

MARKHAM ROOMING HOUSE REPORT

Draft July 2016

1. Introduction

This report addresses zoning for rooming houses as part of the Markham New Comprehensive Zoning By-law Project. The intent of the New Comprehensive Zoning By-law Project is to replace Markham's existing 46 "parent" zoning by-laws with one new comprehensive zoning by-law for all of Markham. The first two phases of this project have been completed. Phase 1 involved the preparation of 20 discussion papers exploring options on a number of issues which were presented to the public at a series of open houses in the Fall of 2015. A summary of the discussion papers and feedback from the open houses was contained in the Zoning Issues Analysis Report which was endorsed in principle by Markham's Development Services Committee on March 29, 2016.

Phase 2 of the project involved the preparation of the Strategic Directions Report which provides a series of recommendations flowing from the phase 1 discussion papers to assist with the drafting of the comprehensive zoning by-law, to occur in phase 3. The phase 2 report was presented at an open house on May 2, 2016 and endorsed in principle at the Development Services Committee on June 14, 2016. It is expected that work on phase 3 will be initiated in the Fall of 2016.

This report on rooming houses is part of phase 3a of the project. At the phase 1 open house held December 8, 2015 some members of Council indicated that zoning issues pertaining to secondary suites, rooming houses and short term accommodation should be accelerated ahead of the phase 3 work and completed by the end of this year. At its meeting on March 1, 2016 the Development Services Committee directed that staff move ahead with a review of potential new zoning and licensing regulations for secondary suites, rooming houses and short term accommodations (phase 3a of the project).

Rooming houses have become an issue recently in Markham because there appear to be houses in residential zones where rooms are rented out to multiple tenants. Some of these have generated complaints from neighbours. At present a rooming house is not a permitted use in any residential zone in Markham. By-law enforcement officials and fire safety inspectors have sometimes had difficulty gaining access to these types of properties to determine if they meet by-law and Fire Code standards. Council members have expressed concern with this situation and have requested that zoning issues related to rooming houses be examined to determine if something can be done to address the problem.

Markham last examined rooming houses as part of a study in 2011 called Shared and Supportive Housing Policy Review which established the policy foundation for shared housing in the new Official Plan. There were no changes to Markham's existing zoning by-laws as a result of this study.

Section 2 of this report examines the legislative framework in Ontario related to rooming houses. It reviews relevant policies in Markham's new Official Plan and summarizes the provisions in Markham's existing zoning by-laws. Section 3 examines how other municipalities address rooming houses in their

zoning by-laws and Section 4 examines issues in Markham. Section 5 concludes with a number of options and Section 5 summarizes next steps.

2. Legislative Framework

2.1 Rooming Houses Background

Rooming houses, also known as boarding or lodging houses, are a form of accommodation that contain some private and some shared facilities. A Canada-wide survey conducted in 2006 developed a working definition of rooming house as a permanent form of housing that contains at least four separate habitable rooms, each containing either food preparation or bathroom facilities, but not both¹.

The main goal of zoning by-laws that regulate rooming houses or boarding houses is to ensure the safety of occupants through the enforcement of building standards and other requirements, such as licensing, or establishing a minimum number of sanitary facilities. Under the Fire Code (Division B, Part 9, Section 9.3) and the Building Code (Division A, Part 1), rooming houses are defined as follows:

“A building that does not exceed 3 storeys, with a building area not exceeding 600m², where lodging is provided for more than 4 persons in return for remuneration or the provision of services (or both); and where rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants².”

Residential dwelling units with 4 or less lodgers are not considered rooming houses according to the Fire Code.

Markham’s new Official Plan defines “shared housing” as an umbrella term to include rooming houses as well as group homes and other forms of shared housing.

2.2 Planning Act, 1990

The Planning Act³ sets out the ground rules for land use planning and development in Ontario and provides a range of land use planning tools that municipalities can use to promote housing choices in their communities, including affordable and shared housing. The Planning Act identifies the adequate provision of a full range of housing, including affordable housing, as a provincial interest and includes a number of planning tools that municipalities can consider using to help achieve a full mix and range of housing options. In support of shared housing options, the Planning Act prohibits the passing of zoning by-laws under Section 35 (2) that have the effect of distinguishing between persons who are related and persons who are unrelated in respect of the use or occupancy of a building.

2.3 Provincial Policy Statement, 2014

Under the Planning Act, the Minister of Municipal Affairs and Housing may issue provincial statements on matters related to land use planning that are of provincial interest.

