

The Corporation of the City of Kawartha Lakes

Council Report

Report Number LIC2018-004

Date: June 19, 2018
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier: All

Subject: Short Term Residential Rentals

Author Name and Title: Alix Scarr, Senior Licensing Officer
Aaron Sloan, Manager Municipal Law Enforcement

Recommendation(s):

That Report LIC2018-003, **Short Term Residential Rentals**, be received; and

That Report LIC2018-003, **Short Term Residential Rentals** and any additional information be referred to the August 14, 2018 Council Meeting for consideration.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the Council Meeting of July 11, 2017 Council resolved that the Rolling Hills Estates Homeowners Association correspondence regarding Short Term Residential Rentals be referred to staff for review and report back on alternatives and implications by the end of Q1, 2018.

At the Council meeting of October 10, 2017, after receiving a report recommending no action be taken towards the regulation of short term residential rentals, council resolved that the matter be referred back to staff for further consultation with interested parties with a report to Council on options to license or regulate Short Term Residential Rentals in the City of Kawartha Lakes and potential costs by end of Q2 2018.

Beginning in January 2018, staff undertook a thorough review of the issues surrounding short term residential rentals. The review included:

1. Review of existing municipal by-laws and legislation that apply to the operation of and issues reported at short term residential rentals;
2. Review of other municipalities regulations of short term residential rentals and included consultation with staff;
3. A community survey;
4. A public forum.

Short Term Residential Rentals are those in which tenancy is 30 days or less. This would include renting a private room in a home, an entire home, a seasonal property (cottage), or any other space for 30 days or less. Short term rentals do not include established accommodation types such as bed and breakfasts, hotels, motels, trailer parks, or campgrounds.

Tourism

Access to short term residential rentals can enable additional visitation to the region. Consumers looking for something different than traditional accommodations may be attracted to visit the region because of short term residential rental options that suit their preferred style and price points. Increased visitation results in increased spending and positively impacts the City's local economy.

Tourism is one of the top economic drivers in Kawartha Lakes. The most recent tourism data is from 2016 for domestic visitors only (not including overseas and US visitors).

- over 1.6 million Canadian residents visit Kawartha Lakes annually
- Visitors spend over \$106 million in the municipality.
- 60% of those visitors stay overnight and spend, on average, 2.4 nights in Kawartha Lakes.

- Domestic Tourists spent over \$16 million on **accommodation**, which includes commercial accommodation, camping/RV facilities and private homes/cottages.
 - **Commercial** accommodation (hotels, motels, inns, B&Bs) accounted for 11% of domestic visitation,
 - **Camping/RV** facilities accounted for 15%,
 - **Private homes** accounted for 23%, and
 - **Private cottages** accounted for 51%.
- (Data Courtesy of Ontario Ministry of Tourism, Culture & Sport, analysis of Travel Survey of Residents of Canada, 2016).

The past decade has seen significant growth around the world in short-term rentals as accommodation options for visitors. The growth and popularity of short term residential rentals has been enabled by online platforms which offer property owners a cost effective way to connect with consumers and online marketing and booking options preferred by many consumers.

Responses to Short Term Residential Rentals in Other Municipalities

Municipalities across the country are taking steps to regulate short term residential rentals. In large urban centres, such as Toronto and Vancouver, short term residential rentals are being regulated as a means to ensure adequate and affordable housing in inflated and understocked rental markets. In municipalities with a large tourism industry, such as the Blue Mountains, ON and Whistler, BC, short term residential rentals are regulated from more of a nuisance prevention and consumer protection standpoint as those municipalities are a year round tourism destination. In the case of the Blue Mountains, they have implemented a regulatory by-law involving site inspections as well as a demerit point system wherein if a licensed short term rental property accumulates a certain number of demerit points based on verified by-law violations, the licence is not eligible for renewal. This approach requires one full time staff person to administer and enforce.

Other municipalities are implementing regulations for short term residential rentals that include only permitting owner occupied short term residential rentals, implementing a minimum stay requirement to avoid a high turn-over rate of tenants, and a registration system.

