

# Staff Report



Corporate Services Department

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**REPORT TO:** Planning and Strategic Initiatives Committee

**DATE OF MEETING:** June 3, 2024

**SUBMITTED BY:** Amanda Fusco, Director, Legislated Services, 519-741-2200 ext. 7809

**PREPARED BY:** Kristin VanDerGeld, Manager, Licensing, 519-741-2200 ext. 7854

**WARD(S) INVOLVED:** All

**DATE OF REPORT:** May 8, 2024

**REPORT NO.:** COR-2024-233

**SUBJECT:** Shared Accommodation By-law

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## **RECOMMENDATION:**

**That the new Shared Accommodation By-law be approved in the form shown attached to staff report COR-2024-233 as Appendix “A”;**

**That the fees set out in Appendix “B” of staff report COR-2024-233 be approved;**

**That the request for three (3) Full Time Equivalents (FTEs) to support the administration, inspection, and enforcement of the Shared Accommodation Bylaw be approved; and**

**The purchase of Granicus host compliance software to assist with ongoing monitoring and enforcement of short-term rental platforms be approved.**

## **REPORT HIGHLIGHTS:**

- The City has an existing Lodging House By-law and licenses approximately 20 lodging houses. Licence applications for a Lodging House are limited, in part, due to Minimum Distance Separation (MDS) requirements in the City’s Zoning By-law.
- A review of the existing Lodging House By-law was undertaken as part of the Lower Doon Study. Updates to the current framework are necessary due to the changing rental landscape and human rights concerns.
- Many municipalities have begun to license Short-Term Rentals (STRs) (e.g., accommodations on AirBnB, VRBO, etc.) to address consumer protection, health and safety and nuisance control.
- Staff are proposing to replace the existing Lodging House By-law with the proposed Shared Accommodation By-law which expands beyond updating the regulation for licensing Lodging Houses and will now include both the licensing of Lodging Houses and Short-Term Rental Accommodations. The By-law is a holistic approach to creating a regulatory framework for a variety of housing and rental types.
- Extensive public consultation and stakeholder engagement efforts have been undertaken that encompass both city-wide community input and targeted engagement with stakeholders directly impacted by the proposed changes.

- The proposed Shared Accommodation By-law and new fee structure have been developed with the intention of having a 3-year review period. This will allow sufficient time for staff to determine whether the program continues to be fair, accurate, relevant, and continues to reflect the needs of the community. In 2028, staff will make further recommendations to Council based on the success of the program which may include minor adjustments and expansion to the licensing framework.
- Financial implications are in the form of staffing and host compliance software to successfully administer, investigate, inspect, and enforce the new Shared Accommodation By-law.

## **EXECUTIVE SUMMARY:**

The proposed Shared Accommodation By-law has been developed in response to a growing need for comprehensive regulation and oversight of short-term and lodging house rentals within the City. The by-law proposes to regulate short-term rentals, as well as integrating and updating the existing lodging house regulations. The proposed by-law is structured to provide opportunities for more affordable housing types throughout Kitchener and to ensure that shared accommodations are safe for occupants.

Shared accommodations have become an increasingly prevalent housing option, necessitating a well-defined framework that balances the interests of residents, property owners, and the broader community. Through staff's research effort, the City of Kitchener has approximately 300 lodging houses and 800 short-term rentals (STRs). Currently, these are unregulated by the City, and have no city inspections or requirements. Key benefits of an updated licensing framework for lodging houses and a new licensing framework for short-term rentals outlined in this report are:

- Enhanced Safety Standards;
- Community Impact and Integration;
- Quality Assurance;
- Accountability and Compliance; and
- Reasonable fees for all types of shared accommodations.

The Shared Accommodation By-law would provide a balance between protecting the interests of residents, allowing property owners to generate more opportunity and exposure, while prioritizing safety, affordability, and accountability.

## **BACKGROUND:**

*The Municipal Act, 2001* provides municipal council with the authority to licence, regulate, and govern real and personal property used for the business, and the person carrying it on or engaged in it, such as rental properties. The primary reason for licensing and regulating rental properties within a municipality is to protect the public interest as it relates to:

1. Health and Safety;
2. Consumer Protection; and
3. Nuisance Control

For the aforementioned reasons, it is important to ensure that licensing by-laws and processes align with community needs, prioritize customer service, and adhere to applicable governing

legislation. The goal of a shared accommodations licensing by-law is to ensure a safe and viable housing option for all.

