

**Date:** 2021-04-26

**Subject:** **RECOMMENDATION REPORT: Short-term Rental Policy Review and Short-term Rental Licensing By-Law**

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**Report Number:** Planning, Bld & Ec Dev-2021-547

**Recommendations:**

1. THAT the report titled Recommendation Report: Short-term Rental Policy Review and Short-term Rental (STR) Licensing By-Law presented to Planning Committee be received;
2. THAT staff continue to engage the public and stakeholder groups to refine the STR Licensing By-Law to reflect the City's needs;
3. THAT staff bring forward the final STR Licensing By-Law to Council in June/July 2021 for adoption;
4. THAT the STR Licensing program be implemented in Q4 2021; and,
5. THAT staff report to Planning Committee in Q4 2022 with a program update, including the number of licensed STR issued, resources required and feedback received.

**Overview:**

- In September 2019 staff recommended moving forward with a Short-term Rental (STR) Licensing regulatory framework following the Steering Committee's review of 'best practices' and report back on stakeholder /public engagement.
- The proposed STR Licensing By-Law includes: limiting STR to the principal residence, placing a cap on the number of consecutive days and maximum number of days per year, limiting the number of bedrooms to be rented and, prohibiting STR in two-unit dwellings to help preserve the availability of rental housing.

- **The STR By-Law recommends licensing the hosts only and not the platforms.**
- **Staff conducted stakeholder engagement in April 2021 and received general support of a registration/licensing program to regulate STRs with specific comments pertaining to the program's requirements.**
- **Staff will be moving forward with public engagement in May 2021 providing education on the program.**
- **Following the completion of stakeholder and public engagement staff will review the feedback received, and will propose revisions to the STR Licensing By-Law for Council's consideration.**
- **Staff are recommending Council adoption of the STR Licensing By-Law in June/July 2021 and implementation of the program in late September 2021.**

### **Background:**

In June 2019 the Planning & Development Committee directed staff to report back on the impact that Short-term Rentals (STRs), such as Airbnb, have on the City. Staff established an internal Steering Committee (comprised of Planning, Legal, Building & Zoning, By-Law Enforcement, Fire & Emergency Services and Clerks) to undertake a policy review of STRs. Following the review of current 'best practices' undertaken by the Committee and the Local Planning Appeal Tribunal's (LPAT) November 2019 decision on upholding the City of Toronto's comprehensive rules for STRs, the approach has been to develop a STR business licensing program similar to other GTA municipalities.

The staff report presented to Planning Committee on September 14, 2020 (PDC104-2020), outlined some of the key challenges with the rise in STRs in a community as follows: the depletion of the available long-term rental housing stock as STRs are more profitable for renting; neighbourhood concerns about the influx of short-term renters in the community who may not respect communal property; properties being rented for parties and potentially bringing criminal activity to an area, vehicles parked on the front lawns, parking in excess of 3 hours overnight on residential streets, blocking sidewalks, and general upkeep of the property (i.e. snow clearing and refuse removal). Many of these concerns are addressed through existing By-Laws (i.e. noise, refuse) administered by our By-Law Enforcement division.

The Ministry of Finance issued a Home-Sharing Guide for municipalities (2018) that focused on five key areas of the Home-Sharing economy: policy considerations, regulatory levers, stakeholders, provincial legislation and municipal initiatives. The guide provides suggested regulatory approaches implemented by other municipalities but no proven 'best-practices' and therefore, was considered by the Committee in conjunction with tools implemented by other municipalities.

