

1. Zoning By-law Amendments to Permit the Short-Term Rental of Residential Dwelling Units City-Wide

Modification du Règlement de zonage visant à permettre la location de courte durée des logements des zones résidentielles de la ville

**Planning Committee and Community and Protective Services Committee
Recommendations**

That Council approve:

- 1. amendments to Zoning By-law 2008-250 to modify existing definitions for Bed and Breakfast and Hotel uses and introduce new definitions and provisions for Short-term rental and Cottage rental, as detailed in Document 1;**
- 2. a temporary (three-year) amendment to Zoning By-law 2008 250 to permit the short-term rental of residential dwelling units city wide, as detailed in Document 2; and**
- 3. that the temporary Zoning By-law Amendment set out in Recommendation 2 be conditional upon the coming into full force and effect of the related Short-Term Rental By-law proposed in report ACS2021-EPS-PPD-0001.**

Recommandations du Comité de l'urbanisme et du Comité des services communautaires et de protection

Que le Conseil approuve:

- 1. des modifications du Règlement de zonage 2008-250 concernant les définitions relatives aux gîtes touristiques et aux hôtels et ajouter de nouvelles définitions et dispositions pour la location de courte durée et la location de chalets, tel qu'expliqué en détail dans le document 1;**
- 2. une modification temporaire (trois ans) du Règlement de zonage 2008-250 afin de permettre la location de courte durée de logements des zones résidentielles de la ville, tel qu'expliqué en détail dans le**

document 2;

3. **que la modification temporaire du Règlement de zonage énoncée dans la recommandation 2 soit conditionnelle à l'entrée en vigueur du Règlement sur la location de courte durée connexe proposé dans le rapport ACS2021 EPS-PPD-0001.**

For the information of Council

The joint committees also approved the following motion:

Motion N° PLC-CPSC 2021-1/1

THEREFORE BE IT RESOLVED that the report be amended to include the following recommendation:

- “That the Community and Protective Services Committee and Planning Committee approve the Consultation Details Section of this report be included as part of the ‘brief explanation’ in the Summary of Written and Oral Public Submissions, to be prepared by the Office of the City Clerk and submitted to Council in the report titled, “Summary of Oral and Written Public Submissions for Items Subject to the Planning Act ‘Explanation Requirements’ at the City Council Meeting of April 28, 2021,” subject to submissions received between the publication of this report and the time of Council’s decision.”

Pour la gouverne du Conseil :

Les deux comités approuvent en outre la motion suivante :

Motion N° PLC-CPSC 2021-1/1

PAR CONSÉQUENT, IL EST RÉSOLU QUE la recommandation suivante soit ajoutée au rapport :

- « Que le Comité des services communautaires et de protection et le Comité de l'urbanisme approuvent l'inclusion, en tant que « brève explication », de la section du présent rapport consacrée aux détails de

la consultation dans le résumé des observations écrites et orales du public, qui sera rédigé par le Bureau du greffier municipal et soumis au Conseil dans le rapport intitulé « Résumé des observations orales et écrites du public sur les questions assujetties aux exigences d'explication aux termes de la Loi sur l'aménagement du territoire, à la réunion du Conseil municipal du 28 avril 2021 », à la condition que les observations aient été reçues entre le moment de la publication du présent rapport et le moment de la décision du Conseil. »

Documentation / Documentation

1. Director's report, Economic Development and Long Range Planning, Planning, Infrastructure and Economic Development Department, dated April 8, 2021 (ACS2021-PIE-EDP-0005)

Rapport du directeur, Développement économique et Planification à long terme, Direction générale de la planification, de l'infrastructure et du développement économique, daté le 8 avril 2021 (ACS2021-PIE-EDP-0005)

2. Extract of draft Minutes, Planning Committee and Community and Protective Services Committee Special Joint Meeting, April 22, 2021

Extrait de l'ébauche du procès-verbal, réunion extraordinaire conjointe du Comité de l'urbanisme et du Comité des services communautaires et de protection, le 22 avril 2021

**Planning Committee and
Community and Protective
Services Committee
Joint Report 1
April 28, 2021**

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**Comité de l'urbanisme et
Comité des services
communautaires et de protection
Rapport conjoint 1
le 28 avril 2021**

**Report to
Rapport au:**

**Special Joint Meeting of Community and Protective Services Committee and
Planning Committee**

**Réunion extraordinaire conjointe du Comité des services communautaires et de
protection et Comité de l'urbanisme**

April 22, 2021 / 22 avril 2021

**and Council / et au Conseil
April 28, 2021 / 28 avril 2021**

**Submitted on April 8, 2021
Soumis le 8 avril 2021**

**Submitted by
Soumis par:
Don Herweyer
Director / directeur**

**Economic Development and Long Range Planning / Développement économique
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**Planning, Infrastructure and Economic Development Department / Direction
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2021-PIE-EDP-0005

SUBJECT: Zoning By-law Amendments to Permit the Short-Term Rental of Residential Dwelling Units City-Wide

OBJET: Modification du *Règlement de zonage* visant à permettre la location de courte durée des logements des zones résidentielles de la ville

REPORT RECOMMENDATIONS

That the Community and Protective Services Committee and Planning Committee recommend that Council:

- 1. Approve amendments to Zoning By-law 2008-250 to modify existing definitions for Bed and Breakfast and Hotel uses and introduce new definitions and provisions for Short-term rental and Cottage rental, as detailed in Document 1;**
- 2. Approve a temporary (three-year) amendment to Zoning By-law 2008-250 to permit the short-term rental of residential dwelling units city-wide, as detailed in Document 2; and**
- 3. That the temporary Zoning By-law Amendment set out in Recommendation 2 be conditional upon the coming into full force and effect of the related Short-Term Rental By-law proposed in report ACS2021-EPS-PPD-0001.**
- 4. That the Community and Protective Services Committee and Planning Committee approve the Consultation Details Section of this report be included as part of the 'brief explanation' in the Summary of Written and Oral Public Submissions, to be prepared by the Office of the City Clerk and submitted to Council in the report titled, "Summary of Oral and Written Public Submissions for Items Subject to the Planning Act 'Explanation Requirements' at the City Council Meeting of April 28, 2021," subject to submissions received between the publication of this report and the time of Council's decision. (amended per Motion No PLC-CPSC 2021-1/1)**

RECOMMANDATIONS DU RAPPORT

Que le Comité des services communautaires et de protection et le Comité de l'urbanisme recommandent au Conseil :

