



September 5, 2024

By email to townclerk@thebluemountains.ca

Mayor Andrea Matrosovs & Members of Council
32 Mill Street
Thornbury, ON N0H 2P0

RE: Proposed Revisions to the Licensing By-law and Administrative Monetary Penalties By-law

We are writing further to the Public Meeting held on July 9, 2024, and our follow-up meeting with Chief Administrative Officer Shawn Everitt (CAO) and representatives of the Blue Mountains Ratepayers Association (BMRA) held on August 28, 2024, wherein Mr. Everitt provided comments on our submissions related to the subject matter and presented updated By-law Enforcement Statistics, which included Short Term Accommodation and Non-Short Term Accommodation data.

EXECUTIVE SUMMARY:

1. BMSTA respectfully requests that Council consider our previous comments and submissions, including those verbal submissions at the Public Meeting on July 9, 2024, and the attached Backgrounder prepared for our meeting with the CAO on August 28, 2024.
2. BMSTA respectfully requests that Council consider the newly generated By-law Enforcement Statistics and determine if the proposed regulations, prohibitions demerit points and fines are appropriate.
3. BMSTA respectfully requests that Council support the formation of a working group to review the proposed by-law revisions in detail with the goal of the working group being to make stakeholder supported recommendations to Council for consideration.
4. BMSTA strongly recommends that any proposed revisions to the Licensing By-law and AMP's By-law consider BMSTA's recommendation that as a condition of holding an STA license that every licensed property has a contract with a security company with licensed security personnel that proactively monitors STA's when they are rented/occupied. This one revision may in itself address any remaining concerns that Council may have with existing, licensed STA's.



INTRODUCTION:

The Short Term Accommodation (STA) and Commercial Resort Unit (CRU) tourism accommodations industry is a vital part of the local tourism economy and, as such, an integral part of our community fabric. In addition to tourism accommodations the STA/CRU industry is an important provider of short-term housing for resort staff, out of town contractors who need housing while here building both housing and infrastructure and people who are training locally (including military personnel).

The Blue Mountains Short Term Accommodation Owners Association (BMSTA) is an association made up of STA and CRU owners who are dedicated to working together for the betterment of the industry and the guests that we collectively serve. BMSTA's mission is, through advocacy and education, is to unite its' members to provide the highest standards of management for the benefit of our valued guest, the local residents and the community as a whole.

As Council is aware, BMSTA has raised a number of concerns with regard to the proposed revisions to the Licensing By-law and the Administrative Monetary Penalties (AMPS) By-law. These concerns were set out in our correspondence dated July 5, 2024, and comments provided at the Public Meeting by BMSTA and members of BMSTA (including Stu Frith, Denis Martinek and Sean Landreth).

BMSTA stresses that it is our opinion that the proposed revisions to the by-laws are not warranted or necessary, save for those revisions necessary to implement Council's intent to license CRU's and those increased penalties/fines related to illegal STA's.

BMSTA submits that **"If it ain't broke, don't fix it"** and that based on Town statistics/data and our own actual operational experiences, there is no justification for Town staff's propose significant and punitive changes to the by-laws that would apply to legal STA's.

In preparation for our meeting on August 28, 2024, BMSTA prepared and provided the CAO with the attached Backgrounder. BMSTA strongly encourages Council to read our Backgrounder as it contains significant background information, rebuts some of the information presented at the Public Meeting and further concerns related to the proposed revisions.



At our meeting on August 28, 2024, the CAO presented BMSTA and BMRA with the most comprehensive set of By-law Enforcement Statistics that the Town has ever produced. In his own words **the statistics show that the current STA By-law Program is working extremely effectively and that there is not a (legal) STA problem in the Municipality.**

Notwithstanding the above, when asked if he intended on advancing the punishing and punitive changes (regulations, prohibitions, demerit points and fines) presented at the Public Meeting in his future Staff Report and related recommendations, he responded that he would present the proposed revisions as presented at the Public Meeting to Council in order to have Council decide if any changes were warranted to Town staff's proposed revisions. BMSTA questions why the Town would go to the effort of conducting a public meeting to receive comments and then not critically evaluate and reflect on the comments received, as well as the comprehensive statistics and data generated, and not revise their recommendations to Council accordingly???

