

July 22, 2021

**SUBJECT:** Recommendation for Consideration from:  
SHORT TERM RENTAL COMMITTEE MINUTES

**MEMO TO:** Committee of the Whole

**FROM:** Colleen Hutt, Acting Town Clerk

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The Short Term Rental Committee meeting of July 15, 2021:

This recommendation report has been put forth by the Short Term Rental Committee (Appendix I).

## **SHORT TERM RENTAL (STR) COMMITTEE RECOMMENDATIONS TO COUNCIL**

### **Date:**

### **Purpose:**

The Short Term Rental committee (the Committee) reports directly to Town Council. The Committee will be responsible for reviewing the Town's Short Term Rental Licensing By-law and providing recommendations to Council.

### **Recommendations**

The recommendations fall into the following categories:

- 1. Section 1 - Definitions and Interpretations**
- 2. Section 2 – General Provisions**
- 3. Section 3 – Parking**
- 4. Section 4 – License Application**
- 5. Section 5 – Administration and Enforcement**
- 6. Miscellaneous topics**

### **It is recommended that Council consider the following new items and changes to the current STR (details are included in Appendix A):**

- 1. New classifications of hosted, un-hosted short term rentals**
- 2. New definition for suites as an acceptable rental space**
- 3. Cooking appliances requires a clear definition**
- 4. New Definition for Hosted Short Term Rentals**
- 5. New definition added for Hosted Short Term Rental to be more inclusive**
- 6. New definition for Suites**
- 7. New Definition for Un-Hosted Short Term Rentals**
- 8. Phasing out Villas**
- 9. Section 1 a) be reviewed to ensure there is accountability and to limit commercialization of STRs**
- 10. Section 8a) allow STRs to offer snacks and hors d'oeuvres**
- 11. Section 9 add short version of Town by-laws to Renter's Code of Conduct**
- 12. Section 9 a)(vi) remove this clause re room rates**
- 13. Section 9 a) (vii)The Neighbourhood Agreement be removed from the by-law and application process**
- 14. Section 1 Limit un-hosted short term rentals in residential zones to three bedrooms/suites**
- 15. Section 9d) be amended to include electronic records as acceptable and refine the wording**
- 16. Section 9f) add language that guests shall not park on the streets overnight and consider removing "on the approved site plan"**
- 17. Section 9h) add wording excluding the owners/operators in maximum number of occupants. This Section should only apply to Un-hosted STRs**

18. Section 12 staff to review and verify whether owners can comply
19. Section 4 Para 3 staff to review insurance requirement to determine if there is method of not requiring commercial insurance to satisfy the requirement.
20. New Clause limiting STR licenses to two per household
21. New Clause prohibiting licenses being issued to properties with pools. Consider grandfathering existing STRs
22. Section 4.03 New Clause implement a non-re fundable application fee separate from license fee
23. Section 4.04 Para 2. Delete this section as no longer required
24. That a STR program budget be established that can be used for the basis of establishing STR fees that are based on actual cost.
25. Section 5 Para 2 this is an administrative function and should not be in the by-law
26. Section 5.01 the 72 hours notice should only apply to issues that do not require immediate resolution such as noise or potential criminal activity
27. Section 5.01 stronger enforcement rules and penalties for unlicensed operators
28. Section 5.01 a system of after hours and weekend enforcement
29. Section 5.01 new clause for AMPS program
30. Section 5.01 delegation of authority to Clerk or Director to revoke or suspend STR licenses
31. Section 5.03 consider combining the appeals and STR committees
32. Consideration be given to conducting studies to determine appropriate numbers of STRs and density for NOTL
33. New Clause allowing sale of local artisanal or artistic creations to overnight guests

### **Executive Summary:**

In the first quarter of 2021, Council formed a committee to review the Town of Niagara-on-the-Lake's Short Term Rental Licensing By-law. There had been a number of efforts undertaken to achieve an amended by-law that was adopted by Council in Fall of 2020. These included citizen consultation and extensive work by staff on the by-law. The original Committee was comprised of five citizen members and two council representatives. The public appointees included some who were operating in the STR industry and some who were not. The Committee was subsequently expanded by two citizen members, but two later resigned, leaving the final number at seven members: Councillor Norm Arsenault, Rene Brewer, Rob Browning, Councillor Gary Burroughs, John Buchanan, Jason Clements, and David Levesque. The Committee began deliberations on March 5, 2021 and met weekly thereafter. Relevant documents were provided by staff and the Committee also gathered background materials that would help provide context to the task at hand. The Committee began by exploring what were perceived as the major issues to be addressed. This list was assembled from anecdotal and documented issues from the public. These included:

1. **noise complaints,**
2. **illegal operations,**
3. **over licensing within specific geographic areas,**
4. **impact of STRs on affordable housing,**
5. **hosted versus non-hosted rentals,**
6. **commercialization of STRs within residential zones and**

## **7. minimal enforcement especially on weekends, evenings and holidays.**

This report contains a summary narrative of priority issues to capture some of the essence of the discussions of the Committee and a table of recommended changes is attached as an appendix. The table will detail the recommendations. Should Council accept the recommendations of the Committee and changes to the by-law are made, the Committee acknowledges that the by-law may need to be rewritten.

Although many recommendations are for amendments to the by-law, there are some recommendations about the short term rental program as the committee identified what it believes are gaps that Council should consider actioning.

The Committee thanks Council for the opportunity to provide its input on this matter and the staff that supported our activities on the journey.

## **Review**

### **Hosted versus Un-hosted Short-Term Rentals**

The Committee discussed at the length the classifications of STRs as defined in the by-law. The Committee believes that the terms in the by-law were more relevant to marketing than regulating the industry. STRs are more generally classified as hosted or un-hosted. Hosted STRs refers to properties where the licensee or agent resides on the property during the rental period and un-hosted STRs refers to properties that do not have the licensee/agent on site during the rental. Moving to more general classifications eliminates confusion regarding services provided by the STR operator. Using the labels in the by-law as it exists can generate false expectations for renters. STR operators can be specific about amenities and services offered at their property. It also makes the by-law clearer for its purpose.

The use of these terms will also assist in the tracking of issues. For example, in the limited data the Town has collected over the last decade, it appears that more complaints are received in un-hosted STRs. This seems logical as the renters' activities are unsupervised for the most part. There are many well managed un-hosted STRs and a minority that are not. These are the ones that create negativity about the industry.

Hosted STRs are generally occupied by the owner. These STRs assist in bringing stability to the neighbourhood and maintaining a sense of community. By encouraging hosted STRs versus un-hosted, citizen concerns raised in earlier forums about density of STRs and dilution of neighbourhoods may be alleviated. The Committee recognizes that the STR industry is critical to supporting the local businesses in NOTL by providing convenient accommodations close to the attractions so that tourists can enjoy memorable experiences in our Town. There are recommendations to strike the right balance and support the tourism economy of the Town and respect the neighbourhoods.

Although the change in terminology may seem minor, as the sharing economy expands, Council will need to provide staff with the tools to facilitate new activities. Currently, the by-law is specific to the uses of buildings on the properties. There are growing examples in other communities where owners are renting space on their properties for RVs and other recreational accommodations. There are places where people are renting their pools by the hour for private engagements such as birthday parties and other celebrations. One can quickly deduce that an increase in complaints is on the horizon.

### **Commercialization**

Commercialization of the STR community is an issue that the Committee believes needs to be avoided. For the purposes of this report, commercialization does not include hiring property management companies or property managers to supervise STRs. This is likely a best practice. The idea of sharing one's home with visitors brings an enhanced experience to the visitor and to the owner. The visitor gets to experience the friendliness of the host and learn about the history and beautiful aspects of the Town. The host can share the hidden treasures of Niagara-on-the-Lake which

may not be found in general information. The owners get to learn about the roots of visitors and at times, make new friends. The spirit of the STR industry is maintained as a sharing arrangement.

Should corporations purchase properties and start operating many STRs, the community aspect of STRs will be eroded and it will simply become a cold business transaction. There will be minimal connection to the community. Compliance with the STR and associated by-laws may be more difficult as dealing with potentially larger entities can be complex for many reasons.

The Committee has included recommendations suggesting that corporations not be allowed to be license holders and putting limits on the number of licenses one can possess. The intent is to ensure that a person is accountable for the actions of the STR. The Committee recognizes that there may be some legal issues around these recommendations that the Town would have to explore.

## **Policy**

Issues about the number of STRs and the densities in neighbourhood were raised. Concerns voiced at the Committee included neighbours wanting neighbours. People wanted a neighbourhood community that did not change daily or weekly. Individuals wanted to enjoy the benefits of having stable neighbours whom they could recognize and possibly count on at certain times. Community is an important component of people's decisions to choose where they live. This is a policy matter of which the Committee did not have sufficient data to make a specific recommendation. It acknowledges it as a concern and has recommended that Council authorize the appropriate studies to collect the data necessary to make policy adjustments should the data support such changes.

## **Compliance**

This is the area that consumed much of the Committee's efforts. The statistics collected by the Town over the past eight years did not indicate any significant problems with STRs. In fact, complaints related to STRs were a small percentage of all complaints and were mainly noise, parking and property standards, infractions covered under other by-laws. It was the anecdotal evidence brought to the table by Committee members and a review of the "Join the Conversation" that indicated likely a few improperly managed STRs caused the most complaints against STRs. It seems that many of these negative events occur after hours and on weekends when there is not any municipal law enforcement services (mles). The Committee was informed that Niagara Regional Police (NRPS) would be called for these events. Upon checking with NRPS, records indicate that very few charges if any are laid by the police for the mainly noise infractions that occur after hours. The reasonable person would also understand that NRPS would prioritize its calls and these types of call would receive a low priority. This leaves citizens very frustrated and unable to enjoy their homes.

Granicus will assist the Town to create records of complaints and will reach out to the responsible party to respond and rectify any problems within 45 minutes of contact. If this does not work, what happens next? The neighbours continue to be disrupted by the STR and depending how busy the police are, they may or may not attend. There is a void at this point.

The Committee strongly recommends to Council that it explore cost effective means of providing after hours enforcement. The Committee discussed many ways this might be done but believe that the options need to be researched and costed to determine the best option for the Town.

The Committee also heard that the Town was taking a soft approach on compliance with operators who were operating without a license. It was the Committee's view that there is certainly enough media about STRs in this Town that anyone operating one should know that a license is required. Add the fact that STR licensees are paying for Granicus, a company hired to find unlicensed operators. The Committee believes that there should be no leniency and unlicensed operators should be charged and advised to cease operations immediately.

## **Budget**

Council has engaged a company, Granicus, to track compliance of STRs. It also decided that the cost of the Granicus contract would be borne by the STR licensees. At this time there is not a budget for the STR program so it is not clear just how this will be accomplished. When asked, staff advised the Committee that license fees were based on cost recovery. Again it is unclear to the Committee how license fees are set to be on a cost recovery basis when there is no budget.

If it is Council's intent to have the STR program be self funding and fees based on a cost recovery basis, it is only reasonable to direct staff to build a budget that reflects the revenues and expenses. License and other program fees could then be established based on the budget. Activities such as inspections by Town departments should be accurately costed and be included as part of the budget building exercise. Should Council decide to expand municipal law enforcement services to include after hours and weekend services, an appropriate portion of the costs could be assigned to the STR budget.

## **Summary**

STRs are critical to the tourism industry which is the lifeblood of Niagara-on-the-Lake., Overall, Niagara-on-the-Lake has some very responsible STR operators. As with many aspects of community life, it is a few that cause heartache for the many. The Committee has taken a responsible approach to the review of the by-law and the STR environment in general. Many hours of discussion and research have been boiled down to 33 recommendations. Many of these are minor in nature yet may provide more clarity to the by-law. Other recommendations are more complex and will take effort and budget to accomplish.

Council has determined that it will regulate STRs through a licensing regime and associated by-laws. There is an expectation that citizens will conform to the regime and by-laws. When they do not, there needs to be a system that holds people accountable. Council may have taken the first step with Granicus but the Committee is not convinced that this will resolve those infractions that occur in the late evening hours or early hours of the morning. Council needs to start planning for the next steps.

Again, the Committee thanks Council for the opportunity to respectfully provide this input and any of the Committee members remains available to discuss issues in more depth.

