

THE CORPORATION OF THE MUNICIPALITY OF SOUTH DUNDAS

BY-LAW NO. 2022-33

A By-law to license and regulate the operation of Short-Term Rentals.

WHEREAS the *Municipal Act, 2001*, ("**Municipal Act**") provides the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS pursuant to the Municipal Act, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this act or any other Act;

AND WHEREAS pursuant to the Municipal Act, a municipality has the authority to implement business licensing in the interest of health and safety, well-being of persons, consumer protection and nuisance control;

AND WHEREAS the Municipal Act enables a municipality to pass by-laws for imposing fees or charges for permits and services provided or done by them;

AND WHEREAS pursuant to the Municipal Act, a municipality has the authority to impose a system of administrative penalties and fees as an additional means of encouraging compliance with this By-law;

AND WHEREAS the Municipal Act permits a municipality to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a By-law direct, Order or License;

AND WHEREAS the Municipal Act provides that if a municipality is satisfied that a contravention of a by-law of the municipality passed under this Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

AND WHEREAS the Council of the Municipality of South Dundas considers it advisable that such licensing, regulation and governing takes place with regard to Short-term Rentals as defined in this By-law;

AND WHEREAS Council has enacted Zoning By-law Amendment to By-law No. 2021-12 under the provisions of the Planning Act, as amended, with respect to Short-term Rentals within the Municipality and having done so desires to provide for a system of licensing to implement said policies and provisions;

AND WHEREAS pursuant to the Municipal Act, Council is exercising its authority to provide for a system of licenses with respect to Short-term Rental businesses;

NOW WHEREAS the Council of the Corporation of the Municipality of South Dundas hereby enacts as follows:

1.1 Short Title

This By-law may be cited as the "Short-term Rentals Licensing By-law."

1.2 Definitions

The following definitions apply to this By-law:

"Accessory Building" means a detached subordinate building that,

- a) Is devoted exclusively to a use normally incidental to the main use of the property;
- b) Is not used for human habitation;
- c) Is on the same lot as the main building, and an accessory building includes a farm building.

"Additional Residential Unit" means a separate dwelling unit which is either located in a single detached dwelling, semi-detached dwelling, rowhouse or an accessory building or structure.

"Bed & Breakfast Establishment" means a single detached dwelling in which the owner and operator who occupies the dwelling and which provides no more than four (4) guest rooms for temporary accommodations of the travelling public. Bed & Breakfast Establishments offer breakfast meals to the accommodated guests.

"Building" means a structure occupying an area greater than ten (10) square meters consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, words, fixtures and service systems appurtenant thereto, and includes:

- a) a structure occupying an area of ten (10) square meters or less that contains plumbing, including the plumbing appurtenant thereto;
- b) plumbing not located in a structure such as a sewage system; or
- c) structures designated in the Building Code.

"Building Code" means the regulation made under Section 34 of the Building Code Act, 1992, S.O. 1992, c.23, and amended.

"Building Code Act" means the Ontario Building Code Act, 1992, S.O. 1992, c.23, as amended.

"Business, Short-Term Rental" shall mean the business of making or attempting to earn revenue by engaging in or by advertising the availability of a Short-Term Rental dwelling unit for a fee charged or other goods and valuable consideration.

"Clerk" means the person or his/her designate as appointed by the Council of the Municipality of South Dundas.

"Council" means the Council of the Municipality of South Dundas.

"Director" means the Director in charge of By-law Enforcement of the Municipality of South Dundas or an authorized representative.

“Dwelling, Principal Residence” means a dwelling that is owned or rented alone or jointly with another person, where the person(s) is ordinarily a resident and has designated the dwelling as their principal place of residency on their income tax filing and in other government records. This may include a long-term tenant residing for a minimum of 6 consecutive months.

“Dwelling Unit” means a suite operated as a single housekeeping unit, used or intended to be used as a domicile by one (1) or more persons and usually containing cooking, eating, living, sleeping, and sanitary facilities. For the purposes of this By-law, a dwelling unit does not include a tent, trailer, or a room or suite of rooms in a boarding or rooming house, a hotel, motel, or motor home.

“Fee” means as set out in the Municipal Fees and Charges By-law, as amended.

