THE CITY OF WINNIPEG

BY-LAW NO. /2023

A By-law of THE CITY OF WINNIPEG to amend the Community Safety Business Licensing By-law and the Accommodation Tax By-law to regulate businesses engaged in providing short term rental accommodations

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

PART 1
AMENDMENTS TO THE COMMUNITY SAFETY BUSINESS LICENSING BY-LAW

Community Safety Business Licensing By-law amended
1 The Community Safety Business Licensing By-law No. 91/2008 is amended by this Part.

Spelling correction
2(1) The spelling of "licencing" is replaced with "*licensing*" everywhere that it appears in the by-law, including in titles, schedules and the name of the by-law

2(2) The spelling of "licence" is replaced with "*license*" everywhere that it appears in the by-law, including in titles and schedules.

Division 7.1 added
3 The following is added immediately after section 61.3:

Division 7.1 – Short Term Rental Accommodations

Definitions
61.4 In this Division

"accommodation tax" *has the meaning ascribed thereto in The Accommodation Tax By-law 70/2008;*

"bedroom" *means a room that has been identified as such for the purposes of the property inspection required by subsection 61.12(3) as a condition of an initial STRA license;*

"booking" *means a commitment between an STRA operator and an individual that an STRA will be available for the individual's use, whether or not the STRA is actually used, for a specified period of time in exchange for payment of money or other value; a reservation.*

"dwelling" *means a building in which one or more dwelling units are located;*

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"dwelling unit" *means one or more connected rooms in a dwelling used or intended to be used for human habitation by one or more people, containing cooking, eating, living, sleeping and sanitary facilities;*

"individual" *means a human being, at least 18 years of age;*

"operator" *means an individual, partnership or corporation who carries on the business of operating a short term rental accommodation or a short term rental accommodation platform, as the case may be;*

"non-primary residence" *means a dwelling unit that is not the operator's primary residence;*

"non-primary residence STRA license" *means a license issued under section. 61.8;*

"primary residence" *means a dwelling unit that is owned or rented by an individual, either alone or jointly with other individuals, pursuant to a lease or rental agreement and where the individual lives for the majority of the year;*

"primary residence STRA license" *means a license issued under section 61.7;*

"renter" *means a person that has rented an STRA for a period of less than 30 consecutive days in return for payment of money or other value;*

"short term rental accommodation" *or* ***"STRA"*** *means a dwelling unit which is rented in whole or in part for a period of less than 30 consecutive days in exchange for payment of money or other value;*

"STRA license" *means a Short Term Rental Accommodation License issued under this By-law;*

"short term rental accommodation platform" *or* ***"STRA platform"*** *means a person (or group of persons) or corporation that, for compensation, markets or brokers the booking, reservation, rental or listing of all or part of a dwelling unit as a short term rental accommodation, and collects fees in whole or in part on behalf of an STRA operator by means of a website or any digital application.*

"STRA platform license" *means a Short Term Rental Accommodation Platform License issued under section 61.20;*

Licensing of operator and platform mandatory

61.5(1) An STRA operator must not carry on the business of operating a short-term rental accommodation without holding a subsisting STRA License issued under this By-law.

61.5(2) An STRA platform operator must not carry on the business of operating a STRA platform without holding a subsisting STRA platform license issued under this By-law.

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61.5(3) An operator must obtain a separate license for each STRA or STRA platform.

Licenses issued annually
61.6(1) Licenses issued under this Division expire on the anniversary of the date they were issued.

Conditions on primary residence STRA licenses
61.7(1) An individual may obtain one STRA license for their primary residence on the following conditions:

(a) the premises in which their primary residence is located has been legally established; and

(b) adequate documentation confirming one of the following must be provided:

(i) the applicant is the owner of the proposed STRA; or,

(ii) if the proposed STRA is a condominium, a letter of approval from the condominium board giving the applicant permission to operate a STRA must be provided; or,

(iii) if the applicant is the tenant of a rented unit, a letter from the owner or their designate authorizing its use as an STRA must be provided.

61.7(2) It is the responsibility of the applicant who is seeking to obtain a primary residence STRA license to provide evidence sufficient for the designated employee to reasonably conclude that the premises for which a primary residence STRA license is sought or is sought to be renewed is in fact the applicant's primary residence and that they have permission to use it as an STRA.

61.7(3) For further clarity, a partnership or corporation cannot own a primary residence and an individual cannot have more than one primary residence.

