

**REPORT TO:** Planning and Strategic Initiatives Committee

**DATE OF MEETING:** October 30, 2023

**SUBMITTED BY:** Rosa Bustamante, Director of Planning, 519-741-2200 ext. 7073

**PREPARED BY:** Raida Chowdhury, Student Planner, 519-741-2200 ext. 7078  
Natalie Goss, Manager Policy & Research, 519-741-2200 ext. 7648

**WARD(S) INVOLVED:** ALL

**DATE OF REPORT:** October 17, 2023

**REPORT NO.:** DSD-2023-446

**SUBJECT:** DSD-2023-446 City-wide Lodging House Review  
(OPA21/004/COK/AR, ZBA21/040/K/NG)

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## RECOMMENDATION:

That Official Plan Amendment OPA21/004/COK/AR proposing amendments to Kitchener's 1994 and 2014 Official Plan to permit lodging houses city-wide everywhere residential uses are permitted be adopted, in the form shown in the Official Plan Amendments attached to Report DSD-2023-446 as Attachment 'A' and Attachment 'B', and accordingly forwarded to the Region of Waterloo for approval; and,

That Zoning By-law Amendment ZBA21/040/K/NG be approved in the form shown in the 'Proposed By-law to Zoning By-law 85-1' and 'Proposed By-law to Zoning By-law 2019-051' attached to Report DSD-2023-446 as Attachment 'C' and Attachment 'D' respectively.

## REPORT HIGHLIGHTS:

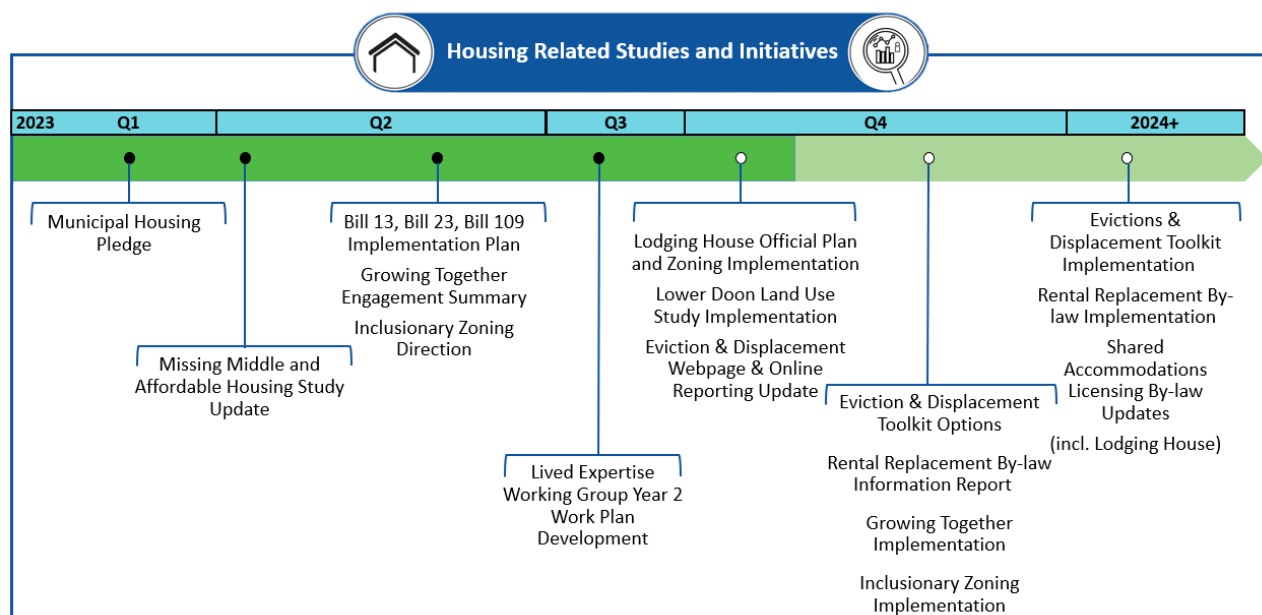
- The purpose of this report is to bring forward a planning recommendation regarding Official Plan amendments and Zoning By-law amendments to permit lodging houses city-wide.
- Community engagement included:
  - A Housing for All Lodging House sub-committee was formed with members of the community, staff and Council. The sub-committee prepared an Issues and Options report about lodging houses and in summer 2023 met with staff to review preliminary directions on Official Plan and zoning updates;
  - An update on the recommended approach for lodging houses was provided to the Lived Expertise Working Group on October 4, 2023, and;
  - Notice of the public meeting was published in the Record on October 6, 2023.
- This report supports the delivery of core services.

