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# Town of Milton

# Supportive Housing Study

# RECOMMENDATIONS REPORT

Date:  
**January 23, 2018**

Our File:11165D

# RECOMMENDATIONS

Based on the background review and analysis and stakeholder consultation, the following actions are recommended to ensure the Town's local planning policies; zoning regulations and licensing by-laws better address the needs of the community with respect to the provision of special needs housing.

To implement these recommendations, a Zoning By-law Amendment and Official Plan Amendment would need to be brought forward through the processes as described under the *Planning Act*. Additionally, an amendment to the Town's Licensing By-law would need to be brought forward.

## 1. Definitions

Revise the current definitions in the Town's planning documents to reflect the range of supportive housing forms, provide more flexibility and respect the Human Rights Code.

- a) Background research and the results of stakeholder and resident consultation identified that the existing definitions and structure are in need of revision to address issues to ensure that they reflect the Human Rights Code, provide flexibility and reduce social stigmas associated with the term 'Group Home'. Based on the background review, we recommend that the Town remove the various categories of group homes (e.g. Group Home Type 1, Group Home Type 2, and Correctional Group Home) and change them into an all-encompassing definition. This approach has been taken by several of the municipalities reviewed as part of the background analysis. Examples of flexible and all-encompassing definitions adopted by other municipalities include the following:

### City of Toronto (Zoning By-law)

Group Home- Means premises used to provide supervised living accommodation, licensed or funded under Province of Ontario or Government of Canada legislation, for up to ten persons, exclusive of staff, living together in a single housekeeping unit because they require a supervised group living arrangement.

### City of Markham (Official Plan)

Shared Housing (definition) - a form of housing where individuals share accommodation either for economic, support, long-term care, security or lifestyle

reasons. This definition is further divided into four subcategories- small scale, large scale, long-term care and supervised.

Shared Housing (Policy 8.13.9) - In order to permit the establishment of shared housing, a Zoning By-law Amendment application must be made.

#### City of Burlington (Official Plan)

Group Home- A single housekeeping unit supervised by staff on a daily basis which provides special care and treatment to persons for physical or mental deficiency, physical handicap or other such cause. A Group Home shall be funded, licensed, approved, or supervised by the Province of Ontario under a general or specific Act, for the accommodation of not less than 6 and not more than 8 residents, exclusive of staff. Where a Group Home is located outside the Urban Planning Area boundary as indicated on Schedule B, the maximum number of residents permitted, exclusive of staff, is 10. A Group Home may contain an office provided that the office is used only for the administration of the Group Home in which it is located

#### City of Sarnia (Zoning By-law)

Group Home- shall mean a dwelling unit operated as a single housekeeping unit accommodating, or having the facilities to accommodate, 5 to 10 residents (exclusive of staff) who by their reason of emotional, mental, social or physical condition require a group living arrangement under 24 hours responsible supervision consistent with the requirements of its residents, and the group home is either licensed or funded under Provincial or Federal statute. Any counseling or support services provided in the group home shall be limited to those required by the residents.

- b) Background research and stakeholder consultation identified that accountability should be maintained within any new definition as this ensures appropriate oversight of the facilities. As a result, it is recommended that, in the new definition, the requirement for Provincial or Federal oversight should be retained, for the following reasons:
- The Municipal Act's definition for 'Group Home' includes the requirement that such a home be licensed or funded under a federal or provincial statute. Maintaining this requirement ensures the Town's planning documents are consistent with this legislation

