

Recommended Regulatory Regime for Short-Term Rental Accommodations

Introduction

The recommended regulatory regime for short-term rental accommodation regulations has been designed to provide opportunities for residents to benefit from the short-term rental (STR) economy while establishing appropriate regulations that minimize the negative consequences of short-term rental activities that impact the availability and affordability of housing, generate community nuisances, and disrupt community cohesion. The concerns of ensuring public health and safety, consumer protection and the economic and social well-being of the municipality have been the focus of these proposed regulations. For the purposes of this report, short-term rentals or “STR” means: rental of any portion of a dwelling unit used to provide accommodations for any period that is less than 28 consecutive days.

Specific measures recommended by staff include:

1. Enacting a Short-Term Rental By-law to govern the activities of short-term rental platforms, agents and hosts, including:
 - a. Registration and related requirements for platforms and STR agents,
 - b. the establishment of a short-term rental permit and associated regulations and fees for STR hosts, and,
 - c. restricting STR activity to primary residences only, thereby prohibiting rentals in investment properties
2. Establish a Short-Term Rental Enforcement Team within By-law and Regulatory Services, on a cost-recovery basis
3. Establish cost recovery through a combination of fees and Municipal Accommodations Tax (MAT) revenue.
4. Establish a process for Condominium Corporations and Landlords to register prohibitions against short-term rentals in their buildings
5. As further described below, provide specific exemptions from the proposed regulations to allow:

- a. the rental of cottages and vacation homes in rural areas
 - b. hotel, motel and bed and breakfast use of STR platforms
6. Create a webpage on ottawa.ca to explain City regulations with respect to STR guests and hosts.

Each of these measures are described in detail in the following sections.

Operational costs to fund the management, administration and enforcement of proposed STR regulations expenses for Year One are estimated at \$908,000. Operational expenses in Year Two are estimated \$834,000. Staff will monitor service demand and fee collection.

Recommended Timing for Implementation: It is recommended that the development and enactment of the proposed Short-Term Rental By-law be coordinated to come into force concurrently with the proposed Temporary Use By-law and the use of the Municipal Accommodations Tax set out respectively in Recommendations 3.b. and c. of the *Report on the Rental Accommodations Study and Regulatory Regime*, and as described in the report.

1. Develop a Short-Term Rental By-law

Staff recommends the creation of a Short-Term Rental By-law to govern and regulate the activities of short-term rental platforms, agents, and hosts within Ottawa. Key components of this proposed by-law include:

Regulations for Platforms (e.g. Airbnb and Expedia Group)

- Platforms would be required to register with the City and maintain current contact information.
- Platforms would be required to provide name, address and contact information of a place of business in Canada (that is not a postal box) to which City may send notices, documentation or communications necessary for the administration and enforcement of municipal regulations
- Platforms would be required to provide data to City on a quarterly basis, or as otherwise directed by the Director, By-law and Regulatory Services, for the purposes of by-law administration and enforcement. This information should include:
 - The names and contact information of all registered STR hosts within the City;

- The street address of all STR listings;
 - The number of booked nights for each STR listing;
 - The Uniform Resource Locator (URL) for each STR listing; and
 - The amount of revenue for the period from January 1 to December 31 of each calendar year for each STR listing (for Municipal Accommodations Tax auditing purposes).
- All STR listings would be required to include the City STR permit number and approved occupancy limit for the dwelling, as determined by the City.
 - STR platforms would be required to collect Municipal Accommodations Tax (MAT) from all booked guests and remit payments to the City on a quarterly basis.
 - Other information required by the Director, By-law and Regulatory Services for the administration and enforcement of the regulations and to ensure public safety and consumer protection.

For the platform, the recommended approach is a one-time registration fee of up to \$4000 to provide for cost-recovery of staff time reviewing applications and compliance with registration requirements. This amount is currently under review and a final recommendation regarding the registration fee for the platforms will be made when staff report back on the Short-term Rental By-law for approval.

