

Short-term rentals

An introduction to online accommodation rentals and the potential for impact within communities.

Short-term rentals are an everyday part of the vacationing economy. Whereas most communities will have these accommodations within their corporate boundaries, it may not be a subject considered as needing land use regulation. Identifying and understanding the issues can lead a municipality toward a local approach that suits the needs of the community.



What are Short-term Rentals?

Short-term rentals, also known as tourist or vacation homes, (these terms will be used interchangeably) are a form of rental accommodation where an owner offers their house, condominium, or other living space to anyone in the world through a booking company's website for a limited length of stay. This sector of the share economy has blurred the lines on what was the realm of hotels, inns, motels, boarding houses, and bed and breakfasts. Whereas those on the hotelier side of the ledger are required to get business licenses and development approval, the tourist home caught municipalities flat-footed and began impacting neighborhoods without the benefit of any oversight. Resort towns and big city tourist destinations figured out the complexities of this new form of rental earliest, but it can now be said that most communities have short-term rentals happening to various degrees of impact.

In their earliest form without the open access to service delivery provided by a plethora of websites (Airbnb, VRBO, STR, Owner Direct, Home-to-go etc.), short-term rentals existed in other forms. These traditional forms generally went through a permitting process. In the Town of Cardston, for example, the Church of Jesus Christ of Latter-day Saints provided non-owner-occupied homes near the Temple for individuals with temple business to stay during their work. The Town having received inquiry about various individuals coming and going created the need for a discretionary use development permit to operate a dwelling in such a manner.

Church visitors would seem as benign a disruption as a tourist home could be. Essentially this example is on a small scale and was not pushed by short-term rental websites or available to the public. Communities have faced complaints on differing scales including renting RV camping spots on country residential acreages next to neighbors with million dollar properties, short-term renters using a house as a weekend 'party' place, or investment companies buying up houses in communities as a means of diversifying their portfolio. What was localized as a grassroots tourism industry with individual websites has changed into something different.

This periodical will examine the nuanced business that is the industry of short-term rentals and how they might fit into southern Albertan communities.

Policy context

As early as 1999, the Town of Canmore introduced the definition of 'Tourist Home' into its Land Use Bylaw complete with a minimum \$2500 fine for a first offense and \$5000 for a subsequent offense of operating without the benefit of a development permit. The question of the legitimacy of the bylaw's inclusion of tourist homes was challenged



The sharing economy is a socio-economic system built around the sharing of resources. It often involves a way of purchasing goods and services that differs from the traditional business model of companies hiring employees to produce products to sell to consumers. It includes the shared creation, production, distribution, trade and consumption of goods and services by different people and organisations. These systems take a variety of forms, often leveraging information technology (particularly digital platforms) to empower individuals, corporations, non-profits and government with information that enables distribution, sharing and reuse of excess capacity in goods and services.

Source: Wikipedia.org



Province of Alberta

TOURISM LEVY ACT

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What types of accommodation are subject to the provincial tourism levy?

Historically, the provincial tourism levy was only imposed on lodging provided for consideration in hotels, motels, apartment buildings, hostels, lodging houses, boarding houses, bed and breakfasts, clubs and similar establishments. In April 2021, the list was expanded to include any stay booked on an online marketplace for less than 28 days in a “residential unit,” which includes:

- a house, cottage or another similar dwelling (including mobile and temporary units);
- a duplex or townhouse;
- an apartment or condominium;
- a part of a multi-use building that is used for a residential use; and
- land that is attributable to a building, or part of a building, referred to in any of the above subclauses and that is used for a residential use.

at the Court of Queen’s Bench in *Canmore Property Management Inc v. Canmore (Town of)*, 2000 ABQB 645. At issue was the Town’s ability to make bylaws to regulate the business as a separate land use class and to enact a system of fines. On both points the court found that the *Municipal Government Act* (MGA) provides both powers to municipalities and Madam Justice Rosemary E. Nation dismissed the rental companies claims.

During the Canmore case several other points were made clear. The court noted that a distinction can be made on a residence that is normally occupied by the owner but rented occasionally and a residence where the owner is absent, and the property is rented throughout the year on a continual basis. The court agreed with the Town that both are akin to a commercial visitor accommodation with differing impacts and that land use districts could be used to allow for or prohibit the use.

