Agenda – Executive Policy Committee – February 14, 2022

REPORTS

Item No. 1 Regulating Short-Term Rental Accommodations

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

1. That the Public Engagement Summary, attached as Appendix A, be received as information.

2. That Council approve the proposed regulatory framework for short-term rental accommodations (STRAs) as the basis for a more detailed program involving zoning, licensing, and taxation elements, details of which are further set out in Appendix C, which includes the following highlights:

    A. The proposed STRA regulatory program would apply to temporary accommodations of a continuous period of less than 30 nights (a continuous period of 30 nights or more would not be subject to the STRA regulatory scheme);

    B. The 5% Accommodation Tax would be applied to the purchase price of STRA bookings;

    C. All STRAs would be required to be licensed annually;

    D. Individuals (but not corporations) would be allowed to rent their primary residence anywhere in the city, including in an area zoned R1 or R2;

    E. In addition, individuals would be allowed to rent one non-primary residential property as a STRA but only in areas zoned multi-family, commercial or in the Downtown (but not in areas zoned R1 and R2);

    F. Non-individuals (partnerships and corporations) may obtain only one licence – for a non-primary residential property in areas zoned multi-family, commercial, or in the Downtown (but not in areas zoned R1 and R2);

    G. Primary residence STRAs could be rented for an unlimited number of nights if the owner/operator is in residence but a maximum of 150 nights per year during times when the owner is not in residence; non-primary residences could be rented an unlimited number of nights per year;

    H. The number of adults staying in any STRAs would be limited to two adults per bedroom; there would be no limit on the number of children under 18 years of age;

WINNIPEG PUBLIC SERVICE RECOMMENDATION (continued):

I. STRAs would need to meet safety requirements set out in this report;

J. STRAs would need to post on the property the operator's name and a phone number monitored 24/7;

K. STRA operators would be subject to a criminal record review;

L. STRA platforms (which collect the purchase price for STRA bookings on behalf of the operator) would have to be licensed in order to rent properties in Winnipeg;

M. Renting an STRA though anyone other than a licensed STRA platform would be prohibited.

3. That, subject to approval of Recommendation #2, Council approve the preliminary plan for implementation outlined in this report, including preliminary staffing, resource and cost implications of the proposed regulatory program.

4. That the Winnipeg Public Service be directed to report back to the Standing Policy Committee on Property and Development within 180 days with amendments to the Winnipeg Zoning By-law No. 200/2006 and Downtown Winnipeg Zoning By-law No. 100/2004, as well as a schedule for implementation and all associated resource implications.

5. That the Winnipeg Public Service be directed to report back to the Executive Policy Committee within 210 days with any necessary amendments to the Accommodation Tax By-law No. 70/2008 and the Community Safety Business Licensing By-law No. 91/2008, as well as a schedule for implementation and all associated resource implications.

6. That the Winnipeg Public Service report back to the Executive Policy Committee in September 2026 with

A. An update on implementation of the STRA regulation program in Winnipeg; and

B. Any recommended changes to Winnipeg's STRA regulation program.

7. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 7, 2022, the Executive Policy Committee granted an extension of time of up to 60 days for the Winnipeg Public Service to report back on the following:

1. Solicit feedback from the general public, stakeholders, and elected officials on their experiences with short-term rentals, and on potential regulatory solutions, and that the public engagement be funded from existing resources within Planning, Property, and Development.

2. Propose amendments to the Accommodation Tax By-Law No. 70/2008 to include short-term rental accommodations in the collection and remittance of the Accommodation Tax.

3. Review the Toronto licensing and registration model for short-term rentals for application in Winnipeg and implement the requirement for a primary residence as a requirement for the operation of a short-term rental.

4. Provide recommendations for a licensing framework that considers fire, safety, land-use, and other requirements.

5. Develop, in co-ordination with the Winnipeg Police Service and the UN Women Safe Cities Global Initiative Steering Committee, information on Sex Trafficking and Human Trafficking for owners of short-term rentals, similar to what is available from the City of Toronto.

6. Identify any associated staffing, resource, and cost implications; and provide a schedule for implementation, including a timeline for the drafting of any required by-laws or amendments.

7. Review Business taxes as an additional taxation model for application to short-term rentals.

The following persons submitted communications in opposition to the matter:

- Melanie Mitchell, Président/Founder, Manitoba Short Term Rental Owners Association
- Godfrey Gottfredsen
- Jude Sanson

DECISION MAKING HISTORY (continued):

COUNCIL DECISION:

On June 23, 2022, Council concurred in the June 6, 2022, recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development, which included the following recommendations:

3. That the Public Service be directed to undertake the following, and report back to Executive Policy Committee in 90 days:

    A. Solicit feedback from the general public, stakeholders, and elected officials on their experiences with short-term rentals, and on potential regulatory solutions, and that the public engagement be funded from existing resources within Planning, Property, and Development.

    B. Propose amendments to the Accommodation Tax By-Law No. 70/2008 to include short-term rental accommodations in the collection and remittance of the Accommodation Tax.

    C. Review the Toronto licensing and registration model for short-term rentals for application in Winnipeg and implement the requirement for a primary residence as a requirement for the operation of a short-term rental.

    D. Provide recommendations for a licensing framework that considers fire, safety, land-use, and other requirements.

    E. Develop, in co-ordination with the Winnipeg Police Service and the UN Women Safe Cities Global Initiative Steering Committee, information on Sex Trafficking and Human Trafficking for owners of short-term rentals, similar to what is available from the City of Toronto.

    F. Identify any associated staffing, resource, and cost implications; and provide a schedule for implementation, including a timeline for the drafting of any required by-laws or amendments.

    G. Review Business taxes as an additional taxation model for application to short-term rentals.

ADMINISTRATIVE REPORT

Title: Regulating Short-Term Rental Accommodations

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

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EXECUTIVE SUMMARY

Short-term rental accommodations (STRAs) within dwellings have increased in popularity in recent years. With the growth of this emerging accommodations industry has come the interest by many municipalities to review the extent to which short-term rental activities should be regulated.

