

Housing For All

Lodging House Sub-Committee Issues and Options Paper

October 2023

Forward and Acknowledgement

This issues and options paper was co-created with the lodging house sub-committee comprised of members of the City of Kitchener's Affordable Housing Advisory Committee with support from city staff including Andrew Ramsaroop (former staff in Equity, Anti-Racism, and Indigenous Initiatives Division), Karen Cooper (former staff in the Office of the CAO), and Craig Dumart (Planning Division):

- Martin Asling – Member of the Public
- Regan Brusse – Member of the Public
- Linda Terry – Member of the Public
- Debbie Chapman – Member of Council.

This paper is meant to create a common understanding of the history of lodging houses within the City of Kitchener, the role they play on the housing continuum, the issues they face and opportunities the City can take to help ensure lodging houses can remain a viable housing form, and advance the City's commitment to realizing the right to housing.



The opportunities outlined in this paper will be used to inform the work of City staff as the lodging house policy review continues. Advancing this action will help the community move closer to more equitable, diverse and inclusive housing options. It progresses the City's strategic goal which is to create and foster a more caring community.

Introduction

Lodging houses, also known as multi-tenant housing, and historically as boarding houses, or rooming houses have long been a form of housing within Kitchener and many other urban areas throughout Canada. They provide an affordable option for both short term and long-term housing for a variety of income levels, and a variety of household types and are an important part of the housing continuum. Typically, lodging homes have multiple rooms within a singular building with shared amenity space, such as a shared kitchen, shared washrooms, or other amenities. Their typology and design is diverse and they do not necessarily have one form, and they do not necessarily have to be affordable but most often are.

Housing for All, Kitchener's housing strategy has actions that will help increase housing opportunities across the housing continuum. Updating the City's lodging house policies was one action of over 40 endorsed by Kitchener City Council. This paper examines the current state, issues and opportunities regarding lodging houses in the City of Kitchener and proposes updates to policy and regulations for consideration.

Background

Municipalities have regulated the form and location of housing to prevent or reduce perceived over-concentration of lodging houses and group homes and to "protect" neighborhoods. Many cities implemented zoning and licensing restrictions and separation requirements for these housing types and other social services.

CMHC commissioned reports that found that for cities in Ontario, zoning was the first tool to regulate and control lodging houses followed by municipal licensing (CMHC, 2000; 2002; Campsie, 2018). At issue is that these types of "dispersal" by-laws were intended to prevent an overconcentration of lodging houses in certain neighbourhoods, but by implementing these types of by-laws cities were portraying residents not as citizens but social problems that require spatial solutions (Finkler and Grants, 2011; Campsie, 2018).

A part of the City of Kitchener's Cedar Hill Land Use and Social Environment Study official plan and zoning by-law amendments were proposed that sought to limit the creation of new lodging houses, residential care facilities or social service establishment within the Cedar Hill neighbourhood. In 2010 the Ontario Municipal Board (OMB) ruled against the City of Kitchener's Official Plan Amendment No. 58 because imposing by-laws that limit housing availability for *Code* protected groups was discriminatory, an encroachment on human rights and an overall in breach of planning principles (OHRC, 2013).

The City of Kitchener was one of four Ontario cities that were brought to the Human Rights Tribunal of Ontario and challenged on minimum separation distances (MSD) and zoning restrictions on group homes and supportive housing. The City subsequently removed the MSD and restrictions for group homes as a result of the Tribunal's direction (OHRC, 2014). While residential care facilities and social service establishment clearly serve Ontario Human Rights Code-protected groups, lodging house residents are diverse, therefore MSDs for lodging houses remained in effect.

In October 2019, City of Kitchener planning staff brought forward report DSD-19-233 – New Zoning By-law (Stage 2a) – Residential Base Zones Comprehensive Review of the Zoning By-law (CRoZBy) Project. City Council passed all of Planning staff’s recommendations including that the issue of regulation of lodging houses in the Official Plan and Zoning By-law be referred to the Affordable Housing Strategy for further consideration.

In December 2020, as a part of report DSD-20-214 Council approved its housing strategy titled, “Housing for All”. 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, planning staff brought forward a consultant report and recommendations on the Lower Doon Land 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 subsequently revise the City’s licensing by-law for Lodging Houses.

Relevant Policies

There are three municipal policies and by-laws that govern Lodging Houses within the City of Kitchener:

- The City of Kitchener’s Official Plan, 2014
- The City of Kitchener’s Zoning By-law (85-1 and 2019-051)
- Kitchener’s Business Licensing By-law Chapter 500 – Chapter 553 Lodging House License of the Municipal Code

There are also multiple provincial policies and standards that govern lodging houses within the City of Kitchener and either empower or supersede municipal policy, including:

- Human Rights Code, R.S.O. 1990, c.H.19
- Ontario Building Code, Building Code Act, 1992 (O.Reg. 332/12: Building Code)
- Ontario Fire Protection and Prevention Act, 1997 (O.Reg. 213/07: Fire Code)
- Planning Act, R.S.O. 1990, c.P.13
- Municipal Act, 2001, S.O. 2001, c.25

Lodging Houses within the City of Kitchener.

