



Licensing and Registration Regulations for Short-Term Rentals

Date: November 7, 2017

To: Licensing and Standards Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This report is one of three reports on short-term rental regulations being considered by City Council. This report recommends a registration and licensing program for short-term rental activity in Toronto. It recommends that anyone doing a short-term rental in their home must register with the City and any companies that facilitate short-term rental activity, like Airbnb, must be licensed.

The other two reports provide:

- Zoning changes to permit short-term rentals in principal residences across the city and in secondary suites – report considered at November 15, 2017, Planning and Growth Management Committee.
- Potential short-term rental tax – report expected at November 29, 2017, Executive Committee.

The recommended short-term rental regulations were developed based on the following principles: permit people to rent their homes for short periods; minimize negative impacts on housing affordability and availability; enable greater diversity in tourism accommodations; maintain community stability, including in vertical communities; minimize nuisances; and create regulations that are fair and easy for people and companies to follow.

This report recommends that a bylaw governing short-term rentals be enacted to include that:

- People who want to advertise or offer short-term rentals in their homes must be registered with the City.
- People may rent their entire home while they are away for a maximum of 180 nights per year.
- People may share their home for an unlimited number of nights when renting up to three rooms and/or one secondary suite.

- People must post their City-issued registration number in all advertisements for their short-term rental.

To register a home for short-term rental use, the recommended bylaw includes that people must:

- Provide basic information, such as contact information and address;
- Make a declaration that the address is their principal residence;
- Ensure that the property, including secondary suite, is in compliance with all applicable laws including the Ontario Building Code and Ontario Fire Code (as applicable), and must make a declaration of such;
- Keep records of short-term rental activity and provide to City upon request;
- Provide emergency information to guests;
- Provide contact information for a person available by phone 24 hours a day; and
- Pay an annual registration fee of \$50.

This report also recommends that short-term rental companies be licensed. Short-term rental companies would be required to:

- Ensure that all listings have a valid registration number;
- Develop a procedure to mitigate neighbourhood nuisances;
- Provide information about short-term rental activity with the City; and
- Pay a one-time licence application fee of \$5,000 and a licensing fee of \$1 for each night booked through the company.

The recommendations were developed based on input from the public and stakeholders in August and September 2017 on the regulations adopted for consultation by Executive Committee on June 19, 2017. Staff heard from 225 attendees at public open houses, 5,316 respondents to an online survey, 45 stakeholders at targeted stakeholder meetings, and 27 residents via email. This is in addition to the extensive research and consultation undertaken from October 2016 to May 2017 in preparation for the June 2017 report.

The following City divisions were consulted in the preparation of this report: Affordable Housing Office; Corporate Finance; Economic Development and Culture; Legal Services; City Planning; Shelter, Support and Housing Administration; Social Development, Finance and Administration; Toronto Fire Services; and Toronto Building.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

New Bylaw

1. City Council direct that a separate Toronto Municipal Code Chapter be established for short-term rentals, in accordance with the recommendations contained in this report.

Definitions

2. City Council define the following terms in the short-term rentals bylaw:
 - a. A **short-term rental company** is any person in the business of facilitating or brokering bookings for short-term rentals via the internet and who:
 - i. receives payment, compensation, or any other financial benefit as a result of a person making or completing bookings of those short-term rentals; or
 - ii. collects, accesses, or holds information on the number of nights that bookings of those short-term rentals are made or completed.

This definition does not apply to a person who facilitates or brokers bookings for a short-term rental owned by that person or his or her immediate family. "Person" includes multiple persons who act together to carry on the business of a short-term rental company, despite the fact that no single one of those persons carries on the activity in its entirety. Such persons shall be subject to the requirements and may be held jointly and severally responsible for each other's actions.

- b. A **short-term rental** is all or part of a dwelling unit in the city of Toronto used to provide sleeping accommodations for any rental period that is less than 28 consecutive days in exchange for payment. This includes existing bed and breakfasts and excludes hotels and motels and accommodations where there is no payment.
- c. An **operator** is any individual person (owner or tenant) who operates a short-term rental. Operators must be 18 years of age or older. Corporations cannot be operators.
- d. A **principal residence** is a dwelling unit owned or rented by an individual person, alone or jointly with another person, where he or she is ordinarily resident.
- e. An **entire-unit rental** is a short-term rental in which the renter occupies an entire dwelling unit.
- f. A **partial-unit rental** is a short-term rental in which the renter occupies part of the dwelling unit.

Short-Term Rental Operator Registry

3. City Council direct that short-term rental operators register with the City annually. Registration shall consist of paying an annual registration fee and providing the following information:

- a. Name, contact information (phone and email), address and identification of a type to be determined by the Executive Director, Municipal Licensing and Standards;
- b. Emergency contact information (name and phone number of a person available by phone 24 hours a day during rental);
- c. Description of which parts of the property will be used for short-term rental (entire unit, number of bedrooms, secondary suite, other shared space);
- d. Building type (condominium, apartment, detached, semi-detached, row house, townhouse, etc.); and
- e. Any other information or documents required by the Executive Director, Municipal Licensing and Standards.

Short-Term Rental Operator Requirements

4. City Council direct that:
 - a. No one shall operate or advertise any short-term rental that is not registered;
 - b. Operators must include the City-issued registration number in any advertisement and in any invoice or contract related to the short-term rental;
 - c. Operators must update the registry within six days of any changes to the information provided to the City;
 - d. Operators must keep records of transactions related to every short-term rental listing for three years with the following details and provide this information to Municipal Licensing and Standards within 30 days of being requested to do so:
 - i. Number of nights rented as a short-term rental;
 - ii. Rental type (entire unit, shared unit, or secondary suite); and
 - iii. Any other information as required by the Executive Director, Municipal Licensing and Standards.
 - e. Operators must provide emergency contact information (reachable during guest stay) to all guests; and
 - f. Operators must provide guests with a diagram of all exits from the building and 911 emergency contact information.

Principal Residence Requirements and Rental Limits

5. City Council direct that short-term rental operators comply with the following:
 - a. No operator shall rent or advertise for rent a short-term rental except at their principal residence;
 - b. An operator can only have one principal residence at any time; and
 - c. An operator must, upon request from Municipal Licensing and Standards, provide evidence that is satisfactory to the Executive Director within ten days that the property they have registered for short-term rental use is their principal residence.

6. City Council direct that an operator shall not be permitted to operate an entire-unit rental for more than 180 nights per calendar year.

Refusing or Cancelling an Operator's Registration

7. City Council direct that the Executive Director, Municipal Licensing and Standards, can:
 - a. refuse or cancel a registration if the operator meets specific criteria developed by the Executive Director, Municipal Licensing and Standards. The criteria will be similar but not limited to the criteria summarized in this report; or
 - b. exercise discretion to refuse or cancel a registration where the operator:
 - i. Has not carried on the activity with integrity and honesty;
 - ii. Has violated any law or bylaw;
 - iii. Is conducting activity in such a way that would infringe on the rights of other members of the public; or
 - iv. Has or would endanger the health or safety of other members of the public.

8. City Council direct that the Executive Director, Municipal Licensing and Standards, provide the operator with written notice that consideration is being given to the refusal or cancellation of the operator's registration, and that the operator have an opportunity to respond in writing to this notice within ten days of being notified. Municipal Licensing and Standards will then provide the operator with written notice of any decision to refuse or cancel the registration.

9. City Council direct that an operator be provided with an opportunity to request, in writing, a second review of any decision to cancel their registration by

the Executive Director, Municipal Licensing and Standards, within 30 days of the decision. The Executive Director will consider the request for second review and inform the operator in writing of the decision made, which may affirm or change the original decision.

10. City Council direct that where Municipal Licensing and Standards is reviewing whether to refuse or cancel an operator's registration, the process by which the decision is reached shall be in writing unless the operator requests an oral or electronic hearing and the Executive Director determines that there is a good reason to hold an oral or electronic hearing and, if so, by whom and how the hearing shall be conducted.

11. City Council direct that, if an operator's registration has been refused or cancelled pursuant to this process, the operator cannot reapply to the registry for one year.

12. City Council direct that the Executive Director, Municipal Licensing and Standards, have the discretion to cancel a registration if the operator's registration was issued due to a technological or clerical error.

Short-Term Rental Company Licence

13. City Council require all short-term rental companies to be licensed with the City. To apply for a short-term rental company licence, the company shall pay a licence fee and provide the following information:

- a. Name, phone number, and email address of a person responsible for responding to all City communications;
- b. A registered business address in Ontario; and
- c. Any other information or documents as required by the Executive Director, Municipal Licensing and Standards.

14. City Council require companies keep transaction records of every short-term rental listing for three years with the following details and disclose this information to Municipal Licensing and Standards in a format and in accordance with a schedule determined by the Executive Director:

- a. Name, address, and registration number of the operator;
- b. Number of nights rented as a short-term rental;
- c. Rental type (entire unit, shared unit, or secondary suite); and
- d. Any other information as required by the Executive Director, Municipal Licensing and Standards.

15. City Council require a company, upon request by Municipal Licensing and Standards, to convey any communications issued by the City that relate to the requirements of the short-term rental bylaw to all operators advertising with the company in a format and manner determined by the Executive Director.

16. City Council require that companies:

a. Maintain and make publicly available their procedure for dealing with listings when complaints are received about nuisances, criminal activity, and/or contraventions of federal, provincial or municipal law;

b. Be prohibited from imposing a mandatory arbitration clause on individuals (operators and guests) using the company to facilitate or broker short-term rentals or requiring the law of any jurisdiction other than Ontario to be applied in relation to use of the company in Toronto. If clauses contrary to this requirement are included in any company agreement with individuals using its services, such clauses are unenforceable.

17. City Council direct that the Executive Director, Municipal Licensing and Standards, have the discretion to revoke, reject, or not renew a company's application for a licence if the licence was issued due to a technological or clerical error.

18. City Council require companies to create operator and guest accounts for use by Municipal Licensing and Standards for enforcement purposes upon request by Municipal Licensing and Standards, and prohibit the company from obstructing access to those accounts.

Sharing Records between Short-Term Rental Companies and the City

19. City Council direct that companies must, as a condition of licensing, execute an agreement with the City governing the collection, use, retention, and transmission of operator information on terms satisfactory to the Executive Director, Municipal Licensing and Standards, and that the Executive Director shall have authority to execute such an agreement on the City's behalf.

20. City Council direct that should a company choose to facilitate the operator registration process, it must obtain consent from operators applying for registration to the collection, use of, and potential disclosure of personal information to and by the City for the purposes permitted by the bylaw, which consent must be in a form satisfactory to the Executive Director, Municipal Licensing and Standards.

General Licensing Provisions

21. City Council direct that the short-term rental bylaw import all relevant general provisions from the Toronto Municipal Code Chapter 545, Licensing, as necessary to be consistent with Chapter 545 and to operationalize the bylaw.

This includes providing authority for the Toronto Licensing Tribunal to suspend, revoke or refuse the issuance of a short-term rental company licence when appropriate.

22. City Council delegate authority to the Executive Director, Municipal Licensing and Standards, to suspend or place conditions on the short-term rental operator registration or company licence without a hearing for up to 14 days at her or his discretion if she or he has reasonable grounds to conclude that the continued activity of the operator or company poses an immediate danger to health or safety of any person or to property.

General Requirements for Advertising, Facilitating and Brokering Short-term Rentals

23. City Council direct that any person, including a corporation:

- a. Ensure that an operator's registration number is included in all short-term rental advertisements; and
- b. Remove all short-term rental advertisements that are not registered within 24 hours of notification from the City.

24. City Council direct that no person, including a corporation, can advertise, facilitate or broker a short-term rental that is not registered with the City.

Registration and Licence Fees

25. City Council amend Chapter 441 to include the following fees for the short-term rental bylaw, as detailed in Attachment 1:

- a. Operator annual registration fee: \$50
- b. Company licence fee: one-time application fee of \$5,000; fee of \$1.00 per night booked

Fines

26. City Council establish:

- a. That anyone who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine of not more than \$100,000.
- b. A system of fines that includes fines for continuing offences and special fines where it is determined that the conduct could have resulted in economic advantage or gain to the party found to have breached the bylaw.

- c. That directors or officers of a corporation who knowingly concur in the contravention of any offence under the bylaw are guilty of an offence.

Administration

27. City Council direct that all communications between the City and operators and companies must be sent via email, except where another method is authorized by the Executive Director, Municipal Licensing and Standards, in her or his sole discretion, and that any email shall be deemed to be received on the day it is sent to the most recent email address provided to Municipal Licensing and Standards as part of the licensing and registration process.
28. City Council provide the Executive Director, Municipal Licensing and Standards, the authority to:
 - a. issue interpretation bulletins or guidelines on matters relating to the short-term rental bylaw; and
 - b. delegate any authority or function provided for in the short-term rental bylaw to the Executive Director's designate.
29. City Council require operators and companies submit to audits of their records as requested by the Executive Director, Municipal Licensing and Standards.
30. City Council give the City Solicitor the authority to make technical and stylistic amendments as required in the drafting of this bylaw.

Implementation

31. City Council direct that the bylaw come into effect June 1, 2018. If no zoning changes permitting short-term rentals are in force by June 1, 2018, the bylaw will come into effect on the day any of the zoning changes come into force.

FINANCIAL IMPACT

The total ongoing cost to administer and enforce the recommended short-term rental bylaw is approximately \$1.172 million inclusive of salaries, benefits, operating, overhead and indirect costs. The program requires a net increase of five (5) full-time equivalent staff to the Municipal Licensing and Standards 2017 approved complement. In addition, it is anticipated that \$906k in one-time expenditures will be required to implement this new bylaw.

The ongoing costs of the new program will be funded entirely by the program's new fees. Operators will pay an annual registration fee of \$50 and companies will pay \$5,000 upon application and \$1 per night booked via the company once licensed. In developing the fees, staff made estimates regarding the projected level of short-term

rental activity based on limited information. Staff assumed that there would be 8,000 short-term rental operators registered, one short-term rental company licensed, and 765,000 nights booked via the company in the first year after the bylaw comes into effect.

