



City of Charlottetown

Report No: PH-2023-12-5

Date: December 5, 2023

Directed to Council through the following Committee:
Planning and Heritage Committee

Department:
Planning and Heritage Department

Prepared by:
Donna Miller-Ayton

Attachments:

- Signed Reading Paper Short-Term Rental Licensing Bylaw
- Legal Opinion

Report Title:

Short Term Rental Licensing Bylaw Implementation

Report Purpose:

To provide an update on the implementation of the regulations of the Short-Term Rental Licensing Bylaw and seek the Committee's direction on how to proceed based on legal opinion and staff's recommendation.

Recommendation:

That the Planning and Heritage Committee assess the options provided by the City's Solicitors (Cox & Palmer) and make a recommendation to Council on how to proceed.

Report Details:

In February 2022, the Council adopted amendments to the Zoning & Development Bylaw that provided updated regulations on the short-term rental (STR) of a private dwelling unit. These regulations came into effect on March 28, 2023.

The STR Licensing Bylaw was established after passing second reading and through Council Resolution on October 12, 2023. The STR Licensing Bylaw came in effect on November 1, 2023.

Since the conception of the initial STR Licensing Bylaw, there have been concerns around the legality of the operations of some short-term rental units within the City. These concerns have again come to the fore through enquires by a group of STR operators around the parameters within which some properties are allowed to operate, the legality of operations based on the recently established STR Licensing Bylaw and the process that is now required to apply for a STR License.

The Planning and Heritage department sought legal opinion to address the concerns. The legal team provided an opinion that included three (3) options for the Council's consideration.

1. Option 1 – Retroactive Application of ZD Bylaw Amendments
2. Option 2 - A Strict Approach to the interpretation of Section 5.5.1 (Zoning and Development Bylaw)
3. Option 3 – A Liberal Approach to the Interpretation of Section 5.5.1 (Zoning and Development Bylaw)

Council or Committee History:

Planning and Heritage Meeting October 3, 2023, Regular Council Meeting October 10, 2023, Special Council Meeting October 12, 2023

Financial Implications:

Dependent on option chosen.

Public Engagement and Communication:

The existing STR FAQ page found [here](#) will continue to provide information to the public.

Legislative Authority:

The Municipal Government Act of PEI, Planning Act of PEI, The Zoning and Development Bylaw, The STR Licensing Bylaw, The Enforcement & Summary Proceedings Bylaw

Strategic Alignment:

Housing Provision, Affordable Housing Strategies

Reviewed By:

Manager



CAO/ Director



Committee Recommendation: (if differing from staff)

PLANNING & HERITAGE: COMMITTEE MINUTES
MONDAY, DECEMBER 11TH, 2023 @ 12:00 PM
COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL, 199 QUEEN STREET
Live streaming at www.charlottetown.ca/video

Present: Deputy Mayor Alanna Jankov, Chair Councillor Julie McCabe
Mayor Philip Brown

Also: Donna Miller-Ayton, Mgr, P&H Jason Doucette, IO/AA **
David Hooley, Cox & Palmer ***minute taker*
Eleanor Mohammed, CAO

Regrets: Councillor Norman Beck

1. Declaration of Conflicts

Deputy Mayor Jankov asked if there are any conflicts, there were none.

2. Approval of Agenda

Moved by Julie McCabe and seconded by Mayor Brown that the agenda for Monday December 11th, 2023, be approved.

CARRIED

3. Reports or Discussions:

a) Short Term Rental Licensing Bylaw Implementation

- In February 2022, the Council adopted amendments to the Zoning & Development Bylaw to incorporate regulations to control short-term rental (STR) of a private dwelling unit. These regulations came into effect on March 28, 2023.
- The current STR Licensing Bylaw was established after passing second reading and through Council Resolution on October 12, 2023. The STR Licensing Bylaw came in effect on November 1, 2023.
- Since the conception of the initial STR Licensing Bylaw, there have been concerns around the legality of the operations of some short-term rental units within the City.
- These concerns have again come to the fore through enquires by a group of STR operators around the parameters within which some properties are allowed to operate, the legality of operations based on the recently established STR Licensing Bylaw and the process that is now required to apply for a STR License.
- The Planning and Heritage department sought legal opinion to address the concerns. The legal team provided an opinion that included three (3) options for the Council's consideration.
- Option 1 – Retroactive Application of ZD Bylaw Amendments
Option 2 - A Strict Approach to the interpretation of Section 5.5.1 (Zoning and Development Bylaw)
Option 3 – A Liberal Approach to the Interpretation of Section 5.5.1 (Zoning and Development Bylaw)