¹ City of Toronto. Approach for Proposed Zoning Regulations for Rooming Houses. Staff Report to Planning and Growth Management Committee. December 14, 2009.

² Town of Ajax. Lodging Houses Review Discussion Paper. Options to Address Lodging Houses. Town of Ajax Planning and Development Services. June, 2013

³ Government of Ontario. (1990). Planning Act. R.S.O. 1990, c.P.13.

The Provincial Policy Statement⁴ (PPS), issued in 2014 under Section 3 of the Planning Act, contains overall policy directions on matters of provincial interest related to land use planning and development. Municipalities use the PPS to develop their official plans and to guide and inform decisions on other planning matters. The Planning Act states that all municipal decisions affecting land use planning matters shall be consistent with the PPS.

Key changes to the 2014 PPS include the recognition of key elements of healthy communities, such as community design, planning for all ages, and the recognition of institutional uses (including long-term care homes) as important elements of communities. Of particular relevance to the issue of rooming houses are policies listed under Section 1.4, which include the following in a list of goals to be achieved:

- 1.4.3 Planning authorities shall provide for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents of the regional market area by:
- b) permitting and facilitating:
 - 1. all forms of housing required to meet the social, health and well-being requirements of current and future residents, including *special needs* requirements; and
 - 2. all forms of *residential intensification*, including second units, and *redevelopment* in accordance with policy 1.1.3.3;
 - e) establishing development standards for *residential intensification*, *redevelopment* and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.

Among other things, the PPS directs planning authorities to provide an appropriate range and mix of housing types, permit and facilitate all forms of residential intensification which support more intrinsically affordable housing and offer greater access to supports which increase shared housing opportunities.

2.4 Ontario Human Rights Code, 1962

Housing is recognized internationally as a fundamental and universal human right. The Ontario Human Rights Code⁵ (the “Code”) aims to protect and promote human rights and ensure that every individual has the right to equal treatment, including equal opportunity to access housing and the benefits associated with it, without discrimination. The Code applies to terms and conditions in housing contracts and leases, and it also applies to municipalities, as both regulators and providers of housing. Municipalities must ensure that their by-laws, processes, and decisions respecting shared housing do

⁴ Ministry of Municipal Affairs and Housing. Provincial Policy Statement. Issued under section 3 of the Planning Act. April 30, 2014.

⁵ Government of Ontario. (1990). Human Rights Code, R.S.O. 1990, c. H.19.

not target or disproportionately affect groups protected by the Code⁶. In Ontario, the Code takes precedence over all other legislation unless the legislation specifically states differently.

2.5 Municipal Act, 2001

The Municipal Act⁷ sets out the responsibilities of municipalities in Ontario and provides the authority under which these responsibilities can be carried out. It establishes a broad legislative framework that empowers municipal governments to pass by-laws relating to a wide range of activities, including by-laws respecting the economic, social and environmental well-being of municipalities. Among the provisions in the Municipal Act that may be considered in the development and preparation of housing strategies are those related to the licensing of rental housing, including shared housing. The Municipal Act gives municipalities the specific authority to license, regulate and govern businesses operating within the municipality. This includes the authority to pass licensing by-laws related to the business of renting residential units and operating rooming, lodging or boarding houses.

2.6 Markham Official Plan

The new Official Plan does not explicitly address rooming houses, but refers to this form of housing as shared housing. Section 11.2 of the Official Plan defines shared housing as follows:

Shared housing is a form of housing where individuals share accommodation either for economic, support, long-term care, security or lifestyle reasons.

- a) Shared housing small scale is a form of housing where 3 to 10 persons share accommodation with or without support services.
- b) Shared housing large scale is a form of housing where more than 10 persons share accommodation with or without support services.
- c) Shared housing long term care is a form of housing where people who need 24-hour nursing care in a secure setting share accommodation.
- d) Shared housing supervised is a form of housing where people who need 24-hour supervision in a secure setting share accommodation.

Shared housing small scale is the term that covers rooming houses as shown in the table below.

Shared housing small scale	
A form of housing where 3 to 10 persons share accommodation with or without support services.	
Shared housing small scale without support services	Shared housing small scale with support services
<ul style="list-style-type: none"> › Rooming houses or boarding houses 	<ul style="list-style-type: none"> › Long-term care homes or residential care facilities › Private retirement homes › Lodging houses (as per Regional definition) › Group homes

⁶ There are a total of 17 Code-protected grounds, among which are age, ancestry, colour, race, citizenship, ethnic and place of origin, creed, disability, family status, marital status, gender identity and expression, receipt of public assistance, sex and sexual orientation.

