

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Parking and By-Law Services Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> March 20, 2012	
<b>SUBJECT/REPORT NO:</b> Licensing of Motels (PED10075(b)) (City Wide) (Outstanding Business List Item)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Marty Hazell 905-546-2424 Ext. 4588 William Young 905-546-2424 Ext. 2469 Vincent Ormond 905-546-2424 Ext. 1358
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- a) That the Schedule 3 (Bed & Breakfasts) of the Licensing By-law No. 07-170 be amended:
  - i) to include Motels and Hotels, and be re-titled “Bed & Breakfasts, Motels, and Hotels”, and,
  - ii) to remove requirements that are duplicated in the Zoning By-law, Sign By-law and/or the Liquor License Act, and to remove unnecessary items/wording related to:
    - 1) play equipment, pools and laundry facilities which would be covered under other by-laws such as Property Standards, Health, etc.;
    - 2) provisions which are covered under the Zoning By-laws, the City’s new Sign By-law or the Provincial Liquor License Act; and,
    - 3) the requirement that room rates be posted;

- iii) to update language and add the following requirements for establishments licensed or applying to be licensed as a "Bed & Breakfast, Motel or Hotel":
  - 1) 24 hour on-site supervision where there are four or more guestrooms;
  - 2) working locks on all guestroom doors;
  - 3) cursory inspections annually for applicable health standards, fire safety standards, and property standards;
  - 4) every third year a Property Standards Certificate of Compliance;
  - 5) every third year an Ontario Electrical Safety Certificate; and,
  - 6) keeping records of complaints, and reporting immediately to the issuer of licenses any individual safety related complaints;
- b) That the draft by-law to amend the Licensing By-law 07-170, attached as Appendix "A" to Report PED10075(b), which has been prepared in a form satisfactory to the City Solicitor, be passed;
- c) That an annual license fee of \$277.00 be approved for Motels and Hotels and added to the City's User Fees and Charges By-law; and,
- d) That the item titled Licensing of Motels be identified as completed and removed from the Planning Committee's Outstanding Business List.

#### **EXECUTIVE SUMMARY**

At the April 5, 2011 meeting, the Planning Committee directed staff to "...*review the advantages and disadvantages of licensing motels, and include this consideration in the up-coming report on the potential for licensing additional uses.*" This Report recommends that Motels and Hotels be licensed, as there is a demonstrated public interest to do so.

#### **FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial/Staffing:** Staff recommends that the annual license fee for Motels and Hotels be the same as the Bed & Breakfast license fee which is currently \$235.00. However, Report PD01104(e), titled Business Licensing Fee Review, which is to be dealt with by the Planning Committee on February 28, 2012, recommends fee increases to reflect full cost recovery under current conditions, and the recommended fee is \$277.00 for Bed & Breakfast.

**Legal:** In accordance with the Municipal Act, 2007 business licensing powers may be exercised for the purposes of (1) health and safety, (2) nuisance control and/or (3) consumer protection.

**HISTORICAL BACKGROUND** (Chronology of events)

In approving Report PED10131 on June 2010, the (former) Economic Development and Planning Committee directed staff to conduct detailed investigations into establishing several new Business License categories where there may be a public interest to do so (i.e. public health or safety, consumer protection and/or nuisance prevention).

On April 5, 2011, the Planning Committee further directed staff to include Motels in that review, as follows:

*“That staff review the advantages and disadvantages of licensing motels, and include this consideration in the up-coming report on the potential for licensing additional uses.”*

**POLICY IMPLICATIONS**

N/A

**RELEVANT CONSULTATION**

Legal Services were consulted in the preparation of this Report.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

Bed & Breakfast facilities are home-based businesses located in residential areas, while Motels/Hotels are normally located in commercial areas. None of these establishments are intended to be permanent accommodations, and do not fall under the Residential Tenancies Act.

While Lodging Houses and Bed & Breakfast Establishments require business licences, there is no license requirement for Motels/Hotels. Motels/Hotels have always been viewed through the Innkeepers Act, 1990 and the Hotel Registration of Guests Act, 1990, but the only requirements are relating to an Innkeeper’s responsibilities with respect to “*the goods of his guests*” (e.g. record keeping, disposition of items left in rooms, etc.) and Hotel requirements for keeping a registry of guest names. With the new (December 2010) food premises definition in the Licensing By-law, all food premises under the Health Protection and Promotion Act are now captured including Motels/Hotels which serve food. Other than the above, there are no specific controls on Motels/Hotels but there are general by-laws which apply to all properties such as Property Standards, Yard Maintenance, Noise, etc.

In an effort to determine if there is a valid municipal purpose or a public need to require a business licence for Motels/Hotels, staff conducted an enforcement “blitz” in 2011.