The Public Service was directed to report back to Council with recommendations for regulating STRAs in Winnipeg. The Public Service has considered public engagement input as well as jurisdictional research to find a solution that responds to the Winnipeg situation for Council's consideration. The approach to regulating STRAs recommended by the Public Service seeks to set minimum standards for community safety, consumer safety, neighbourhood accountability, and to foster equity in the accommodations industry.

This report provides a summary of public and stakeholder engagement and proposes a three-pronged regulatory program for STRAs that includes: zoning and land use; licensing and enforcement; and taxation.

If Council approves the Public Service's recommendations, the regulatory program will be further refined in a subsequent report to Council and formal draft by-law amendments would be prepared for Council's consideration and enactment, including any required amendments to zoning by-laws, the Accommodation Tax By-law, and the Community Safety Business Licensing By-law (CSBL). Various by-laws, such as the Winnipeg Zoning By-law No. 200/2006, the Downtown Winnipeg Zoning By-law No. 100/2004, the Accommodation Tax By-Law No. 70/2008, and the Community Safety Business Licensing By-law No. 91/2008 may need to be amended to ensure alignment between and among them. Any required zoning by-law amendments would be subject to a Public Hearing for the proposed changes. While this report outlines preliminary staffing, resource and cost implications of the proposed regulatory program, projections will be further refined based on Council direction and more completely set out in a subsequent report to Council.

RECOMMENDATIONS

1. That the Public Engagement Summary, attached as Appendix A, be received as information.

2. That Council approve the proposed regulatory framework for short-term rental accommodations (STRAs) as the basis for a more detailed program involving zoning, licensing, and taxation elements, details of which are further set out in Appendix C, which includes the following highlights:

    A. The proposed STRA regulatory program would apply to temporary accommodations of a continuous period of less than 30 nights (a continuous period of 30 nights or more would not be subject to the STRA regulatory scheme);
    B. The 5% Accommodation Tax would be applied to the purchase price of STRA bookings;
    C. All STRAs would be required to be licensed annually;
    D. Individuals (but not corporations) would be allowed to rent their primary residence anywhere in the city, including in an area zoned R1 or R2;
    E. In addition, individuals would be allowed to rent one non-primary residential property as a STRA but only in areas zoned multi-family, commercial or in the Downtown (but not in areas zoned R1 and R2);
    F. Non-individuals (partnerships and corporations) may obtain only one licence – for a non-primary residential property in areas zoned multi-family, commercial, or in the Downtown (but not in areas zoned R1 and R2);
    G. Primary residence STRAs could be rented for an unlimited number of nights if the owner/operator is in residence but a maximum of 150 nights per year during times when the owner is not in residence; non-primary residences could be rented an unlimited number of nights per year;
    H. The number of adults staying in any STRAs would be limited to two adults per bedroom; there would be no limit on the number of children under 18 years of age;
    I. STRAs would need to meet safety requirements set out in this report;
    J. STRAs would need to post on the property the operator's name and a phone number monitored 24/7;
    K. STRA operators would be subject to a criminal record review;
    L. STRA platforms (which collect the purchase price for STRA bookings on behalf of the operator) would have to be licensed in order to rent properties in Winnipeg;
    M. Renting an STRA though anyone other than a licensed STRA platform would be prohibited.

3. That, subject to approval of Recommendation #2, Council approve the preliminary plan for implementation outlined in this report, including preliminary staffing, resource and cost implications of the proposed regulatory program.

4. That the Winnipeg Public Service be directed to report back to the Standing Policy Committee on Property and Development within 180 days with amendments to the Winnipeg Zoning By-law No. 200/2006 and Downtown Winnipeg Zoning By-law No.

100/2004, as well as a schedule for implementation and all associated resource implications.

5. That the Winnipeg Public Service be directed to report back to the Executive Policy Committee within 210 days with any necessary amendments to the Accommodation Tax By-law No. 70/2008 and the Community Safety Business Licensing By-law No. 91/2008, as well as a schedule for implementation and all associated resource implications.

6. That the Winnipeg Public Service report back to the Executive Policy Committee in September 2026 with

    A. an update on implementation of the STRA regulation program in Winnipeg; and
    B. any recommended changes to Winnipeg's STRA regulation program.

7. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

At its meeting on June 23, 2022, Council directed the Public Service to undertake the following, and report back to Executive Policy Committee in 90 days:

A. Solicit feedback from the general public, stakeholders, and elected officials on their experiences with short-term rentals, and on potential regulatory solutions, and that the public engagement be funded from existing resources within Planning, Property, and Development.

B. Propose amendments to the Accommodation Tax By-Law No. 70/2008 to include short-term rental accommodations in the collection and remittance of the Accommodation Tax.

C. Review the Toronto licensing and registration model for short-term rentals for application in Winnipeg and implement the requirement for a primary residence as a requirement for the operation of a short-term rental.

D. Provide recommendations for a licensing framework that considers fire, safety, land-use, and other requirements.

E. Develop, in co-ordination with the Winnipeg Police Service and the UN Women Safe Cities Global Initiative Steering Committee, information on Sex Trafficking and Human Trafficking for owners of short-term rentals, similar to what is available from the City of Toronto.

F. Identify any associated staffing, resource, and cost implications; and provide a schedule for implementation, including a timeline for the drafting of any required by-laws or amendments.

G. Review Business taxes as an additional taxation model for application to short-term rentals.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no immediate financial or administrative implications of the Recommendations of this report.