**January 10, 2023 - THESE ARE DRAFT
MINUTES THAT STILL NEED TO BE
REVIEWED AND ADOPTED BY THE
PLANNING AND HERITAGE COMMITTEE**

DISCUSSION:

It was asked if the city must amend the Zoning and Development Bylaw and was answered not if the staff's recommendation and the legal opinion is accepted to go with option 3.

It was said that when previous staff was asked about the matter of Legal Non-conforming use, they replied it was being worked on, but never came to Council's attention.

It was said that this is the first time it has come to the Standing Committee's attention.

Mayor Brown indicated this would be of added value to the property.

The decision was made to take the recommendation to Council for discussion in closed meeting per section 119 of the MGA.

4. Motion to move back into Open Session

Moved by Councilor McCabe and seconded by Mayor Brown that the meeting move back into Open Session



CITY OF CHARLOTTETOWN RESOLUTION OF COUNCIL

(B) Carried In Closed,

Planning & Heritage
1

MOTION CARRIED

8-0

MOTION LOST

(Councillors
Tweed's Beach
in-conflict of Interest)

Date: December 11, 2023

Moved by Deputy Mayor

Alanna Jankov

Seconded by Councillor

Julie McCabe

RESOLVED:

That pursuant to section 119(1)(f) and 119(2)(c) of the *Municipal Government Act*:

^{the} direction in

That Council approves the proposal to:

1. permit Short-Term Rental Operators who, prior to the adoption of the Zoning & Development Bylaw Amendments regarding Short-Term Rentals on February 14, 2022, operated a Short-Term Rental and hold a current TIA license, or are eligible for a TIA license, to be considered a legal non-conforming use; and
2. that these legal non-conforming uses be required to apply for a Short-Term License and satisfy all other applicable requirements of the City's newly established Short-Term Rental Licensing Bylaw.



City of Charlottetown

Report No: PH-2023-12-5

Date: December 5, 2023

Directed to Council through the following Committee:
Planning and Heritage Committee

Department:
Planning and Heritage Department

Prepared by:
Donna Miller-Ayton

Attachments:

- Signed Reading Paper Short-Term Rental Licensing Bylaw
- Legal Opinion

Report Title:

Short Term Rental Licensing Bylaw Implementation

Report Purpose:

To provide an update on the implementation of the regulations of the Short-Term Rental Licensing Bylaw and seek the Committee's direction on how to proceed based on legal opinion and staff's recommendation.

Recommendation:

That the Planning and Heritage Committee assess the options provided by the City's Solicitors (Cox & Palmer) and make a recommendation to Council on how to proceed.

Report Details:

In February 2022, the Council adopted amendments to the Zoning & Development Bylaw that provided updated regulations on the short-term rental (STR) of a private dwelling unit. These regulations came into effect on March 28, 2023.

The STR Licensing Bylaw was established after passing second reading and through Council Resolution on October 12, 2023. The STR Licensing Bylaw came in effect on November 1, 2023.

Since the conception of the initial STR Licensing Bylaw, there have been concerns around the legality of the operations of some short-term rental units within the City. These concerns have again come to the fore through enquires by a group of STR operators around the parameters within which some properties are allowed to operate, the legality of operations based on the recently established STR Licensing Bylaw and the process that is now required to apply for a STR License.

The Planning and Heritage department sought legal opinion to address the concerns. The legal team provided an opinion that included three (3) options for the Council's consideration.

1. Option 1 – Retroactive Application of ZD Bylaw Amendments
2. Option 2 - A Strict Approach to the interpretation of Section 5.5.1 (Zoning and Development Bylaw)
3. Option 3 – A Liberal Approach to the Interpretation of Section 5.5.1 (Zoning and Development Bylaw)

Council or Committee History:

Planning and Heritage Meeting October 3, 2023, Regular Council Meeting October 10, 2023, Special Council Meeting October 12, 2023

Financial Implications:

Dependent on option chosen.