1. d'approuver des modifications du *Règlement de zonage 2008-250* concernant les définitions relatives aux gîtes touristiques et aux hôtels et ajouter de nouvelles définitions et dispositions pour la location de courte durée et la location de chalets, tel qu'expliqué en détail dans le document 1;
2. d'approuver une modification temporaire (trois ans) du *Règlement de zonage 2008-250* afin de permettre la location de courte durée de logements des zones résidentielles de la ville, tel qu'expliqué en détail dans le document 2;
3. que la modification temporaire du *Règlement de zonage* énoncée dans la recommandation 2 soit conditionnelle à l'entrée en vigueur du *Règlement sur la location de courte durée* connexe proposé dans le rapport ACS2021-EPS-PPD-0001.
4. Que le Comité des services communautaires et de protection et le Comité de l'urbanisme approuvent l'inclusion, en tant que « brève explication », de la section du présent rapport consacrée aux détails de la consultation dans le résumé des observations écrites et orales du public, qui sera rédigé par le Bureau du greffier municipal et soumis au Conseil dans le rapport intitulé « Résumé des observations orales et écrites du public sur les questions assujetties aux exigences d'explication aux termes de la *Loi sur l'aménagement du territoire*, à la réunion du Conseil municipal du 28 avril 2021 », à la condition que les observations aient été reçues entre le moment de la publication du présent rapport et le moment de la décision du Conseil. (modifiée conformément la Motion N° PLC-CPSC 2021-1/1)

EXECUTIVE SUMMARY

The amendments proposed in this report are to support a temporary three-year pilot project proposed by the City's Emergency and Protective Services Department (EPS) in their Report on [Rental Accommodations Study and Regulatory Regime](#) approved by

Council in November 2019. That report identified a number of negative impacts resulting from online booking platforms that facilitate short-term rental of residential dwelling units, along with recommendations for the regulations of such uses, including a Permit and Registration System By-law. The short-term rental of residential units is not considered a residential land use and is not currently permitted in residential zones; however, clarification of existing definitions is required in order to allow appropriate enforcement. The proposed amendments will distinguish between residential land uses and commercial uses operated within residential units.

The recommended zoning is to facilitate the pilot EPS regulatory strategy. Proposed zoning provisions will therefore not be stand-alone and have the intent of allowing for a fulsome piloting of the permit and regulatory approach as provided in the Permit and Registration System By-law. The Zoning By-law enactment will be dependent on the concurrent enactment of the proposed Permit and Registration System By-law (Short-Term Rental By-law) prepared by EPS.

Two Zoning By-law amendments are proposed to facilitate the pilot program: the first is to introduce definitions for short-term rental use; and the second will temporarily permit these uses as a secondary use within an operator's principal residence. The limited permissions will apply across the entire city so as to facilitate their regulation through the proposed Permit and Registration System By-law, which is proposed as a more effective enforcement tool. Short-term rentals which are not the principal residence of the operator will be a distinct use that will not be permitted except in certain rural areas of the City where vacation rentals have been determined to be a longstanding practice with fewer impacts to surrounding communities and housing availability (through the new defined term 'cottage rental'). Demonstration of principal residence will be required as part of permit approval, for which details can be found in the joint EPS report (ACS2021-EPS-PPD-0001).

The below report addresses questions such as: what are short-term accommodations, what permissions currently exist for such uses, and why are they considered commercial in nature. The rationale for defining the use on the basis of rental period (length of stay) and 'principal residence' is also reviewed, as well as case law and zoning provisions of comparable municipalities. Any overlap that exists between existing and proposed definitions, particularly with respect to hotels, are addressed.

Public consultation for this pilot program was carried out by the EPS team in 2019. Planning staff also conducted meetings with industry stakeholders in 2020 and provided two public circulations and request for comment over the course of the project.

Land use impacts associated with the temporary short-term rental use will be addressed through the Permit and Registration System By-law (Short-Term Rental By-law) and monitored by the EPS team. In the future, should Council wish to extend the pilot as a permanent regulatory strategy, the planning department may, in coordination with EPS, review whether additional amendments are appropriate such as combining bed and breakfast and short-term rental into one definition in the Zoning By-law. The temporary permissions will otherwise not result in legal non-conforming rights to continue operation following the trial period.

RÉSUMÉ

Les modifications proposées dans ce rapport ont pour but de soutenir un projet pilote de trois ans mis de l'avant par la Direction générale des services de protection et d'urgence (DGSPU) de la Ville dans le Rapport de l'Étude sur les logements locatifs et du régime réglementaire approuvé par le Conseil en novembre 2019 ([ASC2019-EPS-GEN-0015](#)). Ce rapport fait état d'un certain nombre de répercussions négatives qu'ont les plateformes de réservation en ligne qui facilitent la location de courte durée de logements dans les zones résidentielles et contient des recommandations pour la réglementation de ces utilisations, y compris un règlement concernant un système de permis et d'inscription. La location de courte durée de logements dans une zone résidentielle n'est pas considérée comme une utilisation résidentielle du terrain et n'est pas autorisée dans les zones résidentielles; toutefois, il est nécessaire de clarifier les définitions actuelles afin de permettre une application appropriée. Les modifications proposées feront la distinction entre les utilisations résidentielles du terrain et les utilisations commerciales d'unités résidentielles.

Le zonage recommandé a pour but de faciliter la mise en œuvre de la stratégie de réglementation pilote de la DGSPU. Les dispositions de zonage proposées ne seront donc pas autonomes et ont pour but de permettre la mise à l'essai complète de l'approche réglementaire et des permis, comme le prévoit le Règlement sur le système de permis et d'inscription. L'adoption du Règlement de zonage dépendra de l'adoption

simultanée du Règlement proposé sur le système de permis et d'inscription (Règlement sur les locations de courte durée) préparé par la DGSPU.

Deux modifications du Règlement de zonage sont proposées pour faciliter la mise en œuvre du programme pilote : la première vise à ajouter des définitions de la location de courte durée et la seconde permettra ces utilisations de façon provisoire en tant qu'utilisation secondaire au sein de la résidence principale d'un exploitant. Les autorisations limitées s'appliqueront à l'ensemble de la ville afin de faciliter leur réglementation par l'entremise du Règlement sur le système de permis et d'inscription, qui est proposé en tant qu'outil réglementaire plus efficace. Les locations de courte durée qui ne visent pas la résidence principale de l'exploitant constitueront une utilisation distincte qui ne sera pas autorisée, sauf dans certaines zones rurales de la ville où les locations pour des vacances sont considérées comme une pratique de longue date ayant moins de répercussions sur les communautés environnantes et la disponibilité des logements (grâce à la nouvelle définition du terme « location de chalet »). Une preuve de résidence principale sera exigée pour l'approbation du permis; on trouvera plus de détails à cet égard dans le rapport conjoint de la DGSPU (ACS2021-EPS-PPD-0001).

Le rapport ci-dessous répond à des questions telles que : qu'est-ce qu'un logement de courte durée, quelles sont les autorisations en vigueur pour de telles utilisations, et pourquoi ces utilisations sont considérées comme étant de nature commerciale. La justification d'une définition de l'utilisation fondée sur la période de location (durée du séjour) et la « résidence principale » est également examinée ainsi que la jurisprudence et les dispositions en matière de zonage de municipalités comparables. Les chevauchements qui existent entre les définitions en vigueur et celles proposées, notamment en ce qui concerne les hôtels, sont abordés.

La consultation du public pour ce programme pilote a été réalisée par l'équipe de la DGSPU en 2019. Le personnel de l'urbanisme a également organisé des réunions avec les parties intéressées de l'industrie en 2020 et a diffusé deux documents publics et une demande de commentaires au cours du projet.

