

The Corporation of the
City of Sault Ste. Marie

COUNCIL REPORT

July 12, 2021

TO: Mayor Christian Provenzano and Members of City Council
AUTHOR: Peter Tonazzo, RPP, Senior Planner
DEPARTMENT: Community Development and Enterprise Services
RE: Short Term Rental (STR) Review

PURPOSE

This report explores short term rentals in Sault Ste. Marie. It describes local STR statistics, and a number of key municipal considerations, including a recommended approach to regulating short term rentals.

BACKGROUND

On May 6, 2019 Council passed the following Resolution:

Whereas short term/transient accommodation rentals have become more and more popular in recent years; and

Whereas short term/transient accommodation rentals are operated by owner occupants, tenants, property investors and management companies; and

*Whereas many communities in North America have taken steps to regulate short term/transient rentals to address housing, nuisance and community issues; and
Whereas these types of rentals can impact the amenities, character and stability of a neighborhood; and*

Whereas the City of Sault Ste. Marie currently has no regulations that apply to these types of accommodations;

Now Therefore Be It Resolved that City Staff consider best practices developed in other municipalities and report back to Council with recommendations on a framework that permits transient accommodation consistent with and respectful of our residential neighbourhoods.

ANALYSIS

Although the short term rental (STR) phenomenon is not new, online platforms have made it very easy to connect hosts with guests, which has resulted in a proliferation in both supply of and demand for STRs. Airbnb is by far the most

Short Term Accommodations

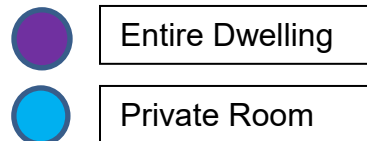
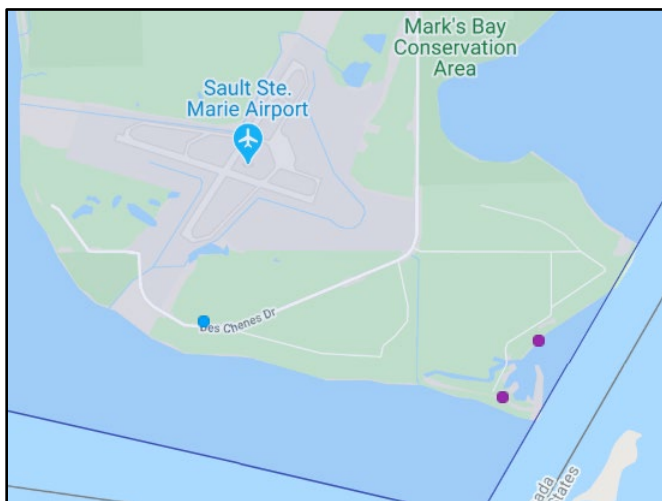
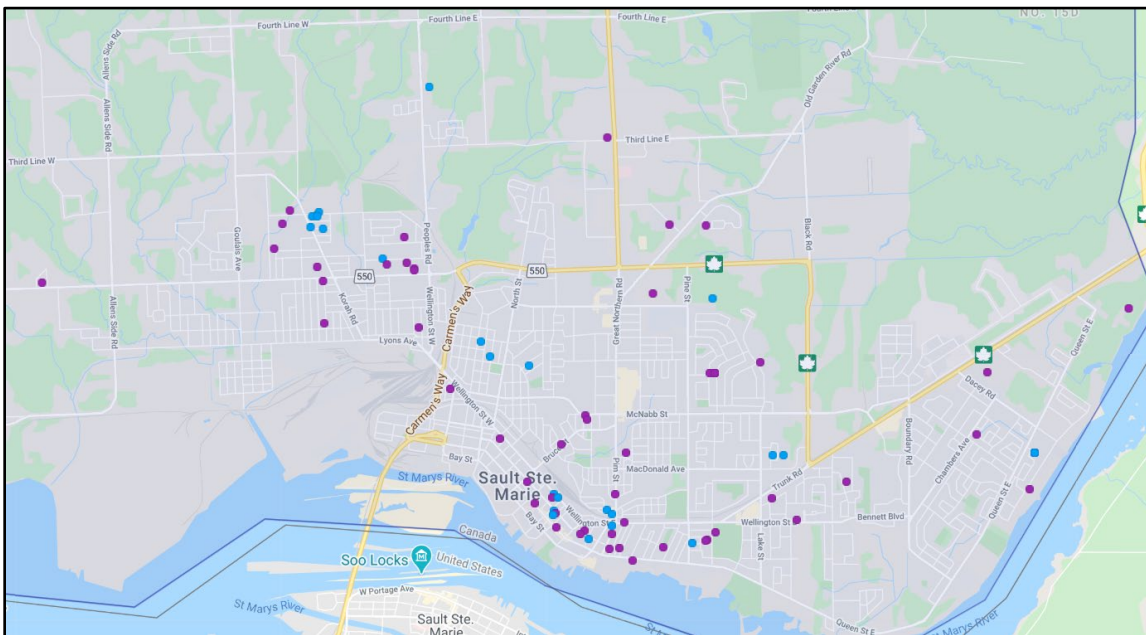
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commonly used web platform, offering listings in more than 190 countries. Others include Vrbo and Kijiji. In most cases, local listings on other platforms were also on Airbnb.

