



TO: GENERAL COMMITTEE

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

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GENERAL MANAGER APPROVAL: D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES
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CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That Staff Report PLN040-19 concerning the Review of Licensing, Regulating and Governing Residential Rental Units including absentee landlords, 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 rental housing. This review included an investigation of other municipalities currently operating licensing programs related to residential rental units. Also included as part of 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.

Background

3. On June 24, 2019, City Council adopted motion 19-G-213 regarding investigating a residential absentee landlord licensing structure as follows:
 - “1. That staff in the Legislative and Court Services and the Planning and Building Services Departments investigate the feasibility of implementing a residential absentee landlord licensing structure for the purpose of detached, semi-detached and townhouse uses and report back to General Committee.”

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4. The nature of the request surrounded property standards and licensing rental units was raised by several property owners in the Georgian Neighbourhood Area as the City considered proposed Official Plan and Zoning By-law amendments to explore accessory suite restrictions in the Georgian Neighbourhood Area.
 5. Section 151.(1) of the Municipal Act, 2001, states “Without limiting sections 8, 9 and 10, 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.”
 6. It may be understood that creating a licensing regime will assist in regulating exterior property issues such as parking, yard maintenance and the overall condition of the home; however, while additional penalties may be possible under a licensing regime, it would not prevent nor address these matters more extensively than our current regulations. Regulations are in presently in place that can address those concerns from both a Zoning and Yard Maintenance standard. Owners are currently responsible for the upkeep and condition of the property whether tenanted or owner occupied.
 7. 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.

Current licensing and enforcement practices in the City of Barrie

8. Current administration, zoning 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.

9. 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.
10. 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 any 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 and can be charged by following regular enforcement procedures across the City.
11. While other forms of rental housing are not regulated by the City of Barrie, an accessory suite is required to be registered with the City of Barrie.
12. The registration of an accessory suite involves an inspection of a unit by the Building, Fire and Property Standards department as may be applicable based on year of inception. An accessory suite cannot be registered if it is unsafe or if there are any violations.
13. With the current provisions in the City's Official Plan and Zoning By-law, accessory suites are not permitted in the Georgian Neighbourhood Area. This inability to register accessory suites does not mean there are no accessory suites, it simply means the suites have not been inspected by City departments.
14. Subsequent staff reports addressing accessory suites in the Georgian Neighbourhood Area along with proposed amendments to the registration by-law are intended to come before Council prior to the end of the year.
15. Barrie currently has three (3) full 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. 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 3 FTE.
16. The majority of 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

17. 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 been a concern, particularly in the Georgian Neighbourhood Area. In 2018 the City received a total of 1,782 property standards / yard maintenance complaints City wide. Of those 1,782 complaints, approximately 21% were received in the Georgian Neighbourhood Area and an estimated 75% of those complaints were related to exterior property matters. In addition, staff received 5,722 parking complaints City wide in 2018, of which 43% were received in the Georgian Neighbourhood Area.

18. Current enforcement relating to standards of rental units has involved the efforts of Enforcement Services and Planning Services through the Property Standards By-law, Yards Maintenance By-law, and Zoning By-law.
19. 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 Georgian Neighbourhood Area. Staff recognize continued efforts are needed to address these standards moving forward.
20. Currently there are not enough resources to undertake proactive enforcement in the Georgian College Neighbourhood (and the rest of the community). As a result, enforcement of matters is complaint based. Due to unexpected absences and an increased volume in complaints over the last few years for Zoning and Enforcement Services there have been some delays in responding to complaints.
21. Staff are currently undertaking a review of Enforcement Services staffing and will be reporting back to General Committee with recommendations related to the results of the review.
22. One of the other 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. On rare occasions warrants have been obtain for illegal units or the operation of too many units on a single property under the zoning by-law.
23. 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.
24. For complaints about the property standards on a property's exterior, right of entry is not required and complaints are resolved more effectively when Enforcement Officers can speak to the property owner directly.

Municipal Review – Oshawa, Waterloo, Thorold and Barrie Comparison

25. In response to the Council directive, the licensing regimes utilized by Oshawa and Waterloo and Thorold were reviewed. The following chart outlines a summary of the information obtained related to licensing and enforcement:

	Oshawa	Waterloo	Thorold	Barrie
Licence – All Rental Units (citywide)	No – only in designated area	Yes	Yes	No – only license Boarding Lodging Rooming (BLRs) houses
Register Two Unit Houses (Second Suites)	Yes	No – covered under licensing by-law	No – Second dwelling's currently not permitted under Zoning By-law	Yes – one time registration (Planning Services) subject to the registration by-law

Annual Interior inspections (prior notice required / permission required)	Yes	Yes	No – Inspection required upon new or renewed licence (2 years)	Yes (BLRs only)
	Oshawa	Waterloo	Thorold	Barrie
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 requiring compliance with property standards By-law	Yes – within licensing by-law, clean yard and property standards by-laws and regional waste management 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 2 – Administrative Clerk (note: additional staff were hired in Oshawa to address its new licensing requirements)	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 new licensing requirements)	Not provided at the time of completion of this report	Equivalent of: 0.5 – Property Standards Officers 1 – Zoning Enf. Officers 0.5 – Administrative Clerk

26. 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.
27. 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.
28. City of Oshawa 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. In 2018 the City of Oshawa issued 645 Licences and so far in 2019 have issued about 800 licences in a relatively small geographic area compared to Barrie's Georgian Neighbourhood Area.

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29. City of Oshawa Municipal Law Enforcement Officers inspect units annually as well as proactively (when permission has been granted as it relates to interior matters) and Fire Prevention Officers inspect on an annual basis. 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.
 30. 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.
 31. 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 AND CLIMATE CHANGE IMPACT MATTERS

32. There are no environmental or climate change impact matters directly related to the recommendation.

ALTERNATIVES

33. 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 is 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 recommend that an additional enforcement officer be hired on a seasonal basis (April 1 to October 30), to address the time of the year when the greatest number of complaints are received.

As the Enforcement Services Staffing Review is underway, it is recommended that the review be completed prior to any decisions with respect to additional staffing.

FINANCIAL

34. There are no financial implications for the Corporation resulting from the proposed recommendation. Should an alternative direction be taken by Council to license residential rentals there would be additional costs to the corporation to administer and enforce a licensing regime.

LINKAGE TO 2018-2022 STRATEGIC PLAN

35. The recommendation(s) included in this Staff Report support the following goals identified in the 2018-2022 Strategic Plan:
- Fostering a Safe & Healthy City
 - Building Strong Neighbourhoods
36. 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.