



City of
Peterborough

To: **Members of the Planning Committee**

From: **Ken Hetherington, Manager, Planning Division**

Meeting Date: **March 23, 2015**

Subject: **Report PLPD15-017
Zoning By-law Update Regarding Definitions and Regulations
affecting Rental Units including Lodging Houses and Bed &
Breakfasts**

Purpose

A report on a review of the Zoning By-law regulations associated with boarding, lodging and rooming houses.

Recommendations

That Council approve the recommendations outlined in Report PLPD15-017 dated March 23, 2015, of the Manager, Planning Division, as follows:

- a) That report PLPD15-017 be received, and that Staff be directed to proceed with public meetings to gather the Community's response to the proposed regulatory framework for Lodging Houses and rental units within the City.
- b) That following the consultation period, the formal public notice be issued for the necessary amendments to the Zoning By-Law to implement the regulatory measures presented in Report PLPD 15-017, subject to modifications arising from the public consultation process.

Budget and Financial Implications

While no immediate budget or financial implications will result from this report, stepping up the enforcement of the City's Zoning By-law regulations and the City's Parking By-law, the administration of the Licensing By-law will require an increased time commitment by Staff. Building Division staff will be required to conduct inspections and enforce the building code requirements and the Zoning By-law where necessary. Planning Division Staff will be involved considering variance and Zoning By-law amendment applications regarding non-complying circumstances. City Clerk's Staff will be involved in licensing Rental Units and Legal Services Staff with prosecution of owners operating illegal Rental Units.

Background

Issues related to Lodging Houses have been before City Council on several occasions since 2010. Attached to this report as Appendix B is a chronologic account of Reports to Council leading to this Report PLPD15-017.

A two year period of interim control has ended. In April 2012, Council approved the recommendations of Report PLPD12-022 implementing an Interim Control By-law to prohibit the creation of new lodging houses until a review and update of the Zoning By-law regulations was completed. The Interim Control By-law was extended for a second year in May 2013 (By-law 13-073). The Interim Control By-law expired on May 15, 2014. Since the passage of the Interim Control By-law in April 2012, Staff from the Building and Planning Divisions, Legal Services Department, Police and Fire have been completing a review of the regulations affecting these types of rental accommodations. An in-depth review of by-laws from other municipalities struggling with similar issues has also been completed. Attached to this Report as Exhibit C, is a summary of how other municipalities are addressing Lodging Houses.

The public interest in regulating the use of residential properties described as "rooming houses" is life safety and acceptable land use standards. Issues related to fire and health, safety, property standards, Building Code enforcement, zoning compliance, and police services associated with such properties were identified by Report PLPD12-004. The objective with regulation is to ensure compliance with the *Building Code Act 1992*, the *Fire Protection and Prevention Act 1997*, municipal by-laws addressing land use, property maintenance standards, motor vehicle parking requirements and noise.

Through a series of interdepartmental meetings it was determined that the primary source of complaint was **not** from licensed "lodging houses" that complied with the Zoning By-law, but rather with the behaviour of occupants in certain **non owner-occupied, rental properties incorrectly described as "rooming houses"**. This situation poses a dilemma from a planning perspective because land use controls cannot be used to "people zone".

The incremental approach implemented by the City to address the issue has thus far involved the tightening of the Noise By-law and the stepping up of enforcement of the Zoning By-law. The City has also amended the Business Licensing By-law as would apply to boarding houses, now requiring compliance with other by-laws, particularly the Zoning By-law, before a licence can be issued. The approach has improved the City's enforcement position allowing Staff to "actively undertake to enforce the City's Zoning By-law with regards to non-licensed boarding houses". What remains, however, is the prolific use of residential dwellings as rental units throughout the City, often without municipal guidance to ensure life-safety and reasonable standards of impact.

This Report outlines a "Made in Peterborough" approach by which to improve the clarity and understanding of what is permissible in terms of land use. This will benefit landlords, tenants and the neighbouring residents. The approach will attempt to provide additional tools for enforcement of the Zoning By-law and guide the development of all rental units within the City.

Because zoning cannot be used to regulate the people who use a property and how they live, regulating lodging houses with land use controls is extremely challenging, as inevitably, other types of rental units become captured by the review. For example, from a land use perspective, there may be very little difference between a five bedroom single detached home rented and occupied by a family; a five bedroom single detached home rented to a group of students; or a five bedroom single detached home with each bedroom rented individually. Whether or not the occupants are related or not, or live together operating as a single housekeeping unit, or do not interact at all with each other cannot be regulated or enforced via zoning. Land use controls can only pertain to the use of land and physical characteristics of property development.

