

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	November 14, 2017
SUBJECT/REPORT NO:	Licensing Short Term Rentals (PED17203) (City Wide) (Outstanding Business Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Monica Ciriello (905) 546-2424 Ext.6656
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

Council Direction:

At the July 14, 2017 meeting of Council, in response to the unregulated operation and increasing use of Short Term Rentals in Hamilton through platforms including Airbnb, Council approved Councillor Collins' motion respecting "Licensing of Airbnb Lodgings" which reads as follows:

That staff report back to Committee on the recent legislation adopted by the City of Toronto related to the operation of Airbnb Lodgings with the goal of adopting local legislation related to the same in Hamilton.

Information:

The practice of opening up one's home to accommodate strangers is not new, but it has been revitalized and expanded through the sharing economy and in particular through the platform Airbnb. Airbnb is now the number one search for accommodations and is available in more than 65,000 cities and 191 countries. Airbnb may be the market leader, however it is not alone. There are approximately 125 variations of the platform and it is continuing to increase. Popular online platforms also include, FlipKey, HomeAway, and VRBO. Short term rentals (STR) are currently not permitted in the City of Hamilton, outside of licensed hotels, motels and bed and breakfasts. Yet these platforms are being utilized to facilitate the bookings and payments for approximately 550 listings in our community.

Municipalities across the Province and Canada are reviewing how to respond to the emergence of this new market participant. At the time of drafting this Report Toronto,

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Vancouver and Oakville have active projects underway to investigate possible STR regulations.

This Report outlines the proposed regulations brought forward by the City of Toronto and proposes the framework for regulations of STR in the Business Licensing By-law 07-170 Schedule 3 “Bed and Breakfasts, Hotels and Motels” for public consultation.

What is a short term rental?

The term “short term rental” has been described by municipalities across North America as a rental that is used for a short period of time and is facilitated through online platforms, such as Airbnb, FlipKey, HomeAway, VRBO and Roomorama.

City of Toronto

Most jurisdictions are in the early stages of drafting or implementation and have not been able to evaluate their regulations, and determine successes and opportunities for improvement. A jurisdictional scan of North American cities is attached as “Appendix A” to this Report.

In June of this year the City of Toronto put forward a proposed licensing and registration system for short term rentals, following which staff conducted a consultation process, with a final report and by-law expected to come forward in November 2017. The proposed regulations are to licence both the host operators through a registry as well as the short term rental companies that facilitate the booking and payment of the rental.

Host Operator Requirements

- A host operator may only offer a short term rental in their principal residence (including a secondary suite) that is 28 consecutive days or less;
- A principal residence requirements:
 - A place where a person lives and designates as their principal residence on government records;
 - A person can only have one principal residence;
 - A corporation cannot have a principal residence; and,
- Anyone operating a short term rental must register with the City.

Short-Term Rental Registry

To register, host operators must:

- Provide their name, address, contact information and copy of identification;
- Provide information about their short-term rental:
 - List of companies used to advertise the listing;
 - Description of which parts of the property will be used (entire unit, bedroom(s), private entrance, parking available, secondary suite, other shared space);

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- Building type (condo, apartment, detached, semi-detached, row house, townhouse etc.);
- Post the registration number provided by the City in all advertisements;
- Provide contact information for a person available by phone or text 24 hours / day;
- Declare that the address is their principal residence;
 - Proof must be provided if requested by the City;
- Declare that they follow and would continue to follow all municipal, provincial, and federal laws (including Fire Code, Building Code, Noise By-law, Zoning By-law etc.);
- If the short term rental is a secondary suite, submit it to an inspection from Fire; and,
- Pay a registration fee between \$40 and \$150 per year.