Les répercussions sur l'utilisation du terrain associées à la location de courte durée temporaire seront gérées par le biais du *Règlement sur le système de permis et d'inscription (Règlement sur la location de courte durée)* et surveillées par l'équipe de

la DGSPU. Ultérieurement, si le Conseil souhaite étendre le projet pilote en tant que stratégie de réglementation permanente, le Service de l'urbanisme pourra, en coordination avec la DGSPU, examiner si des modifications supplémentaires sont appropriées, par exemple en combinant les gîtes touristiques et les locations de courte durée en une seule définition dans le *Règlement de zonage*. Les autorisations temporaires n'entraîneront pas l'acquisition de droits non conformes à la loi permettant de poursuivre l'exploitation après la période de mise à l'essai.

BACKGROUND

The proposed Zoning By-law amendments are required in order to facilitate a three-year pilot framework for the regulation of the short-term rental of residential dwelling units through online platforms in the City of Ottawa. This pilot framework was recommended by the City's Emergency and Protective Services Department (EPS) in 2018 and approved by Council on November 27, 2019 (see [ASC2019-EPS-GEN-0015](#)).

Under current zoning, the short-term rental of residential dwelling units is not permitted in residential zones. Short-term rentals are permitted in two forms only: in residential zones as an ancillary bed and breakfast (short-term rental of accessory bedrooms within the unit); or in commercial zones as a hotel (short-term rental of suites typically connected to services).

The new use definitions and provisions are therefore necessary to permit the short-term rental of a whole dwelling unit in a residential zone. The proposed permissions are to be ancillary (secondary) only to a long-term residential use. In other words, residential units exclusively dedicated to short-term rental will continue to be prohibited in order to protect the housing stock for residents of the City.

In Document 2 of the approved EPS report, exemptions were also proposed for cottages in rural areas:

“Staff's assessment of the rental of cottages and other vacation homes is that it is a long-standing practice that does not tend to generate the same community nuisance or public health and safety issues as in urban and suburban areas. As such, staff recommends that STR hosts of homes in rural zones (AG, RR, RU) be required to obtain an STR permit but be exempt from

the proof of primary residency and occupancy limit requirements.” (ASC2019-
EPS-GEN-0015)

Further to this proposed exemption for cottages, a motion was passed (No. 24/3) directing staff to review the potential to extend that exemption to secondary dwelling units and coach houses in rural areas as shown on Schedule A of the Official Plan.

The proposed amendments are to respect Ottawa’s Official Plan policies relating to compatibility of uses, providing a variety of housing options, and promoting economic viability, particularly in rural areas. For more detailed information regarding compliance with municipal and provincial policy, please see Appendix A which accompanies this report (prepared by Stantec Consultants).

A short-term rental use is not meant to be a purpose-built use. The regulatory framework proposed by EPS may be a more effective tool in regulating this temporary use. The proposed zoning will facilitate additional data gathering to determine impacts and whether a permanent enactment of both by-laws is appropriate.

Both the Permit and Registration System By-law (to be known as the ‘Short-Term Rental By-law’) developed by EPS and the Zoning By-law amendments will need to come into effect concurrently to function as intended. Short-term rental hosts will be permitted to operate only through a City-issued permit as outlined in the EPS report (ACS2021-EPS-PPD-0001). The intent of this pilot is to develop and test a comprehensive regime for the appropriate regulation and monitoring of short-term rentals that have been occurring in the City despite zoning non-compliance. It is to address well known concerns regarding the short-term rental of residential units through trial of an alternate means of regulation and enforcement (Short-Term Rental By-law) for this use.

Monitoring and management of the program will be carried out by the EPS Department. A combination of relevant data will be collected including from short-term rental platforms and from City-issued permits to determine number and location of rentals, frequency of rental activity, service requests and incidents of nuisance or non-compliance, and impact on housing availability and affordability where possible. Data from third-party web surveillance firms will be used to assess and measure the efficacy of the permit system and the impact on communities and City services.

This amendment will not result in the creation of non-complying rights under Section 34(9) of the *Planning Act*, as it is a temporary by-law only. A Temporary Use By-law may be enacted for a period of up to three years at which time the by-law will expire or, by decision of Council, be extended for an additional three-year period.

DISCUSSION

What is a Short-Term Rental?

Under Ottawa's existing Zoning By-law, the short-term rental of units (or 'suites') to the travelling public falls under the use category 'Hotel', which is understood as having a standard meaning, and elaborated under Section 54 to include:

Hotel includes a motel, a motor hotel and an apartment hotel.

This use is considered commercial, taxed at a commercial rate, and only permitted in Mixed-use/Commercial zones (or through site-specific amendment).

The only type of short-term rental currently permitted in a residential zone is the rental of bedrooms within an otherwise residential detached dwelling, termed a Bed and Breakfast. This use is also considered commercial and may be taxed at a commercial rate. It is permitted only where it is ancillary or secondary to the principal residential use of the property, akin to running a home-based business (commercial use) within a residential context. There are also provisions to regulate the size and potential associated impacts. The current definition for bed and breakfast in the Zoning By-law is:

Bed and breakfast means a private residence within the whole of a **residential use building** that is operated to provide the traveling **public** with temporary accommodation including sleeping accommodation, meals and other connected services and facilities within the occupant's **dwelling unit**; and does not include a **hotel**.

There are thus two existing definitions in the City's Zoning By-law to recognize short-term rentals:

1. Rental of a whole unit (a suite) within a commercial building: Hotel; and
2. Rental of a portion of a unit (a bedroom) in a residential building: Bed and

Breakfast.

There is currently no definition to permit the short-term rental of the whole of a residential unit in a Residential zone as temporary accommodation for the travelling or transient public.

Why are Short-Term Rentals Considered Commercial Uses?

One of the reasons that hotels, which provide a form of living accommodation, are not permitted in Residential zones is their commercial characteristics. They are more disruptive due to, among other activities, the intense pedestrian and vehicular activity created (what has been referred to in the below noted case law as 'frequent comings and goings') by renters, required cleaning services, and management activities. Short-term renters may be unaware of local by-laws or standards respecting noise, parking, or waste management. In the event of violations, by-laws designed to deal with permanent residents are more challenging to enforce effectively on someone who may be gone in a day or two. Short-term rentals therefore carry with them impacts unique to their temporary nature. This has been demonstrated in case law as described further below in the report.

It is recognized that in some cases, a commercial hotel may provide accommodation on a longer-term basis, as is common with the accommodation of foreign delegates or in the case of an 'apartment hotel', referencing longer rental periods. Review of such uses; however, suggests that longer-term rentals in the context of a commercial hotel, which offers services and amenities principally to facilitate short-term rental to the travelling public, is considered ancillary or secondary to the principal (main) use of the property as a commercial establishment.

Why Have a Principal Residence Requirement?

The concept of 'principal residence' is considered a key attribute in distinguishing between short-term rentals as dedicated commercial uses and those secondary to and supportive of the main residential occupancy. A person can by definition have only one principal residence, where they live most of the time (note that a 'secondary dwelling unit', though subsidiary to a 'principal dwelling unit', may be an individual's principal residence). With a principal residence requirement, a short-term rental can only exist as a temporary, ancillary use. This has been similarly done with bed and breakfast and

home-based business provisions, which are by definition permitted only within a 'private residence' or as a 'subordinate' use, as supported by case law are identified below.