Active Short Term Rental (STR) Listings in Sault Ste. Marie – As of Feb. 2020

- Total: 66 active listings
 - 40 were entire self-contained dwelling units
 - 26 were private rooms, which may or may not have a dedicated bathroom, but are not be considered a separate dwelling/apartment within a house.
- 4 properties marketed as waterfront, 3 in the Pointes area and 1 on River Road.
- 22 listings are located in the downtown area
- Almost all active STRs are located in residential areas.

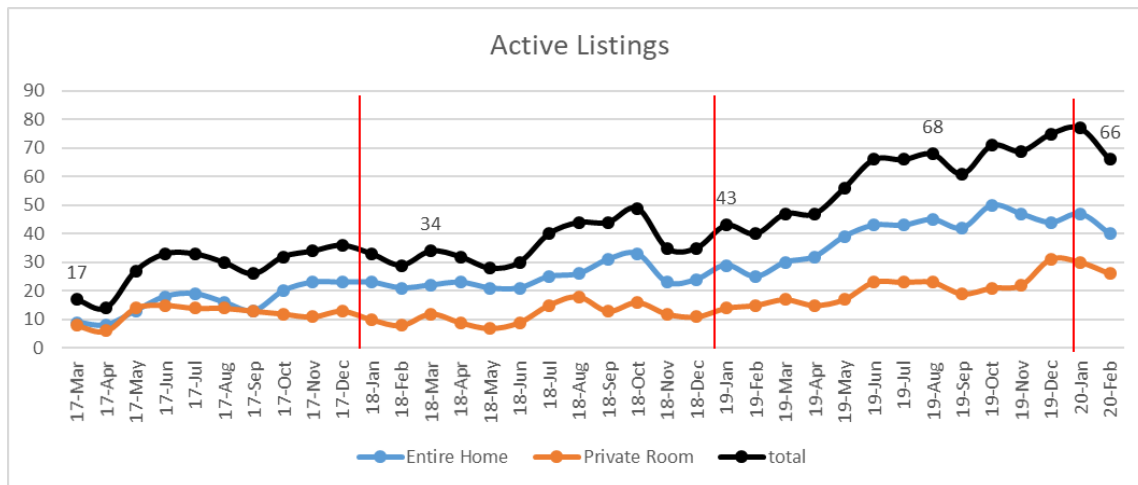


Analysis of Short Term Rentals in Sault Ste. Marie

The following information was obtained from AirDNA, an online subscription service that uses propriety algorithms to data scrape common STR platforms. Please note there may exist data limitations.

The global pandemic has had a significant impact upon STRs. While the extent of these impacts locally is unknown.

In general, there has been a steady increase in both the supply and demand of online short term rental accommodations.