Staff have reviewed our existing by-laws, completed a municipal scan of other municipal by-laws and reports including those in Waterloo, Oakville, Hamilton, Niagara-on-the-Lake, Toronto, London, and Blue Mountain, completed public engagement via stakeholder focus group sessions and Engage survey, and have developed a proposed Shared Accommodation By-law. This report is seeking Council's approval of the Shared Accommodation By-law, associated licensing fees and additional staffing resources.

## **REPORT:**

The existing Lodging House By-law has not been reviewed since 2005, making an update imperative due to the changing rental landscape. The new Shared Accommodation By-law seeks to provide enhanced safety standards, ensure community integration, assure quality, promote accountability, and establish reasonable fees for all types of shared accommodations. Extensive public consultation and stakeholder engagement efforts have been made, encompassing city-wide community input and targeted engagement with stakeholders directly impacted by the proposed changes. Furthermore, the by-law and fees have been developed with a 3-year review period in 2028 to ensure they remain accurate, relevant, and reflective of the community's needs.

This report outlines key changes, a proactive approach to education and enforcement, the application process and fees, exclusions, and the 3-year program and by-law review period. Additionally, it highlights alignment with other city business units, including the Planning and Housing Policy Division, and the removal of minimum distance separation requirements for lodging houses.

## **KEY CHANGES**

### **Proposed By-law Components**

Licensing Services identified the need to modernize the Lodging House By-law and to expand the by-law to include additional types of Shared Accommodations. The new by-law aims to improve the City's ability to ensure public safety, consumer protection, and nuisance control while also reducing barriers for property owners. As well, staff saw the need to examine current lodging house fees to reflect an appropriate level of cost-recovery along with enhanced service levels and efficient processes established within the new licensing program. With that in mind, the goals of the proposed Shared Accommodation By-law are to:

- Create a clear, consistent, and concise regulatory framework;
- Create reasonable and affordable fees;
- Streamline processes and reduce redundancy;
- Remove licensing requirements that are no longer applicable; and,
- Modernize to meet the changing rental landscape.

The proposed by-law will repeal and replace the existing Lodging House By-law and will expand Shared Accommodation rentals to include Short-Term Rental Accommodations (e.g., AirBnB, VRBO, etc.). Some of the key changes include more robust licensing requirements, enhanced property maintenance measures, enhanced safety measures by way of mandatory inspections,

advertising and booking requirements, a renter code of conduct, emergency contacts and a good neighbour guide.

The Shared Accommodation By-law will exclude several categories, such as hotels, motels, group homes, nursing homes, hospitals, treatment centers, purpose-built student residences, Long-Term Care Homes, Retirement Homes, Social Housing, and Homes for Special Care Act. Additionally, the Shared Accommodation By-law will not extend to all residential rental types. The proposed By-law will only seek to regulate rental properties within the definitions of a Lodging House or Short-Term Rental, this includes:

- **Lodging House:** a dwelling unit where five or more persons, not including a resident owner of the property, may rent a lodging unit and where the kitchen and other areas of the dwelling unit are shared amongst the persons occupying the dwelling unit. Lodging house can include student residences but shall not include a group home; hospital; any small residential care facility or large residential care facility licensed, approved, or supervised under any general or specific Act; or hotel.
- **Short-Term Rental:** means a dwelling unit or part thereof used to provide sleeping accommodations for any rental period that is less than 90 consecutive days in exchange for rent, but does not include Hotel, Lodging House, Motel, and Long-Term Rental Accommodations.

Therefore, residential rental properties that are operating as long-term rentals (more than 90-day rental agreements) or rentals designed to accommodate less than five residents in total will be excluded from the By-law. However, staff will continue to monitor and collect data on these types of rentals and will include it as part of the 3-year review.

The proposed licensing framework puts safety first for renters by way of more robust application requirements for all types of shared accommodations. These include police clearance check, proof of appropriate insurance coverage, accurate and detailed floor plans, confirmation of smoke and carbon monoxide alarms, an additional contact person that can fulfill requisite response times and proof of principal residence will be required where applicable. Inspections and/or approvals are required by Fire Prevention, Property Standards and Building to ensure the property complies with various code and by-law standards. Furthermore, a Licensee will be required to provide a "Renter's Code of Conduct" that is posted at the property which will include agency resources and contact information for a person(s) responsible for the licensed premises. Furthermore, a public registry of all licensed shared accommodations will be posted on the City's website which will include the date of the most recent inspection(s) conducted by the City.

Staff will continue to work in conjunction with short-term rental platforms (e.g., AirBnB) to communicate to their hosts about the new licensing framework and by-law requirements. Hosts will be required to list their City of Kitchener business licence number on all advertisements, or they will be at risk of being removed from the platform.

