

Residential Short Term Accommodation (Homestay)

| | |
|---------------------|------------------------------|
| Date | September 16, 2020 |
| To | Executive Committee |
| From | City Solicitor's Office |
| Service Area | Office of the City Solicitor |
| Item No. | EX20-27 |

RECOMMENDATION

The Executive Committee recommends that City Council:

1. Approve the following regulatory changes:
 - (a) amendments 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 and related amendments to facilitate the establishment of the licensing program as further described in this report;
 - (b) amendments to *The Licensing Bylaw* to establish a licensing and regulatory regime for all residential short term accommodations as further detailed in Appendix A of this report;
 - (c) 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. Remove EX19-49 from the outstanding items list for the Executive Committee.
3. Direct the City Solicitor to prepare the necessary bylaws to implement the licensing and regulatory scheme for residential short term accommodation and the amendments to *The Regina Zoning Bylaw, 2019* described in this report to the meeting of City Council one month following the approval of the recommendations described in this report.

4. Approve these recommendations at the September 30, 2020 meeting of City Council.

ISSUE

At its meeting of September 24, 2018, Council passed a resolution in relation to report CR18-88 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 both market and Service Regina call data. This work revealed: a desire from 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 licensing residential short term accommodation.

Based on this work, on December 4, 2019 report EX19-39 was presented to Executive Committee which recommended moving from the current discretionary use approval process to a licensing process with short term accommodations being a permitted use in residential zones. That report was referred back to Administration requesting additional information regarding: “legal aspects of secondary properties, best practices, licensing fees, zoning, taxation, bylaw enforcement, cost of garbage and utilities, parking, safety, and human trafficking”.

The information contained in EX19-39 is presented below, with modifications to update some now outdated information and with an increased licensing fee recommendation. Answers to the specific questions posed on December 4, 2019 are included as Appendix A.

IMPACTS

Financial Impact

Where the benefits of a program or service are directly attributable to specific beneficiaries, the costs are to be paid by those beneficiaries through user fees or other similar charges. The licensing and inspection fees proposed in this report are intended to fully cover the cost of administration and enforcement of the program which is estimated at \$75,000 per year. A more detailed analysis of the calculations for cost recovery are included in Appendix A.

Strategic Impact

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

OTHER OPTIONS

The following table summarizes the options for regulating residential short term accommodation (STA) that were considered by Administration:

| | Option 1 Licence & permitted use (recommended) | Option 2 Licence & permitted/ discretionary | Option 3 (status quo) | Option 4 De-regulate |
|--|--|--|--|---|
| Description | Move STA from discretionary use to permitted use and implement licensing | Retain discretionary use process if the home is not the applicant's primary residence, implement licensing | 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 not primary residence 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 licence | All STA properties require licence | Resident Business Licence if applicable | No licence required |
| Fees *all are full cost recovery | \$100 primary residence \$300 other than primary residence | \$100 primary residence \$300 + \$2500 other than primary residence | \$2500 for discretionary use application where required; \$225 for resident business licence if required | \$0 |

Each of the options not recommended are discussed in further detail below. The discussion section provides further context in terms of the objectives considered in arriving at the recommended option.

Option 2. Retain discretionary use process only where the property is not the primary residence of the applicant, licensing for all STA

This option differs from Option 1 in requiring a discretionary use approval if the proposed STA will 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 fully support the objective of allowing residents to operate short term accommodation due to the time, uncertainty and cost (\$2500) associated with the discretionary use process. Should all operators apply this could mean at least 148 discretionary use applications to be heard at committee and council to bring the current minimum number of anticipated secondary properties into compliance.

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 current discretionary use approval process. Operating an STA in most residential areas requires a discretionary use approval which costs \$2500 and must be decided by City Council. This process and expense can be prohibitive for the majority of residents who are renting their homes on a part time basis. 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.

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 enforced under other relevant bylaws.

COMMUNICATIONS

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

DISCUSSION

With increasing numbers of residential short term accommodation, Council requested that Administration explore regulating the industry. This information was originally provided to Executive Committee on December 4, 2019. At the meeting several questions were posed to Administration and included in a referral motion for additional information. The additional information requested is provided in Appendix A.

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 for less than 30 days is provided for a fee and includes both "Residential Homestay" and "Bed and Breakfast Homestay" from the previous Zoning Bylaw 9250. Service Trade, 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.

