

December 4, 2019

To: Members
Executive Committee

Re: Residential Short Term Accommodation (Homestay)

RECOMMENDATION

1. That the following regulatory changes be approved:
 - (a) an amendment to *The Regina Zoning Bylaw, 2019*, effective January 1, 2021 to change Service Trade, Homestay from a discretionary use to a permitted use in all zones where it is currently discretionary;
 - (b) an amendment to *The Regina Zoning Bylaw, 2019* to clarify that Service Trade, Homestay is a separate category from Residential Business;
 - (c) the establishment of a licensing and regulatory regime for all residential short term accommodations as further detailed in Appendix A of this report; and
 - (d) an amendment to *The Regina Appeal Board Bylaw* to enable the Regina Appeal Board, which hears appeals related to business licences, to hear licensing appeals for short term accommodation licences.
2. That the City Solicitor be instructed to prepare the necessary bylaws to implement the approved regulatory scheme for residential short term accommodation and bring the bylaws forward to the January 2020 meeting of City Council which would allow sufficient time for advertising of the required public notices for *The Regina Zoning Bylaw, 2019* amendment.
3. That this report be forwarded to the December 16, 2019 meeting of City Council for approval.

CONCLUSION

At its meeting of September 24, 2018, Council passed a resolution requesting that Administration consult with interested parties to explore regulating the residential homestay industry.

In response to the resolution, Administration conducted an online survey, requested feedback from interested parties, completed a jurisdictional review, interviewed internal staff and analyzed market data. This work revealed a desire of survey respondents to offer short term accommodation in their homes, a high incidence of non-compliance with the current discretionary use process and an interest in licencing residential short term accommodation.

Based on this work, Administration recommends moving from the current discretionary use approval process to a licensing process where short term accommodations are a permitted use in residential zones.

Upon approval of the recommendations, the Administration will bring forward bylaw amendments to the January 2020 meeting of City Council.

BACKGROUND

With increasing numbers of residential short term accommodation (STA), Council requested that Administration explore regulating the residential homestay industry. Below is a review of Regina's current regulations, a discussion of the STA market in Regina, a jurisdictional review and information on the consultation undertaken by Administration.

Regina's Current Regulatory Environment

Zoning. The City regulates STA through *The Regina Zoning Bylaw, 2019* under the classification "Service Trade, Homestay". A Homestay is a dwelling unit where short term accommodation is provided. Short term accommodation is defined as the provision of sleeping and bathing quarters for a period of less than 30 days where a daily or weekly rate is charged. Homestay is a discretionary use in all Residential Zones and a permitted use in several other zones as indicated in the map in Appendix B.

For reference, Homestay includes the former land uses "Residential Homestay" and "Bed and Breakfast Homestay" from the previous Zoning Bylaw 9250.

Licensing. *The Licensing Bylaw* requires businesses that operate from a residential premise to obtain a resident business license. Where a residential premise is the subject of a business (i.e. a rental property), a resident business license is not required for that location.

Taxes. The property tax classification of a property as residential, commercial or otherwise, is determined by the assessor in accordance with The Cities Act and regulations. A residential building being used as a short term accommodation will in most cases be classified as residential in accordance with the provincial legislation. The City does not have the authority to amend property classifications by bylaw.

Some other jurisdictions levy an accommodation tax or tourism fee on all short term accommodations (including hotels). Regina does not collect any accommodation or tourism taxes. *The Cities Act* does not include any authority to impose such a tax.

Health and Safety. All dwelling units must comply with *The Uniform Building and Accessibility Standards Act*, National Building Code and *The Building Bylaw* at the time of construction, alteration or change in use. They must also meet the Fire Code and *The Regina Fire Bylaw, 2018*. *The Regina Fire Bylaw, 2018* contains additional requirements specifically for buildings not occupied by the owner, buildings with more than one dwelling unit and buildings where lodging is provided for a fee (excluding hotels). These requirements are:

- hard wired smoke alarms with battery backup
- inspection and testing by owner once every six months and with each new occupancy
- records required of each inspection/test where not owner occupied

All properties in Regina are being required to meet the maintenance requirements of *The Community Standards Bylaw*.

Current Regina STA Market

Administration obtained third-party data for historical listings for Airbnb and VRBO (which is estimated to capture 95 per cent of the STA market). Many hotels, motels and traditional bed and breakfasts are listed on both platforms but were not included in the following analysis.

The data indicates that there were 947 listings in the last twelve months. A listing can be for all or part of a dwelling. Of the listings, 530 (56%) were for an entire dwelling while 417 (44%) were for a room in a dwelling.

