

## **1.0 Background & Purpose**

Recently concerns have been raised by the public regarding the apparent proliferation of rooming houses in low density residential neighborhoods, where such uses are not permitted by existing zoning by-laws. Complainants have indicated that single detached homes are being converted to rooming houses, in which tenants rent a bedroom, or other converted space, and share the dining and bathroom facilities with other tenants. In many cases, the landlord may not live on the premises or in the municipality. Having multiple unrelated, individual tenants living in a single detached home has raised compatibility issues in low density residential neighbourhoods, especially if there are a number of rooming houses concentrated in a particular area. The concerns expressed by the property owners in the neighborhood of illegally converted rooming houses include:

- Safety concerns if residential rental units are not maintained and/or do not meet minimum statutory requirements for Building Code, Fire Code and Electrical Codes. This concern arises especially in instances where homes are modified to provide additional rooms to rent without taking out the required permits. If the property is not properly zoned, no permit would be issued by the City;
- Behavioral and nuisance concerns such as noise;
- Parking concerns particularly with vehicles parked on the front yard area and on roads. In rooming house situations it is not unusual for each tenant to have their own vehicle. This becomes an issue as most single detached properties were designed to accommodate one or two vehicles; and
- Poor upkeep of the residential properties relative to the City's Property Standards By-law.

While rooming houses are typically found in close proximity to post secondary institutions, it would be inaccurate to describe the rooming house issue as solely a student housing problem.

During the recent economic boom in Greater Sudbury, the vacancy rate in the City fell to levels approaching 0.6%. In that type of rental environment, a rooming house fills a need for temporary accommodation for students, transient workers and other people in need of low cost accommodation. However, rooming or boarding houses also play a role in the housing market by providing an affordable type of housing for a segment of the population. In other words, rooming houses are no longer for temporary accommodation only; they are becoming a permanent way of life for many people.

The existing tools for dealing with problem rooming and boarding houses include enforcement of municipal by-laws such as the Zoning By-law, where the rooming house is situated in an area which is not appropriately zoned; the Noise By-law, where applicable, and reliance on provincial legislation such as the Building Code Act, the Fire Prevention and Protection Act, 1997.

In response to the petitions being filed by residents of certain neighbourhoods in New Sudbury, the City of Greater Sudbury Council passed the following resolution 2009-462 on October 28, 2009:

*“Whereas the City of Greater Sudbury does not currently have a by-law dealing with the licencing of rooming, boarding or lodging houses;*

*AND WHEREAS there are health and safety concerns arising from this type of accommodation;*

*THEREFORE BE IT RESOLVED THAT the City of Greater Sudbury staff be directed to prepare a policy with respect to the licencing of rooming, boarding and lodging houses across the City of Greater Sudbury and that such draft policy be presented in March 2010.”*

The purpose of this report is to outline the issues related to rooming and lodging houses in the City, review the current and draft zoning by-law framework with respect to rooming and lodging houses, review how other municipalities address the issue, list issues involved with implementing rooming and lodging house licensing by-law and finally provide options for Council in terms of licensing rooming and lodging houses.

## **2.0 The Zoning By-law(s) & Rooming and Boarding Houses**

Quite apart from licensing considerations, the zoning by-laws define what constitutes a rooming and boarding house, and establish where these uses can be located within the City.

The former City of Sudbury Zoning By-law (95-500Z) along with those of the former Towns of Capreol, Rayside-Balfour, Walden and Nickel Centre (83-301, 83-302, 83-303 and 83-304) all contain the same definitions for boarding house dwellings and rooming houses:

Boarding House Dwelling,” means a single detached dwelling containing three or more accessory guest rooms.”

Rooming House, “means a building or part thereof which contains one or more guest rooms as the main use thereof and where accommodation, with or without meals, is provided for gain or profit, but does not include a hotel or any dwelling or institutional use.”