⁷ Government of Ontario. Municipal Act, 2001, SO 2001, c 25.

Section 4.1.1.2 of the new Official Plan states that it is Council policy to diversify the housing stock to provide a broader variety of housing forms and sizes to respond to changes in household composition including increasing opportunities and options for shared housing.

Section 4.1.3 of the Official Plan identifies shared housing as an opportunity to diversify the housing stock. Of particular relevance to this report is Section 4.1.3.4 which states that it is Council policy to support the equitable distribution of shared housing across Markham neighbourhoods within permitted building forms.

Chapter 8 of the Official Plan provides for shared housing small scale in the following land use designations: Residential Low Rise, Residential Mid Rise, Residential High Rise, Mixed Use Low Rise, Mixed Use Mid Rise, Mixed Use High Rise, Mixed Use Office Priority and Mixed Heritage Main Street. Section 8.13.9.1 sets out specific land use policies for shared housing including that it be accommodated within a permitted building type in accordance with all applicable codes, by-laws and regulations.

2.7 Shared and Supportive Housing Policy Review, 2011

The Markham Shared and Supportive Housing Policy Review in 2011⁸ aimed to provide direction for Official Plan policies pertaining to key shared housing forms: long term care homes or residential care facilities, private retirement homes, lodging houses, group homes, rooming houses or boarding houses, seniors housing and student housing. Keeping up with how people want to live and removing policy barriers to shared housing were key policy directions.

One of the recommendations outlined in Markham's and Supportive Housing Policy Review (2011) is that the City of Markham adopt appropriate, relevant and applicable definitions for rooming houses (as well for other key housing forms). The report states that when developing a definition for rooming houses, the City may consider the following options:

- A distinction can be made between small and large rooming houses.
- Definitions should be consistent with and could be developed as sub-categories that fall under the definitions provided in the Official Plan. Markham's OP categorizes shared housing by the scale of the building type and the level of support services. Rooming houses could be included under the following two categories: shared housing small scale without support services (defined as a form of housing where accommodation is provided in 3 to 10 dwelling rooms without support services), and shared housing large scale without support services (defined as a form of housing with more than 10 dwelling rooms).
- It is important to ensure consistency in the definition of the various terms amongst the Official Plan, zoning by-laws, licensing by-laws, as well as the Building Code and the Fire Code.
- In general, definitions of rooming houses:
 - Specify a minimum size of 4 rooms designed for separate living,
 - Specify that the rooming house may contain one dwelling unit,
 - Specify that a use defined as a rooming house does not include other uses.

⁸ Town of Markham and SHS Consulting. Affordable and Special Needs Housing. Shared and Supportive Housing Policy Review. Presentation to the Development Services Committee. May 24, 2011.

Other important points to consider when developing zoning regulations for rooming houses include:

- If opting to make a distinction between small and large rooming houses, the City of Markham may consider permitting small rooming houses in all residential zones, while permitting large rooming houses in zones associated with higher density uses.
- Municipal by-laws that prescribe minimum distance requirements between group homes or rooming houses have faced challenges before the Ontario Municipal Board and the Ontario Human Rights Commission. This zoning approach is deemed discriminatory and may violate the Human Rights Code.
- If opting to implement licensing requirements for rooming houses, provisions may be related to fire, garbage and snow removal, maintenance, health and safety standards, and parking. Licensing that places gross floor area requirements, bedroom caps, and minimum separation distances must be carefully considered, given that it may contravene the Ontario Human Rights Code.

2.8 Markham's Existing Zoning By-laws

Rooming houses or boarding houses, and lodging houses, are defined in the 1987 Official Plan as dwellings where lodging for four, or more persons, is provided in return for remuneration or the provision of services or both, and where the lodging units do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants. These shared housing forms are not defined or addressed in By-law 177-96, however, By-law 90-81 includes boarding or rooming houses in the definition of dwelling and By-law 1229 includes a definition for boarding house or lodging house.

The Markham Centre Zoning By-law 2004-196 does not make any specific references to shared housing forms, and does not permit boarding houses, rooming houses, or dormitories, although these terms are included in the definition of "Suite", as follows:

"Suite" means a single room or series of rooms of complementary use, operated under a single tenancy and includes dwelling units, individual guest rooms in motels, hotels, boarding houses, rooming houses and dormitories as well as individual stores and individual or complementary rooms for business and personal services occupancies.