“Guest Room” means a room or suite of rooms used or maintained for the accommodation of individuals to whom hospitality is extended for compensation.

“Inspector” means a property standards officer, building inspector, or any other person appointed to enforce this By-law, and includes the term Officer.

“License” means the certificate or other similar document issued pursuant to this by-law as proof of licensing under this by-law.

“Licensed” means to have in one’s possession a valid and current License issued under this By-law and unlicensed has the contrary meaning.

“Licensee” means the person or business issued a License under this By-law to operate a Short-Term Rental.

“Municipality/Corporation” means the Corporation of the Municipality of South Dundas.

“Officer” means a property standards officer who has been assigned or appointed by the Municipality of South Dundas as a Property Standards Officer and/or a Municipal Law Enforcement Officer to either administer or enforce this By-law and includes a building inspector for the Municipality of South Dundas or their designate.

“Owner” includes,

- a) the person managing or receiving the rent of the land or premises, whether on the person’s own account or as an agent or trustee of any other person, or who would receive the rent if the land and premises were let; and,
- b) the licensee or occupant of the property who, under the terms of a license, is required to repair and maintain the property in accordance with the standards for maintenance and occupancy of a property.

“Parking Area” shall mean an area or structure, other than a street, used or intended to be used for the temporary storage of motor vehicles and includes a private garage or carport, aisles, driveways, and parking spaces.

“Property” means a building or structure, or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile structures, mobile buildings, mobile homes, outbuildings, fences, retaining walls, landscaping, walkways, and erections thereon and includes vacant lands.

“Renter” means the person, who has obtained entitlement to exclusive use of the Short-Term Rental unit from the Licensee.

“Responsible Person” means the owner, or an agent assigned by the owner or Licensee of the Short-term Rental unit to ensure the Short-term Rental is operated in accordance with the provisions of this By-law, the license, and applicable laws.

“Short-Term Rental” or **“STR”** shall mean a dwelling unit, that in a whole in part, is rented or available with the intention of financial compensation for an occupancy period of 30 consecutive days or less, by way of a municipal license, but does not include a hotel, motel, boarding house, tourist lodging establishment or bed and breakfast establishment.

“Zoning By-law” means the Municipality of South Dundas Comprehensive Zoning By-law, as amended from time to time.

“Proof of Placement of Insurance” means a copy of a policy of insurance or a Certificate of Insurance that shows the proof of liability coverage as required by this By-law issued by a company authorized to carry on the business of insurance in the Province of Ontario in accordance with the Insurance Act, and such insurance policy shall contain an endorsement to provide the Municipality with thirty (30) days prior written notice of cancellation or of a material change that would diminish coverage;

1.3 Interpretation

1. Words or phrases contained herein, and which are not defined by this By-law, are firstly to be assigned the definition or meaning attributed to them in the applicable zoning by-law and, failing such a definition or meaning, the everyday meaning of such word or phrase.

2.1 General Regulations

1. No person shall carry on any trade, business, or occupation of short-term rental for which a license is required under this By-law if the license has expired or been revoked; or, while the license is under suspension.
2. A person is not eligible to hold a license if the proposed use of the land, building or structure is not permitted by the Zoning By-law that applies to the property.
3. A person is not eligible to hold a license unless the person has provided a statement prepared by the Fire Chief dated within a period of 24 months of the date of application for license indicating that the premises conforms to the Fire Protection and Prevention Act and its regulations as they relate to the operation

and use of the premises for short- term rental purposes with such statement indicating the occupant load for sleeping purposes for the premises.