If Council approves the regulatory program and implementation plan outlined in this report, the Public Service will bring forward a report, together with the necessary by-laws or by-law amendments, including an implementation plan and schedule for the regulatory program to take effect, for final approval and enactment by Council. This may include amendments to the Winnipeg Zoning By-law No. 200/2006, the Downtown Winnipeg Zoning By-law No. 100/2004, the Accommodation Tax By-Law No. 70/2008, and the Community Safety Business Licensing By-law No. 91/2008. By-laws will be amended to ensure alignment between and among them. Additionally, any required by-law amendments to include STRAs in the Accommodation Tax By-Law, Community Safety Business Licensing By-law and zoning by-laws will be submitted for approval concurrently, as the by-laws need to be aligned. Any required zoning by-law amendments would be subject to a Public Hearing for the proposed changes.

The associated staffing, resource and cost implications will also be outlined in a subsequent report back to Council.

The Public Service will monitor the operation of the regulatory program post-implementation and will report back to Executive Policy Committee in September 2026 with an update on the program and any recommended changes. It should be noted that some aspects of STRA regulation fall outside the City's jurisdiction; the Public Service has not yet explored potential changes to Provincial legislation related to the matter.

HISTORY/DISCUSSION

Part 1 – Overview

With the growth of the short-term rental accommodations (STRAs) industry has come the interest in many communities to review the extent to which short-term rental activities should be regulated.

In 2021 the City of Winnipeg (City) began exploring methods of regulating the short-term rental accommodations industry in Winnipeg. Best practice responses at the municipal level in Canada have focused on understanding the dynamics of short-term rentals within each local context and addressing issues as simply and directly as possible with the use of regulatory tools.

For the purposes of regulating STRAs in Winnipeg, the term **"Short-Term Rental Accommodation"** refers to temporary accommodations for a continuous period of less than 30 nights in a dwelling (house, condominium, apartment, etc.), provided by a property owner or principal tenant in exchange for payment.

Associated with this activity, **"Short-Term Rental Platforms"** refers to anyone who, for compensation, markets or brokers the booking, reservation, rental or listing of a dwelling, and collects fees in whole or in part on behalf of a Short-Term Rental Accommodation by means of a website or any digital application. These online platforms allow private property owners to enter into service agreements in which the online platform providers advertise the property for rent,

bill and collect the purchase price of the rental on behalf of the owner. These online platform providers will then distribute the money collected for the accommodation to the property owner and municipality. These do not include platforms which merely permit the advertisement of STRAs for rent but do not collect the purchase price on behalf of the owner.

"Primary Residence" is a dwelling unit owned or rented by an individual, either alone or jointly with others, where the individual lives for the majority of the year; a partnership or corporation cannot own or rent a primary residence and an individual cannot have more than one primary residence.

Part 2 – Public Engagement Summary

The Public Service undertook public and stakeholder engagement to better understand views on STRAs and potential regulations. Engagement opportunities included randomly selected participation in a statistical survey, self-selected participation in an online public survey, a project webpage, and stakeholder workshops. The Public Service had an initial meeting last December with elected officials who had expressed concerns about STRAs in their neighbourhoods. This was the starting point on developing regulations. There was also the opportunity to garner additional input from elected officials and the public as the Interim Report on Regulating Short-term Rental Accommodations was considered in the spring of 2022 at multiple meetings, with the matter having two rounds of discussion at the committees of Council (Standing Policy Committee on Property & Development, Heritage, and Downtown Development, Executive Policy Committee, and Council). There was engagement from a range of community and business stakeholders at these meetings, which allowed direct input, questions, and information sharing on issues affecting STRAs.

Appendix A provides a summary of public and stakeholder engagement activities, including appendices of the statistical survey results, city-wide online survey results, and stakeholder meeting notes. The following is a summary of what we heard though engagement.

Statistical survey:

- Winnipeggers have mixed views regarding short-term rental accommodations. Those who have some experience with short-term rentals are more likely to hold positive opinions about this type of arrangement.
- Those with mixed or negative opinions are most likely to raise concerns related to the effect of these properties on the housing market, or on neighbourhood affordability. About 25 percent cited the perceived negative effect of short-term rentals on the housing market and rental supply, with these concerns more likely to be raised by younger Winnipeggers and those living in the core area.
- About 30 percent expressed worries about the negative effects on the neighbourhood, including noise, perceived loss of a sense of community, potential property damage, and the potential for safety concerns and illegal activity. Older Winnipeggers are more likely to raise these types of concerns.
- When asked to cite the positive effects of short-term rentals, Winnipeggers are most likely to point to the flexibility associated with these types of activities and their perceived contribution to the local tourism industry.

Online survey:

- Winnipeg residents provided feedback through an online survey, which was open to the public June 2-30. The survey received 843 responses: 610 have a short-term rental in

their neighbourhood, 143 are short-term rental hosts or operators, and 122 work in a related accommodations industry.

- Respondents who expressed that STRAs have negative impacts noted the following concerns:
    - Detrimental to housing affordability and availability
    - Have a negative impact on the community
    - Cause safety concerns in the neighbourhood
- Respondents who expressed that STRAs have positive impacts noted the following benefits:
    - Good for tourism and the local economy
    - Offer flexible and affordable accommodations
    - Source of income
    - Important for vulnerable people such as refugees, survivors of domestic violence, or people receiving medical treatment
- Respondents who live in multi-unit dwellings, such as apartments and condominiums, reported more negative impacts from STRAs compared to those who live in single-detached dwellings.
- Similarly, respondents who live in the Downtown neighbourhood also reported more negative impacts from short-term rentals compared to respondents who live in other neighbourhoods in the city.

Views on regulations

- Respondents to the online survey expressed that the top three considerations when developing regulations are to:
    - support the safety of the community and short-term renters;
    - mitigate noise, property damage and illegal activity; and
    - support the local economy and tourism.

The majority of online survey respondents support an accommodation tax (56 percent support) and regulations that will address neighbourhood livability and safety concerns, in particular licences (61 percent support). A primary residency requirement (41 percent support; 49 percent opposition), and a maximum licence limit (48 percent support; 37 percent opposition) received mixed responses.