Public Forum

On May 3, 2018, staff hosted a public forum at City Hall. The forum included representatives from City of Kawartha Lakes Municipal Law Enforcement and Licensing Division, Kawartha Lakes Police Services, Fire Prevention, City of Kawartha Lakes Tourism/Economic Development, Kawartha Lakes Paramedic Services, and City of Kawartha Lakes Planning Department. The intent of the forum was to hear the public's ideas, concerns, and perspectives regarding short term residential rentals and to give the public an opportunity to ask questions and receive feedback from the appropriate agency.

Approximately 60 interested parties attended the meeting including neighbours of short term residential rentals, owners of short term residential rentals, local business owners, and individuals with no direct involvement with short term residential rentals. Staff heard positive and negative commentary regarding short term residential rentals in the City. The primary concerns raised at the public forum mirrored the concerns raised in the public survey and are discussed at length later in this report.

Community Survey

The community survey was available through the City website from April 10, 2018 – May 13, 2018. The purpose of the survey was to obtain information and input from the public regarding their opinions of and experiences with short term residential rentals in the City. At the outset of the survey, staff anticipated 300 survey responses which is considered to be a very good response rate for public surveys administered by the municipality. At the close of the survey, 607 responses were used in the qualitative and quantitative data analysis. The survey, as well as the public forum, was advertised on the City’s website, the City’s social media feeds, in the Promoter, and was also featured in Kawartha Lakes This Week and on local cable news media.

The intent of the survey was to gather as many opinions and perspectives about short term residential rentals as possible. Staff was interested in hearing about the positive and negative aspects of short term residential rentals, the impacts of short term residential rentals, and what the public would like to see in regards to regulations.

Overall, the quantitative survey results indicated that the public does not think that short term residential rentals should be regulated, that they play a positive role in economic and tourism development, and that short term residential rentals have minimal to no negative impacts on neighborhoods. Full findings of the survey are outlined below.

Short Term Rental Public Survey Results Total survey responses analyzed = 607	Total responses to question	Percentage of Total responses to survey
What types of spaces should be available for short term rental in Kawartha Lakes?		
An Entire Property	432	71%
One Spare Room	245	40%
Two Spare Rooms	226	37%
Three or more spare rooms	217	35%
A basement/Secondary suite	285	47%
Vacant properties	247	40%
Owner Occupied properties	306	50%

Short Term Rental Public Survey Results Total survey responses analyzed = 607	Total responses to question	Percentage of Total responses to survey
Short term residential rentals should not be allowed	105	17%
Select the statement that best applies to your opinions towards short term residential rentals (Tourism Impacts)		
Short term residential rentals play an important role in increasing tourism in our area	444	73%
Short term residential rentals do not have any value in creating tourism in our area	113	18%
I'm not sure	34	0.5%
Select the statement that best applies to your opinions towards short term residential rentals (Municipal Investment)		
I think the City should be developing policies to deal with the issue of short term residential rentals, across the entire City	192	31%
I think the City should be developing policies to deal with the issue of short term residential rentals in urban centres only	27	0.4%
I think the City should be developing policies to deal with the issue of short term residential rentals in waterfront/cottage areas only	80	13%
I don't feel that the City needs to licence/enforce short term residential rentals	303	50%
Select the statement that best applies to your opinions towards short term residential rentals (Economic Development)		
Short term residential rentals play a positive role in increasing investment and business growth in Kawartha Lakes	408	67%
Short term residential rentals do not have any impact on investment and business growth in Kawartha Lakes	126	20%
I'm not sure	54	0.8%
Select the statement that best applies to your opinions towards short term residential rentals (Neighbourhood Impacts)		
I feel that short term residential rentals have a significant negative impact on my neighbourhood	154	25%

Short Term Rental Public Survey Results Total survey responses analyzed = 607	Total responses to question	Percentage of Total responses to survey
I do not feel that short term residential rentals have any negative impact on my neighbourhood	228	37%
I feel that short term residential rentals have minimal negative impacts on my neighbourhood	168	27%
I'm not sure	35	0.5%
Have you ever contacted the municipality with concerns regarding short term residential rentals?		
Yes	47	7%
No	531	87%
What is your relationship to the short-term rental market in Kawartha Lakes (select all that apply)		
Operated a short-term rental in Kawartha Lakes	103	17%
Operated a short-term rental outside Kawartha Lakes	27	22%
Stayed in a short term rental in Kawartha Lakes	189	31%
Stayed in a short term rental outside Kawartha Lakes	153	25%
Live near a short term rental in Kawartha Lakes	205	33%
None of the above	83	13%
Prefer not to say	30	0.5%
Other	36	0.6%

