Licensing & Enforcement Program Framework – Short-Term Rental Accommodations (STRAs)

The following Licensing and Enforcement Program Framework for Short-Term Rental Accommodations (STRAs) is being proposed:

PART 1: COMMON TERMS

- **"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.

- **"Short Term Rental Accommodation"** or 'STRA" is a temporary accommodation (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.

- **"Short Term Rental Platform"** is website or other form of media which, 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 operator by means of a website or any digital application.

- **"Operator"** is the owner or primary tenant of a dwelling who/which markets or rents the dwelling as a Short-Term Rental Accommodation in exchange for payment.

PART 2 – GENERAL QUALIFICATIONS FOR LICENCE

Anyone who wishes to operate a STRA in Winnipeg must obtain a licence. It is illegal to operate a STRA without a licence.

An operator must obtain a separate licence for each STRA.

An individual may obtain a maximum of two licences – one for the individual's primary residence and one for another dwelling place. Non-individuals (partnerships and corporations) may obtain only one licence – for a non-primary residence.

Prior to the City of Winnipeg issuing a licence the following is required:

1. Completed Licence Application and payment of the associated licence fee
    - The licensing fee structure will be refined as part of the next report-back. The final licensing fee structure will be drafted to achieve cost recovery based on Council's adoption of regulatory and enforcement options. The Public Service will conduct full cost and revenue estimates to determine

fees for full cost recovery of the regulatory and enforcement program approved by Council.
    - If cost recovery is not possible, 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 the Accommodation Tax earned from short term rentals.

2. If the proposed STRA is a condominium, a letter of approval from the condominium board giving permission to operate a STRA must be provided.
    - This requirement is proposed to mitigate problems within condominium complexes

3. If the applicant is the principal tenant of a rented unit, a letter from the landlord authorizing its use as an STRA must be provided.
    - This requirement is proposed to mitigate problems within apartment complexes

4. A floor plan outlining the number of bedrooms and fire exits within the proposed STRA which is approved by enforcement inspectors.
    - This requirement is proposed to assist enforcement officers in determining whether requirements regarding the maximum number of renters and fire escape plans are being observed.

5. Confirmation that the STRA meets conditions set out in the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law, permitting the STRA to operate.

6. Confirmation that the STRA meets the requirements of the Neighbourhood Liveability By-law for residential properties.

7. Confirmation that the STRA meets conditions set out in the Community Safety Business Licensing By-Law.

<u>General Conditions for operation of STRA:</u>

1. Install and maintain fire safety equipment to include smoke alarms, fire extinguishers, and carbon monoxide detectors on each floor, and have equipment inspected annually by qualified inspectors to ensure compliance with Fire Code regulations.

2. Keep the following records and provide them to the City upon request

a) Number of nights STRA was rented
b) Rental type – individual rooms or the entire dwelling
c) Names of customers who provided payments for each booking
d) Nightly and total price charged for the short-term rental

3. Provide guests with an emergency exit plan. The plan must also be posted inside the STRA.

4. Provide guests with an emergency contact number and be available 24/7 to respond during the rental period. The emergency contact number must also be posted inside the STRA.

5. Must book STRAs through a licensed STRA platform only and must include the City of Winnipeg licence number on the listings within the platform. Booking privately or through any other advertising medium is prohibited.

6. Approval from the Winnipeg Police Service Records Review Board is required as part of the application process.
    - This requirement is proposed in order to address concerns that STRAs are used for illegal purposes, including human trafficking, prostitution, and drug trafficking.

7. The City STRA licence number must be posted on any online or physical advertisements publicizing the STRA. Note again that all bookings are required to be made through a licenced platform.

8. Allow access to any City of Winnipeg enforcement official to conduct an inspection upon reasonable notice at any reasonable time.

9. Must inform the City within 10 days of any change to the information that was provided during the application process.