In addition, By-laws 2014-9, 2013-65 and 2013-67 amend Zoning By-law 2004-196 to allow dwelling units and retirement home rooms/units on any storey, including the first storey, of an apartment building in specific areas, under Special Site Provisions.

3. Other Ontario Municipal Zoning By-laws

3.1 Definitions

Municipalities usually use the terms rooming house, lodging house or boarding house interchangeably, The definitions in zoning by-laws are usually variations of the Building/fire code definitions reproduced in section 2.1 of this report.

A 2009 background study by the **City of Toronto**⁹ recommended that the definition of rooming houses:

- Specify a minimum size of 4 rooms designed for separate living accommodation (with either kitchen or washroom facilities, but not both), in order to acknowledge that its intention is to provide housing for residents in individual rooms;
- Specify that the rooming house may contain one dwelling unit, in addition to dwelling rooms, to allow, for example, the owner to reside in the same building;
- Specify certain uses as not being a rooming house, such as group homes, residential care facilities, nursing homes, retirement homes, religious residence, student residence, tourist home or hotel.

Oshawa defines a lodging house as a building or a part of a building, containing three to ten lodging units, which does not appear to function as a dwelling unit, although one may be included with the lodging units. It includes, without limitation, a rooming house and a boarding house, a fraternity or sorority house. It does not include a hotel, (...), an apartment building, or a block townhouse. A lodging house may involve shared cooking or washroom facilities. Meals may or may not be provided to residents. Common areas, such as living rooms, may or may not be provided.

In Peterborough’s zoning by-law a boarding, lodging or rooming house means a dwelling in which the proprietor, or his authorized agent, resides and provides furnished lodgings, with or without meals, for profit, to three (3) or more persons.

London defines a lodging house, class 2 as a residential building which is used to provide lodging units for hire or gain directly or indirectly to more than three persons with or without meals. A lodging house, class 2, shall not include a nursing home, hotel, motel, hostel, group home, bed and breakfast establishment, emergency care establishment, or a residence of an educational institution.

3.2 Where Permitted

Given that rooming houses are associated with a higher level of intensity of use, municipalities have adopted specific approaches to regulate where they are permitted. The City of Toronto opted for permitting rooming houses exclusively in zones that permit multiple unit residential buildings (RA, CR, RM). The City of Barrie proposed a distinction between small and large rooming houses, which enables the City to permit small rooming houses in all residential zones, while permitting large rooming houses in zones associated with higher density uses (RM2, RA1 and RA2)¹⁰. Small rooming houses are those that provide lodging for no more than 6 tenants. Other municipalities adopted variations to this approach and permit rooming houses as follows:

	Brampton	London	Kitchener	Oshawa	Waterloo	Guelph
Areas where rooming houses are	Permitted in selected Residential and Commercial	Class 1 (< 3 occupants) permitted in any Residential zone city-wide. Class 2 (> 3	Permitted in selected Residential, Institutional,	Residential Zone 7 (R7) is designated as a zone where the only permitted use is	Class 1 (>4 occupants plus owner, or >6 occupants without owner) permitted in Residential	Type 1 (> 5 occupants); Type 2 (townhouse or apartment with >5 occupants; subject to a

⁹ City of Toronto. Approach for Proposed Zoning Regulations for Rooming Houses. Staff Report to Planning and Growth Management Committee. December 14, 2009.

¹⁰ Ibid.

permitted	zones city-wide.	occupants) permitted in medium to high density Residential zones.	Commercial and Mixed Use zones.	a rooming house. Also permitted in selected Commercial zones.	zones. Class 2 (4 or 5 occupants without the owner) permitted only through a zoning by-law amendment.	zoning amendment) permitted in Residential (R1) and Commercial (CBD) zones.
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3.3 Distancing Requirements

Zoning by-laws that limit the number of rooming houses or that prescribe a minimum distance between rooming houses cannot be justified on planning grounds. A number of municipal by-laws requiring with distances between group homes have faced challenges before the Ontario Municipal Board and complaints to the Human Rights Tribunal of Ontario in recent years. These cases have resulted in the elimination of distancing requirements from zoning by-laws.

The increasing number of similar cases in recent years demonstrates that planning for these uses requires careful consideration with respect to human rights. In 2012 the Ontario Human Rights Commission published the report “In the Zone: Housing, Human Rights and Municipal Planning”¹¹, which indicates that zoning by-laws that define and restrict the location of dwellings based on the characteristics of their users (“people zoning”), rather than the type of use (“land use zoning”), have deemed to be discriminatory and may violate the Code. Examples of such zoning approaches include minimum separation distances, and caps on the number of residents allowed. These approaches were found not to be justified on a rational planning basis.