The qualitative portion of the survey provided residents with the opportunity to provide additional information regarding their experiences with or feelings towards short term residential rentals. Distinct themes were found regarding concerns arising from short term residential rentals including dogs at large, excessive noise, overloading of septic systems, unsafe boating, large fires, parking, trespassing, drug and alcohol consumption, improper garbage disposal, speeding, and overcrowding. These are the same predominant concerns that arose from discussions at the public forum. The municipality's current and potential future capabilities to address these issues will be discussed later in this report.

The additional comments were also able to provide staff with feedback regarding the positive effects of short term residential rentals. For example, one respondent indicated that by having the ability to rent out a basement suite in a waterfront home it allowed for an elderly homeowner to stay in their home because of the additional rental income. There were also multiple examples of how families who are spread across Ontario congregate at a short term rental in

the City for a week or two in the summer to spend time with children and grandchildren.

Respondents were also asked to provide information regarding their location. From this information, staff was able to determine some particular areas of the City that are reporting a high level of concerns regarding activities at one or multiple short term residential rentals. These areas include McGill Drive in Janetville, McGuire Beach Road in Kirkfield, View Lake Road, and Rolling Hills Estates in Bobcaygeon. When looking at the locational information in concert with the quantitative analysis, staff was able to determine that although the majority of short term residential rentals operate with little to no disruption to the neighborhood, there are certain areas that have more issues.

Review of Existing By-Laws and Legislation

As noted above, the qualitative portion of the survey and the public consultation revealed some key areas of concern regarding short term residential rentals. For many of these issues, there are existing municipal or provincial laws or by-laws in place to regulate the activity/behaviour. Unsafe boating, trespassing, speeding, and drug and alcohol over consumption are all regulated by provincial and/or federal statutes and enforced by the Ontario Provincial Police or local police. Matters such as large fires, parking violations, dogs running at large, excessive noise, improper garbage disposal, and septic issues are regulated by municipal by-laws and enforced by municipal staff such as Municipal Law Enforcement Officers, Building Inspectors and Fire Prevention .

By-laws, laws, and regulations exist as an effort to curtail behaviours. Unfortunately, the existence of laws does not necessarily dissuade individuals from carrying out or allowing acts to happen in violation of these statutes. Additionally, there is no guarantee that disallowing the operation of short term residential rentals will cause behaviours to cease. In discussions with local and provincial police as well as municipal law enforcement, the advice to individuals who are concerned about or witness illegal behaviour is to call the appropriate enforcement agency. To that end, regardless of the option Council directs staff to undertake, staff will be working with the Communications and Marketing division to create an awareness campaign about which agency residents should contact in response to a concern and will continue to review existing by-laws and practices as they pertain to short term residential rentals.

Options for the Regulation of Short term residential rentals in Kawartha Lakes

Staff has developed three options for Council consideration. All options would involve the implementation of a public relations/education program with rental owners, short term renters and concerned citizens, with the exception of Option #1, a new regulatory framework would be required and developed and be implemented by March 1, 2019.

Option #1 – Status Quo and Monitoring: Staff recommends this option. After analysis of the survey results, staff has determined that an additional level of regulation is not needed or being requested by the community at large. Under this option, staff will continue to respond to by-law violation complaints at short term residential rentals as per current practices and maintain the same hours of services as present. In the past, issues have been tracked by the issue themselves and not if they are occurring on a property being used as a short term rental. Staff has developed a new (summer 2017) tracking tool within the complaint management database to track calls that are coming specifically for rental properties. Staff will continue to review and update existing by-laws, and analyze the results compiled from the tracking tool. Specifically, staff will utilize the fee for service tools that are already built in to the Fee’s By-law to charge the owners of individual properties for inspections resulting from multiple complaints. The 2018 fees are outlined below.