Public Engagement and Communication:

The existing STR FAQ page found [here](#) will continue to provide information to the public.

Legislative Authority:

The Municipal Government Act of PEI, Planning Act of PEI, The Zoning and Development Bylaw, The STR Licensing Bylaw, The Enforcement & Summary Proceedings Bylaw

Strategic Alignment:

Housing Provision, Affordable Housing Strategies

Reviewed By:

Manager



CAO/ Director



Committee Recommendation: (if differing from staff)



CITY OF CHARLOTTETOWN
REGULAR MONTHLY MEETING OF COUNCIL
COUNCIL CHAMBERS, CITY HALL, 199 QUEEN STREET
MONDAY, DECEMBER 11, 2023, at 5:00 PM

CONFIDENTIAL DRAFT

CLOSED SESSION AS PER SECTION 119(1) SUBSECTIONS (E) & (F) OF THE MUNICIPAL GOVERNMENT ACT OF PEI

Mayor Philip Brown presiding

Present: Deputy Mayor Alanna Jankov
Councillor Terry Bernard
Councillor Bob Doiron
Councillor Norman Beck (n/a)
Councillor John McAleer

Councillor Mitchell Tweel (n/a)
Councillor Kevin Ramsay
Councillor Julie McCabe
Councillor Trevor MacKinnon
Councillor Justin Muttart (T/C)

Also: Eleanor Mohammed, CAO
Donna Miller-Ayton, PPHM
David Hooley, CS (T/C)

Sue Fraser, Dir.
Melanie McKenna, CS
Tracey McLean, PRC

T/C – attended via Teleconference

Closed Session began at 5:08 PM

1. Declarations of Conflict of Interest

Councillors Beck and Tweel were in conflict regarding the topic; both left the Chamber prior to the discussion.

2. Approval of Agenda

Moved by Councillor McCabe and seconded by Councillor Ramsay that the agenda be approved as presented. Carried.

3. Approval of Previous Draft Closed Minutes

Moved by Councillor MacKinnon and seconded by Councillor Ramsay that the previous closed minutes of April 11 and September 11, 2023, be approved. Carried.

4. Discussion Item

a) Short Term Rental Licensing Bylaw Implementation

The City Solicitor and Planning staff presented Council with a legal opinion titled "Short-Term Rental Regulations and Enforcement Changes".

Planning requested direction from Council with respect to Short Term Rental (STR) operators that have short-term rental properties (prior to Feb 14, 2022) that they be considered a legal non-conforming use (as per the Zoning and Development Bylaw). It was noted that there is a sizeable number of STRs (over 250) not operating out of their primary residence in the city.

**January 10, 2023 - THESE ARE DRAFT
MINUTES THAT STILL NEED TO BE REVIEWED
AND ADOPTED BY CITY COUNCIL**

It was affirmed by the City Solicitor that previous legal advice regarding treating STRs as non-conforming was not followed by the Planning and Heritage Department in the original amendments to the Zoning and Development Bylaw in February 2022.

Following the discussion and in accordance with 119(2)(a)(c) of the *Municipal Government Act*, Council instructed Staff and the City Solicitor by passing the resolution below. They also asked Staff to prepare communications for the community and STR Operators to inform them of this change of interpretation.

**Moved by Deputy Mayor Alanna Jankov
Seconded by Councillor Julie McCabe**

RESOLVED:

That pursuant to section 119(1)(f) and 119(2)(a)(c) of the *Municipal Government Act*:

That Council approves the direction in the proposal to:

1. permit Short-Term Rental Operators who, prior to the adoption of the Zoning & Development Bylaw Amendments regarding Short-Term Rentals on February 14, 2022, operated a Short-Term Rental and hold a current TIA license, or are eligible for a TIA license, to be considered a legal non-conforming use; and
2. that these legal non-conforming uses be required to apply for a Short-Term License and satisfy all other applicable requirements of the City's newly established Short-Term Rental Licensing Bylaw; and

CARRIED 8-0

5. Motion to Move back into an Open Session

Moved by Councillor Ramsay and seconded by Councillor MacKinnon. Carried. Closed session concluded at 5:43 PM.