COMMENTS ON PROPOSED REVISIONS:

Regarding the revisions proposed to the Licensing and AMPS By-laws, available data supports that the established system is working, and BMSTA submits that the Town's focus should be on non-licensed/unlawful operators/premises.

BMSTA is not aware of any by-law statistics or data that supports Town staff's proposed recommendations for extreme changes to the current Licensing By-law as it relates to lawful and licensed operators/premises. This was further confirmed at the meeting with the CAO on August 28. BMSTA respectfully submits once again that **"if it ain't broke, don't fix it"**.

The following comments on the proposed revisions must be considered in addition to the comments provided in our correspondence dated July 5, 2024, and the comments made at the Public Meeting held on July 9, 2024.

- BMSTA understands from Town staff's presentation that a major concern of Town staff is related to the number of unlawful/illegal STA's and the Town's available tools and deterrents to effectively enforce and mitigate and/or eliminate these units. In this regard, BMSTA does not object to Town staff's proposal to significantly increase the AMP Fines for unlawful/illegal STA's.
- BMSTA's proposal to require a STA and CRU owners/operators to retain the services of a security firm with licensed security personnel appeared to resonate with Council. BMSTA has experienced great successes with the use of security firms providing patrol services and continues to recommend that this proposal be



implemented and therefore would support revisions to the Licensing and AMPS By-laws. BMSTA submits that If this revision is made the majority of the proposed enforcement related revisions, including Demerit Point System revisions, can be minimized or eliminated.

- BMSTA continues to object to the Licensing Demerit Point System regarding minor or innocuous “offences” (such as waste collection, hot tub, open flame/fire pit, site plan, and operating solid fuel burning BBQs).
- BMSTA objects to the proposed revisions to the number of properties (5) that a Responsible Person (RP) can be responsible for. In this regard, BMSTA notes that the presentation by Town staff at the Public Meeting advised that “*Although this has not been a significant issue...*” BMSTA submits that this has not been an issue at all and once again BMSTA submits that “if it ain’t broke, why fix it?”
- BMSTA objects to the punitive nature of the proposed AMPS fines. Regarding AMPS fines, BMSTA submits that Town staff’s presentation was misleading as it relates to Prince Edward County.

Prince Edward County has implemented AMPS fines related to STA’s however there are primarily focussed on unlawful/illegal STA’s and do not necessarily cover minor or innocuous “offences. For clarity, Prince Edward County has implemented the following AMPS fines (with it being noted that these fines were not approved by the Province but rather Prince Edward County Council):

- **Operating without a licence:** \$10,000 first offence; \$15,000 second offence; \$20,000 offence thereafter
- **Advertising STA without a licence:** \$2,000 first offence; \$4,000 second offence; \$8,000 offence thereafter
- **Fail to provide copies of required documents:** \$100 first offence; \$200 second offence; \$400 offence thereafter
- **Fail to display STA licence number on STA advertisement:** \$1,000 first offence; \$2,000 second offence; \$4,000 offence thereafter
- **Hosting non-permitted events:** \$500 first offence; \$1,000 second offence; \$2,000 offence thereafter
- **Change or operate STA other than as approved:** \$1,000 first offence; \$2,000 second offence; \$4,000 offence thereafter
- **Refusing a by-law enforcement officer entry for inspection:** \$300 first offence; \$500 second offence; \$1,000 offence thereafter

As Council will note, AMP fines related to waste collection, hot tubs, fire pits and operating solid fuel burning BBQ’s do not exist. Furthermore, Prince Edward



County does not have a Demerit Point System, they only have a fine system directed primarily towards illegal STA's.

