

THE MUNICIPALITY OF LAMBTON SHORES

Report DCS 08-2022

Council Meeting Date: February 22, 2022

TO: Mayor Weber and Members of Council

FROM: Ashley Farr, Director of Community Services

RE: STR Licensing and Regulatory Options

RECOMMENDATION:

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 weeks beginning February 28, 2022; and

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

SUMMARY

This report provides Council with options to consider for licensing and regulating Short Term Rentals (STRs) in Lambton Shores.

BACKGROUND

At its December 21, 2021 meeting, Council received a report with findings at the conclusion of the community consultation process for Short Term Rentals (STRs) in Lambton Shores. The consultation process took place over several months and included written survey submissions from the public as well as targeted stakeholder meetings held with STR owner/operators, traditional accommodation owner/operators (e.g., hotel, motel, Bed & Breakfast establishments), and other key stakeholders including neighborhood associations, business associations, etc. The report indicated that staff would bring a report back to Council regarding regulatory options for STRs for consideration.

Lakeside communities like Lambton Shores have a long history of STRs. As noted in Report CL 35-2021 (attached), there are many benefits to STRs that are broadly categorized as supporting the local economy, supplementing other vacation rentals and allowing multiple families to stay together. Given their historical prevalence and associated benefits to the community, at no time would staff recommend that Council consider a ban of STRs, however it is recognized that there is a need and community desire for some type of regulation of STRs.

It is staff's opinion that most identified challenges related to STRs can be addressed through licensing. At this point, staff are not considering regulations under the Planning Act as we do not see this as a viable mechanism for addressing STR challenges. The licensing program described in this report will help to better blend STR properties into existing neighbourhoods, thus negating the immediate need for additional zoning provisions. If deemed necessary, Council could consider regulations through zoning or the Planning Act at a later time.

To help understand the scope of STRs, staff recommend the following definition for Short Term Rentals:

A "Short Term Rental" or "STR" is defined as all or part of a legally established dwelling that operates or offers a place of temporary residence, lodging or occupancy by way of a rental agreement or similar commercial transaction for a period of less than 30 consecutive nights throughout all or any part of a calendar year.

The application of this definition encompasses most STRs that are operating for financial compensation and excludes those properties that may be rented to family/friends for no financial compensation. It is intended that the licensing by-law would not be applicable to hotel or motel operations, campgrounds or to bed and breakfast establishments as defined through the Zoning By-Law.

Short Term Rental Challenges and Solutions

The public consultations identified several challenges associated with STRs. The most common identified challenges and potential solutions are addressed in the following sections. Solutions are based on research of other STR by-laws/licensing programs and through staff expertise. These challenges were identified through both the survey and stakeholder consultations.

Challenge 1: Noise/Nuisance

Both in stakeholder groups and through the STR survey, noise and disruptive behavior were ranked high in the documented challenges of STR properties.

Solution:

- STR Owners must designate a "responsible person": Require STR properties to designate a responsible person who would be contacted for dealing with complaints like noise. The responsible person identified would need to be onsite within 30 minutes to resolve the issue. Failure of the responsible person to attend the site or resolve the issue would result in follow up from By-Law enforcement with fines and issuance of demerit points to the STR owner.
- Occupancy limits: set occupancy limits based on 2 persons per legal bedroom, plus 2 additional persons (e.g., in common areas) to a maximum capacity of 8

people. Limiting capacity will address some of the problems associated with “party houses”, but still allows for families to stay together in one STR. Setting occupancy limits also helps to ensure appropriate limits for properties on septic systems, where the system has been designed based on the site/dwelling occupancy.

It is noted that although the Municipality does have a Noise By-Law in place, many STR neighbors that had been impacted by noisy/disruptive behavior did not call by-law or OPP for unknown reasons. The introduction of a third party 24/7 hotline may encourage residents to report these issues, as explained further below.

Challenge 2: Parking

Inadequate supply of parking was identified as another top concern in both the survey and stakeholder engagement meetings.

Solution:

- **Parking Site Plan:** Through the license application, require STR owners to provide a parking site plan, which identifies the number of spaces available, the location, the type of surface for the space, and the size of the space.
- **Minimum Number of Spaces Required:** The licensing program can require that a minimum number of suitable parking spaces are required based on the occupancy load.
- **Parking Management Plan:** Consideration could be given to require a parking management plan for those STRs that may not have sufficient parking based on occupancy, such as Plan 24 in Grand Bend where some property owners may purchase overnight parking passes for their renters.

Challenge 3: Environment/Safety

Concerns for the environment, specifically adequate septic system capacity, and personal/property safety, and safety of occupants of STRs were identified as concerns.

Solution:

Some of the above noted solutions will help to mitigate challenges with environment and safety concerns including the requirement for a “responsible person” and capacity limitations. Other solutions include:

- **STR Fire Safety Plan:** Requirement for the STR owner to include a STR Fire Safety Plan as part of the license application package.
- **Septic:** Attestation of ongoing compliance with Ontario Building Code and proof of servicing submitted with the application on an annual basis (e.g., pump-out every three years).
- **Insurance:** Requirement for the STR owner to provide proof of liability insurance in the amount of \$2 million for the operation of the STR.

