

Report



Report No. DS2019-020	To: Council	Prepared By: Andria Leigh, Director, Development Services
Meeting Date: February 27, 2019	Subject: Short-Term Rental Accommodations Update	Motion # _____
Roll #:		R.M.S. File #: D14 55794

Recommendation(s):	Requires Action <input checked="" type="checkbox"/>	For Information Only <input type="checkbox"/>
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It is recommended:

1. That Report DS2019-020 be received and adopted;
2. That staff proceed forward with the implementation of Option 2 in accordance with Council's direction;
3. That the appropriate planning amendments and regulatory by-laws be brought forward for Council's consideration in the future; and
4. That Interim Control By-law 2018-071 be extended until June 28, 2020.

Background:

During the later portion of 2017, Council members and Township staff were being advised of concerns from residents about a number of short-term rental (STR's) properties within the Township of Oro-Medonte. Short-term rentals are generally dwellings/properties that are being rented out by individuals on a short term basis (usually 1-3 days and typically no more than 28 days) The majority of these short term rentals have been occurring in shoreline residential areas although there are some rentals available in close proximity to popular tourism/recreational destinations. These rental units are not the primary place of residence for the property owner; and these units provide an opportunity for the property owner to gain income from the property during periods of time when the unit would be unoccupied by the owner. In some cases this would include rentals of the unit throughout the entire year. In other cases individuals have purchased the dwelling with the intention of utilizing it as a Short Term Rental to assist with finances, without the additional revenue from an STR income individuals would not consider purchasing or being able to afford the initial purchase expense. It has become much easier for property owners and renters to connect due to the increasing popularity of internet rental sites such as Airbnb and HomeAway. This has resulted in a continued influx of rental units within the Township and has created

issues for some of the Township's permanent residents related to noise, septic, garbage, parking, and other nuisances created by the guests at these STR units.

As a result of the concerns being raised, Township staff were asked to investigate the land use and regulatory controls that could be applied to these Short Term Rentals. In February 2018, a staff report (DS2018-012) was presented to Council outlining the issues that had been raised to date regarding the impacts these STR's were having on their surrounding residential usage and the research conducted of other jurisdictions that had reviewed Short Term Rentals and implemented land use and regulatory controls. A series of options were provided to Council at that time for their consideration on how to manage Short Term Rentals within the Township. The direction from Council at that time was to proceed with enacting an Interim Control By-law that would not allow any additional Short Term Rentals until such time as the Township completed their land use planning review of short term rentals and the appropriate planning amendments were considered. In addition, staff were directed to proceed forward with the drafting of the required regulatory/licensing by-laws.

This study by the Township was intended to review the land use context including proposed Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) requirements that could be utilized in Oro-Medonte, the land use context that had been utilized in other jurisdictions previous researched and any new jurisdictions that had implemented policies, any land use decisions made by these jurisdictions currently in process, the outcomes from any Local Planning Appeal Tribunal (LPAT) hearings as a result of these land use approvals, potential Official Plan and Zoning By-law Amendments, regulatory and or licensing options for the Township, and legislative authority of MLEO staff to enforce the by-law under Section 437 of the Municipal Act related to restrictions on rights of entry to a dwelling.

As noted in that previous staff report a number of other municipal jurisdictions were considering short-term rentals and the implementation of planning and regulatory bylaws to control short-term rentals. Township staff continued to review other jurisdictions that had implemented or were considering implementing policies/by-laws for short-term rentals. Throughout 2018 additional jurisdictions began reviewing this issue as the demand for these rental units continues to grow.

STR's are a more recent phenomenon that have not typically been contemplated as a land use in Official Plan or Zoning By-law documents. This is the situation with the Township's planning documents, although bed and breakfast establishments are currently addressed. Generally speaking, the renting of a private residence is not subject to zoning regulations (there is no differentiation between a renter and an owner).

