



COUNCIL REPORT

To: Paul Gipps, CAO

Date: November 24, 2020

From: Hailey Rilkoﬀ, Planner II

File No: P 20-16

Subject: **P 20-16 – Proposed Short Term Rental Program**

RECOMMENDATION

THAT Council consider and resolve to direct staff to further engage the community and stakeholders on the proposed Short Term Rental program as outlined in this report.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity – Policies and advocacy to enhance economic prosperity; Continued growth in tourism.

EXECUTIVE SUMMARY

This report outlines the considerations for regulating short term rental accommodations in the City of West Kelowna. A proposed regulation program is outlined with a corresponding bylaw compliance and enforcement strategy as well as a stakeholder and public engagement plan.

BACKGROUND

On September 29, 2020, Council directed staff to review best practices for Short Term Rentals within the Okanagan Region and to prepare a draft regulatory program for Short Term Rentals. A draft program has been developed to be endorsed by Council, based on regionally consistent practices and incorporating the West Kelowna context. Stakeholder and public engagement will be sought to provide feedback on the draft program prior to bylaw amendments being considered by Council.

Additional resources have also been identified as a need for the City's Bylaw Compliance & Enforcement Department in order to proactively enforce and seek compliance with the upcoming changes to regulations around short term rentals.

Policy & Bylaw Review

Official Community Plan Bylaw No. 0100

The City's Official Community Plan (OCP) identifies the critical need to maintain the existing stock of affordable housing and increase opportunities for the development of new affordable housing. Affordable housing in the context of the City's OCP includes affordable home ownership, affordable rental accommodation and subsidized housing. The OCP supports secondary suites as a form of affordable infill housing, however the OCP's objectives, policies and actions do not currently address short term rentals.

When considering tourism, the OCP's Economic Sustainability objectives encourage a sustainable tourism economy with a strong economic mix¹ and providing services to a broad range of user groups². The OCP supports growth and change in the local economy, while placing importance on protecting residents' quality of life³.

Zoning Bylaw No. 0154

Currently, the Zoning Bylaw prohibits vacation rentals that are not bed and breakfasts, agri-tourism accommodations, or resort apartments and townhouse uses. Agri-tourism accommodations are permitted on A1 – Agriculture zoned properties while resort apartment and resort townhouse uses are permitted in the C6 – Tourist and Resort Commercial zone.

Bed and breakfasts, which are only permitted in single detached dwellings and must be operated by the dwelling's occupant, are permitted in a variety of zones as a secondary use. Bed and breakfasts are not permitted on parcels with secondary suites or carriage houses. Zones which permit bed and breakfasts as secondary uses include Agricultural (A1); Rural Residential (RU1-RU5), and Residential (R1 & R1L). A key difference between a bed and breakfast and a Short Term Rental is the expectation that a bed and breakfast is hosted and that the operator is on-site during a guest's stay.

Table 1 - Bed and Breakfast Regulations At a Glance	
Permitted Dwelling Forms	Within a Single Detached Dwelling
Parcel Criteria	Not permitted on properties with a Secondary Suite or Carriage House; Connection to community sewer system required (<i>unless written approval for septic disposal capacity</i>)
Occupancy	Up to 4 Guest Rooms (No more than 8 guests)
Operator	Must be the occupant of the Single Detached Dwelling
Bookings	Multiple bookings permitted
Required Parking	1.0 parking space per guest room
Business Licence Fee	\$135 – includes inspections

Short Term Rental Market

As of July 2020, there were approximately 378 short term rental units currently operating within the City of West Kelowna and 460 short term rental listings (as operators can list the same unit on multiple platforms). Pre-pandemic, there were 420 active short term

¹ OCP, 3.9.1 Economic Sustainability Objectives, Objective 4.

² OCP, 3.9.1 Economic Sustainability Objectives, Objective 5.