Permitting shared accommodations throughout the City will allow for less underground activity and will promote safety. Incentives for the property owners include eligibility for tax deductions, access to agencies for various supports, freedom to advertise their business, ability to attract

more responsible renters due to the perception of professionalism and compliance with regulations and peace of mind knowing the property meets certain safety and quality standards.

## **Enforcement**

Following the initial implementation, phased enforcement is expected commence on January 1, 2025. Continuous proactive enforcement will be conducted by Licensing Inspectors in the field, through surveillance of on-line platforms, utilization of host compliance software, and by way of information sharing with internal and external partners. Audits of licensed properties will be conducted to ensure ongoing compliance with the City's By-laws and reactive enforcement will be conducted based on response to public complaints received through Licensing, By-law, Fire, Building or the corporate contact centre and will be investigated based on urgency and public safety risk. As a result of inspection findings or complaints received, a Licensing Inspector may escalate enforcement to the appropriate agency such as By-law Enforcement/Property Standards, Fire Prevention, Building or Police for further action and to ensure compliance with other legislation.

Licensing Enforcement will be conducted using a progressive approach which may include but is not limited to applying conditions on a licence or refusing/revoking a licence (subject to a hearing before the Licensing Appeal Tribunal) or by way of fines and/or charges under the Provincial Offences Act/Administrative Monetary Penalties System.

## **Rights of Entry**

By-law Enforcement Officers/Licensing Inspectors are permitted to access the exterior areas of private property without consent as part of their duties to investigate potential violations of municipal regulations. However, to enter the interior, they require explicit consent from the occupant(s) to inspect any portion being used as a dwelling unit. If a unit, or property is vacant the property owner can provide the sole consent to enter.

In contrast, Fire officials have broader authority to access the interior of a property to ensure compliance with the fire safety. Similarly, Building Inspectors also have their own authorities to enter a property to enforce Building Code requirements. However, By-law Enforcement Officers/Licensing Inspectors cannot "piggyback" off another agency's inspection authorities for their own investigative purposes.

Staff will work with property owners and renters to ensure that necessary inspections can be conducted in a timely manner. However, where access is not granted for required inspections and approvals, a licence will not be issued. Continued operation of an unlicensed property will be subject to further enforcement action.

## **Implementation Plan**

With the implementation of the new Shared Accommodation By-law, there will be an initial period of preparation, education, and consultation regarding operational requirements, system modifications, staffing recruitment/training and administrative organization. It is anticipated that Licensing staff will be prepared to commence with a public awareness campaign in Fall 2024. The purpose of the campaign will be to engage property owners, renters, landlords, community

partners, and stakeholders regarding the new regulations and provide relevant information, guidelines, and application requirements. In addition, an online presence will be established on the City's website and social media accounts to assist in getting key messaging out to the community. Application intake will begin in January 2025 for those seeking an opportunity to voluntarily comply with the new licensing regulations.

Part of staff's commitment is to continue to build a strong partnership with Conestoga College, rental agencies, property management companies, renters, neighbourhood groups as well as internal stakeholders, such as Building, By-law Enforcement, Fire and Planning. These partnerships are important to allow for continued information sharing between Licensing, other City business units, and shared accommodations about changing legislation and processes. Such connections will also enable staff to be more up to date with respect to the changing housing landscape, changes to housing strategies and policies, and what is or is not working for rental property owners. This community engagement will help with gathering input from key stakeholders on an ongoing basis in order for staff to be more proactive and responsive in making changes to the by-laws, policies, and processes as needed.

### **Program Fees and Bylaw Review Period**

Staff undertook a scan of existing Lodging House license costs and found that the existing lodging house license fee may be cost-prohibitive. When determining fees, staff aimed to ensure that the proposed fees offset administration costs, while respecting survey feedback that fees not be too high, as the municipality is not seeking to create a profit. The proposed application and renewal fees are included in Appendix B to this report.

The Shared Accommodation By-law and fees have been developed with the intention of having a 3-year review period. This will allow staff to develop a means by which to assess the overall impacts of the licensing program. Key metrics would include number of licenses issued, permits, inspections, staff time, calls for service, impacts on housing availability and affordability (where possible), staffing implications and service impacts. Staff will also track their time to ensure the fees associated with the program continue to be fair, accurate, and reflect a full cost-recovery model. In addition, staff will ensure all aspects of the by-law continue to be relevant and make any minor revisions or undertake additional modernization as needed.

