



<b>DATE:</b> June 16, 2009 <b>REPORT:</b> DS 09-09	<b>TITLE:</b> Rental Housing Licensing Review Discussion Paper	<b>C.A.O.</b> 
<b>WARD:</b> City wide	<b>PREPARED BY:</b> Don Roth M.Sc., MCIP	
<b>FILE:</b> PS-08-05	<b>DEPARTMENT:</b> Development Services	
<b>ATTACHMENTS:</b> Report: 12 pages Appendix 'A' Appendix 'B'	<b>CLEARANCE:</b> Review Team: June 11, 2009 Council: June 22, 2009	

### RECOMMENDATION

1. That Council receive Development Services report DS 09-09 as information and schedule July 13, 2009 for an Informal Public Meeting.

### EXECUTIVE SUMMARY

On January 1, 2007, the Province passed Bill 130, enacting amendments to the Municipal Act which removed the prohibition preventing municipalities from licensing the business of renting residential units. On April 7, 2008, Council approved report DS 08-19 Rental Housing Licensing Review Terms of Reference and directed staff to initiate the study.

The purpose of a rental licensing program would be to protect the health, safety and welfare of residents in rental units as well as minimizing the impacts on residential neighbourhoods in terms of property standards, lot maintenance, numbers and scale of rental units. It is based on the premise that the act of renting a property is a business activity and regulating residential rental properties through a licensing system is desirable for the community.

This Discussion Paper presents issues related to:

- what is the purpose of a potential licensing program?
- what forms of housing could be affected?
- what requirements should be considered in a licensing by-law?
- where should a licensing by-law apply?
- should there be a fee to obtain a license?

### APPROVALS

 General Manager	 Date: June 17/09	 Director	 Date: 16/6/09
 PRO Acting Director	 Date: June 17/09	 Other	 Date: JUNE 16/09

- should penalties be imposed to enforce the program?
- how should absentee landlords be addressed?

The purpose of this Discussion Paper is to report on the research and preliminary findings to date of a rental housing licensing program and highlight the potential implications of implementing such a program.

This Discussion Paper also provides an opportunity for Council and Staff to receive opinions and viewpoints from interested parties on what is presented in this Report.

From this feedback, staff will review the comments and concerns and prepare a Response and Recommendation report including any recommendations for a Licensing By-law.

This report has been prepared jointly by staff from Development Services and Protective Services.



## Development Services Report

File: PS-08-05

DS-09-09

### **Subject: RENTAL HOUSING LICENSING REVIEW** **Discussion Paper**

#### **I INTRODUCTION**

The City of Waterloo has a long history of ensuring that there is a safe, suitable and appropriate supply of rental housing in the City. In 1986, the City initiated the Lodging House licensing program with the aim of helping to ensure that lodging houses were meeting minimum safety standards. The lodging house system was reviewed and updated in 1992.

In 2004 Council approved the *Student Accommodation Study* which, among other things, reconfirmed the need to maintain the City's lodging house licensing system. At the same time, there were concerns about the City's ability to enforce the Lodging House By-law.

Recognizing the need to enhance our ability to license rental units, Council directed staff to form a committee to determine what change to provincial legislation was required and how best it could be accomplished. In March 2006, Council approved the committee's report (DS06-05, Legislative Review: Student Accommodation) including the recommendation that staff be directed to work with the newly formed Town and Gown Association of Ontario (TGAO) to request the province make legislative changes.

On January 1, 2007, the Province passed Bill 130, enacting amendments to the Municipal Act. One of the changes was to remove the prohibition preventing municipalities from licensing the business of renting residential units. Municipalities now have the ability to govern, regulate and license residential rental units similar to licensing other businesses.

The purpose of this Discussion Paper is to report on the research and preliminary findings to date of a rental housing licensing program and highlight the potential implications of implementing such a program. This report has been prepared jointly by staff from Development Services and Protective Services.

#### **II WHAT ARE THE CONCERNS WITH THE CURRENT SYSTEM?**

Concerns have been expressed by various groups concerning rental units including:

- too many rental properties concentrated in certain areas or neighbourhoods in the City;
- poor upkeep of properties in terms of property standards and lot maintenance;
- parking concerns particularly with cars parked in front yards or other areas when insufficient parking is available;
- safety concerns when buildings are not maintained or do not comply with Codes;
- behavioural issues and nuisance concerns with certain activities at rental properties;
- ability to apply the Lodging House by-law to other forms of rental housing.

