



Recommendations for a Strategy to Manage Short Term Accommodations

Municipality of Northern Bruce Peninsula

P/N 3246 | June 2020

Bruce County
Municipality of Northern
Bruce Peninsula

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1.0 Introduction

The Municipality of Northern Bruce Peninsula, like many municipalities, has experienced a significant increase in the growth of Short-Term Accommodations (STAs). Along with a rapid growth in the number of STA units, the municipality has faced increasing pressure to address the issues which are associated with this land use. While it is generally accepted that the majority of STAs do not create issues within the community and that STAs can provide a range of community benefits, it is also clear there are associated issues which need to be addressed by the municipality. The Municipality of Northern Bruce Peninsula is not alone in this regard. Numerous municipalities are establishing a range of regulations or, in some cases, prohibitions with regard to a variety of impacts that have been associated with this type of tourism accommodation.

In order to address the matter of STAs the municipality has sought public input. This has taken the form of surveys, public workshops, and an internet based public forum. Additionally, comments were sought on the draft recommendations which are separately reported. The results of the community survey are also separately reported upon.

The public discussions and input regarding STAs shows a wide range of perspectives and attitudes toward the presence of STAs in the community. While current operators generally view the use as positive, this view is not shared by a majority of neighbours and residents whom have participated in the discussions. Despite those different views, there appears to be some agreement that STAs have a role in the community, but that they should be regulated.

Municipalities throughout Ontario, and in many other jurisdictions, are taking a variety of approaches to regulating STAs. Practices utilized in other municipalities are separately reported upon.

In order to ensure that the Municipality of Northern Bruce Peninsula establishes an approach that best addresses its unique needs and circumstances, it is desirable to explore the issues raised by public input and how these can be addressed. While practices in other jurisdictions provide useful information and a set of potential tools or approaches, it is very clear that the

community wants an approach which addresses the matter of STAs in a manner most suited to its own needs, issues and resources.

This report is intended to initiate the development of an approach to STAs for the municipality of Northern Bruce Peninsula. It is intended to identify the issues arising from the public involvement process and outline a suggested approach to effectively addressing concerns while at the same time realizing the opportunities and benefits of STAs.

The recommendations set out in this report are provided for consideration by Council in the development of a regulatory framework. The intent of this report is therefore to identify the various issues to be addressed and broadly outline solutions and approaches to those issues. It is intended to provide a further vehicle for the preparation of a regulatory framework which would ultimately govern STAs as a land use in the municipality.

2.0 Issues and Recommendations

2.1 Definition of an STA

Issue

In order to effectively regulate STAs it is important to have a definition of STAs which is clear and appropriately differentiates the use from other land uses which are not intended to be regulated or impacted by this initiative.

Recommendation

It is recommended that the following definition be utilized to identify Short-Term Accommodation uses:

Short-Term Accommodations: are private residential dwellings (or part of dwellings) that are rented to provide accommodations to a person or persons on a temporary basis for a period of less than 30 days and to which the Residential Tenancies Act, 2006, S.O. 2006, c. 17, as may be amended from time to time, does not apply. Short-Term Accommodations do not include bed and breakfast establishments, hotels, motels, lodges or other commercially zoned accommodation uses for the travelling public.

2.2 Zoning

Issue

The current comprehensive zoning by-law of the municipality does not permit STAs. All current STAs are effectively not permitted as they are not in compliance with zoning. In order to

properly allow for and regulate STAs, they must be incorporated into the municipal zoning by-law.

Zoning of the use provides a clear indication where the use is a permitted use and what provisions should apply to the use. This can address matters such as setbacks and parking provisions. Zoning however, cannot address all of the considerations associated with STAs and so should work in combination with other forms of regulation.

Zoning of STAs does provide an additional form of regulation and enforcement and can assist in ensuring that STAs comply with all community standards and expectations.

This process to regulate STAs through zoning provides for an opportunity for further public input as the by-law is amended to incorporate STAs.

Recommendation

It is recommended that

- STAs be defined in the zoning by-law;
- STAs be listed as permitted use in specific zones to be determined in further review with Council and through public process to address the matter of competition with other housing needs (see section 2.7);
- STAs be permitted in other zones only by way of a zoning amendment to address differences in scale and intensity and associated implications (see section 2.3);
- The zoning by-law establish appropriate provisions for STAs in the specific zones to address the unique needs and implications of STAs; and,
- Where STAs are permitted they must be licenced by the municipality so as to aid in regulation and enforcement of the use (i.e. failure to obtain and retain a licence results in non-compliance with zoning).

