



Subject: Options Report for Short-Term Rental Accommodations

To: Council

From: Development and Legislative Services Department

Report Number: 2024-25

Meeting Date: April 9, 2024

Recommendation:

That Development and Legislative Services Department – Planning Division Report 2024-25 be received for information; and

That Council approve the regulation of short-term rental accommodations via the Combined Licencing and Official Plan/Zoning By-law Amendment outlined in Option 3; and

That the Acting City Clerk be directed to schedule a Statutory Public Meeting to review the proposed Official Plan Amendment and Zoning By-law Amendment.

Purpose:

The purpose of this report is to briefly outline the background related to short-term rental (STR) accommodations and provide a recommendation on potential land use planning and licencing options.

Background:

The concept of STRs have been present in most municipalities for a long period, particularly for cottage owners renting or loaning seasonal residences to friends, family, and acquaintances for leisure purposes. Only recently have residents began using internet-based sharing platforms, such as Airbnb and VRBO, to rent whole dwellings or dwelling units to users. The increased accessibility to STRs has resulted in an increased demand for rental properties and has led to more complaints (e.g., noise, parking issues, zoning compliance, litter, property standards, fire violations) from surrounding residents.

Currently, there are no specific policies related to STRs within the City of Port Colborne Official Plan and no provisions in the City's Zoning By-law. Council, at their meeting of October 11, 2022, directed staff to prepare a STR Registration By-law and associated report to be presented to Council at a future date.

As part of the preparation of the STR policies proposed in this report, Planning staff worked with Communications staff to create and publish an online survey to gather feedback on STRs from residents. The survey was open from November 9, 2023, to January 1, 2024, and received 55 responses. The results of the online survey are included in Appendix A of this report. A summary of the online survey results is provided in the Public Engagement portion of this report.

Discussion:

Across Ontario, many municipalities have determined that STRs are a residential use. While STRs were previously only used on an occasional and/or infrequent basis, many are now rented frequently and are a full part of the sharing economy.

In many instances, buildings have been built or developed for full-time use as STRs with no long-term residential component. These STRs are not occupied on a permanent basis or temporary basis by the owner and, as a result, have changed the nature and character of STRs in Port Colborne and the rest of Ontario.

Official Plan

The City of Port Colborne Official Plan sets out the land use policy directions for long-term growth and development in the municipality. Official Plans provide the policy framework for how land may be used and the establishment of Zoning By-laws to set local regulations and standards. All land use planning decisions in Port Colborne must conform to the Official Plan. Currently, the City's Official Plan does not contain policies or definitions for STR accommodations.

As part of the STR review, Planning staff recommend that the City consider the inclusion of policies in the Official Plan which enable and guide the establishment of a zoning framework and licencing regime. Planning staff further recommend that these enabling policies identify the geographic areas where STRs would be permitted, and include direction on what parameters are necessary in the Zoning By-law or Licencing By-law to support the regulation of STRs.

Any changes to the Official Plan regarding STRs would require an Official Plan Amendment (OPA).

Zoning By-law

While the Official Plan sets out general policies for land use, the City's Zoning By-law puts the plan into effect and provides for its day-to-day administration. The City's Zoning By-law establishes various forms of dwelling units as permitted uses within Residential Zones but does not establish STRs as a permitted use.

Any regulation of STRs through the City's Zoning By-law will require the Zoning By-law to be amended by a municipally initiated Zoning By-law Amendment (ZBA). The ZBA would:

- establish a definition of an STR;
- add an STR as a permitted use in specific zones;
- create zone standards which could include items such as minimum parking requirements, minimum lot sizes, minimum amenity areas, or minimum building setback requirements;
- restrict STRs from being permitted in an accessory building or structure; and
- recognize that an STR must be a secondary use to a residential use.

The requirement for the STR to be a secondary use is to ensure that dwelling units are not being purchased and exclusively rented out, as this has the potential to change the planned function of residential communities by eroding the residential character of the area. Planning staff note that there could be existing STRs already located in Port Colborne that may not meet all the proposed Zoning By-law provisions. Any STR in operation prior to the passing of a future Zoning By-law Amendment would be considered legal non-conforming, with respect to the zoning provisions.

Licencing By-law

The introduction of STRs in a residential area can have land use planning impacts related to the character of the area, noise, garbage, and frequency of use. While many of these matters fall under the purview of land use planning, they are often more appropriately regulated through By-laws enacted under the *Municipal Act*. To address compatibility concerns associated with STRs, a Licencing By-law should be enacted under the *Municipal Act* as per the previous direction provided by Council.

