

# A City For Everyone: Allowing lodging homes as-of-right and updating the licensing of lodging homes *WR YIMBY Submission to the City of Kitchener*

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## Introduction

The City of Kitchener has the opportunity to quickly boost the supply of affordable housing by allowing for lodging homes more broadly throughout the City. Lodging home units are much more likely to be affordable than other types of housing.<sup>i</sup> They consist of a private area for sleeping, sharing a kitchen and or bath with tenants of other lodging units in the building. While some tenants have higher incomes, many are living with low incomes and lodging homes are often a buttress against homelessness.<sup>ii</sup>

The bylaw in its current state discourages lodging homes. We advocate removing the 400 minimum separation distance requirement and allowing lodging homes without additional zoning requirements in all residential neighbourhoods where they can be serviced by City of Kitchener utilities. They must also be feasible to operate and livable for tenants.

All changes we are recommending broadly advance the goals of the Housing for All strategy<sup>iii</sup>. Additionally, the recommended changes are in line with a vast array of complementary priorities and goals, including: environmental sustainability, equity, and vibrant neighbourhoods.

Licensing lodging homes and allowing them broadly throughout the City of Kitchener are best achieved together. The benefits of an updated licensing regime will be null and void if there is no incentive for lodging home operators to licence their lodging homes because they are not allowed without further zoning permissions.

## Background

This report is a response to the City of Kitchener on both the zoning and licensing of lodging homes. The City of Kitchener has brought the question of greater zoning allowances for lodging homes to the Housing For All Strategy. The Housing For All Strategy created a subcommittee on lodging homes which recommended allowing lodging homes as of right in all neighbourhoods, and shutting down lodging homes as a very last resort. The Issues and Options paper, along with proposed bylaw changes goes to Committee on October 30<sup>th</sup>, 2023. We understand that the licensing changes are to come later at the City of Kitchener.



## **WR YIMBY's Proposed Changes to Kitchener's Lodging House regulations**

**We call upon the City of Kitchener to make the following changes:**

1. Remove the 400 metre-minimum separation requirement
2. Allow lodging homes in all areas which include residential zoning , for which municipal services can support the increased density
3. Reduce or remove the annual licensing fee
4. Ensure that parking requirements are in line with environmental goals
5. Licensing must be designed to empower tenants in protecting their safety and quality of life, by creating a framework to hold property owners accountable to tenants, neighbours, and the city. It should not be used to regulate tenants, or to prioritize neighbour concerns above those of tenants themselves. This means:
  - a. Letters should not be sent out soliciting feedback from neighbours about a lodging home.
  - b. Removal of a lodging home licence must be an absolute last resort, due to immediate tenant safety concerns.

## **WR YIMBY Proposed Changes in detail**

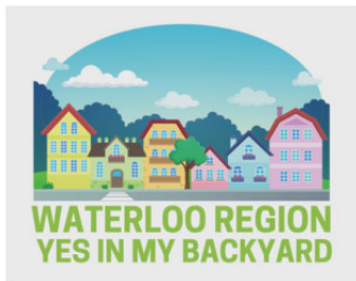
**We call upon the City of Kitchener to make the following changes:**

### *1. Remove the 400 metre-minimum separation requirement*

#### **Why minimum separation distances for multi-tenant homes are unjust:**

Limiting the use of lodging homes, by not allowing them within 400 metres of existing lodging homes, is considered discriminatory “people-zoning” by the Ontario Human Rights Commission.<sup>iv</sup> Zoning is meant to govern land use, not people. This has been increasingly recognized by other jurisdictions. The City of Guelph repealed a minimum distance bylaw for rental and accessory dwelling units after challenges by the OHRC<sup>v</sup>. The City of Sarnia removed their zoning requirements for group homes<sup>vi</sup>. Moreover, the Ontario Housing Affordability Task Force recommended that lodging homes be allowed everywhere in Ontario.<sup>vii</sup>

Allowing lodging houses throughout the city can more equitably encourage the same goal as minimum-separation distances. One potential reason that we have such rules for lodging homes is to prevent the “overconcentration” of low-income people in a given area. This reasoning was



given by the City of Kitchener for not allowing lodging homes at the time in the Cedar Hill neighbourhood, when challenged at the (formerly called) Ontario Municipal Board.

The Ontario Municipal Board responded that the city had not tried to encourage lodging homes and other lower income housing in other neighbourhoods of the City, and they forced the City to either remove the discriminatory bylaws or encourage more affordable housing throughout the City<sup>viii</sup>. In 2011 the city chose to remove the bylaw rather than taking a proactive approach to increase affordable housing.<sup>ix</sup> In 2023, the City has the opportunity to do better by allowing lodging homes more broadly. See Action 2, below.

