

Staff Report

2023-14 - Administration Department



To: Mayor Koetsier and Members of Council
From: Greg Mariotti, Chief Administrative Officer
Date: February 13, 2023
Subject: Short Term Rental (STR) Policy Update

Report Highlights

- A revised policy is being presented here following feedback from rate payers and Council.
- The originally proposed accommodation tax is being removed.
- An easier to administer "registration" fee should remain, to offset the cost of managing the program, which is estimated to be the equivalent of an additional 0.6 FTE, converting an existing seasonal by-law officer position into a year-round one (close to an additional \$60,000 per year over existing budget).
- It is recommended that the addition of the by-law officer administering this program be hired around March/April, to assist with implementation of this policy, including the management of a software system designed to monitor, and flag, short term rentals.
- "Registration" does not mean "licence to operate", reducing municipal liability and costs associated with staff pre-inspections and ongoing monitoring.
- Fines for non-compliance will be administered through a more efficient and cost-effective AMPS system (Administrative Monetary Penalty System), at the municipal level, rather than going through the court system.

Recommendation

BE IT RESOLVED THAT Council direct staff to move forward with the creation of a by-law to begin the registration of short term rentals in the Township of Georgian Bay by May 1, 2023; and

THAT Council direct staff to begin the consultation process with short term rental providers in the community for education and awareness; and

THAT Council approve the ability to convert a seasonal by-law enforcement officer to a year-round position within the By-Law Department to assist with the implementation, promotion, education, administration and enforcement of this new policy, by-law and associated guide, forms and documents; and

THAT Council approve the purchase of a dedicated software system to assist with administration of the by-law with a cost estimate of a maximum of \$17,500.00.

Background

Short Term Rentals (STRs) are non-commercial, residential dwellings that are rented out for short periods of time and which do not fall under the "Residential Tenancies Act".

The advent of online websites such as AirBnB, VRBO and Kijiji, coupled with the shift in human behaviour during, and following, the Covid-19 pandemic, has resulted in an increased desire to monetise the family cottage, or to purchase additional properties for the purpose of investment and generating an additional revenue stream. For the most part, STR activity is being carried out while respecting neighbouring properties. Unfortunately, owners of some STRs are allowing their properties to cause ongoing nuisance, despite Township efforts to educate owners and ask that their properties be rented out in a respectful manner.

The STR policy and by-law will therefore be a tool that Township staff can use to hold the property owner(s) equally accountable for the misguided actions of the individuals who paid to stay at their rental property.

Analysis

STR Policy Intent

The Township of Georgian Bay's STR policy and by-law will be designed to carry out the following:

- Have all property owners intending to rent out their homes for monetary gain, register their property with the Township – note; registration is for STRs only, not for long term rentals and those which fall under the "Residential Tenancies Act".
- A list of all registered dwellings will be made publicly available for review on the Township website with the ability for any non-registered dwellings to be flagged with staff.
- Satisfactory registration will be contingent upon:
 - Proof of rental insurance,
 - A declaration of the number of bedrooms on the property,
 - An attestation that the property's septic system (if applicable), is able to handle the maximum number of guests being registered for,
 - A declaration of the number of off-street parking spaces available to the rental dwelling,
 - A declaration that the property owner(s), or designate, will be available by phone or email within one (1) hour of Township staff contacting them for the duration of the rental period and be available to attend on-site within 2 hours,
 - An attestation that the property will contain copies of all relevant by-laws and guides associated with being a good neighbour; and

- An attestation that property registration does not imply Township endorsement of the property and that the Township will be held harmless against all activities associated with the rental.
 - Maintaining a rental attendance record and have it available for inspection.
 - For “regular users” (see below), Conducting a Carbon Calculator Analysis <https://www.gbbr.ca/carbon-calculator> on a yearly basis and identifying two achievable milestones such as water reduction by 5 %, encouraging guests to collect food waste or reducing energy consumption by 5%, reducing pesticide use etc.
- There will be two tiers of registration with associated registration fees. A “light user” tier for those planning on renting their properties for less than 20 nights per year and a “regular user” tier for those who anticipate renting out their properties for 21 nights and over.
 - Registration will be renewable on an annual basis. Deadline for registration would be May 1st of each year (depending on timing, this may not be applicable for 2023).
 - Registration will be tied to the registered owner(s) of the property, not the property itself. For example, if a property is sold mid-way through the year, the new owner(s) will have to re-register. This will allow staff to promote and educate the new owner(s) with our policies and by-laws and they will receive a copy of our STR Guide. Also, if an owner operates more than one STR, the registration fee will be multiplied by the number of properties being rented.
 - There will be an additional fine if, during an STR complaint and investigation, the subject property was found not to be registered.
 - Lack of registration does not abdicate the property owner(s) from being subject to the STR by-law and will be subject to a fine if found to be operating without being registered.
 - Tenants will be required to sign a “Renters Code of Conduct” and rental owners will be required to maintain a readily available file folder containing all related by-laws which may affect the rental property, a copy of the STR guidebook and copies of the various signed declarations and attestations that the property owner(s) have submitted as part of the registration process.

