



STAFF REPORT
Municipality of Wawa

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Prepared By: Maury O'Neill	Report No: CAO REPORT 2023-12
Agenda Date: December 12, 2023	File No: ZONING D14

SHORT-TERM ACCOMMODATIONS

Staff Recommendation

THAT Council receive Staff Report CAO 2023-12 entitled “Short Term Accommodations – Proposed Official Plan and Zoning By-Law Amendments”;

AND THAT Council direct staff to initiate the Planning Act process to consider an Official Plan Amendment to Section “B1. Residential – B.11 Short Term Accommodations” of the Official Plan to approve and regulate Short Term Accommodation units in the Municipality of Wawa, making them permissible;

AND THAT Council direct staff to initiate the Planning Act process to consider amendments to Zoning By-Law 2821-15 to define and regulate Short Term Accommodations, making them permissible subject to conditions in zones that permit dwelling units.

Report Purposes

The purpose of this report is to respond to Council concerns about the safety and negative impacts resulting from the growth of Short-Term Accommodations in Wawa. It follows the Planning Report provided by Robert Lehman to Council on October 17, 2023.

This report provides a summary of proposed Official Plan policies and Zoning regulations and provides Council with options to modify those policies to make Short-Term Accommodations legal, subject to conditions including a future annual licencing requirement. This report does not discuss the details of a proposed licencing and enforcement program at this time and will come forward to Council subject to the O.P. and Zoning amendments legalizing short-term accommodations are adopted.

Background

1.0 Overview

Forms of short-term accommodation are of benefit to the local economy as they provide choice to travelers. In addition, they provide property owners a way to supplement their income without major capital expenses. Wawa has a long history of providing a variety of rental accommodation forms that can respond to short term demands for housing in an economical and efficient manner. This is a significant advantage in a community that has been subject to many economic boom and bust cycles and housing shortages.

There are relatively few STR's in Wawa, about 0.5% of existing housing stock. A current review of the on-line Airbnb listings for Wawa show 21 properties listed for accommodation as short-term rentals. It would appear that at least half involved renting the entire property and/or more than three bedrooms. Fifteen of the properties are in the townsite with the others in Michipicoten River Village, on the highway or in the rural area. In contrast to other municipalities that have a high proportion of vacation or second homes, the STR's in Wawa have not resulted in any problems being reported.

Despite this, public safety is a significant concern and the liability and risk of this type of accommodation can only be addressed by some form of municipal oversight. Most municipalities in Ontario addressing STR have introduced a licensing system similar to that currently applying to any form of commercial accommodation facility such as a hotel or motel. The Fire Chief has advised that under the Fire Code, he would have to check the following for any STR compliance/approval;

- a) that there is an early fire warning (smoke alarm) in each bedroom/sleeping area;
- b) that there is at least one carbon monoxide in the building;
- c) there are means of egress to exits;
- d) there are fire extinguishers;
- e) emergency lighting would be recommended but not mandatory; and,
- f) there may be requirements for the size of rooms and compliance with the Building Code.

Current land use planning policies do not permit short-term accommodations anywhere within the municipality. There is no definition or reference to short-term accommodations, which were not a concern in 2010 when the Wawa Official Plan (O.P.) or Zoning By-law were adopted.

2.0 Existing Official Plan Policies

The Wawa Residential and the Village Residential designation permit “Bed and breakfast establishments in single detached dwellings subject to Section B1.7/B2.5.” The policies for both designations are the same, as follows:

B2.5 Bed and breakfast establishments are permitted in single detached dwellings, provided the bed and breakfast establishment:

- e) is located within the principal residence of the owner/operator;
- f) preserves the character of the dwelling as a private residence;
- g) is licensed annually in accordance with the Municipal Lodging and Bed and Breakfast Licensing by-law as amended where applicable.

The implementing Zoning By-law shall define a bed and breakfast establishment and may further detail the conditions under which a bed and breakfast establishment may be permitted. Bed and breakfast establishments are permitted in the Downtown and Rural designations, without any required criteria. Some of the existing Official Plan policies have not been implemented including the restriction of Bed and Breakfasts to detached dwellings, the requirement that it be the residence of the owner and that the establishments be licensed.

The proposed amendments to the O.P. provide permissions for bed and breakfast establishments and short-term rentals in any zone that permits residential dwellings. Bed and Breakfast Establishments will only be permitted in single detached dwellings. Short Term Rentals (STR) are allowed in any form of residential dwelling unit.

3.0 Official Plan – Proposed Amendments

The Official Plan of the Municipality of Wawa would be amended as follows:

1. Section B1.3 g) Wawa Residential Permitted Uses is amended to read as follows:

- g) Bed and Breakfast Establishments and Short-Term Rentals are permitted subject to the policies of Section B1.7

2. Section B1.7 ‘Bed and Breakfast Establishments’ is retitled as “Bed and Breakfast and Short-Term Rentals” and is revised to read as follows:

Short-Term Rentals and Bed and Breakfast establishments are subject to the following requirements:

- a) They preserve the character of the dwelling as a private residence;
- b) They are licensed in accordance with the Municipal Licensing By-law; and,

c) Any Bed and Breakfast Establishment is located within a single detached dwelling and within the principal residence of the owner/operator.