In 2002, Canmore enacted a residential mill rate equivalent to the commercial rate to separate out the use from owner-occupied residential. This move put a final stamp on the regulation of tourist homes in a resort community under pressure for affordable worker housing. And it also solidified neighborhood expectations and let traditional hoteliers know that the playing field had been leveled.

Over the last decade, the rise of the share economy and the proliferation of the online accommodation booking sites has led to exponential growth of this use. Part of the leveling of the rules, the Canadian Revenue Agency (CRA) requires a tourist home owner to declare your rental income for federal tax compliance but leaves some of the regulation and further taxation policies in the hands of provincial governments.

Most of the municipal interest in tourist homes as a land use has been brought to the fore by the implementation of the provincial Tourism Levy. As of April 1, 2021, the tourism levy of 4% applies to all accommodation provided in Alberta, excluding those listed below. This includes stays in residential units listed on an online marketplace. The tourism levy does not apply to lodging including (but not limited to):

- occupied by the same person continuously for 28 days or more;
- not listed on an online marketplace and has a purchase price of less than \$30 per day or \$210 per week; and
- provided by a person who does not list the lodging on an online marketplace and whose gross revenue from the provision of the lodging is less than \$5,000 over 12 months.

Land use considerations and impacts

If you are a small town, village, or rural municipality (including hamlets) that has little or no tourism, it is likely the impact of short-term rentals has gone unnoticed. Many communities are even surprised when they look on booking websites to find themselves having one or more

locations where their citizens have posted available dates. For those communities, it may be that there is a lack of hotel/motel space, and this option is a convenient way to provide accommodation for visiting families. Even if you have hotel/motel space in your community, it may be that the available rooms have been dedicated to the workforce of a nearby project or for low income housing. This leaves a deficit of available tourism space and may result in a market for short-term rental accommodation.

Councils in communities like those outlined above may have little concern about regulating the use through the permitting processes within a Land Use Bylaw. If they desire to have an acknowledgment, they may choose to exempt the use within the "Development not requiring a Permit" section. But the requirement of a business license will be a means by which the tracking of these establishments can at least be monitored for location, the number, potential impact on the broader community versus the local neighborhood, and complaints. On the complaints, municipalities have other enforcement mechanisms such as community standards bylaws, noise bylaws and local enforcement or police officers.

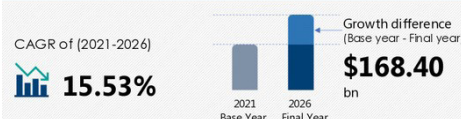
It is estimated in the southern Eastern Slopes that approximately 200-300 rooms for accommodation are needed to fill the tourism demand if the region were promoted to its full potential. As tourism growth continues, the struggle will be between meeting the demand for short-term accommodation versus the need for workforce housing.

It is notable that those engaged in short-term accommodation suggest that they are part of the tourism economy. However, private booking and contracts operate independent of traditional tourism proprietors, and are not always involved with the local tourism board, economic development partner, or the chamber of commerce. This independence and lack of accountability can be a source of friction for communities. The short-term renter may not keep the property clean or functional. Complaints play out online and not only affect the host but also place a stain on the whole of community as people vent their frustrations. The municipality is subject to the perceptions created by the experience and has no means to monitor the consequences and yet will have to deal with the perceptions and perhaps losses of tourist income.

Communities that implement tourist home as a use in the Land Use Bylaw have several options for regulating the industry. Unlike Canmore most communities do not have 21 residential districts to slot the use in specific portions of the municipality. It is therefore unlikely that a permitted use would be allowed unless the definition splits tourist home into three types. Those being:

- owner or primary occupant occupied during the stay;
- owner or primary occupant vacates during the stay; and
- no owner or primary occupant on site.

GLOBAL VACATION RENTAL MARKET 2022-2026



Graphic source: Technavio

The global vacation rental market is predicted to grow at a rate of more than 15% between 2021 and 2026, amounting to nominal growth of \$168 billion. Business data platform Statista anticipates the global market for short-term rentals will top \$81 billion in 2022. Accompanying their rise is the emergence of market intelligence platforms like AirDNA, who offer subscribers access to data on over 120,000 short-term rental markets and 12,000,000 individual properties. Such companies symbolize the commercialization of a once grassroots venture that aligned closer with couch-surfing than with real estate investment consortiums.