It is also recommended that when the municipality updates its current Official Plan and Comprehensive Zoning by-law, the municipality consider the application of the Community

Planning Permit System (CPPS) to the regulation of STAs. A CPPS combines minor variance, site plan control, and zoning into a singular planning approval framework with a 45-day approval window. A CPPS is a flexible and responsive tool for planning approvals which incorporates minimum and maximum standards for development, as well as a range of permitted variations from the CPPS, with different requirements for variations that can be approved by municipal staff (i.e. minor variations) and variations requiring Council approval (i.e. major variations). Significant variations may require a By-law amendment. Similar to a Zoning Bylaw, a CPPS outlines how land may be used, where buildings or structures may be located, types of buildings and uses permitted, and provisions such as lot sizes and dimensions, parking, building heights, and setbacks. A CPPS differs from a Zoning By-law in that it allows for permitted uses and discretionary uses and can also deal with site development and alteration. In the regulation of STAs, a CPPS can outline STAs as discretionary uses in particular areas of the Township, and STAs may be permitted as a discretionary use subject to meeting criteria in the CPPS By-law regarding matters such as required technical studies and impact analyses.

2.3 Differences in Scale of Use

Issue

The public input process identified that the scale and intensity of STA uses had a corresponding impact on community acceptance and potential enforcement issues. Operators also indicated that the scale and intensity of their STA had a resulting implication in regard to the ability to absorb municipal regulatory costs and fees.

It is reasonable to differentiate between different scales and intensities of STA uses. Considerations include the number of occupants, the number of units, the duration of STA utilization of the structure over the year, and the on-site presence of the owner/operator. Each of these factors is associated with the potential degree of administration and enforcement which may be required.

Recommendation

It is recommended that the regulation of STAs incorporate a categorization of STA unit types which would be utilized in the establishment of regulations and fees and administrative costs.

The following categories are recommended:

	Maximum Number of Adult (+18) Occupants per unit	Maximum Rented Units Per Property	Maximum Number of Days Rented Per Year	Minimum Number of Nights of Stay
Class A	6	1	28	6
Class B	6	2	180	n/a
Class C	8	3	n/a	n/a

All conditions must be met in order to meet the classification. Where a condition is not met the next higher classification would be utilized (for example, where an operator meets all conditions for a Class A category except the wish to exceed the maximum of 28 days rental in any one year, they must apply for a Class B category). Where a classification category cannot be met, the STA would not be permitted without approval of a site specific zoning by-law amendment. If the STA receives zoning approval, the Class c requirements would be required to be met.

The number of occupants refers to the number of adult occupants of the rental unit.

2.4 Noise and Disturbance

Issue

Noise and disturbance are key issues to be managed through regulation of STAs. Although many responsible STA operators ensure that there is limited impact on surrounding properties, noise and disturbance are still issues to contend with for some STAs. While the same noise issues may occur with other uses, the issue with STAs is that there are new occupants often on a weekly basis. For example, while a permanent resident may set off fireworks occasionally, there is a potential for a much greater frequency of such activities with an STA unit. Longer term neighbours also tend to be more aware of socially acceptable behaviours in the neighbourhood. For example, use of outdoor speakers is much less likely to create an issue between long-term neighbours than is the case where there are short-term occupants.

Recommendation

Key factors identified by survey respondents included a desire for:

- No parties;
- No fireworks;
- Strict enforcement of occupancy;
- No outdoor speakers;

It is recommended that these components be incorporated as conditions of the licence and be posted in all rental units as a component of the rental guidelines.

Noise and disturbance can be dealt with as part of complaints process, as set out in Section 2.9 of this report as well as through enforcement of other existing applicable by-laws where necessary. However, incorporation in the conditions of licencing and in the associated administration and complaint process provides a direct and more efficient process for dealing with these particular issues and the elements which are unique to STAs.

2.5 Licensing

Issue

In many municipalities, a licensing approach is utilized to assist in tracking the number of STAs and to assist in regulating matters which may not be covered in the comprehensive zoning by-law. Where STAs are not licenced, there is scarce opportunity to regulate matters such as annual fees, inspections, tracking the number of units, and penalties for infractions. Licensing of STAs also provides information to the municipality regarding the location of STAs for purposes such as emergency response and tracking of complaints. Licencing also aids in enforcement in regard to the municipality's ability to establish conditional licencing.

Recommendation

It is recommended that and STA regulation utilizing conditional licencing, with associated fees and administrative costs (see Section 2.10), be established.

