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# **What We Talk About When We Talk About Rooming Houses: Regulation in Canada, 2000–2018**

Philippa Campsie

Research Paper 244

September 2018



Social Sciences and Humanities  
Research Council of Canada

Conseil de recherches en  
sciences humaines du Canada

Canada

Funded by the Social Sciences and Humanities Research Council of Canada  
through the Neighbourhood Change Research Partnership

[www.neighbourhoodchange.ca](http://www.neighbourhoodchange.ca)

ISSN 0316-0068; ISBN 978-0-7727-9130-6

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September 2018, vi, 33 pp.

ISSN 0316-0068

ISBN 978-0-7727-9130-6

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This study and its dissemination is supported by a grant from the Social Sciences and Humanities Research Council of Canada which has funded the Neighbourhood Change Research Partnership based at the University of Toronto (J. David Hulchanski, Principal Investigator).

The views expressed are those of the author and do not necessarily represent the views of the research team, the advisory board members, the university, or the funder.



## Executive Summary

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When “we” (city dwellers, city planners, city councillors) talk about rooming houses, we usually talk about how best to regulate them, followed by how to enforce those regulations. This report examines the way in which rooming houses are regulated in Canadian cities through zoning and licensing, using the following research questions:

What is the *purpose* of the regulations used in different cities? Are the regulations designed to protect low-income tenants or limit the number of rooming houses? What do the regulations say about whether rooming houses are regarded as a legitimate form of affordable housing, or simply a municipal nuisance that should be tightly controlled?

The answers to this question vary from city to city. In many cases, municipal regulation reflects the way in which rooming houses have become an agent of neighbourhood change, particularly in suburban neighbourhoods.

In the late 20<sup>th</sup> century, rooming houses usually took the form of large older houses in and near the downtowns of long-established cities, which offered affordable housing for the very poor, disabled people living on meagre public allowances, and people who had very few housing options because of mental illness or addictions. These cities usually had licensing programs for rooming houses, mainly to reduce the ever-present risk of fire and to ensure the safety of the residents in old buildings that were often in a poor state of repair.

Since the turn of the century, a new type of rooming house has emerged in suburban neighbourhoods, catering to low-income immigrants and students attending postsecondary education at the suburban campuses of universities and community colleges. In many cases, these rooming houses operate in contravention of zoning bylaws that prohibit such housing in suburban areas. Pressure to regulate these rooming houses usually comes from neighbours who complain about noise, garbage, parking, and poor property maintenance.

The dilemma for municipalities is to regulate these new kinds of rooming houses in a way that protects tenants who need affordable housing near where they work or study, while placating residents who would prefer not to have rooming houses in their neighbourhoods.

This paper examines each of the different elements of regulation in turn, to determine whether its main role is to protect tenants or to appease neighbours who view rooming houses as a nuisance. Of the elements reviewed, only a few have any real or potential benefit to roomers; most are simply there to limit the number and extent of rooming houses. Not all cities use all of these elements; a couple appear to be unique to certain cities. For any given city, it would be the combination of elements used that would reveal its overall attitude to rooming houses.

## Table of Contents

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<b>1.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>2.</b>	<b>METHODS OF CONTROL .....</b>	<b>4</b>
2.1	ZONING .....	4
2.2	LICENSING .....	5
2.3	OTHER FORMS OF REGULATION.....	7
<b>3.</b>	<b>WHAT IS A ROOMING HOUSE? QUESTIONS OF DEFINITION.....</b>	<b>10</b>
3.1	WHAT'S IN A NAME?.....	11
3.2	ZONING VS. LICENSING DEFINITIONS .....	12
3.3	REGULATING PLACES OR PEOPLE? .....	12
3.4	A COMMERCIAL RELATIONSHIP? .....	14
3.5	WHAT IS SHARED?.....	16
3.6	NUMBERS .....	17
<b>4.</b>	<b>OTHER ELEMENTS OF REGULATION.....</b>	<b>19</b>
4.1	SIZE OF ROOMS/UNITS.....	19
4.2	LOCKS ON DOORS .....	20
4.3	PORTION OF HOUSE USED.....	21
4.4	EXTERIOR FENCING .....	22
4.5	OCCUPANCY .....	22
4.6	PARKING REQUIREMENTS .....	23
4.7	LOCATION OF LOT.....	24
4.8	AGE OF HOUSE.....	24
4.9	MINIMUM SEPARATION DISTANCES.....	25
4.10	SUMMARY.....	26
<b>5.</b>	<b>CONCLUSION: UNHEARD VOICES.....</b>	<b>28</b>
<b>6.</b>	<b>REFERENCES .....</b>	<b>31</b>

**List of tables**

---

Table 1: Zoning and licensing definitions applying to rooming/lodging houses in selected Canadian cities .....	10
Table 2: Number of rooms or residents, various cities .....	17
Table 3: Parking requirements for rooming houses, various cities .....	23
Table 4: Effects of rooming house requirements.....	27

**List of figures**

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Figure 1: Minimum distance separation map, Mississauga.....	25
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## Acknowledgements

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I want to thank all those who read earlier drafts of this paper and provided helpful feedback and suggestions:

Caroline Andrew, Ottawa

Jino Distasio, Winnipeg

Jill Grant, Halifax

David Ley, Vancouver

Damaris Rose, Montreal

Kylee van der Poorten, Calgary

Alan Walks, Toronto

Robert Wood, Hamilton

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# 1. Introduction

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Rooming houses are a long-standing form of affordable housing in Canadian cities. Many were created in large houses built in the 19<sup>th</sup> or early 20<sup>th</sup> century that could be converted to single-room occupancy; these houses were located in the central parts of cities. Since the beginning of the 21<sup>st</sup> century, however, new forms of rooming house are appearing in suburban neighbourhoods, offering inexpensive housing to immigrants or to students attending postsecondary education at suburban campuses of universities and community colleges.

These new types of rooming houses have led to a variety of regulatory responses from Canadian cities. For the older rooming houses, the risk of fire was usually the main motivation for licensing regimes and building inspections. For newer rooming houses, the regulatory response is more often a reaction to complaints from neighbours about noise, garbage, parking, and the appearance of the property. For tenants, the main risks are more likely to be overcrowding and poor maintenance. Tenants living in unlicensed or unregulated rooming houses tend not to complain about these conditions, however, since notifying the authorities might lead either to reprisals from the landlord or to the closing of the rooming house altogether, leaving them without shelter.

Canadian municipalities are looking for ways to respond to this dilemma. Despite an acute shortage of affordable housing in most cities across the country, municipal councillors are often reluctant to support the creation or preservation of rooming houses in residential neighbourhoods, particularly suburban neighbourhoods, because their home-owning constituents generally oppose such housing. Yet turning a blind eye to rooming houses could endanger vulnerable tenants.

Regulatory responses vary from city to city, but usually involve a combination of zoning regulations and licensing regimes. Most cities begin by studying what other cities are doing, leading to a growing body of multi-jurisdictional studies of rooming house regulation.

One of the first of these multi-jurisdictional studies originated late in the 1990s, when the Canada Mortgage and Housing Corporation (CMHC) sponsored two comprehensive reports on rooming houses in Canada. Given the dismantling of all federal and many provincial programs that had created affordable housing during the 20<sup>th</sup> century, CMHC needed to focus on forms of affordable housing that did not rely on government funding.

The two reports were *Regulatory Factors in the Retention and Expansion of Rooming House Stock*, published in 2000, followed in 2002 by *Initiatives to Maintain Rooming House /Single Room Occupancy Stock and Stabilize Tenancies*. Both were written by the Starr Group Inc. with Richard Drdla Associates (CMHC 2000, 2002).

The first report studied 11 Canadian cities<sup>1</sup> in some depth and drew on literature from both Canada and the United States. A separately published summary noted:

For the most part, all of [the cities studied] use the same types of regulations...: zoning; maintenance and occupancy standards; building standards; fire-safety standards; public health standards; and licensing bylaws.

Piecemeal efforts over time have resulted in [a] multilayered approach, which is further complicated by both municipalities and provinces enacting their own regulations affecting rooming houses. The process has been one in which new regulations are added, but older regulations are rarely reexamined, reconciled or brought up-to-date.

Many of these regimes overlap by addressing the same issues. Some contradict each other by using different standards or definitions. Each one typically requires a different set of inspectors, often working independently of each other (CMHC 2001, 1).

The summary concluded:

Existing regulations appear to address rooming houses as a source of poor housing conditions and social disturbance, not as a source of affordable housing. Rooming houses are to be temporarily tolerated but certainly not encouraged (CMHC 2001, 5).

The report described perennial problems, such as the ongoing loss of rooming house stock, the difficulty of identifying unlicensed houses, and the need to make houses safe for the residents without imposing costly changes that could force more rooming houses to go out of business.<sup>2</sup>

Fifteen years later, as part of its Rooming House Review, the City of Toronto carried out a scan of nine other Ontario jurisdictions, four western Canadian cities, and two U.S. cities,<sup>3</sup> looking at rooming house definitions, licensing requirements, and enforcement. It was not as in-depth as the CMHC study and it is not clear what, if anything, this additional scan contributed to the final report to Toronto City Council (City of Toronto, 2016).

