

STAFF REPORT



To: Members of the Planning Advisory Committee
From: Melanie Ducharme, Clerk/Planner
Department: Planning & Building
Subject: Proposed Regulations for Short-Term Rental Accommodations
Date: September 8, 2023

BACKGROUND:

Council for the Municipality of West Nipissing undertook a term planning exercise in early January 2023 and subsequently adopted the Term Plan in May 2023. In the Plan, Councils' initiatives were clustered under several pillars, one of which was Environmental Stewardship. The establishment of a by-law to regulate short-term rental accommodations (STRAs) and accompanying zoning by-law amendment was identified as a priority for this term to ensure the long-term health of West Nipissing's environment as well as the continued use and enjoyment of property by all residents.

In April 2023, the Planning staff provided a report to the Planning Advisory Committee to provide a high-level overview of Short-Term Rental Accommodations and to list various options available for regulation. The Committee directed staff to develop a regulation framework for STRAs in West Nipissing.

Based on research carried out, and a review of the processes undertaken in other municipalities on this subject, the recommended course of action would be to undertake an amendment to the West Nipissing Zoning By-law 2014-45 and to develop a separate by-law to govern licensing, regulation and enforcement of STRA's. The recommended approach is anticipated to achieve the following goals;

- address potential conflicts and land use compatibility issues within residential areas;
- protect long-term housing availability in all residential zones throughout the Municipality of West Nipissing;
- identify the positive economic impacts that STRAs can provide for individuals, businesses and the tourism sector at large;
- protect STRA guests, neighbours and operators from a health and safety perspective; and
- provide a vehicle for enforcement of non-compliant STRA owners.

ZONING BY-LAW AMENDMENT

Purpose

A Zoning By-law Amendment is required to establish where STRAs are permitted in the municipality and to properly define the uses. This report will address the differences between a principal dwelling unit STRA and a non-principal dwelling unit STRA. A zoning by-law will define and regulate where each types of STRAs may be permitted. A short explanation would be that a principal dwelling unit STRA is a form of home sharing, while a non-principal dwelling unit STRA is considered a commercial use similar to a hotel.

Summary of Proposed Amendments

The following amendments are proposed to Zoning By-law 2014-45.

Applicable Section of Zoning By-law 2014-45	Proposed Amendment
Section 2 – Definitions	Include definitions for the following terms: <ul style="list-style-type: none"> • ‘Short-Term Rental’; • ‘Principal Dwelling Unit Short-Term Rental’; and • ‘Non-Principal Dwelling Unit Short-Term Rental’.
Table 6.2 – Permitted Residential Uses	Include principal dwelling unit short-term rentals as a permitted use in the following residential zones: <ul style="list-style-type: none"> • Residential First Density (R1) • Residential Second Density (R2) • Residential Third Density (R3) • Residential Fourth Density (R4) • Rural Residential (RR)* • Shoreline Residential (SR)* <p><i>*Include a note which requires all short-term rentals on septic system to provide a valid permit of record from the North Bay Mattawa Conservation Authority.</i></p>
Table 7.1 – Permitted Uses in Commercial Zones	Include non-principal dwelling unit short-term rentals as a permitted use within the following commercial zones (existing dwellings only): <ul style="list-style-type: none"> • General Commercial (C1) • Tourist Commercial (C3)* <p><i>*Include a note which requires all short-term rentals on septic system to provide a valid permit of record from the North Bay Mattawa Conservation Authority.</i></p>
Table 9.1 – Permitted uses in Agricultural and Rural Zones	Include principal dwelling unit short-term rentals as a permitted residential use in the Rural (RU)* zone. <p><i>*Include a note which requires all short-term rentals on septic system to provide a valid permit of record from the North Bay Mattawa Conservation Authority.</i></p>
Table 9.2 – Permitted Accessory Uses in Agricultural and Rural Zones	Include principal dwelling unit short-term rentals as a permitted accessory use in the Rural (RU)* zone. <p><i>*Include a note which requires all short-term rentals on septic system to provide a valid permit of record from the North Bay Mattawa Conservation Authority.</i></p>

Planning Policy:

Growth Plan for Northern Ontario (GPNO 2011)

The Growth Plan for Northern Ontario (GPNO 2011) was introduced on March 3rd, 2011. All Planning Applications must consider this Plan as part of the evaluation process. Section 3(5)(b) of the Planning Act

requires that decisions made under the Planning Act need to conform to the Provincial Plan or shall not conflict with it, as the case may be.