The City of Kitchener’s Official Plan, 2014 currently defines lodging houses as:

Lodging House - a dwelling unit where four (4) or more persons may rent a room for sleeping and where the kitchen and other areas of the dwelling unit are shared amongst the persons occupying the dwelling unit.

The City of Kitchener’s Zoning By-laws currently defines lodging houses as:

Zoning By-law 85-1

“Shall mean a dwelling unit or part thereof containing one or more lodging units designed to accommodate four or more residents exclusive of the owner or primary occupant. The residents may share common areas of the dwelling other than the lodging units, and do not appear to function as a household. This shall not include a group home, nursing home,

hospital or any residential care facility licensed, approved or supervised under any general or specific Act or a hotel. This shall include, but not be limited to, student residences and convents. (By-law 2003-163, S.7) (Amended: By-law 2012- 034, S.8)”

Zoning By-law 2019-051

“Means 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 houses can include student residences and convents but shall not include a group home; hospital; and small residential care facility or large residential care facility licensed, approved, or supervised under any general or specific Act; or a hotel.”

The City of Kitchener’s Business Licensing By-law defines lodging houses as:

“means a dwelling or part thereof containing one or more lodging units which lodging units or units are designed to accommodate four or more residents in total. The residents may share common areas of the dwelling other than the lodging units, and do not appear to function as a household. This shall not include a hotel, motel, group home, nursing home, hospital, or any residential care facility licensed, approved, or supervised under any general or specific Act.”

Currently within the City of Kitchener there are about 20 lodging houses that are licensed and can be inspected annually for safety compliance. Anecdotally however, the majority of lodging houses in the City are unlicensed and therefore are not regulated under the City’s business licensing bylaw. They currently exist in a variety of neighbourhoods both in the urban core and in the surrounding residential suburbs, where current zoning regulations may not allow them to become licensed.

The City only becomes aware of lodging houses through complaints, fire code violations or bylaw infractions. This means the majority of lodging houses that are currently operating in the City are not able to be inspected for safety, upkeep, and property maintenance. Further, the residents of unlicensed lodging houses are at risk to be displaced due to their unlicensed nature.

Key Issues and Opportunities

In Toronto, Maytree – a charitable foundation created to find solutions to poverty in Canada - reported that over 100 Notices of Violations were issued in Toronto annually to operators by Municipal Licensing and Standards only 7% were “based on habitability concerns, while 93% were related to “non-permitted” or “no-license” charges” (Maytree, 2020). This infers that enforcement is underutilized by tenants to support property maintenance standards and are focused on displacement in response to complaints from the public.

There are a variety of factors for lodging houses being unlicensed:

- The City’s current Official Plan includes policies suggesting that the Zoning By-law may be used to determine where lodging houses should be permitted and that the use may be subject to standards or location criteria including minimum separation distances.
- The City’s current Zoning Bylaws do not permit lodging houses as of right in all zoning categories where other residential uses are permitted and also restricts them geographically through minimum separation distances.
- The City’s current Lodging House by-law permits lodging house licenses to be obtained ONLY where a lodging house is permitted in zoning.

- Operators do not wish to go through the process of bringing lodging houses into conformity with zoning and or licensing provisions.

The opportunities within this report will focus on what the City can do to help make lodging houses a safe place to call home.

Key Issue 1: There is currently a minimum separation distance (MSD) for Lodging Homes and Correctional Group Homes in the City of Kitchener.

There has been an arbitrary minimum separation distance requirement put in place for lodging houses and correctional group homes in the City of Kitchener. This MSD is enforced through the City of Kitchener Official Plan 2014 and the City’s Zoning By-laws 85-1 and 2019-051. This prevents another lodging house or correctional group home from being established in the same neighbourhood as another and is a major impediment to ensuring an increase in affordable housing and bringing illegal lodging homes into legality.

The Ontario Human Rights Commission has advised all municipalities to eliminate minimum separation distances. The OHRC states, “Minimum separation distances are basically restrictions – and can adversely affect renters by restricting the options available to them. Municipalities should consider incentives and ways to encourage affordable housing throughout the municipality” (OHRC, 2013). Further, the OHRC states that MSDs are a form of “people-zoning” which is illegal and discriminates against code-protected groups.

- **Opportunity 1.1:** The City’s Official Plan, 2014 be amended to remove references to the minimum separation distances as it pertains to Lodging Houses
- **Opportunity 1.2:** The City’s Zoning By-law be amended to remove references to the minimum separation distances as it pertains to Lodging Houses and Correctional Group homes.
- **Opportunity 1.3:** Through Housing For All, the City’s first housing strategy and its actions the city is undergoing a number of actions to encourage more housing opportunities across all Wards and neighbourhoods in the city and across the housing continuum.

