



Corporation of the Township of Brock

Staff Report to the Mayor and Members of Council

From: Sara Jones

Position: Supervisor By-law Enforcement & Animal Services

Title / Subject: Short-Term Rentals and Proposed By-laws

Date of Report: April 10, 2022

Date of Meeting: April 19, 2022

Report No: 2022-GG-007

1.0 Issue / Origin

The purpose of this report is to present Council with three amending by-laws (Noise, Burning and Fireworks) and a new Nuisance Party By-law to provide an enhanced level of municipal by-law enforcement program to assist with controlling “party houses” often associated with Short-Term Rentals.

2.0 Background

Let's start by understanding what is a Short-Term Rental (STR). An STR should be understood to mean any dwelling or part of a dwelling offered for overnight accommodation, for a set period of time and for a fee, to a person or persons who do not usually reside in the dwelling. Therefore, physically, an STR can be, for example, a single-family home, a bedroom within such a home, a basement within such a home, a townhouse or part of a townhouse, a condominium unit or part of a condominium unit.

The concept of renting out an entire dwelling or a portion of a dwelling is not a new concept, as cottages on lakefronts have always been a location for summer time family vacations, or as is the case with Lake Simcoe, a destination for people that enjoy fishing.

Historically, renting the family cottage typically included advertising in newspapers within the GTA, renting to family friends, or by word of mouth. In current times, the rental of family cottages is much easier and casts a broader geographical net with the use of a number of virtual platforms, such as but not limited to, AirBnB, VRBO, HomeAway, Booking.com, CottageRental.com, etc.

The virtual platform has increased significantly over the years and covers more than just renting dwellings or rooms, but in fact covers a wide range of goods and services known as the 'sharing economy'.

The 'sharing economy' is an umbrella term which describes a wide variety of economic activities that have been made more accessible through technology. The common element is that they enable individuals to "share" their personal assets or skills.

As example, well-known digital platforms include Uber, in the transportation market, Airbnb or VRBO, in the STR market, and SkipTheDish in the food delivery market. The Province has defined the sharing economy as follows: "The 'sharing economy' refers to people using online platforms to sell or rent underutilized property, goods, or services and rating each other's trustworthiness through online reputation systems."

Focusing on STR's, there are advantages and disadvantages related to the specific market. In terms of advantages for Brock Township, STR's provide economic development spin offs including an increase in tourism to Brock; increase in local businesses (i.e. restaurants, shops, contractors, property maintenance, home cleaning, etc.); increase in local recreation businesses (i.e. ice fishing, boating, beach front, sporting events, music festival, etc.). As it relates to private investors, the advantage to STR's includes the ability to increase income to offset the carrying costs for the investment property.

Disadvantages to STR's surround the disruption of the local close-knit community groups. In some cases, short rental periods bring some individuals/groups that have a disregard for local community rules and cause disruption to the piece and quiet for local residents with excessive noise due to over accommodations, music, outdoor parties, fireworks, parking, and garbage.

A Township survey with respect to STR's in Brock was open between February 2021 and August 2021, with a total number of 428 respondents. The summary report for the survey is attached as Schedule '1'. Generally speaking, the residents that participated in the survey cited the same concerns listed above in addition to concerns for building/fire code violations and overloading of septic systems potentially impacting Lake Simcoe.

3.0 Analysis

Staff have conducted extensive research and have communicated with a number of municipalities that have put in place a regulatory framework (licensing) for STR;s and those municipalities that have not implemented any regulations. Those municipalities include: Oshawa, Kingston, Toronto, Oakville, Burlington, Georgina, Ramara, City of Kawartha Lakes, Blue Mountains, Guelph, and Ore-Mondonte.

STR Licensing Framework:

From the research into those municipalities that have implemented a STR Licencing requirement, there is without a doubt, a great amount of work that has gone into developing the licensing framework, but also with respect to carrying out and enforcing the requirements for licensing.

