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Managing Airbnb: A Cross-Jurisdictional Review of Approaches for Regulating the Short-Term Rental Market

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Abstract

Canada's short-term rental (STR) market has grown considerably in recent years, resulting in a heightened focus by local governments on adopting regulatory approaches to manage it. Indeed, since 2018, an increasing number of Canadian governments (largely cities) have introduced regulatory frameworks to both mitigate perceived negative impacts of the STR market, as well as reap some of its benefits. In light of the gap in Canada-focused research on STR regulation, this article analyzes in comparative perspective the regulatory approaches adopted in 11 Canadian jurisdictions in response to the rise of platform-mediated home sharing. We find that aspects of regulation, such as licensing and registration, are increasingly a question, not of "if," but rather "how" and "to what extent," with the most promising approaches being those that reflect sophisticated understandings of the range of activity that plays out in the market and the various actors, including platforms and property managers, involved. For jurisdictions looking to introduce or tweak approaches going forward, there is potential benefit in reframing market regulation as a governance issue, rather than a technical legal problem. From this standpoint, of particular promise are joint governance approaches which involve municipalities and other local jurisdictions implementing distinct rules within the context of an overarching provincial framework.

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Introduction

Over the past decade, the emergence of digital peer-to-peer accommodation platforms has, through a formalization and scaling of the practice of home-sharing, revolutionized the way we travel and share space. Today, the short-term rental (STR) market—taken as the sum of home-sharing transactions and the vast digital infrastructure that supports them—is rooted firmly in the mainstream, with many travellers now opting for an Airbnb-listed home rather than a suite in a hotel, and an increasing number of homeowners seeing income generation potential in their primary residences and secondary properties.

For the public, governments, and various sectors, however, the rapid proliferation of STR activity in bustling metropolises, tourist spots, and now increasingly in medium-sized cities and rural areas, has generated not only new opportunities, but considerable tensions as well. As underscored in academic analyses (Dolnicar 2017; Gurran 2018; Guttentag 2015; Nieuwland and van Melik 2020; Quattrone 2016; Tedds et al. 2021; Wachsmuth and Weisler 2018; Wegmann and Jiao 2017), the STR market engenders dichotomous characterizations. On the one hand, it is seen as offering substantial benefits, such as an income stream for hosts, local economic revitalization, improved accommodation supply, and competition-driven innovation. On the other, it is viewed as problematic and frequently denounced for driving disruption in housing markets (e.g., long-term rentals), competing unfairly with traditional hospitality providers, and spurring gentrification, over-tourism, and reductions in resident well-being.

Against the above backdrop, a growing number of governments have stepped into the regulatory fold. However, many local authorities have found it challenging to land on the right policy and regulatory mix for managing the STR market, with outdated or incomplete strategies, imprecise measures, and data, compliance, and enforcement struggles stymieing regulatory effectiveness

(Tedds et al. 2021). Born of different market dynamics and issues than those at play in the digital sharing economy, traditional regulatory tools and governance approaches are in many cases ill-suited to the task the STR market presents (Johal and Zon 2015; Tedds et al. 2021). Such challenges are increasingly apparent in Canada. Despite a slower rise in comparison to the United States and much of Europe, Canada's STR market has experienced considerable growth in the past five years (Ayotte, Barclay, and Sinclair 2019; Combs, Kerrigan, and Wachsmuth 2020), and many local governments are now facing mounting pressure to regulate from concerned citizens and stakeholders, or have already launched regulatory initiatives.

What has this regulatory push in Canada looked like? Do commonalities exist across approaches, or is regulatory action largely shaped by local issues and idiosyncrasies? In relation to which aspects of the market and its myriad impacts are regulatory efforts and challenges most pronounced? In what ways are policymakers missing the mark and how are they succeeding? Where might local governments go from here?

In this paper, we begin to answer these questions by reviewing the policy and regulatory approaches that local governments in 11 Canadian jurisdictions (and provinces, where relevant) have adopted in an attempt to manage the STR market and reap some of its benefits. In undertaking this review, we are interested in two distinct but related modes of inquiry. The first is centered on taking stock, through cross-jurisdictional comparison, of how regulation has unfolded in Canada, including within jurisdictions of a certain nature and with particular issues. Here we note similarities, differences, and novel strategies. The second mode emerges out of insights from the academic literature. As noted above, a generally-held conclusion vis à vis policy and governance efforts in the home-sharing space is that regulation remains a work in progress. In particular, underdeveloped understandings of the market within policy spheres have

often led to the adoption of anachronistic approaches ill-suited to market composition, dynamics, and the issues they create, thereby producing instances of what Saskia Sassen (1994) has termed regulatory fracture (Tedds et al. 2021). Following this notion, we also seek to understand if and how Canadian jurisdictions are confronting, adapting to, and overcoming regulatory fractures that result from the limitations of traditional understandings of the market and conventional regulatory tools.

We begin with an overview of the academic literature on STR market regulation, highlighting the central themes that emerge across studies. Next, we delve into a cross-jurisdictional scan of regulatory efforts in 11 Canadian jurisdictions, considering strategies and tools spanning five key areas: general approaches; licensing and registration; zoning and land use; taxation; and enforcement. Throughout this review, we analyze regulatory efforts, considering themes of regulatory stringency and appropriateness, whether approaches reflect more sophisticated or advanced understandings of the market (as three- or four-sided, for example) and types of participation, and where cities might still be coming up short. We end by highlighting next steps, both for local governments looking to enter the regulatory fold, as well as jurisdictions that might wish to tweak existing strategies. We also discuss how provinces might also begin to engage in market governance, including by leading efforts to design, implement, and oversee broader strategic and policy frameworks for the STR market.

Overview of the Regulatory Literature

In recent years, scholars have increasingly sought to take stock of and understand the regulatory strategies adopted by local governments in relation to the growing STR market. Such research has typically followed three approaches. First, single-jurisdiction case studies, a large proportion

of which focus on American cities, are widespread (see Allen 2017; Domènech and Zoğalb 2020; Ferreri and Sanyal 2018; Gurran and Phibbs 2017; Laskin 2019; Lee 2016; Valentin 2020; van Holm 2020; Walker 2017; Wills 2017). Second, several comparative studies have been published, in which researchers analyze the dynamics that drive differences in regulatory responses within countries or across similar jurisdictions (Aguilera, Artioli, and Colomb 2019; Furukawa and Onuki 2019; Gurran et al. 2018; Wegmann and Jiao 2017). A third group of studies considers, in comparative perspective, the regulatory tools adopted in global cities (Crommelin et al. 2018), as well as tourist destinations and places in which STR use has been most contentious (Nieuwland and van Melik 2020; Pforr et al. 2021; von Briel and Dolnicar 2020).

In considering this regulatory literature in its totality, several themes emerge. First, local governments typically direct regulatory efforts at the primary issues of health, safety, and quality of life of residents; unfair competition and tax avoidance (given a grey area in terms of tax obligations of STR users); and impacts on local housing markets, particularly the availability of rental housing. Further, though it is observed that cities differ, not only based on issues and market dynamics, but also in terms of chosen regulatory mix and stringency, there are observable commonalities in terms of the approaches adopted across contexts. These commonalities include adopting general provisions for the STR market (e.g., rules regarding principal residence, permissible number of nights booked in a given year); leveraging zoning and planning frameworks (e.g., use of zoning rules to limit where STRs are permitted, engagement of stipulations regarding change of use from residential to commercial, etc.); and introducing permitting and licencing regimes (i.e., to enable enforcement of provisions and to recover costs). Studies also consider the question of regulatory effectiveness, underscoring that regulations must

distinguish between different types of STR activity (Crommelin et al. 2018; Wegmann and Jiao 2017), be accompanied by clear enforcement processes and expanded capacity (Ferreri and Sanyal 2018; Jamasi 2017; Leshinsky and Schatz 2018; Wegmann and Jiao 2017), and be driven by better data (Wegmann and Jiao 2017).

A key limitation of the existing literature on STR regulation is that it has mainly focused on large urban destinations in Europe and North America (and almost exclusively in the United States), with only limited analysis of cities that are less populous and/or have less prominent tourism sectors. That is, regulatory approaches adopted in destinations outside of the United States and Europe—including those taken in Canada—remain understudied (Guttentag 2019, 834). In particular, academic research on the Canadian STR market has been limited to studies of market pricing (Gibbs et al. 2018); evaluations of impacts and trends in the tourism sector (Guttentag et al. 2018; Sovani and Jayawardena 2017); analyses of the spatial distribution and concentration of STR listings across Canada and the resultant impacts on housing access (Combs, Kerrigan, and Wachsmuth 2020); and considerations of the intersection of increased home sharing with processes of gentrification and financialization in the housing sector in Toronto (Grisdale 2019). That said, a number of practical reports have both highlighted legal tools and policy strategies adopted in select Canadian jurisdictions (Jamasi 2017; Jamison and Swanson 2021), as well as discussed policy and regulatory challenges attributable to the digital sharing economy (Johal and Zon 2015).

