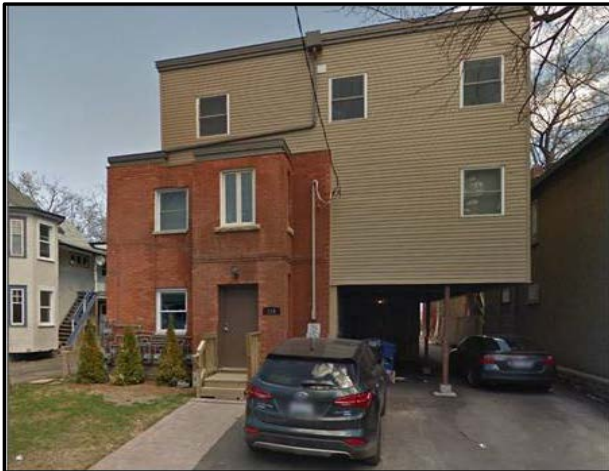


Zoning By-law R4 (Residential Fourth Density) Zoning Review



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Introduction

Ottawa continues to see urban intensification and a continued interest in urban living. Ottawa's intensification policies have largely been successful in directing and realizing changes within areas targeted for intensification such as within mixed use centres and along mainstreets. However, established communities continue to face challenges in ensuring that change and intensification is compatible with the existing fabric and character.

The R4 Zoning Review follows several recent zoning studies aimed at ensuring more compatible infill and intensification in established low-rise neighborhoods in the urban area:

- Infill Phase One (2010-2015) dealt with front yards, the location of parking and other aspects of streetscape character.
- Infill Phase Two (2012-2016) dealt with height, rear yards, building massing and rear yard amenity areas. Between the two Infill studies, with extensive consultation over several years with residents and industry, building envelopes have been reduced to ensure appropriate building massing for established low-rise neighbourhoods.
- Residential Conversions (2013-2014) eliminated converted dwellings as permitted uses to address issues related to impacts on neighborhood character resulting from the conversion of houses to apartment buildings on undersized lots.
- The Minimum Parking Review (2015-2016) reviewed parking requirements for the inner urban area.

The present review is focused on the R4 (Residential Fourth Density) family of zones and on the low-rise, multiple-unit dwellings that this zone is designed to accommodate. In many cases, R4 zoning has been in place for decades and has provisions allowing development that may not be responsive to current Official Plan policy directions for infill, intensification and compatibility within established communities. The review will focus on amendments to the Zoning By-law, but could also include amendments to the Official Plan and/or Site Plan Control By-law¹. Although the focus is on the R4 family of zones, the review may also deal with lower-density residential zones in the inner urban area where they have experienced similar issues. A key limitation of the R4 Review is that it is not intended to make substantive changes to matters that have already been dealt with through the earlier studies noted above.

The goal is to ensure that new low-rise multiple-unit buildings in these established communities respect and fit with their urban context, while still providing the opportunity for a gradual and appropriate increase in density and affordable housing choices in established inner-urban neighbourhoods.

R4 Zoning: An overview

Ottawa's zoning by-law includes five classes of urban residential zone, from R1 to R5. The zone names reflect their relative intended density of housing forms; for instance, R1 zoning allows only detached dwellings, while R5 zoning typically permits high-rise apartment buildings. The

¹ See Appendix A for a short introduction to Site Plan Control and other by-laws and regulatory tools used by the City.

R4 family of zones is thus the second-highest residential category, and the most intensive of the low-rise residential zones.

The Zoning By-law provides some guidance regarding the intent of R4 zoning as it applies to inner-urban neighbourhoods:

- "(1) allow a wide mix of residential building forms ranging from detached to low rise apartment dwellings, in some cases limited to four units, and in no case more than four storeys, in areas designated as General Urban Area in the Official Plan;*
- (2) allow a number of other residential uses to provide additional housing choices within the fourth density residential areas;*
- (3) permit ancillary uses to the principal residential use to allow residents to work at home; (and)*
- (4) regulate development in a manner that is compatible with existing land use patterns so that the mixed building form, residential character of a neighbourhood is maintained or enhanced."*

R4 zoning is mainly found in inner-urban neighborhoods that were developed in the late 1800's through the mid-twentieth century. These areas comprise a healthy mixed stock of existing low rise residential buildings in a variety of typologies ranging from single family homes to low rise apartment buildings. Many such areas maintain the lot fabric established when the areas were initially developed, although in some cases lot consolidations have occurred to accommodate larger low rise apartments.