This report is consistent with projected program costs included in the 2018 Operating Budget.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On June 19, 2017, Executive Committee adopted [EX26.3 Proposed Regulations for Short-term Rentals for Consultation](#), with amendments, and directed the Executive Director, Municipal Licensing and Standards, to conduct public consultation on the proposed licensing and registration framework and to report with the updated requirements to the Licensing and Standards Committee in the fourth quarter of 2017.

On October 26, 2016, Executive Committee adopted [EX18.12 Developing an Approach to Regulating Short-Term Rentals](#) and directed the Executive Director, Municipal Licensing and Standards, and the Chief Planner and Executive Director, City Planning, report no later than the end of the second quarter of 2017 with proposed regulations for short-term rentals.

On January 28, 2016, Executive Committee referred item [EX11.19 Regulating Temporary Accommodation Rentals](#) to the Executive Director, Municipal Licensing and Standards, and the Chief Planner and Executive Director, City Planning, for an interim report in the third quarter of 2016 and a final report in 2017 on regulating temporary accommodation rentals.

COMMENTS

There has been a significant rise in the number of people around the world and in Toronto renting residential property or rooms for short periods. This growth has been driven by the emergence of online companies that host listings and facilitate bookings and payments. The largest of these companies, Airbnb, offers listings in more than 190 countries and has booked more than 60 million guests.

In January and October of 2016, Executive Committee directed staff to report on proposed regulations for short-term rentals. Based on this direction, staff developed a set of short-term rental regulations in [EX26.3 Proposed Regulations for Short-term Rentals for Consultation](#) that were adopted with amendments at the June 18, 2017, Executive Committee meeting. Staff were directed to consult on these proposed

regulations. This report describes the consultation findings and recommended regulations.

Short-Term Rental Market in Toronto

Upon reviewing short-term rental websites in April 2017, staff found 16 websites offering rentals in Toronto that met the City's definition of short-term rentals with a combined total of approximately 20,000 listings. Companies with more than 300 listings include Airbnb, Expedia (includes HomeAway and VRBO), Trip Advisor, FlipKey, and Kijiji. Many of these listings were posted on more than one website, so while there were over 20,000 listings for short-term rentals, the number of properties listed in Toronto is likely smaller. According to data obtained by staff, there were 988,378 nights rented short term on Airbnb and 24,301 nights rented on Expedia in 2016.

Airbnb is the company with the most short-term rental listings being advertised in Toronto and the majority of its listings meet the recommended definition of short-term rental. Below are some general details about Airbnb activity in Toronto based on data provided by Airbnb:

- 15,869 listings related to 10,800 properties were rented in 2016. The number of listings rented in 2016 more than tripled since 2014.
- 72% of all listings rented in 2016 were in condominiums, apartments or lofts.
- The ten neighbourhoods with the most listings were all downtown and represented half of all listings (53%) rented in 2016. Around a fifth of all listings (21%) were rented in the Waterfront Communities-The Island neighbourhood, which includes the central waterfront area from Bathurst to the Don River.

A detailed description of the short-term rental market can be found in the June 2017 report.

Current Regulations

Businesses that provide short-term accommodation to the travelling public, like hotels, motels, and bed and breakfasts, are required to operate in accordance with provincial legislation. Relevant legislation includes the *Hotel Registration of Guests Act*, the *Innkeepers Act*, the *Ontario Building Code Act* and its Ontario Building Code and Ontario Fire Code O. Reg. 213/07 as amended, the *Accessibility for Ontarians with Disabilities Act*, the *Taxation Act*, and the *Workplace Safety and Insurance Act*. Hotels, motels, bed and breakfasts, short-term rental operators, travel agencies and short-term rental companies are not currently licensed by the City of Toronto.

The use of property in Ontario is regulated by municipal zoning bylaws. Under Toronto's city-wide zoning bylaw, By-law 569-2013, uses that cater to the travelling public are currently permitted under the definitions of "hotel" or "tourist home", based on certain conditions. Short-term rentals were not previously defined in the city-wide zoning bylaw or other zoning bylaws, and are, therefore, currently not permitted.

Consultation Process

In August and September 2017, staff sought input regarding the regulations proposed in the June 2017 report from the general public and key stakeholders, including hotel, motel, and bed and breakfast representatives; short-term rental companies and providers; housing and neighbourhood advocates and ratepayer associations; condominium representatives; and corporate housing providers. The following methods were used:

- Four public open houses at each of the three civic centres and at City Hall (225 attendees);
- Online public survey (5,316 responses), conducted from August 22, 2017 to September 19, 2017 (note: survey respondents are not a representative sample of Toronto residents);
- Seven targeted stakeholder meetings (45 attendees); and
- Written submissions (22 written submissions and 27 emails received).

Staff also sought input from provincial staff and other cities regulating short-term rentals.

The ideas and concern raised by the public and key stakeholders regarding the regulations are described throughout this report.

Summary of Recommended Regulations

Guiding principles for regulations

As presented in the June 2017 report, staff developed the following principles based on research, public and stakeholder input, the City's official plan and other City policies to guide the short-term rental regulatory approach:

- Allow people to rent their homes for short periods;
- Minimize the negative impacts on housing affordability and availability;
- Enable greater diversity in tourism accommodations;
- Maintain community stability, including in vertical communities;
- Minimize nuisances, such as noise and garbage, associated with short-term rentals; and
- Create a set of integrated regulations that are clear and easy for residents and companies to follow.

Consultation findings: There was significant support for the above guiding principles. The public and key stakeholders generally agreed that these are important goals. There were a small minority of members of the public that did not want to allow any short-term rentals to occur. There were also some stakeholders from the short-term rental industry that felt that there is not enough evidence showing that short-term rentals have negative impacts on housing affordability and availability and felt the second guiding principle should be excluded.

Regulations

The recommended short-term rental regulations are composed of three parts: zoning changes, a licensing and registration program, and taxation. The zoning changes permit the activity as a land use, the licensing and registration program provides City oversight of the activity, and the taxation scheme collects tax revenues from the activity.

The focus of this report is the licensing and registration program. The reports discussing the zoning changes and taxation scheme are discussed below.

Zoning changes

Short-term rentals were not previously defined in the city-wide zoning bylaw or other zoning bylaws, and are therefore currently not permitted. The recommended new zoning bylaw and bylaw amendments would permit short-term rentals across the city in the principal residence of any owner or tenant in residential and mixed use zones. Within their principal residences, people could rent: up to three rooms within a dwelling unit; the entire dwelling unit; and one lawful secondary suite. A short-term rental is not permitted in a dwelling unit that is not a principal residence. Recommendations on the zoning changes are presented in the report called Zoning By-law and Zoning By-law Amendments to Permit Short-Term Rentals for consideration by the Planning and Growth Management Committee on November 15, 2017.

Taxation

On February 15, 2017, Council directed staff to create a short-term rental tax of up to ten percent along with the creation of the hotel tax. Recommendations related to the short-term rental tax are expected in a report for consideration by Executive Committee on November 29, 2017.

