



City of
Peterborough

To: Members of the Planning Committee

From: Jeffrey Humble, Director, Planning and Development Services

Meeting Date: June 12, 2017

**Subject: Report PLPD17-024
Lodging House and Rental Units Zoning Provisions**

Purpose

A report to evaluate the planning merits of amending the Zoning By-law Definitions and replacing existing terminology in accordance with the new definitions in the Comprehensive Zoning By-law 97-123 to compliment and implement a revised regulatory framework for Lodging Houses and Rental Units within the City.

Recommendation

That Council approve the recommendation outlined in Report PLPD17-024 dated June 12, 2017, of the Director, Planning and Development Services, as follows:

That By-law 1997-123 be amended in accordance with the draft amendment attached as Exhibit 'A' to Report PLPD17-024.

Budget and Financial Implications

While no immediate budget or financial implications will result from this report, enforcement of the City's Zoning By-law regulations and the administration of the proposed Licensing By-law (to be considered by Committee of the Whole on June 19, 2017) will require an increased time commitment by Staff. Building and Fire Department staff will be required to conduct inspections and enforce the **Ontario Building Code, Ontario Fire Code** and Zoning By-law where necessary.

Background

Lodging Houses and Rental Units within the City of Peterborough are subject to various requirements related to fire and health, safety, property standards, **Ontario Building Code**, **Ontario Fire Code**, Zoning By-law provisions and police services. Issues related to Lodging Houses and Rental Units have been before Council in various forms since approximately 2010. Council directed staff to review and update the Zoning By-law and Licensing By-law related to Lodging Houses and Rental Units in an effort to harmonize the approach of the requirements with the **Ontario Building Code**, **Ontario Fire Code** and Licensing, and to proceed with the formal public notice to implement the regulatory measures presented in February, 2016 in Report PLPD16-019, based on the response to public consultation of the issues.

In 2010 Council approved 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 and expired in May, 2014. During this period, Staff from the Building and Planning Divisions, Legal Services Department, Police and Fire completed a review of regulations affecting these types of rental accommodations. At the same time, an in depth review of by-laws from other municipalities struggling with similar issues was completed.

Life safety and acceptable land use standards have been identified as the public interest in regulating the use of residential properties described as 'rooming houses'. Issues related to fire and health, safety, property standards, **Ontario Building Code** enforcement, zoning compliance, and police services associated with such properties were identified by Report PLPD12-004 with an objective to create regulations that would ensure compliance with the **Ontario Building Code**, the **Ontario Fire Code**, municipal by-laws addressing land use, property maintenance standards, motor vehicle parking requirements and noise.

Cannot 'People Zone'

It was determined through a series of interdepartmental meetings 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 posed a dilemma from a planning perspective because land use controls cannot be used to 'people zone'.

The City implemented an approach to incrementally address the issues by tightening of the Noise By-law and stepping up enforcement of the Zoning By-law. The City also amended the Business Licensing By-law as it applies to boarding houses, now requiring compliance with other by-laws, particularly the Zoning By-law, before a licence can be issued. This approach has improved the City's enforcement position with regard to

boarding houses. What remained, however, was 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.

Zoning cannot be used to regulate the people who use a property and how they live. Regulating lodging houses and rental units is extremely challenging, as inevitably, all types of residential 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 that is 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 where each bedroom is rented individually. Whether 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 via zoning. Land use controls can only pertain to the use of land and physical characteristics of property development.

Peterborough is not alone in trying to address the impact that lodging houses and shared rental accommodation dwellings have on neighbours and on neighbourhoods. A series of significant court cases from different municipalities have affected the scope of what a municipality can accomplish under its licensing and zoning powers. In general, these court decisions have not been helpful for municipalities and/or have arisen from fact situations that are not present in Peterborough.

The courts have lessened the distinction between lodging houses and single housekeeping units, therefore making it difficult for the City to only license lodging houses.

The inter-department committee considered many enforcement approaches with an effort to make it easily understood and enforceable. Licensing is seen as the mechanism to tie together, the land use controls with the interests of the **Fire Code**, **Building Code** and Property Standards. Relying on the Zoning By-law to try to prove that a collection of individuals do or do not function as a 'single housekeeping unit' is virtually impossible. This is why it is proposed that a Licensing By-law be used to regulate rental dwelling units containing 4 or more bedrooms and to determine whether a dwelling unit is functioning as a single housekeeping unit.

Regulate Use by Number of Bedrooms

The committee 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 dwelling unit and the basis of a lodging house. While not foolproof, it is more easily enforced than trying to determine who lives there and how they pay their rent. The licensing process will augment the amendments to the Zoning By-law. For example, in the situation where a dwelling with five or more bedrooms is rented as a single housekeeping unit, the owner will be required to obtain a Business License, but this dwelling could be located within any Residential Zoning District permitting a 'dwelling unit'. As part of the Business Licensing process, the owner will be required to file an annual 'self-attestation' form, to satisfy the Clerk that the dwelling is a single housekeeping unit.

On March 23, 2015, Staff Report PLPD15-017 presented a proposed approach to the regulation of Lodging Houses and Rental Dwellings to Planning Committee. Subsequently, Planning Staff joined staff from Fire, Building, Clerk's and Legal divisions to conduct a series of presentations regarding the proposed approach to the regulation of Rental Dwellings and Lodging Houses to various interest groups concluding with a presentation advertised as an open house to the general public on November 25, 2015. The purpose of the meetings was to present the regulatory framework and invite feedback from the community in reaction to the approach.

In addition to the formal presentations, numerous informal discussions and questions from the public and real estate professionals were fielded over the course of the year enquiring about the regulations being developed and the potential for secondary suites also being developed by Planning and Building Division Staff as a separate initiative.