Two studies addressing these issues were prepared in recent years for the Town of Oakville (2012) and the Town of Ajax (2013), to inform their respective zoning by-law reviews. Both studies concluded that the establishment of minimum distance separation provisions for group homes and rooming houses was not recommended¹². The study prepared for the City of Toronto in 2012 in response to a challenge by the Dream Team at the Human Rights Tribunal, also recommended that separation distance requirements for group homes be removed.

3.4 Parking

The table below provides an overview of typical parking requirements for rooming houses in certain municipalities in Ontario:

	Brampton	London	Kitchener	Oshawa	Guelph	Barrie
Parking requirements for Rooming/Lodging/Boarding Houses	Min. 0.5 parking spaces for each lodging unit, plus two parking spaces for the proprietor.	Min. 0.33 parking spaces per unit. If the lodging house contains more than 5 units, 0.75 long-term bicycle	1 off-street parking space required for every 25 m2 of floor area dedicated to the	Min. 0.5 parking spaces for every lodging unit. If it contains a separate dwelling unit, one additional parking	1 off-street parking space per building plus 1 parking space for every 3 occupants. Certain properties within	Small rooming houses: min. 1 parking space + 1 additional on-site parking space for every 2 tenants

¹¹ Ontario Human Rights Commission. In the Zone: Housing, Human Rights and Municipal Planning. Toronto, 2012.

¹² Town of Ajax. Lodging Houses Review Discussion Paper. Options to Address Lodging Houses. Town of Ajax Planning and Development Services. June, 2013 and Town of Oakville. Technical Paper: Residential Zones Received by the inZone Subcommittee February 4, 2013.

		parking spaces are required.	rooming house.	space is required.	the CBD-1 zone may be exempt from this requirement.	(tandem parking permitted). Large rooming houses: min. 1 parking space for every 2 tenants (tandem parking not permitted)
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It is relevant to note that municipalities have often used parking requirements as a way to control the development of certain types of housing. The City of Barrie, for example, proposed the use of restrictive on-site parking standards for rooming houses with the specific intent to restrict the number of homes that can accommodate tenants or be used for small rooming houses¹³.

3.5 Licensing

Under the Municipal Act, municipalities in Ontario may license, regulate and govern businesses, including renting residential units and operating rooming, lodging or boarding houses within the municipality. Licensing is normally enforced through the licensing by-law and is used to help ensure that landlords and building owners maintain the property in accordance with minimum standards, including required safety standards.

Licensing requirements can vary considerably among municipalities, as shown below:

	Brampton	London	Kitchener	Oshawa	Guelph
Licensing requirements for Rooming Houses	Required and must be renewed yearly. Cost: \$117. Max. fine for non-compliance: \$25,000.	Class 2 (> 3 occupants) must be licensed and renewed yearly. Cost: \$490. A register is required detailing name and previous residence of occupants.	Required and must be renewed yearly. Initial cost: \$901 and \$732 thereafter. Maximum fine for non-compliance: \$25,000.	Required. Application fee: \$100. Licensing fee: \$250.	No licensing required. Registration is required.

Licensing is seen as reasonable when it contains provisions related to fire, garbage and snow removal, maintenance, health and safety standards, and parking. However, licensing may contravene the Ontario Human Rights Code when it places gross floor area requirements, bedroom caps, and minimum separation distances, given that these provisions may have the effect of reducing the availability and range of rental housing, which can have an adverse impact on Code protected groups¹⁴. A separate report will deal with licensing in more detail.

¹³ City of Barrie. Staff Report PLN048-07. To General Committee. File: D14TE-BOA. Boarding, Lodging Rooming Houses. November 12, 2007.

¹⁴ Ontario Human Rights Commission. Room for everyone: Human rights and rental housing licensing. Province of Ontario: Toronto, 2013.

4. Issues

Rooming houses are currently not permitted in any zone in Markham. Therefore all existing rooming houses are illegal in Markham, unless covered by a site specific by-law. However, there is evidence that rooming house type accommodation exists in parts of Markham, usually in busy locations, such as on major arterial roads. There is one instance recently where a rooming house was suspected of operating in a low rise residential area. Efforts by City officials to bring the building into compliance with the zoning by-law provisions are underway.

Most municipalities that recognize rooming houses in their by-laws, restrict them to zones where multiple residential units are permitted or along major arterial streets.