Key Issue 2: Lodging Houses are currently only permitted in multi-unit residential zones as-of-right in the current zoning by-law

The City of Kitchener is currently in the process of implementing a new comprehensive zoning by-law. Currently By-law 85-1 governs zoning in the City as well, as the partially implemented Zoning By-law 2019-051. In the residential zones of both zoning by-laws Lodging Houses are only permitted in zones which are higher density residential zones. By only allowing lodging homes in these zones as-of-right the policy does not allow lodging homes operating outside of these zones to be legalized or licensed.

Further, the Ontario Human Rights Commission consistently recommends that lodging houses be allowed as of right in all residential neighbourhoods. OHRC notes, “In limiting lodging houses only to certain residential zones, the bylaw could have a discriminatory impact”. Further, in the Lower Doon land use study final report commissioned by the City of Kitchener, the consultants recommended that lodging houses be permitted in all residential zones in Lower Doon. Understanding that this regulation could not only be limited to Lower Doon, the zoning by-law amendment would need to be a city-wide zoning by-law amendment in order to mitigate any possible discriminatory impacts.

- **Opportunity 2.1:** Amend Zoning By-laws 85-1 and 2019-051 to allow lodging houses as of right in all residential zones across the entire City of Kitchener as per the recommendations and directions from OHRC.

Key Issue 3: There are misconceptions on ‘Who’ lives in Lodging Houses, what role lodging houses have in the housing continuum.

Lodging houses play a key role in providing a diverse range of housing in the city. They provide an affordable housing option for those with lower income levels, single person households, students and other groups. In a region where housing costs are rising at an exponential rate, it is vital that we not only ensure we can make lodging houses safe places to live but that we can encourage more lodging houses to become licensed and remove barriers to increasing the uptake of lodging houses as a residential typology. This also includes addressing the issue that most residents either have misconceptions on what lodging houses look like, who lives there and how they contribute overall to healthy, diverse and strong neighbourhoods.

- **Opportunity 3.1:** Include lodging houses in the discussion, research, and potential education/communication around NIMBYism through the work of The SHIFT.
- **Opportunity 3.2:** Through Housing for All, there will be opportunities to engage people with lived experience and with those who live within lodging houses through the lived experience working group. There is the potential to include someone who either has or currently lives in a lodging house to sit on the working group. Further, through the Business Licensing Review, there is an opportunity to engage with people with lived experience and multi-tenant housing advocates.

Key Issue 4: Shutting down Lodging Houses must continue to remain the very last step. In order to avoid the displacement of tenants, more unregulated lodging houses need to become licensed.

When lodging houses are shut down and disbanded, the tenants inside are left with very little options. With asking rents out of reach for many, and a long Regional Housing waitlist, residents become displaced, homeless, or unsheltered. The City has a coordinated approach to dealing with by-law infractions which is a coordinated effort between By-law Enforcement, Licensing Services and Fire. However, more can be done and should be done to incentivize and make it easier to become a licensed lodging house. These changes start with permitting lodging houses city-wide through zoning.

Further there are opportunities to promote and elevate landlords and operators who set a high standard of maintenance and tenant relations as well as exploring systems that ensure landlord compliance.

Table 1: Programs, incentives and policies to protect and increase the number of licensed lodging houses

Municipality/Jurisdiction	Name/Incentives/Policy	Type
City of Oshawa	Lodging House Demerit Point System	Compliance
Newtown, Australia	Boarding House Good Practice Awards	Recognition

Municipality/Jurisdiction	Name/Incentives/Policy	Type
CMHC, 2001	Property tax reclassification to incentivize new stock, maintain the existing stock and keep operators active in the sector.	Incentive
City of Toronto	Demolition and Rental Replacement	Replacement

These opportunities should be leveraged to prevent the disbanding of unlicensed lodging houses, by giving them opportunities to become licensed. Kitchener is currently in the process of updating its Lodging House By-law. Through this review Kitchener should consider ways to make the lodging house licensing process streamlined, more affordable, and easier for owners, making it more appealing for owners to comply with updated rules for lodging houses.

Conclusion

Through the addressing the proposed opportunities, the City can help:

- Increase the number of licensed lodging houses and thereby help ensure safety of residents.
- Encourage good landlord practices as they pertain to lodging houses.
- Help educate the general public on the key role lodging houses play on the housing continuum.
- Improve the access to a diversity of housing types required to ensure the right to housing.
- Ensure definitions are aligned, harmonized and complementary so that they are straightforward to comply with, and
- Prevent loopholes in regulation and enforcement which would ultimately impact the safety of tenants.