

Corporation of the City of Temiskaming Shores

By-law No. 2022-014

**Being a by-law for the licensing of short-term accommodations
in the City of Temiskaming Shores**

Whereas under Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the powers of a municipality shall be interpreted broadly to enable it to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and

Whereas under Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas under Section 11 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality may pass by-laws respecting the health, safety, and well-being of persons, parking on property, and structures including fences and signs; and

Whereas under Section 151 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality may pass by-laws to provide for a system of licenses with respect to businesses, including issuance and suspension; and

Whereas Section 434.1 of the Municipal Act, 2001, S.O. 2001, c. 25 authorizes a municipality to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the Municipal Act, 2001, in order to assist the municipality in promoting compliance with its by-laws; and

Whereas Section 434.2 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended provides that an Administrative Penalty imposed by the municipality on a person under Section 434.1 of the Municipal Act, 2001, constitutes a debt of the person to the municipality; and

Whereas under Section 436 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality may pass by-laws allowing the municipality to enter onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law, order, or license; and

Whereas under Section 444 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality may make orders requiring a person to discontinue contravening a by-law and to do the work required to correct a contravention; and

Whereas Council has engaged in public consultation, including public meetings and direct consultation with representatives of the business community and the short-term accommodation industry; and

Whereas Council considered Administrative Report No. CS-006-2022 at the February 1, 2022 Regular Council meeting, and directed staff to prepare the necessary by-law to establish a system for the licensing of short-term accommodations in the City of Temiskaming Shores for first and second reading.


Now therefore the Council of The Corporation of the City of Temiskaming Shores hereby enacts the following as a by-law;

1. That Council adopts a by-law to license Short-Term Accommodations in the City of Temiskaming Shores, a copy attached hereto as Schedule "A" forming part of this by-law.
2. That this by-law shall come into force and take effect on January 1, 2023.
3. That the Clerk of the City of Temiskaming Shores is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the by-law and schedule as may be deemed necessary after the passage of this by-law.

Read a first and second time this 1st day of February, 2022.



Mayor



Clerk

Read a third and final time this 5th day of April 2022.



Mayor



Clerk



Schedule "A" to

By-law No. 2022-014

Short-Term Accommodations By-Law

Part 1 – Definitions of Words and Phrases

Definitions of words and phrases used in this by-law that are not included in the list of definitions in this section shall have the meanings which are commonly assigned to them in the context in which they are used in this by-law.

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders and the past, present, or future tense or other related form of defined term shall have the same meaning as the defined term.

The words defined in this section have the following meaning for the purposes of this by-law.

- 1.1 **Administrative Penalty** means a monetary penalty imposed and as set out in Appendix 01 herein of By-law 2022-014, as amended for a contravention of this By-law;
- 1.2 **Applicant** means an individual who has submitted an application for a *license* to operate a *short-term accommodation*;
- 1.3 **By-law Enforcement Officer** means a person or persons duly appointed from time to time by *Council* to enforce regulatory by-laws of the Municipality;
- 1.4 **City** means the Corporation of the City of Temiskaming Shores;
- 1.5 **Council** means the Municipal Council of the City of Temiskaming Shores;
- 1.6 **License** means a license to operate a *short-term accommodation* issued pursuant to the provisions of this By-law;
- 1.7 **Licensed bedroom** means a room or area used, designed, equipped or intended for sleeping;
- 1.8 **Licensee** means an individual who holds a *license* to operate a *short-term accommodation* pursuant to the provisions of this By-law;
- 1.9 **Municipal Clerk** means the Municipal Clerk or his/her designate as appointed by *Council*;
- 1.10 **Noise By-law** means the by-law to prohibit and regulate certain noises currently in effect in the *City* and all amendments thereto;
- 1.11 **Owner** means any person who is a registered owner, has a legal or equitable interest, has a legal right to obtain possession, or who has control or management of any *property*, land, building, or structure;
- 1.12 **Premises** means any place, premises, or location, or part thereof, in which a short-term accommodation is located;

- 1.13 Property** means any lot, block, or other area in which land is held or into which it is subdivided, including the buildings and structures thereon;
- 1.14 Property Standards By-law** means the by-law regulating property standards currently in effect in the *City* and all amendments thereto;
- 1.15 Short-term Accommodation** means a building or structure or any portion thereof that offers a place of temporary residence, lodging or occupancy for any period less than 28 consecutive calendar days, throughout any part of a calendar year. *Short-term accommodation* uses do not include a hotel, motel, or other similar commercial establishment, but do include bed and breakfast establishments as defined in the *Zoning By-law*;
- 1.16 Sign By-law** means the by-law regulating signs currently in effect in the *City* and all amendments thereto;
- 1.17 Zoning By-Law** means the Zoning By-law currently in effect in the *City* and all amendments thereto.