Service Description	Unit	Rate Effective January 1, 2018
Initial First Inspection	each	Free
Initial Final Inspection	each	Free
Second Offence Inspection	each	Free
Second Offence Final Inspection	each	\$110.00
Third Offence Inspection	each	Free
Third Offence Final Inspection	each	\$220.00
Fourth Offence Inspection	each	Free
Fourth Offence Final Inspection	each	\$435.00
Fifth Offence Inspection	each	\$875.00
Fifth Offence Final Inspection	each	\$875.00
Subsequent offences	each	Fees double
Certificate of Compliance (Includes Discharge from title / deed)	each	\$220.00

This approach allows for additional time to collect useable statistics regarding the frequency of issues at short term residential rentals and that information can be used to assist in developing policies and approaches beyond current by-laws. A public relations/education program would be developed with the assistance of Economic Development and Communications and Marketing based on tourism to promote safe and community friendly rentals and also provide residents who have concerns regarding short term residential rentals with the appropriate agency contacts to address their concerns.

Option #2 – Registration Program: Under this option, owners who rent their properties for 30 or less days will be required to register with the City. A \$100

registration fee will be paid for the registration and be valid for 5 years or until the property ownership changes hands, whichever occurs first. The newly established fee of \$100.00 will be included in an amendment to the City's Consolidated Fees By-Law and adjusted annually as per the By-Law. This will allow staff to collect owner information, information about the property, and local emergency contact information. Owners will receive and be required to post the registration certificate in the property in a conspicuous place, visible from the outside of the dwelling. Current legislation would be used to enforce for issues that arise from the property, including the provisions contained within the Fees By-law to charge a fee for service to the owner commencing after the 2nd call to the property as outlined in the chart above. This option would allow staff and neighbours access to the owners information and a local emergency contact to respond to issues at the property and provides staff with greater information that is useful to levy call back fees for when staff are called to the property. The registration fee will offset some costs associated with multiple responses and for maintaining a database, and the 5 year limit on the registration will allow registered owner information records to be current/accurate.

This option has the potential of being difficult to enforce as some owners will not see a perceived benefit to registering and failing to register will bring legal penalty. Additionally, seeking out short term residential rentals is difficult to do as many internet listings do not provide the exact address of the property until payment is received. Additional staff resources in Municipal Law Enforcement and Licensing Division will be required to realize the full potential of this option. There would also be minor impact to Information Technology as additional resources would be required to create and maintain new forms and database software.

Given that it is extremely difficult to assess how many short term residential rentals exist in the City, staff are unable to determine whether the registry program can operate as a cost recovery model. For example, a search of airbnb.com with the search term "Kawartha Lakes, ON" indicates more than 300 short term residential rentals available. However, official statistics from Airbnb indicate only 130 short term residential rentals available within the geographic boundaries of the municipality. A search for "Kawartha" on cottagerental.com generates 66 results, and a search on vbros.com also indicates more than 300 listings in "Kawartha Lakes, ON, Canada."

Option #3 – Increase Municipal Law Enforcement Hours of Service – Registry By-law: Under this option, Municipal Law Enforcement staff will have extended hours of service during the evenings and on weekends from May 1 – October 31 annually. Current legislation and/or a registry by-law would be used to enforce for issues that arise from the property, including the provisions contained within the Fees By-law to charge a fee for service to the owner commencing after the 2nd call to the property. Staff will utilize the tracking tool within the complaint management database to track calls that are coming specifically from rental properties.

Under this option, response time to complaints of all municipal by-law issues will be decreased as staff is re-organized to address hours of service which would occur outside of general operation hours. Currently MLE Staff work the following hours:

- Monday – Friday 8 am – 9 pm
- and Saturday – Sunday – 8am – 6:30 pm

Increasing the hours of service will be limited by By-law 2008-162 which a By-Law to Provide for Powers of Entry on Lands within the Municipality to Conduct Inspections. A reasonable time for inspections occurs between the hours of 7:00 am and 9:00 pm unless supported by court order/warrant authorizing another time period. Inspection limitations are further supported by section 8 of the Charter of Rights and Freedoms which protects an individual's right to be secure against unreasonable search and seizure.

Complaint response for issues such as noise could be investigated outside of normal staff hours, but the frequency of these issues is very low.

Regulation of short term residential rentals will be limited to properties where persistent issues exist therefore having the potential to effectively address concerns of neighbours.

