

Subject: Short Term Accommodations**Recommendation:**

BE IT RESOLVED THAT Council receive Report 2020-0090 as it pertains to Short Term Accommodations Policies and Regulations (file No. AM-12-18);

AND THAT Council declare the revisions made to the Official Plan, as directed by Council at the June 1, 2020 meeting, to be minor in nature and that no further public meeting is required;

AND THAT Council approve the amendments to the Official Plan and Zoning By-law as well as the Licencing By-law for Bed and Breakfast Establishments and Short Term Accommodations.

Background:

Further to Report 2020-0049 and as per Council's direction from the June 1, 2020 Council meeting, staff have made the requested changes to the Official Plan Amendment. The changes requested to the Official Plan Amendment are to permit these types of establishments in only single-detached dwellings. Additionally, more clarity was requested to clearly direct these establishments to other zones and not permit Short Term Accommodations (STAs) within the Residential Zones.

Following the meeting, revisions were made to the draft policies and regulations to address the questions and concerns raised by Council and direction received from Council. The proposed policy and regulatory changes include (see Appendix A-C):

- A revised draft Official Plan Amendment (as per direction on June 1, 2020);
- A revised draft Zoning By-law Amendment (as attached to Report 2020-0049); and
- A revised draft Licencing By-law (as attached to Report 2020-0049).

Analysis:

Town of Pelham Draft Official Plan Amendment

The revisions to the draft Official Plan (Appendix A) as directed by Council, remove the following sections from the amendment – Section B1.1.2, B1.1.7 and B1.7.7.4.1. This will remove STAs from being permitted in Medium to High Density Residential and in any other types of houses except for single detached dwellings.

For the policy analysis completed for Short Term Accommodations please refer to Report 2020-0049.

Financial Considerations:

For financial considerations associated with Short Term Accommodations please refer to Report 2020-0049.

Strategic Plan Relationship: Strong Organization

The Strategic Plan includes addressing Short Term Accommodation requirements and regulations as an action item for 2020. The proposed policy and regulatory changes are required actions to achieve Council's strategic plan goal and contribute to building strong communities.

Consultation:

Council Comments:

Council requested information be provided with regard to the Fire Code requirements and Public Health involvement regarding when a STA, including a Bed and Breakfast establishment that is licenced. Staff developed a pre-inspection checklist (Appendix D) that includes the requirements of the Fire Code, specifically fire safety of the STAs, as well as the following:

- Licencing requirements;
- Means of egress/exits;
- Parking areas;
- Pool areas;
- Utility area; and
- Washrooms for guest usage.

Staff consulted with the Niagara Region Public Health regarding the protocols that are followed with inspections of STAs. Public Health does not have jurisdiction to inspect any rental that has less than five (5) rooms to be rented. However, when a Short Term Rental's water source is from a well or cistern and it is providing overnight accommodations, Ontario Regulation 319/08 is applicable and Public Health will perform inspections and testing of the water system before a licence will be granted.

The Ontario Building Code also requires that a residential occupancy with sleeping accommodations of greater than 10 people requires a fire alarm system. Occupancy

is based on 2 persons per bedroom, so residences with 6 bedrooms or more are required to have a fire alarm system as well.

It was requested that all existing Bed and Breakfasts within the residential areas be listed in the Licencing By-law under Section 15(2)(b), which references legal non-conforming status. Staff do not recommend recognizing existing legal non-conforming establishments. As an alternative approach staff recommend leaving Section 15(2)(b) as it is, so that if these establishments cease operation, legal non-conforming status is no longer applicable. Therefore, the intention is that legal non-conforming establishments will phase out of the residential areas over time.

Public Comments:

For comments received from the public and agencies between November 2018 and April 2019 please refer to Report 2020-0049.