An opportunity to further improve the alignment of the proposed regulations with safety interests of the Fire Department and described minor changes, was presented in Report PLPD16-019 in February 2016. This forms the basis of the regulatory approach including some amendments to both the Zoning By-law and the Business Licensing By-law and the introduction of a stand alone licensing by-law for Lodging Houses and Rental Dwelling Units. Council concurred with the regulatory approach and the minor changes and directed Staff to proceed with the formal public notice to the Zoning By-law to implement the measures as presented in Report PLPD16-019.

Planning Staff have also had an opportunity to meet with members of the Peterborough Landlord Association (PLA) recently, to review the draft zoning amendment. The PLA had previously expressed concern that the requirement for a Business License for small scale rental dwellings (up to 4 bedrooms) could be onerous. City staff have kept the concerns of the Landlord Association in mind and propose to encourage the registration of rental units by offering free registration for a period of up to 15 months and a discounted renewal fee of \$50 for small and large rental dwelling units. Likewise, a Small Lodging House or Large Lodging House initial registration fee is proposed to be waived if acted upon within 15 months.

The PLA also expressed a desire to continue to offer an entire dwelling unit to a group of people who will use a property as a single housekeeping unit (homogeneous group). The proposed regulatory regime will also recognize this option as a Rental Dwelling Unit or a Large Rental Dwelling Unit as included in the draft Licensing By-law.

The licensing by-law will be considered by Council in the same cycle as the Zoning Changes, via a report to Committee of the Whole on June 19, 2017.

A Review of the Regulatory Approach

Lodging Houses and Rental Dwelling Units will be regulated through a combination of licensing and zoning. The underlying land use is controlled via zoning. Where properties with 4 bedrooms or more are rented either by bedroom or as a whole, a combination of licensing and zoning apply. **With this approach, an owner of a dwelling unit with 3 or fewer bedrooms will not require a business license to rent the dwelling as a whole or to rent individual rooms therein.** All other residential rental properties will require a business license.

- Dwelling units with 4 bedrooms, rented individually by room or as a single housekeeping unit to a group of people, will be permitted by the Zoning By-law in any Zoning District that permits a 'dwelling unit'.
- Dwelling units with 5 bedrooms or more, rented as a single housekeeping unit, to a group of people, will also be permitted by the Zoning By-law in any Zoning District that permits a 'dwelling unit'.
- A Lodging House that rents 5 or more bedrooms individually, will be permitted by the Zoning By-law in any Zoning District that permits a 'Lodging House' based on the number of bedrooms being rented.

A new 'Lodging House' definition proposes to replace the current 'Boarding, Lodging or Rooming House' definition and changes regulations related to Lodging Houses to be based on the number of bedrooms versus the number of 'boarders'. The Zoning By-law Amendment also introduces new definitions for other related terms to provide clarity and certainty for landowners and enforcement.

The following table describes the approach that was approved by Council in 2016. This table provides an example of the different license types; the number of bedrooms associated with each; and potential categories as determined by rental arrangements, based on a combination of the Licensing By-law and Zoning By-law.

Rental Dwelling Unit and Lodging House Types Requiring Business License:

Lodging House or Dwelling Unit	Zoning	Rental Type	Number of Bedrooms	Number of Bedrooms Rented	Business Licence Required
Small Rental Dwelling Unit	R.1 or R.2	Rental by Bedroom or Entire Dwelling	4 plus	1-4	Yes – Small Rental Dwelling
Large Rental Dwelling Unit	R.1 or R.2	Rental of Entire Dwelling (single housekeeping unit)	5 plus	Entire Dwelling	Yes – Large Rental Dwelling
Small Lodging House	R.3 or C.6	Rental by Bedroom	5 plus	5-10	Yes – Small Lodging House
Large Lodging House	R.4 or C.6	Rental by Bedroom	11 plus	11-30	Yes – Large Lodging House

Changes to the Zoning By-law

The Zoning By-law recognizes different forms of residential accommodation including uses such as a Multi-Suite Residence, Nursing Home, Hotel, Hostel, Group Home, Bed and Breakfast Establishment, Emergency Shelter, etc. Each of these forms of accommodation shares elements of a 'Dwelling Unit', including sanitary, cooking and sleeping facilities. Lodging House, therefore, must be defined to distinguish itself somehow as a particular type of 'Dwelling Unit'.

In an effort to coordinate the new proposed regulations for business licensing with the provisions of the Zoning By-law, Staff propose the following changes to the Zoning By-law:

- a) Delete the definitions for 'Bed and Breakfast Establishment', 'Dwelling Unit' and 'Person' from the Zoning By-law and introduce the following new definitions:

Existing Definition:

“BED AND BREAKFAST ESTABLISHMENT means a commercial establishment have guest rooms used to provide accommodation and meals but does not include a boarding house, group home or hotel.”

Proposed Definition:

“**Bed and Breakfast Establishment** means a Dwelling Unit within which the residing owner or a Person authorized by the owner may provide Bedrooms for Rent for temporary accommodation. None of a Multi-suite Residence, nursing home, Hotel, Hospice, hostel, Group Home, Lodging House, nor an Emergency Shelter shall be considered a Bed and Breakfast Establishment. No more than 46 sq metres of the Dwelling Unit may be dedicated for use exclusively by guests of the Bed and Breakfast.”

Existing Definition:

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

Proposed Definition:

“**Dwelling Unit** is connected space for residential purposes, within a building which includes one or more Bedrooms, sanitary facilities, and cooking facilities, all of which are provided for the exclusive use of the occupants thereof; and has a private entrance from either the outside of the building or through a common area.”

Existing Definition:

“PERSON includes a corporation.”

Proposed Definition:

“**Person** means an individual, sole proprietorship, partnership, unincorporated association, organization, including a charitable organization, or a corporation.”

- b) Delete the the definitions for ‘ ‘Boarder’ and ‘Boarding, Lodging or Rooming House’ and introduce new definitions for ‘Lodger’ and ‘Lodging House’ to the Comprehensive Zoning By-Law as follows:

Existing Definition:

“BOARDER includes a roomer or a lodger.”

