

Memorandum to the Council of Corporation of the Municipality of Temagami

Subject: Ensuring Responsible Short-Term Rentals - By-law Justification & Approval Request

Memo No: 2025-M-070

Date: March 27, 2025

Attachment: Appendix A – MHBC Short Term Rental Accommodation Report

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Recommendation

BE IT RESOLVED THAT the Council receives Memo 2025-M-070 as presented;

AND FURTHER, BE IT RESOLVED THAT Council approve the enactment By-law No. 1809 to regulate Short-Term Rental operations within the Corporation of the Municipality of Temagami.

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1. Executive Summary

This report provides a comprehensive analysis and justification for the implementation of a Short-Term Rental (STR) Licensing By-law in the Municipality of Temagami. It outlines the regulatory challenges, community concerns, legal considerations, and the framework for enforcement. The report recommends regulating STRs through a licensing By-law to address issues like noise, safety violations, and strain on municipal services. The By-law will ensure accountability, enforce safety standards, and generate revenue through licensing fees. The next steps include adopting the By-law, establishing a licensing process, and monitoring compliance. The report concludes with a recommendation for the Council to approve and implement the By-law.

2. Background & Rationale

2.1. Key Issues Identified

- **Community Complaints:** STRs have resulted in noise disturbances, parking congestion, fire code violations, and diminished enjoyment for neighboring properties.
- **Legal Liability:** The Municipality has already been named in a litigation case related to STR operations, highlighting the risk of negligence claims.
- **Regulatory Gaps:** The current Zoning By-law does not define or regulate STRs, allowing them to operate without oversight.
- **Strain on Municipal Services:** Increased demand for by-law enforcement, emergency response, septic system maintenance, and waste management.
- **Confirmed STR Presence:** A recent municipal search identified 52 short-term rentals currently operating in Temagami.
- **Taxation & Underground Revenue Concerns:** Many STR operators may be bypassing municipal taxes and regulatory fees, leading to unfair competition with licensed accommodations.

2.2. Zoning By-law Considerations

- The current Zoning By-law 06-650 does not explicitly define STRs but includes the following commercial accommodation definitions:
- Bed & Breakfast Establishment: Must be owner-occupied, licensed, and secondary to residential use, providing a maximum of two guest rooms.
- Single Detached Dwelling & Seasonal Dwelling: Dwellings primarily used for seasonal vacations and recreational purposes.
- Tourist Lodge: Establishment providing short-term accommodations with meals, not considered a residential use.
- Tourist Commercial Establishment: Includes cabins or tent sites rented to tourists, distinct from residential use.
- Hotel & Motel: Establishments providing overnight accommodation, with or without accessory services.

2.3 Enforcement Challenges and Regulatory Gaps in Short-Term Rentals

Since STRs do not fit neatly into any of these categories, this creates enforcement challenges, as municipal by-law officers lack a clear legal framework to regulate or penalize non-compliant operators. Without explicit recognition in the Zoning By-law, STRs continue to function similarly to commercial accommodations but without adhering to the safety, zoning, and taxation requirements imposed on hotels, motels, and bed & breakfast establishments. This regulatory gap complicates enforcement, making it difficult to address issues related to occupancy limits, noise control, septic system capacity, and overall compliance with municipal standards.

3. Recommended Approach: Licensing By-law (MHBC Option #3)

After reviewing MHBC Report (appendix A) multiple options, Option #3 – Regulating STRs through a Licensing By-law was deemed the most effective strategy.

3.1. Legal Basis

The *Municipal Act, 2001*, grants municipalities the authority to pass licensing by-laws to regulate businesses for health, safety, consumer protection, and nuisance control.

Implementing an STR Licensing By-law will allow the Municipality to enforce standards, mitigate risks, and ensure fair business practices.

3.2. Key Benefits of a Licensing By-law

- Ensure Accountability – STR operators must comply with municipal safety, zoning, and insurance requirements.
- Enhance Consumer Protection – Enforces health and safety standards for renters.
- Strengthen Enforcement – Grants the Municipality authority to fine, suspend, or revoke non-compliant operators.
- Offset Costs – Licensing fees help fund enforcement and administrative efforts.
- Create Fairness – STRs will be subject to similar regulations as other short-term accommodations like hotels and B&Bs.

