



DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: November 14, 2023

From: Paul Gipps, CAO

File No: P 23-14

Subject: **P 23-14 Proposed Amendments for STA Regulation**

Report Prepared By: Kandice Brzezynski, Senior Business Licensing and Building Official

RECOMMENDATION to Consider and Resolve:

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; and

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.

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

The Short-Term Accommodation (STA) program was implemented in 2021. On May 9th, 2023, Development Services updated Council on the STA program, its successes,

difficulties, and current statistics. Overall, the program is running smoothly, and there have been fewer complaints since the program was implemented. The main obstacles are within the application process with regards to principal residency and with enforcement on unlicensed STAs and licenses operating contrary to conditions of the approved license. Council requested that staff follow up with recommendations for the STA program which will be provided below.

Current STA Statistics

Below are some key statistics for short-term accommodations and bed and breakfasts within West Kelowna. Attached to this Council report is a summary sheet illustrating these in more detail (attachment 1).

- 182 Active STA licenses since 2021
- 90 Active BnB licenses since 2008
- The highest number of STA applications were received in 2023 (90 – YTD Oct 31/23)
- 94 STA licenses that operate within the principal dwelling unit

DISCUSSION

Current Regulations

The STA regulations are incorporated into the Business Licensing and Regulation Bylaw 0087 and the Zoning Bylaw 0265. These regulations include:

Business license requirements:

1. STAs must only be operated by a principal resident,
2. STAs shall only be rented for periods of less than one month,
3. STAs are only permitted in single family dwellings, secondary suites, or carriage houses,
4. STAs are permitted in A1, RU1, RU2, RU3, RU4, RU5, R1, R1L and CD1(E) zones,
5. Operators must prove that they are the principal resident,
6. Local contacts must be established for each property for emergencies or when the operator is away,
7. Operators are permitted to be away from the principal residence for 14 days within in a single month to a maximum of 30 days per year,
8. Enforcement follows the following procedure:
 - a. 1st letter
 - b. 2nd letter
 - c. Fines

Zoning Bylaw requirements (s 3.21)

- .1 A short term accommodation use shall only be conducted within a single detached dwelling, secondary suite or carriage house.

- .2 An occupant of the property shall be the operator of the short term accommodation. For certainty, an occupant shall be a principal resident of the property.
- .3 In the case of a property containing a single detached dwelling with an approved secondary suite or approved carriage house, only one dwelling may be used for the purpose of a short term accommodation.
- .4 No more than two adults may occupy a bedroom and no more than four bedrooms are permitted to be used for a short term accommodation.
- .5 Bedrooms shall only be rented for periods of less than one month.
- .6 A short term accommodation is permitted to have no more than one non-internally illuminated sign to a maximum size of 0.3 m² that is attached to the principal single detached dwelling or located elsewhere on the parcel and a minimum distance of 1.5 m from any parcel boundary.
- .7 There shall be no exterior indication that a short term accommodation is in operation on any parcel, except for permitted signage and required parking.
- .8 A short term accommodation shall not be permitted without connection to a community sewer system unless:
 - (a) The parcel receives the written approval of a Registered Onsite Wastewater practitioner (ROWP) for septic disposal capacity.
- .9 A short term accommodation is not permitted on a parcel that contains a bed and breakfast.

Provincial Changes

On October 16th, 2023, the Provincial Government proposed regulations around STAs to support municipalities with the challenges they are facing including the housing crisis. The provincial government's purpose is broken down into 3 categories:

1. To give local governments stronger tools to enforce short term rental bylaws
 - a. Increase the fines under Municipal Ticketing Information Bylaw from \$1000 to \$3000 per infraction, per day
 - b. Platform accountability – if a listing does not include a valid business license, where a business license is required by the local government, the STA platform must remove the listing at the request of the local government
 - c. Data sharing – STA platforms will be required to share information about short term listings with the province which can then be shared with local governments
2. To return short term rental units to the long-term rental market
 - a. Principal residence requirements – this limits STAs to the host's principal residence plus one secondary suite or carriage house – this will apply province wide to municipalities greater than 10,000 people
 - b. Changes to legal non-conforming use protections will no longer apply to short term rentals
3. To establish a new provincial role in the regulation of short-term rentals
 - a. The province will establish a STA registry which will help ensure that STA hosts and platforms are following the rules and provide local governments and the province with the information needed to follow up when they do not.

