

**Report to  
Rapport au :**

**Council  
Conseil**

**Submitted on November 15, 2019  
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**Submitted by  
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**Ward: CITY WIDE / À L'ÉCHELLE DE LA  
VILLE**

**File Number/Dossier numéro ::  
ACS2019-EPS-GEN-0015**

**SUBJECT: Report on Rental Accommodations Study and Regulatory Regime**

**OBJET : Rapport de l'Étude sur les logements locatifs et du régime  
réglementaire**

## **REPORT RECOMMENDATIONS**

That Community and Protective Services Committee recommend that Council:

1. Receive the following reports related to the Rental Accommodations Study:
  - a. "Rental Accommodations Literature Review and Inter-Jurisdictional Scan", Prism Economics and Analysis, 2019, attached as Document 3,

- b. “City of Ottawa Rental Market Analysis”, Prism Economics and Analysis, 2019, attached as Document 4,
  - c. “Regulation of Long-Term Rental Accommodations”, Maclaren Municipal Consulting Inc., September 23, 2019, attached as Document 7, and
  - d. “Regulation of Short-Term Rental Accommodation”, Maclaren Municipal Consulting Inc., September 23, 2019, attached as Document 8, and
2. Approve the recommended regulatory framework for **Rental Housing** as described in this report and set out in Document 1 – *Regulatory Regime for Rental Housing*, and
- a. direct the General Manager of Emergency and Protective Services to develop the proposed Rental Property Management By-law and related by-law amendments for approval by the Community and Protective Services Committee and Council in 2020, as described in this report, and
  - b. approve, for immediate implementation, an increased flat re-inspection fee of \$500 in Schedule A of the Property Standards By-law (2013-416, as amended), as described in this report, and
3. Approve the recommended regulatory framework for **Short-Term Rental (STR) Accommodations** as described in this report and set out in Document 2 – *Regulatory Regime for Short-Term Rentals*, and
- a. Direct the General Manager of Emergency and Protective Services to develop the proposed Short -Term Rental By-law and related by-law amendments for approval by the Community and Protective Services Committee and Council, and
  - b. Direct the General Manager of Planning, Infrastructure and Economic Development to develop a Temporary Use By-law for short-term rental use in residential areas, for approval by Planning Committee and Council, as described in this report, and
  - c. Direct the City Treasurer and City Solicitor to conduct a review of the Municipal Accommodations Tax revenues to fund the short-term rental requirements, and if funds are not available, direct the City Treasurer and City Solicitor to develop the required by-law to amend the Municipal Accommodations Tax By-law in order to increase the Municipal Accommodations Tax by 0.25% with the

increase directed to the City and to be used to administer and enforce proposed short-term rental regulations as described in this report, and that such amendment be placed directly on the agenda of Council for enactment, as described in this report; and

- d. That the timing of the required by-laws and by-law amendments set out in items a., b. and c. be designed and coordinated to come into force concurrently, as further described in this report, and
4. Approve 2.0 temporary Full-Time Equivalent (FTEs) for Rental Housing enforcement and administration, and 6.0 temporary FTEs and 1.0 additional temporary FTE (first year of implementation only) for Short-Term Rental Accommodations enforcement and administration, for a total of temporary 8.0 FTEs and 1.0 additional temporary FTE (first year of implementation only), effective upon implementation of the regulatory regimes set out in Recommendations 2 and 3, to be funded through revenue generated from fees and the Municipal Accommodation Tax, as described in this report.

## **RECOMMANDATIONS DU RAPPORT**

Le Comité des services communautaires et de protection recommande que le Conseil municipal :

1. prenne connaissance des rapports suivants se rapportant à l'Étude des logements locatifs :
  - a. « Logements locatifs : revue de la littérature et analyse du contexte d'autres municipalités », Prism Economics and Analysis, 2019, reproduit ci-joint dans la pièce 3;
  - b. « Analyse du marché locatif de la ville d'Ottawa » Prism Economics and Analysis, 2019, reproduit ci-joint dans la pièce 4;
  - c. « Réglementation des logements locatifs à long terme », Maclaren Municipal Consulting Inc., 23 septembre 2019, reproduit ci-joint dans la pièce 7;
  - d. « Réglementation du logement locatif à court terme », Maclaren Municipal Consulting Inc., 23 septembre 2019, reproduit ci-joint dans la pièce 8, et

2. Approuve le cadre réglementaire recommandé pour le **logement locatif** selon les modalités exposées dans le présent rapport et reproduites dans la pièce 1 (*Régime réglementaire pour les logements locatifs*), et
  - a. donne pour consigne au directeur général, Services de protection et d'urgence de mettre au point le règlement municipal proposé sur la gestion des logements locatifs et les modifications se rapportant à ce règlement pour les faire approuver en 2020 par le Comité des services communautaires et de protection et par le Conseil municipal, selon les modalités exposées dans le présent rapport, et
  - b. approuve, pour les mettre en œuvre immédiatement une hausse des droits de réinspection fixes de 500 \$ prévus dans l'annexe a du Règlement sur les normes d'entretien des biens (no 2013-416, dans sa version modifiée), selon les modalités exposées dans ce rapport, et
3. approuve le cadre réglementaire recommandé pour les **logements locatifs à court terme (LCT)** selon les modalités exposées dans ce rapport et dans la pièce 2 (*Régime réglementaire pour la location à court terme*), et
  - a. donne pour consigne au directeur général, Services de protection et d'urgence de mettre au point le règlement municipal proposé sur la location à court terme et les modifications se rapportant à ce règlement pour les faire approuver par le Comité des services communautaires et de protection et par le Conseil municipal;
  - b. donne pour consigne au directeur général, Direction générale de la planification, de l'infrastructure et du développement économique de mettre au point un règlement sur l'utilisation temporaire pour la location à court terme dans les zones résidentielles, pour le faire approuver par le Comité de l'urbanisme et le Conseil municipal selon les modalités exposées dans ce rapport;
  - c. donne pour consigne à la trésorière municipale et à l'avocat général de la Ville de mener un examen des recettes perçues au titre de la taxe municipale d'hébergement afin de financer les besoins en location à court terme, et si les fonds ne sont pas disponibles, donner pour consigne à la trésorière municipale et à l'avocat général de la Ville de mettre au point le règlement nécessaire afin de modifier le Règlement sur la taxe municipal d'hébergement afin de hausser de 0,25 % la taxe municipale d'hébergement et de consacrer la hausse à la

Ville pour lui permettre d'administrer et de faire appliquer les règlements municipaux sur la location à court terme selon les modalités exposées dans ce rapport, et enfin, d'inscrire directement cette modification à l'ordre du jour du Conseil pour la faire adopter, selon les modalités exposées dans ce rapport, et

- d. que les délais indiqués dans les alinéas a., b. et c. ci-dessus pour les règlements à adopter et les modifications à y apporter soient conçus et coordonnés pour produire leurs effets en même temps, selon les modalités exposées dans ce rapport, et
4. approuve 2,0 équivalents temps plein (ÉTP) temporaires pour l'application et l'administration des règlements sur le logement locatif, ainsi que 6,0 ÉTP temporaires et 1,0 ÉTP temporaire supplémentaire (pour la première année de la mise en œuvre seulement) pour l'application et l'administration des règlements sur les logements locatifs à court terme, soit un total de 8,0 ÉTP temporaires et de 1,0 ÉTP temporaire supplémentaire (pour la première année de la mise en œuvre seulement), avec effet à la date de la mise en œuvre des régimes réglementaires évoqués dans les recommandations 2 et 3, à financer à même les recettes apportées par les droits et par la taxe municipale d'hébergement, selon les modalités exposées dans ce rapport.

## **EXECUTIVE SUMMARY**

The Rental Accommodations Study was approved by Council in Budget 2018 for the purpose of providing Council with recommendations concerning the regulation of various forms of rental accommodations within the City of Ottawa, including:

1. Rental housing – meaning private long-term rental housing (referred to in this report as “rental housing”);
2. Short-term rental accommodations, such as those facilitated through platforms such as Airbnb and Flipkey (referred to in this report as “short-term rentals” or “STRs”); and,
3. Traditional hotels, motels and bed and breakfasts.

The study has considered and addresses specific emerging issues related to rental accommodations, such as:

- concerns expressed by community organizations/associations and members of the public about the quality and safety of rental accommodations and how the City addresses key property standards issues such as pest and vermin control;
- the emergence of short-term rentals in the City in the recent past, both in private dwellings and in investment properties, and their impacts for long-term housing availability and affordability as well as related community nuisance such as increased noise and “party house” concerns, as well as consumer protection considerations for guests;
- community impacts associated with management of high-density “bunkhouses”, rooming houses and other forms of shared accommodations; and
- the concern of problem hotel and motel operators.

The study considered issues of municipal concern relating to these emerging issues, including but not limited to public health and safety, the economic and social well-being of the City, and the protection of persons and property, including consumer protection.

Staff have taken an evidence-based approach for this study. In addition to extensive public and stakeholder consultation, staff have conducted policy research and commissioned studies specific to rental housing and short-term rental activity within the City. The staff recommendations reflect what has been heard from the community and what has been learned through research. Regulatory options and potential lessons to be learned from other jurisdictions were evaluated against the specific conditions occurring in Ottawa to test their applicability and anticipated impact on City operations and the community at large. It is noted that data concerning rental housing availability and affordability collected through the Rental Accommodations Study was shared across City departments to inform their ongoing work, such as the development of the New Official Plan and the Residential Fourth Density (R4) Zoning Review as well as the Housing Services Branch’s work on social housing programs and the Ten-Year Housing and Homelessness Plan, all of which are ongoing and will consider issues of the availability and affordability of housing.

This report represents the first report back to Council on the Study and provides Council with data, analysis and recommendations concerning both rental housing and short-term rentals. The next steps will consist of developing specific regulations based on the approaches presented in this report. The proposed draft by-laws will be prepared for consideration by Committee and Council in 2020, or as soon as feasible as outlined below.

It is important to note however that the report provides separate recommendations for both **rental housing** and for **short-term rentals**, which can be considered independently from each other.

For **rental housing** – that is, long-term private rental accommodations - additional regulations are recommended to address property standards issues with enforcement to be focused on areas and properties where they are needed most through increased enforcement resources and consumer education initiatives for landlords and residents, rather than through landlord licensing. The measures recommended by staff include:

- for recommended immediate implementation, an increased re-inspection flat fee of \$500 for property standards matters caused by continued non-compliance by the property owner or occupier, in order to further deter non-compliance and provide cost-recovery for focused enforcement of rental housing properties by By-law and Regulatory Services;
- for development and consideration in 2020, a new draft Rental Property Management By-law, as described in Document 1, that creates obligations for communication between landlord and tenants, including how to report maintenance issues and clear instructions for waste management and property upkeep, in order to mitigate service demands; and
- also for development and implementation in 2020, the development and provision of education materials including information on applicable rules and tenant rights, as well exploring the creation of a searchable database of property violations for purposes of public information, among other recommendations, as described in this report and in Document 1.

Staff paid particular attention to the cost implications of various regulatory options for rental housing, particularly where costs can be passed on to tenants through above guideline rent increases permitted through the *Residential Tenancies Act, 2006*. Staff were informed by the research and recommendations of the City's consultants, as noted below in this report. Staff have noted that according to 2016 Census data, 42% of renters in Ottawa live below the affordable shelter-cost-to-income ratio, spending 30% or more of their pre-tax income on shelter and accounting for more than 113,000 residents.<sup>[i]</sup> The demographic profile of tenants in unaffordable housing shows that this group includes above average numbers of young adults, persons living with disability, recent immigrants, other minority groups and seniors, as set out further below. In this perspective, staff considered the recommendations of the consultant concerning licensing landlords under a business licensing regime, together with the stakeholder and

public input received and approaches taken by other jurisdictions in this area. The evaluation of efficiency, enforceability and sustainability of landlord licensing lead staff to conclude that this is not the preferred regulatory solution for Ottawa for the reasons noted below in this report.

A new regulatory regime is also recommended for **short-term rental accommodations**, to be developed and brought forward for approval, in order to address issues of consumer protection and the safety of hosts, guests and neighbours of STRs; to protect viable long-term housing options; and to mitigate the occurrence of negative community impacts of STRs and nuisances arising from their use in residential areas, including:

- a registration system for STR platforms and STR property agents, together with a permit system for STR hosts, with associated user fees, prescribing regulations and specific obligations for conduct that will protect guests and hosts and mitigate nuisances for neighbours, as described in Document 2, with some exemptions recommended for short-term rentals of cottages and vacation homes in rural areas;
- anchoring this regulatory regime on the principal residence requirement for the host, with a prohibition on short-term rentals in properties other than principal residences and rural vacation properties, in order to protect housing inventory and the character of residential neighbourhoods;
- an accompanying Temporary Use By-law to allow, from a zoning perspective, both hosted and un-hosted short-term rental uses of the host's principal residence, in residential areas, for a trial period of 3 years;
- a review of the Municipal Accommodations Tax revenues to fund the short-term rental regulations, and if funds are not available, an increase in the Municipal Accommodations Tax (MAT) of 0.25% to provide for By-law administration and enforcement capacity for the above-noted STR regulations on a cost-recovery basis;

The above-noted elements of the proposed short-term rental regulations are recommended to be considered together in order to provide a complete regulatory approach – that is, new regulations for how STR platforms, hosts and guests conduct short-term rentals, with complementary zoning provisions to anchor the short term rental use only in primary residences, and an accompanying funding mechanism to provide for administration and enforcement of these new regulations on a cost recovery basis.



