administration) or actually reach 32 degrees Fahrenheit or below;

(B) Snow accumulation exceeding or expected to exceed three inches in depth;

(C) A heat index of 95 degrees or above; or

(D) Other conditions deemed severe enough to present a substantial threat to life or health.

SEVERE WEATHER SHELTER. A building or portion thereof that is operated as a religious institution and that provides temporary shelter during a severe weather event.

§ 94.03 DETERMINATION OF A SEVERE WEATHER EVENT.

The city manager or the manager's designee is responsible for determining a severe weather event as defined in § 94.02. The city manager or manager's designee shall consult with the Washington County Department of Housing Services when determining a severe weather event. The city manager or manager's designee is also responsible for determining when a severe weather event has concluded. The city manager or designee shall immediately notify the city council, city police department, fire department and Washington County Department of Housing Services upon making a determination of a severe weather event and shall include a list of known severe weather shelters.

§ 94.04 SEVERE WEATHER SHELTER REGISTRATION.

- A. A religious institution that seeks to provide an emergency weather shelter shall register with the city on forms provided by the city. The city manager or the manager's designee shall maintain a current list of registered religious institutions. The city manager may limit the duration of the registration or require periodic updating or re-registration in order to ensure the list remains reasonably accurate.
- B. A religious institution that is registered as a severe weather shelter may operate a severe weather shelter during the time of the severe weather event as determined by the city manager under § 94.03. At such time as the city manager or the manager's designee determines the severe weather event has concluded, the religious institution shall cease providing the shelter services.

- C. The city shall provide the list of registered religious institutions to emergency service providers such as the Washington County Department of Housing Services, police and fire departments, other emergency response agencies and to social service organizations serving the homeless as identified by the City.

Section 2: This ordinance is effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED this 9th day of September, 2019.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 9th day of September, 2019.

Peter B. Truax, Mayor