



dream sutton
CITIZEN IN ACTION

SUTTON

**URBAN
PLANNING**

REGULATIONS

THE SHORT- TERM RENTAL

Context and analysis

Reference document

September 2022



THE SHORT-TERM RENTAL

Table of contents

- 1 The context in Quebec
- 2 The context in Sutton
- 3 Approaches from elsewhere
- 4 Choices for towns
- 5 Orientations
- 6 Steps of the process

1 The context in Quebec

A controversial case

The accelerated development of the shared economy has led to major upheavals in several economic sectors. The short-term rental of residential accommodation has not escaped this trend. The phenomenon has not only changed consumers' travel habits, but also created new competition for hotels, B&Bs and inns, and affected the supply of long-term rentals.

The impact has been felt especially in tourist towns and villages, so much so that local pressure movements have demanded a strict management of this new practice. Local administrations and particularly the Quebec government have been called upon to regulate this new industry to ensure a level of tax fairness among players in the collaborative economy and those in the traditional economy, while allowing Quebecers who wish to do so to benefit from revenues derived from collaborative accommodation in accordance with the [Act Respecting Tourist Accommodation Establishments](#) (chapter E-14.2).

1 The context in Quebec

The government's actions

It has not been easy to reach a mutual agreement. Especially since municipalities initially felt powerless when faced with regulatory authority taken away from them by the provincial government.

Bill 67 was introduced in 2020 by the Minister of Municipal Affairs and Housing. It initially allowed Quebecers who own a principal residence to rent out their homes on a short-term basis throughout the province without being prohibited by municipal by-laws.

Municipalities saw this measure as an intrusion into municipal jurisdiction over zoning by-laws. They also saw it as a weakening of the power of citizens to decide on regulations for their community. Eight hundred municipalities expressed their disagreement regarding this provision in the Act. After several debates, the municipalities won their case.

1 The context in Quebec

The provisions of Bill 67

Bill 67 was passed on March 25, 2021, to become the [Act to establish a new development regime for the flood zones of lakes and watercourses, to temporarily grant municipalities powers enabling them to respond to certain needs and to amend various provisions.](#)

- The provisions adopted under Bill 67 allow Quebecers to rent out their principal residence on a short-term basis throughout the territory without being prohibited by a municipal by-law.
- Notwithstanding the foregoing, however, municipalities may, subject to an appropriate referendum process, prohibit or limit the offer of Tourist Accommodation in a principal residence in certain zones of their territory.

1
**The
context
in
Quebec**

The provisions of Bill 67

- The adapted referendum process is as follows: for a referendum vote to take place, the number of applications required at the registration of qualified voters will be reduced by half in the targeted zone.
- The Municipality of Sutton does not wish to prohibit short-term rentals of principal residences, therefore there is no urgency to adopt a by-law before March 25, 2023, to prohibit it in whole or in part. It will still be possible to adopt a by-law at a later date in accordance with the appropriate procedure if the situation requires it and if Council so wishes. It should be noted that the duration of such a procedure is approximately four (4) months.

1

The context in Quebec

The provisions of Bill 100

Bill 100 was passed on October 7, 2021, to become the [Tourist Accommodation Act](#) (which replaced the Act respecting tourist accommodation establishments). This Act came into force on September 1, 2022.

- The classification system is required, and the star sign is abolished and replaced by an online registration and annual declaration of the accommodation and services offered in a single digital document.
- The cases are expanded where the Minister of Tourism can refuse, suspend or cancel an establishment's registration have been expanded in order to support municipalities in the application of their regulations and the supervision of collaborative accommodation in their territory.

1 The context in Quebec

The provisions of Bill 100

In Quebec, short-term tourist accommodation is governed by the Tourist Accommodation Act and its Tourist Accommodation By-law.

Its main terms and conditions are:

- The categories of establishments are reduced from 10 to 3: principal residence establishments, youth hostels and other general tourist accommodation establishments. This last category includes second homes (cottages).
- An application to suspend or cancel the registration of a tourist accommodation establishment will be entertained if the operator of the tourist accommodation establishment or the guests of the principal residence establishment have been convicted of two or more violations within a twelve-month period of any municipal by-law relating to use, nuisance, sanitation or safety.

1

The
context
in
Quebec

The provisions of Bill 100

Main terms and conditions (continued) :

- The registration number and the name of the establishment must be displayed in advertisements, on websites related to the operation of the establishment and in full view of customers at the main entrance of the establishment. The category of establishment must also be displayed at this entrance. Failure to comply with these requirements will be considered an offence and subject to a fine.

1

The
context
in
Quebec

LOI ET RÈGLEMENT SUR L'HÉBERGEMENT TOURISTIQUE

UN CADRE LÉGISLATIF MODERNE ET EFFICACE

En vigueur à partir du 1^{er} septembre 2022



Des démarches simplifiées

- Remplacement de la classification obligatoire et du panneau étoilé par une procédure d'enregistrement et de mise à jour simple.
- Trois catégories d'établissements d'hébergement touristique au lieu de dix :
 - établissements de résidence principale;
 - établissements d'hébergement touristique jeunesse;
 - établissements d'hébergement touristique général.
- Retrait de l'exigence stipulant que l'hébergement doit être offert publiquement pour être considéré comme de l'hébergement touristique.

Une identification uniforme

- Obligation d'afficher le numéro d'enregistrement et le nom de l'établissement :
 - dans les publicités;
 - sur les sites Web en lien avec l'exploitation de l'établissement;
 - sur tout support ou toute plateforme faisant la promotion de l'établissement ou permettant d'y effectuer une réservation;
 - à la vue de la clientèle à l'entrée principale de l'établissement. À cet endroit, la catégorie d'établissement doit également être affichée.

Une lutte efficace contre l'hébergement illégal

- Plus de pouvoirs pour refuser, suspendre ou annuler des enregistrements si infraction :
 - à une loi ou à un règlement lié à l'exploitation d'un établissement d'hébergement touristique;
 - à la réglementation municipale de la part d'un propriétaire d'établissement d'hébergement touristique;
 - à la réglementation municipale en matière de nuisance de la part de clients d'un établissement de résidence principale.
- Maintien des inspections et des enquêtes par Revenu Québec.
- Délivrance d'amendes dissuasives.

Des avantages pour tous

- Pour les exploitants :
 - moins de formalités;
 - plus de temps;
 - plus d'argent.
- Pour l'industrie touristique :
 - meilleure connaissance du secteur;
 - soutien plus efficace au développement et à la promotion du tourisme au Québec.
- Pour les municipalités :
 - meilleur accès aux renseignements des exploitants afin de mieux suivre l'évolution de l'hébergement touristique sur leur territoire;
 - soutien dans l'encadrement des établissements d'hébergement touristique.
- Pour Revenu Québec :
 - des outils pour appliquer la Loi plus facilement.

POUR EXPLOITER UN ÉTABLISSEMENT D'HÉBERGEMENT TOURISTIQUE

D'ICI LE 1^{ER} SEPTEMBRE 2022

Vous devez détenir une attestation de classification.

Si vous détenez déjà une attestation de classification valide

➤ Votre établissement d'hébergement touristique sera réputé enregistré conformément à la nouvelle loi. Vous n'avez pas de démarche à faire.

À PARTIR DU 1^{ER} SEPTEMBRE 2022

Si vous voulez enregistrer votre établissement d'hébergement touristique

- ÉTAPE 1 : Validation auprès de la municipalité que le projet d'hébergement est conforme à la réglementation municipale.
- ÉTAPE 2 : Demande d'enregistrement auprès d'organismes reconnus par le ministère du Tourisme.
- ÉTAPE 3 : Affichage du numéro d'enregistrement. À partir de ce moment, vous pourrez publiciser votre offre d'hébergement touristique.
- ÉTAPE 4 : Renouvellement annuel et déclaration de mise à jour.

1

The context in Quebec

The sharing of responsibilities

The Minister of Tourism is responsible for the administration of the Act while the Minister of Revenue is responsible for inspections and investigations.