A Cross-Jurisdictional Scan of Canadian Regulatory Approaches

When compared to international trends, Canadian STR activity has grown at a relatively slow pace. In response to the emergence and ascendancy of Airbnb and other platforms, STR markets did not spring up and proliferate across Canada, even in large cities, with the swiftness and

impact that they did in American and European destinations. However, in recent years, platform-mediated home-sharing in Canada has seen a rapid uptick in both listing concentration and geographic spread, and the practice now touches all corners of the country. Indeed, revenue generated by the STR market increased tenfold between 2015 and 2018, when market size was estimated to be \$2.8 billion (Ayotte, Barclay, and Sinclair 2019, 6).² Though such activity remains most prevalent in major cities—almost half of bookable accommodation is in Toronto, Montréal, and Vancouver—listings and revenue are now growing at much higher comparative rates in small towns and rural areas (Combs, Kerrigan, and Wachsmuth 2020).

Against this backdrop of recent growth, governments have increasingly been on the receiving end of calls to regulate home sharing, most often from housing advocates, the hotel industry, and residents concerned about neighbourhood safety and liveability. There is also considerable public support for regulation, with a 2018 Angus Reid survey finding that over 50 per cent of respondents wanted Airbnb to be regulated in the same manner as hotels and that 45 per cent supported restricting STRs to principal residences (Kurl and Holliday 2018). Further, a 2018 Nanos public opinion study commissioned by the Hotel Association of Canada found that more than 50 per cent of respondents believed STRs to have a somewhat negative or negative impact on neighbourhood quality of life, while nearly 25 per cent did not support a neighbouring home or condo being rented out as an STR (Nanos Research 2018).

Many local governments and provinces in Canada have already responded with regulatory measures—a process which began, in earnest, in 2018—either by expanding existing bylaws to account for STR activity or by introducing distinct STR frameworks. As of 2021, major cities in

² In context, total operating revenue for hotels, motor hotels, and motels remains high by comparison, and prior to the pandemic (in 2019) reached \$19.3 billion (Statistics Canada 2021).

most Canadian provinces, along with a swath of smaller municipalities and towns, had adopted STR regulations of some variety.³

To gain an understanding of the STR regulatory environment in Canada, we review and compare policy and regulatory approaches taken in 11 Canadian jurisdictions, including Calgary, Edmonton, Kelowna, Montréal, Ottawa, Regina, Saskatoon, Toronto, Vancouver, Victoria, and Whistler. All approaches discussed in this review are currently in force, with the exception of Ottawa's framework.⁴ Further, relevant policy and regulatory tools span orders of government in Canada, and thus analyses which focus squarely on local government efforts will miss vital aspects of the Canadian regulatory landscape. As a result, we also consider tourist accommodation frameworks in the provinces of Québec, Nova Scotia, and Prince Edward Island, and discuss additional provincial measures in relation to the tax obligations they place on STR market participants in the 11 jurisdictions in our review.

In light of the comparative approach we take, it is important to note that the regulatory levers available to a local government are, to a certain extent, dependent on the agreements and covenants which structure its relationship with other orders of government. These dynamics and the powers devolved to local governments are not harmonious across the country. For example, though Ontario municipalities are able to charge Municipal Accommodation Tax (MAT) given legislative authority granted through provisions under the *Municipal Act*,⁵ Calgary and Edmonton have not been devolved such authority, and thus remain at the behest of the

³ A handful of local governments, including those in Charlottetown, Sault Ste Marie, Halifax, Winnipeg, and Yellowknife, are undertaking scoping reviews and consultations on the STR market and potential regulatory options.

⁴ Ottawa's STR Bylaw was enacted in May 2021. Soon after, an appeal was made at the Local Planning Appeal Tribunal regarding temporary use zoning rules. Accordingly, the bylaw will be delayed until the matter is settled.

⁵ *Municipal Act*, 2001, SO 2001, c 25, s 400.1.

Government of Alberta when it comes to both generating revenue through a similar levy on tourist activity, as well as accessing and directing such revenue towards desired purposes.

In comparing the above jurisdictions, we take stock, both of the policy goals driving regulatory response within jurisdictions, as well as the key aspects of the regulatory frameworks adopted. Consistent with approaches taken internationally, the majority of regulatory measures introduced in the Canadian context fall within the scope of three general strategies: licencing and registration; zoning and land use; and taxation. In the following section, we outline each of these approaches and their various elements, highlighting both the purposes towards which they can be used and the ways in which Canadian jurisdictions have employed them in their management of the STR market. We also provide an overview of general definitions and permissions, as well as a summary regarding compliance and enforcement. Finally, we constructed a timeline (retrievable in Appendix A) of key regulatory milestones across jurisdictions. Examining STR regulation development and implementation chronologically can provide further insight into how aspects of regulation fit together and build towards a holistic policy framework.

1. Definitions and General Approaches

Regulatory frameworks for the STR market are generally built upon a basic set of definitions and permissions regarding STR activity and use types; these are either set out in a distinct STR bylaw, or are worked into existing bylaws, legislation, and regulations through amendments. In Canadian jurisdictions, this includes the introduction or expansion of definitions and classes of activity, such as “short-term rental accommodation,” “principal residence,” “tourist home,” “homestay,” “STR property,” “secondary property,” “entire-unit rental,” and others. It has also meant the establishment of a set of related permissions pertaining to market operation, such as distinctions between and restrictions on the type of dwelling that can be operated as an STR

(e.g., only principal residences, not secondary suites, etc.), as well as rules related to the number of nights that a dwelling can be rented. In Table 1, we summarize key STR classes and general permissions that have been adopted in Canadian jurisdictions to date.

The approaches to defining, classifying, and placing limitations on STR activity taken in Canadian jurisdictions can be considered along two continuums: specificity (of definitions and classes) and stringency (of permissions). Calgary and Edmonton have both amended existing business licence bylaws to account for STR operations, and have adopted classes and limitations that are both broad and lenient: Edmonton’s bylaw establishes only one business type of “short-term residential rental accommodation,”⁶ and specifications can only be found in Calgary’s delineation of two tiers of STR based on number of rooms,⁷ which simply changes the licence fee paid. Neither city imposes restrictions in terms of principal residence, number of bookable nights, or dwelling type, meaning that it is possible in both jurisdictions to operate an STR of any size, in any type of property, and for as many nights in a given year as one wishes.

STR regulations in Whistler are embedded within existing frameworks related to tourist accommodation,⁸ and thus no distinctions are made related to STR activity. At first blush, this seems to signal a broad and permissive approach. However, considered alongside Whistler’s zoning bylaw,⁹ which we assess further in a following section, failure to distinguish STR operation in a primary residence from commercial operations, for example, means that the approach could be considered restrictive and blunt, limiting the participation of smaller-scale home-sharing operations given the zoning framework employed in the municipality. Vancouver

⁶ City of Edmonton, bylaw No 12128, *Business Licence Bylaw* (2020), s 91.1

⁷ City of Calgary, bylaw No 32M98, *Business Licence Bylaw* (2021), s 58.1(3)

⁸ Resort Municipality of Whistler, bylaw No 2142, *Tourist Accommodation Regulation Bylaw* (2017)

⁹ Resort Municipality of Whistler, bylaw No 303, *Zoning and Parking Bylaw* (2015)

and Kelowna have also taken a broad approach to classification, while introducing stricter permissions. For example, Vancouver has outlined an additional business class of “short term rental accommodation” through an amendment to the *Licence Bylaw*, but restricts STR operation to one’s primary residence.¹⁰ Similarly, Kelowna’s *Short-Term Rental Accommodation Business Licence and Regulation Bylaw* sets out a single definition of “short-term rental property,”¹¹ but restricts STR hosting to primary residences, with certain exceptions in tourist commercial zones.¹²

Table 1: Short-Term Rental Classes and General Approaches across Canadian Regulations

