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# Options Report

## Haliburton County Short-Term Rental Review



**Options Report  
Haliburton County Short-Term Rental Review**

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### 1.0 Introduction

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Short-Term Rentals (STRs) are private, residential dwellings that are rented to provide temporary accommodation. There has been a considerable increase in STR market with the emergence of platforms such as Airbnb and VRBO. Haliburton County is a well-known tourist and cottage area, so much so that the population exhibits a significant increase in the summer months, fueling the economy and waterfront development of the area. As such, this puts Haliburton County in a unique position of balancing the advancements in the tourism industry with the need to create a regulatory framework to manage these new age vacation rentals.

In the summer of 2021 County Council directed staff to begin a special project involving the study of STR policies and regulations with the intent of implementing a STR management program to be in effect County wide and enforced by the County. On July 28th, 2021 County Council directed staff to engage a third party to undertake this review and development of draft Policies & Regulations for Short-Term Rentals in the County. Subsequently, J.L. Richards & Associates Ltd. (JLR) was retained for this project.

JLR presented the Background Report to County Council at the May 25, 2022, Council Meeting. The Background Report provided an overview of legislative context at various levels for STR regulation, academic research on STRs, precedent review and the results of the community survey which received approximately 1500 responses over a period of three weeks from April 3, 2022, to April 25, 2022.

County Council received the report and provided direction to include additional municipalities with a rural focus in the precedent review and seek input from municipalities who have short term rental regulations in place to understand their experience with regulation. Additionally, County Council directed JLR to provide enforcement options as it related to rules, by-laws, zoning and associated fees.

JLR presented the Options Report to County Council at the August 10, 2022 Council Meeting. The Options Report expanded upon the direction provided by Council at the previous meeting and gave an overview of the STR regulations in rural municipalities. The options for regulations, based on precedent and literature review were also provided to County Council during this meeting. County Council directed JLR to review the implementation of Municipal Accommodation Tax in further detail and present the draft policy framework for regulation of STRs in the County.

This Addendum to the Background and Options includes the following remaining Sections:

- 2.0 Proposed Service Level
- 3.0 Framework Features and Recommendations
  - 3.1 Annual Occupancy Cap
  - 3.2 Tenant STR Operators
  - 3.3 Fee Structure
  - 3.4 Zoning By-law Amendment
  - 3.5 Appeals Committee
  - 3.6 Recommended Administrative Penalties
  - 3.7 Municipal Accommodation Tax
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- 4.0 Conclusion

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### 2.0 Proposed Service Level

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The County Council was presented with a range of options on the spectrum of regulation, starting from education and awareness, leading all the way to licensing and regulation. Pursuant to the Council's direction, JLR has prepared a draft Registration By-law which will require STR operators to register their STR, which will serve as a database for STRs the County. The draft Registration By-law will remain in effect for a few months, typically 3 to 4 months, before being subsequently replaced by a Licensing By-law. The phased approach will allow for revisions to the draft Licensing By-law and/or requirements based on the local data. JLR also prepared a draft Licensing By-law. The key features of the draft by-law are below:

- Owner occupied Short-Term Rental accommodations, such as an individual renting out a room in their house, are excluded from licensing requirements;
- Only Owners may apply for and operate a Short-Term Rental in the County, while renters are not allowed to run short-term rentals;
- Short-term Rental accommodations are not permitted in bunkies or accessory dwelling units;
- Short-term Rental accommodations are not permitted in any structure other than a habitable room, which includes but is not limited to, trailers, docked boats or community housing facilities;
- 3 classes of License are proposed based on the number of STRs operated by an owner, total number of nights a unit is rented per year and the maximum number of occupants permitted in the STR. At the last meeting, the number of consecutive nights a unit is rented was discussed as a potential criterion. JLR recommends that the minimum number of consecutive nights be removed as a criterion to determine license class, as if the license is dependent on annual occupancy, number of consecutive nights a unit is rented is not perceived to have any negative impacts;
- The maximum permitted occupancy is 2 persons per habitable room, with children above the age of 2 years being accounted for in this calculation. Further, there is no cap on the maximum number of persons in an STR as long as the above noted condition and the septic requirements are met;
- The minimum parking requirement shall be decided on a case-by-case basis, based on the parking management plan submitted by the Applicant. A unit will be permitted maximum occupancy if the number of vehicles on site do not exceed maximum parking availability;
- The By-law provides the Applicant an option to request inspections from the City to ensure compliance with all applicable legislation, or in the alternative, submit proof of inspections from licensed professionals;
- An Appeals committee is proposed to hear matters related to STRs; and,
- A demerit point system is proposed to track contraventions of the STR By-law; and,
- Changes to the County's fee and charges by-law shall be required as per the recommendations of this report.