The R4 family of zones was applied to these areas in recognition of their historically diverse housing stock which has long included low-rise multi-unit dwellings. R4 zoning is specifically intended to continue to allow low-rise apartment buildings to be built in these areas. However, unlike the intensification target areas such as mixed-use centres and mainstreets, the City's Official Plan treats established neighbourhoods as relatively stable and puts a greater emphasis on compatibility with the existing neighbourhood character. Intensification is supported in such neighbourhoods provided it fits well with its context and enhances the desirable characteristics of these residential communities.

Within the R4 family of zones, there is a range of subzones distinguished by a letter at the end of the zone code (e.g. R4F, R4H, R4T etc.) The subzones mainly differ with respect to required setbacks, side yards and lot sizes, although the differences are relatively small. The most significant difference between two broad classes has to do with the number of dwelling units permitted in the building.

The R4A through R4L subzones are typically referred to as the "Junior R4's" and permit up to four dwelling units in a low-rise apartment building. Meanwhile, the R4M through R4ZZ ("Senior R4's") do not state a limit on the number of permitted units. This distinction is intended to bridge the range of housing types between the three-unit forms permitted in R3, and the mid- to high-rise structures allowed in the R5 zones. Where multiple-unit dwellings are permitted, they are typically restricted to larger or wider lots to ensure compatibility and functionality of the site.

Continuing issues in R4 zones and multiple-unit dwellings

The R4 Zoning Review will address issues that are specific to low-rise multiple-unit dwellings (including duplexes, triplexes and low-rise apartment dwellings) and that were not otherwise dealt with in the recent zoning reviews such as Infill or Residential Conversions.

Oversized dwelling units

A key issue for the R4 Zoning Review is the recent phenomenon of new multiple-unit dwellings with unusually high bedroom counts. (For the purposes of this discussion, apartments with high bedroom counts will be referred to as "oversized dwelling units" or ODU's.) While 96% of apartments in Ottawa have two bedrooms or fewer², some inner-urban neighbourhoods are seeing new buildings with three or four dwelling units of six, eight and sometimes twelve bedrooms each. These higher occupancy levels, particularly where no further planning review such as Site Plan Control applies, have in turn resulted in issues related to garbage and noise. They have also raised concerns about the future adaptability of such housing to a wider range of household types, and fears for the long-term social health and diversity of inner-urban communities.

The emergence of oversized dwelling units is a response to rising costs for housing and land, combined with growing demand for housing in inner-urban neighbourhoods. There is a very large pool of residents seeking affordable housing, either in shared accommodations or in single occupied units. This demand is most acute near post-secondary institutions that have experienced significant growth in enrollment. Aside from students, young singles beginning their careers and low-income service workers add further pressure for increased affordable accommodation within otherwise stable inner city communities. The increasing demand for downtown housing that is affordable on a per person basis is robust and shows no sign of abating. Any lasting solution must respond intelligently to this pressure.³

Rooming houses versus dwelling units

A related issue is the distinction between a rooming house and a dwelling unit. It has been suggested by some that very large ODU's are being marketed, occupied and used in a manner that more closely resembles a rooming house than a single household unit. Zoning does not and cannot make distinctions on the basis of whether occupants are related or not. However, the distinction between a dwelling unit (occupied by a single housekeeping unit whose members participate jointly in the control and management of the household) and a rooming house (where the arrangement is primarily between individual tenants and the landlord, with little or no joint management of the unit by occupants) is an issue that needs to be considered. The R4 Review will further examine this issue to determine if zoning definitions can be clarified and/or other

² CMHC Rental Market Report - Spring 2014. Table 1.1.3.1. http://www.cmhc-schl.gc.ca/odpub/esub/64507/64507_2014_B01.pdf.

