

# Bylaw 19143 - Business License Bylaw Amendment No. 43

## Short-Term Rentals - Potential Bylaw Amendments

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### Recommendation

That Urban Planning Committee recommend to City Council:

That Bylaw 19143 be given appropriate readings

### Purpose

To amend the Business Licence Bylaw, Bylaw 13138 to include provisions that will enhance enforcement and compliance with short-term rental regulations.

### Readings

Bylaw 19143 is ready for three readings.

A majority vote of City Council on all three readings is required for passage.

If Council wishes to give three readings during a single meeting, then prior to moving third reading, Council must unanimously agree “That Bylaw 19143 be considered for third reading.”

### Position of Administration

Administration supports this Bylaw.

### Previous Council/Committee Action

At the August 27, 2019, City Council meeting, the following motion was passed:

That Administration explore potential bylaw changes to manage concerns regarding short term rentals, including:

- a development permit process for “entire rental” properties;
- increased property tax rates, fees, or levies in lieu for “entire rental” properties;
- measures to hold online rental platforms accountable to complaints raised about hosts;

- the potential for an additional fee to be directed to support affordable housing and tourism;
- complaint thresholds that would result in license suspension and/or removal

and report back to Urban Planning Committee.

### **Executive Summary**

Short-Term Rental Accommodation is a new business activity in Edmonton and as of August 27, 2019 requires a business licence. In order to enhance bylaw enforcement and compliance, Administration is proposing the following three amendments (Attachment 1, Bylaw 19143) to the Business Licence Bylaw:

- to require that short-term rental operators include a valid business licence number on their advertisements;
- to deem an advertisement of a short-term rental property as evidence of a business operation at that property; and
- to deem the registered owner of a short-term rental property to have consented to the advertising of that property.

This report also provides an overview of additional options for potential regulatory amendments through zoning, taxation, and licensing.

### **Report**

As of May 2019, there were 2,146 short-term rental properties identified in the city. Of these, 63 percent are “entire home rentals”, where the property is for the exclusive use of guests. Between April 2018 and December 2019, there were 43 public complaints associated with short-term rentals under Business Licence Bylaw 13138; and 53 complaints under Community Standards Bylaw 14600. Attachment 2, Mechanisms to Address Short-Term Rental Concerns, provides an overview of tools used to address complaints.

Council directed Administration to explore a number of options to manage concerns regarding short term rentals. These options span different areas including zoning, taxation, licensing and provincial regulation. Some of the options reviewed are not recommended due to complexities with implementation or because they are not effective tools to address many of the concerns. Further, they would create unnecessary red tape without the ability to meaningfully address the concerns or impacts.

As this is an evolving industry, Administration supports continued coordination of regulations across multiple disciplines including licensing, zoning, community standards and police services.

### **Development Permit Process for “entire rental” Properties**

Residential uses in Zoning Bylaw 12800 are intended to provide living accommodations regardless of whether accommodation is permanent or semi-permanent. Presently, a Development Permit is only required for a shared home rental. Zoning Bylaw 12800 regards this use as a Major Home Based Business to operate a Bed and Breakfast. A Development Permit is required because the rooms being rented may create additional land use impacts above those created by the primary residents of the home. Where an entire home is rented out, the initial land use impacts are replaced (and not added to) by the renters of the property.

The City could potentially require a Development Permit for the short-term rental of an entire home. However, this would not create effective enforcement mechanisms that would allow the City to practically address the challenges that have been identified for short-term rentals. This is because the specific issues being raised by some of the short-term rental units (e.g., noise) are addressed by other bylaws that have more responsive enforcement operations and mechanisms than are available through Zoning Bylaw compliance. Ultimately, a requirement for a Development Permit would not adequately address the concerns raised by some short-term rentals.

Due to the relatively low number of complaints, a potential increase in use of resources and the ability to manage complaints through existing bylaws and services, Administration does not recommend regulating the short-term rental of an entire home via a Development Permit.

### **Increased Property Tax Rates, Fees, or Levies in Lieu for “entire rental” properties**

#### Increased Property Tax Rates

Entire rental homes can be placed within the non-residential tax class if there is sufficient evidence that the property is truly operating as an entire home rental. Similar to a hotel, an entire home rental would be a property that is intended to be rented out all the time. The owner would not be using the property as a primary residence, rather as a rental to a series of short-term guests.

Unfortunately, without a way to easily track entire rental homes, the administrative cost to track and apply a different tax rate would be significant. The easiest way to track such properties would be based on licensing. However, using this solution creates two separate concerns. First, there is no current distinction in licensing between short-term entire-rental homes used as investment properties year round, and other types of short-term rentals. Business Licensing could create a tiered system to distinguish the two, and Assessment and Taxation would then be able to classify the properties

accordingly based on this tiered system. However, the issuance of the proper business license and the initial property tax rate assignment relies on the information provided by the business owner in the licence application.

Second, property tax is structured to tax the current use of a property given the past value and condition of that property. Mechanisms would therefore need to account for changes to a property, including properties that are newly licensed, that cancel a licence, and that only operate for a portion of the year. This would add a level of complexity to the taxation of these property types and thus, require additional staff time.

#### Fees

The City's *User Fees White Paper* identified that user fees should be matched to any private benefit created by services provided. In this instance, the City would not be providing additional services beyond what is provided to any other short-term rental properties; therefore, a property owner would not derive increased private benefit. For this reason additional fees are unlikely to be added specifically to an entire rental property.

#### Levies in Lieu

Other levy tools such as an accommodation tax are possible but fall outside the City's jurisdiction. Administration understands the Government of Alberta intends to bring forward legislation in spring 2020 to impose the four percent tourism levy on short-term rental transactions. This is likely to address some of the equity concerns between short-term rentals and traditional short-term accommodation providers.