However, staff also recommended that the approval of the recommended short-term rental regulations await a key decision of the Local Planning Appeals Tribunal (LPAT) addressing various appeals of the City of Toronto's own short-term rental regulations and which could have an impact on the approach taken in Ottawa. As noted below in this report, various elements of Toronto's STR regime mirror the proposed regulatory regime for Ottawa, such as the primary residence requirement. As a result, waiting for this decision will provide the opportunity to make any required adjustments to the recommended STR framework prior to bringing forward the regulations in their final form for approval.

While the timing of the LPAT decision for the Toronto appeals is unknown, staff expect that the development of the draft Short-term Rental By-law and the accompanying Temporary Use By-law can begin in 2020 and be presented to the appropriate Standing Committees of Council as soon as possible thereafter, with the implementation of the proposed increase in the Municipal Accommodations Tax to occur concurrently should existing revenues from the Municipal Accommodations Tax not be sufficient to fund the administration of the proposed Short-term Rental regulatory regime, as described below. The Planning, Infrastructure and Economic Development department advises it will commence work the Temporary Use By-law in Q2 2020 using outside consulting resources since current staff resources are occupied with other priority projects. The timing of completion for this aspect of the regulatory regime is dependent on the outcome of consultations and any stakeholder concerns. As a result, staff will advise the relevant Committees and Council of any developments related to the LPAT decision and other matters affecting timing of the above-noted elements, and the proposed by-laws will be brought forward to the appropriate Standing Committees of Council as soon as feasible based on the above-noted timelines.

For **hotels, motels, and bed and breakfasts**, staff recommend that new regulations are not necessary at this time based on research and input from stakeholders. However, staff are recommending further review of existing legal tools available based on a current example, with findings to be reported back following conclusion of those legal proceedings, as described in this report.

Staff have conducted robust consultation in the development of the above regulations, including more than 230 stakeholders and three rounds of public consultation, as described in Document 6. Input from the public and stakeholders indicates support for the above recommendations as described further in this report. Staff also engaged a consultant to conduct an independent review of regulations and provide recommendations for staff to consider. The final consultant reports are attached as

Document 7 – Consultant Report: Regulations for Long-Term Rental Accommodations and Document 8 – Consultant Report: Regulations for Short-Term Rental Accommodation. Staff consideration of consultant recommendations is included in the Discussion section of this report.

Key performance indicators of the proposed regulatory regimes for post-implementation are expected to include increased resident satisfaction, a net reduction in property standards orders as well as overall complaints related to rental accommodations, and cost/revenue neutrality for administration and enforcement.

Collectively, the recommendations in this report are expected to provide additional enforcement resources and support on a cost-recovery to provide focused enforcement regarding rental housing and short-term rental accommodations. The above recommendations will also restore Property Standards enforcement capacity that is currently being used to manage STR activity under existing regulations.

Given that under the Planning Act, a Temporary-Use By-law is prescribed to a maximum term of 3 years, staff also recommend that the effectiveness of the STR regulatory approach recommended in this report be evaluated at the completion of the 3 years, with staff recommendation as to whether it should continue in whole or in part. This 3-year period will permit staff to gather data on the regime's effectiveness in terms of compliance with legal use, its effect on complaints about negative community impacts, and its effect on the long-term housing supply, as appropriate.

## **BACKGROUND**

The Rental Accommodations Study was approved by Council in Budget 2018 for the purpose of providing Council with recommendations concerning the regulation of various forms of rental accommodations within the City of Ottawa, including:

1. Long-term rental housing (referred to in this report as “rental housing”); and,
2. Short-term rental (STR) accommodations (e.g. those facilitated through platforms such as Airbnb and Flipkey), as well as traditional hotels, motels and bed and breakfasts.

The study considered issues of municipal concern relating to rental housing, including but not limited to public health and safety, the economic and social well-being of the City, and the protection of persons and property, including consumer protection. In addition, the study obtained information about how to address community comments and complaints about property standards in rental housing, as well as reported

concerns about the negative community impacts arising from rental housing in certain circumstances, such as excessive noise and neighbourhood disturbances, and solid waste and parking issues, among others.

The study has also considered and addresses specific emerging issues related to rental accommodations, such as:

- concerns expressed by community organizations/associations and members of the public about the quality and safety of rental accommodations and how the City addresses these issues;
- the emergence of short-term rentals both in private dwellings and in investment properties and possible impacts for long-term housing availability and affordability, as well as related community nuisance and consumer protection considerations;
- community impacts associated with management of high-density “bunkhouses”, rooming houses and other forms of shared accommodations; and
- the concern of problem hotel and motel operators.

An evidence-based approach was used to review and consider the above-noted issues, including: research from consultants on regulatory approaches and regulations in other Ontario, Canadian and international jurisdictions, literature and jurisdictional reviews, research specific to the rental market in Ottawa including availability and affordability of rental housing as well as short-term rental activity, together with fulsome stakeholder engagement and public consultation, as further described below.

Amendments to existing by-laws as well as the development of new regulations have been reviewed as part of the study and have taken into consideration their potential impacts on housing quality, availability and affordability, in order to best serve the housing needs of residents.

As a result of this work, staff are recommending the following in respect of both rental housing and short-term rental accommodations:

New regulations for **rental housing**, including:

- a new by-law that creates obligations for communication between landlord and tenants, including how to report maintenance issues and clear instructions for waste management and property upkeep in order to mitigate service demands

identified in the Property Standards in Rental Housing Report (Document 4), to be developed and brought forward for approval in 2020, as described below;

- increased re-inspection user fees for property standards matters caused by continued non-compliance by the property owner or occupier, in order to provide cost-recovery for focused enforcement for rental housing properties by By-law and Regulatory Services, to be implemented immediately, and
- the development and provision of education information including tenant rights and applicable by-laws for both landlords and tenants, among other recommendations, as described in this report and in Document 1.

A regulatory regime for **short-term rental accommodations** is recommended to address issues of consumer protection and the safety of hosts, guests and neighbours of STRs; to protect viable long-term housing options; and to mitigate the occurrence of negative community impacts of STRs and nuisances arising from their use in residential areas, including:

- a registration system for STR platforms and STR property agents, together with a permit system for STR hosts, with associated user fees, with regulations and specific obligations for conduct;
- the above regulations to be anchored on the primary residence requirement for the host, with a prohibition on short-term rentals in properties other than primary residences, such as those operated by commercial operators or in investment properties;
- accompanying zoning regulations to allow both hosted and un-hosted short-term rental uses of the host's primary residence, in order to reduce negative community impacts generated from such uses and to protect the availability of long-term housing stock, as described further in this report;
- an increase in the Municipal Accommodations Tax (MAT) of 0.25%, should existing revenues from the Municipal Accommodations Tax not be sufficient to provide for By-law administration and enforcement capacity for the above-noted STR regulations on a cost-recovery basis; and
- All of the above-noted regulations would come into force concurrently to provide for a complete regulatory regime, with staff expectation that such could be accomplished as soon as possible based on the timelines noted below in this report.

Key performance indicators of the proposed regulatory regimes for post-implementation are expected to include increased resident satisfaction, a net reduction in property standards orders as well as overall complaints related to rental accommodations, and cost/revenue neutrality for administration and enforcement. Staff also recommend that the effectiveness of the recommended regulatory regime for short-term rentals, including the proposed regulations for platforms, hosts and agents, and the Temporary Use By-law, be evaluated at the completion of the prescribed 3 years for the Temporary Use By-law.

### **Scope of Review**

The City of Ottawa has enacted a number of by-laws which directly or indirectly regulate rental accommodations. These include but are not limited to: the Property Standards By-law, the Property Maintenance By-law, the Noise By-law, the Zoning By-law, the Traffic and Parking By-law, and the Licensing By-law, among others. These were reviewed as part of this study.

Given its focus on regulations and a review of existing by-laws this study does not address broader housing issues related to land-use planning, social housing funding and management or social services delivery. These areas of municipal concern are outside of the mandate of Emergency and Protective Services Department (EPS). While each broader issue is considered during policy analysis, this study does not provide specific recommendations to address housing challenges in these areas.

Similarly, this study does not consider regulations specific to long-term care facilities, group homes, shelters and other forms of supportive housing.

### **Integration with Other City Initiatives**

The Rental Accommodations Working Group, led by EPS, was formed in order to understand the issues, policies and programs relevant to regulations for rental housing and short-term rentals, and to ensure linkages with the ongoing work of other departments, where appropriate. The Working Group included participation from Community and Social Services (CSS), Corporate Services (CS), Legal Services, Planning Infrastructure and Economic Development (PIED) and the former Service Innovation and Performance Department (now Innovative Client Services).

This group provided a forum for the free exchange of data and collaborative policy analysis throughout the study. Any non-regulatory issues identified through the course

of the study were referred to the appropriate City department through their Working Group representative.

For example, data about rental housing availability and affordability collected through the Rental Market Analysis (Document 4), further described below, was shared with the Planning, Infrastructure and Economic Development Department to support the development of the New Official Plan and the Residential Fourth Density (R4) Zoning Review. This data was also shared with the Community and Social Services Department to inform Housing Services Branch's work on social housing programs and the Ten-Year Housing and Homelessness Plan.

The Working Group also identified community stakeholders. Approximately 230 stakeholder groups were identified and invited to participate in the study, including community associations, industry and trade associations, post-secondary institutions and student associations, and community advocacy groups. Further details about public engagement are included in this report and in Document 6.

### **Related Initiatives of Planning, Infrastructure and Economic Development**

Current initiatives of the Planning Committee and the Planning, Infrastructure and Economic Development department will address the availability of housing and rental housing. The first initiative is the New Official Plan, the strategic document that describes how the city will grow over time, where we will place major infrastructure, and what policies will be in place to support economic growth and guide the development and evolution of communities.<sup>1</sup>

The second initiative is the Residential Fourth Density (R4) Zoning Review. Phase One of the review successfully ended the development of high-density "bunkhouses ". This review included a concurrent Emergency and Protective Services (EPS) report entitled *Rooming House Licensing By-law Review (ACS2018-EPS-GEN-0009)* that recommended measures to harmonize supporting regulations.

The current phase of the R4 Zoning Review will explore zoning changes to enable a wider range of low-rise, multi-unit infill housing in R4-zoned neighbourhoods suitable to a wide range of household types, incomes and tenures.<sup>2</sup> Residential rental housing of this form is of particular advantage to Ontario municipalities. In addition to meeting the growing housing needs of the community, tenants in buildings with five or more units are afforded additional protections under the *Residential Tenancies Act, 2006*.

As EPS analysed policy options, each was considered within the context of the New Official Plan development process and the 2015–2018 City Strategic Plan. This included consideration of the possible adverse consequences that proposed regulations could cause towards Council 's strategic directions. When required, additional options were sought from PIED and other departments, as well as consultations with industry stakeholders such as the Eastern Ontario Landlord Organization (EOLO) and Ottawa Real Estate Board (OREB).

Given that very low vacancy rates are expected to continue as described below in the Rental Market Analysis, staff have aimed to develop a regulatory framework that minimizes impacts on needed investment in rental housing. Housing availability was also an important consideration in the development of the recommended framework for short-term rentals discussed later in this report.

### **Understanding the regulatory landscape**

In order to understand the overall regulatory landscape for rental accommodations, staff undertook an evidence-based approach, which included obtaining a literature and environmental scan to consider how other jurisdictions have addressed these issues and assess their applicability in Ottawa and reviewed applicable legislation and regulations. In order to understand the specific rental market found in Ottawa, staff also obtained a current rental market analysis of Ottawa, conducted a detailed analysis of property standards requests for rental properties over the last ten years, and obtained an independent local regulatory review and analysis. Finally, staff conducted extensive stakeholder engagement and public consultation to inform the study and the recommendations of this report. All of these steps are further described below.

### **Literature Review and Environmental Scan**

Staff engaged Prism Economics and Analysis, an independent consulting agency with expertise in housing policy and market analysis to conduct an environmental scan. Their methodology included examination of leading academic and policy research on the topics of rental housing and short-term rental regulation and consideration of real-world applications in multiple Canadian and international jurisdictions.

The Environmental Scan has been used to identify promising practices that might have application in Ottawa. Further assessment of the applicability of these regulations, given the differences in enabling legislation and municipal powers is included in the Discussion section. A copy of the Literature Review and Environmental Scan is attached as Document 3.

## **Understanding the Ottawa context**

It was also important to understand the current status of the rental market in Ottawa. In order to establish baseline data for evidence-based policy analysis, staff commissioned a Rental Market Analysis to assess the present state of the rental market, including short-term rental activity. Staff also conducted a review of service history related to property standards in private market rental housing. Each of these reports are further described below.

### **Rental Market Analysis (RMA):**

The City commissioned Prism Economics and Analysis to conduct the Rental Market Analysis. Their full report is attached as Document 4. This analysis has helped to quantify the present state of rental housing availability and affordability as well as key characteristics such as the age of housing stock and the population and number of bedrooms per unit. The Rental Market Analysis also provides insights on the STR market including the span of activity, its growth and the resulting influences on the availability and affordability of housing within the City, which staff have taken into consideration in developing the recommended regulations and approaches set out in this report. This data has been used to validate stakeholder input, model resource requirements for various regulatory scenarios and assess likely community impacts.

