

THE CORPORATION OF THE CITY OF SAULT STE. MARIE

BY-LAW 2022-178

SHORT TERM RENTALS: A by-law to license, regulate and govern short-term rentals.

WHEREAS Section 8(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended (the “Municipal Act”) provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on a municipality to

- (a) enable it to govern its affairs as it considers appropriate, and
- (b) enhance its ability to respond to municipal issues;

AND WHEREAS Section 9 of the Municipal Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act or any other Act;

AND WHEREAS Section 10(1) of the Municipal Act provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the Municipal Act provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 11 Business Licensing;

AND WHEREAS Section 11(2) of the Municipal Act as amended, provides that a lower-tier municipality may pass by-laws respecting health, safety and well-being of persons and protection of persons and property, including consumer protection;

AND WHEREAS Section 11(3) of the Municipal Act as amended, provides that a lower-tier municipality may pass by-laws respecting business licensing;

AND WHEREAS subsection 151(1) of the Municipal Act provides that, without limiting sections 9, 10 and 11, a municipality may provide for a system of licences with respect to a business and may,

- (a) prohibit the carrying on or engaging in the business without a licence;
- (b) refuse to grant a licence or to revoke or suspend a licence;
- (c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;

- (d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- (e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it.

AND WHEREAS Section 151(5) of the Municipal Act provides that subsections 151(1) to (4) apply with necessary modifications to a system of licences with respect to any activity, matter or thing for which a by-law may be passed under sections 9, 10 and 11 as if it were a system of licences with respect to a business;

AND WHEREAS Section 391 of the Municipal Act amended, provides for the municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 425 of the Municipal Act provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Section 426 of the Municipal Act provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a by-law passed under the Act;

AND WHEREAS Section 429 of the Municipal Act provides for the municipality to establish a system of fines for offences under a by-law of the municipality passed under the Municipal Act;

AND WHEREAS Section 431 of the Municipal Act provides that if any by-law of the municipality is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order to prohibit the continuation or repetition of the offence by the person convicted;

AND WHEREAS Sections 444 and 445 of the Municipal Act amended, respectfully, provide for the municipality to make an order requiring a person who contravenes a by-law or who causes or permits the contravention or the owner or occupier of land on which a contravention occurs to discontinue the contravening activity or do work to correct a contravention;

AND WHEREAS the Council of the City of Sault Ste. Marie deems the licensing of short-term rental brokerages and owners and the regulation of all related activity to be in the interest of public safety, community well-being and nuisance control;

NOW THEREFORE the Council of the Corporation of the City of Sault Ste. Marie enacts this Bylaw to license short-term rental brokerages and owners and to regulate all related activity within the jurisdictional boundaries of the City of Sault Ste. Marie.

1. APPLICABILITY AND SCOPE

(1) This Bylaw applies to all:

- (a) Short-Term Rental Brokerages that Operate within the jurisdictional boundaries of the City of Sault Ste. Marie;
- (b) Short-Term Rental Owners that Operate a Short-Term Rental within the jurisdictional boundaries of the City of Sault Ste. Marie;
- (c) Persons acting as Short-Term Rental Operators within the jurisdictional boundaries of the City of Sault Ste. Marie;
- (d) Dwelling Units used as Short-Term Rentals within the jurisdictional boundaries of the City of Sault Ste. Marie; and
- (e) Each Dwelling Unit within the jurisdictional boundary of Sault Ste. Marie must benefit from a licence under this Bylaw.

(2) This Bylaw does not apply to:

- (a) Accommodation Services as set out in the City's Zoning Bylaw;
- (b) Bed-and-Breakfast Establishments as set out in the City's Zoning Bylaw;
- (c) accommodations rented out to tenants in accordance with the *Residential Tenancies Act*, 2006, S.O. 2006, c. 17;
- (d) retirement homes licensed under the *Retirement Homes Act*, 2010, S.O. 2010, c. 11.

