

**The Legal Basis of NIMBY**  
**Final Report**  
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Prepared for:

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by:



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## 1.0 INTRODUCTION

The Ontario Human Rights Code enshrines the right of Ontarians to equal treatment with respect to the occupancy of accommodation. Yet, examples of NIMBYism can be found across the province, often in opposition to the creation of housing forms that provide accommodation for those hardest pressed to find it, such as rooming houses, shelters, group homes and supportive housing. In these cases, the NIMBY sentiment is founded not in opposition to the actual housing form, but in discrimination against the characteristics of the people who live there, be it economic status, or mental or physical state.

Whether supported by local by-laws and policies or by unofficial but accepted practices, discriminatory NIMBY, when it is accepted into official planning processes, is zoning for people, not uses. As such it is an affront to the principles laid out in the Ontario Human Rights Code and Canadian Charter of Rights and Freedoms. People zoning effectively limits the ability of an already vulnerable population to meet a basic human need: shelter. The point of departure for this research paper is that people zoning has no place in Ontario. It must be challenged and brought to an end, both as official policy and as a result of planning processes abused to discriminatory ends.

The approach of this paper recognizes that there are two dimensions to the issue of discrimination in housing. The first is discrimination in law: laws and policies at the municipal level grounded in NIMBY sentiments and that further enable their expression in public decision-making. The second is discrimination in practice: unofficial discrimination in planning processes and decisions that range from the blatant to the subtle.

Acknowledging these two dimensions of the issue, this paper focuses on the first and aims to examine the legal basis of discriminatory NIMBYism with regards to housing in Ontario municipalities. It does so, however, with an ultimate goal in mind: ending discrimination in the occupancy of accommodation, in law and in practice.

The goal of the research supporting this paper was not to do a comprehensive audit of by-laws and policies across Ontario. Rather, the purpose was to highlight the worst cases of NIMBY discrimination in law at the municipal level. After a preliminary analysis of the treatment of housing forms often the subject of negative public attention, the focus of research was directed toward group homes. The treatment of group homes emerged as the most transparent example of zoning for people, in a disturbingly uniform way in municipalities across the province. Group homes are defined by the characteristics of their residents and are subject to a number of provisions including caps on residents, limits on types of dwellings, distancing requirements, and other policies that narrow the range of opportunities for group home providers and their residents. This paper examines six Ontario municipalities to determine how NIMBY discrimination is supported in law.

## 2.0 RESEARCH PROCESS

Research proceeded in to two phases. The purpose of the first phase was to conduct a preliminary scan of by-laws and policies at the municipal level to determine the kind of discriminatory provisions that existed, the areas most fruitful to research in greater detail, and which municipalities should be selected as case studies.

Guiding the direction of the initial stage of research was ample anecdotal evidence that certain forms of housing are often the target of NIMBY discrimination. These include rooming houses, supportive housing, affordable housing, shelters, group homes and residential care facilities. After examining zoning by-laws, it became apparent that Ontario municipalities, for the most part, share a common approach to the treatment of these uses. Zoning by-laws share a structure which includes definitions of uses, general provisions affecting those uses and the uses permitted in any given zone. Affordable and supportive housing are often not even defined in zoning by-laws and therefore it is difficult to support a case that there is discrimination in law since they do not appear directly in the by-law. Rooming houses are often defined as a use and are limited in the zones in which they are a permitted use. However, the clearest case of discrimination was the treatment of shelters, group homes and residential care facilities in the zoning by-laws. They are defined as uses, general provisions lay out requirements and restrictions governing their location, and they are a permitted use in a limited number of zones. This is especially true of group homes. In housing form they are largely indistinguishable from widely permitted residential uses such as single detached dwellings, yet they are in part defined by the characteristics of their residents and the supports they require.

At the end of the first phase of research, it was decided to concentrate further research on group homes. The desire was to produce a strong focused case against people zoning, that challenged the most blatant discrimination first to establish a precedent and signal an end to the use of planning powers in this manner. Group homes provided this focus because by definition they serve the needs of groups, such as those with mental and physical disabilities, explicitly protected by the Ontario Human Rights Code.<sup>1</sup>

The second phase of research provided a deeper examination of the by-laws and policies of six Ontario municipalities. Based on the finding of the first phase, Toronto, Ottawa, Kitchener, Cambridge, Sarnia and Smiths Falls were selected. An in-depth examination of the selected municipalities focused on planning documents such as Official Plans and zoning by-laws. Conversations with staff at local legal clinics and housing providers were intended to uncover any other discriminatory municipal policies and understand the degree to which discriminatory laws and policies presented challenges in practice.

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<sup>1</sup> Section 2. (1) of the Ontario Human Rights Code states:

*Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, disability or the receipt of public assistance.*

### **3.0 FINDINGS BY MUNICIPALITY**

A description of discriminatory by-laws and policies discovered in the six case municipalities is included below by municipality. Full excerpts of provisions in zoning by-laws and municipal policies are included in the Appendix. A following section provides a summary of findings which outlines trends across the municipalities studied.

#### **3.1 TORONTO**

The City of Toronto is currently in the process of consolidating the by-laws of the pre-amalgamation cities through its Zoning By-law Project. In the interim, the old by-laws of the pre-amalgamation cities are still in force.

##### **3.1.1 City of Toronto Zoning By-law Project**

The Zoning By-law Project has established considerations and proposed definitions for both Group Homes and Residential Care Facilities. The proposed definition of group home is

*supervised living accommodation:*

*(i) licensed or funded under Province of Ontario or Government of Canada legislation,*

*(ii) for persons requiring a group living arrangement by reason of their emotional, mental, social or physical condition or legal status, and*

*(iii) is for three to ten persons, exclusive of staff, living together as a single housekeeping unit.*

Residential Care Facilities are defined in a similar way but are intended to house more than ten people and are not considered a single housekeeping unit.

As yet, no general provisions have been detailed for these uses. However, one of the considerations states that group homes are defined so that specific zoning rules might be made to determine where they are permitted. As the Zoning By-law Project proceeds, any requirements will be the subject of a public consultation process.

##### **3.1.2 Pre-amalgamation by-laws**

The by-laws of the pre-amalgamation cities define uses differently and set out the rules governing them in diverse ways.

In some cases referred to as group homes, in others residential care facilities, all pre-amalgamation municipalities defined a use for supportive group living arrangements. The common components of this definition include either a regulatory or funding relationship with other levels of government, residents defined by their characteristics (as above, by reason of their emotional, mental, social or physical condition or legal status),

and supervision in a single housekeeping unit. In some cases, residential care facilities are distinguished from group homes by being defined as forms of housing for more than ten people, while generally group homes are defined to house three to ten residents.

Minimum separation distances between group homes are established in all of the by-laws although they vary in exact distance required (245 metres in the Former City of Toronto, 460 metres in Etobicoke, 457 metres in East York, 300 metres in North York, 800 metres in York). The City of Toronto demands that residential care facilities (in this case, defined to accommodate 6-10 people) distance themselves not only from other residential care facilities but also from crisis care facilities. Rather vaguely, North York requires that there may not be two group homes in the same “neighbourhood.” Most municipalities require that the group home be housed in a fully detached building. East York sets out a standard of minimum floor space per resident. Etobicoke does this as well as setting a minimum lot area.

A scan of other provisions in the former City of Toronto by-law, found that although there are parking requirements for alternative housing, these would not seem to present a barrier to group home provision

### **3.1.3 Other policies and practices**

A policy scan was completed to evaluate the presence of discrimination in other current City of Toronto policies. None was found. A Community Engagement Protocol recently developed by the City’s Affordable Housing Office does not present any extra obligations on developers of supportive or affordable housing.

Conversations with those familiar with the development of alternative forms of housing in Toronto indicated that although there are no more official requirements to have public meetings for group homes and supportive housing than for any other kind of development, often local councilors put pressure on providers to have public meetings and undergo much greater scrutiny than would normally be required. Housing providers often submit to these pressures as they are vulnerable from a financial perspective because these same municipal politicians can affect funding decisions.

## **3.2 OTTAWA**

The City of Ottawa is also currently undergoing a process to harmonize the pre-amalgamation by-laws of the 36 municipalities (both rural and urban) incorporated into the City of Ottawa. The City’s Comprehensive Zoning By-Law Project produced a Draft Zoning By-law which was released for public review in May 2006. Based on comments from the public, a revised version was prepared for May 2007. It is expected the by-law will be enacted in early 2008.

During the public process there has been some debate over the substance of definitions and provisions, including those for group homes. At public consultations, representatives of group home providers made presentations protesting distancing requirements for group

homes as a violation of the basic human rights and therefore a violation of the Canadian Charter of Rights and Freedoms. A summary of these comments, along with the discussion they stimulated at the consultation and the staff recommendation, are available at the City of Ottawa web site (see Appendix for full excerpts). Staff defended the City's practice of imposing distancing requirements by stating that the Province had accepted municipalities' rights to impose separation requirements for group homes because the use is otherwise permitted in all residential zones. They also made reference to a number of Ontario Municipal Board cases in the 1980s that upheld distancing requirements as "a reasonable planning tool to limit overall density" and "prevent "ghettoization" of the use." Based on these justifications, the staff made a recommendation that no change be made to the draft zoning by-law regarding eliminating distancing requirements. However, separation distance requirements were revised to simplify and standardize regulation.

Excerpts from the edited Draft Comprehensive Zoning By-law are included in the Appendix. Group Homes are distinguished from Residential Care Facilities. A group home is defined as

*a supervised residential use building in which three to ten persons, exclusive of staff, live as a group in a single household living arrangement, and where the residents require support or supervision on a daily basis.*

Residential care facilities also provide supervised or supportive care for those who need assistance with daily living, but with no limit on number of residents.

