



COUNCIL REPORT

To: Mayor and Council

Date: December 12, 2023

From: Paul Gipps, CAO

File No: P 23-14

Subject: **23-14 – Short-Term Rental Regulations (related bylaw amendments first and second readings)**

Report Prepared by: Kandice Brzezynski, Business Licensing and Building Official

RECOMMENDATION

THAT the following amending bylaws pertaining to short term regulations be given first and second reading:

- City of West Kelowna Zoning Amendment Bylaw No. 0265.20, 2023
- City of West Kelowna Business Licensing and Regulations Amendment Bylaw No. 0087.17, 2023
- City of West Kelowna Ticket Information Utilization Amendment Bylaw No. 0095.52, 2023
- City of West Kelowna Bylaw Notice Enforcement Amendment Bylaw No. 0093.54, 2023
- City of West Kelowna Fees and Charges Amendment Bylaw No. 0028.79, 2023

STRATEGIC AREA(S) OF FOCUS

Pursue Economic Growth and Prosperity – We will work with stakeholders throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

Foster Safety and Well-Being – We will pursue through direct action, advocacy, and collaboration with local and regional service providers, investments in community health, needs-based housing, emergency preparedness, policing, and other services that foster safety and well-being in West Kelowna.

BACKGROUND

On November 14th, 2023, Council gave direction to revise the Short Term Accommodations (STA) regulations based on a two-year review of the program and to include amendments that consider the new provincial Short-Term Rental (STR) regulations under Bill 35. These amendments include merging the Bed and Breakfast regulations within the current STA regulations including incorporating the STA fee structure for bed and breakfasts, revising principal operator requirements to require the operator to be residing in the home when operating a Short-Term Rental, requiring the new provincial registration number for short-term rentals when in effect, and requiring a safety inspection for all Short-Term Rentals. Required updates will include amendments to the Zoning, Business Licencing and Regulations, Municipal Ticketing Information Utilization, Bylaw Notice Enforcement, and Fees and Charges Bylaws.

LEGISLATIVE REQUIREMENTS

As per *Community Charter*, Section 137, Council has the power to adopt a bylaw under the Act, including the power to amend or repeal such bylaw. A bylaw may be given up to three readings at one meeting of council and there must be at least one day between the third reading and the adoption of a bylaw.

In accordance with Section 59(2) of the *Community Charter*, prior to the adoption of Business Licensing and Regulations Amendment Bylaw No. 0087.17, notice must be given to persons who consider they are affected by the bylaw and will be provided an opportunity to make representation to Council. This will be addressed prior to adoption.

DISCUSSION

The following bylaw amendments are required to update the new short-term rental application procedures, operational requirements, fee structure, offence ticketing, and minor formatting in the related bylaws. The existing term Short Term Accommodation is updated to Short-Term Rental (STR) which includes Short-Term Rental (Bed and Breakfast) (STRB&B).

Zoning Amendment Bylaw No. 0265.20, 2023

The proposed amendments move the current Bed and Breakfast regulations to the new section of Short-Term Rental and Short-Term Rental (Bed and Breakfast). This restructures the Zoning Bylaw to have all forms of short-term rentals under the same section. Within this section, there are two models of short-term rentals which mirror the current regulations but properly articulate the difference between them. The existing Bed and Breakfast regulations are maintained with amendments to the clarify the definition, fee structure, and operator attendance. The existing Short Term Accommodation regulations are maintained with amendments to consider the Provincial definition of Principal Residence and language consistency.

Short-Term Rental (Bed and Breakfast)

Definition

Updated definitions have been added to clarify and differentiate between the two models of STRs but illustrate that the existing Bed and Breakfast model has been maintained. The new definition for STR(B&B) is:

“A short-term rental providing visitor accommodation within a single detached dwelling by a principal resident in exchange for a fee for a period of time less than 90 consecutive days. The operator must reside in the dwelling during the visitors stay, provide breakfast to all visitors, provide a free-flowing and interconnected space, and have no separate kitchen/cooking facilities. Short-term Rentals (Bed and Breakfast) must meet the development regulations outlined in Section 3.20 Short-Term Rentals and Short-Term Rentals (Bed and Breakfast)”.