Registry and Licensing Program

Pursuant to the City's authority under the *City of Toronto Act, 2006*, staff recommend creating a new municipal code chapter to regulate short-term rentals. The new bylaw would require that all operators (i.e. hosts, or anyone doing a short-term rental) register with Municipal Licensing and Standards (MLS) and all short-term rental companies become licensed. This approach would regulate the new activity permitted through zoning and ensure municipal oversight of the activity by holding both operators and companies accountable for short-term rental activities. This approach was developed based on research, a review of how other cities have regulated short-term rentals (see Attachment 2 for further details), and consultation findings from two rounds of consultations with the public and key stakeholders.

The short-term rental operator registry and short-term rental company licence are being recommended to help minimize neighbourhood nuisances that may be caused by short-term rental activity, uphold recommended zoning changes, and increase protections for the health and safety of short-term rental consumers.

Key definitions for short-term rental licensing and registration program

The following are recommended definitions for the short-term rental regulations:

- **Short-term rental:** all or part of a dwelling unit in the City of Toronto used to provide sleeping accommodations for any rental period that is less than 28 consecutive days in exchange for payment. This includes existing bed and breakfasts and excludes hotels and motels and couchsurfing or other short-term accommodations where there is no payment.
- **Short-term rental company:** any person or corporation in the business of facilitating or brokering requests via the internet for short-term rentals not owned by the short-term rental company and who receives payment, compensation, or any other financial benefit as a result of a person making or completing bookings of those short-term rentals; or who collects, accesses, or holds information on the number of nights that bookings of those short-term rentals are made or completed. The definition does not apply to a person who brokers bookings for him or herself or his or her immediate family.
- **Operator:** is any individual person (owner or tenant) who operates a short-term rental. Operators must be 18 years or older. Corporations cannot be operators.

The definition of short-term rental company was changed from the definition proposed in June 2017 so it would only apply to companies that offer online services. Staff do not recommend capturing companies or organizations that host a bulletin board or a paper flyer that advertise short-term rentals. The definition seeks to strike a balance in licensing companies that advertise the majority of short-term rental bookings in Toronto, while allowing for and excluding a range of smaller-scale business models that do not provide a suite of services to enable and facilitate short-term rentals.

Definition of principal residence and limit on nights rented

The recommended zoning changes require that short-term rentals occur in a principal residence. Restricting short-term rentals to principal residences helps to protect community stability, avoids nuisances, and assists in keeping long-term rental units available and affordable. The zoning changes also allow residents to rent short term in one secondary suite in their principal residence. A secondary suite is a self-contained living accommodation in which both food preparation and sanitary facilities are provided for the exclusive use of the occupants of the suite, located in and subordinate to a dwelling unit. Further details about why short-term rentals must occur in a principal residence and why short-term rentals are permitted in secondary suites are in the report for consideration by the Planning and Growth Management Committee on November 15, 2017.

Staff recommend that the short-term rental bylaw define a **principal residence** as a property owned or rented by a person, alone or jointly with another person, where they are ordinarily resident. An operator can only have one principal residence at any time, and a short-term rental can be operated only by an individual person 18 years or older, not a corporation.

To complement and strengthen the intent of the principal resident requirement, staff recommend limiting the number of nights that an entire unit can be rented out to 180

nights per calendar year. Operators can rent one or more rooms in a unit and one secondary suite for an unlimited number of nights per year.

While not previously recommended, based on further consideration and input from the public and key stakeholders, staff recommend a limit on the number of nights an entire unit may be offered for short-term rental. A limit on the number of nights an entire unit can be rented will assist with limiting short-term rentals to a principal residence, to aid in preventing commercial operations, and potentially assist in mitigating community impacts. The limit provides operators and the public with clarity, accords with a generally acceptable interpretation of what a principal residence is and defines how it can be used as a short-term rental.

The recommended limit on the number of entire-unit rentals per calendar year is 180 nights, or approximately six months. Staff reviewed limits imposed by other jurisdictions, and while there is no consensus amongst other cities, 180 is used in Los Angeles (proposed) and Philadelphia (for their "Limited Lodging Home" licence). 180 nights is also recommended by MaRS Solutions Lab [Shifting Perspectives: Redesigning Regulation for the Sharing Economy](#) in their March 2016 report. A limit of 90 days rented annually is used in New Orleans for the "temporary" licence. Other jurisdictions state that a principal residence must be occupied for a certain number of days per year (270 in Portland, 275 in San Francisco).

Consultation findings: A summary of the input received on the principal residence requirements can be found in the report for consideration by the Planning and Growth Management Committee on November 15, 2017.

There was mixed support for the limit on number of nights an entire unit can be rented. Members of the public, some operators and stakeholders not part of the short-term rental industry, including the Canadian Centre for Policy Alternatives, recommended adding a limit on the number of nights an entire unit can be rented to help enforce the principal residence restriction and prevent commercial short-term rentals. Operators running non-commercial and commercial short-term rentals and some short-term rental companies did not support a limit on number of nights an entire unit can be rented. They felt that a limit would be difficult to enforce because if an operator rents 180 nights through one company, they could try to avoid the regulation by renting the remaining nights on another platform. They also felt that there may be cases where someone has a principal residence but still wants to rent the entire unit for more than 180 nights if, for example, they are away for an extended period of time.

In the online survey conducted in August and September 2017, just over half (54%) of respondents in the survey felt there should not be a limit and just under a third (32%) felt there should be a limit; there was no clear consensus what the maximum number of allowable nights rented should be.

Short-term rental operator registry

Staff recommend that all operators register annually with the City. The operator registry will be a simple, online process. This requirement remains as proposed in June 2017.

The City would issue a registration number that operators would be required to include in all advertisements, contracts, and invoices. Operators would need to meet the requirements outlined below and pay an annual fee to be registered.

An operator registry would allow the City to have oversight of operators and ensure that they are held accountable for their short-term rentals. The registry would provide the City with basic information about operators and their short-term rental operations, to better enable City oversight and enforcement. This registration process may be facilitated by a short-term rental company, as described below.

Consultation findings: There was general support from the public and stakeholders regarding the operator registry. The public saw the registry as a way to hold operators accountable for their short-term rental activity. Operators were also generally supportive of the registry, though some were concerned that registration fees, along with a possible tax, could become too burdensome.

Survey respondents' opinions varied on the importance of the registry; 47% of respondents felt the registration requirement was important or very important, while 41% felt it was only slightly important or not important. The main reason given for opposition to the registry was that respondents felt the City should not be in the business of regulating how residents use their homes.

Registration requirements

The registry would require operators to provide the following information to the City:

- Name, address, contact information, and identification of a type to be determined by the Executive Director.
- Information about their short-term rental, including:
 - Description of which parts of the property would be used for short-term rental (entire unit, bedrooms, secondary suite, other shared space), and
 - Building type (condominium, apartment, detached house, semi-detached house, row house, townhouse, etc.).
- Contact information for a person available by phone 24 hours a day.

These requirements have not changed substantially since the June 2017 report.

Collecting this information would provide the City with information on the types of short-term rentals that are happening in Toronto. By requiring identification, MLS would be able to ensure that each person only registers one time with one property. This would help enforce the requirement that short-term rentals are only permitted in principal residences. The 24-hour contact information would ensure MLS can contact someone for any reason, even when the operator is away.

