

Report to Council



Date: July 16, 2018
File: 1200-40
To: City Manager
From: Laura Bentley, Community Planning Supervisor
Subject: Short-Term Rental Accommodation Regulatory Direction

Recommendation:

THAT Council receives, for information, the report from the Community Planning Department dated July 16, 2018 with respect to short-term rental accommodations;

AND THAT Council directs staff to proceed with drafting policy and regulations as outlined in the report from the Community Planning Department dated July 16, 2018 with respect to short-term rental accommodations;

AND FURTHER THAT Council directs staff to proceed with engagement as outlined in the report from the Community Planning Department dated July 16, 2018 with respect to options for regulating short-term rental accommodations.

Purpose:

To consider guiding principles and options for regulating short-term rental accommodations.

Background:

Municipalities across BC, and globally, have been grappling with if and how to permit and regulate short-term rentals following the rise of various online vacation rental platforms over the last few years, such as Airbnb, VRBO, HomeAway, and others. These platforms offer different options for types of accommodations through hosts in private residences, including renting individual rooms, suites or entire homes. While short-term rental accommodations provide a different option for tourists and an opportunity for additional income for homeowners, they can also present concerns about housing availability and affordability, neighbourhood character and nuisances, and unfair competition to traditional accommodation providers.

Short-term rentals – defined in Kelowna as having a tenancy period of less than one month – are currently prohibited in residential zones in the City of Kelowna, including rural residential (RR) and

urban residential (RU and RM) zones, with the exception of the RM6 – High Rise Apartment Housing zone that allows hotel / motel accommodation with a multiple residential unit. Commercial zones with residential uses may have short-term rental accommodations, though strata corporations may restrict this use.

On August 22, 2016, staff provided Council with possible strategies to regulate short-term rentals. At the time, staff suggested a combination of zoning and business licensing controls may be appropriate to permit short-term rentals and balance rental market needs against emerging trends and property owner desires. Council directed staff to consider bylaw amendments to the Zoning Bylaw and Business License and Regulation Bylaw. To take action on this, staff conducted a public survey, researched examples from other municipalities, and prepared guiding principles to move forward.

Kelowna Context

Short-Term Rental Market

Despite the existing regulatory restrictions, many properties across the City advertise units for short-term accommodation. As of November 2017, there were 1,158 unique short-term rental units accounting for 1,578 listings in Kelowna. These were rented for a median nightly rate of \$190. Nearly four in five units rented through short-term rental accommodation platforms were entire dwelling units, and the units were nearly evenly divided between single detached houses and multi-family units¹.

Groups directly linked to the short-term rental market, whether through demand for or impacts of these operations, include tourists, seasonal workers, students, long-term renters, residential neighbourhoods, and traditional accommodation providers (e.g. hotels, motels, etc.).

Long-Term Rental Market

At 0.2%, Kelowna already has one of the lowest vacancy rates in Canada. Although the last couple of years have seen significant growth in the construction of new primary rental market units (e.g. apartment buildings), strong demand for rental units is expected to continue as Kelowna continues to grow and demographics shift over the next 20 years. The City's draft Healthy Housing Strategy indicates that between 2011 and 2016, 73% of new households in Kelowna were renters. Approximately 550 new rental housing units are projected to be needed annually to meet the demands of new growth.

The secondary rental market, which includes secondary suites, carriage homes, and full homes, accounts for 70% of rental units in Kelowna (approximately 10,000 units), but offers less stability for renters because tenancy can be based on the owner's priorities and needs. Security of tenancy is critical for residents to find and retain stable housing.

Short-term rentals have the potential to generate much more income than long-term rentals, creating a strong incentive for the conversion of long-term rental units, or the use of space that could otherwise be used for long-term rentals. This threatens security of tenancy for long-term renters by creating the possibility of seasonal or permanent eviction to use the unit for short-term rentals. As reported by the City of Vancouver, research from other locations has demonstrated that an increase in short-term

¹ Source: Host Compliance LLC (November 2017)

rental listings leads to increased rents, house prices, and eviction rates, along with a decrease in vacancy rates².

Neighbourhood Impacts

Short-term rentals can also have nuisance impacts that affect the enjoyment of others, particularly in residential neighbourhoods. In particular, Kelowna's Bylaw Services officers have responded to complaints regarding use, noise, and parking related to short-term rentals across the City. The number of complaints has increased annually over the last few years. Staff have also heard complaints of excessive garbage that does not fit into garbage carts.