³ OCP, 3.9.1 Economic Sustainability Objectives, Objective 7.

rental units in West Kelowna (January 2020). Most short term rental listings in West Kelowna are entire homes (82%) and single detached dwellings (76%). In comparison, there are 372 traditional accommodation units in West Kelowna which includes hotel/motel rooms (158), resort rooms (148) and bed and breakfasts (66).

West Kelowna's Housing Context

The Regional Housing Needs Assessment prepared in November of 2019 for the Central Okanagan, outlined the current state of housing in the region, with some data specific to West Kelowna. The reports analysis of housing ownership for West Kelowna demonstrated that 84% of West Kelowna households are 'owner households' while 16% are 'renter households'⁴. According to 2016 Census data, West Kelowna's housing structure mix is primarily single detached dwellings (74%)⁵. Rental vacancy rates have been below 2% since 2013.⁶

Based on Business Licensing statistics, there are approximately 464 Secondary Suites in West Kelowna which have active, delinquent or inactive Business Licences. The Building Department has 51 permits for the legalization of unauthorized secondary suites which are in-stream. While there are additional unauthorized secondary suites within the City, there is no way to determine the number of these unauthorized suites. There are 17 Carriage Houses with active Business Licences.

Regional Practices

In conducting a review of regional practices, staff considered regulations that have been adopted or are under consideration in other local and BC municipalities. The regional municipalities reviewed were Kelowna, Lake Country and Penticton, with other BC municipalities including Gibsons, Nelson, Pemberton, Squamish, and Tofino. Many regulation components were consistent, such as requiring a business licence, a principal residence requirement for the operator, requiring on-site parking, and maximum occupancies for Short Term Rentals.

Guiding Principles

A Regional Planning Lab in 2019, led by the Regional District of Central Okanagan has identified the following four Regional Short Term Rental Goals⁷:

1. *Preserve long term rental stock*
2. *Recognize vacation rentals are important to the Central Okanagan*
3. *Explore compliance monitoring partnerships*
4. *Implement consistent safety standards through business licensing*

Short Term Rental regulations are being proposed with consideration to the four regional goals, the current context in West Kelowna, and based on previous discussions with

⁴ Regional Housing Needs Assessment, Regional District of Central Okanagan, November 2019

⁵ Regional Housing Needs Assessment, Regional District of Central Okanagan, November 2019

⁶ How We Live, #OURWK, 2020

⁷ https://www.regionaldistrict.com/media/257325/Regional_Planning_2019_Winter_Bulletin.pdf

Council. The following are West Kelowna’s proposed Guiding Principals in relation to Short Term Rentals:

1. *Mitigate Negative Neighbourhood Impacts*
2. *Protect Long Term Rentals*
3. *Recognize Importance of Short Term Rentals for Tourism*
4. *Comprehensive Licensing, Compliance & Enforcement*

DISCUSSION

Proposed Short Term Rental Regulations

The proposed draft regulation and enforcement program for Short Term Rentals are based on regionally consistent practices and the proposed Guiding Principles. The proposed regulation program for Short Term Rentals prioritize mitigating potential negative impacts to neighbourhoods and protecting the long-term rental inventory, while at the same time accommodating Short Term Rentals for the benefit of visitors and residents.

Table 2 - Proposed Short Term Rental Regulations	
Permitted Dwelling Forms	Within a Single Detached Dwelling
Parcel Criteria	Not permitted on properties with a Secondary Suite or Carriage House; Connection to community sewer system required (<i>unless written approval for septic disposal capacity</i>)
Occupancy	Up to 3 Guest Rooms (No more than 6 guests)
Operator	Must be the occupant of the Single Detached Dwelling;
Bookings	Only 1 booking at a time permitted
Required Parking	1.0 parking space for 1-2 guest rooms 2.0 parking spaces for 3 guest rooms
Additional Licencing Requirements	Entire dwelling may be rented while operator is away (Maximum 6 guests)
	A local contact must be identified to respond to concerns if the operator is away
	Operator must sign a Good Neighbour Agreement
	Operator must provide proof of occupancy (through homeowner grant, drivers licence, government records or utility bills)
	Operator must provide a Self-Evaluation Safety Audit

The proposed regulations were developed to be consistent with the City’s Bed & Breakfast regulations. Key differences include a reduced occupancy of only 3 guest rooms to a maximum of 6 guests, only one booking at a time permitted, and that the entire dwelling may be rented while the operator is away. See Attachment 1 for a comprehensive overview of the draft Short Term Rental regulations and which City bylaws they would be included within.