Of the 947 listings:

- 431 (46%) were never rented
- 185 (20%) were rented for less than 30 nights
- 161 (17%) were rented between 31 and 90 nights
- 108 (11%) were rented between 91 and 180 nights
- 62 (7%) were rented for more than 180 nights
- 178 (19%) were apartment units
- 20 (11%) of apartment units were rented for more than 90 nights

Information on number of listings per host was also analyzed. Only the Airbnb data allowed us to categorize by host. There was a total of 575 hosts with 883 listings on Airbnb.

Of the 575 hosts:

- 448 (78%) had only one listing (house, room or apartment unit)
- 52 (9%) had multiple listings of entire houses (153 houses)
- 12 (2%) had multiple listings of apartment units (59 units)

Jurisdictional Review

Administration reviewed the regulatory approach of five Canadian cities that have recently reconsidered their approach to STA: Vancouver, Toronto, Ottawa, Calgary and Saskatoon. Of these cities, Vancouver is the only one whose bylaw is currently being applied. Toronto's bylaw came into effect just this month. Saskatoon, Ottawa and Calgary are at approximately the same

stage of review as Regina with reports to their respective Councils expected before the end of 2019.

A detailed breakdown of each city's approach is contained in Appendix C. Themes revealed in the jurisdictional review of these five cities are as follows:

- A license is required for all types of STA operator
- All differentiate between primary residence/secondary property in some way, with Toronto, Ottawa and Vancouver prohibiting STA in secondary properties due to long term rental shortages
- Toronto and Ottawa require the online platform to obtain a license
- No cities cap the number of nights available
- No cities use a discretionary use process, although Saskatoon is considering it for secondary properties
- License fees for primary residences are reduced in order to limit barriers to obtaining a licence, with fees typically \$50 to \$100
- Except in Ottawa, hotels and motels are exempt
- Enforcement is enhanced by requiring operators to post their business license number in any advertisement, allowing cities to spot non-compliant advertisements and to work with the Airbnb platform to request that unlicensed applicants be denied listings or that listings be removed
- Requirements focus on obtaining a license and complying with health safety legislation through a system of random audits

Further study of other jurisdictions shows that a major focus is overcoming enforcement challenges (and costs) by creating a scheme that is effective yet simple to comply with (low cost, online registration).

Public Consultation

The City undertook consultation through an online survey and by requesting feedback from identified interested parties. In addition, Administration reviewed service requests received by the City over the past two years. All persons who contacted the City, including the identified interested parties, were invited to appear as a delegation upon Committee and Council's consideration of this report.

Survey. Attached as Appendix D are the online survey results. A total of 1,801 participants responded to the survey, providing the following information:

- A. Respondents indicated agreement that residents should be able to operate short term accommodations:
 - 77% of respondents agreed that residents should be able to rent out their primary homes on a short term basis (15% disagreed)

- 77% of respondents agreed that residents should be able to rent rooms in their primary home on a short term basis (15% disagreed)
 - 60% of respondents agreed that this is an important source of income (21% disagreed)
- B. A majority of residents (61%) agreed that residents should be allowed to operate an STA in a secondary property (27% disagreed).
- C. There is some concern about disruption of neighbourhoods with 31% of respondents agreeing that STA led to noise and increased traffic (51% disagreed);
- D. Residents were split on whether or not the City should license STA with 33% of respondents in favour of licensing all, 31% of respondents in favour of licensing when it is not your primary residence and 31% in favour of not requiring a license.

Interested Parties. Written feedback was requested from the Regina Hotel Association, Regina Chamber of Commerce, Tourism Regina, the Saskatchewan Bed and Breakfast Association, Airbnb, Regina Downtown Business Improvement District and Regina Warehouse Business Improvement District. Feedback was received from three organizations and is attached as Appendix E and summarized below:

- The Saskatchewan Bed and Breakfast Association requested that all residential short term accommodations be treated the same and that the owner be required to reside in the home. The Association identified that it believes Bed and Breakfasts have worked hard to comply with City bylaws and that it is not fair that other residential short term accommodations have not complied.
- The Regina Hotel Association stated that it supports home-sharing in an owner's principal residence but desires that accommodation outside of an owner's principal residence be taxed and regulated, and that rental listing companies like Airbnb and Homeaway be required to obtain a business license.
- Airbnb did not suggest a specific approach but suggested Regina consider its own circumstances surrounding travel trends and vacancy rates rather than follow what other cities have done. Their submission provided some explanation of measures their platform uses to facilitate the receipt of complaints from operators, guests and neighbours.