The intent is to mitigate the risk of housing being diverted away from long-term residents to commercial quasi-hotel uses that are motivated by often significantly higher revenues. In the absence of a principal residence requirement, there is little to prevent investors from systematically buying up multiple housing units, removing the long-term tenant or simply not signing new ones when the unit becomes vacant, and repurposing the units as dedicated short-term rentals with no long-term residents. In the context of persistent low vacancy rates in the City of Ottawa, and a housing emergency recognized by Ottawa City Council in January 2020, the pressure on an already-tight rental housing market is of concern.

The proposed zoning will enable residents (whether owners or tenants) to lawfully rent out their homes for a few weeks a year while they are themselves away, while ensuring that this practice does not come at the expense of long-term housing supply.

Cottages

Cottages, or second homes, present an interpretive question with respect to a commercial/residential distinction since these units may not represent the owner's principal residence. They may be inhabited only part-time or seasonally by the owner, and unless rented temporarily, may sit vacant the remainder of the year. Though the same commercial-type impacts may be associated with the short-term rental of these units, the context is such that these impacts may not be felt quite as severely. For example, due to larger lots in rural areas, noise and parking may be more easily accommodated. As stated in the background section, Council approved this regulatory framework with a motion to request that rural properties be exempt from the principal residence requirement for the reasons outlined here.

What Rental Period is Considered Short-Term?

In defining what is meant by 'short-term' use, most municipalities have adopted the explicit perspective that anything less than a one-month period is considered 'short-term' and anything greater is considered 'long-term'. A monthly tenancy is identified as a standard tenancy period in the *Residential Tenancies Act, 2006*. Though the *Act* also

identifies daily and weekly tenancies, these shorter tenancies are still subject to term-agreement and notice-of-termination requirements that have the effect of necessitating a minimum rental of one month:

Termination only in accordance with Act

37 (1) A tenancy may be terminated only in accordance with this *Act*. 2006, c. 17, s. 37 (1).

When notice void

- (4) A tenant's notice to terminate a tenancy is void if it is given,
- (a) at the time the tenancy agreement is entered into; or
 - (b) as a condition of entering into the tenancy agreement. 2006, c. 17, s. 37 (4).

When agreement void

- (5) An agreement between a landlord and tenant to terminate a tenancy is void if it is entered into,
- (a) at the time the tenancy agreement is entered into; or
 - (b) as a condition of entering into the tenancy agreement. 2006, c. 17, s. 37 (5).

Deemed renewal where no notice

38 (1) If a tenancy agreement for a fixed term ends and has not been renewed or terminated, the landlord and tenant shall be deemed to have renewed it as a monthly tenancy agreement containing the same terms and conditions that are in the expired tenancy agreement and subject to any increases in rent charged in accordance with this *Act*. 2006, c. 17, s. 38 (1).

The notice period for compliance under the *Act* is 28 days for a daily or weekly tenancy agreement (Sec.44(1)), therefore the implied minimum period of rental is one month. A

one-month standard is similarly used for calculating Municipal Accommodations Tax (MAT) under By-law 2019-252:

2. (1) A purchaser shall, at the time of purchasing accommodation, pay an accommodation tax in the amount of four percent of the purchase price of the accommodation provided for a continuous period of less than 30 nights provided in a hotel, motel, inn, bed and breakfast, resort, hostel, dwelling unit, or any place in which accommodation is provided, including in the event of cancellation where the purchase price is payable.

Though a 28-day period accounts for the month of February, in order to be consistent with the MAT By-law, short-term rentals are proposed to be capped at anything less than 30 consecutive nights. Since single month rentals are uncommon, this is not anticipated to be a practical problem. About half of the comparable by-laws reviewed referenced a less than 30 day rather than a less than 28 day rental period.

The monthly division for definition purposes does create some concern for those hotel industry providers that occasionally provide rental periods of more than one month, as discussed above, as these rentals would then be considered residential uses of land, which in rare instances (e.g. certain industrial zones) may not be permitted under the zoning designation. Again however, long-term rental in this context is typically a secondary use of the building, with the primary use being the short-term rental of units. The definition of hotel in Ottawa's Zoning By-law includes an Apartment Hotel, which is understood to mean long-term rental units within a commercial building that provides hotel-like services and amenities.

Case Law

The City of Ottawa is not the first to address the land use impacts arising from the trend in the short-term rental of residential dwelling units to travellers. Municipalities across North America are enacting by-laws in order to clarify the land use distinction between short-term and long-term residential unit occupancy and address associated use incompatibilities. Several case studies are worth review.

Period of Rental - Town of The Blue Mountains

The first municipality in Ontario to amend zoning provisions to address short-term rental of residential dwelling units was the Town of The Blue Mountains, a municipality

highly impacted by tourism. Their amendments, passed in 2009, define short term accommodation, regardless of whether it is established in a residential unit or not, based on a period of rental less than 30 days. This was new, as their existing definition for hotel did not specify period of accommodation:

SHORT TERM ACCOMMODATION

Means a *building* or *structure* or any part thereof that operates or offers a place of temporary residence, lodging or occupancy by way or concession, permit, lease, license, rental agreement or similar commercial arrangement for any period less than thirty (30) consecutive calendar days, throughout all or any part of a calendar year. Short term accommodation uses shall not mean or include a motel, hotel, bed and breakfast establishment, tourist cabin or cottage, hospital, commercial resort unit, village commercial resort unit or similar commercial or institutional use.

HOTEL

Means an establishment that contains one building or two or more connected or adjacent buildings that, throughout all or part of a calendar year, caters to the needs of the public by furnishing guest rooms for a fee, including all such establishments as defined from time to time by the *Hotel Registration or Guests Act*, R.S.O. 1990 c.H.17, as amended, but not including any other establishment otherwise defined or classified in this by-law. A Hotel may or may not:

- a) Supply food;
- b) Have an on-site management office;
- c) Include permanent staff accommodation;
- d) Include convention facilities;
- e) Include one or more dining rooms;
- f) Include recreational facilities for use by the guests;
- g) Be licensed under the *Liquor Licence Act* of Ontario.

Tourist cabin or cottage is defined as a dwelling unit offered as temporary residence, though it is not permitted in any zone.

The short term accommodation provisions were appealed to the Ontario Municipal Board in 2011, and then subsequently to the Ontario Divisional Court in 2012 (*Rosen v. Corporation of the Town of Blue Mountains*, 2012 ONSC 4215) on the basis that “the amendments discriminate against individuals who are not resident in the Town”, in other words those who stay only for a short period of time. It was determined that ‘in numerous cases [...] “place of residence” on its own is not a prohibited ground of discrimination and is not the same as “place of origin”.’ The amendment was therefore upheld, suggesting that it is appropriate to make a distinction based on length of stay.

