



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF THE CAO

**MISSION STATEMENT:** *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

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<b>Author's Phone:</b> 519 736-0012 ext. 2251	<b>Date to Council:</b> April 17, 2023
<b>Author's E-mail:</b> btetler@amherstburg.ca	<b>Resolution #:</b> 20220912-005

**To:** Mayor and Members of Town Council

**Subject:** Draft Short Term Rental By-law

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#### 1. **RECOMMENDATION:**

It is recommended that:

1. Council **DIRECT** Administration to implement a municipal licensing framework and fee schedule for regulation of the Short Term Rental Industry with the Town of Amherstburg as described in this report; and,
2. Council **ADOPT** either Appendix "B" or Appendix "C" as the Short Term Rental Municipal By-law for the Town of Amherstburg.

#### 2. **BACKGROUND:**

The Short Term Rental (STR) housing market is one of the fastest growing sectors in the worldwide travel/tourism industry. Various companies provide platforms for homeowners to advertise their STR properties to renters, including – but not limited to – Airbnb, VRBO and HomeAway to name a few.

Renting all or part of a home for a short duration while traveling is not new to the tourism industry. In recent years, online platforms have made participating in this industry significantly easier in cities across the world both for hosts offering accommodations and guests seeking them. When private individuals offer part or all of their residence for rent for a short period in exchange for a fee, usually through an online platform, these offerings are generally referred to as a Short Term Rental (STR). Those offering part or all of their residence for rent are considered a Short Term Rental Owner ("STR Owner"), whether they actually own the property or hold a lease for it.

At its meeting held on September 12, 2022 Council received report **20200914-292** regarding **Regulation of Short Term Rental**. In response to this report, Council directed Administration to complete consultations with stakeholders and **BRING BACK** a licensing regime for Council's consideration. Administration completed an online survey from December 11, 2022 to January 22, 2023 and received 212 responses. A report from the online survey is attached as Appendix "A" to this report. Administration held a public open house on January 18, 2023 at the Libro Centre to answer questions from stakeholders.

This report includes an overview of a regulatory framework proposed in two by-laws that have been drafted for Council's consideration including a proposed fee schedule for licensing short term rental owners similar to that used by the Town of Blue Mountains.

### **3. DISCUSSION:**

Municipal regulatory power is limited by the *Municipal Act* to specific purposes, including health and safety, consumer protection and nuisance control. A regulatory framework could assist in mitigating the negative impacts of STRs by placing parameters around what constitutes a legal short term rental. Regulation through a licensing regime could require STRs to meet minimum standards for safety, help balance the demand for STRs and long-term housing options. It could also support the evolution of business models that spur economic growth by enhancing consumer confidence in the accommodations offered by hosts through online platforms.

#### **STR Draft By-laws & Regulations for Amherstburg**

In line with Resolution # **20220912-05**, Administration has developed two distinct frameworks and a fee structure for the licensing and regulation of Short Term Rentals. The intent of the proposed regulations is to address the issues described in Report 20200914-292 such as health and safety, nuisance control, and consumer protection. An overview of the proposed by-laws, attached to this report as Appendix "B" and Appendix "C" are as follows;

- Appendix "B" is proposed as an owner occupied by-law
- Appendix "C" is proposed as a non owner occupied by-law

The proposed by-laws have been written with the same requirements, enforcement regulations and conditions with the exemption of either being owner occupied or non owner occupied. Each proposed by-law contains an adherence to the Town's current regulatory by-laws, compliance with the Ontario Building Code and the Fire Prevention and Protection Act. The proposed by-laws each will require a Fire Inspection along with submitting a fire safety plan for review and approval. The maximum occupancy under each proposed by-law will be calculated with a limit of 2 persons per bedroom and an additional 2 persons or the number permitted under the Town's Zoning By-law 1999-52, as amended. The proposed by-laws also limit the operation or occupation of an outdoor hot tub or pool between the hours of 2300hrs – 0700hrs.

Further, Administration is recommending the creation of a Licensing Committee to address any appeals to any potential enforcement actions taken if a by-law is adopted by Town Council. The Licensing Committee would be a quasi-judicial, independent statutory body with full authority to make decisions on applications and appeals relating to licensing matters. Once the Committee is established, it would meet as needed to hear licensing matters. The Licensing Committee's decisions would be final and only appealable to Superior Court. Establishing such a Committee would be beneficial in that it would operate in much the same way as the Committee of Adjustment and would provide an avenue for application to a purpose driven body.

### **Applying for a Licence**

Property owners who wish to offer part or all of their dwelling unit as an STR will need to secure a Short Term Rental Owner Licence. If the unit is rented or part of a multi-unit building, the applicant must also show authorization from the registered property owner or condominium corporation to offer the dwelling unit as an STR. Applicants must present a valid Vulnerable Sector Check for every registered owner or tenant of the dwelling unit, valid home liability insurance of at least \$2 million, and contact information for either themselves (an "STR Operator") or another specific individual (a "Responsible Person") who can be reached 24 hours a day while the STR is being rented.

### **Licensing Terms**

Licences under the proposed by-law will require yearly renewal. They are non-transferable and a new licence will be required when the registered owner of a property changes, or if significant renovations are undertaken to the dwelling unit. Licences that are not renewed on time will be subject to a penalty and those lapsed for more than 365 days will be deemed cancelled.

### **Licensing Administration, Enforcement and Inspections**

The Manager of Licensing and Enforcement will oversee the administration and enforcement of the proposed by-law. The Licensing Officer will process and administer applications and Fire Prevention Officers will undertake necessary inspections with By-law Enforcement Officers as appropriate. The proposed by-law includes a framework for the Manager of Licensing and Enforcement to recommend an application be refused, suspended, revoked, or meet additional conditions to receive a licence, which must be confirmed by the Licensing Committee. The decisions of the Licensing Committee on these matters will be final.