The Regulatory Approach in Simple Terms

For any regulatory environment to be truly useful, it must be easy to understand and enforceable. The current approach to enforcing lodging houses through the Zoning By-law requires staff to try to build evidence on how rent is collected, who actually resides in the units and how the occupants interact with each other. Trying to prove that a collection of individuals do or do not function as a "single housekeeping unit" is a challenging task if at all possible.

The inter-department committee has considered many enforcement approaches but have determined that the most effective approach is to regulate the use by the **number of bedrooms in the dwelling unit**. Bedrooms are a physical characteristic of a building that are the basis of a lodging house. While not foolproof, because a "spare room" den or sewing room can easily be converted to a bedroom, it is more easily enforced than trying to determine who lives there and how they pay their rent.

Based on the foregoing, staff are proposing the following conceptual approach that would regulate the size of a rented dwelling by the number of bedrooms, and its location by a combination of the Licensing By-law and Zoning By-law:

1. Single Unit Rental Dwelling (4 bedrooms or less)
 - May be rented with up to four bedrooms for rent
2. Large Single Unit Rental Dwelling (more than 4 bedrooms)
 - May be rented
 - Number of bedrooms for rent would be limited to 4
 - Business licence would be required
3. Lodging House (large rental dwelling where 5 or more bedrooms are rented)
 - Small scale Lodging House - bedrooms for rent: 5-10 – requires “R3” zoning and business licence
 - Large scale Lodging House - bedrooms for rent: 11-30 – requires “R4” zoning and business licence

What does it look like on the ground?

The vast majority of dwelling units in the City have 4 bedrooms or less. The proposed approach would allow any of these dwellings to be rented, in whole or in part. This means, as an example, that both sides of a 4-bedroom semi-detached could be rented by the bedroom or as a whole unit. It is not relevant if there is a single lease or 4 leases. It is not relevant if the occupants operate the unit in a cooperative manner or with complete autonomy. Furthermore, it does not matter if the bedrooms are occupied by one or more persons.

In the proposed approach, the key distinction is when a dwelling has more than 4 bedrooms and any part of the home is rented. If not more than 4 of the bedrooms are rented, the only regulatory obligation is for the owner to obtain a business licence. The business licence process will provide for annual inspections to ensure all life safety measures are in force.

Finally, where a dwelling contains more than 4 bedrooms and more than 4 bedrooms are rented the proposed approach considers this use to be a lodging house. In addition to obtaining a business licence the property must be zoned for a lodging house. There are two categories of lodging houses, which reflect the longstanding Peterborough distinctions of building with 5-10 bedrooms and 11-30 bedrooms and a specific zoning category for each. No change is proposed to these two categories other than the proposal to consider parking based on bedrooms rather than boarders. Appendix A provides a more detailed analysis of the changes required to the regulatory tools to implement the proposed approach.

Summary

Upon review of the regulatory framework for Lodging Houses in the Zoning Bylaw it became apparent that an update of the defined terms is necessary to clarify expectations for land use by property owners and to facilitate confidence in enforcement.

The appendices of this report describe the City's efforts toward addressing "lodging/rooming houses" as directed by Council. This report also considers what other municipalities are doing to address similar issues in their communities and describes what may be a reasonable approach toward addressing the Lodging Houses and peripheral issues in Peterborough.

Staff perceive that the incremental approach to regulation since the Interim Control By-law was passed may be working and may be the best approach toward addressing the issues in Peterborough. This report continues to advance the incremental approach to address Rental Units in general and the issues that stem from the review of By-law with regard to Lodging Houses.

To continue with the incremental approach toward addressing Lodging Houses and Rental Units and in general, Staff is seeking Council's direction on whether to proceed with development of amendments to the Zoning By-law as generally described in this Report and seek public input in to the matter

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Attachments:

Appendix A - Analysis
Appendix B - A Chronology of Reports to Council and Decisions Leading to this Report.
Appendix C - Update on Other Municipalities Regarding Lodging Houses

Appendix A – Analysis of the Regulatory Framework

Official Plan

Lodging houses and units fill an important niche in the range of available housing options. Many occupants of such Rental Units spend a disproportionately high percentage of their monthly income on shelter. According to a report from Statistics Canada, 25.9% of the households in Peterborough spend 30% or more of their income on housing. The affordable nature of housing provided by lodging houses is referenced in a number of policies within the City's Official Plan. Official Plan Policy 2.1.7 states that residential development shall endeavour to make adequate accommodation available to all socioeconomic groups at affordable prices and to integrate a variety of forms and costs of housing.