The Role of the Minister of Revenue

Through its inspection activities, Revenu Québec ensures that citizens and businesses understand and respect their obligations with respect to short-term accommodation. This is a matter of fairness to those who fulfill their tax obligations. Failure to comply with the rules can result in statement of offence being issued.

1 The context in Quebec

The sharing of responsibilities

The Role of the Minister of Revenue (continued)

- Citizens who wish to offer short-term accommodation have legal and fiscal obligations to respect. In addition to having to hold a classification certificate, citizens must, among other things, declare all revenues derived from the rental of an accommodation unit, register for the lodging tax file as well as for the GST and QST files, if required.
- Among other things, the new regulations require operators to clearly indicate their establishment's number on all advertising used to promote their establishment and on all websites. The penalty for non-compliance is in the range of \$1,000 to \$10,000 for individuals and \$2,000 to \$20,000 in other cases.

1 The context in Quebec

The sharing of responsibilities

The Role of the Minister of Revenue (continued)

- Revenu Québec is therefore a very useful partner for municipalities. All a municipality has to do is file a complaint with Revenu Québec and an inspector will start an investigation. This is the most effective and certainly the least expensive way to achieve a deterrent effect on offenders.
- However, Revenu Québec does not have the authority to enforce municipal regulations. Therefore, a property owner who complies with the Act from a tax point of view could, for example, be illegal in the area in which he or she is located.
- Municipalities can take legal action themselves to recover fines for municipal by-law violations.

1 The context in Quebec

The sharing of responsibilities

The role of the Corporation de l'industrie touristique du Québec (CITQ)

- The CITQ is the designated organization that receives applications for classification certificates for all tourist accommodation establishments subject to the Tourist Accommodation Act.
- The CITQ ensures that applications for certification are complete and contain a copy of the property title, municipal tax account for that establishment, lease agreement, proof of civil liability insurance, etc.

The role of the Municipality

- The Town receives and reviews applications for certificates of occupancy for all short-term rentals, including second home rentals. The Town is also responsible for enforcing its municipal by-laws

2 The situation in Sutton

The history

Establishing a Short-Term Rental Policy

- A Short-Term Rental Policy was passed by Sutton Town Council on October 3, 2013. This Policy “tolerated” short-term rentals throughout the territory, except for one street.
- This was a complementary use to a use in the housing group. This use was authorized for a maximum of 7 rentals between November 1 and April 30, without exceeding 35 rental days within this period. Between May 1 and October 31, a maximum of 5 rentals was authorized, without exceeding 25 rental days. Each rental had to be for at least 3 days. It is easy to understand the difficulty of controlling these provisions. There was also an obligation for the operator to apply for a certificate of occupancy from the Department of Urban Planning and Development.

2 The situation in Sutton

The history

Sutton : the eldorado of short-term rentals

- La Voix de l'Est of February 20, 2022, headlined “Sutton, un eldorado à encadrer” (*Sutton, an Eldorado to be framed*). According to the newspaper, in March 2022, there were 190 stays offered on Airbnb and other platforms.
- A more rigorous analysis indicated instead 90 establishments to which can be compared to the 77 permits issued by the Town of Sutton since 2018 and the 87 authorized by the Corporation de l'industrie touristique du Québec (CITQ).

The history

Sutton : the eldorado of short-term rentals (continued)

- Approximately 60% of the tourist accommodation offers came from the mountain sector, 30% from rural areas and 10% from the village. As for the proportion of principal residences (vs. secondary residences) it was 39% for the village, 27% for rural areas and less than 5% for the mountain.
- The bed and breakfast category has been the most affected by the dramatic growth in short-term rentals. From nine in 2012, B&Bs are down to three in 2022, a 67% reduction. Short-term rentals of tourist homes added to those of principal residences have, during the same period, exploded.

2 The situation in Sutton

2 The situation in Sutton

The history

Repeal of the Short-Term Rental Policy

- On April 6, 2022, Municipal Council repealed the Short-Term Rental Policy, which was non-binding and in conflict with the Zoning By-law by allowing short-term rentals over all the territory except on one street. In fact, the Zoning By-law defines the zones in which commercial accommodation activities are permitted. These are [the zones where the C-507 use is authorized](#).