- b. Hosts will be required to include a provincial registration number on their listing as well as their business license number
- c. The province will establish a provincial compliance and enforcement unit to ensure the rules are being following which will include track compliance, issue orders and administer penalties for violations

The provincial government has introduced Bill 35 to implement and govern these regulations, however local governments are still free to implement their own regulations.

Timelines for the province's implementation are:

1. Immediately after Royal Assent: Increased fines and tickets, business licensing authority for regional districts
2. **May 1, 2024:** Principal residence requirement (including definition of exempt areas or accommodations), changes to legal non-conforming use protections
3. Summer 2024: Data sharing
4. Late 2024: Provincial registry launch, requiring platforms to remove listings without valid provincial registry numbers.

Proposed Changes to City Regulations

As a result of Bill 35, the current STA regulations are required to be updated. Staff are also proposing to take this time to implement amended regulations that provide a more efficient STA program. It should be noted that the province has left it up to municipalities with vacancy rates over 3% to opt out of the new regulations. Although the City of West Kelowna has been identified in this regard, the City's housing review indicates the City's vacancy rate is approximately 0.8%. Staff have reached out to province for clarification.

Areas identified for consideration are as follows:

Principal Residency

Currently, operators must provide proof that they are the principal resident of the dwelling unit as part of the application process. It has proven difficult and time consuming for staff to obtain documentation to prove principal residency and often causes delays in the application process. Enforcement is also very challenging as bylaw officials cannot efficiently validate whether principal residents are away from their properties and in compliance with our regulations, especially considering the number of STAs operating at any one time.

Part of the new Provincial regulations provide support to municipalities as the province will now be responsible to validate principal residency. The province has stated that they will be developing a registry of all STAs within BC.

Staff recommend that Council maintain the principal residency requirement, as it will be augmented with a provincial registration number.

Principal Dwelling Units

Current regulations allow for STAs in entire single-family dwellings up to a maximum of four bedrooms and principal residents are permitted to be absent for 14 days in one month and up to 30 days in one calendar year. Monitoring compliance with the number of days principal residents are permitted to be absent per month/year is problematic for bylaw enforcement staff and has proven difficult to enforce.

Based on this, staff recommend Council remove the 14/30 day regulation, and further amend the bylaw to require the principal resident to be present when the remainder of the primary residence is rented on a short term basis. This will ensure that entire homes are not rented unless a principal resident is on site while accommodating the B&B model within the STA regulations.

The following types of STAs would remain permitted:

- a. STA in a secondary suite or carriage house where the principal resident lives in the principal dwelling,
- b. STA in a principal dwelling where the principal resident lives in the secondary suite or carriage house, or
- c. STA in a portion of the principal dwelling, where the principal resident is present.

Alternatively, Council could consider removing the 14/30 day absence regulation given the issues with enforcement, and follow the provincial regulations for rental of the principal residence – resulting in unattended principal residences being available for short term rentals for (likely) up to 6 months per year. This will require staff to rely on the provincial registry tool to enforce STAs that are not operating under approved regulations. The province has been clear through public announcements of Bill 35 that support will be given to municipalities through platform accountability and data sharing.

