

**Date:** 2021-07-12

**Subject:** **Recommendation Report: City-initiated Official Plan and Zoning By-Law Amendments to the City's Supportive Housing Policies, and Amendment to the Group Home Registration By-Law**

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**Report Number:** Planning, Bld & Ec Dev-2021-700

**Recommendations:**

1. **THAT** the report titled, '**Recommendation Report: City-initiated Official Plan and Zoning By-Law Amendments to the City's Supportive Housing Policies, and Amendment to the Group Home Registration By-Law** brought forward to the Planning and Development Committee meeting of September 13, 2021, be received;
2. **THAT** the Official Plan and Zoning By-Law Amendments attached hereto respectively as Appendix 2 and 3 be adopted by Council, on the basis that they represent good planning, including that they are consistent with the Provincial Policy Statement, conformity to the Growth Plan for the Greater Golden Horseshoe, the Region of Peel Official Plan, and the Brampton Official Plan for the reasons set out in the Planning Recommendation Report;
3. **THAT** the Group Home Registration By-Law 244-82 be repealed and the Supportive Housing Residence Type 1 and Type 2 Registration By-Law attached hereto as Appendix 4 be adopted by Council to align with the proposed Official Plan and Zoning By-Law amendments recommended for adoption; and,
4. **THAT** Council hereby determines that no further public notice is to be given pursuant to Section 34 (17) of the *Planning Act*.

## **Overview:**

- **On September 25, 2019, Council directed staff through Resolution C364-2019 to review the City's policies and regulations with respect to supportive housing, particularly Group Homes, to ensure the policies and provisions have regard for Provincial legislation and regulatory bodies.**
- **Group Homes are regulated and licenced through the Province and are permitted 'as of right' provided they satisfy the Zoning By-Law provisions. The City's role is to ensure group homes are registered and satisfy the City's zoning by-law provisions pertaining to group home registration and annual inspections.**
- **Council passed Interim Control By-Law 286-2019 (ICBL) on November 20, 2019, prohibiting all lands, buildings and structures in all residential zones within the area set-out in Area 10 of Schedule A of Zoning By-Law 270-2004 from being used as a Supportive Housing Facility, including a Group Home Type 1 and Group Home Type 2, for a six month period. Retirement Home, Nursing Home and Senior Citizen's Residence, along with existing Group Homes were exempt from the ICBL.**
- **On June 15, 2020, the Province passed Ontario Regulation 278-20, which ended the suspension of Planning Act timelines under O. Reg 149/20 ("COVID-19 Emergency") as of June 22, 2020. Under this regulation, the ICBL expiry date was extended to August 24, 2020, from the original date of May 20, 2020.**
- **In 2020, WSP was retained to undertake the City's Supportive Housing Policy Review. WSP's draft recommendations align with the recommendations outlined 'In the Zone' guide prepared by the Ontario Human Rights Commission and current 'best practices'.**
- **Some of the study's recommendations for the non-correctional Group Homes (Type 1) included; supportive housing providers not being subject to additional restrictions; not limiting the number of homes in a specific area (such as Secondary Plan boundaries); removing the requirement for additional non-statutory public meetings; removing minimum separation distance; and, not providing restrictions on where certain housing forms can be located.**
- **The proposed recommendations were presented at three public open houses held in March and July 2020 (two sessions), and the statutory public meeting held on December 7, 2020.**

- **Following the statutory public meeting staff reviewed the public input received in relationship to ‘best practices’ and consultation with the internal steering committee to finalize the proposed amendments.**

## **Background:**

On September 25, 2019, Council directed staff through Resolution C364-2019 to review the City’s policies and regulations with respect to supportive housing, particularly Group Homes, to ensure the policies and provisions have regard for Provincial legislation and regulatory bodies. Council passed Interim Control By-Law 286-2019 (ICBL) on November 20, 2019, prohibited all lands, buildings and structures in residential zones within Area 10 of Schedule A of Zoning By-Law 270-2004 from being used for a Supportive Housing Facility, including a Group Home Type 1 and Group Home Type 2, for a six month period. Retirement Home, Nursing Home and Senior Citizen’s Residence, along with existing Group Homes were exempt from the ICBL.

