



Zoning By-law and Zoning By-law Amendments to Permit Short-term Rentals

Date: October 19, 2017

To: Planning and Growth Management Committee

From: Acting Chief Planner and Executive Director, City Planning Division

Wards: All

SUMMARY

This report recommends the adoption of a city-wide stand-alone zoning by-law and zoning by-law amendments to all applicable general zoning by-laws to permit short-term rentals. For details on the proposed short-term rental licence and registry, refer to the Short-term Rental Licensing and Registration Report to Licensing and Standards Committee on November 16, 2017. For details on the potential hotel and short-term rental tax refer to the Short-term Rental and Hotel Tax report to Executive Committee on November 29, 2017.

Staff have considered the research and input received to date and weighed this information to develop balanced regulations that intend to promote consumer protection, public safety, and the economic, social and environmental health of the city. Consistent with these overarching objectives, the proposed regulations are intended to maximize the benefits of short-term rentals and minimize their negative impacts consistent with the principles in the City's Official Plan. The proposed short-term rental zoning by-law amendments are based on the following principles:

- Allow people to rent their homes for short periods;
- Minimize negative impacts on housing affordability and availability;
- Maintain community stability, including in vertical communities;
- Minimize nuisances, such as noise and garbage; and,
- Enable greater diversity in tourism accommodations.

The proposed zoning by-law and zoning by-law amendments will 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. This restriction limits the ability to convert long-term housing units to accommodation for tourists.

In addition to policy and research, the recommendations in this report were developed based on extensive consultation. Staff sought input from the public and stakeholders through online surveys, public meetings, focus groups with short-term rental operators and users, and meetings with representatives from the short-term rental and tourism industries and community and neighborhood organizations. Generally, there was no complete consensus from the public on how to permit short-term rentals.

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

RECOMMENDATIONS

The Acting Chief Planner and Executive Director, City Planning recommends that:

1. City Council enact zoning by-law amendments substantially in accordance with Attachments 1 and 2.
2. City Council authorize the City Solicitor to make such stylistic and technical changes to each zoning by-law amendment as may be required.

FINANCIAL IMPACT

There are no financial impacts associated with the approval of this report.

DECISION HISTORY

On January 28, 2016, Executive Committee referred item EX11.19 Regulating Temporary Accommodation Rentals to the Executive Director, Municipal Licensing & Standards (ML&S), and the Chief Planner and Executive Director, City Planning, to provide an interim report in the third quarter of 2016 and a final report in 2017 on regulating temporary accommodation rentals. This item is available at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX11.19>

On October 28, 2016, Executive Committee adopted EX18.12 Developing an Approach to Regulating Short-Term Rentals and directed the Executive Director, ML&S, and the Chief Planner and Executive Director, City Planning, to report no later than the end of the second quarter of 2017 with proposed regulations for short-term rentals. This item is available at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX18.12>

On December 13, 2016, City Council adopted EX20.2 The City of Toronto's Immediate and Longer-term Revenue Strategy Direction requesting that the Province make legislative and/or regulatory reforms to grant the City authority to collect a hotel and short-term rental tax. Upon legislative changes from the Province, City Council endorsed the implementation of the hotel and short-term rental tax and requested that the City Manager report back on a recommended tax rate for short-term rentals that is no higher than 10 percent. This item is available at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX20.2>

On February 15, 2017, City Council adopted EX22.2 2017 Operating and Capital Budget, which endorsed the creation of a hotel and short-term rental tax in the City of Toronto, at rates of 4 percent of hotel accommodation revenues, and up to 10 percent of short-term rental revenues, subject to receiving the necessary legislative authority, for implementation as soon as practical in 2017. This item is available at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX22.2>

On June 19, 2017, Executive Committee adopted EX26.3 Proposed Regulations for Short-term Rentals for Consultation, with amendments, and directed the Chief Planner and Executive Director, City Planning, to prepare amendments to all applicable general zoning by-laws to permit short-term rentals; hold community meetings as required by the Official Plan and a public meeting as required under the Planning Act; and, to report with final zoning amendments to a statutory meeting of Planning and Growth Management Committee. In addition, Executive Committee directed the Executive Director, ML&S, to conduct public consultation on the proposed licensing and registration framework; and directed the Executive Director, ML&S, to report with the licensing and registration requirements to the Licensing and Standards Committee in the fourth quarter of 2017. This item is available at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX26.3>

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. With this rise, based on the direction from Executive Committee, staff developed a set of short-term rental regulations. At their meeting in June 2017, Executive Committee directed staff to prepare amendments to all applicable general zoning by-laws to permit short-term rentals in keeping with the proposal adopted by Executive Committee on June 19, 2017, and to hold community meetings as required by the Official Plan and a public meeting as required under the Planning Act on the proposed zoning by-law and amendments. This report summarizes the input received and describes the proposed zoning by-law amendments.

Short-term Rental Market in Toronto

Upon reviewing short-term rental websites in April 2017, staff found there were 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. 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, in 2016, there were 988,378 nights rented short term on Airbnb and 24,301 nights rented short term on Expedia.

Airbnb is the company with the most short-term rental listings being advertised in Toronto and the majority of its listings meet the proposed 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 Street to the Don River.
- Staff estimate that approximately 3,200 properties rented in 2016 were not principal residences. (This is based on a survey of hosts done by Airbnb that found that 77% rent their own home or their secondary suite.)

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

Consultation Process

In addition to the public and stakeholder consultations held in March and April 2017, staff from City Planning, MLS and Corporate Finance sought input regarding the regulations proposed in the June 2017 report during August and September 2017. Staff sought input from the general public and key stakeholders, including hotel, motel, and bed & breakfast (B&B) representatives; short-term rental companies and providers; housing and neighbourhood advocates and ratepayer associations; condominium representatives; and corporate housing providers through the following methods:

- Four public open houses at each of the three civic centres and City Hall (225 attendees in total);
- Online public survey (5,316 responses);
- Seven targeted stakeholder meetings (45 attendees); and,
- Written submissions (22 written submissions and 27 emails).

Members of the public and stakeholders were notified of the four public open houses through City Planning Facebook Events and Tweets, emails to stakeholder groups, the Municipal Licensing and Standards website, and notices in all local newspapers. Staff also sought input from Provincial staff, policy experts, and other jurisdictions regulating

short-term rentals. The ideas and concerns raised by the public and key stakeholders regarding the regulations are described throughout this report.

Regulations

The proposed short-term rental regulations are composed of three parts: zoning by-law amendments, a licensing and registration program, and taxation. The proposed zoning by-law amendments permit the land use, the licensing and registration program provides City regulates the activity, and the potential taxation scheme could collect tax revenues from the activity. For details on the proposed short-term rental licence and registry, refer to the Short-term Rental Licensing and Registration Report to Licensing and Standards Committee on November 16, 2017. For details on the potential hotel and short-term rental tax refer to the Short-term Rental and Hotel Tax report to Executive Committee on November 29, 2017. This report provides details on the proposed city-wide stand-alone zoning by-law (Attachment 1), and zoning by-law amendments to all applicable general zoning by-laws (Attachment 2) to permit short-term rentals.

Summary of Proposed Zoning By-law, and Zoning By-law Amendments

The proposed city-wide stand-alone zoning by-law (Attachment 1) and amendments to all applicable general zoning by-laws (Attachment 2) to permit short-term rentals are in keeping with the proposals adopted by Executive Committee on June 19, 2017, and are based on the following guiding principles:

- Allow people to rent their homes for short periods;
- Minimize negative impacts on housing affordability and availability;
- Maintain community stability, including in vertical communities;
- Minimize nuisances, such as noise and garbage, and,
- Enable greater diversity in tourism accommodations;

There was significant support for the above guiding principles. The public and key stakeholders generally agreed that these were important goals. There are a small minority of members of the public that did not want to allow any short-term rentals to occur. Some stakeholders from the short-term rental industry felt that there was not enough data to determine if short-term rentals were having a negative impact on housing affordability and availability. As discussed in the June 2017 report and further discussed in this report, short-term rentals are one of many contributing factors that impact housing affordability and availability and, therefore, should remain as a guiding principle.

Short-term rentals were not previously defined in the city-wide zoning by-law or other zoning by-laws and are, therefore, currently not permitted. The proposed zoning by-law and zoning by-law amendments (see Attachments 1 and 2) will permit short-term rentals by creating a new use definition, identify where the use is permitted, and provide conditions under which the use is permitted. As the entire city is not covered by Zoning By-law 569-2013, other relevant zoning by-laws from former municipalities are proposed to be amended in a similar manner to address short-term rentals.

New Use Definition for Short-term Rentals

Length of Stay

Staff recommend that the short-term rental framework should not apply to rentals that are consistent with the length of one month. As February is 28 days, staff recommend the definition of a short-term rental be revised to only apply to rentals that are less than 28 consecutive days.

Principal Residence

Residents were evenly split on whether short-term rentals should be restricted to the principal residence of the operator. Survey respondents were split on whether short-term rentals must occur in a principal residence (50% agreed or strongly agreed while 41% disagreed or strongly disagreed). Many stakeholders felt that the transient nature of short-term rental users can lead to destabilization or changes to the established character of a neighbourhood, but felt restricting short-term rentals to the principal residence of the operator was a balanced approach. Some felt that the nature of condominium units (for example, their close proximity) create an increased risk for nuisance issues even if it is the operator's principal residence. Other stakeholders felt short-term rentals should be limited to one listing per host instead of the host's principal residence, thereby allowing residents to have one secondary investment property permitted to be used as a short-term rental. Restricting the use to the principal residence of the short-term rental operator ensures oversight of the property, thereby decreasing neighbourhood impacts related to nuisance and safety issues, and retains the intended residential use of the property as identified by the City's Official Plan and zoning by-laws. Staff see short-term rentals where it is not the principal residence of the operator as a different land use, and one that is not residential and therefore not true 'home sharing'. Creating a new land use 'short-term rental' under all applicable City zoning by-laws, which requires the use to be the principal residence of the operator, keeps the intended land use as residential and conforms to the Official Plan as required by the Planning Act.

Short-term Rental Operator

The proposed short-term rental regulations would allow both tenants and owners to operate short-term rentals out of their principal residences. Some stakeholders and residents supported this approach as fair and inclusive by allowing renters and owners, alike, to access the economic benefits of operating short-term rentals. Staff also heard from landlords and other stakeholders who believe that the City should prohibit tenants from operating short-term rentals. Most other people were neutral about this type of permission. Zoning by-laws regulate land uses and cannot distinguish between the users of a building or structure. For this reason, and to be fair and inclusive, staff are maintaining their proposal to allow all principal residents to operate short-term rentals, regardless of whether they own or rent the property.

Housing Availability and Affordability

According to the CMHC Rental Market Reports, the vacancy rate for private rental housing is at its lowest in the past 10 years (1.3%) and the vacancy rate for condo

rentals is even lower (1.0%). In terms of affordability, in 2011, 28% of owners were spending a third or more of their income on housing, while 44% of renters were spending 30% or more. Paying 30% or more of one's income on rent or shelter costs is widely used as a measure of housing unaffordability.

Data limitations make it challenging to assess the full impact of short-term rentals on housing affordability and availability, but according to the CMHC Rental Market Reports, a 1.3% vacancy rate means there were approximately 3,350 vacant units in the private rental market and just over 925 vacant units in the condominium rental market in 2016. Based on data received from Airbnb, staff estimate there are approximately 3,200 properties that were rented in 2016 on Airbnb that were not in a principal residence (further details on this can be found in the June 2017 report). If the properties were no longer used for short-term rentals, it is anticipated that they would be sold, left vacant, or rented long-term. Adding even half of these units back into the long-term rental housing market would have the potential to improve the vacancy rate.

Maintaining the rental housing stock is a cornerstone of the Official Plan housing policies and a key priority for Council. The loss of rental units in favour of short-term rentals is inconsistent with Official Plan objectives to provide a full range of housing that makes more efficient use of, maintains and replenishes, the existing stock. Restricting short-term rentals to the principal residence of the operator will keep residential units in the housing supply. In addition, the proposed definition will help to protect community stability by retaining the residential land use as is the intent of the Official Plan and zoning by-laws; avoid nuisance issues; and assist in keeping long-term rental units available and affordable, thereby meeting the five guiding principles and the intended land use as residential.

Staff propose to continue with the Executive Committee supported definition of short-term rentals being restricted to the principal residence of a short-term rental operator, but propose to amend the definition to only apply to a rental period of less than 28 consecutive days. Terms shown in bold text indicate they are defined terms in the city-wide zoning by-law 569-2013. Staff propose the definition of short-term rental, applicable to all general zoning by-laws as follows:

Short-term Rental means all or part of a **dwelling unit** that is (A) used to provide sleeping accommodations for any rental period that is less than 28 consecutive days; and, (B) the principal residence of the short-term rental operator.

The city-wide zoning by-law 569-2013 defines a **dwelling unit** as: "living accommodation for a person or persons living together as a single housekeeping unit, in which both food preparation and sanitary facilities are provided for the exclusive use of the occupants of the unit."