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1 Halifax, St. John's, Montreal, Quebec, Toronto, Ottawa, Hamilton, Kitchener, Winnipeg, Edmonton, and Vancouver.

2 The report contained eight "key findings and conclusions": 1. Municipalities must find a balance between ensuring safety standards are met and providing affordable housing options. 2. Municipalities should take steps to slow the de-conversion of rooming house stock. 3. There is a need for licensing and/or registration of rooming houses. 4. Municipalities should review property tax rates to provide incentives to rooming house operators to remain active in the sector. 5. The cost of meeting regulations and standards must be considered when setting regulations. 6. Municipal regulation can be effective in preserving rooming house stock. 7. Municipalities must set up systems for the reporting of unlicensed/unregistered rooming house operations. 8. Fines for rooming house operators failing to obtain licenses or operate under regulations must be set at a level which will encourage operators to obtain licenses and undertake necessary changes.

3 Attachment 4 to the main report of the Rooming House Review in October 2016 contains information on Barrie, Brampton, Guelph, Hamilton, London, Mississauga, Oshawa, Ottawa, and Waterloo in Ontario, four non-Ontario cities – Calgary, Edmonton, Vancouver, and Winnipeg – as well as Chicago and Seattle in the United States.



Many other municipalities (such as Oakville, Ajax, and Sudbury) have examined other cities' bylaws and licensing regimes for rooming houses, presumably looking for “best practices,” but these comparisons seldom reveal what the municipalities are hoping to achieve through this type of research. A municipality hoping to discourage rooming houses is looking for one kind of “best practice”; a municipality that welcomes rooming houses as a legitimate form of affordable housing would look for another kind.

This report is not intended to catalogue who is doing what. That has been done, repeatedly, by individual municipalities. Rather, I am interested in finding out:

What is the *purpose* of the regulations used in different cities? Are the regulations designed to protect low-income tenants or limit the number of rooming houses? In other words, what do the regulations say about whether rooming houses are regarded as a legitimate form of affordable housing, or simply a “source of poor housing conditions and social disturbance... to be temporarily tolerated but certainly not encouraged”?

This study is intended to be exploratory rather than definitive. The fate of rooming houses is closely related to dynamics of neighbourhood change, and this study forms part of work of the Neighbourhood Change Research Partnership.

Municipal regulation is only one feature of rooming houses. Other studies have probed the decline of rooming houses; profiled landlords and tenants; traced the history, geography, and economics of this housing form; and offered policy recommendations to stabilize rooming houses. This paper touches on those areas, but does not explore them in depth.

In particular, the important perspectives of tenants and landlords are acknowledged but not detailed here. Many rooming houses exist in a regulatory grey zone. During public consultations on how best to regulate rooming houses, few landlords or tenants come forward with their stories. The voices of home-owning neighbours are therefore over-represented in such consultations. This uneven representation of stakeholders affects the way in which rooming houses are regulated in Canada and has implications for neighbourhood change in Canada's cities.

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## 2. Methods of control

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The two main approaches to regulating rooming houses are zoning and licensing (some cities use registration rather than licensing). Other methods mentioned in the 2000 CMHC report include “maintenance and occupancy standards; building standards; fire-safety standards; [and] public health standards.” These play a role, but perhaps not as critical as the first two.

### 2.1 Zoning

While zoning is often thought of as an objective tool derived from technical principles and impartially applied, its uses can in many instances be seen to have a central role in mediating relations among social groups. (Skelton 2012, 3)

According to the Ontario Ministry of Municipal Affairs (2010), zoning bylaws exist to define:

- how land may be used
- where buildings and other structures can be located
- the types of buildings that are permitted and how they may be used
- the lot sizes and dimensions, parking requirements, building heights and setbacks from the street.

This list suggests that zoning bylaws are simply about form and function. If that were the case, the bylaws would specify only the size and placement of a rooming house and the fact that it is to be used for accommodation. But zoning bylaws for rooming houses also contain specifications about how many people may live in a house and/or how many rooms may be rented out; what the residents may or may not share; whether they may receive services or meals along with accommodation; and many other matters.

Indeed, the Ministry’s guide to zoning bylaws for Ontario citizens goes on to state that a zoning bylaw “protects you from conflicting and possibly dangerous land uses in your community.” As a municipal lawyer puts it more formally: “The purpose of the zoning power is to prevent nuisances and the physical interference with land by ensuring that adjacent land uses are compatible” (Leisk 2012, 14).

The terms “nuisances” and “compatibility” raise all kinds of questions, because “nuisances” and standards of “compatibility” are largely subjective and culturally based. Disparate land uses

often exist side by side in non-Canadian jurisdictions, yet modern North American zoning presupposes that (1) there are objective standards for determining what land uses should be allowed to co-exist and that (2) anything that falls outside these standards must be prohibited. The standards are old and have been contested; but in municipal regulation, inertia usually prevails.<sup>4</sup>

There are some limits to the zoning power. Ontario's *Planning Act* stipulates that municipalities may not "pass a by-law that has the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a building or structure or a part of a building or structure, including the occupancy or use as a single housekeeping unit" (Section 35.2). This requirement – similar versions exist in other provinces – is often summarized as: "Zone for land use, not for people" (Ontario Human Rights Commission 2012).

The principle is well-intentioned, but "land use" presupposes "land users" and a regulation for a land use may have the effect of defining the user, explicitly or implicitly. Zoning definitions of rooming houses go well beyond simple matters of form and function, and regulate other elements of rooming houses, presumably on the justification that these requirements are needed to avoid "nuisances," however defined.

Zoning laws may allow rooming houses in all areas of a city, restrict them to certain sites only, or ban them altogether. The amalgamated City of Toronto contains examples of all these approaches: the former City of Toronto has long permitted rooming houses in most residential and commercial areas; the former City of Etobicoke permitted rooming houses in a few limited areas; and the former cities of North York and Scarborough prohibited them entirely.

In some other cities, such as Mississauga, rooming houses, known as lodging houses, are not a permitted use anywhere, yet existing rooming houses may be allowed as non-conforming uses, and new rooming houses may be created through site-specific rezonings.

Not all Canadian cities define rooming houses in their zoning bylaws. Calgary, for example, does not restrict the zones in which a rooming house may operate, although it does have a licensing procedure.

In Calgary, "lodging house" was removed from the current land use bylaw as a defined use. There have been discussions among administration about including the use once again, but currently lodging homes can be applied for in any residential land use [zone]... those who operate lodging homes only need to go through a license approval. To date, this entails an inspection by a bylaw officer to ensure compliance with health and safety standards.<sup>5</sup>

## 2.2 Licensing

Strictly speaking, *zoning* for rooming houses should apply primarily to the physical building and its intended use (that of providing accommodation in return for rent), and *licensing* to the busi-

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4 For example, traditional zoning regulations separated "manufacturing" from residential or office uses. Today, high-tech "manufacturing" may take place in almost office-like settings, so the older zoning rules may separate uses that no longer need to be separated.

5 Kylee van der Poorten, personal communication, October 18, 2017.

ness being carried on in the building (particularly safety measures and protection for tenants). In practice, however, these lines are blurred and regulation extends into many areas that are related neither to land use nor to resident safety.

Mariana Valverde (2012) describes licensing regulations as “ancient legal techniques” dating back to medieval commercial practices in cities:

They [licensing regulations] target the descendants of the hawkers, peddlers, entertainers, booze sellers and operators of for-hire vehicles that so preoccupied upstanding burghers of yesteryear... today’s urban regulatory system owes much to the centuries-old struggle to maintain public order and drive out immoral petty entrepreneurs: pawn brokers, peddlers, street vendors, street musicians, taxi drivers, pedicab operators, junkyard owners, X-rated video purveyors, restaurateurs, “exotic dancers,” barbers, and beauticians are all subject to municipal licensing. Large restaurants aside, what these have in common is that they’re small, often marginal businesses that have historically been regarded with suspicion, for reasons related either to fraud or to immorality (or both).

In addition to these colourful examples, licenses can apply to many other more prosaic urban functions: contractors, water haulers, tow truck drivers, charitable organizations holding lotteries, and so forth. Licensing is mainly about business practices and protection of the public, although these requirements may encompass business premises (such as the cleanliness of a restaurant kitchen or a tattoo parlour).

Licensing for rooming houses is relatively recent. In Toronto, rooming house licensing began in 1974, during a period in which government regulation was expanding in many areas, from consumer products to environmental protection. Bardach and Kagan (1982) attribute this “regulatory upsurge” in the 1960s and 1970s to increased knowledge about risks, coupled with growing intolerance to risk and “the shifting of responsibility for preventing harms from the individual to society and especially to business” (14).