Group homes are also mentioned in the City of Ottawa's Official Plan, which states that group homes are permitted wherever residential uses are generally permitted, but allows "area-specific provisions to regulate the type, size and location of this use." In the Draft Zoning By-law these provisions include a distancing requirement of 300 metres between group homes in Residential and Village Mixed-Use zones. In Rural Countryside and Agricultural Zones the distancing requirement ranges from 500 to 1000 metres. A proviso has been added that the minimum separation distance does not need to extend past waterways, highways and other major barriers to pedestrian or vehicular movement. In a section regarding conversions, the by-law states that if a building is being converted into a group home, the use must occupy the entire structure.

Residential Care Facilities are a permitted use in only one Residential zone and in almost all Institutional and Mixed Use zones. In the Residential zone, there is a 30-person maximum; in the other zones, no maximum is set.

Overall, the City of Ottawa's approach to group homes and residential care facilities falls into the same pattern as the other municipalities examined. Group homes are allowed in most zones with residential uses, but with distancing restrictions and a cap on number of residents. Residential Care Facilities are much more restricted in their location and are generally kept out of residential zones. Interestingly and in contrast to other

municipalities, the definitions of group home and residential care facilities do not refer to the characteristics of the residents (the part of the definition that appears in most other by-laws: “by reason of their emotional, mental, social or physical condition or legal status”). Rather they define the use by the kind of supports and supervision that the residents require. In this manner, the discriminatory nature of the restriction on the use appears less blatant.

### **3.3 CAMBRIDGE**

Generally, the City of Cambridge Zoning By-Law defines group homes as residential accommodation for people with special needs. It further defines four classes of group homes. Class 1 Group Homes are for the physically and mentally handicapped or a satellite residence for the aged. Class 2 group homes are for foster care of children under 16. Class 3 group homes are for provincial psychiatric patients, ex-offenders and any other needs not otherwise listed. Class 4 group homes serve the same purposes as the other classes but have more than ten residents.

In addition to definitions for group homes, amendments to the Zoning By-law made in October 2006, define two further uses that include group homes. Special Care Facilities include a group home, a family crisis shelter, and a crisis intervention home. A Residential Special Care Facility means a dwelling unit or part thereof occupied by three to ten persons (exclusive of staff) with special needs and includes class 1 group home, a family crisis shelter, a crisis intervention home, but does not include foster care homes or other classes of group homes.

Residential Special Care Facilities, including only class 1 group homes, are a permitted use in all residential zones. They are limited to 8 residents and have set minimum frontages and lot areas. There is a distancing requirement of 200 metres between all residential special care facilities. As for the other classes of group homes, it does not appear that Class 2 and Class 3 group homes are a permitted use as-of-right in any zone. Class 4 group homes are a permitted use in only one zone, an institutional one.

Group homes and sub-types of group homes are defined by the characteristics of their residents. Obviously some kinds or residents are considered more benign than others as the level of restrictions vary depending on class. Worthy of emphasis, the by-law puts group homes for ex-patients of psychiatric hospitals in the same category of group home as those for ex-offenders.

### **3.4 SARNIA**

Sarnia also shares much in common with the approaches toward group homes in other municipalities. The definition of group home and residential care facility is similar. There are distancing requirements for group homes, 200 metres in a Residential Zone and 4 kilometres in a Rural Zone. Group homes are capped at 10 residents.



However, Sarnia differs from the other municipalities in the manner in which it adds further locational requirements. Group homes are not a permitted use in all zones otherwise permitting residential uses. Notable exceptions include Suburban Residential (SR1) and Rural Residential (RR1). In the zones where they are permitted, a provision requires that any group home with more than 5 residents be located on an arterial or collector road. Exceptions in location and group home size may be allowed through site-specific regulations. Residential care facilities are defined rather broadly, but not mentioned as a permitted use in any zones.

A further interesting case uncovered during the research was the existence of restrictive covenants in place in private developments. One development is covered by a restrictive covenant that limits residency to single families, a paradigm in planning struck down in *Bell v. R*. Even though this restrictive covenant is a relic of a previous era, it prevented one group home provider interviewed from pursuing the development of a project due to possible legal complications which would increase project costs.

### **3.5 KITCHENER**

The definition of group home as it appears in Zoning By-law 85-1 is much in keeping with the by-laws of most other municipalities. Group homes are defined by the characteristics of their residents, licensing or funding relationships as defined by provincial or federal statute and as being a single housekeeping unit. Group homes are limited to 3 to 10 residents. Residential Care Facility is also a defined use, with no upper limit on residents, that includes group homes, crisis care facilities, residences for socially disadvantaged people and nursing homes. Again residents are defined by their characteristics and the use defined by a level of care in a supervised group setting.

There is a distancing requirement of 400 metres between group homes. A further provision stipulates that they may not be a group home within 100 metres of the municipal limit of the City of Kitchener. Group homes are not a permitted use, but Residential Care Facilities are, often with restrictions on number of residents. They are a permitted use in most zones that otherwise permit residential uses. However, in many zones they are capped at 8 residents. Residential Care Facilities are not permitted in the Residential One Zone, the Agricultural Zone or the Market Village Zone.

### **3.6 SMITHS FALLS**

Smiths Falls far exceeds other jurisdictions studied in terms of discriminatory provisions. Restrictions on group homes are laid out in both the Official Plan and zoning by-law. In some ways their approach is standard: residents of group homes are defined by their characteristics, group homes are licensed under Provincial Statute, the number of residents is limited from 3 to 10, the home is considered a single housekeeping unit, the residents are perceived to benefit from a group living arrangement under “responsible

supervision”, and there is a 300-metre distancing requirement between group homes. These are not unlike provisions discovered in other municipalities.

However, several provisions are exceptional in the challenges they present to group home providers. The first and most blatant is a cap of 36 residents with mental handicaps living in all group homes combined in the municipality as a whole. The second is that although group homes are a permitted use in residential and core zones, any new group home operation must be treated as a New Land Use Development. The definition of a New Land Use Development is a development that would introduce a land use, “different from those uses described in the Official Plan in terms of scale, purpose or nature, and neither envisioned nor contemplated [before] by Council.” As such, the Plan requires such developments to undergo strict site plan controls and be subject to impact studies and any other studies required by Council. The purpose of the provision is to shift the onus to the developer to prove that development would not have a negative impact and would not require additional municipal or community services. In particular for group homes, special attention would need to be paid to ensure that the site design is “in keeping with the character of the surrounding area and that sufficient space is available to accommodate the needs of the residents.” Further, the Town would encourage the developer to consult with the public to familiarize them with the project and its likely impact. Due to this provision, in effect, no new group home development is considered as-of-right. The project approval would seem to be subject to the whims of Council in an arbitrary way.

These barriers to group home creation were confirmed in conversations with local providers. Providers stated that the financial viability of their projects is often very slim. They simply do not have the resources to pursue a project unless the Town is interested in seeing it move forward.

## **4.0 SUMMARY OF FINDINGS**

As can be seen by the descriptions of approaches to group homes and residential care facilities detailed above, for the most part Ontario municipalities share a common approach to these uses. Definitions are similar and distancing requirements are standard. Individual municipalities have additional provisions that range from the benign to extreme. Overall trends are detailed below.

### **4.1 PROVINCIAL DEFINITION**

In many ways, the approach taken by municipalities to group homes has been shaped by the Province. Several pieces of Provincial legislation lay out the groundwork for the treatment of group homes. The Developmental Services Act (R.R.O. 1990, Reg. 272) lays out the rules governing group homes serving people with developmental disabilities. The Municipal Act (S.O. 2001, c.25, Consolidated) gives municipalities the powers to

register and license group homes and includes the power of inspection. For the purposes of the Municipal Act, group homes are defined as:

*a residence licensed or funded under a federal or provincial statute for the accommodation of three to ten 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. 2001, c. 25, s. 166 (1).*

The Municipal Act also states that group homes may be licensed and regulated under its authority only if the municipality passes a by-law under section 34 of the Planning Act that permits the establishment and use of group homes in the municipality.

## 4.2 DEFINITIONS

The municipalities studied have drawn heavily from the Municipal Act definition in defining group homes in their by-laws and policies. Commonly the following elements are included:

- The characteristics of the residents (“their emotional, mental, social or physical condition or legal status”)
- The nature of the relationship of residents and staff (“supervision in a single housekeeping unit”)
- The number of residents (usually 3 to 10)
- The nature of the licensing and regulatory relationship (“under a federal or provincial statute”)

Some exceptions exist amongst the municipalities studied. The definition in the draft Ottawa zoning by-law makes no reference to the characteristics of group home residents except that they require “support or supervision on a daily basis.” Cambridge give a general definition of group home, but then further defines four classes of group homes that describe the characteristics of residents.

The question that emerges is whether defining a use by the characteristics of its residents is discriminatory in and of itself. Group homes occupy housing forms such as single detached dwellings that are widely permitted. However, they are deemed to require special treatment in zoning by-laws due to the characteristics of their residents and the nature of the group living situation, one which includes some level of supervision.

It is clear by comparing the municipal definitions of group home to the Municipal Act definition that treating group homes as a distinct use has its roots in Provincial legislation. The purpose of this and other legislation concerning group homes is to set a standard for the quality of care and living conditions in group homes in Ontario through licensing and regulation. The definition serves some positive purpose and makes the connection between the characteristics of residents and the benefits of a group living

arrangement supported by staff. But, through its definition, the creation of negative restrictions based on NIMBY sentiments becomes a possibility.