## *2. Allow lodging homes without additional zoning permissions required in all areas zoned residential, for which municipal services can support the increased density.<sup>x</sup>*

There is no justification for facilitating lodging homes in one neighbourhood but not another. Moreover, it leads to the type of “over-concentration” of low-income people that the minimum separation distance seeks to remedy at the expense of the people that would otherwise be housed in the lodging homes that are discouraged by this bylaw. The Ontario Human Rights Commission warns that “limiting” lodging homes to some residential zones “has a discriminatory impact”.<sup>xi</sup>

Discouraging lodging homes drives them underground when they do exist, meaning they are unlicensed, which defeats the purpose of having a licensing regime for them. The illegality of lodging houses causes a precarious situation for tenants who are left without recourse against a landlord who does not fulfill their responsibilities, or evicts a tenant in bad faith. Since these are not legal rentals, with no process for reporting, there is no data to track how many individuals may be in this situation.

## *3. Reduce or remove the annual licensing fee*

The City of Kitchener charges \$1,121 for a new lodging house licences, and \$910 for a renewal (2023) making it the second most expensive license type<sup>xii</sup>

The current licensing fees only impact property owners who choose to operate a lodging house legally and ethically. They do nothing to deter those who are willing to operate a lodging house without legal compliance. As with all business, much of these fees are passed on to the end consumer, raising the cost of housing. Removing the fee would send a message that the City of Kitchener is prioritizing more affordable housing types



#### *4. Ensure that parking requirements are in line with environmental goals*

High minimum parking requirements for lodging houses are no longer in line with the city's objectives. Reductions in parking space requirements are consistent with the objectives to reduce car reliance as stated in the Cycling Master Plan<sup>xiii</sup>. They act as an incentive to use more sustainable transportation methods, and they reduce infrastructure costs to the City of Kitchener.

Parking requirements are expensive.<sup>xiv</sup> They can prevent the formation of some lodging homes<sup>xv</sup> and increase the cost of renting from lodging homes that do exist. This is unfair to car-free tenants as they still pay the increased rent despite not needing the parking spot. Allowing for more flexibility on how many parking spots a lodging home needs to have does not mean that lodging home operators will not provide more than the minimum allowed, provided the minimum is set at a reasonable number.

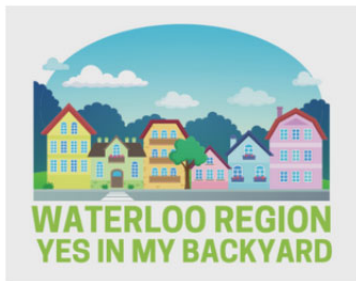
Maytree cautions that the City of Toronto's 2022 update to their lodging house bylaws is being held back by their parking requirements. They note that this will allow neighbours an opportunity to attempt to get lodging houses shut down for lack of compliance.<sup>xvi</sup> The City of Kitchener can follow the City of Toronto's allowance of lodging homes, while improving the strategy by reducing such costly and unnecessary requirements such as minimum parking.

#### *5. Licensing must be designed to empower tenants in protecting their safety and quality of life, by creating a framework to hold property owners accountable to tenants, neighbours, and the city. It should not be used to regulate tenants, or to prioritize neighbour concerns above those of tenants themselves.*

If safe and affordable housing is truly the goal, licensing must be used to regulate the actions of landlords, with the primary purpose of empowering tenants to protect their safety and quality of life. It should not be used to regulate tenants or prevent them from living in a neighbourhood<sup>xvii</sup>.

We worry that the practice of sending letters to surrounding property owners when licences are up for renewal does not make this distinction clear and can stigmatize tenants. Currently, the Municipal Code states that for licence renewal "...City staff will solicit comments on the operation and impact of the lodging house from owners, occupants, and tenants of [nearby] properties"<sup>xviii</sup>

Ideally, the "investigation of impact" required for license renewal would be an opportunity to hold property owners to account for tenant safety. Privacy and security, two aspects of safety, are things we all value in a home. However, sending letters out to neighbours denies those living in a lodging home their privacy by announcing that this is shared housing, inviting stigmatization for those living in housing which caters to low-income people and reinforcing the idea that neighbours deserve a say about how the people living in this particular house use their living space. There is already a sufficient system to notify bylaw or police about the activities of any of



our neighbours. By using the same system for all, we reduce the danger of holding lodging house tenants to different standards than other residents.