- Planning expert retained by the City of Toronto (Sandeep Agrawal) concluded that group homes should be defined as a separate use for zoning purposes because they are licensed facilities, are supervised and their residents are cared for by group home operators.
  - The Agrawal study noted that all three levels of government are involved in approving, licensing, funding and siting group homes and that this involvement works to ensure that the group homes comply with local building, health, occupancy and fire safety standards. The Town's definition should maintain this requirement to ensure appropriate oversight;
  - The Agrawal study also noted that, by and large, all municipalities define group homes similarly, however, some are categorized while others are all-encompassing;
  - At an appeal hearing before the Ontario Municipal Board with respect to a Minor Variance application dealing with the Town's definition of 'Group Home Type 2', evidence brought forward by planning experts identified that the intent of the inclusion of federal and provincial licensing and funding is to ensure appropriate oversight of group home facilities. It was found that, in the absence of federal and provincial oversight, an alternate oversight mechanism which would be equivalent to that which might otherwise be given by the Province, as contemplated by the purpose and intent of the By-law definition, could be considered as minor. However, in this case, it was determined that the oversight proposed did not rise to the standard of an operational oversight that could reasonably be construed as being the purpose or intent of the By-law and therefore did not meet the tests for a Minor Variance.
- c) Background research and stakeholder consultation identified that barriers related to the location of shared housing should be removed to provide more flexibility and choice for those in need of this type of housing. As a result, it is recommended that the new definition should be broadened to encompass all types of group homes currently defined within the Official Plan. The rationale for this recommendation is as follows:
- In accordance with the Human Rights Code, everyone in Ontario has the right to be free from discrimination in housing based on membership in a Code-protected group;
  - It is a human rights principle that people should be able to live in the community of their choice without discrimination;
  - Shared housing, with or without support workers should be permitted and zoned in a way that does not subject the residents to higher levels of scrutiny and expectations than other forms of residential housing; and,

- In accordance with the Planning Act, municipalities cannot pass Zoning By-laws that distinguish between people who are related and people who are unrelated with respect to the occupancy or use of a building

Based on the above, we recommend the Town remove the terms Group Home Type 1, Group Home Type 2 and Correctional Group Home from the Official Plan and Zoning By-law and adopt the following new all-encompassing definition:

*Shared Housing- means a form of housing which is licensed, approved, supervised or funded under a provincial or federal statute where up to ten (10) individuals, exclusive of staff, share accommodation as a single housekeeping unit and are supported and/or supervised within that unit. This type of housing does not include Institutional Uses, Long-Term Care Facility, Rooming, Boarding or Lodging House.*

The definition of Special Needs Housing will also need to be revised to reflect this new definition as part of the Town's Official Plan Review. This definition will be provided through the Official Plan and Zoning By-law Amendment processes.

**Note: A draft amendment will be provided for consultation in Q1 of 2018**

## 2. Zoning Regulations

We recommend that updated regulations in the Town's Zoning By-law(s) be provided as follows:

Background research and the results of the stakeholder and resident consultation identified that the existing 500 metre separation distance is severely limiting within the context of the Town; and, is discriminatory against protected groups. As a result, both the Urban and Rural Zoning By-laws should be modified to remove the existing requirement of a 500 metre separation distance between group homes. In place, there should be no separation distance.

- a) The findings of this review suggest that shared housing should be permitted in a wider variety of dwelling types. Subject to compliance with applicable codes (e.g. building code, fire code) and other regulations (e.g. parking), the Zoning By-laws should be revised such that shared housing is permitted in the full range of housing forms that exist in the Town, including single-detached, semi-detached, townhouse and apartment or condominium dwellings whereas they are currently only permitted in single-detached dwellings. This would implement the recommended new flexible and all-encompassing definition, which no longer specifies that shared housing can only exist as a single detached dwelling.
- b) Regulations respecting resident caps for shared housing should be revised in both By-laws to reflect the removal of a minimum number of residents and the maximum 10 residents cap, per the new definition.

- c) The Urban By-law should be revised to permit shared housing in all residential zones, whereas they are currently only permitted in RLD, RMD1 and I-B
- d) The background research and consultation conducted for this study suggests that shared housing should be permitted in both the rural and urban areas. The Region of Halton has Official Plan policies (ROPA 38) which specifically identifies group homes as Special Needs housing and permits them in all residential neighborhoods, subject to reasonable planning standards and design criteria, in addition to conformity with other sections of the ROP. Additionally, the ROP directs this form of housing to be located in urban settlement areas, settlement rural cluster areas. The Region's policies are also clear in relation to directing residential uses in the rural area to ensure agricultural areas are protected, as well as the natural heritage system. This includes policies that relate to the scale of residential uses and expansions whereby criteria are used to ensure control over building footprints. Given this policy, this report is not recommending that new development of shared housing be permitted outside of the urban area; however, shared housing may be permitted in an existing dwellings outside of the urban area, or within new dwellings on an existing lot of record which permitted this use prior to 2004 outside of the urban area, subject to compliance with applicable codes and other regulations and all other Regional land use policies.

During the consultation sessions, in particular, it was noted by several stakeholders that some people with special needs may benefit from residing in a rural environment and shouldn't be limited to the Urban Area. As such, the existing regulations of the Rural By-law, which permit shared housing in the C4, A1 and A2 Zones, should be maintained. This recommendation has been developed to ensure conformity with the intent of the ROPA 38 policies.

