



Committee of the Whole Report For the Meeting of January 9, 2020

To: Committee of the Whole **Date:** December 16, 2019
From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development
Subject: **Community Care Facilities within Residential Zones**

RECOMMENDATION

That Council receive this report for information.

EXECUTIVE SUMMARY

The purpose of this report is to respond to a Council motion from March 1, 2019 regarding options for allowing sober housing for people in recovery within residential zones. A review of existing provincial and municipal regulations indicates that the provincial legislation contained in the *Community Care and Assisted Living Act* already permits community care facilities, such as sobering houses or addiction treatment centres, in residential areas throughout the City when contained in a single detached dwelling and not exceeding ten occupants (up to six persons in care). Community care facilities are primarily licensed and regulated by the province; therefore, local municipalities cannot apply additional requirements for these facilities.

In response to the Council motion, staff have explored the related provincial and municipal regulations and have confirmed that community care facilities such as sobering houses or addiction treatment facilities are permitted in residential zones throughout the City; therefore, no further action is needed.

PURPOSE

The purpose of this report is to respond to a Council motion from March 1, 2019 regarding options for allowing sober housing for people in recovery within residential zones.

BACKGROUND

City Council passed the following motion on March 1, 2019 related to the accommodation of treatment and recovery facilities within residential zones:

“That Council request that the Mayor write to the Minister of Mental Health and Addictions requesting that the Province open publicly funded and financially accessible treatment and recovery rooms and facilities on lower Vancouver Island and that Council direct staff to report back with options for allowing sober housing for people in recovery within residential zones”.

ISSUES & ANALYSIS

1. Community Care Facilities

The *Community Care and Assisted Living Act* defines Community Care Facilities as follows:

“community care facility” means a premises or part of a premises:

- (a) in which a person provides care to 3 or more persons who are not related by blood or marriage to the person and includes any other premises or part of a premises that, in the opinion of the medical health officer, is used in conjunction with the community care facility for the purpose of providing care, or
- (b) designated by the Lieutenant Governor in Council to be a community care facility.

Therefore, this definition applies to a broad range of services that provide care, such as sobering houses and addiction treatment facilities.

2. Exemption for Certain Care Facilities from Municipal Bylaws

Section 20 of the *Community Care and Assisted Living Act*, as outlined below, identifies that municipal regulations (e.g., zoning) do not apply to community care facilities that comply with provincial regulations related to licensing, number of occupants, health and safety and that are located in a single (family) detached dwelling:

- 20** (1) This section applies to a community care facility
- (a) for which a license has been issued,
 - (b) that is being, or is to be, used
 - (i) as a day care for no more than 8 persons in care, or
 - (ii) as a residence for no more than 10 persons, not more than 6 of whom are persons in care,
 - (c) from which, in the event of a fire, persons in care can safely exit unaided or be removed by its staff, and
 - (d) that complies with all enactments of British Columbia and the municipality where the community care facility is located that relate to fire and health respecting a single family dwelling house.
- (2) A provision in an enactment of British Columbia, other than this Act, or of a municipality, does not apply to a community care facility described in subsection (1) if that provision would
- (a) limit the number of persons in care who may be accepted or accommodated at the community care facility,
 - (b) limit the types of care that may be provided to persons in care at the community care facility, or
 - (c) apply to the community care facility only because
 - (i) it is not being used as a single family dwelling house, or
 - (ii) it operates as a community care facility, a charitable enterprise or a commercial venture.

This means that a community care facility such as a sobering house or addiction treatment facility that is licensed by the province and complies with all applicable provincial requirements is permitted to operate in a single (family) detached dwelling. A municipality cannot apply additional requirements or restrict the operation of the community care facility through the application of municipal regulations. Therefore, a licensed community care facility can operate in any residential area within a single detached house.

3. Zoning Bylaws

Zoning Bylaw 2018 applies within the Downtown Core Area, and accommodates treatment facilities as a component of Care Facility that is defined as a day care facility or residential care facility, in each case licensed under the *Community Care and Assisted Living Act*. Care Facility is a permitted use within all standard zones including CBD-1, CBD-2, OTD-1 and MRD-1.

The *Zoning Regulation Bylaw* applies to the remainder of the City and accommodates treatment facilities as a component of Rest home – Class A, which is defined as a facility in which food, lodging and care are provided with or without charge to more than two persons who, on account of age, infirmity or their physical, mental or psychiatric condition, are given personal care, or who are lawfully detained as prisoners for a period not exceeding three months, pursuant to judicial process. Rest home - Class A is identified as a permitted use within a range of residential and commercial zones including R3, R3C, R3-1, R3-2, C2, C1CR, C2S and IHP-2.

4. Scale of Treatment Facility

The *Community Care Facility and Assisted Living Act* permits treatment facilities within single detached dwellings with no more than 8 people as a day care use, or no more than 6 people who are receiving care and living within the residence. These regulations also apply to Care Facilities within *Zoning Bylaw 2018*. Therefore, the provincial regulations are intended to allow small scale treatment facilities within residential areas. However, if a more intensive or larger scale treatment facility is proposed, then the facility may require further municipal approvals such as a rezoning.

Accessibility Impact Statement

Council's consideration of addiction treatment facilities does not have any impacts on accessibility.

2019 – 2022 Strategic Plan

The accommodation of addiction treatment facilities aligns with a range of actions described in the *2019 – 2022 Strategic Plan* related to mental health and addictions advocacy as outlined in Strategic Objective 5: Health, Well-Being and a Welcoming City.

Impacts to Financial Plan

As no further action is needed regarding accommodation of addiction treatment facilities, there are no impacts to the *Financial Plan*.

Official Community Plan Consistency Statement

The *Official Community Plan* (OCP, 2012) supports access for residents to a network of health-related amenities, facilities and programs to promote wellness and meet the needs of all levels of mental and physical care (Goal 15 F).

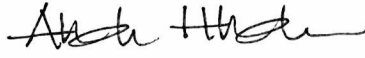
CONCLUSIONS

Sober housing and addictions treatment facilities are primarily regulated by the province, as community care facilities and are permitted in all residential areas if the facility complies with all the applicable provincial regulations and licensing requirements. Provincial legislation already permits such small-scale facilities in residential areas. Therefore, the City does not need to amend the zoning bylaws to accommodate these types of facilities.

Respectfully submitted,



Robert Batallas
Senior Planner
Community Planning Division



Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: January 2, 2020