



Town of Newmarket
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Short Term Rental Licensing Staff Report to Council

Report Number: 2020-41

Department(s): Legislative Services

Author(s): Flynn Scott, Manager of Regulatory Services

Meeting Date: June 15, 2020

Recommendations

1. That the report entitled Short Term Rental Licensing dated June 15, 2020 be received; and,
2. That Council approve the draft Business Licence By-law 2020-XX; and,
3. That Council amend the AMPS By-law 2019-62 and Fees and Charges By-law 2019-52; and,
4. That Council directs staff to bring forward a report regarding a Municipal Accommodation Tax (MAT) on all short term rental properties in Q1 2021; and,
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary

Short term rentals (STRs) are a growing industry that allows for temporary accommodation of a dwelling unit, in whole or in part, for up to 28 consecutive days. The growth of this industry has raised concerns regarding negative impacts to neighbourhoods within our community.

Through public consultation, research, and presentations and reports to Council, Town staff has received input and reviewed best practices throughout North America to identify effective strategies to mitigate growing concerns. Town staff has also been directed to move forward with a licensing framework in an effort to meet community expectations regarding the regulations of STRs. This report highlights specific regulations that are being proposed through a Business Licence By-law.

Purpose

The purpose of this report is to present Council with next steps regarding the licensing of short term rentals through the adoption of a Business Licence By-law.

Background

Legislative Authority

Under the Municipal Act, the Town may provide for a system of licences with respect to certain classifications of business by adopting a licensing by-law. As specified in the Municipal Act, a licensing by-law should relate to consumer protection, the economic and social well-being of the municipality, and the health, safety, and well-being of persons in the municipality. Conditions may be imposed on a licence to ensure a business is compliant with the regulations established to reflect community objectives.

Section 151.7 of the Municipal Act specifies that a municipality does not have the power to provide for a system of licences with respect to a courier business in which parcels, documents, or property are conveyed. For this rationale, mobile businesses that meet this definition have not been included for consideration.

Historical Reference

On March 25, 2019, a Regulatory Review Workshop with Council identified short term rentals to move forward with new regulations by Q3 2020.

On November 5, 2019, a special meeting for Ward 6 residents was held, involving the Mayor, Ward Councillor, Town staff, and residents of Ward 6 to discuss short term rentals (STRs) in response to growing community concerns for safety surrounding STRs.

On December 10, 2019, a Public Information Centre (PIC) was held to engage Town residents and receive feedback on the types of regulations that should be considered for STRs. The PIC also included an interactive presentation, which permitted participants to complete survey questions throughout the presentation. An online survey was also posted on HeyNewmarket.ca to further engage residents.

At the February 3, 2020 Committee of the Whole meeting, Town staff presented the results received through public consultation and proposed options for Council to consider in regards to moving forward with a licensing regime for STRs. Council also provided further direction for staff to report back on amendments to the Zoning By-law by August 2020. A copy of this report can be found [here](#).

Town staff was on target to bring forward proposed licensing regulations for STRs through a Business Licence By-law in May 2020. However, due to the COVID-19 pandemic, project plans were postponed until a later date. As part of the Outstanding Matters List presented to Council at the May 19, 2020 Electronic Special Council

Meeting, Council approved moving forward with the proposed STR licensing regime in June 2020.

Discussion

By establishing regulations for STRs under a licensing regime, the Town will have the authority to impose conditions on STR operators in order to address increased community concerns. The proposed by-law identifies and addresses key concerns raised during the public consultation period, including:

- excessive noise;
- nuisance behavior;
- health and safety;
- garbage;
- parking; and
- overall negative community impact.

On February 3, 2020 and upon consideration of [Staff Report 2020-07](#), entitled Short Term Rentals, Council approved moving forward with a phased approach to STRs, with a licensing by-law implemented in phase one (1) and prior to amending the Town's Zoning By-law. As a result of this direction, STRs and bed and breakfasts will be permitted in all R1 (single family dwelling) residential zones where the operator (permanent resident) resides onsite within one of the bedrooms. All other forms of STR accommodations will be prohibited until a zoning review is conducted to further explore entire dwelling unit rentals where two (2) dwellings exist on a property, in addition to other zones that may be reviewed for consideration (eg. apartments or multi-unit dwellings).

Proposed Business Licence By-law 2020-XX

In order to achieve compliance from STR operators, it is imperative to design a regulatory, licensing, and enforcement system that is easy to understand, inspires high levels of voluntary compliance, and has effective means of preventing unlawful behavior.

Based on the public input received and a review of best practices across North America, in addition to general requirements proposed, Town staff are also proposing the following licensing requirements for STRs and bed and breakfasts through a business licence process:

- 1. Require every STR and bed and breakfast obtain a business licence and post a sign on their property to identify the premises as a STR business.**

This provision mandates that the Town has approved, and a record exists for, the STR or bed and breakfast business. It also ensures that the community is aware a business exists on the premises.

2. No more than one (1) STR or bed and breakfast is permitted on a lot and within one (1) dwelling unit on a lot.

These provisions only allow one (1) type of business to be operated on the property. For example, an operator could not rent out a main floor and basement suite simultaneously. This will strongly assist in minimizing community concerns by limiting the number of bookings and dwelling units permitted to be used.

3. One (1) off-street parking space for each bedroom rented must be provided. In addition to this requirement, off-street parking spaces are required for the permanent resident(s).

This provision will assist in minimizing on-street parking issues related to business practices.

4. A maximum of six (6) guests and three (3) bedrooms are permitted to be rented out for STR or bed and breakfast use.

This regulation restricts the number of guests and bedrooms used during a rental booking, which will significantly minimize community impacts such as concerns for house parties, noise, or nuisance behavior.

