

Tabled to September 10, 2007

To:	Development Services Committee	Item:	DS 07 214	Date of Report:	July 4, 2007
From:	Rick Stockman, Commissioner, Corporate Services Department	File:	D2110 0267 2007	Date of Meeting:	July 9, 2007
Subject:	<i>Licensing Residential Rental Units</i>			Ward(s):	7

1.0 PURPOSE

This report responds to Council's direction to report back with respect to the licensing and regulation of residential rental accommodation and recommends that Licensing By-law 120-2005 be amended to license and regulate residential rental accommodation in specific areas of the City.

2.0 RECOMMENDATION

The Development Services Committee recommends to City Council:

1. That City Council pass a by-law to further amend Licensing By-law 120-2005, as amended and the General Fees and Charges By-law, 13-2003, as amended, to license, regulate and govern residential rental accommodation in specific areas of the City in the form of by-law comprising Attachment 1 to Report DS-07-214.

3.0 EXECUTIVE SUMMARY

Specific residential areas in Ward 7 have been plagued by complaints respecting the condition of properties many of which are used for the purpose of residential rental accommodation. The City has undertaken and continues to undertake enforcement of its by-laws and of the *Building Code Act, 1992* and the *Fire Protection and Prevention Act, 1997*. As a result of changes in the law effective January 1, 2007, municipalities are no longer prohibited from licensing, regulating and governing the business of residential rental units. A licensing initiative scoped to the specifically impacted residential areas is considered appropriate to complement minimum standards otherwise imposed by provincial legislation and City by-laws.

4.0 INPUT FROM OTHER SOURCES

- The following were consulted in the preparation of this report:
 - Commissioner, Development Services Department;
 - Manager, Development and Urban Design; and
 - City Solicitor

5.0 ANALYSIS

- Attachment 1 is a draft by-law ("Proposed By-law") to further amend Licensing By-law 120-2005 by adding the rental of "Rental Units" as a new licensing category.
- Although this report concerns business licensing, it is proceeding to Development Services Committee as a result of recent initiatives in Ward 7 to which the subject matter of this report relates including
 - the North Oshawa Residential Land Use Study ("Study"); and
 - Interim Control By-law 58-2007 ("ICB").
- On May 22, 2007, Council passed a resolution directing the preparation of the Study. The Study's purpose is to review the land use policies, including the Official Plan, Part II Plans, Samac Secondary Plan and Zoning By-law related to matters including appropriate levels of residential use in the study area.
- On May 22, 2007, Council passed Interim Control By-law 58-2007 which, within the study area, limits the number of bedrooms within new or renovated dwelling units.
- The "Rental Area" to which the Proposed By-law relates is within the Study/ICB area.
- The "Rental Area" is a significant source of complaints respecting alleged contraventions of municipal by-laws
- The City has undertaken and continues to undertake enforcement of its by-laws and of the *Building Code Act, 1992* and the *Fire Protection and Prevention Act, 1997*. The City's enforcement efforts include a proceeding now pending in Superior Court seeking an injunction restraining what the City alleges is the use of 34 properties in the Study/ICB area as lodging houses contrary to the Zoning By-law 60-94, as amended ("ZBL").
- On January 1, 2007, the *Municipal Statute Law Amendment Act, 2006* ("Bill 130") effected significant changes to the *Municipal Act, 2001* ("Act") including entirely replacing the part of the Act respecting business licensing. One of the consequential changes was the elimination of the prohibition formerly found in O. Reg 243/02 which prevented a municipality from licensing, regulating or governing the rental of a residential unit. It follows that a municipality may now license, regulate and govern the rental of a residential unit.
- A licensing by-law is an appropriate means of complementing existing provincial legislation and municipal by-laws to ensure minimum standards respecting permitted residential rental accommodation.
- The Proposed By-law (Attachment 1):