- Visitor Code of Conduct: Requirement for a Visitor Code of Conduct to communicate expectations, rules, etc. This document will be provided by the Municipality and can be amended by the STR owner for additions that may be unique to the property. Posting of the Visitor Code of Conduct on site will be a requirement under the license.

Challenge 4: Garbage

Concerns surrounding excess garbage at STR properties were cited as a concern. Some of the challenges with garbage can be mitigated with the solutions already identified above such as capacity, visitor code of conduct and the requirement for a responsible person. Other solutions include:

- Site Plan: Part of the licensing package will include the requirement for a site plan where parking, buildings, septic system and enclosed garbage bins are to be located.
- Restrictions on putting garbage out: Such restrictions might include that garbage bins can only be put to the road the night prior to collection to ensure that bins are not exposed for extended periods.

Short Term Rental Licensing Program

Resources Required

To successfully implement the program, staff are recommending the following resources:

- Third Party Monitoring Contract to provide STR address identification, 24/7 hotline and other compliance monitoring supports
- Full-time contract Licensing Coordinator

Staff are not recommending hiring additional full time by-law enforcement staff at this time; however, this will be reviewed as the licensing program evolves. Utilizing existing full-time staff and augmenting with part time staff with the funding through STR licensing is recommended.

Some municipal STR licensing programs require mandatory municipal inspections (e.g., building and fire) on an annual or bi-annual basis. As an alternative to this approach, staff are recommending a licensing program where inspections are not required. Instead, STR owners will be required to provide signed attestations as part of the licensing package to confirm compliance with fire and building code. These attestations would be for items such as presence of smoke and CO detectors. A sample attestation document from the City of Oshawa is attached. A STR Fire Safety Plan would also be required as part of the application package. This approach will be vetted through a legal opinion, and it should be noted that this is a common approach for other STR licensing programs where inspections are not mandatory.

Inspections may be required on a cost recovery basis depending on complaints to the property, but costs of regular/ongoing inspections have not been built into the license fee. Part of the justification for this approach is to ensure that the license fee is manageable and reasonable for STR operators. Inspections of all properties would require significant resources and would require additional staff resources dedicated to STR inspections.

Anticipated costs for these resources are included in the following section.

Fee Structure

Based on the proposed licensing program, the staffing requirements will include both administrative and enforcement functions. Staff are recommending a combination of staff and a third-party service provider for implementing the licensing program. The summary of tasks and breakdown of estimated costs is summarized below.

Item	Amount	Notes
Address Identification	\$9,700	Amounts are based on third-party provider for annual cost based on 261 identified STRs; service provider to be contracted subject to RFP. Cost is based on per property, per year and is subject to fluctuate depending on actual STR properties.
Compliance Monitoring	\$5,300	
24/7 Hotline	\$4,000	
Rental Activity Monitoring	\$6,700	
Subtotal	\$25,700	
Contract Coordinator	\$80,000	Includes salary and mandatory employee related costs (MERCs)
Enforcement	\$24,800	Funds for additional part time officers or possible service level change.
Total Expenses	\$130,500	
Licensing Fee	\$130,500	\$500 annually per STR, based on 261 identified STR properties. Includes \$50 non-refundable application fee.
Total Revenue	\$130,500	

Staff are recommending that licenses be administered to an operator for a specific property, and that the license is not transferable between properties or if ownership

changes. Further, staff are recommending that license fees in the following section be applied to each STR. If one owner operates multiple STRs, or if there are multiple STRs on one property, a license would be required for each.

At this point, staff are predicting that the proposed licensing program can operate on a break-even basis. The expenses and revenue will fluctuate depending on the actual number of STRs operating in the municipality.

Enforcement

Third Party Monitoring

As noted above, staff are recommending a contract agreement with a third party to provide compliance monitoring and a 24/7 complaints hotline. A complainant would contact the hotline with a problem, and the hotline operator would take the following steps:

- Take the call and make record of the complaint
- Contact the Responsible Person listed (see below)
- Follow up with complainant if requested
- If issue not resolved, contact Lambton Shores By-Law Enforcement

Some municipalities that have made use of this service have noted a decrease in by-law enforcement requirements as most issues can be resolved through the identified Responsible Person.

Responsible Person

Through the license application form, the STR owner will be required to provide the contact information for a Responsible Person that can be onsite within 30 minutes to deal with issues like noise, nuisance, garbage, parking, etc. The Responsible Person can be the STR owner or a property manager and must be available to respond to problems within 30 minutes of receiving a complaint (either through the 24/7 hotline, By-Law enforcement or OPP). The contact information for the Responsible Person will be shared with the third-party hotline, and they will be the first point of contact for complaints received through the hotline. Contact information will also be available to the Municipality (e.g., By-Law enforcement and the Licensing Officer) through the license application.