4.1 Rooming Houses and Single Housekeeping Units

A group of individuals (friends, students co-workers) can form a household and rent a dwelling unit together in any zone where a dwelling unit is provided for. This is consistent with the provision in the Planning Act that municipal zoning by-laws cannot distinguish between related and unrelated persons. For some this has created confusion on how to distinguish between a rooming house where individuals rent dwelling rooms and households of unrelated persons who rent dwelling units as a group.

The City of Guelph has provided a very useful set of criteria on its web site to help clarify this distinction. This is reproduced below.

“In order to distinguish between a dwelling unit and a lodging house, recent case law has identified some of the key characteristics of a dwelling unit to try and help define what a ‘single housekeeping unit’ is. These dwelling unit characteristics include the following:

- All of the tenants in a house knowing each other well in advance of signing their lease
- All of the tenants deciding together who gets which room with no influence from the owner or their representative
- No keyed locks on any of the bedroom doors
- The tenants enter into a group lease
- The tenants pay the rent as a group
- The tenants pay all of the utilities in their name separate from the rent
- That neither the owner nor any of their relatives live in the house (although this may help to reduce the number of lodgers to four or less, if they are on the ownership)
- The tenants have access to the entire house
- The tenants provide all of the furniture for the entire house
- The tenants are responsible for the cleaning of the house
- That there have not been any renovations to increase the number bedrooms in the house

As a property begins to stray from this dwelling unit scenario Building Services’ will take an overall look at all of these variables together. Not all of these variables need to be untrue in order for the property to be deemed as a lodging house. Some may be true and some not true and some we may factor in differently than others and give more weight to determine whether or not it is a lodging house for Ontario Building Code purposes.”

The problem from an enforcement point of view is that these types of characteristics cannot be determined by enforcement officials. The City has no authority to request clarification on items such as method of rent payment, who provides the furniture who pays utilities etc. The Building Code which defines a dwelling unit as a “suite operated as a single housekeeping unit, used or intended to be used by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities”, may be a more effective, less subjective, guide for enforcement officials to distinguish between a single housekeeping unit and a rooming house.

4.2 Safety

A major concern with rooming houses that are not in compliance with the zoning by-law, Building Code and Fire Code is safety for residents. There have been a number of fires occurring in rooming houses in the GTA which have resulted in deaths because of inadequate fire safety procedures and features, including in Markham. In June 2007 a fire on Steeles Ave East in an illegal rooming house resulted in a fatality of the homeowner. The fire service had installed several smoke alarms throughout the home merely a few weeks before the fire. If these smoke alarms had not been installed many more would have died.

Additionally, another fire in an illegal rooming house on East Pine resulted in an almost disastrous occurrence due to the illegal modifications made to the home which disoriented firefighters and left an occupant stranded in the basement fearing for his life. Access to the basement from the interior of the home was eliminated and the space turned into a closet. After a long and stressful search the only access found to the basement was through the garage which the firefighters were able to enter and bring the occupant out safely.

When upgrading to or constructing a lodging house, the Ontario Building Code typically requires items such as the following:

- Fire rated floors and roofs
- Fire separated bedrooms, including fire rated doors and self closers
- Fire rated corridors (hallways), including fire rated doors and self closers
- Fire rated construction, including fire rated doors and self closers, around the stairs on each storey to separate them as segregated, protected exit stairs leading directly to the exterior and protecting exterior stairs from exterior windows or other openings
- Fire separated ancillary rooms (storage rooms, washrooms, laundry rooms, service rooms), including fire rated doors and self closers
- Two required exits from each floor level (depending on the number of lodgers or if there is sleeping accommodation in the basement) *Please note that an egress window is not deemed as an exit.
- Interconnected, hardwired smoke alarms with battery back-up and visual signals throughout the lodging house, including in each bedroom
- Carbon monoxide alarms and fire extinguishers
- Emergency lights and exit signs
- A fire alarm system (depending on the number of lodgers)
- Barrier free (including wheelchair) accessibility (depending on the number of lodgers)

The City's By-law enforcement and Fire Department staff attempt to inspect properties based on complaints, but frequently encounter difficulty in gaining access to buildings to conduct a proper inspection without a court order. The challenge of gaining access to inspect illegal operations for compliance with fire safety cannot be resolved by changes to the zoning by-law. However, if Council were to decide that rooming houses should be permitted in certain areas, then those operators who are willing to abide by the law would have an option of complying with fire code regulations by locating their rooming house operations in areas where rooming houses are permitted, and securing the required permits.