Fees

The fee structure for Short-Term Rentals (Bed and Breakfast) have changed to be consistent with existing short term accommodations and will be explained in greater detail under the Fees and Charges Bylaw amendments.

Operator Attendance

The current Bed and Breakfast regulations are maintained in the new Short-Term Rental (Bed and Breakfast) section by requiring the operator to be in attendance while the visitor accommodation is being rented. This regulation is anticipated to lower bylaw enforcement complaints and to ensure the model of a bed and breakfast is maintained.

Short-Term Rentals

Definition

The existing STA definition has been expanded to include consideration for the new Provincial definitions. A Short-Term Rental means:

“a visitor accommodation provided within a single detached dwelling, secondary suite or carriage house by a principal resident operator in exchange for a fee for a period of time less than 90 consecutive days, where the rental must be in accordance with the Short-term Rental Accommodations Act.”

Fees

There are no proposed changes to the fee structure for Short-Term Rentals.

Operator Absence

The existing allowance for operators to be absent no more than 14 days in any one month to a maximum of no more than 30 days within a calendar year, has been removed and replaced with the provision to follow the provincial regulations for Principal Residence. This would allow an operator to rent one dwelling while maintaining access to and residing

in their own primary residence. A local contact is still required to address any onsite issues and be available to guests in the operator's absence.

Short-Term Rental and Short-Term Rental (Bed and Breakfast)

Principal Residency

Principal residency requirements are currently vetted and approved by licencing staff which have proven to be difficult and time consuming. The regulations have been amended to additionally rely on the provincial registration system to prove principal residency, when in effect (expected late 2024). This was added to the application requirements section.

Duplex Zones

In the Duplex Residential Zone (R2), both forms of STR were added as a secondary use "in the single-detached dwelling form only". This will address the inadvertent omission during the drafting of Zoning Bylaw No. 0265 where it was intended to allow STAs within all single-detached dwellings. The amendment to this zone is accompanied by the deletion of a site specific text amendment that is now redundant with the addition of STR & STR(B&B) as a secondary use, in the single-detached dwelling form only.

Additional Associated Zoning Amendments

Additional amendments are required to ensure consistent language related to the new definitions (STR and STR(B&B)) is used in the agri-tourism accommodation, standard parking spaces, and tandem parking sections, as well as to update the list of permitted and secondary uses. There was no change to the regulations themselves with these language amendments.

Business Licensing and Regulations Amendment Bylaw No. 0087.17

Consistent with the proposed zoning amendments above, the Bylaw has been revised to remove all language references to Short Term Accommodation and replace with Short-Term Rental or Short-Term Rental (Bed and Breakfast).

Short-Term Rental Applications – Proof of Principal Residency

The application requirements were reorganized, and additional clarity was added to create efficiencies for licencing staff. Title certification was added as a requirement to illustrate ownership so that staff does not have to spend time proving out ownership with clients. Similarly, the requirements for proof of principal residency were amended to include the provincial registration number which the city will be able to rely on once the provincial registry is in effect. Despite the reorganization and above changes, the existing regulations are still in effect as originally approved.

Operator Regulations

The amendments to existing requirements for operators create additional clarity and easily enforced regulations. Operators of STRs and STR(B&B)s must display their business licence, post their fire safety plans, ensure marketing of their rental includes the appropriate licence numbers and market accordingly based upon the rental category (STR vs STR(B&B)). Operators of STRs and STR(B&B)s must not market for any additional area of the property that has not been approved by the licence.

Safety Inspections

As per Council direction, a safety inspection was added as a mandatory requirement for each proposed STR and STR(B&B) and the existing Self Evaluation Safety Audit form was removed as it was deemed ineffective.

Additional Related Amendments

Unrelated, definitions for carriage house and secondary suite were removed as they are now redundant within this Bylaw. The land use regulations related to operator absence/attendance, local contact response time, and restricted uses have been moved to the Zoning Bylaw to remove unrelated licensing regulations.