³ The issue of oversized dwelling units has also been seen in the lower-density R3 and R2 zones near universities and colleges. As such, it is one of the topics that the R4 Review will address but that is not strictly speaking an R4 issue.

rules established to ensure clear distinctions between rooming houses and other multi unit developments.

Lot consolidations and larger apartment buildings

In some cases, demand for housing combined with an aging stock of existing houses have led to two or more older buildings being demolished and their lots consolidated to allow a single new larger building. This in turn has raised questions about how such changes affect the lot fabric, streetscapes and fine grain of development that constitute a key element of neighbourhood character.

Garbage storage

High-occupancy buildings present special challenges for the management of garbage and recyclables, particularly when located on smaller lots. Current zoning rules do not regulate the storage of garbage; this is typically left to the Site Plan Control process. However, since Site Plan Control does not apply to buildings of three units or less, such buildings may present garbage management problems if they contain oversized dwelling units with a total occupancy more typical of an apartment building. Introducing provisions for garbage storage in the Zoning By-law may be considered to provide certainty for builders and to reduce the potential for nuisance to the neighbours.

Location of air conditioning units

In some cases, neighbours of new buildings have complained of a large number of air conditioning units aiming noise and exhaust at their own homes. Some consideration of measures to minimize the impact of air conditioners in multi-unit buildings may be in order.

Diversity of new housing stock

One challenge faced by zoning is the ability to develop new and cost-effective low-rise, medium-density housing in urban areas. Such housing would cater to urban households that don't need or cannot afford a single or semi-detached house, but for whom a unit in a mid- to high-rise elevator building is not suitable either. The Official Plan gives direction to *"promote a balance of housing types and tenures to provide a full range of housing for a variety of demographic profiles"*⁴ throughout the General Urban Area designation, which includes most R4-zoned areas. As such, the R4 review is an opportunity to consider how to better promote development of mid-density, ground-oriented housing in these areas, gradually increasing the density and diversity of housing stock in urban neighbourhoods while still maintaining compatibility.

Building design and compatibility

The design and appearance of new buildings is often a concern with infill development. Regulating the design and appearance of buildings is generally not easily accomplished through zoning. Some of the disagreement on building design stems from differences in taste, such as a preference for older, more historic architectural styles over more modern styles (or vice-versa.)

⁴ City of Ottawa Official Plan (OPA150), Policy 3.6.1.5.b.

At the same time, there is a case to be made that at least some new buildings could show greater sensitivity to their surroundings; indeed this is part of the idea of compatibility. Where development is subject to Site Plan approval, there is an ability to address building design, however, this is not possible where only a building permit is required.



Figure 1: Many residents feel that some apartment projects fit in better with their neighbourhoods than others.

Some possible solutions

The following section outlines some changes or sets of changes that may be made to City regulations to address the problems noted above.

Zoning Changes

Limit bedroom counts in dwelling units

A dwelling unit could be defined as containing e.g. no more than four bedrooms.⁵ Furthermore, duplexes, triplexes and low-rise apartment dwellings could be restricted to having no more than half of their units contain more than two bedrooms. Such rules would align new apartment construction with City and community expectations, while still providing for downtown buildings with family-sized units.

Permit oversized dwelling units, but only in detached dwellings

Although comparatively rare, some households are large enough to need more than four bedrooms. Zoning cannot exclude them entirely. Defining a new term, "oversized dwelling unit" and limiting it to e.g. eight bedrooms, and limiting where they would be permitted could provide for such households without allowing multiple oversized units to be concentrated within areas where they are presenting challenges.

⁵ As a point of reference, ninety percent of all households in all dwelling types (not just apartments) have four people or fewer (StatCan 2011.)

