

Staff Report



Corporate Services Department

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REPORT TO: Committee of the Whole

DATE OF MEETING: June 24, 2024

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

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

WARD(S) INVOLVED: ALL

DATE OF REPORT: June 13, 2024

REPORT NO.: COR-2024-288

SUBJECT: Supplemental Report Shared Accommodation By-law

RECOMMENDATION:

That the new Shared Accommodation By-law be approved in the form shown attached to Corporate Services report COR-2024-288 as Appendix “A” and added to the Municipal Code; and,

That the fees set out in Appendix “B” of staff report COR-2024-288 be approved; and,

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 further,

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

REPORT HIGHLIGHTS:

- The purpose of this report is to provide additional information as requested by the Planning and Strategic Initiatives Committee at the June 3, 2024, meeting.
- Staff met with delegates to further understand their submissions from the Planning and Strategic Initiatives Committee meeting held on June 3, 2024.
- Staff continues to recommend the Shared Accommodation By-law proposed through report COR-2024-233 with some minor amendments as noted in this report.
- Planning staff continues to recommend Official Plan Amendment OPA21/004/CK/AR and Zoning By-law Amendment ZBA21/040/K/NG proposed through report DSD-2024-249.

BACKGROUND:

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

On June 3, 2024, the Planning and Strategic Initiatives Committee (PSIC) considered report [COR-2024-233](#) (Shared Accommodation By-law) and report [DSD-2024-249](#) (City-wide Lodging House Review) which sought approval to allow lodging houses city-wide in conjunction with a proposed licensing framework that would regulate both lodging houses and short-term rentals in the form of a Shared Accommodation By-law. Supplemental information was requested by members of PSIC regarding the proposed by-law and staff were directed to further engage with the delegates regarding their submissions at the meeting. Staff had further discussions with the delegates to further understand their respective submissions and provide clarity on the proposed regulations.

REPORT:

Staff are recommending modifications to the proposed Shared Accommodations By-law (Appendix A) that could be made to reduce barriers for Shared Accommodation owners while maintaining the intent of the program and supporting the City’s ability to ensure public safety, consumer protection, and nuisance control. The recommended modifications have been noted as a result of further dialogue with the delegates and include namely regulation clarity, adjustments to application requirements, and by-law amendments.

Lodging House (Schedule 5) Amendments:

Item Requested	Proposed Modifications
<ul style="list-style-type: none"> Gross floor area requirement is too high and existing lodging houses would not meet requirement. 	<ul style="list-style-type: none"> Gross floor area requirement for common living space has been removed.
<ul style="list-style-type: none"> Clarity regarding regulation “ensure that all Renters have access to any kitchen and bathroom.” 	<ul style="list-style-type: none"> “ensure that no Renter(s) has the exclusive use of both a kitchen and bathroom.”
<ul style="list-style-type: none"> Clarity around lease agreement requirements. 	<ul style="list-style-type: none"> maintain a written lease with only one (1) Renter per lease, unless: <ul style="list-style-type: none"> i) the Renter is under the age of eighteen (18) years, in which case a parent or guardian may execute a lease on their behalf; or ii) where the Renters have entered into a joint tenancy agreement to share a bedroom.
<ul style="list-style-type: none"> Clarity around regulation “ensure that each bedroom shall have a door that is capable of being locked.” 	<ul style="list-style-type: none"> “ensure that each bedroom has a door that is capable of being locked from the inside and the outside.”
<ul style="list-style-type: none"> Clarity regarding regulation “permit any room to be used as a bedroom except where a bedroom has been indicated on the licence application.” 	<ul style="list-style-type: none"> “permit any room to be used as a bedroom except where a bedroom has been indicated and approved on the submitted floor plan.”

In addition to the proposed changes, staff have confirmed that Building Approval for new applications will occur to address further concerns around building safety.

Short-term Accommodation Rental (Schedule 6) Amendments:

Item Requested	Proposed Modifications
<ul style="list-style-type: none"> • Increase bedroom limit (3 bedrooms) for Class B licence. 	<ul style="list-style-type: none"> • Bedroom limit increased to 4.
<ul style="list-style-type: none"> • Remove requirement for a licensee to maintain a register of all guests as this information is not provided by many platforms. 	<ul style="list-style-type: none"> • Requirement removed.