<i>jurisdiction</i>	<i>STR classes</i>	<i>principal residence requirement</i>	<i>dwelling type</i>	<i>night limit</i>
Calgary	<u>Short-Term Rental</u> tier 1: 1-4 rooms tier 2: 5+ rooms	no	no limitations	no
Edmonton	<u>Short-Term Rental Accommodation</u>	no	no limitations	no
Kelowna	<u>STR Accommodation</u> -primary use (major) -secondary use (minor)	no—though primary use STRs are permissible in set tourist commercial and health districts	not permitted in a secondary suite, carriage house	no
Montréal	Québec legislation* <u>Tourist accommodation establishment</u> <u>Principal residence</u>	In Ville Marie, Plateau-Mont-Royal, Rosemont-La-Petite-Patrie, non-principal residence STRs are only permitted in select commercial areas**	furnished apartment, house, cottage	no
Ottawa	<u>Short-term rental</u> includes cottage, bed & breakfast, dedicated STR (grandfathered)	yes (unless in cottage)—exception for dedicated STRs (grandfathered)	not permitted in accessory buildings, vehicles, trailers, community housing	no
Regina	<u>Residential short term accommodation</u> -principal residence unit -secondary property	no	no limitations	no
Saskatoon	<u>Short-term accommodation</u> -homestay -STR property	no	no limitations	no
Toronto	<u>Short-term rental</u> -entire-unit rental -partial-unit rental	yes	permitted in bed-sit, secondary/laneway suite; not permitted in vehicle	180 nights/year (entire-unit)
Vancouver	<u>Short-term rental accommodation</u>	yes	permitted in secondary/laneway suite; not permitted in accessory bldg., vehicle	no

¹⁰ City of Vancouver, bylaw No 4450, *Licence Bylaw* (2021), s 25.1(3)

¹¹ City of Kelowna, bylaw No 11720, *Short-Term Rental Accommodation Business Licence and Regulation Bylaw* (2019), s 1.2 [*Kelowna STR Bylaw*]

¹² City of Kelowna, bylaw No 8000, *Zoning Bylaw*, ss 9.17, 13, 17, 18 – Schedule B

Victoria	<u>Short-term rental</u> -principal residence -legally non-conforming use	yes—units may qualify (legally non-conforming) if in areas previously zoned for transient accommodation	permitted in secondary suites and garden suites if the primary residence	no
Whistler	<u>Tourist accommodation business</u>	no	not permitted in employee housing	no

*These categories reflect those applicable under old legislation. New legislation was passed in October 2021 to modernize Québec’s tourist accommodation framework; however, the province is in a transition period in terms of implementation.

**Bylaws of boroughs in which STRs are explicitly regulated reflect this distinction between tourist establishment and principal residence. Le Plateau-Mont-Royal, for example, uses language of commercial and collaborative tourist home.

Regina and Saskatoon have introduced more specificity in terms of STR class, with Regina distinguishing between principal residence units and secondary properties,¹³ and Saskatoon articulating distinct categories of homestay and STR property.¹⁴ While provisions are generally lenient—no limitations exist regarding secondary property hosting, dwelling type, or bookable nights—these distinctions enable targeted rules related to zoning, as well as the option of flexibility if municipalities wish to introduce specific provisions (i.e., rules that apply to only one class of STR) as market dynamics change.

Montréal’s system can be characterized as specific and stringent, and is, on the whole, more complex than those in other municipalities, particularly given Québec legislation also sets out a framework for tourist accommodation. Until very recently, the Province of Québec oversaw a framework that specified several classes of tourist accommodation, including two—tourist home and principal residence—relevant in the STR context; under the framework, operators were required to obtain a classification certificate, receipt of which was contingent upon the application also meeting municipal standards.¹⁵ Though the detailed classification system has been replaced with a broad registration requirement in the new framework, municipal verification is still required. In several Montréal boroughs, including Plateau-Mont-Royal, Ville

¹³ City of Regina, bylaw No 2020-70, *The Residential Short Term Accommodation Licensing Bylaw* (2020), s 4 [*Regina STR Licensing Bylaw*]

¹⁴ City of Saskatoon, bylaw No 9746, *The Business Licence Bylaw* (2021), s 2

¹⁵ In October 2021, the Québec National Assembly adopted Bill 100 to modernize the provincial tourist accommodation framework. At the time of writing, the province is in a transitional period regarding implementation.

Marie, and Rosemont-La-Petite-Patrie (and others), this means complying with additional zoning rules that have been amended to prohibit commercial operations (i.e., tourist homes under the previous Québec framework) outside of select commercial stretches designated for such use.¹⁶ For example, the borough of Plateau-Mont-Royal distinguishes between commercial and collaborative tourist homes; under this system, occasional principal residence rentals are permitted throughout the borough on the basis that such activity accords with the collaborative economy.¹⁷

STR classes and permissible activity in regulations in Ottawa, Victoria, and Toronto also reflect both specificity and stringency. In Ottawa, hosting an STR is only permitted in one's principal residence; however, the *Short-Term Rental Bylaw* names several accommodation types that fall under the STR umbrella as exceptions to the principal residence rule, including a Dedicated Short-Term Rental (grandfathered as a non-conforming use), cottage rental, and bed and breakfast.¹⁸ Further, STR operations are not permitted in accessory buildings, vehicles, trailers, and community housing.¹⁹ Similar to Ottawa, Victoria limits STR operation to the host's principal residence.²⁰ Further, the entire principal residence can be rented "only occasionally while the operator is temporarily away,"²¹ and otherwise, "no more than two bedrooms may be used for short-term rental."²² Secondary and garden suites can be used if the principal residence.

¹⁶ See Ville de Montréal, bylaws 01-277, *Urban Planning Bylaw for Plateau-Mont-Royal Borough*; 01-282, *Urban Planning Bylaw for Ville-Marie Borough*; 01-279, *Urban Planning Bylaw for Rosemont-Petite-Patrie Borough*

¹⁷ *Urban Planning Bylaw for Plateau-Mont-Royal Borough*, ss 5, 143.4, 143.5

¹⁸ City of Ottawa, bylaw No 2021-104, *Short-Term Rental Bylaw* (2021), s 12

¹⁹ *Ibid* at s 5

²⁰ City of Victoria, bylaw No 18-072, *Zoning Bylaw* (2018), s 3.1(9.i)

²¹ *Ibid*, at s 3.1(9.i(ii))

²² *Ibid*, at s 3.1(9.i (i))

Finally, as an exception, Victoria allows the operation of STRs in non-principal residence units permitted under previous zoning rules for transient accommodation (City of Victoria n.d.).

Finally, Toronto's *Licensing and Registration of Short-Term Rentals Bylaw* distinguishes between entire- and partial-unit rentals, does not permit STR operations in non-principal residence units,²³ and restricts the operation of an entire-unit rental to 180 nights per year.²⁴ It is worth noting that Toronto is the only jurisdiction in our review to impose a rule on bookable nights. Compared to international jurisdictions that also impose such restrictions, the 180-night limit is generous, with cities such as San Francisco and London capping the bookable nights at 90 days for entire-unit listings, and Amsterdam limiting such bookings to 30 days (Pforr et al. 2021, 124). Further, STR operations are permitted in bed-sits and secondary and laneway suites, provided they are the principal residence, but not permitted in vehicles.²⁵

2. Registration and Licensing

Licensing frameworks are a primary strategy employed in the management of the STR market. In particular, the licensing process serves to legitimize and formalize the practice of home-sharing in a given jurisdiction. Relatedly, a licensing process can support efforts to ensure that newly approved STR operations are in compliance with zoning, fire, safety, and maximum occupancy rules. That is, licensing frameworks serve to reinforce relevant provisions under other bylaws: in many cases, a prospective host must, prior to obtaining a licence, prove compliance with land use and fire safety provisions, for example. Such systems also constitute mechanisms

²³ City of Toronto, Chapter 547 – Toronto Municipal Code, *Licensing and Registration of Short-Term Rentals Bylaw* (2021), s 4.2 [*Toronto STR Licensing Bylaw*]

²⁴ *Ibid*

²⁵ City of Toronto, bylaw No 569-2013, *Zoning Bylaw* (2013), s 150.12.20.1

for generating revenue, as the imposition of licence fees often supports municipalities to recover the administrative costs of upholding STR regulations.²⁶

Further, licencing and registration frameworks support governments to enforce rules related to unlawful STR operations, particularly through proactive audits by bylaw officers as well as co-regulation partnerships with platforms. Licencing also provides authorities a way to access information regarding the type and extent of STR activity that is being undertaken. This is particularly true when platforms are also required to participate in the scheme and must adhere to data sharing agreements. Gaining access to comprehensive data on registered STRs, nights booked, income generated, and other metrics can drive regulatory responsiveness and effectiveness, if the data is used to support ongoing efforts to adapt regulatory frameworks to be more exacting and flexible in the face of shifting market dynamics.

