



# Staff Report

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## Planning and Development Services – Planning Division

**Report To:** Committee of the Whole  
**Meeting Date:** February 25, 2019  
**Report Number:** PDS.19.23  
**Subject:** Bed and Breakfast Establishments – Options Report  
**Prepared by:** Travis Sandberg, Planner I

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### A. Recommendations

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THAT Council receive Staff Report PDS.19.23, entitled “Bed and Breakfast Establishments – Options Report”;

THAT Council direct Staff to implement Approach 2, as detailed in Staff Report PDS.19.23;

AND THAT Council waive the application fee to remove the Holding ‘h’ symbol for all future Bed and Breakfast proposals.

### B. Overview

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This report provides an overview of the existing regulatory framework for Bed and Breakfast Establishments within the Municipality. Staff have reviewed opportunities to augment the existing review process in order to provide long-term resolutions to recurring comments received in response to site specific Bed and Breakfast zoning by-law amendment applications. Four approaches for Council consideration include:

- 1) Maintain Status Quo;
- 2) Utilize Existing Tools Available under the Planning Act within the existing policy framework and review process;
- 3) Implement a Town-wide Bed and Breakfast Licensing Program;
- 4) Implement a Town-wide Community Planning Permit System.

## C. Background

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The review of site specific zoning amendments for Bed and Breakfast Establishments has uncovered recurring public concerns regarding the potential for these uses to ultimately be illegally operated as Short Term Accommodations. Short Term Accommodation uses have been generally associated with a higher frequency of By-law complaints and land-use conflicts when located within low-density residential neighbourhoods in the Town.

In response, staff have reviewed the checks and balances within the existing policy framework and have undertaken a jurisdictional review to assess how other municipalities address this issue. As a result, Planning Staff provide an overview of approaches for implementing additional safeguards in order to provide long-term resolution to these common concerns.

### Existing Policy Framework for Bed and Breakfast Establishments in the Town of The Blue Mountains

Bed and Breakfast Establishments are currently regulated by the policies of the Municipal Official Plan and the Zoning By-law(s). These policy documents provide definitions and various requirements which must be satisfied in order to establish a Bed and Breakfast use in the Municipality. There is currently no additional licensing program in place for Bed and Breakfast uses.

The Town of The Blue Mountains Official Plan, 2016, defines a Bed and Breakfast Establishment as “... *the use of a single detached residential dwelling for the rental of not more than three (3) guest rooms to the traveling public for overnight accommodation on a temporary basis.*” Further to this, all Bed and Breakfast Establishments are subject to the following policy requirements (Section B2.5.1):

- a) An amendment to the implementing Zoning By-law will be required to permit the use;
- b) Bed and breakfast uses should not be permitted unless the owner of the dwelling resides in the dwelling while the dwelling is operating;
- c) That the use of the single detached dwelling for a bed and breakfast use shall not be detrimental to any adjacent use. Where necessary, neighbouring uses will be protected by the provisions of areas for landscaping, buffering or screening, of buildings, structures or uses, so as to reduce any detrimental affect caused by the use of the dwelling as a bed and breakfast establishment;
- d) That adequate parking facilities over and above the parking requirement for single detached dwellings are available which shall be a minimum of one additional parking space per guest room; and
- e) That bed and breakfast uses may be subject to site plan control.

Currently the Official Plan permits Bed and Breakfast Establishments within a single detached dwelling and requires the owner to reside in the dwelling during any rentals. Bed and Breakfast uses are permitted in any land use designation which permits single detached dwellings, subject to Section B2.5.1.

The Zoning By-law(s) define a Bed and Breakfast use as:

*“... a dwelling that operates or offers no more than three (3) guest rooms as places of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement throughout all or any part of a calendar year and that is the principle residence of the establishments proprietor. Bed and breakfast establishment shall not mean or include motel, hotel, short term accommodation, tourist cabin or cottage, hospital or similar commercial or institutional uses.”*

The Town’s Zoning By-law(s) do not permit B&B’s as-of-right within any zone. All proposed uses are subject to site-specific zoning approval from Council in accordance with the Official Plan. As per the above definition, Bed and Breakfast Establishments are only permitted within a single detached dwelling which is the principle, full-time, residence of the owner/proprietor.