Property Tax. 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 provincial legislation. In order to change the current classification system an amendment to *The Cities Regulations* would have to be made by the Government of Saskatchewan. See Appendix A for a more detailed explanation.

Accommodation Tax. The City of Regina does not collect any accommodation or tourism taxes. In order to collect an accommodation tax an amendment to *The Cities Act* would have to be made by the Government of Saskatchewan.

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* and *The Community Standards Bylaw. 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

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 in the one-year period analyzed (ending November 2019) there were 947 listings, of which 516 were rented at least once during that time. A listing can be for all or part of a dwelling; therefore, one property can be listed multiple times. Of the listings rental of a whole home was more common than rental of a room:

| Listings and rentals by type | | | | |
|------------------------------|-----------------|----------------|-----------------|----------------|
| | Entire Unit | | Room | |
| | Listed | Rented | Listed | Rented |
| Number of listings | 530 | 317 | 417 | 199 |
| % of total listings/rentals | 56% of listings | 61% of rentals | 44% of listings | 39% of rentals |

Of the 947 listings, almost half were never rented and 7 per cent were rented for more than half of the year:

| Listings by rental frequency | | | | | |
|------------------------------|--------------|---------------------|--------------|---------------|----------------------|
| | Never Rented | Less than 30 Nights | 31-90 Nights | 91-180 Nights | More than 180 Nights |
| Number of listings | 431 | 185 | 161 | 108 | 62 |
| % of total listings | 46% | 20% | 17% | 11% | 7% |

Information on number of listings per host was also analyzed. There was a total of 575 hosts with 883 listings on Airbnb (data for other platforms didn't include host information):

| Listings by host | | | |
|------------------|-------------|-----------------------------------|--------------------------------------|
| | One listing | Multiple Listings of entire house | Multiple Listings of apartment units |
| Number of Hosts | 448 | 52 | 12 |
| % of Total Hosts | 78% | 9% | 12% |

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.

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 licence is required for all types of STA operator
- most differentiate between primary residence/secondary property in some way, with Toronto, Ottawa and Vancouver prohibiting STA in secondary properties
- Toronto and Ottawa require the online platform to obtain a licence
- licence 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 accomplished mainly by requiring operators to post their business licence 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 licence 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).

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. Results from the online survey are included in Appendix D. 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 per cent of respondents agreed that residents should be able to **rent out their primary homes** on a short term basis (15 per cent disagreed)
 - 61 per cent of respondents agreed that residents should be able to rent out properties that are **not their primary home** on a short term basis (27 per cent disagreed)

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

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 almost 2.5 year period from January 1, 2018 to June 10, 2020, the City received 22 service requests for complaints about an alleged "Airbnb," "homestay," or "short term rental". In comparison to the 16,627 bylaw related service requests the City received during the same time frame, the number of complaints specific to suspected STA was very small (0.13 per cent). The types of complaints included parking, noise, messy yards, numbers of people and vehicles. Without a licence system in place the City has no record of whether the property subject of the complaints was actually an STA. On some files, an investigation ruled out the operation of an STA at these properties.

Policy Objectives

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 and focussing enforcement efforts on secondary properties
4. Address concerns about nuisances in neighbourhoods

In order to meet the identified objectives, Administration recommends moving away from the current discretionary use approval process and establishing a licensing scheme. Recognizing the part-time nature of STA in a home-owner's primary residence and the regular presence of the home-owner at their primary residence, the proposed fees and inspection requirements are reduced for primary residences. 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 facilitates inspections and allows the City to keep better statistics on incidence of complaints and the ability to suspend or revoke a licence when persistent or serious infractions occur.

Licence Requirements

The proposed licensing program would include the following requirements, as further detailed in Appendix F:

- All licensees required to submit to an inspection at any time, upon request of the City
- Fire inspection for licensees in properties that are not a primary residence ("secondary properties") will be scheduled in the first year and every three years thereafter
- Property must be in compliance with all applicable laws
- Proof of permission of landlord for tenants wishing to operate an STA
- Cannot offer STA in accessory building, temporary building, vehicle or recreational trailer
- Licence number required to be included in all advertising and listings
- Platforms will be required to remove non-compliant listings upon request of the City
- Fines of \$1,000 for failure to licence or advertising without a valid licence number
- Should the licence holder be the subject of complaints or convictions an investigation would occur which, if substantiated, would result in suspension or revocation, depending on the nature and severity of the infraction. This would apply to any issue which may affect the suitability of the licence holder; such as bylaw, criminal or human rights code violations. Note that where the investigatory agency is not the City, we would defer to the findings of that body.

