



Corporate *NO: L001*

Report *COUNCIL DATE: January 21, 2002*

REGULAR COUNCIL – LAND USE			
TO:	Mayor & Council	DATE:	January 14, 2002
FROM:	General Manager, Planning and Development	FILE:	4815-01
SUBJECT:	Changes to Provincial Regulations Related to Licensing of Alcohol and Drug Recovery Houses		

RECOMMENDATION

It is recommended that Council:

1. Receive this report as information;
2. Direct staff to prepare a Corporate Report documenting the impact on City by-laws and policies, of the changes in Provincial licensing requirements for drug and alcohol recovery houses and recommend amendments to relevant City by-laws and policies, with a view to accommodating supportive care recovery houses in the City and, further, that staff liase with appropriate officials of the Provincial government and the Fraser Health Authority in preparing the report and related recommendations;
3. Direct staff to hold in abeyance in-stream rezoning applications for drug and alcohol recovery houses until Council has considered the Corporate Report to which recommendation 2 refers; and
4. Authorize staff to advise the operator of the House of the Rising Sun recovery house that the City will not take action to stop the Arbitrator's eviction order from being completed.

INTENT

The intent of this report is:

- To advise Council of changes that the Province has adopted to the licensing provisions for alcohol and drug

recovery houses and the implications of these changes on Surrey's regulations related to alcohol and drug recovery houses;

- To seek Council direction with respect to making changes to the City's regulations related to drug and alcohol recovery houses;
- To obtain Council authorization to hold in abeyance existing in-stream rezoning applications for drug and alcohol recovery houses, pending a report to Council on changes in City regulations related to accommodating such facilities; and
- To advise Council of the status of The Launching Pad recovery house rezoning application and the House of the Rising Sun recovery house.

BACKGROUND

At the Regular Council meeting on December 3, 2001, Council considered Corporate Report No. L008, attached as Appendix "A", that provided information to Council on the pending decision by the Province to amend the *Adult Care Regulations* of the *Community Care Facility Act*. Council received the report and requested a further update from staff regarding the actions being taken by the Province, with respect to licensing drug and alcohol recovery houses in January 2002.

DISCUSSION

Provincial amendments to the *Community Care Facility Act* were approved December 12, 2001

On December 12, 2001 the Province approved amendments to the *Adult Care Regulations* of the *Community Care Facility Act*, as outlined in Province's Information Bulletin attached as Appendix "B" and that are further described in the Order-in-Council attached as Appendix "C".

The amended *Community Care Facility Act* (the "*Act*") provides for a class of facilities described, as "supportive recovery residences". This class of facilities is exempt under the *Act* and, as such, will no longer be licensed by the Province. Under the amended *Act* a "supportive recovery" residence is defined as a residence that:

- (a) Provides a safe and drug free environment for persons recovering from drug and alcohol addictions; and
- (b) Does not provide most or all of the services considered under the "care and supervisions" section of the *Act*.

Under the *Act*, facilities will continue to require licensing if they provide "care and supervision" including:

- (a) Regular assistance with activities of daily living such as eating, mobility, dressing, grooming, bathing or other personal hygiene;
- (b) Administering and monitoring the taking of medication;
- (c) Central storing or distribution of medication;
- (d) Maintenance or management of residents' cash resources or property; and
- (e) Monitoring of food intake or therapeutic diets.

Supportive recovery facilities are not deemed to be providing "care and supervision" and are no longer subject to the requirements of the *Act* nor do they require Provincial licensing. Based on conversations with staff of the Fraser Health Authority all of the known drug and alcohol recovery houses operating in Surrey likely fall into this category of facilities and, therefore, will not be eligible for licensing. Provincial licensing is effectively limited to those facilities providing "intensive care" or "detox programs". According to the Province, clients in these facilities are vulnerable and dependent upon the operator/staff of the facility and require professional and medical monitoring as well as professional counselling, whereas clients in "supportive recovery" are independent and capable of making decisions with respect to their well-being, and, therefore, not in need of licensed care.

