
TO: GENERAL COMMITTEE

SUBJECT: REVIEW OF LICENSING, REGULATING AND GOVERNING
RESIDENTIAL RENTAL UNITS

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GENERAL MANAGER APPROVAL: P. ELLIOTT-SPENCER, GENERAL MANAGER OF COMMUNITY AND
CORPORATE SERVICES

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That Staff Report LCS005-17 concerning the Review of Licensing, Regulating and Governing Residential Rental Units, be received for information purposes and no action be taken with respect to the implementation of a licensing regime for rental housing.

PURPOSE & BACKGROUND

Report Overview

2. The purpose of this staff report is to compare the current enforcement practises of business licensing, property standards and zoning enforcement with the perceived benefits of licensing all rental housing. This review included an investigation of two other municipalities' currently operating licensing programs related to residential rental units. Included in the review were the staffing requirements and service levels provided, benefits of the licensing regime, as well as the challenges faced by the municipality in licensing residential dwelling units.
3. It is important to note that there appears to be a perception that if a municipality licenses a rental unit, the municipality has an automatic "right of entry" to inspect the property at any time. However, legally that is not the case. Although a licensing system may require an annual inspection of a property, any inspection must be arranged in advance and the owners or tenants have the right to refuse entry to the dwelling at any time.

Background

4. On April 11, 2016, City Council adopted motion 16-G-067 regarding Regulating Boarding Lodging Rooming Houses (BLRs) as follows:
 - "1. That staff in the By-law Services use their best efforts within their existing resource capacity to identify potential Boarding Lodging Rooming Houses (BLRs) through the monitoring of "rooms for rent" advertising and investigate as feasible to confirm compliance with the Zoning By-law, the Building/Fire Codes, the Property Maintenance By-laws and the Municipal Licensing By-law.

2. That staff in the Building and By-law, Legal and Planning Services Departments investigate the following and report back to General Committee.
 - a) The City of Oshawa's experience with respect to regulating the business of residential housing units through their zoning and licensing by-laws specifically as it relates to requiring licensing of all rentals in an explicitly designated area of Oshawa; and
 - b) The legality and feasibility of requiring all low rise rental housing in the Community Improvement Project Area defined in the Georgian College Neighbourhood Community Improvement Plan to be licensed. (BBS001-16) (File:A00-16) (P65/12, P55/13)."

5. Section 151.(1) of the Municipal Act, 2001, states "Without limiting sections 9, 10 and 11, a municipality may provide for a system of licensing with respect to a business and may,
 - a) prohibit the carrying on or engaging in the business without a licence;
 - b) refuse to grant a licence or to revoke or suspend a licence;
 - c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
 - d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
 - e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
 - f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and
 - g) require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any part of a system of licenses established by the municipality. 2006, c. 32, Sched. A, s. 82."

Current licensing and enforcement practices in the City of Barrie

6. Current administration and enforcement practices as it relates to rental housing within the City are in place in order to:
 - a) Protect the health and safety of persons residing in rental units; and
 - b) Protect the character and stability of residential areas and prevent nuisances.

7. The City of Barrie currently licenses both small and large Boarding, Lodging and Rooming Houses throughout the community. The properties are required to be inspected annually in addition to submission of heating and electrical inspections (every 5 years), detailed floor plans and parking plans, \$2 million dollars liability insurance, Fire Safety Inspections and on initial application, the owner must have a property standards inspection. The owner is required to pay an annual licence fee as well as any additional inspection fees for the various departments who may attend.

8. Other forms of rental housing are not regulated in the City of Barrie through a licensing process. However, all properties in the City are subject to the provisions of the Property Standards, Yard Maintenance and Zoning By-laws. When a property is found to be in violation of one of these by-laws, the City's current service fee program assists in the recovery of a portion of the operating costs related to the enforcement. These fees fall outside of the licensing process.
9. Barrie currently has two (2) full time and one (1) part time Zoning Enforcement Officers addressing zoning enforcement matters, four (4) full time Property Standards Officers who enforce the Yard Maintenance and Property Standards By-law. These Officers address zoning, property standards and yard maintenance matters related to all properties (rental and owner occupied) throughout the City. As well, two (2) Municipal Law Enforcement Officers are assigned to business licensing for ALL business licensing categories identified in the City's By-laws. Administrative support related to the above disciplines is the equivalent of 2 FTE.
10. A large majority of the complaints received from the public related to rental housing deal with violations related to exterior property conditions, front yard parking, boulevard and on-street parking as well as noise.