The Municipality of Crowsnest Pass recently brought about regulations for short-term rentals in its land use bylaw after a lengthy consultation process that exposed strong opinions on either side of the land use matter. The MCNP separated uses into landowner occupied “Short-Term Rentals” and landowner absent “Tourist Home,” with corresponding use allocation in various residential districts, maximum occupancy limits, requirements for license posting, and a variety of other matters in a purpose built land use bylaw schedule. Annual business licence fees are established as a function of the assessed value for each specific property.



For the first two, there is a known point of contact which can be reassuring to neighbors especially in smaller communities and may be a rationale for making the use permitted (dependent on the viewpoint of the community on the use overall).

As introduced earlier, the non-owner-occupied scenario comes with less comfort for most communities because of the lack of point of contact and the likelihood that the use will be year round. This type is more likely to be considered discretionary (again dependent on the viewpoint of the community on the use overall).

Implementation

Having emerged without regulation, this use needs careful consideration on how to implement municipal policy. Is the community making a stand on compliance and requiring all tourist homes to come in and get development permits? If so, what is the transition timeline for compliance? Or is the municipality considering a soft approach where perhaps only a business license is being required, not a development permit?

If taking the firm stance on compliance the timeline may need to be considered. Crowsnest Pass has implemented a 200-m separation distance between “Tourist Home” locations utilizing a first come first serve permit application process. Although this may have resulted in a particular applicant being denied a permit, there was no other way to put control on a use that had gotten such a strong foothold in the community.

In any scenario, planning and administration staff will be able to make suggestions on an approach that would benefit the municipality’s understanding of the circumstances (including needs for parking, acceptable signage, etc.). Going forward new illegal developments can be dealt with through a fine system and/or be sent an educational pamphlet that informs the operator of how to become compliant under the municipal requirements.

Municipalities considering partial exemptions for the owner-occupied during stay or vacated during stay options should be mindful of the difference and ensure the definitions are clear. Municipalities considering full exemption of land use requirements for all types should consider monitoring the issue over time either via business licenses or by periodic review with council and planning staff. Conducting an online search to establish a baseline of current tourist homes would be a starting point to a latter discussion about where the community stands as far of growth of the industry.

Additionally, a municipality's tool box includes the ability to require business licenses for tourist homes. This requirement makes a clear declaration of the intended use of the property. The relinquishing of a business license would also provide the municipality an understanding of when the business stopped as well as a means of tracking the number of these uses and their locations across the municipality.

Benefits and challenges

From the discussion above, allowing short-term rentals in a municipality can provide benefits and challenges. On the benefits side municipalities should consider:

- options for local accommodation where few options may exist;
- a means of income for residents;
- spin off revenue for local businesses based on the tourist home;
- upkeep of home and yard as an effect of the business venture; and
- increase in municipal revenues from taxes, business licenses, and permitting.

On the challenges side municipalities should consider:

- neighborhood disruption and questions about noise, garbage, parking, and security;
- a reduction in rental housing stock in your local market;
- perception that tourist homes are competing unfairly with traditional accommodation; and
- potential for online complaints generated from a tourist home may place an entire community in a negative light.

Concluding remarks

The evolving share economy is a conduit for a myriad of burgeoning land uses representative of a changing societal structure. Continual monitoring and education is needed to stay abreast of uses that operate without a traditional storefront or physical presence as a face to the operation. The economic and land use impacts of short-term rentals should be understood in the context of local conditions. Short-term rentals were always available in the form of types like bed and breakfasts and farm experience getaways. The popularity of digital booking platforms has highlighted the unique lodging options and traveler experiences available in southern Alberta, and serves as a reminder that this type of accommodation is here to stay. Still, municipalities have choices to make in order to align the short-term rental industry with their respective community vision. Various planning solutions exist, and should be reviewed as this land use form matures, both regionally and within the global marketplace.



Demand for short-term rentals in Canada's rural areas during the first 18 months of Covid-19 proved to be resilient. This widespread tendency of turning to the countryside for leisure was undoubtedly prompted by the recurring lockdowns that impacted urban areas across the country, and it remains to be seen to what extent this rekindled affinity for nature-based tourism experiences will continue to influence traveller preferences in the post-pandemic era.

Source: AirDNA

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