

# Municipality of Lakeshore – Report to Council

## Growth and Sustainability

### Community Planning



**To:** Mayor & Members of Council  
**From:** Sahar Jamshidi, Division Leader – Community Planning  
**Date:** September 29, 2023  
**Subject:** Short-Term Accommodations – Zoning By-law amendment, ZBA-14-2023

---

### Recommendation

Approve Zoning By-law Amendment Application ZBA-14-2023 (Zoning By-law 2-2012, as amended), to add the definition of 'Short-Term Rental Accommodation' and add general policies that prohibit Short Term Rental Accommodations within the Municipality of Lakeshore but continue to permit Bed and Breakfast establishments; and

Direct the Clerk to read By-law 85-2023 during the Consideration of By-laws, all as presented at the October 10, 2023 Council meeting.

### Background

A summary of the actions related to Short-Term Rental Accommodation are summarized below starting in 2020, to current motions passed in 2023.

During the Special Meeting held July 28th, 2020, Council received a petition with a request to restrict daily vacation rentals in residential areas. Following the presentation of the petition, Council passed the following resolution 252-07-2020:

Direct Administration to prepare a report for the first meeting in September regarding prohibiting short-term accommodation rentals.

Carried Unanimously

After, Administration received communication from residents operating short-term accommodation rentals in various areas of the municipality. These residents were not in favour of a prohibition on short-term accommodation rentals.

A report was presented September 1, 2020 with options for consideration and the following motion was passed:

Direct Administration to proceed with Option #1 – public consultation in 2021, as described in the report by the Manager of Legislative Services and Manager of Development Services, presented September 1, 2020.

To implement this direction, public consultation was undertaken in the spring of 2021 with two information sessions and an on-line survey.

The following resolution was passed at the special Council meeting of December 15, 2020:

451-12-2020

Remove revisions to the draft Official Plan regarding short term rentals.

In keeping with that motion, references to short-term accommodation were removed from the Official Plan review (Amendment no. 16) prior to the document being sent to the County of Essex for approval. The Official Plan Amendment does have policies regarding Bed and Breakfast establishments, and through Official Plan amendment 16, requires a site-specific rezoning for new Bed and Breakfast establishments.

On September 28, 2021, a report was presented on “Short-term Accommodation Results of the Public Consultation Process” (Attachment 2).

Council passed resolution 313-09-2021 to defer consideration of the report pending a further report regarding regulatory options for short term rentals, including business licensing, number of permitted short term rentals, definition of primary residence and types of dwelling.

Following receiving a report on Short Term Accommodations at the May 10, 2022 meeting, Council passed the following resolution:

194-05-2022

Direct Administration to implement option 3 to permit short-term rental accommodations in primary residences only, to be regulated in the Zoning By-law, as described in the May 10, 2022 report regarding Short-Term Rental Accommodations - Regulating and Licensing Options.

Administration then brought forward a report to re-instate reference to short term accommodations back into the Official Plan to implement the May 2022 direction. At the July 18, 2023 meeting, the following motions were passed:

213-07-2023

Prepare an Official Plan Amendment and zoning by-law amendment to prohibit Short Term Rental Accommodations in the Municipality of Lakeshore.

212-07-2023

Prohibit short-term rental accommodations in the Municipality of Lakeshore; and Direct Administration to bring a report regarding the steps to enforce the prohibition of short-term accommodations in the Municipality of Lakeshore.

Based on the above-noted direction, Administration has prepared a Zoning By-law Amendment to prohibit Short-Term Rental accommodations within the Municipality. The existing Zoning By-law does permit Bed and Breakfast establishments, which is a form of short-term accommodation. There are no proposed changes to the Bed and Breakfast provisions in the By-law, as explained below. There is currently no reference to short-term rental accommodation in the

Official Plan, therefore, an amendment to the Official Plan has not been prepared at this time.

## **Comments**

### Prohibiting or Restricting Short-Term Accommodations – Scan of other Jurisdictions:

The Province of Ontario conducted public consultation in 2016/2017 relating to home-sharing (short-term accommodation rentals). As a result of this consultation, the Province published The Home Sharing Guide for Ontario Municipalities.

Administration also conducted an environmental scan of municipalities that prohibit or regulate short-term accommodation rentals in Ontario. From the research conducted to date, there are very few municipalities that prohibit all forms of short-term accommodation rentals; many municipalities choose instead to regulate and/or licence such rentals.

The Town of Collingwood has the most stringent prohibition of short-term rentals, allowing them in hotels, motels and bed and breakfast establishments only. The Town's Zoning By-law defines Short Term Accommodation as:

the use of a dwelling unit, or any part thereof, that is operating or offering a place of temporary residence, lodging or occupancy by way of concession, permit, lease, licence, rental agreement or similar commercial arrangement for any period of 30 consecutive calendar days or less, throughout all or any part of a calendar year.

Both the Town of The Blue Mountains and the Town of Niagara-On-The-Lake, identified as examples in The Home Sharing Guide for Ontario Municipalities, have chosen to regulate short-term accommodation rentals in specific areas while prohibiting them in others.