Based on the above, Administration does not recommend increased property tax rates, fees or levies in lieu for short-term rentals at this time.

### **Measures to Hold Online Rental Platforms Accountable to Complaints Raised About Hosts**

Online platforms operate their business transactions outside the City's jurisdiction and without any physical locations in the city. Any regulatory requirement to hold online platforms accountable would need to consider assigning responsibility to an internationally based service provider (the platform) for the actions of a local business (host) using that service or a guest renting from the host.

Holding online rental platforms accountable would require online platforms to hold a valid Business Licence for the introduction and payment services that occur within the city. The online platform would then be subject to a Business Licence Review process

if they breached their business license conditions or other City Bylaws. There are some limitations to this approach, including:

- application of the approach would need to span to all online service providers for equity across the industry thus, requiring more resources to administer and enforce,
- cross border or international enforcement or litigation, and
- online rental platforms do not have control over or access to any short-term rental properties as they provide a digital service.

Administration does not recommend a licence requirement for online platforms. Instead, Administration is proposing a bylaw amendment requiring that a valid business licence number be posted with any advertisements for short-term rental properties including advertisements on online platforms. This will increase the number of hosts with valid Business Licenses, promote compliance with the Bylaw, and maintain enforcement options regarding Licensees who may not comply with conditions of their licence. Proposed amendments can be found in Attachment 1, Bylaw 19143.

### **The Potential for an Additional Fee to be Directed to Support Affordable Housing and Tourism**

The Government of Alberta intends to apply the tourism levy on short-term rental transactions in 2020. As such, Administration does not find it necessary to impose an additional fee to be directed towards tourism.

Currently, revenue in excess of direct expenses from Business Licensing is transferred to general revenues. If directed, Administration could direct net revenue from Short-Term Residential Rental Accommodation licences to the affordable housing portfolio. This would enable Administration to capture costs of administering the licences but not overall policy or program costs, and any additional revenue would be used to support the City's affordable housing goals. There may be some risk that a revenue transfer will impact corporate revenue.

### **Complaint Thresholds That Would Result in License Suspension and/or Removal**

The requirement for a short-term rental to hold a business licence was introduced in August 2019. Since then, Administration has received a low number of bylaw complaints regarding short-term rentals. The lack of meaningful data to set a threshold for complaints means that Administration requires additional time to both use and refine existing enforcement measures and to collect data to set a reasonable threshold for licence suspension or removal.

In the interim, Administration has discretion to impose conditions on a licence, suspend or cancel the licence, or issue a violation ticket for a bylaw offence. This enables Administration to take appropriate action based on the circumstances of each case. As a measure to facilitate enforcement action, Administration recommends that any advertisement of a short-term rental property is proof of business activity occurring at that property and that the registered owner of a short-term rental property is deemed to have advertised or consented to the advertisement of the property. This will provide an increase in investigation efficiency and success.

### **Bylaw 19143**

Bylaw 19143 proposes the following bylaw amendments that will enhance enforcement and compliance with short-term rental regulations:

1. A requirement that short-term rental operators include a valid business licence number on advertisements for the property. AirBnB has indicated willingness to work with the City to implement this requirement, and the City would continue to work with other platforms to achieve compliance with the requirement.
2. A provision to deem an advertisement of a short-term rental property as evidence of a business operation at that property. This is intended to increase the success and efficiency of enforcement action.
3. A provision to deem the registered owner of a property to have advertised, or consented to the advertisement of the property as a short-term rental in the absence of evidence to the contrary. This is also intended to increase the success and efficiency of enforcement action.

### **Next Steps**

Administration is committed to effective regulation of the short-term rental industry through various bylaws and through collaboration with partners such as the Government of Alberta and the Edmonton Police Service. As discussed at the August 20, 2019 Urban Planning Committee meeting for CR\_5820 Bylaw 18942 - Options to Manage the Impacts of Short-Term Rentals, Administration will monitor the implementation and enforcement of the regulations, together with the progression of the short-term rental industry, and propose regulatory changes as necessary. Administration anticipates that minor changes may be made to the Business Licence Bylaw 13138 through the Bylaw Renewal in January 2021, with the potential for more robust changes to be brought forward in 2021. This will provide over twelve months of data collection that can be reviewed and analysed prior to making any potential changes to the Bylaw.

## Corporate Outcomes and Performance Management

<b>Corporate Outcome(s): Edmontonians are connected to the city in which they live, work and play</b>			
<b>Outcome(s)</b>	<b>Measure(s)</b>	<b>Result(s)</b>	<b>Target(s)</b>
Development of a livable, safe and sustainable community	Percentage of short-term rental accommodations with licences	2.1 percent (2019, Q4)	100 percent
	Vacancy rate	5.3 percent (2018, Q4)	3 percent

## Public Engagement

Administration carried out interviews with municipal regulators, the hospitality industry, platform providers, Business Improvement Areas, short-term rental hosts, and a community league. Administration also conducted focus group discussions with short-term rental hosts and guests; and online surveys with Canadian travellers and Edmontonians. Overall, the stakeholders were supportive of short-term rental regulations and they emphasized the need for the regulations to balance the different interests. The feedback was used in making recommendations for CR\_5820 Bylaw 18942 - Options to Manage the Impacts of Short-Term Rentals and for this report.

## Attachments

1. Bylaw 19143
2. Mechanisms to Address Short-Term Rental Concerns

## Others Reviewing this Report

- M. Persson, Deputy City Manager and Chief Financial Officer, Financial and Corporate Services
- C. Owen, Deputy City Manager, Communications and Engagement
- G. Cebryk, Deputy City Manager, City Operations
- R. Smyth, Deputy City Manager, Citizen Services
- B. Andriachuk, City Solicitor