### Accessory Guest Room Accommodation

As part of the General Provisions in By-law 95-500Z and in the 83 series By-laws, accessory guest room accommodation for not more than 2 persons shall be permitted in any dwelling unit.

### 2.1 Permitted Zones

In the former City of Sudbury Zoning By-law 95-500Z, boarding house dwellings and rooming houses are only permitted in the C8 Metro Centre Zone (downtown). In the former Township 83 series By-laws, boarding house dwellings and rooming houses are not included as permitted

uses in any zone. Both by-laws do contain site specific zonings that do allow for rooming houses on specific properties, as a result of individual re-zoning applications.

It is important to consider that since the rooming houses and boarding houses are currently only permitted in the Downtown core of Greater Sudbury, it may have resulted in the unwanted proliferation of these types of uses in other parts of the City.

### **3.0 The Draft Comprehensive Zoning By-law & Rooming & Boarding houses**

The City is currently in the process of preparing a Comprehensive Zoning By-law which will replace the eight existing Zoning By-laws from the former Municipalities and amalgamated Townships. The draft Zoning By-law includes definitions for boarding house dwellings and rooming houses as follows:

Boarding House Dwelling “A single detached dwelling in which the owner or his agent resides and in which lodging for more than two persons other than members of the owner’s or agent’s family, in return for remuneration or for the provision of services or both and in which the guest rooms do not have bathrooms and kitchen facilities for the exclusive use of the individual occupants but shall not include a motel, hotel, hostel, hospital, children’s home, long term care facility, retirement home or other similar establishment.”

Rooming House “A building or part thereof which contains one or more guest rooms as the main use thereof which may include a shared kitchen and where accommodation, with or without meals, is provided for gain or profit, but does not include a hotel, motel, hostel, group home type 1, group home type 2, retirement home or any dwelling or institutional use.”

#### Accessory Guest Room Accommodation

The General Provisions in the Draft Zoning By-law (Section 4.11) permit accessory guest room accommodation for not more than two persons in any dwelling unit. This is unchanged from the existing By-laws (95-500Z and 83 series), which currently permit accessory guest accommodation for 2 persons.

#### 3.1 Where are Boarding House Dwellings and Rooming Houses Permitted in the Draft Comprehensive Zoning By-law?

The Draft Zoning By-law would permit boarding house dwellings and rooming houses in the new C6 Downtown Commercial Zone, which replaces the C8 Metro Centre zone in By-law 95-500Z. Portions of downtown Capreol, Chelmsford and Lively are proposed to be zoned C6(1) and would also permit boarding house dwellings and rooming houses. In addition, boarding house dwellings are proposed to be permitted in the new Medium Density Residential, R3 and R3-1 Zones, with rooming houses to be permitted in the new R3, R3-1 and R4 zones. Based on staff’s review of other municipalities’ zoning by-laws, this approach appears to be consistent with how most municipalities approach the permission of these uses.

The areas zoned R3, R3-1 and R4 will augment the existing C8 Metro Centre Zoned lands as potential locations for this type of housing within the City. The addition of these zones as a potential location of boarding house dwellings and rooming houses also provides an alternative

to such uses being illegally established in R1 and R2 Low Density Residential zoned areas of the City. Planning staff are of the opinion that these medium and high density zones are appropriate for these types of uses.

Comments on the draft January 2010 Zoning By-law have been requested by March 19, 2010, following which, staff intend to report back to Planning Committee on the comments received along with potential changes to the draft by-law. As part of the review of the draft Zoning By-law, Planning staff will be giving further consideration to issues such as parking standards for rooming houses in particular whether there should be a higher standard on lots located outside of the Downtown Zone.

The Draft Comprehensive Zoning By-law would allow rooming houses and boarding houses in a greater number of medium density residential areas than the current Zoning By-laws. This may reduce the pressure on low density residential areas where rooming houses are being established because they are currently not permitted anywhere in the City other than downtown.