### **III PURPOSE OF THE STUDY**

On April 7, 2008, Council approved report DS 08-19 Rental Housing Licensing Review Terms of Reference and directed staff to initiate the study. The Terms of Reference set out a number of key objectives of the study as follows:

- review the powers of the Municipal Act as the authority to develop a new regulatory system which could replace or complement our current licensing system;
- consider applying the Rental Housing licensing program to low density housing forms including single detached, duplex, semi-detached, triplex and townhouse dwellings;
- investigate opportunities for enforcement including the powers of entry for inspections;
- investigate our ability to provide encouragement or incentives for property owners to comply with a new regulatory or licensing program;
- investigate how the standards of the Building Code and Fire Code could be incorporated into the new system;
- investigate how any new regulatory or licensing system might limit the conversion of owner occupied housing in low density neighbourhoods to rental houses in keeping with the quality of life for long term, permanent residents;
- consult with the community and key stakeholders.

### **IV. WHAT IS THE PURPOSE OF A LICENSING PROGRAM?**

The purpose of a rental licensing program would be to protect the health, safety and welfare of residents in rental units, as well as minimizing the impacts on residential neighbourhoods in terms of property standards, lot maintenance, numbers and scale of rental units. It is based on the premise that the act of renting a property is a business activity and regulating residential rental properties through a licensing system is desirable for the community.

When a unit is improperly maintained, it can negatively impact the health, safety and general welfare of tenants as well as the aesthetics and amenities of the community at large.

The key objectives of the rental licensing program are to:

- take a proactive approach to address inadequate housing conditions that may adversely affect residents of rental properties;
- protect the residential amenity, character and stability of residential neighbourhoods;
- investigate how a new licensing system might limit the conversion of owner occupied housing in low density neighbourhoods to rental houses.

A rental licensing program is a tool in which rental units would be subject to certain conditions for providing and maintaining safe residential housing. As a result of the amendments to the Municipal Act, a municipality may apply conditions as a requirement to obtain, hold or renew a license:

- pay a license fee;
- permit inspections of the property;
- comply with federal or provincial legislation or regulations;
- comply with other applicable by-laws of the municipality.

It is suggested that a Licensing Program could be implemented on a City-wide basis and would apply to building types. It is not intended to focus solely on rental accommodation targeted at the student market or other identifiable groups or to specific areas of the City.

## **V WHAT ARE THE POTENTIAL BENEFITS OF A LICENSING SYSTEM?**

The potential benefits for tenants include:

- provided with safe housing in terms of combined standards for Building Code, Electrical Code and Fire Safety;
- have opportunities for housing in terms of location, form, quality and affordability;
- informed of municipal bylaws that apply to rental units;
- identifies substandard rental properties.

The potential benefits for landlords include:

- provided with documented records of any conditions which contravene bylaws in terms of Property Standards, Lot maintenance, Fire Code, Building Code etc.;
- provided with guidance on ways to resolve property standard issues;
- allows for a fair playing field for all landlords in the rental housing market.

The potential benefits for neighbourhoods include:

- enhanced care and maintenance of rental properties;
- neighbourhood stability;
- protection of amenities, character and quality of the neighbourhood;
- achieve a mix of permanent home owners, and short and long term renters.

Currently, each area of inspection (e.g. Building, Fire, Electrical, Property Standards, etc.) is addressed under separate jurisdiction for example, the Fire Dept. can only inspect on Fire safety issues and their rights of entry are limited to Fire Code issues. With a new licensing program, jurisdiction is broader and the rights of entry are expanded to include other areas such as Building Code and Property Standards at the same time.

## **VI DISCUSSION OF ISSUES**

The purpose of this Discussion Paper is to provide a summary of the research to date and the issues and options for consideration of a licensing program for rental housing. The report will be circulated to agencies, stakeholders and residents for information and to generate feedback.

