

Staff Report

To: Council

From: George Vadeboncoeur, Manager, Planning Special Projects

Meeting Date: January 22, 2025

Report No.: DS2025-004

Subject: Options Report to Address Illegal Short-Term Rental Accommodations in Oro-Medonte

Type: Requires Action

Motion No.:

Recommendation

It is recommended:

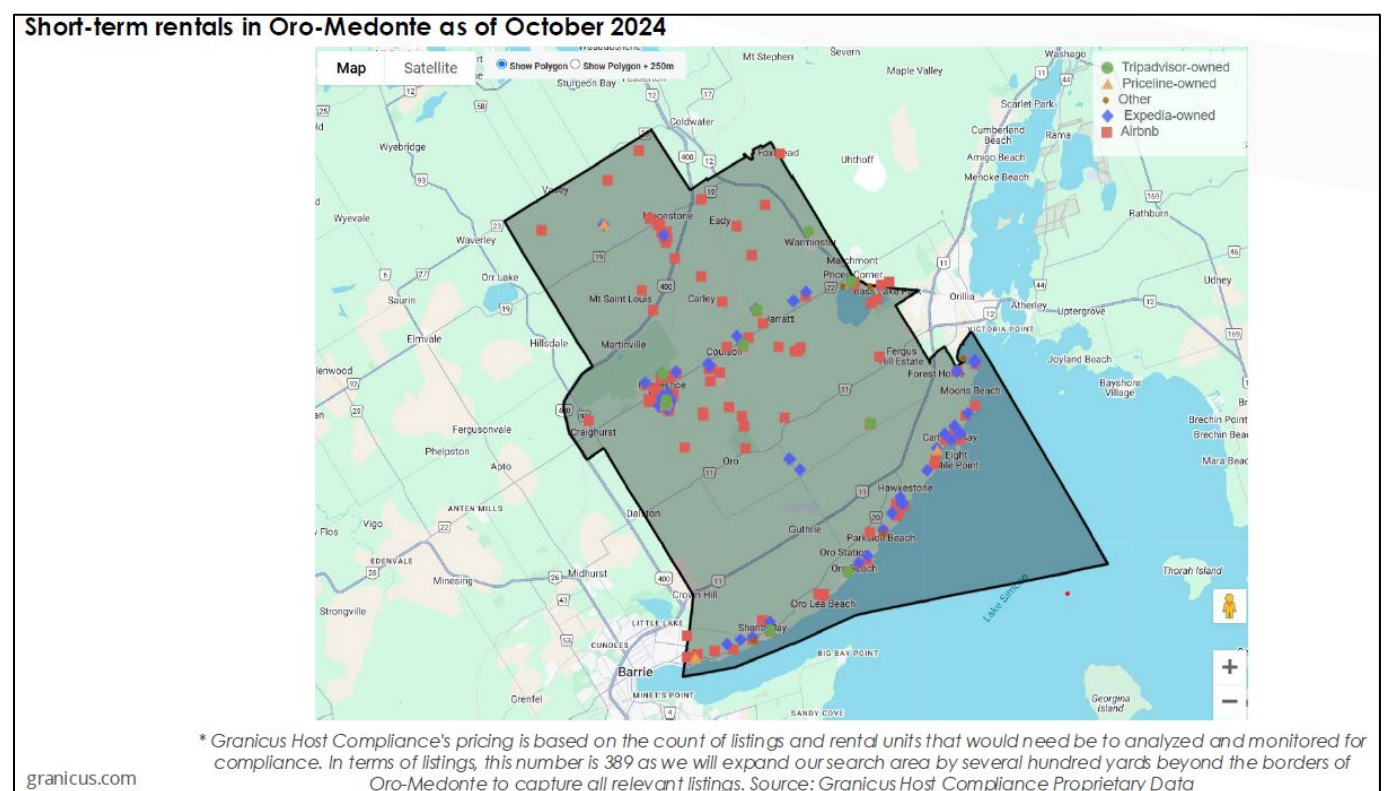
1. That Report No. DS2025-004 be received and adopted.
2. That Council approve Option #4 – Implement a Licensing Program for Legal Short-Term Rental Accommodation and Bed and Breakfast uses as well as continue to seek compliance through Orders Under the Municipal Act (Section 440), where necessary to prohibit illegal Short-Term Rental Accommodations.
3. That Council direct staff to prepare a draft Licensing By-law as recommended in the report
4. That Council direct staff to host a public information/consultation session on the draft licensing by-law, which would include:
 - a) information on how it relates to the licensing of legal STRAs only permitted in two Zones in the Township and Bed and Breakfast establishments
 - b) information on the requirements to obtain a license
 - c) steps the Township would take to enforce the Licensing By-law if enacted by Council
 - d) information on the administrative monetary penalty system and how it works
5. That Council direct staff to continue to explore third-party enforcement services provided by Granicus Host Compliance Services.
6. That staff report back to Council on the comments received at the public information/consultation session and recommended next steps.