2. DEFINITIONS AND INTERPRETATION

"Applicant" means a person applying for a licence or renewal of a licence thereof under this Bylaw;

"Authorized Agent" means a person duly appointed and that may provide proof satisfactory to the Clerk that they act for a person, a partnership, or corporation;

"City" means the Corporation of the City of Sault Ste. Marie;

"Council" means the Council of the City of Sault Ste. Marie;

"Clerk" means the City Clerk for the Corporation of the City of Sault Ste. Marie, a delegate or assigned;

"Dwelling Unit(s)" means a place of residence with one or more habitable rooms containing separate kitchen and bathroom facilities for private use as a single housekeeping unit;

“Licence” means the certificate issued under this Bylaw as proof of licensing under this Bylaw;

“Licensee” means a person licensed under this Bylaw or a person required to be licensed under this Bylaw;

“Officer” means the Sault Ste. Marie Police Service and the City’s Municipal Bylaw Enforcement Officer(s), or a designate responsible for the enforcement of this Bylaw;

“Person(s)” includes an individual, partnership, corporation, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

“Short-Term Rental” or “STR” means the provision of a dwelling unit which is used for the temporary lodging of the travelling public for a rental period not greater than 28 consecutive days or less in exchange for payment, but does not include accommodation services or a bed and breakfast establishment as defined in the City’s Zoning Bylaw, or other short-term accommodations where there is no payment;

3. PROHIBITIONS

- (1) No person shall operate or carry on the business of a STR or permit a person to carry on the business, or hold themselves out as being licensed to carry on the business of a STR:
 - (a) without a licence to do so issued under this Bylaw;
 - (b) under any other name than the one endorsed on their licence issued under this Bylaw; or
 - (c) except in accordance with the regulations of this Bylaw.

- (2) No person shall,
 - (a) transfer or assign a licence issued under this Bylaw;
 - (b) obtain a licence by providing mistaken, false or incorrect information;
 - (c) enjoy a vested right in the continuance of a licence and upon the issue, renewal, transfer, cancellation or suspension thereof, the licence shall be the property of the City;
 - (d) advertise an STR available within the city of Sault Ste. Marie municipal boundary without a licence;
 - (e) operate or advertise an STR from a recreation vehicle or tent available within the city of Sault Ste. Marie municipal boundary.

4. LICENSING REQUIREMENTS

4.1 Application Requirements

- (1) Where the applicant is a corporation, the application for a STR licence or the application for a renewal of STR licence shall be made by a duly authorized director or officer of that corporation.
- (2) Where the applicant is a partnership, the application for a STR or the application for renewal of STR licence shall be made by one or more of the partners.
- (3) Applicants for a STR licence or renewal of STR licence must:
 - (a) in the case of individuals, be permanent residents in Canada;
 - (b) in the case of a partnership, have at least one partner be either a permanent resident in Canada or a corporation incorporated in Canada;
 - (c) in the case of a corporation, be incorporated in Canada.
- (4) Applicants are required, in accordance with the City's Municipal Transient Accommodation Tax (MAT) Bylaw, to collect the municipal accommodation tax on behalf of any dwelling unit licenced in their or its name in accordance with this Bylaw and must be registered with the City to do so prior to making any application for a STR licence under this Bylaw.
- (5) Despite section 4.1(1) and 4.1(2) above, an application for a STR Licence or an application for renewal of a STR licence thereof may be made in person by an authorized agent, provided that they have written authorization to do so from the applicant and provides one piece of Canadian government photo identification, both to the satisfaction of the Clerk.
- (6) Every person making application for a STR licence under this Bylaw shall submit the following to the Clerk:
 - (a) a completed application for a Licence in the form prescribed by the Clerk, signed by the applicant or an authorized agent for the applicant;
 - (b) the applicable fees as set out in the City's User Fee Bylaw;
 - (c) where the applicant is a corporation, the complete articles of incorporation, including the names and addresses of all directors and officers of the corporation, as at the time of application;
 - (d) where the applicant is a partnership, a copy of the record of registration of the partnership under the *Business Names Act*, R.S.O.1990, c.B.17 or the *Limited Partnerships Act*, R.S.O. 1990, c.L.16;
 - (e) a listing of every STR being made available within the jurisdictional boundaries of the city of Sault Ste. Marie, as at a date no less than seven (7) days from the date of application for a licence;

- (f) proof of valid general liability commercial insurance in the amount of at least \$2,000,000 and be suitable to the Clerk;
 - (g) a criminal record check for the named applicant, to wit review of relevant infections for which a pardon was not granted will be assessed by the Clerk;
 - (h) any other information required to be provided under this Bylaw or as may be requested by the Clerk.
- (7) At the time of renewal, every person shall re-submit the above required documents to the satisfaction of the Clerk.
- (8) Receipt of the application for a STR licence or the application for a renewal of STR licence shall not constitute approval of the application for, or renewal of a licence, nor shall it obligate the Clerk to issue or renew any such licence.