Commercial Use in a Principal Residence - City of Toronto

The City of Toronto zoning by-law currently defines short-term rentals as those that are ancillary or secondary to a principal residential use. Toronto’s definition of short-term rentals excludes other short-term accommodation uses such as hotel or motel. The Toronto by-law uses the same ‘principal residence’ approach discussed above to identify that a short-term rental cannot be a stand-alone or dedicated use:

Short-term Rental means all or part of a dwelling unit, that:

- a. is used to provide sleeping accommodations for any rental period that is less than 28 consecutive days; and
- b. the principal residence of the short-term rental operator. [By-law: 1453-2017]

The City of Toronto zoning by-law does not specifically define ‘principal residence’. In the absence of a definition a court would look to the common usage or “plain meaning” of the term.

The Toronto amendment implementing the above-described provisions was appealed to the Local Planning Appeal Tribunal (LPAT) based on the reference to ‘principal residence’, which prevents ‘dedicated short-term rentals’. On November 18, 2019 the LPAT upheld the Toronto by-law and denied the appeal (PL180082, 2019 CanLII 112392). A further appeal to Divisional Court

from the LPAT decision was dismissed without further detailed reasons on June 25, 2020.

The LPAT ultimately accepted that the legal basis exists to find that short-term rentals may be suitably regulated in a zoning by-law to mitigate against their use characteristics that represent a more commercial rather than residential use of land.

The LPAT accepted the City's evidence that the "primary residence" requirement in the Toronto by-law was aimed at ensuring that the use remains primarily residential in character. The LPAT stated that the Toronto by-law amendment's "... effect is to establish the dwelling unit primarily as a place of residence for residents, and only secondarily, as accommodation for visitors or persons otherwise away from their normal place of residence."

Overall, this precedent supports the legality of the approach to short-term rental taken in the Toronto by-law, which is similar to the approach proposed in this report.
Non-Complying Rights - Regional District of Nanaimo

Numerous cases in western Canada have addressed the issue of whether existing short-term rental operators in a zone permitting only residential uses may claim non-complying rights to continue operation where the short-term rental use was in existence prior to establishment of specific regulations prohibiting such uses. All concluded that short-term or 'vacation' rentals are not residential uses of land and therefore existing operators cannot claim non-complying rights. For example, in the case of Nanaimo (Regional District) v Saccomani, 2018 BCSC 752, it was noted that:

[42] Existing jurisprudence also supports the interpretation of residential activity being non-transient. Numerous courts have held that the definition of "residential" precludes temporary lodging. In Kamloops (City) v. Northland Properties Ltd., [2000 BCCA 344](#) at para. 15, the Court stated that "it appears the intention of the by-law is to permit units to be occupied by persons who normally reside there and to prohibit their occupation by tourists, travellers, and other persons who require only temporary lodging..." See also Conconi at para. 30; Regional District Fraser-Fort George v. Norlander (2 April 2014), Victoria 13-2936 (B.C.S.C.) at paras. 15, 24-26, aff'd [2015 BCCA 439](#).

The Ottawa Zoning By-law similarly demonstrates intent to prohibit temporary lodging to a travelling public through existing provisions for bed and breakfast and hotel uses.

Review of Comparable By-laws in Other Jurisdictions

Permitted Uses and Zones

In most of the comparable Zoning By-laws reviewed, some version of a 'short-term rental' use definition has been created, encompassing both whole-unit and part-unit rentals, while existing definitions for bed and breakfast and hotel have remained. This means there is overlap in definitions, and a degree of interpretation is involved in applying the regulations, which differ between uses. Oakville is an example of a municipality that has separate use definitions for whole-unit rental (short-term rental) and part unit rental (bed and breakfast). This is considered a clearer and more intuitive format if the intent was to regulate through the Zoning By-law alone.

Many municipalities reviewed, particularly those with an existing highly developed tourism industry, have also taken the approach of creating multiple new definitions for short-term rentals that are specific to various built forms, number of bedrooms, and provision of accessory services. For example, Niagara-on-the-Lake, which receives a large number of tourists accessing the community's arts and wine culture each year, has separate definitions for Villa, Vacation Apartment, Country Inn and Cottage Rental, all referring to one form or other of short-term accommodation (see Appendix A for definitions of each). Uses considered to be higher impact, such as those with multi-bedroom rentals, are subject to development approvals to demonstrate compatibility in order to be established. Though this approach accounts for differences in scale, in general it requires a higher degree of interpretation and due to its specificity, may fail to capture unique circumstances. Such an approach is not considered necessary in Ottawa given that the scale and style of short-term accommodations in the City is less varied.

Supportive Definitions – Principal Residence

In support of the principal residence requirement for a short-term rental, Staff considered defining the term 'principal residence'. Some municipalities refer to federal legislation in defining principal residence. The City of Oshawa for example, provides that principal residence is: as defined in the *Income Tax Act*. The definition provided in

the *Act* is, however, 1363 words long, involves references to joint ownership between spouses or ownership by a trust, and not easily applicable to the current study, or interpretable by the general public. By-laws should be able to stand on their own and as such any definition is better translated into the referencing by-law itself. In this case, the definition provided in the *Act* is long and specific to ownership. Staff consider this to add interpretive difficulty rather than aid in the application of the provision.

Since Zoning By-laws regulate use of land only, some municipalities explicitly outline criteria for demonstrating principal residence through supportive by-laws established under the *Municipal Act*. The City of Vancouver, for example, lists the address on a resident's drivers license or the location where mail is received (see Vancouver Short-term rental regulations in Appendix A for further details). The Ottawa framework is proposed to operate in the same manner, leaving the Permit and Registration System By-law (Short-Term Rentals By-law) to define principal residence for the purpose of short-term accommodation uses.

Supportive Provisions

Zoning provisions to regulate short term accommodation use varied across the municipalities reviewed. Some define the use as being operated out of a 'principal residence' but otherwise permit it broadly in any dwelling type, including in secondary dwelling units by the long-term occupants (e.g. Cities of Toronto and Vancouver). Oakville was the only municipality found to permit principal dwelling unit owners to rent their secondary units on a short-term basis without being the long-term occupants of the unit. Some do not require 'principal residence' or specify dwelling unit type but permit the use only in particular zones (e.g. The Blue Mountains permits only in R5 zones). Others do not permit the use where other ancillary uses such as a home-based business are present (e.g. Oshawa). The Town of Collingwood defines short-term rental use but does not permit it in any zones. None of the cases reviewed other than Oakville explicitly permitted short-term accommodations in mobile homes.

In almost every case, accompanying zoning provisions included minimum visitor parking (or at minimum, parking for the principal land use), nuisance regulations, and regulations respecting whether a short-term rental use may be combined with other ancillary uses (e.g. home-based businesses). The Town of Blue Mountains also specifically required minimum distance separations and site plan control approval.

Unlike the Zoning By-law amendment presented here, which is to permit short term accommodations as a pilot project only, the other municipalities' zoning provisions are permanent and are not always accompanied by supportive Regulatory and Permit System By-laws under the *Municipal Act* as is proposed in this case. Were the Zoning By-law provisions to continue following the pilot period, provisions such as those identified above should be considered.