Group homes and shared housing are encouraged to be located in urban areas. However, certain types of shared housing which providers have identified as benefiting from a rural location, that functions in a detached home or legal non-conforming dwelling, at a scale that complies with all rural policies, should be permitted so long as there is compliance with all applicable regulations and policies at a local, regional and provincial level.

- e) There should no longer be a requirement that shared housing must be located on a lot having frontage on a Major Arterial Road, Arterial or Collector Road and both By-laws should be revised to reflect this

***Note: A draft amendment will be provided for consultation in Q1 of 2018***

### 3. Licensing

We recommend the current licensing system be further considered as follows;

- a) It was generally agreed upon by the public and stakeholders and confirmed by background research that requiring operators to license and/or register shared housing with the municipality at the local level ensures accountability and serves as an additional 'check' or 'oversight' for resident safety. As noted in the background review, many of the municipalities studied have recently implemented a registration program, which is administered by the municipality's Clerk's department and is generally at a lower fee than licensing which removes an unnecessary cost burden on operators and assists with tracking locations of homes. The general responses provided by participants in the consultation sessions also suggest that moving to registration over licensing would be more preferred. Given the results of the research and consultation, this report recommends that the Town move from licensing shared housing toward a registration process. The registration process should specifically address issues such as compliance with the Fire and Building Codes and occupancy standards and retain the right of the Town to conduct annual inspections to ensure safety of the residents.
- b) The registration programme will need to be crafted to reflect the new definition. Through discussions with stakeholders, it was determined that many group homes currently exist in the Town which do not technically meet the current definitions contained within the Official Plan, Zoning By-law and Licensing By-law due to the number of residents in the home. For example, they may have fewer than six residents within the RLD Zone and therefore are not technically a group home per the current definition; however, it would be considered shared housing in the new definition. Given this, It is important to note that the effect of revising the definition and regulations to remove a minimum resident cap, as recommended in this report, could result in an increased number of shared housing units which require registration. This will require an increased amount of staff time to implement the new program, process and approve applications in a timely fashion, and field queries.
- c) Recognizing the changes will result in an increased number of homes which will require registration, the process should be simple and not punitive to shared housing providers. Therefore, this report recommends that the registration process be free of charge and, a transition period of one year for shared housing operators to apply for and obtain formal registration from the Town should be implemented. This should also be supplemented with an education and information programme and awareness campaign to ensure that there are no illegal operations of shared housing following the transition period.

*Note: A draft amendment outlining the registration procedures will be provided for consultation in Q1 of 2018*

4. Increase staff capacity/ knowledge around shared housing and the Town's new framework
  - a) Once the new framework has been established, the Town should consider holding a workshop or training program to educate and inform staff, (including but not limited to zoning officers, planners, By-law enforcement officers and building inspectors), to assist them in understanding the following:
    - The new planning framework for shared housing;
    - The registration procedures and protocol for shared housing; and,
    - The provision of the Human Rights Code, the Accessibility for Ontarians with Disabilities Act and the Canadian Charter of Rights and Freedoms and their applicability to municipal land use planning
    - Priorities for accommodating needs
  
5. Improve messaging to the public about shared housing and educate Council, the public, and group home operators about the framework, the new registration process and the important role shared housing serves in the community
  - a) Feedback from the community and stakeholders suggests that there is currently a lack of understanding respecting how the Town currently defines and regulates group homes. Once the new framework is in place, it is recommended that a guide to the new policies and regulations be prepared and hard copies made available at Town Hall and an electronic version included on the Town's website for easy access.
  - b) Once the new framework is in place, it is also recommended that information sessions be held with the public, stakeholders and Councillors to increase awareness, understanding and acceptance related to shared housing
  - c) The Town should also consider identifying a staff person who can provide assistance on the registration process and the establishment of a streamlined inspection process and simplified application process (online).
  
6. Review the policies, regulations, By-laws and process actions at regular intervals
  - a) Once recommendations have been implemented, it is recommended that the Town re-evaluate the effectiveness of the policy set and regulations at regular intervals. An initial evaluation of the revised system should be completed after three years and another full review should be conducted in line with any municipal comprehensive review process, such as a Comprehensive Zoning By-law Amendment or New Official Plan. The three year review should examine the effectiveness of the new registration system, in particular.