MEMORANDUM

TO: Portland City Council; Mayor Snyder
FROM: Danielle West, Corporation Counsel
DATE: May 28, 2021
RE: Impact of Emergency Shelter Referendum on New Emergency Shelter Proposals

There is currently a referendum petition circulating for signatures that would change certain conditional use approval criteria for emergency shelters in the City’s Land Use Code, including limiting the size of emergency shelters in Portland. Specifically, the petition would:

- Require adequate space for all basic shelter operations, and removes the specific requirement for providing space for security searches.
- Remove the requirement for providing a centralized office on each level providing sight lines to sleeping areas.
- Remove the requirement to be within ¼ mile of a METRO line.
- Require that the facility be open 24 hours per day.
- Provide that, except for family and domestic violence shelters, the emergency shelter may serve no more than 50 people at a time.

The petition asserts that “the effective date of the proposed amendments . . . shall be April 20, 2021.” There is some question whether that effective date will be valid, given the conflicts in language between Section 11 of the City Charter and the provisions of Chapter 9.

Regardless of whether the April effective date is valid, under state statute, it cannot act to reverse any final decision that is reached 45 days prior to passage. 30-A M.R.S. § 3007(6) states, “A municipality may not nullify or amend a municipal land use permit by a subsequent enactment, amendment or repeal of a local ordinance after a period of 45 days has passed after: A. The permit has received its lawful final approval; and B. If required, a public hearing was held on the permit.” Thus, any emergency shelter that receives conditional use approval at least 45 days before the vote on the referendum (if any) will not be impacted by that referendum.