The Ministry of Health Services has indicated that each Health Authority will complete a case-by-case review of all pending and licensed alcohol and drug facilities to determine which are deemed to be only supportive recovery facilities and which are "care and supervision" addiction facilities licensable under the *Act*. To assist community care facility licensing staff in determining whether a recovery facility requires licensing, the Ministry of Health Services has prepared a set of guidelines to clarify differing characteristics and attributes of supportive recovery services and addictions services as defined in the *Act*. A copy of the Provincial guidelines is enclosed as Appendix "D" to this report.

In addition to changes to the *Act*, the Province has recently transferred Addictions Services from the Ministry of Children and Family Development to the Ministry of Health Services. To assist the Ministry of Health Services in developing a more comprehensive strategy to address alcohol and drug issues, the Ministry will be undertaking a study of all provincially funded alcohol and drug recovery residential programs and alternative delivery models and best practices from other jurisdictions. In Surrey, facilities that receive Provincial funding include:

- Liz's Place in Fleetwood;
- Path to Freedom in Cloverdale; and
- Phoenix Recovery Houses in Whalley and Newton.

The Ministry of Health Services has indicated that the study, to take place between March 2002 and October 2002, will include consultations with key stakeholders, including municipalities and local organizations, to identify local issues and concerns. On this basis it is recommended that staff continue to liaise with Provincial officials on alcohol and drug recovery issues to facilitate information sharing and to assist the City in developing appropriate responses to the revised Provincial regulations, policies and programs.

Implications of Provincial Licensing Changes in Relation to Surrey Zoning Regulations

Fraser Health Authority staff expects that most, if not all, alcohol and drug recovery houses in Surrey are supportive recovery facilities, not "care and supervision" facilities and, therefore, no longer eligible for licensing by the Province.

Prior to the recent change in Provincial regulations, the approach taken to regulating alcohol and drug recovery houses in Surrey was a partnership between the City and the Province. The City was responsible for dealing with the location of drug and alcohol recovery houses through the rezoning approval process. The Province was responsible for ensuring that the recovery facilities were operated in an acceptable manner under their licensing approval process. City staff coordinated the rezoning process with the Provincial licensing approval process. This partnership was reinforced by the manner in which drug and alcohol recovery houses are defined in the City's Zoning By-law that stipulates that they must be regulated (i.e. licensed) under the *Act*. The intention underlying the current zoning provisions regulating alcohol and drug recovery houses was to ensure that, prior to being given approval to operate, a reasonable level of care was exercised to ensure that the interests of the community and of the clients of these facilities, were properly addressed.

Due to the recent Provincial exemption for supportive care recovery houses from the requirement for licensing under the *Act*, such recovery houses are no longer permitted within the City except under the limited "boarders and lodgers" provisions of the Zoning By-law. The "boarders and lodgers" use is limited to a maximum of two patrons in the residential zones, which accommodate such a use. To be recognized as a drug and alcohol recovery house under the City's Zoning By-law, the recovery house must be licensed by the Province.

The Provincial changes have, in effect, created two categories of care facilities and new regulatory challenges for Surrey and other local governments seeking to accommodate such facilities in their communities, as follows:

- (a) **Licensed facilities** providing intensive care and professional programs, staff and counselling continue to meet the definition of "care facility" or "alcohol and drug recovery house" and can be accommodated and regulated under Surrey's Zoning By-law; and
- (a) **Unlicensed facilities** providing accommodation and lay programs and counselling no longer meet the definition of "care facility" or "alcohol and drug recovery house" and by default can only be considered and regulated under the "boarders and lodgers" provisions of the Zoning By-law that limit the size of such facilities to no more than two patrons.

On the basis that supportive care drug and alcohol recovery houses remain a service that appears to be important in relation to serving the needs of the City's citizens, it is recommended that Council authorize staff to take appropriate actions to develop a revised set of regulations, policies and by-law provisions for accommodating and regulating supportive care (i.e. not licensed by the Province) drug and alcohol recovery houses. These actions should include on-going dialogue with Provincial officials.