Other Regulation Options

While the above regulations outline the proposed regulation program based on the Guiding Principles and regionally consistent practices, other options which may be considered based on Council direction and results of the proposed Public & Stakeholder Engagement Program could include:

- Permitting Short Term Rentals on properties with Secondary Suites or Carriage Houses (while restricting the Short Term Rental to within the Single Detached Dwelling);
- Permitting Short Term Rentals within Secondary Suites or Carriage Houses (Only one dwelling would be permitted as a Short Term Rental per property);
- Higher licence fees may be considered for Secondary Suites and Carriage Houses to work to protect long-term rentals;
- Licence caps to limit the number of Short Term Rental business licences within the City or within specific neighbourhoods or geographic areas;
- Requirement of a Short Term Rental operator to notify neighbours of the use and contact information in case of any neighbour concerns; or
- Restrictions on the number of nights a Short Term Rental can be rented for annually.

The above options were all regulatory or licencing approaches seen in effect within a BC municipality, however they were not identified as a regionally consistent practice. Additional technical review may be required for the inclusion of any of the above regulatory options to determine applicability of other regulations (such as BC Building Code) and how to administer or manage additional restrictions such as licence caps or maximum rental nights.

Business Licencing

Operator and Local Contact

The operator of a Short Term Rental must be the occupant of the Single Detached Dwelling. This could be the owner of the property as confirmed by the homeowners grant, or a long-term tenant of the property (with approval from the owner) as confirmed by a driver's licence, government records or utility bills in the operator's name. This requirement is to ensure that the operator maintains the dwelling as their principal residence (where the operator lives, conducts daily affairs, and is generally the residence used for government records). An operator may rent the entire dwelling during times when they are away, however the maximum of 6 guests must still be met.

A local contact is required to be identified as part of the application for a Short Term Rental business licence. The local contact must be available to respond to City staff concerns within a reasonable time frame when the operator of a Short Term Rental is away.

Good Neighbour Agreement

Operators applying for a Short Term Rental business licence will be required to sign a Good Neighbour Agreement, which outlines a code of conduct and expectations for the

operator to adhere to, which will reiterate the applicable City bylaws and regulations. See Attachment 1 for an example of a draft agreement.

Fire Inspections

A Fire Inspection will be required for all Short Term Rentals as part of the initial application requirements. This is consistent with the Fire Department’s inspection requirements for Bed & Breakfasts which, as of 2020, only require an ‘Initial Inspection’. The Fire Department estimates that the time required to complete each inspection is 2.25 hours (including administration and travel time). Operators applying for a Short Term Rental business licence will also be required to complete a Self-Evaluation Safety Audit annually. Operators would complete the safety audit to attest that required safety devices and procedures are in place such as smoke alarms, fire extinguishers, carbon monoxide alarms, and fire safety plans. See Attachment 1 for an example of a draft safety audit.

Business Licences

Using projected rates of licensing of existing operators based on statistics provided by the City of Kelowna’s Business Licencing Department, the following is a breakdown of potential revenues from licensing. West Kelowna could project approximately 96 Short Term Rental operators would obtain licences once regulations are in place (approximately 20% of the number of pre regulation listings).