Among other considerations, policies identify evaluation criteria required for considering residential development applications. Such criteria include the type of housing form proposed, the nature of established land uses in proximity to the site, adequacy of amenities in the area to serve the residents, proximity to public parks, recreation areas and school sites, as well as adequate space and standards for parking, buffering and landscaping in the Zoning By-law.

Municipal Act

The *Municipal Act, 2001* permits a municipality to license any business activity operating within its jurisdiction. A municipality may apply conditions as a requirement to obtain or renew a licence for specific classes of rental properties, such as requiring building, fire and electrical inspections to ensure standards for the health and safety of occupants.

The City has recently updated the Business Licensing By-law, passing By-law 14-080, requiring the provision of commercial insurance for each lodging house and expanding of the general inspection powers of the premises, allowing the Fire Chief, the Chief Medical Officer of Health, the Police Chief and the Chief Building Official access for annual inspections.

The purpose of the amended licensing requirements was to ensure lodging houses provide a safe and healthy environment. This is achieved by monitoring the housing through annual inspections. The renewal of the licence also promotes the effective management of the property in accordance with minimum property standards and compliance with the regulations of the zoning by-law applied to the property including the requirement of motor vehicle parking spaces to support the use.

Noise By law

In addition to amending the Business Licensing By-law 14-080, the City also amended its Noise By-law to make property owners more accountable for noise emitted from their property considered "likely to disturb". This was done in response to complaints from the public regarding the management of rental properties in general.

Zoning By-law

The *Planning Act* allows a municipality to control the use of land and buildings by zoning by-laws. Zoning districts can be applied to locate land uses, and regulations can be designed to permit or limit building, **size**, massing, height, floor areas and **the location of buildings on a property**. Regulations may also be established regarding the requirement of **on-site motor vehicle parking spaces to support a use**.

The following parts of the Zoning By-law relate most directly to the regulation of Lodging Houses:

- A “Dwelling” is a defined term in the by-law that “means a building containing one or more dwelling units. There is no law preventing an owner of a dwelling from renting it to another person or persons.
- Currently a “Boarding House” is a defined use of a dwelling where a resident owner or manager provides lodging for three or more persons. A Boarding House is a permitted use only within the R.3 and R.4 Residential zoning districts and the C.6 Commercial District. Consideration of terms defined by the by-law will be addressed later in this report.
- The Parking section of the by-law specifically references a boarding house and requires on-site motor vehicle parking spaces to be provided at a rate of the greater of one or one per three boarders in the area on the fringe of the Central Area of the City and the greater of one or one per two boarders in areas beyond the Central Area of the City (suburbs).
- Section 9 of the Zoning By-law describes the uses and regulations of the R.3 Residential District permitting a boarding house accommodating up to 10 boarders.
- Section 10 of the Zoning By-law describes the uses and regulation of the R.4 Residential District permitting a boarding house accommodating up to 30 boarders.

Conclusion

There are amendments to the Zoning By-law that could be made to assist in interpreting what is acceptable in relation to what is encountered in the field regarding rental units. The following is a description of improvements to the by-law that could clarify the expectations for land use and assist the review of plans for buildings designed to function as rental units, including lodging houses.

1. Clear definitions to differentiate a lodging house, a bed and breakfast and a rented dwelling unit.
2. Regulations to describe limits on the size of a defined use, such as a lodging house or a rented dwelling unit, in terms of the number of rental units or bedrooms within a building and its capacity to accommodate people. Such regulations would help clarify rights and expectations of both the owner of the subject property and the owners of properties in the vicinity. Regulations would also describe how a

building may be situated on a property, the number of rental units, and where a rental unit may be located within a building considering attics and basements from a health and fire safety perspective.

3. Adequate parking standards to support the use should be clear. Inadequate on site parking usually has an impact on surrounding neighbourhoods and has become an enforcement issue where such land uses are located in auto-dependent neighbourhoods.
4. Expectations for property management requiring a designated contact person responsible for the use or management of the property would be an asset that should be specified. This could be achieved through the Licensing By-law.

The following section of this report considers the foregoing objectives offering possible amendments to the by-law for consideration.