## Short-term Rentals

Short-term Rentals (STRs) online platform such as, Airbnb, VRBO, Homeaway, FlipKey fall within the 'sharing economy'. The term 'sharing economy' describes online platforms that connect consumers to each other, in order to sell or rent things to one another.<sup>1</sup> It is expected that home and auto sharing economy will grow 50% globally by 2025. Home sharing has increased in popularity because it provides a more personal alternative to hotels during vacations or business travel.<sup>2</sup> The extra income obtained through short-term rentals is typically allocated for mortgage payments.<sup>3</sup>

There are many options available to those renting out, or renting, through STRs. Homes, apartments, condos, individual rooms, couches and timeshares all qualify as a home rental, meaning that people can continue to live in their home, and have the opportunity to rent out a portion to make extra money. Home sharing is a complicated business model as it contains a variety of companies, many that serve as a third party host for consumers to connect, while others own rent out to consumers themselves.

Due to the availability of many user-friendly online platforms, consumers find it easy to participate in the sharing economy. The impact of measuring the sharing economy continues to be a complex task because of the ability to measure new economic activity has not kept pace with the evolving growth in the type, number of transactions, and various currencies (i.e. bitcoin, SolarCoin) that can be accepted.<sup>4</sup>

In comparison with other provinces, Ontario leads in the annual revenue generated from STR accommodations with just over \$909,000 generated in 2018, followed by British Columbia with \$876,080 and Quebec with \$634,588<sup>5</sup>. It is estimated that there are approximately 54 top STR websites operating within the home sharing economy.

## **Current Situation:**

Following the Committee's 'best practice' review the approach to prepare a regulatory framework to license STRs was recommended. Staff worked with internal departments to draft a STR Licensing By-Law (refer to Appendix 1). The framework of the Licensing By-Law includes: limiting STRs to the principal residence only to eliminate investment properties being purchased for the purpose of STRs; capping the number of consecutive days to 28 days; capping the number of nights per year to 180; not permitting STRs in two-unit dwellings to preserve these units for long-term rentals; no more than 3 bedrooms being rented in a principal residence; licences being renewed on an annual basis; and, not contravening with the Residential Tenancies Act (RTA).

The STR Business Licensing By-Law proposes an application fee of \$150 based on the estimate of costs incurred by the City in administering each licence application. This

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<sup>1</sup> <https://www.thesimpledollar.com/insurance/home/sharing-economy>

<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> <https://www.canada.ca/en/innovation-hub/services/reports-resources/report-sharing-economy.html>

<sup>5</sup> <https://www150.statcan.gc.ca/n1/pub/13-605-x/2019001/article/00001-eng.htm>

amount is in line with the average licensing fees charged by surrounding municipalities. The intent is to review the licensing application fee after the first year of the program, and determine whether it accurately reflects staff time to process and enforce the licensing requirements.

Prior to finalizing the STR Licensing By-Law public and stakeholder engagement is required. To date policy staff have engaged with various stakeholder groups to receive input. The following organizations were consulted during stakeholder engagement: Ontario Restaurant Hotel & Motel Association (ORHMA), Greater Toronto Hotel Association (GTHA), Federation of Rental Providers in Ontario, Inside Airbnb, Greater Toronto Apartment Association, CAPRIET, Hotel Association, Expedia, Airbnb and Fairbnb.

A virtual stakeholder engagement meeting was held in mid-April (2021) to receive input on the work completed to date. The majority of the group generally supported the City's direction of registering/licensing STRs. The group also reviewed the draft Licensing By-Law and noted the following comments in the chart below (refer to Appendix 2), which the Committee will consider prior to finalizing the Licensing By-Law.

Stakeholder	Comments
Airbnb	<p><u>Primary residence restriction</u> – recommends removal</p> <ul style="list-style-type: none"> <li>• Allowing the host community to rely on income earned through home sharing to make ends meet.</li> </ul> <p><u>No Short-term Rentals in multi-unit buildings</u> – recommends removal</p> <ul style="list-style-type: none"> <li>• Not in line with the national standard of regulations in Canada (no policy rationale).</li> <li>• Restriction discriminates against those living in condominium units and apartments from participating in the home sharing economy.</li> </ul> <p><u>Limit on the number of nights rented</u> – recommends removal</p> <ul style="list-style-type: none"> <li>• Night caps are complex and costly to enforce – this additional restriction penalizes those trying to leverage their property to make ends meet.</li> </ul> <p><u>Insurance</u> – recommends reducing the requirement to meet the national standard.</p> <ul style="list-style-type: none"> <li>• Airbnb provides \$1 million in liability insurance to their hosts.</li> </ul>