Providing false or inaccurate information would result in an operator's registration being cancelled, which would mean they could not continue to operate their short-term rental.

Consultation findings: Staff heard significant support for the registration requirements and did not hear many concerns. Many members of the public and stakeholders felt it

was very important to collect contact information for a person available by phone 24 hours a day to address nuisances as they come up.

Proof of principal residence

Through the recommended registration process, operators would need to declare that they are conducting the short-term rental in their principal residence. Operators would not be required to provide proof of principal residence upon registration.

However, once registered, the proposed regulations would provide authority for MLS to require that the operator provide proof that the address registered is their principal residence. Staff recommend that documents that constitute proof of principal residence could include: government issued identification featuring both the operator's name and address; the operator's lease (if the operator is a tenant); or personal tax documents. Operators may be required to provide multiple documents as proof, to the satisfaction of MLS.

Consultation findings: Staff heard from some members of the public and some stakeholders that these requirements were not onerous enough, and that the City should require significant proof that the property in question is the operator's principal residence upon registration. Those who expressed this concern felt that without more onerous requirements, it would be difficult for the City to confirm that the property is a principal residence.

Staff recommend a more reactive, as opposed to proactive, requirement to provide proof of principal residence to minimize the number of barriers in place for operators to register and mitigate the regulatory burden that would otherwise be imposed on the multitude of participants who are seeking to operate in a fully compliant manner. With the recommended approach, operators would be able to register online and rent their property immediately.

The City can audit anyone registered and request proof of principal residence if necessary. This complaint- and audit-driven approach is appropriate given the extent of short-term rental activity and the relatively few complaints received by the City. In general, the recommended regulations are designed to be simple and clear for the majority of operators that want to comply with the City, with auditing and enforcement powers to address the minority of operators who would attempt to circumvent the regulations.

Secondary suites must comply with Ontario Building Code and Ontario Fire Code

Operators renting a secondary suite must ensure that it is in compliance with all applicable zoning bylaws, the Ontario Building Code and Ontario Fire Code and would be required to declare that they have building permit records and/or a letter from Fire Services confirming that a two-unit residential occupancy inspection has occurred and no violations were found. They must also confirm that they have not changed the property since the inspection was conducted and that the fire protection equipment is maintained in operating condition in accordance with the Ontario Fire Code. For further requirements related to the Ontario Fire Code see the section "Operations must meet community safety requirements".

For policy reasons, including the complexity of the regulations and approvals process governing secondary suites and the time and resources that would be required to investigate such properties, staff will not verify whether an operator's secondary suite complies with the Ontario Building Code or Ontario Fire Code, except in response to specific credible information about a property provided by a consumer or another enforcement agency, for example.

This requirement has not changed since the June 2017 report.

Consultation findings: While there was general support from the public and stakeholders for this requirement, there were some operators who felt that this was too onerous.

Details about the input received on the general permission to operate short-term rentals in secondary suites are included in the report for consideration by the Planning and Growth Management Committee on November 15, 2017.

Operators must meet community safety requirements

Operators must be in compliance with all applicable municipal, provincial and federal laws. Relevant laws include, but are not limited to:

- **Noise bylaw:** sets standards for noise in Toronto and addresses specific types of noise such as loud music.
- **Ontario Building Code:** sets minimum standard for the design and construction of all new buildings and for additions, alterations, and changes of use of existing buildings in Ontario.
- **Property standards bylaw:** sets out maintenance and living standards for buildings in Toronto.
- **Ontario Fire Code:** is a Provincial regulation made under the *Fire Protection and Prevention Act, 1997*, consisting of a set of minimum requirements respecting fire safety within and around existing buildings and facilities. This includes, but is not limited to, installation and maintenance of smoke alarms in all homes, installation of carbon monoxide detectors, required number of exits and fire safety planning. There are three important items to note related to the Ontario Fire Code:
 - A home in which a secondary suite is being rented short term will be considered a Two Unit Residential Occupancy under the Ontario Fire Code and could be required to meet additional requirements, such as fire separations and number of exits.
 - A home in which a secondary suite and two or three individual rooms are all being rented short term will be considered a Low Rise Residential Occupancy under the Ontario Fire Code and could be required to meet additional requirements, such as fire separations and number of exits.
 - A condominium or apartment building with four or more occupied short-term rental units will be considered a hotel and/or hotel establishment under the definition in the Ontario Fire Code and could be required to meet additional requirements, such as fire safety planning, including on duty supervisory staff.

For policy reasons, including the time and resources that would be required to investigate such properties, staff will not verify whether a short-term rental is in

compliance with relevant laws, except in response to specific credible information about a specific property.

Operators must provide emergency information to guests

Operators must provide guests with the contact information of a person associated with the property who could be reached if needed and emergency contact information for police, fire, and ambulance (i.e. 911). Operators must also provide guests with a diagram of all exits so that guests are equipped with the knowledge to safely exit in the event of a fire. Staff do not recommend inspecting properties to confirm these requirements or assessing the quality of the fire exit diagrams.

These requirements have not changed since the June 2017 report.

Consultation findings: There was significant support from the public and stakeholders regarding these requirements. Members of the public were concerned about the nuisances caused with short-term rentals and felt these requirements are key. According to the survey, there was significant support for operators to provide emergency contact information (83% of survey respondents felt it was important or very important) and fire-related information to guests (74% of survey respondents felt it was important or very important).

Operators must keep transaction records

Operators must keep transaction records of every short-term rental listing for three years with the details below and provide this information within 30 days of a request from the City.

- Number of nights rented short term
- Listing type (entire unit, shared unit, or secondary suite)

Operators must keep records for all short-term rental transactions, regardless of whether the transaction was facilitated by a licensed company or not.

This is a new requirement not included in the June 2017 report. It allows the City to collect the information necessary to confirm compliance with the bylaw, including the recommended limit on the number of nights an entire unit can be rented.

Refusing or cancelling a registration

There are certain circumstances under which MLS may wish to refuse or cancel a registration and disallow an operator from operating a short-term rental. Refusing or cancelling a registration has potential financial consequences for the operator and therefore requires processes to be in place to ensure transparency and fairness.

Staff recommend having a tiered process for refusing or cancelling registrations. Under certain circumstances outlined below, staff can refuse or cancel a registration and if the operator is not satisfied with the decision, they can request a second review from the Executive Director. These processes would be conducted in writing unless the operator requests an oral or electronic hearing. Oral or electronic hearings will only be held in limited circumstances and, when granted, the Executive Director will determine by whom and how the hearing will be conducted.

Circumstances under which staff can refuse or cancel a registration

Staff recommend that if the conduct of an operator is found to meet the criteria for ineligibility developed by the Executive Director the registration will be refused or cancelled. The *City of Toronto Act, 2006*, gives the City authority to establish such criteria for ineligibility.