New Application Requirements Amendments:

Item Requested	Proposed Changes
<ul style="list-style-type: none"> • Remove Police Clearance requirement. 	<ul style="list-style-type: none"> • No change proposed for any new Shared Accommodation applications.
<ul style="list-style-type: none"> • Remove floor plan requirement for existing licensed lodging houses. 	<ul style="list-style-type: none"> • Floor plans will be required with every new Shared Accommodation application. Building and Fire can assist existing licensed lodging house owners with satisfying this requirement if needed.

Renewal Application Requirement Amendments:

Item Requested	Proposed Changes:
<ul style="list-style-type: none"> • Remove Police Clearance requirement. 	<ul style="list-style-type: none"> • Required every 3rd renewal period for all Shared Accommodations.
<ul style="list-style-type: none"> • Remove Floor Plan Requirement 	<ul style="list-style-type: none"> • Only required on renewal if changes to building layout have occurred since the last application submission.
<ul style="list-style-type: none"> • Decrease number of inspections 	<ul style="list-style-type: none"> • A Fire Checklist as opposed to inspection is required on renewal for all Shared Accommodations. • Property Standards Inspection required annually for Lodging Houses and every 24 months for STR's.

Supplemental Information Requested:

1. Grandfathering:

The current Lodging House By-law will be repealed, and staff continue to recommend that all existing licensed lodging house owners comply with the new proposed framework and application requirements. Upon further dialogue with the delegate on the lodging house matter, they indicated that they were satisfied with the modifications outlined in this report and as such grandfathering no longer needs to be explored. Grandfathering will perpetuate outdated practises and will negatively impact the intent of the new licensing framework which is health and safety and would add additional red tape or complications to the process.

Grandfathering relies on the concept of pre-existing conditions or entities being exempt from new regulations or standards where the pre-existing condition legally existed in accordance with existing rules. If a particular use or practice didn't exist previously or there were no rules to govern its use, such as with Short-term Rental Accommodations, there's nothing to grandfather.

2. Additional Bathrooms & Cooking Facilities:

There is no provision(s) in the Ontario Building Code, Fire Code, Ontario Human Rights Code, or Residential Tenancies Act that would require a property owner to increase the number of kitchens and/or bathrooms based on the number of proposed bedrooms. Requiring owners to retrofit their property with additional amenities outside of code requirements would likely result in a change of configuration of the existing property and would result in the reduction in number of available lodging units. While shared access to amenities may pose an inconvenience to tenants, it would not amount to a breach of those tenants' human rights as protected under the *Ontario Human Rights Code*.

3. Insurance Requirements:

Proof of insurance as part of the business licensing process is a standard practice in many municipalities. It's a way to ensure that businesses have adequate protections in place for potential risks and liabilities. This practice is aimed at safeguarding both the interests of the business owners and the community they serve. This application requirement is in place for many other business types that the City currently licenses and it has been met with minimal resistance.

4. Existing Licensed Lodging Houses:

There are currently 15 licensed lodging houses throughout the City (2 in ward 4, 6 in ward 9, 7 in ward 10).

5. Booking Length Maximum – 90 Days:

The definition of short-term rental period varies depending on the jurisdiction, but most area municipalities classify it as being between 28-30 days. During our consultation phase staff heard that 30 days was too short and there was a need in the housing market to accommodate longer stays for reasons that would not align with a long-term rental agreement such as family of international students, insurance claims, or renovations. Data obtained through AirDNA reflected over the last year the average stay was 4 nights. However, a rental period of up to 90 consecutive

days allows for some flexibility without venturing into the long-term rental market which often requires a fixed term lease of 1 year or more.

6. Bedroom Limits:

Most municipal comparators that have enacted a licensing by-law for short-term rentals restrict them to a principal residence only and cap the number of days they can operate. Staff are proposing to permit both principal residence and non-principal residence short-term rental accommodations as they provide a type of flexible housing stock and meet a need in our community. However, staff is proposing to limit the number of bedrooms/guests to promote safety, limit noise and disruption, and to balance the interests of residents, visitors, and the community. The limits proposed are 5 bedrooms (maximum 10 occupants) for a principal residence and 4 bedrooms (maximum of 8 occupants) for a non-principal residence. It was verified through data sourced by AirDNA that properties with 4-5 bedrooms account for 5% of listings on the major platforms. Top platforms have also indicated that more than 4 bedrooms is unusual outside of vacation markets.