Under the proposed by-law, Officers may enter onto any property at any reasonable time to determine compliance with the by-law or when there are reasonable grounds to believe a contravention is occurring. When a contravention of the by-law is identified, Officers may issue an Order to Comply either to discontinue the offending activity or to undertake work to correct a contravention.

In order to avoid burdening the taxpayer and community with the costs of administering a licensing program, Council should consider establishing an appropriate licensing fee to recover the Town's costs to administer and enforce this licensing program. Administration proposes the following fee structure for Short Term Rental Owners. The rationale for the fee structure follows.

Category	Initial Application	Renewal
Short Term Rental Owner	\$550.00	\$500.00

Administration proposes that an STR Owner Licence cost of \$550.00 for new applications and \$500.00 for the annual renewal. This fee should allow costs associated with administration, enforcement, zoning checks for new applications, and overhead such as office expenses and corporate support to be recovered. Additionally, under the Town's User Fee By-law, Departments can charge for additional time in resources if need over and above the application or renewal fees.

While the proposed STR licence fees are based on the principle of cost recovery, the program is unlikely to achieve full cost recovery during its initial year. Because of the variables at play, it is challenging for Administration to accurately determine the number of active STRs in Amherstburg at this time or to predict the level of compliance the municipality will secure from STR Owners. Licence fees will likely need to be reviewed once the program has been implemented and Administration has more accurate data available.

#### **4. RISK ANALYSIS:**

Licensing and By-law enforcement staff will be tasked with implementing and administering the program. Should Council direct the creation of a Short Term Rental Licensing program, Administration will monitor the impacts on front line staff regarding the delivery and demand that such a program has on available resources but Administration believes that current staff complements in the Licensing and Enforcement Division can administer the requested program in its initial stages. Amherstburg Fire Department has estimated it will take anywhere from 7-10 hours per property to approve a short term rental. The Fire Department has a Fire Prevention Officer approved for the 2024 budget and in order for the Fire Department to continue providing the same level of service that position would need to be moved forward to June 2023 or the program start be deferred to 2024.

Based on research from 2023, Administration estimates approximately 60-100 STR Owner Licences will need to be processed annually, representing a 500% increase in licensing volume. Until the program has been in operation and the needs can be assessed final impacts on resourcing cannot be precisely known. Administration used a website called AirDNA to scan our municipality and found that there are 64 active rentals with 81% being rented as the entire home. Administration suggests this information as fairly accurate as it pulls data from AirBnB and VRBO. It shows 74% of the properties listed on AirBnB and 6% listed on VRBO. It shows that 20% are listed on both VRBO and AirBnB sites. Administration would suggest there are other platforms that could have STR's available for rent.

#### **5. FINANCIAL MATTERS:**

As with any other municipal licensing regime, the adoption and implementation of a STR licensing program will have some financial implications and costs for Town Council to consider. There is currently no provision for the adoption of this program within the approved 2023 Operating Budget (revenue and/or expenditure). Should Town Council decide to move forward with a Licensing regime, the financial impacts of this program

will be monitored throughout its first year and a budget issue will be brought forward to increase licencing's revenue based on the revenue generated from this license fee and request approval should any additional expenses need to be identified.

Should Council consider creating a Short Term Rental Licensing program in 2023, Amherstburg Fire Department would require the Fire Prevention Officer position be brought forward to June 2023 to ensure the same level of service is being provided at a cost of \$62,405. This amount is not included in the 2023 approved operating budget, if approved to move forward in 2023 Council would need to identify a funding source. Alternatively, should Council direct a Short Term Rental Licensing program commence in 2024, the identified additional cost would not need to be borne in 2023.

## **6. CONSULTATIONS:**

Dan Monk, Assistant Deputy Fire Chief  
Bruce Montone, Fire Chief  
By-law Enforcement Officers  
Angelo Avolio, Chief Building Official  
Chris Aspila, Manager of Planning Services  
Valerie Critchley, Chief Administrative Officer  
Kevin Fox, Municipal Clerk  
Tracy Prince, Director/Chief Financial Officer

## **7. CONCLUSION:**

Compliance is a key element to any successful regulatory scheme. The proposed licensing program will regulate the business of operating a short term rental accommodation. Owners are held responsible for the operation of their business. The draft STR Licensing By-Law would apply to all properties within the Town of Amherstburg that are rented for time periods of less than twenty-eight (28) days. Licensing would apply to all STRs regardless of the date created – grandfathering would not be applicable. Licensing will apply equally to existing STRs and proposed STRs and will require inspections to ensure safety is maintained. It is intended that this program will sustain itself financially. The proposed fees assume a model funded by short term rental providers and not reliant on the general property tax base. The licensing fee and fines are intended to be substantial enough to deter non-compliant behaviour, but are affordable by short term rental providers who routinely rent out their properties and earn income. If Council chooses to implement a licensing regime in the Town, Administration recommends that a grace period of 90 days from the adoption of the By-law for property owners to bring their properties into compliance and this also allows Administration time to prepare for a new licensing regime.



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Bill Tetler  
**Manager, Licensing and Enforcement**

## Report Approval Details

Document Title:	Draft Short Term Rental By-law.docx
Attachments:	<ul style="list-style-type: none"><li>- STR Survey Responses Report FINAL.pdf</li><li>- The Corporation of the Town of Amherstburg STR Bylaw owner occupied.docx</li><li>- The Corporation of the Town of Amherstburg STR Bylaw not owner occupied.docx</li></ul>
Final Approval Date:	Apr 12, 2023

This report and all of its attachments were approved and signed as outlined below:



Tracy Prince



Valerie Critchley



Kevin Fox