4.2 Powers of the Clerk

- (1) The Clerk shall:
- (a) receive and process all applications for STR and applications for renewal of STR licences to be issued under this Bylaw;
 - (b) issue licences and renew licences, either conditionally or unconditionally, to any person who meets the requirements of this Bylaw except where:
 - i. the conduct of an applicant affords reasonable grounds for belief that the applicant or authorized agent for the applicant has not carried on, or will not carry on the business in accordance with the law;
 - ii. there are reasonable grounds for belief that the carrying on of the business may be adverse to the public interest; or
 - iii. the applicant is indebted to the City in respect of fines, penalties, judgments, outstanding property taxes, or any other amounts owing, proof of the contrary to be provided by the applicant;
 - (c) with respect to subsection (1)(b)(ii.), include in the Clerk's consideration, any record of offence that is less than (3) years and relevant to the nature of the business, or any record of offence that directly affects the applicant's or licensee's ability to competently and responsibly carry on the business;
 - (d) make or cause to be made all investigations deemed necessary relative to the applicable application so received;
 - (e) maintain complete records showing all applications and licences issued;
 - (f) may revoke or suspend a licence in accordance with Section 6 of this Bylaw; and
 - (g) generally perform all the administrative functions conferred upon them by this Bylaw.
- (2) Licences issued pursuant to this Bylaw are conditional on compliance by the licensee with all municipal Bylaws, including, but not limited to, the City's Zoning Bylaw, the City's Property Standards Bylaw, the City's Noise Bylaw, and

compliance with all Provincial and Federal legislation. A confirmed violation of any of the aforesaid legislation and Bylaws shall result in the revoking of a license.

4.3 Licensee's Responsibilities

- (1) Any person operating or carry-on business as an STR shall make available to all occupants a copy of the house rules, stating the exclusive items as listed in the City's STR Licensing Guidelines, and include but not be limited to stating the City noise curfew as set out in the City's Noise Bylaw.
- (2) Any person operating or carry-on business as an STR shall post a copy of their STR Licence in an area plainly visible to anyone approaching a point of entry to the dwelling unit.

5. TERM OF LICENCE

- (1) A licence issued under the provisions of this Bylaw shall expire on the third (3rd) calendar year after being issued. Therefore a license obtain by March 1, 2023 will expire on December 31, 2026 and need to be renewed between January 1, 2027 and before March 1, 2027 for the licensed STR and licensee to continue to be in good standing within the City. Delayed renewal may result in non-issuance by the Clerk.

6. REVOCATION AND SUSPENSION

- (1) The Clerk may revoke or suspend a licence where:
 - (a) the licensee would be disentitled to a licence or a renewal of a licence for the reasons set out in this Bylaw;
 - (b) the licensee has failed to comply with the regulations required by this Bylaw, any other City Bylaws, including but not limited to Municipal Accommodation Tax Bylaw, Property Standards Bylaw, any law; or
 - (c) the licence was issued in error.
- (2) If the Clerk is satisfied that the continuation of the licence poses an immediate danger to the health or safety of any person, may, for the time and such conditions as are considered appropriate and without a hearing, suspend a licence for not more than 14 days, and, prior to suspending the licence, shall provide the licensee with the reasons for the suspension in writing or orally, with an opportunity for the applicant to respond.
- (3) The decision to revoke or suspend a license, except for under the conditions stated in 6(2), is final.

7. ADMINISTRATION AND ENFORCEMENT

7.1 Enforcement Agency

- (1) The Sault Ste. Marie Police Service and the City's Municipal Bylaw Enforcement Officer(s), or a designate, shall be responsible for the enforcement of this Bylaw.

7.2 Inspections and Re-inspections

- (1) The Sault Ste. Marie Police Service, a Municipal Bylaw Enforcement Officer or any person acting under those persons, or any person authorized by the City may at reasonable times during business hours inspect as much of any place or premises carrying on any business in respect of which a person has or is required to have a Licence.
- (2) When a re-inspection is required to confirm compliance with the provisions of this Bylaw or any other Bylaw, a fee in the amount set out in the City of Sault Ste. Marie's User Fee Bylaw shall be charged.
- (3) No person shall obstruct or hinder, or attempt to obstruct or hinder, an officer, in the exercise of a power or the performance of a duty under this Bylaw.
- (4) No person shall refuse to produce any documents or things required by an officer under this Bylaw, and every person shall assist any entry, inspection, examination, or inquiry by an officer.
- (5) No person shall knowingly furnish false information to the City or an officer with respect to this Bylaw.