Conditions on non-primary residence STRA licenses
61.8(1) In order to qualify to obtain a non-primary residence STRA license under this Division, an applicant must provide evidence sufficient for the designated employee to reasonably conclude that the applicant is one of the following:

(a) An individual whose primary residence is within the boundaries of the city of Winnipeg;

(b) A partnership whose members all have primary residences within the boundaries of the city of Winnipeg; or

(c) A corporation whose shareholders all have primary residences within the boundaries of the city of Winnipeg.

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61.8(2) In order to qualify to obtain a non-primary residence STRA license under this Division,

(a) a STRA must be a permitted use under the relevant zoning by-law on the property on which it is located;

(b) the premises in which the dwelling unit is located has been legally established;

(c) the dwelling unit must have been owned by the applicant on February 23, 2023; and

(d) adequate documentation confirming one of the following must be provided:

(i) the applicant is the owner of the proposed STRA; or,

(ii) if the proposed STRA is a condominium, a letter of approval from the condominium board giving the applicant permission to operate a STRA must be provided; or,

(ii) if the applicant is the tenant of a rented unit, a letter from the owner or their designate authorizing its use as an STRA must be provided.

61.8(3) An applicant may obtain a license under this Division for each of up to three non-primary residences.

61.8(4) A non-primary residence STRA license under this Division permanently expires and cannot be renewed or revived if any of the following occur:

(a) the STRA license is revoked due to contravention of this Division;

(b) the premises for which the license has been issued is the subject of a rental agreement for a period of 30 days or more;

(c) the ownership of the property changes;

(d) there is any change in the membership of the partnership, or in the ownership of the corporation, that owns the property.

STRA license application requirements and fees

61.9(1) In order to obtain an STRA license or any renewals thereof, the applicant must

(a) apply by submitting a completed application form acceptable to the designated employee, including any letters that may be required pursuant to clauses 61.7(1)(b) or 61.8(2)(d), as the case may be;

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(b) disclose on the application form the details of any past noise complaints that have been made to the Winnipeg Police Service pertaining to the proposed STRA during the time that it has been owned or rented by the applicant;

(c) provide, in a form acceptable to the designated employee, all information reasonably required in order to consider the application;

(d) provide a floor plan outlining the number of bedrooms and fire exits within the proposed STRA;

(e) submit to any inspections of the proposed STRA as required under this Division;

(f) pay the license fee and any other applicable fees; and

(g) pay any outstanding penalties for contravention of this By-law or the Accommodation Tax By-law.

61.9(2) The applicant must inform the City within 10 days of any change to the information that was provided during the application process outlined in subsection (1).

61.9(3) An STRA license or any renewals thereof must not be granted to any applicant that has outstanding penalties owing to The City of Winnipeg for contravention of this by-law or the Accommodation Tax By-law.

61.9(4) Further to subsection 5(2) (Issuing licenses), a designated employee is authorized to impose conditions on a STRA license where the premises for which a STRA license is sought or is sought to be renewed has a history of noise nuisance complaints or complaints of other behavior that would create an undue nuisance to other residents in the area.

Non-primary residence application requirements

61.10(1) In addition to the requirements outlined at section 61.9, in order to obtain a non-primary residence STRA license or any renewals thereof, the applicant must provide

(a) the name and contact information of an individual who is authorized by the owner to address any legal issues or complaints; and

(b) a safety plan that entails floor plans that identify the location of smoke detectors, carbon monoxide detectors, fire extinguishers, and emergency exits at the time of application.

Record Review Board certificate required

61.11(1) An initial STRA license under this Division must not be issued unless the designated employee receives a certificate from the Record Review Board in respect of each of the individuals referred to in section 16.

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61.11(2) Subsections 16(2) (obligation to notify of changes) and 16(3) (obligation to notify of criminal charges) apply in respect of any individual for whom a certificate is required under subsection (1).

Zoning and property approval required before license issued

61.12(1) An initial STRA license shall not be issued until the designated employee receives verification from a City employee authorized to administer and enforce the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law that operation of the STRA as a primary residence STRA or a non-primary residence STRA, as the case may be, is permitted under the zoning by-law that applies to those premises.

61.12(2) An initial STRA license and any license renewal shall not be issued until the designated employee receives verification from a City employee authorized to administer and enforce the Neighbourhood Liveability By-law that the premises for which a license is sought meets the standards set out in Part 1 Division 1 and in Part 2 of that By-law.