On June 15, 2020, the Province passed Ontario Regulation 278-20, which ended the suspension of *Planning Act* timelines under O. Reg 149/20 (“COVID-19 Emergency”) as of June 22, 2020. Under this regulation, the ICBL expiry date was extended to August 24, 2020, from the original expiration date of May 20, 2020, prior to the endorsement of any proposed amendments.

### Supportive Housing Policy Review

In January 2020, the City retained WSP to undertake the review of the supportive housing policies, including focusing on the City’s Group Home policies and registration process.

The purpose of the City’s supportive housing policy review included:

- Updating the City’s policies in accordance with current provincial legislation and regulations, including Building and Fire Codes;
- Complying with the Ontario Human Rights Code;
- Simplifying the Group Home registration process;
- Providing clarity to the City’s supportive housing terms;
- Aligning with current practices; and,
- Increasing the availability of supportive housing options for vulnerable populations to align with Regional initiatives.

As part of the study’s review, an internal steering committee was established to review the consultant’s work and address the business needs of other departments/divisions including: Zoning, By-Law Enforcement, Building, Fire & Emergency Services, Legal Services and Policy Planning.

### Provincial Role

The Province is responsible for regulating Supportive Housing Facilities. The Ministry of Children, Community and Social Services is responsible for licensing Group Homes, foster homes, provincially operated facilities and youth justice open and secure custody/detention facilities. The Ministry for Seniors and Accessibility provides information on programs and services, healthy lifestyles and aging, including overseeing the Retirement Home Regulatory Authority (RHRA). Under the Retirement Homes Act (2010) the RHRA is responsible for licensing and regulating retirement homes on behalf of the government.

### Municipal Act

The *Municipal Act, 2001* sets out rules for all municipalities in the Province of Ontario, except for the City of Toronto – which is governed by the City of Toronto Act, 2006. The Act gives municipalities broad powers to pass by-laws and govern within their jurisdiction.

Section 163 of the *Municipal Act*, titled “Restrictions re. Group Homes” sets out the definition and requirements for group homes within municipalities in Ontario. The Act defines group homes as:

**“Group Home”** means a residence licensed or funded under a federal or provincial statute for the accommodation of three to 10 persons, exclusive of staff, living under supervision in a single housekeeping unit and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being. 2006, c. 32, Sched. A, s. 82.

The Act allows municipalities to enact a business licencing by-law for Group Homes only if the municipality permits the establishment and use of group homes under section 34 of the *Planning Act* (i.e., in the Zoning By-law). A business licencing by-law for group homes can restrict the establishment of group homes to only those with a licence who may be required to pay licence fees and/or provide the municipality information in regard to the business name, ownership and contact information.

The *Municipal Act* provides direction for land use planning purposes; however, it does not directly legislate Official Plans or Zoning By-laws, which are legislated through the Ontario *Planning Act*.

### **Current Situation:**

#### Proposed Amendments:

The Study completed by WSP proposed a number of Official Plan and Zoning By-Law amendments to align with the Ontario Human Rights Commission, Licensing requirements from various Ministries, and current ‘best practices’ from other municipalities (refer to Appendix 1). Below is an overview of the proposed amendments staff are recommending to move forward with:

- Replacing the existing 'Group Home' definitions with Supportive Housing Residence Types 1 and 2;
- Changing the number of permitted residents from 6 to 10 in a 'Supportive Housing Residence Type 1' use to align with the *Municipal Act* and the Ontario Human Rights Commission;
- Adding 'Residential Care Homes' to replace all other definitions related to supportive housing to include a variety of uses such as, 'Retirement Homes', 'Nursing Homes, and 'Supportive Housing Facilities';
- Continue to permit 'Supportive Housing Residence Type 1' in all residential districts;
- Updating the provisions to allow 'Supportive Housing Residence Type 1' in all housing forms (i.e. single, semi-detached, townhouse, etc.) instead of only single-detached;
- Maintaining the same zoning provisions for 'Supportive Housing Residence Type 2' that currently exists;
- Removing all separation distance requirements for Supportive Housing Residence Types 1 and 2;
- Removing the requirement for an open house and public notification when the Supportive Housing Residence Types 1 and 2 is a permitted use to eliminate unnecessary requirements;
- Removing the requirement to notify and meet with the area Councillors if the Supportive Housing Residence Types 1 and 2 is a permitted use; and,
- Deleting 'Auxiliary Group Homes' from the Official Plan and Zoning By-Law as they are not required to be registered with the City'.