Both, the registration, and licensing by-law are attached to this Report for County Council's review.

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### 3.0 Framework Features and Recommendations

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#### 3.1 Annual Occupancy Cap

County Council directed Staff and JLR to explore the practice of precedent municipalities with regards to annual occupancy caps – which means the maximum number of nights a short-term rental can be rented in a year. The results are below:

<b>Municipality</b>	<b>Annual Occupancy Cap</b>
Blue Mountains	No Cap
Whistler	No Cap
Huntsville	No Cap
Niagara on the Lake	No Cap
Lake of Bays	No Cap, but fees vary depending on the number of nights a unit is rented per year
County of Prince Edward	No Cap
Vancouver	No Cap
Brampton	Yes, max. 180 nights per calendar year
Kingston	No Cap
Bracebridge	No Cap
Trent Lakes	Not Applicable (Phased Approach – no By-law is in effect at this time)
Lambton Shores	No Cap
Fort Erie	No Cap

The above review suggests that annual occupancy cap is not a common practice for short-term rental accommodations. We note that most municipalities require STR operators to maintain records of number of nights a unit was rented throughout the year, however, limitation on annual occupancies are not prevalent. Council may consider annual occupancy cap to support long-term rentals over short-term rentals in light of housing shortage and affordability concerns. JLR recommends no annual occupancy caps as the protections put in place through the licensing by-law which require demonstration of compliance with various legislations, including but not limited to, Ontario Building Code and Fire Protection and Prevention Act, are sufficient to alleviate any potential STR concerns.

#### 3.2 Tenant STR Operators

County Council directed Staff and JLR to explore the practice of precedent municipalities with regards to STRs run by Tenants. The results are below:

<b>Municipality</b>	<b>Tenant Operators</b>
Blue Mountains	Licensee/Applicant may apply for STR licenses, which does not exclude tenants.
Whistler	Permitted
Huntsville	Applicants are permitted to apply for a license, but proof of ownership and owner's written authorization is required.
Niagara on the Lake	Permitted. Lessee may apply for a license.

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Lake of Bays	Applicant may be any person applying for a license. Proof of ownership is required. Written Authorization is required for Applicants/Agents
County of Prince Edward	A licensee may be any person to whom a license is issued. Applicant is not a defined term and proof of ownership and contact information is required as a part of the Application.
Vancouver	Permitted with written authorization of landlord.
Brampton	Permitted with written authorization of owner
Kingston	Not Permitted
Bracebridge	Permitted with written authorization of landlord
Trent Lakes	Not Applicable (Phased Approach – no By-law is in effect at this time)
Lambton Shores	Permitted with written authorization of landlord
Fort Erie	Not Permitted. License is issued to the owner only, and licenses are non- transferrable.

Review of precedent by-laws suggests that certain municipalities permit only owners to operate STRs such as For Erie and Kingston while others allow for tenants to operate STRs as well such as Bracebridge, Lambton Shores, Brampton and Vancouver. We note that many by-laws are open to interpretation with regards to tenant owned operators as they allow for applicants to apply for a short term rental license, but require proof of ownership as well owner’s written authorization as a part of the application. In these cases, tenants may be permitted to apply for a license as an applicant if they have owner’s authorization.

Based on Council’s previous direction, the draft Registration and Licensing By-laws attached with this report do not allow for tenants to apply for and obtain short-term rental licences in the County.

### 3.3 Fee Structure

It is our understanding that County Council wishes the licensing fee of an STR to be based on the extent of its operation. Based on this direction, STRs in the County have been classified into three (3) categories which are noted below:

<b>CLASS</b>	<b>No. of STRs operated by the same Owner</b>	<b>Total no. of nights rented per year</b>	<b>Maximum no. of occupants per STR</b>
A	1	1 - 30	8
B	1-2	31 - 90	8
C	3 or more	91 or more	8 or more

For an STR to qualify for a license class, it must meet the prescribed minimums and maximums in each category. For example, if an operator has 1 STR, rents for 28 nights every year, permits a maximum occupancy of 10 persons, they will qualify for a Class C license although they meet all the other requirements for Class A for all other categories.

