

# The Corporation of the Town of Lakeshore

## Report to Council

### Legislative & Legal Services

### Legislative Services



**To:** Mayor & Members of Council

**From:** Brianna Coughlin, Manager of Legislative Services  
Kim Darroch, Manager of Development Services

**Date:** August 19, 2020

**Subject:** Short-term Accommodation Rentals

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### Recommendation

Direct Administration to proceed with Option #1 – public consultation in 2021, as described in the report by the Manager of Legislative Services and Manager of Development Services, presented September 1, 2020.

### Background

During the Special meeting held July 28<sup>th</sup> 2020, Council received a petition with a request to restrict daily vacation rentals in residential areas. Following the presentation of the petition, Council passed the following resolution #252-07-2020:

Direct Administration to prepare a report for the first meeting in September regarding prohibiting short-term accommodation rentals.

Carried Unanimously

Since that time, Administration has also received communication from residents operating short-term accommodation rentals in various areas of the municipality. These residents are not in favour of a prohibition on short-term accommodation rentals.

## Comments

### Prohibiting or Restricting Short-Term Accommodations

The Province of Ontario conducted public consultation in 2016/2017 relating to home-sharing (short-term accommodation rentals). As a result of this consultation, the Province published *The Home Sharing Guide for Ontario Municipalities* (Appendix A). A high-level overview of the contents of the Guide are outlined in the table below:

Policy Considerations	Regulatory Levers	Stakeholders	Provincial Legislation	Jurisdictional Scan
<b>1. Why might municipalities consider addressing home-sharing?</b>	<b>2. How might municipalities wish to regulate home-sharing?</b>	<b>3. Who might municipalities wish to consult before taking action?</b>	<b>4. What legislation* may be of interest to municipalities considering taking action?</b>	<b>5. What are other municipalities doing?</b>
Issues: <ul style="list-style-type: none"> <li>• Impact on affordable housing</li> <li>• Increased opportunities for tourism</li> <li>• Challenges to existing regulations</li> <li>• Public safety concerns</li> <li>• Economic opportunity</li> <li>• Competitive advantages</li> </ul>	Regulatory levers: <ul style="list-style-type: none"> <li>• License platforms</li> <li>• License/register hosts/operators</li> <li>• Limit rentals to principal residences</li> <li>• Limit maximum number of consecutive days</li> <li>• Limit maximum number of days per year</li> <li>• Limit number of guests</li> <li>• Zoning</li> <li>• Prohibited/Ineligible Building List</li> </ul>	Stakeholders: <ul style="list-style-type: none"> <li>• Advocacy Coalitions</li> <li>• Housing Advocates and Local Residents</li> <li>• Community Groups</li> <li>• Home-owners and Landlords</li> <li>• Platforms</li> <li>• Hosts/Operators</li> <li>• Province of Ontario</li> <li>• Bed &amp; Breakfast and Hotel Industry</li> <li>• Tourism organizations</li> </ul>	Legislation: <ul style="list-style-type: none"> <li>• Accessibility For Ontarians With Disabilities Act</li> <li>• Condominium Act</li> <li>• Fire Protection And Prevention Act</li> <li>• Hotel Registration Of Guests Act</li> <li>• Municipal Act</li> <li>• City Of Toronto Act</li> <li>• Planning Act</li> <li>• Residential Tenancies Act</li> </ul> <p><small>*There is also other law, such as federal legislation and "judge-made law" ("case law"), which may be of interest to municipalities.</small></p>	Municipalities: <ul style="list-style-type: none"> <li>• Blue Mountains</li> <li>• Niagara-on-the-Lake</li> <li>• Toronto</li> <li>• Vancouver</li> <li>• New Orleans (USA)</li> <li>• Chicago (USA)</li> </ul>

Administration also conducted an environmental scan of municipalities that prohibit or regulate short-term accommodation rentals in Ontario. From the research conducted to date, there are very few municipalities that prohibit all forms of short-term accommodation rentals; many municipalities choose instead to regulate and/or licence such rentals.

The Town of Collingwood has the most stringent prohibition of short-term rentals, allowing them in hotels, motels and bed and breakfast establishments only. The Town's Zoning By-law defines Short Term Accommodation as:

the use of a dwelling unit, or any part thereof, that is operating or offering a place of temporary residence, lodging or occupancy by way of concession, permit, lease, licence, rental agreement or similar commercial arrangement for any period of 30 consecutive calendar days or less, throughout all or any part of a calendar year.<sup>i</sup>

The Township of Seguin has prohibited short-term accommodation rentals but has received ongoing complaints of underground rental practices that have created enforcement problems. The Township is currently undertaking a public consultation process regarding a change in approach to allow for regulation of short-term accommodation rentals<sup>ii</sup>.

Both the Town of The Blue Mountains and the Town of Niagara-On-The-Lake, identified as examples in *The Home Sharing Guide for Ontario Municipalities*, have chosen to regulate short-term accommodation rentals in specific areas while prohibiting them in others. The Town of The Blue Mountains prohibits short-term accommodation rentals in low density residential areas and traditionally single-family-dwelling neighbourhoods (R1, R2 and R3 zones). The Town of Niagara-On-The-Lake restricts certain types of short-term accommodations to certain zones and requires that the building be occupied as a single detached dwelling for a minimum of 4 years before being eligible for a licence to rent as a short-term accommodation.

The City of Toronto has adopted zoning by-law amendments to permit short-term rentals for all principal residences in the City in all zones, having the effect that short-term rentals are permitted only where the property owner lives. The City has also enacted a licensing and registration of short-term rentals by-law.

It is important to consider the City of Toronto case as the City's zoning by-law amendments were subject to an appeal to the Local Planning Appeal Tribunal (LPAT). The appellants and additional parties in this case were short-term rental operators who did not live on site, rather they wished to allow individuals or companies to purchase or lease properties for the sole purpose of offering short-term accommodations on a full-time basis.

The LPAT dismissed the appeal in November, 2019 and noted the following in its decision:

The provision of housing as places to live for residents is a provincial and City priority. The provision of accommodation as places to stay for visitors must also be addressed, but does not receive the same policy emphasis. In keeping with policy, the ZBAs regulate the primary use of a dwelling unit as a principal residence ("PR") for a household, while also allowing for the provision of accommodation within a PR to travelers and others requiring short-term accommodation.

[...] the ZBAs prohibit the use of dwelling units and secondary suites for STR purposes that are not the PR of the operator. The ZBAs intend to stop persons or companies from purchasing or leasing a dwelling unit for the sole purpose of offering STR accommodations year-round.

[...] Owners and tenants who reside in a unit as their PR may provide STR accommodations under the ZBAs. Residents of a unit may offer STR accommodations while they are present in the dwelling or while they are away. Both arrangements are referred to as “home sharing”<sup>iii</sup>.

The effect of including the provision for rental of principal residences only in the Zoning By-law amendments is that property owners cannot offer short-term rentals of accommodations where they do not reside. In the case of Toronto, this allows residents to lower the cost of their housing by allowing them to supplement their income through home-sharing, while at the same time ensuring that affordable housing is not purchased solely by owners wishing to offer continuous home-sharing as a business.

Along with regulating or prohibiting short-term rentals, some municipalities specifically choose not to do so. The Township of Tiny does not prohibit short or long-term rentals of dwellings, as “Council understands that traditionally many residents seasonally rent their cottage/dwellings or lend them to family and friends during the summer months, which has been the common practice for decades<sup>iv</sup>”. However, this pertains to the entire dwelling only; a room rental is regulated in the Township’s Zoning By-law.

It should be noted that the majority of municipalities that have a short-term accommodation licensing program also have a general business licensing program, which the Town of Lakeshore does not have in place at this time. Introducing a licensing program would require additional resources for coordination of the program, including annual building and fire inspections, as well as additional resources for enforcement and licence appeals. While cost-recovery can be built into the program, the process of licensing requires significant time from all departments involved and would require additional staff.

There are some municipalities that have an accommodation tax in place which offsets some of the costs of regulation, and can be paid directly from the booking company (such as Airbnb) rather than collecting from individual property owners. A separate report on a MAT tax is anticipated to be presented to Council in 2021.

Locally, the City of Windsor recently undertook a public consultation process (March 2020) regarding the potential regulation of short-term accommodation rentals on a city-wide basis. A copy of the 2019 report to City Council has been included as Appendix B.

### Town of Lakeshore Zoning Provisions

As noted above, short-term accommodation rentals are generally defined as rentals of less than 30 days but are different from the traditional bed and breakfast business. Pursuant to the Town’s Zoning By-law, a “bed and breakfast establishment” is defined as:

a single detached dwelling in which no more than three rooms are made available by the residents of the said dwelling for the temporary accommodation



of travelers in the course of which no assistance is offered by any person not residing in the dwelling. This does not include a hotel, motel, or eating establishment, as defined herein.

Bed & breakfast establishments are allowed in the following zones and do not require a site-specific zoning or business licence from the Town:

- R1 – Residential – Low Density
- R2 – Residential – Medium Density
- RW1 – Residential Waterfront - Watercourse
- RW2 – Residential Waterfront – Lake St. Clair
- HR – Hamlet Residential
- HC – Hamlet Commercial
- CA – Central Area
- MU – Mixed Use
- A – Agriculture
- UR – Urban Reserve (existing bed & breakfast establishments only)

The following provisions shall apply to a bed and breakfast establishment, where it is permitted by this By-law:

- a) bed and breakfast establishments are only permitted within a single detached dwelling;
- b) the bed and breakfast establishment has no more than three off-street parking spaces associated with the bed and breakfast establishment, accommodated on the same lot;
- c) the bed and breakfast establishment does not include a liquor licensed premises or other facilities for the servicing of alcoholic beverages to the general public;
- d) the bed and breakfast establishment complies with the Building Code Act and such other by-laws and regulations as may be applicable for the Town;
- e) no portion of a guest room is located below grade or within a basement, walkout basement or cellar;
- f) no portion of a guest room contains facilities for the preparation of meals; and
- g) all other applicable provisions of this By-law shall apply and be complied with.

It should be noted that there is no definition of “short-term rental accommodation” in the Zoning By-law. However, there is a definition for “housekeeping cottage”, defined as:

One or a group of buildings that provides temporary accommodations to overnight guests for a fee and is equipped with a kitchen, which has a common piped water supply with other such buildings.

Housekeeping cottages are permitted in the RW2-7 zone (Residential Waterfront – Lake St. Clair Zone Exception 7). This site-specific zoning is limited to one property on Caille Avenue.

## Analysis

Upon review of local short-term rental accommodation websites, Administration identified short-term rental accommodation listings on websites for 30 properties within the Town of Lakeshore boundaries. Nine of these properties are located within the Rochester Place RV park and two properties are operated as commercial bed & breakfast businesses (Iron Kettle Bed & Breakfast and the Elm Tree Retreat).

Administration also met with a member of the Ontario Provincial Police – Lakeshore Detachment to discuss concerns relating to accommodation rentals and found that short-term rental properties have not been noted by the OPP to be of significant concern in the municipality.

As with other regulatory matters, Administration is hesitant to recommend drafting legislation prohibiting or regulating an activity based on one particular area of complaint. Should Council wish to continue with the status quo, no resolution is needed at this time. Administration would suggest revisiting the matter in five years and actively monitor enforcement complaints to determine if there is an increase in community concern.

However, should Council wish to proceed with exploring such legislation, it is recommended that the Town undertake a public consultation process to encourage discourse with residents and local stakeholders. In light of the above, Administration has developed three options for Council's consideration at this time:

- Option 1 – Direct Administration to undertake a public consultation process with residents and local stakeholders in 2021 regarding prohibiting, regulating or licensing short-term rental accommodations in the Town of Lakeshore.
- Option 2 – Direct Administration to undertake a public consultation process with residents and local stakeholders in 2021 regarding prohibiting, regulating or licensing short-term rental accommodations in the Town of Lakeshore; and further direct that Administration prepare an interim control by-law to prohibit short-term accommodation rentals in the Town of Lakeshore for a period of one year. An interim control by-law would have the effect of halting short-term accommodation rentals while allowing time for public consultation and further research to occur.
- Option 3 – Direct Administration to prepare a Zoning By-law amendment to prohibit short-term accommodations in the Town of Lakeshore.  
(Note: this option is not recommended)

Should Council wish to proceed with public consultation on this matter (Option 1 or Option 2), it is recommended that the process be delayed until such time as the funds are available (2021 budget) and at least one in-person open house can be held safely with social distancing measures.