Many local governments in Canada—and all 11 in our study—have adopted registration and licencing frameworks for STR operators as part of their regulatory approach. In addition, Ottawa and Toronto have registration requirements that pertain to platforms, while Ottawa, Vancouver, and Whistler also require STR property managers to obtain a licence. Further, several provinces have amended existing tourist accommodation legislation to account for STR operations. The inclusion of property managers and platforms in licencing requirements and broader regulatory approaches is important to note, as it signals a recognition by jurisdictions that the STR market is not two-sided, but rather three- (or four-) dimensional (see Tedds et al. 2021; Zale 2016). These approaches are summarized in Table 2.

Table 2: STR Licensing and Registration Requirements in Canadian jurisdictions

²⁶ For a detailed discussion regarding the legal limitations of municipal regulatory charges, of which licence fees are one form, see Tedds (2017, 2019); Farish and Tedds (2014); Althaus (2016); Tedds (2020).

<i>Jurisdiction</i>	<i>Host</i>	<i>Property manager</i>	<i>Platform</i>
Calgary	<u>Tiered STR Business Licence</u> 1. 1-4 rooms – \$100 (\$100 renewal) 2. 5+ rooms – \$172 (\$131 renewal)	--	--
Edmonton	<u>Business Licence for STR Accommodation</u> \$94 (annual) <u>Dev. Permit: Major Home-based Business</u> If PR, and >2 sleeping units rented – \$327	--	--
Kelowna	<u>Tiered STR Accommodation Licence</u> 1. Minor (principal residence) – \$345 (annual) 2. Major (non-principal) – \$750 (annual) +\$25 admin fee	--	--
Montréal	<u>CITQ classification certificate (Québec)*</u> 1. Principal Residence – \$50 + \$75 admin 2. Tourist Home – \$256.28 + \$5.40/unit (both annual) <u>Borough Occupancy Permit (tourist home)</u> e.g., Ville Marie – \$250	--	--
Nova Scotia	<u>Registration – Secondary Property STRs</u> 1-4 bedrooms: \$50 (annual) 5+ bedrooms: \$150 (annual)	--	<u>Provincial Platform Registration</u> \$500 fee (annual)
Ottawa	<u>Host permit</u> 1. STR in principal residence – \$57 admin + \$53 permit fee (two years) 2. Cottage rental – same	<u>Property Manager Registration</u> – \$57 admin + \$143 reg. fee (annual)	<u>Platform Registration</u> 1-100 listings: \$1,000 101-500 listings: \$2,500 500+ listings: \$5,000 + \$57 admin fee (three years)
PEI	<u>Tourist Home Operator Licence</u> 1-4 unit dwelling – \$155 fee 5+ unit dwelling – \$250 fee + \$6.50/unit Both pay \$180 fee for property inspection	--	--
Regina	<u>Residential STR Licence</u> Principal Residence Unit – \$100 (annual) Secondary Property Unit – \$300 (annual)	--	--
Saskatoon	<u>Commercial Business Licence</u> Homestay and STR property – \$125 Renewal – \$85	--	--
Toronto	<u>STR Business Licence</u> Short-Term Rental Operator – \$50 (annual)	--	<u>STR Business Licence</u> Short-Term Rental Company – \$5,000 application fee (annual) + \$1.00 fee per night booked
Vancouver	<u>STR Business Licence (operator)</u> \$99 (annual) + \$60 application fee	<u>STR Business Licence (Property manager)</u> \$155 (annual)	--
Victoria	<u>STR Licence</u> Principal Residence – \$150 Rest (legally non-conforming unit) – \$1,500	--	--
Whistler	<u>Tourist Accommodation Business Licence</u> Operators – \$190 + \$25/ property (annual) + \$25 new application fee Covered under property manager's licence if owner does not undertake activity	<u>Business Licence</u> \$190 + \$25/ property (annual) + \$25 new application fee	--

*Note that the licence categories and fees listed for Québec reflect those applicable under the previous framework. Regulations to accompany the new legislation have not yet been proposed.

Provincial frameworks

The provinces of Prince Edward Island, Nova Scotia, and Québec have adopted changes to legislation to enable licencing and registration of STR operators under broader tourist accommodation frameworks.²⁷ We discuss these frameworks below.

a. Prince Edward Island

Prince Edward Island's *Tourism Industry Act Regulations* require that operators of "tourist homes" register with the province and pay a licence fee.²⁸ In 2021, fees were \$155, plus a new property inspection fee of \$180, for dwellings with one to four units, and \$250 (plus \$6.50 per unit), plus a new property inspection fee of \$180, for dwellings with five or more units.²⁹

b. Nova Scotia

In 2019, the Government of Nova Scotia modernized its laws governing tourist accommodation to allow for the regulation of STRs. In particular, the *Tourist Accommodations Registrations Act* and accompanying *Regulations* were amended to set out clear definitions of "host," "short-term rental," "primary residence," and "platform operator."³⁰ The amended Act stipulates that STR hosts (with the exception of hosts renting out their primary residence) and platforms must register with the province and pay an annual fee.³¹ Set out in the Regulations, annual fees are \$50 for hosts offering 1-4 bedrooms, \$150 for hosts offering 5 or more bedrooms, and \$500 for platforms.³² Platforms are also required to keep records of each concluded transaction for seven years.³³

²⁷ In November 2020, the Newfoundland and Labrador House of Assembly passed the *Tourist Accommodations Act*, amending the *Tourist Establishments Act* to require that STR operators register with the province. However, it is unclear whether the changes are in force, or if regulations have been developed.

²⁸ PEI Reg EC267/99

²⁹ *Ibid* at Schedule 2

³⁰ *Tourist Accommodations Registration Act*, SNS 2019, c 9

³¹ *Ibid* at s 3

³² NS Reg 16/2020, s 6(1)

³³ *Ibid* at s 4

c. Québec

Adopted in October 2021 to replace the *Act respecting tourist accommodation establishments*, the *Act respecting tourist accommodation* is a new legislative framework governing the registration of tourist accommodation establishments in Québec.³⁴ The Act dismantles the classification and certification system previously operated by the Corporation de l'industrie touristique du Québec (CITQ) (Ministère du Tourisme 2021) and creates a general requirement for all tourist accommodation operators to register with the Minister of Tourism and to provide information regarding the accommodation and related services on offer.³⁵ The shift aligns with a broader strategy to modernize the laws governing tourist accommodation in the province, with a particular aim of easing administrative burden, simplifying the application process, and eliminating complexity with regard to accommodation classifications (Gouvernement du Québec 2021b; Ministère du Tourisme 2021). The province is currently in a transition period regarding framework implementation, and attendant regulations, such as those pertaining to registration authority, fees, and exemptions of certain accommodation classes or operators, have yet to be presented. Municipal bylaws also remain aligned with classifications under the previous system. Accordingly, we discuss the previous framework below.

Under former rules, anyone wishing to offer short-term accommodation in Québec was required to obtain either a classification certificate or a principal residence certificate (depending on the nature of the operation) from CITQ. In the context of the STR market, two establishment classes were pertinent: tourist homes and principal residences. Tourist homes were defined as establishments other than principal residences that offer accommodation in furnished apartments,

³⁴ Bill 100, *Tourist Accommodation Act*, 1st Sess, 42nd Leg, Quebec, 2021 (assented to 7 October 2021)

³⁵ *Ibid* at cl. 4,5

houses, or cottages, including self-catering kitchen facilities.³⁶ By contrast, principal residence establishments were defined as those that offer, following a single reservation, accommodation in the operator's principal residence for a single person or a single group of related persons at a time that does not include any meals served on the premises.³⁷

The cost of a principal residence certificate was \$50 annually, plus a \$75 administrative processing fee, while the annual classification certificate fee included a base fee of \$256.28, plus \$5.40 per accommodation unit. In both instances, applicants were required to attest to the compliance of their proposed use with municipal regulations and zoning restrictions prior to an application being processed, and municipalities were then contacted by the CITQ about the certification request. In the case of regular classification certificates, a municipality had 45 days to deny the request. In Montréal, STR operators were in some cases—depending on the borough, type of STR operation, and zoning—required to obtain additional occupancy permits for commercial use prior to being approved for a classification certificate.