Short-term Rentals: Permitted Zones

Some stakeholders requested site-specific zoning by-law exceptions for short-term rentals in the residential component of mixed use zones when it is not a principal residence and when permitted through condominium declarations and by-laws. This request is not supportable when the City wants to retain long-term housing stock. While

the contents of a condominium corporation's governing documents are intended to help regulate uses and activities, condominium rules and by-laws must follow all municipal by-laws. The rules and by-laws of a condominium corporation can be more restrictive than a municipal by-law (for example, prohibit a short-term rental), but cannot be more permissive.

Many stakeholders felt that permitting short-term rentals in residential zones and the residential component of mixed use zones, as long as it was restricted to the principal residence of the operator was a balanced approach. Some stakeholders felt that short-term rentals should be restricted from residential and mixed use zones regardless of whether it was the principal residence of the operator, especially within condominium buildings.

Staff propose to keep the Executive Committee adopted proposal to add short-term rentals as a permitted use for all zones where dwelling units are permitted, these include residential zones and the residential component of mixed use zones in all applicable general zoning by-laws (see Attachment 2 for details). This approach, in conjunction with the definition of a short-term rental which restricts it to the principal residence of the operator, retains the intended residential use of the property as identified by the City's Official Plan and zoning by-laws.

Secondary Suites

Stakeholders felt being able to rent their entire home or up to three rooms in their home was a balanced approach. Stakeholders were evenly split on whether a secondary suite should be permitted to be used as a short-term rental. Some stakeholders felt that secondary suites should only be used for long-term rentals and allowing them to be rented short-term would exasperate housing affordability and availability issues in the City as well as neighbourhood nuisance issues. Staff also heard that many owners utilized the income from renting their secondary suite short-term to help pay their mortgage and fund their retirement when they were not using them for friends or family.

The city-wide zoning by-law, By-law 569-2013, defines a **secondary suite** as a "self-contained living accommodation for an additional person or persons living together as a separate single housekeeping unit, 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." Secondary suites are permitted in nearly all detached houses and semi-detached houses, and in some residential areas they are also permitted in townhouses. Between 2002 and 2017, 1,759 lawful secondary suites have been constructed across the city.

Staff recognize the importance of secondary suites to the rental market as an affordable source of housing, and propose keeping the specific use regulations adopted by Executive Committee on June 19, 2017, but to amend them to limit the use of short-term rentals to a maximum of one lawful secondary suite. This will limit the overall number of secondary suites that can be used for short-term rentals in the zones where a house may have more than one secondary suite.

There are secondary suites across the city that have not obtained building permits. These units are not considered lawful secondary suites and, therefore, may not be used for short-term rental purposes. Only secondary suites that are permitted by City zoning by-laws and that comply with Building Code and Fire Code requirements will be permitted for short-term rental use.

The former City of Toronto Zoning By-law 438-86 permits a converted house, defined as "a building originally constructed as a detached house, semi-detached house, row house, duplex, triplex, semi-detached duplex, or semi-detached triplex, which is altered to contain two or more dwelling units except for a row house which may be altered to provide a maximum of two dwelling units". The city-wide zoning by-law, 569-2013, carried the permissions for a converted house forward in the R zone; however only for residential buildings originally constructed as a detached house or a semi-detached house, and permitted the converted dwelling units as secondary suites.

Staff recommend creating fairness and consistency between detached and semi-detached houses across the city by only permitting a maximum of one secondary suite to be used as a short-term rental, per dwelling unit, in the principal residence of the short-term rental operator. This ensures oversight of the property by the occupant of the main dwelling unit and creates consistency across the city by only permitting a maximum of one secondary suite per principal residence to be used as a short-term rental. Where the principal residence of a tenant is a secondary suite, they will be able to rent their unit short term.

Staff recommend the following specific use regulations for short-term rentals:

A short-term rental is a permitted use if:

- It is in a dwelling unit, bed-sitting room, or a secondary suite;
- In the case of bed-sitting rooms, there are no more than three permitted in any one dwelling unit;
- In the R zone, a principal residence may not include more than one secondary suite used as a short term rental; and,
- It is not in a vehicle.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Draft City-wide Stand-alone Zoning By-law to Permit Short-term Rentals

Attachment 2: Draft Zoning By-law Amendments to all Applicable General Zoning By-laws to Permit Short-term Rentals