## **4.0 How Rooming Houses and Boarding Houses are addressed in other Municipalities**

### **4.1 Zoning Regulations**

A review of other municipalities has revealed that most permit boarding, rooming or lodging houses in medium and higher density residential zones as well as in some commercial zones (ie. Downtown or mixed commercial zones). They also permit small numbers of lodgers (varying from two to six lodgers) in low density residential zones similar to the two accessory guest accommodation permitted in the 95-500Z and 83 series By-laws currently in effect in the City of Greater Sudbury.

City staff have reviewed approaches from eight municipalities in Ontario where boarding/rooming and lodging houses have been an issue due to the presence of university or college campuses. The zoning and licensing by-laws in the Cities of Barrie, Kingston, Kitchener, London, Oshawa, Ottawa, Thunder Bay and Waterloo were reviewed. A summary of how boarding, rooming and lodging houses are addressed in the zoning by-laws of the various municipalities is outlined in (Appendix A) of this report.

### **4.2 Licensing By-laws**

With respect to whether or not the City has the authority to license rooming and lodging houses, recent changes to the Ontario Municipal Act allow Municipalities to regulate and license residential rental units similar to licensing other types of businesses. The Act also permits a municipality to charge a fee to issue a license, which may be based on the costs to the Municipality to administer and enforce the licensing program.

A review of by-laws of other municipalities indicated that many municipalities have chosen to pass by-laws to license rooming, boarding or lodging houses (Appendices B-1, B-2, B-3 and B-4).

## **5.0 Licensing By-law Mechanics**

While licensing by-laws differ in terms of scope, requirements and areas of applicability, there are common topics which are typically addressed. Some of those topics are raised below to indicate issues which Council would want to consider if it were to move ahead with a licensing by-law.

### ***Application***

Licensing by-laws need to work hand in hand with Zoning By-laws. The Zoning By-law dictates where rooming or boarding houses can be located. The licensing by-law then regulates various aspects of the operation of the rooming or boarding house, including location. Municipalities have tailored their licensing by-laws to address issues or concerns unique to their community. Variation can be found in the definitions used to identify the type of living accommodation which will be subject to licensing. For instance, the City of Oshawa licenses “Lodging Houses”, which are buildings where there are three or more sleeping areas, but tenants share washroom and/or kitchen facilities. This definition includes “boarding” and “rooming” houses. The City of London licenses “Rental Units” which includes any type of rental unit short of an apartment building or a townhouse. The implication being that there is room to identify exactly which type and size of dwelling unit the municipality wishes to license so as to focus on specific problem areas and not target dwelling types that are not posing problems.

To avoid too broad or inappropriate application, the reviewed municipal by-laws identify the kinds of accommodation to which the by-law is not intended to apply. Some of these exemptions may be statutory, but others reflect the needs of the community. Some examples of typical exemptions from rental licensing by-laws include hotels, group homes, retirement homes and apartment buildings.

It may be possible to have the by-law apply only to certain geographic areas of a municipality to target problem areas. This could work hand in hand with zoning certain geographic areas to permit rooming or lodging houses where perhaps they might not otherwise be permitted. The licensing process could then be relied on to control the operation of those rooming or lodging houses.

Determining the situations to which the licensing by-law is to apply is a key element of developing a licensing by-law.

### ***License Applications***

Licensing by-laws set out the information to be provided in order to assess an application, the conditions to be met before a license can be issued, and conditions on which a license can be revoked. Applicants for a license might, for instance, be required to provide as part of the license application:

- floor plans of the building;

- information as to the proposed number of tenants;
- current inspection reports to show compliance with – building code / fire code / esa;
- evidence the property is appropriately zoned for the intended use;
- particulars of the owner, a local agent;
- proof of appropriate insurance coverages;
- application fees to reduce the costs incurred by the municipality.

It is also possible to provide that an inspection of the premises is required for a licence to issue.