This Discussion Paper will also be presented by Staff at a Public Meeting. The Meeting will serve as an opportunity for Council and Staff to receive opinions and view-points from interested parties on what is presented in this Report. No decisions will be made by Council at the Public Meeting.

Using this feedback, staff will review the comments and prepare a 'Response and Recommendation Report'. Staff will circulate this Report to interested parties and present final recommendations at a future Public Hearing for Council's consideration and decision. Council may agree or disagree with staff's recommendations and may modify, approve or deny the Report. The Response and

Recommendation Report will include any recommendations for a Licensing By-law. A flow chart of the process can be found in Appendix 'A'.

## 1. **WHAT FORMS OF HOUSING COULD BE AFFECTED?**

The intent of the review is to investigate a new regulatory or licensing system that could be applied to low density residential rental housing types such as singles, duplexes, semi-detached houses, triplexes and townhouses. As per the approved Terms of Reference, it is not the intent of the review to include apartment dwelling units (defined as buildings with four or more units). The development of apartment dwellings is subject to the City's Site Plan Review process which addresses, among other things, the provision of landscaping and off street parking requirements. In addition, apartment dwellings are generally operated by management and property maintenance organizations which address property standards/lot maintenance and behavioural issues in the building should these arise.

Further, the Building Code and Fire Code currently have significant standards for apartment buildings. A new or revised program would not increase the requirements of the Codes but could set routine inspections that will ensure owners are adhering to those minimum requirements.

How many rental properties would be affected by a Licensing program? The following Table provides the number of low density rental units in the City:

**TABLE 1 – Total Number of low density rental units by structure type**

	SINGLE	SEMI	DUPLEX	TH	APT (LESS THAN 5 STORIES; (INCLUDES TRIPLEX))
Total no. of rental units by structure type	705	520	425	2060	4065

Source 2006 Census

The number of existing licensed lodging houses has been included in the above totals.

This is a significant number of dwellings units to license in terms of administration, inspections, and monitoring and there would be staffing implications to operate the program. Given the number of low density rental units, it may be appropriate to phase in a residential licensing program. In addition, Council could also exempt rental units with less than a certain number of bedrooms.

## 2. **WHERE SHOULD THE LICENSING BY-LAW APPLY?**

There are two options for consideration in regard to where a licensing by-law could be applied. One option would limit the application of the by-law to a specific geographic area or neighbourhood(s) in the City. The second approach would be the application of the by-law on a city wide basis.

In our research of the experiences of other municipalities, the City of Oshawa has applied its By-law only to a specific geographic area of the City while the City of London is considering a City wide approach. At this time, staff favour a City wide approach as rental properties are found throughout the City.

### 3. **SHOULD THERE BE A LIMIT ON THE NUMBER OF BEDROOMS IN A RENTAL UNIT?**

The question arises as to whether there should be a limitation on the number of bedrooms in a rental dwelling. Staff note that the Oshawa By-law limits the number of bedrooms in a rental unit to a maximum of four as a condition of the license.

The City's Lodging House by-law provides for Class 1 Lodging houses to be occupied by four or more persons with a proprietor or six or more persons without a proprietor which suggests that a Class 1 Lodging House may have from 4 to 6+ bedrooms. A Class 2 Lodging House permits four or five persons without a proprietor which suggests 4 to 5 bedrooms in a Class 2 Lodging House.

A cap on the number of bedrooms in rental properties could assist in limiting the over intense use (too many bedrooms) of low density dwellings and could reduce the likelihood of converting family dwellings to rental. A limitation on the number of bedrooms in a rental property could also alleviate other issues such as parking demand on the property. However, a consequence of limiting bedrooms in rental housing is the impact on larger households and their ability to find rental accommodation suitable for large families.

As shown in Table 1, the majority of low density housing forms in the City (singles, semis, triplex, townhomes) contain three bedrooms. Staff suggest that rental properties could be limited to a maximum of three bedrooms and note that the average number of persons per unit (low density) in 2006 was 3.22. Rental properties with more than three bedrooms existing at the time a by-law was adopted could be deemed to be non-conforming properties and could be licensed provided they comply with all other aspects of the zoning by-law and applicable Codes (i.e. Building, Fire). Also, Council could decide it appropriate not to recognize these or not license them or to put a cap on the maximum number of bedrooms.

**TABLE 2 - NUMBER OF BEDROOMS BY STRUCTURE TYPE**

NO. OF BEDROOMS	SINGLE	SEMI	DUPLEX	TH	APT (LESS THAN 5 STORIES; (INCLUDES TRIPLEX))
1	270 (1.3%)	10 (0.7%)	15 (3.3%)	110 (4.2%)	75 (15.5%)
2	1460 (7.3%)	125 (9.3%)	50 (10.9%)	750 (28.8%)	270 (55.7%)
3	10770 (53.8%)	1105 (81.9%)	195 (42.9%)	1630 (62.6%)	100 (20.6%)
4+	7530 (37.6%)	110 (8.1%)	195 (42.9%)	115 (4.4%)	40 (8.2%)
<b>TOTALS</b>	<b>20030</b>	<b>1350</b>	<b>455</b>	<b>2605</b>	<b>485</b>

#### **4. HOW SHOULD A MINIMUM DISTANCE SEPARATION (MDS) BE APPLIED TO RENTAL PROPERTIES?**

Similar to the existing Lodging House license by-law, a minimum distance separation could be considered in a rental housing licensing by-law. The Lodging House license by-law was amended in 2004 to provide for a 150 m. minimum distance separation for Lodging House Class Two uses within low density zones, and 75 m. distance for Lodging House Class Two uses within medium density zones. The City also employs a 300 m. MDS between group homes.

A MDS could ensure that no new licensed rental dwellings could be created within a specified distance of an existing licensed rental property. An MDS cannot restrict a use to a point where it is no longer able to exist within an area. The intent of the MDS for rental properties would be to continue to allow rental dwellings while limiting their concentration in any particular area. However, it is noted that a MDS might only apply to new rental properties. Council would have the choice to recognize that all legally existing rental dwellings on the date of passing of any by-law could be permitted to continue even though they might be located within the MDS distance of another existing rental property.

Staff suggest a similar approach be taken to apply the 150 m and 75m MDS to rental properties. This would allow existing rental units to continue but will assist in reducing additional rental units in certain neighbourhoods and is consistent with the policy to decrease the conversion of single detached houses in neighbourhoods.

Applying a MDS to rental properties would have implications on increased inspections and enforcement of the separation distance for newly created rental units.

#### **5. SHOULD OWNER OCCUPIED RENTAL PROPERTIES BE LICENSED?**

Questions arise as to whether a licensing system should apply to all residential properties or alternately should there be exemptions such as for properties that may be owner occupied. Owner occupied rental properties could be exempt from holding a license where no more than two bedrooms are rented out and the owner continues to reside in the premises as their sole residence. This is premised on the assumption that owner occupied rental properties have minimal impacts on a neighbourhood as the property is 'managed' by the owner who resides on site as their sole residence and the occupancy for rental purposes is limited to one or two bedrooms.

#### **6. HOW SHOULD A FEE BE APPLIED TO OBTAIN A LICENSE?**

Bill 130, amendments to the Municipal Act, provided municipalities with the ability to charge a fee for issuing a license. A license fee may be based on costs incurred by the municipality for administration and enforcement of the licensing system. There are a number of options for the application of fees including:

- a flat fee per rental property;
- a fee based on the number of rental units on a property;
- a fee based on the number of bedrooms in a rental unit.

The City of Oshawa's Licensing By-law, for example, provides for an annual licensing fee of \$250 per rental unit. (In Oshawa's By-law a Rental Unit is defined as a building designed for use as a single housekeeping establishment).

Staff suggest that a licensing fee should be based on the principle of recovering all or most of the costs of operating the program. Staff will report on the potential fees and costs of a licensing program after further public input.

## **7. HOW SHOULD PENALTIES BE IMPOSED TO ENFORCE A PROGRAM?**

The amendments to the Municipal Act expanded the enforcement mechanisms available to include a system of penalties that could be applied where there is failure to comply with any provisions of a license. In terms of enforcement of a licensing system, the City could establish a system of fines, or consider suspending or revoking a license. A system of fines could include fines for multiple or continuing offences, and increasing fines for second or subsequent offences.

Procedures would need to be developed with respect to any system of penalties. These would include a determination of the amount of the penalty, a notification process where any provision of the by-law has been contravened, and a review or appeal mechanism of any penalties.

### **i) *Licensing Appeal Committee***

A Licensing Appeal Committee (LAC) could be implemented as part of the overall process. This Committee would be established to conduct hearings of appeals under any Residential Rental Licensing By-law; although the role of the LAC could be expanded to hear appeals from other licensing by-laws. These appeals would relate to license suspensions, revocations, refusals and renewals as well as the imposition of conditions as a requirement for obtaining, continuing to hold or renewing a business license issued. The LAC would be charged with making final and binding decisions respecting such appeals.

This Committee would be an independent body similar to the functioning of the Committee of Adjustment. Membership of the Committee and term of office would be determined by Council.

It is anticipated that there would be staffing implications in terms of investigating possible contraventions of the by-law; and staff time necessary to hear appeals of licenses that are refused, suspended or revoked.

## **8. HOW SHOULD ABSENTEE LANDLORDS BE ADDRESSED?**

Issues arise where absentee landlords do not utilize local property management or make infrequent inspections to deal with property maintenance issues and have no local contact for emergency situations or for enforcement staff should emergencies arise. Licensing residential rental units may provide a mechanism to address absentee landlords by requiring, as a condition of the license, a designated local agent where the landlord resides outside of the City. The agent would provide all contact information for emergency or enforcement staff should emergency situations arise.

## **9. WHAT LICENSE APPLICATION REQUIREMENTS SHOULD BE CONSIDERED IN A LICENSING BY-LAW?**

Under the provisions of the Municipal Act, the City may impose conditions as a requirement to obtain, renew or continue to hold a license. These conditions may include the charging of a fee for the license, compliance with other municipal by-laws or regulations, compliance with applicable provincial or federal legislation, and the requirement for inspections of the rental property. The following information could be included as part of any licensing by-law and would be implemented through license application requirements.

### **i) Ownership Information**

Property ownership information could be required in order to maintain a comprehensive registry of rental units and facilitate contact with the owner to address any building maintenance issues that may arise. The full name, municipal address and mailing address could be required where the owner is a sole proprietorship, or for each individual who is a member of a partnership in a rental property.

Where the owner is a corporation or a partnership where a member is a corporation, the date and jurisdiction of incorporation and the full name, street address, and mailing address of each officer, director and shareholder could be required.

### **ii) Property Information**

Information about the rental property could be required including the:

- Municipal address and legal description of the rental property;
- current zoning of the property and the details of any Committee of Adjustment approvals where applicable;
- number of rental units and the number of bedrooms per unit.

### **iii) Tenancy**

The owner could be required to provide proof that each tenant is party to a rental or lease agreement and the duration of the tenancy. This information will assist in addressing any issues of occupancy of a building. The tenancy agreement should be made available during inspections.

### **iv) Parking Plan**

A Parking Plan showing the location and dimensions of all parking spaces on the property could be required as part of a residential rental business license. This information is required in order to ensure that an adequate amount of parking in compliance with the zoning by-law is provided and that tenants are aware of the legal parking locations.

### **v) Floor Plan**

A floor plan could be required as part of the rental license. The floor plan could illustrate the dimensions and proposed use of each room and all points of egress out of the building. For any bedrooms located in the basement, the widow sizes and ceiling heights of the basement containing living space could be shown. No room within the rental unit could be used as a bedroom unless shown on the approved floor plan.

### **vi) Property Maintenance/Waste Management Plans**

Neighbourhood issues arise as a result of the lack of a property waste management plan to address unsanitary conditions related to garbage containment and the curb side placement of garbage other than on collection days. A property maintenance plan and waste management

plan could be required as a condition of holding a rental license in order to address issues related to garbage and lot maintenance.

**vii) Proof of Insurance**

The owner could provide proof of insurance which recognizes the use as a residential rental property and which includes liability coverage for property damage and bodily injury.

**viii) Advertising**

The residential rental unit's license number and account number of the license issued could be included in any marketing or advertising documents of the rental unit.

