

Accessory Guest Room Accommodation Review
Planning Services Division
Report Date – November 23, 2020

Background

Planning Committee passed the following motion on September 23, 2019: “THAT the City of Greater Sudbury directs staff to review the existing framework regarding accessory guest room rental accommodation consistent with City Council’s goal of creating affordable and safe housing and report back to City Council on recommended improvements no later than Q4 2020.”

This matter had previously been studied for Greater Sudbury in 2009 - 2010 (See Reference 1). Key findings included in that report related to rooming and lodging houses, a review of the City’s zoning by-law framework, a scan of how other municipalities were addressing these uses, and options for Council for its considerations.

Council had directed staff to prepare a policy report regarding the licensing of rooming houses. At the time, the Policy Committee had resolved to create a scoped rental housing licensing by-law, to create a Licensing By-law Working Group to develop the required by-laws, requirements, fees, enforcement policies, etc.

A working group composed of Councillors and staff from Building, Planning, By-law Enforcement, Legal, and Police Services was established in April, 2010. Staff was directed to invite stakeholders at key milestones throughout the process. These stakeholders were identified as the post-secondary institutions, the Health Unit, the Electrical Safety Authority, and the Landlord and Tenant Board (see Reference 2).

This process was put on hold in 2011 pending legal challenges to rooming/licensing municipal by-laws in several municipalities (first London, then North Bay and others) relating to the Human Rights Code. At issue was whether the by-laws discriminated against a segment of the population. See discussion on the challenges below.

In 2020, and per Council direction, Staff has assembled an internal project team composed of Planning, Building, Economic Development, By-law, Taxation, Fire, and Environmental Services. Each team member has brought forward current practices and experiences, laws and regulations, case studies, and avenues of further study. This information is outlined in the following sections.

Discussion

The health and safety of Greater Sudbury residents is paramount. This goal is expressed broadly in Council's strategic plan, including Strategic Objective 5 of the City's 2019-2027 Strategic Plan which reflects Council's desire for all citizens, especially vulnerable populations, to have access to safe, affordable, attainable and suitable housing options in the City of Greater Sudbury.

Issues (real or perceived) commonly associated with unregulated accessory guest rooms include lack of parking spaces, absentee owners, excessive noise, increased traffic, garbage accumulation and other property standards issues including the health and safety of citizens (e.g. bedrooms with no windows, fire hazards, etc.).

Staff from By-law Enforcement has researched and compiled information from Active Citizen Requests (ACR) from January 2010 to June 2020. These numbers are provided as general information only to help assess the order of magnitude of the issues commonly associated with unregulated accessory guest rooms. The City does not track or categorize issues specific to accessory guest room accommodation, and therefore any requests associated with that form of housing/tenure would be a portion of the numbers provided below.

Case Type	Zoning	Property Standards	Garbage – Clearing of Yards	Noise	Parking
Number of Complaints (Jan 2010 to June 2020)	3208	5225	5950	3545	9057

Upon receiving an ACR, Staff from By-law Enforcement will write a brief description of the request. Sometimes, these descriptions include words such as “illegal ap”, “illegal unit”, “rooming”, “boarding”, “guest room”. The word-search results from the same January 2010 – June 2020 period are provided here. Again, it should be cautioned that these numbers should not be relied upon to get the true magnitude of the issue.

Case Type / Search Words	Zoning Complaints	Property Standards Complaints	Garbage – Clearing of Yards Complaints	Noise Complaints	Parking Complaints
Guest Room	14	1	1	0	0
Boarding	41	49	29	9	14
Illegal Ap	86	12	3	2	2
Illegal Unit	42	1	0	0	0
TOTAL	183	63	33	11	16

In summary, 26,985 Active Citizen Requests related to the aforementioned issues were made over the ten-year period. While it is not known how many were directly related to accessory guest room accommodation, the ACRs that made specific reference to the above-noted terms total 306 over the same period.

It should also be noted that the City's level of service has been enhanced since 2010. The City has expanded its hours of by-law enforcement, expanded 311 service and is currently working on software (i.e. Land Management Information System) to reinforce the links between the suite of City services.

Municipal Scan

The 2010 Staff report included a municipal scan of best practices across Ontario, including London, Kitchener, Waterloo, Barrie and others. For the most part, the municipal framework outlined in that report remains the same. This section will focus on three northern Ontario examples, North Bay, Sault Ste Marie and Thunder Bay, and will then turn its attention to the Human Rights Code challenges and lessons learned.