Staff found by-law violations related to property standards (in some cases serious violations), yard waste and debris, graffiti, etc. at some Motels. Also, some Motels/Hotels are known to be a chronic source of complaint to enforcement staff and the Police concerning behavioural activities of guests.

One location was found to be in a serious state of disrepair. Four (4) Orders to Comply under the Property Standards By-law No.10-221 were issued requiring the property owner to either demolish the building or to undertake repairs to the following:

- missing/broken windows;
- safety railings which presented a danger to the public;
- damaged and deteriorating doors, and missing hardware;
- openings in the pavement;
- storm water drainage grates;
- missing and/or deteriorating stairs and missing and/or loose tiles;
- missing light fixtures;
- missing rainwater downspouts; and,
- deteriorating ceiling which required an engineering report to ensure structure was not a danger to the public.

While partial compliance was obtained, one (1) Order was not appealed and became final and binding on December 5, 2011. At the time of the writing of this Report, the owner had not made the required repairs, and staff were preparing to undertake this work under the authority of the Property Standards By-Law 10-221. The lowest quote to do the work was \$16,400.00 + HST (Harmonized Sales Tax).

While compliance was achieved in most cases from the enforcement blitz, it is concluded that continuous proactive enforcement efforts are required to protect the public as these violations would not otherwise have been found without proactive inspections because short-term guests generally do not complain. Further, the City's image to out-of-town visitors is also compromised if by-law violations exist, but are not reported or enforced.

There is no discernable defined difference between a Motel and a Hotel and the name is interchangeable. While services and amenities may vary, Motels/Hotels generally provide overnight accommodations to the vacationing or travelling public. Ontario municipalities that license Motels/Hotels are Guelph, Halton Hills and Niagara Falls. Staff concludes that there is a demonstrated public interest to do so in Hamilton.

In addition to adding of Motels/Hotels to the current Bed & Breakfast schedule of the Licensing By-Law, it has been determined that the schedule does not currently provide for adequate public protection for any short-term accommodation operation. The current Bed & Breakfast schedule is outdated and has many duplicated requirements which are covered in the Zoning By-law, the Sign By-law and/or the Liquor License Act. Further, there is wording which fails to properly impose requirements for consumer protection, public protection and nuisance control.

Highlights of the draft by-law include requirements for:

- 24 hour on-site supervision where there are four or more guestrooms;
- working locks on all guestroom doors;
- cursory health, fire and property standards inspections annually;
- every third year a Property Standards Certificate of Compliance;
- every third year an Ontario Electrical Safety Certificate; and,
- keeping records of complaints, and reporting immediately to the issuer of licences any individual safety related complaints.

And removing unnecessary wording/provisions related to:

- play equipment, pools and laundry facilities which would be covered under other by-laws such as Property Standards, Health, etc.;
- provisions which are covered under the Zoning By-laws, the City's new Sign By-law or the Provincial Liquor License Act; and,
- the requirement that room rates be posted as industry practices are to adjust rates seasonally and are generally made known and agreed to before a guest "checks in".

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

***Healthy Community***

- ◆ public health and safety is protected
- ◆ community quality of life

**APPENDICES / SCHEDULES**

Appendix "A" to Report PED10075(b) – Amending By-law

MH/BY/VO/mf

**Authority:** Item , Committee of the Whole  
Report (Staff report number)  
CM: Date

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO. \_\_\_\_\_**

**To Amend By-law No. 07-170, a By-law to License and Regulate Various  
Businesses**

**WHEREAS** Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

**AND WHEREAS** this By-law provides for the deletion and replacement of Schedule 3 to license bed and breakfasts, hotels and motels;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. By-law No. 07-170 is amended by deleting Schedule 3 and replacing it with the new Schedule 3, entitled "Bed and Breakfasts, Hotels and Motels", attached as Appendix A to this By-law.
2. Subparagraph 6(1)(e)(ii) and section 30 of the General Provisions of By-law No. 07-170 are amended by deleting the title "Schedule 3 Bed and Breakfast Establishments" and replacing it with "Schedule 3 Bed and Breakfasts, Hotels and Motels".
3. Appendix "B" of the General Provisions of By-law No. 07-170 is amended by deleting "3 (Bed and Breakfast Establishments) and replacing it with "3 (Bed and Breakfasts, Hotels and Motels)".
4. This By-law comes into force on the day it is passed.