Examples of some of the AMP fines that Town staff are recommending that BMSTA object to include:

- Use premises contrary to Parking Management Plan (parking infraction) - \$5,000
 - Use or permit the use of an outdoor hot tub or pool between 2300 and 0700 hours - \$5,000
 - Failure to properly secure or cover a Pool or Hot Tub between 2300 and 0700 hours - \$2,500
 - Use or permit the use or ignition of an outdoor fire or fire pit with a permit - \$5,000
 - Use a Barbeque that is fueled with something other than propane or natural gas - \$5,000
- BMSTA does not support the use of an Attestation Statement in place of a Fire Inspection. As a minimum, BMSTA submits that an Attestation Statement could be considered post the first approved fire inspection with the focus of the Statement related to confirming the operation of the inspected detection, early warning and egress amenities/facilities.
 - BMSTA is concerned that Town staff's presentation related to occupant load will be construed as limiting a bedroom's occupancy rather the occupancy of the entire premises. In particular many STA's were built with bedrooms that contain a double bunk bed or two Queen size beds, allowing 4 people to sleep in a bedroom. The STA bylaw should limit the overall occupancy of an STA based upon the two people per bedroom + four but it should not limit the number of people that sleep in a bedroom. BMSTA agrees that the overall occupancy of an STA of two people per bedroom + four should be subject to fire/life safety considerations.

Regarding occupant load, BMSTA proposes that the Licensing By-law should be amended such that the number of occupants exclude "babes in arms" and notes that Prince Edward County Council adopted a motion on August 8, 2022, to amend the County's Zoning By-law (Section 4.37.4 related to Short Term Accommodation) so as to not count persons under the age of 10 years old in the occupant load calculation.

With respect to occupant load restrictions, BMSTA notes that it is proposed that it would be applicable between the hours of 2200 and 0700 per the draft definition



of “Occupancy” and would apply to those “on the premises” versus those actually utilizing the premises for overnight accommodation/sleeping. BMSTA requests that this definition be revised to reflect those actually on the premises for overnight accommodation/sleeping.

- BMSTA submits that the Town must pursue means of addressing vexatious complaints, including imposing AMPS fines.

RECOMMENDATIONS:

1. BMSTA respectfully requests that Council consider our previous comments and submissions, including those verbal submissions at the Public Meeting on July 9, 2024, and the attached Backgrounder prepared for our meeting with the CAO on August 28, 2024.
2. BMSTA respectfully requests that Council consider the newly generated By-law Enforcement Statistics and determine if the proposed regulations, prohibitions demerit points and fines are appropriate.
3. BMSTA respectfully requests that Council support the formation of a working group to review the proposed by-law revisions in detail with the goal of the working group being to make stakeholder supported recommendations to Council for consideration.
4. BMSTA strongly recommends that any proposed revisions to the Licensing By-law and AMP’s By-law consider BMSTA’s recommendation that as a condition of holding an STA license that every licensed property has a contract with a security company with licensed security personnel that proactively monitors STA’s when they are rented/occupied. This one revision may in itself address any remaining concerns that Council may have with existing, licensed STA’s.¹

¹ Regarding security companies with licensed security personnel, BMSTA is of the opinion that this has been the single most successful program that it has undertaken and if implemented would eliminate any remaining concerns (especially with regard to noise, parking and garbage). BMSTA submits that the By-law Enforcement Statistics presented by the CAO relate to 3 or 4 “problem properties”, STA properties without licensed security and illegal STA’s. Based on BMSTA’s experience of hosting several hundred thousand guests & tourists, we submit that adopting the requirement for licensed security personnel would be the single most successful policy the Town could implement in order to improve its STA Program.



SUMMARY:

The STA Industry is without doubt a vital contributor to the Town's economy and BMSTA is of the opinion that it appears that the Town continually neglects to consider the important role of the STA Industry and the potential implications to the Town's economic prosperity as it considers changes to its licensing and AMPS by-laws.

The STA Industry provides a significant portion of the accommodation available to tourists who visit our local attractions and businesses as well as short term housing for resort employees, builders, contractors, sewer, water and road contracting employees, doctor and nurse programs, military personnel who are training locally, etc.

BMSTA strongly believes that the level of demerit points and punitive proposed are unreasonable and that they will discourage any investment in these types of properties. The Town needs STA properties to support and/or enable the local economy to flourish and the STA Industry needs a reasonable and fair regulatory framework to work within. Maintaining the current investment model in these tourism accommodation rental units, all located at the base of Blue Mountain, is essential as these units form a crucial component of the Blue Mountains visitor economy, ensuring appropriate accommodation capacity to support existing stakeholders and facilitate future growth. If the significant changes proposed are implemented, they will undoubtedly harm the STA/CRU Industry that supports the Town's economy.