Proposed Definition:

“Lodger is a Tenant who rents a Bedroom in a Lodging House.”

Existing Definition:

“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 (3) or more persons.”

Proposed Definition:

“Lodging House is a type of Dwelling Unit containing five or more Bedrooms offered for rent. A Lodging House shall be the sole use of a building. None of a Multi-suite Residence, nursing home, Hotel, hostel, Hospice, Group Home, Bed and Breakfast Establishment nor an Emergency Shelter shall be considered a Lodging House.”

- c) Add the following definitions to the Comprehensive Zoning By-law to provide clarity and to ensure consistency with the **Ontario Fire Code**, **Ontario Building Code** and the City’s new proposed Business Licensing provisions for Rental Units and Lodging Houses.

“Bedroom means a room, or area in a Dwelling Unit, or Lodging House, equipped, used or designed with the intended use for sleeping.”

“Owner includes a Person who, alone or with others, owns premises or would receive installments of the purchase price of the premises if they were sold.”

“Rent includes the remuneration or the provision of services, or both, paid or required to be paid by a Tenant or Lodger.”

“Tenant means a person who rents and occupies space within a building or land.”

- d) In addition to the definitions above, the proposed Zoning Amendment seeks to replace “Boarding House” with ‘Lodging House” and replace ‘Boarders’ with ‘Bedrooms’ as it relates to specific provisions in the Zoning By-law either related to the site specific zoning of a property or to the parking regulations of Section 4.
- e) The Supplementary Provisions of Section 6.27 related to Boarders is also deleted in its entirety.

The Zoning By-law Amendment provides landowners with new zoning flexibility to rent up to four individual rooms in a dwelling unit without being deemed to be a ‘Lodging House’ as compared to the current regulation limiting a proprietor to a maximum of two tenants within a single dwelling unit. This change is aimed at recognizing a contemporary form of rental accommodation within Peterborough that has the potential

to support the same number of persons per household as a traditional single dwelling unit. Regulations in a new Licensing By-Law (Draft Licensing By-law attached as Exhibit 'B'), are intended to ensure basic fire safety requirements are met for these rental dwelling units, and to create a registry of rental units within the City.

Business Licensing By-law

Regulations in a new Business Licensing By-Law are intended to ensure basic fire safety requirements are met for those rental dwelling units with four bedrooms (Small Rental Dwelling Units) and to create a registry of rental units within the City with an application form for a nominal fee of approximately \$75 and a \$50 renewal fee. Similarly, Large Rental Dwelling Units with five or more bedrooms, used as a single housekeeping unit, will be required to apply for a license with an initial fee of \$75 and a \$50 renewal fee, and a potential inspection fee. Lodging Houses with five or more bedrooms are regulated by both Zoning and Licensing in the case where the bedrooms are rented individually and will require an application form and inspection with an initial fee of approximately \$250 for a 'Small Lodging House' with 5 to 10 bedrooms and approximately \$400 for a 'Large Lodging House' with 11 to 30 bedrooms. Annual renewal fees of \$175 and \$200 respectively, are proposed in the draft Business Licensing By-law. Inspections will be carried out by Fire Services and Building Division staff.

Summary

While not all of the feedback received during the consultation sessions was in favour of the proposed approach to regulating lodging houses, the majority of the responses were in support of the changes. An update of the Zoning By-law is attached as Exhibit 'A' to Report PLPD17-024 and provides clarity to those interested in investing in rental units within Peterborough and for the City to be in a position to enforce the Zoning By-law.

Submitted by,

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Attachments:

Exhibit A – Draft Zoning By-law Amendment
Exhibit B – Draft Business Licensing By-Law
Exhibit C – FAQ's for Lodging House and Rental Dwelling Unit Regulations

Exhibit A – Draft Zoning By-law - Page 1 of 5



The Corporation of the City of Peterborough

By-Law Number 17-

Being a By-law to amend the Zoning By-law in respect to Lodging Houses and Rental Dwellings Units

The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. Definitions

Section 1, Definitions, is hereby amended by:

a) Deleting the following definitions:

“Bed and Breakfast Establishment”, “Boarder”, “Boarding House”, “Dwelling Unit”, and “Person”; and

b) Adding the following definitions in alphabetical order:

“**Bed and Breakfast Establishment** means a Dwelling Unit within which the residing owner or a Person authorized by the owner may provide Bedrooms for Rent for temporary accommodation. None of a Multi-suite Residence, nursing home, Hospice, Hotel, hostel, Group Home, Lodging House, nor an Emergency Shelter shall be considered a Bed and Breakfast Establishment. No more than 46 sq metres of the Dwelling Unit may be dedicated for use exclusively by guests of the Bed and Breakfast.”

“**Bedroom** means a room, or area in a Dwelling Unit, or Lodging House, equipped, used or designed with the intended use for sleeping.”

“**Dwelling Unit** is connected space for residential purposes, within a building which includes one or more Bedrooms, sanitary facilities, and cooking facilities, all of which are provided for the exclusive use of the

Exhibit A – Draft Zoning By-law - Page 2 of 5

occupants thereof; and has a private entrance from either the outside of the building or through a common area.”

“**Lodger** is a Tenant who rents a Bedroom in a Lodging House.”

“**Lodging House** is a type of Dwelling Unit containing five or more Bedrooms offered for rent. A Lodging House shall be the sole use of a building. None of a Multi-suite Residence, nursing home, Hospice, Hotel, hostel, Group Home, Bed and Breakfast Establishment nor an Emergency Shelter shall be considered a Lodging House.”

“**Owner** includes a Person who, alone or with others, owns premises or would receive installments of the purchase price of the premises if they were sold.”

“**Person** means an individual, sole proprietorship, partnership, unincorporated association, organization, including a charitable organization, or a corporation.”

“**Rent** includes the remuneration or the provision of services, or both, paid or required to be paid by a Tenant or Lodger.”