Service Requests. During the 22-month period from January 1, 2018 to November 1, 2019, the City received 33 service requests mentioning "Airbnb," "homestay," or "short term rental". The service requests were analyzed to determine the nature of the call:

Service Requests by Topic 2018 and 2019	
Inquiry about Approval Process	19
Complaints about suspected STA	14
TOTAL	33

In comparison to the 13,887 bylaw related service requests the City received during the same time frame, the number of complaints specific to suspected STA was very small (0.24%). The 14 STA complaints did not indicate concerns unique to a short term rental. The types of complaints included things, such as a parked out of province vehicle, noise, furniture on the lawn, people coming and going.

DISCUSSION

The above information was used to establish five key objectives for proceeding with STA regulations:

1. Allow residents to rent out all or part of their home on a short-term basis
2. Increase inspections for health and safety requirements imposed by other legislation
3. Encourage compliance and reduce enforcement costs by minimizing barriers
4. Improve regulatory equity amongst short term accommodation providers
5. Address concerns about nuisances in neighbourhoods

The following table summarizes the options considered by Administration:

	Option 1	Option 2	Option 3 (status quo)	Option 4
Description	Move STA from discretionary use to permitted use and implement licensing	Retain discretionary use process for secondary properties only	Discretionary use approval required in residential areas	Move STA from discretionary use to permitted use without any licensing requirements
Zoning Implications	Permitted use in Residential Zones; Permitted use in Mixed Use Zones	Permitted in Residential Zones if primary residence; Discretionary Use if secondary, Permitted in Mixed Use Zones	Discretionary use in Residential Zones, Permitted in Mixed Use Zones	Permitted use in Residential Zones
Licensing Implications	All STA properties require license	All STA properties require license	Resident Business License if applicable	No license required
License cost *all are cost recovery	\$50 primary residence \$225 secondary property	\$50 primary residence \$225 + \$2500 secondary property	\$2500 for discretionary use application where required; \$225 for resident business license if required	\$0

Licensing Requirements	<ul style="list-style-type: none">• All licensees required to submit to an inspection upon request of the City;• Fire inspection for licensees in secondary properties in the first year and every three years thereafter;• Licensee must be in compliance with all applicable laws, including: Fire Code, <i>The Regina Fire Bylaw, 2018</i>, Building Code, <i>The Regina Zoning Bylaw</i>;• Proof of Permission of landlord for tenants wishing to operate an STA;• License number required to be included in all advertising and listings;• Cannot offer STA in accessory building, temporary building, vehicle or recreational trailer;• Offence for platform to fail to remove non-compliant listing upon request of the City;• Fines of \$1000 for failure to license or advertising without a valid license number;• License renewal one year from date of issuance;• License is non-transferrable;• License may be suspended or revoked for violations of other laws as determined by the License Inspector.
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The options are discussed in more detail below.

Option 1. Move from discretionary use process to licensing (Recommended Option)

Administration recommends a licensing scheme that takes into account Regina’s market conditions. We have focussed on a simple approach in an effort to achieve compliance and reduce implementation and enforcement costs. Since Regina is not experiencing a long term rental crisis as in larger cities with high rates of tourism, we do not recommend prohibiting the rental of secondary properties.

In order to meet the identified objectives, Administration recommends moving away from the current discretionary use approval process and establishing a licencing scheme with a lower license fee if the operator is a resident renting out their own home (Option 1).

This option best accomplishes the objectives identified in Administration’s review. Moving from discretionary to permitted use supports the desire of residents to operate STA and facilitates increased compliance through the substitution of a simpler and more affordable licensing process. The licensing requirement addresses regulatory equity by treating STA as a resident business, facilitates inspections and allows the City to keep better statistics on incidence of complaints and the ability to suspend or revoke a license when persistent or serious infractions occur.

This recommended approach focuses on licensing the operator rather than the international company/platform. This is preferred because the operator has more control over the property. The proposed licensing bylaw would include a requirement that host platforms remove listings upon request of the City and failing to do so would be an offence under the bylaw.

Option 2. Retain discretionary use process for secondary properties only, licensing for all STA

This option differs from Option 1 only in requiring a discretionary use approval if the proposed STA is to be operated outside the primary residence of the operator. Council may wish to choose this option if it desires to exercise discretion on the basis of land use development.