Though none of the provisions reviewed addressed whether group homes or rooming houses are appropriate venues, most outlined a maximum number of bedrooms or bookings for short-term accommodations (e.g. Toronto, Vancouver, Niagara-on-the-Lake), suggesting that larger booking options are not considered appropriate.

Proposed Definitions and Provisions

The proposed zoning amendments and definitions are discussed below. Two new definitions are proposed, one for whole-unit or part-unit rental within a principal residence, and one for whole-unit or part-unit rental in a cottage or second residence. In addition, for clarification, and to permit alignment with the new provisions, modifications to existing definitions and provisions for bed and breakfast and hotel are proposed. Permanent amendments to the definitions under Section 54 are provided in Document 1. Temporary amendments to support the pilot project are provided in Document 2. These will be repealed three years after the date of enactment or may be renewed for a further three years.

Short-Term Rental (STR)

The following new definition is proposed to recognize the temporary rental of an entire residential unit as a permitted secondary commercial use of property:

“Short-term rental means the whole or part of an existing residential unit or mobile home that is used to provide transient accommodation for a period of less than 30 consecutive nights, and:

- is the principal residence of the operator;
- is not a hotel or cottage rental; and,
- includes a Bed and Breakfast”

Similar to a Bed and Breakfast or home-based business, it will therefore not be permitted as a stand-alone or purpose-built use in residential zones. A reference to the use being within a 'principal residence' is therefore aimed at keeping the principal use of the building residential (principally for residents of the community) and to prevent diversion of housing stock away from the long-term residential market, as the Zoning By-law intends. A principal residence requirement is also supported by case law and is in keeping with the proposed Permit and Registration System By-law (Short-Term Rental By-law). It is not the intent of this amendment to permit an accessory unit to operate as a short-term rental by the owner of the principal unit as this may have the effect of reducing affordable housing options for residents.

The proposed STR definition also makes reference to a 'residential unit'. A residential unit is defined in Ottawa's Zoning By-law as:

Residential unit means a self-contained set of rooms located in a **building**, designed to be lived in by one or more persons, and which contains sleeping, kitchen and bathroom facilities that are intended for the exclusive use of the residents of the unit; and is not a mobile home or other vehicle.

This reference was chosen to encompass multiple types of dwelling units as outlined in the Zoning By-law. This includes 'dwelling unit' (max four bedrooms), 'oversize dwelling unit' (between four and eight bedrooms), 'secondary dwelling unit' (attached and subsidiary to a principal dwelling unit), and 'coach house' (detached and subsidiary to a principal dwelling unit). The term residential unit also includes existing units with more than eight bedrooms. The accompanying zoning provisions outline those building typologies where an ancillary short-term rental is considered appropriate for the purpose of the pilot project. This does not include units with more than eight bedrooms such as rooming houses or group homes. These are not considered appropriate due to the large scale of the potential rental accommodation. A mobile home does not form part of the definition for residential unit, therefore reference to this typology must be identified independently in order to recognize those potential rentals. The short-term rental of mobile homes should be limited to those zones where mobile home is considered an appropriate principal use rather than in zones where the use has been permitted through an exception, and where secondary uses of the mobile home may not have been considered. It should also be noted that short-term rentals will not be

permitted in zones where bed and breakfast is an explicitly prohibited use, as outlined in further detail below under Bed and Breakfast.

It should be noted that a short-term rental will be permitted within an existing residential unit that was legally established but does not comply with the current use permissions in the Zoning By-law, because this use is considered ancillary (secondary) to the existing principal use of the property. This supports the intent to permit the use as supportive of an existing principal use and is in keeping with the intent of the Permit and Registration System By-law (Short-Term Rental By-law). This is also in keeping with permissions in existing zones such as the Development Reserve (DR) zone, which does not permit a dwelling as a principal use but does permit establishment of a home-based business or secondary dwelling unit.

In keeping with standard delineations between short-term and long-term rentals, and in order to be consistent with the MAT By-law as outlined above, the qualifying rental period for a short-term rental is proposed as anything less than a standard month, or less than 30 consecutive nights. The term 'transient' or 'travelling public' is used variously in different *Acts*. Transient was the term selected for this definition in order to match the definition in the proposed Short-Term Rental By-law, which is based on the terminology used in the *Municipal Act*.

Bed and Breakfast

The by-law proposed by EPS is to include only one definition for either whole-unit or part-unit rentals, whereas the existing Zoning By-law addresses part-unit short-term rentals independently through bed and breakfast provisions. Since the goal is to ensure all short-term accommodation uses within residential units are captured and regulated by the Short-Term Rental By-law, existing provisions for bed and breakfast use will be temporarily suspended over the pilot period. Bed and breakfasts will temporarily be categorized as a 'short-term rental' use for zoning By-law purposes. This will ensure that the new short-term rental regulations apply equally to both part-unit and whole-unit rentals and offer an opportunity to trial the regulation of such uses through the proposed Permit and Registration System By-law (Short-Term Rental By-law).

Nevertheless, amendments to the definition of bed and breakfast are proposed, so as to ensure alignment with the definitions proposed in the Short-term Rentals By-law and to clarify that period of rental (less than 30 consecutive nights) is a defining factor

between residential uses and short-term accommodation uses. The term 'private residence' is also being clarified to mean the 'principal residence' of the operator:

“Bed and breakfast means a residential unit that contains rooms offered for transient accommodation for a period less than 30 consecutive nights, and may include spaces for the provision of meals and other connected services and facilities and:

- the remainder of the unit is the principal residence of the bed and breakfast operator which is not offered for temporary accommodation; and,
- is not a hotel or a cottage rental”

Existing permissions for bed and breakfast include a select number of zones that explicitly prohibit bed and breakfast use. These include primarily the area of Rockcliffe Park and AG4 to AG8 zones (which are used for farm consolidations where a severance of a surplus farm house has occurred and therefore residential uses are not permitted), and certain special exception zones as shown in Document 3. To recognize these prohibitions, short-term rentals in these zones will be prohibited, and no permits will be issued for short-term rental use under the Permit and Registration System By-law (Short-term Rentals By-law).

Cottage Rental

In order to recognize that rural cottages are often occupied only part-time by the owner, and that the short-term rental of such units is not considered to take housing stock away from a long-term resident as these properties may not have good access to amenities, the short-term rental of such units may be appropriately permitted in rural areas even where it is not the principal residence of the owner. Rather than permitting a hotel use in rural residential zones, a single unit cottage rental is considered to result in minimal impacts in comparison to resort-style hotels offering multiple cabins and comings and goings of individuals. It is therefore proposed to create a distinct definition to allow the rental of second homes as follows:

“Cottage rental means the whole or part of an existing residential unit or mobile home that is used to provide transient accommodation for a period less than 30

consecutive nights, and;

- is not the principal residence of the operator”

The introduction of this provision also supports intent of the City’s recently approved Rural Economic Development Strategy and Action Plan, which aims to encourage economic opportunities in the rural area.

Cottage rentals are not considered to be appropriate in villages or urban contexts, where housing pressures exist, and potential impacts related to noise and parking exist, and will therefore not be permitted. This use is intended to be permitted in rural zones outside of villages with larger lots sizes and greater potential for mitigation of impacts. It is recognized that with the onset of COVID-19, interest in rural properties by long-term residents has increased. In that respect, the proposed framework is a timely one as it will permit the monitoring of impacts and guide any future zoning provisions for such a use.