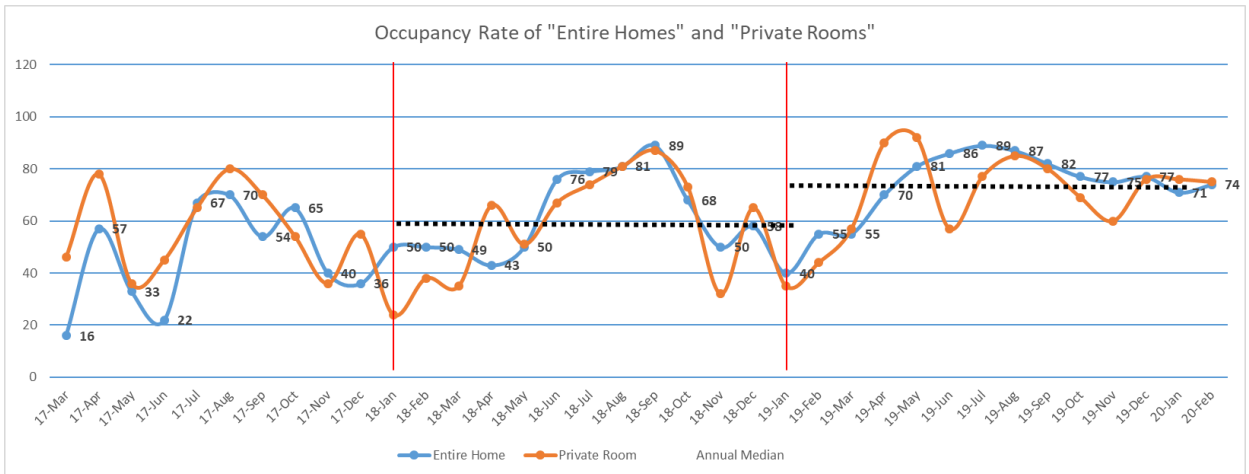


The total number of active listings nearly tripled from 17 in March 2017 to 66 in February 2020.

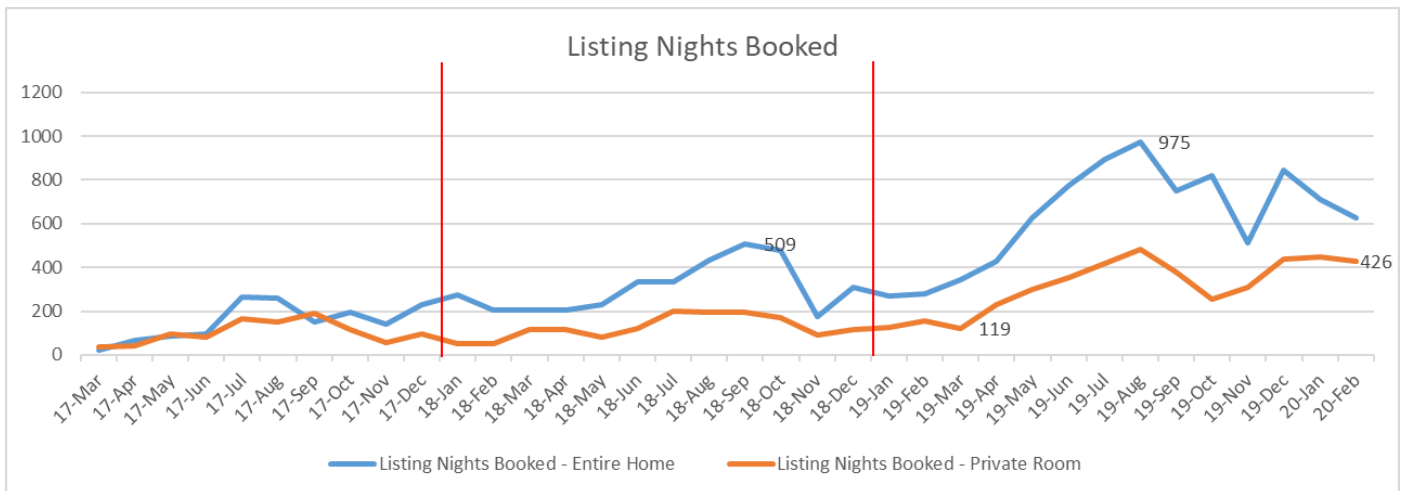
Short Term Accommodations

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Median annual occupancy rates have increased from 60% in 2018 to 75% in 2019.