Staff propose that registrations be refused or cancelled if the operator meets the following **criteria for ineligibility**:

- Provided inaccurate or false information upon registration or in response to any request for information made by MLS.
- Failed to provide evidence within ten days of a request from MLS that the property registered for short-term rental is the operator's principal residence.
- Been convicted of two or more violations that relate to any properties used for short-term rental by the operator in the past three years of one or more of the following chapters of the municipal code or provincial laws:
 - Chapter 591: Noise
 - Chapter 629: Property Standards
 - Chapter 844: Waste Collection
 - All zoning bylaws
 - Ontario Fire Code
 - Ontario Building Code
- Been convicted of any violations of the short-term rental bylaw in the past year
- Had any overdue bylaw fines

In some cases, staff may want to refuse or cancel an operator's registration if conduct arising from their short-term rental causes significant nuisances or poses a safety threat to the community but the operator does not meet the criteria outlined above. The grounds for refusal or denial of a registration are that the operator:

- Has not carried on the activity in accordance with integrity and honesty;
- Has violated any law or bylaw;
- Is conducting activity in such a way that would infringe on the rights of other members of the public; or
- Has or would endanger the health or safety of other members of the public.

Cancellation procedure

The following processes would be followed in considering the refusal or cancellation of registration:

- Inform the applicant in writing of the reason for the proposed refusal or cancellation. This electronic communication will describe the information that the City has to justify the refusal or cancellation.
- Provide the applicant with ten business days to respond in writing to the City's notice or to advise that the problem has been rectified (in the case of overdue bylaw fines, for example).
- If the operator does not respond, or if staff are not satisfied with the operator's response, staff will refuse or cancel the registration and inform the operator in writing of this action. Staff will also inform all licensed short-term rental companies that this operator is not permitted to rent short term.

Once the registration is refused or cancelled, the operator would not be eligible to reapply for one year.

The operator would have the opportunity to request a second review if their registration is refused or cancelled. During the second review, the Executive Director would review the decision to either confirm or reverse the action.

Staff recommend that, when an operator's registration may be refused or cancelled, the operator have an opportunity to request an oral or electronic hearing in accordance with the requirements of the *Statutory Powers Procedure Act, 1990*. The Executive Director would consider any such request and decide if it is reasonable to permit one. If so, the Executive Director would decide before whom the hearing would be held and the process to be followed. The hearing could result in the confirmation or reversal of a decision to refuse or cancel a registration. It is anticipated that most hearings will be held entirely in writing to expedite hearings and to manage the time and resources required of operators and City staff. Operators will have to point to some extenuating circumstance or issue to satisfy the Executive Director that there are reasonable circumstances necessitating an oral or electronic hearing.

Short-term rental company licence

The recommended regulations would require that short-term rental companies be licensed, meet a set of requirements, and pay an annual licence fee. Companies would only be permitted to advertise short-term rental listings that are registered with the City. This would assist in ensuring that operators register with the City and increase compliance with the recommended regulations. Companies would be required to share information with the City on operator activity. This information would assist the City with enforcement and with analyzing the impacts of short-term rental activity, broadly.

A company would be required to supply the City with a phone number and email to allow MLS staff to inquire about operators and listings that are under investigation. A company would also be required to maintain a business address located in Ontario. This would facilitate service of any legal documents.

All licensed companies would need to meet the requirements described below. These requirements have not changed since the June 2017 report.

As part of this report, staff considered alternatives to a licencing requirement for short-term rental companies, such as registry or freestanding bylaw, and alternatives to the corresponding definition of short-term rental company.

Staff considered whether a company could be defined in a way that does not reference 'facilitating' or 'brokering' short-term rentals. These words, with the remainder of the definition, describe the core business that the City seeks to regulate. Because internet-based companies offer widely varying services as part of facilitating rentals, it was necessary to use broad language to ensure licensing is comprehensive. Staff also considered the manner in which the City regulated to address complexities associated

with licensing other internet-based business activities (i.e. private transportation companies).

Licensing is the City's primary method of regulating businesses and gives a level of oversight that cannot be achieved by other methods. The City is able to collect information in advance of granting or denying a licence and can use its own administrative process if it seeks to revoke, suspend, or place conditions on a licence. Furthermore, a licence requirement signals to consumers that the City is overseeing companies, which may encourage them to complain to the City about practices that they view as unfair, illegal, or exploitative.

Consultation input: There was general public support for licensing short-term rental companies. Often, members of the public felt that short-term rental companies should be held responsible for the activities they facilitate. The survey results were mixed; 54% of respondents felt that the company licence was important or very important, while 34% felt it was not important or slightly important. Some short-term rental companies supported the licence while others felt the licence was unnecessary since they believe the company is not responsible for the activity carried out by its users.

Companies must only advertise registered operators

The proposed regulations require that companies would only be permitted to advertise short-term rental listings that are registered with the City. Companies would be required to:

- Ensure that all short-term rental listings include a valid registration number, and
- Remove all short-term rental listings that are not registered with the City.

This would place responsibility on companies to ensure that they only list registered operators. The intent is to increase compliance with the regulations and help deter companies and operators from violating the requirement that a short-term rental must occur in a principal residence.

A similar prohibition would apply to any individual or company that is not licensed, but that is involved in any aspect of advertising or facilitating the advertising of short-term rentals.

Staff considered whether the goals of requiring short-term rental operators to register and rent only their principal residences could be achieved without prohibiting the advertising of non-compliant properties, but determined controlling advertising is necessary to effectively enforce these requirements.

First, short-term rentals must advertise to attract business, as they operate out of a private residence, not a visible storefront. Staff estimate that most short-term rentals in Toronto result from advertisements on internet-based sites. Prohibiting any person from advertising rentals that are unregistered or operated commercially aims to substantially reduce opportunities for non-compliant operators to carry on business. Staff believe it is critical to obtain compliance with the recommended regulations to achieve the City's goals of reducing public nuisances and minimizing the negative impacts on housing affordability and availability, among others.

Second, the City needs to prove that a short-term rental has taken place to successfully prosecute an operator for renting a non-compliant property. Short-term rentals are often not visually identifiable and guests are often visiting from out of town, making it difficult to compel testimony. In addition, enforcement staff are restricted from entering a private dwelling without a warrant. This, combined with the large volume and impermanence of short-term rentals, make physically investigating a large volume of properties difficult, even with increased resources.

Finally, if a short-term rental is brokered by a licensed company, the company may have a record of a completed transaction that could be used to substantiate a bylaw charge. However, some companies are not involved in concluding transactions and do not keep such records. In other cases, the rental may have been brokered by any company. In the absence of booking records, staff would need to attend a property while a rental is occurring to gather evidence.

Therefore, the City can ameliorate the impact of some important enforcement issues if there is a prohibition on the advertising of unregistered short-term rentals.

Consultation input: Members of the public felt that the requirement that companies only advertise registered operators was one of the most important components of the short-term rental licence.

Companies must provide data to MLS

Staff recommend that short-term rental companies be required to provide the City with data that includes operators' registration number, number of nights rented short term by rental type (i.e. entire home, room(s), secondary suite), and location of listing as frequently as requested by MLS. Companies would be required to keep these records for three years.

This is different from the June 2017 report where staff proposed that companies disclose both anonymized and non-anonymized data with MLS, where the City would only collect information on individual operators upon request.

Based on consultation input and the introduction of a limit on the number of nights that an entire unit short-term rental may be rented in a year, staff have revised the recommendations for data disclosure to enable the City to better monitor and enforce the program. The new recommendation requires companies to provide the City with data on operators' activity as frequently as requested by MLS.