3.3. Licensing By-law Components

- Application & Fees:
 - Annual licensing fees based on STR type.
 - Proof of insurance and regulatory compliance required.
 - STR operators must obtain approvals from the Timiskaming Health Unit, Fire Code, and Planning Department.
- Occupancy Limits & Safety Compliance:
 - Compliance with Ontario Fire Code & Ontario Building Code.
 - Septic system verification to prevent environmental damage.
- Operational Standards:

- Noise control, parking restrictions, garbage disposal requirements.
- 24/7 local emergency contact availability.
- Enforcement & Penalties:
 - STR operators subject to fines, license suspensions, and legal action for non-compliance.
 - Establishing proactive compliance monitoring mechanisms.

4. Legal Considerations & Case Law

4.1. Municipal Liability Risks:

- *Smith v. Blue Mountain Resort (2019 ONCA)* – Municipality held liable for failing to enforce rental property safety.
- *Milton v. ClubLink (2018 ONSC)* – Established municipal responsibility for commercial operations affecting residential areas.

4.2. STRs vs. B&Bs: Legal Precedents

- *Ottawa v. Liu (2021)* – Upheld STR licensing requirements, ruling they must comply with safety laws.
- *Halton Hills v. Kratz (2020 ONSC)* – Declared that STRs function as businesses and should be regulated accordingly.

5. Implementation Plan

To effectively regulate STRs, the Municipality should proceed with the following steps:

- Adopt the Short-Term Rental Licensing By-law under the *Municipal Act, 2001*.
- Implement a structured licensing process with clear requirements and enforcement mechanisms.

- Ensure public awareness and compliance through outreach and education.
- Establish a monitoring system to track compliance and address complaints effectively.

6. Conclusion

The adoption of an STR Licensing By-law ensures that short-term rental operations in Temagami are safe, fair, and sustainable. This approach balances economic benefits with community protection, reduces legal risks, and provides a clear regulatory framework for enforcement.

Municipality of Temagami	
Report Prepared For:	Municipality of Temagami Council
Report Prepared By:	Jamie Robinson, BES, MCIP, RPP and Patrick Townes, BA, BEd
Subject:	Short Term Rental Accommodation (STRs) – Planning Opinion
Report Date:	November 23, 2023

The purpose of this report is to provide Council with information related to the following:

- 1) Overview of Short Term Rental Accommodation (STRs);
- 2) Context on current zoning permissions for STRs (Residential vs. Commercial);
- 3) Land Use Planning Considerations; and,
- 4) Recommendation for regulating and enforcing STRs in the future.

RECOMMENDATION

- 1) That this Report regarding Short Term Rental Accommodations (STRs) dated November 23, 2023 be received for information;
- 2) That Council endorse Option #4 as set out in this Report; and,
- 3) That MHBC Planning and staff be directed to prepare the necessary legislation to implement Option #4 and schedule the Public Meeting under the *Planning Act* as soon as possible.

BACKGROUND

Council passed the following resolution regarding STRs:

BE IT RESOLVED THAT Council direct staff and our Planners, MHBC, to bring a report for Council's consideration concerning regulating short-term rentals, notably Air BnB, including a plan for enforcement of any regulations Council may deem appropriate to implement.

STRs are intended to be a secondary use of a residential dwelling unit that offers a place of accommodation for a short period of time (typically less than 28 days). STRs can take many forms – such as the rental of a home, the rental of a cottage, the rental of a portion of a home or the rental of an accessory building.

Due to issues created by some STRs, such as noise, parking, change in character of the area, fire safety and septic, many municipalities are implementing measures to regulate STRs.

This Report will review STRs in the context of the current Zoning By-law and will consider the question of whether STRs are a residential or commercial use.

The rental of dwellings or cottages for short periods of time has occurred for years. Recently, more attention has been brought to the issue as a result of the sharing economy and the increased ability to market residential properties through on-line platforms.

ZONING BY-LAW

There is no definition of an STR in the Zoning By-law, but STRs are commonly referred to as the rental of a dwelling unit such as a cottage, house or an apartment for a short period of time (less than 28 days).

The Municipality's Zoning By-law permits a number of different dwelling types in various zones, including single detached dwellings, semi-detached dwellings and duplex dwellings.

The Municipality's Zoning By-law does not contain any regulations that speak to occupancy tenure (ownership vs. rental). A Zoning By-law cannot regulate occupancy tenure.

Residential dwellings are permitted in a number of zones including the following residential zones:

- Remote Residential (R1) Zone (Lake Temagami);
- Remote Residential (R2) Zone;
- Rural Residential (R3) Zone;
- Low Density Residential (RL) Zone;
- Medium Density Residential (RM) Zone; and,
- High Density Residential (RH) Zone.