Staff have concluded that the Rental Market Analysis measures what many residents have expressed during consultations – that Ottawa is currently experiencing significant pressure in terms of the availability and affordability of rental housing. As noted in the RMA, “Ottawa’s real estate market is characterized by rising prices and scarce availability of rental units, which creates pressures for housing affordability but also motivates new residential investment.”<sup>3</sup> The findings of the RMA reveal that in recent years, growth in demand for rental housing has surpassed the creation of new units by a margin of 3 to 1.<sup>4</sup> While this trend is beginning to shift, with new private sector investment in purpose-built rental housing, it is also noted that new construction is primarily high-end units. Construction of affordable units and family-sized rental units continues to lag behind demand. Recent analysis from the Canadian Mortgage and Housing Corporation notes that in 2018 “bachelor units had the lowest vacancy rate, while three bedroom unit vacancies declined at the largest rate compared to last year”<sup>5</sup> and that “the average rent on two-bedroom units in structures built since 2005 sits 26% higher than asking rents on same bedroom count vacant units in the wider market.”<sup>6</sup>

As our City has surpassed one million residents, Ottawa’s rental housing market has faced significant pressure. With a high population of students, as well as transitory



workers in the public service, technology sector and military, just over one third of households (34.3%) live in rental housing.<sup>7</sup>

### **Affordability of Rental Housing**

The affordability of rental housing is a growing concern. According to the Rental Market Analysis, “Shelter costs for the City of Ottawa have risen rapidly since 2016, with apartment rents rising 7.8% over a two-year period and rent on detached homes increasing by 11.3%. This has increased the average rent for a three-bedroom house from \$1,547 in 2016 to \$1,737 in 2018.”<sup>8</sup>

In order to be considered affordable, the annual household income would need to exceed \$69,500, assuming this cost includes utilities. Adding an additional \$300 a month to provide heat, water and electricity raises the affordability threshold above \$81,000. According to Census data analysed by the Canadian Rental Housing Index, the median household income for two parent families with children is approximately \$64,000.

The Rental Market Analysis notes that “unaffordable housing exists not only in lower-income suburban areas but also in pockets of exurban tracts, likely reflecting the high cost of single detached homes even in less dense communities”<sup>9</sup>. The report adds that “Since 2016 the shortage of affordable rental accommodations has likely worsened, as the number of rental units has grown slower than the population in rental accommodation and current market rent listings for apartments are on average 28% higher than 2018 average rents.”<sup>10</sup>

According to 2016 Census data, 42% of renters in Ottawa live below the affordable shelter-cost-to-income ratio, spending 30% or more of their pre-tax income on shelter. While this proportion is slightly better than the provincial average of 46%, it still accounts for more than 113,000 residents.<sup>11</sup> The demographic profile of tenants in unaffordable housing shows that this group includes above average numbers of young adults, persons living with disability, recent immigrants, other minority groups and seniors.

As such, staff paid particular attention to the cost implications of various regulatory options, particularly where costs can be passed on to tenants through above guideline rent increases permitted through the *Residential Tenancies Act, 2006*.

### **Property Standards Data in Rental Housing:**

The Public Policy Development Branch of EPS has analysed a 10-year history of Property Standards Service Requests, for the period from 01 January 2009 to 31 December 2018, to identify and quantify issues associated with private market rental housing. This analysis, attached as Document 5, has served to identify gaps in

regulation, prioritize issues for policy development and assess the impact of regulatory changes on service demand and enforcement resources.

Overall, this data reveals that housing quality is sufficiently meeting the needs of residents. The report notes that nine out of ten rental units have not been subject of a property standards service request during the past decade<sup>12</sup>. This analysis further shows that 3.3% of units have had multiple service requests and a smaller subset of 0.5% have been responsible for 23% of all service demand.<sup>13</sup> This data has led staff to examine the unique circumstances of these units and pursue options for focused solutions as further discussed below in the Rental Housing section of this report.

### **Local Regulatory Review and Independent Analysis:**

The City engaged Maclaren Municipal Consulting Inc. (Maclaren) to conduct an independent review of existing City of Ottawa by-laws in order to identify possible gaps in regulation and propose solutions.

As a component of their work, Maclaren conducted two rounds of public consultations in partnership with City staff. Maclaren also met independently with Councillors, other City departments and a range of community and business organizations.

The first round of public consultations was conducted in June 2019. A series of three discussion papers were published for the purpose of assessing resident experiences and concerns regarding rental housing conditions, student housing, and short-term rentals. Public input was collected through an online survey and a series of workshops, as well as direct stakeholder engagement.

A second round of public consultation was conducted in August 2019. This consultation provided two policy options papers, one for rental housing conditions and another for STR. Residents were asked to consider various options to address the concerns identified from the first round of consultation. Feedback was collected through an online survey, as well as emails to stakeholders and previous workshop participants.

Maclaren's findings are attached as Document 7 - Regulations for Long-Term Rental Accommodations and Document 8 - Regulations for Short-Term Rental Accommodations. Each provides a detailed description of methodology, analysis and outcomes in the form of specific policy recommendations.

The independent analysis provided by Maclaren contributed to the development of the staff recommendations included in this report. By examining issues specific to Ottawa,

the Maclaren reports provided staff with additional insight on community concerns and public support for possible regulatory avenues.

### **Listening to the Community – Public and Stakeholder Consultation:**

Throughout this study, staff have engaged with approximately 230 identified stakeholders, including community associations, post-secondary institutions and student unions, tenant advocacy organizations, landlords, short-term rental hosts and managers, business and trade associations, and social service agencies.

Staff have also read more than 3,000 written submissions from residents, collected online and through in-person surveys. Full details about public consultation methodology and outcomes is attached as Document 6.

In addition to the two public consultations conducted by Maclaren, staff conducted an additional public consultation in October 2019. This included an online survey on Engage Ottawa from October 4 to 18 and two public meetings. A public meeting on rental housing regulations was held on October 22 at Ben Franklin Place and the public meeting on short-term rentals was held October 23 at the Nepean Sportsplex.

The final round of consultations asked questions specific to policy options under consideration by staff. Residents were provided a brief summary of previous consultation outcomes, key research findings collected by staff and a brief policy analysis. Residents were then asked to indicate if they agreed or disagreed with a series of policy statements. This feedback informed the final policy recommendations included for discussion in this report.

While a detailed description of the findings of these public consultation exercises can be found in Documents 6 and in Maclaren's papers found at Documents 7 and 8, the key findings can be summarized as follows:

### **Rental Housing**

Staff analysis of public input indicates that:

- Most homeowners and tenants agree that property owners should be charged for the cost of re-inspections, whereas most landlords disagree.
- Most homeowners and tenants agree that fees from re-inspections should be used to provide proactive by-law enforcement, whereas most landlords disagree.
- A significant majority of homeowners, tenants and landlords all agree that:

- landlords should adhere to basic rules of conduct;
  - landlords and tenants should work together to address pest control;
  - vulnerable persons should be able to designate a person to assist them with property standards issues,
  - the City should provide more information about regulations and resources, with particular attention on marginalized groups.
- Homeowners and Tenants expressed strong support for publishing property standards violation information online. Landlords were more divided on this issue, with 104 agreeing, 130 disagreeing, and 27 undecided.

### **Short-Term Rentals**

Staff analysis of responses indicates:

- There is general agreement that STR activity should be allowed in primary residences and in rural areas and should not be issued where condominium corporations or landlords do not approve.
- There is general agreement that fees should be kept low to encourage participation/compliance and that enforcement costs should be recovered through the MAT tax collected by STR platforms on behalf of hosts.
- Although a large majority of STR hosts disagree with the requirement to get a permit, STR Hosts agree that if permits are issued, the City should be able to revoke permits for serious or repeated violations.
- The recommended ban on commercial STR activity is supported by 58% of non-STR hosts and 32% of STR hosts. It is further supported by 35% of landlords.
- The recommended ban on commercial STR activity is not supported by 48% of STR Hosts and 36% of non-STR Hosts. This measure was not supported by 58% of landlords.

### **Hotels, Motels and Bed and Breakfasts**

Staff analysis of responses indicates:

- Approximately 70% of respondents indicated support for a strategy to address problem hotels and for staff's recommendations concerning hotel, motel and bed and breakfast use of STR platforms,
- Approximately 56% of participants agreed that these businesses should not pay additional fees and 63% supported requiring traditional bed and breakfasts to pay the same fee as other hosts when using STR platforms for bookings.

**Relevant Legislation:**

The *Municipal Act, 2001* (as amended) provides municipalities in Ontario with broad authority to regulate and enact by-laws. In particular, subsection 8(1) of the Act confers broad authority to a municipality to enable it to govern its affairs as it considers appropriate, and to enhance the municipality's ability to respond to municipal issues.

Under Subsection 10(2) of the *Municipal Act, 2001*, municipal councils may pass by-laws within the following areas, among others:

- the economic, social and environmental well-being of the municipality (paragraph 5);
- the health, safety and well-being of persons (paragraph 6), and
- the protection of persons and property, including consumer protection (paragraph 8).

As part of its general by-law making powers in the above-noted areas, a municipality may also enact by-laws that regulate or prohibit activities as well as require persons to do certain things, and may create a system of licenses, approvals, registrations or other types of permissions respecting a particular matter (Subsection 8(3) of the Act). It is noted however that Courts have found that prohibiting a business outright is not within a municipality's power. In addition, a municipality is authorized under Section 128 of the Act to regulate in with respect to public nuisances, including matters which are or could become or cause public nuisances in the option on Council.

As a result of the above-noted authorities and powers - but subject to the specific limitation on business licensing noted below - a municipality has authority to regulate rental accommodations as proposed in the report on the basis of protection of tenants and visitors using rental properties, as well as residents of neighbourhoods in which they are located. This also includes enacting regulations to address negative community impacts emanating from various types of rental accommodations, including the

mitigation of neighborhood nuisances such as noise, illegal parking, and property standards and maintenance issues.

### **Limitation on Business Licensing Regime For Rental Accommodations:**

As described further in the Legal Implications Section of this report, a specific limitation exists in *Ontario Regulation 583/06 – Licensing Powers*, passed under Part IV of the *Municipal Act, 2001*, dealing with business licensing powers. This specific limitation prohibits municipalities from enacting business licensing by-laws with respect to “the business of trading in real estate”, which includes a prohibition on licensing various aspects of real estate matters including those businesses or entities undertaking transactions related to renting and leasing, listing of properties, and advertising properties for rent or lease.

However, it is noted that regulations enacted by the City may take various forms, such as stand-alone by-laws to address specific local issues or nuisances (such as the *Noise By-law, Property Maintenance By-law*), or a permit regime with conditions of issuance along with regulations and standards for conduct, equipment or related aspects of the regulated activity (such as the *Special Events on Private and Public Property By-law*; the *Encroachment By-law*; or the City’s signs by-laws). Sufficient authority exists in other by-law making powers under the *Municipal Act, 2001* to allow the City to regulate both short-term rentals and housing conditions by means of regulatory tools other than business licensing, such as the proposed permit system for short-term hosts, the registration system for platforms and short-term rental agents, and the standards for landlords and tenants regarding pest and vermin, along with the other proposed requirements in this report, as discussed further in the Legal Implications Section

### **Consideration of Human Rights and Non-Discrimination:**

All municipal by-laws and policies are subject to the *Ontario Human Rights Code* (OHRC). Municipalities must ensure that their by-laws are consistent with the OHRC and do not discriminate on the basis of prohibited grounds enumerated in it. Section 35(2) of the *Planning Act* (as amended) further prohibits the municipality from passing zoning by-laws that have the effect of distinguishing between persons who are related/unrelated in respect of the occupancy or use of a particular building. In other words, by-laws should focus on the use of the building rather than who occupies it. With respect to regulation of rental accommodations, the Ontario Human Rights Commission has stated that municipalities should consider the following when they license/regulate in this area:

- Legitimate planning, health and safety, Building Code, property standards and maintenance issues.
- Effectively enforcing existing municipal by-laws for issues like parking, noise and property standards is often the best way to address problem behaviours in housing and residential areas. Using these existing options ensures that inappropriate behaviour is targeted and addressed consistently and fairly – for renters, landlords, visitors and homeowners alike.
- Renters are entitled to the same privacy and enjoyment of their homes as homeowners. Licensing should not over-scrutinize renters, violate their privacy, or treat them differently than anyone else living in the neighborhood.<sup>14</sup>

The regulations and enforcement approaches proposed in this report are in line with the above-noted human rights considerations, in that they do not address a particular group but rather are of a general application. The recommended new by-laws and enforcement strategies target issues of municipal concern across the City, such as the health and safety of renters and visitors using rental accommodations, the negative community impacts of rental accommodations where issues of noise, solid waste and property standards, and nuisances are not mitigated, and enhanced property standards and enforcement for all rental accommodations to ensure that problems are quickly addressed.

## **DISCUSSION**

### **Introduction**

This section of the report provides staff analysis in support of the recommended regulatory frameworks for both: (1) rental housing and (2) short term rentals, as well as (3) supplementary recommendations for hotels, motels, and traditional bed and breakfasts.

Each is presented in detail below, including staff findings from research and consultation with stakeholders and the public. Staff recommendations are summarized in this section, with detailed recommendations for regulations for Rental Housing found in Document 7, attached, and for Short-Term Rentals found in Document 8. Staff's recommendations establish sustainable regulations for rental accommodations that address concerns for public health and safety, the economic and social well-being of the municipality, and the protection of persons and property, including consumer protection.

## 1. Rental Housing Regulations

For the purposes of this report, rental housing means private, long-term rental housing. The staff recommendations for new regulations related to rental housing, as well as non-regulatory initiatives such as the provision of tenant consumer protection information and a website to report violations, are recommended to address the overall municipal concerns of ensuring public health and safety, the protection of persons and property including consumer protection, and the overall economic and social well-being of the City. Specifically, staff believe that the recommended regulatory regime for rental housing will achieve the following outcomes:

- increased consistency in rental housing quality through strategies directed towards addresses where repeated property standards, property maintenance, or other service requests are received,
- improved effectiveness of enforcement activities, including increased by-law response and investigation capacity to provide additional focused enforcement where it is needed most,
- more effective pest and vermin control,
- more incidents to be resolved without City intervention by increasing tenant consumer awareness, and full cost recovery through service fees from non-compliant addresses.