10. Comply with any orders issued by the City of Winnipeg under the By-law.

11. Licence is subject to annual renewal. Operator must cease all operations immediately if the licence is expired.

12. Provide any other information or documents reasonably requested by the designated employee.

13. Maintain Compliance with all City of Winnipeg By-laws.

14. Unless operator is in residence, the following must be posted in a conspicuous location at the entrance to the STRA while it is being rented:
    a. Licence
    b. 24/7 phone number of operator
        - This is intended to provide accountability to neighbourhood residents

15. The maximum number of adults per bedroom is two. This does not include minors under 18 years of age.

PART 3 - PRIMARY RESIDENCE

Anyone who wishes to operate a STRA in their primary residence must provide the following, in addition to the general requirements:

1. Provide evidence that the STRA is the primary residence of the STRA operator and is used as their primary residential dwelling.

2. A primary residence may be rented as follows:
    a. If the owner/principal tenant is in residence, the maximum number of guest rooms that can be rented in a primary residence is one less than the number of bedrooms existing in the structure. There is no limit on the number of nights that these guest rooms can be rented per year but only for a continuous period of less than 30 nights per booking.
    b. If the owner/principal tenant is not in residence, the entire home can be rented for a maximum of 150 nights per year with a maximum period of less than 30 continuous nights per booking.

PART 4 – NON-PRIMARY RESIDENCE

Any individual or corporation may operate one non-primary residence STRA.

Non-primary residence STRAs have no restrictions on the number of nights per year that they can be rented.

Before issuing a licence, the following is required in addition to the general requirements (above). Anyone who wishes to operate a STRA other than at their primary residence must provide the following:

1. The name and contact information of an individual who is authorized by the owner to address any legal issues or complaints.

2. A safety plan that entails floor plans that identifies the location of smoke detectors, carbon monoxide detectors, fire extinguishers, and emergency exits at the time of application.

PART 5 - STRA PLATFORMS;

No STRA platform may list properties as STRAs in Winnipeg without a licence issued by the City of Winnipeg under the By-law.

Anyone who wishes to operate a STRA Platform must provide the following at the time of application:

1. Completed Licence Application and payment of the associated Licence Fee.

2. Provide a list of STRA properties within Winnipeg that are listed on their platform at the time of application.

3. Provide details of the company's procedures on how to address complaints associated with the STRAs listed on their platform.

4. All STRA platforms must provide an address for service.

Requirements:

1. Keep the following records, and provide to the City upon request:
    a. Name, address and licence number of the STRA properties within Winnipeg that are listed on the platform
    b. Number of nights each property is rented as an STRA
    c. Rental type – entire home or rooms, or primary residence.
    d. Price paid for each booking

Licensee Conditions:

The licensee must:

1. Provide listings of properties within the city of Winnipeg on their platform when requested, after the initial application.

2. Do not post listings in Winnipeg on their platform unless the listing has a valid STRA licence.

3. Comply with any compliance orders issued under this by-law

4. Licence is subject to annual renewal. Operator must cease all operations immediately if the licence is expired.

5. Collect the proposed accommodation tax on behalf of the renter whenever someone rents a STRA, and remit that to the City as a condition of maintaining their licence.

PART 6: SUSPENSION AND REVOCATIONS

It is proposed that the City accept the same system for suspensions and revocations that exist in other licenced businesses under the Community Safety Business Licensing By-law. In summary, the system is as follows:

Suspension of a Licence:

1. A designated employee may suspend a licence for a period of up to 30 days, if allowing the licence holder to continue to carry on the business for which the licence was issued would create a reasonable apprehension of significant harm to:
    - The health and safety of people;
    - Private or public property; or
    - The environment

2. The licence holder provided false information at the time of application

3. The information on which the decision to issue the licence was based was incorrect, and the licence would not have been issued had the correct information been known

4. The licence holder or the business no longer meets the requirements and standards required for the licence to be issued