Proposed Update to Zoning By-law

a) Section 1 – Definitions

It is the definitions of the Zoning By-law which form the basis of the proposed approach in regulating and enforcing lodging houses. While there will likely need to be several new and revised definitions to fully implement the proposed approach, the following section will compare existing to proposed definitions of lodging houses and the implications from an enforcement perspective.

The City's Zoning By-law defines a Boarding, Lodging or Rooming House as follows:

Existing:

“Boarding, Lodging or Rooming House means a dwelling in which the proprietor, or his authorized agent, resides and provides furnished lodgings with or without meals for profit to three or more persons.”

It is a rare and unique case in this day and age where any prepared meals or board are actually provided to tenants within a lodging house. It is not important whether meals are provided or not in a lodging house from a land use perspective, unless it is a large operation with a commercial scale kitchen. While the Health Unit would be involved with inspection of a licensed lodging house in any case, the regulations of the R.3 and R.4 zoning districts would be relied upon concerning side yard separation requirements of a lodging house that may contain a commercial scale kitchen, as well as the regulatory authority of the Building Code and Health Unit in the establishment and operation of such a facility.

The current definition also includes the words “furnished lodgings”. Once again from a land use perspective, the extent to which a room in a lodging house is furnished, or how frequently furniture in a lodging unit is changed would seem irrelevant.

Finally, the use of a building as a lodging house is still a lodging house whether it is for profit or not. The significant characteristics are that the dwelling is not owner occupied and that rent is being collected associated with the use of the property to some extent.

It has been determined from interdepartmental Staff discussions that having an owner or someone responsible for the operation of a lodging house on site and a record of the legitimate number of occupants within the building is important for determining the use of the building but difficult to regulate. The licensing by-law was therefore amended to require the name and contact information of the owner or the resident manager.

It would also be helpful to describe a lodging house, apart from other uses that may be similar but not regarded as a lodging house. It may also be appropriate to reference the expectation of the extent of use in terms of the size or scale of a lodging house land use within the definition, as well as the anticipated occupancy.

It is common for a single unit dwelling to have three bedrooms. To assist with the affordability of home ownership, it may be reasonable and acceptable for a resident owner to rent out one or two bedrooms of a dwelling unit. It would be a rare situation but perhaps still plausible to find a dwelling where the owner actually lives and rents out three or more bedrooms of a dwelling.

Currently the City's By-law describes a Lodging House as a dwelling in which an owner or proprietor resides and provides lodging to three or more persons. It was noted that most municipalities consider that where there are 4 or more units rented out, the land use generally fell into a category of what was considered a Lodging House. In general, it was found that the maximum permitted number of Rental Units range from 3 to 12 with anything over 4 units requiring specific zoning to allow such a use.

In an attempt to determine if a dwelling is used as a Lodging House or not, the manner by which occupants live together in the dwelling, considering the common space, a shared kitchen and locks on bedroom doors, has become the basis for consideration by some municipalities. Determining the use of a dwelling based on whether there are locks on bedroom doors or not is difficult to police and has been challenged in the courts. Staff is therefore recommending that such criteria be avoided. Instead, it is proposed that the differentiation between a dwelling that is rented out and a Lodging House be determined simply by the number of bedrooms in a dwelling that are or could be rented.

Based on an analysis of building permits issued, the typical dwelling contains three bedrooms. Over time, it may be reasonable to expect the conversion of the recreation room in the basement for use as a bedroom that would result in the typical dwelling having four bedrooms.

It was found that a common external impact of the use of a dwelling was a stress on the demand for motor vehicle parking in a neighbourhood. This was the result of the number of people accommodated within a dwelling that require a parking space for a motor vehicle. The parking space may also be required by a visitor, a caregiver, or a resident

who may own or have use of a motor vehicle. While details on parking requirements will be addressed later in this report, it is the opinion of staff that the rental of five or more bedrooms tips the scale, considering the demand for parking spaces associated with its use as a single unit dwelling or a dwelling with five or more bedrooms for rent.

The Ontario Building Code defines a lodging house as a building providing lodging for five or more persons and the fire code applies a higher standard to a dwelling unit with five or more bedrooms considering potential occupancy.