Introduction

The purpose of this Options Report is to provide Council with options in dealing with illegal short-term rental accommodations (STRA) in Oro-Medonte. It follows [DS2024-093 Information Report](#) presented to Council on September 11, 2024 and the Council Education Session on Municipal Licensing held on October 16, 2024 - [Report DS2024-124 Council Education Session Short-Term Rentals](#).

Both reports provided background information regarding the history of STRA's in Oro-Medonte. The first report outlined actions that Council and Staff have taken since 2017 to date to address this issue. The Council Education session provided information on the challenges using a Zoning By-law to enforce illegal STRA's and options Council could consider including introducing licensing of legal short-term rentals.

Granicus, a third-party provider of enforcement services through their "Host Compliance" platform identified 365 STRA listings representing 294 unique rental units in Oro-Medonte from their search of over 100 on-line sites as of October 2024 (Stats from August 2020: 265 listings/221 unique rental units). The number of rental units is less than the listings as some properties are listed on municipal websites which represent a double count for the same unit.



Enforcement Tools

Zoning By-law

Section 3.0 of the Township's Zoning By-law By-law 97-95 outlines that the only uses permitted in each zone are those specified in the by-law.

The various Residential (R1, R2, RUR1, RUR2) Zones are defined by their reference to "dwelling units", as an example a "single detached dwelling means" a building containing only one dwelling unit".

Dwelling unit is defined as "Means one or more rooms in a building, designed as, or intended as, or capable of being used or occupied as a single independent housekeeping unit and containing living, sleeping, sanitary and food preparation facilities or facilities for the installation of kitchen equipment and has an independent entrance. For the purposes of this By-law, a dwelling unit does not include any commercial accommodation or a recreational trailer."

Commercial Accommodation is not listed as a permitted use in any of the Township's Residential Zones.

Short Term Rental Accommodations (STRA's) are only permitted in certain zone categories. They are only permitted within the Village One (V1) and Residential Two, exception 123 (R2-123) Zones.

A time-share is another form of an STRA. These types of uses are only permitted in the following areas:

- Horseshoe Resort Condos
- The Carriage Hills and Carriage Ridge developments.

Bed and Breakfast uses are another form of STRA and are only permitted as of right in the Agriculture/Rural Zone (A/RU) or Private Recreation (PR) Zone under the Zoning By-law. They are permitted elsewhere by exception approved through a Zoning Amendment.

In July 2020 Council introduced a definition of "*Commercial Accommodation*" to the Zoning By-law, which was challenged to the Ontario Lands Tribunal (OLT). The OLT rescinded the by-law and upon appeal, the Superior Court supported the OLT decision.

The Court recognized that the current Zoning By-law already prohibits commercial accommodation in dwelling units, but stated it must be something "*other than simply renting a dwelling unit for money*".

The Court goes on to suggest that the term "*commercial accommodation*" in the current definition of dwelling unit, "... *could mean that temporary accommodation provided as part of an ongoing commercial enterprise akin to a hotel, motel, resort or bed and breakfast are prohibited as commercial accommodations.*"

The challenge lies in gathering the required evidence that would satisfy the Court that a particular property is being rented for commercial purposes. The education session informed Council that the evidence threshold for a successful conviction under the Zoning By-law is very high, costly and difficult to achieve for a number of reasons that are out of Township control such as uncooperative witnesses.