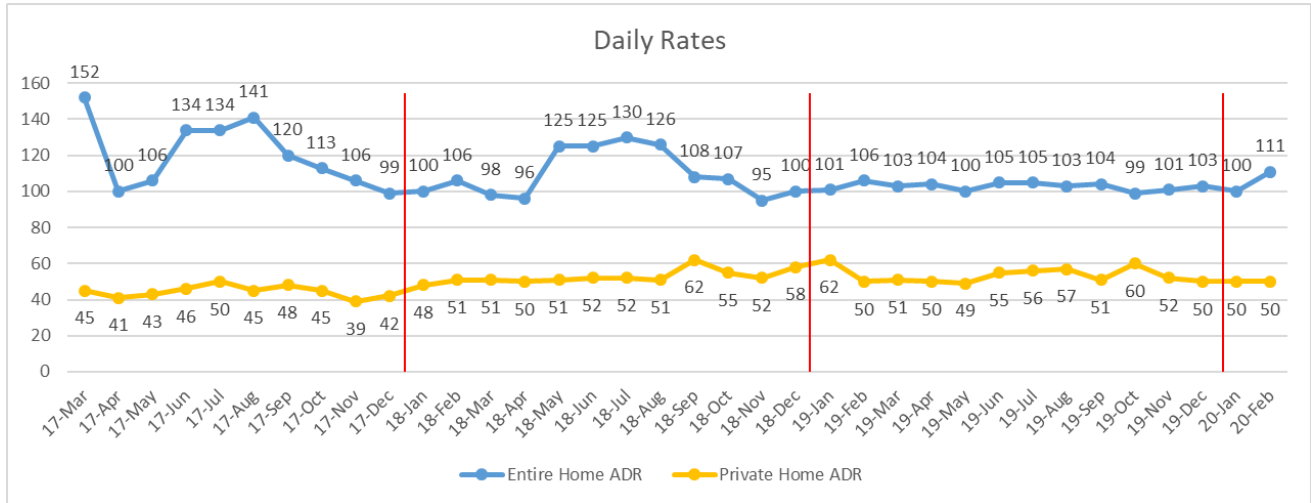


The total number of nights booked more than doubled between 2018 (5,195) and 2019 (11,073).

Short Term Accommodations

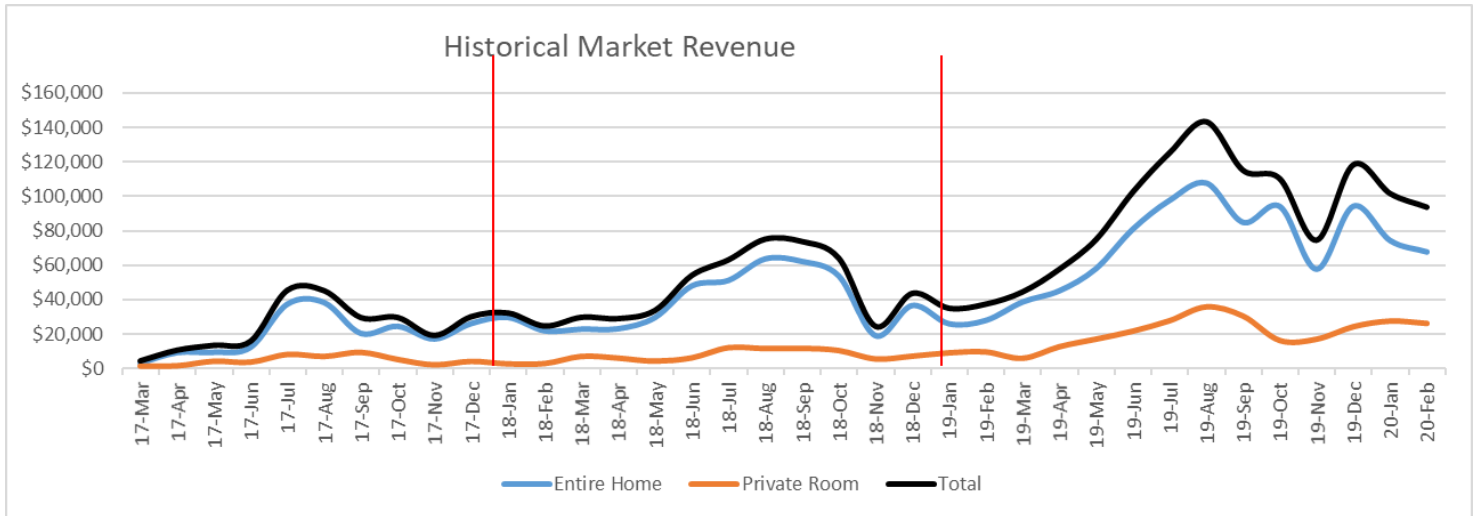
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The average daily rate (ADR) in 2019 was \$111 for entire dwellings and \$50 for private rooms.