## EXECUTIVE SUMMARY:

Council approved Housing for All, the City's first housing strategy which focused on what the city can do to address housing issues. One of the strategy's actions is to report on the feasibility and implications of reviewing and updating current lodging house policies. As part of Housing for All, a Lodging House sub-committee was formed comprised of community members, staff and a member of Council. Together they drafted an Issues and Options paper that recommended removal of references to minimum distance separation and expanding permissions for lodging houses city-wide where residential uses are permitted. They also recommended advancing updates on licensing for lodging houses and engaging with people with lived expertise. Additionally, the Ontario Human Rights Commission has advised all municipalities to avoid the discriminatory impacts of regulations regarding rental housing, including the use of a minimum distance separation. Planning staff is recommending approval of Official Plan amendments and Zoning By-law amendments that will permit lodging houses city-wide.

## BACKGROUND:

This report is one of many reports being presented to Council for consideration in 2023-2024+ which focuses on housing related studies and initiatives. The graphic below depicts the planned updates to Council over the next 12+ months.



In October 2019, Council approved report DSD-19-233 – New Zoning By-law (Stage 2a) – Residential Base Zones Comprehensive Review of the Zoning By-law (CRoZBy) Project which included staff's recommendation that the issue of regulating lodging houses in the Official Plan and Zoning By-law be referred to the Affordable Housing Strategy for further consideration.

On December 14, 2020 as a part of report DSD-20-214 Council approved Housing for All, the City's first housing strategy which focused on what the city can do to address housing

issues including increasing and maintaining the supply of housing within the City of Kitchener while supporting the Region of Waterloo. Housing for All contained over 40 actions the city can take to help realize the right to housing. One of the strategy's actions is to report on the feasibility and implications of reviewing and updating current lodging house policies.

In March 2021, staff brought forward a consultant report and recommendations on the Lower Doon Land Use Study as a part of report DSD-2021-11. One recommendation in the consultant report was to allow lodging houses in all residential zones in Lower Doon and to subsequently revise the City's licensing by-law for Lodging Houses. Further, the consultants' report noted that minimum distance separation regulations are an indefensible form of "people zoning" which the Ontario Human Rights Commission has directed municipalities not to use due to its discriminatory and exclusionary nature and impacts.

### **Lodging House Sub-committee**

As part of the Affordable Housing Strategy, a Lodging House sub-committee was formed in early 2021, comprised of four members of the Housing for All Advisory Committee and together formed a working group which helped draft the Issues and Options paper on lodging houses (Attachment E) in Kitchener. The Issues and Options paper included the following recommendations that are appropriate to be addressed through planning tools or processes:

- Removal of references to minimum distance separation in the Official Plan and Zoning By-law;
- Allow lodging houses as of right in all residential zones across the City;
- Advance updates on the licensing framework for lodging houses, and;
- Engage with people with lived expertise of lodging houses through the City's Lived Expertise Working Group

### **Lodging Houses in the City of Kitchener**

Currently there are about 20 licensed lodging houses located across the City of Kitchener. Through investigations conducted by Kitchener's licensing, by-law enforcement and fire prevention staff, discussions with affected parties, and data-mining, staff are aware that there are many more unlicensed properties operating as lodging houses. Unlicensed properties are not annually inspected and operate outside of the requirements and regulations of the city's bylaws.

To complete the action item from Housing for All, advance the work of the Housing for All Lodging House Sub-committee, and implement direction from the Ontario Human Rights Commission, planning staff are proposing amendments to Kitchener's Official Plan and Zoning By-laws that seek to permit lodging houses across the city.