4. The determination of whether a certificate from the Electrical Safety Authority dated within a period of 24 months of the date of application for license indicating that the premises conforms to the Electrical Safety Code, will be determined by Fire and Emergency Services and Building Department.
5. A person is not eligible to hold a license if the person is indebted to the Municipality in respect of fines, penalties, judgments, or any other amounts owing, including awarding of legal costs and disbursements and outstanding property taxes and late payment charges against all properties owned by the owner.
6. A person is not eligible to hold a license if the property to be used for carrying on the trade, business or occupation does not conform with applicable Federal and Provincial Law and Regulations or Municipal By-laws, including, but not limited to, the Zoning By-law; Property Standards By-law; Nuisance By-law; the Building Code Act; the Ontario Building Code; the Fire Protection and Prevention Act; the Fire Code; the Ontario Electrical Safety Code; or, an order of the Medical Officer of Health.
7. The owner shall keep a record of the renter with such record containing the date of entry, the length of stay, home address of the renter readily available for inspection at all times by an Officer for a period of one year.
8. The owner shall display the license permanently in a prominent place in the short-term rental premises to which it applies.
9. Each license shall include the following:
 - (a) Building/site/location address/identifier (i.e., Emergency or 911 Number);
 - (b) License number;
 - (c) Effective date and expiry date of the license;
 - (d) Owner's name and contact information;
 - (e) Rental agent or agency's name and contact information;
 - (f) Responsible person's name and contact information; and,
 - (g) A plan, that is plaqued or framed, that depicts the location of each bedroom, smoke alarm, extinguisher and exit/egress door or window.
10. The owner of a short-term rental premises shall ensure that there is a responsible person available to attend to the short-term rental premises at all times within a period of no greater than one hour from the time of contact by way of telephone or email.
11. The owner of a short-term rental premises for which a license is required under this By-law shall allow, at any reasonable time, an employee or agent of the Municipality to inspect the premises used for the purposes of short-term rental so as to determine compliance with the requirements of this By-law, Fire Code, Building Code, Property Standards By-law or other applicable law.

12. No person shall obstruct, hinder, or otherwise interfere with an authorized employee or agent of the Municipality while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this By-law or any other Municipal By-law or Provincial legislation or regulation.
13. No person shall construct or equip a place of business or premises used for the business to hinder the enforcement of this By-law.
14. Every owner shall maintain the short-term rental premises in a clean and sanitary condition, with adequate measures for the storage and disposal of garbage and waste and sufficient levels of illumination to permit the safe use of the premises. For the purposes of this subsection, adequate measures for the storage and disposal of waste shall mean a self-enclosed building, structure, or container, located outside of the short-term rental premises, which is of a sufficient size that will store the garbage and waste generated by the premises until such garbage and waste is disposed of.
15. Every owner who is a licensee of lands owned by others shall report the short-term rental use of those licensed lands to the landowner. (ie, licensed waterfront access).
16. Every licensee shall ensure that the short-term rental premises is operated and used in a fashion such that the operation or use will not cause a disturbance.
17. Every licensee shall provide an undertaking to operate the short-term rental premises in accordance with all Municipal By-laws including, but not limited to, the Noise Control By-law, Property Standards By-law and Garbage Collection By-laws, and any applicable Provincial or Federal laws or statutes including the Ontario Fire Code and laws related to the making of a disturbance. Further, every licensee shall include in such undertaking a confirmation that they will require that each renter abide by a Renter's Code.
18. No licensee or employee of a licensee shall discriminate in the carrying on of the trade, business, or occupation of short-term rental against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.
19. The Director may revoke a license if it was issued on mistaken, false, or incorrect information.

3.1 Application

1. The requirements of this By-law apply to the trade, business, or occupation of providing short-term rentals within the geographical limits of the Municipality of South Dundas as of the date this By-law comes into effect.

2. Persons who own, operate, or offer a premises for short-term rentals as of the effective date of this By-law must file an application for a license under this By-law.
3. The determination of whether a license application is "complete" in accordance with the requirements of this By-law shall be within the sole discretion of the Director.
4. Every application for a new license or a renewal or extension of an existing license shall be submitted to the Building & By-law Department on the forms prescribed.
5. Every application for a new license or a renewal or extension of an existing license shall include:
 - a) each owner, applicant and/or agent's name, address, telephone number, facsimile transmission number and e-mail address;
 - b) a copy of the transfer/deed evidencing the ownership of the premises;
 - c) in the instance of an applicant or agent acting on behalf of the Owner, an Owner's written authorization permitting the applicant or agent to act on their behalf;
 - d) the rental agent's or agency's name, address and telephone number;
 - e) in the instance of a corporation or partnership, the name, address and telephone number of each director and officer or partner of the Owner and/or rental agent or agency;
 - f) the name, address, telephone number and e-mail address of a person who has been assigned by the owner or operator to be the responsible person for the operation and conduct of the inhabitants of the licensed short-term rental premises;
 - g) a statement from the Owner certifying the accuracy, truthfulness, and completeness of the application;
 - h) proof of placement of insurance specific to the rental nature of the property that includes a limit of liability of not less than Two Million Dollars (\$2,000,000.00) per occurrence for property damage and bodily injury and includes provisions that the Municipality will be notified of any intended cancellation by the insurer no fewer than (30) days written notice prior to such cancellation or of a material change that would diminish coverage;
 - i) floor plans and a site plan, drawn to scale and fully dimensioned, of the short-term rental premises depicting the use of the premises including the proposed occupancy of each room; occupant load for sleeping purposes of each room; location of smoke/carbon monoxide detection and early warning devices; location of fire extinguishers, and related site amenities including parking, landscaping and other buildings or structures on the land;
 - j) a Parking Management Plan that complies with the applicable Zoning by-law;
 - k) the prescribed fees; and,