#### **4.3 DISTANCING REQUIREMENTS AND OTHER LOCATIONAL REQUIREMENTS**

The definition of group homes, in and of itself, might not be considered discriminatory. However, once defined, to place restrictions on that use that are in many ways exceptional in the context of the zoning by-law cannot be considered otherwise. Distancing requirements are the most blatant of those restrictions. All municipalities examined had distancing requirements, although they varied in distance and how they should be calculated.

The discussion during the consultations on the City of Ottawa's Draft Zoning By-law illustrates the point clearly. In response to protests over distancing requirements for group homes, the justification was that Ontario Municipal Board decisions had upheld distancing requirements as a means to avoid the "ghettoization of the use." But if the use is defined by the characteristics of the people who live there and the support they require, in housing forms that are otherwise identical to others in the zone, distancing requirements can only be viewed as zoning for people. These requirements would seem to draw on the very essence of NIMBY sentiments, not wanting too many of "those kind of people" in the neighbourhood.

"Those kind of people" can be defined quite broadly, making distancing requirements even more nonsensical. Should people with mental disabilities not live too closely to people with physical disabilities? Should foster children not be allowed in the same neighbourhood as ex-patients of psychiatric hospitals? In the former City of Toronto group homes must also be distanced from crisis care facilities and residential care facilities.

In discussions with local group home providers, distancing requirements emerged again and again as a major impediment. These requirements are seen as an arbitrary rule that prevents group home providers and residents from making their own decisions about what location might suit their needs best.

Other requirements setting out rules on the location of group homes are less frequent. Sarnia's by-law states that group homes with more than five residents must be located on arterial or collector streets. Other uses such as shelters and rooming houses often face similar restrictions. In these cases the "ghettoization" defence does not apply. The purpose of these provisions can only be to keep these uses, and more importantly the kinds of residents that inhabit them, at the periphery of residential neighbourhoods.

#### 4.4 OTHER REQUIREMENTS

Municipalities have other requirements for group homes. Most require that the use be housed in a single detached dwelling or both parts of a semi-detached dwelling. Some by-laws set out the minimum lot sizes and requirements for front and side setbacks. These provisions would seem to be about ensuring there is some form of distance between group homes and other uses. Others requirements, such as the minimum floor space per resident would seem aimed at avoiding overcrowding. Although they are requirements particular to group homes, most do not present major barriers to the creation of new group homes.

However, there are more egregious examples of discriminatory requirements discovered over the course of this research. One of the more blatantly discriminatory provisions is found in the Official Plan and zoning by-law of Smiths Falls. The Official Plan states in section 4.7.2.4:

*Notwithstanding the generality of subsection 4.7.2.2, group homes for the mentally handicapped shall be restricted to a total of 36 residents. Once this number has been reached, no further such group homes shall be permitted until Council has completed an assessment of the impacts of such homes on the Town, particularly on the provision of municipal services, and has amended this Plan to permit further such group homes to be located within the Town.*

This by-law places a cap on the number of mentally handicapped people living in group homes solely on the basis of their disability. Here, there is no room for misinterpretation. The Official Plan and zoning by-law of Smiths Falls have entrenched NIMBY-based discrimination in law and policy.

Group homes provide supportive living arrangements for their residents in a manner which facilitates integration into the community. All the discriminatory provisions outlined above have the effect of generally limiting the availability of group home spaces. This provision takes a step beyond by adding a level of specificity that clearly establishes a cut off point for the number of mentally handicapped people permitted to live in group homes. It is obviously discriminatory in principle. In practice, it could prohibit people who require a form of supportive housing from living in the community of their choice.

#### 4.5 APPROACH TO PERMITTED USE

Distancing and other requirements are a transparent form of discrimination. Generally, group homes are allowed as-of-right in a wide number of zones if they meet the provisions clearly stated in the by-law. Subtler forms of discrimination have the potential for a much larger exclusionary impact. These have the effect of shifting the source of discrimination from the by-law, where discriminatory provisions can be clearly seen, to a vagueness in the law which allows for greater discrimination in practice. An example of

this kind of discrimination would be to define a use in the by-law, but not list it as a permitted use in any zone. In this manner, the use would not be as-of-right anywhere and therefore subject to negotiations with the municipality and consultation with the public on a case by case basis. Without clearly established rules about where and how a use is to be allowed, a greater place is created for NIMBY sentiments to be expressed and have an impact on the process.

In the case of group homes, an example can be found in Sarnia, where class 2 and class 3 group homes are defined but not listed as a permitted use. Other uses such as shelters and residential care facilities are often treated in this manner, making it more difficult to establish a case that there is discrimination in law against the residents of this form of housing.

Not allowing the development of these uses as-of-right adds an incredible amount of uncertainty to any project. Group home providers, as well as the developers of other kinds of housing for vulnerable populations, often work on very thin budgets. Uncertainty makes the development of these kinds of housing less likely, as delays and resources spent lobbying the municipality and the public increase the costs of the project with no guarantee that it will move forward.

The by-laws and policies in Smiths Falls are unique in that they have it both ways. Their Official Plan and zoning by-law define group homes and permit them as a use in most zones with general provisions that require minimum separation distances. However a provision in the Official Plan states that any new group home must be considered a New Land Use Development and is therefore not considered as-of-right. In this manner the group home provider is at the mercy of Council to demand any other requirements it sees fit. As mentioned in the Smith Falls section above, group home providers are reluctant to develop new group homes unless Council is strongly in their favour. Group home developers are also encouraged to hold public consultations and therefore provide a venue for NIMBY-driven opposition.<sup>2</sup>

#### **4.6 PROVINCIAL TREATMENT AND PRECEDENT**

The origin of municipal treatment of group homes was not found in Provincial legislation, which makes no reference to distancing requirements or other provisions specifically for group homes. Comments made by City planners during the public consultation on the City of Ottawa's Comprehensive Zoning by-law suggest that the Province has accepted the right of municipalities to enforce distancing requirements as a means to prevent the "ghettoization" of the use if group homes are otherwise permitted in all residential zones. These planners also pointed to several Ontario Municipal Board cases in the 1980s that upheld distancing requirements for group homes.

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<sup>2</sup> Although not one of the municipalities selected for further research, Mississippi Mills has a public meeting requirement for new group homes.

No directly relevant jurisprudence was found in Ontario concerning group homes, although *Mueller v. Tiny* and *Bell v. R.* also address issues of people zoning. However, a decision in Manitoba has direct relevance.

In *The Alcoholism Foundation of Manitoba v. Winnipeg (City)*, the Manitoba Court of Appeal found that a zoning by-law in the City of Winnipeg restricting the location of group homes for the aged, disabled, persons recovering from addictions and discharged penal inmates was a breach of s.15 of the Canadian Charter of Rights and Freedoms. The by-law in question restricted group homes with certain types of residents to a limited number of zones. Minimum separation distances between group homes were also required. The inclusion of group home as a conditional use meant that group home providers had to convince a Community Council that the use would “not be injurious to the use and enjoyment of other property in the immediate vicinity” and “not impede the normal and orderly development and improvement of surrounding property.” The ruling stated that people living in group homes constituted a disadvantaged group under s.15 of the Charter and struck down the provisions in the zoning by-law. The case established that the Province cannot give municipalities the power to limit uses based on the types of tenants who will occupy them. Leave to appeal to the Supreme Court of Canada was denied.<sup>3</sup>

#### **4.7 LOCAL PERSPECTIVES**

Interviews with group home providers indicated that they are in a weak position to challenge the discrimination they and their clients face both in law and in practice. Organizations involved in the creation of new group homes often have limited financial resources. If the development is not as-of-right and it seems that they will not be given the variances they require to go ahead with the project, the group has recourse to the Ontario Municipal Board. However, any chance of a protracted and costly legal battle can quickly render a project financially infeasible.

As well, many group home providers are resistant to aggressively confronting the discriminatory policies of municipalities. Group home providers are often dependent on the good will of municipalities for financial support and gaining approvals for new projects. They therefore tolerate the discriminatory policies and unfair demands of municipalities, especially municipal politicians, so that they might continue to serve their clientele.

#### **5.0 CONCLUSION AND NEXT STEPS**

The treatment of group homes is only the most transparent example of discriminatory NIMBY sentiment given expression in zoning by-laws and municipal policies. Group

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<sup>3</sup> <http://www.gov.ns.ca/snsmr/muns/plan/plandev/news.asp?cmd=view&articleid=26>, accessed on November 6, 2007.

homes are defined by the characteristics of their residents and kind of living environment they provide. They are allowed in most municipalities as-of-right, but only if certain conditions are met. These conditions, such as distancing requirements, are clearly detailed in zoning by-laws and municipal policies. Combine the definition of group home with the requirements demanded of this use and the discriminatory intent becomes clear: these provisions are zoning for people. Some municipalities, such as Smiths Falls, go further in making this connection even more unequivocal.

The driving force behind the treatment of group homes is at best, paternalism (the “ghettoization” justification offered by Ottawa planners), and at worst, raw discriminatory NIMBYism. Either way people zoning has no place in Ontario communities. It limits the range of choices available to group home providers and therefore to the people who might choose to live in this kind of accommodation, a violation of their basic human right to shelter and to equality.

Because the discrimination in law is so blatant against group homes, the case can be readily documented. The same cannot be said of other forms of housing, such as affordable housing, supportive housing, residential care facilities and shelters, where there is a less easily documented relationship between discrimination in law and discrimination in practice.