	<p>Supports a host registration and not the restrictions outlined in the City's draft Licensing By-Law.</p> <p>Supports a province-wide MAT approach – requiring all platforms to participate.</p>
Expedia	<p><u>Primary residence restriction</u> – recommends it be revised to include non-principal residences with some limitations.</p> <p><u>No Short-term rentals in multi-unit dwellings</u> – recommends removal and see some level of STR operations in multi-unit buildings.</p> <p><u>Insurance</u> – recommends reducing the requirement to meet the standard industry practice. Toronto and Ottawa first recommended \$2 million and reduced it to \$1 million.</p>
Greater Toronto Apartment Association	<ul style="list-style-type: none"> <li>• STRs contravenes the Residential Tenancies Act (RTA) by requiring a safety deposit and/or damage deposit.</li> <li>• Supports not permitting STRs in multi-unit dwellings as it assists in retaining purpose-built rental housing as long-term housing.</li> </ul>
Inside Airbnb	<p><u>Restriction on the number of days per year (180 days)</u> – recommends reducing the number of days to minimize incentivizing commercial use (i.e. 30 to 90 days).</p> <p>No mechanism to measure/enforce the 180 days per year</p> <ul style="list-style-type: none"> <li>• How will the City measure and/or enforce this requirement?</li> </ul> <p><u>Short-term rental hosts should display their registration number in all advertisements</u></p> <ul style="list-style-type: none"> <li>• Provides the City information on the properties that are registered and the ones that are unregistered and require further investigation.</li> </ul> <p><u>Platform accountability</u> – platforms should only be legally required to advertise or accept transactions for properties that are registered.</p> <p><u>Platform data required to ensure success of the short-term rental By-Law</u></p> <ul style="list-style-type: none"> <li>• Provides an easy and efficient means to ensure that all short-term rental properties are registered, and are not exceeding the City's calendar year restriction.</li> </ul>

Ontario Restaurant Hotel & Motel Association	<p>STRs in the <u>Principal Residence supported</u></p> <ul style="list-style-type: none"> <li>• Recommends the owner resides in the unit.</li> </ul> <p><u>Only one listing per household:</u></p> <ul style="list-style-type: none"> <li>• No host should be allowed to list multiple units.</li> <li>• Supports placing a cap on the number of consecutive days of less than 30 days.</li> <li>• Platforms should only list properties that are registered with the City.</li> </ul> <p><u>Enforcement Recommendations:</u></p> <ul style="list-style-type: none"> <li>• Require registration for rental platforms at a set fee and the unit's registration number on its listings.</li> <li>• Hold rental platforms responsible for compliance of set rules and policies designed by the City.</li> <li>• Require registration of the rental unit operations at a set fee and registration number posted on all advertisements.</li> <li>• Hold the rental platform responsible for compliance of set rules and policies.</li> <li>• Develop penalty fees within the City's enforcement policies for not meeting the rules of the rental units and platforms.</li> <li>• Rental units to contribute to any tourism tax imposed on hotels.</li> <li>• MAT to be collected on STRs.</li> <li>• City should review the opportunity to apply commercial property assessment.</li> </ul>
Fairbnb	<p><u>Principal residence requirement</u> supported to align with home sharing</p> <ul style="list-style-type: none"> <li>• Agrees with not allowing in secondary suites and basement apartments to preserve long-term rentals.</li> </ul> <p><u>Maximum number of rooms being rented</u> – revise the number of units</p> <ul style="list-style-type: none"> <li>• Lowering the maximum number of bedroom units from 3 to 1 bedroom to maintain the concept of home sharing and not party hostels.</li> </ul> <p><u>180 nights per calendar year</u> – recommends it be lowered between 60 – 90 days</p> <ul style="list-style-type: none"> <li>• Will lose housing stock to quasi-hotel use in residential areas.</li> </ul>

