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**Date** January 16, 2020

**Report No.** 2020-29

**To** Chair and Members  
Planning Advisory Committee

**From** Joe Muto, MCIP, RPP  
Manager of Development Planning

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## 1.0 Type of Report

Consent Item   
Item For Consideration

**2.0 Topic** PZ-13-19 – Technical Amendments to City of Brantford Zoning By-law 160-90 and County of Brant Zoning By-law 61-16

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## 3.0 Recommendation

THAT the Planning Advisory Committee RECEIVE this Report as information and provide feedback to be considered for the Recommendation Report to the Committee of the Whole – Community Development.

## 4.0 Purpose

Application PZ-13-19 involves City Initiated Amendments to Zoning By-law's No. 160-90 and 61-16 to update various zoning regulations. These modifications are generally housekeeping in nature and are collected by City Staff from the ongoing administration of the By-laws and related planning applications. The proposed zoning amendments to be considered as part of this review are mostly technical in nature and will ensure that the current zoning provisions are consistent with Provincial policy and address the changing nature of the community and development within the City. The proposed amendments are outlined in Section 7.0 of this Report.

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## 5.0 Background

Through the on-going administration of the City of Brantford Zoning By-law No. 160-90, technical errors and deficiencies have been discovered. Proposed modifications and clarifications are collected by City Staff on a regular basis. A housekeeping amendment is prepared to correct these matters and update the By-law. For this update staff have also completed a review of County of Brant Zoning By-law 61-16 in relation to Accessory Residential Units as it relates to the Provincial updates outlined in Bill 108 and now in effect.

This application has been initiated by the City to provide the following updates:

- Housekeeping Items – to correct typographical errors, update terms to reflect current Provincial policy and reorganize definitions for ease of reference;
- Remove required separation distances between Group Homes in the Zoning By-law;
- Add “Recording Studio” as a permitted use under the “Artist’s Studio” definition;
- Remove “Laundromat” as a separate definition, as it is permitted under the Personal Service Shop definition;
- Adding “Emergency Shelter” as a permitted use, and allow them in all City-owned and/or operated buildings, as well as in Institutional and Commercial zones, with the exception of Flood zones; and,
- Amend the ‘Second Unit Dwelling’ section to allow for one additional unit for a total of three, and to allow tandem parking for accessory dwelling units (this also applies to County of Brant Zoning By-law 61-16).

## 6.0 Input From Other Sources

The proposed changes have been circulated to internal departments, external agencies and First Nations. The proposed changes will also be provided to the general public. The recommended amendments will take into consideration the feedback and responses provided through the review process.

## 7.0 Analysis

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The City of Brantford Planning Department regularly reviews the zoning by-laws and recommends updates and revisions through a technical amendment on an as-needed basis to Council. The last technical amendment was presented to Council in June 2019.

The following is a summary of the proposed text amendments to Zoning By-law 160-90 that Staff is recommending:

## 7.1 Housekeeping Items

As previously stated in Section 2.0 of this Report, technical errors and deficiencies have been discovered through the on-going administration of the City of Brantford's Zoning By-law No. 160-90. More specifically, these housekeeping amendments are as follows:

**Section 6.18.3:** There is an error in this Section which deals with Parking Location. There is reference to "*required*" in the opening paragraph that is repetitive and therefore redundant. Staff propose to delete "*required*" from the introductory paragraph of Section 6.18.3.

**Section 6.3.1.4:** This Section states that "*no accessory building or structure shall be used for a habitable room...*". This is a conflicting clause of the by-law, as the Second Unit Dwelling section (Section 6.32) specifically allows second unit dwellings in an accessory structure. Staff propose to amend Section 6.3.1.4 by adding "*excluding accessory dwelling units*". The clause would then read as follows: "*No accessory building or structure shall be used for a habitable room, excluding accessory dwelling units, or for the purposes of a home occupation, unless otherwise permitted by this By-law*".

**Recording Studios:** Under the current zoning by-law, Recording Studios are not a permitted use in any Zone in the City. It is proposed that Section 2.1.10.1 be amended by adding "*recording studio*" as a permitted use within the definition of "*Artist's Studio*".

**Section 10.1.24:** This Section lists "*Laundromat*" as a use in the "Industrial Commercial (M1) Zone". However, laundromats are identified as a permitted use within the "*Personal Service Store*" definition, which is a permitted use in the M1 Zone. Accordingly, the laundromat definition is redundant and Staff recommend that it be deleted. The definition of "*Laundromat*" in Section 2.12.2 of the Zoning By-law 160-90 will also be

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deleted as “*Laundromat*” is covered in the “*Personal Service Store*” definition.