- These rates remained relatively constant throughout the year, with slight seasonal increases between May and September.
- The ADR for entire dwellings was about 30% higher in 2018 for entire dwellings.
- The ADR for private rooms remained relatively constant between 2018 and 2019.



Total Annual Revenues Graph - Total annual revenues from STRs nearly doubled between 2018 (\$549,790) and 2019 (\$1,037,616).

Municipal Considerations

The following benefits and concerns associated with STRs are identified:

Benefits	Concerns
<ol style="list-style-type: none"> 1. Provide hosts with income opportunities, whether it be related to a primary dwelling or a home that is for sale, such as spec homes and ‘house flips’. 2. Provide longer term occupants (ie. students) with the ability to rent out the dwelling during summer months. 3. Provide unique, alternative accommodations options for tourists, especially larger groups. 4. Provide alternative accommodations for medium term occupants, such as hospital patients, locums and short term workers. 	<ol style="list-style-type: none"> 1. Potential for increased neighbour complaints, including noise. 2. Removal of long term rental units from supply. This has been the main concern in other communities that have adopted regulations. 3. Commercialization – Corporations and individuals purchasing multiple properties for the sole intent of offering an STR. 4. Impacts to hotel/B&B uses, which traditionally pay commercial taxes and the municipal accommodation tax. Most STRs occur in residential areas and pay a residential tax. 5. Safety of units – Building and Fire Code compliance

Municipal Considerations

At present, the majority of the Municipalities with zoning regulations for STRs are in Southern Ontario. Some municipalities in ‘cottage country’, (Muskoka and Haliburton areas) also have STR regulations. Sudbury, Timmins, Thunder Bay and North Bay do not regulate STRs. Kenora is reviewing the potential for regulations and Huntsville has decided against any regulations. Below is a summary of a Municipal scan of STR regulations:

1. Definition of Short Term – Most municipalities define a short term rental as an accommodation that does not exceed one month (28 days).
2. Principal Residence – All municipalities with regulations require the STR to be the host’s principal residence. While it is difficult to determine principal residence with currently available information from AirDNA, there are 13 hosts in Sault Ste. Marie operating multiple listings, totaling 35 STRs. It is estimated that at least half of all listings are not a host’s primary dwelling.

Requiring an STR to be the host's primary dwelling generally helps to ensure a greater level of oversight, which can help in reducing neighbourhood impacts such as noise. It also eliminates the commercialization of STRs and reduces the removal of long term units from the existing rental supply.

3. Maximum Rental Timeframe – Most municipalities restrict hosts from offering STRs for more than 180 days (6 months) per year. According to AirDNA, about half of the current active listings in Sault Ste. Marie are available for more than 180 days.

