

Report to Council



Date: July 10, 2023
To: Council
From: City Manager
Subject: Proposed Amendments to Short-Term Rental Regulations
Department: Development Planning

Recommendation:

THAT Council receives, for information, the report from the Development Planning Department dated July 10, 2023, with respect to the short-term rental regulatory review;

AND THAT Council directs Staff to bring forth changes to Zoning Bylaw No. 12375 and Short-Term Rental Accommodation Business Licence and Regulation Bylaw No. 11720 as outlined in the report from the Development Planning Department dated July 10, 2023.

Purpose:

To facilitate a discussion with Council on the City's short-term rental regulations and review options for potential regulatory changes.

Background:

The City's short-term rental regulations were adopted by Council on April 8, 2019. The regulations were based on guiding principles endorsed by Council as well as best practice research and input from residents and stakeholders. The regulations were carried through to Zoning Bylaw No. 12375.

In 2019, a commitment was made to revisit the regulations after two tourist seasons, following implementation of the regulations. The timing of the review was impacted by the COVID-19 pandemic. 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.

Discussion:

The guiding principles that directed the development of the short-term rental regulations were based on Kelowna's housing context, concerns about potential nuisance impacts in residential areas, and establishing a fair approach among short-term accommodation providers. These three guiding principles that were 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; and
3. Ensure equity among short-term accommodation providers.

The Healthy Housing Strategy, which was endorsed by Council in 2018, included an action item to update regulations to protect the rental stock from the impacts of short-term rentals. One key direction from the Healthy Housing Strategy is to promote and protect rental housing. The Strategy further acknowledges the secondary rental market is less secure than the primary rental market, as units from the secondary rental market are more easily transferred to short-term rentals or taken out of the rental pool entirely, which still remains a concern today. The primary rental market includes purpose-built apartments, whereas the secondary rental market consists of non-purpose-built rentals (other housing forms). These secondary rental market units could include secondary suites, carriage houses, rented single-detached houses, duplexes and/or rented freehold townhomes or condos. There is also key policy direction within the Official Community Plan to limit the impact of short-term rental accommodations on the long-term rental housing supply (Policies 4.14.3, 5.13.3 and 6.10.5).

There has been concern that the popularity of short-term rentals has disrupted the Kelowna housing market (and housing markets across the country). A [Canada Mortgage and Housing Corporation \(CMHC\) report \(2020\)](#) on the impact of short-term rentals on Canadian housing found three key problems:

1. Short-term rentals have been a major cause of housing financialization;
2. The majority of short-term rentals are owned by large-scale commercial operators and not private individuals; and
3. The financial incentives of short-term rentals place pressure on housing, leading to long-term rentals being converted into short-term rentals.

In 2021, a Report of the Joint UBCM-Province Advisory Group on Short-Term Rentals published [a report on Priorities for Actions on Short-Term Rentals](#). The report acknowledges that short-term rentals offer some benefits to communities and travelers, which include interim worker housing, tourism, and economic activity. However, it acknowledges that impacts, which may affect communities differently throughout the province, are also causing concern including housing availability and affordability, land use, public impacts, and local government capacity.

It has become widely recognized that short-term rentals supplement the accommodation market and provide homeowners with additional income opportunities. Nonetheless, an appropriately regulated process is required in order to preserve the housing stock for long term rentals while managing tourism impacts. The challenge for municipalities is to find a balance in regulation of short-term rental activity to continue to enhance benefits and opportunities of the industry, while reducing any detrimental effects on housing and neighbourhood livability.

Zoning Bylaw No. 12375 is one of the two key bylaws related to the regulation of short-term rental operation within the City. Current short-term rental regulations within City of Kelowna Zoning Bylaw No. 12375 have been summarized in Attachment A, and a municipal comparison provided in Attachment B.

