

Attachment 3: Jurisdictional Scan of Short-Term Rental Licensing Frameworks

The Municipal Licensing and Standards Division undertook a jurisdictional scan of licensing by-laws that regulate short-term rentals in 19 North American cities, including 9 in Ontario, 4 in other parts of Canada and 7 in the United States. This jurisdictional scan updates the findings of a preceding jurisdictional scan, conducted in 2017.

Definitions and Terminology

Terminology used to describe short-term rentals varies across jurisdictions including: short-term accommodations, short-term tourist rentals, shared housing, or home sharing; most refer to them as short-term rentals (“STR” or “STRs”).

While terminology differs, definitions contained common elements: i) reference to all or part of a dwelling unit, ii) the notion of the rental as transient or temporary, iii) the rental period (i.e. maximum number of days the unit can be rented out) and iv) the requirement for remuneration or compensation for the rental period. Notably, two jurisdictions in Ontario, Ottawa and Oshawa, include in their definition that the rental process must be marketed or brokered by a short-term rental company or platform.

Exemptions regarding hotels, motels and bed & breakfasts featured prominently in licensing regimes; wherever possible, regulations are licensing short-term rentals with a separate license entirely. Ottawa, Vancouver and Calgary all include definitions of a hotel that summarize its function as “transient accommodation for the travelling public” that is “not the principal residence of the operator”. Further, definitions used in licensing by-laws for hotels typically included motels in their description. Of the jurisdictions reviewed, hostels were not defined or referenced.

Primary/Principal and Secondary Residences

Similar to the City of Toronto, other jurisdictions have adopted a short-term rental licensing regime limited to renting one’s primary or principal residence. Application requirements across jurisdictions require operators to provide evidence (via documentation or related information) that demonstrates the property being registered is the operator’s principal residence.

Of the licensing regimes reviewed, municipalities permit the issuance of a valid license to the municipal address of the operator’s principal residence; no more than one short-term rental licence is permitted per operator as each operator is permitted to have only one principal residence. In the example of Windsor and Vaughan, if the applicant is the registered owner of the proposed short-term rental property, any additional property owners are considered a joint applicant and will be listed on the completed application form. It is common practice within these regimes to prohibit the transfer or sale of a licence between operators as short-term rentals are required to operate at the same municipal address when the licence was issued. To enforce this requirement, licences issued will be automatically invalidated if the property ownership or principal residency changes.

The criteria used to define a primary/principal residence varies across jurisdictions however, most include reference to a dwelling unit (either owned or rented) where the individual makes their home and conducts their daily affairs, including receiving documentation related to identification, taxation and insurance.

Permitting the licensing of an income property, or secondary residence, as a short-term rental was a rare occurrence. Of the jurisdictions reviewed, Halifax permits operators to use their secondary residences (i.e. cottages, income properties) as short-term rentals and Seattle requires operators to register vacation rentals (i.e. separate properties or units that are not owner occupied) with the City's respective Rental Registration and Inspection Ordinance (RRIO). Once registered with the RRIO, municipal inspectors ensure that all registered properties comply with minimum housing and safety standards through periodic inspections.

Short-Term Rental Exemptions

Based on the regulations outlined in the relevant zoning by-law, short-term rentals are permitted in residential zones however, exemptions can be placed on certain types of properties that prohibit their operation as a short-term rental. In municipalities such as Vancouver, Ottawa and Mississauga, operators are not permitted to register an address in an accessory building (garages or studios) or unlawful dwelling unit. In Ottawa, explicit reference is made to motor vehicles and trailers. Several municipalities recommend zoning verification for secondary suites however, laneway and secondary suites are permitted to operate as short-term rentals if they are the operator's principal residence. Calgary permits operators to rent out secondary suites if they are located on the principal residence assigned to the license.

Certain Canadian cities, including Vancouver and Ottawa, and American cities such as New York and Chicago operate a "prohibited buildings registry" that restrict the issuance of short-term rental licences to certain buildings and units. For example, Ottawa permits landlords of rental housing, condominium corporations and housing co-operatives to register prohibitions against short-term rentals for an administrative fee and a charge per unit. As such, host permits submitted for prohibited properties will not be issued and host permits issued prior to registration of a prohibition will be revoked.

Rental Period

The majority of definitions included rental periods that ranged from less than 28 days to less than 31 days. Certain jurisdictions use "nights" as opposed to days to define their rental period. Similar to Toronto, Mississauga, Brampton and Oshawa do not permit operators to rent out their property for more than 180 days per calendar year.

Comparative international municipalities with substantive tourism sectors such as San Francisco, London, Vienna, and Berlin have 90-day limits on short-term rental activity.

Zoning Permissions

The majority of jurisdictions reviewed permit short-term rentals in specified residential and mixed-use residential zones. Similar to the City, several jurisdictions permit secondary suites as short-term rentals if they are exclusively occupied as a primary/principal residence and comply with related by-laws and codes.

Licensing Regime

The majority of jurisdictions across Canada and the United States employ a licensing regime for short-term rentals that requires operators and/or brokers/platforms to register for a licence; renewal is required on an annual or biannual basis. Notably, Montreal, Ottawa, Vaughan, Calgary, Austin and New Orleans utilize a tiered licensing regime with different classifications for operators and specified unit ranges and fee structures for licensing platforms. Further, Ottawa issues a separate licence for short-term rental property managers.

As part of the licensing process, operators and platforms are required to submit certain information or documentation for review and approval by the licensing authority of the respective jurisdiction. Common requirements within the licensing process include:

- Proof of identification (name, address, contact information and 2 copies of government-issued ID);
- Proof of ownership or lease (and permission from homeowner if tenant and/or condo board if condo unit);
- Proof of principal residence;
- Proof of general liability insurance;
- Proof of payment of occupancy/accommodation taxes;
- Floorplan of dwelling unit including evacuation plan;
- Building type and zoning verification;
- Emergency contact information for contact who is available to attend the short-term rental;
- Short-term rental company or platform for listing.

Presently, the City of Toronto does not require proof of property insurance or commercial general liability insurance and is considered in the minority of jurisdictions to do so. Further, the City of Toronto requires criminal record and judicial matters checks for short-term rental companies but does not require criminal record checks or vulnerable sector checks for its operators. Jurisdictions that require both proof of insurance and a criminal record check for operators as part of its licensing regime include Mississauga, Windsor, London, Brampton and Vaughan.

Legislative Authorities

Two Canadian municipalities, Montreal and Halifax, regulate short-term rentals through a combination of provincial and municipal legislation. In Quebec, the *Tourist Accommodation Act* outlines the regulatory framework for tourist accommodations (inclusive of short-term rentals) and authorizes a provincial agency (Corporation de l'industrie touristique du Quebec) to oversee registration and licensing efforts; operators

must receive a classification certificate from CITQ prior to applying for a permit within an authorized borough in Montreal. Lastly, any suspected illegal operations can be reported to Revenu Quebec who will inspect and investigate accordingly.

Similar to Quebec, Nova Scotia's *Tourist Accommodations Registration Act* outlines provisions for the operation of short-term rentals whereas municipal by-laws mandate the registration of short-term rentals and outline residential occupancy standards in Halifax. In January 2023, the City of Halifax's Council approved a short-term rental regulatory framework however, its proposed municipal planning changes are subject to ministerial review so regulations will not take effect until September 2023.

Licensing Fees

Annual short-term rental licensing fees for operators in comparative jurisdictions range from \$50 to \$1000. Annual short-term rental licensing fees for companies and platforms in comparative jurisdictions are dependent upon unit ranges and scale from \$600 to \$11,000. Certain jurisdictions will charge both a licensing fee and separate fixed administrative/application fee. On occasion, renewal fees will be included in the initial licensing fee or charged separately. Notably, Guelph and Calgary charge an inspection fee.

Data Sharing and Reporting Requirements

Data sharing agreements support enforcement and compliance efforts and enable jurisdictions to conduct program evaluation efforts to support the efficacy and renewal of regulatory frameworks. Notably, the City of Oshawa has established Memorandums of Understanding (MOUs) with short-term rental platforms.

Furthermore, reporting requirement cycles with short-term rental platforms amongst comparative jurisdictions were structured on a monthly or quarterly basis. The City of Seattle requires platforms to report all licensed operators (including the listed unit and its URL) on a monthly basis and the number of short-term rental operators and number of nights booked on a quarterly basis.

Outside of the North American context, the European Commission agreed to regulating data collection and sharing for short-term rental services in March 2023. The decision requires member states to establish a national "single digital entry point" for data transmission between online short-term rental platforms and public authorities. This approach requires registration numbers to be compliant with European data protection rules and online platforms to make reasonable efforts to undertake regular random checks.

Compliance and Enforcement Methodologies

Across jurisdictions, a balance of educational resources and phased enforcement tactics support short-term rental licensing and operational compliance. Several cities post public guides/factsheets, Q&As and videos to support operators through registration requirements and operational compliance. In addition, certain jurisdictions require

operators to provide guests with information packages inclusive of contact information, emergency services and information regarding excessive noise, garbage, parking etc.

Similar to the City, the majority of jurisdictions have requirements outlining the location and visibility of the license/permit/registration number on the short-term rental platform listing and within the unit itself. Further, a complaint-driven model to report non-compliant or illegal short-term rentals is the widely-accepted enforcement approach. Such enforcement approaches are phased according to: i) complaint triaged from intake service and/or received by enforcement office, ii) investigation conducted, iii) a notice of violation issued for listing, iv) if the non-permitted activity does not cease, operators may be subject to an enforcement action, including possible fines and revocation of license/permit/registration number.

In Ontario, the Provincial Offences Act governs the prosecution of regulatory offences created by provincial law and municipal by-law. Thus, jurisdictions in Alberta, British Columbia, Quebec and Nova Scotia provide outline comparative fine structures including \$1000 for operating a short-term rental without a licence in Vancouver to \$1000 for failing to include an operator licence number on an advertisement in Calgary.