Clarify the difference (definitions) between a dwelling unit and a rooming house

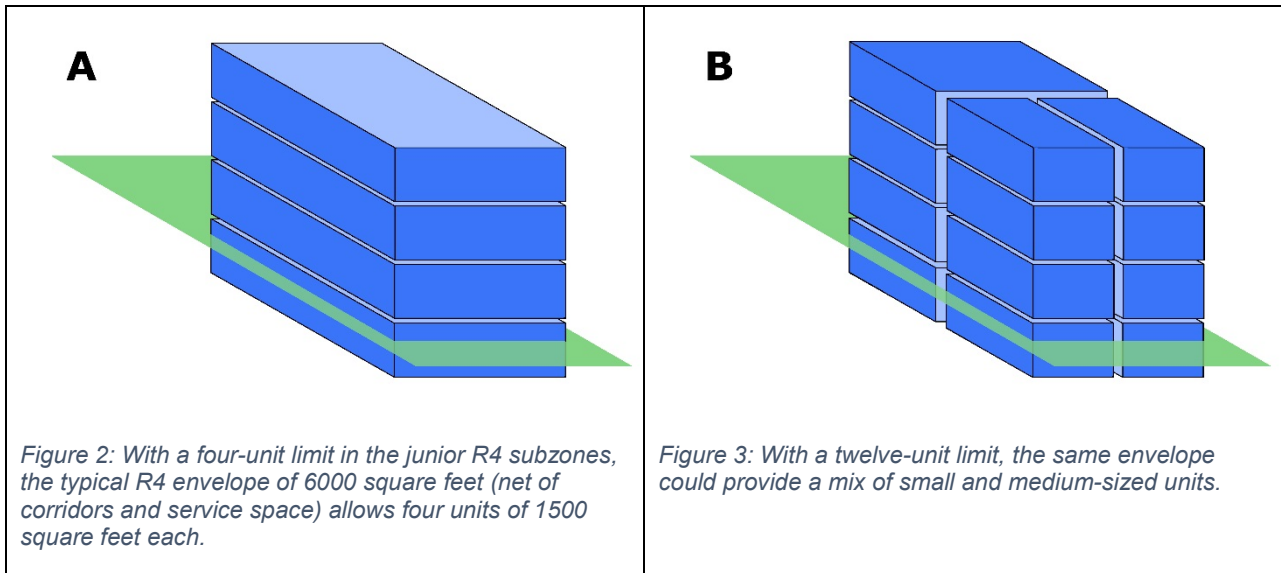
Other Ontario municipalities have seen oversized dwelling units emerge, and in some cases have sought to treat them as rooming houses, with the distinction ultimately being resolved in court. In the resulting decisions, the most consistent distinction was a matter of function rather than form: specifically, whether the occupants operate as a housekeeping unit (i.e. a group of people, whether related or not, living together as a household and exercising a meaningful degree of collective decision-making and responsibility for the management of the interior of the dwelling unit), or as isolated individuals renting individual rooms from the landlord. This distinction could be enshrined in Ottawa's zoning definitions.