### **REPORT:**

Many municipalities have regulated the form and location of lodging houses and group homes to prevent or reduce perceived over-concentration of lodging houses and group homes and to "protect" neighborhoods. Many municipalities, including Kitchener, implemented zoning and licensing restrictions and separation requirements for these housing types. As part of Official Plan and zoning updates in the mid 2000s, Kitchener sought to limit the creation of new lodging houses, residential care facilities and social service establishments within the Cedar Hill neighbourhood. The Ontario Municipal Board ruled against the City on the basis that imposing by-laws that limit housing availability for Code protected groups is discriminatory, an encroachment on human rights, and is an

overall breach of planning principles. Additionally, at that time Kitchener and three other municipalities were challenged by the Ontario Human Rights Tribunal on their use of minimum separation distances and zoning restrictions on group homes and supportive housing. The City subsequently removed the minimum separation distances and restrictions for group homes as a result of the Tribunal's direction.

Since that time, the Ontario Human Rights Commission (OHRC) has advised all municipalities, through their report titled [“Room for everyone: Human rights and rental housing licensing”](#) to avoid the discriminatory impacts of regulations regarding rental housing, including the use of minimum separation distances (OHRC, 2013). Minimum separation distances are arbitrary and mean that if one lodging house is established in a neighbourhood, others cannot locate. This particularly affects groups that may already be the most vulnerable, since the lodging houses they live in cannot be brought into conformity and licensing standards, they are often afraid to report property neglect and standards due to fear of being evicted.

### The Role of Lodging Houses in the Continuum

Housing for All is Kitchener's first housing strategy, and it contains over 40 actions that take a comprehensive approach to meeting supply all around the housing continuum. One of the actions was to report to Council on the feasibility of reviewing the City's lodging house policies.

Lodging houses also known as 'Multi-Tenant Houses, and historically as 'Rooming Houses', and 'Boarding Houses', fill an important gap in the provision of housing as it tends to be a more affordable option than other options in the private market. Lodging houses can also encompass some forms of student housing and seniors co-housing. They add to a mix and range of housing options and contribute to stronger and more diverse neighbourhoods. Figure 1 below shows the Wheelhouse which sets the targets for each housing type around the continuum and shows where the market is failing to provide adequate stock.



Figure 1: Wheelhouse - Kitchener's reimagined understanding of the housing continuum.

As part of the implementation of one of the action items of Kitchener's Housing for All, Kitchener's housing strategy, planning staff are proposing and recommending a series of amendments to permit lodging houses city-wide.

Building on the Issues and Options prepared by the Lodging House sub-committee (Appendix E) planning staff conducted supplemental research to better understand ways in which lodging houses are defined in Official Plans and Zoning By-laws; consider how lodging houses can be permitted throughout the city in mixed use and commercial zones; and, considered minimum parking rates. Planning and Licensing staff met with the Lodging House Sub-committee several times throughout Summer 2023 on the supplemental research conducted by staff, and draft directions to amend the Official Plan, Zoning By-law and licensing by-law.

### **Proposed Official Plan Amendments and Zoning By-law Amendments (85-1 and 2019-051)**

Planning staff are proposing amendments to Kitchener's 2014 Official Plan and the 1994 Official Plan which continues to apply to Kitchener's Secondary Plan areas in the neighbourhoods surrounding downtown, the North Ward in Ward 10, and Rosenberg in Ward 5. The Official Plan amendments will seek to:

- Permit lodging houses anywhere in the city that residential uses are permitted where the primary intent of the land is for residential or mixed use and provided that municipal servicing is available;
- Align the definition of lodging houses with the Ontario Building Code and Ontario Fire Code. The proposed definition of lodging houses is:

*Lodging House – shall mean a dwelling unit where five or more persons, not including a resident owner of the property, may rent a lodging unit and where the kitchen and other areas of the dwelling unit are shared amongst the persons occupying the dwelling unit. Lodging house can include student residences but shall not include a group home; hospital; any small residential care facility or large residential care facility licensed, approved, or supervised under any general or specific Act; or a hotel.*

- Remove policies and regulations that refer to the use of minimum separation distances for lodging houses.