North Bay

The City of North Bay's Residential Licensing By-law has been in effect since 2012. The By-law allows up to 2 rooms without a license, and allows for up to 5 rental bedrooms. The By-law establishes the process, general requirements, the range of conditions of a permit, information needs such as floor plans, parking plans, a maintenance plan, insurance requirements, the renewal process, fees, enforcement, penalties, etc. Checklists, information guides and application forms have been developed to support residents in complying with the By-law. Since 2016, the By-law applies throughout the City (See Reference 3 – City of North Bay Website).

North Bay issued 50 licenses in its first year (2012). In 2013, 81 new licenses were issued. These licenses are to be renewed every two years (e.g. 2012 licenses should be renewed in 2014). The following table, provided by the staff at the City of North Bay, outlines the number of licenses issued per year (including renewals):

Year	Licenses
2012	50
2013	81
2014	49
2015	78
2016	48
2017	56
2018	41
2019	35
2020	20
Total	458

There is an observable decline in renewals. For example, the 50 licences issued in 2012 were (in theory) up for renewal in 2014 (49), 2016 (48), 2018 (41). The 81 licenses issued in 2013 were up for renewal in 2015 (78), 2017 (56) and 2019 (35).

Thunder Bay

Thunder Bay allows up to three renters (excluding the owner if they live in the unit) within a single dwelling unit without a license. If there are four or more renters, a Lodging House must be a permitted use in the Zoning By-law, and a license must be obtained.

Sault Ste Marie

The City of Sault Ste Marie allows for Rooming Houses in several zones throughout the municipality. There are no licensing requirements in the City for this type of use, and there are no limits on the number of people in a Rooming house. City staff has noted that the Building Code requirements get stricter once there are more than 4 people in a rooming house (e.g. sprinkler system).

Ontario Human Rights Commission Findings

There have been several Ontario Human Rights Commission Decisions since the 2010 Staff Report. These findings relate to licensing or regulating initiatives started by the City of North Bay and the City of Waterloo, and the City of Oshawa.

Housing is a human right. By-laws passed by municipalities cannot discriminate against occupants who are not related. For example, a municipality could get challenged on requiring 'owner-occupied' rental housing.

As a result, requirements/regulations on residential licensing (beyond the two that are currently permitted in the Zoning By-law) should be city-wide and shouldn't be neighbourhood based. This may mean that the City would have to allow Rooming Houses in more locations across the municipality (e.g. beyond the C6 zone), as the City would not be able to license a use that isn't permitted in the City's Zoning By-law.

Bedroom caps established in a by-law should be based on accepted Health and Safety standards (i.e. building code), otherwise an arbitrary cap on bedrooms could restrict access to affordable housing in the community.

The Ontario Human Rights Commission has noted its support for municipalities that have worked collaboratively with homeowners, landlords and tenants, community groups, postsecondary institutions and students in their development of a regulatory framework.

Current and Potential Service Enhancements

The municipal scan has assisted staff in determining elements of an Accessory Guest Room Accommodation Framework. These elements are presented in this report as two distinct Service Levels, namely: 1- Current and Strengthened Level of Service; and, 2 – Enhanced Level of Service.

Service Level One represents existing and proposed elements of the accessory guest room framework that can be strengthened with current staff levels. Service Level Two could require Council's approval as part of the 2022 budget process.

Service Level One – Current Level of Service

- Current City By-laws, Enforcement and Procedures (Zoning By-law, Noise By-law, Property Standards, Property Clearing, Combined Inspections, Waste Disposal, Secondary Unit Registry and Enforcement, Voluntary Inspections)
- Community Outreach (Open Housing, Greater Sudbury Landlord Association, Economic Development Initiatives)
- Provincial Statutes and Regulations (Building Code, Fire Code, Assessment Act)
- Fire Protection Act – enter upon suspicion

Service Level One – Strengthened Framework

- “Proactive enforcement” (Property Standards and Clearing of Yards) and Fine increases
- Landlord Guide, Renter's Guide, Newcomer Guide, Brochures, Website
- Strengthened Partnerships (e.g. Town and Gown with the postsecondary institutions, Landlord Association)

Service Level Two – Enhanced Level of Service

- Licensing By-law

The following sections outline each element by Service Level, and identify staff's recommendations for a strengthened Accessory Guest Room Accommodation Framework.