BMSTA recommends that more thought be put into the proposed revisions to the by-laws as the current by-laws are undeniably very successful and one of the most respected Licensing and AMPS By-laws in Ontario.

BMSTA respectfully requests that Council support the formation of a working group to review the proposed by-law revisions with a goal of the working group making stakeholder supported recommendations to Council for consideration.

Respectfully submitted,

The Blue Mountains Short Term Accommodation Owners Association

Attachment – CAO Backgrounder.

c. S. Everitt, CAO



BACKGROUNDER

**Shawn Everitt, Chief Administrative Officer
Town of The Blue Mountains
August 28, 2024**

GENERAL

What is an STA? The 2011 Ontario Municipal Board Order clearly identified what an STA is:

Many of these seasonal residences, originally purchased by individuals for their own use, are now being used by the vacationing public as short term accommodation (“STA”) rental units. While the majority of these units are in areas that are zoned for higher density, there are some that are in low density residential areas. It is the use of single detached dwellings in low density areas for STA that is at the heart of the dispute in these proceedings.

An STA is a dwelling unit used for short term accommodation that is located in a residentially zoned area.

An STA is not a dwelling unit used for short term accommodation in commercial areas (e.g. The Village or other appropriately zoned lands).

New STA’s cannot be established outside of the “exception area” or outside of lands zoned for that purpose (commercially zoned lands).

STA’s are used by many people including the travelling public, tourists, retreats, out-of-town contractors, employees situated in the area for training (including the military).

BMSTA recognizes the Town’s desire to regulate and license Commercial Resort Units (CRU’s) however BMSTA was surprised at the extent of revisions proposed especially given that the Licensing By-law and Administrative Monetary Penalties (AMP) By-law were seen as models for the Province.

Regarding the revisions proposed, available data supports that the established system is working, and BMSTA submits that the Town’s focus should be on non-licensed/unlawful operators/premises.



There have been 4 STA noise related “occurrences” in the first 5 months of 2024 with 0 charges and 21 noise related “occurrences” in 2023 with 0 charges. It is noted that these “occurrences” includes those at non-licensed/unlawful premises. BMSTA believes that a number of these “occurrences” relate to complaints filed by a single property owner and could be deemed be vexatious in nature and requests that the locations associated with these “occurrences” be provided to BMSTA.

BMSTA is not aware of any by-law statistics or data that supports Town staff’s recommendations for the extreme changes proposed to the current Licensing By-law as it relates to lawful and licensed operators/premises.

BMSTA supports higher AMP fines for non-licensed/unlawful operators/premises consistent with Town staff’s presentation related to what has been implemented in Prince Edward County, Operating w/o a License: \$10,000 first offence and Advertising w/o a License: \$2,000 first offence but objects to the other proposed AMP fine increases including:

Examples of AMP Fine Increases which BMSTA Objects to:

- Use premises contrary to Parking Management Plan (parking infraction) - \$5,000
- Use or permit the use of an outdoor hot tub or pool between 2300 and 0700 hours - \$5,000
- Failure to properly secure or cover a Pool or Hot Tub between 2300 and 0700 hours - \$2,500
- Use of permit the use or ignition of an outdoor fire or fire pit with a permit - \$5,000
- Use a Barbeque that is fueled with something other than propane or natural gas - \$5,000

In summary, BMSTA submits that “if it ain’t broke, don’t fix it!”

BMSTA’s submission of July 5, 2024 (copy attached), and Public Meeting submissions on July 9, 2024, identified numerous concerns and made recommendations that seemed to resonate with Council:

- Concern with limiting a responsible person (RP) to 5 licensed premises.
- Questions with regard to License Suspension/Revocation Period - no guidelines have been established.