Alternative ways to regulate and define lodging houses were contemplated, including not considering a lodging house a separate use of land and rather a form of tenure. This approach would rely on the City's licensing bylaw provisions for rules and safety mechanisms for lodging houses. At this time planning staff recommend continuing with defining and permitting lodging houses as a use to ensure clarity.

### **Planning Analysis:**

#### **Planning Act, R.S.O 1990, c. P. 13**

Section 2 of the Planning Act establishes matters of provincial interest and states that the Minister, the council of a municipality, a local board, a planning board and the Tribunal, in

carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest. Among these matters are the adequate provision of a full range of housing, including affordable housing.

The matters of provincial interest outlined in Section 3 of the Planning Act are addressed and implemented through the Provincial Policy Statement, 2020, which directs how and where growth is to occur. The City's Official Plan is the most important vehicle for the implementation of the Provincial Policy Statement, 2020 and to ensure Provincial policy is adhered to.

The Ministry of Municipal Affairs and Housing is proposing an integrated province-wide land use planning policy document, potentially replacing the Provincial Policy Statement and A Place to Grow: Growth plan for the Greater Golden Horseshoe, with a singular Provincial Planning Statement (PPS) which is in draft form and not in effect at the time this report was prepared.

### **Provincial Policy Statement, 2020**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and growth. It encourages municipalities to permit and facilitate a range of housing options to respond to current and future needs. Section 1.1.1 b) of the PPS acknowledges that healthy, liveable, and safe communities are sustained by accommodating an appropriate range and mix of affordable and market-based residential housing types as part of complete communities. Similarly, Section 1.4.3 b) states that municipalities shall permit and facilitate all housing options required to meet the social, health, economic and well-being requirements of current and future residents.

Based on the foregoing, staff is of the opinion that the proposed Official Plan and Zoning By-law amendments are in conformity with the PPS.

### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (Growth Plan)**

The Growth Plan supports the development of complete and compact communities that are designed to support healthy and active living, make efficient use of land and infrastructure, provide for a range and mix of housing types, jobs, and services, at densities and in locations which support transit viability and active transportation. The Growth Plan (policy 2.2.6.1a) requires that municipalities support housing choice by identifying a diverse range and mix of housing options and densities including additional residential units and affordable housing to meet projected needs of current and future residents. Further policy 2.2.6.1e) requires that municipalities implement the above through their official plan policies and designations and zoning by-laws.

Planning staff is of the opinion that the proposed Official Plan and Zoning By-law amendments are in conformity with the Growth Plan.

### **Regional Official Plan (ROP)**

The Region of Waterloo's Official Plan (ROP), as amended in 2022 through Regional Official Plan Amendment 6 – plans for growth and change in the Region to 2051. The ROP includes planning to provide for a diverse range and mix of housing options, including affordable

housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes.

Chapter 3 of the ROP focuses on policies related to housing. Chapter 3 acknowledges that maintaining a healthy supply of rental housing, especially at affordable and mid-range rents, is critical to attracting residents and businesses to the Region and supporting a wider range of housing options that are affordable. Policy 3.A.2 requires that area municipalities, together with the Region, plan to provide a diverse range and mix of housing options with an overall target of a minimum of 30 percent of new ownership and rental housing being affordable to low- and moderate-income households. The policy also looks to provide variety in housing forms, tenures, density and number of bedrooms to accommodate the needs of all sizes, incomes and ages of households.

Planning staff is of the opinion that the proposed Official Plan and Zoning By-law amendments are in conformity with the ROP.

### **City of Kitchener Official Plan (OP)**

Kitchener's Official Plan (2014) provides the long-term land use vision for Kitchener. The vision is further articulated and implemented through the guiding principles, goals, objectives, and policies which are set out in the Plan. The vision and goals of the Official Plan strive to build an innovative, vibrant, attractive, safe, complete and healthy community.

The City's Official Plan includes an objective (4.1.1) to provide for an appropriate range, variety and mix of housing types and styles, densities, tenure, and affordability to satisfy the varying housing needs of the Kitchener community through all stages of life. This objective is considered through the policies throughout this section and specifically relevant to the Official Plan amendments that are the subject of this report, policy 4.C.1.12 which acknowledges that the City favours a land use pattern which mixes and disperses a full range of housing types and styles both across the city as a whole and within neighbourhoods.