**ix) Other Legislation**

The owner could provide a certificate or statement from the appropriate authority confirming compliance with other related legislation including:

- the Fire Protection and Prevention Act;
- the Electrical Safety Code;
- the Building Code Act;
- the City's Zoning By-laws;
- the City's Property Standards By-law;
- the City's Lot Maintenance By-law.

Staff note that the City of Oshawa licensing by-law requires the information identified in section 9) above as a requirement of an application to license a rental unit.

**x) Other Requirements**

Other requirements currently contained in the Lodging House Licensing By-law could be included in a residential rental licensing by-law including requirements for:

- Fire extinguishers;
- Smoke alarms;
- Heating system safety certificate;
- Complete application (all requirements are submitted prior to acceptance of the application).

## **VII. FINANCIAL IMPLICATIONS**

Amendments to the Municipal Act (Bill 130) permits a municipality to charge a fee to issue a license. A license fee may be based on the costs of the municipality to administer and enforce a licensing program.

Staff have prepared a possible cost scenario to operate a licensing program on an annual basis (see Appendix 'B'). This scenario estimates that nine new full time positions would be required to administer the program in terms of enforcing the by-law, inspecting all properties that apply to be licensed as well as conducting annual ongoing inspections. The staffing costs of a program are estimated at approx. \$821,577 per year. When applied to the possible estimated license applications per year, it is estimated to be \$275.00 per application renewal per year. All figures are preliminary and subject to change based on staff's ongoing evaluation of licensing options and costs.

A program to license rental properties would have staffing implications on Corporate Services/Clerks to administer the program, on Protective Services to enforce the by-law and Development Services/Building to review applications for conformity with the zoning by-law and to carry out Building Code inspections.

## **VIII OPERATIONAL IMPACTS**

Should Council support a proposed by-law, there will be operational financial implications to the Corporation in regards to additional staff to administer and monitor existing licences; conduct annual inspections; address enforcement, administrative penalties and any appeals where a license is refused, suspended or revoked.

As noted above, a Licensing Appeal Committee or other similar body would need to be established and delegated the responsibility of handling matters related to appeals of the licensing program. Another option would be to hire a Hearings Officer.

## **IX. LEGAL CONSIDERATIONS**

The City Solicitor has been consulted in the discussion of issues and has been involved in the review of this report.

Should Council support a Licensing program, the City Solicitor would be involved in the preparation of the By-law. There would be potential legal implications should a property owner or any member of the public object to the By-law.

Should a By-law be approved, there may be additional legal implications with respect to any appeals where a license is refused, suspended or revoked.

## **X. LINK TO STRATEGIC PLAN**

Rental Housing Licensing Review can ultimately support the City's Strategic Plan subject to resolution of the issues raised in this Report as follows:

Healthy and Safe Community – strengthening relationships with our student populations;  
- creating an inclusive community.

## **XI. RECOMMENDATION**

1. That Council receive Development Services report DS 09-09 as information and schedule July 13, 2009 for an Informal Public Meeting.

Submitted by:

*Don Roth*

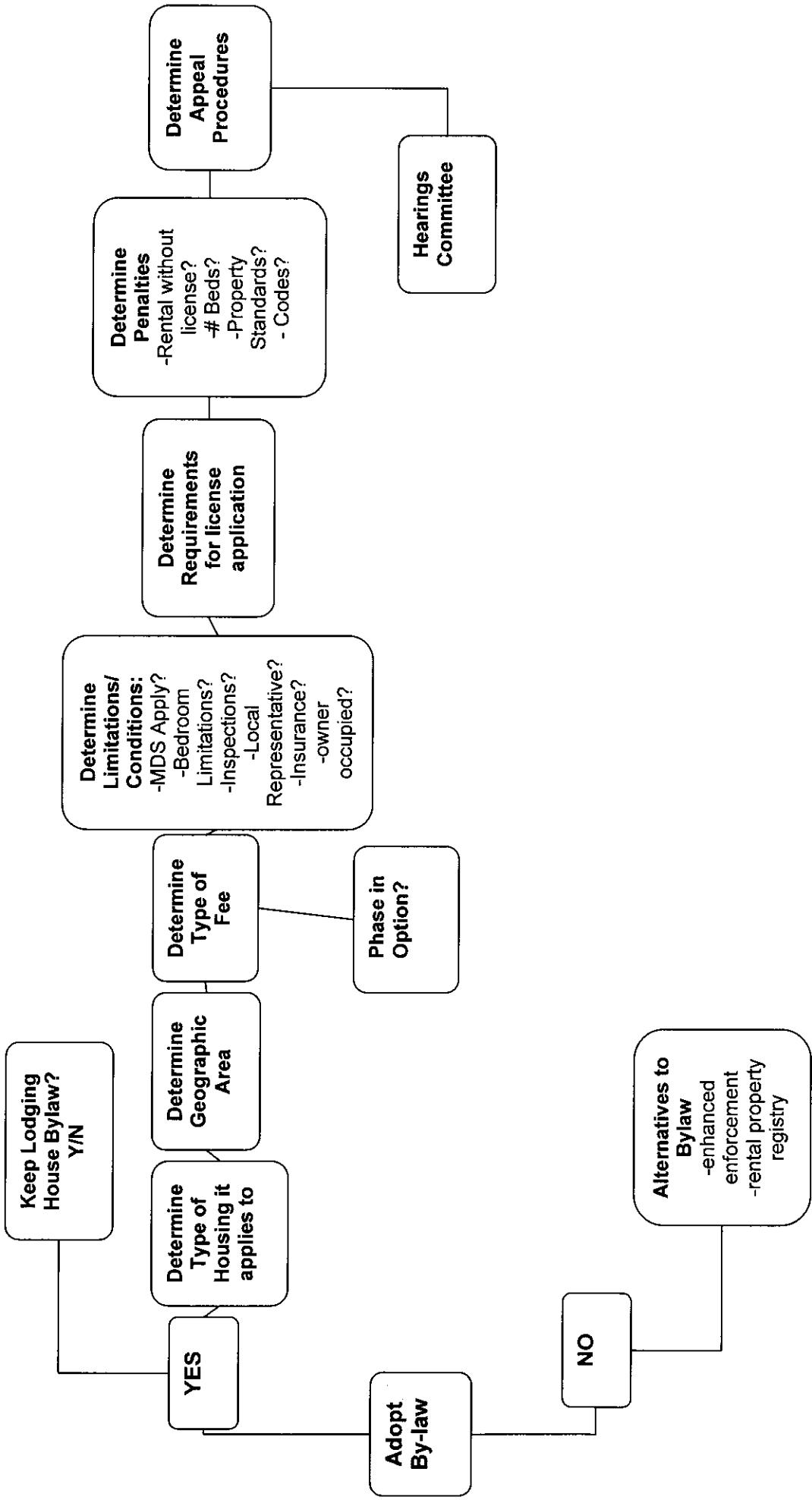
Name:

Don Roth, M.Sc., MCIP

Position:

Policy Planner

## APPENDIX A



## APPENDIX B Potential Costs for Licensing Program

### Salary Costs

Inspections - 3 Fire Prevention Officers	322,336.44
Fire Administration	63,524.58
Bylaw - 3 Property Standards Officers	251,326.98
Bylaw Clerk	63,524.58
Development Services Support	77,065.08
<b>Total Salary</b>	<b><u>777,777.66</u></b>

### Operating costs

6 new vehicles	15,000.00
Operating costs - FPO's	11,400.00
Operating Costs Property Standards	11,400.00
Admin Staff/DS Support Staff	6,000.00
<b>Total Costs</b>	<b><u>43,800.00</u></b>
<b>Total Costs</b>	<b>821,577.66</b>

**Cost per licenses** **273.86**

### One Time Capital Costs

6 vehicles (includes decals etc)	180,000.00
9 offices/computers	63,000.00
	<b><u>243,000.00</u></b>

Capital costs must be recovered and the reserves replenished to replace

Vehicle 7 year cycle	25,714.29	per year or	8.57	per permit
----------------------	-----------	-------------	------	------------

### Notes

This model assumes 3000 licenses per year.

Hardware and software become a budget pressure for IS.

Depending on whether an appeal process is utilized, there could be additional City resource implications. All figures and assumptions are preliminary and subject to change based on staff's ongoing evaluation of licensing options and costs