Current Recovery House Rezoning Applications:

The City currently has a number of rezoning applications for alcohol and drug recovery houses at various stages in the review process. Some of the applications have been before Council for consideration and others have been held in abeyance pending Provincial licensing information. It is anticipated that most, if not all, of the applications will no longer qualify for Provincial licensing, which means that the applications are no longer valid due to the absence of any zones in the Zoning By-law under which "unlicensed" recovery houses can be accommodated. It is recommended that the current rezoning applications be held in abeyance pending submission of the report to Council recommending changes to City regulations, policies and by-law provisions to continue to accommodate such recovery houses in the City.

Update on the Status of The Launching Pad Rezoning Application

Council considered reports on The Launching Pad, rezoning application No. 7901-226-00, on November 19, 2001 and December 3, 2001. Since then the City has been notified by the applicant's solicitor that the applicant will not be proceeding with his rezoning application on the basis that, in the opinion of the applicant's legal counsel, the site's current zoning permits the recovery house use. The applicant's solicitor is challenging the underlying assumptions of the City's zoning provisions for alcohol and drug recovery houses. Legal Services staff will be submitting a separate report on this matter for Council's consideration.

House of the Rising Sun Recovery House

The attached memorandum, dated January 11, 2002 (Appendix "E") provides a brief history of the City's involvement with the operator of a supportive care drug and alcohol recovery house known as the House of the Rising Sun that is operating from a duplex located at 9490 and 9492 – 152nd Street. Given that the operator of this recovery house has had at least eight months, during which time he could have applied for rezoning under the current regulations of the City and chose not to apply and, further, since the current location of this recovery house does not comply with the

location guidelines of the City for drug and alcohol recovery houses, it is recommended that the City advise the owner that it will not take action in relation to stopping the eviction order, that has been issued by the Arbitrator, which requires the House of the Rising Sun to cease operating from its current location on 152nd Street no later than February 5, 2002. Staff is not in a position to receive new rezoning applications for supportive care recovery houses since they are no longer licensed by the Province and, as such, are not a permitted use within the City's Zoning By-law.

CONCLUSION

The Province's decision to proceed with revisions to the *Community Care Facilities Act* came into effect on December 12, 2001. The revisions limit Provincial licensing to those drug and alcohol recovery houses providing "intensive" care or "detox" services and exempt supportive recovery houses from licensing under the *Act*. Under Surrey's Zoning By-law, to be recognized as a permitted use care facilities and alcohol and drug recovery houses require Provincial licensing. Without Provincial licensing to complement the City's regulations, the current approach to regulating alcohol and drug recovery houses and care facilities are no longer considered to be effective in dealing with the interests of the community and the clients of recovery houses. It is, therefore, recommended that Council authorize staff to review the implications of the changes in Provincial licensing requirements on City regulations and propose alternate regulations for Council's consideration. If Council chooses to proceed on this basis, staff expects to forward a report for Council's consideration by the early Spring of 2002. It is further recommended that in-stream rezoning applications for recovery houses be held in abeyance until after Council has had the opportunity to consider the referenced report from staff.

With respect to House of the Rising Sun recovery house, it is recommended that the City not take action to stop the eviction order that has been issued to the operator of this facility by an Arbitrator of the Residential Tenancy Branch, since the operator has not been exercising due diligence over the course of 2001 to legalize the operation of the facility and, further, since the facility does not appear to comply with the location guidelines of the City for drug and alcohol recovery houses.

The Ministry of Health Services, Addictions Services will be undertaking a major review in 2002 of its residential addiction services across the Province. The study, to be completed by the Fall of 2002, is expected to assist the Province in developing a more comprehensive plan for addiction services. During the course of the study, the Province will invite input from key stakeholders, including municipalities. It is recommended that staff continue to liaise with the Province on alcohol and drug related issues and provide reports to Council as necessary.

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Appendix "A" - Corporate Report L008

Appendix "B" - Information Bulletin

Appendix "C" - Order in Council No. 1069

Appendix "D" - Provincial Guidelines

Appendix "E" - Memorandum dated January 11, 2002