Rooming house licensing in Toronto was recommended mainly in response to a rooming house fire in 1972 (Campsie 1994), in the hopes that a program that called for regular inspections and enforcement would prevent further fires (it did not). However, licensing did have the effect of putting many rooming house operators out of business, if they could not meet the standards required for a licence. As Uytas Lee notes in a short video about the decline of licensed rooming houses in Halifax, “Safety regulations for rooming houses almost always lead to less rooming houses, because they are not designed to protect or encourage affordable housing, they just impose rules on it” (Lee 2017).

Even Montréal, which has a specific policy to control the decline of rooming houses, as well as a program whereby municipal housing agencies buy rooming houses for conversion to non-profit housing (including supportive housing), has encountered this problem.

This housing form is so fragile that every intervention intended to improve the health of roomers is likely to make an important proportion of rooming houses in the central neighbourhoods disappear in favour of rental or co-op housing (Montréal 2013, 14).<sup>6</sup>

Many landlords operate without a licence, hoping not to attract official attention. Since most bylaw enforcement systems do not investigate properties unless there is a complaint, it is possible for well-maintained unlicensed rooming houses to operate undetected for years. In Halifax, where the number of licensed rooming houses has dropped steeply in recent years (from more than 150 to fewer than 20), city officials are fully aware of the proliferation of unlicensed rooming houses, which they call “quasi rooming houses.”<sup>7</sup> Most cater to university students (Lee 2016).

Not all Canadian cities license rooming houses. The City of Regina, for example, after several studies and proposals, “determined that a new residential rental licensing system would not be established and that rental property issues would be addressed through existing bylaws” (City of Regina 2018, 11).

### 2.3 Other forms of regulation

**Fire standards** are intended to protect human life first and property second. They govern not only things like the installation of smoke alarms, fire doors, and extinguishers, but also whether a room can be considered habitable on the basis of whether a resident could exit from it safely during a fire. Since many rooming houses consist of subdivided spaces, fire regulations can control how this subdivision occurs. Fire regulations generally require each room to have a window, not for the health or enjoyment of the occupant, but as a potential exit. Of course, ordinary homeowners may occupy their house in any way they choose (including living in windowless rooms, blocking up doors, or not installing smoke alarms), but where a business relationship exists (renting out rooms), the fire department has a say in occupancy standards.

Provincial **building codes** apply to the construction, renovation, change of use, or demolition of buildings. They set rules for the inspection of buildings, and allow municipalities to establish property standards by-laws (Ontario Ministry of Municipal Affairs, n.d.). Although the building code is revised regularly, new provisions do not apply to buildings existing at the time the provisions are updated, so many older buildings and houses need not comply with the current code. If they are renovated, however, the newer (and invariably higher) standards apply. That is why many older rooming houses remain unrenovated.

Municipal **maintenance and occupancy standards** bylaws overlap with the building code in their application to structures, although most such bylaws contain a provision that in the case of a conflict, the provincial standard prevails. The focus of these bylaws is chiefly on the maintenance of property in ways that reduce hazards to human health and safety (such as ensuring

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6 This is my translation of the following report excerpt: « Il démontre que la fragilité de l'offre est telle que toute intervention visant à améliorer les conditions de salubrité des chambreurs est susceptible de faire disparaître une proportion importante des maisons de chambres des quartiers centraux au profit de logements locatifs ou en copropriété. »

7 City officials have a nickname for this housing form: “watermelons” (Murphy 2015). Its origin is obscure.

that living spaces are free from mould). Regulations also govern the physical appearance of properties, such as those prohibiting graffiti, limiting the height of grass or other plants, describing how garbage bins may be stored, and specifying what may and may not be kept in a yard. Some of these bylaws are combined with noise bylaws. There are provisions for visits by municipal inspectors, including health inspectors, in response to perceived infractions of the standards (as identified by complaints from neighbours), and penalties for non-compliance.

**Public health bylaws**, which protect health and safety within various kinds of residences, apply mainly to rooming houses that provide support services, such as meals or nursing care.

Together, these regulations represent hundreds, if not thousands, of requirements that govern all aspects of residence in a city; only the licensing bylaws are specific to rooming houses. In 2000, Starr and Drdla summed up their multi-jurisdictional survey in the following table (CMHC 2000, 18):

**Summary of Regulatory Regimes used in the Profiled Cities**

	Regulations							Licensing	Inspections	
	Zoning	Maintenance	Fire-Safety			Public Health			R	C
			P	L	O	P	L			
St. John's NF	✓	✓			✓			✓	✓	
Halifax NS	✓	✓	✓							✓
Dartmouth NS	✓	✓	✓					✓	✓	
Quebec City QC	✓	✓	✓					✓	✓	
Montreal QC	✓	*	*			*		✓		✓
Ottawa ON	✓	✓	✓			✓		✓	✓	
Toronto ON	✓	✓	✓			✓		✓	✓	
Etobicoke ON	✓	✓	✓			✓	✓	✓	✓	
Hamilton ON	✓	✓	✓			✓		✓	✓	
Kitchener ON	✓	✓	✓					✓	✓	
Winnipeg MB	✓	✓	✓	✓		✓		✓	✓	
Edmonton AB	✓	*	*			*		✓	✓	
Vancouver BC	✓	✓	✓	✓				✓		✓

\* = consolidated regulations (several areas consolidated into single regulatory mechanism)

R = regular inspections

C = inspections on basis of complaint

P = provincial legislation

L = local by-law

O = other sources

All the cities studied in 2000 had zoning in place to regulate rooming houses; all but Halifax also had a rooming house licensing regime; Halifax introduced licensing in 2001 (Lee 2016).

Many of these cities were also ranked as cities in the 19<sup>th</sup> century. Since rooming houses, along with a tradition of lodgers and boarders within family households, were well-established urban features in the 19<sup>th</sup> century, rooming houses are typical of older cities.<sup>8</sup>

In cities that began as suburbs or bedroom communities, however, the situation is often different. These communities were built around an assumption of “one house, one family,”<sup>9</sup> and some residents oppose provisions that challenge this assumption – secondary suites as well as rooming houses.

Yet the rooming houses (and the secondary suites) are there, recognized or not. Since 2000, many formerly suburban municipalities have grappled with the issue, recognizing the need for this housing form, but also the opposition on the part of many suburban voters to rooming houses.

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8 A fascinating and detailed study of rooming houses in on a single street in central Winnipeg describes the role of rooming houses as respectable accommodation for workers, seniors, and young women in the 19<sup>th</sup> and early 20<sup>th</sup> century, and the way in which rooming houses lost their respectable reputation in the late 20<sup>th</sup> century (Maunder and Burley 2008).

9 Constance Perin (1977, 91) analyses this attitude in the United States and cites a judge who spelled out the word to emphasize his point. “A single-family house housing anything other than a ‘f-a-m-i-l-y’ is a contradiction in terms.”

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### 3. What is a rooming house? Questions of definition

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Definitions of rooming houses may appear in zoning bylaws and licensing bylaws. Table 1 provides six examples:

**Table 1: Zoning and licensing definitions applying to rooming/lodging houses in selected Canadian cities**

City	Zoning definition	Licensing definition
Toronto	A building that provides living accommodation for at least 3 persons in separate rooms which may have food prep facilities or sanitary facilities (not both).	Building with 4+ rooms designed for living accommodation, may include culinary or sanitary conveniences (not both).
Hamilton	“Lodging House” shall mean a dwelling or building or portion thereof in which lodging is provided for more than 3 persons for remuneration, or the provision of services or both, and the lodging rooms do not have bathrooms and/or kitchen facilities for the exclusive use of individual occupants.	“Lodging house” means a house or other building or portion thereof in which four or more persons are or are intended to be harboured, received or lodged for hire, where lodging rooms are without kitchen facilities for the exclusive use of the occupants and where each occupant does not have access to all of the habitable areas in the building.
Mississauga	“Lodging House” means a dwelling unit containing more than three (3) lodging units each designed or intended for the lodging of persons in return for remuneration. A lodging house shall only be permitted in a detached dwelling and no lodging unit shall be contained in a basement. A maximum of four (4) lodging units shall be permitted within a lodging house and each lodging unit shall be occupied by a maximum of one (1) person.	“Lodging House” means a dwelling unit containing more than three (3) lodging Units each designed or intended for the lodging of persons in return for remuneration. A lodging house shall only be permitted in a detached dwelling and no Lodging Unit shall be contained in a basement. A maximum of four (4) lodging units shall be permitted within a lodging house and each lodging unit shall be occupied by a maximum of one (1) person.