### ***Appeal Process***

As with other licensing by-laws, appeal provisions can be included to provide applicants an opportunity to be heard by elected officials if a license application is refused or a license revoked. The City has a Hearing Committee established which could take on this role.

### ***Fines***

Licensing by-laws can be enforced under the Provincial Offences Act. Non-compliance with a by-law provision can result in a fine being levied by the Court in accordance with this legislation.

## **6.0 Is a Rental Licensing By-law the way to go in Greater Sudbury?**

When evaluating the possibility of whether or not to pursue some form of rental licensing by-law in Greater Sudbury, there are a number of issues to consider.

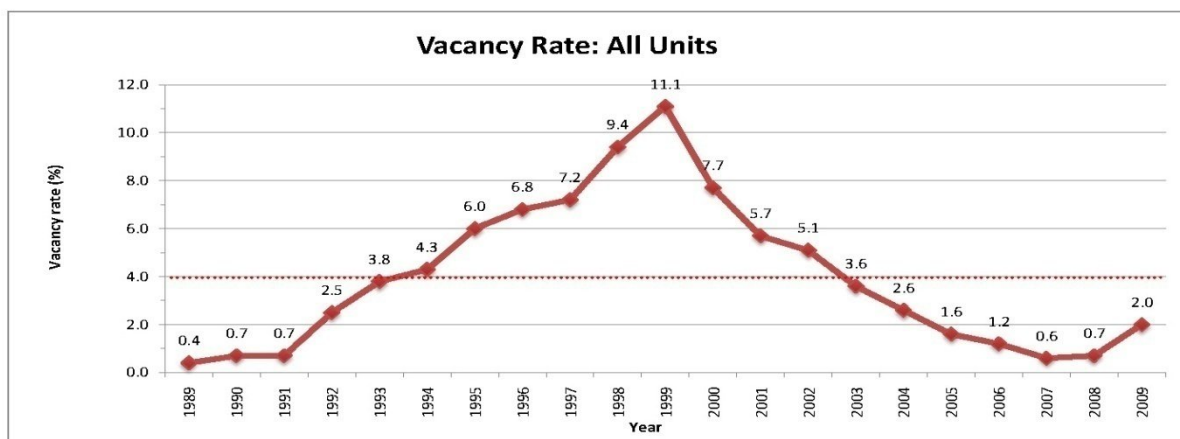
### **6.1 Vacancy Rate**

One possible factor affecting the recent issues with rooming houses could be that the vacancy rate in Greater Sudbury was trending towards 0.6% as recently as 2008. The lack of available rental housing in the City may have given rise to an increased number of rooming houses being illegally created as there was high demand, making the establishment of rooming houses a very lucrative venture for some property owners. Recent vacancy rate data has shown that the pressure has eased somewhat in the last year and the vacancy rate has begun to trend upwards again, with the most recent information indicating that it now stands at 2.9%.

It bears consideration that some of the recent problems regarding rooming houses may subside with the increased availability of rental housing in the City and that the licensing of these establishments may not be necessary. It is also important to note along these lines that the Draft Zoning By-law would permit boarding and rooming houses in a greater number of zones, perhaps encouraging the legal establishment of these uses which would also affect availability.

Alternatively, there appears to be a trend in Greater Sudbury with respect to vacancy rates and the prosperity of the mining sector (see graph below) and that the City may be in this position again with respect to illegally established rooming houses when the market recovers and the

demand for rental housing reduces the vacancy rate. In that respect, it may be advantageous to establish a licensing by-law now in order for it to be available in the future should the need arise.



### 6.2 Zoning By-law alone vs. Zoning By-law plus licensing

The Zoning By-law can be an effective mechanism for controlling use as has been proven by past experience. However, without co-operation from the occupants it can be difficult to obtain the evidence necessary to prove the use is contrary to the Zoning By-law. It can also take considerable time before the matter comes before the Court.