The same scenario has played out across municipalities in Ontario when attempting to enforce illegal STRA's. The conclusion many municipalities have reached is that it is very difficult to enforce STRA's in residential neighbourhoods under the provisions of a Zoning By-law due to the evidence required to secure a conviction. Even if the municipality is able to secure a conviction, the fines are quite minimal and do not come anywhere near the cost of bringing a matter to Court.

Other Township of Oro-Medonte Regulatory By-laws

The Township has several by-laws in place that regulate issues associated with STRA's such as noise, dogs at large, on-street parking, garbage accumulation, open-air burning, etc. All of these by-laws can be used to deal with issues that arise from STRA's.

Section 440 of the Municipal Act

Section 440 of the Ontario Municipal Act, 2001 (Municipal Act) provides a municipality with the option of seeking an injunction by the Court to restrain an activity that is not permitted. It is found under the chapter dealing with General Enforcement Powers. The Section states:

“Power to restrain

“440 If any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened, in addition to any other remedy and to any penalty imposed by the by-law, the contravention may be restrained by application at the instance of a taxpayer or the municipality or local board. 2006, c. 32, Sched. A, s. 184. request for an injunction under s. 440 of the Municipal Act to any charges brought under the Provincial Offences Act.”

Under this section a municipality may bring an application to the Superior Court for injunctive relief (injunction) prohibiting the illegal use from occurring. Evidence must be provided to the Court to support the application. It can be an expensive process, ranging in cost from \$10,000 to \$30,000 per application. Typically, this section is used if the matter is flagrant or there are life safety issues to be addressed.

In a recent case provided to the writer pertaining to an illegal STRA, evidence was provided by Municipal Law Enforcement outlining the actions taken to address the illegal use and affidavits from three neighbours indicating the use was taking place. Based on this information the Court issued an order prohibiting the illegal STRA use. Such evidence requires the cooperation of the affected parties which is not always easy to obtain as complainants may not be comfortable with divulging their identity.

Municipal Licensing

Under the Municipal Act, municipalities can enact licensing by-laws to regulate and govern STRA units. Specifically, Section 8(3) authorizes a municipality to provide for a system of licenses and further Section 151 details the requirements for licensing of

businesses and enable the Township to prohibit a business without a licence, refuse to grant or revoke a licence, and impose conditions on a licence holder.

The Township of Oro-Medonte has several licensing by-laws that address, Dog tags, Fireworks, Hawkers & Peddlers, Kennels, Special Events, Lottery and Refreshment Stands under separate by-laws. The by-laws specify the requirements for licensing including the payment of license fees, submission of various inspections/reports from outside agencies and inspections from Township staff. Each By-law has a requirement that the use be confirmed by the Planning Department as a permitted use.

All businesses in the specified uses listed under a Licensing By-law have to be licensed to operate. If a business is operating without a licence, it is in violation of the By-law. The owner of the business could be fined under the By-law for various offences listed in the by-law. For example, if the by-law restricted the advertising of a business that was not licensed, a person advertising a business that is not licensed on an internet platform would be guilty of an offence. Fines could be imposed for each day the business is operating without a licence or advertises without a licence.

Additionally, Section 447 of the Act provides the municipality with the authority to close a premises that has contravened the by-law.

In Oro-Medonte licensing administration is undertaken by Municipal Law Enforcement with input from other Departments such as Planning, Building and Fire and Emergency Services.

Licensing fees are established based on recovering the costs of administering the licensing program.

A review of STRA Licensing By-laws from benchmark municipalities includes the following highlights:

- Definitions and clarity between a principal dwelling and a secondary residence, clearly identifying that the principal dwelling is on record as being licensed.
- Definition for a “Responsible Person” who is responsible for the operation of the STRA in accordance with the license.
- Definition of a “Short Term Rental Accommodation” as being that of a single-family dwelling that is rented for less than 30 days.
- Definition for “commercial activities” meaning activities hosted at the property that involve costs or monies for services, and would include such things as weddings, retirement parties, music events.
- Provides a class of licence for operators of STRA’s that own multiple properties and sets maximums on number of days per year rented, number of consecutive nights of stays and maximum number of residents.
- Prohibits advertising of the STRA without a licence.
- Limits the number of occupants to 2 persons per guest room, which includes rooms with pull out couches and murphy beds,
- Sets a term for each licence to expire at the end of each year or upon sale of property.