Recognizing that five or more bedrooms is the tipping point, it is proposed that a dwelling may contain up to 4 bedrooms that may be rented out without a significant land use impact. It is therefore proposed that a dwelling that contains five or more bedrooms that are offered for rent would be considered a Lodging House. The property must therefore be zoned appropriately, and the use must be licensed as a Lodging House. It is therefore proposed that the definition of a Boarding House be amended as follows:

Proposed Definition:

“Lodging House is a Dwelling Unit containing five or more Bedrooms five or more of which may be offered for Rent. A Lodging House shall be the sole use of a building and none of a Multi-Suite Residence, nursing home, Hotel, hostel, Group Home, Bed and Breakfast Establishment, emergency care establishment, shall be considered a Lodging House.”

A Bedroom is the integral component of a Lodging Unit, a single unit dwelling and a Bed and Breakfast that is of primary interest in being rented out. To link the Zoning By-law to the Business Licensing By-law, it is proposed that a Bedroom be defined.

The Bedroom would become the determining criteria considering the definition of the land use and the size or scale of the rental unit or building that may be regulated, particularly should Council choose to implement the requirement of a licence for all lodging houses containing rental units within the City.

To assist in determining the number of bedrooms, it is recommended that the Business Licensing By-law 14-080 be amended to require the provision of building plans to scale, identifying the use and size of all rooms within the dwelling to be used as a Lodging House or a Bed and Breakfast. For the purposes of reviewing proposed building plans and subsequent enforcement of the Zoning By-law, the Business Licensing by-law should be amended to include the statement that *“No room within the Lodging House or Bed and Breakfast may be used as a Bedroom, except where a Bedroom has been depicted on the building plans provided with the licence application, which was submitted to the City.”*¹

¹ Similar to the City of Waterloo Licensing By-law 2011-047

Proposed Definition:

“Bedroom means a room, or area in a Dwelling Unit or Rental Unit that may be equipped, used or designed with the intended use for sleeping.”

The following diagram represents three case scenarios considering bedrooms in dwelling units. One case representing a dwelling unit with four bedrooms and two cases representing dwelling units with five or more bedrooms. With the introduction of the proposed definitions of a Bedroom, Dwelling Unit and Lodging House, the use would be determined by the number of bedrooms in the dwelling and if any of the bedrooms are offered for rent.

Uses:

1) Single Unit Dwelling

Tenant	Tenant
Tenant	Tenant

As of Right

2) Single unit Dwelling

Owner/ Tenant	Tenant	Vacant
Tenant	Tenant	

Licence Required

3) Lodging House

Tenant	Tenant	Tenant
Tenant	Tenant	

Licence & Zoning Required

Case 1: A Single Unit dwelling

- No more than four Bedrooms in the dwelling
- As many as four bedrooms may be rented with no requirement of a business licence.

Case 2: Single Unit Dwelling including a Rental Unit

- Five or more Bedrooms in the dwelling
- If one to four Bedrooms are offered for rent or rented, there is income being derived from the property and a business licence would be required. The Licence would facilitate verification of the use and compliance with the zoning by-law including parking requirements, Building Code and Fire Safety.

Case 3: A Lodging House

- Five or more bed rooms in the dwelling.
- Five or more bedrooms are offered for rent or rented
- The use is considered a Lodging House and would require a licence. The property would have to be zoned to permit a Lodging House, comply with the zoning by-law including parking requirements, Building Code and Fire Code.

The licensing by-law will have to be designed to consider the size of the dwelling unit used for income purposes in terms of the number of bedrooms for Rent to address Cases 2 and 3. The licence requirement for Case 2 could be less in terms of cost and renewal frequency than Case 3. In all cases, the property would be required to comply with the by-law including the requirement of parking spaces. The requirement of a business licence in the latter two cases would ensure compliance with the by-law considering the scale of the building as regulated by the by-law today and that adequate parking is provided on the property.

Existing Definition:

“Dwelling Unit means one or more connected rooms used or intended for use as a housekeeping unit containing cooking, eating, sleeping and sanitary facilities.”

It is proposed that the definition of a dwelling unit clearly describe its constitution and how it could function.

Proposed Definition:

“Dwelling Unit is connected space within a building which:

- a) Includes, one or more Bedrooms, sanitary facilities, food preparation and/or cooking facilities, all of which are provided for the exclusive use of the occupants thereof; and
- b) Has a private entrance from either outside of the building or through a common hallway.”

A Dwelling Unit provides the exclusive use of a kitchen, bedroom and sanitary facilities and is also set apart from a bedroom or lodging unit by having a private entrance from outside the building. To avoid the need to define a housekeeping unit, the proposed definition of a Dwelling Unit references the exclusive use of the components of an independent dwelling unit.