Regarding land use and zoning considerations, a majority of online survey respondents felt that short term-rental accommodations should be allowed in all neighbourhoods (61 percent) and in all dwelling types (58 percent).

Stakeholder meetings:
Stakeholder meetings were held to gather feedback from stakeholder groups. The meetings included a brief presentation followed by an in-depth discussion on the benefits and limitations of different regulation options and guidelines for operating short-term rentals.

Meetings were organized with the following groups to ensure a range of perspectives were represented in the discussions:

- Resident and housing associations
- STRA hosts/operators and online platforms
- Accommodations and related industries, such as tourism, hotels and real estate

Feedback received during stakeholder meetings included:

- Taxation will create more fairness in the accommodations industry.
- Licensing both short-term rental hosts and platforms will increase accountability and improve communication between residents, hosts and the City.
- Resident and housing associations support primary residency requirements to address neighbourhood livability concerns.
- Short-term rental hosts and platforms expressed concerns about primary residency, and having a maximum number of days for rent requirements.
- Stakeholders had mixed opinions about restricting short-term rentals in certain neighbourhoods.
- Resident and housing associations felt short-term rentals should not be allowed in multi-unit dwellings, like condominiums and apartments, while hosts and operators expressed they should be allowed in all dwellings.
- Effective enforcement will be essential.

Part 3 – Proposed Amendments to the Accommodation Tax By-Law No. 70/2008

The Accommodation Tax By-law No. 70/2008 (By-law) was adopted by Council on April 23, 2008, with an implementation date effective June 1, 2008. The Lieutenant Governor in Council (Province of Manitoba) subsequently approved the By-law on May 8, 2008.

The Accommodation Tax is a 5% tax on room accommodations of a continuous period of less than 30 nights within the City of Winnipeg with the revenue being recorded in the Destination Marketing Reserve Fund.

There are approximately 125 hotels operating within Winnipeg. However, not all short-term stays are currently subject to the accommodation tax; exemptions listed under subsection 3(3) of the By-law include hospital rooms, personal care residences, dormitories, temporary accommodations for people in Winnipeg for medical care, and others.

Significantly, the By-law at the time of adoption did not consider online STRA platforms such as AirBnB, Vacation Rental by Owner (VRBO) or Homestay.

Local hoteliers have expressed a lack of equity in the application of the Accommodation Tax, as currently most STRAs, including most bed-and-breakfast establishments, are exempt under the Accommodation Tax By-law since they have fewer than four bedrooms that are available for rent. This report proposes that this exemption be eliminated, with the result that all STRAs would be subject to the 5% tax. This includes existing bed-and-breakfast accommodations which, like all other STRAs, would now be subject to the collection and remittance of the Accommodation Tax.

It is estimated there are approximately 900 STRA operators in Winnipeg that are not subject to the collection or remittance of the Accommodation Tax. Based on the estimated number of operators, an estimate of 62 nights of rental per year, an estimate of a rental rate of $100 per night and the current accommodation tax rate of 5%, it is estimated that the accommodation tax that is not being realized is $279,000 annually.

By-law amendments to include STRAs in the Accommodation Tax By-Law will be submitted for approval at the same time as any new or amended by-laws for licensing and enforcement of short-term rentals as the two by-laws need to be aligned. For example, whether a licensed

short-term rental can only operate through a licensed short-term rental platform impacts how accommodation tax will be collected and enforced.

Based on the proposed licensing and enforcement program, the accommodation tax would be charged to and collected from the customer by each platform within their online application, and the platform in turn would remit the tax to the City of Winnipeg. The requirement that all bookings must be done through a licensed STRA platform is key to the collection of the accommodation tax on STRAs. This requirement allows enforcement officials to avoid conducting time-consuming and expensive investigations and audits of individual STRA operators. Assuming that this requirement is in place, the additional administration of the accommodation tax to STRAs under this structure would be minimal.

Part 4 – Proposed Licensing & Enforcement Program

In order to develop a licensing and enforcement program for STRAs in Winnipeg, the Public Service reviewed the licensing model currently in place in Toronto, Calgary, Vancouver, Edmonton, and other Canadian cities. See Appendix B for the results of the jurisdictional review of STRA licensing models, and key regulations currently in place within the licensing and registration model for Toronto.

Licensing

The Public Service recommends a new licensing program for short-term rental accommodations. The most obvious by-law location for such a program is the existing Community Safety Business Licensing By-Law No. 91/2008 (formerly known as the Doing Business in Winnipeg By-Law). The proposed regime will result in a new class of licence – Short Term Rental Accommodations – that requires both STRA operators and STRA platforms to obtain and maintain a valid business licence.

Introducing licensing requirements allows the City to conduct inspections and suspend or revoke a licence if there are any significant health and safety issues or other by-law violations. In addition, failure to comply with licensing requirements can result in administrative penalties (fines) under the Municipal By-law Enforcement Act (MBEA) or a prosecution in Provincial Judges Court where, if convicted, the STRA operator or STRA platform could face more severe penalties.

The licensing program would:

- Require that all STRAs be licensed annually;
- Require that STRAs use a licensed short-term rental platform for all bookings of short-term accommodations;
- Allow a maximum of two STRAs for an individual owner (one being the individual's primary residence) and a maximum of one STRA owned by a partnership or corporation;
- Limit to 150 nights per year that a primary residence could be booked without the owner being present in the residence;
- Impose requirements on the owner to protect the safety of both the community and renters;
- Require that all STRAs get approval from the Winnipeg Police Service Records Review Board as part of the application process.

As a condition of being licensed, STRAs would be required to comply with building standards in the Neighbourhood Liveability By-law applicable to all residential buildings. They would also need to meet the fire protection requirements applicable to rented residential buildings set out in the Fire Prevention By-law and the Fire Code. However, unless renovations or other construction was involved, the Building Code would not be applicable to STRAs.