ANALYSIS

11. Historically, a number of challenges have been experienced within the municipality related to rental housing. In dealing with rental units as compared to owner occupied homes, a larger number of complaints are received from neighbouring residents concerning the lack of care taken with the maintenance of the exterior property and the buildings. Illegal parking and noise generated by tenants has also been a concern, particularly in the area known as the "College Area". For example, in 2016 the City received a total of 1500 property standards / yard maintenance complaints City wide. Of those 1500 complaints, approximately 35% were received in the College Area. Of the complaints in the College Area, an estimated 75% were related to exterior property matters. In addition, staff received 3649 parking complaints City wide in 2016, of which 41.5% were received in the College Area.
12. Current enforcement relating to standard rental units has involved the efforts of Enforcement Services through the Property Standards By-law, Yards Maintenance By-law, and Zoning By-law. (note - as of October 4, 2016, the Zoning Enforcement staff now form part of the Planning and Building Services Department). Recent efforts have included the proactive enforcement with a "zero tolerance" approach to vehicles parked on front lawns contrary to the front yard parking provisions of the Zoning By-law. This enforcement has primarily been carried out in Ward 1 (College Area) as this is the area where local residents have expressed continuous concerns. The dedication of resources to provide a higher level of property standards as it relates to exterior property conditions as well as a moratorium on two unit houses within the College Area has also created greater satisfaction for the home owners within the area.
13. Coordinated efforts between various enforcement staff has resulted in a higher level of service and a much more positive outlook regarding rental housing within the City and, in particular, the College Area.
14. One of the main challenges associated with addressing concerns related to rental units is the ability of the officer to gain entry into the dwelling units. It should be made quite clear that a licensing program will in no way enhance this ability. An officer wishing to enter a dwelling is required to first obtain the informed consent of the legal occupant or the officer is only permitted to enter under the authority of a search warrant. Experience has shown that the Justices will only issue a search warrant where the officer has produced sufficient evidence to support the need for a search warrant. Obtaining search warrants is time consuming and the information provided by a complainant or available without entering the property has not typically been deemed adequate by the Judiciary to support the issuance of a search warrant.

15. Currently enforcement staff respond to tenant complaints for interior property issues and are therefore invited in by the complainant. No permission is required for Property Standards Officers, Zoning Enforcement Officers or Municipal Law Enforcement Officers to deal with exterior property conditions.

Municipal Review – Oshawa, Waterloo and Barrie Comparison

16. As requested by Council, the licensing regimes utilized by Oshawa and Waterloo were reviewed. The following chart outlines a summary of the information obtained related to licensing and enforcement:

	Oshawa	Waterloo	Barrie
Licence – All Rental Units (citywide)	No – only in designated area	Yes	No – only licence Boarding Lodging Rooming (BLRs) houses
Register Two Unit Houses (Second Suites)	No – covered under licensing by-law	No– covered under licensing by-law	Yes – one time registration (Planning Services)
Annual Interior inspections (prior notice required / permission required)	Yes	Yes	Yes (BLRs only)
Automatic Right of Entry	No – only when invited by tenant/property owner after giving notice of their right to refuse entry / or with a search warrant	No – only when invited by tenant/property owner after giving notice of their right to refuse entry / or with a search warrant	No – only when invited by tenant/property owner after giving notice of their right to refuse entry / or with a search warrant
Addressing Exterior Property Violations (yard maintenance, parking etc.)	Yes – within licensing by-law, demerit point system, not utilized to date to revoke licence	Yes – within licensing by-law	Yes – outside of licensing by-law, Zero Tolerance for complaints related to property standards, zoning matters, parking etc.
Staffing Levels (current) specifically related to rental housing	Equivalent of: 2 – FT Municipal Law Enforcement Officers 1 – Fire Prevention Officer 1 – Administrative Clerk (note: additional staff were hired in Oshawa to address its new licensing requirements, beyond the existing enforcement staff for City-wide by-laws)	6 – FT Municipal Law Enforcement Officers 1 – Fire Prevention Officer 1 – Zoning Administrative Officer 1 – Administrative Clerk (note: additional staff were hired in Waterloo to address its new licensing requirements, beyond the existing enforcement staff for City-wide by-laws)	Equivalent of: 0.5 – Property Standards Officers 1 – Zoning Enf. Officers .5 – Administrative Clerk