- Amends the Licensing By-law to add definitions specific to the proposed licensing of "Rental Units";
 - Imposes a licence fee of \$250 per Rental Unit per year;
 - Adds a new Schedule "K" to the Licensing By-law that includes the specific provisions respecting "Rental Units";
 - Is limited in its application to "Rental Units" within the "Rental Area" which, in turn, is limited to areas of Ward 7 the subject of significant complaints as noted above;
 - Permits the Director to refuse to accept a licence application that does not meet specific standards (proposed Schedule "K", sections 2, 3 and 4);
 - Specifies the contents of a licence (proposed Schedule "K", section 5);
 - Prohibits a "Landlord" from permitting a "Rental Unit" to be occupied by a "Tenant" except pursuant to a licence (proposed Schedule "K", section 6); and
 - Imposes conditions, each of which is a requirement of continuing to hold a licence (proposed Schedule "K", section 6).
- The Proposed By-law contemplates an effective date of September 1, 2007 as a transition period to afford "Landlords" an opportunity to plan for compliance. The delayed implementation is complemented by Council's ability under the Act to exempt any person from all or any part of the Licensing By-law in the event that a particular Landlord were to reasonably require additional time to comply with one or more requirements of the Proposed By-law.
- It is proposed to report back in the last quarter of 2007 respecting Bill 130 initiatives applicable to all business licensing categories (including Rental Units the subject of the Proposed By-law). Staff will be recommending further amendments to the Licensing By-law that will:
- Permit the imposition of administrative penalties as an alternative to prosecution;
 - Delegate the authority to hold hearings respecting
 - the Director's refusal to issue a licence;
 - proposed suspension or revocation of a licence; and
 - requests for review of administrative penalties; and that will
 - Enhance the Licensing By-law's system of fines including any or all of
 - minimum fines;
 - escalating fines for subsequent offences;
 - fines for continuing offences;

- fines for "multiple" offences; and
- special fines in addition to a regular fine which are designed to eliminate or reduce any economic advantage or gain from contravening the Licensing By-law.

6.0 FINANCIAL IMPLICATIONS

- The Proposed By-law contemplates a licensing fee of \$250 which is less than the anticipated cost of administration of the Licensing By-law respecting a Rental Unit for one (1) year. Staff will report back when there is a better estimate of costs of administration.

7.0 RESPONSE TO THE COMMUNITY STRATEGIC PLAN

- The recommendation is consistent with Objective C1 (Enhancing Health, Safety, Accessibility and Affordability) by better coordination of enforcement activities.

Original Signed By

Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services

Original Signed By

Rick Stockman, Commissioner
Corporate Services Department

Being a By-law to further amend Licensing By-law 120-2005 to provide for the licensing, regulating and governing of the business of residential rental units in specific areas of the City of Oshawa.

WHEREAS:

1. Council of The Corporation of the City of Oshawa considers it desirable and necessary to license, regulate and govern the business of residential rental units in certain areas of the City for social well-being, for the health, safety and well-being of persons and for the protection of persons and property.

NOW THEREFORE the Council of The Corporation of the City of Oshawa enacts as follows:

1. Section 2 of By-law 120-2005, as amended, (“Licensing By-law”) is further amended by adding each of the following definitions:
 - (a) “Bedroom” means a room or area within a Rental Unit used or intended for sleeping;
 - (b) “Building” means any structure consisting of a roof supported by walls or columns which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment and includes a carport;
 - (c) “Director” means the City’s Director, Municipal Law Enforcement and Licensing Services;
 - (d) “Landlord” includes:
 - i) each owner of a Rental Unit;
 - ii) each person who permits occupancy of a Rental Unit, other than a Tenant who occupies a Rental Unit and who permits another person to also occupy any part of the Rental Unit; and
 - iii) the heirs, assigns, personal representatives and successors in title of a person referred to in clauses i) and ii);
 - (e) “Lot” means a parcel of land which is:
 - i) shown as a lot or block on a registered plan of subdivision; or
 - ii) described in a single Transfer/Deed of Land of legal effect registered in the Land Registry Office or the Land Titles Office for the Land Registry Division of Durham;
 - (f) “Rent” includes the amount of any consideration paid or required to be paid or given by or on behalf of a Tenant to a Landlord or the Landlord’s agent for the right to occupy a Rental Unit and

for any privilege, accommodation or thing that the Landlord provides for the Tenant in respect of the occupancy of the Rental Unit;

- (g) "Rental Area" means each Lot that abuts any of the roads or parts of roads specified in section 7 of Schedule "K" to this Licensing By-law.
- (h) "Rental Property" includes each Building containing a Rental Unit and the Lot on which the Rental Unit is situate;
- (i) "Rental Unit" a Building or part of a Building
 - i) consisting of one or more rooms;
 - ii) containing toilet and cooking facilities; and
 - iii) designed for use as a single housekeeping establishment;
- (j) "Tenant" includes a person who pays Rent in return for the right to occupy a Rental Unit and includes the person's heirs, assigns (including subtenants) and personal representatives.

