

Planning and Development Services

Prepared for Regular Council Report No. PDS-62-2020
Agenda Date December 14, 2020 File No.

Subject

LICENSING AND REGULATING SHORT-TERM RENTALS INFORMATION REPORT

Recommendations

THAT Council receives the Licensing and Regulations Short-Term Rentals

Information Report which provides a review of the first year of the pilot

program, for information purposes.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: 4 Promoting Business, Economic Growth, and Employment Opportunities

Goal: 4.5 Promote Service Excellence and Efficiency/Effectiveness

Initiative: N/A

List of Stakeholders

Town of Fort Erie Property Owners and Rate Payers

Prepared by: Submitted by: Approved by:

Original Signed Original Signed Original Signed

Paul Chudoba, AMP, Dipl.M.A., CPSO Coordinator, By-Law

Enforcement

Kira Dolch, MCIP, RPP, CNU-A Director, Planning and

Development Services

Kelly Walsh, P. Eng. Director, Infrastructure

Services

Purpose of Report

Effective January 1st, 2020, the Town of Fort Erie By-Law <u>113-2019</u> being a by-law requiring short-term rental uses be licensed with the Town came into effect. This report is to provide Fort Erie Council with an update regarding the first year of the pilot program.

Background

On July 9, 2018, Council directed staff to create a regulatory, licensing and enforcement framework to address short-term rentals and report back to Council. On September 17, 2018, staff brought a framework to Council with the recommendation to initiate draft amendments to the Town's Official Plan, Zoning By-law, Business Licensing By-law, and the Administrative Monetary Penalty System (AMPS) by-law (PDS-48-2018).

At the September 17, 2018, Council meeting, Council deferred initiating the proposed Amendments (<u>PDS-66-2018</u>), instead directing staff to return to Council at a later date with additional information and alternative options, and to address the need for by-law enforcement at variable hours in the interim.

On November 13, 2018, staff returned to Council with report <u>PDS-77-2018</u> which provided additional information and options including cost recovery options for Council's consideration. Council postponed their decision on this application until January 14, 2019,

On January 14, 2019, Council recommended the creation of a roundtable for further discussion on short-term rentals engaging the stakeholders with representation to a maximum of 10, 5 on each side, and 3 Councillors, being Councillor Lubberts, Councillor Butler and Councillor Noyes.

On March 28, 2019, staff held the short-term rental roundtable and the roundtable participants chose the top three solutions to help address the issues related to short-term rentals.

On April 15, 2019, Council approved in principle, the option of education, licensing, and enforcement as identified by the participants of the roundtable, and directed staff to submit a report to Council which will outline a policy and implementation strategy. The purpose of this report was to identify the policy of the Town as it related to the options of education, licensing and enforcement and to establish an implementation strategy along with a cost recovery program that Town of Fort Erie could adopt to minimize the cost implications of a short-term rental program.

On June 10th, 2019, Council postponed a decision on report <u>PDS-39-2019</u> until the Council-in-Committee meeting July 8th, 2019, to provide staff with an opportunity to have dialogue with Air BnB and other providers with respect to the fee. Council directed staff to bring forward amendments to the Fees and Charges By-Law for consideration

by Council, and authorized staff to bring forward a new Administrative Monetary Penalty System for the enforcement of short-term rentals.

On July 8th, 2019, Council approved modified Option 1 in report <u>PDS-39-2019</u> which provided for an on-call By-Law Enforcement Officer in place from May to Labour Day but did not include inspections by fire, building, or planning staff, or active monitoring of websites to ensure violators obtain a short-term rental licence. There would be a \$300 per year licensing fee commencing January 1, to December 31, 2020, as a pilot project that would be reviewed at the end of 2020 to see whether other requirements which should be imposed or other things have arisen that need to be considered. Council directed staff to bring forward the amendments to the Fees and Charges By-law for consideration by Council as amended.

On July 15th, 2019, Council approved By-Law <u>113-2019</u>, being a By-Law to regulate short-term rentals in the Town of Fort Erie, and Council approved By-Law <u>116-2019</u>, which amended the Fees and Charges By-Law to include a \$300 short-term rental Licensing fee, both effective January 1st, 2020.