Planning staff is of the opinion that the proposed Official Plan and Zoning By-law amendments are in conformity with the intent of the Official Plan and better align the Official Plan and Secondary Plans contained within the 1994 Official Plan with advice from the Ontario Human Rights Commission.

### **Proposed Official Plan Amendment Conclusions**

Based on the above-noted planning analysis, direction in Housing for All, subsequent research conducted by the Housing for All Lodging House sub-committee and staff, and advice from the Human Rights Commission, staff is of the opinion that the proposed Official Plan amendments represent good planning and recommends that they be approved in the form shown in Attachments "A" and "B".

### **Proposed Zoning By-law Amendment Conclusions**

Based on the above-noted planning analysis, direction in Housing for All, subsequent research conducted by the Housing for All Lodging House sub-committee and staff, and recommendations from the Human Rights Commission, staff is of the opinion that the proposed Zoning By-law amendments represents good planning as they will permit a form of housing broadly across the city that has historically been restricted. The proposed

Zoning By-law amendments are consistent with the proposed Official Plan amendments. Staff recommends that the proposed Zoning By-law amendments be approved in the form shown in Attachments “C” and “D”.

### **Licensing By-law Updates**

Planning staff have been working closely with the Licensing Services team on the proposed Official Plan and Zoning By-law amendments in parallel with anticipated updates to Kitchener’s licensing framework for lodging houses. Currently, Licensing Services intends to bring to Council a report with an updated licensing by-law in early 2024 for lodging houses and other shared accommodations, such as short-term rentals. Once Council has considered the proposed licensing by-law, staff will launch a comprehensive communications and education plan to ensure the successful roll out of new zoning and licensing rules for lodging houses and licensing rules for other short-term accommodations.

Prior to the implementation of an updated licensing framework for lodging houses, the city will continue to rely on its current Lodging House By-law which require any property operating a lodging house to obtain a licence and undergo annual inspections by property standards and fire prevention to ensure health and safety.

### **STRATEGIC PLAN ALIGNMENT:**

This report supports A Caring Community.

### **FINANCIAL IMPLICATIONS:**

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

### **COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City’s website with the agenda in advance of the council / committee meeting.

CONSULT - This item arose as part of the work of the creation of Housing for All. It is estimated that city staff engaged with close to 500 people including citizens, stakeholders, members of the Advisory Committee, City staff and Members of Council. Further, a Lodging House Review sub-committee worked alongside City staff helped to co-create the issues and options paper and identify potential opportunities. The Lodging House Review sub-committee also provided input on draft directions on proposed updates to the Official Plan and Zoning By-law. Finally, an overview of the proposed Official Plan and Zoning By-law amendments were presented to Kitchener’s Lived Expertise Working Group on October 4, 2023.

### **PREVIOUS REPORTS/AUTHORITIES:**

- Planning Act, R.S.O. 1990, c. P. 13
- A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020
- Provincial Policy Statement, 2020



- Region of Waterloo Official Plan, 2009
- City of Kitchener Official Plan, 2014
- City of Kitchener Official Plan, 1994
- City of Kitchener Zoning By-law 85-1
- City of Kitchener Zoning By-law 2019-051
- DSD-2021-11 – Lower Doon Land Study Recommendations Report
- DSD-20-214 – Housing for All – City of Kitchener Housing Strategy

**REVIEWED BY:** Helen Fylactou, Manager, Licensing

**APPROVED BY:** Justin Readman, General Manager, Development Services

**ATTACHMENTS:**

Attachment A – Proposed 1994 Official Plan Amendment

Attachment B – Proposed 2014 Official Plan Amendment

Attachment C – Proposed Zoning By-law Amendment 85-1

Attachment D – Proposed Zoning By-law Amendment 2019-051

Attachment E – Housing for All Lodging House Sub-Committee Issues and Options Paper

Attachment F – Newspaper Notice (October 6, 2023)