



<b>Subject:</b>	Short Term Accommodation Progress Report
<b>To:</b>	Committee of the Whole – Planning & Economic Development
<b>From:</b>	Planning and Development Department

<b>Report Number:</b>	PD-17-22
<b>Wards Affected:</b>	All
<b>Date to Committee:</b>	April 11, 2022
<b>Date to Council:</b>	April 20, 2022

### **Recommendation:**

Council receive for information Report PD-17-22 regarding the Short Term Accommodation Progress Report; and

That Council direct Staff to bring the proposed zoning provisions and licensing framework forward for public and Council input.

### **Purpose:**

This report provides background information to Committee and Council and the general public regarding the background information review and analysis of industry practices staff has undertaken to facilitate the development of zoning provisions and licensing framework for Short Term Accommodations (STAs).

### **Background:**

The Town has determined that there is a need to implement provisions in the Town's Zoning By-law, and a licensing framework for STAs, as per Motion No. 2021-165. As a result of this motion, staff from the Planning and Development Department and the Economic Development and Communications Department have met several times to discuss.

Staff completed comparative work in review of municipalities to determine best practices, and the success of those municipalities who have existing frameworks to regulate STA's. A chart demonstrating research conducted is included as Appendix A.

## Report:

The Municipal Act (2001) provides authority to a municipality to govern its affairs as it considers appropriate and to enhance a municipality's ability to respond to municipal issues. Section 151(a) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that, without limiting Sections 9,10, and 11 of the Act, that a municipality may provide for a system of licenses with respect to a business, and may:

- Prohibit the carrying on or engaging in the business without a license;
- Refuse to grant a license, or revoke or suspend a license;
- Impose conditions as a requirement of obtaining, continuing to hold, or renewing a license;
- Impose special conditions on a business in a class that have not been imposed on all business in that class in order to obtain, continue to hold, or renew a license;
- Impose conditions, as a requirement of continuing to hold a license at any time during the term of the license;
- License, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it.

Section 434.1(1) of the *Municipal Act* states that from time to time, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a By-law of the municipality passed under the Act.

Section 429(1) of the *Municipal Act* provides that a municipality may establish a system of fines for offences under a By-law of the municipality passed under the Act.

Prior to commencing work on the research of regulatory provisions and licensing framework best practices, staff wanted to gain a better understanding of how many Short Term Accommodations are currently operating within the Town of Lincoln. With rental channels and companies including AirBnB.com and Vrbo.com owners are able to advertise and rent out their homes to individuals, which allows staff to track STAs through the AIRDNA software. Through the Groups' review, staff have determined that there are approximately 71 Short Term Rental Accommodations currently operating within the Town as of January 2022.

Staff note there are varying contexts for the operation of STAs within Lincoln, being those within the urban area and those within the rural area. Additionally, another context is those where owners live in the unit, and are present during the rental period, and those where the building and/or entire property is rented for sole use by the renter. Staff individually performed ongoing monitoring and review of other municipalities within Ontario that have been regulating and/or licensing STAs to determine best practices

### Considerations of the Short Term Accommodations

Currently, Short Term Accommodations are regulated through the existing Bed & Breakfast provisions in the Zoning By-law; however, specific zoning provisions and a

licensing framework will allow Town staff to better enforce and regulate their operations. To date, staff have reviewed the Short Term Accommodation Licensing By-laws and zoning regulations of a range of municipalities both within and outside of the Niagara Region. Based on the research conducted, there appears to be both pros and cons associated with permitting STAs within municipalities.

Some common complaints regarding STA's include:

- Excessive noise,
- Land-use compatibility (especially in established low density residential neighbourhoods)
- In rural areas, septic system capacity relating to large gatherings,
- Safety concerns, and
- Parking concerns.

However, while there are concerns with allowing STA's within the Town, there are also many acknowledged benefits, including:

- Increased Tourism support through a wider range of accommodation options,
- Increased revenue for local businesses as overnight visitors spend more money in the community,
- Potential added revenue for the Town,
- The opportunity to add criteria as conditions of license to address potential nuisance impacts to neighbouring properties, and
- Future implementation of a Municipal Accommodation Tax to support tourism marketing in Lincoln.

