



REPORT TO COUNCIL

SUBJECT: RENTAL OF DWELLINGS

October 9, 2012

BACKGROUND

The Council of the Municipality of Whitestone is proposing to respond to the issue of potential disruptive impacts from renters of residential properties in the municipality for short term periods, i.e. one or two weeks.

The community has been split on how to respond to the issue: some support no restrictions; others want the by-law that currently prohibits a commercial or business use in residential zones to be strictly enforced; and others remain indifferent.

CURRENT CONDITIONS

Official Plan

There are no specific policies in the current official plan that relate to rental issues in the rural or waterfront areas. However, there is a general policy that states:

“14.02 As it is difficult to predict where new industrial and commercial development may wish to locate, the designations of commercial and industrial have not yet been applied to any particular areas. Proposed businesses may locate in any designation subject to the following conditions:

- 14.02.1 submission of a report by the applicant describing the use and what measures, if any, that are proposed to mitigate against any impacts: financial; environmental; social; or physical;**
- 14.02.2 an amendment to the zoning by-law;**
- 14.02.3 the filing and approval of a site plan;**
- 14.02.4 no new commercial or industrial use is to be permitted in an environmentally sensitive area; and**
- 14.02.5 consultation with any relevant agency.”**

Anyone wishing to establish a commercial use in a residential designation would require a rezoning under the current policy.

Zoning By-law

There are three zones that permit dwellings: The Rural (RU) Zone; the Rural Residential (RR) Zone; and the Waterfront Residential (WF) Zones. These zones all list permitted uses in an exclusionary language:

“No person shall within the RU, RR, WF zones, use any lot, or erect, alter or use any building or structure for any purpose except one or more of the following uses:”

None of these residential zones permit a commercial or business rental use. Only dwellings or seasonal dwellings are included in the list of permitted uses.

Only in the General Commercial (C1) and Tourist Commercial (C2) Zone are businesses permitted to rent units to the vacationing public.

COMMERCIAL vs RESIDENTIAL USE

There has been a longstanding discussion over what constitutes a commercial use in contrast to a residential use. Many believe that the use of a dwelling by an owner is not discernible when the same dwelling unit is rented.

Recently, the Ontario Municipal Board made a decision defining a commercial or business use where the rental accommodation is less than 30 days. Essentially any short term rental less than 30 days is to be considered commercial. Conversely, any rentals greater than 30 days are deemed to be residential uses.

There are a number of persons that take the position that the type of occupancy is not the issue but rather the disruptions or negative impacts need only be controlled through the enforcement of by-laws including noise, traffic, environmental or burning by-laws.

MUNICIPAL POSITION

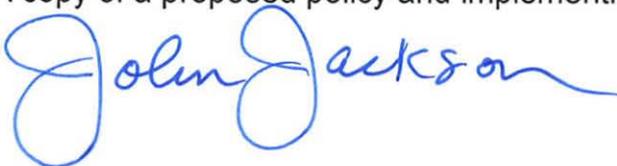
The municipality is aware that a number of land owners are renting their dwellings and strictly interpreted, these short term rentals may be in violation of the zoning by-law.

The municipality has no intention of taking a position against the short term rental of dwellings.

Conversely, the municipality does not wish to allow commercial uses or business as a matter of right in all residential zones.

The municipality does wish to establish a set of reasonable and defensible criteria for those residential properties wishing to allow short term rentals.

A copy of a proposed policy and implementing zoning provisions is attached.



DRAFT POLICY – SHORT TERM RENTALS

Section 11 - HOUSING AND SPECIAL LAND USES

“11.10 Short Term Accommodation

- 11.10.1** This plan recognizes that there are a variety of commercial accommodation uses within the municipality. These may include rental cottages, resorts, campgrounds, bed and breakfasts and dwellings that are rented on a short term basis. These commercial accommodations may be considered appropriate in some residential areas provided that they are adequately zoned and regulated to avoid land use conflicts with the surrounding areas.

Unlike accommodation uses in areas that are designated or zoned commercial, residential neighbourhoods require special attention to ensure the quiet and private enjoyment of residential living which is expected. Accommodation uses shall avoid disruption to adjacent residential uses through the mitigation of potential impacts including noise control, waste management, trespass, environmental protection, setbacks, buffering, parking, traffic, performance standards and any relevant operational controls.

- 11.10.2** No person shall use any dwelling or seasonal dwelling on a lot zoned for residential use for any rental accommodation that is considered “short term accommodation”, unless the provisions of the implementing zoning by-law are met.

- 11.10.3** For the purposes of this plan “short term accommodation” is defined as a use, building or structure or any part thereof that operates or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for the travelling or vacationing public for any period less than thirty (30) consecutive calendar days, throughout all or any part of a calendar year by any individual, organization or corporation either continuously or as an aggregate in any given calendar year. Short term accommodation shall not mean or include a motel, hotel, bed and breakfast, tourist establishment, cottage resort or commercial resort.

A residential or seasonal dwelling unit that rents, leases, or assigns the said dwelling for a period greater than 30 consecutive calendar days throughout all or any part of a calendar year is not considered a “short term accommodation” unit.

- 11.10.4** The scale and intensity of any short term accommodation use may affect the degree of potential disruption in the surrounding neighbourhood. Such accommodation uses may be regulated to ensure that the principal residential character is generally maintained.

- 11.10.5** The municipality may pass a by-law requiring a permit or business license for any permitted short term accommodation uses.”

DRAFT ZONING PROVISIONS – SHORT TERM RENTALS

Add the following paragraphs to each of the Rural (RU), Rural Residential (RR) and Waterfront Residential (WF) Zones.

“4.03; 5.03; 6.03

Prohibited Uses

Short term accommodation uses are not permitted.

WF1 to WF3 Zones

b) Prohibited Uses

No person shall within the Rural (RU), Rural Residential (RR), Waterfront Residential 1, 2, 3 (WF1, WF2, WF3) and Waterfront Residential 1, 2, 3 Holding (WF1-H, WF2-H, WF3-H) Zones use any lot, erect, alter or use any building or structure for any short term accommodation unless the following requirements are met:

- **there is confirmation that the septic system is approved and in good condition from the local authority having jurisdiction;**
- **that the owner has confirmed with the local health authority that the water supply is potable;**
- **that the rental unit does not exceed 5 bedrooms;**
- **that there have been no by-law violations on record within the past 12 months; and**
- **a permit, where applicable, has been obtained from the municipality.”**

Definition: Short Term Accommodation means a building or structure or any part thereof that operates or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for the travelling or vacationing public for any period less than thirty (30) consecutive calendar days, throughout all or any part of a calendar year by any individual, organization or corporation either continuously or as an aggregate in any given calendar year. Short term accommodation shall not mean or include a motel, hotel, bed and breakfast, tourist establishment, cottage resort or commercial resort.