Review Findings:

Based on Staff review, the short-term rental regulations are functioning adequately with several areas of concern. Staff concerns include principal residency requirements, local government capacity to regulate and enforce the continually growing short-term rental program, and the impact on the secondary rental market. The short-term rental program has seen year-over-year growth in the number of licensed

operators (Table 1). Staff have been successful using the tools in place to bring a number of unlicensed operators into compliance, however new, unlicensed operators appear on a frequent basis.

Table 1 – Number of approved short-term rental (STR) business licenses per year since 2020

Year	Approved STR as a Principal Use	Approved STR as a Secondary Use	Total Approved STR
2020	252	378	630
2021	333	477	810
2022	466	666	1132
2023 (as of June)	471	668	1139

Between 2019 and 2022, approximately 70 decommissioning permits have been issued for properties that subsequently applied for a short-term rental business license. Short-term rentals are not permitted to operate within a carriage house or secondary suite, and for these properties, owners have removed a long-term rental unit in favour of a short-term rental instead. Staff are concerned this has influenced the capacity of Kelowna’s long-term secondary rental housing market and may indicate a trend that is in contradiction of guiding principle #1 of the short-term rental program.

Staff will continue to work directly with the Province of British Columbia and continue to advocate for greater support. An example is that the City has been advocating for the Province of BC to require platforms (i.e., Airbnb, Vrbo) to provide more robust data to local governments, and to ensure that all listed units have a valid business license issued from the municipality. Furthermore, there have also been discussions on how to establish a framework to support the validation of principal residency for license applications. While additional data may assist with the regulation of short-term rental platforms, Staff would still be required to ensure on-going licensing and enforcement requirements of the program are being met.

Business Licensing:

The Short-Term Rental Accommodation Business License and Regulation Bylaw No. 11720 regulates the issuance of short-term rental business licenses. Since the beginning of the program, the City has seen year-over-year growth in short-term rental compliance through the licensing program, as indicated in Table 1 above. The growth of the program has placed demand on local government capacity from a licensing perspective, including relating to ongoing monitoring and enforcement.

Host Compliance is a software tool used by the City’s Business Licensing team to find and enforce short-term rental non-compliance, as well as to review each business license application that is received. Staff use this tool to review a property and ensure an online listing matches an application and regulations. It also supports Staff in the identification of short-term rentals operating out of carriage houses or secondary suites, as well as those operating contrary to their permitted bedroom and guest count. From 2019 to June 2023, Host Compliance was used to proactively identify 796 short-term rentals operating without a business license that were brought into compliance, without having to utilize Bylaw Enforcement for ticketing or further enforcement action. There are known challenges with Host Compliance in being able to identify illegal short-term rentals within the multiple dwelling housing context. The Host Compliance software relies on photos and details posted of short-term rental units, and in the multiple dwelling housing (i.e., apartment buildings) it can be difficult to identify specific floor or unit numbers of illegal listings for enforcement. Unit numbers and/or property addresses are not posted publicly on platform websites and are often only available after a successful booking of the

property is made. The annual number of short-term rentals brought into compliance since 2020 is detailed in Table 2.

Table 2 – Annual number of short-term rentals brought into compliance since 2020

Year	STRs brought into compliance using Host Compliance
2020	396
2021	59
2022	271
2023	70 (as of June)

There are approximately 200 non-compliant properties that have been identified by Host Compliance that have not yet obtained a business license, and a number of additional properties that have been flagged for further identification and investigation. Business Licensing Staff only have capacity to enforce on a small number of non-compliant short-term rentals at one time. The most common reasons for non-compliance include:

- operating without a business license or contrary to conditions within a business license;
- an operator not meeting principal residence requirements; and
- operating a short-term rental within a secondary suite.

A review of short-term rental business license fees is anticipated to occur at a later date, and as part of a separate review process.