Planning staff received additional comments (full comments in Appendix D) following the Council meeting held on Monday June 1, 2020 and are summarized below:

- Residents concerned for their health, safety and well-being with short term rentals continuing to be allowed in Residential areas.
- Requested revisions to Section 1: Definitions and Interpretation:
 - Bed and Breakfasts need to be OWNER only not operator.
 - OWNER. Omit the words "has a legal right to obtain possession" and by doing so removes anyone being able to lease the dwelling for the purpose of renting it out.
 - Revise the definition of Parking Area to omit "pedestrian walkways".
- The addresses of those currently operating legally that might be grandfathered should be specifically mentioned in the by-law amendment. Also it would be prudent for the future to have a clause that would stipulate that once any of the grandfathered B&B's cease business and their license is no longer valid that at no time in the future should other B&B's be allowed to open up in any residential area.
- These grandfathered STAs must be tied to that particular owner and to a particular house and license.
- There is mention of allowing a renter to operate an STA? Why?
- We need to define STA how does one distinguish between owner on premises and no owner on premises?

Staff Comments:

In response to comments received by the public regarding the policies and regulations associated with Short Term Accommodations and Bed and Breakfast establishments, Planning staff have the following information to offer:

There have been concerns about nuisance issues, like noise, increase in traffic and safety issues for neighbours. Furthermore, Council requested that these establishments not be permitted within residential zones to address the concerns residents have with regards to those issues stated above. The Zoning By-law Amendment does not permit Short Term Accommodations and Bed and Breakfast establishments in residential zones and will only be permitted in the rural agricultural and commercial zones.

With regard to the concerns about parking, inspections and enforcement this has been addressed in the Licencing By-law (Appendix D). One (1) parking space per guest room is required in addition to the required spaces for the principal dwelling and located on the same lot as the use. The required parking must be provided on-site in order to obtain a licence to operate Short Term Accommodations.

The definition of Bed and Breakfast states that it is the "Owner and Operator" meaning that guest rooms can only be provided at a principle residence dwelling that the person(s) running the bed and breakfast must own that dwelling and operate it while they remain on site. This means that someone renting a home, cannot operate a bed and breakfast establishment.

The definition of Parking Area in the Licencing By-law has been amended to be the definition from the Zoning By-law 1136 (1987), "means an area or structure, including a private garage, carport, provided for the parking of vehicles, and includes any related parking aisles, parking spaces and structures, but does not include any part of a street or lane". This has effectively removed pedestrian walkways from the definition.

As stated previously, staff recommend that the existing bed and breakfast operations not be recognized in the zoning by-law amendment and that they remain as legal non-conforming uses, so that once these establishments cease operation, legal non-conforming status is no longer applicable. Therefore, the intention is that over time the existing legal non-conforming bed and breakfast establishments would be phased out in the residential areas.

To be granted a licence, STAs shall comply with all applicable Municipal By-laws, including the Zoning By-law and provincial legislation. The implementing Zoning By-law Amendment does not permit these establishments in Residential zones. Therefore, an owner must apply for a licence, and is required to comply with the Zoning By-law or undertake a rezoning of the property to be in compliance. Furthermore, STAs are not permitted to be run by someone who is a renter as they would not qualify for the licence.

To distinguish between owner on premises and no owner on premises, please refer to the definitions in the Zoning By-law Amendment and Licencing By-law, for Bed and Breakfast and Short Term Accommodations.

Conclusion:

The proposed Official Plan and Zoning By-law have been revised to address the comments received and Council's direction. It is staff's recommendation that the amendments are considered to be minor in nature and no further public meeting is required.

The proposed Licencing By-law was reviewed with By-law Enforcement Staff and the Town Clerk to ensure that staff have an understanding of the process to be undertaken for a licence to be issued and have the tools needed to implement this new licencing regime. In addition a Pre-Inspection Checklist has also been developed to aid the applicants and inspectors.

Together, the proposed Official Plan amendment, Zoning By-law amendment and Licencing By-law will provide the appropriate tools required to manage short term accommodations.

Other Pertinent Reports/Attachments:

Appendix A Draft Official Plan Amendment
Appendix B Draft Zoning By-law Amendment
Appendix C Draft Licencing By-law
Appendix D Pre-Inspection Checklist
Appendix E Public Comments

Prepared and Recommended by:

Tara Lynn O'Toole, B.A. (Hons.)
Policy Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer