



PROJECT BRIEF

Behavioral Health Model Ordinance

Project Overview

The Behavioral Health Model Ordinance is a helpful tool for local governments to update policies and codes to facilitate siting and development of new and innovative community-based behavioral healthcare projects. Commerce engaged BERK Consulting to work with the Advisory Committee to develop the ordinance with input from the perspective of local communities and providers.

The desired result is that local planning codes and policies will be readily updated to foster consistent development of behavioral health projects to meet the behavioral health needs of individuals, families, and communities throughout the state. The model ordinance will address multiple land uses and legal issues most relevant to facility siting processes.

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Key Concepts and Terms

Behavioral Health means the prevention, treatment of, and recovery from any or all of the following conditions: Substance use, mental health, or what is commonly co-occurring disorders or illnesses that requires a combination of counseling and medication. Behavioral health treatment and services aide people with mild, moderate, or severe conditions across all age groups.¹

Washington Administrative Code 246-341-0200 defines mental health and substance use disorders:

- "Mental health disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.
- "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

Co-occurring disorder means a person has both a mental illness and substance use disorder, which is common among people in medication-assisted treatment (MAT), and may include any combination of two or more disorders.^{i,2}

Stigma happens when a person views another person or group of people in a negative way because of an attitude or belief about a distinguishing characteristic perceived as a disadvantage. Stigma is typically a symptom of an underlying prejudice(s) that drives discriminatory behavior.ⁱⁱ

Community-Based Behavioral Health is not fully defined in statute or rule, but often describes behavioral health care services delivered by an agency or individual in a community setting versus an institution, such as a hospital, jail, or prisonⁱⁱⁱ. In Washington State, RCW 71.24.015 describes the intent to establish community-based mental health "to encourage the development of regional mental health services with adequate local flexibility to assure eligible people in need of care access to the least-restrictive treatment alternative appropriate to their needs, and the availability of treatment components to assure continuity of care."

Integrated Managed Care (IMC) expanded the state's Apple Health (Medicaid) program to include mental health and substance use disorder treatment services to provide whole-person care. It represents a massive, statewide transition to regional privately managed care organizations (MCOs), non-profit accountable communities of health (ACHs), and behavioral health administrative service organizations (BH-ASOs) that is complete as of January 1, 2020.^{iv,3}

¹ The Diagnostic and Statistical Manual of Mental Disorders (DSM-5) defines and classifies mental and substance use disorders, and is the primary resource used by clinicians to diagnose, treat, and research mental health conditions.

² Co-occurring disorder treatment availability depends upon the unique provider relationships within or across facilities.

³ There is one non-profit MCO, Community Health Plan of Washington. MCO's are intended to fund the same services and provider networks as what was previously covered by county-lead Behavioral Health Organizations (BHOs).

Key Concepts and Terms - continued

Growth Management Act (GMA) is a series of state statutes, first adopted in 1990, that requires fast-growing cities and counties to develop a comprehensive plan to manage their population growth. Comprehensive plans are built around 14 goals, one of which is public facilities and services. The Washington State Department of Commerce is the primary state-level contact for GMA-related issues.^v

- **Essential Public Facilities.** Public facilities that are typically difficult to site such as airports and prisons and include substance use and mental health facilities defined in RCW 71.09.020. Under GMA, the comprehensive plan of each planning county and city must include a process for identifying and siting essential public facilities. The GMA does not define all essential public facilities and there is relatively wide discretion to regulate essential public facilities, such as limiting them to specified zoning districts, imposing separation requirements and requiring conditional use permits. Courts have ruled that unsubstantiated, generalized community fear is an irrelevant consideration when deciding where to site essential public facilities. Further, RCW 36.70A.200(2) provides that no local comprehensive plan or development regulation may preclude the siting of essential public facilities.^{vi}

Governor's Executive Order 05-05 requires state-funded capital construction projects be reviewed by the Department of Archaeology and Historic Preservation (DAHP) in consultation with Native American tribal governments to determine potential impacts to cultural resources. Cultural resources are defined as archaeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial and social uses to affected tribes. If impacts are identified and it is not possible to avoid or minimize adverse effects, mitigation is required. DAHP has the authority to exempt projects that do not disturb the ground or alter structures that are 45 years of age or older.

Facility Types

A key question is "Which behavioral health facilities or types will be the focus of the model ordinance and why?" We know that projects don't happen in a vacuum. There are important financial and community partnerships that serve as the basis for successful and sustainable development. For these reasons, it may be more applicable or beneficial to focus on categories that include several facility types that are typically co-located in order to cover a broad range of development possibilities, or to allow for innovative multi-use approaches to whole-person care delivery.⁴

