



## **Committee of the Whole Report**

### **For the Meeting of April 9, 2020**

---

**To:** Committee of the Whole

**Date:** March 20<sup>th</sup>, 2020

**From:** Chris Coates, City Clerk

**Subject:** Short Term Rental (STR) Business License Appeal Process Policy

---

### **RECOMMENDATION**

That Council approve the Short-Term Rental Business License Appeal Process Policy

### **EXECUTIVE SUMMARY**

The City adopted the Short-term Rental Regulation Bylaw in March 2018 to license and regulate short-term rentals. Each year short-term rental operators must apply for a short-term rental business licence. If a Licence Inspector denies a business licence, the Community Charter provides that a business licence applicant has a right to have Council reconsider their application.

The enforcement approach is like other enforcement activities involving education, opportunity for voluntary compliance, and then active enforcement. The City is now at the active enforcement stage. Licence Inspectors approve licences if the application is compliant with City Bylaws and reject licences if an applicant is not compliant with City Bylaws. In the latter case, a Licence Inspector may identify an opportunity for an applicant to become compliant and receive a license.

With an increase in denied business license applications resulting from advanced enforcement activity and techniques, staff recommend that Council establish a Policy around how these requests could be considered in recognition of the potentially high number of requests.

Currently, the City does not have policy to manage an opportunity to be heard by Council for a rejected business licence application. The proposed policy would establish terms and conditions for the reconsideration by Council, required documentation to submit as a part of the appeal process, next steps following Council's decision to grant or deny an appeal, and other matters. In the event of a high number of requests for reconsideration, this process would efficiently manage requests for both the public seeking reconsideration and the City managing the requests and be consistent with legislated requirements.

### **PURPOSE**

The purpose of this report is to seek Council direction to implement a policy that sets out a process for appealing short-term rental business license decisions.

### **BACKGROUND**

Council adopted the Short-term Rental Regulation Bylaw, attached as Appendix A, on March 8<sup>th</sup>, 2018 to license and regulate short-term rentals in the City.

The Bylaw establishes a short-term rental business licence and fee, eligibility for short-term rental business licence, the Licence Inspector's authority to refuse a licence, conditions for refusing a licence, operating requirements, offences, and penalties.

Each year a short-term rental operator must apply for a new short-term rental business licence established by the Bylaw. An applicant submits an application and supporting documents to demonstrate that the short-term rental unit complies or continues to comply with City rules regarding eligible short-term rental units. The Bylaw sets out reasons that a Licence Inspector may refuse to issue a short-term rental business licence.

Under the Community Charter, section 60(5), business licence applicants have an opportunity to be heard by Council according to the following conditions:

*If a municipal officer or employee exercises authority to grant, refuse, suspend, or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have the council reconsider the matter.*

The Short-term Rental Regulation Bylaw does not currently set out terms and conditions regarding an opportunity for applicants for a short-term rental business licence to be heard by Council. While the City set terms and conditions for an appeal process for licences issued under the Business Licence Bylaw that are rejected or revoked (attached as Appendix B), these would not apply to short-term rental business licences which are issued under the Short-term Rental Regulation Bylaw. There is no City policy that establish such an opportunity for this type of licence.

## **ISSUES AND ANALYSIS**

Short-term rental business licences issued on or after January 16<sup>th</sup>, 2019 expired on January 15<sup>th</sup>, 2020. The City has received 646 total STR applications to date. Licence Inspectors have approved 452 STR licences and rejected 70 STR licences. 111 STR applications are pending review or inspection. Bylaw Services anticipates another possible 370 STR applications based on 2019 STR licences.

Most pending STR applications require Licence Inspectors to visit the proposed short-term rental unit to verify compliance with City bylaws. Most pending STR applications are for single-family dwellings which would not be eligible for a licence if the short-term rental rooms are part of a self-contained unit which could provide housing for a long-term tenant, as established in the Bylaw. Some applicants contend that they are not offering self-contained units and may wish to submit a request to appeal.

The City Clerk has received nine requests to appeal at this time. To manage these requests, staff suggest a policy establishing an appeal process. A policy would provide clarity for the public in terms of what and how Council will reconsider an application, as well as creating a process that is manageable and consistent for Council.

The proposed policy would establish a process for an appellant to have an opportunity to make representation to Council. This process is designed to administer a high volume of requests for reconsideration by establishing an opportunity for a written submission to Council. This process would conform to the rules of natural justice and procedural fairness.

The proposed process is outlined in detail in the draft policy (attached as Appendix C) but an overview of the process is noted below for convenience:

1. An Appellant may start an appeal by submitting a request for an appeal to the City Clerk
2. The City Clerk replies to the Appellant to acknowledge the request for an appeal and explain the appeal process.
3. An Appellant makes a written submission
4. A Licence Inspector responds to the Appellant's written submission in a written letter
5. An Appellant provides a response to a Licence Inspector's response
6. A Licence Inspector submits a report to Council
7. The City Clerk informs the Appellant of the date that Council will consider the appeal.

### **OPTIONS AND IMPACTS**

As noted, to date nine appeal requests have been received. It is uncertain how many appeal requests will be received ultimately. There are essentially only two methods of appeal, verbal or written. Technically, as noted in this report, the matters that will come before Council are to reconsider the decision(s) of the License Inspector to reject the license application. That decision of course is based on technical information in accordance with the City's bylaws. Both the License Inspector and the person "appealing" should have an opportunity to state the basis on which the licence should or should not be issued. Council's role is to essentially put mind to those representations and either uphold or reverse the License Inspector's decision.

#### **Option 1 - Written Submission Policy for reconsideration (*Recommended*)**

#### **Option 2 - Hearing process providing appellants the opportunity to make an in-person and a verbal representation to Council**

##### *Accessibility Impact Statement*

The recommendation of a process with a written submission addresses accessibility concerns that may arise regarding attendance at a Council meeting to make an in-person and a verbal presentation at City Hall.

##### *2015 – 2018 Strategic Plan*

The recommended option has no Strategic Plan implications.

##### *Impacts to Financial Plan*

The recommended option has no financial implications. Existing staff resources would manage the requests. Impacts on staff resources will depend on the volume of requests.

##### *Official Community Plan Consistency Statement*


This issue has no specific Official Community Plan implications.

### **CONCLUSION**

Short-term rental business licensing for 2020 is under way. Under the Community Charter, an applicant whose business licence application has been rejected has a right to have Council reconsider this decision. In order to deliver on this statutory requirement in a time-sensitive and manageable way, staff have proposed a policy that establishes the terms and conditions of an appeal process.

Respectfully submitted,

Monika Fedyczkowska  
Legislative and Policy Analyst




Chris Coates  
City Clerk



Susanne Thompson  
Deputy City Manager

Report accepted and recommended by the City Manager:



Date: April 3, 2020

**Attachments**

Appendix A: Short-Term Rental Regulation Bylaw

Appendix B: Proposed Short-term Rental Business Licence Appeal Process Policy