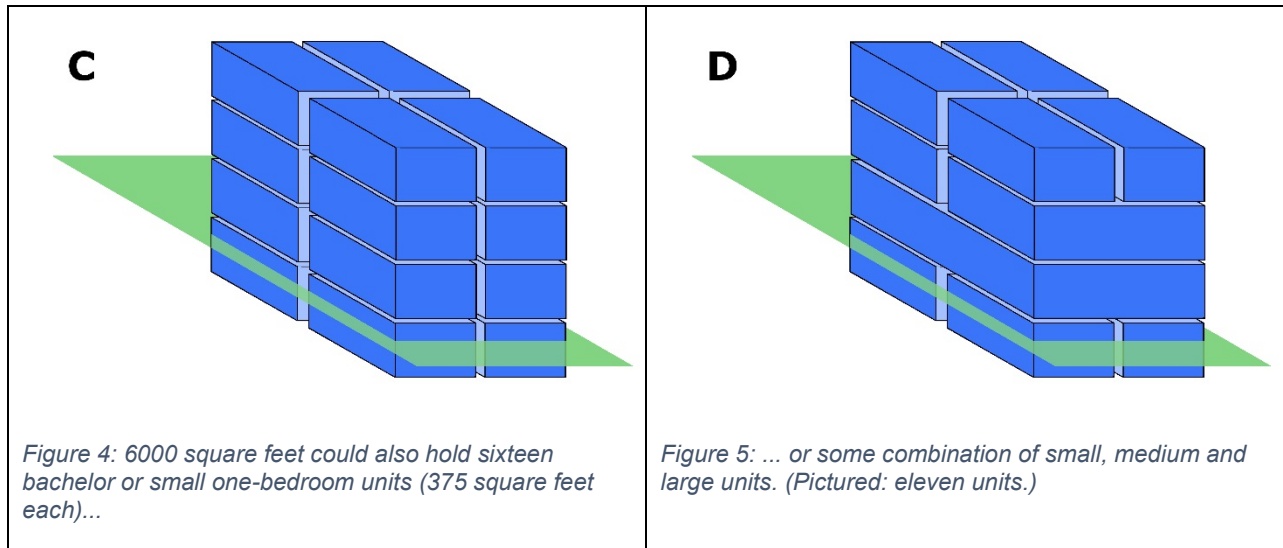
Require indoor garbage storage for multiple-unit housing forms

Zoning may be able to specify that indoor garbage storage of a certain size must be provided in any duplex, triplex or low-rise apartment dwelling. This would address one of the greatest concerns with high occupancy buildings, and greatly improve their acceptability to the neighbours. It would also ensure that garbage is appropriately managed, whether or not the development is subject to Site Plan Control.

Review the four-unit limit in the junior R4 (R4A-R4L) subzones

Faced with a limit on the number of dwelling units in a desirable location, some builders respond by building oversized dwelling units to house more paying tenants. However, in these cases the permitted building envelope is enough to accommodate a greater number of more reasonably-sized units. For instance, eight, twelve or sixteen bachelor, one- or two-bedroom units could fit into the same permitted envelope that currently ends up housing four oversized units. (See Figures 2 through 5 for conceptual diagrams.) It is reasonable to consider whether overall planning goals, including resident concerns about diversity of housing stock, would be better served by allowing more units in a building in these junior R4 subzones.





Review the minimum lot size for low-rise apartment dwellings

The R4 zones impose a minimum lot size on which a low-rise apartment dwelling is permitted (depending on the subzone, generally 12 or 15 metres in width, and 360m² or 450m² in area.) This restriction means that a relatively small proportion of urban lots can actually accommodate an apartment building under today's zoning. For instance, only about one in five lots in Sandy Hill meet this minimum size requirement.⁶

The Residential Conversions review in 2014 closed loopholes that allowed four-unit buildings from being built on lots that were otherwise undersized according to the zoning. However this has had the unintended consequence that some developers, instead of converting a building to four oversized units, instead build two or three *even bigger* units within the same envelope, continuing to avoid site plan control and other oversight.

The present review gives us an opportunity to look at the bigger picture. It is worth considering whether it would be more desirable to allow proper apartment buildings on somewhat smaller lots than are currently permitted, subject to zoning and other rules that ensure that they will be physically compatible with the neighbourhood, have proper provisions for garbage management, and other considerations. Creating more opportunities for properly-designed low-rise apartment buildings may counter the recent trend to build oversized dwelling units.

Consider maximum lot sizes for low-rise apartment dwellings

In some cases, acquiring and consolidating multiple lots to allow an apartment building to be built can be an appropriate response to demand for housing. However, excessive lot consolidation can disrupt the streetscape and its rhythm of front doors and building scale that helps to define a neighbourhood's character. Lot consolidation has thus far been a relatively

⁶ Those minimum lot sizes are in turn a function of older planning assumptions, particularly that even small apartment buildings will be required to have parking lots.

rare occurrence and has not been overly disruptive. However, some thought should be given to limits on lot consolidation before it becomes a problem, to identify an appropriate balance between providing opportunities for new low-rise infill apartments and maintaining neighbourhood character.