It is important to include “cooking facilities” as a part of the description of a Dwelling Unit. It is of interest from a fire safety perspective that Section 6.27 of the by-law remain as it is, not permitting any “cooking equipment” in a Bedroom of a Lodging House.

b) Section 4 – Motor Vehicle Parking

The following is an Excerpt from Section 4 of the zoning By-law regarding existing residential parking requirements:

Residential

Purpose	Area		
	1	2	3
1) Dwelling containing 1 or 2 dwelling units	1/unit	1/unit	2/unit
2) Dwelling containing 3 or more dwelling units	1/unit	1.5 /unit	1.75/unit
3) Group Homes i) 6 or fewer residents ii) 7 or more residents	2 The greater of 2 or 0.5/staff	2 The greater of 2 or 0.5/staff	2 The greater of 2 or 0.5/staff
4) Boarding House	Minimum of 1 or 1 per 3 boarders whichever is greater	Minimum of 1 or 1 per 3 boarders whichever is greater	Minimum of 1 or 1 per 2 boarders whichever is greater

The Table describes parking required based on the theoretical increase in auto-dependency with increased distance from the central business district as the source of services and amenities. Area 1 is generally the Central Area of the City, Area 2 extends to Parkhill Road, Lansdowne Street and from the Otonabee River west to Park Street (fringe of the Central Area). Area 3 extends to the City limits (suburbs).

Having reviewed the parking requirements of other municipalities, it was noted that 0.5 motor vehicle parking spaces per lodging unit was generally required by all except for Oakville and London. Oakville requires one parking space per lodging unit, while London requires 0.33 parking spaces per lodging unit.

Peterborough requires 0.33 spaces per “boarder” in Area 2 and 0.5 in Area 3. Staff is proposing that the **required parking** for a rented dwelling unit, lodging house and bed and breakfast be **based on “bedroom” rather than boarders**.

c) Other Considerations

To assist with the regulation of proposed construction of Lodging Houses and subsequently enforcement of the use of buildings, Staff would consider it easier to regulate the size of a Lodging House based on the number of Bedrooms within a building rather than by determining the number of Lodgers or basis of occupancy of a building which can often be a moving target. Considering the current regulations that limit the number of “boarders” within a building, it is proposed that the regulation be based on the number of Bedrooms within a Lodging House. Therefore the maximum number of Bedrooms that would be permitted in a Lodging House located within a R.3 Zoning District would be 10 and no more than 30 within a R.4 Residential District, subject to compliance with the balance of applicable zoning regulations.

While some municipalities require a Lodging House to be the sole use of a dwelling on a property, Peterborough's By-law is silent and therefore would not disallow a Lodging House as part of a building on a property combined with a Dwelling Unit. It becomes difficult to keep track of land use in relation to the regulations of a zoning district when conversion of building use occurs back and forth without permits. The R.1, R.2, R.3, R.4 Residential Zoning and regulations applied to many properties in the Central Area of the City are perhaps too flexible contributing to confusion resulting in single unit dwellings on small lots being converted and used as Lodging Houses.

While many variations of property development in relation to the regulations of the zoning district exist in reality, Staff is of the opinion that the existing regulations of the zoning district are flexible enough considering the potential intensity of use that could occur. Some municipalities also have imposed minimum separation distances between licensed rooming houses and others require a rooming house to be the only use within a detached dwelling to limit the combination of dwelling units with multiple bedrooms together with licensed rooming houses all within the same building. The purpose of requiring the rooming house as the only use of a stand-alone dwelling would be to minimize the potential for conflict between uses. It would make compliance with the by-law apparent to the owner and manageable and easier to determine and keep track from Staff's perspective.

For the reasons identified above, Staff is suggesting that the regulations under Sections 9 and 10 of the Zoning By-law be updated by adding wording that would clearly require that a Lodging House be the sole use of a building on a Lot.

To better connect the zoning regulations of the by-law to the Licensing By-law, Staff would also recommend the addition of the following additional regulation under all Sections of the Zoning By-law that would permit a dwelling unit.

"Licence Required:

- a) No person shall use, or permit to be used, a Dwelling with five or more Bedrooms for rental purposes unless a Business Licence is issued by the City Clerk."

