

### Congregate Sleeping Area Regulations Analysis

Using the research discussed in Attachment 3, Jurisdiction Scan of Best Practices for Sleeping Area Considerations and the stakeholder feedback received in Attachment 5, What We Heard Report Congregate Sleeping Area Analysis, Administration considered different approaches to regulating congregate sleeping areas in shelters and reviewed the different trade-offs each approach offered.

Administration considered how these different avenues would impact the implementation of the regulations and how these could affect shelter operators, such as:

- The ability for shelters to provide enough bed space for every person who needs it.
- Regulatory impacts on existing shelter operations.
- Ability for shelter operators to accommodate the need for extra bed capacity in case of emergencies.
- Unintended consequences to regulating congregate sleeping areas.
- The ability for Administration to ensure compliance of the regulations and enforce when needed.

### No New Regulations in the Zoning Bylaw for Congregate Sleeping Areas in Year-Round Shelters and Seasonal Shelters

One approach would be to not introduce any regulations for congregate sleeping areas in shelters in the Zoning Bylaw. Instead, design and operation of shelter space would rely on existing policies, practices and regulations, such as the City's Emergency Shelter Best Practices Guide, Alberta Health Service requirements, Fire code occupancy regulations and funding agreements between the shelter operators and the funding agency (i.e. Government of Alberta, Homeward Trust, City of Edmonton, etc.). There are different benefits and risks to this approach:

<b>Benefits</b>
<ul style="list-style-type: none"><li>• All existing shelter operations maintain their current status under the Zoning Bylaw.</li><li>• Provides the most flexibility for shelter providers to adjust accommodation needs if extra capacity is needed permanently or for emergency situations.</li><li>• No changes required to current development review and compliance processes.</li><li>• Would not create inconsistent occupancy limits with the Fire Code.</li></ul>

Risks
<ul style="list-style-type: none"><li>• It does not address Council’s concerns about large congregate sleeping areas in shelters.</li><li>• There would be no municipal control to regulate congregate sleeping area size in shelters.</li><li>• Even though it’s not preferred, there may be future shelter operations that provide large congregate sleeping areas, potentially creating real or perceived impacts to the surrounding area.</li></ul>

This is preferred by most shelter operators and the Government of Alberta. Operators believed that the unpredictability of different scenarios such as disaster relief, weather emergencies, etc. required their ability to accommodate people quickly to be unhindered as much as possible.

Stakeholders also raised the possibility that introducing limits may create challenges to building selection, which could slow the increase of shelter spaces and perpetuate the use of encampments. Some stakeholders believe that these regulations are not required because they generally do not prefer to operate large shelters, especially from shelter operations that care for specific vulnerable populations such as youth and women.

However, one shelter operator acknowledged that introducing additional regulations could nudge shelter operators to operate more smaller shelter sites in the future. By not regulating through the Zoning Bylaw, it leaves open the possibility for a future shelter site to accommodate a large number of people even if shelter operators currently are not interested in expanding this type of service delivery.

**Regulation through maximum floor area**

The Zoning Bylaw could control the intensity of a congregate sleeping area by limiting the size of a congregate sleeping area. This could be established by calculating the minimum area per person that should be provided for a person staying in a congregate sleeping area by the maximum number of people that should be permitted within a congregate sleeping area. This minimum area can be established using some of the research found in Attachment 3.

For example, a minimum area of 10.98 sq. m provides space for a bed and a 2 m separation between each bed as recommended by the City’s Emergency Shelter Best Practices Guide. The Zoning Bylaw could use this estimate to establish a floor

area limit for a congregate sleeping area of 1372.5 sq. m, which would allow up to 125 people to stay in this space:

$$1372.5 \text{ m}^2 / 10.98 \text{ m}^2 = 125 \text{ people}$$

There are different benefits and risks to this approach:

<p><b>Benefits</b></p> <ul style="list-style-type: none"><li>• The size of the congregate sleeping area would be limited to prevent overly large sleeping areas in shelters that may not feel safe by users.</li><li>• Provides the City with some means to regulate a part of the scale and intensity of a shelter development.</li><li>• Reduces the likelihood of a shelter accommodating a large number of people within a single congregate space.</li><li>• Provides a simple, numerical standard to ensure compliance and enforcement by City Staff.</li></ul>
<p><b>Risks</b></p> <ul style="list-style-type: none"><li>• Some existing shelters would become legal non-conforming under the Zoning Bylaw. A future renovation or expansion to the building would require a variance to bring the site into conformity.</li><li>• Operators would be required to comply with this regulation in conjunction with limits established by the Fire Code, which may result in inconsistent occupancy limits between the two regulations. Fire Code limits are determined by other factors or requirements outside of the Zoning Bylaw, such as net floor space, exit capacity, etc.</li><li>• Less precise control over how occupancy is limited because applying different spacing between beds could result in more people being accommodated within the same space, which would exceed the intended capacity limit.</li><li>• Does not provide shelter providers flexibility to expand floor area for congregate sleeping when needed. A variance would be required to add space.</li><li>• May limit the type of buildings shelter providers can find and use for its operation.</li></ul>

Many of the stakeholders did not prefer this approach and felt this would be too restrictive. Introducing regulations could limit the number of spaces provided at these locations. Alternatively, additional clients beyond what the regulation

intended could be accommodated if operators provided different spacing between beds than what was expected. To address this, further regulations would be needed, potentially creating additional barriers.