4.3 Neighbourhood Character

From a planning perspective, one of the major criteria used to determine if a use is appropriate in an area is its impact on surroundings. Impacts are generally related to compatibility due to the nature and intensity of the use, impact on services, physical character, and/or parking or traffic.

Nature and Intensity of Use

Rooming houses are classified as distinct residential uses in most zoning by-laws because they generally represent a more intensive land use than dwelling units in detached, semi-detached and row houses though they are located in similar types of buildings. In this sense they represent a land use that resembles, to some extent, multi-unit residential dwellings, such as apartment buildings, but in house form buildings. The issue often boils down to the larger number of residents living independently in dwelling rooms. While some households in detached, semi-detached and row houses can be quite large, this is generally an exception and the average household size for the municipality as a whole in dwelling units located in detached, semi-detached, and row houses has been falling and is projected to continue to fall.

One way to address the issue of intensity may be to have two different categories of rooming house along the lines recommended in the 2011 Shared and Supportive Housing Policy Review: a smaller rooming house that would fit more closely with other dwelling types in a typical low rise residential area for example, containing more than 4 but less than 8 or 10 dwelling rooms; and a larger rooming house with, for example, 8 or more dwelling rooms that typically would be located only in areas where other multi-residential buildings are permitted.

Impact on Services

There have not been any studies conducted on the impact of rooming houses on municipal services. Generally, hard services such as water and sewers, are designed to accommodate the building forms that exist in a neighbourhood. There is no evidence that the existence of rooming houses would impact the availability of these services in any perceivable way. Soft services such as recreational centres and libraries would also likely not be impacted in any perceivable way by the addition of some rooming houses in a particular area, since the numbers of additional residents who would use these services would be very limited. This point is further reinforced by the falling household size in existing low rise neighbourhoods in Markham, which suggests there is additional capacity to use services initially planned for a larger population.

One area where services may be impacted in a positive way could be transit. A smaller percentage of residents in rooming houses would likely own cars than in other types of dwelling units and would be more likely use transit where available. Since York transit vehicles currently operate under capacity, rooming house residents could have a positive, albeit marginal, impact on transit ridership.

Physical Character

Since rooming houses would be accommodated in house form buildings, it would be impossible to distinguish these types of uses from other buildings by appearance, unless these were poorly maintained. In terms of maintenance, the City has by-laws in place, such as the Property Standards By-law, which are intended to address poor maintenance, with inspections triggered by complaints and, if necessary, the issuance of compliance orders.

Parking and Traffic

Most municipalities that permit rooming houses in certain zones have parking standards in place that address this particular type of use. These are summarized in section 3.4 above. If Markham were to permit rooming houses, appropriate parking standards would likely be introduced and the provision of parking would need to comply with other by-laws such as the Extended Driveway By-law. Thus the visual impact of increased parking requirements on the neighbourhood would be limited as a result of the need to comply with these by-laws.

4.3 Students and Rooming Houses

Rooming houses have emerged as an issue across Ontario in areas with universities and other post secondary institutions. Municipalities with major university campuses within their boundaries have found that rooming house accommodation is favoured by some students and have adjusted their zoning regulations accordingly. In addition, since most of the issues concerning students are related to behaviour and cannot be dealt with through zoning controls, these municipalities have established other mechanisms such as "town and gown" committees composed of municipal staff, police, residents and university representatives to address these behaviour issues in a collegial manner.

With the decision to locate a satellite York University campus in Markham Centre, there may be some pressure to accommodate students in a number of different forms of accommodation in nearby areas. Although this satellite campus is envisioned as primarily a commuter campus, there are still likely to be some students who chose to live either on campus or nearby. According to York University officials, it is unlikely at this point that there will be any purpose built student housing located on the campus, since the campus footprint and the number of students will be small. Instead York University is considering partnerships with housing providers to accommodate students in purpose built housing off campus for those who need it. However, evidence from other places suggests that even with the availability of purpose built housing, some students in their final years of school choose other forms of non institutional accommodation, either for cost or lifestyle reasons.

Markham Centre already accommodates many different types of housing in a number of different building forms. The location of the York campus in this area is advantageous, since student who wish to,

will be able to take advantage of the available housing opportunities, either individually or as single housekeeping units. Experience from other places suggests that even with this array of choice, some students may still choose to live in rooming house type accommodations and that there are likely to be landlords who are willing to accommodate them. When this has happened in other municipalities, they have had to adjust their zoning by-laws to provide for safe conditions and compliance with building standards. The zoning standards that municipalities have introduced in these areas are the same as those outlined for rooming houses in section 3 of this report: a zoning definition for a rooming house, identification of areas or zones where they are permitted, parking standards and licensing.