Analysis

The COVID-19 Pandemic has impacted the ability to provide a solid evaluation of the short-term rental (STR) licensing and regulating pilot program. With restrictions being placed on STRs under a Provincial Emergency Order under the Emergency Management and Civil Promotion Act, STRs were only permitted for use as emergency housing between April 4th, 2020, to June 5th, 2020. Border crossing restrictions denied U.S. Citizens from being able to cross the border to visit their properties, and potentially impacted the desire to license or rent out a STR based on their inability to attend their property. Furthermore, U.S. citizen tourism and a desire to rent a Fort Erie STR was also impacted based on the inability to cross the border. These restrictions also resulted in U.S citizen owned properties being vacant, where if occupied, could have been adversely affected by a neighbouring STR, which may have resulted in a public complaint. Other restrictions such as Bay Beach being restricted to residents only, and other tourism attractions being closed or limited, also had an impact on the desire to rent a Fort Erie STR in 2020. Additional aggravating factors due to COVID-19 include: provincial restrictions and lockdowns, public health restrictions, limitations on tourism attractions, and travel advisories in general, which have had a direct and indirect impact on either ability or want to attend a STR in Fort Erie. If provincial and public health restrictions are alleviated in 2021, to the point that the aggravating factors listed above are reduced or removed altogether, there may likely be a significant surge in attendance at STRs in 2021.

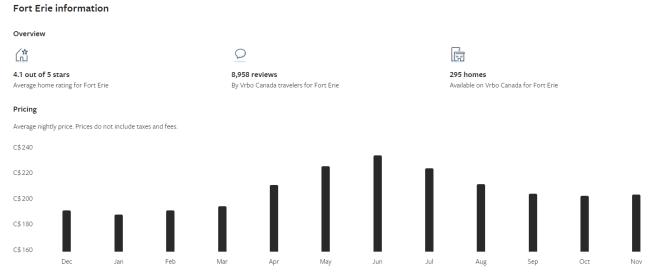
EDUCATION

In order to educate the public on the requirements for registering a STR with the Town, several media outlets were utilized. Starting December 16th, 2019, the Town started posting information regarding the requirement to register STRs effective January 1st, 2020, in a media release posting on the Town's website, and a subsequent posting was

made June 5th, 2020. The Town's website for Business Licences was updated, and a new link for STRs with information was created. On December 19th, 2019, an advertisement was posted in the local newspaper (Fort Erie Post). With respect to social media, postings regarding the requirement to register a STR with the Town were made using Facebook, Instagram, and Twitter on December 18th, 2019, January 6th, 2020, April 8th, 2020, May 29th, 2020, and June 5th, 2020. The contact information for the Town of Fort Erie's Community Liaison and Business Licensing was also provided to the public, if any additional assistance was required with respect to the licensing process.

LICENSING

According to Al Stouffer, Community Liaison and Business Licensing staff with the Town of Fort Erie, as of October 31st, 2020, the Town of Fort Erie had licensed 146 STR properties. Most residents were very receptive towards the licensing program, and had very few concerns. Most licensees appreciated that they could disclose to their renters and rental agencies that they possessed a licence with the Town to act as a STR. The annual licensing fee of \$300 was also considered fair by most who were licensed.



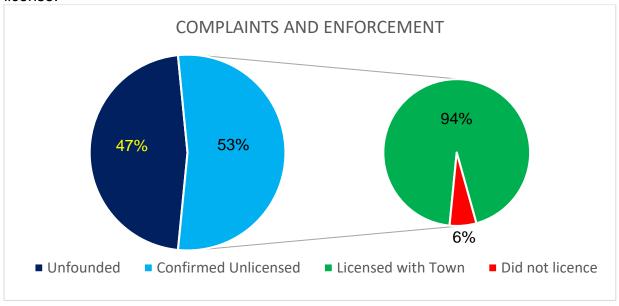
Source https://www.vrbo.com/en-ca/vacation-rentals/canada/ontario/niagara-regional-municipality/fort-erie (November 20, 2020)

The amount of unlicensed STRs in Town is estimated to be at least double the amount of those currently licensed, based on information provided by STR sites.

ENFORCEMENT

With respect to complaints, report <u>PDS-48-2018</u> indicated that in 2017, the Town received 6 complaints for unlicensed short-term rentals, and in 2018, the Town received only 4 complaints. In 2019, the Town did not record any official complaints regarding STRs. By the end of October, 2020, 32 complaints were received regarding illegal STRs, and 2 pro-active By-Law investigations were performed. Of the 32 complaints received, 15 complaints were unfounded. With respect to the unfounded complaints, some were confirmed to be long term tenants, and others were complaints received

when no by-law staff were on duty ('in-progress'), resulting in responses after the fact, and an inability of obtain sufficient evidence. Of the remaining 17 STR public complaints, By-Law Enforcement investigations into the unlicensed STRs resulted in 16 of the STRs getting licensed, and 1 STR ceasing operation with no further intent to license.