This option is not recommended because it does not support fully the objective of allowing residents to operate short term accommodation and due to the potential number of applications, Council would have to hear should all operators apply. Should all of the operators with more than one whole home (house or apartment unit) listing come forward for discretionary use approval, this could see Council considering upwards of 244 discretionary use applications. This estimate assumes all persons with multiple listings have also listed their own home (which was not included in the estimate) and does not include anyone who has one listing for a secondary property which would not be caught by the multiple listings analysis.

Option 3. Status Quo

Maintaining status quo does not meet any of the objectives in an effective way due to the high incidence of non-compliance with the discretionary use approval process. In the past 27 years, only 14 properties have been approved as a residential or bed and breakfast homestay, and none are currently licensed as residential businesses.

Operating an STA in most residential areas requires a discretionary use approval. Given that the data suggests most people are renting all or part of their homes on a part-time basis, the cost (\$2,500), delay and uncertainty of obtaining a discretionary use approval would likely be seen as prohibitive. This means most people may choose not to operate an STA or do so without complying with City bylaws. Data collected shows that 45 per cent of operators that list their property never actually rent it and that 20 per cent rent it for less than 30 days. Therefore, the majority of applicants may never recover the costs of the discretionary use approval.

Option 4. Move STA from discretionary use to permitted use without any licensing requirements

This option would be the closest to a fully deregulated approach. It would be the least expensive option as it minimizes City involvement in the industry. Health and safety requirements, such as compliance with The National Building Code and *The Regina Fire Bylaw, 2018* would still exist. However, without any formal way of monitoring the industry, inspections would only take place on a complaint basis or if a building permit was taken out. Nuisance related issues, such as those related to noise and parking, would still be regulated under other relevant bylaws.

This option is not recommended because it makes it challenging for the City to ensure compliance with health and safety laws.

Implementation

Once the bylaw is in place in early 2020, the Administration will begin working with Airbnb to seek platform changes for the Regina market and to obtain agreement on a data transfer (which

has been implemented in other Cities). An online licensing system will be procured in 2020 and in place prior to January 1, 2021, after which all homestays will be required to have a license from the City. Prior to website launch, information will be provided to residents on how to ensure their property is compliant with the bylaw and, where required, fire inspections can be scheduled.

An implementation date of January 2021 is recommended because it provides the best opportunity for compliance and cost recovery and provides the best option from a customer service perspective. The current computer system used for licensing programs is dated and does not have the ability to offer online registration and payment options. Funding for a new licensing solution was approved in the 2019 budget and implementation will occur throughout 2020. Other municipalities have identified that an online registration portal is essential to ensure compliance.

In addition to internal technological upgrades, Airbnb has indicated it can work with Regina to add fields to listings which would assist us with enforcement. Given that we are a smaller centre and the numbers of cities currently working with Airbnb up to 6 months may be required to make necessary changes to the Airbnb Regina listing process.

Should Council choose an implementation date prior to January 2021, customer service and the ability to adequately enforce will be impacted due to the lack of an online registration portal, requiring all license applicants to attend to City Hall.

RECOMMENDATION IMPLICATIONS

Financial Implications

The licensing fees are proposed to be \$50 for a primary residence and \$225 for a secondary property. The \$225 fee is the same as is currently required for a residential business. These fees are intended to recover the cost of administration and enforcement which is estimated at \$50,000 - \$100,000 per year (given Regina's 516 active listings), depending on compliance rates. Revenues and costs will be monitored and if fee adjustments are required, they will be brought forward to Council through the budget process.

Both Vancouver (6,667 listings) and Calgary (3,364 active listings) estimated administration and enforcement costs at over \$600,000 per year, while Ottawa estimates administration and enforcement costs at \$834,000 (6,278 listings) in year 2 and beyond. These costs typically include several licensing and enforcement staff, costs to hire a contracted data collection firm and the cost of increased legal services.

Environmental Implications

None with respect to this report.

Policy and/or Strategic Implications

The recommendations contained within this report supports the Community Priority of “Fostering Economic Prosperity”.

Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

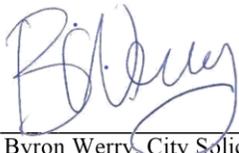
Parties who were initially consulted or who have requested to be notified of this report have been notified of this report.

Should a licensing approach be approved by Council, the Administration will develop a plan to inform residents of the new licensing requirements.

DELEGATED AUTHORITY

City Council’s approval is required as this report recommends bylaw amendments and the passage of a bylaw.

Respectfully submitted,



Byron Werry, City Solicitor

11/25/2019

Respectfully submitted,



Chris Holden, City Manager

11/26/2019