Ticket Information Utilization Amendment Bylaw No. 0095.52

Consistent with the amendments noted above, Schedule 2 and Schedule 5 of the Ticket Information Utilization Bylaw are proposed to be amended. Schedule 2 amendments include the removal of the offence for Bed and Breakfast as it is now incorporated under STR offences and change the graduated fine amounts for STRs to incorporate the provinces new maximum fine of \$3000.00 for STRs. Schedule 5 is rewritten to include the new maximum fines from the province of \$3000.00 and correct errors from the previous bylaw amendment such as adding a graduated fine for each ticketable offence.

Under this Bylaw, the maximum fine is proposed to be \$3000.00 and must be served in person.

Bylaw Notice Enforcement Amendment Bylaw No. 0093.54

Mirroring the changes written into the Ticket Information Utilization Amendment Bylaw No. 0095.52 noted above, Schedule 2 and 5 of the Bylaw Notice Enforcement Bylaw No. 0093 are also required to be amended. However, under this Bylaw, the maximum fine, as specified in the *Local Government Act*, is \$500.00 and the fine is permitted to be mailed. The graduated offences are thus adjusted to a maximum of \$500 instead of \$3000.00.

Fees and Charges Amendment Bylaw No. 0028.79

The proposed amendments ensure consistent language use for Short-Term Rental and Short-Term Rental (Bed and Breakfast) and illustrate a fee increase for STR(B&B). The current bed and breakfast licences will have increased fees as they merge under the new STR regulations. The business license fee for Bed and Breakfasts will change from \$60.00 annually (operating under a home-based business license) to \$500 annually (operating under a STR license). Further, STR(B&B)s will also require a \$250.00 application fee which is non-refundable and charged at time of application submission. This is to mirror the STR(B&B) with the current STA regulations and fee structure. The anticipated impact to current Bed and Breakfast operations should be minor when considering the nightly average for short-term rentals as estimated by Harmari (\$300.88/night). There are currently 40 bed and breakfast licences that will be required to pay the new STR fees under the 2024 renewal.

FINANCIAL IMPLICATIONS

The adjustments to fees for Bed and Breakfast are anticipated to increase annual revenues in STR licensing fees by approximately \$20,000 when considering the licence fee alone. Increases in fines are unlikely to increase annual ticketing revenue above the additional operational expenditures required to enforce the fines related to STRs.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
Nov. 14/23	THAT Council direct staff to remove the ability for a principal resident to be away from the property for 14 days in one month to a maximum of 30 days in one year; and THAT Council direct staff to require the principal resident to be present when the remainder of the dwelling is rented on a short term basis.	No. C377/23
Nov. 14th/23	THAT Council direct staff to merge the Bed and Breakfast regulations with the revised Short-Term Accommodation regulations; and THAT Council direct staff to require a building inspection to be complete for every proposed Short-Term Accommodation unit.	No. C378/23

CONCLUSION

The proposed bylaw amendments are intended to update the short-term rental regulations in Zoning Bylaw No. 0265 as per Council direction, and to ensure administrative consistency between the City's other related regulatory bylaws. As such,

it is recommended that Council consider first, second and third readings of the five proposed amendment bylaws.

Alternate Recommendation

THAT Council postpone consideration of first and second and third reading to the following bylaw amendments as related to the Short-Term Rental regulations:

- “City of West Kelowna Zoning Amendment Bylaw No. 0265.20, 2023”;
- “City of West Kelowna Business Licensing and Regulations Amendment Bylaw No. 0087.17, 2023”;
- “City of West Kelowna Ticket Information Utilization Amendment Bylaw No. 0095.52, 2023”;
- “City of West Kelowna Bylaw Notice Enforcement Amendment Bylaw No. 0093.54, 2023”; and
- “City of West Kelowna Fees and Charges Amendment Bylaw No. 0028.79, 2023”.

Should Council postpone consideration of first and second readings, it is requested that Council provide specific direction as to which changes should be made to the amendment bylaws prior to reconsideration.

REVIEWED BY

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager / Corporate Officer

Trevor Seibel, Deputy CAO

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. City of West Kelowna Zoning Amendment Bylaw No. 0265.20, 2023
2. City of West Kelowna Business Licensing and Regulations Amendment Bylaw No. 0087.17, 2023
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4. City of West Kelowna Bylaw Notice Enforcement Amendment Bylaw No. 0093.54, 2023
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