Together with requiring an STR to be the host's primary dwelling, the maximum rental timeframe helps to eliminate commercialization and reduces the removal of long term rental units from the existing supply. The maximum timeframe also maintains the overall residential character of the dwelling.

4. Exemptions – Most municipalities exempt hotels, which normally operate in commercially zoned areas and bed and breakfasts, which normally operate in residential areas, but are by definition, owner occupied during a guests stay. In some cases, Municipalities have also exempted cottages/waterfront properties and rural properties beyond the urban settlement area boundary.
5. Permitted Zones – Most municipalities permit STRs in all residential zones and any other zone that permits a dwelling unit.
6. Licensing - Every Municipality that had STR zoning regulations also established a licensing regime. Without licensing in place, it is very difficult to enforce:
 - a. Zoning conformity – Principal dwelling, maximum rental timeframe.
 - b. Safety - Building Code compliance
 - c. Collection of Municipal Accommodation Tax

Land Use Appeals Related to Municipal STR Regulations

There are 2 landmark decisions where municipal STR regulations were challenged and upheld by the Local Planning Appeal Tribunal (LPAT). *Sheldon Rosen and the Lodges at Blue Mountains vs. The Town of Blue Mountains (PL080455)*

In this case, the Lodges at Blue Mountains appealed Council's approval of an Interim Control By-law in 2008 to prohibit short term accommodations on all residentially zoned lands until the Town could review and propose regulations. The appellants argued that any regulations pertaining to STRs would represent

'people zoning' and that STRs are no different than dwellings and therefore compatible in any residential area. The board found no basis for the appellant's argument that the proposed regulations amounted to people zoning, noting '*that the proposed By-laws are intended to regulate the use of lands and not the persons who use it.*' Furthermore, the Board found that the '*actions of the Municipality are a legitimate exercise of its authority to zone for differing levels of use intensity and differing needs for municipal services.*' Subsequently, the Towns Official Plan and Zoning By-law were amended to create one of the earliest STR regulations in the Province.

Fairbnb Canada et al vs. City of Toronto (PL180082)

In December 2018 the City of Toronto passed 2 zoning by-laws to regulate STRs. The new regulations had the effect of permitting STRs in all areas that permit a residential dwelling, however the STR had to be the operators primary dwelling. The appellants argued that the use of a dwelling unit by a guest for a short period of time is identical to the use by an owner or tenant for a longer period. Both are residential in nature and use a dwelling unit for its intended purpose of living. In essence, they argued that whether or not the unit happens to be someone's primary dwelling is irrelevant and at no time is the use not residential. The Tribunal upheld the City of Toronto Zoning By-laws on the grounds that the City's By-laws for STRs support Provincial and City policies related to housing and maintaining the integrity and stability of residential areas.

Determining a Local Approach to STR Regulations

Data obtained through AirDNA suggests a steady increase in both supply and demand for local STRs. Up to this point, Planning staff has received a relatively limited number of complaints related to 2 STR listings, one in the Pointes area and the other in the east end. In both cases, complaints included additional noise, traffic and a general disregard for neighbours, which are in fact consistent with complaints often received from rental properties. In comparison, Planning staff has received more information requests from individuals wishing to create an STR unit.

There are two critical planning elements that must be considered when discussing STR regulations:

1. At what point does an STR change from a residential use to a for-profit commercial use?

Existing municipal regulations aim to remove the commercial or corporate nature that STRs have evolved to, with individuals and corporations purchasing and operating multiple listings. It has been estimated that the top 20% of hosts generate roughly 80% of the total worldwide revenues through online STR

platforms. Opponents raise concerns such as minimal oversight with increased nuisance complaints and a general disregard for the residential character of the neighbourhood. Advocates argue that this is no different than individuals and corporations purchasing multiple long-term rental units.

2. Are STRs impacting the overall availability and affordability of long-term rental units?

The issue is that units that would otherwise be long-term rentals, are offered as an STR instead of a long-term rental unit. Within the local context, it is difficult to argue that the existing 66 units (26 are private rooms that may not be self-contained rentable dwelling units) are having significant impacts on the overall availability and affordability of long-term rental units. Having said this, although the impact may be negligible at this point, if STRs continue to grow locally this may become an issue.