The City of Toronto has adopted zoning by-law amendments to permit short-term rentals for all principal residences in the City in all zones, having the effect that short-term rentals are permitted only where the property owner lives. The City has also enacted a Licensing and Registration of Short-Term Rentals by-law.

Along with regulating or prohibiting short-term rentals, some municipalities specifically choose not to do so. The Township of Tiny does not prohibit short or long-term rentals of dwellings, as "Council understands that traditionally many residents seasonally rent their cottage/dwellings or lend them to family and friends during the summer months, which has been the common practice for decades". However, this pertains to the entire dwelling only; a room rental is regulated in the Township's Zoning By-law.

It should be noted that the majority of municipalities that have a short-term accommodation licensing program also have a general business licensing program, which the Municipality of Lakeshore does not have in place at this time. Introducing a licensing program would require additional resources for coordination of the program, including annual building and fire inspections, as well as additional resources for enforcement and licence appeals. While cost-recovery can be built

into the program, the process of licensing could require staff time to administer from several departments. The related report on “Short-Term Accommodations – Enforcement” on this agenda discussed the enforcement considerations. However, an in-depth review of licensing has not been explored, as no direction has been given from Council. If Council so chooses, a report could be presented to consider the advantages and disadvantages of initiating a short-term rental licensing program.

### Municipality of Lakeshore Zoning Provisions

As noted above, short-term accommodation rentals are generally defined as rentals of less than 30 days but are different from the traditional bed and breakfast business. Pursuant to the Municipality’s Zoning By-law, a “bed and breakfast establishment” is defined as:

a single detached dwelling in which no more than three rooms are made available by the residents of the said dwelling for the temporary accommodation of travelers in the course of which no assistance is offered by any person not residing in the dwelling. This does not include a hotel, motel, or eating establishment, as defined herein.

Bed & breakfast establishments are allowed in the following zones and do not require a site-specific zoning or business licence from the Municipality:

- R1 – Residential – Low Density
- R2 – Residential – Medium Density
- RW1 – Residential Waterfront – Watercourse
- RW2 – Residential Waterfront – Lake St. Clair
- HR – Hamlet Residential
- HC – Hamlet Commercial
- CA – Central Area
- MU – Mixed Use
- A – Agriculture
- UR – Urban Reserve (existing bed & breakfast establishments only)

The following provisions shall apply to a bed and breakfast establishment, where it is permitted by this By-law:

- a) bed and breakfast establishments are only permitted within a single detached dwelling;
- b) the bed and breakfast establishment has no more than three off-street parking spaces associated with the bed and breakfast establishment, accommodated on the same lot;
- c) the bed and breakfast establishment does not include a liquor licensed premises or other facilities for the servicing of alcoholic beverages to the general public;

- d) the bed and breakfast establishment complies with the Building Code Act and such other by-laws and regulations as may be applicable for the Municipality;
- e) no portion of a guest room is located below grade or within a basement, walkout basement or cellar;
- f) no portion of a guest room contains facilities for the preparation of meals; and
- g) all other applicable provisions of this By-law shall apply and be complied with.

It should be noted that there is no definition of “short-term rental accommodation” in the Zoning By-law. However, there is a definition for “housekeeping cottage”, defined as:

One or a group of buildings that provides temporary accommodations to overnight guests for a fee and is equipped with a kitchen, which has a common piped water supply with other such buildings.

Housekeeping cottages are permitted solely in the RW2-7 zone (Residential Waterfront – Lake St. Clair Zone Exception 7). This site-specific zoning is limited to one property on Caille Avenue.

(Refer to Graphic, Lakeshore Accommodations, Attachment 1).

### Analysis

Upon review of local short-term rental accommodation websites for a previous report, Administration identified short-term rental accommodation listings on websites for 30 properties within the Municipality of Lakeshore boundaries. Nine of these properties are located within the Rochester Place RV park and two properties are operated as commercial bed & breakfast businesses (Iron Kettle Bed & Breakfast and the Elm Tree Retreat). It is estimated that the number of listings this past summer were around 100-125.

Administration also met with a member of the Ontario Provincial Police – Lakeshore Detachment to discuss concerns relating to accommodation rentals and found that short-term rental properties have not been noted by the OPP to be of significant concern in the municipality. This indicates that Short-Term Rentals do not present a significant concern with regards to safety. Also, there are generally no concerns or impacts on the local housing market either. However, it is understood that there are nuisance concerns (noise, parking, pets) which may or may not be reported to the OPP or Lakeshore’s By-law Division.

### Proposed Zoning By-law Amendment:

The proposed amendment to the Zoning By-law seeks to address Council direction by defining Short-Term Rental Accommodations as distinct from Bed and Breakfast Establishments and Housekeeping Cottages, and clearly indicate that Short-Term Rental Accommodations will not be permitted in any zone within the Municipality.

The proposed definition for Short-Term Rental Accommodations is:

**SHORT-TERM RENTAL ACCOMMODATION** – shall mean the commercial use of any residential dwelling unit, or part thereof, or a mobile home or accessory structure on a residential property, used as a place of temporary habitation, lodging or occupancy under authority of a concession, permit, lease, license, rental agreement or similar commercial arrangement authorizing such temporary habitation, lodging or occupancy for a period equal to or less than twenty-eight (28) consecutive calendar days, but does not include a Bed and Breakfast Establishment or Housekeeping Cottage as defined in By-law 2-2012, as amended.