5. Require a permanent resident to be the operator and licence holder, available to respond to complaints within two (2) hours.

This is a very important regulation for consideration. A permanent resident is a person that lives on site and is required to remain onsite while a STR or bed and breakfast booking is taking place. The operator is permitted to leave (but not overnight) and must be available to respond to any complaints received within two (2) hours of being notified. This requirement will ensure that the home remains residential first, with business operations being conducted secondary. This is the strongest provision to ensure that minimal impact to the community is experienced.

6. Require the property be equipped with life safety features, such as smoke detectors and fire extinguishers.

This provision will ensure the building is safely equipped to permit STR or bed and breakfast operations.

7. Ensure compliance with the Town's Zoning By-law.

This requirement will align with currently zoning regulations to permit an STR or bed and breakfast to operate within any R1 zone. For further clarification, this will include single family dwellings within the Town of Newmarket.

8. Require compliance with a demerit point system, where complaints and violations against the operator apply demerit points, with a process for

suspending or revoking the business licence for reaching the demerit point system threshold.

This requirement will confirm compliance with all Town by-laws. For example, if a complaint is received and validated for noise, tall grass, garbage, etc., the property will lose demerit points on the business licence. This process will objectively hold operators liable to comply with all Town by-laws to ensure there is minimal impact to the neighbouring community. After a calculated threshold of violations, the operator will either have their licence suspended or revoked and will no longer be permitted to operate a STR or bed and breakfast business. The decision to suspend or revoke the business licence will be carried through the Appeals Committee, pursuant to the provisions established directly in the Business Licence By-law.

Finally, Short Term Rental Companies that market, advertise, or facilitate short term rental bookings through their platforms will be required to apply for and obtain an annual business licence with a one-time licensing fee of \$5,000. An ongoing fee of \$1 for every night booked through the Short Term Rental Company will be remitted to the Town. This specific licensing requirement aligns with the City of Toronto and Town staff are recommending a consistent approach be taken for the Town of Newmarket to off-set administrative costs associated to the enforcement of STRs.

Municipal Accommodation Tax

In 2017, the Province of Ontario introduced a Municipal Accommodation Tax (MAT) through legislation, which provides municipalities with the ability to add a tax onto rental bookings within their respective communities. The tax may be used in a number of ways, provided that 50% of the tax collected be used for tourism promotion and development. Short term rentals, bed and breakfasts, hotels, motels, and any other short term accommodation provider may be required to pay a per booking fee on any accommodation provided within the Town, should the Town choose to impose such a tax.

Due to the circumstances of the COVID-19 pandemic, Town staff are recommending that Council defer their consideration on moving forward with public consultation on a MAT until early 2021.

Conclusion

Town staff support the proposed licensing regulations in an effort to strike a balance between community concerns and a recognized growing industry throughout the world. Current zoning regulations exist within the Town's Zoning By-law to permit 'bed and breakfasts' within any R1 zone. As part of a phased approach to STRs, a licensing by-law is being proposed to regulate STRs and bed and breakfasts within R1 zones and to permit them as a room-rental model. Further considerations regarding entire dwelling unit rentals and other building types (eg. apartments or multi-unit dwellings) will be

proposed at a later date and in conjunction with amendments to the Zoning By-law, as brought forward by the Town's Planning Department.

Business Plan and Strategic Plan Linkages

This report aligns with the strategic priority of Vibrancy – supporting access to a diverse range of housing options. This report also aligns with the Rev-it-up recommendations for improving administration and service levels within the Town of Newmarket.

Consultation

Consultation or a review of STR by-laws has been completed with municipalities across Canada including Toronto, Blue Mountain, Georgina, Vaughan, Vancouver, Tofino, Calgary, and Edmonton.

Consultation has also been conducted as follows:

- through a PIC and online survey to engage the public and address community expectations;
- by Town staff attending the 2019 Municipal Law Enforcement Officer's (MLEO) Annual Conference, where Blue Mountain presented a regulatory review of their STR program;
- through a Ward 6 meeting with residents directly impacted by public safety implications of short term rentals; and
- through a presentation and report provided to Council on February 3, 2020, where an opportunity for public engagement through a formal deputation was provided.

The Town's Legal Department was also provided a copy of this report and the proposed by-law prior to being presented to Council.

Human Resource Considerations

Town staff previously requested Council approval to move forward with purchasing Host Compliance: a software program used specifically for data-scraping, information gathering, and enforcement initiatives pertaining to STRs. The success of the proposed regulatory and licensing framework will be dependent on the technology available to staff to offset departmental human resourcing requirements and limitations. Town staff are recommending the implementation of Host Compliance modules through a phased approach, with fees associated to be off-set by a portion of the projected business licence revenues recovered for STRs.

Budget Impact

Revenue is anticipated as a result of implementing a licensing regime on STRs. Town staff previously reported that approximately 45% of STRs currently operating in

Newmarket as a room-rental operation will be eligible to obtain a licence. Projected revenue for licensing fees are approximately \$20,000 annually. In addition to these fees, staff anticipate revenue through enforcement action to be taken on the remaining 55% of STRs that remain in operation as entire unit rentals, which will be enforced through the Town's AMPS By-law.

Attachments

Attachment #1 – Business Licence By-law 2020-XX

Attachment #2 – Amended AMPS By-law 2019-62, Schedule A

Attachment #3 – Amended Fees and Charges By-law (Legislative Services)

Approval

Lisa Lyons, Director, Legislative Services

Esther Armchuk, Commissioner, Corporate Services

Contact

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