Regulations for STR Agents (Those who manage STR properties on behalf of STR Hosts)

- Agents would be required to register with the City and maintain current contact information
- Agents would be required to maintain a list of all clients, including name and contact information and provide the above information to the By-law and Regulatory Services upon request
- Agents would be required to attend a client property within 2 hours following a call/contact from By-law and Regulatory Services

The proposed registration fee for STR agents is proposed to be \$200 per year to allow for cost recovery of staff time reviewing applications and compliance with registration requirements.

Regulations for STR Hosts (Owners of properties used for STR)

- Hosts would require a short-term rental permit from the City of Ottawa in order to provide short-term rental accommodations in Ottawa and to list their property
- Hosts would be required to include the permit number and approved occupancy limit on all listings
- Hosts would be required to make a copy of the permit available to guests
- Hosts would be required to maintain appropriate insurance satisfactory to the City Solicitor
- Hosts would be responsible for the conduct of their guests, regardless of whether they use an agent or not.
- Hosts would be required to provide the following information to guests:
 - Contact information of the host, an emergency contact, or their agent;
 - Emergency egress information for the property;
 - A floor plan, including the location of safety equipment within the residence/building and all exits;
 - Police emergency and non-emergency contacts;
 - Health emergency contacts, including the location and hours of the nearest emergency medical services;
 - Information concerning the presence of any security or surveillance technology, such as video cameras;
 - Information regarding waste disposal practices, including recycling and composting;
 - Instructions for lawful parking on site or in area, as applicable;
 - Contact Information for Service Ottawa
 - A schedule of common fines associated with STR guest activities; and
 - Instructions on how to report bad host activity.

- Hosts would be required to advise guests if any other guests will be sharing accommodations during their stay (i.e. if rental is not exclusive) and if the host will be present.

STR Host Permit Conditions

- Applicants (Hosts) would be required to provide:
 - Full name and contact Information;
 - Proof of identification and primary residence;
 - Street address of rental location;
 - Proof of ownership/occupancy (e.g., deed or lease);
 - Proof of Insurance;
 - A floor plan showing the square footage of the dwelling and the number of bedrooms for determining occupancy limits in accordance with the Property Standards By-law; and
 - A signed declaration certifying that the host will follow all prescribed regulations.
- Permits would only be issued to natural persons and not corporations.
- Permits would only be issued for the host's primary residence (supported by sufficient proof), and/or cottage.
- No one would be able hold more than one permit.
- Permits would not be issued where a condominium corporation, landlord or social housing provider has registered objection with the City.
- Permits would not be issued to persons indebted to the City for any imposed but unpaid user fee or fine.
- Permits may be revoked for criminal activity, unpaid fees or penalties, serious incidents impacting public health and safety, and egregious or repeated public nuisances ("Party house provisions").
- An appeal mechanism would be established for revoked permits, including appropriate fees for cost recovery.

- Permits would require renewal every two years through a simplified online process.
- Permits would not be transferrable and would be automatically invalidated if property ownership or primary residency changes.
- Properties would require smoke detectors and carbon monoxide detectors on every floor.

In addition to the above, staff will include in the by-law appropriate offences with corresponding fines for violations. The fines in question will be based on the municipal system of fines authorized under Section 439 of the *Municipal Act, 2001*, including potentially establishing fines for continuing and multiple offences, escalating fines for second or subsequent offences, and special fines, as authorized under the Act. Specific recommendations as to fines and maximum amounts will be contained in the staff report setting out the proposed Short-Term Rental By-law.

The above recommended regulations address concerns expressed through public and stakeholder consultation about negative community impacts of poorly managed short-term rental activities. They are also supported by the enforcement experience to date, as detailed by By-law and Regulatory Services and presented in the Discussion section of the staff report.

This approach makes it easy for platforms and agents to register, with minimal fees and requirements. Platforms are further incentivized to register, as enforcement activity will focus on non-compliant platforms and unpermitted rentals.