Accommodation Industry

The tourism industry is a significant economic driver in Kelowna, and traditional accommodation providers (e.g. hotels, motels) are a key component of the industry. In Kelowna, hotel, motel and resort accommodations charge a 3% municipal and regional district tax (MRDT), informally known as the 'hotel room tax', on all stays. Through the Province's program, taxes collected in Kelowna are directed to Tourism Kelowna for tourism marketing, programs and projects. This tax is not collected on all short-term rentals, creating an advantage for that accommodation model.

In February 2018, the Government of BC announced an agreement with Airbnb to collect occupancy taxes on short-term rentals offered through its platform to help fund housing affordability initiatives. Airbnb will collect provincial sales tax (PST) and up to 3% municipal and regional district tax (MRDT) on short-term accommodations through its platform. The Province is looking to develop similar arrangements with other accommodation platforms. Similar agreements to collect and remit taxes exist in Quebec, California, Nevada, and France.

Public Engagement

Residents and business owners were invited to share their thoughts on short-term rentals in Kelowna from November 5, 2017 to December 4, 2017. A total of 2,632 survey responses were provided. It should be noted this is a collection of opinions and perceptions from interested or potentially affected residents. It is not a statistically significant random sample of all Kelowna residents, and results are qualitative in nature.

The survey provided examples of the benefits and disadvantages of short-term rentals and asked questions about experiences with short-term rental accommodation, the type and location of units that should be available for short-term rentals, and possible conditions for operators. The full Short-Term Rental Engagement Report is available in Attachment A and key results are summarized below.

² Sources: Barron, K, Kung, E and Proserpio, D. (2017). "The Sharing Economy and Housing Affordability: Evidence from Airbnb." *NBER Working Paper*; Horen, K and Merante, M. (2017). 'Is home sharing driving up rents? Evidence from Airbnb in Boston.'" *Journal of Housing Economics* 38; Lee, D. (2016). 'How Airbnb Short-term Rentals exacerbate Los Angeles' Affordable Housing Crisis: Analysis and Policy Recommendations.'" *Harvard Law and Policy Review* 10; Schäfer, P. and Braun, N. (2016). "Misuse through short-term rentals on the Berlin housing market." *International Journal of Housing Markets and Analysis* 9.2.

Respondents ranked suggestions of how allowing and regulating short-term rental accommodations could help achieve broader housing and economic goals. The top results were:

1. Keep residential areas and buildings quiet and safe
2. Support tourism
3. Allow residents to earn income from short-term rentals
4. Protect the supply of long-term rental housing

Just over 60% respondents indicated that secondary suites and carriage houses should be used for short-term rentals. The majority also felt that one or more spare rooms should be rented, while nearly half indicated that an entire residential unit (single detached, semi-detached or multi-family) should be rented. Nearly one in five respondents indicated that short-term rentals should not be allowed.

The survey asked where rentals should be located, with the strongest support for tourist areas (81%), commercial areas with shops and restaurants (79%) and urban centres (74%). Many of these locations overlap. Just over 60% supported short-term rentals in suburban areas or near schools, hospitals and other institutions.

The key themes resulting from the survey are:

1. Affordability – short-term rentals help homeowners pay their mortgages and offer another option for tourists
2. Homeowner's prerogative – allow the homeowner to decide how to use their property
3. Tourism – benefit for Kelowna's tourism industry
4. Regulations – general support for regulation of short-term rentals
5. Noise – concerns about noise, but could be alleviated with regulations

Case Studies

In conducting a best practices review, staff considered regulations that have been adopted in other BC municipalities that have applicability to Kelowna's context as an urban centre with a strong tourism sector. Specifically, Nelson, Vancouver, Victoria, and Tofino were reviewed. Most of these municipalities allow short-term rentals in most zones and locations, with Vancouver and Victoria restricting them to the principal residence of the operator. All municipalities require a business license, with some having varied fees depending on the zone or location. The greatest difference is in the area of enforcement, and each municipality has a somewhat unique approach based on community needs and resources. A summary of each municipality's regulatory context is below and further details are provided in Attachment B.