- Application submission requirements include site plan drawings illustrating guest rooms, name and contact information of the Responsible Person and payment of any fees.
- Requirement that each property have one parking space per guest room; require that parking of vehicles occur in a designated parking area; require that documents be available for guests such as the Renters Code of Conduct, and require a Fire Extinguisher in all cooking spaces.
- Sets out the terms for revoking licence or refusing licences, including counting of “strikes” when a violation of the licence has occurred and that if two strikes are recorded in a 12-month period a licence may be refused.
- Provides a Schedule of Set Fines under Part 1 of the Provincial Offences Act, in which the fines range but are generally \$1,000 to \$2,000 for matters such as, operating a short-term rental without a licence or renting a room that is not an approved guest room.

Benchmarking

City of Niagara Falls

The City of Niagara Falls uses the term Vacation Rental Unit (VRU) to describe STRA’s in it’s municipality. VRUs are only permitted in three specific commercial zones and by exception in residential areas. The City has a comprehensive licensing by-law for VRUs (enacted in 2018 and last amended in 2021) and provides a list of legal licenced VRUs on its website. The City does not have an Administrative Monetary Penalty (AMPS) program in place for VRUs.

City of Orillia

City of Orillia staff interpret the City’s Zoning By-law as permitting a variety of residential uses, including rental uses of any duration in residential zones.

The City implemented a comprehensive licensing By-law for STRAs in September of 2023 with a limit of 150 licensed STRAs permitted to operate per calendar year. The City has a very informative page on their website ([Link to Orillia STR Website](#)) dealing with short-term rentals, including a list of approved STRAs with municipal addresses.

Administration and Enforcement is conducted by Municipal Law Enforcement and people are urged to call the responsible person if they have an after-hours complaint and then municipal law enforcement if they are not satisfied. “Host Compliance” (Granicus) supports Municipal Law Enforcement. An AMPS program is in place within the City of Orillia.

Town of Penetanguishene

The Town of Penetanguishene’s Zoning By-law permits STRAs in two specific zones. It implemented a licensing program to regulate and govern STRAs in 2023. The Town of Penetanguishene also has an informative website ([Link to Town of Penetanguishene STR Webpage](#))

Administration and Enforcement is conducted by Municipal Law Enforcement with support provided by “Host Compliance”. An AMPS program is in place within the Town of Penetanguishene.

Town of Collingwood

The Town of Collingwood’s recently amended its Zoning By-law to permit STRAs in its residential zones to align the Zoning By-law with its new licensing regime They were not permitted previously ([Link to Town of Collingwood Webpage](#)).

Collingwood launched Phase 1 of its licensing program in February 2024, the licensing of Bed and Breakfast establishments (Class A). On January 6, 2025, it launched Phase 2 with the licensing of Principle Residence STRA (Class B) and Additional Residence STRA (Class C) (Additional Dwelling Unit on the same lot).

A maximum of 200 licenses is permitted. Administration and Enforcement is conducted by Municipal Law Enforcement with after-hours complaint support provided by the OPP. For 2025 staff are recommending engaging “Host Compliance” to assist with after-hours enforcement. An AMPS program is in place within the Town of Collingwood.

Town of Huntsville

The Town of Huntsville Zoning permits STRAs in three specific residential zones. A licensing by-law to regulate and govern STRAs was passed in 2020. Its STRAs website ([Link to Town of Huntsville Webpage](#)) lists licensed STRAs by address that are linked to location

Administration and Enforcement is conducted by Municipal Law Enforcement with support provided by “Host Compliance”. An AMPS program is in place within the Town of Huntsville.