To achieve these outcomes, the **regulatory framework** proposes the measures noted below, which are more fully described in Document 1:

1. Create a Rental Property Management By-law to establish rules for landlord-tenant communication where landlords must provide tenants with information in writing on the contact information of the landlord and designated property manager (if applicable) as well as rules to ensure on-site compliance and minimize property standards issues such as instructions for waste management, lawful parking, maintenance and cleanliness of common areas and exteriors, and instruction on who to report a problem. These measures will also assist in the effective enforcement of violations when they occur, as described in Document 1.
2. Prescribe specific standards for both landlord and tenants concerning the management of pests and vermin, as recommended by Maclaren Municipal Consulting.



3. Establish a new re-inspection fee of \$500 applicable to inspections when a property standards notice of violation or order is not complied with in the specified time frame and deficiencies or non-compliance persist, in order to provide cost-recovery for by-law administration and enforcement.
4. In addition, based on the new re-inspection fees noted in measure 3, fund two new Property Standards Officer positions to provide focused enforcement capacity towards problem addresses and neighborhoods, as recommended by Maclaren Municipal Consulting.<sup>15</sup>
5. Provide enhanced case management to implement new data fields and process to track rental addresses and provide enhancements for response, such as identifying rental addresses at call intake, identifying whether the service request is from the landlord, tenant, neighbor or other, and provide automated billing for prescribed fees, as further described in Document 1, which can be achieved through existing resources and within budget directions.
6. Staff will review existing legislation and explore solutions to allow by-law officers to more efficiently exercise lawful right of entry powers in order to assist on-site inspections in rental housing, as recommended by Maclaren, particularly in cases where more than one unit is affected by the property standards issue (e.g. pest management, floods), and where access is required to investigate and inspect for compliance with the City's rooming house regulations.<sup>16</sup>

In terms of **non-regulatory recommendations for rental housing**, staff recommend as follows:

7. Establish a Consumer Protection website for tenants, as recommended by Maclaren<sup>17</sup> and as more fully described in Document 1, as well as explore initiatives to address increased consumer protection and tenant education, including:
  - a. Reviewing the feasibility of establishing an online searchable database of property standards violations for the public,
  - b. Provide on the City's website (Ottawa.ca) other appropriate venues, tenant educational content, including potentially developing social media videos accessible in multiple languages most frequently spoken by tenants, subject to the availability of a funding source.

**Timing of recommendations:** It is expected that that measures 1, 2, 4, 5, 6 and 7 will be developed by staff in early 2020, and that staff will report back to the Community and

Protective Services Committee for approval of these regulatory recommendations as soon as possible in 2020. However, staff recommend that the increased re-inspection fees set out in measure 3 should be implemented immediately upon approval of this report in order to ensure increased enforcement capacity of 2 Property Standards Officers as noted further below.

### **Rationale for Recommended Measures 1 - 6:**

The recommended measures noted in items 1 – 6 above have been designed to allow focused resources towards known issues. By avoiding unnecessary regulations and inspections, it is staff's recommendation that the City can achieve greater results with less impact on rental housing availability and affordability.

While it is staff's assessment that the overall quality of private market rental housing in Ottawa meets the needs of the community based on the research conducted by Maclaren and the City's analysis of property standards service requests, there are exceptions. The analysis of Property Standards in Rental Housing (Document 5) shows that approximately one in ten units has had a property standards complaint over the past decade.<sup>18</sup> These include complaints from tenants, landlords, and neighbours. This data correlates with public input collected during the first consultation, whereby 88% of tenants (316 out of 360) that had requested repairs in the last 12 months indicated that landlords either made the repairs when request or committed to do so repairs when possible.<sup>19</sup>

The overall trend for growth in service requests at private market rental housing addresses closely mirrors the overall trend for property standards. Both have grown by 60% over the past decade.<sup>20</sup> This variation is consistent on an annual basis, with private market rental housing constituting 17-19% of all complaints in any given year.<sup>21</sup> This suggests that private market rental housing standards are being maintained relative to overall community standards.

However, within the service request data analysed by the City, there is a clear pattern of problems associated with specific addresses and communities. The analysis identifies that a small portion of rental properties, representing one-half of one percent (0.5%) of the total rental stock, are responsible for nearly one quarter (23%) of service requests.<sup>22</sup> These properties are largely in low-income neighbourhoods across the urban area. Based on this data, staff are of the opinion that a focused approach to enforcement of property standards, property maintenance and related issues is the best approach in the circumstances.

With respect to pests and vermin, staff's research reveals that these issues continue to be the most pervasive problem reported in all forms of rental housing. Service requests for pest and vermin comprise 32% of all complaints investigated by By-law and Regulatory Services (BLRS).<sup>23</sup> While the standard found in the Property Standards By-law respecting pests and vermin is clearly established as, "A dwelling shall be kept free of vermin at all times",<sup>24</sup> staff have identified the need for clearer direction on how this is to be achieved, including the shared responsibility of tenants and landlords to address issues when they occur. As a result, staff recommend the development of specific pest and vermin control standards to be inserted into the existing Property Standards By-law to delineate the shared responsibility of both landlords and tenants in this area. As more fully described in Document 1, such standards would be developed with multi-departmental and stakeholder input and would reflect best industry practices.

It is expected that the above-noted regulations and amendments also improve the effectiveness of enforcement. The funding capacity for two Property Standards Officers through additional re-inspection fees, as set out in Document 1, will provide BLRS with additional capacity and equip officers with the tools they need to address violations when they occur in addresses where property standards or other problems are occurring, and on a focused basis. In addition, the above regulations aim to achieve financial sustainability by recovering the costs of additional enforcement through re-inspection service fees associated with the enforcement of continued deficiencies and violations, as required under the City's User Fees and Charges Policy. It is noted that as compliance improves, fewer fees will likely be collected but fewer inspections will also likely be required. Should violations increase over time, applicable fees would be re-assessed or additional capacity for By-law and Regulatory Services could be added if necessary.

In addition, using the additional enforcement capacity of two property standards officers by focusing inspections on problem areas and avoiding unnecessary inspections minimizes the environmental footprint. Compared to licensing options, discussed below, fewer staff and vehicles are required, less equipment is required, and less fuel is expended with a targeted enforcement approach that is recommended. Based on data provided by By-law and Regulatory Services, Property Standards Officers currently drive approximately 8,000 km each year, on average. Assuming that the new officers will drive a similar amount in similar vehicles, the recommended framework will add an estimated 4.4 tonnes of CO<sub>2</sub> emissions. This is significantly lower than the 35.4-369.5 tonnes of CO<sub>2</sub> emissions anticipated under the licensing scenarios discussed below.

**Rationale for Measure 7:**

Based on research from Maclaren, staff recommend increased provision of consumer protection information and education material in order to equip tenants and landlords with the tools needed to address more housing quality issues without the intervention of the City. This includes exploring the feasibility of creating an online searchable database, as described in Document 1, to provide access to information regarding property standards violations and orders as has been done in the City of Vancouver, or to service request data as is the case in Toronto. In reviewing the feasibility of developing this online searchable database, staff would consider applicable costs, as well as protection of privacy issues under the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable legislation, working with Legal Services in doing so. Alternatively, service requests information could also be made available on the consumer protection and education website for tenants.

Staff would also review the feasibility of providing educational content, including social media videos accessible in multiple language, in order to provide tenants with information about their rights, applicable by-laws and other relevant information that assists them with their tenancy and housing choices. This is further described in Document 1.

The above recommendations arise in part from the City's understanding that the numbers related to the property standards requests noted above are likely under-represented. Stakeholders such as the Association of Community Organizations for Reform Now (Ottawa ACORN), Legal Aid Ontario, and the Somerset West Community Health Centre have all identified through consultations the challenges faced by marginalized communities when addressing rental housing conditions. They have reported that often, tenants are unaware of the services available due to the language and literacy issues they face. They have also reported that tenants are afraid to ask for assistance, due to real or perceived threats of repercussions from their landlords and the challenge of finding affordable houses in the current market.

### **Considerations regarding Rooming Houses**

Consideration of regulations regarding rooming houses falls under the rental housing umbrella. In addition to the general policy considerations applied to rental housing, staff also considered the unique circumstances surrounding rooming house living. This included direction to staff received at Community and Protective Services Committee on 21 June 2019 regarding the Rooming House Licensing By-law Review (ACS2018-EPS-GEN-0009) to consider the need for:

1. Restrictions (limits per ward or separation distances)

2. A ratio between people and number of washrooms (and showers)
3. Specific kitchen amenities
4. Private solid waste pick-up
5. A mandatory site compliance inspection prior to license renewal

At this time, Staff do not recommend any additional rooming house regulations as current regulations for property standards and licensing requirements are being enforced by a dedicated rooming house inspector within By-law and Regulatory Services. In terms of specific improvements to rooming house amenities, staff recommend that these be sought through incentives for rooming house operators rather than prescribing them through regulations. The current Ontario Renovates Component of the Investment in Affordable Housing (IAH) Ontario Program and Social Infrastructure Fund (SIF) is an example of such an incentives-based program and is further described below.

Rooming houses are currently regulated under a municipal licensing framework that provides for enhanced inspection requirements and service standards to ensure compliance with zoning, building and property standards requirements of the City. Other by-laws pertaining to property standards and property maintenance also apply to rooming houses.

To assess the current regulatory environment for rooming houses, staff consulted with staff from By-law and Regulatory Services and from Community and Social Services. In addition, consultations occurred with local social service agencies and interviews were conducted with rooming house tenants at their residences. On the advice of Somerset West Community Health Centre, staff worked with the Community and Social Services department's Housing Services to visit a series of rooming houses in Alta Vista, Rideau-Vanier and Somerset Wards. This provided an opportunity to engage directly with rooming house tenants that would otherwise be unlikely to be aware of, and participate in, the primary public consultations. Staff interviewed 36 rooming residents and 3 operators, while also gaining a first-hand assessment of the varied states of conditions across the rooming house inventory.

Some work has already been done to address conditions in the City's rooming houses. While both stakeholders and By-law and Regulatory Services (BLRS) have noted improvement in the conditions of some buildings following the appointment of a designated rooming house inspector, the lack of resources has been identified as an

impediment to address the very demanding circumstances of rooming house tenants and operators. The one designated inspector has issued more than 100 Property Standards Orders in the last year, but BLRS has indicated that they are challenged to provide timely follow-up inspections. Many of the violations relate to re-occurring issues, such as pests and vermin, that require more intensive case management than can currently be provided.

### **Consultant's findings and Staff Assessment:**

Research from Maclaren indicates that the number of rooming houses in the City have declined sharply in recent history from about 400 during the 1990's to about 91 today. This trend is occurring in other major cities as well. Both Toronto and Montreal have taken recent action to address dwindling inventory. In Toronto, the City passed new development rules to require replacement affordable housing stock. Montreal took more immediate and direct action, purchasing more than 430 rooming house units off the private market for transfer to social services providers.<sup>25</sup>

While rooming house supply is not an issue within the mandate of Emergency and Protective Services, staff have given consideration to avoid regulations that are likely to cause further erosion of rooming house inventory, as these may increase demand on emergency and social housing and contribute to the growing housing security challenges in our community, which will not be in the public interest.

It is noted that in 2018, BLRS implemented a full-time Rooming House Inspector to enforce property standards and licensing requirements. While it is still too early to provide a full assessment of efficacy, indications from owners, tenants, and social services all point towards a marked improvement in conditions in most units. At this time, BLRS has noted that more than 160 enforcement actions have been taken in the past year, however capacity of the existing officer is limited.

Based on the above considerations, staff's assessment of the issues directed for review by Community and Protective Services Committee is described below.

**Minimum separation distances/limits:** Staff does not support a requirement for separation distances or caps on the number of rooming houses in wards. Based on the research provided by Maclaren, staff are concerned that to place further restrictions on the most affordable form of housing may cause further negative impacts on the when housing affordability challenges have been noted in Ottawa by both the RMA and by Maclaren's research. In addition, adding additional regulations through minimum

separation distances or limits on numbers may also increase the established decline in rooming house numbers overall.

**Increasing ratios for roomers and kitchen/bathroom amenities:** It is staff's opinion that increased standards for kitchen and bathroom amenities should be achieved through incentives rather than regulation, such as those described below. Staff is concerned that requiring rooming house operators to undertake extensive renovations with associated financial relief may cause them to sell or re-develop their assets, resulting in reduced inventory and displaced residents.

Grandfathering existing units while implementing new standards for new units is also not advisable, as staff are concerned that this approach may not bring any benefits to existing tenants while also reducing the probability of new development.

Staff suggests that the nature, character and number of rooming house units is best addressed through housing policy and budget frameworks rather than regulation.

**Solid Waste pick-up:** Solid waste pick-up from high-density addresses is being considered in the development of the new Solid Waste Master Plan. This is the most appropriate mechanism to address these concerns. In the meantime, it is staff's recommendation that property standards, maintenance and waste issues are best addressed through ongoing enforcement of existing standards.

**Mandatory site compliance inspection:** Staff note that this is already a regulatory requirement in the existing Rooming House licensing regime found in Schedule 26 of the Licensing By-law (2002-189, as amended). By-law and Regulatory Services is required to inspect each building prior to renewal and may ask for additional inspections by fire prevention and public health officials as necessary. By-law and Regulatory Services has indicated that staff capacity to manage frequently re-occurring issues between inspections is the key factor impacting their efforts to manage housing conditions in rooming houses.

### **Creating Incentives to Improve Rooming House Conditions**

Housing Services Branch approached rooming house landlords in 2017 under the Ontario Renovates Component of the Investment in Affordable Housing (IAH) Ontario Program and Social Infrastructure Fund (SIF) to assist rooming houses owners with essential repairs and accessibility related modifications that would also improve living conditions for residents.