Neighbours may be frustrated by the behaviour of some of the people in their neighbourhood. It could be that the problems originate from somewhere else, or these issues may be due to individual residents of a lodging home. Using licensing to remove lodging homes from a particular neighbourhood would be ineffective at addressing the problem at hand and an arbitrary, blunt force approach that harms uninvolved tenants alongside the tenants that caused the problems. When a lodging home is shut down, all tenants lose their homes. Those that created problems simply go somewhere else, which simply moves the problems they created to another area.

We point to Kitchener's Housing for All  
Priority 1:  
Human Rights Based Approach to Housing  
Action 1: Address NIMBYism<sup>xix</sup>

## Conclusion

The City of Kitchener has the opportunity to allow for more affordable, sustainable housing by allowing lodging homes throughout almost the entire city, without additional zoning requirements. This means removing the 400 minimum-separation requirement and including lodging homes in residential zones 1, 2 and 3 unless they truly cannot be serviced by municipal utilities. This will also allow for more existing lodging homes to be licensed, as they are no longer pushed underground. Licensing can play a vital role in improving safety and well-being of tenants. It must not be used to regulate tenants themselves, or effectively push tenants out of neighbourhoods.

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<sup>i</sup> See Maytree Foundation (2020) "A Human Rights Review of Toronto's Multi-Tenant Homes Policies", pg. 17. [https://maytree.com/wp-content/uploads/Human\\_Rights\\_Review\\_Toronto\\_MTH\\_Policies.pdf](https://maytree.com/wp-content/uploads/Human_Rights_Review_Toronto_MTH_Policies.pdf)

See also, Joy and Paul Connelly (2021) "The Economics of Rooming Houses" Maytree Foundation, pg. 3.

<https://maytree.com/wp-content/uploads/The-economics-of-rooming-houses.pdf>

<sup>ii</sup> As Dennis Culhane, homelessness expert at the University of Pennsylvania says: "Many people attribute the growth of street homelessness in the '80s to the loss of [lodging home] stock that began in the '60s". He adds "If we could get a few thousand of those units in [Philadelphia], it could have a really significant impact on homelessness."



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<https://www.governing.com/community/sro-housing-nearly-zoned-out-of-existence-could-re-emerge>

<sup>iii</sup> The lodging homes subcommittee of the Housing For All Strategy and City of Kitchener staff wrote an October 2023 Issues and Options paper which called for effectively allowing lodging homes as-of right throughout the City of Kitchener. It also says as Key Issue 4 that “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.” It can be found here: <https://pub-kitchener.escribemeetings.com/filestream.ashx?DocumentId=13737>

<sup>iv</sup> “Room for everyone: Human rights and rental housing licensing”, Ontario Human Rights Commission (2013) pg. 17.

[https://www3.ohrc.on.ca/sites/default/files/room%20for%20everyone\\_human%20rights%20and%20rental%20housing%20licensing\\_accessible.pdf](https://www3.ohrc.on.ca/sites/default/files/room%20for%20everyone_human%20rights%20and%20rental%20housing%20licensing_accessible.pdf)

<sup>v</sup> Ibid, pg. 19

<sup>vi</sup> Ibid, pg. 19

<sup>vii</sup> Report of the Ontario Housing Affordability Task Force , Housing Affordability Task Force (2022), pg. 11. <https://files.ontario.ca/mmah-housing-affordability-task-force-report-en-2022-02-07-v2.pdf>

<sup>viii</sup> Ontario Municipal Board (2010) Interim Decision by M. C. Denhez and order of the board. OMB File No. R050129. A copy of the 2010 Ontario Municipal Board decision can be found here: [https://www.acto.ca/production/wp-content/uploads/2017/07/Decision\\_OMB\\_ExcludingLowIncomeHouseholds\\_2010.pdf](https://www.acto.ca/production/wp-content/uploads/2017/07/Decision_OMB_ExcludingLowIncomeHouseholds_2010.pdf)

<sup>ix</sup> Terry Pender (June 21<sup>st</sup>, 2011) City of Kitchener kills Cedar Hill bylaw. Waterloo Region Record.