This option if adopted would require a significant increase to the existing complement of municipal law enforcement officers in order for this initiative to be implemented without increasing response time to other enforcement issues. Increasing the municipal law enforcement staff during peak complaint periods will often result in investigations/legal action that stretch into the winter season which will require that additional staff be full time as opposed to seasonal as they would be required to appear in court at a later date. Municipal law enforcement staff increases will serve to strengthen all response programs and support an efficient staff work calendar and training programs. Additional staff resources in Municipal Law Enforcement and Licensing Division will be required to realize the full potential of this option. There would also be minor impact to Information Technology as additional resources would be required to create and maintain new forms and database software.

Due to the low frequency of complaints, this option could not operate as a cost recovery model.

It is important to note that this option will also require an amendment to Article 15.01(vi) of the Collective Agreement between The City of Kawartha Lakes and the Canadian Union of Public Employees Local 855 for the agreed upon hours of work for municipal law enforcement officers. Other staffing increases as described in Option #2 would also apply to this option.

Rationale:

After reviewing existing internal and external legislation, staff believes that there is enough legislation to effectively address the issues created by short term residential rentals. Staff has consulted with many internal and external agencies to discuss the enforcement of areas of concern brought to staffs attention during the review and determined that there is existing legislation that speaks to the vast majority of concerns raised regarding matters at short term residential rentals. With regards to unsafe boating, provincial and local police are responsible for the enforcement of maritime law. The Kawartha Lakes Detachment of the Ontario Provincial Police have communicated to staff that there will be a marine unit in local waters daily throughout the summer to monitor activities in waterways. The OPP encourage anyone who witnesses unsafe marine practices to call police. Other matters that were raised during the public consultation process that are enforced by local and provincial police include trespassing, speeding, excessive noise (as mischief), and illegal drug and/or alcohol use and overuse. Anyone witnessing any of the previously noted activities or any other illegal acts are encouraged to contact the appropriate policing agency.

With regards to septic systems, the City is responsible for the enforcement of the Ontario Building Code which includes maintenance and functionality of the sewage system. Staff heard many comments about concerns about the “overloading” of septic systems at short term rental properties. When septic systems are approved for installation, the approval does not indicate a maximum number of individuals who can occupy a dwelling. The approval is based on number of bedrooms, fixture units and total square metres of living space and it is generally accepted that two persons would be occupying each bedroom in a dwelling unit. Given this, people with concerns about a malfunctioning sewage system can complete a written Building Complaint form on the City’s website. They must have a valid concern such as sewage escaping the system in a manner that is not intentional, signs of failure, or spongy ground/wet spots. Similarly, alterations to the physical structure of a property are regulated by the Ontario Building Code which assesses capacity as being two persons per bedroom. If alterations are suspected to have been made to a property without a building permit, a written Building Complaint form on the City’s website can be completed and the matter will be investigated by a building inspector.

Municipal by-laws exist to address the issues of parking, dogs at large, excessive noise and dumping (i.e. improper garbage disposal). Municipal law enforcement officers follow up on all calls received and endeavors to respond while the offense is occurring or within a time frame in which the offender can be identified. However, call volume exceeds response capacity at present staffing levels.

The burn by-law is enforced by Municipal Law Enforcement as well as the Fire Department. If a fire appears to be out of control or too large, the Fire

Department should be called. Fire fighters will be dispatched to all calls when a report of unsafe burning is received.

By tracking complaints originating from properties that are being used as short term residential rentals and using the existing fees for service by-law, the City can create a sense of accountability among owners of short term rental properties at which by-law violations are frequently found. Additionally, implementing a public relations/education campaign will be an effective tool for neighbours to use when they feel intervention is needed for certain activities.

Other Alternatives Considered:

Legislative responses to regulate activities should be created with the uniqueness of each area in mind. There is no blanket response to regulating short term residential rentals that would be effective in every municipality.

The Toronto Approach

The City of Toronto is regulating short term residential rentals in large part because of the lack of available and affordable housing in that municipality. Although the City of Kawartha Lakes is currently experiencing a less than 1% vacancy rate for rental housing, the properties being offered as short term residential rentals are not suited or desirable for individuals seeking long term housing options as they are either seasonal properties or too costly. Therefore, regulating short term residential rentals would not assist in increasing the number of year-round residential rental units that are available in the City.