The proposed regulations would also make it easy for hosts to register. The proposed fee to apply for a two-year STR Permit is \$100. This allow for cost recover for the staff time required to review application documents, establish occupancy limits and produce the permit. The reduced fee for renewal of permits will be established according to the City's User Fees and Charges Policy and recommended in the staff report for approval. As fees for Hosts are minimal, cost recovery for administration and enforcement of the regulations is achieved through the Municipal Accommodations Tax, as described in Section 3 below and as further described in the Report.

Staff anticipate that this by-law would effectively address the public safety, community nuisance, and consumer protection concerns of the City by enabling more effective and timely enforcement of STR violations when they occur, while still providing opportunity for residents to responsibly benefit from the short-term rental economy. Additional

regulations may be considered and recommended, and will form part of the staff report for approval of the proposed Short-Term Rental By-law.

2. Establish a Short-Term Rental Enforcement Team

In order to enforce the proposed Short-Term Rental By-law, staff is recommending that Council approve the creation of a specialized Short-Term Rental Enforcement Unit within By-law and Regulatory Services consisting of 7 temporary positions in total, as described below. The funding of these positions will occur on a cost recovery basis from permit and registration user fees described in Section 1, above, and the Municipal Accommodations Tax, described in Section 3 below. The efficacy of this staffing model would be reviewed during the 3-year term of the accompanying Temporary Use By-law and staff would report back accordingly, as set out in the Next Steps section of the report.

Staff is recommending that this unit should consist of four (4) temporary enforcement officers trained to investigate and enforce all by-law violations related to short-term rentals.

Specialized enforcement units have been used for the Tobacco Enforcement Unit and Vehicles-For-Hire and have been proven to be highly effective for unique regulatory regimes. Short-term rental violations are currently investigated by the Property Standards and Zoning Enforcement Unit of By-law and Regulatory Services. Creating a specialized unit for STR enforcement would provide the following advantages:

1. Removing workload from the Property Standards and Zoning Enforcement Unit, which would restore capacity for this unit's core mandate.
2. Shift schedules can be optimized for peak periods of STR activity. Whereas Property Standards Officers work during weekday daytime hours, the STR Enforcement Unit would be scheduled to work shifts that include evenings and weekends.

An additional temporary data analyst position is also recommended in order to address the audit requirements of the permit system and conduct surveillance of digital marketplaces to identify unpermitted rentals for enforcement action. This approach has been effectively used by the City to enforce Private Transportation Companies (PTC) regulations under the *Vehicle-For-Hire By-law*.

An additional licensing clerk position for the 3 year trial term as well as an extra licensing clerk for the first year of implementation are also recommended to process the short-term rental permits and the exemptions of properties as recommended under Section 4.

3. Municipal Accommodations Tax (MAT)

Staff are recommending that administration and enforcement costs for short-term rental regulations be funded primarily through the Municipal Accommodations Tax (MAT) and that, if necessary, the MAT be increased from 0.25% to 4.25%, as described in the report.

Currently, one STR platform is collecting MAT through a voluntary agreement. Under this proposal, collection of MAT would become a requirement for any STR platform conducting business within the City.

Staff anticipate that this additional revenue would provide the funds required for the enforcement of STR activity as proposed in this document. When combined with revenue from user fees, revenue collection from the MAT is anticipated to achieve cost recovery, including the expected decrease in current MAT revenue that would result from the prohibition of commercial STR operations.

Upon approval of Recommendation 3.c of the Report, the City Treasurer will review existing MAT revenues to determine whether they are available to fund the recommended STR regulatory regime, including administration and enforcement costs. Should they not be sufficient or available, an amending by-law to increase the MAT by 0.25% as set out in this document and in the Report will be prepared and placed directly on Council agenda for enactment, to occur concurrently with the coming into force of the proposed Rental Accommodations By-law and the proposed Temporary Use By-law, as described in the report.

4. Establish a process for Condominium Corporations and Landlords to register prohibitions against short-term rentals in their buildings

As recommended by Maclaren Municipal Consulting, staff is recommending that Council establish a separate registration process to enable condominium corporations and landlords to proactively self-identify properties where STR is prohibited under their own rules, to be implemented immediately.