The proposed licensing framework provides for a limit of two licences per operator: one for a primary residence (available only to individuals), and a second for a non-primary residence (available to corporations and partnerships as well as individuals). Non-individuals (partnerships and corporations) may only obtain one licence for a non-primary residence. Limiting the number of licences to two is recommended after considering feedback received during the public and stakeholder engagement process.

In addition, STRA platforms will be required to be licensed to conduct business in the City of Winnipeg, even if the STRA platform is headquartered outside the city. Licensing these platforms is essential to facilitate the administration and enforcement of by-law requirements applicable to STRAs as well as the application of the accommodation tax on short-term rental payments. The City will require these businesses to provide information as to the STRAs located in Winnipeg, including the rental charges they impose.

STRA hosts/operators will be required to provide guests with By-law-related information to help minimize any negative impacts associated with the STRA. This information will include rules related to excessive noise, parking, safety concerns, and any other By-law information to keep the STRA in compliance with all neighbourhood livability issues.

The introduction of the licensing framework proposed in this report would result in the need for a minimum of three additional full-time equivalents (FTEs), and additional costs will be associated with supervisory oversight, including evening and weekend work. Pending direction of Council, additional FTEs may be required. The Public Service will conduct full cost and revenue estimates to determine fees for full cost recovery of the program and more fully identify revenue and cost implications. If cost recovery is not possible as outlined in the fee structure, the Public Service will explore an annual transfer from the Destination Marketing Reserve Fund to sustain the licensing program up to the maximum amount of Accommodation Tax earned from STRAs.

Enforcement

Since the Community By-law Enforcement Services (CBES) division of the Community Services Department is responsible for licensing STRAs, CBES will also be responsible for enforcement of the STRA licensing program. The enforcement approach will be based on complaints, as well as on a proactive approach to compliance and enforcement of the licensing regime. The proposed framework includes enforcement officers to conduct inspections in the evenings and on weekends, in addition to weekdays. Failure to comply with STRA regulations can result in administrative penalties including warnings, suspensions, and/or fines under the MBEA and/or initiating a prosecution in Provincial Judges Court where, if convicted, could face a penalty that will be imposed at the discretion of a Judicial Justice of the Peace. Fines and early payment amounts will accompany the draft By-law in a subsequent report to Council.

The full proposed Licensing and Enforcement Framework, including a fee structure and projected annual revenue, is attached as Appendix C.

Part 5 – Proposed Zoning and Land Use Approach

Cross Jurisdictional Scan

The Public Service conducted an initial jurisdictional scan as part of its interim report to Council on June 23, 2022: http://clkapps.winnipeg.ca/DMIS/permalink.asp?id=M20220623(RM)C-170)

Further research was subsequently conducted in September 2022. There is substantial variation in how STRAs are approached through zoning by-laws across Canada. Some municipalities maintain or are proposing a primary/principal use requirement, while others enable multiple STRAs under one owner. In general, STRAs are enabled in most residential zoning districts, and are typically restricted to a maximum number of consecutive nights and a maximum number of nights per year that they can be rented out. Key findings from the recent research related to land use considerations are listed below.

Calgary

- Calgary regulates STRAs under the Business License Bylaw, which specifies the maximum number of guests, advertising, and emergency contact requirements for a STRA.

Hamilton

- Hamilton has not finalized its regulatory framework for STRAs.
- The proposed framework enables residents with a licence to rent out only their own primary residence.
- There is a cap of 28 nights of stay consecutively, and 120 nights annually.
- Commercial operators would not be permitted to operate a STRA.
- Residents within a condominium complex would require the consent/approval of the condominium corporation. Condominium boards would continue to be able to utilize their existing authority to further limit or prohibit STRAs through a declaration, by-laws or rules.

London

- London regulates STRAs under their Business Licensing By-Law.
- STRAs are permitted only at a person's primary residence, or within a unit at the primary residence.

Saskatoon

- Saskatoon regulates STRAs and homestays through both their Business License By-Law and their Zoning By-Law.
- Saskatoon considers STRAs as rental accommodations in a dwelling that is not the primary residence of the host, and permits these. Up to six guests in total may be hosted, with up to three guests hosted in a secondary suite. They must have the written permission of the condominium corporation (if applicable).
- Homestays are a short-term rental accommodation in a dwelling that is the primary residence of the host. A license for a homestay is only required when hosting guests in a secondary suite, or hosting more than two guests in the home. In a duplex, townhouse, apartment or condominium, up to two guests may be hosted. Written permission of the condominium corporation is required (if applicable).

St. Catharines

- St. Catharines defines STRAs as a home-based business under its Zoning By-Law.
- The unit is rented for a period not exceeding 28 consecutive days.
- STRA must be the primary residence of the operator (owner / tenant).
- STRAs can operate out of any residence, but must be secondary use of the property as a home-based business.

- STRAs must provide one parking space per bedroom.

Proposed Zoning and Land Use Framework

The Public Service recommends approaching the regulation of STRAs in a manner that scales this type of land use according to the intensity of the surrounding uses. This proposed framework includes two types of STRAs: one in a primary residence and one in a non-primary residence, permitting up to two STRAs per individual (one in a primary residence and one in a non-primary residence); and one rental unit for corporations (a non-primary residence). This approach does not require Zoning review or a development application as the use would be established within the Zoning By-laws and regulated through licensing.

The zoning framework being proposed would allow primary residence STRAs in all zoning districts which allow residences. However, STRAs for non-primary residences would not be allowed in R1 and R2 zoning districts; they would only be allowed in the Downtown area, and areas zoned mixed-use or commercial. In all cases, STRAs would not require a development application or a public hearing.

Under the proposed framework, the Winnipeg Zoning By-Law No. 200/2006 as well as the Downtown Winnipeg Zoning By-law No. 100/04 would add *"Short Term Rental Accommodation"* as a distinct land use.