As part of the 3-year review, staff will also explore the potential expansion of the program to encompass additional, or even all types, of rentals. This expansion consideration will be including data collected through inspections, permits and service calls, and will allow us to make informed decisions about the program's scope.

### **Staffing**

Currently, there are only 20 licensed Lodging Houses in Kitchener and Short-Term Rentals are not licensed by the City. Staff's initial projections are that there are a combined total of approximately 1,100 unlicensed Lodging Houses and Short-Term Rentals operating in the City. For the program to be successful, additional resources are required as there is currently no capacity for the existing staff to administer, inspect, or enforce the proposed by-law.

We have seen in a few instances where limited resources to implement a Short-Term Rental program has been detrimental to the success of the program in meeting its objectives and managing non-compliance. In completing a municipal scan, it becomes evident that the average addition of 3 to 10 personnel as well as the implementation of host compliance software has been requisite to effectively administer similar regulatory programs. As part of the new Shared Accommodation Program, staff are requesting the addition of three (3) new staff that will be directly associated with administering, inspecting, and enforcing the new bylaw as well as the implementation of Granicus host compliance software. It is expected that the expenses related to the FTEs and host compliance software is off set by the collection of licensing fees (Appendix B). The staffing and host compliance software request will include:

#### New Licensing Inspector:

Legislated Services has 1 Full-time and 1 Temporary/Full-time Licensing Inspector who conduct field inspections and investigations of persons, trades, occupations, and various brick and mortar establishments to determine compliance with business licensing regulations. The Licensing Inspectors are responsible for all proactive inspections of our existing 2500 licensed business throughout the city in addition to identifying new businesses. They are also responsible for reactive inspections and investigations based on complaints received by both internal and external customers of both licensed and unlicensed businesses. Both inspectors have a substantial caseload that would not allow them to take on the responsibility of Lodging Houses and Short-Term Rentals without the addition of a new Licensing Inspector.

#### New Licensing Officer:

Legislated Services has 3 Licensing Officers who provide frontline customer service relating to Marriage, Lottery and Business Licensing. Key responsibilities include ensuring compliance with lottery regulations, annually process approximately 1700 marriage licence applications and 2500 business licence renewal applications. The Licensing Officers are at capacity with their current portfolios and would not be able to accommodate the additional workload brought on by an increased 1,100 applications submitted related to Lodging Houses and Short-Term rentals without an addition to the staffing complement.

#### New Property Standards Officer:

Currently, By-law Enforcement has 8 Property Standards Officers on the team. Each Officer is responsible for enforcing various by-laws including Lot Maintenance, Property Standards, and Zoning which results in officers having an ongoing full caseload of various files that take a significant amount of time and effort. In addition, they assist licensing with the inspection of lodging houses and confirm compliance with the Property Standards and Lodging House By-laws. The Property Standards Officers play a crucial role in ensuring the safety and functionality of the lodging house. Their responsibility through inspections is to verify that these premises are adequately maintained and kept in good repair. These inspections involve verifying application information such as the number of bedrooms, number of occupants, the design of each shared space within the property. Additionally, Officers confirm both the interior and exterior of the property are maintained without deficiencies. With the existing high volume of files, the current staffing model cannot accommodate an increased number of lodging houses and the addition of short-term rentals unless a new staff person was added to the complement.

Further financial details regarding the projected cost of the staffing complement, to be offset by revenues, are included in the Financial Implications section of this report.

### Granicus Host Compliance Software:

Staff is recommending that Granicus' Host Compliance software be sole sourced to assist with ongoing monitoring of 60+ short-term rental websites including major platforms AirBnB, VRBO, HomeAway, Booking.com, FlipKey, and Expedia. The software is currently in use by most municipalities with a short-term rental program in effect and is a valuable resource to assist with locating listings and providing address identification, owner contact information, listing activity and monitor and map trends. This software is essential as most listings don't include an address for the short-term rental which makes investigation and enforcement a cumbersome process. This software assists in the identification of listings and where found to be unlicensed, the property owner can be given a notice including photos and details of what was found to encourage them to apply for a licence. Further financial details regarding the cost of the solution are included in the Financial Implications section of this report.

### Alignment with Other City Business

On December 14, 2020, as part of report DSD-20-214 Council approved Housing for All, the City's first housing strategy which focused on what the city can do to address housing issues including increasing and maintaining the supply of housing within the City of Kitchener while supporting the Region of Waterloo. Housing for All contained over 40 actions the city can take to help realize the right of housing. One of the strategy's actions is to report on the feasibility and implications of reviewing and updating current lodging house policies.