5. The past conduct of the licence holder creates a reasonable apprehension that the business will not be carried on in the future in compliance with this By-law, another By-law, or relevant legislation

Immediate revocation of licence:

1. The Records Review Board has revoked a certificate

Revocation of licence:

A designated employee may revoke a licence if:

1. Any information on an application was falsified

2. Carrying on the business for which the licence was issued has resulted in harm or a significant risk of harm to:
    - The health and safety of people;
    - Private or public property; or
    - The environment

3. The information on which the decision to issue the licence was based was incorrect, and the licence would not have been issues had the correct information been known

4. The past conduct of the licence holder creates a reasonable apprehension that the business will not be carried on in the future in compliance with this By-law, or another By-law, or relevant legislation

5. At the discretion of the designated employee, if the licensee is failing to comply with an order made under this By-Law or any other By-laws.

Before revoking a licence, the licence holder must be given a reasonable opportunity to be heard.

PART 7: LICENSING

Short Term Rental Operators

- Approximately 700 (STRA) are currently operating in The City of Winnipeg (based only on Airbnb numbers). The assumption is that an additional 200 are operating using other platforms, for a total of 900 STRAs.
- On the assumption that 65% will initially licence, we expect roughly 584 initial licensees.

	Elements of the Program	Required Staffing
Impact to current administrative work	• administrative and clerical file management • point of contact for customer service to answer questions related to licensing of STR • Coordination of STR Licensing information with Fire on City of Winnipeg website to inform licensees. • Educational outreach for all potential, existing, and new licensees	1 FTE – Clerk C

Short Term Rental Platforms

- Assuming approximately 4 Short term rental platforms operating in Winnipeg.

	Elements of the Program	Required Staffing
Minimal impact on current administrative work	• administrative and clerical file management • point of contact for customer service to answer questions related to licensing of STRA platforms • Educational outreach for all potential, existing, and new licensees	0 FTE

Licensing Fee and Structure (annually)

Short Term Rental Licensing levels	Short Term Rental Licensing Fees
Primary Residence	$150
Non-Primary Residence	$500
Platform – Tier 1 – Less than 100 listings	$1,000
Platform (baseline) – Tier 2 – 101-500 Listings	$2,500
Platform – Tier 3 – More than 500 listings	$5,000

Projected Annual Revenue			
Licence Category	Projected # of Licences Issued	Licence Fee	Total Revenue (projected)
*assumes 65% of STRAs licence = 584			
Primary Residence	300	$150	$45,000
Non-primary Residence	280	$500	$140,000
STRA - Platforms (baseline)	4	$2,500	$10,000
Subtotal	584		$195,000

The proposed licensing fee structure will be projected and the objective is to achieve, at minimum, cost recovery based on Council's adoption of Licensing and Inspection options. If adopted, administration will conduct full cost and revenue estimate to determine fees for full cost recovery of the program. Annual renewal and same fees apply.

PART 8: INSPECTION & ENFORCEMENT

Short Term Rental Accommodations

Assumptions:

- 584 STRA licenced with growth rate of 10 per year.
- 4 STRA Platforms
- 15% non-compliance rate and/or complaints

Elements of the Program	Enforcement Staffing
○ Complaint or non-compliant inspections (87) ○ This option would be for both primary and non-primary STRA ○ Inspections based on both complaints and proactive enforcement ○ Report findings to licensing branch ○ Address non-compliance through MBEA and administrative management of licensing including inspections in the evening and on weekends.	2 FTE

Failure to comply with The City of Winnipeg Community Safety Business Licensing By-Law No. 91/2008 can result in administrative penalties including warnings, suspensions, and/or fines under the Municipal By-law Enforcement Act (MBEA) and/or initiating a prosecution in Provincial Judges Court where, if convicted, the offender could face a penalty that will be imposed at the discretion of a Judicial Justice of the Peace. Fines and early payment amounts will be set out with the draft By-law in our next report back.