## 7.2 Emergency Shelters

The Zoning By-law does not have a clear definition for any emergency shelter. To provide clarity, a definition of “*emergency shelters*” is being proposed, and subsequently added as a permitted use in all City owned or operated properties, and in all Institutional and Commercial Zones, excluding Flood Zones. The following definition is proposed:

*“Emergency Shelter Shall mean a facility used for persons in a crisis situation requiring shelter, protection, assistance and/or counselling or support which is intended to be short term accommodation of a transient nature. An Emergency Shelter may include an “out of the cold” program but shall not include a crisis residence, a group homes, a group correctional residence, a group residence or a mini group home, or any other residential facility which is licensed, approved or regulated under any general or special Act.”*

Section 6.28.12 “Flood F Prefix” will be amended to add “*Emergency Shelters*” as a use prohibited where a flood prefix is associated with a property. Section 6.1.1 “Uses permitted in all Zones” will be amended to allow “*Emergency Shelters*” in all zones where they are within a City owned or operated building. Finally, “*Emergency Shelters*” will be added as a permitted use in all institutional and commercial zones.

By establishing “*Emergency Shelter*” as a use in the Zoning By-law, it allows for these temporary facilities to be established in a timely manner, which is crucial when dealing with emergencies.

## 7.3 Accessory Residential Units

Bill 108, which received Royal Assent June 6, 2019, introduced changes to the *Planning Act* in regards to Second Unit Dwellings, now known as ‘Additional Residential Units’ within the *Planning Act*. The Act now states that municipalities shall have policies pertaining to Additional Residential Units, specifically, allowing two Additional Residential Units, whereas the Act previously spoke to one additional unit; and allowing tandem parking for these units. For the purposes of the Zoning By-law, these units will be defined as “*Accessory Dwelling Units*”. By defining the units as accessory it is clear that the additional units are secondary in nature to the main

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dwelling. The City of Brantford has kept up-to-date with *Planning Act* changes. City Council approved changes to the Official Plan and Zoning By-law 160-90 in 2012 (Report No. CD2012-206) to address Bill 140, which introduced Second Dwelling Units into the *Planning Act*.

No amendments to the Official Plan are required with the Bill 108 updates, as all the provisions within the Official Plan are still applicable. The City of Brantford and the County of Brant Zoning By-laws currently permit one Second Unit Dwelling in most residential zones, and prohibits the use of tandem parking for these units. The relevant sections of the by-laws need to be updated to be consistent with the Regulations of the *Planning Act*. The following recommendations are proposed for each By-law:

City of Brantford Zoning By-law 160-90

- Rename and renumber alphabetically Section 2.4.15 as “Dwelling, Accessory Unit”, and remove reference to “second”;
- Rename Section 6.32 “Accessory Dwelling Units”;
- All references to “second unit dwellings” in the By-law will be changed to “accessory dwelling units”;
- Section 6.32.2 shall be amended to allow three (3) accessory dwelling units per property, whereas two (2) were previously permitted; and,
- Section 6.18.3.10, which deals with parking location, shall be updated to read: “*Where a minimum of two parking spaces are required, tandem parking spaces shall be prohibited, with the exception of bed and breakfast establishments, home occupations and accessory dwelling units.*”

The remainder of the regulations regarding Second Dwelling Units will remain, for example, prohibiting Accessory Dwelling Units above the first floor of an accessory building. This is consistent with Report No. CD2017-158 (November 7, 2017) which introduced this provision into Zoning By-law 160-90 as a result of concerns heard from Council and Residents.

County of Brant Zoning By-law 61-16

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- Rename Section 4.5 “Accessory Dwelling Units”;
  - All reference to “Second Unit” in the By-law will be changed to “Accessory Dwelling Units”;
  - 4.5a) shall be amended to allow “two (2) units”, whereas “one (1) unit” was previously permitted; and,
  - 4.5g) shall be amended to read as follows: *“Parking for accessory dwelling units must be provided on the same lot as the unit”*.

## 7.4 Group Homes

The City of Brantford currently has separation distances for Group Homes within the Zoning By-law. Zoning By-law 160-90 defines a variety of types of Group Homes, all of which have separation distances and are required to be registered with the City. Provincially licensed and funded group homes are designed for individuals who need supervision, support and encouragement in order to develop or regain a measure of self-sufficiency. Group homes are often operated or owned by a private operator or service agency, which provide supervision and support services for the residents. The Province of Ontario imposes specific requirements on the operators and agencies of group homes, which require either licensing or service agreements from specific Ministries. During the 1980s and 1990s, many municipalities enacted By-laws to restrict the location and concentration of specific forms of housing, such as group homes. Municipalities justified the use of separation distances by describing design considerations such as the need to separate incompatible uses and the benefits of community integration for persons with disabilities. However, there have been a variety of decisions more recently at the OMB/LPAT and within the Provincial court system that have determined that separation distances is “people zoning” (a term used in the OMB decisions) and goes against the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms. These cases include:

- Kitchener (City) Official Plan Amendment No. 58 (2010)
  - The Official Plan Amendment aimed to ban residential care, group homes, and rooming houses.