	Current by-law text if available	Recommendation	What's Changed	Context	Additional comments
	<b>NEW CATEGORIES</b>				
1		The Short-Term Rental Committee (the "Committee") recommends that short-term rentals ("STRs") be divided into two categories: <ol style="list-style-type: none"> <li>STRs in which the owner or operator resides while guests are present, e.g. Bed and Breakfasts ("B&amp;Bs") and Country Inns ("Hosted STRs");</li> <li>STRs in which no owner or operator resides while guests are present, e.g. Cottage Rentals, Villas and Vacation Apartment ("Unhosted STRs").</li> </ol>	New categories	The Committee believes the categories under the current By-Law relate to zoning or marketing appellations and that differentiating between Hosted and Unhosted STRs is more meaningful from the perspective of operational regulation. Since Hosted STRs are less likely to give rise to complaints, it is appropriate to treat them differently than Unhosted STRs in some respects.	
	<b>DEFINITIONS</b>				
2	<p><b>BED AND BREAKFAST ESTABLISHMENT</b> means a single-detached dwelling with no more than three (3) guest bedrooms for overnight guest lodging, where only breakfast may be included, for the temporary accommodation of the traveling or vacationing public and includes the living accommodation of the residents of the dwelling. Such establishment shall be licensed by the Town of Niagara-on-the-Lake and shall not include a restaurant, hotel, motel, boarding or rooming house, nursing home, or any home licensed, approved or supervised under any general or special Act. The principal use of the dwelling unit shall be for residential purposes and the bed and breakfast establishment shall be an ancillary use to the main residential use. Guest bedrooms shall not be suites.</p> <p><b>COUNTRY INN</b> means a residential use which is in the principal residence of the owner/operator and</p>	The Committee recommends that the prohibition on suites in Hosted STRs be removed.	New policy	The Committee received no explanation for the prohibition on suites in Hosted STRs and believes they should be permitted. A new definition explaining what suites are allowed in Hosted STRs should also be adopted.	
3		Cooking and cooking appliances are prohibited in Hosted STR guestrooms under the current By-Law, but cooking appliances are not defined. The Committee recommends that this be corrected, e.g. <b>COOKING APPLIANCES</b> include appliances whose purpose is to warm, reheat or cook food, e.g. gas or electric stoves, microwaves, toaster ovens, broilers, slow cookers, etc.	New definition		
4		The Committee recommends that a general definition of Hosted STRs be adopted, e.g. <b>HOSTED STR</b> means an STR in which the owner or operator resides while guests are present.	New definition		
5	<b>SHORT-TERM RENTALS</b> means the use of a building for overnight guest lodging for a period of not more than 28 days and includes Bed and Breakfast Establishment, Cottage Rentals, Villas, Country Inns and Vacation Apartments.	The Committee recommends that the definition of Short-Term Rentals expressly include home-sharing and exclude portable or mobile accommodations such as tents, trailers, motorhomes, etc.	New definition	The current definition treats traditional Airbnbs as B&Bs, which is not accurate. The Committee also notes that the sharing economy is expanding and the By-Law should be drafted in such a way as to anticipate creative uses of property other than buildings to generate income.	