Service Level One – Current Level of Service

The City currently has a number of tools at its disposal to regulate accessory guest room accommodation. For example, the City has passed a number of by-laws through the powers afforded to municipalities through various provincial statutes, including but not limited to the *Municipal Act, 2001*, the *Planning Act*, and the *Building Code Act*.

Zoning By-Law

The City currently regulates the provision of Accessory Guest Rooms through the Zoning By-law. The current zoning standard is to allow accessory guest room accommodation for not more than two persons per dwelling unit (See Section 4.11 of the Zoning By-law – Reference 4). The City also regulates Boarding Houses and Shared Housing.

The City permits Secondary Dwelling Units throughout the municipality. Since the passing of the implementing zoning by-law, the City has also created a Secondary Dwelling Unit Registry. A new Provincial law has required the City to pass enabling provisions to allow Tertiary Dwelling Units. These new provisions were considered by Planning Committee on June 22, 2020 (See Reference 5). By-law 2020-119Z was passed by Council on July 7, 2020.

The City's regulation of required minimum lot area, parking spaces, lot coverage, heights, etc., has an effect on the built form, and by extension, regulates the number of dwelling units permitted on any given parcel. For example, proponents have to provide a minimum number of parking spaces per residential unit, and parking is generally only permitted in the side and rear yards.

Building Code Act and the Ontario Building Code

The Province's Building Code Act regulates the construction, renovation and change-of-use of a building. The Ontario Building Code, issued under the Act, establishes detailed technical and administrative requirements, and sets minimum standards for building construction.

The Building Code Act sets limits regarding the inspection powers of officers. An inspector can only enter upon land and into buildings without a warrant for the purpose of inspecting a building to determine whether the building is unsafe or whether an order has been complied with.

The City's Building Services Department provides a system of building permit approvals and inspections, which minimizes hazards to persons and property by ensuring construction within the City of Greater Sudbury adheres to provincial and municipal regulations. This department issues building, plumbing, demolition, occupancy and other permits governed by the Ontario Building Code (See Building Services – Reference 6).

The City's Zoning By-law is applicable law to the issuance of a building permit. A building permit cannot be issued unless the proposed use is permitted in the Zoning By-law.

The Fire Prevention and Protection Act, 1997, and the Fire Code

The City of Greater Sudbury Fire Services Department provides prevention programming and life safety education through the delivery of focused fire education to all residents and specific targeted demographics of the youth population and residents/managers/owners of vulnerable

occupancies. Fire prevention is provided through occupancy investigations and inspections under the Ontario Fire Code, and enforcement of various sections of municipal by-laws and provincial legislation with the goal of reducing the possibility and severity of fire or explosion while increasing life safety standards.

The Fire Code is a regulation made under the Fire Protection and Prevention Act, 1997 consisting of a set of minimum requirements respecting fire safety within and around existing buildings and facilities.

The Fire Prevention and Protection Act, 1997 (FPPA), allows an inspector, without a warrant, to enter and inspect land and premises for the purpose of assessing fire safety. Interpretation of entry rights is found in the FPPA. Fire safety includes: safety from the risk that a fire, if started, would seriously endanger the health and safety of any person or the quality of the natural environment for any use that can be made of it; and, safety from the risk that the presence of unsafe levels of carbon monoxide on premises would seriously endanger the health and safety of any person. In sum, Fire Staff may enter based on "suspicion" of safety issues being present at various properties.

Enforcement

The Property Standards By-law and the Clearing of Yards By-law were outlined in a report entitled "Property Standards and Clearing of Yards – By-law Review" presented to Council on March 24, 2020 (See Reference 7). The City's Property Standards By-Law (2011-277, as amended) requires that properties and structures be maintained in a state of good repair. The Clearing of Yards By-law (2009-101, as amended) requires that property be kept "clean and clear" of refuse and debris. Enforcement of these by-laws is done on a complaint basis.

Per the Fire Protection and Prevention Act and the Building Code Act, an individual convicted of an offence under either Act is liable to a fine of not more than \$50,000 for a first offence and not more than \$100,000 for a second offence (\$500,000 and \$1,500,000 respectively for a corporation).