The GPNO 2011 is a policy document intended for shaping development in Northern Ontario over a 25-year period. It outlines strategies that deal with economic development, education, community planning, transportation/infrastructure, environment, and Aboriginal peoples. This Plan is primarily an economic development tool that encourages growth in Northern Ontario. Specific Planning related policies, including regional economic planning, the identification of strategic core areas, and targets for intensification, have not yet been defined by the Province or incorporated into the Official Plan. Section 4 of the GPNO (Communities) deals with land use planning matters and speaks to creating a vision for a community's future. The Municipality of West Nipissing achieves this through the implementation of the Official Plan. The proposed Zoning By-law Amendment conforms with the policies and direction provided by the GNPO.

Provincial Policy Statement (PPS) 2020

The proposed amendments have been reviewed with respect to the policies contained in the Provincial Policy Statement (PPS). The PPS is issued under the authority of Section 3 of the Planning Act, which requires that planning decisions "shall be consistent with" policy statements issued under the Act.

The PPS 2020 speaks to building strong, healthy communities. This is achieved through promoting strong, liveable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth. Relevant sections of the PPS are outlined below.

Section 1.1.1 b) of the PPS states that healthy, liveable and safe communities are sustained by *"accommodating an appropriate affordable and market-based range and mix of residential types (including single detached, additional residential units, multi-unit housing, affordable housing and housing for older persons) [...] recreation [...] and other uses to meet long-term needs"*.

The proposed amendments will provide additional measures to ensure that the long-term housing stock is protected from short-term rental accommodations to meet the long-term needs and requirements of the current and future residents.

Section 1.3.1 provides that Planning authorities shall promote economic development and competitiveness by *"providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses"*.

Section 1.7.1 indicates that long-term economic prosperity should be supported by *"(a) promoting opportunities for economic development and community investment-readiness", "(d) maintaining and, where possible, enhancing the vitality and viability of downtowns and main streets;"*, and *"(h) providing opportunities for sustainable tourism development"*.

The proposed amendments will facilitate an appropriate balance between ensuring economic prosperity and meeting existing and long-term housing needs.

West Nipissing Official Plan

The West Nipissing Official Plan was approved in 2011 and will undergo a review in the coming months. Notwithstanding, however, the primary goal of any Official Plan is to maintain and enhance the quality of life for the residents by providing a policy framework for Council to make good land use planning

decisions. The West Nipissing Official Plan, approved in 2011 does not contain specific policies regarding short-term rental accommodations, however it does outline housing and economic objectives which are relevant to the regulation of short-term rental accommodations. Relevant sections of the Official Plan are outlined below.

Section 1.01 states that *“the intent of the Official Plan is to establish a policy-drive framework for land use planning for the municipality [...] to accentuate the best attributes and amenities of the municipality; to foster a progressive approach to community and economic development with an environmentally friendly context”*

Section 3.04 provides that one of the objectives of the Official Plan is to provide for a *“balanced opportunity for growth and settlement across the municipality”* as well as *“the land use planning framework to sustain existing employment and encourage and stimulate new economic development.”*

Section 3.06.10 provides for broad housing policies for the Municipality, as *“...the Municipality intends to make provision for a range of housing types and densities that are appropriate for meeting the housing needs of the small settlement areas and the rural areas that characterize the municipality of West Nipissing.”*

Section 3.06.11 *“home based businesses are encouraged as an important economic activity”* and *“[...] the Municipality shall make provision in the zoning bylaw for governing home-based businesses”* and *“Home-based businesses shall not be permitted where they will create a public nuisance for neighbouring properties.”*

It is important that the Municipality of West Nipissing continue to ensure that adequate housing options are available while also promoting economic development and competitiveness within the municipality.