In addition, further to the council motion regarding consideration of secondary dwelling units and coach houses as dedicated short-term rentals (no principal resident requirement), such a use is not considered to support the Provincial Policy Statement (PPS) or Official Plan directions that secondary units contribute to fulfilling the housing needs of residents. Secondary units are not intended to accommodate the travelling or transient public:

1.4.3 Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by: (...) permitting and facilitating (...) additional residential units. (PPS, 2020)

As such, this report does not recommend that secondary dwelling units or coach houses be permitted as dedicated short-term rentals in villages or urban areas where demand for resident housing may be higher. It is worth noting that most municipalities reviewed also do not permit secondary units to be used as dedicated short-term rentals.

In rural zones outside of villages, secondary units may be less viable as long-term housing or there may be longer gaps between renters. In this context, such units may be used to support farm stays or similar economic opportunities for rural residents. It may therefore be appropriate in that context and is therefore recommended for trial as part of this pilot project. Again, it is emphasized that Covid-19 has been observed to impact the demand for rural housing, therefore monitoring of the number of cottage rental permits being taken out, particularly in secondary dwelling units, will be of importance in directing future policy decisions.

Hotel

In order to support the distinction between commercial and residential uses, the definition of hotel in our existing by-law requires updating. This definition (as below) is proposed to clearly identify that a hotel use is commercial in nature, providing multiple suites and desk service, is connected through common space that is all under the same ownership (either indoor or outdoor), and often includes value-added accessory services and amenities for use by the guests such as conference rooms, business centres, restaurants, fitness centres and pools. The proposed definition also takes into consideration the *Hotel Registration of Guest Act*, which defines a hotel as having “not fewer than six bedrooms”.

“**Hotel** means a commercial use that provides transient accommodation within a set of 6 or more units or suites accessed by contiguous common space, all, including the contiguous common space, under a single ownership, and;

- includes a motel, a motor hotel, and an apartment hotel; and,
- may include desk service and/or accessory amenities such as but not limited to a restaurant or meeting rooms”

Due to the current, broad definition of “hotel” in the Zoning By-law, in zones where hotel is a permitted use, it may be possible for a residential unit owner to argue that an existing short-term rental use is a “hotel” for zoning purposes. If so, these owners may be able to establish a legal non-conforming right to continue their operation according to the current definition of a “hotel” in the Zoning By-law. The *Planning Act* Section 34(9) protects uses which were legally established at the time that a Zoning

By-law amendment comes into effect which would prohibit that use. Establishing a legal non-conforming right is a legal question, which requires that the owner demonstrate the legality of the use at the time it was established and that the use has continued uninterrupted since that time. The burden is on the owner to establish a legally non-conforming right.

Conclusion

The focus of this report has been on development of appropriate zoning definitions and permissions for the short-term rental of residential units in Ottawa. These permissions are in support of a pilot Permit and Registration System By-law (Short-Term Rental By-law) proposed by the City's Emergency and Protective Services Department. Any future adoption of zoning provisions to permit short-term rental of residential units beyond this pilot period should consider the success of the Permit and Registration System By-law in regulating short-term accommodation uses through a comprehensive analysis of land use impacts over the life of the project (as monitored by EPS).

Comparable Zoning By-laws reviewed included some combination of explicit conditions regarding appropriate unit types, minimum parking, maximum occupants, servicing, and whether combinations of ancillary uses are permitted. Though these types of performance standards are not proposed as part of the pilot project and may not be necessary where a Permit and Regulatory By-law is in place, any long-term adoption of these permissions should consider whether supportive zoning measures are appropriate or necessary. A revisiting of whether bed and breakfast should be maintained as a use description is also a recommended future consideration due to significant overlap with the new short-term rental definition.

As a regulatory framework, the proposed By-laws (PIEDD and EPS) will function together to achieve intended outcomes; however, the Permit and Regulatory System By-law (Short-Term Rental By-law) is to be tested as the driver of regulating and enforcing short-term accommodation uses in Ottawa. Every effort has been made to align the definitions in each of the by-laws as closely as possible within the confines of the permissions under which they are established. A principal difference being that it is not possible through a Zoning By-law to distinguish on the basis of tenure or whether a rental platform is employed. The EPS by-law will include reference to a 'short-term rental platform' to qualify under what circumstances a permit is required. The EPS

by-law will also require demonstration of principal residence and outline criteria for doing so.

RURAL IMPLICATIONS

The proposed amendment will permit the short-term rental of any residential unit or guest rooms within any residential unit for a temporary three-year period in certain rural zones. This is considered supportive of the City's Rural Economic Development Strategy and Action Plan. Land use impacts are to be monitored over the pilot period, particularly in relation to evolving housing trends fueled by the onset of Covid-19. This will inform any future recommendations for such use permissions.

CONSULTATION

Under the Rental Accommodations Study conducted by the Public Policy Development Branch in EPS, the City of Ottawa has conducted three rounds of public consultations related to the approved regulatory framework for short-term rental accommodations:

Issues Identification: The City engaged Maclaren Municipal Consulting to assess public opinion and identify issues related to STR activity that merited scrutiny for policy consideration. This included eight public workshops and an online survey.

Policy Options: Maclaren Municipal Consulting conducted an online survey to measure community support for various policy options to address the previously identified community concerns.

Recommendations: The City of Ottawa conducted a public open house and online survey to assess community support for specific policy recommendations.

Throughout this study, Public Policy Branch 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. More than 3,000 written submissions from residents have also been reviewed.

Further details on the public and stakeholder consultation and engagement that took

place as part of the Rental Accommodations Study that prompted this Zoning By-law amendment may be found on pages 18-21 and 55 of the Report on Rental Accommodations Study and Regulatory Regime, approved by Council on November 27, 2019.

In addition, a project webpage was set up to outline the intent of the policy development for short-term accommodation uses, and two circulations were carried out, directing community members to this webpage as details of the project evolved. Community feedback on the proposed zoning centered principally around nuisance and the request to remove all permissions for such use, how principal residence will be demonstrated, and negative impacts to the hotel industry. Technical agencies stated no concerns.

Stakeholder meetings with hotel industry representatives were carried out over the course of the study to address concerns regarding the expansion of the hotel definition and overlap with the short-term rental and cottage rental definitions.

In a letter of support from the Lowertown Community Association (LCA) it was requested that the same STR regulations apply to “urban mixed-use zones to limit the operation of “ghost hotels” that are in direct competition with commercial hotels.” Staff support the application of the permit system and principal residence requirement to all areas of the City.

In response to a letter received from the Rockcliffe Park Heritage Outreach Committee requesting that the area not be included in the pilot program (as the use is considered commercial), Staff note that this report creates a separate definition of short-term rental that will permit it to legally occur within the context of a residential building. By doing so, the definition clarifies that the principal land use remains residential, similar to how permitting a home-based business does not convert the residential building into a commercial use. However, in recognition of any zones (including Rockcliffe Park) where there is an existing prohibition against bed and breakfast uses, the Zoning By-law will prohibit all short-term rentals (including bed and breakfast) in such zones and the Short-Term Rentals By-law prepared by EPS will not issue permits to properties in those zones.