- Concern with proposal to regulate open flame burning with no data supporting that open flame burning at an STA is a nuisance and no data supporting that there is an inherent fire and/or life safety risk (Town staff's presentation speaks to enhanced fire and life safety of the travelling public).
- BMSTA's recommendation that the Town require operators retain a security firm with licensed security officers as a condition of holding a licence. ***BMSTA believes that this is one of the most important initiatives that BMSTA's members have implemented and strongly urge the Town to imbed this as a requirement in the Licensing By-law.***
- Concern with proposed revisions to Demerit Points System (inequities, excessive and not in line with the type or severity of the purported infraction).
- Continued concern with the requirement for Outdoor Noise Detection Systems (they don't work).
- Concern with the excessive/punitive AMP fines proposed (see above).
- Proposal to require that operators be members of BMSTA - while not likely legally possible, BMSTA is open to discussing the Town's promotion of membership by way of reductions on fees for a Qualified Rental/Lease Management Company or if a scoring system is developed by the Town for qualifying a company with points being awarded for being a member.
- BMSTA's recommendation to proceed with the enforcement/charges for vexatious complaints.

Other comments provided:

- Corporation Definition – inclusion of reference to incorporation under Ontario legislation
- Exception Area Definition – should be revised to “an area identified by Section 9 of the Town's Zoning By-law wherein short term accommodation uses are permitted”.



- Legal Non-Conforming Use Definition – should be revised to reference Section 34(9) of the *Planning Act*
- Principal Residence Definition – should simply reference “as defined by the Canada Revenue Agency”
- Commercial Rental Unit - The Town’s Zoning By-law defines the types of units associated with the proposed Type E license as a Commercial Resort Unit however the proposed Licensing By-law refers to these units as a Commercial Rental Unit and then goes on to state that it “is defined through the Town’s Zoning By-law...” - which the Zoning By-law does not.

COMMENTS REGARDING TOWN STAFF PUBLIC MEETING PRESENTATION OF JULY 9, 2024

1. Appeals Committee

Appeals Committee to be replaced with a Hearing Officer.

“The new Hearing Officer would deal primarily with appeals to the issuance of Demerit Points under the Municipal Licensing By-law.”

BMSTA notes that the Licensing Appeals Officer is also proposed to respond to appeals to the By-law including the refusal, suspension and revocation of applications/licenses and the assignment of demerit points.

BMSTA requests that the Terms of Reference, authorities, and policies and procedures proposed for the Licensing Appeals Officer be provided in advance of the furtherance of this change (to align with an accountable and transparent government).

2. Type E License - Licensing of Commercial Resort Units (CRU’s)

“Proposed addition of a Type E License to include Commercial Resort Units “CRU’s” specifically within the Resort area of the town and within the exception area”

BMSTA acknowledges that there was an intent of the previous Council to bring forward revisions to the Licensing By-law to regulate and license CRU’s.



BMSTA has previously opined that there is no difference between an STA and a CRU, especially given that they co-exist in many developments. For this reason, BMSTA generally supports the licensing of individual CRU's versus a Management Company.

Should the Town pursue the licensing of a "Qualified Rental/Lease Management Company", BMSTA urges the Town to utilize the definition developed for the Town's Zoning By-law (see By-law 2021-59, copy attached). It is noted that Town staff and the industry devoted much effort in arriving at this comprehensive definition.

BMSTA would like to understand how a "Qualified Rental/Lease Management Company" becomes qualified by the Town (what/how will the Town evaluate this) prior to this change being endorsed by Council.

It appears that when the number of units managed by a Management Company falls below 10 that the remainder of the units must become inoperable as they are no longer represented by a Management Company, this does not seem to be a fair or equitable.

Should the Management Company have its licence revoked, all CRU's within its portfolio are impacted. Is there a transitional provision proposed to allow the CRU owners impacted find a new Management Company? What happens to the CRU's should they not find a replacement Management Company (demand may be so great that there is no capacity)?

The question of licensing of CRU's must be broad and inclusive with the entire industry. BMSTA recommends that a specific Public Meeting be held regarding CRU licensing provisions.

BMSTA respectfully requests that Council support the formation of a working group to review all of the proposed by-law revisions with a goal of the working group making stakeholder supported recommendations to Council for consideration.



3. Responsible Persons

“Although this has not been a significant issue, staff do not believe that an individual RP could respond to multiple complaints taking place at the same time if this scenario were to occur”

BMSTA submits that this has not been an issue, and the status quo should remain.

4. Open Flame Burning

“Staff are proposing the elimination of fire pits/open flame burning at STAs”

Why is this being proposed, has this been an issue? Why is there a different standard for an STA versus a dwelling unit?