17. While the licensing of rental units may provide another mechanism to impose requirements on the home owner, a full licensing program will require additional staff. A review of the City of Waterloo, indicated that the municipality currently licenses all rental units. In order to effectively implement this licensing program, an additional six (6) full time Municipal Law Enforcement Officers, one (1) Fire Prevention Officer, one (1) Zoning Administration staff and one (1) administrative staff were hired. Waterloo has a population of approximately 134,000. It appears that the main benefit of the Waterloo program is that the licence fees allow the program to achieve cost recovery and allows for a proactive approach to the community concerns regarding rental housing that were not specifically addressed in other by-laws or had not been enforced from their property standards by-law.
18. The City of Oshawa also licenses rental housing, yet focuses their efforts only on the college area of the City. The City of Oshawa has a demerit system for property owners which allows the Issuer of Licenses to suspend or revoke the licence for repeated noncompliance with municipal regulations. In speaking with the staff, the demerit point system has not been as effective as planned and no licenses have been suspended or revoked at the time of this report.
19. The licensing program in Oshawa appears to be successful in helping to obtain contact information of property owners (through the licence application data collected) and has allowed the licensing officers to introduce programs to upgrade property conditions. An example of such a program was a roof inspection initiative which resulted in many property owners being required to repair or replace their roofs during a particular year. Oshawa staff indicated that the licensing program has not limited or stopped people from renting. In fact, it appears that the annual licence fee of \$500.00 is considered a good investment for foreign investors to have a City official inspect and approve the business operation yearly as it helps mitigate their perceived liability. At the time of the review, there were 380 to 400 licences issued annually in a relatively small geographic area compared to Barrie's "College Area".
20. City of Oshawa Municipal Law Enforcement Officers inspect annually as well as proactively (only when permission has been granted as it relates to interior matters) and Fire Prevention Officers inspect on an annual basis. Therefore a total of three full time officers are required as well as administrative support for the program. Licensing revenue helps offset the cost of the program.
21. Both the City of Waterloo and the City of Oshawa rely on the licence fees to help offset or cover the costs related to the additional staffing requirements. This form of licensing does allow the municipality to maintain regular contact with the owners or property managers as well as allowing for inspection and approval requirements annually, such as heating inspections, insurance requirements, fire inspections, etc.
22. While the licensing regimes implemented in Oshawa and Waterloo allow for annual inspections and provide contact information for the property owner, licensing by-laws do not provide a right of access to inspect at any time. As noted in the example statistics above, the majority of the complaints received from the Barrie public deal with violations related to exterior property conditions, front yard parking, boulevard and on-street parking as well as noise. As these matters are already addressed in various City of Barrie by-laws, the enforcement of such violations would not be significantly enhanced by implementing an additional licensing program for all rental units.

ENVIRONMENTAL MATTERS

23. There are no environmental matters related to the recommendation.

ALTERNATIVES

24. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could alter the proposed recommendation by moving forward with authorizing the licensing of all residential rental units within the City and direct staff to propose a licensing program to be implemented along with the hiring of the additional staff necessary to complete the implementation.

Although this alternative is available, it not recommended at this time as staff do not believe that it would substantially alter the ability to address concerns raised by either tenants or neighbouring residents. It would not significantly enhance the current enforcement measures in place and would be costly to the municipality.

Alternative #2

General Committee could alter the proposed recommendation by moving forward with authorizing the licensing of all residential rental units within the "College Area" only and direct staff to propose a licensing program to be implemented along with the hiring of the additional staff necessary to complete the implementation.

Although this alternative is available, it may not be considered a fair and equitable licensing system and similar to a City-wide licensing program, it would not significantly enhance the current enforcement measures in place. Additional staffing and costs would still be required to implement even a partial program.

FINANCIAL

25. There are no financial implications for the Corporation resulting from the proposed recommendation.

LINKAGE TO 2014-2018 STRATEGIC PLAN

26. The recommendation(s) included in this Staff Report support the following goals identified in the 2014-2018 Strategic Plan:

Responsible Spending

27. The recommendation in this staff report is to maintain the current enforcement activities and not to implement a licensing program for rental housing that would require additional resources to administer and enforce, without significant enhanced benefits to the community.