6	<p>SUITE OR SUITE OF ROOMS means rooms that are common to each other (adjacent and interconnected) and served with one or more entrances and capable of being occupied and used by person(s). These rooms may include such features as closets, cupboards and private sanitary facilities (an ensuite), sitting areas and sleeping areas</p>	<p>The Committee recommends that the prohibition on suites in Hosted STRs be removed and that a new definition of Suites be drafted to capture what is intended, i.e. that adjoining rooms may be rented but that self-contained secondary units potentially eligible for long-term rentals (e.g. basement apartments) not be considered Suites for the purposes of the By-Law, e.g. SUITE OR SUITE OF ROOMS means rooms that are common to each other (adjacent and interconnected), accessible by one or more entrances and capable of being occupied and used by guests. These rooms may include such features as closets, cupboards, private</p>	<p>New definition</p>	<p>The Committee received no explanation for the prohibition on suites in Hosted STRs and believes they should be permitted.</p>	
7		<p>The Committee recommends that a general definition of Unhosted STRs be adopted, e.g. UNHOSTED STR means an STR in which no owner or operator resides while guests are present.</p>	<p>New definition</p>		
8	<p>VILLA means the commercial use of a single detached dwelling unit with four or more bedrooms, that may be rented for periods up to 28 consecutive days for use as temporary accommodation and used as an occasional or seasonal residential dwelling for recreation, rest or relaxation by one household, but not occupied continuously as a principal residence. When occupied continuously as a principal residence (i.e. for more than 28 days), a "Villa" can be used as a "Single Detached Dwelling". A "Villa" use is not a "Cottage Rental". Villas located in the Agricultural Zone District are restricted to a maximum of six (6) rented rooms.</p>	<p>1. The Committee recommends that no further Villa licenses be granted. 2. If Council rejects the Committee's recommendation to phase out Villas, the Committee recommends not allowing Villas in residential areas and limiting the number of bedrooms in Villas to four in Agricultural Zones.</p>	<p>New policy</p>	<p>The Committee believes the majority of nuisance complaints relate to so-called "party houses", which are most likely to be Unhosted STRs that can accommodate a large number of guests, and that party houses can disturb neighbours in rural and urban areas alike. Limiting the number of bedrooms in all Unhosted STRs will reduce the prospect for inconvenience to neighbours. Existing Villas should be grandfathered so new owners can continue the legal non-conforming use of the STR if they apply for a license within one year of purchase.</p>	
<p><b>Section 2 – General Provisions</b></p>					
9	<p>1. Only the following persons may apply for and hold a license to operate a Short Term Rental:</p> <p>(a) the Registered Owner or the Lessee of the building, provided that when the Registered Owner or the Lessee is a Corporation, the principal shareholder of the Corporation shall apply, with the consent of the Owner. If the Corporation's share structure is such that the largest shareholders hold an equal amount of shares in the Corporation, then any of the largest shareholder may apply for and hold a license, or</p>	<p>The Committee recommends that corporations and numbered companies not be granted new STR licenses.</p>	<p>New policy</p>	<p>The Committee believes that, in order to promote accountability of STR operators, enhance enforcement of the By-Law and collection of fines, prevent speculation and avoid commercialization of the STR industry in Niagara-on-the-Lake, STR licenses should only be granted to individuals. Existing corporate licensees would be grandfathered. The use of the term "commercialization" for the purposes of this report does not refer to owners/operators of STRs engaging property management companies or property managers to supervise their properties.</p>	

10	8 (a) A Bed and Breakfast Establishment or Country Inn may provide and serve breakfast only. No other meal shall be offered or served on the premises. No cooking or cooking appliances shall be permitted in licensed rooms. Bottle warmers, kettles and coffee makers are not considered cooking appliances for the purposes of this by-law. Breakfast is defined as a meal served typically between the hours of 6:00 a.m. and noon local time.	The Committee recommends that operators of Hosted STRs be permitted to offer snacks and hors d'oeuvres to their guests and that this be stated expressly in the By-Law.	Clarification	The Committee heard that operators of Hosted STRs were unsure of their ability to offer cheese plates, etc. to their guests. After receiving clarification from staff that snacks and hors d'oeuvres are permitted, the Committee felt this should be stated expressly in the By-Law.	
11	9. Short Term Rentals shall be operated in compliance with the following provisions: (a) The following shall be made available to guests: i) a copy of the current license; and ii) a copy of the current Town Noise By-law; and iii) a copy of the current Town Public Nuisance By-law; and iv) a copy of the current parking provisions as the Town's Zoning By-law; and v) a copy of the approved floor plans identifying the rooms and also showing exit routes; and vi) information in each Licensed Room, Vacation Apartment, Cottage Rental, Villas indicating it is duly licensed and listing the rate of rental. vii) a copy of the Renter's Code of Conduct viii) a copy of the Good Neighbours Agreement – 4634C-20	The Committee recommends requiring only that the STR license and floor plan be displayed prominently in the STR and that guests receive a copy of a Renter's Code of Conduct that includes a summary of relevant noise, parking and garbage by-law provisions.	Revision	The Committee believes providing all of the documents listed in By-Law 9 is excessive and unnecessary. Renters are not likely to read the materials and only need to be advised expressly of their obligations while staying at the STR.	
12	9. (a) (vi) information in each Licensed Room, Vacation Apartment, Cottage Rental, Villas indicating it is duly licensed and listing the rate of rental.	The Committee recommends that this requirement be eliminated.	Removal	The Committee believes it is sufficient for the license to be posted in a prominent place in the STR and that posting rates is no longer appropriate or necessary given on-the availability of online rate information and booking.	
13	9(a) (viii) a copy of the Good Neighbours Agreement.	The Committee recommends that this requirement be eliminated.	Removal	The Committee believes this requirement adds unwarranted bureaucracy because the content of the agreement is covered elsewhere.	
14	9 (c) If the Short-Term Rental is not occupied by the licensee while managing guests, each Licensee shall provide contact information of the property manager that will be available to attend to the Short-Term Rental at all times within a period of no greater than forty-five (45) minutes from the time of contact by way of telephone or e-mail.	The Committee recommends that the license holder provide contact information for a local contact or property manager who would be available to attend to the STR at all times within a period of no greater than forty-five (45) minutes from the time of contact by way of telephone, not email.	Revision	The Committee was concerned that email is not an effective means of communication after hours. The Committee also felt consideration should be given to having Granicus make a second call to the contact person after 5 minutes if there is no answer on the first call, since some phones are programmed to ignore an initial call during nighttime hours.	