Township of Lake of Bays

The Township of Lake of Bays’ Zoning By-law permits STRAs in principle residences located in a variety of commercial zones.

A Licensing By-law for STRAs came into effect January 1, 2022 and was updated in May 2024. Its STRAs website ([Link to Township of Lake of Bays STR Licensing Webpage](#)) lists licensed STRs by address that are linked to location.

Administration and Enforcement is conducted by Municipal Law Enforcement with complaint support provided by “Host Compliance”. An AMPS program is in place in the Township of Lake of Bays.

Township of Ramara

The Township of Ramara's Zoning By-law was adopted in 2005. From a review of the current consolidation on the Township's website ([Link to Township of Ramara STR Webpage](#)) the Zoning By-law does not have any reference to STRAs. The definition of dwelling unit does not include reference to commercial accommodation.

The Township of Ramara STRA licensing by-law was adopted in 2020 and has seen a number of amendments, with the last one approved in February 2023 to implement an AMPS penalty framework. The Licensing By-law includes a stipulation that a STRA license will not be granted to a property owner within 300 metres (984 feet) of an existing STRA licensed property.

STRA location mapping is available on its website along with contact information of the responsible person appointed by the operator. Administration and Enforcement is conducted by Municipal Law Enforcement.

Township of Severn

The Township of Severn Zoning By-law does not permit a tourist home, tourist establishment or commercial accommodation unit in any residential zone. STRAs are not permitted in any residential zone and the by-law specifically states in the definition of a dwelling unit that a commercial accommodation that is a tourist establishment is not permitted.

Tourist establishments are only permitted in three commercial zones and the Greenlands Zone (existing only). The Township does not license tourist homes, tourist establishments or commercial accommodations. Enforcement is conducted by municipal Law Enforcement. Complainants are also encouraged to contact the platform the rental is listed on. Information is provided on the Township website ([Link to Township of Severn Webpage](#)).

Administrative Monetary Penalty System (AMPS)

In 2014, Ontario Regulation 333/07 came into effect, under the Municipal Act, S.O. 2001, c. 25, as amended allowing municipalities to administer set fines/monetary penalties under an Administrative Monetary Penalty Program (AMP Program) for the issuance of parking infractions.

The Municipal Act, S.O. 2001, c.25, as amended, Part XIV Enforcement, Section 434.1(1) Administrative Penalties, as well as other sections contain the authority to establish and set up the AMP program not only for parking but as another tool to assist the municipality in promoting compliance related to enforcement of various By-laws. The purpose of these sections was to remove the burden of parking tickets and other provincial offences from the court system to free up time and possibly expedite the process for municipalities.

AMPS is an alternative process to proceeding to Provincial Offences Court to have a charge adjudicated. It does not apply to charges under the Planning Act. Under an AMPS' program, a fee is levied and the offender pays the penalty directly to the municipality. The offender can appeal the fee, which is then heard by an independent

hearings officer employed by the municipality. This procedure by-passes the Court process altogether.

Many municipalities in Ontario have moved to an Administrative Monetary Penalty System (AMPS) due to the delays in proceeding to Provincial Court, the standard of proof required to secure a conviction (beyond a reasonable doubt versus balance of probabilities) and the low level of fines imposed.

The Township recently put an AMPS program in place. At the March 27, 2024, Council meeting the Manager of Municipal Law Enforcement introduced Council to the AMPS program under report [DS2024-026](#). At the November 27, 2024, Council meeting a Draft AMPS By-law was introduced to Council under report [DS2024-144](#) and on December 11, 2024 Council enacted [By-law No. 2024-128](#), an Administrative Monetary Penalty By-law.

Third Party Enforcement

It is noted through the benchmarking exercise outlined earlier that a number of municipalities use a software tool from a third-party company called Granicus. (website: Granicus.com). The tool is called “Host Compliance” and there is a menu of services relating to the enforcement of STRAs, including address identification, permitting and registration, tax collection, compliance monitoring, rental activity monitoring, complaints hotline services, and regulations consulting that a municipality can choose from depending on their needs.