The implementing Zoning By-law will define short-term rental and bed and breakfast establishments and detail specific requirements with the intent of preserving neighborhood character and the health and safety of occupants.

3. Section B2.3 c) Village Residential Permitted Uses is amended to read as follows:

c) Bed and Breakfast Establishments and Short-Term Rentals are permitted subject to the policies of Section B1.7

4. Section B4.4 e) Downtown Permitted Uses is amended by the deletion of “and bed and breakfast establishments” to read:

e) Hotels and inns

5. Section B4.4 Downtown Permitted Uses is amended by the addition of the following:

r) Bed and Breakfast establishments and Short-Term Rentals, subject to the policies of Section B1.7

6. Section B6.3 c) Rural Permitted Uses is amended to read as follows:

c) Bed and Breakfast Establishments and Short-Term Rentals, subject to the policies of Section B1.7

7. Section B9.2 Urban Highway Commercial Permitted Uses is amended by adding:

l) Short-Term Rentals subject to the policies of Section B1.7

4.0 Wawa Zoning By-Law – Proposed Amendments

1. In **Section 3.0 Definitions** - The existing definition of Bed and Breakfast Establishment is replaced by the following:

Bed and Breakfast Establishment

Means a part of an owner-occupied dwelling unit in which not more than three bedrooms are used or maintained for the accommodation of the traveling public, and in which the owner of the dwelling unit supplies lodgings with or without meals for hire or pay but does not include a group home, tourist establishment, short term rental or hotel.

2. In **Section 3.0 Definitions** a new definition for Short Term Rental is inserted following the definition for Setback to read as follows:

Short Term Rental or Short-Term Accommodation

means a dwelling unit or part of a dwelling unit used to provide temporary accommodation for not more than 30 consecutive days and does not include a hotel, motel or a bed and breakfast establishment.

3. In **Section 5.8 Residential Parking Requirements** is amended by the addition of:
The minimum parking requirement for residential uses are as follows:

Type or Nature of Use

Minimum Off-Street Parking Requirements

Short-Term Rentals

- 1 space for every bedroom/sleeping room or each suite used for the purposes of lodging for the traveling public, in addition to the required parking for the dwelling unit.

4. **Table A-1 Residential Zones** is amended by the addition of the following;

TABLE A1 - RESIDENTIAL ZONES

PERMITTED USE	R1 and R4	R2 and R3	RM1 and RM2	RA	RU	RS	RLS
14. Short-Term Accommodations	X	X	X	X	X	X	X

5. **Table A-3 Rural and Tourist Commercial Zones** is amended by the addition of the following:

TABLE A3 - RURAL AND TOURIST COMMERCIAL ZONES

PERMITTED USE	RU	C4
28. Short-Term Accommodations	X	X

6. **Table A-3 Commercial and Industrial Zones** is amended by the addition of the following:

TABLE A2 - COMMERCIAL AND INDUSTRIAL ZONES

	PERMITTED USE	C1	C2	C3	AP	M1	MX
43.	<i>Short-Term Accommodations</i>	X	X				

7. Add new clause: 4.29 SHORT-TERM ACCOMMODATION RENTALS

No more than three-bedrooms in a dwelling unit are permitted to be used for short-term rentals.

5.0 Other Considerations

5.1 Municipal Property Assessment and Tax Requirements

The Municipal Property Assessment Corporation (MPAC) has confirmed that properties that operate as STRs are still assessed and taxed based upon a residential tax rate, but may be subject to a different property code, which may impact the overall market value assessment. Tax classifications are based on the predominant use of a property. Generally, hotels and motels pay commercial property taxes while bed & breakfast operators pay residential property taxes. Most short-term rental operators are likely paying residential property taxes as there is no tax classification defined under regulation that applies specifically to short-term rentals.

Hotels, bed & breakfasts and other transient accommodation must pay harmonized sales tax (HST, 13%) on transactions only if they collect over \$30,000 per year which is the same as transactions for other goods and services. Anyone who collects rental income, including short-term rental operators, are required to report this income and pay the appropriate income tax.

5.2 Municipal Liability

The Municipality of Centre Hastings obtained a legal opinion that confirmed that licensing of STRs exposes the Municipality to potential liability. The potential liability will arise from the implementation of the by-law. If municipal staff are reviewing site plans, fire plans and issuing licenses, then the Municipality assume part of the liability. The Municipality only needs to be found 1% liable to be responsible for claims. Licensing Short Term Rentals will open the Municipality up to significant liability and potential costs. It is unknown what the liability would be to the Municipality if it knows about short-term rentals and does nothing to enforce current zoning and building or fire code requirements.