A detailed list of all the proposed amendments and staff's responses can be found in Tables 1 and 2 of Appendix 5.

#### Group Home Registration Process

Staff are also proposing several amendments to the Group Home Registration By-Law (refer to Appendix 4) to align with the Official Plan and Zoning By-Law amendments recommended in this report. The proposed amendments include:

- Updating the Group Home definitions for Type 1 and Type 2 to align with the proposed definitions of Supportive Housing Residence Type 1 and Type 2;
- Removing the requirement of Public Open Houses and notification if the group home is permitted 'as-of-right'; and,
- Revising the provisions related to dwelling type, separation distance, and maximum area capacity.

### **Provincial and Regional Policy Framework**

The Planning Act and Provincial policy framework are consistent in their direction to municipalities regarding housing related matters. The provision states providing an

appropriate mix and range of housing options for current and future residents, including housing for those with special needs requirements. Housing policies should contribute to the creation of safe and healthy communities, where all residents can benefit from access to transit, amenities and employment opportunities, and for those who require it, specific support services.

### Planning Act

Section 2 of the *Planning Act* lists matters of Provincial interest that the Minister, the council of a municipality, a local board, a planning board and the Tribunal shall have regard to when carrying out the responsibilities under the *Planning Act*. The matters relevant to the provision of housing include:

- The adequate provision of a full range of housing, including affordable housing;
- The orderly development of safe and healthy communities; and,
- The accessibility for persons with disabilities to all facilities, services and matters to which this Act applies.

Section 34 of the *Planning Act* enables councils to pass zoning by-laws to regulate the use of land and the location, height, bulk, size, floor area, spacing, character and use of buildings and structures. Additionally, zoning by-laws may be used to prohibit the use of land or erection of buildings and structures in certain hazardous areas or areas of natural heritage or archeological importance.

There are limitations as to what zoning by-laws can regulate. Section 35(2) of the *Planning Act* says municipalities may not pass zoning by-laws that distinguish between people who are related and people who are unrelated in respect of the occupancy or use of a building. For example, a zoning by-law cannot stipulate that a family rather than roommates must occupy a house.

### Provincial Policy Statement, 2020

The Provincial Policy Statement 2020 (PPS 2020) that came into effect on May 1, 2020, supports communities providing a mix of housing options. Section 1.4.3 states planning authorities are to provide a range and mix of housing options and densities to meet the projected market-based and affordable housing needs of current and future residents. This includes providing housing options to meet the “social, health, economic well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes and employment opportunities”.

### Growth Plan

The August 2020 Office Consolidation of the ‘A Place to Grow’, Growth Plan for the Greater Horseshoe notes the importance of creating complete communities with access to transit networks, protected employment zones and an increase in the amount and variety of housing available. Section 2.2.6, Housing, identifies the need for municipalities to support a diverse range and mix of housing options and needs to meet the needs of current and future residents. This includes aligning land use planning with applicable housing and homelessness plans required under the Housing Services Act, 2011.

### The Region of Peel Official Plan

The proposed amendments brought forward in this report align with Section 5.8.6 – Housing Options for Persons with Special Needs and Diverse Populations of the Region of Peel Official Plan (ROP) by improving accessibility to housing. Section 5.8.6.2.2. encourages municipalities to “explicitly identify special needs housing as permitted uses in residential or other suitably zoned lands where appropriate in area municipal zoning by-laws” and that Official Plan policies support special needs housing “in locations with convenient access to existing or planned infrastructure, amenities and support services” (Section 5.8.6.2.1). Section 5.8.6.2.3 of the ROP supports permitting supportive housing forms in residential areas without restrictions, such as minimum separation distances or limits on the number of Group Homes per area, to meet the social, health, and well-being requirements of current and future residents aligning with provincial and regional policy framework.