In these cases, discriminatory provisions are not so explicitly outlined. Often, these uses are not defined by the characteristics of their residents, although it is well established in practice that they come from vulnerable groups that are protected in human rights legislation. Uses such as residential care facilities and shelters are defined but permitted as-of-right in a very limited number of zones. Certain classes of group home face similar treatment. In order for these uses to be “zoned in”, the onus shifts to the housing providers to prove their case, often a difficult one to make in a process that gives full expression to local NIMBY sentiments. Affordable and supportive housing are often not mentioned in zoning by-laws at all, given they are indistinguishable in form from other housing types. However, in practice, they face the same financial and political pressures as group home providers to submit themselves to a costly and prolonged process that will put them in a defensive position against NIMBY-based opposition. Rather than direct discrimination in law, housing providers must deal with processes that leave them vulnerable to discrimination in practice.

This paper aims to document a representative sample of the by-laws and policies at the municipal level that provide the legal basis for discriminatory NIMBY. Eliminating discrimination in law is an important first step. Equally important is understanding how the legal framework facilitates discrimination in practice even in the absence of explicit discriminatory provisions. Documenting the relationship between the legal framework and discrimination in practice requires a different kind of research. Case studies provide the most promising approach and would detail in a more subtle way the impact of NIMBYism and people zoning in law and in practice.



**APPENDIX A:**

**By Municipality - Excerpts from by-laws and policies**

## City of Cambridge – Discriminatory Zoning

### Summary

- Four different classes of Group Home, defined by their residents
- Class 1 Group Homes (physically and/or mentally handicapped) are a permitted use in a residential zones, with distancing requirements
- Class 4 Group Homes (those over ten residents) are permitted only in one zone – Institutional N3
- Unclear where Class 2 and 3 group homes are permitted
- Puts ex-patients of psychiatric hospitals in the same category of group home as those for ex-offenders
- Amendments to zoning by-law create new definitions for special care facilities and residential special care facilities, into which the different classes of group homes are categorized. These definitions further limit class 1 group homes to 8 residents and minimum separation distances, lot area and frontage

### City of Cambridge Zoning By-Law – No. 150-81 (Consolidated December 2006)

<http://www.city.cambridge.on.ca/article.php?ssid=21>  
accessed on May 8, 2007

#### 1. Interpretation and Administration

##### 1.1.1 Definitions

*group home* means residential special care accommodation for up to ten people (exclusive of staff ) with special needs

*group home, class 1* means:

1. accommodation services for the physically and/or mentally handicapped;
2. a satellite residence to accommodate aging individuals who are no longer able to be cared for at home without supervision or assistance;

*group home, class 2* means a children's residence to accommodate children usually under the age of 16 who, because of their special needs, cannot live with their parents or other relatives but would benefit from an alternative living arrangement;

*group home, class 3* means:

1. a home for patients of provincial psychiatric [sic] hospitals who can benefit from a household-oriented living arrangement in the community;
2. a community resource centre for criminally sentenced individuals who can benefit more from rehabilitation in a community residential program than in a correctional institution;
3. a halfway house for ex-offenders (people on probation or parole from a provincial correctional institution or Federal penitentiary); and
4. a *group home* for other special purpose needs not described in *class 1*, *class 2* and *class 3 group home* in this by-law, such as victims of accidents who require long term rehabilitation;

*group home, class 4* means an institution used for any of the same purposes as a *class 1, class 2* or *class 3 group home* but providing accommodation for more than ten residents exclusive of supervisory staff or the receiving family;

### **1.1.2 Classification of Zones**

#### **1. Use Classes, Zone Classes and Zone Symbols**

Primary (but not necessarily only) Purpose for Which the Zone is Established:

N3 – *class 4 group homes* and unlicensed *domiciliary hostels*

[In 3.2.1 Regulations Applicable in N-Class Zones, 1. Permitted Uses, *group homes class 4* are a permitted use in N3 Zone - Institutional)

## **3. Zoning Regulations**

### **3.1 Residential Use Class Zones**

#### **3.1.1 Regulations Applicable in All Residential Zones**

##### **3. Group Homes**

Any *dwelling unit* in a residential use class zone may be used for the purposes of a *class 1 group home* if such *dwelling unit* is not located within 200 m of an existing *class 1, class 2, class 3* or *class 4 group home*.

## **City of Cambridge By-Law – No. 232-06 (amendments to the City of Cambridge Zoning By-law 150-85)**

### **Section 1.1.1 New definitions**

*special care facility* means a building or part thereof occupied by three or more persons (exclusive of staff) with special needs and shall include, but not be limited to, a *group home*, a *family crisis shelter*, a *crisis intervention home*, but does not include a *day care*, a *domiciliary hostel*, a *nursing home*, a *boarding lodging or rooming house* or a *foster care home*.

*special care facility, residential* means a dwelling unit or part thereof occupied by three to ten persons (exclusive of staff) with special needs. A residential special care facility shall include, but not be limited to, a *class 1 group home*, a *family crisis shelter*, a *crisis intervention home*, but does not include a *day care*, a *domiciliary hostel*, a *nursing home*, a *boarding lodging or rooming house* or a *foster care home*, a *class 2* or a *class 3 group home*.

### **Replace 3.1.1.3 with Residential Special Care Facility**

A *residential special care facility* shall be provided, in a detached one family dwelling, a semi-detached one family dwelling or a detached duplex dwelling only in accordance with the following regulations:

- a) A residential special care facility shall have a maximum of 8 residents, exclusive of staff.
- b) A minimum frontage of 12m and a minimum lot area of 360 square metres.

- c) The minimum separation distance between all residential special care facilities shall be 200m.
- d) All residential care facilities shall be approved and licensed where required by the Province (or other appropriate approval authorities) and shall be registered with the registrar of group homes designated by Council, and such registration shall be renewed annually.
- e) All residential special care facilities shall provide parking in accordance with section 2.2.1 of this by-law

**Section 3.1.2.1 – Regulations Applicable in Residential Use Zones – Permitted Uses**

A residential special care facility is a permitted use in all residential zones as indicated in a table in Section 3.1.2.1.

## City of Kitchener – Discriminatory Zoning

### Zoning By Law 85-1

<http://www.kitchener.ca/zonebylaw/zonemain.aspx>  
accessed on February 7, 2007

#### Summary

- Both Group Home and Residential Care Facility are defined in the by-law.
- The definition of Residential Care Facility includes Group Homes, Crisis Care Facilities and Residence of Socially Disadvantaged Persons.
- Group Homes are not included in permitted use, but Residential Care Facilities are, often with maximum or minimum number of residents.
- Residential Care Facilities are not allowed in all zones that otherwise include some form of residential use.
- Distancing requirements for all group homes.

### Section 4 – Definitions

**4.2.110.1 "Group Home"** means a residence licensed or funded under a federal or provincial statute for the accommodation of three to ten 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.(By-law 2005-106, S.2) (Housekeeping Amendment)

**4.2.198 "Residential Care Facility"** means a dwelling or part thereof occupied by three (3) or more persons, exclusive of staff, who by reason of their emotional, mental, physical or social condition or legal status, are cared for on a temporary or permanent basis in a supervised group setting. This shall include, for example, a group home, crisis care facility, residence for socially disadvantaged persons or nursing home, but shall not include a lodging house, foster care home or hospital.(By-law 2003-163, S.12)

### Section 5 – General Provisions

#### **5.17 Location of Group Homes**

*Notwithstanding anything else in this By-law, only one group home shall be permitted on a lot. No building or part thereof shall be used for a group home on a lot that is situated within 400 metres of another lot on which a group home is located, such minimum distance to be measured from the closest point of the lot lines associated with each lot. No building or part thereof shall be used for a group home on a lot that is situated within 100 metres of the municipal limit of the City of Kitchener, such minimum distance to be measured from the closest point of the lot line associated with such lot and the municipal limit.(By-law 92-58, S.4)*

## **Sections 14 to 47 – Zones**

### **Residential care facilities are a permitted use in the following zones:**

- Retail Core Zone (D-1) – (Section 14.1)
- Office District Zone (D-4) – (Section 16.1)(16.2 Minimum size – 9 residents)
- Commercial Residential Zone (D-5) – (Section 16A.1)
- Neighbourhood Institutional Zone (I-1) – (Section 31.1)(31.2.3 Maximum size – 8 residents)
- Community Institutional Zone (I-2) – (Section 32.1)(32.2.4 Maximum size – 8 residents)
- Major Institutional Zone (I-3) – (Section 33.1)
- Residential Two Zone (R-2) – (Section 36.1)(36.2.1 Maximum size – 8 residents)
- Residential Three Zone (R-3) – (Section 37.1)(37.2.1 Maximum size – 8 residents)
- Residential Four Zone (R-4) – (Section 38.1)(38.2.4 Maximum size – 8 residents)
- Residential Five Zone (R-5) – (Section 39.1)(39.2.6 Maximum size – 8 residents)
- Residential Six Zone (R-6) – (Section 40.1)(40.2.8 Maximum size – 8 residents)
- Residential Seven Zone (R-7) – (Section 41.1)
- Residential Eight Zone (R-8) – (Section 42.1)
- Residential Nine Zone (R-9) – (Section 43.1)
- Commercial Residential One Zone (CR-1) – (Section 44.1)
- Commercial Residential Two Zone (CR-2) – (Section 45.1)
- Commercial Residential One Zone (CR-3) – (Section 46.1)\*
- Commercial Residential One Zone (CR-1) – (Section 47.1)\*\*

\*(46.3 – Location of a Residential Care Facility having less than nine residents Only within a multiple dwelling)(46.3 – Lodging House having less than 9 residents Only within a building existing on the date that the CR-3 Zone was applied to the land)

\*\* (47.2.3 – Residential Care Facility having less than 9 residents Only within a multiple dwelling)

### **Residential care facilities are not a permitted use in the following zones (where dwelling units or other types or residential use otherwise are):**

- Convenience Commercial Zone (C-1) – (Section 7)
- Community Commercial Core Zone (C-4) – (Section 10)
- Regional Shopping Centre Zone (C-5)
- Market Village Zone (D-3) – (Section 15)
- Industrial Residential Zone (M-1) – (Section 19)
- General Industrial Zone (M-2) – (Section 20)
- Service Industrial Zone (M-3) – (Section 21)
- Heavy Industrial Zone (M-4) – (Section 22)
- Business Park Zone (B-1) – (Section 23)
- Commercial Business Park Zone (B-4) – (Section 26)
- Agricultural Zone (A-1) – (Section 34)
- Residential One Zone (R-1) – (Section 35)

## City of Ottawa – Discriminatory Zoning

### Summary

- Official plan policies ensure that group homes and other forms of affordable housing are allowed in all zones where residential uses are generally permitted, although provisions regulating type, size and location of group home are allowed
- Distancing requirements exist for group homes.
- Residential Care Facilities are not a permitted use in most residential zones.
- In discussions at recent public consultations for the Draft Zoning By-law, City staff defended the use of distancing requirements as a means to avoid the “ghettoization” of the use.