Through the review of STA regulatory processes of other municipalities, there is a need to address any negative impacts to the unique residential character of Lincoln. STA's should not be used and operated in a way that unreasonably affects neighbouring property owners. Staff determined that the proposed regulatory framework should focus on the public necessity and desirability to regulate STAs for the health and safety of current and future residents of the Town. Additionally, as a result of the research conducted, staff determined that the following items would need to be addressed through this process:

1. A comprehensive definition of Short Term Accommodations.
2. Provisions within the Zoning By-law to address regulations associated with the operation of STAs.
3. A licensing framework and By-law will need to be developed to address the requirements for the licensees of STAs.

It is to be noted that a definition for Short Term Accommodations has been included in the Zoning By-law update and is detailed later in this Report. The proposed definition of Short Term Accommodations, as included in the current update to the Town's Zoning By-law is proposed to mean "the commercial use of an entire dwelling unit, of the principal resident, that may be rented for a period up to 28 consecutive days for use as temporary accommodation and used as an occasional or seasonal residential dwelling for recreation, rest or relaxation. Short term rental accommodation shall not include

hotel/motel, bed and breakfast establishment, inn, boarding house dwelling, or similar commercial or institutional use. The principal resident shall not reside in the dwelling unit while the short-term accommodation is being rented.” This definition seeks to clarify that if an owner rents out their residence for more than 28 consecutive days to one group of guests, that it cannot be considered a short-term accommodation.

A proposed licensing program and associated By-law would regulate the business of operating a STA in the Town. Owners would be held responsible for the operation of their business, and the By-law would be applicable to all lands within the Town. Further, the licensing program would introduce management and control mechanisms for the Town to specifically address existing and proposed Short Term Accommodations.

Staff recommends that a licensing framework be developed and implemented, for the following reasons:

- A Licensing By-law would complement the zoning provisions and ensure By-law Enforcement Officers ability to address concerns expressed regarding STAs.
- The licensees would be held accountable and responsible for the appropriate operation of their business.
- A licensing framework and By-law would require the licensees to maintain rental standards.
- To address concerns expressed regarding STAs,
- A license allows for the Town to inspect the STA property and ensure compliance with health and safety regulations,

A licensing framework option is supported by staff rather than simply strengthening existing by-laws, as the proposed Licensing By-law will provide unique opportunities and benefits related to specifically enforcing STAs. In preparing a Licensing By-law, it may become apparent that existing Municipal By-laws would need to be updated, and reviewed accordingly as a part of this process, including, but not limited to:

- Noise Control By-law No. 2019-44
- Parking By-law No. 89-200
- Property Standards By-law No. 2016-27
- Snow Clearing By-law No. 21-92
- Burning By-law No. 2017-110

### Departmental Considerations

#### **Planning and Development:**

There are various considerations from a planning perspective with respect to addressing STAs within the Town.

Planning and Development staff determined that zoning provisions and regulations should be included in the Town’s Zoning By-law to provide clarity to the owners and operators of the Short Term Accommodation and also to define those accommodation uses that would be subject to the Town’s new business licensing framework. It is important to note that Short Term Accommodations have been identified and are

permitted in the proposed Draft Town Zoning By-law. The following provisions are proposed:

- Be permitted only within a single detached dwelling of the principal resident, semi-detached dwelling of the principal resident, townhouse dwelling of the principal resident, and apartment dwelling only in the unit the principal resident resides in;
- Be clearly secondary to the main residential use;
- Where required by the Town, be licensed pursuant to the Municipal Act, 2001;
- Not provide outside display, other than a legal sign which shall not exceed 0.3 square metres in areas in the HR, R1, R2 and RM1 Zones, and which shall not exceed 0.6 square metres in area in all other Zones, indicating the name of the short term accommodation;
- That approval be obtained from the Regional Health Department and Town's Building and Fire Departments; and
- Comply with the parking provisions of Section 4.