#### Enforcement

On-going enforcement of the By-law is conducted by Enforcement Services. Upon receipt of a complaint regarding a suspected By-law infraction, a Municipal Law Enforcement Officer will generally investigate the claim and conduct a site visit. Should it be determined that the use is not in compliance with the Zoning By-law, i.e. operating as an unlicensed Short Term Accommodation use, then the owner of the property may be fined under the Provincial Offences Act, Municipal Act, and/or the Planning Act, as appropriate. Fines issued under the authority of the Planning Act can reach up to \$50,000 per day that a property is, was, or remains in violation of the Zoning By-law.

It is noted that Enforcement Services has little to no record of By-law complaints with respect to Bed and Breakfasts within the Town, as the Owners are present during occupancy and tend to address issues prior to the Municipality’s involvement.

#### **D. Analysis**

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The principle concerns of the public and council revolve around the enforceability of two specific policy requirements:

- 1) Bed and breakfast uses should not be permitted unless the owner of the dwelling resides in the dwelling while the dwelling is operating (Section B2.5.1(b) of the Official Plan); and
- 2) That the dwelling must be the principle residence of the establishment’s proprietor (As per the definition contained in the Town Zoning By-law(s)).

These two provisions are intended to ensure that Bed and Breakfast Establishments remain accessory to the main residential use of the dwelling. Due to the primarily residential nature of the use, Bed and Breakfasts are considered to be generally compatible with other low density residential land-uses. These two policy requirements are the fundamental difference between Bed and Breakfasts and other more conventional commercial accommodation uses, such as Short Term Accommodations. Without these policies, Bed and Breakfasts have potential to take the form of Short Term Accommodations and impact neighbouring residential uses.

While it is noted that By-law complaints for Bed and Breakfasts remain significantly infrequent, the ever increasing demand for commercial accommodations warrants the consideration of including additional checks and balances into the policy framework. Staff have reviewed other municipal approaches to regulating Bed and Breakfast uses and have developed four approaches to introduce additional safeguards.

#### Approach #1: Maintain Status Quo

Due to the low number of By-law complaints, each proposal will continue to be reviewed on a case-by-case basis to determine if the dwelling is the applicant's primary residence. In cases of non-compliance or by-law infractions, the owner may be subject to fines.

#### Approach #2: Utilize Existing Tools Available under the Planning Act

Section 36 of the Planning Act allows Municipalities to implement Holding 'h' provisions through enactment of any zoning by-law under Section 34 of the Act. The intent of 'h' provisions is to prevent the use of the lands specified by the zoning by-law amendment until such a time that certain conditions have been satisfied. The Holding 'h' symbol may only be removed by By-law.

Within the existing policy framework, a Holding 'h' symbol can be included in the initial zoning by-law amendment approval for Bed and Breakfast Establishments, which can only be removed upon the granting of Site Plan Approval and the execution of a Site Plan Agreement by the Town. Taking this approach provides Council with an additional opportunity to satisfy themselves that all policy requirements are met prior to the use being implemented.

In addition to the use of Holding 'h' zoning provisions available under Section 36 of the Act, additional clauses can be inserted into the standard site plan agreement in order to require annual re-confirmation of the owner's primary full-time residence, to the satisfaction of Planning and/or Enforcement Services. As site plan agreements are registered on title of the lands, these requirements would be transferable to any subsequent owner of the property. Should satisfactory confirmation not be provided, then the Bed and Breakfast may not operate. If it is found that rentals continue without this confirmation, then the owner will be subject to applicable fines. No amendments to the existing policy framework are required to implement this option. To ensure clarity and to track required re-confirmation of primary residency, it is also recommended that a simple registry be created and maintained.

#### Approach #3: Implement a Bed and Breakfast Licensing Program

Another option to consider for regulating and monitoring Bed and Breakfast Establishments in the Municipality is to create a comprehensive licensing program, similar to that which is already in place for Short Term Accommodation uses. In order to implement such a program, a general amendment to the Zoning By-law(s) would be required in order to permit Bed and Breakfasts as of right within low-density zoning categories. Additionally, a Bed and Breakfast licensing By-law would also be required to implement specific zoning provisions addressing minimum separation distances, site improvements, etc. Both of these items would require a public process prior to enactment.

