
HALDIMAND COUNTY

Report BME-01-2023 Short Term Rental Accommodations For Consideration by Council in Committee on May 2, 2023



OBJECTIVE:

To report back to Council regarding options to regulate Short Term Rental Accommodations in Haldimand County.

RECOMMENDATIONS:

1. THAT Report BME-01-2023 Short Term Accommodations be received;
2. AND THAT the current status quo measures used to regulate Short Term Rental Accommodations, as outlined in Report BME-01-2023, be maintained and no additional regulations be introduced at this time;
3. AND THAT staff continue to monitor complaints and impacts relative to Short Term Rental Accommodations, including the effectiveness of existing regulatory measures, and report back to Council before the end of 2023.

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Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

In response to Council's direction, staff have researched various options for regulation of Short-Term Rental Accommodations (STRA). The options presented herein represent the full range of those that can be considered in Ontario, including a complete ban, use of existing enforcement instruments and a full licensing program. Given the limited extent of the issue present day in the County, and the wide array of regulatory tools currently available, staff is recommending a status quo option at this time with a commitment to continue to monitor the issue and report back to Council at the end of the year regarding effectiveness of current tools and any changes to the extent of the issue.

BACKGROUND:

At the May 10, 2022 Council in Committee meeting, in response to a constituent delegation, a resolution was passed that staff be directed to report back to Council regarding effective measures to regulate Short Term Rental Accommodations (STRA) in Haldimand County. The impetus for the direction related to a number of concerns received from constituents around STRAs and the issues caused/that could be caused by them relative to noise, traffic, parking, unruly behaviour and waste.

The subject report summarizes the extent of the STRAs and associated issues in the County, the experiences of other municipalities, and discusses in more detail how municipalities have responded to the issue of STRAs in 4 basic ways.

1. Outright ban.
2. Maintain the status quo and rely upon existing By-laws, including the Ontario Building Code and the Ontario Fire Code.
3. Create a voluntary STRA registry.
4. Create a STRA By-law with 2 possible delivery options:
 - a) Additional MLEO (Municipal Law Enforcement Officer);
 - b) Third Party Service Provider.

ANALYSIS:

Short Term Rental Accommodations (STRA) is typically defined as a rental of any residential home, unit or accessory building for a short period of time. They have become a popular choice for people who want a quick getaway, to take shorter, more frequent and cheaper vacations. They are also used for purposes such as business travel. The most common internet-based platforms to visit to find information around short term rentals are Airbnb and VRBO. There are a few distinct approaches to STRAs such as:

- Owner occupied: A property owner rents one or more bedrooms in the dwelling and also resides in the dwelling. This is similar to a traditional bed and breakfast.
- Owner temporarily absent: A property owner rents the entire dwelling while the dwelling is not being used by the owner, however, uses the dwelling themselves otherwise. This would be similar to a traditional cottage rental when the owner may rent their cottage occasionally when not using it, to offset the “costs” of cottage ownership.
- Owner never present: A property owner may purchase a property, with no intention of residing or using the property, but rather rents it out as a short-term rental accommodation to generate income. This would be similar to investment properties traditionally rented out on a monthly/yearly basis.
- Multiple Dwelling Units: a property has additional dwelling units within the main building and/or detached structures and rents out one or more of the units as a short-term rental accommodation, possibly residing in one of the units or not. This would be similar to investment properties, such as duplex, triplex, etc., and could now include attached and/or detached secondary suites.

Currently, STRAs may occur on any residentially zoned lot in Haldimand County. Research by Staff completed in late 2022, indicated that there are approximately 250 STRAs in Haldimand County with a highest concentration along the lake including 146 around South Cayuga, Dunnville, Port Maitland and Lowbanks, 68 from South Cayuga to Nanticoke and 36 in Hagersville, Cayuga and Caledonia.

In connection with this review, staff have summarized the formal complaints and inquires that have been received and tracked relative to STRAs since 2020. Of the total 8 complaints received over the 3-year period, all were fully investigated by staff and none of them resulted in a By-law or Ontario Building Code violation.

Year	Inquiries from Realtors or Interested Buyers	Complaints/Inquires					
		Noise	Clean Yard	Property Standards	Ontario Building Code	General Complaints	COVID-19 Inquiry
2022	5	1	1	1	1	3	0
2021	12	0	0	0	0	0	1
2020	2	0	0	0	0	0	0

Municipal Review

Staff conducted a best practices study using municipalities that have a cottage country atmosphere and that may have already had short term rental concerns. With this in mind, staff looked at municipalities including Severn, Meaford (includes Annan, BalACLava, Bognor, Centreville, Leith, Woodford), Lambton Shores, South Bruce County (includes Sauble Beach, Wiarton, French Bay, Park Head), Prince Edward County, Tiny, Port Colborne, Fort Erie and Norfolk. The best practices study was intended to identify the scope of the issue compared to Haldimand County including measures, if any, these municipalities have taken to regulate this industry.

The number of short-term rental accommodations available varies from municipality to municipality, ranging from 286 in Port Colborne to over a 1,000 in Severn and 2,200 in Prince Edward County. Haldimand County is situated towards the lower end of available accommodations for those areas assessed. Within the collection of areas studied, there are numerous examples of municipalities that have implemented a short-term rental accommodations licensing program and also examples of municipalities that have chosen to rely on existing enforcement tools.

Municipality/Township	Short Term Rental License By-law	Number of Rentals on Airbnb/VRBO
Haldimand County	No	250
Severn (<i>Coldwater, Fesserton, Marchmont, Port Severn, Severn, Washago</i>)	No	1,060
Meaford (<i>Meaford, Annan, BalACLava, Bognor, Centreville, Leith, Woodford</i>)	No	132
South Bruce (<i>Sauble Beach, Wiarton, French Bay, Park Head</i>)	Yes	508
Prince Edward County	Yes	Peak Season 2,200 Off Season 1,400
Port Colborne	No	286
Fort Erie	Yes (under review)	N/A
Tiny	Yes	375
Norfolk County	No	N/A

Based on discussions with staff in other municipalities, the types of issues experienced with STRAs include unkept yards/garbage, septic over use, open fires, parking, nuisance behaviour and noise. The most common of these issues is noise. Two of the surveyed municipalities—Port Colborne and Tiny Township—shared details around the extent of noise complaints with Port Colborne receiving 168 between 2019 to 2021 and Tiny receiving 85 in 2021. By comparison, the County received one STRA-related noise complaint in the last 3 years.

Staff recognizes that many larger urban municipalities have implemented STRA licensing By-laws, which is largely related to the high volume of units in those jurisdictions and the higher volumes of travellers (business, vacationers, etc.). Given the different context of Haldimand, an analysis of those urban areas has not been completed. As noted, staff have focused on more comparable municipalities as it relates to population and geographic characteristics. Of the eight (8) municipalities studied by staff only three (3) have chosen to implement a licensing By-law. One significant point to note, is that Haldimand has fewer units and fewer issues relative to municipalities that have adopted a STRA Licensing By-law.

Options to the Short-Term Rental Accommodations Issue

The best practices study undertaken by staff indicated that municipalities have responded to the issue of Short-Term Rental Accommodations in 4 basic ways which are described in detail below along with staff's opinions relative to each:

Option #1 - Outright ban Short Term Rental Accommodations

This approach would require amendments to the County's Zoning By-law, and would basically prevent additional Short Term Rental Accommodations from starting up. Existing Short Term Rental Accommodations which were legally existed prior to the date of passing of the Zoning By-Law would be considered legally non-conforming and would be able to continue.

Staff have concerns that this approach, which amounts to a complete prohibition, cannot be realized legally through a Zoning By-law and would conflict with certain Provincial housing directives relating to rental accommodations. More so, such a prohibition would have an anti-tourism effect as it would serve to limit (and ultimately diminish) the provision of much needed (vacation oriented) roofed accommodation. Lastly, limiting the number of STR Accommodations to only those that existed prior to the Zoning By-law may inflate property values, as people wanting to get in the market will have to compete for limited number of properties. For all the reasons above, staff would not recommend this be considered.

Option #2 - Maintain the status quo

Haldimand County has a number of regulatory by-laws that can already respond to the majority of concerns that may arise from people using these types of accommodations. The existing regulatory tools of the County, and the issues that they can address common to STRAs, include:

<ul style="list-style-type: none"> • Property Standards By-law (dwelling occupancy and maintenance standards) 	<ul style="list-style-type: none"> • Zoning By-law (where a residential use is permitted)
<ul style="list-style-type: none"> • Clean Yard By-law (long grass and weeds) 	<ul style="list-style-type: none"> • The Ontario Building Code (safety of unit, adequate sewage/water systems)
<ul style="list-style-type: none"> • Public Nuisance By-law (nuisance party, disorderly conduct, damaging private property) 	<ul style="list-style-type: none"> • The Ontario Fire Code (alarms, building exits)
<ul style="list-style-type: none"> • Open Air Fire Burning (setbacks from combustibles/neighbouring properties, extinguishing fire when done) 	<ul style="list-style-type: none"> • Fence By-law (limits height of fence on lots abutting Lake Erie and ensures these fences are of open type construction - i.e. chainlink)
<ul style="list-style-type: none"> • Curbside Collection (when and where garbage is to be placed out) 	

Of the 8 complaints that staff received in 2022 (noted in the chart below), three (3) general complaints were from people who simply did not want Short Term Rentals (STR) in their area. The other 5 complaints were effectively dealt with by staff through educational letters or by inspections that indicated no violations of any By-law or Code.

Year	Inquiries from Realtors or Interested Buyers	Complaints/Inquires					
		Noise	Clean Yard	Property Standards	Ontario Building Code	General Complaints	COVID-19 Inquiry
2022	5	1	1	1	1	3	0
2021	12	0	0	0	0	0	1
2020	2	0	0	0	0	0	0

Staff are of the opinion that the suite of existing regulatory tools are effective in addressing any STRA issues that may arise. This is predicated on the low number of STRAs in the County (in comparison to other municipalities), the low number of issues/complaints recorded the last 3 years, and the fact that all issues to date have been suitably rectified.

It should also be noted that the existing expanded summer enforcement program hours (7 days a week, Victoria Day to Labour Day) would enable Enforcement Services to attend to a STRA issue during the day, including Saturdays or Sundays should a complaint be submitted that day or from a complaint which occurred the night before, in which the OPP were unable to respond to.

For all the reasons noted above, this is the option that staff would recommend.

Option #3 - Voluntary Short Term Rental Accommodations registry

A voluntary registry is an ask by the municipality for property owners to voluntarily disclose that they operate, in some form, a STRA. This option would not have any teeth to require an owner/operator to add their name to the list or penalize owners of STRAs for not being on the list.

For those owners that do add their names to the list, there would be no costs associated to placing ones' name on the list and with possible industry buy in, it could be a marketing advantage to promote their Short-Term Rental Accommodation. Such a registry would signify that the owner has complied with a number of established criteria (by-law compliances) and the registry could be posted to the County's website for those looking to come to the County.

Registries are onerous to manage, including updating information on the accommodation, including contact information and generally are not an effective way to track activities in a municipality. Staff could only identify one municipality with experience running a registry—Lambton Shores—and staff indicated it was not effective and did not accomplish what it was intended to do. They have since abandoned its use and are transitioning into a licensing by-law. Staff would not recommend this option.

Option #4 - Short Term Rental Accommodations Licensing By-laws

There are many examples of municipalities creating a Licensing By-law to regulate Short Term Rental Accommodations. The powers found in the *Municipal Act* are broad and provide authorization to a municipality to pass a by-law, set fees and provide for a system of licences with respect to a business. This authorization would include the ability to create a Licensing By-law for Short Term Rental Accommodations. Municipalities may also decide to regulate through their Zoning By-laws, either to work in conjunction with a Short-Term Rental Accommodations or alternately in the absence of one.

In general, Licensing By-laws provide that a business cannot operate unless it holds a license to do so. A by-law could be drafted with the definitions tailoring its focus on what types of buildings are included or excluded from licensing. Short Term Rental Accommodation By-laws can limit the number of licenses issued, establish fees and create charges and penalties that will apply for those individuals that are not licensed.

Short Term Rental Accommodation By-laws established in other municipalities and reviewed by staff have set out prerequisites in their licensing By-laws. In order for persons to obtain and maintain a license a person would be required to provide proof of compliance with or provide:

- The Zoning By-law (if applicable)
- The Ontario Building Code
- The Ontario Fire Code
- Property Standards By-law
- Clean Yard By-law
- Nuisance By-law
- All other relevant Municipal By-laws
- Electrical, heating, ventilation, and air conditioning or WETT certification in the case of a fireplace or woodstove
- Provide a Site Plan
- Provide a floor plan of the premise, including location of water and sewage systems, fire extinguishers, appliances, decks and amenities
- Provide contact information
- Proof of Insurance

In addition, Short Term Rental Accommodations By-laws may set out general regulations once a license has been issued and prohibit a licensee from:

- Continued compliance with all County By-laws
- Permitting more than 1 or 2 persons per bedroom
- Rental or use of a greater number of bedrooms than permitted by the Licence
- Limit the number of guests staying at the accommodation at any one time
- Provide renters with a copy of the by-laws
- Require a renter to sign a Renter's Code of Conduct
- Operating without renewing the license annually

Not complying with regulations of any by-law can provide for a system of fines, penalties and for a demerit system which could result in the suspension or revocation of the license. Any demerit system incorporated into a licensing By-law (3 complaints and the license is revoked) would require an appeal process and the creation of a Licensing Committee. Licensing Committees are required to hold hearings, ensure judicial fairness, weigh evidence and ultimately decide if a license should be granted or not. Success in administering and enforcing such a By-law will almost always depend on additional staff resources.

Short Term Rental Accommodation By-laws, like most licensing by-laws provide for, the ability to appeal to Council or a committee established by Council should a license be denied, suspended or revoked.

Staff research indicates 2 basic delivery options for the licensing of STR Accommodations:

1. **In-House Option** – in this service delivery option the Administration and Enforcement would be entirely by Haldimand County Staff.
2. **Hybrid Option** – involves service delivery wherein the majority of the administration would be delivered by 3rd party service provider and Enforcement with some administration would be delivered by County Staff. The 3rd party service provider (which is utilized in a number of jurisdictions, including Tiny Township, could provide the following services to the County: compliance monitoring, 24/7 hotline (to report issues) and property identification.

Staff anticipates a significant increase in workload should Council choose to license Short Term Rental Accommodations with either the in-house or hybrid option. Workload impacts would be realized in the

year around administration of the By-law, including the yearly review of licensing applications, increased inquiries and concerns (emails, phone calls, etc.), licensing appeals for those applications denied, suspended or revoked, annual Building, Fire and By-law inspections along with the ongoing enforcement associated with existing owners that fail to comply, new short term accommodations that will occur in the future, complaints of licensed establishments not following regulations that may form part the By-law and the prosecution for those owners who are charged. All told, this would lead to the requirement for additional staff resources to be retained. This additional staff resource would be addressing any issue/complaint day(s) after its occurrence, much in the way enforcement services are delivered currently. The resulting staff resource implications, and costs to the County (explored in detail in the Financial/Legal Implications section below), in connection with the analysis of option #2 above, inform staff's opinion that this option should not be pursued at this time. If these costs were to be off-set by licensing fees they would be a significant annual cost which warrants further stakeholder consultation should this option be considered.

Summary of Options

As noted above, staff recommend that option #2 should be considered by Council. As part of this consideration, staff recommend that the issue STRAs continue to be monitored to assess any changes to the extent of impact and land use compatibility issues. To that end, staff propose to bring an update report to Council at the end of the year to overview the volume and type of complaints and effectiveness of the County's existing regulatory tools in relation to managing same.

Should Council decide it prefers option #4 and wants to see a licensing by-law/program implemented, staff recommend that process include public consultation. If Council decides to go this route, staff would need to develop a work program, including timelines for by-law review, public consultation, legal review and delivery of a draft by-law to Council. It is expected that a best case in this regard, would be delivery of a draft by the end of 2023/early 2024, given the other commitments staff have in relation to work programs.

FINANCIAL/LEGAL IMPLICATIONS:

Municipalities that have enacted a Licensing By-law for short term accommodations have acknowledged that there are substantial resources that would be required to respond to the implementation. Haldimand County would be no exception and will require additional Enforcement and/or Licensing Staff resources should Council consider adopting a Short-Term Rental Accommodations Licensing By-law as outlined in this report.

Both delivery options outlined in this report would require additional budget considerations as staff anticipates a significant increased workload with this project. A description of those follows:

Customer Experience & Communications – Licensing Officer

- Licensing Officer portfolio has expanded significantly over the past several years.
- Annually the County issues 200 licences (taxis, racing events, kennels, etc.) – a STRA By-law will more than double the number of licenses issued to approximately 450 licences (based on current estimated 250 STRAs in the County + 200 licenses currently issued).
- Approximate increase of 700 hours added to their annual schedule for administrative work associated with 250 licenses (would increase with more units added).
- Lack of dedicated licensing software meaning all of these units would need to be manually tracked.
- All of this additional work would lead to requirement for one (1) additional full-time employee (FTE).