City	Zoning definition	Licensing definition
Kitchener	“Lodging House” 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.	“Lodging House” means a dwelling unit or part thereof containing one or more lodging units designed to accommodate four or more residents. The residents may share common areas of the dwelling other than the lodging units and do not appear to function as a household.
Ottawa	A principal dwelling within the whole of a residential use building that contains at least four rooming units, and which may also contain dwelling units and an administration office accessory to the operation of the house ( <i>maison de chambres</i> ). Rooming house, converted: the whole of a residential use building or the whole or part of any other building that was converted to a rooming house ( <i>maison convertie en maison de chambres</i> ).	No explicit definition, but the Ottawa website states: “A Rooming House licence is required where a principal dwelling within the whole of a residential use building contains at least four (4) rooming units available to be occupied for compensation.”
Edmonton	Lodging House means a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature.	Lodging houses are recognized as commercial businesses operating in commercial zones. Owners are required to obtain a Rental Accommodation business licence.

What can we learn from these examples?

### 3.1 What’s in a name?

The definitions show that the term “rooming house” is not common to all jurisdictions. “Lodging house” is still used for many congregate living arrangements.<sup>10</sup> The retention of this old-fashioned name may suggest that the regulations for lodging houses date to the 19<sup>th</sup> or early 20<sup>th</sup> century. The impression is misleading: Mississauga, which created its rooming house regulations in 2010, uses the term “lodging house.”

It may be that the term “lodging house” carries the connotation of *temporary* accommodation. In the *Collins English Dictionary* (1979), the first definition of the word “lodging” is “a temporary residence.” Deliberately or not, some municipalities continue to use a term that suggests that these houses are not meant to be long-term or permanent accommodation.

Toronto has experimented with the term “multi-tenant housing” as a substitute for the term “rooming house,” in an effort to deflect negative stereotypes about “rooming houses.” Regina, which does not license rooming houses, uses the term “residential homestays” for rooming

<sup>10</sup> In addition to the examples provided, the term is also used in Calgary, Guelph, Oshawa, and Waterloo, as well as the “ghost jurisdiction” of Etobicoke. A “ghost jurisdiction” is one that no longer exists legally, but for which bylaws are still operational. The term appears to have been coined by Mariana Valverde (2012).

houses offering short-term accommodation and otherwise lumps rooming houses in with “residential rental properties.” In Winnipeg, the official term for a licensed rooming house is “Converted Residential Dwelling with Shared Facility.”

Although the motive for using different terms is laudable, the effects may be negligible, as euphemisms tend to be moving targets – over time, the negative stereotypes simply become attached to the new term.

### 3.2 Zoning vs. licensing definitions

In Table 1, Mississauga and Kitchener are the only jurisdictions in which the zoning definition and the licensing definition are identical. Two cities (Ottawa and Edmonton) do not appear to have definitions for licensing purposes; the detailed definition comes from the zoning bylaw.

All the others contain slightly different or completely different definitions, presumably because the two forms of regulation have developed separately over time.

As long as the two definitions correspond clearly, there is no reason why the wording should be identical for zoning and licensing. However, problems arise if there are contradictions between the two definitions, as the CMHC report explained.

Note that just because a zoning definition exists for a rooming or lodging house does not mean that the use is permitted as of right in all or indeed *any* zones. Mississauga is a case in point.

In 2009, Mississauga’s zoning by-law was updated to include definitions of a lodging house and lodging unit. The zoning by-law, however, currently does not permit lodging houses in any of the zones. Therefore, lodging houses that existed prior to the 2007 Zoning By-law are able to continue, and every new lodging house requires a rezoning application (Town of Oakville 2010, 15).

Spot rezoning for an individual site can be a cumbersome process, and may slow down the creation of new rooming houses.

### 3.3 Regulating places or people?

As an example of an unusual zoning/licensing definition, consider Kitchener: “The residents may share common areas of the dwelling other than the lodging units, and do not appear to function as a household”? What does it mean not to “*appear to function as a household*,” and why does it matter?

This definition may be intended to distinguish a house run as a commercial operation in which roomers/lodgers pay rent to a landlord, from a house shared by unrelated individuals, but in which the residents collectively decide who occupies any given room, rather than the landlord or owner of the house (for more on this distinction, see section 3.4 below). However, it is not clear why the definition does not simply say as much.

Moreover, what is a “household”? The Kitchener definition is “one or more persons living together as a single non-profit, independent housekeeping unit, sharing all areas of the dwelling

unit.”<sup>11</sup> So in a Kitchener lodging house, the persons in a rooming house do not form a “house-keeping unit” and do not share all areas of the house.

Another way of expressing the distinction about what is and is not shared appears in the London (Ontario) licensing definition: “Building for residential accommodation where each lodger does not have access to all habitable areas of building.” This definition implies that in houses that are *not* lodging houses, *all* areas are or can be shared.

These forms of wording are ambiguous and leave grey areas. For example, having access to “all habitable areas of the building,” may be moot. One may be denied access either by a physical lock or by others’ demands for privacy.

And why does the Kitchener definition specify that the residents “do not *appear* to function as a household” rather than “do not function”? Appear to whom? Bylaw enforcement officers? Licensing inspectors? Neighbours? Who decides? The language implies some sort of surveillance.

Finally, what about the provision in Ontario’s *Planning Act*, which states that municipalities may not “pass a by-law that has the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a building or structure or a part of a building or structure, *including the occupancy or use as a single housekeeping unit*”? Kitchener’s bylaw requires that lodging house residents not *appear* to form a single housekeeping unit, which seems to be an attempt to regulate land users, not land use.

Understanding the thinking behind the Kitchener regulations would require a forensic examination of the events surrounding the passing of the zoning and licensing bylaws. Toronto introduced licensing largely to prevent fires; Kitchener may have introduced it for some purpose in which the relationships among the residents had a bearing. One clue is contained in a 2005 report for the Region of Waterloo, of which Kitchener is a part.

In order to afford any kind of rent, people using Out of the Cold and shelters who wish to rent an apartment often must share with a roommate(s). The roommate relationship can be a mutually supportive one, but it can also prolong vulnerability through dependence on another person:

“...if you are rooming with somebody and they just move out on you, you are pretty much stuck. It doesn’t matter if it happens at the beginning of the month, the money is not there to cover the rent and then before you know it you are evicted because of somebody else’s lack of respect.” (OOTC guest, Kitchener)

Having to share accommodations can also prolong vulnerability by reinforcing destructive social networks... (Region of Waterloo 2005, 28)

It may be that one purpose of rooming house licensing in Kitchener is to formalize the relationships among tenants to protect vulnerable residents from other residents who may exploit them, and that the municipality is intentionally promoting a commercial landlord-tenant relation-

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11 Kitchener Municipal Code, section 553.1.2.

ship as preferable to informal shared arrangements in which some residents may be at the mercy of others without any legal recourse when things go wrong.

Viewed in this light, the Kitchener definition could arguably be seen as a relatively benign (if legally questionable) attempt to protect vulnerable residents from exploitation. It may, however, have been influenced by a legal decision made in the neighbouring City of Waterloo at about the same time, described in the next section.

### 3.4 A commercial relationship?

Toronto's definition does not use the term "rental housing," and simply calls it "accommodation." Kitchener uses the term "lodging house," but also does not mention rent. Hamilton uses the words "remuneration" and "hire" in each of its two definitions, Mississauga mentions "remuneration," Ottawa mentions "compensation," and Edmonton specifies that these are "commercial businesses."

Is this important? Yes. On the one hand, the relationship between a landlord and a renter is governed by provincial landlord and tenant laws, so defining this type of housing as rental accommodation may have value in that it groups it with other forms of rental housing, rather than treating it as a separate or distinct form of housing. On the other hand, focusing on the commercial nature of rooming houses can be a way of excluding them from residential zones.

One grey area is that of residential hotels, including rooms rented out in the upper floors of pubs and bars. Technically, these rooms rent by the night or by the week, rather than the month. When such places close (as they may do for renovations, only for the property to re-open as a boutique hotel or upscale event venue), landlords may not observe the requirements of the *Landlord and Tenant Act*, insisting that they are subject only to the much older *Innkeepers' Act*, which allows them to evict tenants with very little notice.<sup>12</sup>

Places that were once covered under the *Innkeepers' Act* often claimed that they were still covered (by that legislation), even when that was not the case. In other situations places that were covered by the *Innkeepers' Act*, but primarily catered to the travelling public, housed long-term tenants. These long-term tenants have rights (Hamilton Community Legal Clinic 2013).

In Toronto, where many older hotels have closed in this way, city staff have had to work quickly to re-house tenants who were evicted on very short notice from residential hotels, even though they had occupied their rooms for many years (Connelly 2015). This loophole has not been closed.

Another grey zone was identified in a report by the Town of Oakville, where planning staff noted a problem with by-law enforcement for rooming and lodging houses:

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12 In Alberta, the legislation known as *The Innkeepers' Act* applies to rooming houses in which the landlord also lives. "*The Innkeeper's Act* can be sharply contrasted with *The Residential Tenancy Act* in that it affords landlords much greater power to evict tenants, seize personal property for non-payment of rent, and have tenants arrested" (Kylee van der Poorten, personal communication, October 18, 2017).