Administration strongly recommends against prohibiting short-term accommodation rentals through a Town-wide Zoning By-law amendment (Option 3), without first having a public consultation process. The lack of a robust public consultation process would likely be criticized should an appeal be made to the LPAT.

### **Others Consulted**

Ontario Provincial Police – Lakeshore Detachment

### **Financial Impacts**

Should Council choose to prohibit or regulate short-term rental accommodations, it is recommended that public consultation be delayed in order to include the proper resources in the 2021 Budget. The cost for fulsome public consultation on this matter is estimated to be approximately \$6,000.

**Attachment(s):** Appendix A – The Home Sharing Guide for Ontario Municipalities

Appendix B – City of Windsor Report – Regulation of Short Term Rental Housing – City Wide

### **Report Approval Details**

Document Title:	Short-term Accommodation Rentals.docx
Attachments:	- home-sharing-guide-for-ontario-municipalities.pdf - City of Windsor - Short-Term-Rental-Housing-Report.pdf
Final Approval Date:	Aug 26, 2020

This report and all of its attachments were approved and signed as outlined below:

Tammie Ryall

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<sup>i</sup> Town of Collingwood Zoning By-law 2010-40. Found at <https://www.collingwood.ca/town-services/law-enforcement/short-term-accommodations>

<sup>ii</sup> Township of Seguin Short-Term Accommodation and Cottage Rentals. Found at [https://www.seguin.ca/en/township-services/short\\_term\\_accommodation\\_cottagerentals.aspx#](https://www.seguin.ca/en/township-services/short_term_accommodation_cottagerentals.aspx#)

<sup>iii</sup> Local Planning Appeal Tribunal case PL180082, decision issued November 18, 2019. Found at <http://www.omb.gov.on.ca/e-decisions/pl180082-Nov-18-2019.pdf>

<sup>iv</sup> Township of Tiny Short-Term Rental Information. Found at <https://www.tiny.ca/Pages/Short-Term-Rental-Information.aspx>



**THE HOME-SHARING  
GUIDE FOR ONTARIO  
MUNICIPALITIES**



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## INTRODUCTION

In Ontario, home-sharing is one of the fastest growing sectors in the sharing economy. The growth of home-sharing in Ontario and around the world has been driven by consumers looking for greater choices, flexibility and lower costs, and the opportunity to earn extra income for hosts.

There is no consensus definition of home-sharing, but it is generally understood to refer to individuals renting out their residence, or part of their residence, for short periods of time through internet-based platforms such as Airbnb, HomeAway and VRBO.

Through consultations in 2016 and 2017, the Government of Ontario heard that home-sharing is a priority sector in the sharing economy for municipalities. The province also heard that local flexibility is key to address home-sharing in ways that allow municipalities to achieve local objectives (e.g., protecting long-term housing stock, attracting tourism, etc.).

Reflecting this feedback, the province has developed these home-sharing guidance materials as an informative resource that municipalities may wish to consult if they are considering regulating home-sharing locally.

The province also recommends that municipalities consult the sharing economy guide developed by the City of Guelph and the Guelph Lab for the Large Urban Mayors' Caucus of Ontario (LUMCO), entitled [Navigating the sharing economy: A 6-decision guide for municipalities](#). The province provided

funding for this handbook to help municipalities respond to the sharing economy in a way that is thoughtful, adaptable and innovative. The LUMCO guide identifies six decision points for municipalities to consider when addressing a sector of the sharing economy such as home-sharing.

Ontario's Home-sharing Guide for Ontario Municipalities has been carefully prepared and is intended to provide a summary of complex matters. It does not include all details and cannot take into account all local facts and circumstances. The guide refers to or reflects laws and practices which are subject to change.

Municipalities are responsible for making local decisions, including decisions in compliance with law such as applicable statutes and regulations. For these reasons, the guide, as well as any links or information from other sources referred to in it, should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter. The user is solely responsible for any use or application of this guide. The inclusion of municipal examples in this guide does not imply an endorsement by the Province.

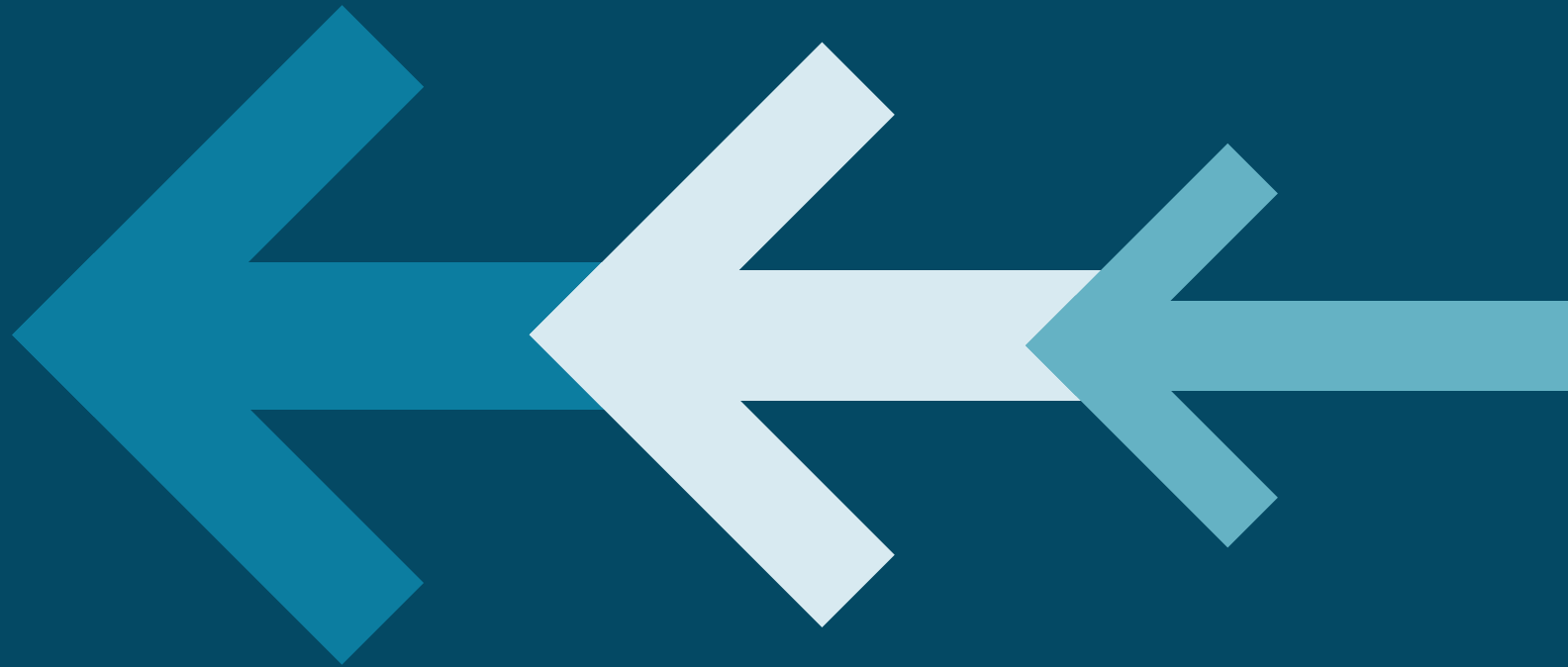
## IN THIS GUIDE

This guide is meant to provide municipalities with resources to help them begin their research about addressing home-sharing in their communities. The guide focusses on five questions municipalities may have about regulating home-sharing. These questions and some highlights are below.

Policy Considerations	Regulatory Levers	Stakeholders	Provincial Legislation	Jurisdictional Scan
<b>1. Why might municipalities consider addressing home-sharing?</b>	<b>2. How might municipalities wish to regulate home-sharing?</b>	<b>3. Who might municipalities wish to consult before taking action?</b>	<b>4. What legislation* may be of interest to municipalities considering taking action?</b>	<b>5. What are other municipalities doing?</b>
Issues: <ul style="list-style-type: none"> <li>• Impact on affordable housing</li> <li>• Increased opportunities for tourism</li> <li>• Challenges to existing regulations</li> <li>• Public safety concerns</li> <li>• Economic opportunity</li> <li>• Competitive advantages</li> </ul>	Regulatory levers: <ul style="list-style-type: none"> <li>• License platforms</li> <li>• License/register hosts/operators</li> <li>• Limit rentals to principal residences</li> <li>• Limit maximum number of consecutive days</li> <li>• Limit maximum number of days per year</li> <li>• Limit number of guests</li> <li>• Zoning</li> <li>• Prohibited/Ineligible Building List</li> </ul>	Stakeholders: <ul style="list-style-type: none"> <li>• Advocacy Coalitions</li> <li>• Housing Advocates and Local Residents</li> <li>• Community Groups</li> <li>• Home-owners and Landlords</li> <li>• Platforms</li> <li>• Hosts/Operators</li> <li>• Province of Ontario</li> <li>• Bed &amp; Breakfast and Hotel Industry</li> <li>• Tourism organizations</li> </ul>	Legislation: <ul style="list-style-type: none"> <li>• Accessibility For Ontarians With Disabilities Act</li> <li>• Condominium Act</li> <li>• Fire Protection And Prevention Act</li> <li>• Hotel Registration Of Guests Act</li> <li>• Municipal Act</li> <li>• City Of Toronto Act</li> <li>• Planning Act</li> <li>• Residential Tenancies Act</li> </ul> <p>*There is also other law, such as federal legislation and “judge-made law” (“case law”), which may be of interest to municipalities.</p>	Municipalities: <ul style="list-style-type: none"> <li>• Blue Mountains</li> <li>• Niagara-on- the-Lake</li> <li>• Toronto</li> <li>• Vancouver</li> <li>• New Orleans (USA)</li> <li>• Chicago (USA)</li> </ul>

At the end of the guide there is a list of other resources municipalities can consult to learn more about home-sharing, its impact on local communities and what other municipalities are doing to address it.





# **POLICY CONSIDERATIONS**

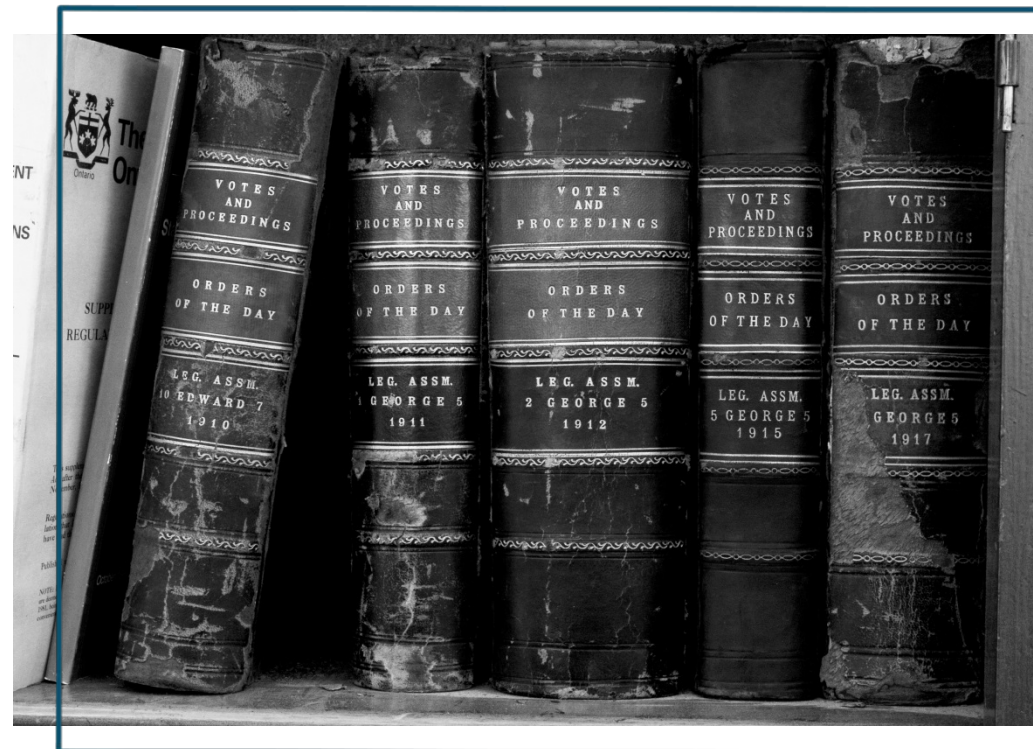
## POLICY CONSIDERATIONS

### Why might municipalities consider addressing home-sharing in their communities?

Home-sharing platforms are present in over 190 countries across the globe and many municipalities are taking action to regulate this activity. As municipalities address home-sharing, they often seek to find a balance between encouraging its growth to promote economic development and placing limits on the scope of activity to preserve the character of local communities. Findings from literature on home-sharing and public opinion research from Ontario in 2016 show support for home-sharing while also acknowledging there is a role for governments to play in regulating this sector.