This information would support City investigations into complaints about short-term rentals and would enable audits to ensure that short-term rental zoning requirements and registration regulations are being met. The data may also be useful in enforcing against short-term rental activity that is not occurring in principal residences. The number of nights a registered operator rents their property is not personal information, but rather information regarding a business activity regulated by the City. This requirement is important to the success of the licensing and registration regime.

Information about the number of nights booked would also allow the City to determine the appropriate company licence fee, which is described in detail under the "Registration and Licence Fees" section.

Once aggregated, this information would allow the City to monitor the short-term rental market and analyze how its activity impacts the City. The data would also provide insight into the market's impacts on tourism and housing and depending on the results of analysis, could inform future changes to existing laws and policies.

Consultation input: Stakeholder and public input was mixed on this item. Some members of the public think it is important that the City collect this information to be able to enforce against operators that are not in compliance with the regulations. Some hosts who opposed the requirement said that they do not want what they perceive to be personal information to be shared with the City. Short-term rental companies also stated that they believe data on the number of nights a listing is rented in a year are personal and should therefore not be shared.

The survey responses on this requirement were split. 43% of respondents felt this requirement is important or very important while 46% felt it is not important or slightly important.

Companies must communicate with registered operators on behalf of City

Companies would be required to communicate information about City regulations for short-term rentals to all operators associated with them. This holds companies accountable to communicate and disclose requirements and other clarifications or changes from the City with their operators. These requirements would be important to facilitate understanding of, and compliance with, City bylaws. For example, if the City sees trends in particular types of issues, it may require companies to assist in its efforts to educate operators so as to effectively and efficiently promote greater compliance with City bylaws.

Consultation input: Staff did not receive significant input on this item.

Companies must address problem operators

To ensure that short-term rental companies address problem operators, staff recommend that companies develop procedures to mitigate neighbourhood nuisances and address short-term rentals that contravene federal, provincial or municipal law or are associated with criminal activity. A company's procedure may include monitoring of operators, maintaining a complaints line for neighbours, and a process through which bad operators are removed.

If the City cancels an operator's registration, the company would also be required to remove the operator from their website. This would limit the operator's access to a wider audience.

Consultation input: Members of the public felt that this was an important component of the short-term rental licence as they felt that companies should be responsible for addressing properties that cause significant nuisances. There was substantial support from survey respondents for requirements that companies have a policy for dealing with

problem properties (85% of survey respondents felt this was important or very important) and that they remove problem properties from the online platform (83% of survey respondents felt this was important or very important). Initial conversations with short-term rental companies indicate that they are in agreement with this requirement.

Companies cannot impose mandatory arbitration clauses

Staff recommend that companies guarantee anyone who uses a short-term rental company in Toronto the right to have any claim against the company adjudicated by an Ontario court or tribunal.

Mandatory arbitration clauses are used in contracts to prevent conflicts from going through the judicial system, and instead, resolve conflicts through arbitration. In Ontario, the *Consumer Protection Act* prohibits companies providing services from imposing mandatory arbitration clauses in consumer agreements. However, if a short-term rental company has a mandatory arbitration clause in the terms of service, the *Consumer Protection Act* may protect short-term rental guests but not operators. This means that short-term rental operators may be precluded from having a potential claim decided by an Ontario court without the recommended prohibition on mandatory arbitration clauses in the short-term rental bylaw.

The prohibition on mandatory arbitration clauses does not preclude companies from offering arbitration as an option if an individual agrees to it.

Companies must create enforcement accounts if requested

Staff recommend that short-term rental companies be required to cooperate with MLS in all investigative efforts, including ones that require the creation of enforcement accounts on company platforms. Staff may use such accounts in specific or randomized efforts at enforcing against operators. For instance, this tool may be helpful in identifying operators running commercial short-term rentals.

Short-term rental companies would be required to ensure that these accounts remain active for as long as is required by the Executive Director.

Sharing registration records between companies and the City

Staff recommend that companies may opt into an integrated registration system with the City. This would allow companies to share operator registration information on behalf of those individuals with the City. Operators would still be able to register directly with MLS if they so choose. This approach is currently being implemented in other cities with Airbnb, including in Chicago and New Orleans.

An integrated system could facilitate convenient, online registration. It could help companies ensure that operators have registered and may reduce perceived barriers to registration.

Companies that choose to do this would need the ability to collect applicants' information per the registration requirements, and share these records with the City to enable registration. This process would be detailed in an agreement between the company and the City. The company would have to show that it has the capacity to

collect and maintain records and securely share them with the City to enable registration of operators. The processes would need to be approved by the Executive Director, MLS. The company would also need to obtain consent from applicants for the collection and disclosure of personal information to the City for registration and enforcement purposes.

Consultation input: Staff received minimal input on this item. Those who provided comments on this item wanted to be sure that if it is done, operators that register through a company are held to the same standards as those who register through the City system.

Revoking or suspending a licence

If a short-term rental company was not fulfilling the licensing requirements, staff could recommend to the Toronto Licensing Tribunal that the company's licence be suspended or revoked, identical to other licensed businesses governed by Municipal Code Chapter 545, Licensing. The Tribunal would hold a hearing and would consider the City's evidence and provide an opportunity for the company to present evidence to support their case. The Tribunal has the authority to approve or refuse an application for a licence, approve or refuse the renewal of a licence, place conditions on a licence or suspend or revoke a licence. In making a decision, the Tribunal has to balance the protection of the public interest with the licensee's need to make a livelihood.

Registration and Licence Fees

Staff recommend creating fees associated with both the short-term rental operator registration and short-term rental company licence to recover the costs of administering the program and enforcing the associated regulations. Staff recommend two separate and distinct fees. The short-term rental operator fee is an annual short-term rental operator registration fee of \$50. The short-term rental company licence fee is comprised of: an initial application fee of \$5,000 and an ongoing annual fee payable based on \$1.00 fee per night booked. These fees are expected to cover the ongoing program costs (\$1.2 million), with approximately one third of the revenues coming from the operator fee and the remaining two thirds coming from the company fee. Companies would be required to share information about the number of nights booked via the company to determine the licence fee.

The recommendation to assign fees to the licence and registry aligns with EX10.2 User Fee Policy, adopted by Council on September 26, 2011.

To develop the above recommendations, staff consulted on a range of licensing and registration fees outlined in the June 2017 report. The public and stakeholders were consulted on an annual operator registration fee of between \$40 and \$150 and a company licence fee of between \$5,000 and \$20,000, and a scalable fee based on the number of nights rented (for example, \$1 per night) or listings hosted through the company. These fees were developed based on an initial estimate and a review of licence and registration costs in other jurisdictions.

MLS will monitor and evaluate whether the operator and company fees are recovering the administrative and enforcement costs.

Consultation findings: There was general support from members of the public and stakeholders that there should be fees for operators and companies to cover the costs of administering and enforcing the new bylaw. According to the public survey, 72% of respondents felt there should be a fee, but there was no strong consensus regarding what the fee should be. 20% of respondents felt there should be no fee. Staff did not receive a lot of input regarding the company licence fee. Short-term rental companies and stakeholder felt that the proposed fees, combined with a potential short-term rental tax, would be too high. Some felt that the fee should not be so high that it prevents new, small short-term rental companies from entering the market.