Appendix B

A Chronology of Reports to Council and Decisions Leading to this Report on Lodging Houses

- May 10, 2010, Planning Committee meeting, staff were directed to “prepare a report on student housing issues.
- August 9, 2010, Report PLPD10-048, Rental Residential Housing Licensing Council resolved:

That Staff explore further the licensing of rental residential housing and report to Council on the implications of establishing such a by-law, including the experiences of other municipalities with such a by-law.

The Report offered preliminary information on the efforts of other municipalities on dealing with lodging houses and the results of court decisions on the matter of enforcement. Oshawa was the first off the mark and challenged in Courts providing lessons to be learned.

Since 2010, Oshawa, London, Guelph, and Waterloo have since revised their by-laws. Waterloo has produced the most recent revisions to their by-law that have been challenged from a Human Rights perspective.

- February 6, 2012 Report PLPD12-004 A Review of Lodging Houses
Information report prepared by the Solicitors Office and Planning recommending an approach to regulating lodging houses.
- February 21 2012 Council approved a resolution amending certain municipal by-laws pertaining to the regulation of boarding houses. Included in the resolution approved in Report PLPD12-004 was the requirement to:
 - Amend the City’s Noise By-law.
 - Enforce the City’s Zoning By-law with regards to non-licensed lodging houses, and
 - Amend the City’s Business Licensing By-law to provide for additional licensing provisions for lodging houses, including the provision of commercial insurance for each lodging house and expanding the general inspection powers of the Fire Chief, the Chief Medical Officer of Health and the Police Chief, to include the Chief Building Official and allow for Annual Inspections.
- April 30, 2012 Report PLPD12-021 - To amend the zoning by-laws definition of Lodging Houses to be consistent with the Licensing By-law.
- April 30, 2012 Report PLPD12-022 - Boarding and Lodging Houses Interim Control By-law to allow a review of the Zoning By-law regulations associated with boarding, lodging and rooming houses.
- April 29, 2013 By-law to extend the Interim Control By-law until May 2014.

Appendix C

Update on Other Municipalities Regarding Lodging Houses

Brampton

Official Plan defines a lodging house as a single detached dwelling with more than 3 lodging units, or a single detached dwelling in which lodging is provided for more than 3 persons with or without meals. Lodging houses are permitted in any residential area subject to zoning and licensing and safety regulations.

Zoning By-law defines a lodging house the same as the Official Plan. They are permitted in Residential districts and some commercial districts. Zoning regulations require that they occupy the whole dwelling and comply with all licensing requirements.

Parking is required at a rate of 0.5 spaces per each lodging unit in addition to the two spaces required for the dwelling.

Spatial Separation: A distance of 305 metres is required between a lodging house and any other lodging house.

Licensing: A licence is required to ensure compliance

Guelph

Official Plan describes a lodging house as place that has five or more lodging units for rent. They are permitted in any residential district subject to compatibility criteria and zoning.

Zoning By-law defines two types of lodging houses. Type 1 having 5 or more lodging units that is permitted in all residential zoned areas permitting a single detached dwelling and in the Central area of the City. An accessory apartment is not permitted to be contained within a dwelling unit defined as a Type 1 lodging house. Type 2 is a whole of a townhouse or apartment building that has 5 or more lodging units and requires specific zoning. The maximum number of lodging units permitted in an lodging house is 12.

Parking is required at a rate of 0.5 spaces per each lodging unit in addition to the two spaces required for the dwelling.

Spatial Separation: A separation distance of 100 metres from any other lodging house group home or emergency shelter is required.

Licensing: Licence requirement is under review.

The City of Guelph has produced a Cost Benefit Analysis of the implementation of licensing all Rental Units with results supporting the initiative. As recently as May 5, 2014, a Staff Report providing reasons recommending not to proceed with an extensive licensing program but stepping up by-law enforcement was referred back to City Staff.

Kitchener

Official Plan Lodging houses are permitted in any residential district. M Lodging Houses with greater than 4 residents must be located in medium or high density residential designated areas. The Official Plan is being updated and it is proposed to include a definition, separation distances and proximity to public transit requirements.

Zoning By-law defines a lodging house as dwelling accommodating four or more residents.

Parking is required at a rate of one off street parking space per 25 sq metres of floor area devoted to lodging units.

Spatial Separation: A separation distance of 400 metres from any other lodging house.

Licensing: A licence is required at a cost of \$901.00 that includes a full inspection.

Renewal licences cost \$732. Maximum fines for operating illegally without a licence is \$25,000 for a first offence.