**PASSED and ENACTED** this    day of    , 200 .

R. Bratina Mayor	R. Caterini City Clerk

## Appendix A

### SCHEDULE 3

#### BED AND BREAKFASTS, HOTELS AND MOTELS

##### INTERPRETATION

1. In this Schedule:

**"bed and breakfast, hotel or motel"** means a premises where one or more bedrooms are offered to members of the public who may pay for the use of a bedroom on any basis for 7 days or less and includes an inn but does not include a lodging house;

**"complaint record"** means a record of each complaint received by a bed and breakfast, hotel or motel from a guest; and,

**"guest"** means a member of the public who pays for a bed and breakfast, hotel or motel bedroom;

##### GENERAL

2. The Issuer of Licences is authorized to prescribe the format and content of any forms or other documents required under this Schedule.

##### LICENCE REQUIRED

3. No person shall operate a bed and breakfast, hotel or motel without a licence.
4. When submitting an application for a licence, an applicant for a licence under this Schedule shall:
  - (a) submit a detailed premises plan, drawn to scale, of the bed and breakfast, hotel or motel that has been approved by the Issuer of Licences and the details of such premises plan shall include but are not limited to depicting the location, as applicable, of all buildings or other structures, parking areas and walkways on the property where the bed and breakfast, hotel or motel is located and all entrances/exits, beds, dining areas and entertainment areas in the bed and breakfast, hotel or motel;
  - (b) upon first applying for a licence and every third year thereafter upon applying for a licence renewal, submit to the Issuer of Licences a certificate from the



- Electrical Safety Authority that the bed and breakfast, hotel or motel complies with the Ontario Electrical Safety Code;
- (c) submit a certificate from the Medical Officer of Health that the bed and breakfast, hotel or motel complies with the applicable health standards;
  - (d) submit a certificate from the Fire Department that the bed and breakfast, hotel or motel complies with the applicable fire safety standards; and,
  - (e) submit a certificate of compliance under the Property Standards By-law.
5. No licence holder under this Schedule shall change or cause a change to be made to a premises plan without first obtaining the approval of the Issuer of Licences.

**DUTIES OF OPERATOR**

6. Every person operating a bed and breakfast, hotel or motel shall:
- (a) when four or more bedrooms are offered to members of the public, ensure that either the operator or an employee who is responsible for the operation of the bed and breakfast, hotel or motel is present and available at the bed and breakfast, hotel or motel at all times;
  - (b) post in a conspicuous place in the bed and breakfast, hotel or motel:
    - (i) a current licence for the bed and breakfast, hotel or motel;
    - (ii) a notice stating the name of the operator or the employee who is present and available at the bed and breakfast, hotel or motel as required under subsection 6(a) and the telephone number where such operator or employee can be contacted immediately;
  - (c) keep a register in a form satisfactory to the Issuer of Licences that includes:
    - (i) the name and usual place of residence of each guest;
    - (ii) which bedroom the guest has paid to use;
    - (iii) the date and time the guest checks in; and,
    - (iv) the date and time the guest checks out;
  - (d) ensure that the register under subsection 6(c) is:
    - (i) easily readable;
    - (ii) not altered or deleted once completed;
    - (iii) kept for a minimum of one year; and,
    - (iv) made available to the Issuer of Licences upon request;

- (e) ensure that each guest bedroom, at the entrance to the guest bedroom from the outside of a building or from a common hallway or stairway inside a building, is provided with a door and a lock which is of a type that can be:
  - (i) secured by a guest when they are inside or outside of the bedroom; and,
  - (ii) opened from the outside by the operator or an employee only when the guest is not inside the bedroom or when the guest is inside the bedroom but chooses not to secure it against entry from the operator or an employee;
- (f) keep a complaint record for each complaint in a form satisfactory to the Issuer of Licences that includes:
  - (i) the date and time the complaint is received;
  - (ii) the complainant's name and telephone number, if provided;
  - (iii) the complaint reviewer's name;
  - (iv) the details of the complaint;
  - (v) the action taken in response to the complaint; and,
  - (vi) the date and time the complainant is notified of the action taken;
- (g) ensure that a complaint record under subsection 6(f) is:
  - (i) easily readable;
  - (ii) not altered or deleted once completed;
  - (iii) kept for a minimum of one year; and,
  - (iv) made available to the Issuer of Licences upon request;
- (h) report any complaint concerning the safety of an individual immediately to the Issuer of Licences;
- (i) be responsible for keeping the bed and breakfast, hotel or motel clean and orderly and maintained in all respects suitable for the purpose for which it is used, and for keeping the bed and breakfast, hotel or motel adequately lighted and ventilated; and,
- (j) ensure the bed and breakfast, hotel or motel meets all requirements of the *Building Code Act, 1992* and its regulations, the *Fire Protection and Prevention Act, 1997* and its regulations, the *Health Protection and Promotion Act* and its regulations and any applicable by-law.