With respect to pro-active by-law enforcement, 2 investigations into unlicensed STRs resulted in both STRs being licensed. 10 of the 19 combined complaint and pro-active confirmed unlicensed STR investigations resulted in Administrative Monetary Penalty Notices being issued for failing to license. Only 2 of the 146 licensed STRs have had noise or nuisance complaints filed that By-Law Enforcement is aware of. The resulting low number could be correlated with voluntary compliance, the information and education programs provided such as the "Short-Term Rental Guest Rules" handout cited in PDS-39-2019, and low rental volume. In addition to the complaints filed towards identifiable properties, numerous citizens vocalized their concerns regarding unlicensed STRs, and problematic concerns with STRs for noise and nuisance, both in writing and verbally. These residents were calling for stricter regulation and enforcement for offenders. Examples of some written submissions have been included as **Appendix** "1" in this report.

In August of 2020, Fort Erie By-Law Enforcement developed a partnership with the Niagara Regional Police Service (NRP) regarding responding to noise and nuisance complaints at STRs. Prior to the partnership, it was discovered that NRP would respond to a noise or nuisance complaint at a licensed STR, and Town staff would have no knowledge of the concern. As such, a STR could have multiple infractions disturbing the inhabitants of the surrounding area, and would have no violations on record with the Town in order to identify and address a concern. The new partnership involved NRP checking the Town's database for licensed STRs when responding to noise and nuisance complaints. If the property check identified the property as a licensed STR, and police attendance substantiated a claim of noise or nuisance disturbing the

inhabitants of the surrounding area, the information would be related to the Town of Fort Erie By-Law Division. The partnership is only limited to licensed STRs, as NRP would not be investigating further into a possible illegal STR as a By-Law Officer would. After being notified, based on the information provided, enforcement staff would follow-up accordingly, and notify the Town Community Liaison and Business Licensing staff. If additional enforcement measures were necessary, administrative monetary penalty notices for violations would also be sent out through mail and/or email based on the evidence produced by NRP, and further follow-ups could be conducted if necessary regarding the utilization of the demerit point system.

CONSIDERATIONS

Town staff have identified a need for a zoning review to ensure the property complies with the Town's Zoning By-Law, prior to the issuance of a licence, which will have an impact on staffing resources. One example of where a zoning review would have prevented a licence being issued is where four licences were issued at a four-plex property which had each separate unit licenced as a STR. Although in compliance with the STR By-Law, the property was in violation of the Town's Zoning By-Law. After the discovery of the issue, the licence was then revoked by Town staff.

Report <u>PDS-66-2018</u> identified a requirement for licences to only be issued to the primary occupant of the dwelling proposed to be operated as a STR. This requirement was to ensure that the primary use of the property remains residential in nature. This requirement was not implemented at the Council at the Council-in-Committee meeting July 8th, 2019.

Report PDS-77-2018 provided for additional alternatives towards regulating STRs, which included Short-Term Rental Policy Areas, Spot-Zoning, and Municipal Accommodation Tax. With Short-Term Rental Policy Areas, areas could be designated where STRs would (or would not) be permitted, and this would be achieved through the Official Plan, Zoning, and the licensing by-law if needed. Under a Spot-Zoning approach, a STR would be site specific, and residents in proximity would be informed of the application, and have an opportunity to comment on the application. With a Municipal Accommodation Tax, an amount of up to 4% to each STR stay could be applied at the discretion of the municipality, but 50% of the revenues must be remitted to a destination-marketing/tourism related body. As report PDS-77-2018 was lost at the April 15th, 2019, Council-in-Committee meeting, utilizing the aforementioned alternatives did not proceed.

Financial/Staffing and Accessibility (AODA) Implications

On July 8th, 2019, Council approved in principle an additional By-Law Enforcement Officer in order to address issues with STRs, and to enforce the STR By-Law from May to Labour Day. This By-Law Officer would respond to calls in the evenings and weekends, and if time permits, would include the active monitoring of websites to identify properties in violation, and ensure those and other unlicensed STRs become licensed. The position was not advanced during the 2020 operating budget deliberations, and no additional

staffing resources were implemented to assist with the implementation of the program. Staff are planning to advance this position for the 2021 Budget deliberations. The cost of this position would be \$38,750 in 2021, and \$33,880-\$34,522 in subsequent years. Currently, the STR program has 146 licensed STRs, with an annual licensing fee of \$300, for a total of \$43,800 in licensing fees levied.