Local bylaws

All local jurisdictions reviewed in this study have introduced licencing and registration schemes for the STR market, usually through the adoption of changes to an existing business licence bylaw or introduction of a standalone STR licencing bylaw. Licencing requirements apply in all cases to those seeking to operate an STR, and set out terms, prohibitions, grounds for suspension and revocation, and related authorities and fines. In particular, once approved for a licence, hosts are required to comply with requirements related to maximum number of guests, overlapping bookings, information provision and record keeping, and advertising. In addition, some

³⁶ Regulation respecting tourist accommodation establishments – R.S.Q., c. E-14.2, r.1, s 7(2)

³⁷ *Ibid* at s 7(2.1)

jurisdictions have included in these schemes further licencing and registration requirements for property managers hired by STR owners, as well as platforms.

a. Host licences

All jurisdictions reviewed in this study require hosts to register with the local government administration for a fee, usually paid annually. There are generally two approaches. The first is a blanket approach to licensing, in which all hosts pay the same fee, regardless of property type. The second is a tiered approach, according to which licence type is established based on the nature of the STR operation—that is, based on the number of rooms or whether it is a principal residence operation or not.

Toronto, Vancouver, Edmonton, Whistler, Ottawa, and Saskatoon, all have a broad STR host licence that applies to all operations, though it is worth noting that in most of these jurisdictions (with the exception of Saskatoon and Whistler), STRs are generally limited to a principal residence. Toronto and Vancouver, which limit STR hosting to principal residences, require a single licence, the fees for which are \$50³⁸ and \$99³⁹ per year, respectively. Edmonton requires all hosts to obtain a City of Edmonton Business Licence, the fee for which is \$94.⁴⁰ However, due to how STR rules were embedded in existing regulations (particularly the *Zoning Bylaw*), primary residence operators in Edmonton who wish to rent out more than two rooms must also submit documentation and be evaluated for a Development Permit (City of Edmonton 2020). Whistler requires that those operating a tourist accommodation business obtain a Business Licence, the cost of which is \$190; if an individual operates several properties, there is an

³⁸ City of Toronto, Chapter 441 – Fees and Charges, *Toronto Municipal Code*, Appendix C – Schedule 12 [*Toronto Fees and Charges*]

³⁹ *Licence Bylaw*, *supra* note 9 at Schedule A

⁴⁰ *Business Licence Bylaw*, *supra* note 5, at Schedule B

additional cost of \$25, but no requirement to obtain a separate licence.⁴¹ In Ottawa, a host permit is required, the fee for which is \$53 every two years, plus a \$57 administration fee.⁴²

Distinguishing Ottawa's approach from other jurisdictions is the fact that hosts are able to obtain a second permit if they also wish to operate an STR in their cottage.⁴³ Though Saskatoon differentiates between homestays and STR properties, the business licence is the same; the cost is \$125, and the annual renewal fee is \$85.⁴⁴

Calgary, Kelowna, Regina, Victoria, and Montréal are more specific in their licensing schemes, requiring different levels of licence depending on the operation. Though the City of Calgary places no limitations on the type of dwelling that can be operated as an STR, its licensing scheme is tiered, with Tier 1 licences assigned to STR operations of one to four rooms for a fee of \$100, and Tier 2 licences granted to STR operations of five rooms or more for a fee of \$172.⁴⁵ There is also an additional \$104 fire inspection fee for Tier 2 operators.⁴⁶ This approach imposes a higher cost and further requirements on large-scale STR operations, defined by the number of rooms available to rent.

The remaining cities of Kelowna, Regina, Victoria, and Montréal institute tiered licensing based on the type of dwelling, distinguishing between primary residence listings and all other operations. For example, Kelowna charges fees of \$345 and \$745, for principal residences and secondary properties, respectively;⁴⁷ Regina charges \$100 and \$300,⁴⁸ plus a \$95 fire inspection

⁴¹ Resort Municipality of Whistler, bylaw No 2253, *Whistler Business Licence and Regulation Bylaw* (2019), Schedule A [*Whistler Licence Bylaw*]

⁴² *Short-Term Rental Bylaw*, *supra* note 17 at Schedule A

⁴³ *Ibid* at s 5(e)

⁴⁴ *The Business Licence Bylaw*, *supra* note 13 at Schedule A

⁴⁵ *Business Licence Bylaw*, *supra* note 6 at Schedule A

⁴⁶ *Ibid*

⁴⁷ *Kelowna STR Bylaw*, *supra* note 10 at s 4.3

⁴⁸ *Regina STR Licensing Bylaw*, *supra* note 12 at Schedule A;

fee;⁴⁹ and Victoria charges \$150 and \$1,500.⁵⁰ In all cases, the cost of operating an STR in a dwelling that is not a primary residence (where permitted) is higher—sometimes significantly so—which could be taken as an attempt to discourage the practice, without limiting small-scale operators. Finally, several Montréal boroughs require that STR hosts obtain an occupancy permit for commercial use, if non-primary residence hosting is permitted in the area, as per the local zoning regulations. In Ville Marie, for example, the occupancy permit is \$250 (City of Montréal 2021). This is in addition to registering with the province (or, previously, obtaining the CITQ classification certificate required by Government of Québec). The nuance of such approaches reflects the fact that there is a spectrum of host activity in the STR market—from pure home-sharing activity and small scale operations in one’s primary residence, to secondary property listings and professionalized multi-host operations (see Tedds et al. 2021, 9-12).

Beyond meeting general requirements regarding principal residence and dwelling type, additional approval criteria exist for host licences. For example, while all cities allow renters to participate in the market as hosts, all applications from renters must include written proof of permission from the property owner (sometimes through the submission of an owner consent form, as is the case in Kelowna). In addition, in most jurisdictions, hosting an STR in one’s condominium requires permission of the condominium corporation and further adherence to related bylaws. In several jurisdictions, such as Calgary⁵¹ and Regina,⁵² licences for certain properties (e.g., those with a large number of sleeping units, secondary properties) require a fire inspection with the initial application; other cities, such as Kelowna, require the submission of a

⁴⁹ City of Regina, bylaw No 2018-49, *The Regina Fire Bylaw* (2018), Schedule A

⁵⁰ City of Victoria, bylaw No 18-036, Short-Term Rental Regulation Bylaw (2018), s 3.3 [Victoria STR Regulation Bylaw]

⁵¹ *Business Licence Bylaw*, *supra* note 6 at s 58.1, s 8(1)

⁵² *Regina STR Licensing Bylaw*, *supra* note 12 at s 16(4)

self-evaluation safety audit attestation for all STR licences, with the understanding that the City or Fire Department is authorized to conduct random inspections for compliance.⁵³ Further, Regina⁵⁴ and Saskatoon⁵⁵ both prohibit the granting of new secondary property or short-term rental property (i.e., non-primary residence) licences in two cases: if more than 35 per cent of the dwelling units in the building, if it is a multiple-unit dwelling or townhouse, already have short-term rental property licences, or if the vacancy rate is below three per cent.

b. Property managers

Requiring the registration of property managers not only reflects a more sophisticated understanding of the STR market, but is also one way for local authorities to gain more nuanced and comprehensive information on the type of STR activity unfolding in their jurisdiction. In three cities in our review—Vancouver, Ottawa, and Whistler—property managers are required to obtain a permit or licence in order to carry out management of an STR property. In Vancouver, property managers must obtain a licence to operate at an annual fee of \$155.⁵⁶ Property managers are defined as “an individual or business licenced by the Real Estate Council of BC to manage rental properties on behalf of owners of rental real estate” and “an individual or business that carries on the business of managing Short Term Rental Accommodation on behalf of Short Term Rental Operators, including marketing, but does not include an individual or business managing or marketing one Short Term Rental Accommodation.”⁵⁷ This provision thus enables informal management support from a family member or friend without that person having to obtain a licence. In Whistler, all tourist accommodation activity, including property marketing

⁵³ *Kelowna STR Bylaw*, *supra* note 10 at s 4.3(g)

⁵⁴ *Regina STR Licencing Bylaw*, *supra* note 12 at ss 25-26

⁵⁵ *The Business Licence Bylaw*, *supra* note 13 at s 39

⁵⁶ *Licence Bylaw*, *supra* note 9

⁵⁷ *Ibid* at s 2.

and management, requires a business licence. Tourist accommodation businesses (including property managers) must remit a \$190 annual licence fee and a unit fee of \$25 per guest unit; the new licence administration fee is an additional \$25.⁵⁸ In Ottawa, property managers must register with the City and pay an annual registration fee of \$143, plus a \$57 administration fee.⁵⁹

c. Platforms

Short-term rental companies—that is, any company (e.g., Airbnb, Booking.com) that facilitates or brokers STR reservations online and receives payment for this service—wishing to operate in Toronto must follow a licence application process that includes the submission of an application form and a signed plan for use, retention, and disclosure of operator and guest information (referred to by the City as a Data Sharing Agreement, or DSA).⁶⁰ Platforms are further required to pay a registration fee of \$5,000 and an ongoing fee of \$1 for every STR night booked through the company; such licences must be renewed on an annual basis, but there is no renewal fee.⁶¹