Short Term Rental Company Licence

Any company that facilitates the booking or payment of short term rentals will need to be licensed. Licensed companies must:

- Provide their name, address, contact information and copy of identification;
- Provide information about their short term rental including number of locations;
- Ensure that all listing include a valid City registration number;
- Remove all short term rental listings that are not registered with the City;
- Disclose anonymized information about the short term rental activity with the City quarterly;
- Disclose information about individual host operators with the City upon request;
- Communicate information about City regulations for short term rentals to everyone operating a short term rental through the company;
- Develop a procedure to minimize neighbourhood nuisance and prevent short term rentals that pose a threat to public health or safety from operating to be shared with short term rental host operators; and,
- Pay a licensing fee consisting of a base fee between \$5,000 and \$20,000 and a scalable fee based on the number of nights rented or number of rentals listed through the company.

Zoning

Short term rentals are proposed to be permitted in Residential and Mixed Use zones throughout the City. This will require zoning amendments to include the following:

Proposed Zoning By-law Definition:

- Short-Term Rentals means all or part of a dwelling unit that is:
 - (a) Used to provide sleeping accommodations for any rental period that is 28 consecutive days or less; and,
 - (b) The principal residence of the short-term rental operator.

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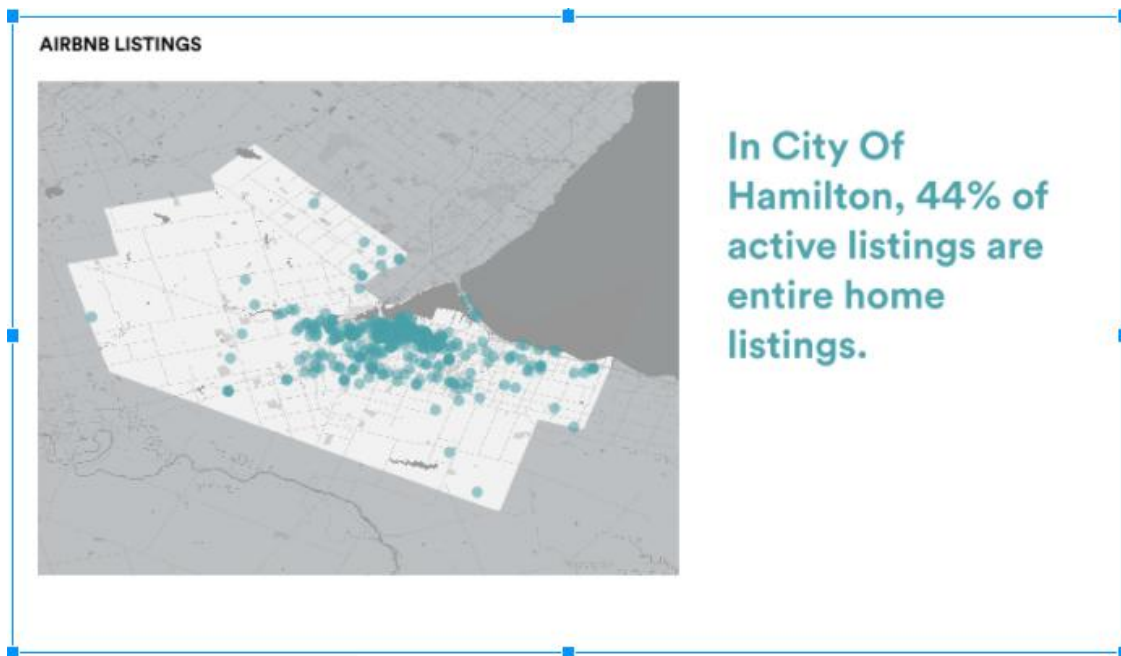
Proposed Zoning By-law Specific Use Requirements:

A short-term rental is a permitted use if:

- (a) It is a dwelling unit, a bed-sitting room, or a secondary suite;
- (b) In the case of a bed-sitting room, there are no more than three permitted in any one dwelling; and,
- (c) It is not an ancillary building or vehicle.

Hamilton

At the time of drafting this Report, there are 410 Airbnb hosts in Hamilton and 550 active listings across the City. In 44% of these listings the host has listed the entire home. The average length of stay is 3.7 nights, and the typical host shares their space for 58 days per year. This has allowed the typical host to earn approximately \$4,400 per year in supplemental income. At present, these STR are operating in contravention of the City's Zoning By-law.