Municipality	Location of Short-Term Rentals	Business License	Enforcement Approach
City of Nelson	<ul style="list-style-type: none"> • Most zones 	<ul style="list-style-type: none"> • Required 	<ul style="list-style-type: none"> • Municipal bylaw enforcement
City of Vancouver	<ul style="list-style-type: none"> • Most zones and locations • Only in operator's principal residence 	<ul style="list-style-type: none"> • Required 	<ul style="list-style-type: none"> • Listings must include business license • Agreement with Airbnb
City of Victoria	<ul style="list-style-type: none"> • Most residential areas • Only in operator's principal residence 	<ul style="list-style-type: none"> • Required 	<ul style="list-style-type: none"> • Listings must include business license • RFP for contract with third party compliance group
Village of Tofino	<ul style="list-style-type: none"> • Limited locations 	<ul style="list-style-type: none"> • Required 	<ul style="list-style-type: none"> • Contract with Host Compliance

Guiding Principles

Based on Kelowna's context and potential impacts of short-term rentals on the housing market, neighbourhoods, and the accommodation industry, staff developed guiding principles that will be used to draft policies and regulations for allowing short-term rentals in Kelowna. These will be considered alongside public and stakeholder input as well as examples from other municipalities. Proposed guiding principles are:

1. Ensure short-term rental accommodations do not impact the long-term rental housing supply in a negative way.
2. Ensure short-term rental accommodations are good neighbours.
3. Ensure equity among short-term accommodation providers.

Staff are seeking Council's endorsement of these principles to move forward with preparing short-term rental regulations that reflect Kelowna's context, including community needs and desires.

Regulatory, Licensing & Enforcement Options

Based on Kelowna's context and the above-noted guiding principles, staff suggest a regulatory approach that keeps dwelling units in the long-term rental pool, directs short-term rentals to appropriate zones and locations, limits adverse neighbourhood impacts, and provides for cost recovery for compliance and enforcement needs. A critical means of protecting the long-term rental housing supply would be to limit short-term rental accommodation to the operator's principal residence, with the exception of zones where apartment hotels, hotels and motels are permitted. Staff suggest using this as a basis to move forward with drafting regulations. Other elements that staff will consider are:

- Identifying in which residential and commercial zones short-term rentals are permitted;
- Specifying requirements for parking, signage, and other elements that may be associated with a short-term rental;
- Requiring operators to have a business license and supports cost recovery through licensing; and
- Providing for more proactive enforcement.

Along with drafting zoning regulations and an accompanying business licensing structure, staff will consider and develop appropriate mechanisms for enforcement of short-term rental regulations.

Business license fees should be established to cover costs associated with business licensing and bylaw enforcement needs.

Third party companies offer monitoring and compliance services designed to proactively support municipal enforcement efforts. In BC, both Victoria and Tofino have or are pursuing contracts for these services, as noted above. Staff will consider how this service may be implemented in Kelowna to provide a more proactive approach to compliance with new short-term rental regulations and remove the burden from municipal resources, allowing staff to focus on enforcement priorities.

Next Steps

Staff propose using the guiding principles, public input and background research to draft specific short-term rental policies and regulations. This will include text amendments to the Zoning Bylaw and Business License and Regulation Bylaw.

Targeted stakeholder engagement will take place to review and refine the draft regulations before bringing them back to Council for consideration, through one on one or small group interviews with impacted organizations. Stakeholders include short-term rental platforms (e.g. Airbnb, VRBO, Okanagan Vacation Home Rentals), accommodation hosts (particularly strata councils where short-term rentals are currently permitted), Tourism Kelowna, neighbourhood and resident associations, Landlord BC, and other housing stakeholders. This engagement is expected to take place through summer and early fall 2018. Staff will refine the proposed regulations and bring them forward for Council's consideration following this engagement process.

Internal Circulation:

Business License Manager
Bylaw Services Manager
Communications Advisor, Community Engagement
Sustainability Coordinator
Planner Specialist, Policy & Planning

Existing Policy:

OCP Goal 2. Address Housing Needs of All Residents. Address housing needs of all residents by working towards an adequate supply of a variety of housing.

Financial/Budgetary Considerations:

Budget for enforcement to be considered and identified based on proposed regulations.

Personnel Implications:

Personnel resources for implementation and enforcement to be considered based on proposed regulations.

Considerations not applicable to this report:

Legal/Statutory Authority
Legal/Statutory Procedural Requirements
External Agency/Public Comments
Alternate Recommendation

Submitted by: Laura Bentley, Community Planning Supervisor

Reviewed by: Ryan Smith, Community Planning Department Manager

Approved for inclusion: Derek Edstrom, Acting Divisional Director, Community Planning & Strategic Investments

Attachments:

Attachment A: Short-Term Rental Engagement Report

Attachment B: Short-Term Rental Regulations Case Studies

cc:

Business License Manager

Bylaw Services Manager

Communications Advisor, Community Engagement

Sustainability Coordinator

Planner Specialist, Policy & Planning