“limiting outdoor cooking to approved locations using only propane or natural gas enhances fire and life safety of the traveling public”

BMSTA submits that a requirement to use only propane or natural gas could be seen as discriminating, both racially and religiously. Racially, as certain groups have traditionally used biomass fuels for the preparation of food and religiously, as certain religious faiths/groups cannot use a BBQ that has been used for the cooking of certain other foods.

5. Marketing

“renters code must be included in all marketing materials...”

BMSTA supports the requirement to include a licence number on all marketing materials but does not support the requirement to include the Renter’s Code or a link to the Renter’s Code on internet based or social media platforms. It is noted that BMSTA members require that the Renter’s Code be accepted/acknowledged prior to the execution of a rental agreement, this should be sufficient.



6. Attestation

Attestation Statement

BMSTA does not support the use of an Attestation Statement in place of a Fire Inspection.

As a minimum, an Attestation Statement could be considered post the first approved fire inspection with the focus of the Statement related to confirming the operation of the inspected detection, early warning and egress amenities/facilities.

BMSTA would like to see the form of the Attestation Statement in order to evaluate the liability being assumed.

7. STA Occupancy

Site Plan Occupancy Examples

BMSTA submits that these examples should not be construed as limiting a room's occupancy but rather the occupancy of the entire premises (Note: occupant load restriction is applicable between the hours of 2200 and 0700 per the draft definition of "Occupancy").

BMSTA continues to be concerned with the words "on the premises" versus those actually utilizing the premises for overnight accommodation/sleeping.

BMSTA has previously requested that the number of occupants exclude "babes in arms" and notes that Prince Edward County Council adopted a motion on August 8, 2022, to amend the County's Zoning By-law (Section 4.37.4 related to Short Term Accommodation) so as to not count persons under the age of 10 years old in the occupant load calculation.

8. Proposed Revisions for the Administrative Monetary Penalty By-law

"The fines require approval by the Province to ensure that they are not punitive."

"Council does not have the ability to do the final approval in the setting of these fees (sic fines), the Province sets these fees..."



BMSTA notes that this is incorrect. AMPs are set by the local municipality and not subject to Provincial approval.

BMSTA submits that the fines for rather minor occurrences are extremely punitive!!!!

“The proposed fines are reflective of fines currently in place in Prince Edward County for the management of Short-Term Accommodations.”

“The work with have done, consistent with those fees in PEI County...”

“Actually got these fees approved by the Province...”

These comments/remarks are incorrect and misleading and should be corrected in a public forum. Prince Edward County’s AMPs are rather limited and are focussed on illegal STA’s (operate w/o a licence, advertising w/o a licence), fail to provide required documents, advertising w/o licence posted, hosting non-permitted event, change or operate other than as approved and refusing entry by an officer. Other Town AMPs are not covered by Prince Edward County’s AMP By-law.

SUMMARY

We respectively recommend that Council supports the formation of a working group to review the proposed By-law revisions. The goal of the working group review would be to make stakeholder supported recommendations to Council.

The STA/CRU tourism accommodations industry is a vital part of the local tourism economy and, as such, an integral part of our community fabric. In addition to tourism accommodations the STA/CRU tourist accommodations industry is an important provider of short-term housing for persons attending the area for conventions, conferences, meetings, and training, Resort Staff, and out of Town contractors who are here constructing housing, commercial buildings and infrastructure.

In summary, we recommend that more thought be put into the proposed changes to the existing Licensing and AMP’s by-law, which is undeniably today a very successful and respected licensing by-law regime in Ontario.



BACKGROUND DOCUMENTS/PRESENTATIONS

- Staff Report FAF.24.061, April 29, 2024 – Public Consultations for Revisions to the Licensing By-law and the Administrative Monetary Penalties By-law”.
- Public Meeting July 9, 2024
- Draft Licensing and Administrative Monetary Penalties (AMP) By-laws
- BMSTA submission dated July 5, 2024
- Public Meeting Presentation entitled “Considering potential revisions to the Town’s Municipal Licensing and Administrative Monetary Penalties By-laws”.
- BMSTA and other stakeholders’ presentations at the Public Meeting.