

THE MUNICIPALITY OF LAMBTON SHORES

Report CAO 04-2022

Council Meeting Date: April 5, 2022

TO: Mayor Weber and Members of Council
FROM: Steve McAuley, CAO
RE: Short-Term Rental By-Law and Licensing Program

RECOMMENDATION:

THAT Report CAO 04-2022 regarding the “Short Term Rental By-Law and Licensing Program” be received.

SUMMARY

This report summarizes feedback received from the STR online consultation and provides Council with a draft Short-Term Rental Licensing By-Law for discussion. It outlines next steps in the process and a suggestion implementation plan for 2022 and 2023.

BACKGROUND

At its February 22, 2022 meeting, Council passed the following resolution:

22-0222-09 THAT Report DCS 08-2022 regarding the “STR Licensing and Regulatory Options” be received; and

THAT information related to the proposed STR Licensing Program be made available for public comment for a period of two weekend beginning February 28, 2022; and

THAT staff are directed to prepare a Short Term Rental Licensing By-Law. Carried

On March 14, 2022, the secondary public consultation related to the proposed licensing program concluded. Comments were received online through the Municipal website and by email. A total of 366 comments were received. As expected, some respondents wrote in support of the program, while others provided feedback against the program. In an effort to be open and transparent, staff are finalizing the compiling and redaction of personal information for all the comments received and will make them available on our web site by the end of business day on Friday April 1, 2022.

The sections below summarize the feedback received related to the proposed licensing program.

Occupancy

Significant feedback was received related to occupancy. At present, the proposed licensing program allows for an occupancy of 2 persons per bedroom, plus 2 persons throughout common areas to a total maximum of 8 persons. There is no distinction as to whether the person is an adult or a child.

There are numerous reasons why staff selected 8 occupants as opposed to a higher number:

- Of the known STRs, 81% have been identified as having 4 bedrooms or less (based on data received through Host Compliance software);
- To address the identified issues (noise, garbage, parking), fewer people in a STR are likely to produce more effective results;
- Bedrooms need to be defined to be consistent with the Ontario Building Code for visitor safety;
- Ensure use of Habitable Rooms as defined by the Zoning By-Law;
- Reduce strain on septic if applicable;
- The occupancy of 8 still allows for multiple families to stay together on one property;

Council may choose to increase the occupancy limit; however, staff would maintain the recommendation to allow for 2 persons per bedroom, plus 2 for all common areas to a maximum number of occupants based on Council's direction. Staff believe it is important to set occupancy limits based on a maximum number of 2 persons per bedroom as there is evidence that some cottages are currently renting to upwards of 16 people with only 3 bedrooms. It is recognized that all existing STRs will not fit into this model.

Licensing Fee

There were several comments related to the licensing fee. At present, the proposed licence would cost STR operators \$500 annually. The licence fee would cover the cost of hiring a contract full-time Licensing Coordinator, the annual subscription fee for compliance monitoring software and 24/7 hotline, and additional by-law enforcement. The program is designed to be a self-funded program; it is not designed to make money, nor is it designed to be a tax subsidized program to non-STR ratepayers.

Staff do not recommend any changes to the licence fee based on the feedback, although the suggested fee could change at some point to ensure the design of the program as noted above is upheld.

Demerit Point System

The third theme that emerged through the public feedback is the demerit point system, with some suggesting that the point system is too aggressive. Section 11 of the attached draft by-law outlines how the demerit point system would work. The value of this system is to ensure that owners are responsible for the guests using their property as a STR. Owners will be required to communicate to renters the expectations, and the Responsible Person will need to be available to address any issues/complaints before by-law enforcement is involved. Council will note that there is a proposed appeal process for licence suspensions and revocations outlined in the draft by-law. Staff are not recommending any changes to the demerit point system based on the feedback.

Next Steps

Staff have provided a draft Short-Term Rental Licensing By-Law for Council discussion. At this point, there are still several areas that require Council direction. These items are highlighted below.

Owner-occupied Short-Term Rentals

In the draft by-law there is no distinction between non-owner occupied STRs and owner-occupied STRs. The draft by-law would apply to both types of STRs equally. Staff can recognize that there may be a benefit in distinguishing between these two types of STRs as it is expected that owner-occupied STRs are less likely to experience challenges like noise, garbage and occupancy.

Staff have provided a definition for owner-occupied STRs in the draft by-law:

“Owner-occupied Short-Term Rental” means a Short-Term Rental being offered in a dwelling where the owner or tenant is permanently residing and includes Bed & Breakfast establishments;

Initially Bed and Breakfast Establishments were not intended to be part of the STR licensing program. However, it is difficult to find a clear distinction between an owner-occupied STR and a Bed and Breakfast Establishment.

The provisions included in the Zoning By-Law that regulate Bed and Breakfast Establishments include:

- Maximum of three guest rooms
- One parking space per guest room
- Guest rooms must be minimum 10 sq. m
- Regulations on employees (e.g. the operator must reside in the Establishment)

While it is expected that owner-occupied STRs are limited, they do exist and Council should discuss how to include these STRs in the licensing program. Council may choose to accept the definition above and require different parameters for owner-occupied STRs (e.g., lower licensing fee, no requirement for Responsible Person, etc.),

or Council may decide to treat all STRs the same under the by-law whether the owner lives onsite or not.

Appeals Committee

The draft by-law includes the establishment of an appeals committee that would hear grievances related to refusal to issue a licence and licence suspensions or revocations. Council needs to provide direction on the following:

- Size of the Committee – five to seven members is suggested
- Makeup of the Committee – number of Council members, STR owner/operators, community at large
- Committee term – e.g., to coincide with the term of Council

Based on the implementation recommended below, once the final STR by-law is passed, staff would prepare a report for Council's review that would present a proposed committee structure with appropriate terms of reference. Council could consider this report on its own merits and give staff the appropriate direction.

Implementation

At the next meeting of Council, based on the feedback received from Council, staff will bring the final Short-Term Rental Licensing By-Law for approval and passing.

Council has previously indicated that it would like to see a 2022 implementation of the STR licensing program. Staff has significant timing and resource concerns that limit the ability to implement a full program for 2022. Below are the steps that staff believe are attainable for 2022 implementation:

- Mandatory registration, which will include the following:
 - Name of Owner and contact information
 - Address of STR
 - Photo of STR
- No licence or application fee.
- Education first approach.
- No issuance of demerit points.
- Fines/other charges can still occur through other by-laws.
- Leniency for Responsible Person to respond (e.g., resolution of issues by phone vs. attendance on site).
- Leniency on occupancy limits.
- Dedicated municipal extension and email address for STR complaints. The public will be informed on how complaints will be handled.
- Public record of registered properties available on the municipal website.

A second by-law would be required for approval at the next meeting of Council establishing the program as stated above for 2022.

2023 Implementation

- By-Law takes effect February 1, 2023
- The 2023 Fees and Charges By-Law will be updated to reflect fees for the program
- Staggered licence application deadlines, communicated to 2022 registered STR owners.

ALTERNATIVES TO CONSIDER

Staff have included a draft Short-Term Rental By-Law and Licensing Program for Council to consider. After an extensive consultation process both to understand the landscape of STRs in Lambton Shores and in developing the licensing program, staff believe that a balanced approach has been presented. Council may choose to amend any part of the proposed program at its discretion.

RECOMMENDED ACTIONS

The recommendation is to receive this report.

FINANCIAL IMPACT

There is no direct financial impact associated with receiving this report.

CONSULTATION

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Stephanie Troyer-Boyd, Director of Corporate Services
Municipal Solicitor