Behavioral Health Services, Facilities and Supports	
Short-Term Mental Health Treatment	
Facility Name	Definition
Crisis Stabilization	Short-term facility or portion of a facility designed to assess, diagnose and treat persons experiencing an acute crisis without the use of long-term hospitalization ^{vii, 5}
Crisis Triage	Short-term facility or portion of a facility designed to assess and stabilize an individual, refer to the appropriate level of care, and/or determine the need for involuntary commitment ^{viii}
Evaluation & Treatment	Provides emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental health disorder absent complex physical health needs ^{ix} . Can be "free-standing"
Peer Respite	Peer-run facility to serve individuals in need of voluntary, short-term, non-crisis services that focus on recovery and wellness ^x
Long-Term Mental Health Treatment	
Facility Name	Definition
Dementia Care	Secure facility that provides specialized long-term care services for persons with dementia
Enhanced Services	Provides support and services to persons for whom acute inpatient treatment is not medically necessary ^{xi}
Intensive Behavioral Health	Specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment, but whose care needs cannot be met in other community placement settings ^{xii}
Residential Treatment	24-hour on-site care for the evaluation, stabilization, and/or treatment of residents for substance use, mental health, or co-occurring disorders ^{xiii} . These facilities can house 90-180 Day Civil Commitment beds. ⁶
Substance Use Disorder Treatment	
Facility Name	Definition
Secure Withdrawal Management and Stabilization	Provides care to voluntary and non-voluntary individuals for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder ^{xiv, 7}

⁴ Hospital diversion programs can be located in both short-and long-term mental health facilities, and Secure Withdrawal Management and Stabilization facilities.

⁵ Crisis Stabilization facilities may be co-located with Crisis Triage, Evaluation and Treatment, and Outpatient Treatment facilities.

⁶ 90-180 Day Civil Commitment beds can also be located within psychiatric hospitals.

⁷ Secure Withdrawal Management and Stabilization facilities can provide a range of services, including acute, sub-acute and secure detox. These facilities may also be co-located with Evaluation and Treatment, Crisis Stabilization and Outpatient Treatment facilities.

Behavioral Health Services, Facilities and Supports

Exclusively Outpatient Treatment

Facility Name	Definition
Outpatient Treatment	Provides behavioral health services to persons who live in the community and whom do not require a prolonged stay in a facility ⁸

Housing Supports

Name	Definition
Adult Family Home	Residential home care for up to 6 non-related individuals
Assisted Living Facility	Community of housing and limited care services for seniors who do not require nursing home care
Recovery House	Peer-support living arrangements free from drugs and alcohol; aka oxford house
Transitional Housing	Long-term, service intensive housing for those experiencing homelessness to build support networks and be placed in permanent housing
Permanent Housing	Community-based housing in which formerly homeless persons and families live as independently as possible
Supportive Housing	Low-income housing with treatment and support services for vulnerable adults, seniors and disabled persons ^{xv}

ⁱ U.S. Department of Health & Human Services. Substance Abuse and Mental Health Services Administration. "Co-Occurring Disorders and Other Health Conditions." Accessed online at <https://www.samhsa.gov/medication-assisted-treatment/medications-counseling-related-conditions/co-occurring-disorders>

ⁱⁱ Social Science LibreTexts. "Deviance and Social Stigma". Accessed online at [https://socialsci.libretexts.org/Bookshelves/Sociology/Book%3A_Sociology_\(Boundless\)/07%3A_Deviance%2C_Social_Control%2C_and_Crime/7.01%3A_Deviance/7.1C%3A_Deviance_and_Social_Stigma](https://socialsci.libretexts.org/Bookshelves/Sociology/Book%3A_Sociology_(Boundless)/07%3A_Deviance%2C_Social_Control%2C_and_Crime/7.01%3A_Deviance/7.1C%3A_Deviance_and_Social_Stigma)

ⁱⁱⁱ Washington State Department of Commerce, *A Short Course On Local Planning Resource Guide Version 5.3* (2017). Available at <https://deptofcommerce.app.box.com/s/ajzxwdf6nuzt950w9c5h6afgiis9x3d>.

^{iv} Washington State Health Care Authority. "What is integrated physical and behavioral health?" Accessed online at <https://www.hca.wa.gov/about-hca/healthier-washington/integrated-physical-and-behavioral-health-care>. See also RCW 71.24.850. Also, see "Managed care explained" at <https://www.hca.wa.gov/health-care-services-supports/apple-health-medicaid-coverage/apple-health-managed-care>.

^v See Chapter 36.70A RCW. Also see, Washington State Department of Commerce website "Growth Management" <https://www.commerce.wa.gov/serving-communities/growth-management/>.

^{vi} Washington State Department of Commerce, *A Short Course On Local Planning Resource Guide Version 5.3* (2017). Available at <https://deptofcommerce.app.box.com/s/ajzxwdf6nuzt950w9c5h6afgiis9x3d>.

^{vii} RCW 70.97.101. Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=70.97.010>

^{viii} RCW 70.97.101. Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=70.97.010>

^{ix} RCW 70.97.101. Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=70.97.010>

^x RCW 70.97.101. Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=70.97.010>

^{xi} RCW 70.97.101. Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=70.97.010>

^{xii} See endnote x. Also licensed by the Department of Health under WAC 246-337.

^{xiii} RCW 71.12.455. Retrieved from <https://app.leg.wa.gov/RCW/default.aspx?cite=71.12.455>. Licensed by the Department of Health under WAC 246-337.

^{xiv} See endnote vii.

^{xv} RCW 18.330.010 Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=18.330.010>

⁸ Outpatient treatment help persons cope with and learn to manage their mental health or substance use disorders, and may include counseling, group therapy, medical consultations and psychiatry.