7. Disclosure of Information:

All licensed Shared Accommodations will be listed on the City's website alongside the last inspection date. No further information will be provided online to the public as this process would be onerous to maintain and there is unclear relevancy/purpose of such information. There are already mechanisms in place to release requested data through the access request process. Furthermore, enforcement orders issued to a property owner can also be released to impacted parties such as tenants, property managers, or mortgage companies where appropriate. A copy of these orders can also be posted at a property where applicable.

The contact information for both the licensee and alternate emergency contact will be required to be posted at the shared accommodation as part of the Renter's Code.

Staff are not proposing the collection of personal contact information of renters as part of the application process for reasons such as privacy, renter turnover and relevance. Lease agreements as outlined in the by-law can be requested as required for enforcement purposes.

8. Evictions:

The focus of the proposed by-law is health and safety and to promote compliance. In the instance of non-compliance there are other avenues staff can pursue such as fines through the Administrative Monetary Penalties System (AMPS), charges through the Provincial Offences Act (POA) court, conducting repair work on an owner's behalf and invoicing in the same manner as municipal taxes, or placing conditions on a licence. Revoking a licence would be considered as a last resort and only after all other avenues have been exhausted or in the event of a life safety concern. While the City can revoke a licence, the eviction process would still be governed through the Residential Tenancies Act. In the event of a displacement staff would assist with connecting tenants with community resources/alternative housing arrangements.

9. Review Period:

Staff are committed to reporting back on an annual basis to assess the overall impacts of the licensing program. This will include statistics on the uptake of licenses, staffing implications, fees, potential expansion of the program, and to make any process revisions or amendments as needed.

10. Minimum Parking requirements for Lodging Homes:

In addition to the municipal scan of Zoning By-laws that was conducted to inform the planning staff recommended parking rate for lodging homes as outlined in report DSD-2023-446, planning staff have reviewed the City of Ottawa’s draft Zoning By-law (released in May 2024), the City of Edmonton’s Zoning By-law (2023), and the City of Barrie’s draft Zoning By-law (2023) which propose no parking minimums in Ottawa and Edmonton and 1 parking space per dwelling unit (which includes a lodging home) in Barrie. Below is a table with minimum parking rate options for Council’s consideration.

Option	Rate
Option 1 – Staff Recommendation	1 per lodging house <i>(No minimum in SGA zones)</i>
Option 2 – Status Quo (2019-051)	1 space per 63m ² of GFA* <i>(No minimum in SGA zones)</i>
Option 3 – Approved 4 Units Rates	0 spaces within 800m of LRT station 0.3 spaces in RIENS area 0.6 spaces elsewhere**

*For example, a lodging home of a size of approximately 2,800ft² (264m²) would require 5 parking spaces

**Due to rounding provisions in the Zoning By-law, this would result in 1 space per lodging home

Planning staff continue to recommend 1 parking space per lodging home (option 1) but do not have a concern with establishing parking minimums for lodging homes that are the same as the 4-unit rates (option 3).

Staff met with delegates to better understand their concerns, and where possible have recommended modifications to the proposed licensing by-law as outlined in this report. Staff reconfirm that that we will monitor the implementation of the Shared Accommodation By-law and report back to Council with any recommended adjustments. Providing an updated land use and licensing framework for lodging homes and for short-term rentals is the first step in ensuring safe accommodations.

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.

PREVIOUS REPORTS/AUTHORITIES:

- DSD-2024-249 Supplemental Report to DSD-2023-446 – City-wide Lodging House Review
- DSD-2023-446 City-wide Lodging House Review (OPA21/004/COK/AR, ZBA21/040/K/NG)
- COR-2024-233 – Shared Accommodation By-law
- 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

APPROVED BY: Victoria Raab, General Manager, Corporate Services

ATTACHMENTS:

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