	<ul style="list-style-type: none"> <li>Balances occasional home-sharing with housing availability reducing the maximum number of nights would be appropriate.</li> </ul> <p><u>Platform accountability needed</u></p> <ul style="list-style-type: none"> <li>Listing only properties that are registered and licensed with the City.</li> </ul> <p><u>Informed consent/notification as a community builder</u></p> <ul style="list-style-type: none"> <li>Neighbours should be notified if a neighbour is planning to use their property for STR activity.</li> </ul> <p><u>Data sharing requirements</u></p> <ul style="list-style-type: none"> <li>Recommends platforms and STR hosts share rental data with the City on a quarterly basis to confirm compliance with the program.</li> </ul> <p><u>Pandemic Restrictions</u></p> <ul style="list-style-type: none"> <li>Ensure platforms legally agree to comply with public health measures and de-activate listings during the pandemic and provincial short-term rental bans.</li> </ul>
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The Committee will review each response in further detail along with the public input from the upcoming engagement session to determine whether further refinements to the City's STR Licensing By-Law will be recommended to Council prior to adoption in June/July 2021. Staff will also ensure that the final version of the STR Licensing By-Law does not propose requirements that would contravene the Residential Tenancies Act.

Policy staff are also moving forward with acquiring the software services of a third party to assist with obtaining data related to short-term rentals to support the STR Licensing program. A formal request for proposal will be issued in Q3 2021 to hire the services of the third party.

### **Corporate Implications:**

#### Financial Implications:

The initial costs associated with the software services of a third party is estimated to be \$50,000. There is sufficient budget available within the Planning, Building and Economic Development operating budget to fund the initial cost. Any additional funding required for recurring costs will be requested as part of the 2022-2024 operating budget submission and will be partially offset by the licensing user fee, pending Council approval.

### Other Implications:

There are no other implications associated with this report at this time.

### Term of Council Priorities:

This report directly aligns with the Strategic Direction – Brampton is a City of Opportunities by proposing policies and zoning provisions that create complete communities. Part of this initiative includes finalizing Brampton's Housing Strategy that will examine opportunities to improve the availability of housing stock for all income levels, including improving the availability of rental housing stock.

### Living the Mosaic – 2040 Vision:

This report aligns with Action #5-2 'Housing' of the Planning Vision of adopting a Brampton-made comprehensive housing strategy. By recognizing the need to develop a comprehensive housing strategy with an action plan that fosters solutions for lower-income, affordable, seniors, students, shelter, family, emergency and other special-needs housing.

### **Conclusion:**

Following the Committee's review of 'best practices' of potential regulatory frameworks for Short-term Rentals it was recommended to proceed with an annual licensing approach. Staff recommend including provisions that would assist in regulating the number of short-term rentals and implementing measures that would prevent a large loss of long-term rentals as part of the City's housing stock, supporting Brampton's Housing Strategy.

Staff intend to bring forward a report to Council with a recommendation for adoption of the final STR Licensing By-Law in June/July 2021, taking into consideration stakeholder and public input received. The program is expected to launch at the end of September 2021. Clerks will be responsible for administering the implementing the program and supports the launch date of September 30<sup>th</sup> to coordinate with other licensing programs administered by their department. Staff also have support from By-Law Enforcement to launch the program and will support their efforts by coordinating data sharing pertaining to STRs once the third party (software provider) is hired to provide the City regular data updates.



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**Attachments:**

Appendix 1 – Draft Short-term Rental Business Licensing By-Law

Appendix 2 – Stakeholder comments received (April 2021)