The Blue Mountains Approach

Town of the Blue Mountains implemented a by-law regulating short term residential rentals to reduce nuisance caused at short term residential rentals and also to address safety issues. The by-law involves site inspections as well as a demerit point system wherein if a licensed short term rental property accumulates a certain number of demerit points based on verified by-law violations, the licence is not eligible for renewal. This approach requires one full time staff person to administer and enforce. The Blue Mountain by-law affects all short term residential rentals within a certain geographical areas and outlines penalties for properties that are consistently in violation of municipal by-laws.

From the consultations, staff determined that it is a minority of short term residential rentals that are consistently in violation of municipal by-laws or other provincial and federal statutes and that the issues can be effectively addressed using tools already in place and by increasing enforcement staff. Additionally, staff does not feel that it is feasible to regulate short term residential rentals in only certain areas of the City.

Town of the Blue Mountains enjoys a year round tourism industry which justifies having a full time staff person dedicated to the program. In Kawartha Lakes, our tourism season is primarily from May – October.

Minimum Length of Stay Requirement

The suggestion of having a minimum length of stay requirement for short term rental tenants was brought forth to staff multiple times during the review and is being used in municipalities in Canada and the US. Staff is not recommending this option as we heard from prospective tenants that this would make short term residential rentals, and in particular waterfront/cottage short term residential rentals, unaffordable for many and owners of short term residential rentals also expressed that the majority of their bookings are for weekend or one week stays. Additionally, that implementing a minimum length of stay requirement would negatively impact the tourism industry and would be difficult to enforce. For example, one person could rent a property for a month and sublet to friends and family. The result would be one person signing for tenancy but still a high turnover in tenants.

Owner Occupied Requirement

Most short term residential rentals in Kawartha Lakes are not owner occupied. Requiring that all short term residential rentals be owner occupied at the time that they are being rented out would significantly impact seasonal residents who offer their properties as short term residential rentals for a portion of the high tourism season as a means of being able to maintain and finance their seasonal residences. An owner occupied requirement has the potential to cause many seasonal property owners who rely on the short term rental market to sell their properties therefore decreasing the availability of tourist accommodations.

Financial/Operation Impacts:

If Council elected to implement one of options 2 or 3, additional staffing costs will start at \$53,142/year. There is also the potential for increased capital costs for vehicles.

Approximate Staffing Costs for Regulatory Options for Short Term Rentals	
Option #1 – Status Quo	No additional staff costs estimated at present
Option #2 – Registration Program	\$119,218 for the first year for one municipal law enforcement officer and one administrative assistant.
Option #3 – Increased MLE Hours of Service	\$185,294 for the first year for two municipal law enforcement officers and one administrative assistant. This option would require staff to work extended hours after 7pm requiring shift premium pay in addition to regular salary.

Relationship of Recommendation(s) to the 2016-2019 Strategic Plan:

Goal #1 of the 2016-2019 Strategic Plan is “A Vibrant and Growing Economy.” Objective 1.1.1 speaks to bringing business to the City and to expand local employment. Legislation that supports the creation of tourism accommodation will increase the demand of businesses in the area and will have positive implication on creating employment opportunities. Objective 1.3.1 is to enhance tourism. Short term rentals play a vital role in enhancing tourism by providing accommodation.

By consulting closely with resident regarding this matter, staff have utilized a strategic enabler of providing exceptional customer service.

Review of Accessibility Implications of any Development or Policy:

N/A

Next Steps:

Staff will be bringing forth any further information that is received regarding short term residential rentals at the August 14th, 2018 regular Council meeting. Staff will continue to receive and review feedback on the report until that time.

Consultations:

Manager of Municipal Law Enforcement
Manager of Planning
City Clerk
Kawartha Lakes Police Service
Kawartha Lakes Fire Prevention
Ontario Provincial Police
Kawartha Lakes Paramedic Services
Supervisor, Part 8 Sewage Systems
Manager Environmental Services
Ministry of the Environment
The Town of the Blue Mountains
The City of Toronto
The Resort Municipality of Whistler
Tourism Development Officer

Attachments:

N/A

Department Head E-Mail: critchie@kawarthalakes.ca

Department Head: Cathie Ritchie, City Clerk