- l) any outstanding fees or fines owed to the Municipality by the Owner respecting any short-term rental premises.
6. A licensee shall inform the Building & By-law Department of any changes to the information provided in Section 3.1(5) within a period of 30 days.
7. In addition to the requirements of Section 3.1(5), an applicant shall provide, if requested, evidence that the use of the short-term rental premises is protected by virtue of Section 34(9)(b) of the *Planning Act* with such evidence including, but not be limited to, a sworn Statutory Declaration confirming the continued use of the premises for short-term rental purposes from prior to the enactment of a By-law that prohibited such use through to the present; rental receipts, advertisements and any other records that may be relevant that are supportive of the establishment and continued use of the premises for short-term rental purposes; and, an opinion, from a Solicitor licensed to practice in Ontario, as to whether the premises is protected by virtue of Section 34(9)(b) of the *Planning Act* and, in support of that opinion, the reasons why.
8. Every application for a license will be reviewed by the Director to determine whether it meets the requirements of this By-law.
9. As part of the review referenced at Section 3.1(8), the application will be circulated to those agencies deemed necessary and/or relevant by the Director.
10. Those agencies referenced at Section 3.1(9) may require an inspection of the premises prior to the provision of comments and prior to the consideration of the application by the Director. The applicant shall cooperate and facilitate in arranging the inspection of the premises in a timely manner and shall be in attendance during the inspection. In the instance of the requirement of the payment of fees for such an inspection, the applicant shall pay the fees as required prior to the inspection.
11. If it is determined that an application meets the requirements of this By-law and all circulated agencies, the Director shall issue the license.

3.2 License Requirements

1. No person shall carry on any trade, business, or occupation of providing short-term rentals unless that person has first obtained a license.
2. A person who obtains a license shall comply with the regulations set out in this By-law for such license. Failure to comply with the regulations constitutes an offence.

3. An agent of persons who own, operate or offer a premises for short-term rentals purposes without a license shall also be personally liable for the compliance of the principal, beneficiary or persons they represent. Failure by such a person to comply with this By-law constitutes an offense.
4. Licenses issued pursuant to this By-law are conditional upon compliance by the licensee with all Municipal, Provincial and Federal Laws and Regulations and any conditions imposed to the holder of the license.

4.1 Administration

1. The By-law Enforcement Department is responsible for the administration and enforcement of this By-law.
2. If it is determined that an application does not meet the requirements of this By-law and the requirements of all of the circulated agencies, the Director shall refuse the issuance of the license.
3. A license shall be issued to the owner of the short-term rental premises.
4. A license is valid for the duration of one (1) calendar year period.
5. All Fees and Charges are in accordance with the Municipal Fees & Charges By-law, as amended.
6. A licensee is not eligible for the renewal or extension of an existing license unless the licensee has provided an application form.
7. A license is not transferable.
8. No person shall enjoy a vested right in the continuance of a license.
9. Licenses shall remain the property of the Municipality.
10. If at any time the Director determines as a result of evidence that is provided that the operation of a licensed short-term rental premises does not conform to the requirements of this By-law, the Director may impose an Administrative Penalty.
11. If at any time the Director determines as a result of evidence that is provided that the operation of a licensed short-term rental premises does not conform to the requirements of this By-law, the Director may commence with proceedings pursuant to the Provincial Offences Act.
12. Decisions of the Director as they relate to a license refusal and administrative penalties may be appealed to Council.