“**Tenant** means a person who rents and occupies space within a building or land.”

2. Exceptions

Section 3.9, Exceptions is hereby amended as follows:

- a) Exception .6 is amended by deleting the reference to Section 10.2 (k) and inserting a reference to Section 10.2 (j).
- b) Exceptions .114, .159, .160, .221, .265, .287, .288, .292 and .293 are amended by deleting the words “boarding house” and “boarders” and inserting the words “Lodging House” and “Lodgers” in their place.

3. Parking, Loading and Driveways

- a) Section 4.2 (A) 4) is amended by deleting “Boarding House” and inserting “Lodging House” in its place; and
- b) Section 4.2 (A) 4) is amended by deleting “boarders” and inserting “Bedrooms” in each place it occurs.

Exhibit A – Draft Zoning By-law - Page 3 of 5

4. Supplementary Regulations

Section 6.27, Boarders, is hereby deleted in its entirety.

Residential District 3 (R.3)

Section 9, Residential District 3 (R.3), is hereby amended as follows:

- a) Section “9.1 b) a boarding house”, is deleted and replaced with “9.1 b) a lodging house”.
- b) Regulations j) and k) of Section 9.2 are hereby deleted in their entirety and replaced with the following:

“

Type	Requirement
j) the following regulations will apply to a Lodging House: <ul style="list-style-type: none">i) maximum number of bedroomsii) minimum number of water closets, washbasins, bathtubs or showers is provided per four lodgers	<div>10</div> <div>1 per 5 Lodgers</div>
k) no cooking facilities shall be permitted in any Bedroom or room other than a kitchen in a Lodging House	

”

- c) Section 9.2 is hereby amended by adding Section 9.2.1 l) as follows:

“l) no owner or person authorized by the owner shall establish, operate, cause or permit the use of a Lodging House on the same lot which supports a Dwelling Unit that is not already a Lodging House.”

6. Residential District 4 (R.4)

Section 10, Residential District 4, is hereby amended as follows:

- a) Section 10.1 b) “boarding house” is deleted and replaced with 10.1 b) “a Lodging House”
- b) Regulations k) and l) of Section 10.2 are hereby deleted in their entirety and replaced with the following:

Exhibit A – Draft Zoning By-law - Page 4 of 5

Type	Requirement
k) the following regulations will apply to a Lodging House:	
i) maximum number of bedrooms	30
ii) minimum number of water closets, washbasins, bath tubs or showers	1 per 5 Lodgers
l) no cooking facilities shall be permitted in any bedroom or any room other than a kitchen in a Lodging House	

c) Section 10.2 is hereby amended by adding Section 10.2.1 m) as follows:

“m) no owner or person authorized by the owner shall establish, operate, cause or permit the use of a Lodging House on the same lot which supports a Dwelling Unit that is not already a Lodging House.”

7. Commercial District 6 (C.6)

Section 18.1 is hereby amended by deleting “(ad) a boarding house” and replacing it with “(ad) a Lodging House”

Regulation e) of Section 18.2 Regulations, is hereby amended by adding “and Lodging Houses” after the words “Dwelling Units”.

Section 18.2 is hereby further amended by adding the following to the Regulations:

Type	Requirement
k) the following regulations will apply to a Lodging House:	
i) maximum number of bedrooms	30
ii) minimum number of water closets, washbasins, bath tubs or showers	1 per 5 Lodgers
l) no cooking facilities shall be permitted in any bedroom or any room other than a kitchen in a Lodging House.	
m) notwithstanding the definition of Lodging House in Section 1, requiring that it be the sole use of a building, a Lodging House is permitted on the second or higher storey of a building supporting commercial uses.	

Exhibit A – Draft Zoning By-law - Page 5 of 5

By-law read a first, second and third time this ____ day of _____ 2017.

Daryl Bennett, Mayor

John Kennedy, City Clerk

Exhibit B – Draft Business Licensing By-law - Page 1 of 14



The Corporation of the City of Peterborough

By-Law Number 17-XXX

Being a By-law to require owners of Lodging Houses and Rental Dwelling Units to obtain a business licence.

Recitals

- A. Section 8 of the **Municipal Act, 2001** (the “Act”), confers broad authority on a municipality to govern its own affairs as it considers appropriate to enhance the municipality’s ability to respond to local issues.
- B. Section 8 of the Act empowers a municipality to regulate or prohibit a matter that is a municipal issue.
- C. Section 10(2) of the Act provides that a single tier municipality may pass by-laws respecting business licensing.
- D. Section 151 of the Act provides that a municipality may provide for a system of licences with respect to obtaining, continuing to hold or renew a business licence.
- E. Owners who operate a Lodging House and/or a Rental Dwelling Unit and who receive Rent are operating a business.
- F. The municipal council for the City of Peterborough has determined that licensing and inspecting Large Lodging Houses and Small Lodging Houses will help ensure the safety of occupants thereof is a municipal interest.
- G. The municipal council for the City of Peterborough has determined that licensing and providing for the inspection of Large Rental Dwelling Units and Small Rental Dwelling Units is in the municipal interest.

Now therefore, The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1.0 Definitions

Exhibit B – Draft Business Licensing By-law - Page 2 of 14

1.1 In this by-law,

Annual Self-Attestation Form – means a form prepared, from time to time, by the Peterborough Fire Service which requires an Owner of a Large Rental Dwelling Unit or a Small Rental Dwelling Unit to attest to the truthfulness of certain matters.

Authorized Official – means:

- a. a Building Inspector, By-law Enforcement Officer, and/or the Chief Building Official;
- b. Fire Prevention Officers employed by the City;
- c. Employees of the Peterborough County-City Health Unit;
- d. an inspector qualified to perform an inspection under the Electrical Safety Act; and
- e. any designate to the foregoing.

a) **Bedroom** – means a room, or area in a Licensed Premises or a Dwelling Unit equipped, used or designed with the intended use for sleeping.