Public notification for the Zoning and Temporary Zoning By-law amendments to support this project were undertaken in accordance with the Council-approved Public

Notification and Public Consultation Policy for Zoning By-law amendments.

Should adoption of the temporary provisions be requested in future, additional review and consultation is recommended.

COMMENTS BY THE WARD COUNCILLORS

This is a City-wide Report – Not applicable.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the recommendations set out in this report.

The zoning by-law amendment will not come into effect until the expiry of the 20 day appeal period or, in the event of an appeal, the resolution of the appeal. The companion regulatory by-law has been drafted such that it will not come into effect until the zoning by-law amendment comes into effect, to ensure that both the zoning and regulatory framework are in place concurrently.

As the zoning by-law amendments detailed in Document 2 are temporary zoning by-law amendments, limited to three years from the date the passage of the amending by-law, uses established pursuant to these temporary provisions will not create legal non-conforming rights if they are allowed to expire, according to subsection 39 (4) of the *Planning Act*. The zoning by-law amendments in Document 1 are intended as permanent amendments, but only implement changes to definitions. These changes are intended to support the temporary permissions implemented in Document 2 and do not, on their own, create legal non-conforming uses which could continue after the end of the pilot period.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

There are no direct accessibility impacts.

ENVIRONMENTAL IMPLICATIONS

There are no direct environmental implications.

TERM OF COUNCIL PRIORITIES

This report has no direct impact on the Term of Council Priorities.

SUPPORTING DOCUMENTATION

Document 1 Details of the Recommended Zoning

Document 2 Details of the Recommended Temporary Zoning

Document 3 Map Showing Locations where Bed and Breakfast is a Prohibited Use

DISPOSITION

Legislative Services, Office of the City Clerk and Solicitor to notify the owner; applicant; Ottawa Scene Canada Signs, 1565 Chatelain Avenue, Ottawa, ON K1Z 8B5; Krista O'Brien, Tax Billing, Accounting and Policy Unit, Revenue Service, Corporate Services (Mail Code: 26-76) of City Council's decision.

Zoning and Interpretations Unit, Policy Planning Branch, Economic Development and Long Range Planning Services to prepare the implementing by-law and forward to Legal Services.

Legal Services, Office of the City Clerk and Solicitor to forward the implementing by-law to City Council.

Planning Operations Branch, Planning Services to undertake the statutory notification.

Upon approval by Council, the by-law with respect to temporary use will come into force only once the complementary temporary Short-Term Rental By-law,

recommended by Report ACS2021-EPS-PPD-0001, has come into full force and effect. Additionally, if the temporary use zoning or other zoning amendments recommended by this report are appealed to the Local Planning Appeal Tribunal, the by-law(s) under appeal shall not come into effect until the appeal(s) have been withdrawn or otherwise finally disposed of.

Document 1 – Details of the Recommended Zoning

The proposed change to the City of Ottawa Zoning By-law No. 2008-250:

1. Amend Section 54 by removing the definitions for Bed and Breakfast and Hotel, and replacing with the following new definitions:
 - a. “**Bed and breakfast** means a residential unit that contains rooms offered for transient accommodation for a period less than 30 consecutive nights, and may include spaces for the provision of meals and other connected services and facilities and:
 - the remainder of the unit is the principal residence of the bed and breakfast operator which is not offered for temporary accommodation; and,
 - is not a hotel or a cottage rental”
 - b. “**Hotel** means a commercial use that provides transient accommodation within a set of 6 or more units or suites accessed by contiguous common space, all, including the contiguous common space, under a single ownership, and
 - includes a motel, a motor hotel, and an apartment hotel; and,
 - may include desk service and/or accessory amenities such as but not limited to a restaurant or meeting rooms”
2. Amend Section 54 by adding the following new definitions:
 - a. “**Short-term rental** means the whole or part of an existing residential unit or mobile home that is used to provide transient accommodation for a period of less than 30 consecutive nights and:
 - is the principal residence of the operator;
 - is not a hotel or cottage rental; and,
 - includes a Bed and Breakfast”

- b. **“Cottage rental** means the whole or part of an existing residential unit or mobile home that is used to provide transient accommodation for a period less than 30 consecutive nights, and;
- is not the principal residence of the operator”

Document 2 – Details of the Recommended Temporary Zoning

The proposed change to the City of Ottawa Zoning By-law No. 2008-250:

1. Amend Section 121 – Bed and Breakfast Provisions, by adding the following new subsections:

(4) Notwithstanding the foregoing, Subsections 121 (1) and (2) shall not apply while Section 121A is in force.

(5) Notwithstanding anything else in this by-law, while Section 121A is in force, all performance standards with respect to Bed and Breakfast uses elsewhere this by-law shall not apply and, for greater clarity, Bed and Breakfast uses are Short Term Rental uses which must comply with Section 121A.

(6) Subsections 121 (4) and (5) and this Subsection 121 (6) are repealed in their entirety three years after the date of passing of this by-law.”

2. Amend Part 5 – Residential Provisions, by adding a new Section 121A with the following provisions:

“Section 121A – Short-Term Rental Provisions

1. a **short-term rental** is permitted in any zone as a temporary secondary use within the operator’s principal place of residence.
2. a **short-term rental** is permitted within an existing **dwelling unit** or **oversize dwelling unit** in any zone; or within an existing **mobile home** in an RM or RC zone.
3. notwithstanding subsection (2), a **short-term rental** is prohibited:
 - a. in subzones AG4 through AG8, inclusive; and
 - b. where the applicable exception states, in Column IV of Table 239 or 240, that a **bed and breakfast** is a prohibited.
4. notwithstanding subsection (2) a **short-term rental** is only permitted in a **secondary dwelling unit** or **coach house** where the **secondary dwelling unit** or **coach house** is exclusively and

separately occupied as a principal residence, and the **short-term rental** may only be operated by the exclusive resident of the **secondary dwelling unit** or **coach house**.

5. a **short-term rental** cannot change the external residential appearance of the dwelling unit or contribute to the adverse effects such as, but not limited to, those from excessive traffic, parking or noise.
 6. this section is repealed in its entirety three years after the date of passing of this by-law.”
3. Amend Part 5 – Residential Provisions, by adding a new Section 121B with the following provisions:

“Section 121B –Cottage Rental Provisions

1. a cottage rental is permitted within an existing dwelling unit, oversized dwelling unit, secondary dwelling unit or coach house in any AG, RU, RR, or RC zone, other than subzones AG4 to AG8, inclusive.
2. a cottage rental cannot change the external residential appearance of the dwelling unit or contribute to adverse effects such as, but not limited to, those from excessive traffic, parking or noise.
3. a maximum of one **cottage rental** is permitted on a lot.
4. this section is repealed in its entirety three years after the date of passing of this by-law.”

Document 3 – Map Showing Locations where Bed and Breakfast is a Prohibited Use