### City of Ottawa Official Plan

[http://ottawa.ca/city\\_hall/ottawa2020/official\\_plan/index\\_en.html](http://ottawa.ca/city_hall/ottawa2020/official_plan/index_en.html)  
accessed November 4, 2007

#### Section 2.5.2 – Affordable Housing

Policies in this Plan ensure that all forms of housing are permitted wherever residential uses are generally permitted, subject to regulations contained in the zoning by-law. These land uses are outlined in Section 3.1. They include secondary dwelling units, rooming houses, group homes, shelter accommodation, retirement homes and garden suites.

#### Section 3.1 – Generally Permitted Uses

##### **Group Homes**

2. Where the zoning by-law permits a dwelling, the by-law will also permit a group home. The zoning by-law may include area-specific provisions to regulate the type, size and location of this use.

### City of Ottawa Comprehensive Zoning By-law Project

[http://www.ottawa.ca/residents/bylaw/zoning/index\\_en.html](http://www.ottawa.ca/residents/bylaw/zoning/index_en.html)  
accessed November 4, 2007

*Researcher's Note: The City of Ottawa's Comprehensive Zoning By-Law Project has produced a Draft Zoning By-law that harmonizes the pre-amalgamation by-laws of the 36 municipalities incorporated into the City of Ottawa. The By-law is currently moving its way through public consultations and revisions and should be enacted in early 2008. Overlapping processes are being carried out for by-laws covering Urban Areas and Rural Areas and the Greenbelt. A version available on the City of Ottawa web site shows edits made as recently as September 2007. A conversation with City of Ottawa staff indicated that both processes are still in progress but that the rural version was the most up to date in terms of definitions and provisions. For that reason they are excerpted here. The Project web site also includes a summary of public responses to the draft by-law, the discussion that occurred on the issues raised and any staff recommendations that emerged. They are also excerpted below.*

## **Part 1 – Administration, Interpretation and Definitions**

### **Section 54 – Definitions**

**Group home** means a supervised **residential use building** in which three to ten persons, exclusive of staff, live as a group in a single household living arrangement, and where the residents require support or supervision on a daily basis, but excludes **correctional facilities** and **shelters**.

**Residential care facility** means an establishment providing supervised or supportive in-house care for those who need assistance with daily living, that may also provide on-going medical or nursing care or counselling and social support services and which may include services such as medical, counselling, and personal services.

## **Part 5 – Residential Provisions**

### **Section 125 – Group Home Provisions**

- 1) Where it is a permitted use in a zone, in addition to the provisions of the zone in which it is located, a group home,
  - (a) must be within a dwelling type which is a permitted use in the zone in which it is located;
  - (b) Section 122 applies;
  - (c) where located within or abutting Residential or Village Mixed-use Zones, must be separated from any other lot containing a group home, a distance of 300 metres from each property line of the lot on which the group home is located;
  - (d) where located within an RU - Rural Countryside or AG - Agricultural Zone:
    - (i) must be separated from any other lot zoned RU or AG containing another group home, a distance of 1000 metres from each property line of the lot on which the group home is located, and
    - (ii) must be separated from any lot zoned in a Residential zone or VM – Village Mixed-Use Zone containing another group home, a distance of 500 metres from each property line of the lot on which the group home is located.
- 2) Despite subsection 1, the minimum required separation distance need not extend across a waterway, Highway or any other major barrier to pedestrian or vehicular movement, and in such cases is deemed to be fulfilled by the distance between that barrier and the affected property line or lines of the lot containing the group home.
- 3) Where the minimum required separation distance of one group home intersects the minimum required separation distance of another group home, both group homes are considered to comply with the minimum separation distance requirements, provided that the limits of the two separation areas do not touch a lot line of a lot containing another group home.

### **Section 122 - Conversions**

- 3) Any conversion that results in the creation of a group home; retirement home; converted rooming house, converted; converted dwelling; or shelter must be serviced with public sewer and water, except in the RU-Rural Countryside, VM –Village Mixed Use, V3 – Village Residential Third Density, and AG-Agricultural Zones where such uses may be permitted, if listed as permitted uses, on private services approved by the City of Ottawa where public services are not available.



- 6) Where a residential use building, located in a residential zone, is converted to a retirement home, converted rooming house; converted group home; or shelter, such uses must occupy the whole of the building.

**Part 6 – Residential Zones**

**Part 7 – Institutional Zones**

**Part 10 – Mixed Use/Commercial Zones**

**Part 13 – Rural Zones**

Zone	Permitted Use	
	Group Homes	Residential Care Facilities
R1 – Residential First Density Zone (Sec. 155-156)	Yes	
R2 – Residential Second Density Zone (Sec. 157-158)	Yes	
R3 – Residential Third Density Zone (Sec. 159-160)	Yes	
R4 – Residential Fourth Density Zone (Sec. 161-162)	Yes	
R5 – Residential First Density Zone (Sec. 163-164)	Yes	Yes*
RM – Mobile Home Zone (Sec. 167-168)	Yes	
I1 – Minor Institutional Zone (Sec. 169-170)	Yes	Yes
I2 – Major Institutional Zone (Sec. 171-172)	Yes	Yes
AM – Arterial Mainstreet Zone (Sec. 185-186)	Yes	Yes
GM – General Mixed Use Zone (Sec. 187-188)	Yes	Yes
LC – Local Commercial Zone (Sec. 189-190)	Yes	
MC – Mixed-Use Centre Zone (Sec. 191-192)	Yes	Yes
MD – Mixed-Use Downtown Zone (Sec. 193-194)	Yes	Yes
TM – Traditional Mainstreet Zone (Sec. 197-198)	Yes	Yes
AG – Agricultural Zone (Sec. 211-212)	Yes**	
RC – Rural Commercial Zone (Sec. 217-218)		
RI – Rural Institutional Zone (Sec. 223-224)	Yes	Yes
RR – Rural Residential Zone (Sec. 225-226)	Yes	
RU – Rural Countryside Zone (Sec. 227-228)	Yes	
VM – Village Mixed-Use Zone (Sec. 229-230)	Yes	Yes
V1 – Village Residential First Density Zone (Sec. 231-232)	Yes	
V2 – Village Residential Second Density Zone (Sec. 233-234)	Yes	
V3 – Village Residential Third Density Zone (Sec. 235-236)	Yes	

\* a maximum of 30 residents is permitted (Sec. 163, 1(d))

\*\* a maximum of 8 persons is permitted (Sec. 211, 1(c))

**May 2006 and May 2007 Consultations and Revisions – Rural – Summary of Public Responses**

[http://www.ottawa.ca/residents/bylaw/zoning/bylaw/consult\\_revision/rural/public\\_responses/part\\_05\\_en.html](http://www.ottawa.ca/residents/bylaw/zoning/bylaw/consult_revision/rural/public_responses/part_05_en.html)  
accessed November 4, 2007

**Section 125: Group Home Provisions**

Comment	Discussion	Staff Recommendation
<p>Needs to recognize barriers such as rivers and major roads as definitive barriers or limits to the separation area calculation for group homes; rectangular separation area of 800 m seems too high [Health and Social Services Advisory Committee]</p>	<p>A clause has been added recognizing barriers or limits to the required separation area calculation.</p> <p>There are no longer different types of separation areas; the rectangular separation area has been removed, and a standard separation area, measured from each of the group home’s lot lines, is proposed to be 300 m between group homes.</p>	<p><i>Revise Section to include regulation that recognizes barriers to enforcement of full required separation area</i></p> <p><i>Revise separation distance requirements and simplify, standardize regulation</i></p>
<p>It is basic human right to choose where to live, and creating zoning that places 300m buffer between group homes does not support citizen’s rights. May also violate the Canadian Charter of Rights.[Donna Rietschlin]</p>	<p>The Province has accepted municipalities’ right to impose separation distances between group homes, because the use is permitted in all zones, unlike most uses that are restricted to certain zoning categories only. Numerous Ontario Municipal Board hearings were held in the 1980’s, and the decisions always upheld the separation distances as being a reasonable zoning tool to limit overall density, and avoid “ghettoization” of the use. The separation distances are not particularly large, and would encompass separation by between roughly 15 and thirty lots (each side), and are intended to ensure that group homes locate throughout the municipality and not be encouraged to locate only in certain areas, as per the Official Plan. The separation areas are small enough that they do not result in the prohibition of this use in any area of the city and thus there is ample room for group home development throughout the whole of the city.</p>	<p><i>No change required</i></p>

## City of Sarnia – Discriminatory Zoning

### Summary

- Distancing requirements for all group homes
- Locational requirements for group homes with more than 5 residents in certain zones (must be located on an arterial or collector road)
- Group homes are capped at 10 residents, although site specific regulations can increase that number
- Group homes are not a permitted use in every zone otherwise allowing residential – notable exceptions include Suburban Residential (SR1) and Rural Residential (RR1)
- Residential Care Facility is defined loosely but only referred to in one other place in the zoning by-law (in this case, residents are defined as “medically fragile”)

### Zoning By-law No. 85 of 2002 (July 15, 2002)

(Office Consolidation as amended October 2005)

<http://www.sarnia.ca/visit.asp?sectionid=348>

Accessed March 15, 2007

#### Part I, Section 2 – Definitions

**"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 reason of their emotional, mental, social, or physical condition require a group living arrangement under **24** hour 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.