7.3 Officers Right of Access

- (1) An officer may enter upon and within, and inspect any land, property, building or structure at any time to determine if any section of this by-law is complied with, or to determine if any direction, notice or order issued pursuant to this Bylaw or the Municipal Act or any court has been complied with, or to perform any remedial work authorized by this Bylaw.
- (2) Notwithstanding subsection 7.1 (1), an officer shall not enter or remain in any room or place actually used as a dwelling unit unless the provisions of Section 437 of the Municipal Act are complied with.
- (3) An officer shall have inspection powers described in Section 436 of the Municipal Act.

7.4 Orders, Notice, and non-compliance

- (1) Where person or licensee is in contravention of any provision of this Bylaw or another City Bylaw, an officer, in addition to any other action, may send a notice, in the form of a letter or email, to the applicant or licensee, describing the contravention.
- (2) Any notice or direction given under this Bylaw shall be deemed good and sufficient service if:
 - (a) personally delivered to the person to whom it is directed;
 - (b) provided by a previously established electronic means of communication;
 - (c) mailed by ordinary or registered mail, and delivery to the mailing address of the applicant, licensee, or owner of the property (according to the last revised assessment roll of the property), or
 - (d) by being posted on the subject property.
- (3) Where any person fails to comply with an order issued, in addition to any prosecutorial action or legal remedies, the Clerk shall forthwith suspend the licensee's STR licence.

7.5 Offences and Penalties

- (1) Every person who contravenes any of the provisions of this Bylaw, and every director of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction liable to a fine not exceeding \$25,000 for a first offence and \$50,000 for any subsequent offence.
- (2) Where a corporation is convicted of an offence under this Bylaw, the maximum penalty is \$50,000 for a first offence and \$100,000 for any subsequent offence.
- (3) For the purposes of this section, a separate violation shall be deemed to have been committed for each and every day during which such violation continues, and conviction in respect of a violation shall not operate as a bar to further prosecution if such violation continues.
- (4) The Court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.
- (5) Pursuant to Section 447 of the Municipal Act, where an owner is convicted of knowingly carrying on or engaging in a business in respect of any premises or any part of any premises without a licence required by this Bylaw, or a person is convicted of any other contravention of this Bylaw and the court determines that the applicant, licensee, or owner of the premises or part of the premises in respect

of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the premises or part of the premises be closed to any use for a period not exceeding two (2) years.

8. COLLECTION OF UNPAID FINES

- (1) Pursuant to Section 441 of the Municipal Act, if any part of a fine for a contravention of a business licensing by-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, including any extension of time for payment ordered under that Section, the City may give the person against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than 21 days after the date of the notice. If the fine remains unpaid after the final date specified in the notice, the fine is deemed to be unpaid taxes pursuant to Section 351 of the Municipal Act and may be added to the person's tax roll and collected in the same manner as property taxes.

9. ENACTMENT

9.1 Interpretation

- (1) In this Bylaw, unless the context otherwise requires, words importing the singular member shall include the plural.
- (2) Reference in this Bylaw to any legislation or City Bylaw means as may be amended or replaced from time to time, and include any regulations thereunder.

9.2 Conflict

- (1) In the case of a conflict between the provisions of this Bylaw and any other City Bylaw, the more stringent provision shall prevail.

9.3 Severances

- (1) If any section, subsection, sentence, clause, phrase or provision of this Bylaw is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the bylaw. The City hereby declares that it would have passed this Bylaw and each section, subsection, sentence, clause, phrase and provision herein, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions be declared invalid.

9.4 Title

- (1) This Bylaw may be known as the “STR Licensing Bylaw”.

9.5 Effective Date

- (1) This Bylaw shall be effective on January 1st, 2023. Any STR, as defined within this Bylaw and the City’s Zoning Bylaw, within the city of Sault Ste. Marie shall have until March 1, 2023 to be in possession of a fully issued and valid STR licence and be in compliance with all requirements within this Bylaw and other applicable City Bylaws.
- (2) The process of obtaining a licence from the Clerk includes the dwelling unit be inspected by the City’s Fire and Building Department, therefore its recommended that any applicant initiate the application process as soon as possible upon the date of passing of this Bylaw and thereafter upon renewal of any 3rd year anniversary/expiration of a licence.

PASSED in open Council this 20th day of September, 2022.

MAYOR – CHRISTIAN PROVENZANO

CITY CLERK – RACHEL TYCZINSKI