Building Inspector – means a person employed in the City's Building Division who is required to uphold:

- a. the requirements of the **Building Code Act** and/or its regulations; and/or
- b. the requirements of any City by-law relating to Property Standards or Property Maintenance; and/or
- c. any person accompanied by a Building Inspector who has been retained by the City to offer professional advice to a Building Inspector.

Business Licence or Licence – means a licence, issued by the City Clerk, which permits an Owner to operate a Licensed Premises.

Exhibit B – Draft Business Licensing By-law - Page 3 of 14

By-law Enforcement Officer – means a person employed by the City whose responsibilities include enforcing the City's by-laws relating to zoning, property standards or property maintenance.

City – means The Corporation of the City of Peterborough.

City Clerk or Clerk – means the City Clerk and his/her designate(s).

Comprehensive Zoning By-law – means By-law 97-123 and any amendments thereto or any successor by-law thereto.

Dwelling Unit – means connected space for residential purposes, within a building which includes one or more Bedrooms, sanitary facilities, and cooking facilities, all of which are provided for the exclusive use of the occupants thereof and which has a private entrance from either the outside of the building or through a common area.

Follow-up Inspection – means each inspection performed by one or more Authorized Official after an Initial Inspection was completed and the Licensed Premises did not meet the minimum requirements of one or more of the **Building Code**, the **Fire Code**, the **Electrical Code** or any Property Standards or Property Maintenance by-law.

Follow-up Inspection Fee – means the fee payable to the City for the performance of each inspection after the inspection contemplated by the Initial Inspection Fee or, as the case may be, the Renewal Fee.

Initial Inspection – means the first inspection performed by the Authorized Officials at a Small Lodging House or at a Large Lodging House.

Initial Inspection Fee – means either:

- a. the fee of zero dollars required to obtain a Business Licence before 30 June 2018; or
- b. after 30 June 2018, the fee paid by an Owner for the inspection of a Small Lodging House or Large Lodging House.

Lodging House, Large or Large Lodging House – means a type of Dwelling Unit containing between 11 and 30 Bedrooms which does not function as a single housekeeping unit.

Exhibit B – Draft Business Licensing By-law - Page 4 of 14

Lodging House, Small or Small Lodging House – means a type of Dwelling Unit containing 5 but no more than 10 Bedrooms which does not function as a single housekeeping unit

Licensed Premises – means a:

- a. Rental Dwelling Unit, Large;
- b. Rental Dwelling Unit, Small
- b. Lodging House, Large; or
- c. Lodging House, Small

for which a Business License has been issued by the Clerk.

Licensee – means a person, firm or corporation to whom the Clerk has issued a Business Licence under this by-law.

Owner – means any person, firm, corporation or Licensee having control a Licensed Premises or the property upon which the Licensed Premises is located or over any portion of the foregoing.

Renewal Fee – means the annual business licence fee, set out in Schedule A of this by-law, required to operate each of a:

- a. Rental Dwelling Unit, Large;
- b. Rental Dwelling Unit, Small
- b. Lodging House, Large; or
- c. Lodging House, Small.

Renewal Inspection – means the annual inspection performed at a Small Lodging House or a Large Lodging House by Authorized Officials in conjunction with renewing a business license.

Rent – means the consideration provided for occupying a Bedroom, whether the consideration is money or something else.

Rental Dwelling Unit, Large or Large Rental Dwelling Unit – means a type of Dwelling Unit offered for Rent containing 5 or more Bedrooms which functions as a single house-keeping unit.

Exhibit B – Draft Business Licensing By-law - Page 5 of 14

Rental Dwelling Unit, Small or Small Rental Dwelling Unit – means a type of Dwelling Unit containing 4 Bedrooms, of which 1 to 4 Bedrooms are offered for Rent.

Tenant – means a person who provides Rent to an Owner or to a Licensee.

1.2 The following words have the meaning given to them in the City's Comprehensive Zoning By-law.

- a. **Bed and Breakfast Establishment;** and
- b. **Emergency Shelter;**
- c. **Group Home;**
- d. **Hospice;**
- e. **Hotel;**
- f. **Multi-suite Residence;**
- g. **Lot.**

2.0 Owner's Requirements

2.1 Every Owner when applying for a Business Licence to operate a Small Lodging House or a Large Lodging House shall submit along with his/her application, a letter from the City's Building Division confirming the zoning of the property upon which the Small Lodging House or a Large Lodging House will be operated.

2.2 Every Owner of a Licensed Premises shall display, in an unobstructed manner, the current Business Licence obtained for each Licensed Premises in:

- a. a ground-floor window at the front of the Licensed Premises; and
- b. in a conspicuous place in the entrance hallway of the Licensed Premises.

2.3 Every Owner of a Small Lodging House or a Large Lodging House shall permit, as the case may be, the Initial Inspection, each Annual Inspection and each Follow-up Inspection of the Licensed Premises by any Authorized Official.

Exhibit B – Draft Business Licensing By-law - Page 6 of 14

2.4 Application Form – Requirements

An application for a License, or for the renewal of a License, shall be made on the forms provided by the Clerk, and each completed application shall be submitted to the Clerk, accompanied by:

- a. The Renewal Fee, in the amount specified in Schedule 'A' or, by the sum of zero dollars in accordance with the exception contained in Article 9.1 below;
- b. The Inspection Fee, if applicable;
- c. The Follow-up Inspection Fee, if applicable;
- d. If the applicant is a corporation, a copy of a current Certificate of Status report;
- e. If the applicant is a registered partnership or a sole proprietorship, a copy of a current Business Name Search;
- f. Proof that the Licensed Premises is insured under a commercial general liability insurance policy;
- g. a scale drawing showing the floor plan of the Licensed Premises;
- h. A completed and signed Annual Self-Attestation Form; and
- i. Evidence that the Licensed Premises passed the applicable Initial Inspection, Follow-up Inspection or Annual Inspection.