**"RESIDENTIAL CARE FACILITY"** means a family home, group care facility, or similar facility for **24** hour non-medical care of persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual.

#### Part I, Section 3 – General Regulations

##### **3.16 Group Homes**

*Notwithstanding any other provisions of this By-law to the contrary, a Group Home may be permitted in any dwelling unit provided that:*

- (1) there is no other Group Home within **200m** radius, in the case of a Residential Zone, or **4km** radius, in the case of a Rural Zone, of the proposed facility;
- (2) the group home shall occupy the whole of the dwelling unit;
- (3) the group home shall be registered with the municipality as per Section 240 of the Municipal Act (R.S.O. 1990), c.M.45;
- (4) parking is supplied at the rate specified in Section 3.37 of this By-law; and

- (5) any building erected or altered after the passing of the By-law for use as a group home for more than **5** residents in a UR1, UR2, UR3 and SR1 Zone, shall have a front yard or a side yard that abuts an arterial or collector street as shown on Schedule "D".

## **Part II – Zones and Zone Regulations – Sections 7 to 23**

### ***Zones Permitting Group Homes***

Group Homes are a permitted use in the following zones:

- Urban Residential 1 Zone (UR1) – (Section 7, 7.1 Permitted Uses)
- Urban Residential 2 Zone (UR2) – (Section 8, 8.1 Permitted Uses)
- Urban Residential 3 Zone (UR3) – (Section 9, 9.1 Permitted Uses)
- Urban Residential 4 Zone (UR4) – (Section 10, 10.1 Permitted Uses)
- Urban Residential 5 Zone (UR5) – (Section 11, 11.1 Permitted Uses)
- Office Commercial 1 Zone (OC1) – (Section 21, 21.1 Permitted Uses)

In these zones the following restrictions apply:

#### **Section 7 - Urban Residential 1 Zone (UR1)**

##### **7.2 Zone Regulations**

7.2.1(9) Special Provisions for Group Homes and Women's Shelters:

- (a) a group home or women's shelter in the UR1 zone shall comprise a single detached dwelling;
- (b) a single detached dwelling erected or altered after the passing of this By-law, for use as a group home or women's shelter for more than **5** residents shall have a front yard or a side yard that abuts an arterial or collector street as shown on Schedule D; and
- (c) a group home or a women's shelter lot shall be separated a minimum distance of **200m** from any other group home or women's shelter lot located within a Residential Zone.

Sections 8.2.3, 9.2.3, 10.2.4, 11.2.4 and 21.2.2 state that the regulations laid out in 7.2.1 shall apply.

#### **Site and Area Specific Regulations concerning group homes and residential care facilities**

##### **7.3 Site and Area Specific Regulation**

7.3.17 UR1-17 (See Zoning Map Part 12)

###### **7.3.17.1 Permitted Uses**

- (1) Uses permitted in Section 7.1.

###### **7.3.17.2 Site Zone Regulations - Group Home**

- (1) Occupants: the group home is occupied by not more than **12** persons over the age of **16** years, other than supervisory personnel
- (2) Fencing and Landscaping: the existing fencing and landscaped open space shall be maintained
- (3) Setbacks: the existing front, side and rear yard setbacks shall be maintained
- (4) Supervisors: no more than **2** supervisory personnel shall reside on a continuing basis in the group home
- (5) Signs: no sign identifying the use of the group home shall be displayed on the said lands

- (6) Parking: there shall be available for use in conjunction with the group home a minimum of **5** parking spaces to be located on the property immediately adjoining to the south

#### **10.3.4 UR4-4** (See Zoning Map Part 56)

##### **10.3.4.1 Permitted Uses**

- (1) Group homes for mentally challenged adults.

##### **10.3.4.2 Site Zone Regulations - Group Home**

- (1) Number of Residents: (maximum) **15** residents over the age of **16** excluding supervisory staff
- (2) Fencing: (minimum) **1m** high hedge or opaque privacy fence along the east property line
- (3) Landscaped Open Space: (minimum) the existing landscaped open space shall be maintained
- (4) Signs: (minimum) no signs identifying the use are permitted

### ***Zones Not Permitting Group Homes***

Group Homes are not a listed permitted use in the following zones:

- Rural 1 Zone (RU1) – (Section 5)
- Rural Residential 1 Zone (RR1) – (Section 6)
- Suburban Residential 1 Zone (SR1) – (Section 12)(but then in 12.2.1 provides zoning regulations for group homes)
- Private Residential Community 1 Zone (PRC1) – (Section 13)
- Downtown 1 Zone (D1) – (Section 14)
- Commercial Centre 1 Zone (CC1) – (Section 15)
- General Commercial 1 Zone (GC1) – (Section 16)
- General Commercial 2 Zone (GC2) – (Section 17)
- General Commercial 3 Zone (GC3) – (Section 18)
- Community Commercial 1 Zone (COC1) – (Section 19)
- Highway Commercial 1 Zone (HC1) – (Section 20)
- Local Commercial 1 Zone (LC1)
- Institutional 1 Zone (I1) – (Section 23)

Although not a permitted use a site-specific exception has been made in Section 23.

#### **23.3.3 I1-3** (See Zoning Map Part 19)

##### **23.3.3.1 Permitted Uses**

- (1) Accessory uses and buildings.
- (2) A group home (a boys' residential home).

##### **23.3.3.2 Site Zone Regulations**

- (1) The regulations set out in Section 5.25 shall apply.

### ***Concerning Residential Care Facilities***

There is only one reference to a Residential Care Facility, as defined in the Definitions section.

#### **23.3.6 I1-6 (See Zoning Map Part 14)**

##### **23.3.6.1 Permitted Uses**

- (1) Residential care facility for the medically fragile.

##### **23.3.6.2 Site Zone Regulations**

- (1) Lot Area: (minimum) **4,800 square metres**
- (2) Setbacks: (minimum) - north yard **21m**
  - east yard **15m**
  - south yard **7.5m**
  - west yard **3m**
- (3) Lot Coverage: (maximum) **50%**
- (4) Landscaped Open Space: (minimum) **35%**
- (5) Height: (maximum) **1** storey for a main building and **5m** for an accessory building
- (6) Special Regulation: (minimum) the lands within the north and east yard setbacks shall be maintained as landscaped open space

## Town of Smiths Falls – Discriminatory Zoning

### Summary

- Group homes are a permitted use in all residential zones
- Distancing requirements exist for all group homes
- Group homes for the mentally handicapped are limited to a maximum of 36 residents for the entire municipality.
- In the Official Plan, new group homes are classified as a New Land Use Development, a classification that shifts the onus to developers to prove that their development will not adversely impact municipal or community services

## Official Plan of the Town of Smiths Falls (Office Consolidation August 2005)

### Section 3 Planning Policies and Processes

#### 3.8 New Land Use Developments

It shall be a policy of this Plan that any proposed new development or redevelopment which would introduce a land use, different from those uses described in this Plan in terms of scale, purpose or nature, and neither envisioned nor contemplated heretofore by Council, shall be subject to detailed land use, marketing and/or impact studies, and any other studies deemed necessary by Council. The intent of this policy is to place the onus on the developer to demonstrate that the introduction of a new use into the community would not be to the detriment of the municipality's economic, social, cultural, natural, and financial base; would not adversely impact on municipal services; and would not require additional municipal or community services.

In addition, Council will encourage the developer of such a use to consult with the public to ensure that the public is made familiar with the purpose and effect of the proposed development or redevelopment.

New Land Use Developments shall only be approved by an amendment to this Plan.

### Section 4 Development Policies

#### 4.7 Group Homes

##### 4.7.1 General Policies

1. For the purposes of this Plan, there shall be two types of group homes, as defined in Sections 4.7.2 and 4.7.3.
2. No person shall operate, or permit to operate, a group home without registering the group home with the Town Clerk in accordance with the Town of Smiths Falls Group Home Registration By-law.

3. In order to prevent an undue concentration of group homes in neighbourhoods, standards requiring a minimum distance separation between these facilities may be incorporated in the implementing Zoning By-law, but shall generally be limited to a minimum of 300 m between any two group homes, such distance to be measured from the closest points of the two properties at the property line.
4. Group homes existing on the date the Zoning By-law comes into effect but which do not comply with the requirements of the By-law will be allowed to continue their operations but will not be permitted to expand unless such expansion complies with the provisions of the Zoning By-law.
5. New group home operations shall be considered part of the Town of Smiths Falls Site Plan Control Area pursuant to Section 3.8. For the purpose of this Plan, a new group home operation means the establishment of a group home, or the replacement of one group home serving a specific needs group with another one serving a different needs group. The general objective of Council shall be to ensure that the site design is in keeping with the character of the surrounding area and that sufficient space is available to accommodate the needs of the residents. Parking, outside storage, vehicle access, pedestrian access and buffering shall be of primary concern when considering a site plan.
6. Notwithstanding the policies of Section 4.7.3, group homes may be located in semi-detached dwellings and duplex dwellings, provided that both units are occupied by one group home operation and that the total number of residents (excluding staff or receiving family) in both units does not exceed 10 residents.