Part 2 – General Provisions

1. No person shall *operate a short-term accommodation* in the *City* unless that person has first obtained a *license* in accordance with the provisions of this By-law.
2. Only the *owner* or the lessee may apply for and hold a *license to operate a short-term accommodation*. If the *applicant* is the lessee, written permission from the *owner* is required.
3. All municipal taxes, fees, and other charges for the *property* must be current and not in arrears and any open building permits must be closed before a *license* will be issued.
4. *Short-term accommodations* must be fully serviced with municipal water and sanitary sewer services, or with a system approved by the Timiskaming Health Unit.
5. The *owner* and/or *licensee* will be held responsible for contraventions by tenants and guests of the *Noise By-law*, *Property Standards By-law* and any other applicable by-laws and regulations.
6. *Short-term accommodations* shall be operated in compliance with the following provisions:
 - a. The following shall be made available to guests in each *licensed bedroom*:
 - i. A copy of the current *license*;

- ii. A copy of the current *Noise By-law*;
 - iii. A copy of the approved site plan showing the designated parking areas/spaces;
 - iv. A copy of the approved floor plans;
 - v. The contact information of a responsible person, within the City, who maintains the *property* and manages guests.
- b. Only signage in accordance with the *Sign By-law* shall be displayed.
7. The *By-law Enforcement Officer* may require access to the *premises* between the hours of 8:30 a.m. and 4:30 p.m. The provision of access is a requirement of this By-law to verify the health and safety of the *premises* and to verify compliance with this By-law and any other applicable by-law and/or regulations.

2.1 Parking

- a. Parking requirements for *short-term accommodations* shall be one parking space for each *licensed bedroom* in addition to the required parking for the dwelling and any other on-site uses, as set out in the *Zoning By-law*.
- b. The total number of parking spaces required shall be determined according to the criteria in place at the time of the initial application for *license* provided that the *property* has been continually used under the authority of a *license* since the time of the initial application for *license*. In the event that the *property* has not been continually used under the authority of a *license* since the initial application, the total number of required spaces shall be determined according to the criteria in place at the time of the current application held by the *licensee*.
- c. The *licensee* shall be responsible for ensuring that guests park in the areas designated on the approved site plans.

Part 3 – Licensing Process

The *Municipal Clerk* shall be responsible for the administration of this By-law.

3.1 Application Requirements

- a. An application for a *license* to operate a *short-term accommodation* shall be submitted to the *Municipal Clerk*, and shall include:
 - i. The location of the *short-term accommodation premises* on the *property*, and any and all other buildings and structures with setbacks indicated from all *property* lines;
 - ii. The location and dimensions of the parking area(s) and the required parking spaces;

- iii. The location and dimensions of the driveway access to the required parking spaces;
 - iv. The location and dimensions of any the outdoor amenity area(s) and features (eg. deck, patio, hot tub, pool).
- b. A clear and legible floor plan for each floor of the *short-term accommodation premises* showing:
- i. The proposed use and dimensions of each room;
 - ii. The location of all fire extinguishers;
 - iii. The location of all exits;
 - iv. The location and dimensions of all windows.
- c. The application fee paid in full as set out in Appendix "1" to this By-law;
- d. The *licensee* shall be responsible for informing the *Municipal Clerk* in writing of any changes to the information contained in the application.
- e. The submission of false or misleading information will result in the application being voided and the application fee being surrendered to the *City*.

3.2 Application Process

- a. Upon receipt of a complete application, the *Municipal Clerk* shall:
- i. Forward the application to the Corporate Services Department and the Fire Department;
 - ii. Forward the application to the Timiskaming Health Unit for properties that are not serviced with municipal water and/or sanitary sewer services;
 - iii. Arrange for a *pre-license* inspection of the *premises* with the *applicant* and the *By-law Enforcement Officer* and any other *City* staff as may be necessary, to ensure the accuracy of the information contained in the application and compliance with the following:
 - 1) The provisions of this By-law;
 - 2) The Ontario Fire Code;
 - 3) The Ontario Building Code;
 - 4) The *Property Standards By-law*;
 - 5) The *Zoning By-law*;
 - 6) Any other *City* by-law that may affect the status of the application or the issuance of a *license*.

3.3 License Issuance and Denial

- a. Where the complete application has been reviewed and the pre-*license* inspection completed and no issues/concerns have been noted, or all issues/concerns have subsequently been addressed, the *Municipal Clerk* shall issue a *license*.
- b. The *Municipal Clerk* may refuse to issue a *license* under the following circumstances:
 - i. If any of the information submitted in the application is incomplete or incorrect or the application fee has not been paid;
 - ii. If a *license* has previously been revoked, suspended, made subject to special conditions, or where the *owner* and/or *licensee* has a history of contravention of this or any other *City* by-law;
 - iii. If the application does not comply with the requirements included in this By-law.