Additional By-Law Details

The by-law will limit the number of occupants to two (2) persons above the age of 2 per legal bedroom. Example: for a 3-bedroom home, the limit would be six (6) persons above the age of 2. For properties on septic systems, additional occupancy limits may apply and will be enforceable upon investigation.

Only property owners may apply to register a property as an STR, not renters or tenants of a property. Also, only the main dwelling of a building may be registered as an STR; bunkies, accessory dwellings, trailers and docked boats may not be rented out. Owner occupied properties where owners are renting out a room within a property will not be subject to this policy.

If the property is serviced by sewers, it can have the designated amount of people subject to the above maximum occupancy per the STR by-law. If it is served by a septic system, occupancy will be dependant on the daily design flow determined by the Ontario Building Code and will have to be declared on the registration form.

Registration -vs- Licensing

Implementing a registration and not a licensing system allows for a more efficient and cost-effective monitoring of the STR program. Registering a property does not imply that the Township is approving of, nor endorsing, the activity. Registration also does not put the onus on the Township to ensure that the STR property complies with all health and safety rules and regulations.

Licensing an STR tacitly implies that the Township is issuing a licence for the property to be an STR – this comes with additional cost pressures in terms of pre-inspections to ensure the STR is fully compliant with all rules and regulations, which in turn, generates potential liability. By only requiring registration of a property, and having the STR owner(s) sign a waiver, we will be placing the Township in the strongest possible position to defend a potential lawsuit in the future.

Enforcement Approach and Administrative Penalties

Typically, as with any by-law infraction, and depending upon the severity of the infraction, staff will begin the compliance process through education rather than enforcement with the issuance of a fine.

Issuance of a fine is proposed to be undertaken through an administrative monetary penalty system (AMPS). Going forward, the use of the AMPS system will be promoted for all Township by-laws. This system will be more efficient and cost effective when compared with going through the court system. Under Section 434.1 (1) of the Municipal Act, a municipality can require a person to pay an administrative penalty if the municipality is satisfied that the person failed to comply with a by-law of the municipality. Further, if the penalty is not paid within a prescribed timeframe, this will then constitute a debt, which may be added to the tax roll of the property and then be collected in the same manner as municipal taxes.

A penalty through the AMPS system may be appealed by a person. The appeal will be initially screened internally by an independent employee from another department of the Township. Should the outcome from the internal screening not be to the satisfaction of the person, a secondary appeal may be brought forth to a hearing committee comprised of members of the community (details and Terms of Reference as yet to be determined). Any appeal will carry an administration fee.

In order to implement this new policy in time for the busy summer season it is recommended that staff hire a by-law officer sometime in March/April. As an additional service in promoting this new policy, the by-law officer will carry out in-person/remote training sessions with STR owners who wish to fully understand the process.

Having an additional employee available on the off-season would also assist with timely response to other by-law infractions, since the off-season has significantly expanded, post Covid-19.

Financial Considerations

Revenues

Some municipalities are using their STR policies and associated MAT tax (Municipal Accommodation Tax), as an additional source of funding. Georgian Bay Township's direction to staff is one of not to use this policy as an additional revenue stream.

It is proposed to charge \$1,250 annually to register regular STR users (21 nights and above) and \$500 annually for "light" users (20 nights, or less, rented out each year). Based on the previous STR report, it is estimated that 60 STR's are active in the Township, though this is a conservative estimate, as the number is simply based on a search of online advertising. This number would generate \$75,000, covering the additional 0.6 FTE request and estimated software costs – and using a commercial software program to flag operating STR's will generate additional revenues. As the program is implemented, there will be additional "light" and "regular" user registrations generating additional income. The Township of Lake of Bays for example, through a software system, has identified around 260-300 STR businesses operating within their boundaries.

Expenses

Moving from a seasonal to a full time by-law enforcement officer will result in a staffing increase of roughly \$60,000 per year.

There will be additional administrative and software costs. Software costs are estimated to be in the \$15,000 range annually.

Implementing an AMP system and not using the courts will be a more cost effective and efficient means of collecting fines. Expenses associated with management of the AMP appeal process is unknown at this time, however an administration fee will be implemented to cover these costs and can be refined in successive years to make sure that costs are covered.

Report Supported By

Strategic Plan:

- Protect and Preserve Our Natural Environment
- Transparency Within Government
- Municipal, Fiscal and Resident Responsibility
- Sustainable and Responsible Development

Well Managed Infrastructure

Relevant Background Report

[Short Term Rental Policy and Proposed By-law/Short Term Rental Guide Sustainability Department 2022-11](#)

Reviewed By