15	<p>9 (d) Each Licensee shall keep a daily register in the form of either a day journal or a sequentially numbered guest registration form. The day journal shall have a separate date on each page with enough space provided for each guest to register. Both the Day Journal and/or the Guest Registration Form shall contain the guest name, the guest assigned room if applicable, the guest home address and home telephone number, the date and duration of stay, the guest's vehicle make, license plate number, and the Province or State in which the vehicle is registered. The daily register must be kept current and be available for inspection.</p> <p>(e) The Licensee, upon request from a Municipal Law Enforcement Officer, shall present the Day Journal or a sequentially numbered Guest Registration Form for inspection.</p>	<p>The Committee recommends updating this to allow for electronic recording of guest visits and calling it a Guest Registry instead of a Day Journal or Register.</p>	<p>Update and terminology change</p>		
16	<p>9 (g) The Licensee shall be responsible for ensuring that guests park in the areas designated on the approved site plan.</p>	<p>The Committee recommends stating that guests are not allowed to park overnight on the street at the STR and removing "on the approved site plan".</p>	<p>Clarification</p>	<p>The Committee heard that concerns about parking at STRs relate to street parking. Operators should be allowed to determine where guests park in designated parking spots on the property, i.e. not on the lawn.</p>	
17	<p>9 (h) The maximum number of occupants within a Short-Term rental shall not exceed a total number based upon two (2) persons per bedroom plus an additional two (2) persons.</p>	<p>The Committee recommends that this limit apply only to Unhosted STRs.</p>	<p>Clarification</p>	<p>The current language does not take into account that Hosted STRs have operators on site. The Committee also believes it is not necessary to limit the number of guests in Hosted STRs, which have not been a major source of STR complaints.</p>	
18	<p>12. No person shall advertise a Short-Term Rental without including a valid license number issued by the Town of Niagara-on-the-Lake for the property.</p>	<p>The Committee recommends that this requirement be reviewed by staff to determine if operators are able to comply.</p>	<p>New policy</p>	<p>Since STR operators do not always have control over the content of their postings on web platforms, the Committee believes it would be unfair to impose penalties for non-compliance with this requirement. Fines for advertising without having a valid STR license should be imposed and collected.</p>	
<p><b>SECTION 4: LICENSE APPLICATION</b></p>					
19	<p>3. The Application will require proof of separate liability insurance coverage for Short-Term Rentals for a minimum of Two Million Dollars (\$2,000,000). As well "The Corporation of the Town of Niagara-on-the-Lake" shall be shown as an "Additional Insured". Proof is also required to be supplied to the Town Clerk for the additional years of the License or should the policy be cancelled.</p>	<p>The Committee recommends that staff investigate whether there is a way to meet the objective behind this section without requiring commercial liability insurance.</p>	<p>Research</p>	<p>The Committee heard that the requirement to name Niagara-on-the-Lake on as an insured on STR policies converts the insurance from residential to commercial, increasing cost significantly. The Committee asks that alternatives be considered.</p>	
20		<p>The Committee recommends that new STR licenses be limited to two per household.</p>	<p>New policy</p>	<p>The Committee believes commercialization of the STR industry in Niagara-on-the-Lake should be avoided if possible and that limiting the number of licenses within households and/or families will discourage speculation. Current operators with more than two licenses should be grandfathered.</p>	