In November 2023, Council referred updates to the Official Plan and Zoning By-law regarding lodging houses to align with the timing of consideration of updates to licensing. The Official Plan and Zoning By-law updates seek to remove the minimum distance separation (MDS) requirement for lodging houses and permit lodging houses across the city where residential uses are permitted. The by-law change facilitates a greater flexibility and accommodation within our housing landscape. The removal of MDS may lead to an increase in the number of lodging houses which may have service delivery and staffing implications for Licensing Services, Property Standards and Fire Prevention. These service and staffing challenges are addressed throughout the report.

The Shared Accommodation By-law was developed in coordination with the Planning and Housing Policy Division. The collaborative approach is integral to the successful implementation of this By-law and program. The Planning and Housing Policy Division's role in coordinating changes to the Zoning By-law with the implementation of this licensing framework underscores our commitment to collaboration and the establishment of regulations that work well together within the community, reducing potential confusion.

The updates to the Official Plan and Zoning By-law as well as the creation of the proposed Shared Accommodation By-law seek to implement the action items from Housing for All Strategy.

## **STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

## **FINANCIAL IMPLICATIONS:**

If supported by Council the Shared Accommodation Program would have operating budget financial implications associated with the cost of 3 full-time employees (salary and fringe benefits) and host compliance software. Staffing includes a Business Licence Inspector \$102,687., Licensing Officer \$90,973 and Property Standards Officer \$131,120. and the purchase of Granicus host compliance software \$36,475. The recruitment of 3 full-time equivalents (FTE's) to oversee the administration, inspection, and enforcement of the Shared Accommodation By-law is a minimum requirement for ensuring the success of the program.

While the Shared Accommodation By-law will not come into effect until January 1, 2025 the recruitment for these positions is expected to take place in Fall of 2024 in order to have the time to complete the appropriate staff training, prepare, educate, and consult with stakeholders, make system modifications, and implement the necessary processes and forms and make resources publicly available for the program launch. The host compliance software would also be implemented in Fall 2024 to allow for setup, configuration and online training. This will cause a negative variance in 2024 of approximately \$145,000 to be offset by other surpluses or the tax stabilization reserve.

In 2025 the expenses relating to staffing and host compliance software would be offset by the new licensing fees so there would be no budget impact.

## **COMMUNITY ENGAGEMENT:**

**INFORM** – This report has been posted to the City's website with the agenda in advance of the council / committee meeting.

**CONSULT** – Staff used the EngageWR platform to solicit public feedback on Shared Accommodations including changes to the current regulation of lodging houses, and short-term rental accommodations. The engagement was low on these surveys but there were key themes in responses surrounding safety and security, nuisance control, a need for resource guides for tenants, the ability to submit online applications, lower licensing fees, and a necessity for short-term rental stays beyond 30 days. As well, staff reached out to specific groups including, but not limited to, as Conestoga Students Inc, House of Friendship, Lived Experience, Kitchener Housing Inc., Waterloo Regional Police Services, Leadership Waterloo Region, Housing for All sub-committee, The Working Centre, Lodging House owners, short-term accommodation owners, and members of KW AirBnB. There will be a continuation of internal and external stakeholder engagement associated with the implementation of the new Shared Accommodation By-law. Staff will continue to reach out to impacted stakeholder groups where staff has identified significant changes are needed to the licensing requirements. This will mean some properties will be newly required to obtain a licence, or some will have changes to the existing licensing requirements.

COLLABORATE – Throughout the development of the Shared Accommodation By-law, staff reached out to several internal stakeholder groups, including Building, By-law Enforcement, Fire Prevention, Licensing, and Planning to solicit feedback and to incorporate suggestions to help streamline processes. Staff also met with several external stakeholder groups to solicit feedback on what concerns and additions they would like to see regulated. As part of the implementation phase, staff will continue the partnership between Licensing Services and various stakeholders, such as those City divisions that are part of the approval process, to work together on the development of new applications and information packages, as well as being part of the public education about the changes to the by-law and processes.

**PREVIOUS REPORTS/AUTHORITIES:**

- DSD-2023-446 City-wide Lodging House Review (OPA21/004/COK/AR, ZBA21/040/K/NG)
- DSD-2021-11 - Lower Doon land Use Study Recommendations Report
- DSD-20-214 - Housing for All - City of Kitchener Housing Strategy
- *Municipal Act, 2001*
- *Planning Act*

**REVIEWED BY:** Natalie Goss, Manager, Policy & Research  
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**APPROVED BY:** Victoria Raab, General Manager, Corporate Services

**ATTACHMENTS:**

- Attachment A – Shared Accommodation By-law
- Attachment B – Fees