This definition ensures that the prohibition will not apply to the renting out of individual rooms, secondary suites or homes to long-term tenants. It also clarifies that Short-Term Rental Accommodations are a commercial use, which is distinct from allowing someone to stay as a guest without charge on a short-term basis.

The proposed general provision related to Short-Term Rental Accommodations states:

#### 6.53. Short-Term Rental Accommodations

The following provisions shall apply to a Short-Term Rental Accommodation use:

- a) Short-Term Rental Accommodations, as defined by this By-law, shall not be permitted in any zone;
- b) The rental or leasing of any residential property, including agricultural lands, or part thereof, for overnight accommodation for fewer than 28 consecutive days, shall be subject to the regulations and definitions related to Bed and Breakfast Establishments.

This general provision will allow the Municipality to bring action against the unlawful establishment of a Short-Term Rental Accommodation following adoption of the by-law.

It should be noted that Short-Term Rental Accommodation hosts in Ontario have previously argued that the service they provide is no different from renting out a room for residential purposes and should therefore be permitted under existing zoning. This means that if Council chooses to adopt the attached amendment, any Short-Term Rental Accommodations that are currently in operation may be considered Legal Non-Conforming Uses. A legal opinion will be provided to Council in this regard.

The proposed definition and general provision will not prevent individuals from applying for Zoning By-law Amendments to permit Short-Term Accommodations on a site-specific basis. In the absence of Official Plan policies to provide guidance, the Municipality will not have a policy basis for refusing these applications or imposing restrictions. However, the cost of applying for a Zoning By-law Amendment may act as a deterrent.

In the case that an individual wishes to operate a Short-Term Rental Accommodation, it may be preferable to direct them to apply for a Temporary Use By-law. This would permit the Short-Term Rental Accommodation for a period of

up to three years, at which time they may apply for an extension. The Municipality could then evaluate the impact of the Short-Term Rental Accommodation and determine if it should be permitted to continue.

If Lakeshore chooses to use a Temporary Use By-law approach, a recent amendment to Section 39 of the Planning Act allows the delegation of minor zoning changes to either a member of administration, or a committee of Council. The approval of a Temporary Use By-law for short term accommodation could be delegated to a committee of council; for example, the Lakeshore Committee of Adjustment,

Following adoption of the Zoning By-law Amendment, Administration will undertake a public education campaign and establish a Short-Term Rental Accommodation webpage to provide people with information related to the prohibition and enforcement.

### **Provincial Policy Statement (PPS) and County of Essex Official Plan**

There are no issues of provincial or County significance raised by the proposed amendment. Neither document provides policies specific to Short-Term Rental Accommodations.

### **Municipality of Lakeshore Official Plan**

As mentioned above, the Municipality of Lakeshore Official Plan does not speak to regulation of Short-Term Rental Accommodations as defined by the proposed Zoning By-law Amendment. Therefore, there are no issues raised by the proposed amendment.

The Municipality of Lakeshore Official Plan does speak to Bed and Breakfast establishments, permitting them in single detached dwellings, subject to a list of criteria. The current policies do not require a site specific rezoning, however, the policies of the Official Plan review (Council adopted OPA 18) do require a rezoning for Bed and Breakfast establishments.

### **Public Consultation**

Public engagement was undertaken as directed by Council, to implement previous the previous motions/direction from Council on short-term accommodation. A report on the results of the public engagement in 2021 in Attachment 2.

Notice of the public meeting held at this meeting (October 10, 2023 Regular Council meeting) was undertaken, as required under the Planning Act. In addition, individual notices were sent to residents and businesses, and information was posted in the local newspaper. A summary of comments received is included in Attachment 3.

### **Others Consulted**

WSP, Planning Consultant

### **Financial Impacts**

There are no financial impacts as a result of this amendment. There could be

increased demand for By-law resources to enforce this amendment which may impact future resourcing and service levels in that area. In addition, the amendment may result in site-specific Zoning By-law Amendment applications.

### **Attachments**

Attachment 1 – Graphic showing Lakeshore Accommodations in the Zoning By-law

Attachment 2 – Previous public engagement – September 2021 Council report.

Attachment 3 – Comments received as a result of notice of the public meeting

Attachment 4 – Council options for making a decision on Zoning By-law Amendments

### **Report Approval Details**

Document Title:	Short-Term Accommodations - Zoning By-law Amendment.docx
Attachments:	- Attachment 1 Graphic showing Lakeshore Accommodations.png - Attachment 2 - Short-term Accommodation Rentals - Results of Public Consultation Process Sept 2021.pdf - Attachment 3 STR Complied Comments from Website.pdf - Attachment 4 – Decision Making Alternatives under the Planning Act.docx
Final Approval Date:	Oct 5, 2023

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

Prepared by Sahar Jamshidi

Submitted by Tammie Ryall

Approved by Justin Rousseau and Truper McBride