Historically there has been this form of cottage rental that has occurred, although typically on a weekly/monthly basis, which has not usually resulted in neighbourhood complaints to Municipal Law staff. This more frequent (daily/weekend) short-term rental that is now occurring does provide for different land use compatibility issues – noise, parking, traffic, nuisances, vandalism, property standards, septic impacts, and the frequency of usage. This newer form of rental would be more consistent with the commercial use of a hotel or motel, which are typically subject to licensing and site plan

control to apply the appropriate conditions/limitations to the usage. STR's unlike these historical cottage rental or hotel/motels uses are a different form of land use that would require a different set of controls from either of these other uses. It is therefore appropriate, from a land use perspective, to consider additional land use planning policies and by-laws that specifically define this short-term rental use and implement some regulatory controls.

For municipalities that have proceeded in this direction the Local Planning Appeal Tribunal (formerly Ontario Municipal Board) has upheld land use decisions that have implemented these types of controls, this was evident in the Town of Blue Mountains that undertook this process in 2009 and adopted Official Plan and Zoning By-law Amendments and a Licensing By-law to regulate short term rentals and staff are currently awaiting the outcome of the LPAT process in the City of Toronto.

To date, there are a total of 14 properties in the Township which have been brought to the attention of Council or staff regarding their usage as short-term rentals and the conflicts that are occurring with the surrounding residential uses, which have resulted in complaints to Municipal Law Enforcement Officers or the OPP for noise and nuisance matters. In most of these cases, the complaints received by staff are not one time occurrences but recurring situations. While it is recognized that in a Township with just over 9000 households the number of short term rentals appears to be low; a review of the various internet platforms for Short Term Accommodation rentals (Airbnb, Hometogo, Flipkey, VRBO, HomeAway, Sonder, and Canadastays) have identified that there are over 300 properties in Oro-Medonte currently listed for rental over the various internet sites and given the popularity of this form of rental it is anticipated this number will continue to rise. The Township through this process is intending to not only be reactive to the issues that have arisen to date for specific rental properties but also be proactive to address this issue comprehensively before additional issues arise.

In January 2019 Township representatives also met with interested stakeholders (residential property owners and STR operators) to obtain their input and views regarding options/solutions to be considered by Council in addition to clarifying their current issues with STR operations or there reasons for operating an STR respectively.

Township staff have also had subsequent discussions with legal counsel regarding the current planning policies/provisions and current STR usage and will be providing Council with a legal update prior to consideration of this staff report.

The intent of this report is to provide an update to Council regarding the research conducted to date and the available options for land use/regulatory controls and to confirm Council's direction regarding these controls to be considered for implementation in Oro-Medonte.

Analysis:

The short-term rental accommodations issue continues to be emerging in a number of municipalities. Historically the Town of Blue Mountains was the first to review this

matter in 2009 and updated their planning and regulatory requirements specific to short-term rentals. Since that time they have continued to amend their STR licensing program and amend their regulatory by-laws based on the on going assessment of their program. In 2018, the Town staff brought forward a series of reports to consider amendments to their planning documents and licensing by-law to address issues that were recurring in the licensing program implementation for the Town. These issues included: identifying the legal non-confirming STR's, parking, minimum distance separation, occupant loads, commercial resort units vs. STR's, assessment of penalties and demerit points, definition of responsible person, and interpretation policies. Due to public concerns being raised through the update process, staff were completing additional review of the proposed planning amendments but have proceeded with additional amendments early in 2019 to their STR licensing by-law.

The City of Toronto also completed a consultation process and approved zoning by-law amendments that define short term rental accommodations, and implemented a licensing/annual registry process. However the zoning by-law amendment was appealed and is currently scheduled to be heard by the LPAT in August of 2019. In addition, the City implemented a register program and licensing for the STR's.

The Township of Ramara had created an STR Ad Hoc Committee in 2017 to investigate the STR issue and to review the regulations and restrictions governing STR's. The Committee presented a Draft STR by-law to Council in June 2018; which was received and referred to Township legal counsel for review. In January 2019 the STR Committee made a follow up presentation to Council requesting Council to consider passing an Interim Control By-law and proceed with completing a land use study to determine the most appropriate land use tool for controlling and regulating STR's. Council received a staff report at their February 4, 2019 in support of proceeding with the Interim Control By-law and such a by-law was approved at their February 11, 2019 meeting. The Township is also asking anyone currently running an STR to register with the Township so they are aware of those that are currently operating. The Township through the proposed land use study will be considering Zoning Bylaw Amendments applicable to specific areas of the Township, a Licensing By-law amendment to require all STR's to pay a yearly licensing fee in order to operate, and a noise by-law to address STR's.