In terms of a comparable zoning approach, Winnipeg's existing zoning requirements for home-based businesses provide guidance for balancing the combination of both small business and residential interests in residential neighbourhoods. Home-based businesses, which are generally permitted in the Zoning By-law in residential areas, are subject to Use Specific Standards within the Zoning By-law which help to limit the scale of the business and require that the operator lives on-site. Allowing the home-based business use in neighbourhoods with conditions facilitates these uses while ensuring that the scale of the business is compatible with the residential character of the neighbourhood, and that the resident operating the business maintains traditional neighbourhood responsibilities and connections with neighbours by requiring them to live in the residence occupied by the business.

As with home-based businesses, the Short-Term Rental Accommodation land use would be listed in the Winnipeg Zoning By-law No. 200/2006 as a permitted accessory use in the "R1" single-family and "R2" two-family zoning districts and allowed only within a primary occupied residence. A primary residence is generally defined as where one lives, and is the owner's address used for paying bills and receiving documentation related to identification, taxation and insurance purposes, driver's licenses, income tax returns, medical plan documentation, vehicle registration and voter registration; or similar information.

The two-family 'R2' zoning district has been included with single-family zoning districts with this STRA recommendation, as there are many predominantly single family neighbourhoods 'blanket zoned' 'R2'. All other residential zoning districts (including our mixed-use and some commercial zones) that permit three or more units (considered multi-family development) have been grouped separately.

By contrast, in the Downtown (regulated under the Downtown Winnipeg Zoning By-law 100/04) and in higher-density residential and mixed-use areas, both primary and non-primary STRAs are proposed to be permitted. Multi-family development is typically directed to the "RMF" Residential Multi-family, "RMU" Residential Mixed Use, "CMU" Commercial Mixed Use, "C1"

Commercial Neighbourhood, and “C2” Commercial Community zoning districts, as these zones are often found in areas with higher intensity land uses that are amenity-rich and well connected in terms of frequent transit routes and higher traffic corridors. It is recommended that under Zoning By-law 200/2006, STRAs would be a permitted principal use in these zoning districts, with a maximum of two licences per owner (one primary residence and one non-primary residence).

Similarly, STRAs would be a permitted principal use in all zoning districts under the Downtown Winnipeg Zoning By-law 100/04 with a maximum of two licences per owner (one primary residence and one non-primary residence).

At this time, the Public Service does not recommend additional Use Specific Standards be added to the Zoning By-laws in association with the STRA use, since the zoning framework is intended to be part of an overall regulatory program along with the licensing framework proposed in this report. The licensing framework will address requirements that could otherwise be included in Use Specific Standards, such as the maximum number of days of stay (150 maximum), and the maximum number of STRAs owned by one entity. It should be noted that with this proposed approach, additional requirements/standards may be considered by Council in the future.

The proposed land use framework accepts that multi-family buildings typically have internal regulatory tools available to their owner(s) that can be used to limit STRAs. For example, condominium boards can create by-laws and owners of apartment buildings can restrict certain uses at their properties. These enable multi-family buildings to regulate STRAs and limit their use if they wish to. However, while single-family dwellings enable more physical space between neighbours, these dwellings do not have the same mechanisms for restricting short-term rentals that multi-family buildings typically do. Therefore, the proposed framework is more permissive for short-term rentals in zoning districts that enable multi-family buildings, and more restrictive for short-term rentals in zoning districts that are primarily characterized by single-family dwellings.

The proposed licensing framework will offer increased protections for all residents through requirements placed on hosts.

Bed & Breakfasts (B&Bs) meet the definitions for short-term rental accommodations in the draft licensing framework as they are short-term rentals within the operator’s residence. However, as a land use, B&Bs are currently an accessory use of land under the Zoning By-law established through an administrative conditional use approval. The approval can be appealed, which would trigger a hearing before the Appeal Committee. This differs from what this report proposes for STRAs generally, which is a permitted use of land.

Retaining B&Bs in its current form in the Zoning By-law would subject them to a more stringent process to obtain zoning approval than would be the case for other STRAs. There is no policy rationale for doing so. It is therefore proposed that B&Bs should be removed as a regulated land use under the Zoning By-law and treated the same as any other STRAs.

In addition, both new and existing B&Bs would be subject to the same licensing requirements as all other STRAs.

Proposed Zoning (blue) **and Licensing** (green) **Framework**

<table>
<tr><th colspan="3">Zoning By-law 200/2006</th><th colspan="2">Downtown Winnipeg Zoning By-law 100/04</th></tr>
<tr><td>Single Family (R1) Zoning
Two-family (R2) Zoning

Multi-family dwellings are a conditional use in R1 and R2 districts.</td><td colspan="2">All Multifamily (RMF) Zones
All Mixed Use (RMU, CMU) Zones
Commercial (C1, C2) Zones
Anywhere multi-family dwellings are permitted in the zoning by-law.
Typically, dwellings in these districts are multi-family or mixed use (condos and apartments).
Single and two-family dwellings are a permitted use in RMF, C1 and C2 districts.</td><td colspan="2">All zoning districts

Dwellings in these districts are largely multi-family and mixed-use developments (condos and apartments).</td></tr>
<tr><td>Permitted accessory use within one primary residence only:
A primary residence is where one lives, and the address used for paying bills and receiving documentation related to identification, taxation and insurance purposes, driver’s licences, income tax returns, medical plan documentation, vehicle registration and voter registration; or similar information.</td><td colspan="2">Permitted principal use
Maximum of 2 licences per owner (one each primary/non-primary residence)</td><td colspan="2">Permitted principal use
Maximum of 2 licences per owner (one each primary/non-primary residence)</td></tr>
<tr><td>Primary Residence Only</td><td>Primary Residence</td><td>Non-Primary</td><td>Primary Residence</td><td>Non-Primary</td></tr>
<tr><td>If the property owner is on site, the number of nights is unlimited.

An owner may rent the whole dwelling, for a maximum of 150 nights per year with less than 30 continuous nights per booking.</td><td>If the property owner is on site, the number of nights is unlimited.