61.12(3) As part of the verification referred to in subsection (2), the City employee must identify the number and the location of the bedrooms in the dwelling unit which meet the standards for bedrooms in the Neighbourhood Liveability By-law.

61.12(4) An initial STRA license and any license renewal shall not be issued until the designated employee receives verification from a City employee authorized to administer and enforce the Community Safety Business Licensing By-law that the premises for which a license is sought meets the conditions set out herein.

Limitations on primary residence STRAs

61.13(1) There are no limits on the total number of nights a primary residence STRA may be rented during a one-year period, so long as the operator is in residence during those nights.

61.13(2) The operator must not rent a primary residence STRA for more than 150 nights in total during a one-year period, without the operator being in residence.

61.13(3) Notwithstanding subsections (1) and (2), a primary residence STRA may only be rented for a period of less than 30 consecutive nights per booking.

61.13(4) For greater certainty, the operator is not in residence unless the operator spends the night in the dwelling unit.

Limitations on non-primary residence STRAs

61.14(1) There are no limits on the total number of nights a non-primary residence STRA may be rented during a one-year period.

61.14(2) Notwithstanding subsection (1), a non-primary residence STRA may only be rented for a period of less than 30 consecutive nights per booking.

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Rules for all STRAs

61.15(1) The operator of an STRA must ensure that

(a) the total number of adults staying overnight in an STRA while it is rented does not exceed 2 per bedroom. There is no limit on the number of children under 18 years of age;

(b) the operator's name and license number are posted near the door on the exterior of the STRA together with a telephone number that is monitored by the operator or an agent of the operator 24 hours per day. This signage is not required to be posted when the operator is in residence;

(c) the STRA is not rented for a continuous period of 30 days or more;

(d) the STRA is not rented, used or offered for rental or use in a manner that contravenes Manitoba statutes and regulations governing residential tenancies;

(e) the operator and the STRA comply with all City of Winnipeg by-laws;

(f) the STRA or a bedroom within the STRA is not rented to more than one renter for the same period of time;

(g) renters do not cause a noise nuisance in violation of section 67 of the Neighbourhood Liveability By-law or otherwise engage in behavior which would create an undue nuisance to other residents in the area;

(h) the STRA complies with building standards stated in the Neighbourhood Liveability By-law applicable to all residential buildings;

(i) the STRA complies with the Building Code;

(j) the operator must maintain at minimum the last 3 years of the following records on an ongoing basis and provide them to the City upon request:

(i) number of nights the STRA was rented;
(ii) rental type – individual rooms or the entire dwelling;
(iii) names of customers who provided payments for each booking;
(iv) the nightly price and total price charged for the STRA;

(k) the operator provides any other information or documents reasonably requested by the designated employee;

(l) renters are provided with an emergency exit plan which must also be posted inside the STRA;

(m) renters are provided with reading materials concerning human trafficking and sex trafficking that are made available by the City, and that the operator must produce and place the materials in a prominent place within the STRA;

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(n) any City of Winnipeg enforcement official is allowed access to an STRA to conduct an inspection upon reasonable notice at any reasonable time;

(o) the operator complies with any compliance orders issued by the City of Winnipeg under this by-law;

(p) the operator ceases all STRA operations immediately upon the expiry, suspension or revocation of the STRA's license.

STRA fire protection requirements
61.16(1) The operator of an STRA must ensure that the STRA complies with fire protection requirements applicable to rented residential buildings, as set out in the Fire Prevention By-law, including but not limited to that smoke alarms must follow the requirements set out in that By-law.

61.16(2) The operator of an STRA must ensure that carbon monoxide detectors and fire extinguishers are installed within the STRA, and fire extinguishers must be located in the main area of the STRA, in compliance with applicable laws.

61.16(3) Further to clause (1), the operator of an STRA must demonstrate compliance with the Fire Prevention By-law during inspections, including but not limited to that smoke alarms, fire extinguishers, and carbon monoxide detectors are operative.

Remittance of accommodation tax by STRA operator
61.17 The operator of an STRA must

(a) collect the accommodation tax from the STRA platform, which is paid by the renter to the STRA platform each time that an STRA is rented, and

(b) remit the accommodation tax funds to the City in accordance with The Accommodation Tax By-law.