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- The OMB struck down the amendment citing that the City was “people-zoning” and had not considered implications to the Human Rights Code
  - Lynwood Charlton Centre, City of Hamilton (2012)
    - The OMB allows a group home to relocate despite the City’s minimum separation distance (MSD) requirement.
  - ‘Dream Team Settlements’ at the Human Rights Tribunal (2011-2014)
    - The Dream Team (a group of mental health advocates) launched a challenge against group home separation distances in four cities/towns.
    - All four cases were settled, which resulted in each municipality removing or modifying the minimum distance requirements in their zoning by-laws.

The City of Brantford currently has six defined types of homes/residences that have separation distances associated with them:

- Group correctional home;
- Mini-group home;
- Group home;
- Group residence;
- Crisis residence; and,
- Group Correctional Residence.

The Zoning By-law sets out specific separation distances, as identified on **Appendix A**. To date, the City of Brantford has not been challenged on the separation distances within the By-law, however, due to the aforementioned cases, Planning Staff are recommending removal of the separation distances between all defined types of group homes under the zoning by-law by deleting the Schedule which identifies the separation distances, and deleting the Section (6.15.2) which refers to the separation distances. By eliminating the separation distances, the City is consistent

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with recent OMB decisions and case law, and therefore does not go against the Ontario Human Rights Code and Canadian Charter of Rights and Freedoms. All six types of group homes will continue to be permitted and registered with the City.

## 8.0 Financial Impact

There are no direct Municipal financial implications related to the technical amendments addressed by this application.

## 9.0 Conclusion

The recommended changes identified in this Report arose out of ongoing monitoring of Zoning By-law 160-90. Further review of the proposed amendments will determine if they are consistent with the Provincial Policy Statement, A Place to Grow legislation and the City of Brantford Official Plan. Any feedback from the Planning Advisory will be included in a future Recommendation Report to the Committee of the Whole – Community Development.



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Development Planner



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**APPENDIX A**  
**Separation Distances between Group Homes**

|   |                        |                   |                        |                         |                                |                                     |
|---|------------------------|-------------------|------------------------|-------------------------|--------------------------------|-------------------------------------|
| City of Brantford   |                        |                   |                        | SCHEDULE 'I'            |                                |                                     |
| <b>TABLE OF MINIMUM SEPARATION DISTANCES<br/>         BETWEEN<br/>         VARIOUS TYPES OF GROUP HOME AND RESIDENCE FACILITIES</b> |                        |                   |                        |                         |                                |                                     |
| THIS SCHEDULE HAS BEEN CONSOLIDATED BY BYLAWS:<br>34-93   |                        |                   |                        |                         |                                |                                     |
|   |                        |                   |                        |                         |                                |                                     |
| <b>TYPE OF FACILITY</b>   | <b>MINI-GROUP HOME</b> | <b>GROUP HOME</b> | <b>GROUP RESIDENCE</b> | <b>CRISIS RESIDENCE</b> | <b>GROUP CORRECTIONAL HOME</b> | <b>GROUP CORRECTIONAL RESIDENCE</b> |
| <b>MINI-GROUP HOME</b>  | 180 metres             | 180 metres        | 240 metres             | 240 metres              | 240 metres                     | 240 metres                          |
| <b>GROUP HOME</b>   | 180 metres             | 180 metres        | 240 metres             | 240 metres              | 240 metres                     | 240 metres                          |
| <b>GROUP RESIDENCE</b>  | 240 metres             | 240 metres        | 240 metres             | 240 metres              | 240 metres                     | 240 metres                          |
| <b>CRISIS RESIDENCE</b>   | 240 metres             | 240 metres        | 240 metres             | 240 metres              | 240 metres                     | 240 metres                          |
| <b>GROUP CORRECTIONAL HOME</b>  | 240 metres             | 240 metres        | 240 metres             | 240 metres              | 240 metres                     | 500 metres                          |
| <b>GROUP CORRECTIONAL RESIDENCE</b>   | 240 metres             | 240 metres        | 240 metres             | 240 metres              | 500 metres                     | 500 metres                          |