In light of this, Council may wish to consider whether permitting rooming houses in Markham Centre or other areas is appropriate as a proactive measure to send a signal to those interested in potentially providing this form of accommodation for students about locational choices and restrictions.

5.Options

The following sections outline a number of options regarding rooming houses for Council to consider. These include no change to current permissions, introducing a definition for rooming houses into the by-law but not permitting them anywhere, and introducing a definition and permitting the uses in some selected areas.

5.1 Option 1: No Change

Under this option, Council could choose not to make any changes to existing by-laws regarding registration. Rooming houses would continue not to be permitted as of right anywhere in Markham and would not be defined. Staff would continue to respond to complaints about non compliance with the by-law and address potential issues around gaining entry to inspect premises on a case by case basis.

The advantage of this approach is that since it does not deviate from existing practice it is familiar: owners and others are aware that rooming houses are not permitted and staff will continue to follow current procedures for dealing with complaints and non compliance. The disadvantage is that it does not deal with potential safety issues with illegal rooming houses that are below the radar of staff, with no opportunities for operators to comply with safety standards.

5.2 Option 2: Defining Rooming Houses

This option would involve introducing a definition of rooming house and dwelling room into Markham's zoning by-laws based on the definition in the Fire Code, Building Code and Official Plan definition of "shared housing", but not permitting the use anywhere in Markham. The advantage of this approach is that it would make it clear what a rooming house is according to the zoning by-law, and thus provide buildings staff with a benchmark for what to look for during an inspection. In addition, the by-laws would provide clarity that the defined use is not permitted as of right in any zone. If, on the other hand, an operator wished to apply for a zoning by-law amendment to legalize a rooming house there would be a clear expectation of what this would entail and this could be applied as part of the assessment of the application.

A proposed definition of "rooming house small scale" could be based on the following:

“A building that does not exceed 3 storeys where lodging is provided in 3 or more dwelling rooms, but not more than 8 dwelling rooms, in return for remuneration or the provision of services (or both); and where dwelling rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants.”

A proposed definition of “rooming house large scale” could be similar except for buildings with more than 8 dwelling rooms

This definition builds on the definition in the Building /Fire Code, but places a maximum limit of dwelling rooms to 10, which is based on a sample of approaches in other municipalities. The terms “persons” is also replaced with dwelling rooms, to correspond more closely with the evolving trend to focus zoning on building characteristics and not people.

A “dwelling room’ can be defined as:

“a room designed for human habitation and may include either but not both culinary or sanitary conveniences, but does not include:

- i. A room in a hotel, tourist establishment or bed and breakfast inn;
- ii. A bathroom or a kitchen; or
- iii. A windowless storage area.”

5.3 Option 3: Definition and Permission in Selected Zones

Under this option Council could choose to include the definition of a rooming house and dwelling room in the zoning by-law as described in section 5.2 above, but also identify area(s) of Markham where such a use could be permitted. Areas that might be considered for such a permission could include Markham Centre and perhaps some portions of major arterials where other multi unit dwellings are already permitted. The advantage of this approach is that it would direct potential operators to certain specific areas of Markham and thus provide the opportunity for this form of affordable housing to exist in a safe and legal manner. Staff could direct inquiries appropriately and follow up on fire safety and Building Code issues.

Under this option it would also be necessary to include parking requirements in the by-law, such as those described in section 3.4 of this report, but based on the Markham context.

If this option were chosen it may make sense to set up a licensing regime for rooming houses. The issue of licensing rooming houses would involve amendments to the City’s Licensing By-law, and administrative costs. These issues will be discussed more fully in a separate report.

6. Next Steps

It is recommended that a public open house be held in September 2016 to obtain public input on the options provided in this report including:

- Not making any changes to Markham’s existing zoning by-laws regarding rooming houses; or

- Providing a definition of rooming house and dwelling room based on the proposed definition included in section 5.2 of this report, but not permitting this use in any zone in Markham; or
- Providing a definition of rooming house and dwelling room in the zoning by-laws and permitting the use in certain zones where other multi residential buildings are already permitted.

A final report on topic of rooming houses, including appropriate recommendations, will be presented to Development Services Committee and a statutory public meeting in the Fall of 2016.

DRAFT FOR DISCUSSION PURPOSES ONLY