Use C-507 is defined as “hotel establishments where the principal activity is the accommodation for visiting and short-stay customers, such as tourist homes and inns with less than 15 rooms”.

The history

Repeal of the Short-Term Rental Policy (continued)

- In the 16 zones in which the C-507 use is currently allowed, it should be noted that this use is permitted mainly in the C zones and in some large zones, even if only one establishment meeting the C-507 criteria is listed. The council has already specified that this measure is temporary, while a by-law or other measures are prepared to better regulate short-term rentals.
- In the interim, any certificate filed or issued prior to April 6, 2022, is valid only for the term of the certificate of authorization or until the adoption of a short-term lease by-law, whichever is earlier.

2 The situation in Sutton

The history

Repeal of the Short-Term Rental Policy (continued)

- Any certificate of authorization issued in accordance with the Policy on Short-Term Rental as a complementary use to a use in the housing group, which ceases to be in effect within two years, will not be granted acquired rights once it ceases to be in effect, and an application for renewal filed on or after April 7, 2022, will be required to comply with the rules in force at the time of the application.

2 The situation in Sutton

2 The situation in Sutton

Towards regulatory changes

- The new situation created by the repeal of the Policy is temporary as it does not address all concerns related to short-term rentals. The Municipal Council is committed to bringing forward regulatory amendments as quickly as possible to regulate tourist accommodation.
- Until the amendments are adopted, short-term rentals (31 days or less) of a principal residence will continue to be permitted throughout the territory, subject to compliance with the Tourist Accommodation Act and to obtaining a certificate of principal residence from the Corporation de l'industrie touristique du Québec (CITQ).
- Short-term rental of a secondary residence is only permitted in zones where the C-507 use is authorized. Property owners meeting these criteria must request a classification certificate from the CITQ, as well as a certificate of occupancy from the Town of Sutton for short-term rentals.

3

The
approaches
elsewhere

In Bromont (Quebec)

- Short-term rentals are only allowed in certain zones around the ski mountain.
- The landlords must obtain CITQ accreditation.
- The Town issues a certificate of authorization and amends the use of the residence to that of commercial use.
- The Town issued, in 2021, 28 statements of offence for non-compliance with the municipal by-law.

In Brome Lake (Quebec)

- The Town has proposed a by-law that would allow short-term rentals throughout the territory for both principal and secondary residences.
- Furthermore, several conditions and minimum standards were imposed for secondary residences, notably with respect to septic installations, parking spaces (1 space per bedroom), minimum lot size (1500 square metres), a minimum distance of 20 metres between the house and neighboring residences, etc.
- The by-law was hotly contested, and 373 persons signed the registry opposing By-law 596-12, preventing it from coming into force unless a referendum is held.
- The Town has announced that its proposed by-law to regulate short-term rentals will not be subject to a referendum. Instead, a committee will be established. The committee's recommendations will be part of a final draft of the by-law, which will be presented in early 2023.

3
The
approaches
elsewhere

3

The
approaches
elsewhere

In Calgary (Alberta)

- Two (2) types of permits have been created: for 1 to 4 rooms (\$100 per property) and for 5 rooms or more (\$172 per property).
- A fee of \$104 is charged for the fire inspection.
- It is not permitted to rent a room without one or more evacuation windows.
- No more than 2 adults per room are allowed, excluding minors
- The business license number must be included in all advertising.
- A responsible person must be available at all times.
- An electronic log must be maintained by the owner.
- Fines can be as high as \$1,000 per offence.

3

The
approaches
elsewhere

In Regina (Saskatchewan)

- Principal and secondary residences must apply to the Town for a permit to operate as a tourist residence.
- The cost of a permit for a principal residence is \$100 annually and \$300 annually for a secondary residence.
- The municipal permit number shall be displayed on all advertising.
- A tenant can rent out his or her apartment by obtaining permission from the property owner. A private company can also obtain a municipal permit.
- A fire department inspection is mandatory.