Section 67 of the Planning Act enables the municipality to fine persons or corporations that contravene the City's Zoning By-law. These include up to \$25,000 for a first conviction fine (up to \$50,000 for a corporation) and up to \$10,000/day after conviction (up to \$25,000/day for a corporation). Pursuant to the Planning Act, the City of Greater Sudbury has established the above fines as part of its Zoning By-law (See Section 1.6 – Enforcement – Reference 4).

Noise By-law

The City's Noise By-law limits disturbances related to noise, provides for exceptions for noise created by certain activities. The by-law provides for the reduction of noise so as to preserve, protect and promote public health, safety, welfare, peace and quiet of the inhabitants of the City.

The by-law includes the framework of noise disturbance enforcement, including administration, prohibitions, exemptions and permits. A person who is convicted of an offence under the noise by-law is liable, for each day or part of day that the offence continues to a maximum fine of \$10,000.

It should again be noted that the City's level of service has been enhanced since 2010. The City has expanded its hours of by-law enforcement, expanded 311 service and is currently working on software (i.e. Land Management Information System) to reinforce the links between the suite of City services.

Public Education and Training

The City Departments of Building Services, Fire Services and By-Law Enforcement Services each conduct public education and training initiatives. There are regular reach-outs to post-secondary institutions, Community Action Networks, and staff regularly attend open houses for education such as kitchen fire safety.

Staff has presented to the Greater Sudbury Landlord Association on a variety of topics including overall building safety, fire alarm maintenance, smoke and carbon monoxide safety, Ontario Fire Code offences, etc.

Citizens are encouraged to call in a request for inspection, or complaint inspections, if they feel they would require assistance relating to Fire safety and Ontario Fire Code compliances and or deficiencies. Fire Services is mandated by the Fire Prevention and Protection Act to conduct request and complaint inspections as well as Vulnerable Occupancies.

Service Level One - Project Linkages

There are existing and/or ongoing projects that will either support or strengthen the City's accessory guest room accommodation framework. These include the City's:

- Land Management Information System (to track applications, licenses, permits, ACR, etc)
- Second Unit Registry (ensures standards are being followed, provides certainty to citizens)
- Affordable Housing Framework (Housing and Homelessness Plan, Affordable Housing CIP)
- Residential Parking Standards Review (And Parking Standards in General)
- Zoning Bylaw Update- Bill 108 – Secondary and Tertiary Units.

Service Level One – A Strengthened Framework

As outlined above, these additional elements can be implemented with existing resources.

Guides and Handbooks

Both the City of North Bay and the City of Saskatoon have developed a “Good Neighbour Handbook” which is a citizen’s guide to the City’s municipal by-laws. It promotes awareness of the rights and responsibilities as a neighbourhood resident. The City of Guelph has developed a New Resident Guide, and the City of Toronto has developed bylaw enforcement program that ensures that building owners and operators comply with building maintenance standards (See References 8, 9 and 10, respectively).

The City of Greater Sudbury can develop these guides, handbooks and programs. These resources could outline information on:

- Landowner/Renter rights and responsibilities
- Municipal by-laws
- Where to find and access community resources

Similarly, the Landlord Guide or Program could outline:

- A checklist on property standards
- Fire prevention standards
- Building, Plumbing and Electrical standards

These guides could be published in several languages and be available at key service points throughout the municipality (e.g. Citizen Service Centres), and posted on the City’s website.

The City of Guelph has a website dedicated to Tenant Safety. It provides a one-stop website for tenants, and invites tenants to book a free inspection of their rental unit (See Reference 11).

These new guides/free inspections, can be introduced alongside the City’s ongoing Northern/Rural Immigration Pilot.

Proactive Enforcement

The recommendations noted in the March 2020 “Property Standards and Clearing of Yards – By-law Review” report could assist in lessening the negative impacts of unregulated Accessory Guest Room Accommodation, including: proactive enforcement, amending applicable fees, and amendments to the Property Standards By-law regarding immediate remediation. The City could look at increasing fines related to the illegal provision of accessory guest rooms.

Strengthening Partnerships

The City could look at ways to strengthen partnerships with community groups such as the Landlord Association, Community Action Networks, and with postsecondary institutions in order to better understand community, landlord and tenant needs in order to better tailor and disseminate information.

Changes to Zoning By-law

The City's Zoning By-law allows accommodations for two persons per dwelling unit. The Zoning By-law also permits Secondary Dwelling Units in single and semi-detached dwellings, row dwelling and street townhouse dwellings, and buildings accessory thereto these unit types, provided that a maximum of one secondary dwelling unit is permitted within the primary dwelling unit and one secondary dwelling unit is permitted within an accessory building on a lot. Per the by-law, accessory guest room accommodation would be permitted in both the primary and secondary dwelling units.