[In response to the Oakville lodging house bylaw, passed in 2007] lodging house operators began to modify the written terms and conditions of the occupants' tenancy agreements. Instead of having a separate agreement with each individual tenant, landlords began drafting one lease that all tenants in the house would sign collectively, thereby creating a “single housekeeping unit” which is recognized as a permitted use under the Town’s Zoning By-law (Town of Oakville 2010, 4).

This arrangement turns the house into shared accommodation and blurs the landlord-tenant relationships. For example, who would be responsible if an individual tenant caused problems and needed to be evicted? Who is responsible for tenant safety or maintaining property standards, since the landlords have bypassed the lodging house licensing requirements?

The distinction has been tested in the courts in two cases: one involving the City of Waterloo, the other the City of Oshawa.

In the Waterloo case, a house had been divided into two independent units that were rented out to two groups of students. The owner claimed to be renting to two single housekeeping units, but the City argued that the entire property was a lodging house and should be regulated as such. The court agreed with the owner, based on testimony from the students themselves that they were functioning as collective households. The case was summarized in the report of an inquiry by the Ontario Human Rights Commission into rental housing licensing in the City of Waterloo:

In 2003, the Ontario Superior Court of Justice found that multiple units in an older building which were leased to students met the “residential unit” exemption of Waterloo’s lodging house bylaw. When determining if the exemption applied, the Court considered whether the premises constituted a “single housekeeping unit.” The Court held that the distinguishing characteristic was whether there was individual or collective decision making with respect to the control of the premises. This decision was affirmed by the Ontario Court of Appeal (Ontario Human Rights Commission 2013, 9).

In this decision, the judge noted that collective decision making by the tenants applied to “(a) how the rent was paid; (b) the furnishing of the apartment and rooms by the occupants; (c) payment of the utilities by the occupants; (d) the assignment of the rooms by the occupants; and (e) how the housekeeping, or lack of it, was to be done” (*Good v. Waterloo* 2004). This appeared to be a case of genuine shared accommodation, as the tenants, many of whom had lived in the house in question for some years, furnished ample proof of collective decision-making.<sup>13</sup>

In a more recent case that ended differently, the City of Oshawa charged the landlords of 33 properties in the Windfields neighbourhood with operating illegal lodging houses for students in contravention of the City’s bylaws. The neighbourhood abuts the campus of Durham College and the University of Ontario Institute of Technology. This case went as far as the Supreme Court, as the landlords appealed lower court decisions against them. Again, the decision hinged on collec-

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13 “Evidence from the occupants, who were university students, established the following: they had individually locked rooms; they supplied the furniture; they shared the cost of utilities; they entertained guests in the living room or in their bedrooms; rent was charged for each unit but they paid individually by post-dated cheques; occupants often left during a school term but they were responsible for finding a replacement; and housekeeping was done on an informal basis” (*Good v. Waterloo* 2004).

tive decision making by tenants. In the end, the Supreme Court dismissed the case and ordered the landlords to stop operating the lodging houses (*Ronald Death, et al. v. Neighbourhoods of Windfields Limited Partnership, et al.* 2009). In a commentary on the case, a lawyer noted:

Key to the decision was the court’s interpretation of the term “single housekeeping establishment,” the central feature of a single detached dwelling, as defined in the bylaw. The court found that a “single housekeeping establishment” in the context of a zoning bylaw generally means a typical single-family arrangement or similar basic social unit, and is fundamentally inconsistent with commercial properties being rented to *groups of individuals bound together only by their common need for economical short-term accommodation* (Dawson 2010; emphasis added).

There are two interesting differences between the two cases. First, the Waterloo case involved a single house split into two units and the particular tenants at the time were able to satisfy the judge that they engaged in collective decision-making. In the Oshawa case, which involved 33 properties, some groups of students might have formed a “single housekeeping unit” and others might not. However, the judges who ruled in the case at various levels considered that the relationship was purely commercial and dismissed claims that students could constitute a “single housekeeping unit” in *any* of the houses.

Second, the geographical context was very different. The Waterloo property was a 19<sup>th</sup>-century house near the centre of the city (12 George Street), in a neighbourhood that also contains commercial and institutional properties. The Oshawa properties were built in the 21<sup>st</sup> century in an subdivision that is entirely residential. Although this context was not cited as a factor in the decisions, the difference is striking.

Relationships matter in rooming houses – those between landlords and tenants, and those among the tenants. But relationships can be hard to pin down and they may change over time. One group of students at a particular point might operate effectively as a single housekeeping unit; but over time, the same property might function differently if the group becomes less cohesive. As the judge noted in the Waterloo case in 2004, “All who have had to deal with this by-law [the lodging house bylaw] have found it to be difficult to interpret” (*Good v. Waterloo* 2004).

### 3.5 What is shared?

The definitions also vary according to specifications about what is shared and what is not. Sharing is a distinctive feature of rooming houses; rooming units are cheaper than self-contained units *because* residents give up some privacy and share certain facilities. For some roomers, sharing is a social benefit; for others, it is a source of friction and stress.

Toronto simply states that the rooms may include cooking or sanitary facilities, but not both. Hamilton’s definition contains a similar provision. Mississauga’s definition does not mention shared facilities (although elsewhere the bylaw stipulates that individual units may have sanitary facilities but not kitchens). Kitchener’s states that the residents “may share” common areas. Ottawa’s definition makes no mention of sharing, but repeatedly uses the word “rooming” (in both English and French) to imply that only rooms/*chambres* (rather than self-contained units) are rented. Edmonton’s definition uses the term “sleeping units.”



Beyond the definitions, rooming house regulations may contain very specific requirements about how much is shared. Many municipalities (Toronto, Oshawa, Guelph, Brampton, London, and Halifax) have regulations about how many people may share a single bathroom – usually 5 or 6. This is quite reasonable, and the question may be why some jurisdictions (such as Winnipeg or Vancouver) do *not* set a limit.

In Winnipeg, for example, the prevailing limit is set, not by the rooming house licensing bylaw, but by the building code, which allows up to 10 people to share a bathroom. One study (Distasio, Dudley, and Maunder 2002) recommended a ratio of 4:1, but this recommendation has never been implemented (Kaufman and Distasio 2014, 15). Bathrooms are expensive to install and require a minimum amount of space; the fear of putting landlords out of business with this requirement may have prevented the city from acting on the recommendation, but the current situation remains unsatisfactory.

A proscription against individual cooking facilities in rooms (which is part of the bylaw in both Mississauga and neighbouring Brampton) is presumably a fire safety consideration. This ban would be difficult to enforce, however. Bathroom facilities require plumbing, but basic cooking facilities require only an electrical outlet (for a microwave, hotplate, or small fridge).

### 3.6 Numbers

All the cities listed in Table 1 include numbers (of rooms or of occupants) in their definition. There are a few minor discrepancies between the licensing and zoning regulation definitions:

**Table 2: Number of rooms or residents, various cities**

City	Zoning bylaw	Licensing regulations
Toronto	At least 3 persons	4+ rooms
Hamilton	More than 3 persons	4 or more persons
Mississauga	More than 3 lodging units	More than 3 lodging units
Kitchener	One or more lodging units	One or more lodging units
Ottawa	At least 4 rooming units	At least 4 rooming units
Edmonton	4 or more persons	—

It is unclear why some cities specify the number of residents, and others specify the number of units. A document from the City of Guelph notes that “Physical space (bedroom) is easier to regulate than number of occupants as based on the legal landscape review” (City of Guelph 2005). Kitchener’s version is open-ended – “one or more lodging units.” Montréal’s definition of a “*maison de chambres*” contains no numbers whatsoever.<sup>14</sup> Most other cities set a minimum of four units (or in Hamilton’s case, four tenants).

14 The Montréal definition is: « *Habitation privée ou publique comprenant plusieurs chambres en occupation privée ainsi que des espaces communs destinés à l’usage des occupants.* » (Private or public accommodation consisting of several rooms for private occupation and common spaces for the use of occupants.) (Montréal, Règlement 712, article 1.5; retrieved from <http://ville.montreal-est.qc.ca/wp-content/uploads/2016/07/712-Régie-générale.pdf>)

A 2009 Mississauga report by the Planning and Development Committee sought to explain the minimum chosen by that city:

The definition of lodging house, as originally proposed, means “a building containing four (4) or more lodging units.” As most semi-detached and townhouse dwellings would have less than four (4) bedrooms, this provision was intended to prevent their or any other dwelling type from conversion to a lodging house (City of Mississauga 2009, 3).

The report goes on to say that the regulations have been amended to make it explicit that lodging houses are permitted only in detached houses. In regulatory terms, the more straightforward the requirements, the better. Using one measurement as a proxy for another (a minimum number of rooms as a proxy for a detached house), can lead to unintended consequences.

And *why* only in detached houses? This requirement cannot be justified in terms of tenants’ needs. It may be that the city is concerned about noise, on the assumption that rooming houses are noisier than other kinds of households. Semi-detached and town houses have shared walls. Since Mississauga introduced its lodging house bylaw explicitly to address questions about student housing in the vicinity of the University of Toronto at Mississauga campus, this requirement is presumably intended to allay the fears of residents near the university who live in houses with shared walls. If this is the case, it is an example of treating rooming houses as “nuisances” requiring regulation.