Current Regulatory Framework

Businesses that provide short term accommodations to the travelling public are licensed under Schedule 3 "Bed and Breakfast, Hotels and Motels" of the City's Business Licensing By-law. In addition to the municipal requirements they are required to operate in accordance with provincial legislation including: *Hotel Registration of Guests Act*, the *Innkeepers Act*, and the *Ontario Building Code Act*. Licences for these businesses are only issued where permitted by the Zoning By-law.

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Proposed Licensing Regulations in Hamilton

In order to license a STR and a Short Term Rental Company in Hamilton as proposed below, it would first require amendments to the Zoning By-law. STR is proposed to be permitted in Residential and Mixed Use zones. The proposed Zoning By-law definition for STR is based on Toronto but a shorter stay is proposed to ensure STR is being used for the travelling public purpose:

Short-Term Rentals means all or part of a dwelling unit that is:

- (a) Used to provide sleeping accommodations for any rental period that is 14 consecutive days or less; and,
- (b) The principal residence of the short-term rental operator.

Based on the amendments in the Zoning By-law which would be required first, an amended Schedule 3 of the Licensing By-law is proposed to regulate STR and a Short Term Rental Company. The development of the proposed regulations is founded on the City's regulatory purpose to promote public safety, nuisance and consumer protection and balanced with enabling supplemental income, supporting the tourism industry, and protecting long-term rental supply.

Short Term Rental Host Operator Licence

Staff is preparing an approach for regulating STR in Hamilton and have identified the following general directions that may comprise a Hamilton regulatory regime. Staff will be undertaking public consultations to obtain feedback and then report back to Council with a recommended approach.

Proposed regulations include allowing residents with a licence to rent their own principal residence home, including secondary suites, for short periods (no more than 14 days consecutively) to the travelling public. Commercial operators would not be permitted to operate a STR. Condominium boards would continue to be able to utilize their existing authority to further limit or prohibit STR through a declaration, by-laws or rules.

One licence would apply to all listings associated with that address, and that licence number would be required to be included in all advertisements. Key aspects of the licence would include:

- The host providing a list of companies used to advertise the listing, description of which parts of the property would be used for STR and building type;
- Emergency contact information to contact the host by email or phone 24 / 7;
- Self-certification that the host follows and will continue to follow all municipal, provincial, and federal laws;
- Upon request documentation to satisfy that the home is their principal residence;
- All secondary suites must undergo a fire inspection to confirm compliance with the Fire Code;

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- If requested by the City, an inspection must be scheduled within seven days of the request; and,
- If serving food, a health inspection is required.

The City will maintain the authority to audit any self-certification made by the host, and request specific evidence from the host to ensure compliance.

Short Term Rental Company Licence

In addition, it is proposed that any Short Term Rental Company that facilitates the booking or payment must obtain a licence. This will ensure that all listings advertised by the Short Term Rental Company will display the host operator license number issued by the City. All Short Term Rental Companies will be required to remove all host operators from their platform if there is a violation of any municipal, provincial or federal laws. The Short Term Rental Company will disclose anonymized information about the STR activity, at the request of the City. This will assist the City to monitor housing availability and understand travelling public trends within the community.

Fees

Annual fees for both the Short Term Rental Host Operator and the Short Term Rental Company's would be developed based on the cost of administering and enforcing the regulations.

Short Term Specific Tax

Amendments were made under Bill 127 to the *Municipal Act* that enables local municipalities to impose a tax on the purchase of transient accommodation, also known as short term rentals. It received its third reading and royal assent on May 17, 2017 however it has not yet been proclaimed into force.

Consultation

This Report was drafted in consultation with Building, Fire, Housing, Legal Services, Licensing, Parking, Planning, Tourism and Zoning.

This Report addresses the issue respecting City of Toronto Legislation related to the operation of Airbnb Lodgings on the Planning Committee Outstanding Business List, it is appropriate to be identified as complete and removed from the list.

Appendices and Schedules Attached

Appendix "A": Jurisdictional Scan

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