



# Corporate

 NO: L007

# Report

 COUNCIL DATE: November 19, 2001

<b>REGULAR COUNCIL – LAND USE</b>			
TO:	<b>Mayor &amp; Council</b>	DATE:	<b>November 14, 2001</b>
FROM:	<b>General Manager, Planning &amp; Development</b>	FILE:	<b>2104-001</b>
SUBJECT:	<b>Pending Changes to Provincial Licensing for Alcohol and Drug Recovery Houses</b>		

## RECOMMENDATION

The Planning and Development Department recommends that:

1. Council receive this report as information;
2. No changes be made to the current requirements of the Surrey Zoning By-law, related to alcohol and drug recovery houses, including the requirement for Provincial community care facility licensing; and
3. Council authorize the Mayor to forward a letter to the Province, on behalf of Council, strongly urging the Province to continue working in partnership with local governments and alcohol and drug recovery house operators toward maintaining a system of licensing of all drug and alcohol recovery facilities by way of a graduated licensing approach that is responsive to the different levels of care and support offered by different types of alcohol and drug recovery facilities and that the current system of licensing be continued until the alternative graduated approach can be implemented.

## INTENT

The intent of this report is to advise Council of the pending changes to the *Community Care Facilities Act*, with respect to alcohol and drug recovery houses and to discuss the potential regulatory gap that will be created by the pending changes, the implications for Surrey's Zoning By-law and existing in-stream rezoning applications and the community reaction to unlicensed facilities.

## BACKGROUND

### **Overview of City and Provincial Regulations Affecting Alcohol and Drug Recovery Houses**

The City of Surrey has been involved with the issue of independent and unlicensed alcohol and for drug recovery houses for over four years. Attached as Appendix I is a brief chronology of the City's involvement, to date. On December 1, 1997, Council considered Corporate Report No. R1371 (attached as Appendix II) from the Planning and Development Department that addressed the issue of unlicensed recovery houses and outlined a number of regulatory options. On June 22, 1998, Council considered Corporate Report No. R1553 (copy attached as Appendix III) and, subsequently, introduced amendments to the Surrey Zoning By-law and supplementary By-laws to accommodate and regulate alcohol and drug recovery houses under a new Special Care Housing 1A (RMS-1A) Zone. In the Fall of 1999, the Province introduced Provincial licensing requirements for alcohol and drug recovery houses providing on-site care and support. These requirements include minimum standards for client capacity; programming, food and nutrition, staffing and supervision in keeping with the requirements for all adult-oriented community care facilities. In response, City staff and South Fraser Health Region's (SFHR) Community Care Facility Licensing staff agreed to work closely with one another, in reviewing and approving applications for recovery houses, to:

- Maximize the efficiency of limited Provincial and municipal staff resources in processing applications;
- Help recovery house operators achieve Provincial licensing and City rezoning approvals in a timely and economical manner; and
- Facilitate support in the community for licensed recovery houses.

In November 1999, Council approved the recommendations of Corporate Report No. R2072 (copy attached as Appendix IV) that outlined procedures that would be followed by the City and the SFHR to ensure that alcohol and drug recovery houses are regulated in a coordinated and efficient manner. To date, the City has benefited from an open and co-operative relationship with SFHR staff, in working through the many day-to-day challenges, bringing individual recovery houses into conformity with both City and Provincial regulations.

### **Pending Deregulation for Alcohol and Drug Recovery Houses:**

Planning and Development staff were recently advised that the Provincial government is reviewing the *Community Care Facility Act* with the intent to limit community care facility licensing requirements to recovery houses providing "intensive care" or "detox services". According to the Community Care Facility Licensing staff of the SFHR, the review is not yet complete, but completion is imminent. Consequently, the specifics of the type of care that will continue to be regulated are not yet available.