Rooming house providers were required to be in good standing with the City of Ottawa or actively be working towards compliance as determined by the City. Forgivable loans up to \$10,000 per rooming unit were available for qualified rooming houses up to a maximum of \$100,000 for a single property. An agreement was required with the City with a second mortgage registered on title to secure the funding remain for a period of fifteen (15) years to ensure both compliance and affordability.

Of the 5 applications received, 3 rooming house landlords were approved for a total of 4 rooming house buildings. However, of the 4 buildings approved under the program, 2 have yet to complete renovations while the other 2 have exited the program.

Through the 10 Year Housing and Homelessness Plan Refresh, Housing Services will consider expanding the Ontario Renovates Program to include further engagement of private sector landlords of small apartment buildings and rooming houses. This expansion of this program could be considered in 2020/2021 by the Community and Social Services department.

### **Landlord Licensing Costs/Benefits Analysis**

Staff considered multiple business licensing approaches as regulatory options for rental housing. The evaluation of efficiency, enforceability and sustainability of landlord licensing, as well as the legal uncertainty surrounding municipal licensing of real estate activities noted in the Legal Implications Section, all lead staff to conclude that licensing is not the preferred regulatory solution for Ottawa, for the reasons noted below.

The cost and affordability implications of licencing, as described below in this report, are the primary reason why staff do not recommend Maclaren's recommendations (numbered four to ten) respecting landlord licencing. Even if implemented on a trial basis, as proposed by Maclaren, residents are likely to experience increased housing costs. In addition, as noted above, the results of the property standards service requests analysis (Document 5) shows that only one in ten rental units has had a property standards complaint in the last 10 years. This data also shows that only a small percentage of rental properties (0.5%) present recurring problems. As such, landlord licensing is not recommended.

Specific landlord licencing scenarios that were considered included:

- Universal licensing with annual inspections
- Universal licensing with performance-based inspections, similar to City of Toronto's "RentSafeTO" program



- Limited licensing in specific communities (Sandy Hill, Algonquin College)
- Limited licensing for specific types of dwellings

Under each scenario, staff modelled resource and cost requirements for anticipated service demand. Staff assessed the number of units to be impacted as well as the human resource and logistical requirements needed to service the projected number of inspections and investigations.

### **Approaches of other Ontario jurisdictions:**

Staff also considered the implementation of similar frameworks in other jurisdictions, including the cities of London, Oshawa, Toronto and Waterloo, and was also informed by the Literature Review and Environmental Scan as well as research conducted by Maclaren in this regard.

London implemented rental property licensing in 2011. Their framework covers rental properties with four (4) units or less and costs \$336 dollars for initial registration and \$55 per annual renewal. Conditions of renewal may invalidate a license and require a new application to be submitted at the higher fee. This framework does not include automatic annual re-inspections, relying on resident complaints and changes to license conditions to trigger re-inspections.

Oshawa was the first Ontario municipality to introduce rental property licencing. Their framework was introduced in 2009 and applies to residential rental houses within the vicinity of the University of Ontario Institute of Technology and Durham College. Oshawa charges \$575 for an initial licence, annual renewals can be reduced to \$360 with early payment. Additional re-inspections are billed at \$75 each. This licensing framework does not create a right of entry process for inspectors, which is subject to provisions of the *Municipal Act* and *Building Code Act*, but rather it requires that “a Landlord does not directly or indirectly require or cause a Tenant to refuse to consent to lawful entry and inspection of a Rental Unit for the purpose of determining compliance with the Licensing By-law.”<sup>26</sup> Licensing further restricts the number of bedrooms to four and the total gross floor areas for bedroom use as 40% of the dwelling unit.

Toronto’s program was introduced in 2017. Their approach regulates residential apartment buildings with three or more storeys and 10 or more units through a registry system. Toronto charges \$11.02 to register each unit. Inspections are conducted at least once every three years. Building with low inspection scores are billed an audit administrative fee of \$1870.33, plus \$113.00 per hour of inspection time.<sup>27</sup> The

program aims to recover 53% of costs through registration and inspection fees, with the remainder funded from property taxes.

Waterloo's licensing framework was introduced in 2012. It applies to various low-rise residential rentals in six licensing categories and excludes apartment buildings, defined within the by-law as buildings that contain more than four (4) dwelling units with vertical separation between units and independent entrances connecting to a common hallway and exit.<sup>28</sup> Registration fees range from \$400 to \$450, with annual renewal fees ranging from \$210-\$351 dollars depending on the type of unit. Critics of the licensing framework argue that residential rents in impacted buildings rose an estimated 5-7% as a result of licensing costs, with nominal benefits for tenants.<sup>29</sup>

Each jurisdiction has selected a regulatory approach to meet the specific needs of their community. Policy goals and outcomes must be evaluated against regional differences. For example, Toronto has more than double the proportion of households that live in buildings with five or more stories, at 44.3% compared to Ottawa's 18.4%.<sup>30</sup> Population density in Toronto is also 13 times higher than Ottawa, requiring fewer resources to benefit more residents.

#### **Expected cost impacts of landlord licensing:**

According to the Environmental Scan produced by Prism Economics, "licensing application and inspection fees are usually based on a cost-recovery model and range from \$300 to \$600 in Canadian jurisdictions."<sup>31</sup> To assess the resource requirements anticipated for implementation in Ottawa, staff used the Rental Market Analysis to determine the number of rental units to be included in each scenario. Consultations with By-law and Regulatory Services helped to determine the manageable caseload for property standards officers and all associated costs related to service delivery. Where the number of additional officers exceeded span of control limits for supervisors and managers, additional staffing costs for the required management team were also accounted for.

A high-level estimation of capital costs was developed based on the Preliminary Building Capacity Assessment and Facility Study conducted by LWG Architectural Interior Inc. While this study did not consider the additional staffing requirements of landlord licensing, it provides several relevant findings:

- the current facility is significantly undersized to accommodate the current and future needs of By-Law;<sup>32</sup>

- evaluation of Ontario Building Code occupancy requirements indicate that 9.3 m<sup>2</sup> of building space is required for each additional employee,<sup>33</sup>
- The cost for construction and fit out of additional space is estimated at \$380 per square foot,<sup>34</sup>

Based on this information, staff estimated the cost of additional space as approximately \$38,040 per employee. Staff utilized a 20-year linear amortization to account for these capital costs in the licensing model as an annual expense of \$1,902 per employee.

The expected cost impacts for tenants were then calculated by dividing the total enforcement cost by the number of units and then by 12 months.

### **Scenario A – Universal licensing and inspections**

Inspecting more than 133,000 rental units on an annual basis would require 182 Full Time Equivalent (FTE) positions, including 167 Property Standards Officers, 12 Supervisors, one additional manager and two licensing clerks. Staff anticipate that this service can be provided on a cost recovery basis for \$275-\$300 per unit, resulting in expected monthly rent increases of approximately \$25 per month.

### **Scenario B – Universal licensing with performance-based inspections**

Staff considered a scenario where rental buildings are inspected every three years, with inspections of rental units to be determined by compliance with approved regulations. Compliance rates were assumed to fall between existing historical service demand (1%) and a higher rate of problems (25%) that assumes unreported tenant issues occur at rates reported by ACORN Ottawa, in their survey of low-income residents, entitled State of Repair.<sup>35</sup>

Inspecting 29,400 buildings each year, plus additional investigations to address deficiencies in between 294 and 7,350 rental buildings and 500 to 11,000 rental units each year would require between 44 and 67 FTE. The anticipated impact on monthly rent would be in the order of \$18 to \$28 per month.

### **Scenario C – Limited licensing in Sandy Hill and areas around Algonquin College**

Applying the same requirements as Scenario A, but within the limited confines of Sandy Hill and Algonquin College, as recommended by Maclaren Consulting, would require 16 FTE. However, these costs would be absorbed by a limited

supply of approximately 10,000 units. The anticipated impact on monthly rent would be in the order of \$29 per month.

### **Scenario D – Limited licensing based on building age or type**

Through the Rental Market Analysis (RMA) staff sought the data necessary to model regulatory approaches based on specific types of buildings or buildings of certain ages. However, analysis of the RMA and other data sources could not identify specific criteria that merited further consideration.

Staff caution that the above noted costs are for illustrative purposes only. Determination of actual costs and associated community impacts would require the development of a full business case and updated Building Capacity Assessment and Facility Study.

#### **Effect of added costs on rents:**

Staff reviewed the potential cost that landlord licencing frameworks will apply to rents. The basis for assigning costs to tenants exists in the *Residential Tenancies Act, 2006*, which provides that landlords may apply for above guideline rent increases resulting from an “extraordinary increase in the cost for municipal taxes and charges for the residential complex or any building in which the rental units are located.”<sup>36</sup>

While the cost of licencing would be shared equally among tenants, staff analysis indicates that the added costs will likely have more impact on residents already at or below the affordability threshold. While staff notes that an Ottawa-based licencing solution may be achievable with the cost ranges applied by other Canadian municipalities, the additional cost for residents is of concern to staff. Based on the 30% Cost-To-Income Ratio for Housing Affordability, staff calculate that licencing fees within the above ranges used by other jurisdictions would increase the affordability threshold for each unit by \$720 to \$1,150, meaning that without a corresponding rise in household income, this would result in a greater proportion of residents living in unaffordable conditions.

It is further noted that another cost driver will be compliance rates. Under the regulatory options noted above, if landlords register every property and pay all prescribed fees, then there will be sufficient resources to conduct all inspections.

However, if landlords do not comply, more enforcement resources will need to be directed towards identifying and investigating suspected unlicensed rental properties.

According to a study by the Centre for Community Progress, “Experience shows that without proactive steps to get landlords licensed, only one-third or fewer are likely to get into the system.”<sup>37</sup> Non-compliance by landlords could present significant budget pressures that are not accounted for in the above scenarios. Risk management strategies would need to be considered and accounted for in the development of any business case for licensing.

### **Effect of landlord licensing on property standards:**

The effectiveness of licensing as a tool for property standards may also be questioned. When property standards issues occur, tenants should not have to wait for a scheduled inspection every one to three years to address them. This creates additional problems for tenants, landlords and often neighbours in adjacent units and properties. Educating and empowering tenants to resolve issues with their landlord, and to seek help from the City when needed, is more likely to provide better outcomes.

While licensing will likely catch a number of previously unreported issues, staff analysis indicates that it may present an inefficient use of resources given the current levels of service demand for rental housing concerns. Whether issues occur at the rates tracked in the Property Standards Report, noted above, or as expressed in the ACORN survey, between 75-99% of tenants would pay for services they do not require and would be subject to inspections that are likely unnecessary.

## **2. Regulating Short Term Rental (STR) Accommodations in Ottawa**

### **Overall considerations:**

The work conducted by the City’s consultants during this study as well as feedback received during consultation all indicate that the new home-sharing economy has been a boon for many of Ottawa’s residents, providing the opportunity to earn additional income by renting space in their homes to out of town guests. In Ottawa, the number of short-term rental units has been growing quickly over the last several years, with total listings increasing from 3,343 in 2016 to 6,278 in 2018.<sup>38</sup>

When operated as intended, short-term rentals contribute to a vibrant tourism sector, as well as providing new options for visiting students, workers and families.

However, the popularity of STR has led to the creation of professional operators that have purchased one or more residential properties for full time use as travel accommodation rentals. As described in the Environmental Scan (Document 3), many

cities around the globe have experienced this trend, removing a significant amount of housing inventory and increasing costs for homeowners and renters alike.

The City has experienced an increase in complaints about the community impacts and nuisance generated by STR activity. While City service request data shows that complaints attributable to STR activity have increased from 3 complaints in 2015 to 86 complaints in 2018<sup>39</sup>, it is important to note that these only capture the service requests where an STR platform was specifically identified by the complainant. It is not always known or reported when STR is the root cause of a nuisance complaint and the City does not currently have the administrative processes or regulatory tools required to link specific service requests to STR addresses.

In the first consultation for the Rental Accommodations Study, participants were asked to identify if they have experienced STR disruption. While 77% of responses indicated that they had not experienced any disruption, this number was 91% among STR hosts and only 68% among participants that did not identify as STR hosts.

Among the 317 non-host participants that reported experience with problems caused by STR activity, many reported multiple occurrences or different types of issues occurring, as noted in the table below.

Table 1 - Public Input Concerning STR Disturbances

<b>Nature of Problem</b>	<b>Number Reported</b>
Excessive noise	240
Neighbourhood parking	200
Strangers on my street/in my building	194
Excessive garbage/waste	174
Concern for personal safety	147
Property damage	108
Other Complaints	100

Stakeholder input from multiple community associations also indicated that they were concerned about a loss of the residential character of their neighborhoods in certain cases due to short-term rental activity. As noted by Maclaren, “Heavy use of a short-term rental property, even by well-behaved guests, can lead to a sense of loss of peace and enjoyment by neighbours.”<sup>40</sup> It is noted that By-law and Regulatory Services has investigated serious incidences of over-crowding and, as indicated in media reports, Ottawa Police Service have also been required to respond to serious incidents when STR are used as “party houses”.

The policy challenge for STR regulations therefore is to create a regulatory framework that permits STR activity where it is beneficial while limiting or eliminating harmful practices, particularly those that displace residents and increase housing costs.