21		The Committee recommends that no further Unhosted STR licenses be issued for properties with outdoor pools.	New policy	The Committee heard anecdotal evidence of issues with Unhosted STRs with pools, e.g. noise and partying. While there is no data to support a conclusion that STRs with pools generate more complaints, it is easy to believe they cause more disturbance to their neighbours than STRs without pools, since they are an invitation to be outdoors and to play. Residents may accept the occasional late night pool party from neighbours they know but are unlikely to appreciate being deprived of peaceful enjoyment of their homes every day or weekend during the summer. Council should consider initiating this rule immediately. Consideration should be given to grandfathering existing STRs	
<b>SECTION 4.03: LICENSE REFUNDS AND PENALTIES</b>					
22	1. If a license application is denied, the application fee will be refunded to the applicant.	The Committee recommends that application and licensing fees be separated and that the application fee be non-refundable.	New policy	The Committee believes that a fee commensurate with the administrative effort required for processing an application should be set and that it should be non-refundable even if the license is denied.	
<b>SECTION 4.04: LICENSE FEES</b>					
23	2. During the transition period of having all licensed establishments on a four-year license, the fee will be based on a one year license times the amount of years to be licensed and the number of rooms.	This is obsolete and should be removed.	Removal		
24		The Committee recommends that an STR program budget created to assist in determining fees and that consideration be given to creating a dedicated fund for the program.	New policy	The Committee notes that the STR program is intended to be administered on a cost recovery basis. STR operators are currently paying exclusively for the contract with Granicus, the third party host compliance monitoring company retained by the Town ("Granicus"). The Committee questioned the fairness of this, since Granicus' main role is identifying illegal STRs, which benefits all residents of Niagara-on-the-Lake. The Committee believes that any revenue generated as a result of Granicus' efforts or in administering the program should be used only for the program itself and that consideration should be given to issuing rebates to STR operators or reducing renewal fees in the event of a	
<b>SECTION 5: ADMINISTRATION AND ENFORCEMENT</b>					

25	<p>2. Upon receipt of an application for a license, the following functions shall be performed:</p> <p>(a) receive and review the application in conjunction with any regulation governed by this by-law;</p> <p>(b) carry out inspection as may be necessary to satisfy that the property is in compliance with the provisions of this by-law, all other Town By-laws, any regulations and the approved plans; and (c) if the application conforms to the provisions of this by-law, all other by-laws of the Town and all regulations, then the Town Clerk and/or the Municipal Law Enforcement Officer shall retain one (1) copy for the file and issue a license;</p> <p>(d) issue the required notice whenever contraventions are found with the provisions of this by-law.</p>	<p>The Committee recommends that this section be removed.</p>	<p>Removal</p>	<p>The Committee feels (a) and (b) describe administrative functions that are described in SECTION 4.05: PRE-LICENSE INSPECTION, (c) is covered in SECTION 4.01: LICENSE ISSUE AND DENIAL and (d) relates to enforcement.</p>	
<p><b>SECTION 5.01: VIOLATIONS</b></p>					
26	<p>1. When, in the opinion of the Town Clerk or a Municipal Law Enforcement Officer, a violation of this by-law has occurred or exists, the Town Clerk or a Municipal Law Enforcement Officer shall issue a written compliance notice to the alleged violator. The notice shall specify those sections of the by-law which are in violation and shall state that the violator has seventy-two (72) hours from the delivery of the notice in which to correct the alleged violation, failing which the Town may correct the alleged violation at the expense of the Owner/ Occupier.</p>	<p>The Committee recommends that this section be amended to make it clear that that the 72 hours' notice should not apply to issues requiring immediate resolution, e.g. noise and potential criminal activity.</p>	<p>Clarification</p>		
27		<p>The Committee recommends the following with respect to unlicensed STRs:</p> <ol style="list-style-type: none"> <li>1. Penalties for unlicensed operation of an STR should be increased;</li> <li>2. STR owners operating without a license should be fined as soon as they are identified (i.e. no grace period to become compliant);</li> <li>3. An unlicensed STR operator should be given no more than 48 hours to remove all advertising;</li> <li>4. Once identified, an unlicensed STR must cease operating immediately and any upcoming reservations must be cancelled;</li> <li>5. Daily fines should be imposed on anyone who continues to advertise or operate an STR without a</li> </ol>	<p>New policy</p>	<p>The Committee believes strongly that the current approach to unlicensed STRs is too lenient. It is highly unlikely that STR owners don't know about Niagara-on-the-Lake's licensing regime, and while it may be appropriate to be more flexible with legal operators who occasionally breach the By-Law, those who choose not to become licensed deserve no such consideration. The fines and enforcement should be sufficient to deter STR owners from operating illegally. Residents should be educated on how to identify and report unlicensed STRs and the list of licensed STRs should be kept up-to-date. Realtors should also be educated about the Town's STR licensing regime.</p>	