2.5 Refusal – License Fee Non-refundable

Where an application for a Business License, or for renewal of a Business License, is refused, the Renewal Fee shall not be refunded and any person making a subsequent application for the same Licensed Premises shall be required to pay the Renewal Fee again.

2.6 Renewal – Refusal Conditions

An applicant whose application meets all the requirements of this by-law is entitled to the issuance or renewal of a Business License except where:

- a. Past conduct of the applicant affords reasonable grounds for belief that the issuance of a license would be adverse to the public interest; or

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- b. The applicant is carrying on activities that are, or would be, if licensed, in contravention of this by-law, any other by-law, or federal or provincial statute or regulations.

2.7 License – Term

- a. With the exception of a Business License issued under Article 9.1, every Business License issued pursuant to this by-law shall be valid for one year.
- b. Notwithstanding Article 2.7(a), no Business License issued under this by-law is transferable to a new Owner of a Licensed Premises.

2.8 Duplicate License

The Clerk may issue a duplicate Business License to a Licensee to replace any previously issued Business License which has been lost, stolen or destroyed, upon written application by the Licensee and upon payment of a twenty (\$20.00) dollar administrative fee.

2.9 Change of Address – Required

Where the name or address of a Licensee changes, the Licensee shall notify the Clerk in writing within fifteen (15) business days.

2.10 Compliance

Compliance with applicable statutes, regulations and by-laws shall be deemed to be a condition of each Business License issued pursuant to this by-law.

2.11 Revocation

Failure to comply with the terms and/or conditions of a Business License may constitute grounds for revocation of the Business License by the Clerk.

2.12 Inspection of Licensed Premises by Authorized Official

Each Licensed Premises may be inspected at all reasonable times by one or more Authorized Official.

2.13 Inspection – Owner to Permit

Every Owner of a Licensed Premises shall permit a Licensed Premises to be inspected by Authorized Officials at any reasonable time.

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3.0 Administration – Clerk – Duties

3.1 Applications – Processing Renewals

The City Clerk shall have the authority to receive and process all applications for business licenses and renewals, and to issue such licenses.

3.2 Investigation – Reports as Necessary

Upon the receipt of an application for a license, or the renewal, the City Clerk shall make or cause to be made all investigations deemed necessary relative to the application.

3.3 Clerk to Maintain Records

The City Clerk shall maintain complete records showing all applications and licenses issued.

3.4 Revocation of License

The City Clerk may revoke a license where the licensee has been convicted of any offence under this by-law.

3.5 Revocation of License – Hearing

If the City Clerk refuses to grant or renew a license or revokes a license, the applicant or licensee shall have the right to a hearing by Council which, after due consideration of the application and hearing such representations as the applicant may care to make, may direct the issuance or renewal of the license, refuse the application or revoke the license.

3.6 Application of Statutory Powers Procedure Act

The hearing held under this by-law shall be held in accordance with the provisions of the **Statutory Powers Procedure Act**, R.S.O. 1990, c. S.22.

3.7 Decision of Council Final

Upon conclusion of a hearing, Council shall, as soon as practicable, dispose of the matter which was the subject of the hearing by doing any act or making any decision and such decision shall be final.

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4.0 All Licensed Premises

4.1 Requirements for Written Application

Every application for a Business License to operate a Licensed Premises shall be in writing and submitted to the Clerk and shall set forth, as required by the type of Licensed Premises, the following:

For Every Licensed Premises:

- a. The name, address, email address and telephone number of the Owner and applicant;
- b. If the applicant is a registered partnership or a sole proprietorship, a copy of a current Business Name Search and the names, addresses and telephone numbers of persons associated with the partnership;
- c. If the applicant is a corporation, a copy of the current Certificate of Status and a Corporate Profile report which indicate the location of the corporation's head office, the names, addresses and telephone numbers of all directors of the corporation and confirms that the corporation is active;
- d. The name, email address and telephone number of the resident manager, if applicable;
- e. The municipal address of the Licensed Premises;
- f. The number of Tenants;
- g. The number of Bedrooms available for Tenants;
- h. The number of bath tubs or showers, washbasins, water closets, sinks and laundry tubs in the Licensed Premises;
- i. A site plan, drawn to scale, completed to the satisfaction of the Clerk, showing the dimensions of all the buildings on the Lot, the motor vehicle parking spaces and landscaping required in accordance with the Comprehensive Zoning By-law;
- j. A floor plan, drawn to scale, of the entire Licensed Premises showing the use and dimensions of all rooms. Each Bedroom shall meet the area requirements of the **Building Code** per occupant;

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- k. Written confirmation from the City's Building Division in the form of a letter or email confirming the property's zoning and that there are no outstanding work orders or building permits;
- l. Written confirmation from the City's Building Division in the form of a letter or email confirming that the Licensed Premises meets the minimum requirements of the Building Code, and the City's Property Standards by-law;
- m. A certificate of insurance that satisfies the City Clerk that the property being used as a Licensed Premises is insured under a commercial insurance policy; and
- n. Such other information as from time to time may be required by the City Clerk or by an Authorized Official;

Additional Application Requirements for Large Lodging Houses and Small Lodging Houses

- o. Written confirmation from the Fire Prevention Officer in the form of a letter or email confirming that the Large Lodging House or Small Lodging House meets the minimum requirements of the Fire Code;
- p. Proof, satisfactory to the Fire Prevention Officer, that the furnace in, as the case may be, a Large Lodging House or a Small Lodging House, if the furnace is a fuel burning appliance, has been inspected within the preceding 12-months; and
- q. A zoning clearance letter from the City's Building Division stating that the property is zoned to permit, as the case may be, the Large Lodging House or Small Lodging House.