Staff have identified a number of excellent concepts within other municipal STR licenses including but not limited to: a definition for Short-Term Rentals in respective zoning by-laws, an application and fee process, a demerit system for licensed STR's that infract municipal by-

laws, special separation between STR's, building and fire requirements, maximum occupancies, parking plans, and even the inclusion of noise monitoring hardware.

In discussions with those municipalities that currently have an STR licensing requirement, the common challenges that arose were the substantial increase in the administration of the STR licensing program as well as the increase in budgetary costs for enforcement and prosecution of non-compliant owners. The concept of 'cost recovery' with the STR licensing program is not net zero and often runs over budget.

Additionally, what some municipalities have found is that the STR licensing program does not eliminate the 'party house' situations, which are the largest cause for concern and biggest nuisance for residents that live near these dwellings.

By-law Enhancements:

Having consideration for those concerns raised by residents, staff have worked with the Township's prosecutor to revise three of our current by-laws that are most impactful not only for STR's, but other situational occurrences that have raised related issues throughout the township.

The areas of focus in amending the Noise By-law, Fireworks By-law and Burning By-law were to bring each of them into more current and relative vocabulary, the ability for enforcement officers to lay charges to persons on sight as well as owners who may not be on sight. A general overview of the changes to each By-law is as follows:

- Noise:
 - Schedule for prohibited noise.
 - Schedule for noise prohibited by time of day.
 - Introduction for paid exemption request from noise for special events.
 - Easier to find offences created by the by-law and easier for staff and residents to read.
 - The by-law creates two offences: cause permit or allow prohibited noise; and cause permit or allow noise during a prohibited time and place. Chargeable to any person on sight or owners off sight.
 - Ability to large charges under the Municipal Act with a maximum penalty of \$100,000 and a minimum penalty of \$350.
 - Set fine at \$350 (ticket issued by the Officer).

- Fireworks:
 - No sale of Fireworks in any retail store or mobile location other than by permit and only the week prior to Victoria Day (May long weekend) and Canada Day.
 - Discharging of fireworks, only between dusk and 12:00 pm on the day preceding Victoria Day, on Victoria Day, on the day preceding Canada Day and on Canada Day.
 - Ability to large charges under the Municipal Act with a maximum penalty of \$100,000 and a minimum penalty of \$350.
 - Set fine at \$350 (ticket issued by the Officer).

- Burning:
 - Burning permits MUST be required for Open Air Burning, Agricultural Burning and Recreational Burning.

- In addition to any penalty provided the by-law, owners will be liable for all expenses incurred for the purposes of investigating, controlling and/or extinguishing any fire (includes truck and personnel).

New Public Nuisance By-law:

Staff are recommending the introduction of a new Public Nuisance By-law as part of the 2022 enhanced level of enforcement. Public Nuisance By-laws (or as they are often referred to as 'Nuisance Party By-laws) have been implemented in other municipalities, such as Uxbridge, Guelph and Kingston, and they have shown to be an effective tool.

The Public Nuisance By-law defines what a 'Public Nuisance' is and lists out a number of different nuisances that are not permitted, including but not limited to: soliciting, loitering, odour, screaming and yelling, fighting, excessive noise, and conduct that is disorderly or obnoxious.

The By-law further prohibits that "No Person, including an Owner or Occupier of Property, shall sponsor, conduct, continue, host, create, participate in, allow, cause, or permit any activity that constitutes a **Public Nuisance.**" Additionally, "No Person, including an Owner or Occupier of Property, shall hold, sponsor, conduct, continue, host, create, attend, allow, cause, or permit a **Nuisance Party.**"

Similar to the enhanced Noise & Fireworks By-laws, the Public Nuisance By-law also has the ability to large charges to persons on site and the owner that may not be on site, under the Municipal Act with a maximum penalty of \$100,000 and a minimum penalty of \$350, and a set fine at \$350 (ticket issued by the Officer).

Officers have the ability to lay charges under both the Public Nuisance By-law and any other municipal By-law, so long as the charges are not for the same violation.