The writer and the Chief Municipal Law Enforcement Officer met with a Granicus representative to discuss the various modules and discuss services that might be helpful to Oro-Medonte. From the review and looking at common practice, most municipalities subscribe to the following three modules:

1. **Address Identification Module** – Automated monitoring of 60+ STRA websites and on-line dashboards with complete address information and screenshots of all identifiable STRAs provided to the municipality.
2. **Compliance Monitoring** – Ongoing monitoring of STRAs for zoning and permit compliance coupled with systemic outreach to illegal STRA operators with no licence. Granicus and Town staff can contact property owners directly to address illegal STRAs.
3. **24/7 Hotline** – Members of the public can use the 24/7 hotline by phone call or text to report, prove, and resolve non-emergency (i.e. noise, parking, etc.) STRA related problems in real-time. Granicus contacts the property owner or person responsible for the STRA to address the complaint. Town staff are notified when a complaint is received to take appropriate action as per the Licensing By-law.

System integration between the Town and Granicus is required in order to share licensing information. Pricing is based on the number of STRAs in the municipality. Granicus estimated the annual cost for Oro-Medonte for the three modules outlined above would be approximately \$13,000, plus HST.

Options

In the absence of any Provincial legislation or regulation governing STRAs, there is no standard way to regulate STRAs in Ontario, therefore each municipality must determine its own approach. There are also restrictions as to what can be regulated through planning policies, such as the Zoning By-law and Official Plan. Only a limited number of municipalities in Ontario have entirely prohibited STRAs, given the many challenges with enforcing a ban.

Described in detail below are four options for Council's consideration with respect to regulating STRAs in Oro-Medonte.

1. Use the Zoning By-law

Under this option the Township would continue to use the Township Zoning By-law and other municipal regulatory by-laws to enforce STRAs operating contrary to the provisions of the Zoning By-law.

This option on its own merit is not recommended as the enforcement of illegal STRAs under the Zoning By-law is difficult due to the level of proof required to prove commercial accommodation to secure a conviction. In addition, the province excluded Zoning By-law infractions from being included under AMPS, which means all offences have to proceed to Provincial court and be adjudicated there with the challenges mentioned earlier. Finally, if successful the fines imposed, in particular for a first offence are minimal.

2. Use Section 440 of the Ontario Municipal Act

Under this option the Township would implement an Enforcement Program Using Section 440 of the Ontario Municipal Act, 2001 to seek orders from the Court prohibiting STRAs operating in residential zones where they are not permitted under the Zoning By-law.

This option on its own merit is not being recommended as a stand-alone option given the time and evidentiary requirements. It requires a submission to the court along with affidavits from witnesses indicating that the property is being used for commercial purposes. The property owner is provided the opportunity to refute the evidence being provided to the Court. The onus rests with the municipality to demonstrate that a commercial activity is taking place in contravention of the Zoning By-law. Third party enforcement assistance outlined above would assist in the evidence gathering. It can be expensive to prepare the material for court.

Members of the community impacted by illegal STRAs have shared their preference that the municipality implement a Section 440 program in support of the provisions of the Zoning By-law as a first step. Staff are of the view that this tool can best work in combination with a licensing tool described next.

3. Implement a Licensing By-law for STRAs and B&Bs

Under this option, Council would adopt a Licensing By-law making it a requirement that a license would be needed to operate a STRA and/or a B&B in the Township. Under the

benchmarking exercise outlined earlier, this is the most common means of addressing illegal STRAs.

A Licensing By-law outlines when the municipality may issue a licence, refuse to issue or renew a licence, and enables the suspension or revocation of a licence if infractions occur. For example, a licence can be issued conditional upon certain criteria (e.g., proof of fire plan, primary residency, etc.) and a requirement that the licence holder adheres to certain performance standards (e.g., maximum occupancy, availability of a contact person, etc.).

Oro-Medonte recently implemented an Administrative Monetary Penalties (AMPs) program as a system/method for enforcing compliance with municipal by-laws including Licensing By-laws. AMP penalties can be an effective deterrent to illegal operators as any fines must be paid or they are levied on the property taxes. The implementing by-law includes an appeal process, which is administered by the municipality.