The distinction between Principal Dwelling Unit Short-Term Rentals and Non-Principal Dwelling Unit Short-Term Rentals will help to ensure the protection of West Nipissing’s housing supply while allowing the opportunity for residents to open their homes to the travelling public, promoting both local tourism and economic opportunities for residents.

Summary of Planning Policy Review

The proposed amendments to the West Nipissing Zoning By-Law 2014-45 are consistent with the Provincial Policy Statement and are in conformity with the Growth Plan for Northern Ontario and the West Nipissing Official Plan.

SHORT-TERM RENTAL LICENSING BY-LAW

While the zoning by-law amendment will provide for the zones in which an STRA can be located, a stand-alone by-law is also necessary in order to license, regulate and govern short-term rentals in the municipality of West Nipissing, including enforcement and a demerit point system for suspension and revocation of licenses.

The following contains some of the key regulations in the proposed licensing by-law, however the entire draft by-law is attached hereto.

General Proposed Regulations

- Non-Principal dwelling short-term rentals shall only be permitted in designated commercial zones.
- Short-term rentals cannot be operated or advertised unless they hold a current and valid license (This can also be enforced through the online platforms AirBnb, VRBO, etc.).
- The maximum number of persons allowed in any short-term rental will be 8 (excluding children under the age of 10 years)
- Short-term rental listings are required to include a current and valid license number on any and all advertisements for the premises.
- All applications will be subject to an inspection prior to the issuance of a license to verify the information contained in the license application;
- All short-term rentals will be required to have a dedicated, responsible person who will be able to respond to phone calls, emails, and attend the premises, when required within 60 minutes.
- A maximum of 4 approved guest rooms can be rented within a premise. Each approved guest room can have a maximum of 2 guests, with a total of 8 occupants for the premises, excluding children under the age of 10.
- Short-term rentals will not be permitted to be used for “event” gatherings, such as birthday parties, weddings, bachelor/bachelorette parties, etc.
- Required parking will be the same as the parking regulations for the applicable zone in which the subject property is located, according to the Zoning By-law.
- Properties with septic systems are required to provide a valid permit of record, if applicable, that will support the short-term rental premises.

Proposed Classes of Licenses

License Class	Class Description
Class A – Principal Dwelling Unit Short-Term Rental	<ul style="list-style-type: none"> • permitted in R1, R2, R3, R4, RR and SR zones; • permitted to be rented for a maximum of 28 days for any single stay and maximum of 180 days per year; • must be the owner’s principal dwelling unit (where they live primarily); • the maximum number of Class A licenses permitted to be operated by the same owner is 1.
Class B – Non-Principal Dwelling Unit Short-Term Rental	<ul style="list-style-type: none"> • permitted in C1 and C3 zones • permitted to be rented for a maximum of 28 days for any single stay and maximum of 365 days per year; • there is no limit to the number of Class B licenses for the same owner (s);

Class C – Principal Dwelling Unit Short-Term Rental
(Rural)

- permitted in RU zones;
- permitted to be rented for a maximum of 28 days for any single stay and maximum of 180 days per year;
- must be the owner’s principal dwelling unit (where they live primarily);
- the maximum number of Class C licenses permitted to be operated by the same owner is 1.

Licensing Requirements

- Every application for a new license, or the renewal of an existing license shall include a completed application form with the following documents;
 - i. site plan of the premises;
 - ii. interior floor plan of the dwelling which shall be labeled to include interior rooms, including the guest rooms;
 - iii. a completed Dedicated Responsible Person Consent and Acknowledgment Form on a form as prepared by the municipality; and
 - iv. any other documents as determined by the municipality.
- Copy of Transfer/Deed or Property Identifier Number (PIN) Sheet proving evidence of ownership.
- Proof that the applicant, if a corporation, is legally entitled to conduct business in Ontario.
- The License Issuer shall receive and review an application and schedule the necessary inspection to ensure that the premises comply with the provisions of the proposed by-law.
- Issued licenses must be renewed on a yearly basis.
- The establishment of a demerit point system in order to hold non-compliant operators accountable (Schedule ‘A’ of the attached By-law).