Rental through licensed STRA platform mandatory
61.18 The operator of an STRA must ensure that the STRA is only rented through a STRA platform licensed under this By-law. For greater clarity, the operator is prohibited from renting an STRA other than by means of a licensed STRA platform collecting the rental payment from the renter and remitting it to the STRA operator.

STRA license number must be posted
61.19 The operator of an STRA must include the City of Winnipeg license number for that STRA on the listings within the STRA platform or on any online or physical advertisements publicizing the STRA.

STRA platform license application requirements and fees
61.20(1) In order to obtain an STRA platform license or any renewals thereof, the applicant must

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(a) apply by submitting a completed application form acceptable to the designated employee;

(b) provide a list of STRA properties within Winnipeg that are listed on the applicant's platform at the time of application;

(c) provide details of the applicant's procedures on how to address complaints associated with the STRAs listed on their platform;

(d) provide the address for service that is provided on their STRA platform;

(e) provide, in a form acceptable to the designated employee, all information reasonably required in order to consider the application;

(f) pay the license fee and any other applicable fees; and

(g) pay any outstanding penalties for contravention of this By-law.

61.20(2) The applicant must inform the City within 10 days of any change to the information that was provided during the application process outlined in subsection (1).

61.20(3) An STRA platform license or any renewals thereof must not be granted to any applicant that has outstanding penalties owing to The City of Winnipeg for contravention of this by-law.

Rules for all STRA platforms

61.21(1) The operator of an STRA platform must ensure that

(a) the operator must maintain at minimum the last 3 years of the following records on an ongoing basis and provide them to the City upon request:

(i) the listing identification number and corresponding license number of each STRA property within Winnipeg that is listed on the platform;
(ii) number of nights each property is rented as an STRA;
(iii) rental type – individual rooms or the entire dwelling, or primary residence;
(iv) price paid for each booking;

(b) the operator provides any other information or documents reasonably requested by the designated employee;

(c) the operator provides listings of properties within the city of Winnipeg on their platform when requested by the City, after the initial application;

(d) listings in Winnipeg are not posted on the platform or advertised unless the listing has a valid STRA license;

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(e) the operator complies with any compliance orders issued by the City of Winnipeg under this by-law;

(f) the operator ceases all STRA platform operations in Winnipeg immediately upon the expiry, suspension or revocation of the platform's license.

Remittance of fees by platform operator
61.22(1) The operator of an STRA platform must

(a) collect the rental fee, accommodation tax and any other fees owing to an STRA operator as a result of an STRA booking made by a renter on the platform, and

(b) remit the funds outlined in (a) to the STRA operator.

61.22(2) Notwithstanding clause (1), the platform operator is entitled to deduct and retain a service fee from the funds to be remitted to the STRA operator, as set out in

(a) a service agreement entered into between the STRA operator and the platform operator, or

(b) the terms of service cited on the platform's website.

PART 2
AMENDMENTS TO
THE ACCOMMODATION TAX BY-LAW

Accommodation Tax By-law amended
1 The Accommodation Tax By-law No. 70/2008 is amended by this Part.

Definitions amended
2(1) Section 2 is amended by adding the following definitions in alphabetical order:

"short term rental accommodation" *or* ***"STRA"*** *has the same meaning as in Division 7.1 of the Community Safety Business Licensing By-law.*

"short term rental accommodation platform" *or* ***"STRA platform"*** *has the same meaning as in Division 7.1 of the Community Safety Business Licensing By-law.*

2(2) Section 2 is amended by

(a) Amending the definition *"establishment"* by adding *"and includes an STRA"* after *"location*";

(b) Amending the definition *"lodging*" by

(i) adding

(a.1) a short term rental accommodation;

immediately after clause (a); and

(ii) adding *", (a.1)"* immediately after "clause (a)" in clause (c);

(c) Amending the definition "*operator*" by adding "*and, in the case of an STRA being rented, means the operator of an STRA platform or the operator of an STRA*" after "*accommodation*";

(d) Replacing the definition of "*purchase price*" with the following:

"purchase price" *means the price for which accommodation is purchased,*

(a) including the price paid in money, the value of goods provided or services rendered or other consideration accepted by the operator in return for the accommodation provided, and

(b) including all fees charged to an STRA purchaser by the STRA operator or the STRA platform operator, such as service or cleaning fees,

(c) but does not include the goods and services tax imposed by the Government of Canada nor the retail sales tax imposed by the Province of Manitoba;

(e) Amending the definition *"purchaser"* by adding "*and in the case of an STRA includes a renter"* after "*accommodation"*;

Section 3 amended

3(1) Subsection 3(1) is amended by adding *"short term rental accommodation*" after *"inn"*.