Note: with the hybrid delivery option, the 3rd party service provided would take the place of this additional FTE.

Building and Municipal Enforcement Services – Municipal Law Enforcement Officer

Staff anticipates a significant increased workload impact in either the in-house or hybrid option as follows:

- 25% workload increase related to annual By-law inspections.
- Annual Building Inspections increase.
- Year-round administration of the By-law, for new and renewal applications (hybrid only).
- 3rd party contract management (hybrid only).
- Increased inquiries and concerns (emails, phone calls, walk-in).
- Licensing appeals for those applications denied, suspended or revoked.
- Ongoing enforcement associated with existing owners that fail to comply, new STR Accommodations that will occur in the future.
- Complaints of licensed establishments not following regulations.
- The prosecution for those owners who are charged.
- All of this additional work would lead to requirement for one (1) additional FTE. Of note, that FTE would be limited to days shifts only as is the current work schedule under the collective bargaining agreement.

Emergency Services

- Increased workload – division already experiencing challenges to complete all required inspections each year.
- New/annual Fire inspections.
- Ongoing enforcement associated with existing owners that fail to comply, new STR Accommodations that will occur in the future.
- The prosecution for those owners who are charged.

The budget impact for adopting a Licensing By-law for either an “In-House” or “Hybrid” delivery option is outlined in the chart below. Municipalities that have established Short Term Rental Accommodations Licensing By-law have set licencing fees at between \$400 to \$600 annually as a means to off-set the costs of the program. Using this as a guideline, and assuming 100% compliance, staff have also identified potential revenue.

Budget Impact – Adopting a Short-Term Rental Accommodations Licensing By-law		
	Deliver Options	
2023	In-House “FTE”	Hybrid
Wages and Benefits		
• Senior Municipal Law Enforcement Officer	\$83,207	\$83,207
• Licensing Officer FTE	\$65,750	n/a
• Licensing Officer PTE	n/a	n/a
Third Party Service Provider	n/a	\$36,219 ***
Total Wages and Benefits	\$148,957	\$119,426

Operating Expenses		
• Senior Municipal Law Enforcement Officer	\$16,200	\$16,200
• Licensing Officer	n/a	n/a
Capital Expenses		
• Senior Municipal Law Enforcement Officer	\$50,000	\$50,000
• Licensing Officer FTE	\$15,000	n/a
• Licensing Officer PTE	n/a	n/a
Total Capital Expenses	\$65,000	\$50,000
Expenses Totals		
• Senior Municipal Law Enforcement Officer	\$149,407	\$149,407
• Licensing Officer FTE	\$80,750	n/a
• Licensing Officer PTE	n/a	n/a
• Third Party Service Provider	n/a	\$36,219
Total Expenses	\$230,157	\$185,626
Revenue		
Licensing Fees 250 STRs x \$500.00 average fee at 100% compliance	\$125,000	\$125,000
Total/Cost less Revenue - Budget Impact	\$105,157	\$60,626

*** Based on number provided by Tiny Township who have chosen to go with a 3rd party provider.

As can be seen from above, establishing a standard program would result in a budget impact of \$60,000 to \$105,000 depending on the delivery option. It is expected that the adoption of a STRA would result in a cost to the taxpayer should a standard license fee be applied (i.e. \$500 annually). In order for a program to be cost neutral, the County would have to establish a license fee of at least \$1,000 per year (which is almost 2x what the high end is elsewhere in Ontario), would have to get 100% compliance (which is very challenging to do), and see a minimum of 250 units staying active.

Short-Term Rental and Municipal Accommodation Tax

The Municipal Act and the related Ontario Regulation 435/17 provides that a municipality may, by by-law, impose a tax in respect of the purchase of transient accommodation in the municipality. Research indicates that municipalities that have chosen to adopt By-laws in this regard are charging a Municipal Accommodation Tax of 4%, to every Purchaser, at the time of purchase, where the accommodation is for a continuous period of less than 30 nights and is provided within a hotel, motel, inn, bed & breakfast or resort, hostel, or short-term rental.

Although it is called a tax, it is simply a percentage on top of the rental that is required to be remitted to the municipality. While this could be done to help off-set staff resource costs for Enforcement, the process is very administratively burdensome and is not likely “net revenue neutral” as it would lead to additional staff resource demands within the Finance area. This will be a major consideration in any

option/recommended approach to deal with this issue. Staff are aware that there are several municipalities have not gone this route for exactly this reason.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

None.