Elsewhere, in older cities where students are not seen as the main residents of rooming houses, the minimum number may have nothing to do with noise. It might simply be that smaller rental enterprises are not considered worth the regulatory hassle, perhaps a holdover from the early-to-mid-20<sup>th</sup> century, when “taking in lodgers” was a common way for homeowners to make ends meet. A rooming house with fewer than the minimum number of rentable rooms required by the licensing bylaw presumably does not need a license, even though it may have the same features as a rooming house. In this sample, only Kitchener, by setting its numbers at “one or more,” regulates *all* rented “lodging units.”

Rooming houses may even be regulated indirectly by zoning definitions for the structures that may be converted to rooming houses. In Halifax Regional Municipality, the zoning bylaw for the Peninsula (the old City of Halifax), was amended in 2005 to change the definition of “Detached One Family Dwelling House” to mean “the whole of a dwelling house comprised of a single dwelling unit, occupied by not more than one family, and containing five or fewer bedrooms; or six or more bedrooms where such number of bedrooms were established prior to September 17, 2005” (Regional Municipality of Halifax 2017, 5). Limiting the number of bedrooms in *all* new detached houses in this area was intended to limit the potential for creating extra-large houses that could be turned into rooming houses (Derksen 2016a).



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## 4. Other elements of regulation

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So far, we have looked simply at the zoning and licensing definitions used by six Canadian cities. Definitions are only the beginning; zoning and licensing bylaws contain many additional details that complicate the lives of landlords and enforcement officers. Some are intended to protect tenants; a few may benefit landlords; many are aimed at protecting neighbours.

In addition to those that form part of the definition, the following elements may form part of a rooming house zoning or licensing bylaw:

- Size of rooms
- Locks on rooms
- Occupancy (number of residents allowed in a single room)
- Portion of house used
- Exterior fencing
- Parking requirements
- Location of lot (e.g., on an arterial street or in a commercial zone)
- Age of house
- Minimum separation distances

### 4.1 Size of rooms/units

In Canadian provinces, the Building Code sets minimum dimensions for bedrooms and for dwelling units in which bedrooms are combined with other rooms.<sup>15</sup> There are also Building Code requirements relating to ceiling height and the amount of window space for each room. Therefore, cities do not need to include room dimensions in rooming house regulations.

Nevertheless, in Toronto, two “ghost jurisdictions” – former cities that are now part of the amalgamated city of Toronto – had room size regulations that were *higher* than the requirements of

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15 Ontario Building Code Article 9.5.7.1. Except as provided in Articles 9.5.7.2. and 9.5.7.3., bedrooms in dwelling units shall have an area not less than 7 m<sup>2</sup> where built-in cabinets are not provided and not less than 6 m<sup>2</sup> where built-in cabinets are provided. Article 9.5.7.2. Except as provided in Article 9.5.7.3., at least one bedroom in every dwelling unit shall have an area of not less than 9.8 m<sup>2</sup> where built-in cabinets are not provided and not less than 8.8 m<sup>2</sup> where built-in cabinets are provided. Article 9.5.7.3. Bedroom spaces in combination with other spaces in dwelling units shall have an area not less than 4.2 m<sup>2</sup>.

the current Building Code: Etobicoke set a 23 sq. metre minimum, and York stipulated a minimum floor area per resident of 41 sq. metre for a three-bedroom rooming house, plus 7 sq. m for each additional bedroom. Higher minimums have the effect of limiting rooming houses to buildings large enough to meet the requirements. Until the rooming house requirements are harmonized so that they apply across the entire the City of Toronto, these rules are still in force (Campsie 2018).

Toronto also has a minimum room size (19 sq. metres) and an average room size (20 sq. metres) for self-contained bachelorettes in Parkdale.

Two other cities (Barrie and London) mention room size in their rooming house regulations, but only to distinguish different classes of rooming house; neither city appears to have maximum or minimum sizes. Barrie divides rooming houses into large (rooms over 75 sq. ft.) and small (under 75 sq. ft.); the difference affects where rooming houses may locate: small rooming houses are allowed in all residential districts, large ones only in certain residential zones. London also has two classes: large is over 110 sq. ft. and small is under 110 sq. ft.; large houses are restricted to medium- and high-density residential zones as well as mixed-use zones, while small rooming houses are permitted in low-density residential zones. It is interesting that the difference is by room size, rather than by number of rooms.

Mississauga regulates room size indirectly by requiring that “a maximum of 40% of the gross floor area residential of a Lodging House shall contain Lodging Units.”<sup>16</sup> This provision is not about ensuring adequate living room for residents, but about ensuring that only part of a house can be turned into a rooming house and limiting the number of rooming house residents in a single building.

Vancouver’s Single Room Accommodation (SRA) bylaw applies to single room occupancy hotels (SROs), rooming houses, and “non-market housing with rooms less than 320 square feet” (about 30 sq. metres) in the city’s downtown core.

Specifying room size, particularly by setting a minimum size, is partly about ensuring that each tenant has sufficient living space, and partly about controlling the number of units in a single rooming house.

## **4.2 Locks on doors**

The City of London, Ontario, indirectly suggests the use of locks in its licensing definition of a rooming house as a “building for residential accommodation where each lodger does not have access to all habitable areas of building.” However, the one city that has precise specifications related to locks is Barrie. The presence of locks is a criterion distinguishing a small rooming house from a house occupied by up to four unrelated persons. A pamphlet outlining the requirements of the city’s zoning bylaw (City of Barrie n.d.), contains a chart in which the presence of locks is a key criterion:

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16 City of Mississauga By-law 172-10.

The following chart identifies the circumstances when a single dwelling unit becomes a Boarding Lodging, Rooming (BLR) house.

No. of Tenants	External Lock on Rented Bedroom?	Zoning Land Use Description
0	N/A	Single Dwelling Unit
1-4	No	Single Dwelling Unit
1-4	Yes	Small BLR House
5 or 6	N/A	Small BLR House
7 or More	N/A	Large BLR House

In Barrie, it is possible to have up to four tenants and not be subject to rooming house regulation provided that “No tenant-occupied room is equipped with an external locking mechanism that prevents access to the room by the other house occupants when the room is unoccupied.” (This is just one of six requirements; the others address such things as parking, kitchen facilities, and entrances.) Therefore, to avoid rooming house regulations, the rooms can be locked from the inside when the tenant is at home, but not locked from the outside when the tenant is out. In this arrangement, individuals have complete privacy when they are on the property, but not full privacy for their living spaces and belongings when they are not.

The justification is presumably that the locks are not needed when a group of friends or students jointly rent a house, because some relationship of trust would exist between the homeowner and tenants and among the tenants themselves. I am not aware of any other city that includes such a regulation.

Halifax regulations also indicate that bedroom doors in rooming houses require locks. Although the rules specify only that doors lock from the inside, it is generally interpreted to mean that they also lock from the outside. However, according to a Halifax researcher, landlords may get occupancy permits after renovating a property to make shared residences for students before installing individual key locks, so that their buildings do not qualify as rooming houses that need to be licensed; later, locks may be installed when rooms are rented out to individual students.<sup>17</sup>

### 4.3 Portion of house used

Mississauga, Ontario, stipulates that “no lodging unit may be contained in a basement.” In a 2009 background report to its proposed bylaw on lodging houses the City explained this provision, along with another provision requiring that the lodging units occupy a maximum of 40 per cent of the house’s floor area, in this way:

This approach will:

- ensure a satisfactory living environment for the residents;
- reduce potential for conversion to basement apartments;

<sup>17</sup> Jill Grant, personal communication, 14 October 2017.

- maintain the integrity of the house as a detached dwelling;
- minimize physical changes to the structure of the dwelling; and
- provide for the easy conversion of the lodging house back to a detached dwelling (City of Mississauga 2009).

All but the first point suggest that lodging houses are not intended to be permanent housing options in Mississauga, but simply temporary arrangements in houses that can easily be reversed. Mississauga does permit basement apartments (or secondary suites) in detached, semi-detached, and town houses, provided that these units are registered, so it is not clear why it is important to “reduce potential for conversion to basement apartments.”

#### 4.4 Exterior fencing

The City of Oshawa’s lodging bylaw includes the following requirement:

The Owner of a Lodging House shall erect and maintain a fence surrounding the entire Rear Yard of the Property, except that portion of the Rear Yard that is bounded by the main rear wall of the Lodging House, to form a continuous enclosure of the Rear Yard (Oshawa Bylaw 94–2002, amended 2008).<sup>18</sup>

This requirement is followed by several details of the required fence construction, including its height (a minimum of 1.5 metres – about 5 feet) and materials (vertically boarded weather protected wood construction).

