SUBJECT: Public Notice for Establishment of Group Homes (PED06383) (City Wide) – Referred from Planning and Economic Development Committee of June 20, 2006

RECOMMENDATION:

(a) That Building and Licensing staff notify the respective Ward Councillor by email when they are made aware of an expressed interest in a group home in the City.

(b) That the Public Notice for Establishment of Group Homes item referred from Planning and Economic Development Committee on June 20, 2006 be identified as completed and removed from the Planning and Economic Development Committee Outstanding Business List.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

This report provides a review of a proposal for notification respecting the introduction of group homes in neighbourhoods in the City of Hamilton.

BACKGROUND:

On June 20, 2006, the Planning and Economic Development Committee directed staff to investigate and report back respecting the process used in the City of Burlington for the establishment of group homes or other care facilities, and to report back to Committee with a recommendation for a separate by-law, if considered appropriate.
Staff provided a verbal update respecting the registration of Group Homes in the City of Burlington, which includes the registration of group homes and a public information meeting prior to the occupancy of the group home.

Following is the City of Burlington registration process for operators/organizations proposing to establish a group home in the City of Burlington:

- A completed application must be submitted by the operator to the Clerk’s Department with written confirmation from the Planning Department that the site conforms to the City of Burlington Zoning By-law; written clearance from the Fire Department; written notification from the approving ministry or government agency that has issued a licence to, granted approval for funding of, or entered into an agreement with the group home; and the relevant registration fee is to be paid, which includes $75 for a zoning verification letter and the group home registration fee of $200. The minimum radial distance for group homes in the City of Burlington is 400 metres.

- The operator of a group home must host a public information meeting prior to occupancy of the group home – the Clerk’s Department assists with the notices. Operators are encouraged to host the meeting in the group home as this gives the neighbours an opportunity to see the home.
  
  o Prior to the meeting the operator is required to give notice to residents within 120 metres of the group home property. The notices are distributed by the City of Burlington using the organization’s/operator’s letterhead.

- Once the aforementioned requirements have been met, the City of Burlington will register the group home and the operator receives a letter confirming the registration and the home is noted in the City’s database.

- Each year following the registration of the group home, the operator is required to renew the registration. If the nature of the group home has changed during the year since registration or the last renewal, the Registrar at the City of Burlington is to be advised by the operator.

It appears that the City of Burlington is the only municipality to require public meetings as part of their group home registration process. The Clerk’s Department administers the registration process including attending at the public meetings, and they report that their overall experience has been positive.

The City of Cambridge considered a proposal that would have required operators of group homes to hold public information meetings to announce the arrival of the homes within city neighbourhoods. The City of Cambridge Council rejected the proposal as it met with a great deal of opposition from a broad range of sources who contended that the proposal may be both discriminatory and potentially divisive.
As a result of the concerns expressed respecting the City of Cambridge proposal, staff consulted with Legal Services regarding the adoption of a public meeting requirement for group homes locating within the City of Hamilton and possible Ontario Human Rights Code violations. The opinion provided by Legal Services is outlined in the Relevant Consultation section of this report, which advises that there are implications that the requirement of a required public notification process could violate the Ontario Human Rights Code.

**ANALYSIS/RATIONALE:**

Currently, Public Health Services maintains a list of group homes located in the City as the department is mandated by the Ministry of Health and Long Term Care to inspect group homes. A registry undertaken by Standards and Licensing would be duplicating this process.

In order to address Councillors’ concerns that they be notified if a new group home is introduced into a neighbourhood in the City, staff recommend that Building and Licensing staff notify the respective Ward Councillor by email when they are made aware of an expressed interest in locating a group home in the City. The Ward Councillor may then choose to set up a community meeting with area residents and the group home operators with the appropriate staff in attendance to address inquiries.

The intent of a community meeting and/or open house would be to inform the residents, to acquaint them regarding the establishment of the group home in their neighbourhood before it is fully implemented, to provide details in terms of the number of people to be resided in the home, to help neighbours understand the need of a group home in the community, and to answer questions they may have regarding the proposal. At the same time, the meeting would give the group home operator the opportunity to be aware of and address concerns of the community.

A community meeting would not deal with the approval of a group home in an area. This occurs through the required public process pursuant to the Planning Act if the proposed location of the group home was not a permitted use as defined by the City of Hamilton Zoning By-law.

Past experiences indicate that, although objections to group homes may be voiced prior to their establishment, once group homes are in operation, they are accepted into the community and there are few complaints. Further, Provincial standards and guidelines that apply to the permitted group homes would ensure that they are operated in a satisfactory manner.

**ALTERNATIVES FOR CONSIDERATION:**

Staff recommend Building and Licensing staff notify the respective Ward Councillor by email when they are made aware of an expressed interest in establishing a group home in the City. This will allow the Councillor to be apprised of the introduction of a group home in a neighbourhood prior to the establishment of the home. This notification will
also provide an opportunity for the Councillor to consult with staff respecting any concerns, and to organize a community meeting and/or open house for area residents.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**POLICIES AFFECTING PROPOSAL:**

N/A

**RELEVANT CONSULTATION:**

Legal Services

To require by by-law that group homes hold public meetings, at least insofar as such a requirement would affect disabled individuals, could be found to violate the *Ontario Human Rights Code*. The Code guarantees every person the right to equal treatment with respect to the occupancy or accommodation without discrimination because of disability (amongst other enumerated grounds including the receipt of public assistance). The Ontario Human Rights Commission's Policies and Guidelines include the following warning: "given the clear historical disadvantage experienced by person with disabilities, it is likely that most differential treatment because of disability will result in a finding of prima facie discrimination. This would include not only unfair treatment because of disability, but also neutral factors or requirements that have an adverse impact on persons with disabilities." A Charter challenge, by any disadvantaged individual, under s. 15 which guarantees the right to equal protection and equal benefit of the law also would be possible.

Group homes are defined as a use and are regulated under the City's zoning by-laws. As such, group homes are subject to the public processes, including public meetings, mandated by the Planning Act, either when a zoning by-law is first passed or when a group home seeks an exception to an existing zoning by-law. Other than the Planning Act, there is no specific statutory authority for public meetings in regard to the establishment of group homes.

**CITY STRATEGIC COMMITMENT:**

By evaluating the "**Triple Bottom Line**", (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

**Community Well-Being is enhanced.** ☑ Yes ☐ No

Community meetings undertaken with the participation of the neighbours, group home operators and staff provides participation in their community life.

**Environmental Well-Being is enhanced.** ☐ Yes ☑ No
Economic Well-Being is enhanced. □ Yes ☑ No

Does the option you are recommending create value across all three bottom lines? □ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? □ Yes ☑ No

:JD