Under the current zoning legislation for rooming houses, it is at times very difficult for By-law Officers to obtain the needed evidence required to prove an illegal use. By-law Officers are not being permitted access to the dwellings and as well some tenants have been coached by the landlords as to what to say to the Officers or not to say anything at all.

A licensing by-law for residential rental units could assist in that proving the use of the dwelling as a rooming house would not be required. The Officer would only have to show that the dwelling was being used as a non-owner occupied rental unit and as such would be required to have a license to do so.

Some municipalities have found that enforcement of their licensing by-law to be a simpler process. In some instances, this arises from improved rights of entry and, in other instances, it is related to the regulatory nature of the by-law or to the presence of set fines for offences.

If a license had not been obtained, the owner would be required to obtain one and be required to submit to all provisions of the by-law. If a license had been obtained and the provisions were not being complied to, then the license could be revoked and possible charges laid.

It is important to note, however, that a licensing by-law, like any other by-law, is most effective when combined with both an effective education process designed to ensure both property owners and occupiers are aware of the guidelines and a rigorous enforcement program.

On the other side of the enforcement issue is the fact that enforcing the by-law could involve the displacement of people living in the premises. In an economic climate where affordable housing

is in demand, the displacement of tenants may just result in them finding housing in another location that may or may not cause similar problems.

Council will also want to consider whether, as an alternative to a licensing by-law, it prefers a more rigorous enforcement of existing by-laws which could be relied on to address those public concerns which have been voiced.

Both alternatives may require additional resources.

### 6.3 Staffing and Administration - Licensing

An important consideration with respect to the establishment of any licensing by-law is the amount of staff time it will take to administer and enforce the by-law and whether additional staff would have to be hired (representing an increased cost to taxpayers). It is important to note that the administration and enforcement of the program would not only involve By-law Enforcement personnel, but also Fire Department, Building Department, Electrical Safety Authority and Health Unit staff. This raises the question of who would pay for additional staff resources required to administer the by-law, some of which would be non-City staff. It also needs to be taken into consideration that if additional staff are not provided, whether the administration of a licensing by-law would take time and resources away from other by-law enforcement and external department issues.

The Municipal Act allows the licensing fee to be set to recover the costs of administering the program. Council should determine whether the landlords would be responsible for the full cost of the licensing program or whether it would be subsidized by tax payers. If the licensing by-law fee is set too high it may serve as a disincentive to comply.

If Council decides to proceed with a rooming house licensing by-law, it will be important to gauge how many properties could potentially be licensed under such a program and how much staff time and resources the administration and enforcement of the by-law would require.

### 6.4 Owner Occupied & Multiple Dwelling Residential

With respect to licensing rooming houses, it is important to determine what types of establishments would be subject to licensing. Most of the rooming houses that have caused problems are single detached and semi-detached homes where the owner does not reside on the premises. If this is the case, the issue becomes whether the other types of rental situations (i.e. owner occupied, multiple residential) need to be licensed as well and how would the City differentiate and defend which uses require licensing and which do not.

### 6.5 Safety & Wellbeing of Tenants and Neighbours

Another argument for the establishment of a rooming house licensing by-law would be for the City to influence the safety and well being of potential tenants and neighbours by:

- Enforcing Fire Code, Building Code, Electrical Code and other standards/by-laws by inspecting properties on a yearly basis to ensure compliance;



- Enabling the City to identify substandard residential rental properties in the City and take a proactive approach to address inadequate housing conditions that may adversely affect tenants of rental properties and neighbouring property owners; and
- Providing Landlords with documented records of any conditions on the property that contravene City By-laws and/or Provincial legislation (i.e. property standards, zoning, lot maintenance, Building Codes, Fire Codes, etc.).

While these are sound reasons for establishing a licensing by-law, the issue remains as to why the City would attempt to ensure compliance (especially Provincial Standards) for rooming house uses and not any other type of rental accommodation (hotel, motel, apartments, etc.). If the other by-laws currently in place are sufficient to address the other types of uses, it must be determined whether or not rooming houses are so problematic that they require a separate by-law licensing program.