As part of the review of potential regulations for short-term rentals, staff have also considered the current status of short-term rental uses from a planning perspective, in consultation with staff from the Planning, Infrastructure and Economic Development department (PIED). Under the current Zoning By-law, and as reported to Council in the Response to Enquiry on Short-Term Rentals, July 12, 2017 report (ACS2018-PIE-EDP-0019), the rental of an entire residence without the owner present is considered a hotel use and is prohibited in most areas. However, this zoning requirement has not stopped the presence of so-called “ghost hotels” – a term commonly used to describe whole-home or unit rentals that are rented on the short term but where the owner of the premises does not live there. According to the Rental Market Analysis commissioned by the City, there were approximately 1,236 likely commercial operators of whole home/unit STR rentals in the City in 2018. In Ottawa, the experience of By-law and Regulatory Services has indicated that investigations of zoning violations for STRs can be challenging, require time and are resource intensive. The length of time it takes to resolve a zoning investigation may also mean that residents in the affected neighborhood can experience prolonged disruption from problem operators before relief is possible.

Based on research from the RMA and Maclaren, staff have also considered the effect of STRs on housing costs, and research indicates that STRs can escalate housing costs in two ways:

1. each room or unit regularly used for STRs removes from the market a room or unit that might otherwise have been offered to a long-term tenant, and

2. the ability to derive income from a housing unit raises its value, raises the tenant's ability to pay for expensive housing, and thereby raises prevailing housing prices.<sup>41</sup>

### **Recommended Short Term Rental Regulatory Regime**

Staff recommend a regulatory regime that will provide the ability for short-term rental accommodations to take place in an individual's primary residence only, in residential areas only, subject to regulations. The proposed regulations will ensure that the activity is supervised by the host and does not disrupt the residential character of the neighborhoods in which they occur; that guests have information at their disposal to make informed decisions about the rental to ensure consumer protection; and that address issues of negative community impacts and nuisances such as noise and illegal parking are minimized, as further described below and in Document 2 to this report. In addition, staff are recommending that short-term rental activity occurring in investment or commercial properties that are not primary residences not be allowed in residential areas, as recommended by Maclaren, in order to mitigate nuisances that tend to occur with absentee hosts and to protect potential long-term housing stock, as described below and in Document 2.

Overall, the recommended framework for short-term rental regulations is designed to achieve the following outcomes:

- Limit the impact of STR activity on the availability and affordability of housing
- Permit residents to benefit from STR activity in their homes, with necessary regulations
- Protect the quality and character of communities
- Protect the rights of condominium corporations and landlords
- Provide enhanced consumer and safety protection for STR guests.

To achieve these outcomes, the proposed framework for short-term rentals includes the following measures:

- Create a Short-Term Rental (STR) By-law to:
  - establish rules of conduct for STR Platforms, Agents and Hosts
  - establish a permit regime for Hosts



- require that STRs only be permitted in primary residences, in residential zones, with the complementary creation of a Temporary Use By-law to allow hosted and un-hosted STR use in residential areas, as noted further below,
- Provide specific direction to hosts concerning consumer protection and the health and safety of guests,
- Create a specialized STR Enforcement Unit within BLRS to provide necessary enforcement capacity based on additional user fees and revenues from the Municipal Accommodations Tax, and,
- Create a registration system for condominium corporations and landlords that wish to prohibit STR activity on their properties.

### **Key Components and Timing of Implementation:**

Based on the above-noted considerations and findings, staff recommend a regulatory regime that has 3 key components:

1. a new Short-Term Rental Accommodation By-law, described in Document 2, to provide regulations for STR platforms, agents and hosts for the purposes of ensuring public safety, the protection of persona and property including consumer protection, and to minimize the negative community impacts or nuisances that may occur from this use;
2. the implementation of appropriate zoning by means of a Temporary Use By-law in order allow both hosted and un-hosted short-term rental accommodations in principal residences only, in residential areas only; and,
3. the use of the Municipal Accommodations Tax of 0.25% to fund the administration, management and enforcement of new STR regulations proposed above, as further described in this report.

Staff recommend all 3 of the above components be implemented concurrently in order to create an enforceable and sustainable STR regime that addresses the local issues discussed above related to short-term rental uses.

### **Timing of Regulatory Regime for STR**

Several milestones will have an affect on the coming into force of the 3 concurrent components of this proposed STR regime.

Firstly, the key recommendation that STR activity only be permitted in principal residences has been the subject of an appeal before the Local Planning Advisory Tribunal (LPAT) in the City of Toronto, and staff recommend waiting for LPAT's decision on that legal challenge before proceeding with a similar regulation here. While the hearing of the matter in the City of Toronto concluded earlier this fall, the LPAT decision has not yet been issued. Once it is, staff and advise of any consequences in relation to the recommended STR regulations here.

In addition, once the LPAT decision on the primary residence requirement is known and assuming no legal impediments exist, the Temporary Use By-law noted below will be developed and brought by the Planning, Infrastructure and Economic Development department to the Planning Committee for approval. This by-law is necessary to allow short-term rental use in principal residences, both when the owner/host is present and non-present, in residential areas. The PIED has advised that the work to develop the Temporary Use By-law will likely commence in Q2 2020, using an external consultant. The timing of completion work for the Temporary Use By-law is dependent on the outcome of consultations and stakeholder concerns. As a result, the proposed Temporary Use By-law would be brought to Planning Committee following completion of that work and as soon as feasible.

As a result of the above, the full implementation of the new STR regulations, including the recommended permit and registration system, the temporary use by-law, and the use of the Municipal Accommodations Tax will only occur once the three pieces may be applied concurrently. Staff will provide updates to members of Committee and Council on the development of the timing as more information become available.

Further, given that under the Planning Act a Temporary-Use By-law is prescribed to a maximum length of 3 years, staff also recommend that the effectiveness of the STR regulatory approach recommended in this report be evaluated at the completion of the 3 years, with staff recommendation as to whether it should continue in whole or in part. This 3-year period will permit staff to gather data on the regime's effectiveness in terms of compliance with legal use, its effect on complaints about negative community impacts, and its effect on the long-term housing supply, as appropriate.

Each of these measures for the regulation of STR platforms, STR agents, and STR hosts, is set out in detail in Document 2 and is further described below.

## **Regulation of Short-Term Rental Platforms**

A short-term rental “platform” is a technology company that facilitates short-term rental business by providing a website or application to connect guests with hosts in the community and conduct the financial transactions between the two parties. While Airbnb is the best known, and the largest provider in Ottawa, Expedia Group brands such as VRBO, HomeAway and trivago are all active in Ottawa. As an emerging industry it is also likely this landscape will continue to evolve rapidly.

As with other emerging trends and models in the sharing economy, such as private transportation companies like Uber and Lyft, the many benefits offered by the innovation are often accompanied by unintended consequences that must be managed by local governments.

The proposed Short-Term Rental By-law requires platforms to register with the City and compels them to provide the data necessary to allow the effective and efficient enforcement of short-term rental regulations, such as the limitation on location and the primary residency requirement. In addition, platforms will be required to only allow postings of STR properties where the hosts have received a municipal permit, among other regulations noted below and more fully described in Document 2. A full consideration of all of the requirements for platforms pertinent to public health and safety, consumer protection, and nuisance abatement will be provided when the staff report back with the developed Short-Term Rental By-law, as recommended.

It is noted data collection and analysis is a key component of the administration and enforcement of recommended framework. The ability to compare platform data to both City-held data and scraped data is essential to the effective regulation of public health and safety, the safety and well-being of persons, and the economic and social well-being on the municipality. As noted in Maclaren ‘s recommendations, “Establishing a registration system is key to effective enforcement of the rules Ottawa chooses to adopt. It is a common strategy adopted by other municipalities, including Vancouver, proposed rules for Toronto, and Quebec’s system.”<sup>42</sup>

Platforms will also be responsible for collecting and remitting the Municipal Accommodations Tax, as noted below, and for ensuring that all listings include the STR permit number and information on the occupancy limit for the property, as determined by the City.

## **Regulation of Short-Term Rental Agents**

For the purposes of this report, a short-term rental “agent” is a person or company that undertakes the management of short-term rental activity, property or accommodations on behalf of the property owner/host, or provides similar services.

Under the recommended regulatory framework, agents will be subject to a minimal amount of regulations, as further described in Document 2, such as a requirement for registration with the City, to maintain a list of clients, and to provide such information to By-law and Regulatory Services when requested. Agents will also be required to provide 24/7 contact information and attend service addresses within two hours of a call by By-law and Regulatory Services. These conduct requirements will assist in the enforcement of proposed regulations.

## **Regulation of Short-term Rental Hosts**

A short-term rental “host” is the owner or leaseholder of a property where STR activity takes place, such as a unit or a residence being used for short-term rentals.

The recommended regulatory regime will require hosts to register with the City and apply for an STR Permit for the property where rental activity will occur.

Hosts will be required to include the STR Permit number and occupancy rating on any listing for their property. Hosts will also be required to provide guests with specific instruction regarding waste management, lawful parking, community nuisances, and personal safety.

As part of the development of the proposed Short-term Rental By-law, staff are exploring the establishment of municipal fines for offences, as well as a revocation or suspension process for permits, in order to ensure that non-compliance with applicable regulations can be addressed. For example, a host could have their permit revoked for egregious or repeated violations of City by-laws. Hosts who have had a permit revoked could also be blocked from receiving future permits. To ensure fairness, hosts will have the ability to appeal any decision regarding the denial or revocation of a permit. The permit will be valid for a period of two years and will cost hosts \$100.

## **Focus on Primary Residence for Regulation of Short-Term Rental Properties**

Staff recommend that only primary residences be eligible to obtain an STR permit.

The Rental Market Analysis commissioned by the City sought to identify likely commercial operators utilizing data scraped from STR platforms such as Airbnb and

Expedia Group. The findings of the report indicate that the number of likely commercial operators “increased from 349 in 2016 to 1,236 in 2018. While the total number of listed properties levelled off between 2017 and 2018, the share of exclusive short-term rental listings continued to rise. As a result, overall revenue from short-term rentals continued to climb, from \$11.7M in 2016 to about \$39.8M in 2018.”<sup>43</sup>

No commercial operations would be permitted under the proposed rules. This measure is intended to protect the economic and social well-being of the municipality by preventing much-needed housing stock from being diverted to commercial STR use, and directly addresses the priorities of ensuring the availability and affordability of rental housing stock. As noted by Maclaren, “Limiting short-term rentals to principal residences is a theme shared by reforms in other jurisdictions, including the leading Canadian examples of Vancouver and Toronto. These large cities with the most acute housing issues have not allowed short-term rental of attached units. Generally, the tightest regulations are found in cities with severe housing shortages or massive tourist flows.”<sup>44</sup>

While Maclaren recommended permitting STR in secondary units within residential zones, as well as permitting investment properties to conduct STR in mixed-use zones, it is staff’s evaluation that this would not be in the public interest. Permitting these options would likely result in reduced housing supply and increased housing costs for residents. As noted by Prism, “The high concentration of short-term rental units in the downtown is a pattern seen in most other cities” and “this concentration intensifies the impact in those areas where full-time use as a short-term rental is desirable, materially eroding the stock of rental housing for long-term use.”<sup>45</sup>

The Rental Market Analysis indicates that as many as 1,236 properties have been diverted to STR use by the end of 2018.<sup>46</sup> Staff have also been made aware of specific cases where tenants were evicted to make way for STR activity and have met with communities where high concentrations of STR activity have caused material erosion to the quality and character of their neighbourhoods. Based on the research provided by the RMA and Maclaren, it is staff’s assessment that limiting STR to principal residences is an important measure to ensuring the City’s ability to manage these issues moving forward.

To support the requirement for principal residence and the corresponding prohibition on commercially operated STR in these areas, the conditions of issuance of the proposed STR permit will require that the permit holder is a natural person (as opposed to a corporation) and is a resident of Ottawa. Where the person is a property owner, proof of

ownership will be required. Where the person is a leaseholder, a copy of the lease will be required. If STR activity is addressed under the terms of the lease, written consent of the property owner will be required.

Hosts who apply for an STR permit will also be required to provide the square footage and number of bedrooms for the property, in order to establish occupancy limits in accordance with the *Zoning By-law (No. 2008-250)*, and this information could also be made available to the prospective renter in order to ensure full transparency about the rented property.

Social housing addresses will automatically be blocked from receiving permits, as the provision of short-term rental use is not the purpose of this type of housing.

### **Protecting the rights of condominium corporations and landlords**

As recommended by Maclaren<sup>47</sup>, the proposed Short-term Rental By-law would include an independent registration process. Condominium corporations and landlords which do not permit short-term rental activity on their premises will be able to flag this restriction to the City and prevent STR permits from being issued to their properties for consumer protection purposes. This service could be provided for a one-time registration fee of \$58, plus \$5 per civic address in order to ensure cost recovery.

Condominium corporations would be required to provide a copy of their condominium declaration and by-laws in order to register. The resulting prohibition will remain in effect until a new application is received. Property owners would also have to opportunity to restrict properties on a case-by-case base basis.

### **Protecting housing stock**

Based on the research provided in the RMA and Maclaren, staff believe that the recommended regulatory framework for short-term will have a positive impact on overall rental housing availability and affordability. The recommended measures of the primary residence requirement and of permitting residents to offer un-hosted whole-unit rentals in their primary residence may reduce the profitability of commercial STR operations, thereby reducing the incentive to conduct illegal STR activity.

In addition, the recommended regulations will increase the risks for illegal commercial operators by providing a robust enforcement capacity. The new Short-Term Renal By-law will re-direct enforcement activity from current zoning investigations to proving permit violations, which are expected to be more straightforward from an investigation

and enforcement perspective. The permit system will enable BLRS to quickly identify violations and issue appropriate sanctions.