Enhanced Level of By-Law Enforcement for the 2022 Season:

Council during the 2022 Budget Deliberations, had decided to reallocate existing funding in-order to hire two seasonal By-law Enforcement Officers that would be patrolling and enforcing not only the by-laws referenced in this report, but in addition, will carry out other enforcement duties including parking enforcement.

The two seasonal officers will be working from prior to Victoria Day long weekend until past Labour Day long weekend. The officers will be patrolling individually across the municipality with attention to lakeshore residential areas. Schedules may fluctuate, however, for the most part, the seasonal officers will be scheduled Thursday through Sunday and holiday Monday's with shifts into the late evenings.

4.0 Related Policies / Procedures

There are two ways to lay a charge. The first, is to issue a ticket that is personally served at the time of the offence or within 30 days of the offence. The ticket is just like a ticket issued by Police to drivers at the roadside. It contains a set fine for the offence, and in regard to the by-laws outlined in this report that set fine is \$350.00.

The person who receives the ticket has options. They can plead guilty, request a trial to challenge the officer's evidence, or request an early resolution meeting with a prosecutor.

If they want a trial, the witness, whether an officer alone or with complainants (residents), will be required to attend court.

The second way to lay a charge is to serve a summons. This kind of charge has to be laid within 6 months of the offence. This will require the person charged to attend court at least once.

If a person ignores a summons, the matter still goes to trial because a person can't be deemed not to dispute a summons. The officer, and any witnesses (residents), will have to attend court.

If a person is served with a summons, the set fine doesn't apply. That person is liable to the maximum fine set out in the by-law. The more convictions there are, the higher the fine.

Municipal by-law enforcement in certain situations can be pro-active, such as parking, however many situations the infraction does require residents to file a formal complaint and provide testimony in court should the infraction be challenged. Noise infractions are a good example in which the courts often ask for evidence in the form of a 'Noise Log' from the resident(s) whom have been disturbed by the noise violation.

As such, the most important point to stress, is that municipal law enforcement will require the assistance from residents to file formal complaints and keep evidence such as a 'Noise Log' or pictures, or notes, to provide the courts with enough evidence to ensure the charge is enforced.

5.0 Financial / Budget Assessment

Council has approved \$30,000 in the 2022 budget to cover the costs of the two seasonal officers and any personal protective gear to outfit the officers.

Any potential revenue from issuing set fines is difficult to estimate at this point, as the total number of set fine tickets will be subjective to the number of complaints and non-compliant cases the officers will be dealing with this season. Similarly, any additional expenses as they may relate to costs related to serving a summons, or costs related to court prosecutions, will also be subjective to the number of charges laid and the number of challenges to those charges.

For Council's information the estimated cost to serve a person with a summons depends on geographic location and can range from no cost (owner lives in Brock and served by our Officers) to any where from \$70.00 to as much as \$250.00.

With respect to estimated costs around prosecution and court trials the cost may vary depending on a number of factors, such as a Part 1 charge (set fine ticket) versus a Part 3 charge (summons to court). The other factors include if there is a request for an Early Resolution (ER) or the number of court dates required. These estimated costs can range anywhere between \$625.00 to \$1,175.00.

Staff will be reporting at the end of the season and identify the statistics related to the 2022 enhanced level of enforcement and include all revenue and costs associated with the program.

Any budget overruns as a result of the 2022 enhanced level of enforcement may be covered through Township's annual surplus or the Rate Stabilization Reserve.

6.0 Climate Change Impacts

There is no climate change impacts as it relates to this report.

7.0 Communications

Public Notice & Consultation:

As noted earlier in the report, the Township had an open survey between February 2021 and August 2021 with a total number of 428 participating respondents.

Council heard deputations and received correspondence from area residents on the issues surrounding STR's and directed staff to put a plan in place and report back.

Notice with respect to the proposed amendments to the Noise, Fireworks, and Burning By-laws as well as Notice with respect to the new proposed Public Nuisance By-law was given in accordance with the Township's Public Notice Policy #AP6, on March 30, 2022.