Bed and Breakfasts and STAs

Currently the city has two separate licenses for accommodations less than 30 days: one for bed and breakfast and one for STAs. These licenses operate with a different set of regulations and fee structure. Bed and breakfast licenses have several differences from STAs:

1. Bed and breakfast licenses have the ability to have more than one booking at a time meaning that they can have 2 or more separate guest bookings to a maximum of four (compared to STAs which only allow for one booking at a time, one guest booking)
2. Bed and breakfast operators are to provide breakfast to the guests and provide a free-flowing accommodation (compared to STAs which do not have to provide breakfast or provide free flowing accommodations)
3. Bed and breakfast license fees are \$60.00 annual and prorated (compared to STAs which are \$500.00 annually and not prorated)

4. Bed and breakfast licenses are required to have one parking stall per guest bedroom (compared to STAs which require one parking stall for one to two bedroom accommodations and two parking stalls for three to four bedroom accommodations)
5. Bed and Breakfasts are not required to sign a good neighbour agreement (compared to STA license which are required to sign a good neighbour agreement)
6. Bed and breakfast licenses are not permitted in a secondary suite or carriage house (compared to STAs which are permitted in secondary suites and carriage houses)
7. Bed and breakfast licenses are not required to have a local contact (compared to an STA which is required to have a local contact)

As per provincial regulations, any accommodation that is less than 90 days is considered to be a short-term rental. Therefore, bed and breakfast operations would fall into the requirements under Bill 35.

To ensure consistency and clear understanding by the public, staff recommend that Council consider merging STA licenses and bed and breakfast licenses to allow for simplicity to all STA users within the City of West Kelowna. It is unclear whether separate bookings would be permitted under the new provincial regulations however staff have reached out to the province for clarification.

STA safety and Building Code Compliance

The city has created procedures within the STA program to ensure that these accommodations meet the minimum life safety requirements that are stipulated by the BC Building Code. Principal residents are required to complete and sign a safety attestation form as part of their STA application. This lists specific life safety requirements and ensures compliance with municipal bylaws and the BC Building Code. This form is typically completed and signed by the principal resident. However, upon more detailed inspection of these residences, there is concern with the validity of the attestation as not all properties are found to be in compliance with life safety requirements and therefore upgrades are required.

Based on this, staff recommend that Council consider adding a regulation that a building inspection be complete for every proposed STA. Staff feel that this is achievable with current resources.

Agricultural Operations and STAs

Wineries specifically, are requesting to operate STAs in historic (entire) principal residences as they broaden their business models to increase tourism. Currently they cannot comply to the city's Agri-tourism regulations or STA regulations, as many primary dwellings on agricultural properties do not meet the principal residence requirement. In the past, many wineries have rented out these dwelling units as long-term rentals, turned them into Agri-tourism accommodation or agricultural worker accommodation.

Agri-tourism regulations will have to be amended as the province has exempted Agri-tourism activities from the STR regulations including requirement of having a principal resident. Therefore, short term rentals for Agri-tourism cannot be contemplated under the City's STA program. Staff recommend that Council consider future amendments to the Agri-tourism regulations to permit rental of entire homes on properties that have an on-site agricultural operation and oversight.

Provincial Clarification

Additional clarification from the province is expected as the regulations move towards approval; this may impact the City's STA program and require further revision.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
May 9, 2023	STA 1 Year Review	

CONCLUSION

Streamlining the STA program to mirror the new provincial regulations around STAs will support staff and ensure efficiency for the application process. It will also contribute to supporting the city with finding solutions that support the long-term rental market.

Staff will continue to use a third-party contractor, Harmari, for regular enforcement of STAs throughout the community and work collaboratively with the bylaw department on enforcement and complaint investigation.

Alternate Recommendation(s) to Consider and Resolve:

Option 1

THAT Council direct staff to maintain the current requirement for the principal resident to be away from the property for 14 days in one month to a maximum of 30 days in one year.

Option 2

THAT Council direct staff to follow the provincial definition on principal residence, whereby permitting the principal resident of an entire home to be absent during the rental period.

This means that the principal resident does not have to be present when the STA is operating for (likely) up to 6 months per year.

Option 3

THAT Council maintain two separate licenses for bed and breakfasts and short-term accommodations.

Option 4

THAT Council maintain the current process for principal residents to sign safety attestation forms.

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. Short-Term Accommodation & Bed and Breakfast Statistics