Enforcement will be further strengthened through a new Short-Term Rental Enforcement Unit, to be funded based on cost-recovery as described in the section below. Under current practices, when issues arise at an STR property the BLRS response may require a combination of By-law Enforcement, Property Standards and Zoning Enforcement or Parking Control. Under the recommended model, a specialized team will be able to investigate and address any violations occurring at the service address. The proposed complement for the Short-Term Rental Enforcement Unit would consist of 4 by-law officers, a data analyst and clerk, as well as an additional clerk to administer permit applications during the first year of the regime (6 FTEs plus 1 FTE). These positions would be funded on a cost-recovery basis through revenues from the permit/registration fees and the Municipal Accommodations Tax, as set out in Document 2 and further below.

Staff anticipate that a robust enforcement response will be required for this framework to achieve the desired aims. The framework provides for easy and affordable registration for platforms, agents, and hosts. By demonstrating the effectiveness of the new regulations and the City's will to enforce them, staff expect that it will become clearly advantageous for platforms, hosts and agents to comply with the new regulations.

### **Municipal Accommodations Tax - Achieving cost recovery and enforcement resources**

While some jurisdictions have used high permit fees to provide for cost recovery of STR enforcement, it is staff's opinion that practice is counter-productive when it comes to shutting down commercial operators. High permit fees are likely to deter occasional users from participating, decreasing supply and causing demand for commercial operators, who then charge higher daily rates and collect more bookings.

The recommended regulatory approach for STR regulations would keep proposed permit fees for STR hosts and registration fees for agents low providing more opportunity for residents of all income levels to benefit from legal, regulated STR activity.

Rather than recovering the bulk of the costs for this regulatory approach from permit fees to be paid by the hosts, cost recovery would be achieved through existing revenue from the Municipal Accommodations Tax, should the City Treasure confirm that revenue

is available following a review. If sufficient revenues are not available to fund the administration and enforcement of the proposed regulations, an increase in the Municipal Accommodations Tax of a suggested 0.25%, for a total of 4.25% will be implemented as set out in Report Recommendation 3.c. This increase of 0.25% would be applied to cover the costs of the administration, management and enforcement of the proposed regulations for short-term rentals. For the first full year of the program, it is staff's assessment that expenses for the proposed regulatory regime are forecast at \$908,000.

For year Two of the regulatory regime, it is staff's assessment that expenses are forecast at \$834,000.

The recovery of costs for the recommended short-term rental regulatory approach will come from a combination of permit and registration fees to be paid by hosts, platforms and agents, as described above, and Municipal Accommodations Tax revenue which would be applied to cover the costs of the administration, management and enforcement of the proposed regulatory regime for short-term rentals. The City Treasurer's office will conduct a review of the Municipal Accommodations Tax revenues required to achieve sufficient cost recovery, as well as Municipal Accommodations Tax revenues that are currently collected by the Ottawa Gatineau Hotel Association which may be available for such purposes. Discussions are currently underway with the Ottawa Gatineau Hotel Association and Ottawa Tourism to review current revenues to determine if there is capacity to fund the proposed regulatory regime without increasing the Municipal Accommodations Tax rate. It is anticipated that discussions will conclude by the end of Q1 2020. If no capacity is found in the existing revenues, the City Treasurer and City Solicitor will take the necessary steps to implement the 0.25% increase as set out in Report Recommendation 3.c. This increase to the MAT would require a by-law amendment to the Municipal Accommodations Tax By-law as noted in Recommendation 3.c) which would be placed directly on Council's agenda for enactment but be coordinated to come into force concurrently with the proposed Short-Term Rental By-law and accompanying Temporary Use By-law for short term rentals, as described further in this report. The City Treasurer and City Solicitor will also coordinate the required amendments to the MAT collection agreements with the collection agents such as the Ottawa-Gatineau Hotel Association, in order to reflect the MAT increase for the City's cost recovery purposes.

The purposes of using the MAT as a method of achieving cost recovery is that the required revenue will come from guests to the City who are using the short-term accommodations (whether hotels, motels, or booked through platforms), rather than



resident hosts. This approach spreads the cost impacts among a greater number of people. It also supports the economic growth of the City by bringing new revenue in, rather than simply moving existing money within the economy. It is expected that staff from Emergency and Protective Services, Legal Services and Finance will work together to produce the required by-law amendment.

### **Proposed Temporary Use By-law**

In order to implement the recommended framework, it will be necessary to address the existing zoning prohibition against un-hosted STR in residential zones. Rather than enacting a change to the Zoning By-law, which may have enduring consequences, staff recommends that a Temporary Use By-law be applied on a city-wide basis as recommended in Recommendation 3.b).

Under the *Planning Act*, a temporary use by-law may be enacted by Council for a period of up to three years. The by-law may be also be renewed upon expiry.

Staff recommend a temporary use by-law to allow STR activity in residential areas, in primary residences, where the Host has obtained the required permit, in order to provide the City the opportunity to implement the framework and measure its effectiveness without the risk of creating legal non-conforming rights should future conditions change or if the framework proves less successful than anticipated.

The Planning, Infrastructure and Economic Development department has advised EPS that this work could be incorporated into the department's 2020 work plan. PIED also advises that it may be necessary to hire a planning consultant to deliver this by-law as departmental resources are fully engaged on The New Official Plan and Residential Fourth Density (R4) Zoning Review, among other key initiatives. It is recommended that the enactment of the Temporary Use By-law only occur following the decision of the Local Planning Appeals Tribunal with respect to the current appeals of the City of Toronto's zoning amendments regarding short-term rentals, as described below, as one portion of those appeals focuses on the primary residence requirement, as is recommended in this case. It is recommended that the proposed Short-Term Rental By-law and the Temporary Use By-law be coordinated to come into force concurrently so as to ensure a complete regulatory framework. Staff from EPS and PIED will work to ensure reports to CPSC and Planning Committee will reflect this coordination.

### **Exemption for Rural Areas:**

An exemption from some permit requirements will be provided for cottages and vacation homes in rural areas, as recommended by Maclaren<sup>48</sup> in order to reflect the long practice of cottage and vacation home rentals that have occurred without any problems, as described in Document 2.

### **LPAT Consideration for City of Toronto**

As noted above, it is recommended that the City await the decision of the Local Planning Appeals Tribunal (LPAT) regarding the various appeals of the City of Toronto's STR regulations before tabling the Temporary Use By-law for the consideration of Council. Various elements of Toronto's STR regime mirror the proposed regulatory regime for Ottawa, such as the primary residence requirements that provide the foundation for each regime. Waiting for this decision will provide the opportunity to make any required adjustments to the recommended framework to reduce the possibility of future appeals prior to bringing forward the regulations in their final form for approval.

The LPAT concluded nine days of hearings on the City of Toronto's regulations in early October. Decisions from LPAT are typically issued within 60 days of the completion of each hearing, however complicated decisions can take longer to render. Staff anticipate a decision over the winter but have no certainty about when this will occur.

### **Regulation of Hotels, Motels and Traditional Bed and Breakfasts**

As the City has considered short-term rental regulations the regulatory framework for traditional accommodations providers, such as hotels and motels, was also considered.

While these businesses are already regulated at the provincial level, recent enforcement challenges at a small number of problem addresses within the City merit closer scrutiny from the policy perspective. The City must also contend with the hybridization of STR activity with traditional hotel/motel/BNB operations, including the emergence of "virtual hotels". Virtual hotels replace a traditional bricks and mortar location with a digital presence that co-ordinates the bookings of accommodations and services at multiple locations. As a result, the regulatory approach for hotels and motels described below in this report builds on recent enforcement and legal activities to address a problem motel and suggests minimal regulation for the majority of hotels, motels and Bed and Breakfasts which currently do not present compliance challenges or negative impacts for the communities in which they are situated.

The EPS mandate respecting hotels focuses on the health, safety and well-being of persons and protection of persons and property, including consumer protection, as set out in the *Municipal Act, 2001*.

Currently, hotels, motels and bed and breakfasts are subject to all City by-laws of general application, such as Property Standards, Property Maintenance and Noise among others. Hotels with commercial kitchens also require a Food Premises License. Otherwise hotels and motels are not specifically regulated by the City but are subject to provincial legislation, including the *Innkeepers Act* and the *Hotel Registration of Guests Act*, as well as other legislation of general application such as the Building Code, the *Smoke-Free Ontario Act, 2017* and the Building Code, among others. Traditional Bed and Breakfast operations are also governed by general application by-laws, as well as specific Zoning provisions under Zoning By-law and signage requirements as established in the Permanent Signs on Private Property By-law (No. 2005-439).

Staff is not recommending further regulations for traditional travel lodging businesses such as hotels and motels, beyond the specific provisions and exemptions outlined in the Short-Term Rental Policy Framework set out in Document 2. Staff do recommend that hotels and motels and bed and breakfasts be required to obtain the proposed Short-Term Rental permit but be exempted from some of its requirements due to the specific nature of their premises (e.g. primary residence and natural person requirements).

Staff was specifically asked to consider if business licensing should be introduced as means to provide additional enforcement tools regarding problem hotel/motel operators. Following discussions with industry, a review of licensing practices in other jurisdictions, and an examination of service request data from Ottawa's hotels and motels, staff have concluded that an overall business licensing system for hotels and motels is neither warranted nor desirable. Staff recommend that specific processes available under the *Municipal Act, 2001*, be applied on a go-forward basis to address problem operators, as needed, and that these be based on lessons learned from a current example of multi-departmental efforts to close a problem motel, as described below.

### **Experience in Ontario and Other Provinces:**

Within Ontario, the hotel industry is regulated by numerous statutes, including but not limited to the *Innkeepers Act*, *Hotel Registration of Guests Act*, *Consumer Protection Act, 2002* and *Accessibility for Ontarians with Disabilities Act, 2005* and the *Health Protection and Promotion Act*. Additional municipal regulations may apply in terms of licensing and inspection of food premises and licensing of entertainment venues located

within these establishments, as well as by-laws of general application such as those regulating property standards, property maintenance, signs, and noise, for example, for which specific enforcement action is possible including charges and fines. Given the comprehensive suite of existing regulations, municipal licensing for hotels and motels is exceptionally rare at the municipal level. Among major Canadian cities (Vancouver, Edmonton, Calgary, Toronto, Ottawa, Montreal and Halifax) there are no known jurisdictions that have implemented business licencing for hotels and motels. Among the ten largest cities within Ontario, Hamilton is the only jurisdiction to have implemented business licensing for this industry. As per their Licensing By-law, fees range from \$458 to \$700 for the initial licence and \$184 for annual renewal.

### **The Ottawa Experience:**

When considering whether to license a class of business, staff review the nature of business and its associated risks, as well as the prevalence of issues of municipal concern among the industry, such as those affecting public health and safety, consumer protection, or nuisance issues such as excessive noise or illegal parking, among others. To this end, a review of service request history indicates that there are no systemic or recurring issues related to the hotel/motel sector in Ottawa nor are there any recurring issues with bed and breakfasts. Staff reviewed a three-year history of service request data for all types of by-law complaints from each of the Ottawa Gatineau Hotel Association's 51 members plus 42 non-member businesses that are registered to pay Municipal Accommodations Tax.

This review identified 110 service requests in the period between 2016 and 2018 related to the operations of hotels and motels. These included:

- a) 55 property standards complaints, with bed bugs, mold and general cleanliness issues as frequent complaints
- b) 37 noise complaints
- c) 18 miscellaneous issues, including signs, encroachments, smoking, graffiti and fences.

### **Approach for addressing problem operators:**

During this review, staff identified two hotels with a high volume of complaints. One hotel in Ward 16 has subsequently closed and been re-developed into condominiums. The second, located in Ward 9, is currently the subject of a court application by the City to have the business closed under Section 447.1 of the *Municipal Act, 2001*. This rarely-

used provision of the Act gives the City an avenue to apply to the Superior Court of Justice to have a business closed for a period of up to two years if it can be shown that the operation of the business constitutes a public nuisance. These applications require the consent of both the Chief of Police and the Attorney General of Ontario.

This report will not elaborate further on this second business as the matter is before the Courts. However, at the conclusion of that case, there will be an opportunity for staff from affected departments, with invitations to the Ottawa Police Services and Ottawa Public Health, to conduct a comprehensive review of the issue to identify lessons learned from this process that could be applied to any future cases.

While business licensing could provide an additional tool to address problem operators, it is important to note that a business licensing regime does not provide the City with the ability to close a business. The City may charge for unlicensed operation but has no authority to force such businesses to close. This may only occur through the court processes described above.

Additionally, creating new regulations such as an overall licensing (or similar) regime for an entire industry is not advised if the goal to address problems with one particular business. Ottawa's hotel industry operates in a highly competitive marketplace, including competition with local short-term rentals and nearby Gatineau hotels, as well as competition with other markets for convention and event business. Adding additional business requirements, such as licensing fees, inspections, and insurance requirements, can make the industry less competitive. This can lead to reduced economic output and employment without providing a commensurate value in improved industry standards or reduced demand for municipal services.

#### **NEXT STEPS:**

Should Council approve the recommendations of this report, staff will begin to develop the proposed by-laws and initiatives as follows:

#### **Rental Housing:**

- Staff will immediately implement the amended Property Standards By-law provision to introduce an increased re-inspection fee of \$500 for non-compliant property inspections, in order to deter ongoing violations and fund additional enforcement capacity of 2 Property Standards Officers (2 FTEs), and prevention initiatives.

- Staff will develop new pest and vermin control requirements with input from internal departments and external stakeholders, as set out in this report, and report back with the introduction of the Residential Rental Property Management By-law and other supporting measures in early 2020.