Consultation with Agencies:

Staff have had conversation with Durham Region Public Health and Durham Region Police Services regarding Short-Term Rentals in Brock Township.

Durham Region Public Health confirmed that currently there is no requirement for STR's to have inspections relating to drinking water systems or existing septic systems, other than when requested to test the drinking water system or when there is a failing septic system.

Durham Region Public Health also noted that they continue to conduct the mandatory 5 year re-inspections of private sewage systems within the Lake Simcoe Watershed.

Staff's discussion with Durham Region Police Services, North Division (DRPS), revolved around the proposed by-laws as well as the enhanced level of by-law enforcement. DRPS was encouraged and supportive of the staff proposal for the 2022 season and confirmed their commitment in supporting our By-law Officers when called, dependent on priority dispatching.

Public Communication Plan:

The Township's plan around communication will focus not so much on, here are the rules and here is how we will be enforcing them, but more about how residents (permanent, seasonal, or guests) need to appreciate and respect the surrounding environment/community, and enjoying all of that in a harmonious manner.

Following Council's adoption of the proposed by-laws, staff are proposing to implement the following Public Communication Plan:

- 1) Enacted By-laws to be published on the Town's website.
- 2) Communication letters with copies of the approved by-laws will sent to all Shoreline Residential property owners.
- 3) Information brochure or pamphlet on the respective by-laws will be included in the Township's final tax bills.

- 4) Information brochures will be distributed to all known STR establishments as catalogued from the various virtual platforms. To ensure that owners of an STR's advise their tenants of the applicable by-laws.

Communication with STR Owners & Virtual Platforms:

When staff encounter frequent complaints or infractions, with repeating addresses, communication with the property owner will take place to discuss the issues and how we can move forward to ensure that any future potential issues are diverted.

When staff encounter frequent complaints or infractions with repeating STR properties that are listed on virtual platforms, staff will be contacting the virtual platform to inform them of the issues with the STR they are hosting.

8.0 Conclusion

The Township of Brock is not unique with respect to the issues surrounding STR's and the administration and enforcement surrounding Short-Term Rentals.

Staff endeavour to find a delicate balance between regulations, compliance, and enforcement all while keeping the costs reasonable and managing existing capacity levels.

The extensive work conducted to date, regarding any option to introduce a regulatory licensing framework will not be lost. Following the 2022 season and reporting back to Council with statistical information, Council may still choose to implement a licensing process for STR's. Should Council prefer to implement any licensing framework for STR's, a full cost analysis will be included for the 2023 budget deliberations.

9.0 References and Attachments

- Municipal Reports and Licensing By-laws for Oshawa, Guelph, Toronto, Kingston, Ramara, Georgina, Ore-Medonte, Burlington, Oakville, and Uxbridge.
- [The Sharing Economy Framework, Province of Ontario, Minister of Finance 2018](#)
- Schedule '1' – Let's Talk Brock: Short-Term Rental Survey
- Appendix '1' – Draft Public Nuisance By-law #3017-2022
- Appendix '2' – Draft Noise By-law #3018-2022
- Appendix '3' – Draft Fireworks By-law #3019-2022
- Appendix '4' – Draft Burning By-law #3020-2022

10.0 Recommendation

BE IT RESOLVED THAT report # 2022-GG-007, entitled "Short-Term Rentals and Proposed By-laws", be received; and

THAT Council direct the Clerk/Deputy CAO to prepare and present Public Nuisance By-law #3017-2022; Noise By-law #3018-2022; Fireworks By-law #3019-2022; and Burning By-law #3020-2022, attached as Appendix '1', Appendix '2', Appendix '3', and Appendix '4', to Report Number 2022-GG-007, for consideration and adoption at the Council meeting to be held on April 25, 2022; and

THAT By-law Number 2389-2011-PP, By-law Number 2535-2014-PP, By-law Number 2915-2019 and all amendments thereto be repealed, upon adoption of proposed by-laws: Public Nuisance By-law #3017-2022; Noise By-law #3018-2022; Fireworks By-law #3019-2022; and Burning By-law #3020-2022.