#### **4.7.2 Type A Group Homes**

1. A Type A group home is defined as a single housekeeping unit in a residential dwelling, in which three to ten residents (excluding staff or receiving family) live together under responsible supervision consistent with the requirements of its residents, who by reason of their emotional, mental, social or physical condition require a group living arrangement. The home is licensed or approved under Provincial Statute and is in compliance with Municipal by-laws. This definition does not include residences for young offenders, adult offenders, boarding or lodging houses.
2. Type A group homes shall be considered to be a residential use which shall be permitted in all areas designated Residential and Core Area.
3. Type A group homes shall be permitted in single-detached dwellings, buildings converted to single-detached dwellings, and in both units of semi-detached dwellings and duplex dwellings, pursuant to Section 4.7.1.6.
4. Notwithstanding the generality of subsection 4.7.2.2, group homes for the mentally handicapped shall be restricted to a total of 36 residents. Once this number has been reached, no further such group homes shall be permitted until Council has completed an assessment of the impacts of such homes on the Town, particularly on the provision of municipal services, and has amended this Plan to permit further such group homes to be located within the Town.



## **Zoning By-law No. 6080-94 (Office Consolidation January 2004)**

### **Section 3 Definitions**

**GROUP HOME, TYPE A:** Means a single household unit in a dwelling, in which 3 to 10 residents (excluding staff or receiving family) live together under responsible supervision consistent with the requirements of its residents, and which is licensed or approved under Provincial Statute [*sic*] and is in compliance with Municipal by-laws. The definition does not include residences for young offenders, adult offenders or boarding/rooming dwelling houses.

### **Section 4 General Provisions**

#### **4.12 Group Homes**

Type A Group Homes shall be a permitted use in all zones in which a single detached dwelling is permitted as a principle use in accordance with the following provisions.

1. A Type A Group Home shall be located a minimum of 300 metres from another Type A Group Home, such distance to be measured from the closest point of the two properties at the property line.
2. Type A Group Homes shall not be permitted in accessory single detached dwelling houses not in accessory dwelling units.
3. Type A Group Homes may be permitted in single-detached dwellings and in both units of semi-detached and duplex dwellings, provided that both units are occupied by one group home operation and that the total number of residents (excluding staff or receiving family) in both units does not exceed ten.
4. Notwithstanding the foregoing, Type A Group Homes for the mentally handicapped shall be restricted to a maximum total of 36 residents in all such Homes.

## City of Toronto – Discriminatory Zoning

### Summary

- The City of Toronto is currently in the process of consolidating the by-laws of the pre-amalgamation cities.
- New proposed definitions exist for Group Homes and Residential Care Facilities.
- Distancing requirements exist in the zoning by-laws of all the pre-amalgamation cities.
- In the former City of Toronto, residential care facilities (basically a group home for 6-10 people) were a permitted use in all residential and mixed use zones. There was no defined use for similar facilities housing over ten people.
- In the former City of Toronto, parking requirements for alternative housing would not seem to present a barrier to group home provision
- The Community Engagement Protocol developed for the City's Affordable Housing Office does not present extra obligations for the development of group of group homes and residential care facilities.

### **City of Toronto - Zoning By-law Project**

<http://www.toronto.ca/zoning/index.htm>

The City of Toronto is currently consolidating the by-laws of the pre-amalgamation cities through its Zoning By-law Project. The consolidation process has proposed definitions but not yet addressed general provisions. Proposed definitions exist for Group Home and Residential Care Facility.

### **Proposed Definitions**

<http://www.toronto.ca/zoning/definitions.htm>

### **Residence – Group Home**

Considerations:

- Group homes are a use to be accommodated within the city.
- By defining group homes, specific zoning rules may be made which may include determining where they are permitted.

Proposed Definition:

means supervised living accommodation:

- (i) licensed or funded under Province of Ontario or Government of Canada legislation,
- (ii) for persons requiring a group living arrangement by reason of their emotional, mental, social or physical condition or legal status, and
- (iii) is for three to ten persons, exclusive of staff, living together as a single housekeeping unit.

## **Residence – Residential Care Home**

Considerations:

- This is a building with living space for more than 10 people with identified needs.
- The building operation is licensed or paid for in part by the provincial or federal government.
- Support services may also be provided for the residents of the building.
- This is like a Group Home but with more people.

Proposed definition:

means supervised living accommodation:

- (i) licensed or funded under Province of Ontario or Government of Canada legislation,
- (ii) for persons requiring semi-independent or group living arrangements by reason of their emotional, mental, social or physical condition or legal status, and
- (iii) is for more than ten persons, exclusive of staff, and
- (iv) it may include associated support services.

## **Pre-Amalgamation By-laws**

### **Toronto**

City of Toronto Zoning By-law #: 438-86

#### **Section 2 – Definitions and Interpretation – Amended December 2003**

##### **2(1).54**

##### ***“residential care facility”***

means a residence for the accommodation of six to ten persons, exclusive of staff, who by reason of their emotional, mental, social or physical condition or legal status require a group living arrangement for their well-being where:

- (i) the facility is supervised, or the members of the group are referred, by a hospital, court or government agency; or
- (ii) the facility is funded wholly or in part by a government, other than funding provided solely for capital purposes; or
- (iii) the facility is regulated or supervised under a general or special Act;

but does not include a use other wise classified or defined in this by-law

##### **2(2).2**

(k) For the purpose of

- i) section 4(4)
- ii) section 4(5), and
- iii) the definition of parking space as set out in section 2(1)

##### ***alternative housing***

means *dwelling units* or *dwelling rooms* which are operated by a government agency, a *charitable institution*, or a *non-profit institution* as *social housing* for the residential accommodation of persons who by reason of their financial, emotion, mental, social or physical condition or legal status have and require ongoing support services of a counseling or medical nature associated with their residential accommodation; and provided, that where any use is defined within this by-law so as to not include a use otherwise classified or defined, alternative housing shall be deemed to not be a use otherwise classified or defined

and the owner or occupant of *alternative housing* may provide the parking facilities prescribed by section 4(4) or by the section 4(5) for *alternative housing* in lieu of any other parking facilities prescribed by those sections for the *dwelling units* or *dwelling rooms* which are operated as *alternative housing*.

**Section 4 – Regulations Applying to All Use Districts**

**4(4) Parking Spaces: When Required, Number, Location and Type**

Purpose of Building or Structure	Minimum Required Parking Spaces
A building or structure or that portion thereof used as <i>alternative housing</i>	<p>One <i>parking space</i> for the first five <i>dwelling units</i> or <i>dwelling rooms</i>, or fraction thereof; plus</p> <p>One <i>parking space</i> for the first fifteen <i>dwelling units</i> or <i>dwelling rooms</i>, or fraction thereof, in excess of the first five; plus</p> <p>One <i>parking space</i> for each ten <i>dwelling units</i> or <i>dwelling rooms</i>, in excess of the first twenty;</p>

**Section 6 – Residential Districts (R1, R1S, R2, R3, R4, and R4A)**

**6(2).6** A *residential care facility* is a permitted use provided: (425-93)

- i) it occupies the whole of a fully detached building; and
- ii) it is at least 245 metres from another *residential care facility* or a *crisis care facility*. (159-89) (909-88)

**Section 8 – Mixed-Use Districts (CR, MCR and Q)**

**8(2).1** A *crisis care facility* and *residential care facility* is a permitted use provided:

- (i) The use occupies the whole of a fully detached building;
- (ii) The use is at least 245 metres from another *crisis care facility* or *residential care facility*. (425-93)
- (iii) In the case of a mixed-use building, a *crisis care facility* occupies the whole of the residential portion of the building.

**Etobicoke**

**Etobicoke Zoning Code**

The Etobicoke Zoning Code is broken down into Chapters for the City of Etobicoke, Township of Etobicoke, Village of Long Branch, and Town of Mimico, Town of New Toronto. Generally, group homes are a permitted use wherever fully detached residential dwellings, duplex and triplex dwellings are allowed. The Chapters for the City of Etobicoke are examined here as an example.

**Section 304-3**

**GROUP HOME:** A single supervised housekeeping unit in a dwelling used to accommodate three to 10 persons, exclusive of staff, who require a group living arrangement for their well-being due to their emotional, mental, social or physical condition or status and are referred by a hospital, court or government agency or recognized social services agency or health professional. The

operation of such facility shall be at least partly publicly funded or licensed or approved in accordance with provincial statute.

**Section 304-24.1**

Supplementary Regulations for group homes [Added 1986-0113 by By-Law No. 1986-12]

No building or structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained for the purpose of a group home, except in accordance with the following regulations, notwithstanding any other provision in this chapter to the contrary:

A. Dwelling type. A group home may locate in any fully detached residential dwelling, duplex and triplex dwellings and in any two (2) semi-detached dwellings which are joined to one another, provided that the building is occupied wholly by that use.

B. Distance between group homes. There shall be a minimum radius of eight hundred (800) metres measured from property line to property line between any two (2) group homes, as defined in Section 320-3B herein, and any form of residential care facility.

C. Registration. No owner or operator of a group home shall commence operation without having registered the proposed group home with the City of Etobicoke.

D. Parking. Notwithstanding the provisions of Section 320-18B, at least two (2) one site automobile parking spaces shall be provided. These spaces may be tandem and one (1) may be in a garage.