Fees and Cost Recovery

- Fees shall be levied in accordance with the By-law (to be established).
- Where an Officer conducts an inspection and determines that a short-term rental is not in compliance with this By-law, the Officer may impose an inspection fee in accordance with the User Fees By-law, including increased fees for multiple inspections.
- Where an owner is in default of payment of fees for more than 30 calendar days after due, the municipality may add the cost to the tax roll of the subject property and collect the amount in the same manner as property taxes.

Appeals

- Where the License Issuer has refused to issue or renew a license, the applicant may appeal such decision to Council through a letter of appeal to the Chief Building Official within ten days of the decision.

Inspection and Enforcement

- In addition to scheduled inspections conducted during the license application process, every Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - a) the provisions of this By-law;
 - b) a direction or order of the municipality made under this By-law;
 - c) condition of a license passed under this By-law; and

- d) a court order made pursuant to section 431 of the *Municipal Act, 2001* and section 7.5. of the By-law.
- The municipality's power of entry may be exercised by an Officer, or agent for the Municipality and this person may be accompanied by any person under their direction, including law enforcement services.
- No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the lawful exercise of a power or the performance of a duty under this By-law.
- An Officer who finds that a property does not conform with any of the provisions of this By-law may make an Order:
 - a) stating the municipal address or the legal description of the property;
 - b) giving reasonable particulars of the activity to be discontinued;
 - c) indicating the time for complying with the terms and conditions of the Order; and
 - d) indicating the final date for giving notice of appeal from the Order.

Financial Implications

At this time, consideration has not been made as to the proposed licensing fees. Once public consultation has been undertaken and the proposed by-law is in substantially final form, an analysis will have to be undertaken by financial controls staff as to the administrative time which will be required for the licensing process, including inspections, as well as the potential cost of enforcement. The licensing fees should be commensurate with the cost of administration to ensure cost recovery.

EXISTING STRA's

It is understood that there are existing STRAs currently in West Nipissing. Typically, when a zoning by-law is amended, a pre-existing situation will be considered "legal non-conforming". Notwithstanding, however, existing STRA's will be required to obtain a license and will be required to provide proof that any non-conformance with new regulations existed prior to the enacting of the regulations. Further, no non-confirming situation which poses a health or safety risk or is in violation of any law or regulation of the municipality or other regulatory body, shall be permitted to continue. All STRA's, on private septic services will be required to furnish proof from the North Bay Mattawa Conservation Authority that the septic system is compliant with laws and is adequate for the proposed use.

CONSULTATION

The *Planning Act* requires that the Municipality hold a public meeting for the purpose of amending the West Nipissing Zoning By-Law. It is recommended that the public meeting for the amendments with regard to STRAs be a "stand-alone" meeting, scheduled for that purpose only.

It is also proposed that a public feedback form be established on the West Nipissing website to allow persons to provide written submissions. In discussions with Communications staff, it has been proposed that the form includes key questions (similar to a survey) which will ensure that the responses remain focussed on the subject matter of the proposed regulation of STRA's. Persons may also provide comments by email, written submission or may attend the public meeting for the purpose of making representation in person.

Once a date is chosen, notice of the public meeting will be given in the local newspaper, on the Municipality's website and social media platforms to ensure the broadest possible circulation.

CONCLUSION

The proposed approach and regulations outlined herein should by no means be considered to be exhaustive or final. It is anticipated that the public consultation to be undertaken with respect to the proposed licensing by-law as well as the statutory public meeting, required under the *Planning Act* for the proposed zoning by-law amendments, will serve as an additional resource to this Committee and to Council in the adoption of a final document to regulate and govern short-term rental accommodations in the municipality of West Nipissing.

Respectfully submitted,

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Municipal Clerk/Planner