This provision appears to be intended to appease the neighbours, since there is no obvious value to roomers or lodgers to have a fenced-in yard. In a multi-jurisdictional study by the Town of Oakville that reviewed the rules in Oshawa, it seems that the City of Oshawa was responding to the proliferation of rooming houses around the University of Ontario Institute of Technology (UOIT) and Durham College, which share a campus. According to the Oakville review:

The City of Oshawa had approved low density residential development around its post secondary institution, against the recommendation of staff. Staff recommendations for higher density residential development would likely have been more appropriate for a student population. This decision led to the frustration of the home buyers in the low density area around the institution and an influx of illegal lodging houses (Town of Oakville 2010, 14–15).

It may have been in an attempt to deal with the “frustration of the home buyers in the low density area around the institution” that the fencing requirement was introduced.

#### 4.5 Occupancy

Halifax and Vancouver specifically state that rooming houses may have one or two persons per room, Mississauga stipulates one person per room only; all the other jurisdictions studied are silent on this point.

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18 Retrieved from <https://www.oshawa.ca/Uploads/16/LodgingHouseBy-law94-2002.pdf>

Allowing two persons per room allows for family relationships between tenants – married or common-law couples, or a parent and child, or even siblings who may want or need to share. Unrelated roommates may also share to reduce costs.

Setting a maximum may prevent overcrowding or the requirement may be used as a way to reduce the number of people who may occupy a rooming house.

#### 4.6 Parking requirements

Parking requirements for rooming houses vary, but are usually in the order of one off-street space for every two or three units (or tenants). In some cases, the requirements vary according to the location of the rooming house. Table 3 provides some examples.

**Table 3: Parking requirements for rooming houses, various cities**

City	Parking requirement
Barrie	1 space for every 2 tenants
Edmonton	1 space per 2 sleeping units
Guelph	1 space per building, plus 1 space for every 3 lodgers
Halifax	1 space per room; not allowed in front yard
Hamilton	1 space for every 3 lodgers
London	0.33 spaces per unit
Mississauga	0.5 spaces per lodging unit (rounded up) except where the lodging house is not located within 500m (1,640 ft.) of a bus stop, in which case, 1 space per lodging unit.
Oshawa	0.5 spaces per lodging unit
Ottawa	No parking requirements west of Rideau Canal (central area). East of the canal, 0.5 per rooming unit. Inner City area: 0.25 spaces per rooming unit. Suburb and rural areas: 0.50 spaces per rooming unit. Bike parking: 0.25 spaces per rooming unit, or 0.75 per rooming unit if in a postsecondary educational facility.
Vancouver	1 space for every 2 sleeping units
Waterloo	1 space for every 2 tenants and 1 for owner (if living on site)

Mississauga is the only jurisdiction of which I am aware that makes a distinction based on proximity to a bus stop. Ottawa is the only one in this group that includes requirements for bike parking.

When cities hold public consultations about rooming houses, the subject of parking is usually raised, even in some lower-density locations where parking may be plentiful and multiple car ownership is common. Although homeowners may have as many vehicles as they like, renters are subject to higher levels of scrutiny where parking is concerned.

Parking requirements benefit car-owning tenants by ensuring that they will have off-street parking at their home, but the rules also have the effect of limiting rooming houses, since houses without sufficient space for parking may not be able to meet the licensing and zoning requirements.

#### 4.7 Location of lot

Some jurisdictions require that rooming houses locate on arterial roads or in mixed-use or commercial zones only, rather than on quieter residential streets. (The same requirement has also been applied to group homes in some cities.)

In Ottawa, for example, a rooming house can locate in residential zones R1 or R2 only if “it is located on a lot fronting on and having direct vehicular access to an Arterial or Major Collector Road.”

In a proposed “harmonized rooming house bylaw” put forward in 2009, the City of Toronto also recommended that in former jurisdictions where rooming houses had not previously been permitted, they would be allowed only on arterial roads. The resulting “rooming house overlay” map showed a marked contrast between the old City of Toronto (where rooming houses were allowed throughout residential zones) and the surrounding parts of the amalgamated city, where rooming houses would be restricted to main streets. However, this proposal was shelved and the city is attempting a new approach (Campsie 2018).

Restricting rooming houses to arterial roads and commercial areas has nothing to do with the comfort or safety of the tenants of rooming houses. As Jill Grant has observed, “Planning has a long history of putting uses that may be seen as problematic (busy, unwanted) onto arterial streets – this practice goes back as far as the neighbourhood unit at least. The big issue is why some kinds of residential structures end up in that kind of unwanted category and thus subjected to particular kinds of regulation.”<sup>19</sup>

#### 4.8 Age of house

Toronto’s current zoning bylaw includes a provision that rooming houses in “Rooming House Areas B1 and B2” (that is, the former City of Toronto, now the central part of the city) may be established “in a building (i) that was originally constructed as a detached house or semi-detached house; (ii) that is at least 5 years old...”<sup>20</sup>

This provision would preclude the creation of new, purpose-built rooming houses in zones B1 and B2 (there is also a zone B3, which allows for larger rooming houses, that does not include this provision, so purpose-built rooming houses are not prohibited in all locations in the former City).

I have not found such a provision in other bylaws; this requirement appears to be unique to a certain part of the City of Toronto.

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19 Jill Grant, personal communication, 14 October 2017.

20 Toronto citywide zoning bylaw, Section 150.25 (Specific Use Regulations for Rooming Houses), section 150.25.20.2. Retrieved from [https://www.toronto.ca/zoning/bylaw\\_amendments/ZBL\\_NewProvision\\_Chapter150\\_25.htm](https://www.toronto.ca/zoning/bylaw_amendments/ZBL_NewProvision_Chapter150_25.htm)

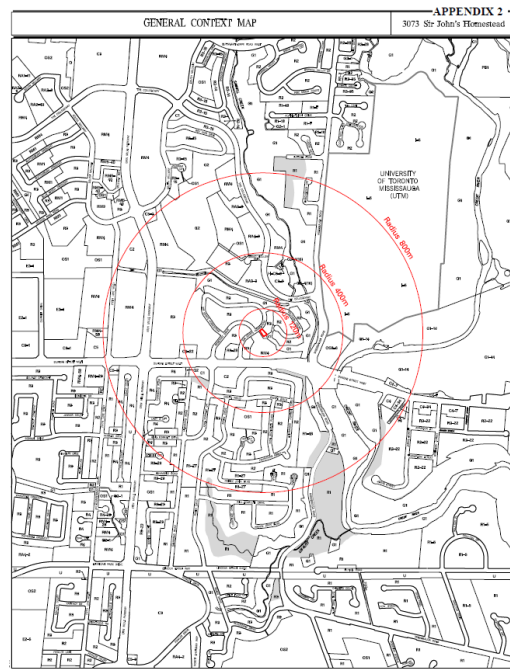
#### 4.9 Minimum separation distances

A few jurisdictions have set minimum separation distances for rooming houses. In Brampton, for example, the requirement is 305 metres, specified in the city's zoning bylaw; in Mississauga it is 400 metres, a requirement applied when a property is rezoned to allow for a lodging house. A staff report from the City of Mississauga (2009) offered the following official justification<sup>21</sup> for this requirement:

Staff consider a 400 m (1,312 ft.) separation to be a reasonable balance<sup>22</sup> between preventing a concentration of lodging houses in a neighbourhood, and providing for the regulated off-campus affordable housing needs of students in the vicinity of UTM [University of Toronto at Mississauga].

Interestingly, the Mississauga report contained a map (see Figure 1) showing three possible minimum separation distances from an actual rooming house. The 400 m radius chosen takes in an area that crosses a main road, and it could be argued that the two sides of the main road could be considered separate neighbourhoods. Two houses might be 400 metres apart as the crow flies, but be located in quite different neighbourhoods. Yet the rule would nonetheless apply.

**Figure 1: Minimum distance separation map, Mississauga**



21 Unofficially, a staff member in the Mississauga Planning Department told me that the city hoped that this requirement might encourage rooming house owners to apply for a licence promptly or face the prospect of being refused if another rooming house in the neighbourhood had already received a licence. This is rather odd reasoning, since it is also likely that it may have the opposite effect of discouraging rooming house owners from applying at all if a licensed rooming house existed nearby.

22 "The words 'reasonable' and 'balance' are often used to fudge constraints that have limited legitimacy." Jill Grant, personal communication, 14 October 2017.



The idea that a “concentration of lodging houses in a neighbourhood” is a bad thing is taken for granted in the report. No evidence is provided to substantiate this claim. For example, in parts of Toronto or Winnipeg where rooming houses are common, the “concentration” of houses is seldom an issue in and of itself. One individual house may cause problems if the landlord does not maintain the house properly, or if one tenant is noisy or disruptive, but such problems do not necessarily multiply with the number of houses, any more than bad maintenance or bad behaviour on the part of one homeowner multiplies with the presence of other homeowners.

For whom is “concentration” a problem? The proximity of other rooming houses would not affect rooming house tenants one way or another, or have a material effect on their safety and security. It can only be a requirement designed to allay the fears of homeowners who fear rooming houses and wish to prevent their establishment in residential areas to the greatest extent possible.