## **7.0 Options for Licensing**

A review of other municipalities has shown that most do in fact license rooming and boarding houses to one degree or another. Based on rooming house licensing research in other municipalities and the situation in the City of Greater Sudbury, staff have produced four options for Council to consider with respect to licensing rooming and boarding houses. These options include; 1) maintain the status quo, 2) license rooming and boarding houses, 3) license all low density residential rentals and 3a) pursuing a scoped rental licensing by-law.

### 7.1 Option 1 – Status Quo

The first option for Council to consider is to maintain the status quo and not proceed with a licensing by-law for rooming, boarding or lodging houses. Under the status quo option, the City would continue to rely on the existing by-law structure in place, which primarily includes the Zoning By-law, the Property Standards By-law and the Noise by-law. Under the Zoning By-law, enforcement officers can charge individuals who are operating rooming houses illegally. A recent successful charge against an illegal rooming house under the Zoning By-law resulted in a \$25,000 fine. Under the Property Standards By-law and the Clearing of Lands By-law, City By-law Enforcement Officers can deal with the issue of unkept and unsightly properties; they can also deal with unsafe issues inside the building if granted access by the tenant. With respect to the noise issue, By-law Enforcement is unable to respond to calls at night as there are no officers on duty. After hours noise complaints are handled by the Greater Sudbury Police Services.

Under the status quo option, rooming houses would continue to be dealt with under the existing by-law structures in place in the City.

### 7.2 Option 2 – Approve a Rooming House & Boarding House By-law

Under this option Council would approve the preparation of a **Rooming House and Boarding House License By-law**, allowing the CGS to license all “Rooming Houses” and “Boarding Houses” in the City.

This option would require the owner to register the rooming house with the City which would involve an annual inspection by CGS officials (Fire Department, By-law Services, Building Services, Sudbury & District Health Unit and the Electrical Safety Authority), provide the number of tenants who occupy the premises and make a registry open for inspection by Greater Sudbury Police Service or By-law Enforcement.

Additionally, this option would require staff time and resources to be diverted to the licensing of rooming houses and may require the hiring of additional personnel. This option would also require the cooperation of outside agencies and most likely would require them to be compensated for their services either by the City or by the applicants.

### 7.3 Option 3 – Approve a City Wide Rental House License By-law

Under this option, Council would approve the preparation of a **Residential Rental House License By-law**, allowing the CGS to license all “Residential Rental Houses” in the City where the owner of such a property does not occupy the dwelling and/or it is not the owner’s principal residence.

The license would require the owner to register the rental house with the City which would involve an annual inspection by CGS officials (Fire Dept., By-law Services, Building Services, Sudbury & District Health) and make a registry open for inspection by Greater Sudbury Police Service or By-law Enforcement.

This Option is based on the premise that the act of renting a property is a business activity and regulating residential rental properties through a licensing system is desirable for the City community. When a residential rental property is improperly maintained, it can negatively impact on the health, safety and general welfare of tenants as well as the esthetics of the community at large.

This option opens the licensing process up to many more types of rental accommodation than just rooming houses and it would apply to all types of rental accommodation (with some exceptions) where the owner does not occupy the dwelling or it is not their principal residence. This option would represent a major change to the current practice in the City and would require additional staff to be hired to implement and enforce the licensing by-law.

#### 7.3.1 Option 3(a) – Approve a Scoped Rental House Licensing By-law (Not Owner Occupied)

Under this option a Rental House Licensing By-law would be scoped to only cover the rental of single and semi-detached homes that are not the primary residence of the owner. The purpose of the scoped by-law would be to focus on rentals in low density residential areas in order to ensure land use compatibility between single family homes and temporary rental housing. The scoped by-law could also be made to only apply in certain areas of the City to further focus in on problem areas while not subjecting the rest of the City to the By-law.