### 2006 City of Brampton Official Plan

Section 4.2.6, Special Housing Needs, of Brampton’s Official Plan supports providing housing options for individuals requiring special housing needs not being met by the general housing market. This includes supportive housing facilities and group homes. The policies outlined in Section 4.2.6.6 supports the principle of integrating Group Homes into existing and new residential communities as approved by the City and appropriate government regulatory agency, subject to zoning and registration requirements.

## **Stakeholder Engagement**

On October 8, 2019 and February 27, 2020, staff met with Group Home operators that operate within the City to get their input on the current registration process, experience operating in Brampton and challenges. The general consensus amongst attendees with respect to the Group Home Type 1 use was to: simplify the Group Home definitions to be clear and concise; improve the registration process by removing elements that are not legislatively required such as, the open house, meeting with the area Councillors and the separation distance requirement, as recommended by WSP. There were no comments regarding amending the registration process/requirements for the Group Home Type 2 use.

### Public Open House Meetings

Three public open houses were held in 2020, the first held on March 11, 2020, and the second on July 29, 2020 (two sessions). The first session was held in-person at City Hall and the second sessions were held virtually, both sessions presented the findings of WSP’s work and the proposed recommendations. All material presented at the sessions was made available on the project webpage, including a pre-recording of the second open house and the opportunity to submit comments throughout the study.

At both open house meetings, WSP presented the findings of their report and proposed policy recommendations including: replacing the Group Home Types 1 and 2 definitions

with Supportive Housing Residence Types 1 & 2; generally maintaining the current zones for Supportive Housing Residence (Group Home) Type 2 uses with several revisions; permitting 'Residential Care Homes' with over 10 residents in Institutional designations of the Official Plan; removing minimum separation distances and the restriction on number of supportive housing units within defined areas; and, removing the public notification and open house requirements from the formal registration process for Group Home applications.

The following is a list of comments received from the public during these consultations and reviewed by staff:

- Parking, community safety and neighbourhood character being compromised with the additional residents;
- Group homes operating as a business in a residential area;
- Removing or lessening group home restrictions will create neighbourhoods full of group homes;
- Negative impact on neighbourhood character;
- The right of residents to be notified when group homes open;
- Maintaining the open house as a requirement since it's beneficial to neighbouring residents;
- Group homes should be located in areas of the City where the infrastructure supports their opening and daily operations;
- Certain areas already have enough group homes and don't need more;
- Decrease in property value;
- Public should have a say whether a group home is able to open;
- Group homes make residential neighbourhoods undesirable because they change the neighbourhood character;
- Not enough community/public engagement is done and the lack of sufficient public notice;
- Consider permitting group homes in other housing forms besides single family detached;
- Revising the group home provisions to allow the opening of additional group homes; and,
- Agree with removing separation distance to lessen restrictions.

#### Virtual Statutory Public Meeting

Notice of the virtual statutory public meeting was published in the Brampton Guardian on November 12, 2020, as per *Planning Act* requirements. In addition to the Guardian publication staff forwarded the notice to residents and stakeholders on November 13, 2020, that requested to be notified of study updates.