It is anticipated that when the Provincial review is complete within the next few weeks, only those alcohol and drug recovery houses providing "intensive care" or "detox services" will be eligible or subject to the requirements of the *Community Care Facility Act*. While no definitive changes to the *Community Care Facility Act* are available, staff have been advised that most recovery houses in Surrey, that were previously eligible for licensing, will probably be deemed to be providing "support and accommodation" and not "care" and, therefore, will probably no longer qualify for community care facility licensing. At the same time, the level of "care" that will require licensing, namely "intensive care" and "detox" services, has not yet been accurately established or defined.

At this time all applications for Provincial licensing for alcohol and drug recovery houses are on hold, pending the outcome of the review and the resulting changes to the *Community Care Facility Act*.

## DISCUSSION

Over the past two years, City staff have worked diligently with Provincial SFHR licensing staff to bring recovery houses into compliance with City and Provincial regulations. To date, 14 houses continue to operate in Surrey at various stages of compliance. Of these 14 recovery houses, three are in full compliance with Surrey Zoning regulations, 10 recovery houses covered by six rezoning applications are currently at various stages of the review process, one facility is pursuing Provincial community care facility licensing for only six clients and as such does not require rezoning and one facility is not pursuing actions to comply with City or Provincial regulations and enforcement action is being taken by By-law Enforcement.

### **Overview of Surrey's Zoning and Business License Requirements for Alcohol and Drug Recovery Houses**

The City and Provincial regulations affecting alcohol and drug recovery houses are briefly outlined below, including the definition, zoning and business license requirements.

#### **A. Definition of Alcohol and Drug Recovery House**

Currently, the Surrey Zoning By-law includes the following definition for "alcohol and drug recovery house":

*means a building which contains sleeping units for persons receiving on-site care and support for recovery from alcohol and drug dependency which is regulated under the Community Care Facility Act, R.S.B.C. 1996, c.60.*

#### **B. Surrey Zoning By-law Provisions**

Alcohol and drug recovery houses can be accommodated under Surrey's Zoning By-law in three ways, depending on the number of persons in the facility, but in all cases the facilities are required to be Provincially-licensed facilities. Facilities that do not pursue, or are unsuccessful in achieving a community care facility license, are considered to be boarding and lodging facilities and are limited to two clients. The Zoning By-law provisions are as follows:

**Facilities with a maximum of six clients are permitted in any residential zone provided the facility is a Provincially licensed facility.**

As with other care facilities in Surrey, recovery houses accommodating six or less people in care are permitted in any residential zone without requiring rezoning. Presently, there are two such facilities in Surrey.

- Facilities with more than six clients but not more than 12 clients need to comply with the RMS – 1A Zone and Provincial licensing requirements.

- Facilities with more than 12 clients are regulated under a Comprehensive Development Zone (CD) and are also subject to Provincial licensing

Recovery houses accommodating more than six people in care are required to rezone to the Special Care Housing

1A (RMS-1A) Zone, which specifically permits alcohol and drug recovery houses with up to 12 residents, provided they are licensed by the Province. Facilities accommodating more than 12 residents are required to apply for a Comprehensive Development (CD) Zone. Many, if not all, of the recovery house operators, who have submitted applications, are proposing to provide care for at least 10 clients and, therefore, require both Provincial licensing and municipal zoning approval.

- Facilities not obtaining a Provincial license are considered to be boarding and lodging facilities and are limited to two clients under the Surrey Zoning By-law.

Alternatively, facilities that do not meet the City's definition for alcohol and drug recovery houses and do not obtain a Provincial license are considered to be providing "boarding and lodging" accommodation. The Surrey Zoning By-law defines "boarder" as a person who is provided with sleeping accommodation and meals in a dwelling unit for payment of rent and defines "lodger" as a person who is provided with sleeping accommodation in a dwelling unit for payment of rent. Boarders and lodgers are permitted in all Single Family Residential Zones (with the exception of the Cluster Residential (RC) Zone) and in the General Agricultural (A-1) and Intensive Agricultural (A-2) Zones. Where permitted, the Surrey Zoning By-law provision for boarders and lodgers allows for a maximum of two patrons to be accommodated within any dwelling unit.