E. Minimum floor space. A minimum floor space of twenty-three (23) square metres (exclusive of the basement area) shall be provided for each resident, exclusive of staff.

F. Minimum lot area. There shall be a minimum lot area of four hundred sixty (460) square metres for any group home.

G. Minimum rear yard. There shall be a minimum rear yard of fourteen (14) square metres for each group home resident, but not less than one hundred sixteen (116) square metres in total.

H. General zoning requirement. The building shall comply with the requirements for residential development within the zoning category in which the group home is located.

I. General health requirement. A group home shall be constructed and used so that it complies with the laws affecting the health and the inhabitants and any rule, regulation, direction or order of the Local Board of Health and /or any direction or order of the Local Medical Officer of Health.

J. All licensed group homes in existence prior to passage of this section shall continue to be deemed permitted uses.

K. Correctional group homes shall only be located on a public road designated as an arterial road by the Municipality of Metropolitan Toronto

## **East York**

### **By-law #: 1916**

#### **Section: 2.50.a**

GROUP HOME: "Group Home" shall mean the use of a dwelling unit for a residential care facility accommodating persons who by reason of their emotional, mental, social or physical condition or legal status require specialized residential care in a group living arrangement in a residential neighbourhood.

### **By-law #: 6752**

#### **Part II, Section 4.15.A**

GROUP HOME: Means the use of a dwelling unit for a residential care facility accommodating persons who by reason of their emotional, mental, social or physical condition or legal status require specialized residential care in a group living arrangement in a residential neighbourhood.

#### **Part III, Section 5.23**

A Group Home is a permitted use in a one family detached dwelling in all residential R Zones, provided the group home:

- a) accommodates three to ten persons exclusive of staff;
- b) accommodates only persons referred to it by a hospital, court, government agency or recognized social service agency or health professional;
- c) provides a minimum gross floor area of 23 square metres for each resident, exclusive of staff;
- d) complies fully with the restrictions, requirements and regulations for residential uses and structures within the relevant zoning category;
- e) provides and maintains at least one (1) off-street parking space on site;
- f) is located a minimum of 457 metres distant from any other Group Home, and any other residential care facility set out in Schedule "A" annexed hereto; such distance to be measured in a straight line from nearest property line to nearest property line;
- g) complies fully with all relevant by-laws of The Corporation of the Borough of East York;
- h) is registered annually with The Corporation of the Borough of East York
- i) is funded wholly or in part by any government, other than funding provided for capital purposes or such facility is licensed or approved under Provincial statute.

*Notwithstanding the foregoing, the location of Correctional Group Homes shall be restricted to lots fronting arterial roads under the jurisdiction of the Municipality of Metropolitan Toronto as indicated on Schedule "B" annexed hereto.*

## **North York**

### **By-law #: 7625**

#### **Section: 2.42.3**

GROUP HOME: means a building in which not less than three, nor more than ten persons requiring residential, sheltered, specialized or group care reside, and which is licensed, approved or supervised by the Province of Ontario under any general or special Act. Without limiting the generality of the foregoing, Group Home includes a home for elderly persons, a home for mentally retarded or physically disabled persons, and a home for persons who are convalescing after hospital treatment and are under medical supervision, but does not include the following:

- (a) a group foster home;
- (b) an institution maintained and operated primarily for persons;
  - (i) who have been placed on probation under The Probation Act, the Criminal Code (Canada) or The Juvenile Delinquents Act (Canada); or
  - (ii) who have been released on parole under the Ministry of Correctional Services Act or

- the Parole Act (Canada); or
- (iii) who are admitted to the institution for correctional purposes;
- (c) an institution for the temporary care of transient or homeless persons;
- (d) an institution maintained and operated primarily for the treatment and rehabilitation of persons who are addicted to substances other than alcohol;
- (e) a Receiving Centre.  
(renumbered by By-law 32696)"

**By-law #: 7625**

**Section: 2.42.2**

GROUP FOSTER HOME: means a building in which not less than three, nor more than six foster children, under the age of twenty-one years, requiring sheltered, specialized, or group care are lodged, boarded or cared for, and which is maintained and operated by or under the supervision of a corporation approved by the Lieutenant Governor in Council under either The Children's Institutions Act 1962-63, or The Child Welfare Act, 1965, but does not include a Receiving Centre. (renumbered by By-law 32696)"

**Section 6 – General Provisions for All Zones**

**6.i Group Homes**

Group Homes shall be permitted in all residential One-Family Detached Dwelling zones in accordance with the following provisions:

- (i) The number of persons residing in the group home shall not exceed ten;
- (ii) The building shall comply with the requirements for one-family detached dwellings in the zone and district in which the Group Home is located;
- (iii) Not more than two persons shall occupy one bedroom;
- (iv) There shall be no other group home in the same neighbourhood; and
- (v) No other group home shall be located within 300 m of any other group home.

**York**

**By-law #: 1-83**

**Section 2(50)**

FOSTER HOME: Means a building in which not more than six (6) foster children reside primarily for the purpose of receiving residential care and that is supervised or operated by a Children's Aid Society under The Child Welfare Act, 1978, and that is licensed and operated in accordance with The Children's Residential Services Act, 1978.

**Section 2(57)**

GROUP HOME: Means a supervised single housekeeping unit in a residential dwelling for the accommodation of three (3) to ten (10) persons, exclusive of staff, who by reason of their emotional, social or physical condition or legal status, require a group living arrangement for their well being; and

- (a) the members of the group are referred by a hospital, court or government agency or recognized social services agency or health professional; and
- (b) such facility is funded wholly or in part by any government, other than funding provided solely for capital purposes, or such facility is licensed or approved under Provincial statute.

## **Section 7 – R1 Residential Districts**

### **7(2) Permissible Uses**

No person shall within any R1 District use any land or erect or use any building or structure except for the following purposes:

#### **7(2).l**

a foster home occupying the whole of a one-family dwelling house, provided it is located at least 800 metres radius measured from property line to property line from any other foster home.

#### **7(2).m**

a group home or correctional group home occupying the whole of a one-family dwelling house, provide it is located at least 800 metres radius measured from property line to property line from any other group home or correctional group home.

[go to other zones to get similar restrictions]

## **Scarborough**

**By-law #: 10076, 12797, 8786, 9350, 9174, 9396, 12077, 8978, 9508, 10048, 9676, 10827, 9089, 9276, 12466, 14402, 12181, 17677, 11883, 9366, 9812, 15907, 10010, 16762, 10717, 12360, 25278, 9511, 10327, 9510**

### **Section: V,(e),(f), II**

GROUP HOME: means a supervised single housekeeping unit in a dwelling for the accommodation of 3 to 10 persons, exclusive of staff who, by reason of their emotional, mental, social or physical condition, or legal status, require a group living arrangement for their well-being, and where:

- The members of the group are referred by a hospital, court or government agency, or recognized social services agency or health professional; and
- Such facility is funded wholly or in part by any government, other than funding provided for capital purposes only, or such a facility is licensed or approved under Provincial statute."

By-law #: 24982

Section: CLAUSE IV

GROUP HOME: shall mean a supervised single housekeeping unit in a dwelling for the accommodation of 3 to 10 persons, exclusive of staff, who by reason of their emotional, mental, social or physical condition, or legal status, require a group living arrangement for their well-being, and where:

- The members of the group are referred by a hospital, court or government agency, or recognized social services agency or health professional; and
- Such facility is funded wholly or in part by any government, other than funding provided for capital purposes only, or such a facility is licensed or approved under Provincial statute;"

**By-law #: 10076, 12797, 8786, 9350, 9174, 9396, 12077, 8978, 9508, 10048, 9676, 10827, 9089, 9276, 12466, 14402, 12181, 17677, 11883, 9366, 9812, 15907, 10010, 16762, 10717, 12360, 9511, 10327, 9510**

### **Section: V,(e),(f), II**

RESIDENTIAL CARE FACILITY: means a supervised facility for the accommodation of more than 10 persons, exclusive of staff who, by reason of their emotional, mental, social or physical condition, or legal status, require a group living arrangement for their well-being, and where:

- The members of the group are referred by a hospital, court or government agency, or



recognized social services agency or health professional; and  
- Such facility is funded wholly or in part by any government, other than funding provided for capital purposes only, or such a facility is licensed or approved under Provincial statute.  
Such facility is not a hospital, nursing home, retirement home or convalescent home."

**By-law #: 24982**

**Section: CLAUSE IV**

RESIDENTIAL CARE FACILITY: shall mean a supervised facility for the accommodation of more than 10 persons, exclusive of staff who, by reason of their emotional, mental, social or physical condition, or legal status, require a group living arrangement for the well-being, and where:

- The members of the group are referred by a hospital, court or government agency, or recognized social services agency or health professional; and  
- Such facility is funded wholly or in part by any government, other than funding provided for capital purposes only, or such a facility is licensed or approved under Provincial statute.  
Such facility is not a hospital, nursing home, retirement home or convalescent home."

## Further Notes

Based on conversations with Simon Liston and Joy Connelly, the Community Engagement Protocol developed by the City of Toronto's Affordable Housing Office has not yet been officially adopted. It is intended for internal policy use and will not be made public. According to Connelly, there is nothing in the document that could be considered discriminatory. The overall approach was that there should be no increase in obligations beyond normal planning policy.

According to Connelly, although there are no more official requirements to have public meetings for group homes than for any other kind of development, often local councilors put pressure on providers to have public meetings and undergo much greater scrutiny than would normally be required. Group home providers are vulnerable from a financial perspective because these same municipal politicians can affect funding decisions. An example is the Good Sheppard supportive housing at 793 Gerrard St. East.

## **APPENDIX B:**

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## **Contacts**

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