Table 3 – Potential Licencing Numbers		
	Kelowna	West Kelowna (anticipated)
Pre Regulation Listings	2,700	420
Reduction % with Regulations	62%	62%
Post Regulation Listings	1,020	155
% Listings who Licence	62%	62%
Short Term Rental Business Licences	634	96

It is proposed that the Licence Fee for a Short Term Rental be determined with the goal to offset the proposed Bylaw Compliance & Enforcement Program. Table 4 provides a comparison of Business Licencing fees across the Province for Short Term Rentals regulated in a similar manner to West Kelowna’s proposed regulations. The City’s current Business Licence Fee for a Bed & Breakfast is \$135 annually.

Table 4 – Short Term Rental Business Licencing Fee Comparison							
Lake Country	Gibsons	Penticton	Pemberton	Kelowna	Nelson	Tofino	Squamish
\$100	\$200	\$180 - \$250	\$300	\$345	\$200 - \$450	\$450 - \$750	\$450 - \$900

Bylaw Compliance & Enforcement Program

The proposed Short Term Rental Compliance & Enforcement Program (Attachment 2), anticipates required staff resources, enforcement measures, identification of listed properties and proactive enforcement.

Table 5 - Proposed Short Term Rental Compliance & Enforcement Program

Additional Staff Resources	<ul style="list-style-type: none">• Business Licencing Supervisor;• Casual clerk during initial intake period
Enhanced Enforcement Measures	<ul style="list-style-type: none">• Short Term Rental regulations within Zoning & Business Licencing Bylaws;• Bulletin outlining requirements and expectations;• Additional Offences and Fines with new STR regulations;• Increased maximum daily fine of \$1,000
Identification of Short Term Rental Properties	<ul style="list-style-type: none">• Third party contractor to identify listings on multiple sites;• Ongoing identification of new listings
Proactive Enforcement	<ul style="list-style-type: none">• Third party contactor to send automated compliance letters;• Second letter to be sent within 30 days if no response received;• Referred to Bylaw for enforcement action if compliance is not achieved.

Additional Staff Resources

As part of the 2021 budget, staff are requesting a full time Business Licencing Supervisor be responsible for and oversee the strategic direction of business licencing services. This position would lead the implementation of the Short Term Rental licencing program and manage the proactive enforcement of the Short Term Rental regulations.

It is also anticipated that the Business Licence Clerk (currently a 0.5 FTE term position) would be unable to solely manage the initial round of Short Term Rental business licence applications once regulations are in place. This 0.5 FTE term position will be reviewed later in 2021 for full time status. The utilization of a casual Clerk during the initial intake period (Spring/Summer 2021) is proposed as needed.

Enhanced Enforcement Measures

Utilizing the regionally consistent practices approach to regulating short term rentals was also applied when reviewing enforcement options. It was important to ensure that the proposed regulations would be enforceable and it is proposed to introduce a graduating scale of penalties for non-compliance, with the ability for the Business Licence Supervisor to suspend or revoke a licence if compliance cannot be achieved within a reasonable time frame.

An overview of the potential new offences which would be introduced or enhanced as part of the bylaw amendments are included in Attachment 2. It is proposed to increase the maximum daily fine within the City’s Municipal Ticket Information Utilization Bylaw No. 0095 (MTI Bylaw) to act as a deterrent for non-compliance from \$500 to \$1,000. Tickets under the MTI Bylaw can only be served in person and cannot be mailed.

Third Party Contractor

It is proposed that a third party contractor be used to provide proactive identification and communication to active Short Term Rentals. Staff have been in contact with one potential contractor who has provided an overview of potential services and costs, with costs based

on the number of listings requiring monitoring. Services proposed to be contracted include:

- address identification of active listings,
- automated compliance letters for listings who are in contravention of any of the regulations, and
- the ability to track the status and outcome of each compliance letter.

The procurement of a third party contract for these services would go through the Informal Quote or Formal Quote/Bid procurement process depending on the level of service determined to be required⁸.

It is anticipated that the use of a third party company to carry out the above noted services will significantly reduce the amount of enforcement that would normally be expected to be needed by Business Licensing and Bylaw Compliance Staff to obtain compliance. Complaint based enforcement through the Bylaw Department will still be necessary and form part of the enforcement strategy, particularly as it relates to nuisance issues. After the Short Term Rental regulation program has been in effect for some time, third party monitoring may no longer be required as operators become familiar with the regulations and staff work to gain compliance.