Under a licensing program, site specific zoning amendments would not be required. Instead the zoning by-law(s) would identify zones in which the use is permitted as well as any additional provisions which must be satisfied. The licensing program would ultimately confirm ownership and residence of the owner. Should compliance issues arise, demerit points can be registered against the license and ultimately the license can be revoked. As a result, the Bed and Breakfast Use would still be a permitted use of the lands, however, it would not be permitted to operate without a valid license. If found operating without a license, the Owner would be subject to appropriate fines.

#### Approach #4: Implement a Community Planning Permit System

Approach #4 involves developing a comprehensive Community Planning Permit System within the Town. This approach is essentially an overhaul of the existing regulatory framework and would require further stakeholder consultation prior to enactment. Such a program would be similar to a licensing program, except that zoning permissions and operation would both be included in the Planning Permit System. Each proposal would be reviewed on case by case basis and if found to be in compliance with the requirements outlined by the Official Plan and Zoning By-law(s), the use and operation would be permitted through issuance of a site specific Community Planning Permit. Should any By-law infractions violations or non-compliance issues occur, then the permit can be revoked by the Municipality. Once the permit is revoked, then the operation and use is removed from the property.

#### Recommended Approach

At this time, it is recommended that Approach #2 be implemented in the review of all future Bed and Breakfast proposals. Due to the low number of by-law complaints received for Bed and Breakfast uses, staff are of the opinion that the additional zoning and site plan controls already available to the Town under the Planning Act are capable of providing sufficient checks and balances to ensure that the policies of the Official Plan and Zoning By-law(s) are being maintained. Further, Approach #2 provides Council with an additional opportunity to review the use prior to it being permitted to operate and can be implemented immediately at little to no financial or temporal costs to the Municipality.

Should this approach be selected, it is recommended that Council consider waiving or reducing the application fee to remove the Holding 'h' symbol for Bed and Breakfast Establishments.

## **E. The Blue Mountains Strategic Plan**

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Goal #1: Create Opportunities for Sustainability  
Objective #3 Promote a Diversified Economy

Goal #3: Support Healthy Lifestyles  
Objective #2 Increase the Range of Housing Choices and Promote Housing Affordability  
Objective #3 Manage Growth and Promote Smart Growth

## **F. Environmental Impacts**

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No adverse environmental impacts are anticipated as a result of this report.

## **G. Financial Impact**

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No adverse financial impacts to the Municipality are anticipated as a result of this report. Should Recommendation Option 3 or 4 be selected by Council, then costs will be incurred to establish, implement, and monitor any resulting license or permit program. The estimated costs of implementing these programs have not yet been determined.

## **H. In consultation with**

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Wayne Dewitt, Municipal Prosecutor, Enforcement Services.

Nathan Westendorp, Director, Planning and Development Services.

## **I. Public Engagement**

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The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required at this point in time. Comments regarding this report should be submitted to Travis Sandberg, Planner 1, [planning@thebluemountains.ca](mailto:planning@thebluemountains.ca).

## **J. Attached**

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1. Attachment 1: Summary of Jurisdictional Review of Select Municipal Bed and Breakfast Policies.

Respectfully submitted,

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Travis Sandberg  
Planner I

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Nathan Westendorp  
Director of Planning and Development Services