2.6 Municipal and Private Services

Issue

Through public and stakeholder input, servicing of STAs was identified as an issue. Specifically, there was concern that septic systems would be overloaded and that there may not be sufficient servicing capacity to accommodate a higher intensity of land uses. If these issues continue, they can have detrimental environmental and health impacts on the community.

Recommendation

It is recommended that:

- All classes must provide information related to occupancy and potential sewage load and details of their sewage system to confirm capacity.
- Class B and C licences must also maintain a record of systems pump-outs and maintenance and demonstrate that that septic tank has been pumped out and inspected in the last three years on as they apply annual for their licence
- Class C licences must also be subject to a septic system inspection within the last three years as the apply for their annual licence.
- Water systems should comply with public water requirements as set out in provincial regulations.
- Garbage must be stored in an enclosed area at all times other than during garbage collection at which time garbage must be contained in appropriate containers for collection.

2.7 Housing Supply Needs

Issue

STAs are in direct competition with permanent local rental units, which may cause issues regarding housing affordability and availability. STAs may displace longer-term (i.e. monthly) rental units for a variety of reasons, such as the difference in profit for landlords for shorter-term rentals versus longer-term rentals, as well as market demand.

Recommendation

To address the issue of permanent housing supply versus short term units, STAs may be regulated through as-of-right zoning in particular areas of the municipality. For example, where there is a stable neighbourhood providing housing for a permanent or seasonal population and STAs are not permitted as-of-right, a zoning by-law amendment may be required to permit an STA use. This will ensure that an appropriate range and mix of housing units remain available for permanent and seasonal populations.

2.8 Complaints Process

Enforcement (set out separately in Section 2.9) is the last step of the complaints process. Generally, enforcement is a costly process for all parties concerned and is ideally only utilized where all other measures to resolve a complaint are not successful.

Operators which provide comments in the on-line forum, on the survey or in public workshops generally suggested that they prefer to deal with complaints as quickly as possible and would welcome the opportunity to directly deal with such complaints where possible. At the same time, it is recognized that complainants may not feel comfortable in dealing directly with a renter or operator in regard to concerns and that a municipal complaint resolution process must also be available.

The complaints process should follow a hierarchy of resolution steps to achieve the desired result. Ideally the complaints can be resolved within the first few steps of such a process to most expediently address an issue, to maintain good relations with neighbours, and to result in the lowest costs and disturbance/inconvenience to all parties in the process.

In order to prevent complaints, and educate operators and users, it is recommended that each unit be required to display a municipally issued manual which outlines the conditions of rental and expectations for operators and renters. The manual would specify the category of licence issued for the unit and associated occupancy limits and conditions. The manual would set out best practices for occupants and operators as well as the various regulations applicable to the STA unit. The manual would also set out the complaints and enforcement processes.

In order to provide for a complaints resolution process which involves the manager/operator as the first step in resolving a complaint it is recommended that:

- All licences require that the operator reside on the rental property or have a local manager (i.e. individual residing in or business located within the municipality) available at all times during the rental period;
- All units must be posted in a publicly accessible location as an STA unit and

such posting shall include the licence category of the unit, maximum occupancy of the unit, and the name and phone number of the operator/manager as well as a municipal contact number for the purposes of reporting any complaints.

- The operator's/managers up-to-date contact information (name/phone number) must be posted in the unit at all times, outside the unit, and in a public registry maintained on-line by the municipality. That registry would also list the municipal contact number for complaints and encourage complainants to contact the municipality where they do not feel comfortable or safe for any reason in contacting renters or operators directly.

Where an issue requires municipal involvement, the first step in the process would be an administrative resolution process. This involves the municipality:

- Collecting information regarding the nature of the issue from the complainant;
- Contacting the operator/manager to inform them of the issues and desired resolution;
- Follow up with the complaint to determine if their concern has been addressed.

This may also include having municipal staff inspect the property and rental unit to investigate the complaint and/or direct resolution of the issue.

Each complaint shall be documented individually and such documentation shall contain all particulars of the complaint as well as any actions taken by the operator/manager to resolve the complaint.

Where the municipality is involved in the resolution of a complaint, the identity of the complainant shall be considered to be confidential information.

Where a complaint is not resolved to the satisfaction of the municipality, and in the timeframe established by the municipality, the formal enforcement process shall be initiated.

2.9 Enforcement

Where enforcement is necessary, the municipality will have options to pursue any applicable by-

laws. This includes zoning, the licencing by-law, noise by-laws and any other legislation applicable to the issues requiring enforcement.

Any applicable fees/penalties or cost recover would be governed by the applicable legislation.

