



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 21, 2021
SUBJECT/REPORT NO:	Rental Housing Pilot Program and Transition Plan (PED21097(a)) (Wards 1, 8 and Parts of Ward 14) (Outstanding Business List Item)
WARD(S) AFFECTED:	Wards 1, 8 and Parts of Ward 14
PREPARED BY:	Kelly Barnett (905) 546-2424 Ext. 1344
SUBMITTED BY:	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the draft By-Law “Rental Housing Units” (Schedule 31) of the City Licensing By-law 07-170, attached as Appendix “A” to Report PED2109(a), which has been prepared in a form satisfactory to the City Solicitor, be approved;
- (b) That subject to the approval of Recommendation (a) of Report PED21097(a), Council approve the Rental Housing Licensing Fee Schedule as outlined in this report for an annual licence, which achieves full cost recovery with no net levy impact for the two-year pilot in Wards 1, 8 and parts of Ward 14;
- (c) That subject to the approval of Recommendations (a) and (b) of Report PED21097(a), the City of Hamilton User Fees and Charges By-law 19-160 be amended to reflect the new Rental Housing Licensing Fee Schedule;
- (d) That Council endorse the Transition Plan, attached as Appendix “B” to Report PED21097(a), to develop, implement, administer and evaluate the licensing of rental units pilot project in Wards 1, 8 and parts of Ward 14;
- (e) That Item 21(a) respecting Regulation of Rental Housing be identified as complete and removed from the Planning Committee’s Outstanding Business List;

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

- (f) That the two-year pilot project be deemed to be completed two years after the final compliance date for property owners to obtain a licence prior to enforcement.

EXECUTIVE SUMMARY

On August 13, 2021 City Council approved the creation of a Rental Housing Licensing pilot project for Wards 1, 8, and parts of Ward 14.

This Report responds to Council's direction to:

- prepare a transition plan to inform business property owners and tenants of the requirements of the pilot by-law while providing owners with adequate time and information to gain compliance and avoid displacement of tenants; and,
- prepare a fee schedule to achieve full cost recovery with no net levy impact for the implementation of the two-year pilot project in Wards 1, 8 and parts of Ward 14.

Alternatives for Consideration – See Page 8

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial:

The total cost of the Rental Housing Licensing Pilot is based on an estimated 2,000 rental units from information gathered pre-COVID. Staff are uncertain if this number is still accurate which could affect full cost recovery and a net levy impact if actual numbers are different or if fewer than 2,000 rental units are licensed annually.

The total cost of the Rental Housing Licensing Pilot approved by City Council on August 13, 2021 is estimated at \$2,147,055 with no net levy impact based on the recommended license fee structure. It should be noted, however, that this is based on an estimated 2,000 rental units using information gathered pre-COVID. Staff are uncertain if this number is still accurate which could, if there is a significant variance or if fewer than 2,000 rental units are licensed, affect the 'cost recovery' basis of the pilot.

Staffing:

The two-year pilot project, as approved by City Council on August 13, 2021 is estimated to cost \$2,147,055 with no net levy impact based on the assumption that 2,000 rental units will be licensed annually during the pilot project. The estimated cost includes an additional ten Full-time Equivalents (FTEs) as follows:

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- Three FTEs in the Licensing and By-law Services Division at a cost of \$625,500;
- Three FTEs in the Building Division at a cost of \$537,000; and,
- Four FTEs in Fire Department at a cost of \$984,555.

Legal: N/A

HISTORICAL BACKGROUND

City Council, on August 13, 2021 approved Planning Committee Report 21-012 as amended as follows:

**License Rental Housing (PED21097/LS21022) (Wards 1, 8 and Parts of Ward 14)
(Item 10.2)**

- (a) That the draft By-law “Rental Housing Units” (Schedule 31) attached as Appendix “A” to Report PED21097/LS21022, which has been prepared in a form satisfactory to the City Solicitor be referred to the September 21st, 2021 Planning Committee meeting to satisfy the public notice requirement for implementation;
- (b) That staff prepare a transition plan to inform business property owners and tenants of the requirements of the pilot by-law, provide owners with adequate time and information to gain compliance and avoid displacement of tenants;
- (c) That staff prepare a fee schedule to achieve full cost recovery with no net levy impact for the implementation of the 2 year pilot project in Wards 1, 8 and parts of Ward 14 at a total cost of \$2,014,992 with the creation of 10 temporary FTEs as follows: three full-time temporary zoning staff to be funded from zoning verification fees; four full-time temporary Fire Inspectors to be funded from inspection fees; and one full-time temporary Licensing Administrator and two full-time temporary Licensing Compliance Officers to be funded from licensing fees;
- (d) That staff report back to Planning Committee after the “Rental Housing Units” (Schedule 31) has been enacted for 18 months with an update on the pilot project;
- (e) That staff report back to Planning Committee with an update every 6 months on the pilot project in Wards 1, 8 and parts of Ward 14;
- (f) That the contents of Appendix “C” to Report PED21097/LS21022 remain confidential under solicitor-client privilege.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Appropriate representatives of Finance, Planning, Legal, Building and Fire were consulted during the preparation of this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Based on information concerning illegal dwelling units, “absentee landlords”, and property standards and yard maintenance complaints shared with the former Rental Housing Sub-Committee between 2014 – 2018, the Sub-Committee recommended that Wards 1 and 8 (and now parts of Ward 14) should be the focus of a Rental Housing Licensing Pilot Project.