As with Option 2, Options 3 and 3(a) would also require annual inspections and additional staff resources.

## **8.0 Establishment of Licensing By-law Subcommittee**

Should Council choose to implement a licensing by-law and program, it will be essential to establish a sub-committee charged with drafting the by-law and establishing licensing procedures, application requirements, fees, protocols and other necessary information. This sub-committee should include Council representation, By-law Enforcement Staff, Building Services Staff, Fire Department Staff and Post Secondary School representation among others. The committee should also include representatives from the residential rental industry, affordable housing and the public.

Part of the subcommittee's work will involve addressing key questions/issues surrounding the licensing by-law, including:

- Fees
- Area of Application
- Enforcement and Penalties
- Application Requirements
- Scope of By-law
- Inspections

Appendices C & D include additional issues that could also be considered by a sub-committee.

The establishment of a licensing by-law should also include public hearings to ensure that the public has a chance to provide input on the process and also to ensure that residents are made aware of the new requirements.

## **9.0 Conclusion**

Recently there have been some concerns raised by the public with respect to the illegal establishment of rooming houses in low density residential neighbourhoods. Under Council's direction, City staff have investigated how other municipalities deal with rooming and boarding houses both in their Zoning By-laws and through a licensing process. It was found that most municipalities do license rooming houses and other residential rental properties to differing degrees. It was also found that most other municipalities do allow for rooming houses and boarding houses in medium density residential areas and in some commercial areas in their Zoning By-laws.

The City of Greater Sudbury, through its eight Zoning By-laws, only permits rooming houses in the downtown. The Draft Comprehensive Zoning By-law, would allow rooming houses and boarding houses in medium density residential areas and in more downtown areas, thus increasing the areas where these uses can be established legally. The purpose of a licensing by-law would be add another tool to support the enforcement of the Zoning By-law provisions related to rooming houses, boarding houses and accessory guest rooms.

There are a number issues that need to be taken into consideration with respect to establishing a rooming house licensing process, including: vacancy rates, privacy, tenant safety, neighborhood stability, enforcement and staffing/cost implications including Court costs. It also

needs to be taken into consideration that the displacement of tenants as a result of enforcing any rental licensing by-law may just result in them finding housing in another location that may or may not cause similar problems.

Based on the above, there are 4 potential options that Council may choose to address the issues of rooming houses. The first is to maintain the status quo and deal with rooming and boarding house issues on a case by case basis as they arise using the existing by-law and code framework in place. The second would be to license rooming houses and boarding houses through the passing of a Rooming House and Boarding House Licensing By-law and the development of a licensing procedure and licensing fee. The third option would be to extend the licensing process to include all residential rentals in the City where the property is not the owner's principal residence (excluding apartment buildings). A scoped version of a Rental Licensing By-law could also be used where it would be scoped to focus on particular types of houses (i.e. singles and semis) in specific areas of the City.

With respect to the options for establishing a form of rental licensing by-law in the City, one must remember that a by-law will not guarantee that the problems associated with rooming houses will be solved. Nor will a by-law ensure that landlords and tenants will comply with the regulations set out in the by-law. As with any municipal by-law, any type of rental licensing by-law would simply be one further 'tool' in the box.

## **10.0 Recommendation**

It is recommended that Council provide direction to staff with respect to the issue of licensing rooming houses by selecting one of the following options;

- Option 1 – Maintain the Status Quo;
- Option 2 – Approve the creation of a Rooming House and Boarding House Licensing By-law;
- Option 3 – Approve the creation of a City Wide Rental House Licensing By-law; or
- Option 3(a) – Approve the creation of a scoped Rental House Licensing By-law.

Furthermore, should Council approve options 2, 3 or 3a, it is recommended that a licensing by-law subcommittee be established, with appropriate membership, to develop a licensing by-law, licensing requirements, fees, an enforcement policy and any other requirements.