Licence Fees

Licence fees are intended to be cost recovery. Further detail on cost analysis is included in Schedule F. The estimated annual costs of the program are \$75,000. This amount has been re-

assessed and increased since this report initially went forward in December 2019. The Administration is proposing that residents renting their primary residence pay a reduced amount due to the likelihood that the use would be more infrequent and require less enforcement due to the involvement of the homeowner with the property. We are, therefore, recommending that primary residents pay a \$100 fee and secondary properties would cost \$300 per property. In comparison, the City's current fee for a residential business is \$225 and the City does not require a licence for a commercially zoned business such as a hotel or motel.

Below are several other licence fee scenarios that result in the same cost recovery values, along with licence fees charged by other major Cities. It should be noted that the fees charged by Calgary and Ottawa do not meet full cost recovery of their programs through licensing fees.

| Licence Fee options and comparison | | | | | | | | |
|------------------------------------|----------------------|-------------|-------------|-------------|-----------|----------|----------|-----------|
| | Recommended Option 1 | Option 2 | Option 3 | Option 4 | Vancouver | Calgary | Ottawa | Saskatoon |
| Fees paid | Annual | Annual | Annual | Annual | Annual | Annual | 2 years | Annual |
| Primary Residence | \$100.00 | \$75.00 | \$50.00 | \$150.00 | \$99.00 | \$100.00 | \$100.00 | \$85.00 |
| Secondary Residence | \$300.00 | \$375.00 | \$450.00 | \$150.00 | \$99.00 | \$172.00 | \$100.00 | \$85.00 |
| Revenue | \$ 75,000.00 | \$75,000.00 | \$75,000.00 | \$75,000.00 | | | | |

Zoning Bylaw Amendments

The recommendations include amendments to *The Zoning Bylaw, 2019* to implement the licensing program. These additional amendments would include the following:

- (a) **Development Permit.** Currently a residential business licence serves as the development permit for a residential business. A similar process would be implemented for STA.
- (b) **Residential Business.** Residential businesses are limited to 25 per cent of the square footage of the home. Some residential businesses, such as daycares are exempt from this requirement. STA would be added as a further exemption.
- (c) **Landscaping.** Currently a Service Trade, Homestay requires that 10 per cent of the site be landscaped and that a landscaping plan be submitted to the City for review and approval. A residential business has no separate landscaping requirement from that of a Dwelling, Unit. An amendment would be made to place Service Trade, Homestay in the same category as residential business.

Implementation

Once the bylaw is in place, Administration will:

- begin working with Airbnb and other platforms to seek platform changes for the Regina market
- initiate procurement of an online licensing system (approved in the 2019 budget)

- provide information 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 to allow time to complete the above implementation plan. This will provide the best opportunity for higher initial compliance and cost recovery, as well as providing a better customer service experience. The current computer system used for licensing programs does not have the ability to offer online registration or payment. 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 number of cities currently working with Airbnb up to six months may be required to make necessary changes to the Airbnb Regina listing process.

DECISION HISTORY

Report CR18-88 from the September 24, 2018 meeting of City Council included the following resolution: "Administration consult with interested parties to explore regulating the residential homestay industry".

Report EX19-39 from the December 4, 2019 meeting of Executive Committee was referred back to Administration for further information.

Respectfully Submitted,



Dawn Schikowski, Manager Licensing & Parking Services 9/09/2020

Respectfully Submitted,



Byron Werry, City Solicitor

9/09/2020

Prepared by: Dawn Schikowski, Manager, Licensing & Parking Services and Chrystal Atchison, Legal Counsel

ATTACHMENTS

Appendix A Executive Committee Questions
Appendix B Zoning Map Permitted use
Appendix C Jurisdictional review
Appendix D Survey Results
Appendix E1 Saskatchewan Bed and Breakfast Association
Appendix E2 Regina Hotel Association
Appendix E3 Airbnb response
Appendix F STA Licence Program