Condominium Corporations would be required to provide:

- a cover letter signed by two officers of the corporation;
- a notarized copy of the Condominium Declaration, showing a prohibition against short-term rentals; and
- a list of all unit numbers/addresses within the condominium.

Landlords would be required to provide:

- a notarized copy of their deed to each property to be listed; and
a list of all unit numbers/addresses for each property.

These registrations would be a one-time process, not subject to annual renewals. Changing the registration status would require a new application with the same supporting documentation.

The recommended fee for this service is the standard \$58 administration fee plus \$5 per unit. This fee will cover the cost of creating individual records for each address as per the User Fees and Charges Policy. Staff further recommends that social housing providers should be exempt from paying this fee.

Landlords and Condominium Corporations should also be provided the option of restricting STR activity on a case-by-case basis, utilizing the same requirements and fees prescribed above.

5. Exemptions

Staff is recommending a series of exemptions to the proposed regulatory regime. The description and rationale for each are provided below.

(a) Cottages and Vacation Homes

Staff's assessment of the rental of cottages and other vacation homes is that it is a long-standing practice that does not tend to generate the same community nuisance or public health and safety issues as in urban and suburban areas. As such, staff recommends that STR hosts of homes in rural zones (AG, RR, RU) be required to obtain an STR permit but be exempt from the proof of primary residency and occupancy limit requirements.

(b) Hotels and Motels

Staff recommends that traditional hotels and motels registered to pay the Municipal Accommodations Tax should be required to obtain an STR permit but should be exempt from the requirements concerning:

- primary residency;
- proof of insurance;
- occupancy standards and floor plans;
- the natural person requirement; and
- guest information provisions.

Staff further recommends that hotels and motels should only require one permit to enable rentals of all of their rental units within the City.

(c) Traditional Bed and Breakfasts

Staff recommends that traditional bed and breakfast operations be required to obtain an STR permit but be exempt from the following requirements:

- Occupancy standards (as these are provided for in the Zoning By-law); and
- MAT and service fees for rentals not conducted through an STR platform.

6. Create and promote a Short-Term Rental webpage

Staff recommend that Council approve the creation of a webpage on ottawa.ca to provide comprehensive information on Ottawa's Short-Term Rental regulations, to include:

- notifications and pertinent news (when required);
- information for Guests;
- host registration information and electronic renewal service, once available;
- a list of registered (authorized) platforms;
- a list of registered (authorized) agents;

- agent registration information and electronic renewal service, once available;
- platform registration information; and
- pertinent regulations, including links to relevant statutes and by-laws.

Staff from the Innovative Client Services Department (ICSD) have indicated that these new services can be developed internally, with no additional cost to the City. Awareness of this resource would be achieved through existing communications channels, such as ottawa.ca, 3-1-1 and official social media accounts.

Conclusion

It is the opinion of staff that the recommended regime for Short-Term Rental (STR) regulation is the most effective approach to address municipal concerns regarding public health and safety, the economic and social well-being of the municipality, the protection of persons and property and consumer protection. Staff anticipate that it will enable residents to benefit from the economic opportunities made available by responsible STR activity while providing protection against the harmful activities observed by the City to date.

Of particular importance, it is staff's opinion that the recommended regime provides the most effective approach to address the removal of long-term housing stock to serve the short-term rental market. By prohibiting investor/commercial units, this regime intends to reduce the affordability and availability pressures caused by current and future STR activity. It is also expected to reduce the negative impacts of STR activity on community cohesion in neighbourhoods, condominiums and apartment buildings across the city.

Following the model used for Private Transportation Company (PTC) regulation, information technology and analytics can enable efficient, effective and sustainable enforcement of permit conditions. Current investigation requirements can also be reduced by introducing specific requirements, violations, and penalties tailored to municipal concerns regarding STR activity.

The recommended regime is expected to achieve cost recovery through permit fees and Municipal Accommodations Tax revenue. The cost recovery model has been designed to minimize the impact on residents and promote the economic well-being of the municipality. Staff will conduct ongoing risk management and report back to Council if performance measures indicate that the framework is not achieving the intended outcomes.