Per the Zoning By-law, and in theory, two persons could be provided accessory guest room accommodation in each of these units. Staff recommends that the zoning by-law be amended to limit accessory guest rooms to the primary dwelling unit only.

Service Level Two – Enhanced Level of Service

Implementing a Licensing By-law would represent an enhanced level of service for the City of Greater Sudbury. While some of the costs and staff level impacts are included in this report, staff would recommend the preparation of a more fulsome business case for Council's consideration as part of the 2022 Budget, and once a draft licensing by-law has been prepared. In the event that the Business Case was approved, more work would be required in order to prepare the by-laws, conduct training and prepare the necessary materials for implementation.

A licensing framework would include the following elements:

- Definitions, administration, requirements and prohibitions;
- Exemptions and fines;
- Information requirements, renewal periods, inspection requirements;
- Powers of 'license managers (e.g. to approve, refuse, or require more information);
- New communication materials and marketing;
- New application forms and guides;
- Enhanced and/or combined enforcement;

As outlined above, the City of North Bay issued 50 licenses in its first year, and 81 licenses in its second year. Cumulatively, the City has issued or renewed 458 licensed over a nine year period. The City of Greater Sudbury's population is approximately 3 times the size of North Bay's (161,000 vs 51,000). From this, we can perhaps extrapolate that the City could receive

150 licenses in its first year and 240 licenses in its second year. Assuming the City could average 300 active licenses in any given year, and assuming a two-year renewal cycle, 3 hours per department (By-law, Building, Fire) spent per application (including travel, inspection, review, etc), a licensing program could potentially have the following FTE and budget impact:

- The 900 hours (1/2 Full Time Equivalent) per department (By-law, Building, Fire) that would be required could be met with existing staffing levels;
- Cost range of license could be between \$165-\$300 to recoup costs of program delivery;
- City could expect to recoup anywhere between \$49,500-\$90,000 per year on licensing;
- Would be monitored to ensure performance, and to ensure licensing fees meet programing costs

Conclusion and Next Steps

Staff has reviewed best practices from comparator municipalities, and has organized elements of an accessory guest room accommodation framework based on service levels. As outlined in the report, the City currently has a robust regulatory and enforcement system. Based on comparator municipalities, there are service level enhancements that Greater Sudbury, based on Council direction, could provide to strengthen the public health and safety of our residents.

Staff should now be directed to return with a draft licensing for Council's consideration by the end of Q3, 2021, and to prepare a business case as part of the 2022 Budget Process.

Resources Cited

1. "Rooming House Licensing By-law", report presented to Policy Committee, March 24, 2010
<https://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=2&id=236>
2. "Licensing By-law Working Group", report presented to City Council, April 14, 2010
<https://agendasonline.greatersudbury.ca/index.cfm?pg=agenda&action=navigator&id=251&itemid=2954&lang=en>
3. City of North Bay – "Residential Rental Housing Licensing"
<https://www.cityofnorthbay.ca/cityhall/departments/planning-services/residential-rental-housing-licensing/>
4. City of Greater Sudbury Zoning By-law
<https://www.greatersudbury.ca/do-business/zoning/>

5. “Bill 108 Implementation: Official Plan and Zoning By-law Amendments”, report presented to Planning Committee, June 22, 2020.

<https://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=3&id=1451>

6. City of Greater Sudbury Building Services

<https://www.greatersudbury.ca/live/building-and-renovating/>

7. “Property Standards and Clearing of Yards – By-law Review”, report presented at the March 24, 2020 Council Meeting

<https://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=19&id=1466>

8. City of Saskatoon Good Neighbour Guide

<https://www.saskatoon.ca/services-residents/housing-property/good-neighbour-guide>

9. City of Guelph New Resident Guide

https://issuu.com/ventureguelph/docs/new-res-guide-2018-19_1

10. RentSafeTo for Building Owners, City of Toronto

<https://www.toronto.ca/community-people/housing-shelter/rental-housing-standards/apartment-building-standards/rentsafeto-for-building-owners/>

11. Tenant Safety, City of Guelph

<https://guelph.ca/city-hall/planning-and-development/community-plans-studies/housing/shared-rental-housing/>