### **C. Surrey Business License Provisions**

Surrey's Business License By-law requires alcohol and drug recovery house operators to obtain and maintain a valid business license. This involves the operator submitting a criminal record check and maintaining a register book of clients housed at the facility. The register book is to assist By-law Enforcement Officers in determining the number of clients that are accommodated at any one time and whether the capacity limits of the site's zoning are being respected.

### **Implications of Pending Changes to Provincial Licensing requirements**

While some recovery houses provide quality care, the City has heard from concerned citizens and some recovery house operators about the sub-standard conditions and programs of many recovery houses in Surrey. Prior to the City and Province introducing regulations for recovery houses in 1998 and 1999, respectively, there were accounts of client abuse, drug dealing, criminal activity, mismanagement of funds, unqualified staff, drug overdoses, lack of food, and overcrowding. Some houses were accommodating well over 20 clients and, in some neighbourhoods, there were and continue to be, as many as four houses on the same block. The City received complaints from neighbours about noise, large numbers of people loitering outside, poorly maintained property, drugs, garbage, and discarded syringes found on nearby properties.

Provincial licensing is critical to establishing and maintaining a minimum standard of care and accountability for facilities serving a vulnerable population and for mitigating the potential negative impact of unregulated facilities within the community. If the Province proceeds with the proposed revisions to the Community Care Facilities Act it will without a doubt cause a significant setback for Surrey and other municipalities who are trying to accommodate and regulate these needed facilities in their communities. Without Provincial licensing to complement local government land use regulations, municipalities do not have the mandate or resources to ensure that adequate treatment, living conditions and supervision is provided by the recovery house operators. This will almost certainly lead to heightened concerns by Surrey's citizens, in relation to these facilities, which is what prompted Surrey to take action in 1997.

### **Options for Accommodating the Proposed Changes to Provincial Licensing Requirements**

The proposed changes in Provincial licensing requirements, not only present a significant shift away from the coordinated regulatory approach established between the City and the SFHR, but also present new regulatory challenges for the City. Given that, under Surrey's Zoning By-law, alcohol and drug recovery houses require Provincial licensing by definition, the fundamental question is "Should Provincial licensing remain an

integral part of Surrey's definition of alcohol and drug recovery houses, or can Surrey strive to define and regulate alcohol and drug recovery houses with limited or with no Provincial licensing?". The discussion below outlines the pros and cons of the two alternative approaches.

**Option A:** Continue to require alcohol and drug recovery houses to be licensed under the *Community Care Facility Act* to comply with Surrey's Zoning By-law.

**Pro:** This option recognizes that City and Provincial regulations, in a partnership approach, are required to effectively regulate alcohol and drug recovery houses in the community, irrespective of changes to the *Community Care Facility Act*. This approach would mean that existing and new alcohol and drug recovery houses would need to upgrade or revise their operation to enable them to meet the new "intensive care" provisions under the *Community Care Act*. At the same time, the community would be assured of a level of staffing, supervision and programming at each house that would mitigate the potential impact of such facilities in the community.

**Con:** Many recovery houses are already struggling to meet existing Provincial licensing requirements. Achieving more onerous Provincial licensing requirements will be difficult, if not impossible, for many recovery houses given that independent recovery houses are typically not funded by the Province, except indirectly through the transfer of BC benefits payments from their clients. The City will be put in the position of having to take enforcement action related to existing recovery houses that cannot meet the new Provincial licensing requirements and are instead operating with six, 10 or 20 clients on a "boarding and lodging" basis. Boarding and lodging is limited to two patrons per dwelling unit under Surrey's Zoning By-law.