<https://www.acto.ca/~actoca/assets/files/docs/City%20of%20Kitchener%20kills%20Cedar%20Hill%20bylaw,%20The%20Record%20-%20June%202021,%202021.pdf>

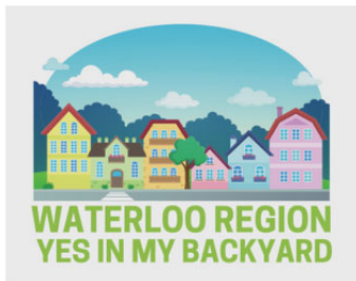
<sup>x</sup> Only some Residential-1 zoned areas cannot currently support the additional demands on existing municipal services. The proposed new (2023) bylaw for lodging homes has a line that says: “A lodging house shall be connected to full municipal services.” See: Attachment C - Amending Bylaw to Bylaw 85-1 City wide Lodging House Review, pg. 2: <https://pub-kitchener.escribemeetings.com/filestream.ashx?DocumentId=13735>

<sup>xi</sup> Hall, Barbara (November 29<sup>th</sup>, 2013). Proposed lodging house licensing bylaw and the associated proposed zoning bylaw amendment. Letter to the Town of Ajax, Ontario Human Rights Commission. [https://www.ohrc.on.ca/en/news\\_centre/proposed-lodging-house-licensing-bylaw-and-associated-proposed-zoning-bylaw-amendment](https://www.ohrc.on.ca/en/news_centre/proposed-lodging-house-licensing-bylaw-and-associated-proposed-zoning-bylaw-amendment)

<sup>xii</sup> City of Kitchener 2023 Budget, Appendix E User Fee Schedule, pg. 69

[https://www.kitchener.ca/en/resourcesGeneral/Documents/FIN\\_FP\\_2023\\_User\\_Fees.pdf](https://www.kitchener.ca/en/resourcesGeneral/Documents/FIN_FP_2023_User_Fees.pdf)

<sup>xiii</sup> “Around future high density growth nodes and transit station areas, while it is recognized that local context will influence transportation design choices, the Region will give priority to modes in the following order: walking; cycling; public transit; carpooling and other smart commute strategies; and single occupant vehicles”



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City of Kitchener (2010). City of Kitchener Cycling Master Plan, pg. 26.

[https://www.kitchener.ca/en/resourcesGeneral/Documents/DSD\\_TRANSPORT\\_Cycling\\_Master\\_Plan.pdf](https://www.kitchener.ca/en/resourcesGeneral/Documents/DSD_TRANSPORT_Cycling_Master_Plan.pdf)

<sup>xiv</sup> See Donald Shoup (2011). The High Cost of Free Parking: Updated Edition. Planners Press.

<sup>xv</sup> On the tight margins for lodging homes, see Joy and Paul Connelly (2021) “The Economics of Rooming Houses” Maytree Foundation.

<https://maytree.com/wp-content/uploads/The-economics-of-rooming-houses.pdf>

<sup>xvi</sup> Alan Broadbent & Elizabeth McIsaac (January 31, 2023) Why we’re not celebrating Toronto’s rooming house legalization just yet. Maytree Foundation

<https://maytree.com/publications/rooming-houses-not-celebrating-yet/>

<sup>xvii</sup> In their study of Toronto’s lodging homes (prior to their being more broadly allowed), the Maytree Foundation found the following:

From January 2012 to July 2020, MLS issued 912 Notices of Violation (an average of 107 per year), resulting in 118 charges (an average of 14 per year). Of these, 47 led to convictions. However, just 7% of these charges were for ‘failure to clean/sanitize’, while 86% were for ‘non-permitted use,’ and the remaining 7% for ‘no licence’ This suggests that enforcement mechanisms are underused by tenants to help improve living conditions and are instead overly focused on issues that may in fact trigger their displacement.

See Maytree Foundation (2020) A Human Rights Review of Toronto’s Multi-Tenant Homes Policies, pg. 14. [https://maytree.com/wp-content/uploads/Human\\_Rights\\_Review\\_Toronto\\_MTH\\_Policies.pdf](https://maytree.com/wp-content/uploads/Human_Rights_Review_Toronto_MTH_Policies.pdf)

<sup>xviii</sup> License Lodging House Chapter 553, Municipal Code. City of Kitchener (January 2005), pg.

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[https://lf.kitchener.ca/WebLinkExt/DocView.aspx?dbid=0&id=1412653&page=1&\\_ga=2.7556658.1689925153.1606064828-1723526567.1566582097&cr=1](https://lf.kitchener.ca/WebLinkExt/DocView.aspx?dbid=0&id=1412653&page=1&_ga=2.7556658.1689925153.1606064828-1723526567.1566582097&cr=1)

<sup>xix</sup> City of Kitchener (2020) Housing For All, Kitchener Housing Strategy pg. 12.

[https://www.kitchener.ca/en/resourcesGeneral/Documents/DSD\\_PLAN\\_Housing\\_For\\_All\\_Kitchener\\_Housing\\_Strategy.pdf](https://www.kitchener.ca/en/resourcesGeneral/Documents/DSD_PLAN_Housing_For_All_Kitchener_Housing_Strategy.pdf)