Maintaining a licence is contingent upon compliance with a number of regulations. In particular, companies must ensure that all listings have valid registration numbers consistent with those published by the City on its Open Data portal.⁶² Validation must occur before an operator can list an STR on the platform. Companies must also set out processes for removing listings that do not comply and for handling problem operators. Further, the DSA sets out requirements regarding the records that the STR company must send to the City on a regular basis, including STR

⁵⁸ *Whistler Business Licence Bylaw*, *supra* note 40 at Schedule A

⁵⁹ *Short-Term Rental Bylaw*, *supra* note 17 at Schedule A

⁶⁰ *Toronto STR Licencing Bylaw*, *supra* note 22 at s 3.1

⁶¹ *Toronto Fees and Charges*, *supra* note 37 at Appendix C – Schedule 12

⁶² *Toronto STR Licencing Bylaw*, *supra* note 122 at s 1.3.B

operator transaction data (e.g., names, addresses, registration numbers, dates and number of nights booked, prices charged, type of rental).⁶³

Ottawa also requires the registration of STR platforms with the City.⁶⁴ The registration fee structure follows a three-tiered model, in which Tier 1 platforms are those with fewer than 100 listings and must pay a \$1,000 fee, Tier 2 platforms are those with 101-500 listings and must pay a \$2,500 fee, and Tier 3 platforms are those with more than 500 listings and must pay a \$5,000 fee; all platforms must also remit a \$57 administration fee.⁶⁵ Registration expires after three years.⁶⁶

Prior to registration, the applicant must reach an agreement with the City regarding the collection, use, disclosure, and retention of information on STR hosts and guests using its platform.⁶⁷ The data provision requirements are similar to those applied in Toronto, and include municipal addresses of each listing, total number of nights each listing is rented in a calendar year, the amount of revenue collected by accounts associated with each listing, the total amount of MAT collected, and the total number of complaints received.⁶⁸ Further, platforms are required to collect MAT for every STR booking completed, remit amounts collected on a quarterly basis, and report on a monthly basis the amount collected.⁶⁹

⁶³ *Ibid* at s 3.3

⁶⁴ *Short-Term Rental Bylaw*, *supra* note 17 at s 28

⁶⁵ *Ibid* at Schedule A

⁶⁶ *Ibid*

⁶⁷ *Ibid* at s 30

⁶⁸ *Ibid* at s 32

⁶⁹ *Ibid* at s 35

3. Zoning and Land Use

Generally speaking, the receipt of a licence to operate an STR is contingent upon compliance with zoning and land use frameworks. Zoning and land use bylaws enable local governments to draw bounds around the type of activity and uses that are permitted in a given area, based on neighbourhood type and typical activity (e.g., whether the neighbourhood has been designed as commercial, residential, or mixed use). In the context of the STR market, such frameworks are a way for authorities to limit the extent to which an increase in activity negatively impinges upon local community dynamics and makeup—that is, to prevent commercial STR operations from encroaching on residential use, thereby helping to preserve long-term housing stock, or to limit the extent to which typically residential areas are disrupted by a constant flow of tourist activity. All jurisdictions in our study require that STR operation complies with local zoning rules.

Below, we note cases in which rules are noteworthy or constitute a novel approach.

In Kelowna and Montreal, local zoning bylaws have been amended to place spatial limitations on STR activity. For example, amendments to Kelowna’s *Zoning Bylaw* establish that STR operation must be a secondary use to a dwelling unit—that is, secondary to the applicant using the dwelling primarily (more than 240 days per year) as a residence.⁷⁰ However, certain exceptions to this rule exist in areas zoned for high-rise apartment housing and hospital and health support services, as well as in tourist commercial zones (e.g., comprehensive resort developments): in such areas, it is permissible to operate an STR that is not a primary residence, presumably because they have been zoned to accommodate tourist and other accommodation.⁷¹

In several Montreal boroughs, such as Ville Marie, Plateau-Mont-Royal, and Rosemont-La-

⁷⁰ *Zoning Bylaw*, *supra* note 11 at s 9.17

⁷¹ *Ibid* at ss 13, 17, 18 – Schedule B

Petite-Patrie, restrictions have been placed on the operation of tourist homes—that is, STRs in a secondary residence—such that they are not permissible, save for in select commercial districts.⁷²

Whistler’s *Zoning and Parking Bylaw*,⁷³ while not specific to STR operations, also regulates spatially the provision of tourist accommodation. As Whistler is a resort municipality, zoning rules seek to balance housing and quality of life needs of local residents (and workers) with the demands of a tourism-centric (and outdoor sport-driven) economy, facilitated in part by ample and attractive accommodation for both tourists and athletes. As a result, land use designations are specific for the size of the municipality, prohibiting tourist accommodation operations in most residential areas, and limiting the majority of such operations to designated tourist accommodation zones. As there is no distinction between types of STR operation (i.e., between principal residence and not), this is a potentially punitive approach for those who wish to host individuals through smaller-scale operations.

The City of Edmonton places additional requirements on primary residence STR operators who wish to rent out more than two rooms (or sleeping units) in the dwelling: if an individual intends to list more than two rooms in a principal residence, they are required to obtain a Development Permit for a Major Home-Based Business (City of Edmonton 2020). Interestingly, this is an added cost—both monetarily and time-wise—that those operating secondary property or commercial STRs do not have to incur.

⁷² Commercial tourist homes are limited to Plaza St-Hubert (in Rosemont-La-Petite-Patrie), parts of St-Laurent and St-Denis (in Plateau-Mont-Royal), and Ste-Catherine between St-Mathieu and Rue Atateken (in Ville Marie).

⁷³ *Zoning and Parking Bylaw*, *supra* note 8

By contrast, Saskatoon's Zoning Bylaw exempts from the Development Permit requirement STR operations in the principal residence of an operator (i.e., homestays) where two or fewer guests are hosted.⁷⁴ All other operations require discretionary use applications, which are made to and reviewed by the Development Officer. Generally, considerations include conformity with the Official Community Plan, demand for the proposed use in the general area, the capability of the use to be economically serviced by community infrastructure, and whether the proposed use would be detrimental to the health, safety, convenience, or general welfare of residents.⁷⁵ For short-term rental properties, specific considerations include the suitability of the proposed use in the specific location, the impact of the use on the residential character of the neighbourhood, and the cumulative impact of other discretionary uses on the residential characteristics of the area.⁷⁶ Further, the bylaw permits up to six guests in a one-unit dwelling (or each unit of a multi-unit dwelling) and up to three in a secondary suite.⁷⁷

Finally, to reflect uses previously authorized under former zoning and licensing rules, Victoria and Ottawa⁷⁸ have included provisions for legal non-conforming use, grandfathering those properties previously licensed or permitted to operate as tourist accommodation under previous frameworks.

4. Taxation

The taxation of STR activity is one potential regulatory approach about which stakeholders in the traditional accommodation sector have been vocal since the emergence and expansion of the STR market. Calling for the extension of tourism levies and accommodation taxes to STR

⁷⁴ City of Saskatchewan, bylaw No 8770, *Zoning Bylaw* (2009), s 4.3.2

⁷⁵ *Ibid*, at s 4.7.3

⁷⁶ *Ibid*

⁷⁷ *Ibid*, at s 5.52

⁷⁸ *Short-Term Rental Bylaw*, *supra* note 17 at s 1

operations, hotel associations in particular have argued that without such equalizing measures, STR operators benefit from an uneven playing field that gives them unfair competitive advantage over traditional accommodation providers, such as hotels, motels, and bed and breakfasts (Hotel Association of Canada 2018, 7; Vigliotti 2019). Whether it be through the imposition of a tourism levy or a sales tax, taxation also constitutes a strategy for generating revenue. For example, in British Columbia, Airbnb bookings generated \$33.7 million in Provincial Sales Tax (PST) revenues—more than twice the expected \$16 million—in 2018-19, the first year in which the platform collected and remitted PST to the province (Lee-Young 2019).

a. Provincial Sales Taxes: British Columbia, Saskatchewan, Manitoba

In jurisdictions located in the provinces of British Columbia, Saskatchewan, and Manitoba, STR bookings made through online accommodation platforms, such as Airbnb, are subject to PST.