For more information, please contact:  
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<u>Municipality</u>	<u>Eligible Properties</u>	<u>Regulatory Framework</u>	<u>Official Plan Requirements</u>	<u>Zoning Requirements</u>	<u>Licensing Requirements</u>	<u>Additional Requirements</u>	<u>Summary</u>
Town of The Blue Mountains	All Single Detached Dwellings	Site Specific Re-zoning to permit use prior to operation	<ul style="list-style-type: none"> <li>- Site Specific Re-zoning;</li> <li>- Owner must reside in dwelling during operation;</li> <li>- Buffering, screening, etc;</li> <li>- Adequate parking;</li> </ul>	<ul style="list-style-type: none"> <li>- Must be owner's primary residence;</li> <li>- Site specific re-zoning required;</li> <li>- Max. three (3) bedrooms;</li> </ul>	No license required.	Site Plan Control.	Not permitted as of right. Site specific re-zoning required. License/permit not required. Subject to Site Plan Control
Town of Collingwood	All Single Detached Dwellings	Permitted as of right as Accessory Residential uses.	<ul style="list-style-type: none"> <li>- Must be principle residence and occupied full-time by Owner;</li> <li>- Min. one (1) room must be for exclusive use of the Owner;</li> <li>- Adequate servicing;</li> <li>- Adequate parking;</li> </ul>	<ul style="list-style-type: none"> <li>- Considered as a home occupation;</li> <li>- Proprietor must reside in SDD;</li> <li>- Max. three (3) bedrooms;</li> <li>- Must remain accessory;</li> </ul>	No license required.	None.	May operate as-of-right as a home occupation. No public process or additional approvals required. License/permit not required.
Township of Clearview	All Single Detached Dwellings.	Permitted as-of-right in Agriculture & Rural designations. All other lands subject to Re-zoning to permit the use.	<ul style="list-style-type: none"> <li>- Must remain accessory;</li> <li>- Must be principle residence and occupied on full-time basis;</li> <li>- Min. one (1) room must be for exclusive use of permanent res;</li> <li>- Adequate services;</li> <li>- Adequate parking;</li> <li>- Subject to Site Plan control.</li> </ul>	<ul style="list-style-type: none"> <li>- Max. three (3) bedroom in urban area – five (5) rooms in Rural;</li> <li>- Secondary use;</li> <li>- Screening and buffering;</li> <li>- Adequate parking;</li> <li>- One (1) room must be for exclusive use of permanent res;</li> <li>- Must be occupied by proprietor while in operation;</li> <li>- Max. one additional employee</li> </ul>	No license required.	Site Plan Control.	Permitted as-of-right in SDD's within Rural areas. Site Specific re-zoning required in urban areas. License/permit not required. Subject to Site Plan Control

Town of Wasaga Beach	All Single Detached Dwellings in low-density residential areas.	Business Licensing program.	<ul style="list-style-type: none"> <li>- Must remain accessory;</li> <li>- Compatible with neighbourhood;</li> <li>- Compliance with Business Licensing By-law;</li> <li>- Subject to Site Plan Control</li> </ul>	<ul style="list-style-type: none"> <li>- Permitted as of right in R1, R2, RE, CD, CS, CL, CT, CA, RU, zones;</li> <li>- Must remain accessory;</li> <li>- Must be principle residence and occupied on a full-time basis by the Owner;</li> <li>- Max. three (3) guest rooms;</li> <li>- One (1) room must be for exclusive use of permanent res;</li> <li>- Adequate parking;</li> <li>- Screening and buffering.</li> </ul>	Standard Business License required. (must include confirmation of contractual or proprietary interest in property (i.e. tax bill or lease))	Site Plan Control.	Permitted as-of-right in low-density residential areas as an accessory use. Must obtain Business License.
Niagara-on-the-Lake	Single Detached Dwellings which have been occupied for a min. of four (4) years.	Permitted as of right in low/medium density Res designations. Bed and Breakfast License.	<ul style="list-style-type: none"> <li>- Must remain accessory;</li> <li>- Must be principle residence of owner/operator;</li> <li>- Max. three (3) guest rooms or max. ten (10) occupants;</li> </ul>	<ul style="list-style-type: none"> <li>- Permitted as of right in low-density residential zones;</li> <li>- Owner/operator must reside on premises;</li> <li>- May exceed 25% GFA;</li> <li>- Adequate parking;</li> <li>- Min lot size for amenity space and screening/buffering;</li> <li>- Road frontage, adequate services</li> </ul>	Bed and Breakfast License Required.	<ul style="list-style-type: none"> <li>- License Fee;</li> <li>- Site Plan;</li> <li>- Floor Plan;</li> <li>- Certificate of Insurance;</li> <li>- Owner Authorization if leased.</li> </ul>	Permitted as of right in SDD's which have been occupied for at least 4 years. Zoning approval not required. Bed and Breakfast License must be obtained.