An owner may rent the whole dwelling, for a maximum of 150 nights per year with less than 30 continuous nights per booking.</td><td>Permitted</td><td>If the property owner is on site, the number of nights is unlimited.

An owner may rent the whole dwelling, for a maximum of 150 nights per year with less than 30 continuous nights per booking.</td><td>Permitted</td></tr>
</table>

Part 6 – Information on Sex Trafficking and Human Trafficking for Owners of STRAs

The Public Service has been engaged in discussions with the Winnipeg Police Service and the Coordinator of the Winnipeg Committee for Safety | Winnipeg Safe City Initiative (UN Women), to determine the most appropriate manner in which to respond to the direction of Council. It was determined that, because Winnipeg Safe City is focused on reducing/preventing sexual violence against women and girls in *public* spaces, and STRAs are private spaces, addressing short-term rental accommodations is outside the purview of the initiative.

The project team, in conjunction with the Winnipeg Police Service, is working with the National Human Trafficking Education Centre, located in Winnipeg, to develop the information on human trafficking and sex trafficking for owners of STRAs, as directed by Council. The National Human Trafficking Education Centre was selected for collaboration based on the organization's goal alignment to increase education and awareness for the prevention of human trafficking and sexual exploitation. The collaboration will leverage the expertise and accessibility of the Centre to further address sexual exploitation by providing information to STRA hosts/operators. This information will be provided to hosts/operators via the licensing regime, and will be available for Council's information at the time of consideration of any required by-law amendments.

Part 7 – Resource Implications and Schedule for Implementation

The introduction of a proposed licensing framework would result in the need for a minimum of an additional three FTEs, and additional costs will be associated with supervisory oversight, including evening and weekend work. Pending direction of Council, the Public Service will conduct full cost and revenue estimates to determine fees for full cost recovery of the program and more fully identify revenue and cost implications. If cost recovery is not possible, as outlined in the fee structure, the Public Service will explore an annual transfer from the Destination Marketing Reserve Fund to sustain the licensing program up to the maximum amount of Accommodation Tax earned from STRAs. The licensing fee structure and projected annual revenue are contained within Appendix C.

Pending direction of Council, the Public Service will bring forward subsequent reports, together with the necessary by-laws or by-law amendments, within 210 days, including an implementation plan and schedule for the regulatory program to take effect, for final approval and enactment by Council. Once Council approval of by-laws occurs, a period of time would be required to licence operators and platforms before the program would become effective. The Accommodation Tax could be effective as soon as a licence is active.

Part 8 – Review of Business Taxes as an Additional Taxation Model for Application to Short-term Rental Accommodations

As noted, at its meeting on June 23, 2022, Council directed the Public Service to assess business taxes as an additional taxation model for STRAs. In doing so, the Public Service considered the following:

- Annual Rental Value
- The Small Business Tax Credit Threshold
- BIZ Zone Levies
- Home Based Businesses

Annual Rental Value

The annual rental value (ARV) is the market rent which would typically be paid for the space a business occupies. It is equal to the net rent per square foot of the relevant category of space at current market rates plus the costs of comfortable occupancy multiplied by the square foot area of the premises occupied. The ARV is then multiplied by the business tax rate to determine total business taxes.

With STRAs taking on different forms, it would be difficult and impractical to apply a consistent approach in determining an ARV.

Not Owner Occupied
For a property not occupied by the owner and used 100% of the time as a short-term rental accommodation, determining the ARV could be fairly straightforward. The ARV can be determined in a similar manner as a hotel by applying a percentage to the market value.

Owner Occupied, with a designated suite or room
For an owner-occupied premise, where there is a designated suite or room utilized as the short-term rental, then the ARV could be calculated in the same manner as non-owner-occupied premises, but then utilizing a percentage of the overall square footage applicable for the short-term rental. It may be difficult to obtain relevant and accurate information from the property owner on the size of the suite in comparison to the overall property.

Properties used as both a short-term rental accommodation and owner's residence
For a property that alternates between a short-term rental accommodation and an owner's residence, it would be impractical to determine an ARV as the Assessment and Taxation Department would not be able to determine a market rent for a property like this.

Based on the effort and the cost of administration, the different types of STRA premises, and the change in primary residence to non-primary residence it would be impractical for the Assessment and Taxation Department to determine an ARV for a property.

Small Business Tax Credit

The 2022 threshold for the small business tax credit is $44,220. This means that for any business with an Annual Rental Value of $44,220 or less they will not pay a business tax. This means that residential properties with a total market value of less than approximately $442,200 would not pay a business tax.

Business Improvement Zone (BIZ) Levy

If a business tax was charged to STRAs, then a BIZ zone levy would be applied to any short-term rental accommodation located in a BIZ zone. The small business tax credit does not apply to BIZ zone levies, so all short-term rentals regardless of market value would pay the levy if located within the BIZ zone.

Home-Based Business

Currently, no home-based businesses pay business tax. Business tax is only charged on commercial locations. A license in lieu of business tax was charged to home-based businesses until 2007, but the by-law for this charge was repealed by Council as part of the Red Tape Commission to foster the growth of the City's smallest businesses.

A license in lieu of business tax is authorized under the City of Winnipeg Charter, and is used when it is impractical for the City Assessor to determine an annual rental value.

It is important to note that a license in lieu of business tax was always different than a licence imposed for regulatory purposes. A licence in lieu of business tax is really a form of business taxation which applies to business that do not occupy traditional commercial premises and are implemented to spread the business tax burden beyond the pool of commercial renters.

If a business tax was applied to STRAs, it would create an inequity between this one type of home-based business and other home-based businesses.

Conclusions on Business Taxes

The Public Service does not recommend the implementation of a business tax to short-term rental accommodations due to the following:

- The conclusion that the majority of STRAs would be exempt by having an annual rental value below the small business tax threshold,
- the significant administration effort and cost required for the limited revenue,
- the difficulty in determining an annual rental value for the variety of short-term rental accommodations, and
- the inequity of imposing a licence in lieu of business tax on STRAs but not on other kinds of home-based businesses.