For reasons outlined in Report PED21097/LS21022 titled “License Rental Housing”, staff recommended that consideration be given postponing a Rental Housing Licensing Pilot Project for Wards 1, 8 and parts of Ward 14 until Q1 2023. However, Council deemed it prudent to begin a two-year pilot upon enactment the Rental Housing By-Law.

Fees

The total cost of the Rental Housing Licensing Pilot approved by City Council is estimated at \$2,147,055 which is full cost recovery with no net levy impact based on the recommended license fee structure (user fees) as outlined in the table below:

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Two-Year Rental Housing Licensing Pilot License Fees to Reflect Full Cost Recovery based on the assumption that 2,000 rental units licensed annually					
Division	# new FTEs	FTE/Operating Cost	User Fee/1st Year	User Fee/2nd Year (same unit)	Frequency
Licensing and By-Law Services	3	\$625,500	\$156.38	\$156.38	Annual
Building - Zoning Verification Certificate	3	\$537,000	\$268.50 Express Service \$384.00		One-time
Fire	4	\$984,555	\$246.14	\$246.14	Annual
Total Licensing Fee			\$671.02	\$402.52	Annual
*Electrical Safety Authority (ESA) inspection done by 3 rd party and fees not collected by the COH		\$350.00-\$550.00			Every three years
NOTE	The Licensing Fee Schedule would apply to each Rental Housing Unit and Buildings or part thereof containing four and less self-contained dwelling units. Secondary units in detached homes or townhouses if rented would need their own licence as it is operating as a separate dwelling unit. Each of the fees being charged from the various city Departments/Divisions will be covering the Departmental costs for this pilot program.				

The additional three FTEs in Licensing and By-Law Services would consist of one full-time temporary Licensing Administrator to issue and administer the rental housing licences and two full-time temporary Licensing Compliance Officers to proactively and reactively inspect the rental units.

The additional three FTEs in Building would consist of full-time temporary Zoning staff to provide administrative input to the Licensing Application, pull and scan microfilm and complete the required zoning reviews for the zoning verifications. Currently the option for “Express Services” for zoning verifications are not available, however if/when this is offered again there would be a higher one-time user fee charged in the amount of \$384.

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The cost for increasing the capacity of the Fire Department by adding 4 FTEs to be able inspect the identified rental properties is \$984,555. This added capacity of 4 FTE is self-funded with the implementation of a new annual user fee of \$246.14 based on the assumption that 2,000 properties will be inspected annually during the pilot project. The additional four FTEs in Fire would consist of full-time temporary Fire Inspectors to complete inspections before a licence may be issued. The Fire Department would need to complete the same thorough on-site general inspection of the property annually in accordance with the Ontario Fire Code to ensure that the required Fire Safety Systems are still being maintained in good working condition. It should be noted that under the current collective agreement language, Local 288 does not have temporary positions. As such, the Fire Department would need to negotiate a Memorandum of Understanding to hire temporary Fire Inspectors for a two-year pilot.

The Electrical Safety Authority (ESA) no longer provides general inspections and fees can vary depending on the licensed electrical contractor hired by a property owner to complete an inspection and the number of rental units being inspected within the building. A general cost for electrical inspections depends on the size (square footage) and number of units however, would likely range from \$350 – \$550 based on information from Waterloo and Oshawa who both have this requirement in their Rental Housing By-Laws.

In addition to the direct costs of the Licensing Fee Schedule, and the electrical inspection fee, costs may be incurred by the landlord if remedial work is required, through Building Permits, Minor Variance or Rezoning Applications, and property improvements/retrofit resulting from Fire and Property Standards inspections. It is unclear how many rental units would require upgrades to meet compliance in all areas.

Transition

Upon the adoption of the Rental Housing By-law, staff will begin a phased-in transition and implementation plan by using best practices from municipalities that have already implemented a rental unit licensing program. As outlined in Appendix “B” to Report PED21097(a), this will begin with an Education and Awareness Campaign. Staff anticipate being able to begin accepting Rental Unit Applications starting in April 2022 using a phased-in geographic approach. A final compliance date for property owners to obtain a licence prior to enforcement will be set for various dates in Fall 2022. The exact dates will be included in the education materials generated for the property owners and tenants and will be reported to Council in a six-month update report.