Since beginning the initial review early in 2018, a number of additional municipalities within Simcoe County have begun to review the STR issue including the City of Orillia, Town of Penetanguishene, Township of Severn, and Township of Tay. Given the popularity of this form of rental it is anticipated that additional jurisdictions will review this matter in the future.

Staff also looked at other local municipalities with a tourist based focus to determine the zoning and licensing/registry that they may have established. These included the Town of Niagara on the Lake where a zoning by-law amendment for rentals was enacted in 2013, and Prince Edward County where Official Plan and Zoning By-law Amendments were adopted in October 2018. The County is currently in the process of drafting a licensing by-law that they anticipating bring to Council for enactment in the first quarter of 2019.

While it is recognized that other jurisdictions are considering or have implemented planning and regulations for Short Terms Rentals and the options available to each municipality are generally consistent, the solution for each jurisdiction is likely unique to their specific issues/problems and what they are trying to achieve through zoning and regulation. The Township can certainly learn from the experiences of these other municipalities what has or has not worked or been implemented and why. Any potential solution/approach for Oro-Medonte needs to consider: minimizing the potential conflicts/compatibility issues between the current residential community and these short term rentals, recognize any economic impacts the rentals can have on the community, recognize the Township's focus as a tourist/recreation destination, consider the potential financial implications to the Township and the impacts on current staff resources or the need for additional staff resources, and the anticipated outcome of the solution for the Township, its residents, and the STR operators.

In order for Council to make a determination on which option below they are supportive of, it is important to consider the following: where should we allow or not allow STR's, what kinds or regulations are needed, what lessons can we learn from others, how do we balance the needs of the neighbourhoods against the needs of the STR operators, and should existing operations be grandfathered and the associated legal implications.

The challenges presented by STR's are unique to each jurisdiction and are addressed differently depending on the local context and based on the various degrees of regulation that can be put in place, and the various means of enforcement available. Listed below are the options available to Council based on the degree of regulations, that can be implemented to address the challenges and concerns that have been presented to date.

1. Staff to draft OPA and/or ZBA to set out areas where STR's are permitted or prohibited and to define different kinds of STR's (B&B vs rental homes/cottages) – This option would add new Official Plan policies and Zoning By-law regulations to the Township's planning documents to confirm locations where STR's would be permitted or prohibited.

This option would put in place certain conditions through the zoning by-law that STR's would need to adhere to and that would be enforced through the Planning Act/Zoning By-law by the Township Municipal Law Enforcement Officers. Some of the conditions to be put in place would include parking, occupancy, and servicing. While this option to proceed with additional planning policies and definitions for STR's would definitely assist the Township, it would continue to rely on enforcement of STR's through the Provincial court process and may not be sufficient in addressing the challenges and concerns that have arisen with STR's in Oro-Medonte.

2. Staff to draft OPA and/or ZBA and implement a registry/licensing registry system – this option would involve a comprehensive regulatory framework that would provide for a range of tools for the Township that have been utilized by other jurisdictions. This would include an Official Plan Amendment, Zoning By-law Amendment, and licensing regulations. The Town of Blue Mountains, the Town of Wasaga Beach, and the Town of Niagara on the Lake have all implemented this approach; the City of Toronto

implemented this approach but are currently awaiting an LPAT hearing in August 2019; Prince Edward County has implemented the planning policies/regulations and is currently drafting the licensing regulations for implementation in 2019.

This option would involve additional Official Plan policies to provide a general policy framework for STR's and include specific "use" definitions, the Zoning By-law Amendment would be used to identify the condition under which STR's would be permitted including: location, number of occupants/bedrooms, and parking. In order to establish a fee structure, licensing is also utilized, which provides the framework to register the STR's, to administer fees and, where required, fines for STR operators and property owners. This comprehensive approach provides the overall philosophy of the Township for STR's through the Official Plan policies, the specific conditions/requirements through the Zoning By-law provisions, and the tracking, administration and enforcement through the licensing. This option would allow for the establishment of licensing fees to offset the Township staff costs to administer the program and would also allow for the ability to establish set fines for certain infractions to ensure quick compliance is achieved.