In 2018, changes to British Columbia's *Provincial Sales Tax Act* were passed to enable online accommodation platforms to register to collect and remit the eight per cent PST on behalf of hosts.⁷⁹ As a result, STR operators who list their accommodation on a registered online accommodation platform are not themselves required to register with the province. In February 2018, the Government of B.C. announced that it had signed a tax collection and remittance agreement with Airbnb. It has been noted by the Government of B.C. that PST revenues collected on STR bookings would be used to improve housing affordability (Ministry of Finance 2018). In Saskatchewan, operators of online accommodation platforms are now required to register as vendors for the purpose of collecting and remitting the six per cent PST on all transactions made through their platforms (Saskatchewan Ministry of Finance 2021). This

⁷⁹ *Provincial Sales Tax Act*, SBC 2021, c 35, s 168(1)(i)(iii)

removes the burden of being licensed through the system for sellers (i.e., hosts). Further, recent legislative decisions in Manitoba mean that online accommodation platforms are now required to charge Manitoba's seven per cent PST (Manitoba Ministry of Finance 2021).

b. Québec Tax on Lodging

In 2016, the *Act respecting the Québec sales tax* was amended to require that those operating STRs collect and remit a 3.5 per cent tax on lodging.⁸⁰ The tax applies in 21 tourism regions in Québec,⁸¹ and revenues raised through the tax are allocated towards the province's tourism partnership fund, which was created in 1996 to support the promotion and development of tourism in the province (Ministère de Finances Québec 2017). Further, in 2017, the Government of Québec entered into a tax remittance agreement with Airbnb, making it possible for Airbnb to collect and remit the tax on lodging on behalf of hosts offering accommodation on its platform (Revenu Québec 2017).

Further changes were made in 2021 to harmonize the Québec Sales Tax (QST) with the GST system, with the effect of requiring the collection of QST on the rental of short-term accommodations, even if the owner is not registered for the QST (Gouvernement du Québec 2021a). As a result, those renting an STR in Québec through a platform such as Airbnb will automatically be charged QST, irrespective of whether the host is a small supplier.

c. Alberta Tourism Levy

In April 2021, changes to Alberta's *Tourism Levy Act*⁸² came into effect, extending the application of the four per cent tourism levy on the purchase price of accommodation to STR

⁸⁰ *Act respecting the Québec sales tax*, RSQ 2018, c T-0.1, s 541.24.(2.1)

⁸¹ The tax does not apply in the Nunavik tourism region.

⁸² *Tourism Levy Act* 2000, RSA 2000, c T-5.5,

operations. The Act also enables the authorization of an online broker (i.e., platform) to collect and remit the tourism levy and file returns on behalf of STR operators providing accommodation through their online marketplace.⁸³ Over the course of the pandemic, there has been a pause on remitting the levy.

In Alberta budget documents, the rationale for the extension is framed in terms of leveling the playing field among temporary accommodation providers (Alberta Treasury Board and Finance 2020, 175). When the levy was introduced in 2005, the government of the day suggested that all revenue generated by the levy would be used for tourism marketing and development (Alberta Hotel & Lodging Association 2016). The 2020 budget noted that mechanisms to increase funding for tourism initiatives, including a full allocation of the tourism levy to the Ministry responsible for tourism, would be considered with improvements to the economic picture (Alberta Treasury Board and Finance 2020, 35). It is unclear how and where the revenues raised through the levy are allocated. As compared to many other Canadian jurisdictions, there is no mechanism that devolves responsibility to municipalities to collect tax on tourist accommodation and allocate revenues.

d. British Columbia Municipal and Regional District Tax on Accommodation

In Kelowna, Victoria, Vancouver, and Whistler, STR bookings are also subject to a Municipal and Regional District Tax (MRDT) of three per cent.⁸⁴ The 2018 changes to the *Provincial Sales Tax Act* that enabled online accommodation platforms to register to collect and remit PST on behalf of hosts also apply to the collection of MRDT. Introduced in 1987, the original purpose of the MRDT was to raise revenue for local tourism marketing, programs, and projects. In 2018,

⁸³ *Ibid*, at s 3.2

⁸⁴ B.C. Reg 93/2013, Schedule 1

amendments were made to the *Designated Accommodation Area Tax Regulation* to enable revenues raised through the MRDT to also be used to fund local affordable housing initiatives.⁸⁵

In light of this change, the Resort Municipality of Whistler has, since 2019, allocated 100 per cent of its portion of MRDT revenues raised through online accommodation providers to support the Cheakamus Crossing Phase II affordable housing project (Resort Municipality of Whistler 2021). Further, the City of Kelowna earmarks all MRDT revenues from online STR bookings for affordable housing initiatives such as the Housing Opportunities Reserve Fund (City of Kelowna 2020, 3), which supports land acquisition for affordable housing as well as a rental housing grant program.

In Victoria and Vancouver, it is instead the agencies responsible for tourism, not the local governments, that are designated recipients of MRDT revenues.⁸⁶ That said, Destination Greater Victoria, the City of Victoria, and the Hotel Association of Greater Victoria have identified the City's Housing Reserve Fund as the most appropriate envelope for MRDT revenues collected through online accommodation platforms; as a result, 100 per cent of such revenues allocated to the City of Victoria to include in this fund (Destination Greater Victoria 2021, 45). In Vancouver, however, Tourism Vancouver has historically opposed the apportionment of any MRDT revenues for affordable housing (City of Vancouver 2019, 15).

e. Municipal Accommodation Tax: Toronto and Ottawa

In 2017, the province of Ontario passed legislative amendments to the *Municipal Act* (and *City of Toronto Act*) to provide municipalities the necessary legislative authority to implement a Municipal Accommodation Tax (MAT). Importantly, to replace funds previously generated

⁸⁵ B.C. Reg. 93/2013, s 5(1)(b)

⁸⁶ B.C. Reg 93/2013, Schedule 1

through destination marketing programs, require municipalities that decide to adopt a MAT to provide a minimum contribution to local bodies (e.g., Ottawa Tourism) for the exclusive purpose of promoting tourism.⁸⁷

In 2018, both Toronto and Ottawa introduced a MAT of four per cent. In both cases, the MAT applies to hotel and short-term rental accommodation. Given the delayed implementation of Toronto's STR regulations (as a result of the *Zoning Bylaw* being appealed at the Local Planning Appeal Tribunal immediately after adoption), MAT collection and remittance was not fully enforced until January 2021. In Ottawa, collection and remittance of MAT by STR operators was required from the outset (despite regulatory reform for STRs being enacted in 2021).

Toronto allows for STR companies to sign a Voluntary Collection Agreement with the City of Toronto to be able to collect and remit the MAT on behalf of operators. However, in such cases an operator must still file a quarterly MAT report through an online submission portal. In Ottawa, Airbnb has collected MAT on behalf of operators since August 2018. All monthly revenues generated through Toronto's MAT are directed towards Destination Toronto, which supports the tourism industry, as well as various programs and services (e.g., roads, transit, culture, parks) which travelers use and benefit from when visiting the city. In Ottawa, the MAT replaces the Destination Marketing Fee. Revenues are used to support Ottawa Tourism's sales, marketing, and destination development efforts.

5. Compliance and enforcement

To date, compliance and enforcement struggles have plagued international efforts to regulate the STR market, despite the importance of this aspect to the success of regulatory efforts. Part of this

⁸⁷ O Reg 435/17; O Reg 436/17

is due to a combination of lack of staff capacity within local offices and the dynamic nature of the market and constant proliferation of listings (Wegmann and Jiao 2017; Nieuwland and van Melik 2020).

However, additional factors contribute to low compliance, including a number of barriers inherent within the licencing and registration system for hosts. The first pertains to a lack of awareness among small scale operators that they must obtain a business licence to share space in their home: such individuals may not be deliberately avoiding compliance with STR regulations but, at the same time, may not conceive of their participation in the STR market as constituting business activity, or at least activity that requires a licence for commercial operations. This issue has been mitigated, to a certain extent, by platforms such as Airbnb providing information on regulatory requirements to hosts who register listings and by creating mandatory licence number fields as part of listing registration. At the same time, however, it is cause for regulators to reflect on the suitability of licensing schemes—particularly those which do not distinguish between licence classes, or which use business and commercial language—for all types of STR activity, even that which reflects small-scale home-sharing operations. As we discuss above, the majority of jurisdictions in our study have simply amended existing business licence bylaws to accommodate STR operations.

Additional barriers may exist in terms of the extensiveness and accessibility of the application process, particularly if hosts are required to comply with bylaws and regulations enacted by several levels of government, and across departments (e.g., land use, licensing, and tax). The majority of municipalities in our study—it is unclear what the approach in Ottawa will be, though existing processes for business licences appear to require in-person applications—have eased administrative and access barriers by moving the application and renewal system online. In

Vancouver, the online system includes a prohibited buildings registry, which restricts the online issuance of STR licences for all single-room occupancy (SRO) and Rental 100 buildings, as well as many strata (condo) buildings, in the city (City of Vancouver 2021). Further, most municipalities offer extensive materials and host guides to support applications. These approaches accord with those adopted successfully in Denver, which achieved a high licensing compliance rate (compared to other American jurisdictions) after the imposition of an online system (Accela 2017; Nieuwland and van Melik 2020).

