

Report



Report No. DS2018-012	To: Council	Prepared By: Andria Leigh, Director, Development Services and Curtis Shelswell, Chief Municipal Law Enforcement Officer
Meeting Date: February 28, 2018	Subject: Short-Term Rental Accommodations	Motion # _____
Roll #:		R.M.S. File #: D14 54310

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

1. That Report DS2018-012 be received and adopted; and
2. That staff proceed forward with the implementation of Option # _____ in accordance with Council's direction; and
3. That the Deputy Clerk _____ (bring forward/not bring forward) an Interim Control By-law under Section 38 of the Planning Act as directed by Council.

Background:

During the later portion of 2017, both staff and Council were advised of several short-term rentals properties within the Township of Oro-Medonte. Short-term rentals are generally dwellings/properties that are rented by individuals over a one to three-day period (weekend). In most cases the registered owner does not reside at the property and in some cases the registered owner has never met the individuals renting their dwelling/property. To date, there are a total of 6 properties in the Township which have been brought to the attention of Council or staff regarding their usage as short term rentals. A review of the various internet platforms for Short Term Accommodation rentals (Airbnb, Hometogo, Flipkey, VRBO, HomeAway, Sonder, and Canadastays) would indicate that there are approximately 160-270 properties currently listed for rental over the various sites in Oro-Medonte.

Residents in the immediate area of these short term rentals have raised a number of concerns with staff and Council including: general disruption to these residential areas

and conflicts between long term cottagers/ permanent residents and short term renters, parking, noise, garbage, vandalism, property standards and septic impacts.

Noise

As mentioned the short-term rental is typically for one to three days in length, individuals renting are not aware of the surroundings and therefore tend to create a disturbance for neighboring property owners as they are outside all hours of the night. Short-term rentals are often groups/family's celebrating events such as weddings or attending a major event in the area, resulting in larger than normal number of individuals occupying the dwelling.

Septic System

The approved system is typically not designed to accommodate large groups and potentially creates immediate and/or long term issues with the system.

Parking

Parking is often an issue as the driveway for some of the short-term rental properties does not accommodate for all the vehicles, resulting in vehicles being parked on the road out front of neighboring properties limiting their parking and/or creating an obstruction for the flow of traffic.

Trespassing

Staff have received complaints in relation to renters utilizing neighboring docks without the proper permissions.

Habitable Rooms/Areas

Boat houses, bunkie's and RV trailers have been used to accommodate larger groups. The use of a boathouse and/or bunkie is not generally not permitted unless an exception to the By-law has been granted.

RV's and recreational Trailer are only permitted for the use of human habitation in a Campground Establishment as per the Township Zoning By-law.

Building Alterations

Often staff come across alterations that have been made to the dwelling without the required permit to accommodate for larger groups and to take full advantage of rental income.

Garbage

Staff have received complaints regarding the amount of garbage left after short term rentals; which is typically larger than the weekly limits and/or is left for periods of time attracting wildlife.

On the basis of the concerns being raised by residents, Council directed staff to review the issue of short term rentals and report back to Council. The purpose of this report is to advise Council of the research conducted by staff, to provide options for Council's consideration, and to determine the direction Council recommends proceeding with regard to short term rental accommodations.

Analysis:

The short-term rental accommodations issue continues to be evolving and on-going in a number of municipalities. Historically short-term rental accommodations were a consideration in the recreation and tourist related areas, such as the Town of Blue Mountains, however more recently they have affected larger urban centres, like the City of Toronto. The approach taken by a municipality to address short term rental accommodations varies based on the issues raised and the specific impacts on that municipality. It is therefore difficult to determine one approach taken by most municipalities. The intent of this report is to identify a number of options available to the Township, to outline the factors to be considered should that be the preferred option of Council, and to obtain direction from Council on their preferred option. Once a preferred option is identified by Council, staff will be in a position to move forward with an implementation approach for 2018.

As noted above, the Town of Blue Mountains has historically been the subject of short term rental accommodations due to the many ski facilities in the area and the need for accommodations. By the early 2000's, many of the traditional chalets were being rented out for short term accommodation, creating a more commercialized atmosphere rather than the residential community that had existed. This began to create impacts and disruptions to these typical residential areas leading to an increasing number of complaints to Town enforcement staff and the OPP. Many of the issues are similar to those being raised today by residents in Oro-Medonte: parking, garbage, noise, vandalism, and property standards. The Town recognized the issue, completed a review of the problem and potential solutions, and ultimately implemented planning and regulatory frameworks. This framework included enacting an interim control by-law while the issue was being studied to prohibit any new short-term accommodation uses, adoption of Official Plan and Zoning By-law Amendments to define and regulate short term rental accommodations in the Town. All of these documents were appealed to the Ontario Municipal Board, but ultimately policies have been implemented in the Town's planning documents. The Town then adopted licensing by-laws for all short term rental accommodations which require all short term accommodations to be licensed and are subject to bi-annual inspections by Town staff. Enforcement of this licensing by-law is on a complaint basis but Town staff have also taken a proactive approach by monitoring the various rental websites and verifying those properties are licensed. **The Township**