Changes to other By-laws

This study is primarily a zoning review, but its findings may influence reviews of other by-laws.

Site Plan Control

Currently, Site Plan Control (SPC) is triggered by the number of units, rather than the size of the building. This can lead to surprising outcomes; a triplex with 6000 square feet and 24 bedrooms would not go through Site Plan Control, but a four-unit building with eight bedrooms and 3000 square feet would. Consideration may be given to having Site Plan Control based on the scale of the building, and not merely the number of units.

Development Charges

Development charges are intended to offset the impact of development on hard and soft services (e.g. water, sewer, transit etc.) and so should be roughly proportional to their occupancy. However, an apartment unit is subject to the same development charge regardless of whether it has two bedrooms or twelve. If the zoning were to limit bedroom counts, this inconsistency becomes less pronounced. Where permitted, it may be worthwhile for oversized dwelling units to be subject to higher DC's than more conventionally-sized units. This may be able to be examined during the next review of the Development Charges By-law.

Official Plan

The current Official Plan speaks generally of infill outside of intensification target areas (which is where most R3 and R4 zoning is located) and of compatibility. However, more specific policy direction might be useful for stable inner-urban residential neighborhoods which would benefit residents as well as developers.

Share your thoughts and ideas

We encourage you to send us your thoughts, questions and comments on the R4 Zoning Review after reading this paper. These can be sent to:

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Appendix A: What tools does the City use to regulate development and land use?

Municipalities in Ontario are creations of the Provincial government, and the City of Ottawa has only the specific powers assigned to it by the Provincial enabling legislation. In some matters the City is able to exercise broad powers over development and construction through the by-laws it adopts. In others, the City actually has little to no discretion. It's helpful to understand what these tools are and what they can and cannot do.

Official Plan

The Official Plan is a policy document that sets out in relatively plain language what Council's intentions are for development in the city. It is designed to be interpreted as we write other by-laws such as zoning. The Official Plan also provides guidance when evaluating a request for minor variance from the Committee of Adjustment. Depending on how it is written, it allows planners to exercise some judgment about what can and cannot be permitted; it can also be very firm and leave little or no leeway on some topics. (There are also such things as Secondary Plans, which are like mini-Official Plans that deal with a particular area in more detail; there are also Community Design Plans which are a bit different but basically work the same way as a Secondary Plan.)

Zoning By-law

The Zoning By-law is a regulatory document that specifies what uses land can be put to in various places (e.g. detached houses, retail stores, mushroom farms) and what the standards for land development are (height, setbacks, lot coverage, how big the lot has to be etc.) Under the Planning Act, a zoning by-law can regulate "*...the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings... and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.*" (Planning Act S.34(4)) Zoning can define land uses in order to determine what, exactly, is permitted where.

In other respects a zoning by-law is limited in its powers. In particular, zoning cannot "ha(ve) 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..." (S.35(2)) In other words, as far as a zoning by-law is concerned, there can be no difference between a family of six people and a group of six unrelated people (such as roommates.)

Unlike an Official Plan, zoning is black-and-white, with little to no room for interpretation. Either a development meets the rules of the zoning, or it doesn't. This has the advantage of being enforceable: if you don't conform to zoning, you're not entitled to a permit. On the downside, sometimes zoning is written in such a way that something is technically permitted, even though the City didn't intend for it to be allowed. Furthermore, because of the limitations on what a zoning by-law can and can't regulate, some of these loopholes are difficult or impossible to close decisively.

Committee of Adjustment

The *Planning Act* allows a proponent to seek relief from some zoning standards by applying for a minor variance from the Committee of Adjustment (C of A for short.) The C of A can vary development standards but not land uses. So, for example, it can allow you to build a building that's 12 metres tall where the zoning says eleven metres, but it can't allow you to build a hotel where, say, only detached dwellings are allowed. To get a variance, an applicant has to persuade the C of A that it meets four tests:

- (1) The variance has to be minor;
- (2) It has to be "desirable for the appropriate development or use of the land, building or structure"
- (3) It has to be consistent with the intent of the Zoning By-law, and
- (4) It has to be consistent with the intent of the Official Plan.