Planning and Development staff note through the Zoning By-law Update that comments were received with respect to governing Short Term Accommodations. Issues such as: principal residences, parking, and emergency vehicle accessibility. It is staff's intention that these issues would be addressed through the application and licensing framework.

Staff continues to conduct research on best practices within other municipalities to determine if further zoning provisions should be included.

### **Economic Development:**

From an Economic Development and Tourism perspective, Lincoln has a shortfall when it comes to accommodations to support our tourism sector. STA's provide an opportunity to attract more investment and increase visitation to our community, thereby adding revenue for our local tourism economy.

Knowing that tourism and hospitality represents Lincoln's greatest opportunity for economic growth and job creation, the municipality has made a conscious effort to support tourism operators in Lincoln by launching our new destination branding, the Niagara Benchlands. The opportunity to showcase our destination will require additional financial resources to properly market our community. Staff have identified that a Municipal Tax Accommodation (MAT), as set out by the *Municipal Act*, represents a great opportunity to support the marketing of the Niagara Benchlands.

However, without the proper licensing in place for STAs, the implementation of a MAT cannot occur, partially because traditional accommodation partners, such as hotels and motels, will recognize the unbalanced nature of whom the tax applies to, but also because without a licensing system the municipality will not know the true number of STAs in our municipality. Economic Development and Tourism staff are fully in support of regulating and licensing STAs in Lincoln

### **Municipal Law Enforcement:**

From a Municipal Law Enforcement perspective, the goal of a Short Term Accommodation By-law is to maintain compliance with restrictions set in place for the lawful operation of STAs. The framework of the By-law would provide specific conditions to be adhered to in order for licenses to be issued and to remain current. Once the application process has been completed successfully, the conditions imposed on the issuance of the license, would provide authority for Municipal Law Enforcement to conduct compliance checks. This would include but is not limited to the monitoring of the STA's advertisement for duration and maximum rental dates, and parking attributed to the STA, which may have a direct impact on the neighbouring residences. Additionally, it is to ensure the lawful enjoyment of surrounding residents of their properties within interruption by STA related issues. As previously stated, these issues may include but are not limited to; excessive on-street parking, noise complaints, and public nuisance.

Although breaches of these do relate to the individual by-laws, enforcement needs to take on a larger role, as STA owners should be held accountable for the actions of their guests during their stay. The STA By-law penalty provisions will allow for compliance checks, and enforcement with the STA owners or managers within a set time frame, with additional penalties if not adhered to, and ultimately may result in the loss of the STA license.

All municipalities which have STA By-laws incorporate penalty provisions applicable to the individual and or the property owner/manager.

For the Town to not incorporate these provisions, essentially the By-law would have no enforcement option and problematic properties would continue to operate with immunity.

Having these provisions would benefit the Town, the residents of Lincoln, and ensure the STR's are operated lawfully while mitigating any negative impact to neighbouring properties.

The intake and cataloging of applications and issued licenses would require additional administrative personnel. This person would be responsible for the receiving of applications, ensuring each applicable department received the applications for specific review and processing (inspection). This staff would also be responsible for the day to day maintenance of the license program and statuses of applicants. Required for this, would be software created for the tracking and recording of said applications and the training of staff to utilize. However, in the interim staff intend to utilize systems such as Microsoft Word and Excel to organize and track the status of applications and licenses.

The enforcement/monitoring of the licensed and identified unlicensed STA's would be the responsibility of Municipal Law Enforcement. This responsibility would require the addition of two full time Municipal Law Enforcement officers permanently assigned to STA enforcement. These numbers may increase based on the number of applicants and issued licenses. Enforcement would be required seven days a week, most notably in the afternoon and evening hours.

Additionally, direct coordination with Niagara Regional Police Service in relation to response for after-hours complaints of noise, public nuisance etc, and the follow-up enforcement by Municipal Law Enforcement.

### Licensing By-law Proposed Framework

As previously mentioned, a Licensing By-law is proposed for Short Term Accommodations to regulate the operations.

