

# Report to Council



**Date:** January 15, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Short-Term Rental Accommodation – Provincial Regulatory Changes  
**Department:** Development Planning

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**Recommendation:**

THAT Council receives, for information, the report from the Development Planning Department dated January 15, 2024, with respect to the provincial regulatory changes to short-term rental accommodation; 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 January 15, 2024; AND FURTHER THAT Bylaw No. 12590, being Short-Term Rental Accommodation Regulatory Amendments be forwarded for reading consideration.

**Purpose:**

To provide Council with an update on the provincial regulatory changes to short-term rental accommodation and give the text amending bylaw further reading consideration.

**Council Priority Alignment:**  
**Affordable Housing**

**Background:**

The City’s short-term rental regulations were adopted by Council on April 8, 2019. On November 21, 2023, a Public Hearing was held to consider proposed amendments to the Zoning Bylaw to remove short-term rental accommodation as a secondary use from all zones. At the November 21, 2023 Regular Meeting, Council passed a motion to defer the Bylaw readings until Staff can provide an update on the provincial regulatory changes from the Short-Term Rentals Accommodations Act. [Policy guidance for BC Local Governments](#) was released on December 7, 2023, and Staff are bringing forward this update on the implementation of the provincial Short-Term Rentals Accommodations Act, for Council’s information.

*Previous Council Resolution*

<b>Resolution</b>	<b>Date</b>
THAT Council defer consideration of the bylaw until the Province confirms short-term rental regulations.	November 21, 2023

**Discussion:**

The new provincial Short-Term Rental Accommodation Act will affect short-term rentals within the City of Kelowna. The City currently has three distinct categories for short-term rental accommodation use:

1. Permitted principal use;
2. Legally non-conforming use; and
3. Permitted secondary use.

How the provincial legislation affects these property categories is summarized below.

The provincial legislation will affect short-term rental accommodation on properties where it is currently a permitted principal use and on non-conforming properties. It will also help to verify principal residence requirements on secondary use properties. These new provincial rules will take precedence over all local regulations and the most notable changes will come into effect on May 1, 2024.

New Provincial Principal Residency Requirement and Changes to Legal Non-Conforming Use:

Effective May 1, 2024, a new provincial principal residence requirement will come into effect. Regardless of Zoning Bylaw regulations, the principal residence requirement will apply in Kelowna. The province has defined principal residence to mean “the residence in which an individual resides for a longer period of time in a calendar year than any other place” and has limited short-term rentals to only being permitted within the host’s principal residence. With limited exceptions, this requirement will apply to all properties, including those with currently permitted principal use, legally non-conforming, and secondary use short-term rentals. The new principal residency requirement, and the additional verification by the Province, may help the City ensure that a short-term rental is genuinely operating as a secondary use on a property under current Zoning Bylaw regulations.

The Local Government Act (Section 528) establishes non-conforming use. The City of Kelowna has identified 13 properties where it applies based on the criteria listed in Attachment A. Effective May 1, 2024, protections for non-conforming use of property will no longer apply to short-term rentals.

Effective May 1, 2024, principal use short-term rentals will no longer be permitted on any properties where it is currently a permitted principal use within the Zoning Bylaw. For legally non-conforming properties, principal use short-term rentals will no longer be permitted, as principal use short-term rental accommodation is not a permitted use in the Zoning Bylaw for the zones of those properties. The new provincial principal residency requirement will also apply. Changes to all property categories are summarized in Table 1 below.

Category of Short-Term Rental Accommodation	Current Status	Status as of May 1, 2024 under Provincial Legislation	Status if Council Adopts Proposed Bylaw Amendments (TA23-0013)
<b>Permitted Principal Use</b>	Both principal and secondary use short-term rentals are permitted in the Zoning Bylaw	Principal use short-term rentals are no longer permitted under provincial legislation as they do not meet principal residency requirements	Secondary use short-term rental accommodation would be removed as a permitted use from all zones and no new applications for secondary use short-term rentals would be accepted. Existing secondary use short-term rentals, that have a valid business licence, can continue to operate after May 1, 2024, provided they meet provincial principal residency requirements.
<b>Principal Use Legal Non-Conforming</b>	Principal use short-term rentals have been permitted as legal non-conforming. Secondary use short-term rentals are permitted in the Zoning Bylaw	Current Local Government Act protections for non-conforming use of property will no longer apply to short-term rentals. This means principal use short-term rentals will no longer be permitted, as principal use short-term rental accommodation is not a permitted use in the Zoning Bylaw for the zones of those properties. Principal use short-term rentals are no longer permitted under provincial legislation as they do not meet principal residency requirements	
<b>Permitted Secondary Use Only</b>	Only secondary use short-term rentals are permitted	With limited exceptions, the new provincial principal residence requirement will apply to secondary use short-term rentals	

*Table 1: Comparison of current status, status as of May 1, 2024 and status if Council adopts proposed Bylaw Amendments for all categories of short-term rental accommodation.*

Staff recommend amending Zoning Bylaw No. 12375 to remove principal use short-term rental accommodation, as it will contradict provincial legislation effective May 1, 2024 and may be misleading to the public and potential purchasers.

Exemptions from Principal Residence Requirements:

The provincial legislation is designed to target areas with high housing needs. In the context of Kelowna, these needs have been outlined in the City’s Housing Needs Assessment. The provincial legislation does not apply to hotels, motels, vehicles (such as RV’s) and tents or other temporary shelters. There are also limited exemptions to the principal residence requirement which includes strata titled hotels and to properties that include farm land (Class 9). Requests to opt out of the provincial principal residence requirement can only be submitted by municipalities that have a rental vacancy rate of 3% or more for the past two consecutive years. The last time the vacancy rate in the City of Kelowna was above 3% was in 2012, so Kelowna is not eligible to apply for an exemption from the principal residence requirements at this time.