Auditing Powers

To ensure that short-term rental companies and operators comply with the recommended regulations, companies would have to undergo records audits upon request by the Executive Director. The parameters of such audits would be set by and determined at the discretion of the Executive Director. The focus of these audits would be ensuring that companies and operators are accurately maintaining records and disclosing information with the City in compliance with the regulations. In collecting and auditing data and records, the City of Toronto will not retain any personally identifiable information of guests.

Fines

A violation of any requirements in the recommended short-term rental bylaw could result in an offence and a fine. The *City of Toronto Act, 2006*, gives the City the authority to develop a system of fines for violations of City bylaws. When an offence occurs, officers can issue a ticket (a Part I ticket under the *Provincial Offences Act*), which results in a fine of between \$100 and \$1,000 upon conviction. Officers can also issue a court summons, which indicates a date the recipient must appear in court before a justice of the peace. If convicted, a fine could be levied by the justice for up to \$100,000.

In addition to these general fines, the bylaw will establish a number of other fines:

- Continuing fines for each day that the offence continues, maximum of \$10,000 per day.
- Special fines, which are designed to eliminate or reduce any economic advantage or gain from contravening the bylaw, no maximum fine.

While the City can make recommendations about fine amounts, fine amounts are ultimately set through the provincial court system.

Unlike user fees, any fine that is collected is not used to fund the costs of administering and enforcing the short-term rental program.

Other Input on Regulating Short-term Rentals and Responses

The public and key stakeholders made a number of other suggestions for regulating short-term rentals that staff are not recommending at this time. These suggestions are outlined below.

Prohibited building list

Staff do not recommend a prohibited building list. A prohibited building list is a tool that the City of Chicago introduced as part of their short-term rental regulations where multi-unit buildings (like apartment buildings and condominium associations) can voluntarily inform the City of Chicago that they prohibit short-term rentals. The City then prevents operators in these buildings from registering.

Staff do not recommend a prohibited building list because it would mean that the City might be seen as enforcing condominium corporations' laws. Condominiums are self-governing communities with declarations, bylaws, and rules that guide operations. The *Condominium Act* is provincial legislation that sets out the rules around how condominium corporations are created and run. Condominium corporations are responsible for enforcing their own declarations and bylaws. The rules of a condominium corporation can be more restrictive than a municipal bylaw (e.g. prohibit short-term rentals), but cannot be more permissive. While the City will enforce the short-term rental bylaw in condominiums, it should not be involved in enforcing regulations set by individual condominium boards.

Further, staff believe the prohibited building list is not necessary because of the recommendation to only permit short-term rentals in a principal residence. Limiting short-term rentals to principal residences will mitigate nuisances and safety concerns since operators will have more oversight of their units. The Chicago licensing approach permits short-term rentals in principal residences and commercial properties; they appear to be relying on the use of a prohibited building list, rather than a principal residence requirement, to mitigate nuisances and safety issues within condominium buildings.

Consultation findings: Throughout consultations, a number of residents who live in condominiums suggested the City host a prohibited building list. They believe that a list would help condominiums enforce their building bylaws that prohibit short-term rentals, which can be difficult for condominium corporations to enforce on their own. They feel this tool is important for reducing nuisances and security issues.

Some residents did not support a prohibited building list as they want the flexibility of being able to operate short-term rentals in their units and do not believe that their condominium boards represent their interests.

Requiring tenants to get permission to operate short-term rentals

The recommended short-term rental regulations would allow both tenants and owners to operate short-term rentals out of their principal residences. The City would not require the permission of the landlord. This approach is considered fair and equitable since it

does not distinguish between tenants and owners. There are no inherent additional risks or nuisances that would result with short-term rentals operated by principal residents who are tenants.

The landlord-tenant relationship is governed by the *Residential Tenancies Act, 2006*, (RTA) which establishes the rights and responsibilities of landlords and tenants for most residential rental properties in Ontario. If there is a dispute between a landlord and tenant, this dispute should be resolved by the Landlord and Tenant Board (LTB). Staff recommend that the City avoid becoming involved in such disputes regarding short-term rentals.

Consultation findings: Overall, there was disagreement among stakeholders in this area. Some stakeholders and residents supported this approach as fair and inclusive by allowing renters and owners to access the economic benefits of operating short-term rentals. Several renters indicated that they currently rely on their income from short-term rentals to afford their rent. Staff also heard from landlords and other stakeholders who believe that the City should require permission from landlords for short-term rentals operated by tenants. Others thought the City should prohibit tenants from operating short-term rentals.

Insurance requirements

Staff do not recommend that operators be required to carry home insurance or commercial liability insurance for short-term rental activity. Unlike auto insurance, home insurance is not mandatory; homeowners can decide whether or not they want to obtain home insurance. The City does not require bed and breakfasts or other tourist accommodations to carry insurance. Short-term rentals are seen as low risk compared to other activities where the City does require proof of insurance (for instance, vehicular businesses, like taxis and tow trucks where the risk of injury to the public is higher). Limiting short-term rental activity to principal residences will also mean that operators have more oversight over their homes, which may mitigate concerns around absent and neglectful operators.

Operators should do their due diligence regarding insurance before operating short-term rentals. Some insurance companies offer products that would provide coverage for short-term rental activity and it is up to the operator to notify their insurers and seek out coverage that adequately captures their short-term rental activity.

Consultation findings: Some stakeholders and residents believe that the City should require short-term rental operators to carry liability insurance to address the risks for operators, guests, and neighbours. Some noted that a number of U.S. jurisdictions require operators to carry liability insurance and suggested that Toronto do the same. The Federation of Ontario Bed and Breakfast Accommodation (FOBBA) requires its members to carry commercial liability insurance and suggested that the City should require it of short-term rentals as well.

Implementation

Staff recommend the short-term rental bylaw outlined in this report come into effect on June 1, 2018, to allow the City time to build the licensing and registration program. This

gives staff the time to develop the technology and administration processes required to run the program. Staff also recommend that the Executive Director have authority to issue interpretive bulletins to help participants understand the City's interpretation of the registration and licensing requirements and to provide notice of any changes.

Throughout public and stakeholder consultations, people expressed their concerns around compliance and enforcement. Neighbourhood and housing advocates want to see the City dedicate the resources and time necessary to comprehensively enforce the recommended rules. Companies and operators want to see all industry participants comply, not just those operating on larger short-term rental company sites like Airbnb. Staff recognize these issues and will take them into account in developing the implementation plan.

Staff will collaborate across relevant City divisions and work with industry stakeholders to develop a detailed implementation plan. The implementation plan will include components related to IT, administration, communications, compliance, and enforcement.

Staff will develop a monitoring and evaluation process to measure all performance indicators, including: complaints, compliance rates, and audit outcomes. Staff will monitor and review the program to ensure that the outcomes align with the principles set forth in this review. Staff will report on progress and program outcomes as needed.

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ATTACHMENTS

Attachment 1: Additions to Municipal Code Chapter 441 related to fees for the short-term rental operator registry and company licence

Attachment 2: Jurisdictional Scan of Short-Term Rental Regulations