**Option B: Discontinue the Requirement for Provincial Licensing for Alcohol and Drug Recovery under Surrey's Zoning By-law**

**Pro:** By removing the Zoning By-law requirement that alcohol and drug recovery houses be licensed by the Province, most of the existing recovery houses, that may not be eligible for Provincial licensing in the near future, could then continue to operate in the community and provide their service to residents in need, provided that they obtained the necessary zoning. Operators would also still need to obtain a business license from the City. The City would retain some element of control through the zoning and business licensing requirements.

**Con:** Without Provincial licensing the City is limited to regulating alcohol and drug recovery houses, based on land use issues only, including location of the facility, number of clients and managing external impacts such as parking and landscaping. The City will have the added challenge of defining alcohol and drug recovery houses, separate and distinct from boarding and lodging facilities in general, since the City is not in a position to determine and evaluate the treatment programs provided by a alcohol and drug recovery house or other group living arrangements. Without Provincial licensing there is potential for a proliferation of alcohol and drug recovery houses in the community and general boarding and lodging facilities. This was the case prior to the City initiating the Task Force related to developing policies regarding the regulations of drug and alcohol recovery houses. The City commenced this initiative because of ongoing citizen concerns with the manner in which these existing non-regulated facilities were being operated.

### **Evaluation and Recommendation:**

The two options presented above are inadequate in responding to the complexity of the issues related to alcohol

and drug recovery houses, as neither is sufficient in meeting the needs of the recovery house operators, clients and area residents. Option B would enable existing alcohol and drug recovery homes to seek rezoning without having to comply with the more stringent community care facility licensing requirements. However, the City has limited provisions to regulate the operations of the facility and few, if any, means of mitigating residents' concerns about staffing and supervision provided at the facility. Therefore, it is recommended that Council pursue Option A, which is in keeping with the City's objective and desire to regulate alcohol and drug recovery houses in tandem with the Province. Under this approach recovery houses face the difficult choice of either operating under Surrey's boarding and lodging provisions for two clients or meeting the new Provincial licensing requirements.

To mitigate the impact on the operators of recovery houses and at the same time enable local governments to better accommodate and effectively regulate them, it is proposed that the Province establish a lower level of licensing or equivalent regulation to enable alcohol and drug recovery houses that do not qualify as care facilities to exist within a regulated environment and, thereby, better integrate and be accommodated in residential neighbourhoods. For these reasons, it is recommended that the Province consider a graduated licensing approach, based on the level of support and assistance provided by the facility and the needs of clients, but that all drug and alcohol facilities continue to be licensed by the Province.

## CONCLUSION

Over the past two years the Planning and Development Department and By-law Enforcement Division have been working with the SFHR's community care facility licensing staff, and recovery house operators to bring individual recovery houses into conformity with both City and Provincial regulations. The City regulations have addressed such issues as the location and number of clients of the facility and provided for community input through the rezoning process, whereas the Province has contributed through their licensing program by establishing the minimum standards of care, staffing and supervision for such facilities. The recent announcement by the Province to, in effect, deregulate alcohol and drug recovery houses, will create a significant regulatory gap that can not be readily bridged by municipal regulations. It is recommended that Council forward a letter to the Province strongly urging the Province to continue to require alcohol and drug recovery houses to be licensed and monitored by

the Health Regions and that the Province create a graduated licensing approach based on the needs of the clients being served by the drug and alcohol recovery houses, which, in turn, will enable municipalities to better respond to and accommodate such facilities in the community. The letter should further request that the current system of licensing be maintained until the alternative "graduated" approach to licensing is developed and ready for implementation.

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### Attachments

Appendix I Chronology of Activities Related to Alcohol and Drug Recovery Houses

Appendix II Regulating Independent Alcohol and Drug Recovery Houses (1997)

Appendix III Regulating Alcohol and Drug Recovery Houses (1998)

Appendix IV Corporate Report, Proposed Coordination of City Zoning and South Fraser Health Region Community

## Care Facility Act Licensing Requirements for Alcohol and Drug Recovery Houses (1999)

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