On December 3rd, 2020, Town staff had a consultation with Granicus Host Compliance, who offer STR solutions to municipalities. According to Granicus Host's assessment, there are currently 303 active STRs in Town. Further to that, there was a 36% increase in rental activity versus the previous year, with an average nightly rate of \$168 USD. The service provider offers the following services: mobile enabled registration and tax collection (Municipal Accommodation Tax if applicable), address identification, compliance monitoring, rental activity monitoring, and a 24/7 dedicated hotline. The cost of the service was quoted at a per unit cost of \$117.76 per STR for all services, or \$35,682 annually based on the current number of STRs. As the service is based on a per unit cost, if the number of STRs increased in Town, so would the service fees payable. If the Granicus Host Compliance service was utilized, there would still be a requirement of a By-Law Officer to inspect and investigate the information that would be relayed, including calls received to the hotline.

Based on the information provided, if By-Law Enforcement were to engage the suspected remaining 157 STRs, the Town could potentially expect an additional 151 STRs to be licensed based on the 94% compliance rate from previous By-Law Enforcement investigations. Bringing the total licensed STRs in Town to a potential 297, would translate to an annual monetary sum of \$89,100 at the current licensing fees rate of

STR			
Units	\$300 Fee	\$400 Fee	\$500 Fee
146	\$43,800	\$58,400	\$73,000
200	\$60,000	\$80,000	\$100,000
250	\$75,000	\$100,000	\$125,000
300	\$90,000	\$120,000	\$150,000
350	\$105,000	\$140,000	\$175,000

\$300. If fees were raised to \$400 or \$500, the potential licensing fees collected would be \$118,800 or \$148,500 respectively.

Comments from Relevant Departments/Community and Corporate Partners

Al Stouffer, the Community Liaison and Business Licensing staff with the Town of Fort Erie reported that there were very few reported issues with respect to the licensing process. The following comments were made regarding the first year of the program:

- Almost all licenced property owners were pleased with the registration process, and found the licensing fee to be fair.
- Modifications are required with respect to the proof of insurance. The current STR By-Law requires that the Town be added as an additional insured to the STR policy. This practice is not possible as STRs are normally a residential property, and not a commercial property.

 Proof of ownership of the property was being requested with respect to licensing a STR. This practice became troublesome in some aspects, where property owners did not have full ownership, nor did title records exist to substantiate ownership, of the property that was intended on being rented out as a STR.

Conclusion

Although the evaluation of the program was disrupted due to the pandemic, it was still possible to identify successes and necessary improvements and enhancements to the program.

Overall the registration process ran fairly smoothly, with very few complaints including the fee amount. Due to staffing, pro-active enforcement was very low, and ultimately By-Law Enforcement responses were primarily complaint driven.

Additionally, complaints that were received in the evenings from the public were not followed up on while occurring ('in-progress'), which resulted in a follow-up after the fact where evidence was no longer present to confirm the existence of a STR. Although a partnership exists with Fort Erie By-Law Enforcement and NRP regarding responding to licensed STRs, unlicensed STRs that cause noise and nuisance where only NRP responds will not be identified, simply based on the different role and function of By-Law Enforcement and Police.

The 2021 peak season is likely to deliver a more accurate evaluation of the program due to a potential surge, but ultimately relies on the status of the pandemic. If public health restrictions are alleviated, as well as travel restrictions, then the STR occupancy rate may be significantly higher. With the possible alleviation of restrictions, there may be a surge in the amount of occupancy solely based on the inability or restricted ability to do so in 2020.

With potentially only half or less of STRs currently being licensed in Town, 2021 will potentially provide a further opportunity to reduce the number of unlicensed STRs which before 2020 was zero.

Attachments

Appendix "1" residents' comments

Letter 1

To: wredekop@forterie.ca, mbutler@forterie.ca, council@forterie.ca,

kdolch@forterie.ca, tkuchyt@forterie.ca

Date: 2020-10-01 09:11 PM

Subject: Short Term Rentals Fort Erie

Dear Mayor Redekop and Ward Councillors,

I would like to state reasons why I would like a change in the rules for short term rentals in residential zones on the Canadian waterfront in Fort Erie, Canada.