5.3 Provincial and Federal Regulations – Changing Rules

The Federal Government recently announced that it will deny income tax deductions for Airbnbs to restrict short-term rentals. Persons renting out their properties for short-term rentals will no longer be able to deduct interest on mortgages and other expenses incurred on their short-term rentals from their tax bill from next year.

Several municipalities in Ontario have sent requests to the Province to also enact legislation to govern such accommodations.

5.4 Annual Municipal Licensing Program

Several municipalities have adopted an annual STRs business licensing by-law to mitigate the negative impacts of short-term rentals. This report does not detail a proposed STRs Licensing By-Law at this time. The cost of developing, implementing and monitoring a licensing program must be further reviewed, along with additional public consultation. Some of the matters to be considered in a future licensing program include;

- By-Law must be developed and passed by Council.
- Council must commit to the cost of litigation where by-laws are not being followed. The cost to this could be in excess of \$30,000 per property.
- A system needs to be established that includes an appeal process and body to ensure protection to both the complainant and property owner.
- Applications and information packages must be developed that includes license requirements such as site plan, proof of ownership, proof of rental insurance, compliance with building code, and compliance with fire code.
- A Renters Code of Conduct should be developed and provided to renters.
- Public Information needs to be developed and distributed to ensure all short-term rental properties are adhering to the new rules.
- Contacting all identified Short-Term Rental properties to arrange fire inspections and site plans.
- Procedures and policies for processing licenses, complaints and appeals.
- Operators to obtain and provide proof of insurance, with a clear indication an STA is in operation within the property and a minimum two-million dollar liability;

The matter of enforcement is a complicated issue as it has been suggested by many municipalities that it takes a full-time dedicated staff person to continually monitor the situation which constantly changes and is difficult and time consuming to enforce. This matter is currently under investigation by staff with a future report to be forwarded.

5.5 Municipal Accommodation Tax (MAT)

Legalizing short-term accommodations in Wawa through planning amendments and licensing such would enable the Municipality to include such accommodations as being required to pay the MAT should Council proceed with approving such a program. This would ensure that all accommodation operators are treated fairly and consistently.

5.6 Financial Impacts

Undertaking the Official Plan and Zoning By-Law amendments requires staff time and advertising costs to hold a mandatory Public Meeting. The Municipality also used the services of a Contract Planner, Robert Lehman, to review and report to Council on this matter at a cost of \$10,000.00. Should a member of the public appeal the planning amendments if approved, considerable appeal costs would be incurred.

5.7 Other Considerations

Council should take into consideration that there are many people who successfully manage Short-Term Rental Accommodations in the community with no issues. Some communities have imposed by-laws that only allow Short-Term Rentals out of primary residences, and while this is an option, it negatively impacts those who respectfully and responsibly rented their properties. There are a variety of operating STRs that will be impacted by the changes in policy.

5.8 Public Engagement – Public Meeting

Should Council proceed with Official Plan and Zoning By-Law amendments, a mandatory Public Meeting would be held suggested in the timeframe below:

- January 12, 2024 - Public Meeting advertised with 20 days Notice Period;
- February 6, 2024 - Hold Public Meeting
- February 20, 2024 - Committee of the Whole Recommendation Report
- March 19, 2024 - Council Adoption
- March 20, 2024 - Notice of Decision for 20 Day Appeal Period
- April 10, 2024 - Approved (subject to provincial approval)

Council may wish to hold other community input sessions or a survey of operators into the proposed short-term accommodation changes planned, including input into the development of a licensing system.

Strategic Plan

The issue of regulating short-term accommodations meets with the priorities of the Wawa Strategic Plan (2023) under Section TED-5 Implement Municipal Accommodation Tax and GG-7 Update Policies and By-laws regularly to ensure effective government operations.

Staff Recommendation

Current Municipal planning regulations do not include short-term accommodations as a permitted use, therefore, all such accommodations operating in Wawa are considered illegal. Such accommodations do contribute to the local economy and are generally located in suitable areas of the community not causing nuisances to surrounding property owners. As a result, staff recommends that Wawa Official Plan and Zoning By-law be amended to permit short-term rental in land-use zones that currently permit residential use, subject to certain conditions as outlined in this report. Such planning amendments would also be consistent with the Provincial Planning Statement (2023).

Staff recommends that Council direct staff to initiate the Planning Act process to consider amendments to Zoning By-Law 2821-15 and Official Plan By-law 2379-10 to define and regulate Short Term Accommodations, making them permissible subject to conditions in zones that permit dwelling units.

Council could consider not amending the municipal planning documents leaving all short-term accommodations as illegal in Wawa. This would mean that business licenses and inspections would not be required and such units would not be considered as part of the proposed MAT Tax program to be implemented, but this is not recommended by staff.

Respectfully submitted,

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Note: See October 17, 2023, Bob Lehman Council Report on Short-Term Accommodations for additional background.