Most jurisdictions in our review employ complaint- and audit-based systems, which are reliant upon concerned residents reporting issues through a complaint line or online portal, as well as proactive inspections of licenced units by licence inspectors or bylaw officers. As detailed in the literature, meaningful enforcement likely requires dedicated staff operating specifically in the area of short-term rentals (Wegmann and Jiao 2017). In Canadian jurisdictions, the ability and commitment of local governments to undertake such operations with the rigour required to achieve high compliance is unclear, though it can be expected that smaller governments in particular have limited staff and budgetary capacity in this area. Indeed, even the largest cities in Canada have reported administrative strain, with recent reports out of Toronto noting that City Administration was struggling to process thousands of licence applications and required more staff to close the enforcement gap (Woodward 2021). Further, it is unclear the extent to which permit fees are an effective cost-recovery mechanism. However, the City of Vancouver is one jurisdiction in which enforcement efforts have been documented, and in which an active program of flagging listings, undertaking audits and inspections, sending warning letters, and suspending licences has been undertaken (City of Vancouver 2020). One aspect of regulation that facilitates such efforts, particularly in the absence of a dedicated enforcement team, is the requirement for

hosts to include their licence number on listings, marketing, and advertisements. This is now a requirement in all jurisdictions in our review.

In jurisdictions that require the registration of platforms (Toronto, Ottawa, and Nova Scotia in Canada), enforcement efforts are further supported by data collected by Airbnb and remitted to the City or Province. Further, though Vancouver does not require the licencing or registration of platforms, the City of Vancouver has signed a Memorandum of Understanding (2018) with Airbnb, outlining stipulations regarding the operation of the platform in the city. Part of the agreement rests on Airbnb supporting the implementation of Vancouver's STR regulations, which includes the platform agreeing to prevent new listings which do not provide a business licence number. However, media coverage has highlighted that the MOU does not require Airbnb to enforce rules, placing the onus on the City, not the platform, to remove uncompliant hosts (Bula 2018). In addition, reports out of Toronto indicate that co-regulation remains an imperfect process, or a work in progress, with Airbnb suggesting that certain aspects of enforcement, such as flagging listings or comparing new listings to the City's registry of licensed operators, remain the responsibility of the City (Woodward 2021).

Conclusions

The principal aim of this paper has been to take stock of the various regulatory approaches Canadian jurisdictions have applied to date in an attempt to manage platform-mediated home sharing in their communities. In conducting this review, we sought answers to general questions about the nature and extent of the regulatory push in Canada, whether trends and themes could be identified across efforts, and to what extent local dynamics were influencing regulatory and policy responses. We were also interested in identifying where gaps and challenges may still

exist, where approaches were missing the mark, as well as what strategies governments might think about adopting next.

From our analysis, it is evident that regulation of the STR market, while occasionally presented as contentious in public discourse and news reports, is an increasingly common and accepted practice in Canadian jurisdictions: not a question of “if,” but rather a matter of “how” and “to what extent.” In particular, licensing and registration requirements for STR hosts are widespread, such that for hosts, compliance with such regulations can now largely be conceived of as simply another step in the process of preparing to list a property in the STR market. Taxation of such activity on par with other forms of tourist accommodation is also a common approach, with certain jurisdictions, such as British Columbia, also innovating in terms of the purposes towards which revenues generated through accommodation taxes can be directed (i.e., to support affordable housing initiatives, rather than tourism budgets, for example).

Further, regulations increasingly reflect a more measured and exacting approach by comparison to early international efforts, and contain provisions introduced to address particular market actors, different forms of activity, and even flexibility to allow for the adjustment of regulations in the face of emerging issues and shifting market dynamics. For example, several Canadian jurisdictions do not ban the operation of secondary property listings outright, instead distinguishing such operations from those corresponding with a host’s primary residence and introducing tiered licensing schemes which impose higher entry costs for those looking to operate listings of a more commercial nature. Further, in several Montreal boroughs primary residence listings are permitted throughout, but secondary listings are contained to select commercial areas; this is similar to the approach taken in Kelowna, where primary use operations (i.e., non-principal residence STRs) are restricted to set tourist commercial and health

districts. Finally, Regina and Saskatoon have introduced particular regulations for secondary property STRs that prohibit the granting of new licences if more than 35 per cent of the dwelling units in a multi-dwelling structure are licensed STRs, or if the city's vacancy rate falls below three per cent. These are best practices that merit application elsewhere.

Regulatory approaches also increasingly involve platforms. For example, in Toronto, Nova Scotia, and Ottawa, to be able to operate platforms must first register with the government. Registration not only provides governments access to additional revenue through registration or licence fees, but also enables the imposition of additional requirements related to data collection and information sharing. However, regulatory frameworks which recognize platforms as market actors are not the only approach. In recent years, platforms—and Airbnb in particular—have altered the nature of their interactions with local authorities to focus on partnerships and agreements, rather than legal battles, and in many cases, governments have been able to draw on this shift to fill gaps, particularly in terms of compliance, enforcement, and access to data. In Canada, several jurisdictions have now struck agreements with Airbnb specifically to leverage the platform's position, expertise, and data in order to improve regulatory effectiveness. However, even with platform participation, enforcement remains an issue, including for cities with relatively large administrations, such as Toronto. Indeed, coregulatory models remain novel in the STR context, and jurisdictions will continue to learn from efforts to navigate relationships with platforms with policy and regulatory objectives in mind.

Now that many local authorities in Canada have implemented regulatory approaches, or signalled their intention to adopt STR-specific rules, one potential path forward that would support improved regulatory capacity, effectiveness, and compliance would be to recast the management of the STR market in broader governance terms and shift to a provincial framework

model. As the STR market becomes more complex and partnership with digital platforms a necessity, provinces are in a stronger position to lead governance efforts. As we have outlined in this paper, comparable frameworks for tourist accommodation more broadly already exist in Quebec, Nova Scotia, and Prince Edward Island. Further, the Union of B.C. Municipalities has recently called on the provincial government to introduce a provincial regulatory framework for short-term rentals, similar to that in place for ride-sharing, to ensure stronger platform accountability and information validation, and to improve enforcement capacity that is currently lacking at the local level (Union of B.C. Municipalities 2021).

Under such an approach, the additional opportunity and capacity would exist for provinces to set, through consultation and expert review, clear policy objectives related to the management of the STR market, in line with provincial dynamics and strategies for other sectors, particularly those impacted by the STR market, such as housing and tourism. For example, in the Atlantic provinces, governance of the STR market could be primarily aimed at boosting tourism, and thus the framework might be overseen by the tourism ministry. Similarly, provinces that have experienced considerable housing market issues, such as BC, might adopt strategies aimed primarily at ensuring access to affordable housing, and thus see that the framework falls under the purview of the minister responsible for housing.

Such a framework would also create regulatory certainty in jurisdictions across the province, and done effectively, would reduce administrative burden for local governments, many of which do not have sufficient resources to administer and enforce robust licensing and registration systems. Given several provinces have already established agreements with platforms regarding the collection of accommodation tax, PST, and other such charges, moving a licensing and registration system to the provincial level would reflect a streamlining of processes under a

single level of government (even if done by distinct authorities). Involving the provincial government in this way would free up local governments to focus on the development and enforcement of local rules, particularly those related to zoning and community health and safety, as has been done in Montréal (in tandem with the Québec system).

In the past five years, Canada's STR market has grown significantly, and now extends to communities of all varieties, in all regions of the country. As a result, an increasing number of local governments, including Halifax, Yellowknife, Winnipeg, Charlottetown, and Sault Ste. Marie, are now reviewing plans to introduce regulatory frameworks of their own. Though the body of scholarship on STR market regulation, particularly that which is Canada-focused, remains under-developed, and while most Canadian jurisdictions have only recently adopted regulatory frameworks, trends, patterns, and best practices can already be observed. In particular, authorities must focus on crafting regulations to respond to local dynamics and issues, as well as ensure that regulatory approaches reflect a nuanced understanding of the market and market actors. However, the ability to do so—and ultimately, the effectiveness of the model—will rest on governments overcoming compliance, enforcement, and data struggles. Two approaches—coregulation with platforms and the introduction, at the provincial level, of broader STR policy frameworks—show particular promise in the face of these issues.

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Appendix A