In either Option 1 or 2 noted above, direction from Council is required to confirm the locations where STR's would be permitted or prohibited in order for staff to proceed with the drafting of the required amendments. Staff would be seeking direction from Council to determine the zones where the STR use would be permitted or prohibited, such as all residential zones, specific residential zones, the Agricultural/Rural zone, all commercial zones.

3. Prohibit STR's – this option would again require significant investment on the part of the Municipal Law Enforcement staff and would involve legal/prosecution processes to be implemented to gain compliance. This is an option that Council could consider but would have to be mindful of those existing STR operations and the legal advice provided to date to the Township.

4. Maintain the Status Quo – this option would not proceed with any amendments to the Township's planning document or implement any form of licensing or registry system. This option would continue to rely on the current Township by-law, noise and parking, and general by-law enforcement by the Township and the OPP. This option is not recommended as it continues to tax the staffing resources, does not resolve the challenges faced by many residents, and as noted above STR's will only continue to become a more popular option with increasing problems to neighbouring residents that need to be managed.

Each of the options has varying implications on the current Municipal Law Enforcement staffing resources both from an administrative perspective and an enforcement perspective. Once Council provides direction on the preferred option, staff will complete further analysis of these implications to Township staff and report back to Council with a further update.

As noted above, the Township currently has an Interim Control By-law in place to prohibit new STR's until June 2019. While the Township continues to review and implement a solution for STR's this by-law can be extended for an additional year if deemed necessary. This would allow time for the right solution to be considered by Council and implemented by Township staff.

Financial / Legal Implications / Risk Management:

Depending on the option chosen by Council, there will be financial and legal implications in the implementation of the preferred option and impacts on the required staffing resources. In addition, the financial implications will include the consideration of implementing a Municipal Accommodations Tax.

Policies/Legislation:

- Municipal Act
- Planning Act

Corporate Strategic Goals:

Continuous Improvement and Fiscal Responsibility – we deliver affordable, quality services

Enhanced Communications and Customer Service – We demonstrate a culture of open communication and engagement that delivers on “customers come first”

Balanced Growth – we support business and job creation while protecting our natural environment

Consultations:

- Town of Blue Mountains
- Prince Edward County
- Simcoe County Municipalities
- Township Legal Counsel
- Township staff
- Short Term Rentals Stakeholder Group

Conclusion:

The Township of Oro-Medonte continues to be an area that is the focus for tourism and recreation as a significant component of our employment and economic development. Due to its geographic location and close proximity to the GTA and our promotion as a tourism/recreation destination, the Township will continue to be a draw for short-term accommodation rentals.

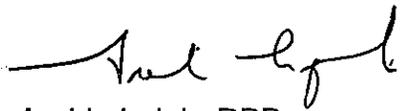
Staff have reviewed other jurisdictions both those that have proceeded to define and regulate/license short term rentals and those that have not. Staff had previously

identified a series of options for Council's consideration in 2018 and direction was provided to proceed with the consideration of implementing the require planning policy/regulation updates and the implementation of a licensing regime for short-term rentals.

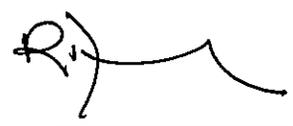
Since that time, additional municipalities have begun or completed reviews of their policies for short-term rentals and potential planning and licensing processes to be implemented. Given the updated research and stakeholder input that has been received to date and is now available to Council, staff are requesting confirmation from Council on the previous direction provided to proceed with Option 2 as noted in this report. This Option allows the Township to implement a comprehensive policy and regulatory framework for the Township that is intended to continue to promote the Township as a great place to live, to provide options for rental accommodations in a municipality that is focused on tourism and recreation, but also seeks to achieve a balance in the public interest of both the residents and STR operators.

As noted above, the current Interim Control By-law is in effect until June 28, 2019, depending on the direction provided by Council, this would need to be extended for an additional year as provided for within the Planning Act to complete the required amendments and licensing.

Respectfully submitted,



Andria Leigh, RPP
Director, Development Services

SMT Approval / Comments:	C.A.O. Approval / Comments: 
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