3 The approaches elsewhere

At Airbnb

The organization recommends that municipalities:

- Avoid regulating through the zoning by-law because it is controversial and encourages illegal rentals;
- Proceed with conditional use regulations;
- Authorize tourist accommodation of the principal residence everywhere on the territory of a municipality;
- Use the by-law on conditional uses for secondary residences;
- Have a municipal permit at the ideal cost of \$125;
- Leave the management of fines to Revenu Québec;

In short, it is about protecting collaborative accommodation and regulating commercial accommodation.

4

The choices for towns

Municipalities may override the...

We have seen that, throughout Quebec, the general rule is that it is not possible to prohibit the operation of a principal residence as an accommodation establishment.

However, it is possible for municipalities that wish to do so to override this rule or to adopt restrictions on the operation of such an establishment by introducing specific provisions in their zoning by-law or in their by-law on conditional uses. However, in both cases, municipalities must submit their by-law to the registry and referendum procedure.

It should be noted that municipalities cannot totally prohibit the use of tourist accommodations throughout their territory. They must allow it in at least one zone.

4

The
choices for
towns

Municipalities may override the... (continued)

Municipalities have several means at their disposal to regulate short-term rentals in principal residences by using:

- The Zoning By-law;
- The By-law on conditional uses;
- The By-law relating to specific construction, alteration or occupancy proposals for a building (SCAOPI);
- The By-law concerning peace, order and nuisances;
- The Permits and Certificates By-law.

4

The choices for towns

Zoning by-law: three ways to use it

Depending on the objectives pursued, it is possible to regulate, limit or spread establishments over the territory:

- Regulating by means of zoning is the most common method used today by municipalities. The purpose of zoning is to control the permitted and prohibited uses by zone for each of the zones in the territory.
- Evaluating uses means determining the maximum number of places by zone and by groups of zones destined for identical uses. For example, it would be possible to limit the number of tourist residences in a residential zone.

4

The choices for towns

By-law on conditional uses

- This is used to authorize a use related to tourist accommodation that would not otherwise be permitted in the zone. Criteria must be established in order to judiciously evaluate each individual request. It is therefore a matter of the municipality retaining the power to authorize on a piecemeal basis.
- It should be noted that it would be possible to combine the technique of conditional uses with that of contingency uses. Tourist accommodation uses could be authorized under a conditional use in a particular zone, which would also be subject to contingency measures limiting the number of uses.

4

The
choices for
towns

By-Law regarding SCAOPI

The By-law relating to particular construction alteration of occupation of an immovable (SCAOPI) could also be used, since it allows for exemptions from several urban planning regulations.

It is, however, more restrictive than the By-law on conditional uses because of its more complex approval process which results in longer delays. It is used less frequently and mostly for major projects.

4

The
choices for
towns

By-law concerning peace, order and nuisances

The Municipality may apply to the Ministry of Tourism for the suspension or cancellation of the registration of a tourist accommodation establishment if the operator of the tourist accommodation establishment or the guests of the principal residence establishment have been found guilty of at least two violations within a twelve-month period of any municipal by-law relating to use, nuisance, sanitation or safety.

Permits and certificates

A certificate of occupancy is issued when a person converts a building into a tourist accommodation. This permit may contain a period of validity after which it must be renewed. It is an excellent way to know the number of tourist accommodations authorized by the CITQ.

5

The orientations

After analyzing the general context and the specific situation in Sutton, the Municipal Council of Sutton defined guidelines.

Control

After having abolished the Short-Term Rental Policy and having authorized tourist accommodation in the zones where the C-507 use is permitted, the Council of the Town of Sutton is now proposing to modify some of its urban planning by-laws to limit and control the commercial use of tourist accommodation.

Rather than proposing one or two short-term rental by-laws, it is better to make amendments to [the Zoning By-law](#), [the By-law concerning conditional uses](#) and [the Permits and Certificates By-law](#) (the three documents are in French only). These amendments will of course be subject to the referendum approval procedure of the *Act respecting land use planning and development*.