Bylaw Enforcement:

From 2019 through to the end of 2022, there were 294 service requests related to short-term rentals. These requests are associated with 146 unique properties. Complaints varied in nature and included those related to noise and nuisances, parking, solid waste bylaws, and Zoning Bylaw regulations. A significant Bylaw Enforcement challenge is related to the difficulties in being able to prove principal residency, which is a current Bylaw requirement where short-term rentals are a permitted secondary use. While many properties are compliant, Staff are aware of instances where ongoing abuse of the program is occurring.

Proposed Regulatory Amendment Options:

Staff have evaluated existing regulations and would like to facilitate a discussion with Council on the short-term rental regulations and review options for potential regulatory amendments to help ensure the three guiding principles are still being achieved. Three potential regulatory changes, to Zoning Bylaw No. 12375 and City of Kelowna Short-Term Rental Accommodation Business License and Regulation Bylaw No. 11720, are described below for discussion. Following this workshop, these proposed amendments would be brought back to Council in the coming weeks for further consideration.

<u>Option #</u>	<u>Proposed Regulatory Amendments</u>	<u>Rationale</u>
1. Minor Amendments <i><u>Staff recommended option</u></i>	Zoning Bylaw No. 12375 - Prohibit short-term rentals from operating on properties with a rental-only subzone; - Amend existing wording related to residency requirements to include a new requirement for the property owner to	This option would see the amendment of regulations to address the most pressing concerns Staff are encountering with the program

	<p>reside for more than 240 days of the year at that dwelling unit (where short-term rentals are a permitted secondary use);</p> <ul style="list-style-type: none"> - Clarify language regarding principal and secondary use, where it pertains to short-term rental regulations; and - Establishment of minimum parking requirements for short-term rentals for MF1 and MF2 zoned properties, to mirror current requirements for Agriculture & Rural zones and Single & Two Dwelling Zones (Table 8.3.1a). <p>City of Kelowna Short-Term Rental Accommodation Business License and Regulation Bylaw No. 11720</p> <ul style="list-style-type: none"> - Amend wording related to residency requirements to include a requirement for the property owner (not principal resident) to reside for more than 240 days of the year at that dwelling unit (where a permitted secondary use); - Consider new additional annual requirements for demonstrating principal ownership; - Consider prohibition of corporate ownership for short-term rental business license issuance; - Establish a restriction of one short-term business license per person (where short-term rentals are a permitted secondary use); - Establish a requirement for short-term rental property managers to hold a valid business license, as well as to only advertise locations that have a valid and issued municipal business license; and - Changes to improve administrative processing of applications. 	<p>yet would continue to maintain the existing framework. Concerns regarding principal residency requirements, as well as unclarity surrounding rental only subzones would be addressed. This option will improve the ability to take enforcement action where warranted but may continue to put pressure on the long-term rental market. These amendments would remove the option for tenants of rental-only zoned properties to benefit from utilizing the short-term rental program, and it may also make short-term rentals more restrictive on existing MF1 and MF2 zoned properties if minimum parking requirements are unable to be met.</p>
<p>2. Major Amendments</p>	<p>Zoning Bylaw No. 12375</p> <ul style="list-style-type: none"> - As outlined under "Minor Amendments" above, and; - Remove short-term rentals as a permitted use from townhouse and apartment housing land use categories. 	<p>This option would further regulate short-term rentals by limiting permitted uses in townhouse and apartment land use categories. A key problem identified in the</p>