Site Plan Control

Most developments over a certain scale are required to go through site plan control, which allows the City to require some changes to how the site is laid out e.g. where the garbage storage and parking go, landscaping, etc. It also allows some control over the exterior design (elevations) of the building. Site plans and elevations are reviewed for consistency with the Official Plan. However, under the Planning Act, Site Plan Control can only affect the outside of the building, not the inside; it can't require a builder to change the layout of a proposed apartment. Currently, dwellings of up to three units are exempt from having to go through Site Plan Control.

Building Code

The Building Code is adopted by the Province and regulates all details of construction, including the interior layout of buildings and the minimum size of bedrooms. It is a minimum standard required to meet health and safety requirements. The City has no power to change any rules covered by the Building Code.

Development Charges By-law

The City charges "Development Charges" or DC's when new development is built; these DC's are supposed to offset the additional cost of infrastructure and services incurred by the public when a new building is built. DC's don't directly regulate what is built, but how they are structured can influence development decisions. Currently, DC's are charged at one rate for apartments with zero or one bedroom, and a different rate for an apartment with two bedrooms or more. However, no further distinction is made between a two-bedroom apartment and an eight-bedroom apartment.

Other By-laws

[The Harmonized Licensing By-law, Schedule 26 \(By-law 2002-189\)](#) provides for the licensing of rooming houses, and holds them to certain standards as a condition of continued operation.

[The Property Standards By-law 2013-416](#) regulates the standards under which properties are maintained including such things as yards, sewage and drainage, safe passage of walkways, fences/enclosures, accessory buildings, garbage disposal, vermin prevention, structural soundness, plumbing, heating, ventilation and electrical services.

[The Noise By-law 2004-253](#) prohibits excessive noise, particularly between the hours of 11pm and 7am.

Appendix B: Defined Terms in the Zoning By-law

The following are some terms, defined in the Zoning By-law, that are relevant to the discussion of R4 zoning and oversized dwelling units.

Bedroom is not currently a defined term in the Zoning By-law.

Dwelling Unit means a residential unit that:

- (i) consists of a self-contained set of rooms located in a building or structure;
- (ii) is used or intended for use as a residential premises by a single housekeeping unit;
- (iii) contains kitchen and bathroom facilities that are intended for the use of the unit only; and
- (iv) is not a mobile home or any vehicle. (un logement)

Residential use building means a converted or purpose-built building comprised solely of dwelling units, rooming units, or any of them and includes detached; linked-detached; semi-detached; duplex, three-unit dwellings, townhouse dwellings, stacked dwellings, apartment dwelling, low-rise, and apartment dwelling, mid-high rise, rooming houses, rooming houses, converted, bunk house dwelling⁷, group homes, retirement homes; and retirement homes, converted; and residential use and residential premises have corresponding meanings.

Rooming house means 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. (maison de chambres)

Rooming house, converted means the whole of a residential use building or the whole or part of any other building that was converted to a rooming house. (maison convertie en maison de chambres)

Rooming unit means a room, or a suite of rooms, that constitutes a separate, independent residential occupancy, but which is not self-contained and which requires access to other parts of the principal dwelling or building intended to serve the residents, including shower or bathtub facilities, kitchens, eating areas or bathrooms. (chambre) (By-law 2008-326)

Single housekeeping unit is not currently a defined term in the Zoning By-law.

The full Definitions section of the City of Ottawa Zoning By-law may be accessed at: http://ottawa.ca/en/residents/laws-licenses-and-permits/laws/city-ottawa-zoning-law/definitions-sec-54#P1467_34116

⁷ Please note that, despite its common usage to refer to urban oversized dwelling units, "bunk house dwelling" is in fact a defined term that refers to a "seasonal dwelling for the housing of temporary farm workers and includes a kitchen, bathroom and communal sleeping facilities." Bunk house dwellings are not permitted uses in the urban area.