Based on the precedent review, the following fee structure is recommended:

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CLASS	Application Fee (1 time)	Renewal Fee
A	\$250	\$125
B	\$500	\$250
C	\$750	\$500

Further, the licensing By-law requires an Applicant to demonstrate compliance with various legislation including the below:

- i. Ontario Building Code Act, 1992, S.O. 1992 c.23; (“Building Code Act”);
- ii. Ontario Fire Protection and Prevention Act, 1997, S.O. 1997, c.4 (“Fire Protection and Prevention Act”);
- iii. Electricity Act, 1998, S.O. 1998, c. 15, Sched. A (“Electricity Act”);
- iv. Applicable Planning By-law; and,
- v. Any other municipal by-laws or provincial legislation.

The licensing By-law allows the Applicants to submit proof of inspections (septic, fire, electric, building) from relevant licensed professionals or arrange municipal inspections. JLR recommends that the fees associated with these inspections be added to the County fee and charges by-law or local municipal fee by-laws, as appropriate. Inspection Fees in Blue Mountains pursuant to their Fees and Charges By-law is:

- Application Fee: \$50 (Separate from 2 year licensing fee)
- Fire Safety Inspection (1<sup>st</sup> Inspection): \$75
- Fire Safety Re-inspection (paid prior to 2<sup>nd</sup> inspection): \$125
- Fire Safety Re-inspection (paid prior to 3<sup>rd</sup> inspection): \$ 175
- Re-inspection fees for By-law Staff (paid prior to 2<sup>nd</sup> inspection): \$125
- Re-inspection fees for By-law Staff (paid prior to 3<sup>rd</sup> inspection): \$175

### 3.4 Zoning By-law Amendment

JLR recommends that pursuant to the registration and licensing By-law being passed by the County Council, all lower tier municipalities amend their Zoning By-laws to define the term ‘Short-Term Rental’ noted in the Registration and Licensing By-laws and permit STR’s in all zones.

### 3.5 Appeals Committee

During the August 10 Meeting, County Council considered an Appeals Committee for hearings on matters related to short-term rentals. It was the general direction that an Appeals Committee be constituted of members of public as well as members of the Council. JLR recommends that an Appeals Committee be established to hear appeals on matters of registration, licensing, as well as variances to the Licensing By-law. Further, JLR recommends that County Council amend its User Fee By-law to include appropriate appeal fees. The appeal structure as noted in precedent municipalities is below:

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### Lake of Bays

Administrative Fee: \$50  
 Application Fee (Appealing an order): \$300 (Refunded if order is rescinded)  
 Non Appearance Fee (Appealing an order): \$200

### Huntsville

Licensing Committee Appeal Fee: \$250 per appeal.



### Administrative Penalties

Administrative Penalty refers to a financial penalty, commonly referred under an Administrative Monetary Penalty System (AMPS), authorized under section 434.1 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, issued to Person, Owner, Agent or Licensee who has contravened or failed to comply with any provision of a municipal by-law.

Sections 13 and 14 of the Licensing By-law provide for administrative penalties for contravention of the Licensing By-law. The following administrative penalties are outlined based on precedent review:

*Fort Erie (effective July 18, 2022), pursuant to the municipality's Administrative Penalty By-law empowered by the Municipal Act.*

<b>Infraction</b>	<b>Penalty</b>
Operate Short-Rental without a license First failure to comply Each subsequent failure to comply within 12 months of first failure	\$1,500 \$2,000
Advertise STR without a license First failure to comply Each subsequent failure to comply within 12 months of first failure	\$1,000 \$1,500
Failure to display license	\$75
Non-Availability of Responsible Person	\$500
Obstruct Officer	\$300
Noise & Nuisance	Penalties under relevant by-laws
Failure to comply with fire safety plan	\$500
Operate contrary to applicable Federal, Provincial and Municipal Laws	\$1,500
Failure to comply with Fire Protection & Prevention Act, 1997 and/or Fire Code	Fines Imposed under FPPA/Code
Failure to comply with Building Code Act, 1992 and/or Building Code	Fines Imposed under BCA
Fail to provide current and accurate information to Officer	\$150
Operate with open Permit or Order	\$300



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Property Standards Infraction	Fines imposed under relevant municipal by-laws
Exceed maximum occupancy	\$1,000

Huntsville (under the Provincial Offences Act)

Infraction	Penalty	
Violate the renters code of conduct	\$400	Part I of Provincial Offences Act
Fail to permit an inspection of any land	\$500	
Hinder or obstruct any person from performing their duty	\$500	
Licensee fail to provide contact information	\$350	
Fail to park a vehicle on a hard surfaced driveway	\$350	Part II of Provincial Offences Act

The Set Fines imposed under the Provincial Offences Act are approved by the Province. Each noted infraction is typically noted as a prohibition under in the by-law pursuant to which the fines are levied.