Property Taxes and the 4% Municipal Accommodation Tax (MAT)

The Municipal Property Assessment Corporation (MPAC) has confirmed that properties that operate as STRs are still taxed based upon a residential tax rate, but they are subject to a different property code, which may impact the overall market value assessment.

Not unlike local hotels, STRs should contribute to the Municipal Accommodation Tax.

If Council approves the recommended zoning and licensing regimes, the Finance Department will collect the 4% MAT from STRs.

Licensing

Licensing is a critical component of the implementation of STR regulations. Without licensing, enforcement and MAT collection would be very difficult. Furthermore, given the Planning Act is not retro-active, licensing is also required to ensure that existing STRs conform to the regulations.

Attached is a draft registration form that all STR hosts will need to fill out and submit to the Clerk's Department for a license. Much like other license applications, the onus will be on the applicant to contact various departments for information and approval prior to applying. An official from each department will need to sign off for the application to be deemed complete. More specifically:

1. Building Division – Conduct a file review and potentially an on-site inspection, which including applicable fees, to ensure City Zoning By-Law 2005-150 and Ontario Building Code compliance.

2. Fire - Conduct an on-site inspection, which will include applicable inspection fees, to ensure Ontario Fire Code compliance.
3. Finance – Confirm that MAT return form(s) have been completed properly.

Staff is proposing that licenses be valid for a period of 3 years, upon which STR hosts will be required to renew their license.

Public Consultation

Public consultation is a critical component in designing any STR regulations. It is recommended that Council approve this report as information, and direct staff to conduct a comprehensive consultation process based upon the following approach:

1. That STRs be permitted in all zones that permit a residential dwelling.
2. That STRs be defined as any accommodation that is available for up to 28 days.
3. That hotels and bed and breakfasts be exempt.
4. Where an STR is located in any residential zone, the STR must be the hosts principal dwelling. This requirement is waived for residential units permitted in Commercial Zones (C1, C2, CT2, C3 and C4) which operate as an STR.
5. That STRs located in any residential zone cannot be offered or advertised for more than 180 days per calendar year. This requirement is waived for residential units permitted in Commercial Zones (C1, C2, CT2, C3 and C4) which operate as an STR.
6. That STR hosts hold a valid license from the City.

At the conclusion of the consultation program, staff will report back to Council, this fall.

The consultation process will include:

- Public advertising in local print and online media.
- Press releases to various local media outlets.
- An in-person public meeting if COVID restrictions will allow.
- Email notice to members of the community that have already provided contact information to Planning Staff.

FINANCIAL IMPLICATIONS

Accepting this informational report and proceeding with public consultation will not result in any incremental costs to the Municipality.

Based upon data obtained from AirDNA, collection of a 4% MAT would have resulted in approximately \$22,000 in 2018 and \$41,500 in 2019. Implementing common zoning regulations such as requiring STRs to be the hosts primary dwelling and limiting room nights to fewer than 180 days per year would likely decrease STR revenues.

The proposed application fees for new and renewed licenses are as follows:

1. Licensing fee, payable to Clerks Department - \$60 (*new fee)
2. Building Division file review and/or on-site inspection fee - \$59.68 – \$123.79 (*standard fees in accordance with existing Council approved user fee by-law)
3. Fire Services file review and on-site inspection fee - \$133.91. (*standard fee in accordance with existing Council approved user fee by-law)

The aforementioned fees include taxes and are subject to annual updates to the user fee by-law.

STRATEGIC PLAN / POLICY IMPACT

Accepting this report as information and proceeding with a public outreach program is not directly linked to any policies within the Corporate Strategic Plan.

RECOMMENDATION

It is therefore recommended that Council take the following action:

Resolved that the report of the Senior Planner, dated 2021 07 12 be accepted as information and that staff proceed with public consultation upon the proposed short term rental accommodation regulations.

Respectfully submitted,

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