The need for additional buildings to provide shelter spaces may require additional resources and funding to operate these buildings. Without this additional resource available to operate the shelter spaces, this may lead to continued use of encampments.

**Regulation through an occupancy limit**

The Zoning Bylaw could also control the intensity of a congregate sleeping area by limiting the number of people allowed to sleep within it. For example, the Zoning Bylaw could limit the number of people permitted to sleep in a congregate sleeping area to 125. There are different benefits and risks to this approach:

<b>Benefits</b>
<ul style="list-style-type: none"><li>• Provides the City with some means to regulate a part of the scale of a shelter operation.</li><li>• Shelter providers are not constrained in the amount of space the congregate sleeping area can provide per person.</li><li>• Additional floor area could be added to provide more spacing between beds without the need for a variance (if the same number of people who are sleeping in these areas are maintained).</li><li>• Reduces the likelihood of a shelter accommodating a large number of people within a single congregate sleeping area.</li><li>• Provides a simple, numerical standard for compliance review and enforcement by City Staff.</li></ul>
<b>Risks</b>
<ul style="list-style-type: none"><li>• Some existing shelters would become legal non-conforming under the Zoning Bylaw. A future renovation or expansion to the building would require a variance to bring the site into conformity.</li><li>• Operators would be required to comply with this regulation in conjunction with limits established by the Fire Code, which may result in inconsistent occupancy limits between the two regulations. Fire Code limits are determined by other factors or requirements outside of the Zoning Bylaw, such as net floor space, exit capacity, etc.</li><li>• Does not provide shelter providers flexibility to expand capacity when needed. A variance would be required to add capacity.</li></ul>

- Does not establish a minimum area size per person within the congregate sleeping area, which may not provide a safe space for each individual. Other standards or best practices would be needed to provide this guidance.
- May limit the type of buildings shelter providers can find and use for its operation.
- May be difficult to enforce the number of occupants as people come and go. When a complaint is made, the occupancy may differ from when inspection occurs. Physical characteristics within a congregate sleeping area would likely be used, such as the number of beds, as a proxy measure.

Many stakeholders preferred this approach of regulating the intensity of use of a congregate sleeping area over regulating by floor area, if zoning regulations were proposed. They felt that a limit based on the number of people provided slightly more flexibility in adapting the available space to the limit established through the Zoning Bylaw and the development permit. This also provides clearer direction in the regulation of what the intended occupancy limit would be.

Similar to their preferences to a floor area regulation, stakeholders recognized this could result in the need to find additional buildings to provide accommodations in a smaller space. Introducing regulations could limit the number of spaces provided at these locations. The need for additional buildings to provide shelter spaces may require additional resources and funding to operate these buildings. Without this additional resource available to operate the shelter spaces, it may lead to continued use of encampments.

### **“Emergency” capacity**

Administration identified early on in this analysis that the regulations would require some level of flexibility for shelter providers to exceed any regulatory limits imposed in the Zoning Bylaw in certain emergency situations.

There are several challenges in considering how shelter operators may be allowed to exceed any proposed limits to congregate sleeping area usage within the Zoning Bylaw. In emergency situations, time is critical, so shelter providers do not need extra regulatory barriers such as a new development permit in order to accommodate extra people who may require shelter immediately. However, criteria is needed to determine when it is appropriate to exceed these limits temporarily. This means answering questions such as:

## Attachment 4

- What situations should be considered “emergencies”?
- How long should shelters be allowed to exceed the regulatory limit?
- Should there be a limit to what the allowed “extra capacity” should be in the Zoning Bylaw?

Establishing criteria based on these questions creates a common understanding to when limits in the Zoning Bylaw can be exceeded.

Many stakeholders identified weather conditions such as extreme cold or wildfire displacement as examples of situations where additional sleeping capacity may be needed. However, there are other situations that are not commonly identified such as a water main break that may shut down an existing shelter and displace its users, creating a need for sheltering at other locations. This highlights the difficulty in establishing criteria that could account for every possible situation that results in an emergency.

The duration of an emergency situation can also vary greatly, from a few days to several months. How long operators can exceed limits established in the Zoning Bylaw will ultimately be arbitrary as there will always be a possibility where an emergency situation lasts longer than the time period suggested in the Zoning Bylaw.

Administration discussed different ways to regulate what this additional capacity within a shelter could be, whether through extra floor area, extra occupancy limit, or providing no limit. Any numerical “extra capacity” creates a new artificial ceiling that may be exceeded for some situations that do not provide shelter operators the flexibility needed. Ultimately, shelter operators still need to consider Fire Code occupancy limits as well as what staffing and other resources are available to provide appropriate care to these additional people. In other cases, some shelters do not have overflow capacity spaces within their building. These all become “natural” limits to what additional capacity the Zoning Bylaw may allow.

Any flexibility to allow this still needs to be constrained so as to not make the regulatory limits meaningless. As a result, this still creates an “artificial ceiling” that may affect the ability for operators to provide shelter in emergency situations.