In a paper on the minimum separation distances applied to group homes for disabled adults, Finkler and Grant (2011) note that “Planners increasingly advocate de-concentration...the idea that affordable housing should be distributed throughout a municipality to avoid excessive local impacts.” But what they call “dispersal bylaws” serve to “buttress local efforts to regulate and even exclude persons who are not welcomed in our communities. Minimum separation distance bylaws portray group home tenants not as citizens with rights or potential good neighbours but as social problems that require spatial solutions.” (Finkler and Grant 2011: 37, 49) The same could be said of rooming house residents.

Recently, several Ontario cities have removed minimum separation distance requirements from bylaws that apply to group homes, following human rights challenges to these bylaws. Since group homes are intended for persons with disabilities, who form a recognizable group that are protected under human rights legislation, this development is welcome and overdue.

Rooming house residents, however, are not protected as a *group* under human rights legislation. Some may be disabled, some may be elderly, some may belong to racial minorities, and some may receive social assistance; these individuals are specifically protected from discrimination. But rooming houses also accommodate non-disabled, non-racialized working individuals who happen to need inexpensive housing, and they have no specific protection under human rights legislation. “The unifying trait of rooming house residents is not a basis for a discrimination claim in Ontario, as ‘poverty’ or ‘social condition’ is not a prohibited ground in Ontario” (Roher 2016, 16). Mounting a human rights challenge to this kind of regulation would therefore be difficult to organize.

#### **4.10 Summary**

This brief analysis suggests that many of the requirements imposed on rooming houses do not necessarily benefit roomers, but are intended to limit the number of rooming houses in an area or an entire city. Table 4 summarizes the findings.



**Table 4: Effects of rooming house requirements**

Requirement	Benefits roomers?	Limits rooming houses?
Size of rooms/units	Yes	Potentially
Locks on doors	No*	No*
Portion of house used	No	Yes
Exterior fencing	No	Yes
Occupancy	Potentially	Yes
Parking requirements	Potentially	Yes
Location of lot	No	Yes
Age of house	No	Yes
Minimum separation distances	No	Yes

\*This requirement, found only in Barrie, benefits only the landlords of houses with a few rental units by allowing them to avoid regulation, provided the tenants are comfortable leaving their units unlocked in their absence.

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## 5. Conclusion: Unheard voices

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In the early years of the 21<sup>st</sup> century, when CMHC commissioned the two reports on rooming houses cited in the Introduction to this paper, rooming houses might have seemed an anachronism, something that would eventually dwindle away entirely and disappear in a world in which self-contained living spaces would be the norm.

In fact, rooming houses have become more important, not less, particularly as the demand for affordable housing options has intensified. At the same time, postsecondary institutions have expanded across the country, drawing students from outside their immediate communities. Many of these institutions provide little or no student housing on campus. And even when student housing is provided, students may prefer other housing arrangements.<sup>23</sup> Suddenly, rooming houses are in demand as student housing, particularly in formerly suburban municipalities with a shortage of affordable housing options.

This demand, which has led to the subdividing of many houses near postsecondary institutions in cities across Canada, has raised the issue of rooming houses in formerly suburban municipalities that had previously never had regulations for rooming houses, and hijacked the debate in older cities where rooming houses have long been a more-or-less accepted form of affordable housing for people with very low incomes. The trend known as “studentification” is an important factor in neighbourhood change in formerly stable residential areas in many cities.<sup>24</sup>

Another trend is that more and more people live alone, for a variety of reasons.

For the first time in the country’s history, the number of one-person households has surpassed all other types of living situations. They accounted for 28.2 per cent of all households last year, more than the percentage of couples with children, couples without children, single-parent families, multiple family households and all other combinations of people living together (Galloway 2017).

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23 For example, York University has closed a student residence that was underused, while houses in residential areas surrounding the university have been subdivided to create student housing (Robson 2011).

24 “Studentification,” a term coined in the U.K. in 2002, has been defined as “multifaceted urban transformations resulting from increases in and concentrations of student populations” (Nakazawa 2017), and is the subject of an increasing number of studies in countries around the world.

Living alone can be expensive, and options that allow unrelated people to share some resources may be a way to make ends meet.

Yet resistance to rooming houses remains strong in some areas. The amalgamated City of Toronto has been able to harmonize the zoning bylaws of its former municipalities in every area *except rooming houses*; 20 years after amalgamation, it was still holding public meetings at which some homeowners express the opinion that rooming houses should be banned completely in their neighbourhoods.

In other municipalities, rooming houses are limited through regulations that prevent their establishment in certain residential zones or that impose minimum separation distances between them as a way of keeping the numbers down.

Part of the problem may be the way in which rooming houses are portrayed in the media. In a study conducted in Halifax, researchers looked at 262 articles published in five news outlets between 1996 and 2015. The report noted: “Most articles (91%) did not have a positive message about rooming houses as a form of housing. Only 9% mentioned something positive about rooming houses. ... Overall, rooming houses received more negative media attention than positive. Rooming houses most commonly appear in media for incidents of murder and are most often framed as unsafe places to live” (Derksen 2016b, 10, 24). The analysis even highlighted the words most commonly used:

- for rooming houses: crackhouse, pests
- for roomers: alcoholic, mentally ill
- for landlords: unreachable, slumlord (Derksen 2016b, 15, 17)

These pejorative terms are routine in media coverage, and stories about rooming house problems dominate – smoothly running rooming houses are not newsworthy.<sup>25</sup> The stigma surrounding rooming houses contributes to calls for stringent enforcement of regulations or demands to ban rooming houses altogether.

Even planning reports may use pejorative terms. In a report prepared for the Town of Oakville, planners noted: “While the primary focus of the [2007 Oakville rooming house] by-law was on the health and safety of the occupants, it was also designed to prevent landlords from turning attractive, detached homes in established residential neighbourhoods into unsightly rooming houses” (Town of Oakville 2010).

Meanwhile, regulations contribute to the increasing numbers of unlicensed rooming houses. If a landlord has a house that meets the requirements in every way but one (parking requirements, say), then he or she is likely to carry on business without a licence. And if the house is located in a zone in which rooming houses are not permitted anyway, then getting a licence is not an option. But the rooming house will continue to exist nonetheless, and a wise landlord will ensure that it does not attract the unwelcome attention of home-owning neighbours.

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25 “Stories of absentee landlords, slum conditions, violent crimes, drug dependency, prostitution, and bed bugs dominate the conventional conversation about this housing type” (Kaufman and Distasio 2014).

As for the tenants, they, too, do not want to attract attention. If their housing exists outside the regulatory framework of zoning and licensing, they fear that any complaint to city hall will simply lead to the closure of the house and they will find themselves on the street. Public consultations at which participants are asked to provide names and addresses do not encourage tenants to talk about their experiences. Their voices are missing because their housing exists in legal limbo.<sup>26</sup>

So what *do* “we” (city dwellers, city planners, city councillors) talk about when we talk about rooming houses? There has been no shortage of talk about rooming houses, particularly in Toronto, which held numerous public meetings on the subject in 2015 and 2017 and published detailed reports about the findings.

Some of those who attended the meetings were supporters of rooming houses, who wanted better protection for tenants’ rights and some assurance that landlords would provide adequate living conditions. Others opposed rooming houses: mainly homeowners who rejected any form of rooming house in their neighbourhood on the assumption that rooming houses are associated with noise, disruption, poor property maintenance, and crime, and some councillors who agreed with them. The summary of the 2017 consultations in areas where “pilot projects” for “multi-tenant housing” (MTH) had been proposed included comments such as the following:

- Many participants expressed strong opposition to establishing any zoning permissions for MTH in their area and felt any MTH would change the character of the neighbourhood.
- Participants also felt the proposal would have to include a robust enforcement strategy for it to work.
- Other participants did support MTH, subject to proper enforcement, as a source of income for homeowners and affordable housing for tenants, such as students, people with low incomes, and newcomers.
- Participants expressed concerns about the risk of negative impact on neighbourhood safety and security from increased traffic, noise, and nuisance...
- Concern was expressed about MTH potentially having a negative impact on property values.
- Participants believed that the City should be doing more to provide affordable housing to relieve the demand for MTH (Public Interest Strategy & Communications Inc. 2017: 21).

The final comment is interesting. While most people accept the need for affordable housing, many do not accept rooming houses as an acceptable or desirable form for such housing and want the City to provide alternatives.

On the whole, the talk was not about what it is like to live in a rooming house, or how conditions might be improved for tenants, or who needs this type of housing and why, or what might ensure that landlords are providing safe and healthy housing. Mostly, what we talk about when we talk about rooming houses is how to limit, control, and monitor their existence.

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26 “One thing that all 300 tenants, owners and community members interviewed for this study [on rooming houses] agree on—no one is listening to their voices” (Distasio, Dudley, and Maunder 2002).

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