- 2. Section 2 of the Licensing By-law is further amended by deleting the definition, "City Clerk".
- 3. The Licensing By-law and each of its schedules are further amended by deleting each reference to the terms, "Clerk" and "City Clerk", and by substituting therefor the term, "Director".
- 4. Schedule "A" to the Licensing By-law is further amended by adding after the row, "Refreshment Vehicle", the following row:

Rental Unit in a Rental Area	\$250 per annum	see Schedule "K", s. 6
------------------------------	-----------------	------------------------

- 5. The Licensing By-law is further amended by adding Schedule "A" to this By-law as Schedule "K" to the Licensing By-law.
- 6. The General Fees and Charges By-law 13-2003, as amended, is further amended by adding to its Schedule "A" within the table entitled, "Licensing – Annual Fee Unless Otherwise Noted", the following row:

Rental Unit in a Rental Area	\$250
------------------------------	-------

- 7. This By-law shall be effective September 1, 2007.

ENACTED AND PASSED this ____ day of _____, 2007

Schedule "A" to By-law ___-2007

Schedule "K" to By-law 120-2005

1. This Schedule applies to the Rental Area.

Licence Application

2. In addition to other requirements of the Licensing By-law, the Director may refuse to accept an application for a licence unless the application is submitted on forms approved by the Director and includes, for each Rental Unit, the following:
 - (a) the name, address and telephone number of each Landlord;
 - (b) the municipal address and legal description of the Rental Unit;
 - (c) if a Landlord is a corporation, the name, address and telephone number of each director, officer and shareholder of the Owner;
 - (d) if a Landlord is a partnership, the name address and telephone number of each partner;
 - (e) the number of Bedrooms;
 - (f) a statement by each Landlord certifying the accuracy, truthfulness and completeness of the application; and
 - (g) each Landlord's signature.
3. In addition to other requirements of the Licensing By-law, the Director may refuse to accept an application for a licence that is not accompanied by the following in respect of each Rental Unit:
 - (a) a copy of the transfer/deed evidencing a Landlord's ownership;
 - (b) if a Landlord is a corporation, a copy of
 - i) the Landlord's articles of incorporation; and
 - ii) a corporation profile report issued by the Ontario Ministry of Consumer and Business Services;
 - (c) a floor plan of the Rental Unit, including, for each room, its dimensions and its proposed use;
 - (d) a site plan showing the location and dimensions of all parking spaces on the Rental Property;
 - (e) Proof of placement of insurance that:

- i) includes a limit of liability of not less than \$2,000,000.00 (two million dollars) per occurrence for property damage and bodily injury;
 - ii) identifies the proposed use as residential rental; and that
 - iii) requires that the Director be notified of any intended cancellation by the insurer no fewer than fifteen (15) days prior to such cancellation;
- (f) a statement from or on behalf of the Medical Officer of Health for Durham Region confirming that the Rental Property and its proposed use comply with the *Health Protection and Promotion Act* (Ontario) and its regulations;
 - (g) a statement from or on behalf of the City's Fire Chief confirming that the Rental Property and its proposed use comply with the *Fire Protection and Prevention Act, 1997* (Ontario) and its regulations;
 - (h) a certificate issued by the Electrical Safety Authority confirming that the Rental Property and its proposed use comply with the *Electrical Safety Code, O.Reg. 164/99*;
 - (i) a statement from or on behalf of the City's Chief Building Official confirming that the Rental Property and its proposed use comply with the *Building Code Act, 1992* (Ontario) and its regulations;
 - (j) proof of payment of any fine or fee then owed to the City by any Landlord respecting the Rental Property; and
 - (k) payment of the licence fee.
4. In addition to other requirements of the Licensing By-law, the Director may refuse to accept an application for a licence where any of the documents required by clause 3(b)ii), and by paragraphs 3(e), 3(f), 3(g), 3(h) and 3(i) of this Schedule was issued prior to the fifteenth (15th) day preceding the date on which the application is submitted.

Licence Issuance

5. Each licence shall include the following:
- (a) the licence number;
 - (b) a sketch that depicts the location of each Bedroom;
 - (c) the name, address and telephone number of each Landlord;
 - (d) where a Landlord is a corporation, the name, address and telephone number of each director and each officer of the Landlord; and
 - (e) where a Landlord is a partnership, the name, address and telephone number of each partner.