London

Official Plan recognizes existing lodging houses in low density residential areas but encourages new lodging houses to locate within medium or high density designated areas. Proposals to locate a lodging house in a low density residential area require a zoning by-law amendment.

Zoning By-law defines two types of lodging houses. Class 1 having 3 or fewer people are permitted in any residential zoning district, and Class 2 having more than 3 people that must be located in a zoning district permitting medium or high density residential use or emergency care facilities. Single unit dwelling limited to 5 bed rooms. Licence is required for all rented dwelling units including those with 4 or less bedrooms.

Parking is required at a rate of 0.33 spaces per each lodging unit and 0.75 bicycle parking spaces per unit is required for lodging houses with 5 or more lodging units.

Spatial Separation: There is no separation distance limits.

Licensing: A licence is required at a cost of \$490 annually. The licence requires proof of compliance with the Property Standards By-law. Fire Inspection, floor plan illustrating number of bedrooms. A register containing the names of all residents must be maintained and open for inspection. Licensing by-law was challenged and upheld by courts.

Oakville

Official Plan does not address lodging houses.

Zoning By-law permits lodging houses to be located in residential districts that permit single detached dwellings. Lodging houses are limited to a maximum of three lodging units.

Parking is required at a rate of 1 space per each lodging unit in addition to the two spaces required for the dwelling.

Spatial Separation: There are no spatial separation distance requirements.

Licensing: A licence is required at a cost of \$480 annually. Licence requirements include Fire Safety Audit, Zoning Compliance Certificate Building Structure Letter from

an electrical Safety Authority, , An Inspection report from an H.V.A.C. inspector, and a Police Clearance Certificate. Lodging Houses must have a Emergency safety Plan and a register of the names and previous addresses of all lodgers.

Oshawa

Official Plan defines a lodging house as a building containing 3 to 10 lodging units and describes criteria such as compatibility with adjacent land uses, building massing and height and parking availability by which to determine appropriate locations for lodging houses that may be supported by zoning.

Zoning By-law defines a lodging house as a building containing 3 to 10 lodging units but does not include a hotel, crisis care residence, hospital, group home, correctional group home, bed and breakfast, nursing home or apartment building. A new lodging house in a residential area must be permitted by a specific zoning by-law amendment. Lodging houses are also permitted in some commercial zoning districts that permit combined commercial, institutional and residential uses.

Parking is required at a rate of 0.5 spaces per each lodging unit in addition to one space required for the dwelling.

Spatial Separation: A separation distance of 45 metres from any other lodging house is required.

Licensing: A licence is required for an initial fee of \$350 renewed annually for \$250. The licence requires inspections by the Health Unit, Fire, Electrical Safety Authority and Heating and Ventilation System Inspector.

Waterloo

Official Plan does not address lodging houses.

Zoning By-law There are a total of 5 classes of rental units broken down into two main categories. Rental units with four or less bed rooms and those with 5 or more bed rooms. The first category generally addresses most rented dwelling units. The second category addresses rental units with 5 or more bed rooms. The sub categories include true Rooming Houses and those rental properties with 5 or more bedrooms that have continued to operate as licensed rooming houses. The fifth class is Temporary Rental Unit that requires a licence but intend to be phased out over a period of three years. The first category may be established anywhere in the City but are found in zoning districts that generally allow a mixed uses including residential, personal service, office and institutional and recreational uses. Second Category would require specific zoning to be permitted.

Parking

Spatial Separation: Class 2 lodging houses require a spatial separation of 75 metres in medium density areas and 150 metres in low density areas.

Licensing: A licence is required for all dwellings where income is derived from the business of renting including lodging houses. The fee ranges from \$625 to \$757 with annual renewal fees ranging from \$341 to \$413 depending on the number of bedrooms for rent. The licensing by-law is intrinsically linked to zoning by-law to

facilitate its enforcement. Licensing requires information on floor plans, number of bedrooms inspections and owner occupancy where the rented floor area of the rooming house exceeds 50% of the building. Owners of previously licensed lodging houses were given six months to become relicensed and “grandfathered:” regarding zoning regulations but were subject to review regarding the Building and Fire Code inspections. Two amendments to the Waterloo Licensing By-law for Lodging Houses challenged from a human rights perspective were the minimum required floor area per person of 7 sq metres which effectively prevented a standard bedroom from being occupied by a couple and the required separation distance between rental units. The latter was regarded as discrimination against allowing affordable accommodations to be provided on an equal basis throughout the city.