### **Short Term Rental Accommodations:**

- Staff will develop the Short-Term Rental By-law and Temporary Use By-law and report back to the Community and Protective Services Committee and Planning Committee respectively for approval. This will occur following the outcome of the Local Planning Appeals Tribunal Hearings concerning Short-Term Rental regulation in Toronto.
- The City Treasurer and City Solicitor to conduct a review of the Municipal Accommodations Tax revenues to fund the short-term rental requirements. If funds are not available, the City Treasurer and City Solicitor will prepare the required amendment to the Municipal Accommodations Tax By-law to increase the tax by 0.25% and place the amending by-law directly on Council's agenda for enactment, but to come into force concurrently with the proposed Short-Term Rental By-law and Temporary Use By-law noted above. In addition, the City Treasurer and City Solicitor will also coordinate the required amendments to the MAT collection agreements with the collection agents such as the Ottawa-Gatineau Hotel Association, in order to reflect the MAT increase for the City's cost recovery purposes.
- The proposed Short-Term Rental By-law and Temporary Use By-law, together with any required changes to the Municipal Accommodations Tax, will be coordinated to come into force concurrently.
- Staff recommend that the effectiveness of the STR regulatory approach set out in this report, if approved, be evaluated at the completion of the 3 years of the Temporary Use By-law, with staff recommendation as to whether it should continue in whole or in part. This 3-year period will permit staff to gather data on the regime's effectiveness in terms of compliance with legal use, its effect on complaints about negative community impacts, and its effect on the long-term housing supply, as appropriate.

## **RURAL IMPLICATIONS**

The are no rural implications in this report.

## **CONSULTATION**

Consultations for the Rental Accommodations Study included three periods of public consultation along with ongoing engagement of 230 identified public stakeholders.

The first round of public consultation occurred in June 2019. Maclaren Municipal Consulting assessed resident opinions and experiences regarding issues related to housing conditions, student housing and short-term rental accommodations. This included an online survey and 10 in-person workshops. Resident input was analysed and reported in two subsequent policy options papers.

The second round of public consultations occurred in August 2019. Maclaren Municipal Consulting provided an analysis of the input collected during the first consultation and invited residents to consider various policy options for rental housing and short-term rentals. Feedback was collected through an online survey and outcomes were reported in Maclaren's final recommendations papers.

A third round of consultations was conducted by City staff in October 2019. This survey provided residents with an overview of previous consultations as well as key information and analysis being used to shape staff recommendations. Residents were then provided with a list of policy statements and asked if they agreed or disagreed with each statement.

In addition to the online survey, the final consultation also included two in-person meetings. A public meeting on Long-Term Rental Regulations was held on October 22 at Ben Franklin Place, followed by a meeting on Short-Term Rental Regulations at the Nepean Sportsplex on October 23<sup>rd</sup>.

The outcomes of each consultation are reported in Document 6.

## **LEGAL IMPLICATIONS**

There are no legal impediments to implementing the recommendations set out in this report. As stated in the report, the implementing by-laws will not be presented until after the outcome of the Local Planning Appeal Tribunal hearing on the Toronto by-law amendment is known as the outcome of that hearing could materially affect the options open to the City. Outlined below is an explanation of the specific statutory authorities

underlying the regulatory framework for rental housing and for short-term rental (STR) accommodations proposed in the recommendations.

### **Planning Act**

Section 39 of the *Planning Act* allows a municipal council to enact a temporary use by-law for a period of up to three years. Once in place, a municipal council may, by by-law, extend the application of that temporary use by-law for further periods of up to three years.

As is the case with other zoning by-laws, a temporary use by-law is subject to appeal to the Local Planning Appeal Tribunal (LPAT).

### **Municipal Act, 2001**

The Provincial Government has, through the *Municipal Act, 2001*, provided municipalities with the authority to enact by-laws to address a variety of licensing and regulatory matters. More particularly in relation to the proposed regulatory framework, subsection 10(2) of that statute lists eleven spheres in respect of which a municipal council can pass by-laws, including the following:

- the economic, social and environmental well-being of the municipality (s.10(2).5);
- the health, safety and well-being of persons (s. 10(2).6);
- protection of persons and property,
- consumer protection (s. 10(2).8); and,
- business licensing (s. 10(2).11).

The stated objectives of the proposed regulatory framework for rental housing and for short-term rental (STR) accommodations, which include protecting the City of Ottawa rental housing inventory and the character of its residential neighbourhoods through implementation of a principal residence requirement for the hosts of short term rental accommodations, as well as the protection of consumers of short term rental accommodations by requiring that short term rental hosts be natural persons able to respond to consumer concerns in a timely manner, reflect the above-listed spheres of jurisdiction.

Furthermore, in this regard it should be noted that, pursuant to the *Municipal Act, 2001*, the powers given to a municipality under that statute are to be interpreted broadly so as



to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

On the issue of the proposed fee structure, subsection 391(1) of the Municipal Act, 2001, which allows a municipality to impose fees and charges for services or activities done or provided by it, or for the use of its property. Subsection 391(3) further provides that the costs included in a fee or a charge imposed by a municipality may comprise administration or enforcement costs related to the service or activity being delivered.

Lastly, with regards to the proposed amendments to the Municipal Accommodations Tax By-law (No. 2017-401), provision is made in Part XII.1 of the Municipal Act, 2001 for these changes. Notably, the Transient Accommodation Tax Regulation 435/17, passed by the Province, permits the City to enter into an agreement with a tourism entity to receive a portion of the accommodation tax to promote tourism within the municipality.

### **Business Licensing**

Staff assessed the availability of licensing authority for the enactment of a business licensing by-law for rental housing or for short-term rental accommodations. In this regard, consideration must be had to the Province's Regulation 583/06 under the Municipal Act, 2001, which serves to restrict a municipality's licensing authority in respect of specific matters. Of note is that this regulation prohibits a business licensing by-law in relation to "the business of trading in real estate". For purposes of defining "trade", specific reference is made in the Regulation to the Ontario Real Estate and Business Brokers Act, 2002, which broadly defines the term to include "a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for purchase and sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition, acquisition or transaction, and any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt, and the verb "trade" has a corresponding meaning."

The broad scope of the definition and, consequently, of the restriction imposed on the municipality's licensing authority by the Provincial regulation, would appear to capture many aspects of the provision of rental housing or short-term rental accommodations. However, this restriction does not extend to the regulatory framework proposed in this Report.

**RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications arising out of the recommendations of this report.

**FINANCIAL IMPLICATIONS**

The incremental costs associated with the additional staff relating to Report Recommendation # 4 and planned annual software licensing, will be offset by revenue from the Municipal Accommodations Tax, as set out in Report Recommendation 3.c, as well as short-term rental accommodation and re-inspection fees, as described in this report.

**ACCESSIBILITY IMPACTS**

There are no accessibility impacts arising out of the recommendations of this report.

**TERM OF COUNCIL PRIORITIES**

The staff recommendations presented in this report align with the City's strategic priorities for economic prosperity, healthy and caring communities, service excellence and financial sustainability.

**SUPPORTING DOCUMENTATION**

Document 1 – Regulatory Regime for Rental Housing

Document 2 – Regulatory Regime for Short-Term Rentals

Document 3 – Literature Review and Multi-jurisdiction Environmental Scan

Document 4 – Rental Market Analysis

Document 5 – Property Standards in Rental Housing Report

Document 6 – Public Input on Rental Accommodations

Document 7 – Consultant Report: Regulations for Long-Term Rental Accommodations

Document 8 – Consultant Report: Regulations for Short-Term Rental Accommodation

**DISPOSITION**

Upon approval:

1. **For Rental Housing:** The General Manager of EPS will
  - a. Prepare the required by-law to amend the *Property Standards By-law* (2013-416, as amended), to implement a re-inspection fee of \$500 in respect of notices of violations or orders as described in this report, and will work with the City Clerk to place such amendment on Council's agenda for enactment as soon as possible; and
  - b. Develop the proposed draft Rental Property Management By-law and related by-law amendments related to pest and vermin control, as set out in this report, and report to CPSC for approval in 2020, and implement the complementary initiatives set out in this report including consumer awareness information for tenants on Ottawa.ca and the searchable database for rental housing service requests.
  
2. **For Short-Term Rentals:**
  - a. The General Manger of EPS will develop the draft proposed Short-Term Rental By-law and related by-law amendments as set out in this report and will report to CPSC for approval as soon as feasible;
  - b. The General Manager of PIED will develop the draft proposed Temporary Use By-law for short-term rental use in residential areas, with work to begin in Q2 2020 as set out in this report, and will report to Planning Committee for approval once work is completed and as soon as feasible;
  - c. The City Treasurer and City Solicitor will conduct a review of the Municipal Accommodations Tax revenues to fund the short-term rental requirements. If funds are not available the City Solicitor and the City Treasurer will prepare the required amendment to the Municipal Accommodations Tax By-law (2017-401) to provide for an increase in the municipal accommodations tax of 0.25%, as described in this report, and make required amendments to the collection agreements with the approved collection agents, as described in this report; and,

- d. The coming into force of the by-laws set out in paragraphs 3.a., b., and c. will be coordinated to occur concurrently so as to ensure a complete regulatory regime.

## References

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- <sup>2</sup> City of Ottawa (accessed Sept 2019), Residential Fourth Density (R4) Zoning Review Webpage,  
URL: <https://ottawa.ca/en/city-hall/public-engagement/projects/residential-fourth-density-r4-zoning-review>
- <sup>3</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 6
- <sup>4</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 3
- <sup>5</sup> Canadian Mortgage and Housing Corporation (November 2018) 2018 Rental Market Report: Ottawa-Gatineau CMA, p.2
- <sup>6</sup> Ibid, p.3
- <sup>7</sup> Statistics Canada (accessed March, 2019) Census Profile, 2016 Census Ottawa Census Subdivision
- <sup>8</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 19
- <sup>9</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 21
- <sup>10</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 23
- <sup>11</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 22
- <sup>12</sup> City of Ottawa (September 2019) Property Standards in Rental Housing, 2009-2018, p. 9
- <sup>13</sup> Ibid, p. 4
- <sup>14</sup> Ontario Human Rights Commission (accessed September 2019) Neighborhood Housing Tip Sheet, <http://www.ohrc.on.ca/en/neighbourhood-housing-tip-sheet-fact-sheet> , p.4)
- <sup>15</sup> Ibid, p. 9
- <sup>16</sup> Maclaren Municipal Consulting (Sept 2019), Regulation of Long-term Rental Accommodations, p. 27
- <sup>17</sup> Ibid, p. 28
- <sup>18</sup> City of Ottawa (September 2019) Property Standards in Rental Housing, 2009-2018, p. 9
- <sup>19</sup> Maclaren Municipal Consulting (August 2019) Rental Housing Policy Options, p.8
- <sup>20</sup> City of Ottawa (September 2019) Property Standards in Rental Housing, 2009-2018, p.8
- <sup>21</sup> City of Ottawa (September 2019) Property Standards in Rental Housing, 2009-2018, p.7-8
- <sup>22</sup> City of Ottawa (September 2019) Property Standards in Rental Housing, 2009-2018, p. 12
- <sup>23</sup> City of Ottawa (September 2019) Property Standards in Rental Housing, 2009-2018, p.11
- <sup>24</sup> City of Ottawa (2013) By-law 2013-416, Property Standards, as amended, Subsection 13(1)
- <sup>25</sup> Maclaren Municipal Consulting (May 2019), Rental Housing Conditions Discussion Paper, p. 19
- <sup>26</sup> Oshawa Licensing By-law 120-2005, as amended, Schedule K, Subsection 7(h)
- <sup>27</sup> Toronto Municipal Code, as amended(October 2019) Chapter 441, Appendix C - Schedule 12
- <sup>28</sup> Waterloo By-law 2011-047 Rental Housing Licensing, Section 1
- <sup>29</sup> Cohen Highley, LLP (September 2014), ““A Tale Of Two Cities”: Landlord Licensing In Waterloo V. Guelph, Update”, <http://cohenhighley.com/articles/rent-control-bulletins/a-tale-of-two-cities-landlord-licensing-in-waterloo-v-guelph-update/>, accessed 07 Oct 2019
- <sup>30</sup> Statistics Canada (accessed August 2019) Census Profile, 2016 Census Ottawa and Toronto Census Subdivisions
- <sup>31</sup> Prism Economics and Analysis (March 2019) Rental Accommodations Literature Review and Inter-jurisdictional Environmental Scan, p.4

<sup>32</sup> LWG Architectural Interior Inc. (11 December 2018) Project Summary for Preliminary Building Capacity Assessment and Facility Study: 735 Industrial Avenue, p.2

<sup>33</sup> Ibid, p.1

<sup>34</sup> Ibid, p.2

<sup>35</sup> ACORN Ottawa (March 2019) State of Repair:

<sup>36</sup> Ontario, *Residential Tenancies Act, 2006* S.O. 2006, c. 17, as amended, Subsection 126(1), paragraph 1.

<sup>37</sup> Allan Mallach, Michigan: Centre for Community Progress (2015) ,“Raising the Bar: A Short Guide to Landlord Incentives and Rental Property Regulation,” p. 7

<sup>38</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 24

<sup>39</sup> Maclaren Municipal Consulting (May 2019), Short-term Rental Discussion Paper, p. 8

<sup>40</sup> Maclaren Municipal Consulting (August 2019), Short-term Rental Policy Options, p. 6

<sup>41</sup> Sustainable Economies Law Centre (March 2016) Regulating Short-Term Rentals: A Guidebook to Equitable Policy” p. 16

<sup>42</sup> Maclaren Municipal Consulting (Sept 2019), Regulation of Short-term Rental Accommodations, p. 17

<sup>43</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 24

<sup>44</sup> Ibid, p. 20

<sup>45</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 26

<sup>46</sup> Prism Economics and Analysis (March 2019) City of Ottawa Rental Market Analysis, p. 24

<sup>47</sup> Maclaren Municipal Consulting (Sept 2019), Regulation of Short-term Rental Accommodations, p. 26

<sup>48</sup> Ibid, p. 25