Part of the research municipalities may wish to undertake when considering regulating home-sharing is to review concerns raised about short-term rental activity, or potential short-term rental activity, across the entire municipality to help verify the scope of issues that may be raised by various stakeholders. Municipalities may hold public consultations and may also wish to consult their legal counsel during policy development.

For more information about home-sharing policy options and considerations, visit the City of Guelph's [Compendium of Resources](#) for information including case studies, policy primers and proposals, and law and regulation resources.



## TABLE 1 – POLICY CONSIDERATIONS

Municipalities may seek to address some of the key issues noted below through home-sharing regulations or policies.

Issue	Description	Potential Responses <i>See Table 2 for more information about regulatory levers</i>
<b>Impact on affordable housing</b>	Home-sharing platforms may allow individuals to make more money renting on the short-term market than on the long-term market, which can deplete available stock of long-term rentals and raise market rents.	Limit home-sharing to principal residences. Limit the number of days a unit can be rented so that long-term rentals are more profitable than short-term rentals.
<b>Tourism</b>	Home-sharing has the potential to increase the number of visitors to Ontario, provide a wider selection of accommodations, allow a visitor to live like a local and can make travel more affordable for Ontarians.  Short-term vacation rentals already provide an important source of tourism activity in communities across Ontario. Smaller communities that lack sufficient tourist lodging can increase short-term vacation accommodations through home-sharing.  Commercial operators may make use of home-sharing platforms to attract visitors.	Consider how new regulations could increase the costs to both guests and hosts/operators or create barriers to new entrants, and aim to limit those costs or barriers.  Allow home-sharing in some parts of the community but not others through zoning.
<b>Challenges to existing regulations</b>	People involved in home-sharing may be currently subject to local by-laws (e.g., property tax, zoning and licensing by-laws, and the governing documents of a condo corporation (e.g. declarations, by-laws or rules). Home-sharing hosts may be knowingly or unknowingly violating municipal rules, and/or condominium corporation rules.	Educate residents about existing by-laws and policies, and how they relate to home-sharing. Advise potential hosts to check their condominium corporation governing rules. Explore partnerships with platforms to share information about by-laws. Collect data from platforms to facilitate enforcement.
<b>Public safety concerns</b>	Residents in some jurisdictions have raised concerns about having an influx of short-term renters in their communities who may:	Limit home-sharing to principal residences. Require licenses or registration for

Issue	Description	Potential Responses <i>See Table 2 for more information about regulatory levers</i>
	<ul style="list-style-type: none"> <li>• not respect communal property (e.g., litter the neighbourhood);</li> <li>• bring a party atmosphere to the community; or</li> <li>• be involved in criminal behaviour.</li> </ul> <p>Concerns have also been raised about safety issues such as fire safety in condominiums (renters may not be aware of exit plan) and water safety in beachfront communities (renters may not be aware of proper precautions for water activities).</p>	<p>hosts/operators (include documents to ensure that the unit meets the municipality’s health and safety requirements).</p> <p>Partner with platforms to communicate relevant by-laws to hosts/operators.</p>
<b>Economic opportunity</b>	<p>People can generate additional income by renting out their homes or rooms in their homes, making it more affordable to live in their own residence.</p> <p>Short-term vacation rentals allow individuals to supplement their income, and thereby offset the cost of their vacation property.</p>	<p>Consider how new by-laws could increase the costs to guests and reduce opportunity for hosts/operators or create barriers to new entrants. Aim to limit those costs or barriers.</p>
<b>Competitive advantages</b>	<p>The traditional accommodation industry may raise concerns that individuals, businesses, or platforms involved in home-sharing may be taking advantage of different rules to operate in the accommodations sector with a lower operating cost.</p> <p>Displacing the existing hospitality and accommodation industry may result in job losses, lower wages and lost tax revenues.</p>	<p>Consider ways to harmonize new by-laws with by-laws for traditional accommodations, such as including B&amp;Bs in the home-sharing by-laws or vice versa.</p>



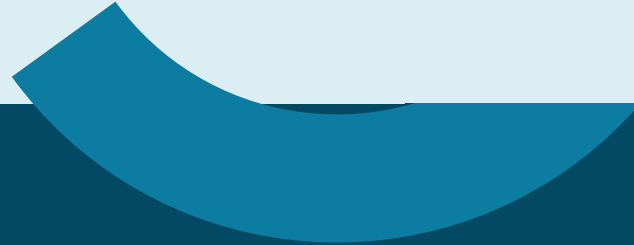
# REGULATORY LEVERS



## REGULATORY LEVERS

### How might municipalities wish to address home-sharing?

*The province recognizes municipalities as responsible and accountable governments that are in the best position to address matters within their jurisdiction. Through the Municipal Act and the City of Toronto Act, municipalities have broad powers respecting certain matters (subject to certain limits), which they may wish to consider using to regulate certain aspects of home-sharing platforms and hosts/operators. Under the Planning Act, municipalities have the authority to make local planning decisions that determine the future of communities, including whether and where home-sharing is allowed through their municipal official plan policies and zoning by-laws.*



## REGULATORY MODERNIZATION:

The Province has adopted regulatory modernization principles when designing regulations to reduce burden on business. Municipalities could consider these principles when designing home-sharing regulations. The seven regulatory modernization principles adopted by the Province are:

**1. Focus on the user by writing regulations in plain language and creating a single point of contact for business to access information or government services.**



**2. Use international industry standards (e.g. ISO) where available/appropriate to eliminate redundant reporting requirements.**



**3. Move to risk-based inspections: reduce the enforcement burden on businesses with a strong safety and compliance record, using accreditation to distinguish good actors from high-risk targets; better coordinate inspections among ministries and agencies.**



**4. Create a “Tell Us Once” culture where all ministries that interact with business use the Business Number so businesses do not provide the same information to government repeatedly.**

**5. Apply a small business lens by setting different compliance paths to achieve desired outcomes, rather than using a one-size-fits-all approach.**



**6. Go digital by delivering simple and straightforward digital services and products that will modernize public service delivery and make government work better for businesses.**



**7. Facilitate equivalent means of regulatory compliance where a business can demonstrate an alternative approach that meets or exceeds the requirement of the regulation.**



## SELF-REGULATION

One common impetus for regulation is to protect the public interest. Self-regulation pursues this goal but places the burden on the participants in the transaction.

Governments may conclude that internal feedback mechanisms on sharing economy platforms are sufficient to enable markets to regulate themselves.





## TAXATION

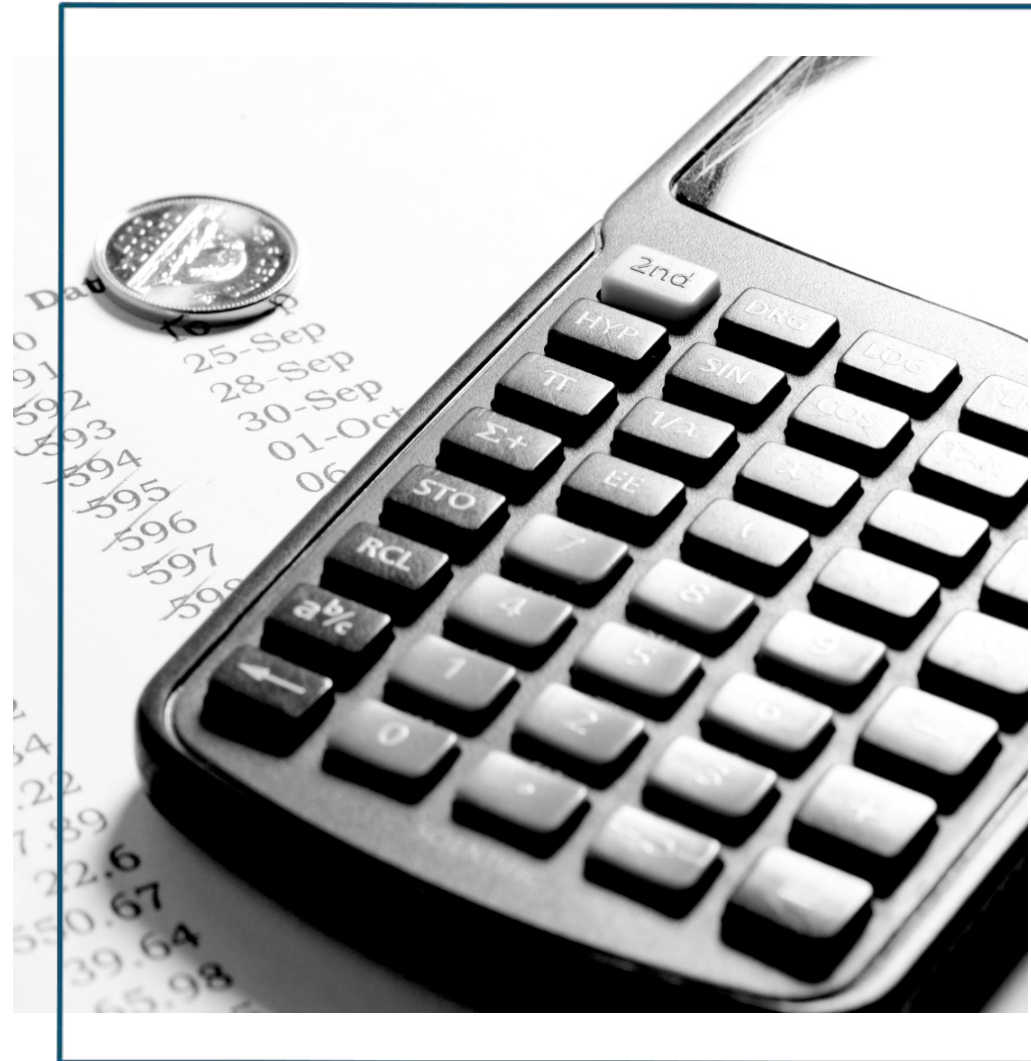
In the 2017 Budget, the government announced that it would provide the City of Toronto and all single-tier and lower-tier municipalities in Ontario with the authority to levy a tax on transient accommodation (often referred to as a “hotel tax”). Legislative amendments to the Municipal Act, 2001 and the City of Toronto Act, 2006 that provide the City of Toronto and all single and lower-tier municipalities in Ontario with the authority to levy a tax on transient accommodation came into force on December 1, 2017.

Under these amendments, municipalities have the flexibility to decide whether or not to implement a hotel tax, and also have the ability to determine the types of transient accommodation to which the tax would apply, the rate that would be charged, and other details about the tax.

A municipality would be responsible for setting out the application of the tax in a municipal by-law.

A municipality could choose to apply a municipal hotel tax to home-sharing arrangements, and may determine the applicable tax rate.

Regulations prescribing required revenue sharing with not-for-profit tourism organizations by municipalities that choose to implement a hotel tax also came into force on December 1, 2017.



## TABLE 2 – REGULATORY LEVERS

Regulating home-sharing in the context of home-sharing platforms, such as Airbnb, HomeAway and VRBO, is a relatively new practice. There are no proven best-practices established at this time, but the following are regulatory levers that municipalities have implemented to address home-sharing in their communities.

### Regulatory levers

#### License platforms

Municipalities may license platforms (subject to certain limits). Municipalities may wish to consider the feasibility of obtaining information (e.g. from platforms) and sharing information to assist with enforcement or future policy development.

#### Considerations

Very few jurisdictions around the world currently license home-sharing platforms; many only license the hosts/operators.

#### License/Register hosts/operators

Municipalities may wish to consider the feasibility of licensing or registering hosts/operators, creating databases of short-term rentals in their municipalities, and collecting other data relevant to enforcing home-sharing by-laws. Municipalities may wish to consider how licensing/registration systems might help address compliance with the municipality's health and safety requirements.

Incorporating traditional short-term rentals (e.g., Bed & Breakfasts) into one licensing/registration regime along with home-sharing could provide the municipality with an opportunity to update current short-term rental licensing/registration regimes if they already exist.

Creating different types of licenses based on zoning or types of accommodations could be explored to help achieve desired policy outcomes, such as limiting home-sharing in residential areas to maintain the character of neighbourhoods while encouraging it in tourist areas.

#### Considerations

Municipalities may wish to consider other options, such as permits to track short-term rentals and may wish to consider the regulatory burden on hosts/operators and the municipal resources required to enforce these options.

#### Limit rentals to principal residences

Several jurisdictions have imposed restrictions on second units to curb commercial activity (the use of investment properties for short-term rentals), to protect the availability of long-term rental stock.

While limiting home-sharing to principal residences may curb commercial activity, it may also interfere with individuals who want to rent out vacation properties for part of the year.

### Definitions of principal residence

**Toronto:** A principal residence is a dwelling unit owned or rented by an individual person, alone or jointly with another person, where he or she is ordinarily resident.

**Vancouver:** The dwelling where an individual lives, makes their home and conducts their daily affairs, including, without limitation, paying bills and receiving mail, and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver's licenses, personal identification, vehicle registration and utility bills.

**Chicago:** A dwelling unit: (1) that is occupied by its owner on a daily basis at least 245 days in the applicable calendar year; and (2) for which the owner has claimed a Cook County homeowner exemption.<sup>1</sup>

#### **Canada Revenue Agency:**

A property qualifies as your principal residence for any year if it meets **all** of the following **four** conditions:

- It is a housing unit, a leasehold interest in a housing unit, or a share of the capital stock of a co-operative housing corporation you acquire only to get the right to inhabit a housing unit owned by that corporation.
- You own the property alone or jointly with another person.
- You, your current or former spouse or common-law partner, or any of your children lived in it at some time during the year.
- You designate the property as your principal residence.

### Considerations

If a municipality limits rentals to principal residences, it will need to determine what proof of residence it will require and how that proof will be submitted (e.g., through a registration process, only when asked, etc.).

Municipalities will also need to consider whether secondary suites are included in the definition of primary residence, or if they will be excluded from home-sharing.

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<sup>1</sup> A program administered by the Cook County Assessor's Office that allows taxpayers whose single-family home, townhouse, condominium, co-op or apartment building (up to six units) is their primary residence to save \$250 to \$2,000 per year, depending on local tax rates and assessment increases. The Homeowner Exemption is available to people who own or have a lease or contract which makes them responsible for the real estate taxes of the residential property. It must also be used as their principal place of residence for the year in question.

## Regulatory levers

### Maximum number of consecutive days

Municipalities may wish to explore the option of establishing a cap on the number of **consecutive** days a unit can be rented in order to distinguish short-term rentals from long-term rentals. For example, many municipalities define short-term rentals as rentals that last fewer than 30 days.

#### Considerations

Municipalities may wish to consider the feasibility of proactively monitoring and enforcing this option. For example, in the City of Vancouver’s policy licensing report, *Regulating Short Term Rentals in Vancouver* (July 5, 2017), it is stated that even though renting units for less than 30 days is prohibited, short-term rentals supply approximately 29 per cent of Vancouver’s accommodations for tourists and other transient guests.

### Maximum number of days per year

Municipalities may wish to consider the option of restricting the number of days per year a unit can be rented out on a short term basis, in order to encourage homes to retain a ‘private use’ component. Municipalities adopting this approach may wish to explore arrangements with home-sharing platforms to remove listings in violation of local restrictions.

#### Considerations

Municipalities may wish to consider the feasibility of enforcing restrictions on the maximum number of days. For example, this could require tracking individuals/addresses over several different platforms.

### Number of guests

Municipalities may wish to consider restricting the number of guests allowed in a unit (e.g., two per bedroom). For example, this may help address home-sharing units being used as “party houses”.

#### Considerations

Municipalities may wish to consider the feasibility of enforcing limits on the number of guests and how complaints about activity in the rental unit would be addressed.

### Zoning

Where a municipality has determined that home-sharing is a discrete land use, the municipality may wish to consider limiting the use to certain areas (e.g., residential or mixed-use zones), or certain building types (e.g., six units or less) to achieve the desired policy goals, such as encouraging tourism, preserving the character of neighbourhoods, protecting housing stock, etc.

### Ineligible and Prohibited Building Lists

Municipalities may wish to consider creating lists of buildings that are ineligible to participate in home-sharing for various reasons, e.g., repeated by-law infractions, repeated fire code violations, by request of a condo corporation, etc.

Municipalities could explore the possibility of working with home-sharing platforms to help enforce these rules.



# **STAKEHOLDER CONSULTATIONS**

## STAKEHOLDER CONSULTATIONS

### Who might municipalities wish to consult before taking action?

Photo looking down at two women and two men seated at a circular table. As noted in the Large Urban Mayors' Caucus of Ontario's sharing economy guidebook, *Navigating the sharing economy: A 6-decision guide for municipalities*, consulting with stakeholders is a crucial part of municipal decision-making.

The following is a list of potential stakeholders municipalities may want to consult when addressing home-sharing. This list provides examples and is not meant to be exhaustive.



**TABLE 3 – POTENTIAL STAKEHOLDERS**

Group	Description/Interest (highlights based on the groups' websites linked below)
<p><b>Advocacy Coalitions</b></p>	<p><b>Fairbnb.ca:</b> <a href="http://Fairbnb.ca">Fairbnb.ca</a></p> <ul style="list-style-type: none"> <li>• A national coalition of homeowners, tenants, tourism businesses and labour organizations bringing together groups from the regulated hotel and B&amp;B industry with property owners, property renters and other concerned citizens.</li> <li>• Calling for a robust, nationally-consistent policy framework to ensure home-sharing complies with fair, safe and respectful legislation – drawing on the experience of other countries and other cities.</li> <li>• Released a report about Airbnb in Toronto, entitled <i><u>Squeezed Out: Airbnb's Commercialization of Home-Sharing in Toronto.</u></i></li> </ul>
<p><b>Bed &amp; Breakfast and Hotel Industry</b></p>	<p><b>Federation of Ontario Bed &amp; Breakfast Accommodation:</b> <a href="https://www.fobba.com/">https://www.fobba.com/</a></p> <ul style="list-style-type: none"> <li>• The professional association representing the Bed &amp; Breakfast industry in Ontario.</li> <li>• Members voluntarily agree to adhere to a high set of consistent standards defining cleanliness, comfort, quality, safety and hospitality.</li> <li>• Represents approximately 280 B&amp;Bs, and has approximately 100 direct B&amp;B members and three local association members (Fergus/Elora, Stratford and Niagara-on-the-Lake).</li> </ul> <p><b>The Hotel Association of Canada:</b> <a href="http://www.hotelassociation.ca/home.asp">http://www.hotelassociation.ca/home.asp</a></p> <ul style="list-style-type: none"> <li>• Represents more than 8,178 hotels, motels and resorts that encompass the \$18.4 billion Canadian hotel industry which employs 304,000 people across Canada.</li> </ul> <p><b>The Ontario Restaurant Hotel &amp; Motel Association:</b> <a href="http://www.orhma.com/home.aspx">http://www.orhma.com/home.aspx</a></p> <ul style="list-style-type: none"> <li>• Has over 4,000 members, representing more than 11,000 establishments across the province.</li> </ul> <p><b>UNITE HERE:</b> <a href="http://unitehere.org/industry/hotels/">http://unitehere.org/industry/hotels/</a></p> <ul style="list-style-type: none"> <li>• Labour union that represents 270,000 working people across Canada and the United States, including workers in the hotel industry.</li> </ul> <p><b>Unifor:</b> <a href="https://www.unifor.org/en">https://www.unifor.org/en</a></p>



Group	Description/Interest (highlights based on the groups' websites linked below)
<p><b>Housing and Tenant Advocates and Local Resident/Community Groups</b></p>	<ul style="list-style-type: none"> <li>• Unifor represents 17,600 members working in the diverse hospitality and gaming sector. One-third of their membership work in hotels - including major chains (like Fairmont, Radisson and Delta) and stand-alone facilities.</li> </ul> <p><b>Housing Help Association of Ontario:</b> <a href="https://findhousinghelp.ca/">https://findhousinghelp.ca/</a></p> <ul style="list-style-type: none"> <li>• Provides a list of coalitions, advocacy groups and organizations across Canada that are working on housing and homelessness issues.</li> </ul> <p><b>Federation of Metro Tenants' Associations (FMTA):</b> <a href="https://www.torontotenants.org/">https://www.torontotenants.org/</a></p> <ul style="list-style-type: none"> <li>• A non-profit organization which advocates for better rights for tenants.</li> <li>• FMTA has over 3,000 members, including affiliated tenant associations and individuals.</li> </ul> <p><b>Advocacy Centre for Tenants Ontario (ACTO):</b> <a href="http://www.acto.ca/">http://www.acto.ca/</a></p> <ul style="list-style-type: none"> <li>• Works to better the housing situation of Ontario residents who have low incomes including tenants, co-op members and people who are homeless.</li> <li>• ACTO works with legal clinics, tenant associations and other groups and individuals concerned about housing issues.</li> </ul>
<p><b>Landlords</b></p>	<p><b>Federation of Rental Housing Providers of Ontario (FRPO):</b> <a href="https://www.frpo.org/">https://www.frpo.org/</a></p> <ul style="list-style-type: none"> <li>• Represents those who own, manage, build and finance, service and supply residential rental homes.</li> <li>• FRPO represents over 2,200 members who own or manage over 350,000 household across Ontario.</li> </ul> <p><b>Landlord's Self-Help Centre (LSHC):</b> <a href="https://landlordselfhelp.com/">https://landlordselfhelp.com/</a></p> <ul style="list-style-type: none"> <li>• A non-profit community legal clinic funded by Legal Aid Ontario and mandated to support Ontario's small-scale landlord community exclusively.</li> </ul> <p><b>Greater Toronto Apartments Association (GTAA):</b> <a href="https://www.gtaaonline.com/">https://www.gtaaonline.com/</a></p> <ul style="list-style-type: none"> <li>• Represents the interests of Toronto firms participating in the multifamily rental housing industry.</li> <li>• The GTAA represents over 240 property management companies that own and operate 160,000 apartment units.</li> </ul> <p><b>Ontario Landlords Association:</b> <a href="http://ontariolandlords.org/">http://ontariolandlords.org/</a></p>



Group	Description/Interest (highlights based on the groups' websites linked below)
	<ul style="list-style-type: none"> <li>A network of landlords who promote and protect the interests of landlords and help landlords succeed through education, news and networking.</li> </ul> <p><b>Canadian Apartment Properties Real Estate Investment Trust:</b> <a href="https://www.caprent.com/">https://www.caprent.com/</a></p> <ul style="list-style-type: none"> <li>One of Canada's largest residential landlords</li> </ul>
<b>Hosts/Operators</b>	<p>If home-sharing is already taking place in your municipality, there may be a community of hosts/operators you can engage with to understand their experiences and how potential regulations may impact them. Municipalities could target hosts/operators through events such as town halls that are advertised for people involved in the short-term rental market.</p>
<b>Platforms</b>	<p>There are several home-sharing platforms operating in Ontario. Some have a larger presence in certain municipalities than others. The following are some of the major platforms in Ontario.</p> <p><b>Airbnb</b></p> <ul style="list-style-type: none"> <li>Has listings in more than 65,000 cities and 191 countries.</li> <li>The most popular home-sharing platform in Ontario.</li> <li>Partnered with the Ontario Government and the Canada Revenue Agency to educate Ontarians who engage in home-sharing about their rights and responsibilities.</li> <li>Has engaged with municipalities and the Province of Ontario to address home-sharing.</li> </ul> <p><b>HomeAway</b></p> <ul style="list-style-type: none"> <li>Has more than 2 million unique places to stay in 190 countries.</li> <li>Part of the Expedia, Inc. family of brands, including VRBO and travel mob.</li> </ul> <p><b>Flipkey</b></p> <ul style="list-style-type: none"> <li>Has more than 830,000 properties in 190 countries.</li> <li>Part of TripAdvisor Rentals</li> </ul>
<b>Province of Ontario</b>	<p>In October 2015, the Province established the Sharing Economy Advisory Committee (SEAC) with representation from key ministries to oversee Ontario's approach and to harness the opportunities presented by the sharing economy, including home-sharing. In 2016 and 2017, SEAC has been researching the sharing economy, has consulted a wide range of industry, community and municipal stakeholders, and conducted public polling of Ontarians about their use and perception of the sharing economy. If you have questions for SEAC, please send an email</p>

## Group

## Description/Interest (highlights based on the groups' websites linked below)

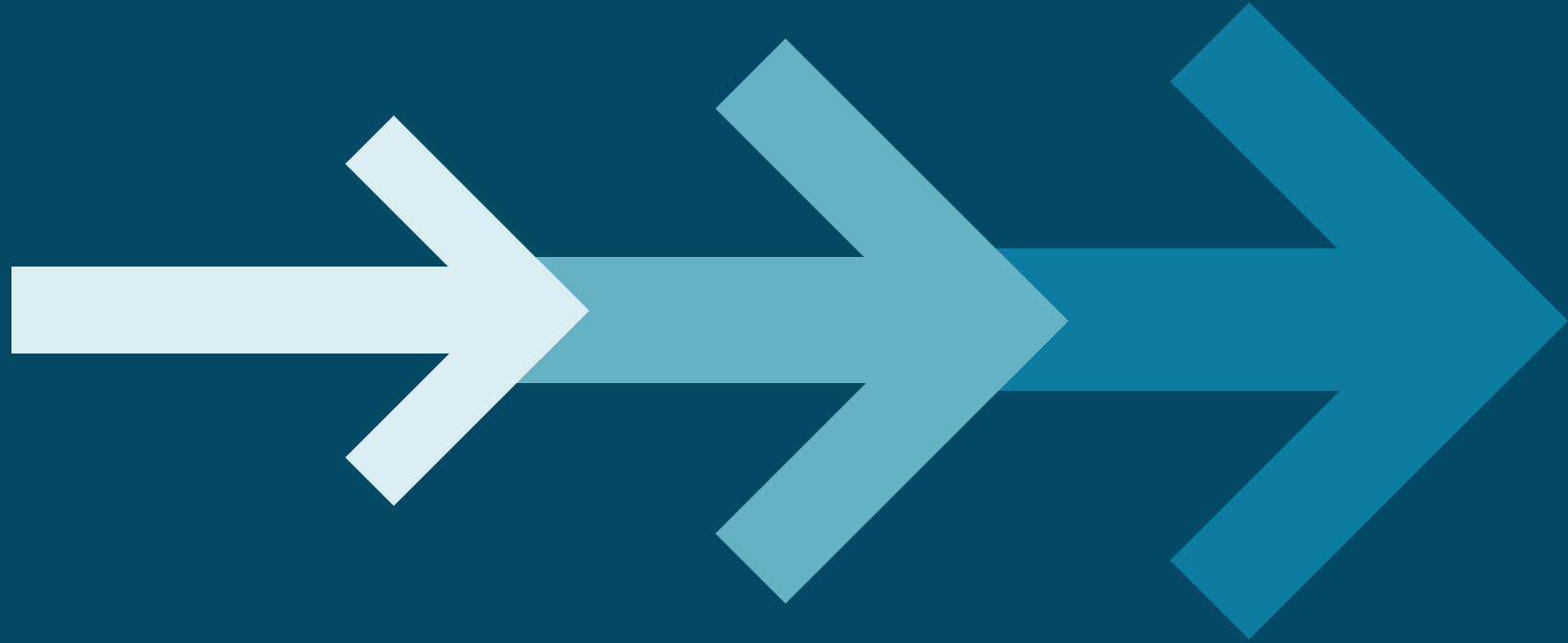
to: [sharingeconomy@ontario.ca](mailto:sharingeconomy@ontario.ca).

### Tourism Industry

**Tourism Association of Ontario:** <http://www.tiaontario.ca/cpages/home>

- Advocates for the importance of tourism as an economic driver and job creator in order to serve the interests of Ontario's diverse tourism industry and business community.
- Recognized as the umbrella government advocacy organization serving Ontario's diverse tourism industry and facilitating conversations between industry and government to affirm the economic value of tourism.





# PROVINCIAL LEGISLATION

## PROVINCIAL LEGISLATION

### What provincial legislation may be of interest to municipalities considering taking action?

The Municipal Act provides municipalities with broad powers to introduce by-laws and govern activities within their jurisdiction, which may include some aspects of home-sharing. The Planning Act provides municipalities with the authority to regulate the use of land, buildings and structures through zoning. A municipality can regulate the locations and development standards that could apply to a specific use of land based on the planning impacts. The

following table describes some provincial legislation that may be of interest to municipalities considering regulating home-sharing.

The law is complex and municipalities should consult their solicitors whenever any legal issue is in question. This list provides examples and is not meant to be exhaustive. There is also other law, such as federal legislation and “judge-made law” (“case law”), which may be of interest to municipalities.



## TABLE 4 PROVINCIAL LEGISLATION

### Provincial Act

[ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005 \(AODA\)](#)

[INTEGRATED ACCESSIBILITY STANDARDS REGULATION \(IASR\), O. Reg. 191/11](#)

Ontario has laws to improve accessibility for people with disabilities. The Accessibility for Ontarians with Disabilities Act (AODA) is a law that sets out a process for developing and enforcing accessibility standards.

Accessibility standards are laws under the Integrated Accessibility Standards Regulation that government, businesses, non-profits and public sector organizations must follow to become more accessible. They help organizations identify and remove barriers to improve accessibility for people with disabilities in 5 areas of daily life in the areas of transportation, customer service, employment, information and communications and in the design of public spaces.

#### **Application**

The AODA and its related accessibility standards applies to every person or organization that provides goods, services or facilities to the public or other third parties and that has **at least one employee in Ontario**. Accessibility requirements and deadlines depend on the type and size of your organization.

If an organization has one or more employees, the organization must adhere to the accessibility requirements under the AODA and its standards. Sole proprietors or self-employed individuals who do not have employees are exempt from having to comply with the AODA and its accessibility standards.

**Accessibility requirements for organizations can be found at the government's accessibility website at:**

[https://www.ontario.ca/page/accessibility-laws.](https://www.ontario.ca/page/accessibility-laws)

## CONDOMINIUM ACT

The Condo Act provides for the registration and creation of condominiums and gives owners the tools to run their condominium corporations with minimal government involvement.

Hierarchy of a condominium's governing documents

Governing document	What it does	Threshold for change	Other limitations
1. Declaration	Considered to be like the "constitution" of the condo – can include restrictions on the use and occupation of the units and common elements, etc.	Currently, the owners of 80 per cent or 90 per cent of units must consent to a change	Need not be reasonable; must be consistent with the Condo Act and the declaration would be subject to any other act (such as the Human Rights Code) that has primacy over the Condo Act or the declaration.
2. By-laws	Condo by-laws can set occupancy standards that are either: 1) the same as municipal by-laws where the condominium is located or, 2) subject to the regulations, not more restrictive than the standards that are in accordance with the maximum occupancy for which the condo building is designed (based on the Building Code).	Currently, owners of a majority of units must vote to approve a change	Must be reasonable and consistent with the declaration and the Condo Act
3. Rules	Govern the use of units and common elements to: <ul style="list-style-type: none"><li>• promote safety, security and welfare, or</li><li>• prevent unreasonable interference with use and enjoyment of the property</li></ul>	Made by the board Can be overturned by a majority vote at a meeting of owners	Must be reasonable and consistent with the by-laws, the declaration, and the Condo Act

- The declaration may contain conditions or restrictions with respect to the occupation and use of the units or common elements.
- The content of a condo corporation's governing documents is ultimately up to the board and owners. The Condominium Act does not specifically address short-term rentals.  
The planning authority can require that the description contain certain conditions, before the developer registers the description to create the condo corporation.
- Generally, if a condo's governing documents are more restrictive than the municipality's by-laws, owners and occupiers of the condo must still comply with the condo's governing documents. For example, if a municipality permits short-term rentals but a condo corporation's governing documents prohibit or restrict short-term rentals, the restriction or prohibition of the condo corporation's governing documents would still apply.



## Provincial Act

### [FIRE PROTECTION AND PREVENTION ACT \(FPPA\)](#)

The FPPA reflects the principle that municipalities are in the best position to determine their own needs and circumstances.

One of the intents of the FPPA is to establish municipal responsibility for fire protection and makes fire prevention and public education mandatory. It serves to clarify the role of municipalities in providing fire services and establish the minimum level of fire protection without imposing significant costs on municipalities.

Municipalities are responsible for conducting a risk assessment of their jurisdiction, and identifying what fire protection services are necessary to mitigate those risks to an acceptable level. This would include assessing risks related to home-sharing in their community and home-sharing regulations they may be contemplating. While municipalities are responsible to ensure that this is done, they may request assistance from the Office of the Fire Marshal, or contract the necessary consulting services to actually conduct the assessment.

When regulating home-sharing, municipalities should consider fire and life safety criteria for compliance with the Ontario Fire Code.

### [HOTEL REGISTRATION OF GUESTS ACT](#)

This act is not directly relevant to regulating home-sharing at a municipal level; however, the definition of hotel may be useful for distinguishing between hotels and short-term accommodations. The act requires every hotel to keep a register of guests and it contains a number of offences relating to the keeping of a register. In addition, the room rates are to be posted in each room, failure of which is also an offence.

“**Hotel**” means a separate building or two or more connected buildings used mainly for the purpose of catering to the needs of the travelling public by the supply of food and also by the furnishing of sleeping accommodation of not fewer than six bedrooms as distinguished from any other building or connected buildings used mainly for the purpose of supplying food and lodging by the week or otherwise commonly known as “boarding houses” or of furnishing living quarters for families and having a dining room or restaurant commonly known as “apartment houses” or “private hotels”.

## MUNICIPAL ACT

### CITY OF TORONTO ACT

Under the Municipal Act and the City of Toronto Act municipalities have broad powers (subject to certain limits) that allow them to make decisions in a number of areas to address local circumstances and interests. Some of these broad powers include:

- Economic, social and environmental well-being of the municipality, including respecting climate change;
- Health, safety and well-being of persons; and
- Protection of persons and property, including consumer protection.

It is up to municipalities to make local decisions, such as providing local programs and services, and interpreting their powers.

Generally, municipalities are under no obligation to inform the province about local decisions. Interested persons often raise their concerns with the municipality.

## PLANNING ACT

Municipal councils, landowners, developers, planners and the public play an important role in shaping a community. Community planning is aimed at identifying common community goals and balancing competing interests of the various parties. The central activity in the planning of a community is the making of an official plan, a document which guides future development of an area in the best interest of the community as a whole. The Planning Act sets out the ground rules for land use planning in Ontario and describes how land uses may be controlled, and who may control them. It provides for a land use planning system led by provincial policy, promotes sustainable economic development, and recognizes the decision-making authority and accountability of municipal councils in land use planning.

Under the Planning Act, municipalities:

- make local planning decisions that will determine the future of communities
- prepare planning documents, such as:
  - an official plan, which sets out the municipality's general planning goals and policies that will guide future land use
  - zoning by-laws, which set the rules and regulations that control development as it occurs. The Planning Act also gives planning boards in northern Ontario the power to adopt official plans and pass zoning by-laws for unorganized territory within their planning areas
- ensure planning decisions and planning documents are consistent with the Provincial Policy Statement which sets the policy foundation for regulating the development and use of land, and conform or do not conflict with provincial plans such as the Growth Plan for the Greater Golden Horseshoe and the Greenbelt Plan.

The Planning Act does not explicitly address home-sharing or the sharing of land between individuals. It would be up to the municipality through its zoning by-laws to determine if sharing a residential dwelling constitutes a use of land, whether it changes the use of land from residential to another use (e.g. commercial), and whether the change in use is permitted by municipal zoning by-laws. Alternatively, municipalities could consider home-sharing as a home business which is regularly permitted in residential zones in many municipal zoning by-laws.



## RESIDENTIAL TENANCIES ACT

The Residential Tenancies Act, 2006 (RTA) sets out the rights and responsibilities of landlords and tenants for most residential rental properties in Ontario.

“The purposes of this Act are to provide protection for residential tenants from unlawful rent increases and unlawful evictions, to establish the framework for the regulation of residential rents, to balance the rights and responsibilities of residential landlords and tenants and to provide for the adjudication of disputes and for other processes to informally resolve disputes.” 2006, c. 17, s. 1.

### **Application of the Act**

While the RTA applies to residential rental units despite any other legislation, agreement or waiver to the contrary, certain types of accommodation are exempt. For example, the RTA does not apply to accommodation intended to be provided to the travelling or vacationing public or occupied for a seasonal or temporary period in a hotel, motel, bed and breakfast vacation establishment, or certain other types of facilities. As well, the RTA does not apply where the occupant is required to share a bathroom or kitchen with the owner.

In situations where it may be unclear, a landlord or tenant can make an application to have the Landlord and Tenant Board (LTB) determine whether all or part of the RTA applies to a rental unit or residential complex. It is up to the Member to determine whether or not the RTA applies in any situation, depending on the facts of the case.

### **Tenancy Agreement**

Where a rental unit is subject to the RTA, a landlord and tenant enter into a tenancy agreement. A tenancy agreement is a written, oral or implied agreement between a landlord and a tenant for occupancy of a rental unit. In the contract, the tenant agrees to pay rent to live in a rental unit provided by the landlord.

The landlord and tenant can agree to a fixed term tenancy which lasts for a specific period of time. Most fixed term tenancies are for one year, but the RTA does not mandate minimum rental periods. When a tenancy agreement expires, the tenancy does not end – it continues under the same terms and conditions as before, because landlords and tenants have to give each other proper notice to end a tenancy.

### **Subletting**

A sublet occurs when a tenant moves out of the rental unit, lets another person live there for a period of time, but returns to live in the unit before the tenancy ends.

A tenant must have the landlord’s consent to sublet the unit, but the landlord must have a good reason to refuse. If a tenant sublets without the landlord’s consent, the landlord can apply to the Landlord and Tenant Board (LTB) for an eviction order to terminate the original tenancy and evict the unauthorized occupant. If the tenant thinks that the landlord is being unreasonable in withholding their consent to sublet to a specific person, the tenant can file an application with the LTB.

A tenant who sublets a rental unit cannot:

charge a rent that is greater than the rent that is lawfully charged by the landlord for the rental unit;

collect any additional fee for subletting a rental unit; or

require an individual to pay for goods or services as a condition for the subletting in addition to the rent the person is lawfully required to pay to the tenant or landlord.

In a sublet, all of the terms of the original tenancy agreement stay the same. The tenant is liable to the landlord for any breaches in their lawful obligations under the tenancy agreement, while the sub-tenant is liable to the tenant.

### **Eviction**

Under the Act, in certain cases a tenant can be evicted if the tenant, tenant's guest or someone else who lives in the rental unit does something they shouldn't do. Grounds for eviction include, but are not limited to:

- wilfully or negligently causing damage to the rental property
- substantially interfering with the reasonable enjoyment or another lawful right of other tenants or the landlord
- seriously impairing the safety of others
- allowing too many people to live in the rental unit in contravention of health, safety or housing standards ("overcrowding")

A landlord can end a tenancy only for the reasons allowed by the Act.

The first step is for the landlord to give the tenant notice in writing that they want the tenant to move out. The proper forms a landlord must use for giving a notice to end the tenancy are available from the LTB.

If the tenant does not move out after receiving the notice, the landlord can ask the LTB to end the tenancy by filing an application. The LTB will decide if the tenancy should end after holding a hearing. Both the landlord and the tenant can come to the hearing and explain their side to a member of the LTB.

### **Landlord and Tenant Board**

The LTB resolves disputes between residential landlords and tenants and provides information/brochures about the RTA.

**Contact the LTB: Toll free:** 1-888-332-3234

**Toronto area:** 416-645-8080

**TTY:** Bell Relay Service at 1-800-268-9242

**Website:** <http://www.sjto.gov.on.ca/ltb/>





# JURISDICTIONAL SCAN

# JURISDICTIONAL SCAN

## What are other municipalities doing?

The following is a high-level scan of how municipalities in Ontario and the United States are, or are not, utilizing some common home-sharing regulatory levers.

The chart below is a summary for reference purposes.

For further details, refer directly to the links below in Table 6 – Jurisdictional Scan Narrative.

The inclusion of municipal examples in this guide does not imply an endorsement by the Province.



**TABLE 5 JURISDICTIONAL SCAN**

Regulation	The Blue Mountains	Niagara-on-the-Lake	Toronto	Vancouver	New Orleans (USA)	Chicago (USA)
License home-sharing platform			✓			✓
License/Register hosts/operators	✓	✓	✓	✓	✓	✓
Limit rentals to principal residences			✓	✓		✓
Maximum number of consecutive days	✓	✓	✓	✓	✓	
Maximum number of days per year					✓	
Number of guests	✓				✓	
Zoning	Certain areas of the Town are zoned to allow for Commercial Resorts Units; these do not need to be licenced for short term rentals.	Zoning restrictions are based on the type of short-term rental, e.g., cottage rental, vacation apartment, etc.	Short-term rentals to be added as a permitted use for all zones where dwelling units are permitted	Short-term rentals to be allowed in all residential dwelling units across certain zoning districts.	The Comprehensive Zoning Ordinance allows specific short-term rental types in specific zoning districts.	Zoning used to restrict home-sharing in some residential areas.
Ineligible or Prohibited Building List						✓
Tax on transient accommodation			Under review	Under review	✓	✓

## TABLE 6 JURISDICTIONAL SCAN NARRATIVE

The following table provides a more detailed look at the approaches to regulating home-sharing in several municipalities in Ontario and the United States. For further details, please refer to the links below.

### JURISDICTIONAL APPROACHES

#### TOWN OF THE BLUE MOUNTAINS

<http://www.thebluemountains.ca/sta-consult.cfm>

##### Goal

The Town of Blue Mountains is aiming to balance the needs of property owners with those of residents looking for safe, adequate and properly maintained short-term accommodation (STA) premises.

The accommodation of recreational visitors is critical to the economy of the Town and to employment in the many recreational businesses and activities located there. Short-term accommodations, including the rental of private houses, chalets and condominium units, are important to tourism in the area.

##### Definition

[BY-LAW NO. 2009-04](#)

“SHORT TERM ACCOMMODATION (STA)” means a dwelling or structure of any part thereof that operates or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for any period less than thirty (30) consecutive calendar days, throughout all or any part of a calendar year. Short term accommodation shall not mean or include a motel, hotel, bed and breakfast establishment, tourist cabin or cottage, hospital, commercial resort unit or similar commercial or institutional use.

##### Key Points

- Generally, a newly established STA is not permitted in a low density residential zone.
- Short term (less than 30 days) accommodation uses are NOT permitted in any traditionally single-family-dwelling neighbourhoods, zoned R1, R2 and R3.
- The maximum number of occupants within a dwelling that is being operated as a short term accommodation shall not exceed a total number based upon 2 persons per bedroom plus an additional 2 persons.

- The number of non-occupying guests permitted at a short term accommodation premises must not be such that it may conflict with the residential neighbourhood or amenity.
- Short term accommodation renters are not to host commercial functions.
- So called "party houses" conflict with residential amenity and are not permitted.
- Any gathering, celebration or entertainment at a short term rental accommodation premise must not conflict with residential amenity and must comply with all the other requirements of this Code and the Town of The Blue Mountains by-laws.
- An STA Licence is only required if you rent for periods of less than 30 days.
- There are certain areas of the Town where owners do not require a license to rent for short term periods but they must meet other requirements. Certain areas of the Town are zoned to allow for Commercial Resorts Units (CRU) and these do not need to be licensed for short term rental periods at this time.
- Consequences can include fines if an owner is found to be in violation of the bylaw.
- A license is valid for a period of 2 years from date of issuance.

## **NIAGARA-ON-THE-LAKE**

### **Definition**

#### [BY-LAW NO. 4634-13](#)

SHORT TERM RENTALS means the use of a building for overnight guest lodging for a period of not more than 28 days and includes Bed and Breakfast Establishment, Cottage Rentals, Villas, County Inns and Vacation Apartments.

### **Key Points:**

- Short-term rentals include:
  - Bed and Breakfasts – no more than three guestrooms
  - Villas – four or more bedrooms
  - Cottages – up to three bedrooms
  - County Inns – more than three rented rooms.
- Only the registered owner or the lessee of a residential building, who has explicit permission from the owner, may apply for and hold a license to operate a short-term rental.
- In the case of a corporation, any of the largest shareholders can apply.
- The lessee of a commercially zoned property may apply.



- No person shall use or operate a short-term rental unless they hold a valid license.
- Only buildings that have been occupied as a single detached dwelling for a minimum of 4 years shall be eligible for a license. Any additions placed on the building that expand the number of rooms will not be available to rent until that portion of the addition/extension has been occupied for 4 years.
- All municipal taxes, building permits, water and hydro accounts for the property must be current and not outstanding before a license will be issued.
- Short term rentals must front a public road, have parking, be fully serviced by water and sewage, in compliance with all by-laws, zoning, official plan, proof of liability insurance, fire and health and safety codes.
- All guests must leave registration information with the licensee and the licensee is required to keep daily records for inspection.
- A Municipal Law Enforcement Officer may require access to the licensed premises to inspect and verify compliance.
- A Special Occasion permit is required if a licensee wishes to hold a more commercial gathering or wedding or large reception.
- License infringements will get 72 hours to correct an issue. If the Town must correct the violation it will be at the expense of the Owner. License may also be revoked.
- License fee is \$108 per licensed guest room per year.
- Fine for operating a short term rental without a current license is \$500.

## **TORONTO**

<https://www.toronto.ca/city-government/public-notices-bylaws/public-notices/proposal-to-establish-a-new-municipal-code-chapter-for-short-term-rentals/>

### **Goal**

The City of Toronto's regulations are intended to maximize the benefits of short-term rentals and contain their negative impacts in a manner that is also consistent with the principles in the City's official plan and the overall objectives to promote consumer protection, public safety, and the economic, social and environmental health of the City.

### **Definition**

A short-term rental is all or part of a dwelling unit in the City of Toronto used to provide sleeping accommodations for any rental period that is less than 28 consecutive days in exchange for payment. This includes existing bed and breakfasts and excludes hotels and motels and accommodations where there is no payment.

### Key Points

- Short-term rentals are permitted across the city in all housing types
- People can host short-term rentals in their principal residence only – both homeowners and tenants can participate
- People can rent up to three bedrooms or entire residence
- People who live in secondary suites can also participate, as long as the secondary suite is their principal residence
- An entire home can be rented as a short-term rental if owner/tenant is away - to a maximum of 180 nights per year
- People who rent their homes short term must register with the City and pay \$50
- Companies such as Airbnb must become licensed and pay a fee of \$5,000, plus \$1/night booked through the platform

### VANCOUVER

<http://vancouver.ca/doing-business/short-term-rentals.aspx>

#### Definition

“A short-term rental (STR) is a home, or a room in a home, that is rented for less than 30 days at a time.”

#### Goal

Through its short term rental regulations, the City of Vancouver is seeking to accomplish the following:

- **Long Term Rental Supply:** Protect the supply and affordability of long term rental housing for Vancouver residents.
- **Health and Safety:** ensure residential space rented as tourist accommodation meets Building Bylaw and Property Use standards.
- **Neighbourhood Fit:** Maintain quality of life and safety in residential neighbourhoods and buildings.
- **Tax and Regulatory Equity:** Treat accommodation providers equitably from a tax and regulatory perspective.
- **Supplemental Income:** allow residents to earn income from renting their home occasionally.
- **Tourism:** Support growth in tourism and Vancouver’s ability to support peak tourism season and to host major events.
- **Compliance:** design a regulatory, licensing and enforcement system that is easy to understand, inspires high levels of voluntary compliance and has effective means of preventing unlawful behaviour.

#### Key Points

- Short-term rentals are allowed starting April 2018 – but not before.
- Homeowners and renters will only be allowed to list their principal residences, defined as where you live most of the year, pay

your bills, cook your meals, and receive government mail.

- Vancouver residents will not be permitted to apply for licences to list secondary suites like basement apartments or laneway homes, or second homes (unless they are the person's principal residence).
- Annual licensing fee of \$49 each year; anyone operating a short-term rental must list the licence number in online advertisements.

## **NEW ORLEANS (USA)**

<https://www.nola.gov/short-term-rentals/>

### **Definition**

“Short term residential rental’ means a dwelling unit located within the city that is rented as, or held out as being used as, a shared housing unit, bed-and-breakfast establishment or vacation rental.”

### **Key Points**

- There are three license categories:
  - Accessory – rooms in principle residence or secondary unit; no limit on number of days it can be rented in a year; maximum of three guests per bedroom, with a maximum of six guests in total.
  - Temporary – entire residence; can be rented for a maximum of 90 days per year; maximum of two people per bedroom, with a maximum of ten guests in total.
  - Commercial – entire unit in non-residential district; no limit on the number of days it can be rented in a year; maximum of ten guests.
- The license placard provided by Safety and Permits must be prominently displayed on the front facade of the structure in a location clearly visible from the street during all periods of occupancy.
- Airbnb must collect taxes from their hosts.
- Short-term rentals are banned in the tourism centric French Quarter.
- Short-term rentals are not permitted outdoors, in an accessory structure (e.g. shed, garage, etc.), or in a recreational vehicle.
- Only one party of guests are permitted per short-term rental
- Use of the short-term rental for any commercial or social events is prohibited.

- The short-term rental shall outwardly appear as a residential dwelling.
- Short-term rentals shall not adversely affect the residential character of the neighborhood nor shall the use generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.

## Chicago (USA)

Shared Housing Ordinance:

<https://www.cityofchicago.org/content/dam/city/depts/bacp/ordinances/sharedhousingordinanceversionfinal.pdf>

### Definitions

“**Shared housing host**” means an owner or tenant of a shared housing unit who rents such unit to guests.

“**Shared housing unit**” means a dwelling unit containing 6 or fewer sleeping rooms that is rented, or any portion therein is rented, for transient occupancy by guests. The term “shared housing unit” shall not include: (1) single-room occupancy buildings; (2) hotels; (3) corporate housing; (4) bed-and-breakfast establishments, (5) guest suites; or (6) vacation rentals.

### Goal

To strengthen protections for consumers and quality of life while generating new revenue to invest in supportive services and housing for the homeless.

### Key Points

- Chicago has created two categories of platforms and has different requirements for each:
  - “intermediaries” (e.g., Airbnb) that primarily list shared housing units registered with the City on the company’s platform; and
  - “advertising platforms” (e.g., HomeAway) that primarily list licensed vacation rentals or bed-and-breakfasts on the company’s platform, and do not receive rental or revenue data from hosts.
- Chicago limits short-term rentals in the different types of units as follows, though hosts can seek exemptions from these rules from the city:
  - **single-family homes**: only primary residences can be rented;
  - **multi-family homes** (i.e. 2-4 units): only primary residences can be rented and a limit of one rental unit per building will apply; and
  - **multi-unit buildings** (i.e. 5+ units): a limit of one-quarter of the total number of dwelling units in the building or 6 rental units, whichever is less, will apply.

- Primary residence is defined as a dwelling unit: (1) that is occupied by its owner on a daily basis at least 245 days in the applicable calendar year; and (2) for which the owner has claimed a Cook County homeowner exemption
- There is a “one-strike-and-you’re-out” rule for certain “egregious conditions” (e.g. violent acts, drug trafficking, gang-related activity, improper commercial activity including large parties) and a “three-strikes-and-you’re out” rule for units that cause a disturbance due to certain incidents (e.g. noise, public drunkenness, harassment of passersby, loitering, overcrowding).
- The City will establish an “**ineligible list**” and ensure that these units are not allowed to operate. This list will prohibit the properties of problem landlords, building code scofflaws, and units that are subject to an order to vacate or that have been deemed a public nuisance from being listed on the site.
- Cooperative buildings, condominium buildings, and buildings governed by a homeowner’s association, regardless of size, along with owners of buildings with five or more units are able to request to be added to a “**prohibited buildings**” list to establish short-term rental activity as illegal in their buildings. The City screens unit registrations to determine if any are located in these buildings and, if so, take enforcement action to remove the units from the registry.
- The legal voters of any precinct within the City that contains residentially zoned property may petition their local alderman to introduce an ordinance establishing that precinct as a restricted residential zone, with different levels of restriction available.

## RESOURCES

### Ontario by-laws

Town of The Blue Mountains: [BY-LAW NO. 2009-04](#)

Town of Niagara-on-the-Lake: [BY-LAW NO. 4634-13](#)

### Other jurisdictions

New Orleans, USA: [Short Term Rentals](#); [Licensing Ordinance](#); [Zoning Ordinance](#)

Chicago, USA: [Ordinance, Summary](#)

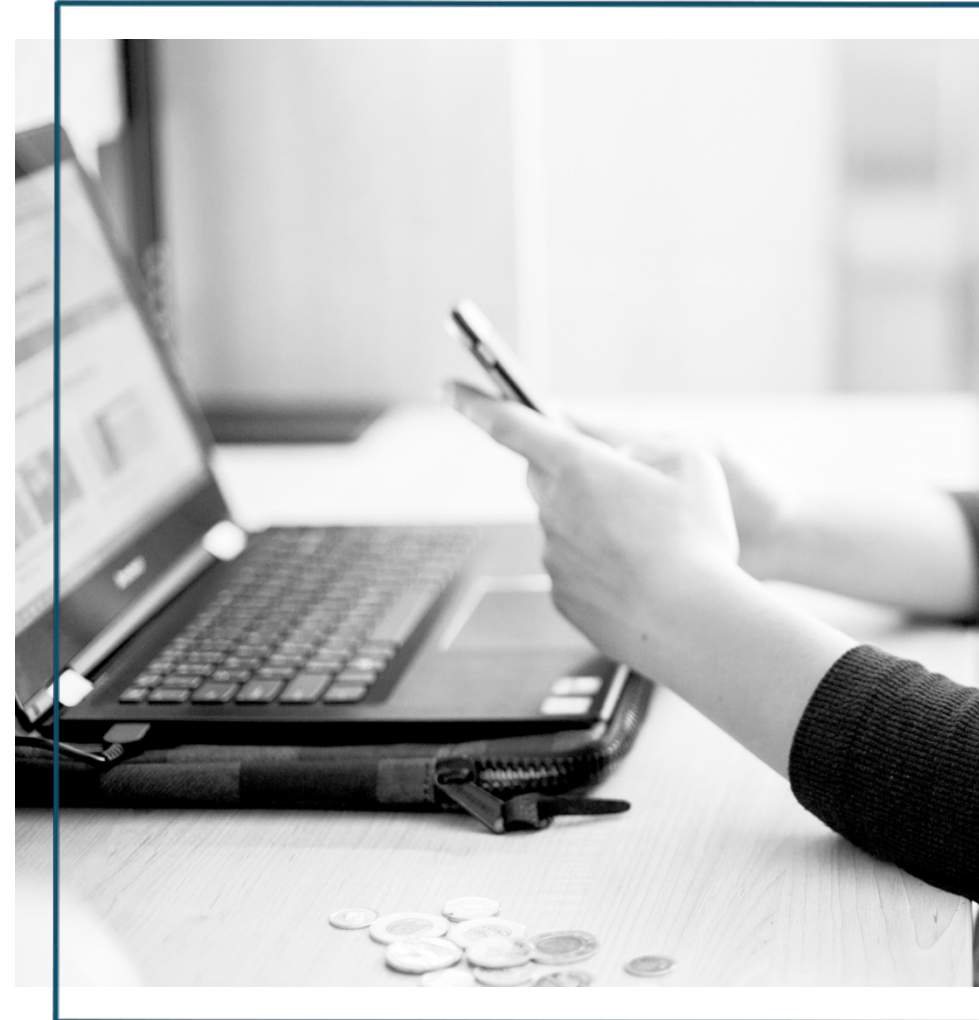
### Mowat Centre Research

[What to do about Airbnb? Four things Ontario should consider in the move to regulate home-sharing](#)

[Regulating Disruption: Governing in an era of rapid technological change](#)

### Canadian Centre for Policy Alternatives

[Regulating Airbnb and the Short-Term Rental Market](#)



## THE HOME-SHARING GUIDE FOR MUNICIPALITIES



Ministry of Finance  
2018

ISBN 978-1-4868-1277-6 (Print)

ISBN 978-1-4868-1278-3 (PDF)

**Subject: Response to CQ19/2017 – Regulation of Short Term Rental Housing - City Wide**

**Reference:**

Date to Council: May 6, 2019

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Policy, Gaming, Licensing & By-Law Enforcement

Report Date: April 12, 2019

Clerk's File #: AF/11247

**To:** Mayor and Members of City Council

**Recommendation:**

- I. THAT Council Report No. C72/2019 responding to CQ19-2017 regarding licensing and zoning for short term rental accommodations **BE RECEIVED FOR INFORMATION**; and,
- II. Should Council wish to give further consideration to a regulatory regime for short term rental accommodations:
  - a. THAT Council **PROVIDE DIRECTION** to Administration to monitor the outcome of the appeal currently before the Local Planning Appeal Tribunal regarding short term rental housing in the City of Toronto; and,
  - b. THAT Council **DIRECT** Administration:
    - i. to hold any necessary public consultations with stakeholders,
    - ii. to report back to Council with the results of the Toronto appeal and the public consultations, and
    - iii. Provide further recommendations for moving forward with a regulatory regime.



## **Executive Summary:**

N/A

## **Background:**

The Short Term Rental (STR) housing market is one of the fastest growing sectors in the worldwide travel/tourism industry. Various companies provide platforms for homeowners to advertise their STR properties to renters, including – but not limited to – airbnb, VRBO and HomeAway.

At the May 8, 2017 Meeting of Council, Councillor Gignac asked the following question of Administration (CQ19-2017):

*“Asks Administration to prepare a report on how we will license and zone for Air B & B’s in the City.”*

It should be noted that during the preparation of this report, a group of concerned citizens reached out to Administration regarding a property being used as a STR in their neighbourhood. Administration met with these citizens in order to determine the nature of their complaints. They shared concerns including increased traffic – both vehicular and pedestrian – as well as potential safety concerns related to the number of different renters utilizing the property on a rotational basis. The concerned residents have submitted a petition to council, originally brought forward at the January 7, 2019 meeting. That petition is attached as ‘Appendix A’

While CQ19-2017 asks for a report on how the City will license and zone for STRs it’s important to first understand the local context, review what other municipalities are doing, and consult local stakeholders. Accordingly, the following is provided for informational purposes in response to the Councillor’s Question.

## **Discussion:**

Consumers who are looking for more choice, flexibility and often lower cost while travelling have driven the rapid growth of the STR market. Those offering properties for rent, commonly referred to as Hosts, are drawn by the prospect of earning extra income in a relatively simple manner through the renting of rooms in their homes or renting out an entire dwelling/property. In recent years, the growth of this industry has prompted municipalities to research and implement various methods of regulation and taxation of the STR industry.

## **What is currently permitted?**

STRs are generally rented for less than thirty days, which differentiates them from traditional monthly rental accommodations. This distinction is highlighted in the City’s existing definition of ‘Bed & Breakfast’, which refer to the travelling public. Currently, any dwelling unit within the City can be rented on a monthly basis by up to three lodgers under separate agreements. More than three lodgers would require zoning and licence for a ‘Lodging House’. This does not include scenarios wherein 3 or more individuals are renting as a single party (e.g. a family unit or unrelated group of persons), only

when each lodger is renting under a different agreement. This is an important fact as the decision to permit, prohibit, or regulate STRs will not affect the ability of homeowners to rent rooms or the entire dwelling on a monthly basis.

### **Statistics in Windsor**

For informational purposes, airbnb has provided a snapshot of the STR presence in the City of Windsor as indicated by their platform. The following information is representative of Windsor in 2017:

- 150 active hosts rented their spaces for an average of 56 nights each.
- Hosts earned \$5,500 in extra income on average with a near 50-50 split on those renting out entire homes, or just rooms within their primary residence.
- Overall, 11,800 guests used the service staying an average of 2.8 nights per visit.
- The top 5 cities that guests visited from were Toronto, London, Ottawa, Hamilton as well as renters from within Windsor.

These numbers reflect the 2017 presence of one platform in the City.

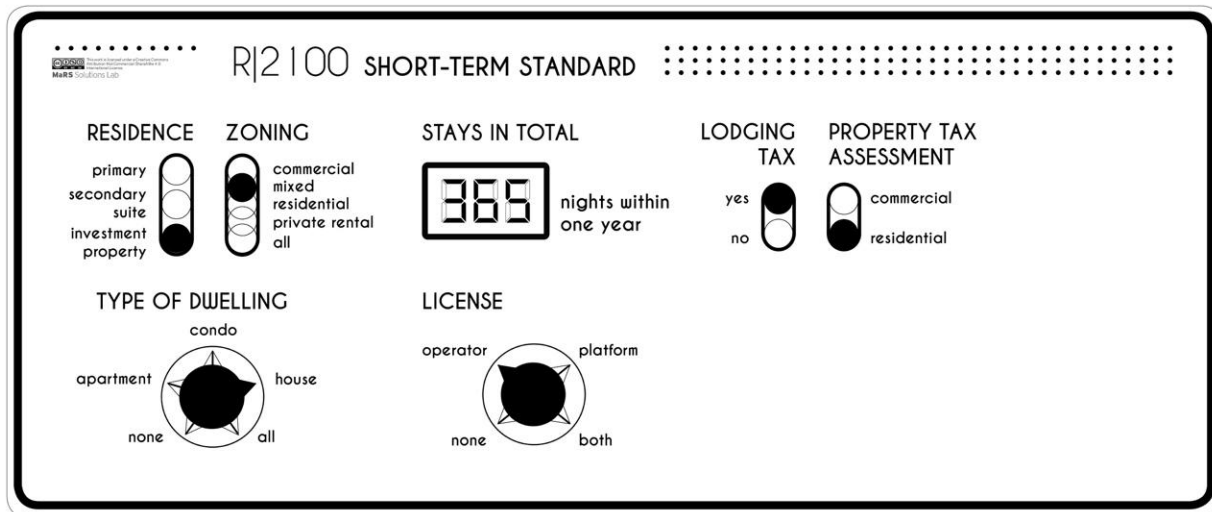
### **Decision Framework**

Should Council wish to pursue regulation of STRs it is recommended that a wide range of stakeholders be consulted, which include but is not limited to:

- The B&B and Hotel Industry;
- Housing and tenant advocacy organizations;
- Affordable housing providers;
- Landlord associations;
- Existing STR operators/hosts;
- STR platform companies;
- Business Improvement Associations;
- Tourism Windsor Essex Pelee Island;
- The Windsor Essex Economic Development Corporation; and
- Ontario's Sharing Economy Advisory Committee.

Before considering the regulation of STRs it's important to define which issues are most important in Windsor (e.g. impact on affordable housing, tourism, public safety, and economic development). Once the key opportunities and concerns are identified Administration can recommend an appropriate regulation regime.

To understand the complex range of regulatory options, the following diagram was developed by the MaRS Solutions Lab in Toronto. It displays regulatory options as a dashboard control panel with a variety of settings, where each control is not independent of the other but operate in combination to achieve the objectives identified by the community.



Short-Term Standard Regulatory Dashboard, MaRS Solutions Lab 2017

- The above figure shows the number of different variables that are necessary to consider when planning and implementing a STR regulatory regime.

## Municipal Licensing

STRs are not currently licensed in Windsor. The table included in 'Appendix B' outlines a number of municipalities which have enacted regulation or have attempted to, and what they have accomplished thus far. 'Appendix B' also outlines a great deal of information on STR legislation provided by the Provincial government. Licensing STRs has been explored using a number of different methods, with a few consistent factors to consider. Licensing fees and renewal timelines vary across municipalities, based on the presence of STRs and how in-depth the licensing procedure is.

The cost for a business licence in the City of Windsor varies based on the purpose of the business but the average amount is \$300, which often includes the cost of various inspections. In some municipalities, fees similar to business licensing fees have been levied on the Hosts. Others have opted for a lower licensing fee and a self-declaration that the property meets all requirements outlined by the platform and the municipality.

The STR market is a piece of the larger 'Sharing Economy', a concept gaining more prevalence in the mainstream as time goes on. In 2016 Council decided to regulate another company in the Sharing Economy – Uber. In this example the platform itself was licensed and they had the ultimate responsibility to ensure their drivers comply with requirements set forth by the municipality and the platform itself. The licensing fee paid by Uber is based on the number of active drivers using the platform, and uses a sliding scale to ascertain the amount paid for licensing each year. Licensing of a platform instead of the 'users' as shown in the Uber example above, can be successful.

In systems where the Hosts are responsible for licensing, the larger platforms such as HomeAway and airbnb have worked with municipalities to assist in ensuring licensing

regimes are followed. In order for a Host to advertise their property in a City with a regulatory system in place, they must first obtain the license from the City and show proof of licensing. They then list the license number in a specific area when registering, without which they cannot continue the process.

The enforcement of the licensing regime is a major consideration in this matter, as the City's by-law, fire and building officers are operating at full, or over, capacity. The ability to create any regulatory regime relies on the ability to inspect and enforce compliance at a given point; with the current compliment of staff in the three main enforcement areas, the necessary staff time cannot be dedicated. Should Council decide to pursue regulation, these costs will be calculated in detail but will likely add a significant amount of necessary funding to ensure staff and other resources are able to appropriately regulate and enforce the regime. Another difficulty in enforcement is the lack of entry rights given to officers. Most rentals are in private dwellings which, in most cases, require explicit permission (judicial or from the homeowner) to enter and inspect. This creates yet another barrier to enforcement that must be considered in any regulatory regime.

## **Land Use**

There are three main approaches municipalities have employed with respect to zoning for STRs.

1. The first involves prohibiting STRs geographically, often within areas that are already inundated with tourism, hotels and entertainment facilities. In New Orleans, LA, STRs are not permitted in the popular French Quarter District, but are allowed in all other areas of the city. The zoning ordinance is enforced in conjunction with a licensing regime.
2. Some municipalities have opted to permit STRs only in certain land use classifications or zones. The Town of the Blue Mountains does not permit STRs within low density residential zones but does permit STRs in areas which are zoned for commercial resort units. In Jersey City, New Jersey STRs are permitted as an accessory use in all zoning districts where residential uses are permitted.
3. The last approach common among municipalities broadly permits STRs subject to limits of use. For example, in Philadelphia, Pennsylvania, anyone can participate in the STR market for up to 90 days per year. Once a host is in excess of 90 rental days per year they would be required to apply for a special ordinance to allow for STR use in their zoning district.

The regulation of STRs through land use planning works best paired with a licensing component to allow for greater compliance and enforceability. For example, the Zoning By-law cannot regulate how many days STR are rented for in a year.

Few Ontario municipalities have made a decision regarding STRs as they are taking a 'wait and see' approach while monitoring what others do. Those who have enacted regimes, as per 'Appendix B', have generally opted for a more flexible system to allow Hosts to continue operating without much hardship. In early 2018 Toronto City Council passed a comprehensive system of STR regulation including the following:

- short-term rentals are permitted across the city in all housing types
- people can host short-term rentals in their principal residence only – both homeowners and tenants can participate
- people can rent up to three bedrooms or entire residence
- people who live in secondary suites(basement or loft apartments and the like) can also participate, as long as the secondary suite is their principal residence
- an entire home can be rented as a short-term rental if owner/tenant is away – to a maximum of 180 nights per year
- the owner must notify their neighbours of the intended use
- people who rent their homes short term must register with the City and pay \$50

Shortly after the passing of the above regulations, an appeal was filed to the Local Planning Appeal Tribunal. The appeal was brought forward by a number of individuals, as well as companies, who currently participate in the STR market as hosts. The group of appellants take issue with regulations preventing them from renting out multiple properties or self-contained suites as well as potential related changes to the zoning by-law. This appeal will not be heard until August 26, 2019 and municipalities across Ontario recognise the precedent that this appeal may set. It is recommended that Council wait for this hearing to be decided before making a decision regarding regulation of STRs.

Administration will continue to enforce existing by-laws that may assist in the mitigation of some issues associated with STRs. Issues brought forward by residents include; potential parking disruptions, noise complaints, issues regarding the maintenance of properties and concern regarding the amount of people coming and going from a given residence and, in some cases, the quality of residence they are receiving. Respectively, the Parking By-law, Noise By-law, Property Standards By-law, Zoning By-law and Vital Services By-law work to address these issues. It should be noted that there have only been a limited number of complaints in regards to STRs specifically, however Administration will continue to ensure that these matters are dealt with appropriately in the context of the existing systems.

### **Bed and Breakfast Establishments**

The City of Windsor currently regulates bed and breakfast establishments (B&Bs) through its licensing and zoning by-laws. A B&B is referred to as a 'Tourist Home' in the Zoning By-law No. 8600, which is defined as *an ancillary use that:*

1. *is located in a single unit dwelling that is the principal residence of the tourist home operator;*
2. *provides sleeping accommodation to the travelling public; and*
3. *may include the provision of meals.*

A tourist home is a permitted use within the Commercial Districts 1.3, 2.1, and 2.2. There are also a limited number of properties that have site-specific zoning permitting a tourist home.

The City's Business Licensing By-law No. 395-2004 refers to B&Bs as a 'Bed and Breakfast' or 'Guest House', which are defined as *a home-based business for the temporary accommodation of the traveling public located within a single detached dwelling which is occupied on a full-time basis by the owner... and shall contain at least one (1) bedroom for the exclusive use of the owner and at least two (2) accessory guest rooms for use in the Bed and Breakfast or Guest House operation...*

It should be noted that Windsor has experience and precedent regulating traditional B&Bs, which are a type of STR accommodation. Any regulation of STRs would have to consider the existing regulation of traditional B&Bs and repeal or harmonize the existing regulations.

### **Risk Analysis:**

One of the highest profile challenges when dealing with STRs on a Municipal level is in relation to affordable housing stock. Some critics of STRs argue that the rental stock is adversely affected by those participating in the STR market – as more vacant homes or apartments are rented for short term rather than long term tenancies. This may negatively impact the amount of affordable housing available to the residents of a given municipality and some argue that it has a tendency to drive existing rents up.

Another recurring issue is based in the thought that STRs can create quality of life concerns in urban/densely populated areas. This includes a wide range of issues such as parking concerns and other by-law infractions. This matter also encompasses the concern regarding 'ghost hotels', or homes in vibrant neighbourhoods being used as hotels, with a limited presence of the actual property owner and constant revolving occupancy. There have also been well documented cases in cities like New York wherein the rentals are small apartments housing 25 air mattresses as shared accommodations.

### **Financial Matters:**

It should be noted that in Windsor the largest STR platform, airbnb, will be paying the municipal accommodation tax commensurate with the amounts paid by hotels in the city. They have been open to working with the City and prove to be generally amicable with municipal regulatory and taxation practices.

Other financial matters to consider involve the cost of enforcement resources, both staff and other, should council direct administration to create a regulatory regime before the outcome of the Toronto appeal. At this time staff does not have the capacity to effectively enforce this additional workload and staff would have to be hired

**Consultations:**

The Planning and Building, Licensing, By-law Enforcement, Finance, and Fire Departments were consulted in the preparation of this report. Administration has also met with residents in relation to these matters.

**Conclusion:**

At this time there are many options for the creation of a STR regulatory regime. A general consensus of various communities is that greater compliance is achieved with a more ‘bare bones’ approach. Further direction and consultation are required to discern what level of regulation is necessary for Windsor, and what those regulations will require of homeowners as well as City Administration. The STR appeal currently in queue in Toronto may also set a precedent and framework to be used by municipalities in Ontario once decided. In the interim, Administration will continue to effectively enforce and uphold the standards set forth in the Parking, Noise, Property Standards, Zoning, and Vital Services By-Laws.

**Approvals:**

Name	Title
Katherine Donaldson	Corporate Policy Coordinator
Greg Atkinson	Planner III - Economic Development
Michael Cooke	Manager of Planning Policy
Gary Cian	Deputy License Commissioner/Senior Manager of Policy, Gaming, Licensing and By-Law Enforcement
Thom Hunt	City Planner
John Revell	Chief Building Official
Valerie Critchley	City Clerk
Onorio Colucci	Chief Administrative Officer

**Appendices:**

- 1 APPENDIX A - Resident Petition
- 2 APPENDIX B - Home Sharing Guide