### 3.7 Municipal Accommodation Tax

The power to impose a Municipal Accommodation Tax (MAT) is granted under Section 400.1 of the Municipal Act, which is applicable to purchase of transient accommodation in a municipality. Section 400.1(1) of the Municipal Act provides that:

*“A local municipality may, by by-law, impose a tax in respect of the purchase of transient accommodation in the municipality in accordance with this Part if the tax is a direct tax...”*

Local municipality is defined in Municipal Act as:

*“local municipality means a single-tier municipality or a lower-tier municipality”*

Based on the above, Haliburton is an upper tier municipality and does not have the power to levy MAT. MAT may be implemented by the County’s four lower tier municipalities (Algonquin Highlands, Dysart et al, Minden Hills and Highlands East).

Further, operators are required to collect and remit MAT on all rentals before HST. Additionally, the municipalities are required to pass a separate by-law to impose MAT.

Section 400(6) of the Municipal Act contains regulations regarding power to impose taxes which notes that:

*On the recommendation of the Minister of Finance, the Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable for the purposes of this Part, including,*

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- (e) *governing the sharing of revenue from a tax on transient accommodation between the municipality that imposes the tax and one or more non-profit entities for the exclusive purpose of the non-profit entity in promoting tourism in Ontario or in the municipality.*

Based on the above, the intent of the MAT is to be atleast partly used for tourism promotion. The precedent review below demonstrates that a part of the MAT tax is used as a reserve fund to be used at Council’s discretion for other projects. Below is a precedent review of how MAT is proposed to be used in various municipalities:

<b>Municipality</b>	<b>Use of MAT funds</b>
Vaughan	50% to fund destination marketing, 50% for city building initiatives
Huntsville	<p>MAT can be used for:            New Tourism Infrastructure, capital investment to enhance a recreation or tourism facility, economic development programming (Workforce development initiatives, Community Improvement programs, support to community events and organizations, affordable housing programs or initiatives, administrative expenses related to MAT.</p> <p>MAT cannot be used for:            Salaries, wages and benefits, capital projects: roads, stormwater management, capital repairs or retrofits to existing municipal facilities, operating costs of existing municipal facilities.</p>
Kingston	destination marketing, sales, and product development
Prince Edward County	50% for tourism infrastructure development; 50% tourism marketing and development.
Niagara on the Lake	Tourism promotion, Town capital infrastructure and tourism initiatives.

### 3.8 Information Dissemination

JLR recommends that the County maintain a dedicated page for STRs on their website which contain details on applicable STR policies and regulations. Provision of the following information to the public is recommended:

- Locations of licensed STRs with Addresses.
- Name & Contact Information for each Licensed STR;
- Applicable By-laws;
- Details on Registration Process;
- Details on Licensing Process and Forms;
- Application Requirements;
- Details on Appeal Process;
- Good Neighbour Guidelines or Renter’s Code of Conduct;
- Links to other applicable By-laws (such as parking By-law, Noise By-law)
- Details on Municipal Accommodation Tax (if applicable);
- Details on where to registration a Complaints/ compliant forms, contact information for
- Enforcement Department;
- Good Neighbour Code; and,

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- Overview of major rules and responses to anticipated questions from the Community to support understanding of the process.

### 4.0 Conclusion

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This Report provides an overview of additional tools that may be used to operationalise the By-law including: Municipal Accommodation Tax, Maximum Annual Occupancy Cap, Fee Structure, Administrative Penalties and Appeals Committee. Each section, where applicable, contains options and summary of practices of other municipalities to assist in Council's decisions.

County Council opted for phased implementation of short term rental regulations. Pursuant to this, a Draft Registration By-law and a Draft Licensing By-law are attached with this report for Council's consideration.

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