

**COMMUNITY & DEVELOPMENT SERVICES
STAFF REPORT**

CDS-003/2022

TO: Mayor Gibson & Members of Council

FROM: Lindsay Earl, Manager of Community & Development Services

DATE OF MEETING: June 21, 2022

SUBJECT: **Short-Term Rentals**

RECOMMENDATION(S):

THAT Community & Development Services Staff Report CDS-003/2022 be received; and

THAT staff be directed to provide a revised draft licensing by-law and program to regulate Short-Term Rentals in the Township of Wainfleet for review by Council at the next available meeting.

EXECUTIVE SUMMARY:

While Township Council has identified a need for further regulation of short-term rental accommodations, implementing a new licensing system has proven to be an onerous task.

Given the continued expansion of the STR industry, it is envisioned that the number of STR's in the Township will continue to increase. As such, staff are seeking Council's direction in order to finalize the Township's approach to STR's in a timely manner.

This report serves to provide Council the options on approaches to moving forward with addressing Short-Term Rental (STR) units.

BACKGROUND:

Township Council has identified a need for further regulation of short-term rental accommodations. For reference, pertinent dates and related staff reports are outlined below:

- August 4, 2020 through resolution, Council directed staff to investigate and report on the policy considerations of regulating short-term housing uses in the Township.
- April 20, 2021 Report ASR-010/2021- Initial Short Term Rental report, outlining options and recommending a licensing by-law.
- October 26, 2021 Report PSR-011/2021- The draft licensing by-law was brought forward for Council's information.
- December 23, 2021 date in which public commenting period opened.
- January 18, 2022 date of the Virtual Public Open House.

- February 4, 2022 date in which public commenting period closed.
- May 10, 2022 Report CDS-002/2022 – Report to provide Council with a summary of the public comments received on the draft licensing by-law.
- June 7, 2022 through resolution Council directed staff to prepare a report to outline the framework for Planning Act regulation of short-term rentals in the Township of Wainfleet.

As Council is aware, implementing a new licensing system has proven to be an onerous task. Given the continued expansion of the STR industry, it is envisioned that the number of STR's in the Township will continue to increase, which is evident in recent advertisements for property sales listed as "STR potential" mainly within the Lakeshore area. In an effort to move the program forward, this report outlines the framework for Planning Act regulation of STR's through the following options for Council's consideration and direction.

OPTIONS/DISCUSSION:

Option 1: Status Quo with Advocacy

Status Quo would have the Township's Official Plan and Zoning By-law continue to be silent on the issue of STR's and have no licensing occur. Interpretations have been that STR's are allowed where residential uses are permitted in the municipality and not subject to any regulatory provisions.

In this scenario, no licensing would occur and behaviours on properties would continue to be regulated through existing by-laws (i.e. noise, fireworks, open air burning, parking, etc.) and existing regulations under the Ontario Building Code (OBC). Based on the recent changes Council has made to the Township's by-laws (i.e. new noise by-law), maintaining status quo is a viable option at the current time. Costs for this option would be limited to staff time and resources spent on enforcement of complaints received and updating applicable by-laws as necessary.

Option 2 – Prohibit STR's in the Township's Zoning By-law

As Council is aware, the Township's Comprehensive Zoning By-law does not contain any specific provisions related to STR's. This option would entail defining STR in the Township's Zoning By-law and then specifically prohibiting the use in the community. If this option were chosen, it would not "shut down" STR's that currently exist in the Township, which would be considered legal non-conforming uses and would be permitted to continue to operate. There would likely be administrative and enforcement costs associated with this option as a zoning by-law amendment would be required and with the prohibition of the use, there would be enforcement costs associated with investigating complaints pertaining to new STR's and even respecting STR's which may receive legal non-conforming status. It will be difficult for staff to determine the legal non-conforming status of current STR operations and would require the implementation and monitoring of a registry-type program.

Staff would caution that this option sets up legal non-conforming status of properties and may result in greater complaints in the community with cumbersome investigations

that would lead to charges under the Provincial Offences Act (POA). The POA is not always a guaranteed route with lengthy timing for prosecutions.

Option 3 – Regulate through Official Plan and/or Zoning By-law Amendments

This option would require drafting Official Plan and/or Zoning By-law Amendments to establish areas within the Township where STR's would be permitted and to establish provisions applicable to STR's, such as occupancy, servicing, parking, etc. As with Option 2, existing short-term rental units would not be subject to such amendments and would be permitted to continue as legal non-conforming uses. Enforcement options would be similar to Option 2.

As Council is aware, any Official Plan or Zoning By-law Amendment is a public process whereby a Statutory Public Meeting is required; and any decision is subject to an appeal to the Ontario Land Tribunal (OLT). Further, both the process to undertake prosecutions under the Zoning By-law and the development of amendments are time consuming. The ability for the Township to act quickly in the case of infractions would be better dealt with through licensing and a demerit system where licenses can be revoked for non-compliance.

Option 4: Licence Only (Currently Underway) - Recommended

The Licensing By-law currently in draft form will make licensing short-term rentals mandatory, aims to ensure compliance with Fire Code, Building Code, other applicable law and Township By-laws, and establishes a system of demerit points for violations including noise, nuisance, parking and safety which will encourage short-term rental owners into supplying a safe, responsible, and respectful accommodation.

As noted, additional staff resources would be required to both set up and maintain the program. Staff do not believe that the "Licensing only" option would require any changes to the Township's zoning by-law or any other land use document, as it would provide the Township with broader authority than the Planning Act controls. Unlike other Options, all existing and future STR operations would be subject to Municipal Act licensing.