I have been a resident of Bertie Bay for many years in a privately owned cottage. I would like to preserve the integrity of the housing in the residential areas. Over the past few years, some of the cottages around us have become very short term rentals. I do not appreciate a revolving door of strangers every few days renting a cottage, with no responsibility to the building and property they are renting. There is increased loud noise, garbage, loud parties, with no concern for the neighbors. This activity takes away from the family atmosphere and enjoyment of our beautiful Canadian properties.

I would like the short term rental bylaws to be changed.

- Only allow short term rental of your Principal private residence. A Principal residence is a private residence being a home in which a taxpayer and their family maintain as their primary residence. Only one principal private residence is allowed per family unit.
- -You cannot rent out your entire home, cottage or apartment to visitors for less than 30 days unless you are on site during the rented period of less than 30 days. This lowers the number of transient tenants.
- -You can short term rent a back house of your Principal residence only if you are living on site during the rental period.
- -If the Short Term rental is NOT a Principal residence then it must be located in a commercial zone where tourism businesses are allowed.
- -You must register your Short Term rental property with the Town of Fort Erie and hold a valid license. Illegal short term rentals will be fined. This makes home owners accountable for their properties and allows the city to control the rentals.

Thank you for taking the time to hear my thoughts on this important issue.



Letter 2

From:

To: wredekop@forterie.ca, mbutler@forterie.ca, kdolch@forterie.ca,

tkuchyt@forterie.ca, council@fortrie.ca

Date: 2020-10-01 09:48 PM Subject: Short Term Rentals

Town of Fort Erie

1 Municipal Center Drive

Ft Erie, Ontario L2A 2S6

Dear Mayor Redekop and Ward Councillors,

My family has owned lake front property and been tax payers to the town of Ft Erie since 1948. I am writing you to express my deep concerns about the growing nuisance of short term property rentals of lake front properties.

The town of Ft Erie is blessed with a beautiful lake front and anyone who is fortunate enough to spend any time at the shore knows the lake's blend of natural beauty, tranquility and power as a treasure.

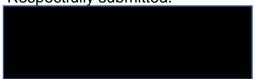
Unfortunately, the last few years has seen an increasing number beach properties being purchased and used as short term rentals. All too often this has been accompanied by uncivil and unlawful activity with large parties, loud noise or music, damage to property, and strewn garbage. This is not what Ft Erie residents need and it is not what the Town of Ft Erie should desire.

I respectfully ask that the Town Councillors pass effective legislation to better control renters. These regulations should include limitations on the minimum length of stay, the minimum age of the renter, restrictions on noise, a mandate for properly disposing of garbage, a requirement that the property owner be held personally responsible should their renters not abide by all town rules, and serious fines for repeat offenders.

No one should object to having a neighboring renter who shows respect and civility. But when there is a continuous turnover of short term renters who have no interest, responsibility or care for the property or their environment, a nice day at the beach becomes a recurring night mare. This has happened too often lately.

Please enact changes in the town regulations to preserve the quality of life for all your residents.

Respectfully submitted.



Letter 3

From:

To: mbutler@forterie.ca, "Kira Dolch" <kdolch@forterie.ca>,

council@forterie.ca, tkuchyt@forterie.ca

Date: 2020-10-01 06:52 PM

Subject: Short Term Rental bylaw change

Dear Mayor Redekop & Ward Councillors,

The increase of Short Term Rental "Ghost Hotels" are changing the integrity of our residential, rural residential and waterfront residential zones. Gone are the days of families renting to friends for weeks or even a month at a time. Now these ghost hotels are popping up beside residential homes and cottages where tenants are staying for only a few days at a time, partying hard and leaving a negative footprint. This must **STOP!** Cities around the world have taken action to stop these types of rentals in residential zones and Fort Erie must follow their lead!

WHO ARE WE? We are a group of concerned residents who are NOT in favour of short-term rentals being allowed to operate in residential zones. These types of rentals are eroding our close knit community and are having negative impacts on our environment, the long term health of local businesses and our residential neighbourhoods. In addition to the impact on our property values and home investments, we are losing neighbours and instead we are getting a revolving door of strangers every few days who have no commitment or responsibility to the building and property being rented and they are not investing long term into our neighbourhood or community. There is an increase in concern for resident's safety, increase in noise, garbage, parties and the loss of peace and enjoyment of our own properties. WE WANT CHANGE!