In consultation with Clerk's and By-law Enforcement staff, Planning staff recommend that the Licencing By-law include provisions that manage STRs by including items such as:

- limitations on the length of stay (minimum or maximum periods);
- limitations on number of rental days per year;
- licencing fees;
- proof of ownership;
- declaration from owner that property is primarily used for residential purposes (not required for Sherkston Shores);
- cap on the number of licences issued;
- maximum number of total guests;

- maximum number of guests per bedroom;
- requirement for a floor plan drawing and site plan;
- requirements for septic, building, fire, wood stove, and HVAC inspections;
- requirement for rental information to be displayed and code of conduct to be displayed;
- requirement for insurance;
- requirement for a guest registry;
- requirement for emergency service contact information to be displayed; and,
- requirement for Municipal Accommodation Tax (MAT)

Planning staff recognize that the above considerations may vary between different geographic areas of the City.

MHBC Planning has been retained to help prepare the proposed Licencing By-law. Should Council approve of proceeding with Option 3, the Licencing By-law will be brought to Council for approval after the OPA and ZBA.

Sherkston Shores Resort

An additional item identified by survey respondents was the relationship between STRs and the Sherkston Shores Resort located at 490 Empire Road. Sherkston Shores is a seasonal campground available to users that includes recreational vehicle sites, tent camping sites, and vacation rental units. Respondents indicated their concerns with the current usage rates, the associated impacts, and that Sherkston Shores Resort should be considered an STR.

Sherkston Shores is unique as it is a permitted commercial use in the City's Zoning By-law and is not a residential area experiencing the introduction of a prohibited commercial use, as is the case with STRs.

While the issue of commercial use and zoning in the Sherkston Shores Resort is appropriately considered in the current City Zoning By-law, the rental of dwellings (park model trailers) as an STR, which are owned on an individual basis, should be captured by a future STR Licencing By-law to provide the City with the opportunity to regulate these STRs in a manner that is consistent with the rest of the City.

Planning staff recognize that a different licencing category may be needed for STRs in the Sherkston Shores Resort, as the Resort will be responsible for some of the administration of good neighbour considerations that are otherwise captured by the City's other By-laws outside of the Sherkston Shores Resort.

Approach in Surrounding Municipalities

The following table summarizes some of the key elements of the Short-Term Licencing By-laws in Fort Erie and Wainfleet:

Licence Provision	Fort Erie	Wainfleet
Occupancy Maximum	1 bdrm – 4 people 2 bdrm – 6 people 3 bdrm – 8 people Max bedrooms – 3 Max Occupancy – 8 people	1 bdrm – 2 people 2 bdrm – 4 people 3 bdrm – 6 people Max bedrooms - 3
Annual fire and building inspection	Yes	No – but at discretion
Guest visiting time	Prior to 11pm	N/A
Guest registry required	Yes	Yes
Demerit point system for enforcement	Yes	Yes
Maximum number of STRs	250	N/A
Fees	1 & 2 bdrm \$750 3 bdrm \$1,250	\$1,000
Stay Period	N/A	1 stay per 7-day period

Options:

Council has a range of options for regulating and managing STRs, which are as follows:

Option 1: Status Quo (or “Do Nothing”)

Under the status quo, STRs would continue in all zones without further regulation. No Licencing By-law would be enacted, and the City would continue to manage and respond to complaints under its existing By-laws. While this Option would eliminate the financial costs of establishing and enforcing a licencing program, it would not respond to the concerns of residents or address the impacts of STRs on neighbourhoods.

Pros:

- Does not require financial expenditure for establishing and enforcing a prohibition and/or licencing program through By-law Services and the Clerk’s Division.

Cons:

- Would not address the negative impacts associated with STRs, such as noise.
- Does not respond to feedback from residents.
- Would not address servicing issues (e.g., sewage service capacity) for STRs.

Option 2: Regulation through Licencing By-law

Option 2 would involve Clerk’s Division staff preparing an STR Licencing By-law under the *Municipal Act*. A Licencing By-law would capture all STRs and address a range of matters typical for a licencing program including the intensity of use (e.g., number of STRs

on a property), fee categories, application requirements (i.e., insurance), penalties, fines, and suspension/revocation of licences. Option 2 would not include amendments to the City's Official Plan and Zoning By-law.

Pros:

- Would generate additional revenue to manage STRs.
- Would create a streamlined enforcement regime through ticketing, suspension and/or revocation of licences.
- Would ensure that capacity matters (e.g., sewer services) are addressed through the application process.
- Would permit the creation and posting of a listing of licenced STRs in the City.

Cons:

- Would require additional staff resources to administer the program.
- Would not regulate which zones or Official Plan designations STRs would be permitted within.

Option 3: Combined Official Plan Amendment, Zoning By-law Amendment and Licencing By-law

This option would involve updating the City's Official Plan and Zoning By-law to regulate STRs as a permitted use in certain Designations and Zones, thereby allowing for the creation of regulations and standards for STRs, which could include minimum lot sizes and minimum parking requirements.