Staff proposes that every Short Term Accommodation within the Town will require a business license, that the Licensing By-law will impose health and safety requirements, including restrictions and by-law compliance which may involve property inspections, and that the framework should promote public education and marketing.

Staff has considered including the following in the By-law:

- Application requirements
  - Owner information and proof of property ownership.
  - Local contact who is responsible for managing or addressing issues related to the operation of the STA.
  - Proof of liability insurance.
  - Compliance with applicable sections with the Building Code Act, 1992, S.O. 1992, c. 23 and the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 and Regulations thereunder as it directly relates to the health and safety of guests.
  - A Fire Safety Protocol or Fire Safety Plan, as applicable, for dwellings with five or more bedrooms.
  - Electrical Safety Authority (ESA) Certificate.
  - Site and Floor Plans demonstrating the location of the Short Term Accommodation on the property, within the structure, as well as the number of available rooms.
  - Parking Management Plan in accordance with Section 7 of the Town's Zoning By-law. The number of required spaces will largely depend on the parking requirements of the type of residential dwelling being used as a STA. All requirements can be found in Section 7.1.1 of the Zoning By-law.
  - Requirements that the Town be informed of sales/changes of ownership of the subject lands.
  - Approval from the Regional Public Health Department where applicable.
  - Burn permits
- Restrictions
  - Such as maximum numbers of guests, maximum length of stay, STAs not permitted in accessory structures (i.e., detached garages), parking requirements, permissions for operation within specific built form.
- Fees and Fines
  - Applications fees.
  - Fines for licensees in contravention of the Licensing By-law.

- Annual renewal of License fees.
- Enforcement of the STA By-law

Through the application process, STA owners will be made aware of and acknowledge legal requirements, which include zoning, noise, and property maintenance. By requiring the acknowledgement of these requirements at the time the application for a license is submitted, it will aid in reducing the number of violations that result from lack of knowledge of Town processes.

Staff continues to work on the development of a Licensing Framework; however, through the preliminary review, staff are considering implementing restrictions on the number of guests permitted, and restrictions on the number of consecutive nights permitted to be rented by one group.

### Next Steps

Staff will continue to meet to develop a draft Licensing By-law in preparation of the public consultation process. A public consultation process, consisting of an open house and a legislated Statutory Public Meeting will be followed to receive feedback from the public and stakeholders on the proposed requirements, restrictions, fees and fines, and proposed enforcement activities.

Staff acknowledges that input received during the public consultation process will be critical prior to recommendations being brought forward to the Committee and Council. Staff anticipate that the result of the public consultation may result in required refinements to the application form, Licensing By-law, and zoning provisions. Future implementation of a Municipal Accommodation Tax would be a subsequent step after the implementation of a licensing regime for STAs.

## **Financial, Legal, Staff Considerations:**

Financial:

The development of a Licensing By-law will incur Municipal administrative and enforcement costs. Staff anticipates including projected costs within a report to the Committee of the Whole at a later date. Ideally, these costs will be covered by licensing fee revenue.

Staffing:

The development of a Licensing By-law will require two additional Municipal Law Enforcement Staff.

Legal: N/A.

## **Conclusion:**

As outlined in this report, staff considers Short Term Accommodations to be desirable for the tourism sector. STAs provide an opportunity to attract investment and increase visitation to our community, thereby adding revenue for our local tourism economy and



ensuring that STAs are licensed provides a safe, responsible, and healthy space for renters to enjoy. Staff continues to work on zoning provisions and a licensing framework to regulate, govern and license Short Term Accommodations to bring forward at a future Committee of the Whole meeting.

Respectfully submitted,

Allison Martin  
Planner  
905-563-2799 Ext. 502.

### **Appendices:**

Appendix A Overview of Short Term Accommodations Policies and Provision Research  
Appendix B Information on Current Short Term Accommodations within Lincoln

### **Report Approval:**

Report has been reviewed by the Director of Planning and Development. Final approval is by the Chief Administrative Office