

Report to Council



Date: February 25, 2018
File: 1200-40
To: City Manager
From: Laura Bentley, Community Planning Supervisor
Subject: Short-Term Rental Accommodation Regulations

Recommendation:

THAT Zoning Bylaw Text Amendment Application No. TA19-0007 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in the Report from the Community Planning Department dated February 25, 2018 be considered by Council;

AND THAT the Zoning Bylaw Text Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Zoning Bylaw Text Amending Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure.

Purpose:

To amend the Zoning Bylaw by creating a new short-term rental accommodation use with associated regulations, adding the use to select zones with residential and mixed-use commercial uses, and removing the existing apartment hotels use.

Background:

Staff propose the amendments to the Zoning Bylaw to implement new regulations for short-term rental accommodation in Kelowna. The regulations aim to balance the desire to allow short-term rentals as an option for tourists and visitors with the need to protect for long-term rentals and to limit impacts on neighbouring properties. Establishing these regulations will help provide clarity to residents about how short-term rentals can be operated. The amendments define short-term rental accommodation as a new use, identify more specific regulations associated with it, and introduce it as a principal or secondary use in the appropriate zones. The amendments also remove the 'apartment hotels' use from the Zoning Bylaw.

On December 3, 2018, Council directed staff to proceed with preparing bylaws to implement the proposed short-term rental accommodation regulations and licensing requirements related to the regulations. The proposed regulations were based on the guiding principles Council endorsed on July 16, 2018 as well as best practice research and input from residents and stakeholders.

The guiding principles that directed the development of the short-term rental regulations are based on Kelowna's housing context, concerns about potential nuisance impacts in residential areas, and establishing a fair approach among short-term accommodation providers. The three guiding principles endorsed by Council 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.

In July 2018, staff also proposed limiting short-term rentals to an operator's principal residence, with the exception of select commercial areas. This has been carried through to the regulations with some adjustments based on stakeholder and resident feedback. Generally speaking, the regulations would introduce short-term rental accommodation as a new secondary use in an operator's principal residence in single / two unit residential, multi-unit residential, and mixed-use commercial zones. They would also remove the apartment hotel use that currently exists in the C4, C7 and some comprehensive development zones, replacing it with short-term rental accommodation as a secondary use and limited to an operator's principal residence. Only certain tourist commercial areas could continue to have short-term rentals as a principal use and not in an operator's principal residence.

The regulations are summarized in the two tables below, with further details outlined in Schedule 'A'. It should be noted that while preparing the specific bylaw amendments, staff made some refinements to what was previously proposed to provide further clarity and alignment with the objectives, as follows:

- To better define principal residency, the regulations state that the short-term rental operator must reside at that dwelling unit for more than 240 days (8 months) of the year. This is consistent with the principal residency requirement to operate a home-based business.
- Provided a dwelling unit in a multi-family development (e.g. townhouse, apartment) has two parking spaces, an additional parking space would not be needed for short-term rental accommodation. Where short-term rental accommodation is a principal use, parking requirements would follow those for apartment housing in that zone.
- Instead of creating a new subzone for properties zoned RM6 – High Rise Apartment Housing where short-term rentals are not limited to the operator's principal residence, the bylaw identifies the properties on Sunset Drive where the site-specific use regulations apply.
- To provide more options for short-term accommodation near Kelowna General Hospital, the HD2 – Hospital and Health Support Services allows short-term rentals as a principal use.
- The CD14 – Comprehensive High Tech Business Campus zone (Landmark area) does not allow any residential uses outside of apartment hotels. Since the apartment hotels use is being removed and the area is developed without apartment hotels, short-term rental accommodation is not being added to this zone.

Zone Category	Principal Use	Secondary Use
Rural residential (RR1-RR3)		✓
Single/two unit residential (RU1-RU6, RH1, RH2)		✓
Single/two unit residential – health services transitional & comprehensive development (HD3, CD2, CD4, CD10)		✓
Multi-unit residential (RU7, RM1-RM6, RH3)		✓
Multi-unit residential – health services transitional & comprehensive development (HD3, CD1, CD2, CD3, CD5, CD17, CD22, CD26, CD27)		✓
Mixed-use commercial (C3-C8)		✓
Tourist commercial (C9) & health district (HD2)	✓	
McKinley Beach (CD18) & Hiawatha (CD24)	✓ ¹	✓

¹ Principal use in CD18 Area I Village Centre (Hilltown) and CD24 Area A only.

Regulation	Rural and single / two unit residential	Multi-unit residential & commercial	Principal use (C9, HD2, parts of CD18 & CD24)
Maximum # of adults per bedroom / sleeping unit	2	2	2
Maximum # of bedrooms / sleeping units	3	2	3
Maximum # of bookings at a time	1	1	1
Minimum # of parking spaces	1 space per 2 sleeping units	1 space per 2 sleeping units ¹	Follow zone's apartment housing requirements
Allowed in secondary suites / carriage houses	No	n/a	n/a
Business license	Yes	Yes ²	Yes ²
Operator's principal residence	Yes	Yes ³	No

¹ In multi-family developments, parking for short-term rental accommodation does not need to be in addition to the principal dwelling unit where the unit has two parking spaces.

² A higher business license fee is applicable where it is not the operator's principal residence.

³ Properties zoned RM6 along Sunset Drive are not restricted to the operator's principal residence.

Non-Conforming Uses

Should Council move the proposed Zoning Bylaw amendments to Public Hearing, staff will present Council with information regarding non-conforming use provisions. Specifically, staff reviewed several projects that are currently in-stream to determine whether or not they qualify for non-conforming use protection under the *Local Government Act*. This information will be provided in a separate report.

Next Steps

Should the proposed Zoning Bylaw amendments be adopted, those looking to operate a short-term rental would be required to apply for and be issued a business license prior to operating. Staff will focus

on informing residents of the rules they must abide by, with the intent of achieving compliance through licensing and monitoring that will be supported by a third party short-term rental compliance company. Enforcement will be pursued as needed for those properties not in compliance.

Staff will also review and report back to Council after two tourist seasons following implementation of new regulations. Staff have received further comments from residents and stakeholders since the proposed regulations were brought forward on December 3, 2018. A review presents an opportunity to consider how the regulations are working, as well as to explore whether or not other suggestions should be incorporated into the regulation of short-term rental accommodation. Furthermore, the industry continues to evolve, and a review gives staff and Council the opportunity to review the regulations as they relate to ongoing changes in the accommodation industry.

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.

Healthy Housing Strategy Action: Update regulations to protect the rental stock from the impacts of short-term rentals.

Financial/Budgetary Considerations:

Estimated \$320,000 annually for business licensing and enforcement (approved in budget). Business license fees to support cost recovery.

Personnel Implications:

One new License and Bylaw Inspection Officer and one new Administrative Clerk needed to support licensing needs associated with short-term rental accommodation (approved in budget). The positions will be shared with the need for additional resources to support demands of new cannabis retail sales establishments and cannabis production facilities.

Considerations not applicable to this report:

Internal Circulation

Legal/Statutory Authority

Legal/Statutory Procedural Requirements

Submitted by:

L. Bentley, Community Planning Supervisor

Approved for inclusion: R. Smith, Community Planning Department Manager

Attachments:

Schedule 'A' – Short-Term Rental Accommodation Zoning Bylaw No. 8000 Text Amendments

cc:

G. Wise, Business License Manager

D. Gazley, Bylaw Services Manager

K. O'Rourke, Community Communications Manager

M. Kam, Sustainability Coordinator