13. A person who wishes to appeal the Director's decision to Council as noted in Section 4.1(12) shall file an application for a hearing and pay the fee as prescribed. If an application for appeal has not been applied for within fifteen days of the Director's decision, the Director's decision is deemed to be confirmed. An application for appeal is not complete until the fee as prescribed is paid.
14. A person who has appealed the Director's decision noted at 4.1(12) will be given an opportunity to make written representations to or to appear before Council when it reviews the matter.
15. Council will review the matter and may affirm, modify, or rescind the decision of the Director or direct that the license be issued with such terms and/or conditions deemed appropriate by Council.
16. Decisions of Council are final.
17. Applications for license and issued licenses, along with the legal description and/or emergency number and associated owner, agent, applicant, and responsible person contact information will be posted to the Municipality's website.
18. Matters to be considered by Council, including that information identified in this section and the location, date and time of the meeting shall be posted to the Municipality's website.
19. Matters, notices, orders, and communications related to a non-compliance under a Federal or Provincial Law or Regulations or a Municipal By-law, including, but not limited to, the Property Standards By-law; the Building Code Act; the Building Code; the Fire Protection and Prevention Act; the Fire Code; the Ontario Electrical Safety Code; or an order of the Medical Officer of Health are not appealable to Council.

4.2 Revocation and Suspension

1. In accordance with Section 4.1(15), the Council may affirm, modify or rescind the decision of the Director or, direct that the license be issued with such terms and/or conditions deemed appropriate by the Council or, suspend or revoke a license.
2. Regard to the nature, severity and frequency of non-compliances related to the premises, and any other premise owned by the owner, shall be considered by Council in considering the length of a suspension and/or a revocation.

4.3 Offence and Penalty Provisions

1. Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Municipal Act, 2001, as amended, or the Provincial Offences Act and to any other applicable penalties.

2. If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.
3. If this By-law is contravened and a conviction entered, the court may also order that the premises or part of the premises be closed to any use as short-term rental.

4.4 Administrative Penalties

1. An Officer who finds that a person has contravened any provision of this By-law may issue a penalty notice addressed to that person.
2. Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice pursuant to Section 4.4(1) be liable to pay to the Municipality an administrative penalty set out in Schedule A of this By-law.
3. The penalty notice shall be given to the person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:
 - (a) Particulars of the contravention, including to which property it applies;
 - (b) The amount of the administrative penalty;
 - (c) Information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and,
 - (d) A statement advising that an administrative penalty will, unless modified or rescinded pursuant to the review process, constitute a debt to the Municipality.
4. A person may appeal an administrative penalty to Council as set out in Section 4.1(12).
5. An administrative penalty that is deemed to be affirmed constitutes a debt to the Municipality of each person to whom or to which the penalty notice was given.
6. An administrative penalty that is not paid may be added to the tax roll to the property to which it applies and collected in the same manner as taxes.

4.5 Delegation

1. For the purposes of Subsection 23.2(4) of the Municipal Act, it is the opinion of Council that the powers delegated pursuant to this By-law are minor.

4.6 Validity

1. If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law that each and every provision of this By-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.
2. If any portion of this by-law is found in conflict with any other provisions of any zoning, building, fire, safety or other by-law of the Municipality or regulations, that provision which establishes the higher standard shall prevail.

4.7 Effective Date

By-law No. 2021-119 shall be repealed in its entirety.

This By-law comes into force and effect on the day of passing.

READ and passed in open Council, signed and sealed this 14th day of March 2022.

MAYOR

CLERK

Proposed fees – to be added to Fees & Charges By-law

DEPARTMENT	FEE
BY-LAW ENFORCEMENT	
SHORT TERM RENTAL LICENSE	\$500 annual flat fee
ADDITIONAL INSPECTIONS (where applicable)	\$75 per hour per Inspector (includes complaint-based inspections)
Falsified Complaint	\$75 per hour per Inspector (charged to the Complainant)
Operate/ Advertise a Short-Term Rental without a current license	\$500
Advertising a Short-Term Rental without license number	\$500
Failure to respond to complaint within forty-five (45) minutes	\$250
Notes:	Building Inspector & Fire Inspector may be required.