	<p>City of Kelowna Short-Term Rental Accommodation Business License and Regulation Bylaw No. 11720</p> <ul style="list-style-type: none"> - As outlined under "Minor Amendments" above with any consideration for additional major amendments. 	<p>CMHC (2020) report was that the majority of short-term rentals are owned by large-scale commercial operators and not private individuals. It is estimated that a number of current townhouse and apartment housing units are being utilized as investment properties, in contradiction to current short-term rental principal residency and secondary use requirements. Opposition to this amendment would be anticipated from affected property owners and industry.</p>
<p>3. Full Restriction</p>	<p>Zoning Bylaw No. 12375</p> <ul style="list-style-type: none"> - Removal of short-term rentals as a permitted use from all zones. <p>City of Kelowna Short-Term Rental Accommodation Business License and Regulation Bylaw No. 11720</p> <ul style="list-style-type: none"> - As outlined under "Minor Amendments" above, with specific attention to managing non-conforming licenses. 	<p>This option would eliminate short-term rentals across the community to help address the housing crisis by bringing more units into the rental market. This option may help to reduce ongoing enforcement challenges, but the requirement for the enforcement of short-term rentals will never be removed completely as illegal operation will remain.</p> <p>The removal of the use entirely would be anticipated to contribute towards the secondary rental housing market, and the achievement of policy goals within the Healthy Housing Strategy and Official Community Plan. Opposition to this amendment would be anticipated from affected property owners and industry.</p>

Conclusion:

Staff have completed a regulatory review of the City's short-term rental regulations and have presented three options for Council's review and discussion. As the short-term rental program continues to grow in popularity, local government capacity will continue to be challenged without ongoing review and amendment of regulations. Staff recommend Option #1 – Minor Amendments, which would amend regulations to address the most pressing concerns that Staff are encountering with the program yet would continue to maintain the existing framework which represents a balanced regulatory approach and recognizes the tourism industry which also remains important to Kelowna's economy. These amendments would help address identified issues by Business Licensing and Bylaw Enforcement as well as refine regulations to ensure the three guiding principles for short-term rentals that were endorsed by Council are still being achieved. Following Council direction, in the coming weeks, Staff will return to Council with text amendments to Zoning Bylaw No. 12375 and the City of Kelowna Short-Term Rental Accommodation Business License and Regulation Bylaw No. 11720. Staff recommendations include:

- Amendments to Zoning Bylaw No. 12375;
- Amendments to City of Kelowna Short-Term Rental Accommodation Business License and Regulation Bylaw No. 11720; and
- Continued advocacy to the Province of BC for greater support for short-term rental regulation.

Internal Circulation:

Business Licensing
Bylaw Services
Office of the City Clerk
Policy & Planning

Considerations applicable to this report:***Legal/Statutory Authority:***

Section 479(1) of the Local Government Act gives authority to a local government to regulate the use of land through Zoning Bylaws
City of Kelowna Zoning Bylaw No. 12375 contains regulations relating to short-term rentals

Legal/Statutory Procedural Requirements:

City of Kelowna Short-Term Rental Accommodation Business License and Regulation Bylaw No. 11720

Existing Policy:

Healthy Housing Strategy: Key Direction and Recommended Actions

1. Promote and protect rental housing

Official Community Plan

Chapter 4 – Urban Centres, Objective 4.14 – Protect the rental stock in Urban Centres

Policy 4.14.3 – Short-term Rentals. Ensure short-term rental accommodations limits impact on the long-term rental housing supply

Chapter 5 – The Core Area, Objective 5.13 – Protect the rental housing stock

Policy 5.13.3 – Short-Term Rentals. Ensure short-term rental accommodations do not negatively impact the long-term rental housing supply

Chapter 6 – The Gateway, Objective 6.10 – Prioritize the construction of purpose-built rental housing

Policy 6.10.5 – Short-Term Rentals. Ensure short-term rental accommodations limits impact on the long-term rental housing supply

Financial/Budgetary Considerations:

In 2022, the City spent \$70,300 on a contract with Host Compliance

The 2023 revenues from the Online Accommodation Platforms are estimated at just shy of \$1.0 M.

Considerations not applicable to this report:

External Agency/Public Comments:

Communications Comments:

Submitted by:

D. Strachan, Acting Development Planning Department Manager

Approved for inclusion:



R. Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A – Current Zoning Bylaw No. 12375 Regulations

Attachment B – Comparative Research of Other B.C. Municipalities