The resources required to facilitate this option would correspond to the complexity and extent of the STRA licensing framework.

Municipal Law Enforcement already has processes in place for the issuance of licenses and a vacant enforcement position exists that could be filled and used to enforce illegal STRAs. It is also preparing for the implementation of the AMPs' program. Staff recommend that any revenue generated through a licensing program and other ancillary fees cover the cost associated with the cost of administration and enforcement. Staff are exploring the use of Cloud Permit to receive applications, a tool already in use by the Building and Planning Departments.

If Council proceeds with this option, staff would propose a licence fee that recovers, to the extent possible, administrative costs relating to licensing so that the system users are funding the program's expenditures and costs are not passed onto other residents. In addition, licence fees should be reasonable so that operators will willingly apply to the Township for a license.

A review of licensing fees indicated that they range from \$0 to \$1,500.00 annually. Other fees associated with licence applications (e.g., fire inspection, re-inspection) and administrative matters (e.g., set fines, appeals) are also prescribed by municipalities to support the licensing regime.

If Council wishes to pursue an STRA licensing by-law it will be necessary to draft the by-law. The writer has sourced several licensing by-laws that range from the complex to the simple. To ensure that the By-law meets Oro-Medonte requirements staff are proposing to engage Paul Dray and Associates to prepare a draft Licensing By-law and present it to Council at a public meeting. The estimated cost would be \$11,500 for this service.

4. Implement a Licensing By-law for STRAs and B&Bs and Use Section 440 of the Ontario Municipal Act to seek Orders against STRAs operating illegally.

(Staff recommendation) This option would be a combination of Option 3 and 4 outlined above. It would implement a comprehensive approach to dealing with illegal STRAs.

Financial/Legal Implications/Risk Management

The potential cost implication is a one-time cost of \$11,500 to create a Licensing By-law and an annual cost of approximately \$13,000 to provide address identification, third-party monitoring, and complaint hotline services for the municipality.

Policies/Legislation

- Municipal Act
- Planning Act
- Township of Oro-Medonte Zoning By-law

Consultations

- Chief Administrative Officer
- Director, Development Services
- Chief Municipal Law Enforcement Officer

Aligned with the Township's recently adopted Engagement Policy – an engagement plan/policy will be followed to inform and involve the community following Council's direction.

Conclusion

Since 2018, Council and staff have undertaken multiple actions to regulate the short-term rental accommodations in the Township with little success.

Over the years decisions of the OLT and Divisional Court have provided several take-aways for staff, including confirmation that the existing definition of Dwelling Unit in the Zoning By-law does not include Commercial Accommodation as a permitted use, which should be sufficient for the municipality to enforce its by-law. The same OLT and divisional Court decisions also suggested the need for the creation of a supplementary licensing by-law to effectively deal with disruptive uses that can be associated with problematic STRAs.

The OLT and Divisional Court also provided some guidance on the potential threshold of evidence required. Staff are of the view that with this information it is in a position to gather evidence and pursue orders under the Municipal Act (Section 440) against STRA operating illegally.

At the October 16, 2024, Education Session Council heard that a comprehensive licensing by-law that provides clear violations that can easily be identified and proven is more effective in dealing with illegal STRAs rather than exclusively relying on a Zoning By-law. Through benchmarking, staff have determined that licensing is a common tool used to enforce STRAs. Third party enforcement assistance provides the evidence that

makes it easier to pursue Section 440 orders, and combined with an AMPS program, makes it easier to target and deter illegal STRA operators.

If Council approves the staff recommendation, a draft licensing by-law will be prepared and tabled with Council in February and a public meeting scheduled in March to gather public input on the draft by-law.

Respectfully submitted;

George Vadeboncoeur, RPP,
Manager, Planning Special Projects

January 14, 2024

Approvals:

Brent Spagnol, Director, Development Services
Shannon Johnson, Chief Financial Officer / Treasurer
Curtis Shelswell, Chief Municipal Law Enforcement Officer
Shawn Binns, CAO

Date:

January 15, 2024
January 15, 2024
January 15, 2024
January 15, 2024