Is an STR a residential use of a residential property?

Yes. While this is not a universally shared opinion across Ontario, many municipalities and most of Muskoka are considering STRs to be a residential use. Previously and historically municipalities were not generally concerned with STRs and considered them a residential use of the property.

Acknowledging that STRs were a residential use was a much easier position to take and determine when cottages were rented to friends and family and only on an occasional and infrequent basis. STRs are now a full part of the sharing economy and, aided by new technologies and new ways of renting assets, have extended and expanded the rental of cottages and other residential dwellings which has seen the emergence of STRs as a business model where dwellings are rented throughout the full year. These STRs typically are not occupied on a permanent basis or by the owner, and as a result have changed the nature and character of STRs in Temagami, as it has elsewhere. STRs and the sharing economy cannot be ignored and the issues with respect to STRs will not go away.

If a dwelling is rented out exclusively on a short term basis (365 days per year) there may be a case to be made that the use is commercial – however there are elements of the definitions for a tourist lodge and a tourist commercial establishment that are not met, i.e. reference to cabins and providing meals.

OPTIONS FOR STRs?

Council has a range of options to consider to address the regulation and management of STRs. The options are provided below in Table 2 and described in general terms.

Table 2: Summary of Options

Option #	Option Description	Description & Required Actions
1	Status Quo	<p>STR would continue to occur in all shoreline residential zones without further regulation. No licensing By-law would be proposed.</p> <p>Municipality would be required to manage and respond to enforcement complaints in a concerted manner regarding noise, parking, fireworks, fires, litter, etc. on a complaint basis.</p> <p>Municipality could consider reviewing various "good neighbour" By-laws. By-law enforcement may be required.</p>
2	<p>Prohibit New STRs in all residential/shoreline residential zones.</p> <p>(Grandfather existing)</p>	<p>Update Zoning By-law to define STRs and prohibit same in all residential/shoreline residential zones.</p> <p>Enforcement of prohibition should be both proactive (Municipality or 3rd party monitoring web based sharing platforms) and complaint based.</p> <p>Enforcement of good neighbor By-laws would have to be enhanced. Legal non-conforming uses could continue.</p>
3	Regulate STRs through a Licencing By-law	<p>Prepare and pass a Licensing By-law pursuant to the Municipal Act. Licencing By-law would address fees (including fee scale based on type of STR, penalties, OBC and occupancy limits, property management, etc.). No Official Plan or Zoning By-law changes.</p>
4	Permit and regulate STRs in the Zoning By-law and regulate through a licencing By-law	<p>Update the Official Plan and Zoning By-law to create regulations and standards for STRs as a residential use in all residential/shoreline residential zones and permit where appropriately licenced.</p> <p>Prepare and pass a licencing By-law pursuant to the Municipal Act.</p>
5	Permit STR only through Zoning By-law Amendment process (similar to Bed & Breakfast operations)	<p>Update the Official Plan to establish policy guidelines for the consideration of rezoning applications for STR operations.</p>

What is the recommended option?

These are difficult decisions for Council. No option is perfect and no option comes without costs.

If Council is of the opinion that the rental of dwellings and cottages in the Municipality is not a significant issue, then Option #1 'status quo' would be the best option.

If Council is of the opinion that the rental of dwellings and cottages in the Municipality is an issue then we believe that the 'regulate and licence' option described as Option #4 above would find the best balance. Option #4 would require an enabling Official Plan Amendment (include policies in the next draft of the Official Plan) to establish the policy framework to support the Zoning By-law Amendment and Licencing By-law.

The Zoning By-law Amendment would define and regulate STRs through a range of performance standards (i.e. parking/access considerations, occupancy standards, minimum setbacks, prohibit in accessory structures, etc.)

The Licencing By-law should address considerations such as the classes of licence, maximum occupancy, application requirements, emergency contact, suspension and revocation, enforcement provisions, fees and penalties, code of conduct, etc.

The sharing economy is here is stay. This evolution of renting out dwelling units on a short term basis is creating new use considerations for municipalities. As STRs become more popular, it is important to note that there are benefits from a tourism and economic perspective, but there are planned function and regulation concerns – finding a balance between the two is key.

Updated land use planning documents and a licencing program seems to be the most effective method for effective regulation and enforcement.

ENFORCEMENT

No matter what decision Council makes, there will be enforcement costs. Licencing provides the opportunity for the Municipality to collect licence fees and fines to cover all or some of the costs associated with enforcement.