3.4 License Time Period

- a. A *license* shall be valid for two years from the date of issuance, as indicated on the *license*.
- b. Upon expiration of the *license* the *licensee* shall be responsible for applying to renew the *license* and the *City* will not provide notice that the *license* is due to expire.
- c. When a *property* is sold to which a *short-term accommodation license* applies, the new *owner* has six months from the possession date to apply for a *license* in order to maintain the *short-term accommodation* status under the most recent *license* and regulations.

3.5 Payment of Fees

- a. Upon issuance of a *license* the *licensee* shall pay the annual fees for the duration of the *license* period.

3.6 Refunds and Penalties

- a. If a *license* application is denied the application fee will not be refunded to the *applicant*.
- b. Should a *licensee* wish to cancel their *license* during the two-year term, the *licensee* must advise the *Municipal Clerk* in writing that they have not operated in the year in which they are requesting the refund. A full refund for the remaining terms of the *license* will be issued. A refund must be requested no later than June 1st of the year in which the refund is being requested.

Part 4 – Enforcement and Violations

- a. The *licensee* shall be responsible for informing the *Municipal Clerk* in writing of any changes to the approved information or any deviation to the approved plans within seven (7) days of such change or deviation. Nothing in this By-law shall permit a *licensee* to rent any rooms other than those identified on the floor plans approved by the *City*.
- b. The *By-law Enforcement Officer* is empowered, upon presentation of proper credentials, to enter the *property and/or premises* at any reasonable time to inspect any building, structure, or the *property and/or premises* for the purpose of determining whether this By-law, or a notice or order issued against the *property* is being complied with. Such inspections shall be carried out during business hours, being between 8:30 a.m. and 4:30 p.m., unless an emergency situation exists where public safety is at risk.
- c. When, in the opinion of *City* staff, a violation of this By-law has occurred or exists, the *Municipal Clerk* shall issue a written notice to the *owner*. The notice shall specify the sections of the By-law to which a violation is occurring, and shall state the timeframe within which the violation must be corrected. If the violation is not corrected within the stipulated timeframe the *City* may correct the alleged violation at the expense of the *owner*.
- d. Service of any notice under this Section shall be carried out by personal service or registered mail upon the *licensee*, and, if the *owner* is not the *licensee*, upon the *owner* by the *Municipal Clerk* or *By-law Enforcement Officer*, or by hand delivering the notice to the address of the *licensee* as indicated on the application form and, if the *owner* is not the *licensee*, to the address of the *owner* as listed in the *City's* assessment role.
- e. Where notice is given by personal service, the serving of the notice shall be considered complete on the date the notice is delivered. Where notice is given by registered mail, the serving of the notice shall be considered complete two (2) business days after the mailing of the notice.

4.1 License Suspension and Revocation

- a. A *license* may be suspended, revoked, or made subject to special conditions for any of the following:
 - i. Any breach of the provisions of this By-law;
 - ii. Any breach of the provisions of any other applicable by-law or regulations;
 - iii. Refusal to comply with any notice of violation within the stipulated timeframe;
 - iv. The determination that any information submitted in the application was false or misleading.

4.2 Appeal

- a. An *applicant* whose application has been refused, or a *licensee* whose *license* has been revoked who is not satisfied with the reasons given for refusal of the application of revocation of the *license* may appeal such refusal or revocation to *Council*.
- b. An appeal must be made in writing to the *Municipal Clerk* no later than fourteen (14) days after the service of notice of refusal or revocation has been completed and must set out the *applicant* or *licensee's* reasons for appealing the refusal or revocation.
- c. Upon receipt of an appeal, staff shall provide the application information and any and all background information for *Council's* consideration at the next available regularly scheduled *Council* meeting.

Part 5 – Penalty for Non-Compliance

1. Every Person who contravenes a provision of this By-law shall upon the issuing of a notice, in accordance with Part 4 of this By-law, is liable to pay the *City* an *Administrative Penalty* in the amount set out in Appendix 01 herein.
2. An *Administrative Penalty*, that is not paid within 15 days after it becomes due and payable, shall be deemed to be unpaid taxes and may be collected in the same manner as taxes in accordance with section 434.2 Municipal Act, 2001, S.O. 2001, c. 25, as amended.

Part 6 – Conflict and Severability

1. If any portion of this By-law is found to be in conflict with any provision of any *Zoning By-law*, the Ontario Building Code, the Ontario Fire Code, other safety regulations, or any other regulations or by-law of the *City*, the provision which establishes the higher standard shall prevail.
2. Should any Section, clause, or provision of this By-law be declared by a Court of contempt jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.

Fee Schedule & Administrative Penalty

Application fee:	\$250.00 (non-refundable)
Inspection fee:	\$250.00 (non-refundable)
Annual fee:	\$250.00 per licensed bedroom
Appeal fee:	\$500.00 (non-refundable)
Operate without a license penalty:	\$2,500 annually