WE WANT OUR FORT ERIE SHORT TERM RENTAL BYLAWS CHANGED TO REFLECT OTHER MUNICIPALITY BYLAWS:

CHANGES:

1) You are only allowed to short term rent your Principal residence.

A Principal residence is defined as: A private residence being a home in which a taxpayer and their family maintains as their primary residence. A family unit **can only have one principal private residence** at any given time therefore you cannot legally run more than one short-term rental property. This residence is where you live at least 180 days a year and the address you use for bills, identification, taxes and insurance. Resident must provide proper documentation to the town.

- 2) You cannot rent out your entire home, cottage or apartment to visitors for LESS than 30 days unless you are onsite during the rented period of less than 30 days. This reduces the transient tenants disrupting residents and community.
- 3) You can short term rent a bunkie or back house of your Principal residence only if you are living on site during the rented period.
- 4) You must register your Short Term rental property with the Town of Fort Erie and hold a valid licence. Illegal short term rentals will be fined. This allows the city to control the rentals, make owners accountable, brings in revenue for the town and gives long term residents peace of mind.
- 5) If the Short Term Rental is NOT a Principal residence then it must be located in a commercial zone or downtown area where hotels and tourism businesses are allowed. This adheres to the town's zoning. Businesses like this should be taxed as businesses not as residential properties. This also preserves the integrity of housing and neighbourhoods in rural and residential areas.

CITIES WORLDWIDE: These bylaw suggestions are a combination of Toronto, Halifax, Ottawa, Sunshine Coast Vancouver Island and New York City which have all implemented new bylaws over the last year to combat the spread of ghost hotels in residential zones.

<u>AIRBNB</u> has also taken a worldwide stance to eliminate problems regarding Short term rental properties in residential zones and now requires **ALL** hosts advertising on their website to abide by municipality bylaws. If owners are advertising without following bylaws they will be immediately banned from advertising on their site. Airbnb has also recently <u>capped accomodation of 16 people</u> to a house and no one under the age of 25 is allowed to rent.

Please carefully consider the above Bylaw suggestions so that we can preserve the legacy and integrity of our beautiful area that we all love so much!

Letter 4		
From:		

Sincerely,

To: mbutler@forterie.ca, kdolch@forterie.ca, council@forterie.ca,

tkuchyt@forterie.ca

Date: 2020-10-01 06:53 PM Subject: Short Term Rental bylaws

Dear Mayor Redekop & Ward Councillors,

The increase of Short Term Rental "Ghost Hotels" are changing the integrity of our residential, rural residential and waterfront residential zones. Gone are the days of families renting to friends for weeks or even a month at a time. Now these ghost hotels are popping up beside residential homes and cottages where tenants are staying for only a few days at a time, partying hard and leaving a negative footprint. This must **STOP!** Cities around the world have taken action to stop these types of rentals in residential zones and Fort Erie must follow their lead!

WHO ARE WE? We are a group of concerned residents who are NOT in favour of short-term rentals being allowed to operate in residential zones. These types of rentals are eroding our close knit community and are having negative impacts on our environment, the long term health of local businesses and our residential neighbourhoods. In addition to the impact on our property values and home investments, we are losing neighbours and instead we are getting a revolving door of strangers every few days who have no commitment or responsibility to the building and property being rented and they are not investing long term into our neighbourhood or community. There is an increase in concern for resident's safety, increase in noise, garbage, parties and the loss of peace and enjoyment of our own properties. WE WANT CHANGE!

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Letter 5

LCIICI C

From:
To: mbutler@forterie.ca, kdolch@forterie.ca, tkuchyt@forterie.ca,

council@forterie.ca

Date: 2020-10-01 06:56 PM Subject: Short Term Rental bylaws

Dear Mayor Redekop & Ward Councillors,

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CITIES WORLDWIDE: These bylaw suggestions are a combination of Toronto, Halifax, Ottawa, Sunshine Coast Vancouver Island and New York City which have all implemented new bylaws over the last year to combat the spread of ghost hotels in residential zones.

<u>AIRBNB</u> has also taken a worldwide stance to eliminate problems regarding Short term rental properties in residential zones and now requires **ALL** hosts advertising on their website to abide by municipality bylaws. If owners are advertising without following bylaws they will be immediately banned from advertising on their site. Airbnb has also recently <u>capped accomodation of 16 people</u> to a house and no one under the age of 25 is allowed to rent.

Please carefully consider the above Bylaw suggestions so that we can preserve the legacy and integrity of our beautiful area that we all love so much!