A regulatory licence would better achieve the objectives of ensuring compliance with regulations and enable enforcement.

Part 9 – Impact of Short-term Rental Accommodations on Housing Supply and Affordability

With the rapid rise in online peer-to-peer short-term rental accommodation platforms, such as Airbnb and VBRO across the world, concerns about the impact short-term rentals have on the availability of long-term housing supply, rental rates, and housing prices have been raised. The theoretical framework surrounding housing supply and demand suggests that if dwelling units are reallocated away from long-term housing and into the short-term rental market, the reduced supply in the long-term market will make housing less available and less affordable.

While the City of Winnipeg has not studied the issue using local information due to a lack of comprehensive and publicly available data, there are several studies from across the world that look to address this question within other jurisdictions. Some of these studies are summarized in Appendix D.

Though each city has its own unique context with respect to its local demography, economy, geography, and tourism, there appears to be a common finding across most of the research: the introduction of short-term rentals – primarily through Airbnb and VBRO platforms – is often associated with a small increase in local rents and housing prices, and these effects are more significant in areas that are more attractive to tourists.

However, it should be noted that some studies indicate there may also be positive effects to having STRAs, primarily through reducing the cost of overnight accommodation. STRA availability gives consumers more accommodation options at various price points and helps reduce prices at hotels through increased competition, especially during peak tourism periods.

This can positively benefit both tourists and STRA hosts at the expense of traditional hotel accommodation revenue.

While each study may measure local housing market effects in a different way and in a different context, the weight of empirical evidence suggests it is common for STRAs to have a small but negative impact on local housing supply and affordability. Therefore, while the issue hasn't been empirically investigated in Winnipeg, it would be reasonable to assume that the existence of STRAs has had a small and negative effect on affordability in the local rental and housing market, but the full extent is not known or quantified (see Appendix D for housing supply and affordability research).

Part 10 – Next Steps

If Council approves the Public Service recommendations in this report, the proposed zoning framework, and licensing and enforcement framework, would be further refined and formal draft by-law amendments would be prepared for Council's consideration. It should be noted that the draft zoning by-law framework will be tailored to align with the proposed licensing regime. Any required by-law amendments to include STRAs in the Accommodation Tax By-Law, Community Safety Business Licensing By-law and zoning by-laws will be submitted for approval concurrently, as the by-laws need to be aligned. Any required zoning by-law amendments would be subject to a Public Hearing for the proposed changes which would impact Council's enactment of by-law changes to implement the licensing framework and the accommodation tax.

The Public Service will also refine the timeline and schedule for implementation, including the date on which the regulatory program will come into force and effect. Likewise, staffing, resource, and cost implication projections will be confirmed.

Additionally, the Public Service will continue developing information on sex trafficking and human trafficking for owners of STRAs.

It is expected that it will take up to seven months to bring the entire package back to Council for final adoption and enactment of by-law amendments.

FINANCIAL IMPACT

Financial Impact Statement

Date: November 4, 2022

Project Name:

Regulating Short-Term Rental Accommodations

COMMENTS:

As this report is for approval in principle of a framework only, and a subsequent report will be submitted for approval of the final program and by-laws including any financial impact, there is no financial impact associated with the approval of this current report.

As Council considers the included framework, it is important to note the anticipated financial and FTE impacts will be fine tuned as the by-laws are written, if Council proposes changes to the framework.

It is estimated that the additional Accommodation Tax Revenue of $279,000 will be generated within the Destination Marketing Reserve Fund and distributed according to the current approved percentage allocations. However, if needed, changes to the Reserve may be proposed to assist in the support of costs for the Licensing and Enforcement Program Framework.

The Licensing and Enforcement Program Framework will be designed to be cost neutral. That means the licensing fee revenue to be generated from the short-term rental accommodations should offset the additional costs. Additional costs consist of a minimum of 3 FTEs required for licensing and by-law enforcement within the Community Services Department, Community By-Law Enforcement Division. If additional funding is needed over and above the licensing revenue generated, changes will be proposed to allocate accommodation tax earned on short term rentals towards offsetting the estimated costs.

O. Garrett - Nov 4, 2022

Ozzy Garrett, CPA, CGA,
Acting Manager of Finance
Community Services Department

CONSULTATION

This Report has been prepared in consultation with:

- Customer Service & Communications (Office of Public Engagement)
- Legal Services (as to legal issues)
- Office of the CAO (Economic Development)
- Winnipeg Committee for Safety | Winnipeg Safe City Initiative (UN Women)
- Winnipeg Police Service

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg

Leadership and Good Governance

Objective: Establish and implement priority actions through evidence-informed decision-making processes

Policy 1.4 Integrated Knowledge and Resources:
Coordinate inter-departmental systems, projects and resources, making the best use of internal and external expertise to better understand service needs, find the most appropriate solutions, optimize resources, and maximize community outcomes.

Objective: Promote trust and government responsiveness through meaningful, inclusive and informed community engagement

Policy 1.11 Representative and Participatory Democracy:
Create meaningful engagement opportunities with residents, stakeholders and rightsholders, who are interested in or impacted by a decision.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Consideration was given as to whether this report connects to any of the Strategic Opportunities and Key Directions in the Climate Action Plan and it was determined that the Plan is not applicable to this specific report.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to any of the specific Goals and Objectives in the Poverty Reduction Strategy (PRS), as well as the corresponding 2021-2023 Implementation Plan, and it was determined that the Strategy is not applicable to this specific report.

SUBMITTED BY

Department: Planning, Property and Development
Division: Office of the Director
Prepared by: B. Jasper
Date: November 23, 2022
File No: N/A

Attachments:

Appendix A: Public Engagement Summary

Appendix B: Jurisdictional Review of Licensing models

Appendix C: Proposed Licensing and Enforcement Framework

Appendix D: Housing Supply and Affordability Research