A Licencing By-law would also be prepared in accordance with Option 2.

Pros:

- Would create the strongest enforcement regime by linking the Licencing By-law to land use planning regulations.
- Could limit the number of STRs and restrict them to certain locations.
- Would generate additional revenue to manage STRs through the licencing program.
- Would create a streamlined enforcement regime through ticketing, suspension, and/or revocation of licences.
- Would ensure that capacity matters (e.g., sewer services) are addressed through the application process.
- Would permit the creation and posting of a listing of licenced STRs in the City.

Cons:

- Would require additional staff resources to administer the program.

Recommended Option

Based on staff's review and analysis and the pros and cons of each approach, Planning staff recommend that "Option 3: Combined Official Plan Amendment, Zoning By-law Amendment and Licencing By-law" be approved, as Option 3 would provide the best mechanisms for regulating and managing STRs.

The proposed OPA policies will achieve the following:

- Recognize that the rental of dwelling units has previously occurred;
- Recognize that dedicated STR accommodations are a more recent phenomenon that needs to be effectively managed to protect the planned function of residential areas;
- Include policies requiring the City to enact an amending Zoning By-law and new Licencing By-law to regulate STR accommodations; and
- Require regulations to:
 - Define STR accommodations;
 - Establish regulations to ensure the planned function of residential areas is maintained;
 - Establish regulations to ensure the character of residential areas is maintained; and
 - Establish regulations to minimize the negative impacts of STR accommodations.

The proposed OPA is included in **Appendix B**.

The proposed ZBA contains provisions that:

- Includes a definition of STR accommodations:
 - The definition includes the duration the dwelling is used as a STR accommodation;
 - The definition separates dwellings that are rented for longer periods from those that are rented for 28 days or less. A rental of 28 consecutive days or less is considered STR accommodation; and
 - Various types of commercial accommodations are not considered STR accommodations.
- Permit STR accommodations in zones that permit residential dwellings;

- Establish a minimum parking requirement of 1 parking space per bedroom for STR accommodation; and
- Restrict STR accommodations from being located in an accessory building.

The proposed ZBA is included in **Appendix C**.

Internal Consultations:

This STR project has been undertaken with the assistance of MHBC Planning. Input on the proposed options have been discussed throughout the process with City staff including the Planning, Clerks, Finance, Tourism, By-law, and Fire Departments.

Financial Implications:

Depending on the Options indicated in this report, there will be varying levels of financial implications with respect to STRs. Additional staff resources will be required to implement a licencing/enforcement regime, though the fees collected through a future licencing regime can help cover the costs of the additional resources required for enforcement.

Implementing a licencing regime will enable the City to expand the Municipal Accommodation Tax (MAT) to apply to STRs. The MAT has been introduced in municipalities across the Niagara Region and province as a mechanism to help fund tourism, tourism promotion, and other related activities.

Public Engagement:

Planning and Communications staff launched an online survey that consisted of a series of focused questions to gather feedback on STRs from residents. The survey was open from November 9, 2023, to January 1, 2024, and received 55 responses. The results of the online survey are included as **Appendix A** and the following is a summary of the input received:

- A majority (67%) of respondents indicated that STRs should be regulated by the City.
- Only 5% of respondents currently own a STR, but 25% of respondents indicated that they would consider owning a STR.
- 47% of respondents indicated that there were issues and challenges caused by STRs in their neighbourhood such as increased noise, traffic, and too many guests at the STR.

- Some respondents expressed support for STRs and the benefits they provide to the community including benefits to local businesses, increased tourism, and additional income for property owners.
-

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Welcoming, Livable, Healthy Community
 - Economic Prosperity
-

Conclusion:

Based on a review and analysis of the available options, Planning staff recommend that Option 3: Combined Official Plan Amendment, Zoning By-law Amendment and Licencing By-law be implemented. Option 3 addresses the need for appropriate policies, regulations, and licencing to mitigate and manage the impacts of STRs and respond to concerns from residents. Should Council approve Option 3, Planning staff will proceed with the City-initiated OPA and ZBA to implement the proposed changes, with the the Licencing By-law expected to follow early this summer.

Appendices:

- a. Survey Results
- b. Draft Official Plan Amendment
- c. Draft Zoning By-law Amendment

This report was prepared in consultation with Jamie Robinson, Lee Bull, and Graham Richards of MHBC Planning.

Reviewed by,

David Schulz, BURPI, MCIP, RPP
Senior Planner
905-228-8117
david.schulz@portcolborne.ca

Respectfully submitted,

Denise Landry, MCIP, RPP
Chief Planner
905-228-8119
denise.landry@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.