has invested significant time, money, and added new full time staff resources into their program and have indicated to date the cost of the program is estimated to exceed \$ 1,000,000. The Town will be reviewing the program during their Official Plan Review to determine if the tools are effective, if the program is sustainable, and if the community/climate of rental accommodations has changed. As of November 2017 the Town had issued 269 licenses. The Town added one additional Full Time staff complement whose sole function is the Short Term Accommodations licensing/registry and inspections. In addition, the other Full Time Municipal Law Officers assist with the inspections. Staff did indicate verbally that there are challenges managing the applications, licensing, and inspections with only one full time dedicated staff member.

Most recently the City of Toronto has completed their consultation process, approved zoning by-law amendments to define short term rental accommodations, and implemented a licensing/annual registry process. The zoning by-law amendment was appealed and is currently scheduled to be heard by the OMB, no hearing date is yet scheduled. The City of Toronto began their review process in early 2016, with the scheduling of open houses, public meetings, focus groups, online surveys, and other consultations to obtain input from the community on short term rentals. The City's program was based on the following principles:

- Allowing people to rent their homes for short periods of time;
- Minimize negative impacts on housing affordability and availability;
- Maintain community stability, including vertical communities,
- Minimize nuisances, such as noise and garbage, and
- Enable greater diversity on tourism accommodations

The city wide amendment that was approved defined short-term rentals as: "means all or part of a dwelling unit that is:

- (a) Used to provide sleeping accommodation for any rental period that is less than 28 consecutive days; and
- (b) The principal residents of the short-term rental operator"

The new definition is intended to address length of stay, principal residence, short term rental operators, and the housing availability and affordability. As noted above the zoning amendment is currently before the OMB waiting a hearing date.

While some of the nuisance impacts are the same in the City of Toronto as those being identified in Oro-Medonte, the other impacts regarding affordability and availability of housing are not generally issues for the Township.

The City of Toronto program also requires anyone looking to facilitate a short term rental to register with the City and pay an annual fee of \$50 and also requires any companies that facilitate short term rentals, like Airbnb to be licensed, pay a one time licensing fee of \$5000 and a \$ 1 licensing fee for each night booked through the company. The implementation of the program has identified that 5 new full time staff will be required for the registry/licensing program and an additional 3 part time staff are initially required for the initial program implementation. City staff identified that there assumptions were based on 8000 short term rental operators being registered, one

company licensed and 765,000 nights booked via the licensing company in the first year.

Staff also looked at other local municipalities with a tourist based focus to determine the zoning and licensing/registry that they may have established.

The Town of Collingwood only allows bed and breakfasts in a Residential zone as the means of short term rental accommodation and do not have licensing for these.

In the Town of Wasaga Beach, only the Resort Commercial and Tourist Accommodation zones permit short term accommodation, these rentals are not permitted in Residential zones, they are similar to the Township of Collingwood and fall under the Bed and Breakfast use. These are required to obtain an annual business licensing.

In the Township of Clearview, short term rentals are consider bed and breakfasts and are permitted in the Agricultural and Rural zones. Other zones require a zoning by-law amendment. Further the by-law requires the dwelling to be occupied by the owner when the guest rooms are available to the travelling public.

The Township of Ramara has a subcommittee that is currently reviewing this issue and staff are discussing further with them their proposed approach. They are currently reviewing noise by-law amendments and definitions for STR or STA.

As stated above, the approach to short term rental accommodations needs to be localized. While the Township can learn from other municipalities and the approach they have chosen or not chosen to implement, ultimately the approach taken needs to be appropriate for Oro-Medonte. Any approach needs to consider: minimizing the potential conflicts between the current community and the rentals, recognize the economic impacts the rentals can have on the community, the Township's focus as a tourist/recreation destination, potential financial and staff resources impacts, and the expected outcome of the regulations (licensing, registry, enforcement).