The pilot will also require new internal license processes and materials to be created and made available for licensees and tenants.

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The following would be required at the onset of the pilot and prior to implementing:

- recruitment of approved FTEs in Fire Department, Licensing and By-law Services and Building;
- training of staff in all three areas;
- operating databases (AMANDA) would need to be updated and enhanced; and,
- implementation of tracking and reporting of enforcement statistics as well as financial data requiring additional support from Finance and Administration.

Communication/Education Plans

Creation of resource materials for property owners and tenants to be circulated starting in January 2022 continue throughout the pilot program. Resources would include:

- information on the Rental Licensing By-law and the importance;
- information on the licensing process and what owners are required to provide prior to applying (ZVC and Electrical Inspection Report);
- operating information on the City of Hamilton By-laws (Property Standards, Yard Maintenance etc), the *Building Code Act, 1992, S.O. 1992, c23, Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4.*; and,
- information on how and where to register for a Rental Housing Licence including City facilities and an on-line portal.

Communication and education/awareness campaign for tenants, property owners, stakeholders and the public and would include:

- brochures/door knockers on property owners' responsibilities and the process for tenant complaints;
- website development with relevant information on the pilot program and FAQs;
- information in various formats for Councillor/Community newsletters, stakeholders (i.e. ACORN, Hamilton Burlington Real-estate, McMaster University, Mohawk College, Neighbourhood Associations, Hamilton Legal Clinic, Housing);
- information staff attendance at community meetings/events, McMaster University and Mohawk College events; and,
- Municipal Law Enforcement Student Officers assigned to Wards 1, 8 and parts of 14 would become ambassadors delivering resources, providing education and engaging the communities.

The transition plan and timelines are attached as Appendix "B" to Report PED21097(a). If approved, staff will begin implementation but expect that it will take approximately

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seven months before the Licensing Rental Units Application process would begin (approximately April 2022).

Enforcement

For occupied units, Officers require permission from the tenant to enter the residence for inspection/investigation. If unoccupied, the property owner must provide consent. Therefore, it is important to note that entry to rental units may pose an additional challenge during COVID-19 as many people have expressed concerns and stated that they do not wish persons from outside their households to enter their houses. Some municipalities with Rental Licensing By-laws such as the City of London, have suspended inspections altogether during the pandemic for safety reasons. In addition, tenants may refuse entry out of concerns of increased rental costs being downloaded to them due to the licensing fees, necessary renovations/retrofits to bring the building into compliance with various City By-laws (Property Standards, Zoning), the *Building Code Act, 1992, S.O. 1992, c23, Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4* and electrical inspections. If an Officer is not provided permission to enter the unit, there may be a delay in the Licensing Application process.

Further delays in completing the Licensing Application process could result if Property Standards Orders are issued and appealed to the Property Standards Committee after the minimum 19-day compliance date.

The enforcement strategy will be to educate and negotiate a reasonable business plan with appropriate timelines with property owners to gain compliance, however enforcement tools such as Orders/Notices and Administrative Penalties (tickets) may be used at the Officers' discretion. Under the City's Administrative Penalties By-law 17-225, property owners may be charged \$200 for failing to comply with conditions of a licence, or \$300 for failing to comply with Schedule 31 Rental Housing Units, of the Licensing By-law 07-170. It is not anticipated that legal action under the *Provincial Offences Act (POA)* will be required unless there is a serious concern regarding tenant/public health safety. An Officer or Fire Marshall can issue a Part III summons which would require the party to appear before court. A Part III may result in a conviction and a maximum fine of \$25,000 for an individual and \$50,000 for a corporation.

It should be noted that Fire Code violations found during the inspection process may require legal action under the *POA* as a means to achieve compliance and enable the licence to be issued. Assistants to the Fire Marshall within the Fire Department are appointed as Officers under the *POA* have the authority to commence proceeding and lay a Part 1 charge for non-compliance with certain requirements of the Fire Code with a maximum fine of \$295 plus costs and victim fine surcharges.

ALTERNATIVES FOR CONSIDERATION

Council could modify the Transition Plan attached as Appendix “B” to Report PED21097(a) or the license fee structure (user fees). Staff do not recommend an earlier transition because of the time required for recruitment, training and education. Staff also do not recommend lowering fees as the fees achieve a full cost recovery, with no net levy impact.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED21097(a) – Amending By-law (Schedule 31) – Rental Housing Units.

Appendix “B” to Report PED21097(a) – Transition Timeline Document.