4.2 Rooms – Permanently Numbered

Each Bedroom within a Large Lodging House and a Small Lodging House shall have a number or letter permanently attached to or painted on the entrance door to the Bedroom which:

- a. is at least 50 mm in height;
- b. contrasts with the background upon which is attached or painted; and
- c. is located no lower than within the top 300 mm of the door.

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5.0 Specific Offence Provisions

- 5.1 Every Owner who operates a Small Lodging House or a Large Lodging House without having first obtained a Business Licence from the City Clerk is, upon conviction, guilty of an offence.
- 5.2 Every Owner who operates a Large Rental Dwelling Unit or a Small Rental Dwelling Unit without having first obtained a Business Licence from the City Clerk is, upon conviction, guilty of an offence.
- 5.3 Every Owner who fails to post his/her Business Licence in accordance with the requirements of this by-law is, upon conviction, guilty of an offence.
- 5.4 Every Owner who posts a Business License which has expired or which has been revoked is, upon conviction, guilty of an offence.
- 5.5 Every Owner who produces for inspection a Business License which has expired or which has been revoked is, upon conviction, guilty of an offence.
- 5.6 Any Owner or Tenant who interferes with an inspection being carried out under this by-law is, upon conviction, guilty of an offence.
- 5.7 Every Owner or Tenant who permits a room within a Licensed Premises to be used as a Bedroom when such room was not depicted as a Bedroom on the floor plan submitted to the City Clerk is, upon conviction, guilty of an offence.
- 5.8 Every Owner or Tenant who permits a room within a Licensed Premises to be used as a Bedroom when such room does not meet the size requirements contained within the **Building Code** is, upon conviction, guilty of an offence.
- 5.9 Every Owner who submits to the City Clerk an Annual Self-Attestation Form which contains false information is, upon conviction, guilty of an offence.

6.0 General Offence Provision

- 6.1 Unless otherwise specifically provided for in this by-law, any person who contravenes this by-law is guilty of an offence and, upon conviction, is liable to a penalty provided for in the **Provincial Offences Act** or, to payment of a Set Fine, if any.

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7.0 Amendments to By-law 14-080 – Business Licensing By-law

7.1 By-law 14-080 is hereby amended by deleting:

- a. from Article 1 the following definitions: “Bedroom”; “Boarding, Lodging or Rooming House”; “Dwelling Unit”; “Lodger”; and “Rent”.
- b. from Article 2.1 sub-section “f” and renumbering the remaining sub-articles therein;
- c. Article 6, “Boarding, Lodging or Rooming House”, in its entirety;
- d. in Schedule “A”, the reference to “Boarding, Lodging or Rooming House” and the fee applicable thereto.

8.0 Non-Application of this By-law

- 8.1 This by-law does not apply to any Dwelling Unit containing fewer than 4 Bedrooms.
- 8.2 This by-law does not apply to any of a: Bed and Breakfast Establishment, Emergency Shelter, Group Home, Hospice, Hotel, or a Multi-suite Residence.

9.0 Implementation Provisions

- 9.1 Notwithstanding Article 2.4(a) above and the second column of Schedule A, upon the passage of this By-law, an Owner may obtain an initial Business Licence at no cost that will expire on 2 July 2018 for each Licensed Premises.
- 9.2 During the period of a licence issued under Article 9.1 above the Authorized Officials will perform an Initial inspection of each Licensed Premises at no cost to the Owner.
- 9.2 Notwithstanding Article 9.2 above, if a Licensed Premises requires a Follow-up Inspection, the Owner will be required to pay the Follow-up Inspection Fee.
- 9.2 As of 3 July 2018, every Owner of a Licensed Premises will be required to pay the applicable Fee(s) under this By-law to obtain a Business Licence.

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10.0 Interpretation

- 10.1 References to the Property Standards By-law is to Chapter 611 of the Peterborough Municipal Code.
- 10.2 References to the Property Maintenance By-law is to City By-law 96-41.
- 10.3 Any reference to any By-law, Act or regulation, including the **Building Code**, the **Fire Code** and the **Electrical Code**, includes any amendments thereto and any replacement legislation thereto.
- 10.4 Certain words have be capitalized for convenience and whether a defined term or phrase appears in the body of this by-law as a capitalized term or in lower case lettering, the term or phrase shall have the meaning given to it in Article 1.

11.0 Enforcement

- 11.1 This by-law may be enforced by any Authorized Official.
- 11.2 Under Sections 441and 441.1 of the Act, the City's treasurer may add any part of an unpaid fine to the tax roll for any property in the City which the Owner or person is responsible for paying and collect it in the same manner as municipal taxes.

12.0 Short Title

- 11.1 This by-law may be referred to as the Rental Dwelling Unit Licensing By-law.

13.0 Coming in Effect

- 13.1 This by-law comes into effect on the date it receives third reading.

By-law read a first, second and third time this 26th day of June 2017.

Daryl Bennett, Mayor

John Kennedy, City Clerk

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Schedule A – Fees

Type of Licensed Premises	Initial Inspection Fee	Renewal Fee	Follow-up Inspection Fee*
Large Lodging House	\$400	\$200	\$400*
Small Lodging House	\$250	\$175	\$250*
Large Rental Dwelling Unit	\$75	\$50	Not applicable***
Small Rental Dwelling Unit	\$75**	\$50	Not applicable

*payable if a Licensed Premises fails to pass, as the case may be, the Initial Inspection or a prior Follow-up Inspection

**No inspection required to obtain Business Licence.

***Provided the Large Rental Dwelling Unit functions as a single house-keeping unit.

Exhibit C - FAQ's for Lodging House and Rental Dwelling Unit Regulations, Page 1 of 3

**Business Licensing FAQs for the Public
Re By-law 17-xxx**

In these FAQs, the term Rental Dwelling Unit applies to both a Small Rental Dwelling Unit and a Large Rental Dwelling Unit. The distinct terms Small Rental Dwelling Unit and Large Rental Dwelling Unit are used if the requirements to obtain a business licence and operate a Small Rental Dwelling Unit or a Large Rental Dwelling Unit differ.