28		The Committee recommends that by-law enforcement be extended to evenings, weekends and holidays. The Committee understands that Granicus will operate 24/7 however there currently does not exist a Step 2 if the operators do not respond within 45 minutes.	New policy	The Committee feels that any problems with STRs in Niagara-on-the-Lake arise from enforcement deficiencies. Noise and disturbance complaints, which are not specific to STRs, cannot currently be addressed nights and weekends, when they are most likely to occur. This issue is not going to be resolved by Granicus and the cost of filling the enforcement gap should not be borne by STR owners alone. Potential solutions include regional collaboration or private, on-call services. A short term solution needs to be implemented as soon as possible followed up by a long term solution. This may include providing assistance to owner/operators when the issue cannot be resolved	
29		The Committee strongly recommends the use of an AMPS by-law to effectively deal with offenses. The Committee understands staff is bringing forward such a by-law and fully supports its adoption for STR offenses.	New policy	The current process of using the Provincial Offenses Act to lay charges is ineffective and expensive. It puts an enormous responsibility on the affected residents by requiring them to log infractions for an extended period. It does nothing to resolve acute issues, such as loud parties and other offensive actions by irresponsible renters. Proving an offense has occurred is onerous both for staff and residents under the POA process.	
<b>SECTION 5.02: LICENSE SUSPENSION, REVOCAION</b>					
30	1. The license to operate a Short-Term Rental may be revoked, suspended or made subject to special conditions, by the Town Clerk for: (a) any breach of the provisions of this by-law; or (b) any breach of the provisions of any other Town by-law or regulations; or (c) refusal to comply with any notice of violation within 72 hours.	1.The Committee recommends that authority to revoke or suspend a STR license be delegated to either the Town Clerk or the Director. 2.The circumstances that can lead to license revocation or suspension need to be expressly articulated.	New policy	1.Allowing staff to revoke or suspend licenses removes the need for Council approval. 2.Staff and operators need to know precisely what kinds of conduct will lead to license revocation or suspension.	
<b>SECTION 5.03: APPEAL</b>					
31	1. An applicant, whose application has been refused, or a Licensee, whose license has been revoked, and is not satisfied with the terms or conditions as to why this action was taken, may apply to appeal this decision with the Licencing Appeal Committee.	The Committee recommends that the Licencing Appeal Committee be merged with the STR Committee and that the new, merged Committee continue indefinitely.	New policy	The Committee believes there will be an ongoing need for an advisory committee on STR issues and that the members of the Committee have the expertise required to hear appeals.	
<b>MISCELLANEOUS</b>					

32		<p>Before considering whether the number of STR licenses in Niagara-on-the-Lake should be capped, the Committee recommends that studies be undertaken to determine whether there are too many STRs in Niagara-on-the-Lake and if so, what would be an appropriate number globally or by area, bearing in mind the Town's status as a world-class tourist destination and the importance of tourism to its economy.</p>	<p>Research</p>	<p>The Committee heard concerns about the number of STRs in Niagara-on-the-Lake or the density in certain areas, e.g. Old Town. Since the total number of STRs has never exceeded 400, the Committee felt a global cap on the number of licenses was not warranted at this time. There was also no data to support a cap by geographical area and the Committee was wary of adopting solutions from other municipalities that are not comparable to Niagara-on-the-Lake, especially when no density studies have been done. If this issue is to be pursued, research based on Niagara-on-the-Lake's unique character is required to craft a made-in-Niagara-on-the-Lake solution that takes into account the importance of</p>	
33		<p>The Committee recommends allowing operators of Hosted STRs to sell local artisanal or artistic creations to overnight guests.</p>		<p>The Committee heard that operators of Hosted STRs have been prohibited from selling local art or artisanal products to overnight guests but received no explanation for this. The Committee believes it is important to support local artists and artisans and that this prohibition should be removed.</p>	