2.10 Fees and Administrative Costs

Administrative costs are separate and distinct from any costs or penalties arising from the enforcement process. It is therefore recommended that the administrative by-law and any agreements entered into with an operator with respect to approvals of an STA specify and distinguish such costs accordingly.

Administrative costs are intended to assist the municipality in recovering expenses associated with the licencing of STAs as well as administering the complaints resolution process. They are not a penalty.

The following administrative fee structure is recommended for the issuance of an STA licence:

Licence Classification	Licence Administrative Cost
Class A	\$50 annual
Class B	\$250 annual
Class C	\$500 annual

To assist in cost recovery of the of administration of the complaints resolution process, the following fee structure is proposed:

- Class B licences must provide a deposit of \$1,500 which must be maintained on an annual basis;
- Class C licences must provide a deposit of \$2,500 which must be maintained on an annual basis;
- Class B and C licences would be subject to an administrative fee of:

1. \$250 for the first and second complaint investigation in any one year; and
2. \$500 for any subsequent complaint investigation in that same year.

The administrative fees are not penalties. They are fees intended to assist in the process of investigating and resolving complaints. They do not replace penalties which may be incurred where enforcement is required.

It is recommended that where an administrative deposit is reduced to \$0 the licence shall be withdrawn and the STA shall not be permitted to operate. Enforcement procedures would immediately be initiated should the STA continue to operate.

As the reduction of the administrative deposit due to administration of the complaints process may result in the cancellation of an STA licence it is recommended that:

- the municipality establish clear guidelines in regard to how it determines a complaint to be valid with a resulting application of an administrative fee and draw-down of the deposit;
- the municipality have an appeal process to Council prior to the cancellation of a licence where: the operator can outline their efforts to address complaints and their suggested course of action with regard to future complaints; municipal staff provide a report outlining the nature of complaints investigated; the public can address the matter; and, Council can make a final determination as to the withdrawal of the licence or any conditions regarding the continuation of the licence for that licence year.

2.11 Commercial Competition and Taxation

A concern raised by other businesses in the community is that STA units compete with more traditional forms of commercial accommodation in an unfair manner as they are not subject to commercial taxation or a variety of fees and requirements that apply to such commercial uses.

The validity of this concern is related to the nature of the STA in regard to the intensity of that use in regard to the number of units and duration of the rental period. For example, traditional cottage rentals for a few weeks of the summer are generally not viewed as problematic.

However, full-time rental units, particularly where multiple units are involved, are viewed as direct competition.

It is therefore recommended that Class B and C licences be subject to a 4% Municipal Accommodation Tax (MAT).

3.0 Next Steps

3.1 Establishment of Regulations and Zoning By-law Amendment

In developing the regulatory framework for STAs in Northern Bruce Peninsula, next steps include:

- Obtain further input on the recommendations from staff and council;
- Developing a zoning by-law amendment to establish permission and provisions for STAs;
- Develop the licencing by-law and implementation instruments on a basis consistent with the recommendations and further input of Council.

Those processes will incorporate appropriate opportunities for continued public input.

3.2 Graduated Implementation

There are a significant number of STA units in the municipality and the initial process of licencing and regulation will be a significant undertaking. In order to facilitate the process, as well as allow STA operators and the community to adjust to the process, it is recommended that implementation be graduated by establishing an initial licencing period during which operators have a specified period of time, as determined in further consultation with Council, during which to licence their STA. During this period there would also be a modified or waived licencing fee and conflict resolution deposit, as determined in further consultation with Council. The system could include a second step of mandatory licencing with adjusted fees and deposits prior to full implementation. It is noted that, during the phase in process, traditional methods of enforcement may have to be relied upon to a greater degree than when full implementation occurs and the conflict resolution process becomes the initial complaints response process.

A graduated implementation has the advantages of allowing additional time for compliance; moderating the intensity of the initial administrative process; allowing operators and the community to become fully accustomed to the new process and the potential to modify the process to address any issues which arise prior to final full implementation.

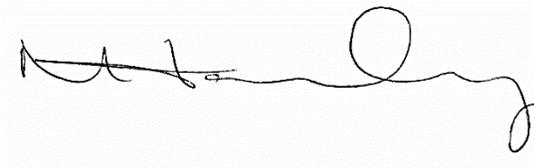
All of which is respectfully submitted,

SKELTON, BRUMWELL & ASSOCIATES INC.

per:

A handwritten signature in black ink that reads "Michael Wynia". The signature is written in a cursive style with a large, looped "W" and "Y".

Michael Wynia MCIP, RPP
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A handwritten signature in black ink that reads "Marissa Handley". The signature is written in a cursive style with a large, looped "H" and "L".

Marissa Handley
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