3(2) Subsection 3(3) is amended by

(a) Adding *"the following*" after "does not apply to" in the stem;

(b) repealing clause (a); and

(c) replacing clause (b) with the following:

(b) accommodation where the purchase price is $30 or less per night or $210 or less per week, unless the accommodation is listed on a short term rental accommodation platform;

Section 5 amended

4(1) Subsection 5(2) is amended by adding *"or website"* after "on a form".

4(2) Subsections 5(6) and 5(7) are added after subsection 5(5) as follows:

5(6) Notwithstanding subsections (1), (2) and (5), the operator of an STRA must remit quarterly the amounts referred to in subsection (1) and to submit quarterly the statement referred to in subsection (2).

5(7) An STRA platform operator may remit the accommodation tax referred to in subsection (1) on behalf of an STRA operator, if mutually agreed to between the STRA operator and the STRA platform operator. Notwithstanding the foregoing, the STRA operator shall remain liable for remittance of the accommodation tax to the tax collector.

PART 3
AMENDMENTS TO
THE MUNICIPAL BY-LAW ENFORCEMENT ACT ENABLING BY-LAW

Municipal By-law Enforcement Act (MBEA) Enabling By-law amended
1 The Municipal By-law Enforcement Act (MBEA) Enabling By-law 59/2016 is amended by this Part.

Schedule A amended
2 The table applicable to the Community Safety Business Licensing By-law No. 91/2008 set out in Schedule A of the Municipal By-law Enforcement Act Enabling By-law No. 59/2016 is amended to add the following provisions in numerical order:

Community Safety Business Licensing By-law, By-Law No. 91/2008		Administrative Penalty	
Provision	Contravention summary	Administrative Penalty ($)	Early Payment Discount ($)
61.5(1)	STRA operator fails to license an STRA	1000	N/A
61.5(2)	STRA platform operator fails to license platform	1000	N/A
61.9(2)	Operator of an STRA fails to inform the City within 10 days of changes to their application information	500	N/A
61.13(2)	Operator of a primary residence STRA rents the STRA for more than 150 nights in a year, without the operator being in residence	1000	N/A
61.15(1)(b)	STRA operator fails to post their name and license number near the door on the exterior of the STRA with a telephone number monitored by the operator or their agent 24 hours per day, and the operator is not in residence	500	N/A
61.15(1)(c)	STRA operator rents the STRA for a continuous period of 30 days or more	500	N/A

Community Safety Business Licensing By-law, By-Law No. 91/2008		Administrative Penalty	
Provision	Contravention summary	Administrative Penalty ($)	Early Payment Discount ($)
61.15(1)(f)	STRA operator rents the STRA or a bedroom within the STRA to more than one renter for the same period of time	1000	N/A
61.15(1)(l)	STRA operator fails to post an emergency exit plan within an STRA	1000	N/A
61.15(1)(p)	STRA operator fails to cease STRA operations on expiry, suspension or revocation of license	1000	N/A
61.15(1)(j)	STRA operator fails to maintain the last 3 years of records on an ongoing basis	500	N/A
61.16(1)	STRA operator fails to maintain fire safety equipment	1000	N/A
61.16(2)	STRA operator fails to install carbon monoxide detectors and fire extinguishers in the STRA	1000	N/A
61.18	STRA operator lists STRA outside of licensed platform	1000	N/A
61.19	STRA operator advertises an STRA without a license number	1000	N/A
61.20(2)	STRA platform operator fails to inform the City within 10 days of changes to their application information	1000	N/A
61.21(1)(a)	STRA platform operator fails to maintain the last 3 years of records on an ongoing basis	500	N/A
61.21(1)(d)	STRA platform operator advertises or brokers unlicensed STRA	1000	N/A

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PART 4
COMING INTO FORCE

Coming into force

1 This By-law comes into force 130 days after the date of enactment by Council.

DONE AND PASSED this day of , 2023.

Mayor

City Clerk

Approved as to content:

City Assessor

Approved as to content:

Director of Community Services

Legally reviewed and certified as to form:

For Director of Legal Services/ City Solicitor

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