Staff have been reviewing other jurisdictions that have implemented short term rentals and the research and analysis they have completed. It is important to recognize that each municipality has to weigh the pros and cons of implementing short term rental requirements and that no two municipalities will have the same rationale for proceeding or not. It is clear to date in the research/review conducted by staff that a variety of options have been considered and each municipality that implements some form of short term rentals have recognized the specific impacts and unique requirements of their municipality.

Options available to the Township include the following:

1. Direct staff to proceed with the drafting of Official Plan and/or Zoning By-law amendments – These amendments would define short term rental accommodations, identify areas of the Township where these would be considered a permitted use. The amendments would be the subject of a public

consultation process under the Planning Act prior to a decision of Council. Should the planning amendments be approved in the future, Township staff would then respond on a complaint driven basis to investigate and obtain compliance with the by-law, as required. Based on continued popularity of short term rental accommodations, it is expected that the number of complaints received by Township staff will continue to increase and create a strain on the current staff resources, similar to the Township of Blue Mountains for enforcement through the Provincial Offences Act. In addition, the process to obtain legal compliance under the by-law through the Provincial Offences will require additional financial resources. No form of licensing or registry program would be implemented under this approach. Compliance would only be sought under the Township's Zoning By-law.

2. (a) Direct staff to proceed with the drafting of Official Plan and/or Zoning By-law amendments – These amendments would define short term rental accommodations, identify areas of the Township where these would be considered a permitted use. The amendments would be the subject of a public consultation process under the Planning Act prior to a decision of Council. Should the planning approvals be approved, Township staff would then respond on a complaint driven basis to investigate and obtain compliance with the by-law, as required. Based on continued popularity of short term rental accommodations, it is expected that the number of complaints received by Township staff will continue to increase and create a strain on the current staff resources, similar to the Township of Blue Mountains. In addition, the process to obtain legal compliance under the by-law through the Provincial Offences will require additional financial resources.
- (b) Direct Staff to proceed with drafting of a registry or licensing by-law to implement an annual license and inspection program. This type of approach would provide for additional revenue which would be intended to offset some/all of the costs for additional staff resources to administer the program and complete the annual licensing inspections. Under this approach direction would be required to determine if both the rental operators and the short term rental companies, like Airbnb, would be subject to licensing fees. This approach would be similar to the City of Toronto approach. Similar to both Blue Mountains and Toronto, additional staff resources would be required to administer this program and to complete the annual inspections for compliance.
3. Do nothing at this time and continue to monitor resident complaints/impacts in 2018 – this option would not appear to require significant staff resource and time allocation based on the current level of resident inquiries. Staff would be required to continue to investigate to determine potential infractions under other legislation or by-laws for enforcement.

Should Council consider proceeding with some of the options noted above, there is the ability, similar to the Town of Blue Mountains to consider initially adopting an Interim Control By-law (ICBL) to prohibit any new short term rental accommodations while staff are directed to proceed with a further review of additional jurisdictions, decisions made

by some jurisdictions currently in process, OMB outcomes, potential Official Plan and Zoning By-law Amendment , regulation/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. It should be clear, that the ICBL cannot be applied to existing dwellings already being used for short term rental accommodations.

As identified in a previous staff report to Council, a municipality can pass an interim control by-law to control development for a time period of up to one year (from the passing of the by-law). That by-law can however be amended to allow the period to extended for one additional year. If the municipality does not complete the study or pass a zoning by-law within the time period set out in the interim control by-law then the zoning provisions that applied prior to the interim control by-law again come into effect. Another interim control by-law cannot be passed for the same lands for at least 3 years. Further to this, the interim control by-law cannot prohibit any use that legally existed prior to the passing of the by-laws nor any building for which a permit has been issued prior to the passing of the by-law. On this basis, the by-law cannot be applied to existing dwellings used for short term rental accommodations during the planning review; it would however prohibit new short term rental accommodation uses.

Financial / Legal Implications / Risk Management:

Depending on the option chosen by Council, there will be financial and legal implications as noted in the options provided above.

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
- Township staff

Conclusion:

The Township of Oro-Medonte continues to be an area that is the focus for tourism as a significant component of employment and economic development. Due to its geographic location and close proximity to the GTA, 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 have provided a series of options to Council for consideration regarding the zoning permissions and licensing regulations available for short term rentals. Direction is now required from Council regarding their support for one of these options and also whether Council is supportive of the adoption of an Interim Control By-law. Staff would then be in a position to proceed forward to implement the preferred option as directed by Council. Further, staff would bring an update report to Council at the beginning of 2019 to provide an update on the implementation, staffing and financial impacts from Council's direction.

Respectfully submitted,



Andria Leigh, RPP
Director, Development Services



Curtis Shelswell
Chief Municipal Law Enforcement Officer

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