Demerit Point System and Fines for Non-Compliance

The proposed license program includes a demerit point system for non-compliance, which is a common approach by most municipalities with a STR license program in place. The system would include the administration of both demerit points and set fines, which would be identified in the by-law. The demerit point system would include:

	Infraction	Demerit Points
1	Exceed permitted occupancy	4
2	Second or subsequent offense for exceeding maximum occupancy	4
3	Non-availability of responsible person	4
4	Property Standards By-Law 67-2001 Conviction related to Premises	5
5	Fireworks By-Law 16-2008 Conviction related to Premises	5
6	Noise By-Law 30-2002 Conviction related to Premises	5
7	Open Air Burning By-Law 60-2009 Conviction related to Premises	5
8	Advertising without a License	4
9	Operating without a License	4
10	Using or permitting Premises to be used contrary to the Parking Site Plan	4
11	Building Code Act Order/Conviction	7
12	Fire Protection and Prevention Act/Fire Code Order/Conviction	7

Staff are recommending that demerit points remain in place for a period of two (2) years from the date of issue. Once a property has been issued 7 points the STR license is suspended, and a hearing will be required with the STR owner and STR Compliance Committee (see below) to determine remedial steps to reinstate the license. Staff are recommending a maximum suspension period of six (6) months. Staff further recommends that if a property receives 15 demerit points, that the STR license is revoked and cannot be reapplied for a period of two (2) years from the date of revocation. Again, a hearing between the STR owner and STR Compliance Committee would be required for license revocations.

Staff are recommending that demerit points are applied when a conviction is rendered, or fines are paid and is not based on complaints to discourage frivolous or vexatious complaints against certain properties. Demerit points would also be applied where there is proof of other offenses occurring, which would be identified in the STR By-Law. Such offenses would include advertising or operating without a license, exceeding occupancy or non-availability of a responsible person.

The specific details of demerits, suspensions and revocations will be outlined in more detail in the draft by-law.

STR Compliance Committee

A STR Compliance Committee would need to be established to allow for an appeals process related to the issuance of demerit points. The Committee would only hear cases related to license suspensions or revocations and would not hear appeals related to

singular charges or fines. It is recommended that the Committee is comprised of a variety of stakeholders including STR owners and members of Council.

Municipal Support

Through public consultation, staff heard that STR owners would appreciate additional support from the municipality through consistent messaging and communication that is easily passed to renters. Staff can provide support to the STR operators through several ways:

- Development of a Visitor Code of Conduct that can be edited by STR owners to meet the unique needs of their property.
- Provide a licensing application package to outline the responsibilities and requirements associated with the licensing program.
- Visitor information documents from the municipality and other tourism agencies.
- Dedicated webpage for STR owner and visitors outlined expectations, licensing program, etc.

Next Steps

Staff is recommending that this report, along with draft materials outlining what to expect from the proposed STR licensing program is made available through the Municipal website and available for public comment and review. This review period would be in place for a period of two weeks, and comments can be provided via email. Once the public comments are closed, staff would bring a report back to Council with a draft by-law for consideration.

If Council chooses to move forward with a licensing program for STRs, it is recommended that the program be in effect for 2022, with exemptions in place for occupancy given that most STRs have been rented for the 2022 season without occupancy limits in place.

ALTERNATIVES TO CONSIDER

There are several alternatives for Council to consider:

1. Status Quo

Council may choose to rely on existing by-laws to address challenges related to STRs. However public consultation has identified that the current approach is not sufficient for managing the growing prevalence of STR properties in the Municipality. This option could also add a strain to by-law resources and could require additional by-law enforcement with no mechanism for a “user pay” system that a licensing program would provide.

2. STR Licensing Program as described

Council may choose to implement the licensing program as described in this report. The proposed program has been considered using results of public consultation, research of other STR licensing programs and through staff expertise. Staff are of the opinion that the proposed program is a balanced approach between the resident interests and the growing sharing economy. The program is proposed as cost recovery, with mechanisms in place for non-compliance.

3. Additional regulations

The proposed STR Licensing Program does not address issues such as limiting the number of STR licenses, requiring inspections, or zoning provisions.

If Council wishes to pursue additional restrictions not included in this report further investigation into legalities and resources would be required.

RECOMMENDED ACTIONS

The recommendation is to provide an opportunity for the public and stakeholders to comment on the proposed licensing program for a period of two weeks through the Municipal website. Once this final piece of consultation concludes, staff are recommending that a Short Term Rental Licensing By-Law be prepared for Council consideration. The By-Law will be vetted through our legal counsel prior to being brought forward to Council.

FINANCIAL IMPACT

The financial impact is contingent on Council's direction. It is estimated that the licensing program will cost approximately \$130,500 per year, which will be offset by the licensing fees collected from STR owners.

CONSULTATION

Steve McAuley, CAO
Stephanie Troyer-Boyd, Director of Corporate Services
Janet Ferguson, Director of Financial Services
Lawrence Swift, Fire Chief
Nick Verhoeven, Director of Public Works
Alex Boughen, Communications and Economic Development Coordinator
Will Nywening, Senior Planner

Attached:

1. CL 35-2021 STR Public Consultation
2. Sample Attestation – City of Oshawa