In these FAQs, the term Lodging House applies to both a Small Lodging House and a Large Lodging House. The distinct terms Small Lodging House and Large Lodging House are used if the requirements to obtain a business licence and operate a Small Lodging House or a Large Lodging House differ.

1. What is each of a Small Rental Dwelling Unit, a Large Rental Dwelling Unit a Small Lodging House and a Large Small Lodging House?

A Small Rental Dwelling Unit is type of dwelling unit that has 4 bedrooms rented individually by room or as a single house-keeping unit.

A Large Rental Dwelling Unit is a type of dwelling unit that has 5 or more bedroom that is rented as a single house-keeping unit.

A Small or Large Rental Dwelling Unit may operate in any of an R1, R2, R3 or an R4 zone. An owner of a Small or Large Rental Dwelling Unit will not need to provide a zoning compliance letter to obtain a business licence, but will need to complete the City's Annual Self-Attestation Form.

A Small Lodging House ("SLH") is a type of dwelling unit that contains between 5 and 10 bedrooms and does not function as a single house-keeping unit. An owner of an SLH will need to prove zoning compliance in order to obtain a business licence and the SLH must pass an inspection in accordance with the City's Rental Dwelling Unit Licensing By-law.

A Large Lodging House ("LLH") is a type of dwelling unit that contains between 11 and 30 bedrooms and does not function as a single house-keeping unit. An owner of an LLH will need to prove zoning compliance in order to obtain a business licence and the LLH must pass an inspection in accordance with the City's Rental Dwelling Unit Licensing By-law.

2. What is a single house-keeping unit?

A single house-keeping unit is a dwelling unit that satisfies enough of the criteria set out in **Neighbourhoods of Windfields Limited Partnership v. Death**, 2008 CanLII 424228 (ONSC) & **Good v. Waterloo City** (2003), 67 OR 89 and **Good v. Waterloo (City)**, (2004), 72 OR (3d) 719 (C.A.), **2161907 Ontario Inc. v. St Catharines (City)** 2010 ONSC 4548, **Ottawa (City) v. Bentolila** 2006 ONCJ

Exhibit C - FAQ's for Lodging House and Rental Dwelling Unit Regulations, Page 2 of 3

542, [Bentolila] and **Balmoral Developments Hilda Inc. v. Corporation of the City of Orillia**, 2012 ONSC 6040, that a reasonable person would conclude that the dwelling unit is not a Lodging House because the occupants live together for a common purpose which is broader than the purpose of sharing short-term accommodation for economic reasons.

3. What is the difference between a Rental Dwelling Unit and a Lodging House?

A Lodging House, whether it is an LLH or a SLH, is a type of dwelling unit in which the occupants are typically strangers to each other and they may or may not have individual leases or rental agreements. A Lodging House does not function as a single house-keeping unit.

A Large Rental Dwelling Unit typically has multiple persons who know each other, and who are signed to one lease and which functions as a single house-keeping unit.

A Small Rental Dwelling Unit has 4 bedrooms and houses people under an individual lease or not. It is not necessary that these people know each other.

4. What is the difference between “function” and “use”?

“Use” is a term used in the City's zoning by-law and it refers to how a property may legally be used. For example, no person could operate a Lodging House on a property that is zoned R1 or R2.

The word “function”, when used in relation to Business Licensing for Lodging Houses and Rental Dwelling Units, refers to how the occupants of the dwelling unit relate to each other. For example, 6 un-related people living together may function as a single house-keeping unit (See FAQ “What is a single house-keeping unit?”).

5. How do I satisfy the City Clerk that the zoning permits a Large Lodging House or a Small Lodging House?

You will need to obtain a zoning clearance letter from the City's Building Division.

6. What about zoning compliance for a Rental Dwelling Unit?

Prior to issuing a business licence for a Rental Dwelling Unit, the City Clerk will confirm with the Building Division that, as the case may be, the Small Rental Dwelling Unit or a Large Rental Dwelling Unit is a permitted use under the City's Comprehensive Zoning By-law.

7. What is and where do I get a Certificate of Status?

Exhibit C - FAQ's for Lodging House and Rental Dwelling Unit Regulations, Page 3 of 3

A Certificate of Status is a report issued by the provincial government that will state whether the corporation is active or in-active. Only active corporations may obtain a business licence. This requirement only applies if the Rental Dwelling Unit or Lodging House is owned by a corporation, in which case you can contact your own corporate lawyer for direction.

- 8. Do either of the site plan required by Section 4.1(i) of the City's Rental Dwelling Unit Licensing By-law or the floor plan required by Section 4.1(j) of the City's Rental Dwelling Unit Licensing By-law need to be prepared by a professional?**

No, each of those scale drawings, showing the required dimensions, can be prepared by the Owner using graph paper. Upon receipt of these drawings, the Clerks Office will confer with the Building Division.

- 9. How do I satisfy the City Clerk that the Licensed Premises passed the applicable inspection?**

Each Authorized Official will report to the City Clerk upon completion of his/her inspection report. These reports will reside in a file in the Clerks Office.

- 10. Where can I obtain the Annual Self-Attestation Form?**

The Annual Self-Attestation Form can be obtained from the Clerks Office.

- 11. Can 5 or more people live together in a Rental Dwelling Unit on a property that is not zoned to permit a lodging house?**

Yes, provided that the Rental Dwelling Unit functions as a single house-keeping unit and provided the owner has obtained a business license.

- 12. What if my house only contains 3 bedrooms and I rent out the whole house?**

If your house only contains 3 bedrooms and you rent out the whole house, whether under one lease or under separate leases, then this by-law does not apply to you.

- 13. What is a multi-suite residence?**

A multi-suite residence is a type of building containing 4 or more residential rooms in which, occupants typically receive support in the form of common dining amenities and other related services. E.g. a residence for senior citizens or a retirement home.