Should Council wish to continue to support the implementation of a Licensing Program, Council shall provide direction to staff on the following items that were previously deferred:

- Support for annual application and renewals
- Number of occupants
- Permitting guests and timing
- Fees

Alternative Options for Consideration:

- a) A combination approach. Council may wish to combine any of the above options as a preferred approach (i.e. Option 2 or 3- Zoning plus Option 4- Licensing etc.).

- b) An Interim Control By-law. Should Council feel that there is a need to halt the creation of any new STR's while staff continue to navigate the implementation of a Licensing Program and/or review necessary policy changes (including under the *Planning Act*), Council has the option to implement an Interim Control By-law.

An Interim Control By-law (ICB) is a planning tool given to municipalities under section 38 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended. An ICB is used to place a temporary freeze on certain land uses while a municipality is reviewing its land use policies. ICB's may be over a specific area or the entire municipality and can be put into place for one year with the option of extending it for another year.

Several other Ontario municipalities, have utilized an ICB to temporarily prohibit the establishment of new Short-Term Rental units to allow time to review, research and develop appropriate planning policies to deal with this new land use.

Given that there has been significant interest in STR's in Wainfleet, Council considering that an ICB be utilized will give the municipality some breathing space to rethink its land use policies and approach to Short-Term Rentals. Should this option be preferred, a draft ICB is attached as Appendix "A". The ICB will temporarily prohibit the new use of certain lands, buildings, or structures related to the establishment of short-term rental units within all geographic areas of the municipality.

- c) Council may choose to provide alternative direction to staff.

FINANCIAL CONSIDERATIONS:

There are costs associated with each option. The review and development of appropriate policies and regulations to manage and control Short-Term Rentals will require additional staff time and resources. Further, there will be additional by-law enforcement costs associated with the administration and enforcement of the licensing bylaw as outlined in Staff Report CDS-002/2022.

There are no anticipated legal costs at this time. However, it should be noted that the Minister has the right to appeal the Interim Control By-law to the Ontario Land Tribunal (OLT), as well as any Official Plan or Zoning By-law Amendment which is also appealable to the OLT. Should this occur, the Township would incur legal costs to defend the by-law and/or amendments.

OTHERS CONSULTED:

- 1) Township In-house Solicitor
- 2) Strategic Leadership Team

ATTACHMENTS:

- 1) Appendix "A"- Draft Interim Control By-law

Respectfully submitted by,

Lindsay Earl, MES, MCIP, RPP
Manager of Community and Development Services

Approved by,

William J. Kolasa
Chief Administrative Officer

APPENDIX "A"

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**THE CORPORATION OF THE
TOWNSHIP OF WAINFLEET**

BY-LAW NO. 0XX-2022

Being a By-law to impose interim control on the use of lands,
buildings and structures respecting Short-Term Rental Units
within the geographic boundaries of the Township of Wainfleet

WHEREAS Section 38(1) of the Planning Act, R.S.O. 1990, as amended, permits the Council of a municipality to pass an interim control by-law where Council has directed that a review or study be undertaken in respect of land use planning policies and regulations within the municipality or in any defined area or areas thereof;

AND WHEREAS the Council of the Corporation of the Township of Wainfleet passed a resolution on August 4, 2020 directing staff to investigate and report on the policy considerations of regulating short-term housing uses in the Township, including impacts on affordable housing, tourism, public safety and challenges to existing regulations;

AND WHEREAS the Council for the Corporation of the Township of Wainfleet deems it expedient and appropriate to enact such an interim control by-law to temporarily prohibit the new use of certain lands, buildings, or structures related to the establishment of short-term rental units within all geographic areas of the municipality to allow the Township time to continue the review of its land use planning policies and regulations and if deemed appropriate, implement the findings of the review pertaining to Short-Term Rental Units;

NOW THEREFORE the Council of the Township of Wainfleet enacts as follows:

1. For the purposes of this By-law, "**Short-Term Rental Unit**" means all or part of a Dwelling Unit used to provide sleeping accommodations to one or more persons other than the Owner for a period of not more than thirty (30) consecutive days, during which period the Owner does not occupy the Dwelling Unit, and in exchange for payment but does not include a Bed and breakfast, Boarding or Rooming House or Motel or Hotel as those terms are defined in Township By-law No. 034-2014, as amended from time to time.
2. Notwithstanding the permitted uses and regulations of By-law No. 034-2014 and By-law No. 581-78, as amended, only those Short-Term Rental Units in existence as of the date of passing of this by-law and used for such purposes are permitted to be maintained on such properties within the geographic boundaries of the Township of Wainfleet pending completion of the review/study.
3. The establishment of any new Short-Term Rental Unit use during the term of this by-law is prohibited.

4. If any provision or requirement of this by-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this by-law or the application of such provision or requirement to all persons other than those to which it is held to be invalid or unenforceable, shall not be affected thereby, and each provision and requirement of this by-law shall be separately valid and enforceable to the fullest extent permitted by law.
5. This by-law shall come into force and take effect immediately upon its passing by Council and shall be in effect for a period of one (1) year from the date of enactment unless otherwise extended in accordance with the provisions of the *Planning Act*, R.S.O. 1990, c.P.13, as amended.
6. As this By-law affects all lands within the geographic boundaries of the Township of Wainfleet, there is no Schedule "A" affixed hereto.

BY-LAW READ AND PASSED THIS XXST DAY OF JUNE, 2022

K. Gibson, MAYOR

M. Ciuffetelli, DEPUTY CLERK