A local government may, by Council resolution, request that the Lieutenant Governor in Council exempt specific properties, so that the principal residence requirement does not apply. The rental vacancy rate is one of the factors for the Lieutenant Governor in Council to consider as part of decision-making. If a request is granted, the exemption to the principal residence requirement would be for a prescribed date and period of time and would not be a permanent exemption. If directed by Council, Staff could investigate this process and report back further.

#### Business Licences and Enforcement:

The City has issued business licence renewal letters for all currently licenced principal use and secondary use short-term rentals. For principal use short-term rentals, the licence fees have been pro-rated for January to April 30, 2024 only. This is because principal use short-term rentals will be inconsistent with provincial legislation effective May 1, 2024 and permission to operate should not be granted by the municipality.

Additional provincial measures will assist the City with enforcement of the business licence aspect of the short-term rental program including data sharing and a new provincial registry. A new provincial Compliance and Enforcement Unit is being created to help enforce on non-compliance of the provincial rules, including the principal residency requirement.

At City of Kelowna Regular Council Meeting on October 23, 2023 a resolution was moved that directed Staff to withhold applications for new short-term rental accommodation business licences until the outcome of Staff's proposed text amendment has been determined. Since October 23, 2023, no new short-term rental accommodation business licence applications have been accepted, however all applications that were received prior to this date are being evaluated and issued, if they conform with current Zoning Bylaw regulations. This direction expires once Council makes a decision on Bylaw No. 12590. If Council supports [Staff's recommended text amendment](#), no new secondary use short-term rental licences would be accepted. Also, regardless of the outcome, principal use short-term rental accommodation business licences will continue to be accepted but will only be issued until April 30, 2024.

#### Staff Proposed Text Amendment to Remove Short-Term Rental Accommodation as Secondary Use from All Zones:

At the November 21, 2023 Council Meeting, a motion was passed to defer any Bylaw readings until Staff provided an update on the provincial regulatory changes from the Short-Term Rentals Accommodations Act.

The province has confirmed in their [Policy Guidance for BC Local Governments](#) that local governments will have discretion to determine whether short-term rentals previously granted legal non-conforming use status may continue to be permitted, provided they are consistent with the principal residence requirement in the provincial legislation. This means that should Council support Staff's recommended text amendment, the 498 current licenced secondary use short-term rentals can continue to operate, even after May 1, 2024, provided they meet provincial principal residence requirements. This is the Staff recommended approach, and these properties can continue to serve the market for short-term accommodation in the City.

The new provincial regulations are intended to be a minimum standard for regulating short-term rentals, and a local government may prefer to be more restrictive. Staff's proposed text amendment to remove secondary use short-term rental accommodation from all zones is beyond the minimum provincial requirements and is considered more restrictive. The existing Zoning Bylaw regulations relating to

secondary use short-term rentals have been challenging to enforce and contradict the guiding principles of the program. This is because Staff are increasingly concerned that every new short-term rental that is created does not contribute towards the City's housing targets and is a contributing factor to the housing crisis as reflected in the Housing Needs Assessment. The new provincial legislation may assist with some of the current enforcement challenges; however, Staff recommend support for this amendment to the Zoning Bylaw to reduce the challenges of enforcement further.

**Conclusion:**

The new provincial Short-Term Rental Accommodation Act will affect short-term rental accommodation within the City of Kelowna, with the most significant changes to principal use and non-conforming properties. Principal use short-term rental accommodation will not be permitted on these properties, effective May 1, 2024, as it contradicts the new provincial principal resident requirements. For legally non-conforming properties, principal use short-term rentals will also no longer be permitted, as principal use short-term rental accommodation is not a permitted use in the Zoning Bylaw for the zones of those properties.

Staff recommend support for Bylaw No. 12590, being Short-Term Rental Accommodation Regulatory Amendments, to remove short-term rental accommodation as a secondary use from all zones. If supported by Council, no new secondary short-term rental accommodation business licences would be issued and properties not currently operating in compliance would be brought into compliance. The 498 properties that currently have valid secondary use short-term rental accommodation business licences would continue to be honoured and could continue to operate, even after May 1, 2024, provided they meet provincial principal residence requirements.

Further, Staff will bring forward an additional amendment to Zoning Bylaw No. 12375 for Council consideration to align with the new provincial short-term rental legislation. This may include removing principal use short-term rental accommodation, amending the period of time definition to align with provincial changes, and alignment with bed and breakfast regulations and new small-scale multi-unit housing legislation. If directed by Council, Staff can report back with additional information about the process for requesting to opt out of the principal residence requirement.

**Internal Circulation:**

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

**Considerations applicable to this report:**

***Legal/Statutory Authority:***

Provincial Bill 35- Short-Term Rental Accommodation Act is new legislation to give local governments stronger tools to enforce short-term rental accommodation bylaws  
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
  - a. Update regulations to protect the rental stock from the impacts of short-term rentals
2. Improve housing affordability and reduce barriers for affordable 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: K. Brunet, Planner Specialist

**Approved for inclusion:** R. Smith, Divisional Director, Planning, Climate Action & Development Services

**Attachments:**

Attachment A: List of properties with current short-term rental accommodation permitted principal use or non-conforming status

cc: K. Mead, Bylaw Services Manager

G. March, Licensing and Systems Improvement Supervisor