5
The
orientations

Principal residences

The general proposal for owners of principal residences at this time is to allow short-term rentals throughout the territory, as recognized in the Tourist Accommodation Act.

The number of owners of principal residences engaged in short-term rentals is rather limited and seems to be subject of few complaints of nuisance related to the quality of life of the neighborhood.

However, owners of principal residences will still be subject to very strict requirements and standards. Furthermore, it should be noted that a by-law can be passed to restrict this use if the Town sees a significant increase in complaints.

5
The
orientations

Secondary residences

The recommended proposal for property owners of secondary residences is more restrictive.

Short-term rentals in these residences would be prohibited within the urban perimeters of the village core, as well as in agricultural and conservation zones without exception.

Short-term residential tourism rentals would only be permitted on the Mountain portion of Maple Street.

The general principles applicable to a principal residence would also be applicable, by adapting them to a tourist residence.

5
The
orientations

Secondary residences

Secondary residences located outside zones where they are specifically permitted or prohibited.

Short-term rentals in tourist residences may be exceptionally permitted in zones outside the urban perimeters of the village core, to agricultural and conservation zones, provided that the objectives and criteria for a conditional use are met.

Only detached single-family dwellings already in existence at the time of the coming into force of the by-laws will be eligible for this procedure. This permission is subject to the posting of a sign on the site in question in the application and the publication of a notice announcing the date, time and place of the meeting at which the Municipal Council will render its decision. This should ensure transparency of commercial operations and social acceptability, once the authorization is obtained.

5

The orientations

Accessory buildings

Accessory buildings located within the downtown urban perimeter, detached from the principal residence, will not be permitted to be leased on a short-term rental basis.

However, the Town intends to amend its Zoning By-law to facilitate the conversion of these buildings for rental purposes for periods greater than 31 days, thereby removing them from the legal framework for short-term rental.

Commercial tourist accommodations

Commercial tourist accommodations under the uses C-506, C-507 and C-508 will be maintained and authorized in the same zones as today. They may be subject to future regulatory changes as part of the revision of the planning by-laws but will be treated differently from principal and secondary tourist accommodation for short-term rental purposes.

5 The orientations

Surveillance and enforcement

The Town of Sutton favours the establishment of a binding frame of reference but relies on the services of the Government of Quebec to ensure that the criteria for granting permits are met: the Minister of Tourism is responsible for the application of the Quebec law while the Minister of Revenue is responsible for inspections and investigations leading to fines and financial penalties.

5
The
orientations

5
The
orientations

Managing complaints

The Town will establish a system to manage complaints that will allow residents to report illegal short-term rentals, non-compliance with short-term accommodation rules and violations of any Town by-law related to use, nuisance, health or safety.

Depending on the nature of the facts and the evidence gathered, the Town will ask either the CITQ, Revenu Québec or the Minister of Tourism to take appropriate action, including the issuance of deterrent fines and the suspension or cancellation of the certificate.

5
The
orientations

Taxation

Property owner of secondary residences that will operate as short-term rentals will be charged 60% of the residential tax rate and 40% of the commercial tax rate.

Furthermore, an inspection prior to the issuance of a certificate of authorization will have to be done by the Town of Sutton's Fire Department at a cost of \$175.









Please note that the commercial tax will not apply to principal residences, in accordance with the Tourist Accommodation Act.

Code of Ethics

The Town will publish a Code of Ethics that property owners of principal and secondary residences will be required to sign and will have to make sure that the tenants respect it.

5

Steps of the process

-  Presentation and discussion with Town Council (September 7, 2022)
-  Council's proposals announced at press conference (September 22, 2022)
-  Publication of the information document available on the website (September 22, 2022)
-  Citizens' meeting and exchanges on regulatory proposals (September 29)
-  Period for citizens comments (until November 4, 2022)
-  Report on the results of the consultation (November 15, 2022)
-  Integration in a modification of the urban plan (by December 31, 2022)
-  Adoption of urban planning regulations in accordance with the plan (2023)