Licence Conditions

6. No Landlord shall permit a Rental Unit to be occupied by a Tenant or permit Rent to be collected except pursuant to a licence issued pursuant to this Licensing By-law and except pursuant to the following conditions, each of which is a condition as a requirement of continuing to hold the licence:
- (a) the number of Bedrooms in the Rental Unit does not exceed four (4);
 - (b) no room within the Rental Unit is used as a Bedroom except a Bedroom depicted in the licence;
 - (c) each Tenant is a party to a written tenancy agreement with a Landlord;
 - (d) a Landlord notifies the Director in writing within two (2) days of any change to any information provided pursuant to sections 2 and 3 of this Schedule;
 - (e) a legible copy of the licence enclosed within a waterproof, transparent cover is posted and maintained prominently and visibly
 - i) within one (1) metre of the interior of the Rental Unit's main entrance door; and
 - ii) on or immediately adjacent to the exterior of the Rental Unit's main entrance door;
 - (f) a Landlord maintains insurance respecting the Rental Unit that:
 - i) includes a limit of liability of not less than \$2,000,000.00 (two million dollars) per occurrence for property damage and bodily injury;
 - ii) identifies the use as residential rental; and that
 - iii) requires that the Director be notified of any intended cancellation by the insurer no fewer than fifteen (15) days prior to such cancellation;
 - (g) the Rental Property complies with all applicable law including
 - i) the *Health Protection and Promotion Act* (Ontario) and its regulations;
 - ii) the *Fire Protection and Prevention Act, 1997* (Ontario) and its regulations;
 - iii) the *Electrical Safety Code, O.Reg. 164/99*;
 - iv) the *Building Code Act, 1992* (Ontario) and its regulations;
 - v) the City's Zoning By-law 60-94, as amended; and
 - vi) the City's Property Standards By-law 1-2002, as amended; and
 - (h) no fine or fee is owed to the City by any Landlord.

Rental Area

7. Following are the roads or parts of roads for the purpose of defining Rental Area in paragraph 1(g) of the Licensing By-law:

- (a) Avalon Ct.
- (b) Avalon St.
- (c) Avenue of Champions
- (d) Birchview Dr.
- (e) Bishop Ct.
- (f) Bridle Rd.
- (g) Britannia Ave.
- (h) Canadore Cres.
- (i) Carswell Ave.
- (j) Clearwater Ct.
- (k) Coldstream Dr. from its intersection with Ritson Rd. N. to its intersection with Wilson Rd. N.
- (l) Commencement Dr.
- (m) Concordia Ct.
- (n) Conestoga Ct.
- (o) Conlin Rd. E.
- (p) Conlin Rd. W.
- (q) Dalhousie Cres.
- (r) Eastwood Ave. N.
- (s) Eclipse Pl.
- (t) Edenwood Ct.
- (u) Edenwood Dr.
- (v) Elmwood Ct.
- (w) Erindale Cres.
- (x) Flagstone Ct.
- (y) Founders Dr.
- (z) Glovers Rd.
- (aa) Greenhill Ave. from its intersection with Ormond Dr. to its intersection with Wilson Rd. N.
- (bb) Hackett Pl.
- (cc) Herbert Ave.
- (dd) Kedron St.
- (ee) Largo Cres.
- (ff) Maine St.
- (gg) Manor Dr.
- (hh) McGill Ct.
- (ii) Meadow St.
- (jj) Minsky Pl.
- (kk) Niagara Dr.
- (ll) Norland Circle
- (mm) Northern Dancer Dr.
- (nn) Norwill Cres.
- (oo) Ormond Dr. from its intersection with Glovers Rd. to its intersection with Ritson Rd. N.
- (pp) Pilgrim Square
- (qq) Radcliffe Dr.
- (rr) Raike Dr.
- (ss) Ritson Rd. N. from its intersection with Ormond Dr. to its intersection with Britannia Ave.

- (tt) Rockcreek Dr.
- (uu) Ryerson Cres.
- (vv) Samac Ct.
- (ww) Samac Trail
- (xx) Sandalwood Ct.
- (yy) Sarasota Cres.
- (zz) Scottscraig Dr.
- (aaa) Secretariat Ave.
- (bbb) Secretariat Pl.
- (ccc) Selleck Lane
- (ddd) Sheridan St.
- (eee) Simcoe St. N. from its intersection with Taunton Rd. E. to its intersection with Northern Dancer Dr.
- (fff) Solar Pl.
- (ggg) Stornoway St.
- (hhh) Sunview Lane
- (iii) Tampa Cres.
- (jjj) Taylorwood Ct.
- (kkk) Taylorwood Rd.
- (lll) Valewood Ct.
- (mmm) Walreg Dr.
- (nnn) Whitestone Ct.
- (ooo) Wilson Rd. N. from its intersection with Coldstream Dr. to its intersection with Greenhill Ave.
- (ppp) Winlord Pl.
- (qqq) Woodbine Ave.
- (rrr) Woodbine Pl.
- (sss) Woodgate Ct.
- (ttt) Woodgate Trail
- (uuu) Woodmount Cres.
- (vvv) Woodmount Dr.