

Regulatory Options for Emergency Shelter Standards

Administration reviewed the existing legal tools and authorities available to the City of Edmonton for requiring mandatory adoption of all or parts of the Minimum Emergency Shelter Standards and developed two options for future consideration.

Option 1 - Explore Regulation through Business Licensing

The Business Licence Bylaw establishes a framework for ensuring that businesses are compliant with relevant rules and regulations prior to operating in Edmonton. The aim of business licensing processing is to provide clear requirements to facilitate faster decision-making and transparency without imposing unnecessary or unreasonable barriers for businesses.

Some of the proposed operating standards for emergency shelters could potentially be addressed through the Business Licence Bylaw by establishing operating requirements and an approved operational plan.

Operating Requirements

Operating requirements, also known as deemed conditions, are rules in the Business Licence Bylaw that specific types of businesses must follow. However, the requirements must have a clear connection to the business activities and a direct impact on the public interest. Once a licence is issued, businesses that do not comply with their operating requirements may be fined.

For shelter operators, shelter standards related to compliance with the approved operational plan, communicating guest expectations to shelter guests, and dealing with shelter guests that are violent or disorderly could be considered under the Business Licence Bylaw.

Operational Plans

Operational plans are an educational tool to encourage businesses to adopt specific measures to comply with other City bylaw requirements (such as noise). The operational plan allows applicants to acknowledge their understanding of relevant bylaw requirements (including the operating requirements), and describe specific policies, procedures, and other measures for complying with the requirements. While businesses can be fined if they do not follow the measures in their approved operational plans, the operational plan is first and foremost an educational tool.

Administration would review operational plans and accept or refuse the operational plan based on the applicable minimum standards and stakeholder

expectations. The plan could also be used to recommend best practices that cannot be mandated through licensing or to provide links to other resources.

Shelter operators would be required to submit operational plans for new business licence applications and any time the contents of their plans become out-of-date due to operational changes. However, the requirement could be waived for renewals as a way to balance the increased regulation with avoiding unreasonable barriers for shelter operators.

Limitations of Option 1

Regulation under the Business Licence Bylaw would not be an ideal solution for mandating shelter standards as:

- most of the proposed shelter standards would be excluded as operating requirements (for example, providing storage lockers for guests is not a reasonable requirement for a business licence)
- shelter standards that pertain to quality of service or best practice are not part of the mandate of the Business Licence Bylaw (for example, placing couples side by side does not have a clear and direct connection to public safety and bylaw compliance)

Business licensing would not be an effective tool if the goal is to prevent shelters that do not meet minimum standards from operating. Enforcement under the Business Licence Bylaw does not result in immediate business closure and is limited to issuing fines, and in some cases, cancelling, suspending, refusing, or imposing conditions on licences.

Option 2 - Explore a System for Issuing Permits to Emergency Shelters

A dedicated bylaw for emergency shelter standards could establish a permitting system where only shelters that meet minimum standards would be eligible for a business licence to operate. Regulation of the identified standards would be independent of the Business Licence Bylaw and a valid permit could be a requirement for a business licence. Alternatively, a business licence could be made a requirement for a permit.

Limitations of Option 2

Even with a dedicated bylaw, the City lacks the authority to mandate all of the proposed shelter standards, so many standards would still be excluded. Depending on how many standards could be included, a permitting scheme may not add much value to the regulation of shelters and instead may simply increase red tape and scrutiny for shelters as they address homelessness concerns. Additional enforcement resources would also need to be considered.

Further Considerations

Before either option is accepted, additional factors should be carefully explored:

1. *Impact on stakeholders*

Additional requirements may place financial and operational constraints on internal and external stakeholders. Shelter operators, enforcement partners, and other stakeholders should be consulted in order to fully understand how they will be affected, and establish mitigation strategies.

2. *Impact on capacity to help those in need*

Shelters unable to meet licensing or permit requirements and not permitted to operate may decrease the overall availability of emergency shelter services and may result in unintended negative impacts on people experiencing homelessness.

3. *Number of businesses affected*

If only a small number of emergency shelters would be impacted by licensing or permit requirements, an education-based approach, supported by grant funding to encourage voluntary adoption of the proposed standards may be more appropriate. Public funding agreements with emergency shelters could require incorporation of the proposed shelter standards.