The virtual statutory public meeting for the City-initiated Official Plan and Zoning By-Law amendments was held on Monday, December 7, 2020 (refer to Appendix 6 for meeting minutes). There were eleven (11) members of the public that spoke at the public meeting along with one piece of written correspondence received, a summary of the comments is as follows:



- Parking, community safety and neighbourhood character being compromised with the additional residents;
- Group homes operating as a business in a residential area;
- Removing or lessening group home restrictions will create neighbourhoods full of group homes;
- Negative impact on neighbourhood character;
- The right of residents to be notified when group homes open;
- Neighbourhood safety is a concern – some areas have poor lighting, no sidewalks, increased traffic and parking issues which don't support group homes;
- Concern about existing infrastructure supporting the opening of group homes;
- Group homes should be located in areas of the City where the infrastructure supports their opening;
- Group home applications should be reviewed by the Committee of Adjustment to determine whether appropriate to operate in an area;
- Inconsistent with the Planning Act;
- Senior group homes should not be located in low density residential areas because of the issues associated with their use. Retirement homes serve to house seniors and there are several located within the City;
- Certain areas already have group homes and don't need more;
- Decrease in property value;
- Public should have a say whether a group home is able to open;
- Group homes make residential neighbourhoods undesirable because they change the neighbourhood character; and,
- Not enough community/public engagement was done and the lack of sufficient public notice during the study's review.

Staff reviewed the public comments in relationship to the recommendations outlined, '*In the zone: Housing, human rights and municipal planning*' document (refer to Appendix 8) prepared by the Ontario Human Right Commission and found that maintaining or implementing additional group home requirements would create undue hardship for vulnerable populations to find adequate housing. Implementing unnecessary requirements would also not align with provincial legislation, current 'best practices', the Regional and City's Official Plans and Brampton's Housing Strategy recently endorsed by Council in May 2020.

A summary of the comments received during public consultations and staff responses can be found in Appendix 7 of this report.

### **Corporate Implications:**

No corporate implications have been identified at this time.

### **Financial Implications:**

No financial implications have been identified at this time.

### Other Implications:

There are no economic development implications identified at this time.

### **Term of Council Priorities:**

This report directly aligns with the Strategic Direction – Brampton is a Mosaic by proposing policies and zoning provisions that embed diversity and equity. As well, supporting the implementation of the Brampton Housing Strategy to improve accessibility and affordability to housing for all citizens, including vulnerable populations.

### Living the Mosaic – 2040 Vision

This Report aligns with Action #5-2 “Housing” of the Planning Vision by providing special needs housing for vulnerable groups.

### **Conclusion:**

Providing safe and affordable housing for people with special needs and vulnerable populations is continually a challenge for many cities. The need to create complete communities by providing a wide range of services and housing options is the key to ‘good planning’. Therefore, municipalities need to develop planning policies and zoning regulations in relationship to land use and not for people, which may directly/indirectly exclude certain demographic groups from living in certain communities.

The Ontario Human Rights Commission document, *‘In the zone; Housing, human rights and municipal planning’*, notes the ‘best practices for housing strategies’ is to address different types of housing for the lower-end market, social and special needs housing. To include policies for as-of-right affordable and/or supportive housing throughout all neighbourhoods in a municipality and limit the consideration of organizing public meetings when housing is considered ‘as-of-right’.

Staff is satisfied that the proposed amendments to the: Official Plan, Zoning By-Law and Supportive Housing Residence Types 1 and 2 Registration Process represents “good planning” aligning with the Provincial Policy Statement, A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020), the Region of Peel’s Official Plan and Brampton’s Official Plan. While also updating policies and zoning provisions to align with the *Municipal Act*, the Ontario Human Rights Code and other provincial legislations.

As housing continues to become more unattainable for many individuals the importance of developing housing policies to support vulnerable populations in our society is key to creating complete and inclusive communities.

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**Attachments:**

- Appendix 1 – WSP’s Group Homes and Supportive Housing Review, Final Report dated November 2020.
- Appendix 2 – Official Plan Amendment
- Appendix 3 – Zoning By-Law Amendment
- Appendix 4 – Supportive Housing Residence Types 1 and 2 Registration By-Law Amendment (Consolidation of the Group Home Registration By-Law)
- Appendix 5 – Proposed Amendments to the Official Plan and Zoning By-Law and Staff’s Responses
- Appendix 6 – Virtual Statutory Public Meeting Minutes – December 7, 2020
- Appendix 7 – Summary and Responses to Public Comments Received
- Appendix 8 – In the zone: Housing, human rights and municipal planning - prepared by the Ontario Human Rights Commission (2012)