Public & Stakeholder Engagement Plan

Council directed staff to prepare an engagement plan to seek public and stakeholder feedback on the draft Short Term Rental regulations. With current restrictions and public health advisories in effect due to COVID-19, staff will lead an online engagement process. Engagement is proposed to take place starting November 30th and run until the end of 2020. While there are identified limitations to conducting public engagement during December, with competing engagement programs and the holiday season, the timing was necessary in order to have regulations in place by the beginning of the 2021 tourism season. The timing proposed for the engagement was derived by working backwards from a proposed May 2021 implementation date.

It is the intent of the engagement plan to engage on proposed enforcement, regulation, and implementation of Short Term Rentals. It is not the intent of this engagement process to gauge public opinion on whether regulation is required, rather, how it is to be implemented, and to what extent it should be regulated. Once engagement is completed on the draft regulations, proposed bylaw amendments will be prepared for Council's consideration.

Proposed Engagement Tools

A project webpage is available on the City's website which includes background information on the project, key timelines, and links to the online questionnaire (when available). The project webpage will be updated regularly as the project progresses and provides a hub for information on the proposed Short Term Rental regulations.

⁸ Section 5.3 Purchasing Thresholds & Process Requirements, CWK Purchasing Policy

It is proposed to utilize the City’s new engagement platform, Engagement HQ (Bang the Table) to deliver the online questionnaire. The questionnaire will outline the proposed regulations and seek feedback from stakeholders and the public on whether the draft program presented addresses the context of West Kelowna. Staff will use the questionnaire results to inform the refinement of draft regulations in addition to City policies and guidelines, regionally consistent practices and internal department requirements and feedback.

Table 5 - Proposed Public & Stakeholder Engagement Plan	
City Webpage	<ul style="list-style-type: none"> • Project webpage serves as a hub for access to information, updates, and ways to stay involved in the engagement process.
Engagement HQ Questionnaire	<ul style="list-style-type: none"> • Online questionnaire for public and stakeholders to provide feedback through Engagement HQ (Bang the Table); • Option for residents to pick up a paper copy of the questionnaire if needed.
Social Media Posts	<ul style="list-style-type: none"> • Regular social media posts throughout the engagement process; • Posts will provide background information and ways to be involved; • Posts to update on the engagement process; • Utilizing Facebook, Instagram, Twitter
E-Notifications	<ul style="list-style-type: none"> • Email Notification at the launch of the engagement process to existing City mailing list; • Key messaging will direct interested recipients to the online questionnaire and project webpage
Newspaper Ads	<ul style="list-style-type: none"> • Two newspaper advertisements in West Kelowna News; • Provide project information and how to access the online questionnaire.

Engagement Audience

Public engagement with the community of West Kelowna will gather feedback on the proposed regulations and provide a lens from residents. Public engagement is meant to capture those not directly involved in the Short Term Rental industry, but may have a vested interest in the operation of these businesses. Neighbourhood Associations will be invited to participate in the online questionnaire.

Community stakeholders have been identified that will be invited to participate in the engagement process, and may encourage and advocate for others to participate as well. Stakeholders have been identified and include Short Term Rental operators, accommodation and tourism providers, and industry associations.

All three Council Committees will be engaged for comments regarding the proposed regulations (Agricultural Advisory Committee, Advisory Planning Committee and Economic Development Committee). Internal departments have been referred and participated in preparation of the proposed draft regulations. Ongoing input from internal departments will be required as the proposed regulations are further refined and administrative details of business licensing are determined.

NEXT STEPS

Following Councils endorsement of the proposed Short Term Rental regulations, public and stakeholder engagement will begin. Once engagement is completed (by the end of 2020), starting in early 2021 staff will review the results of the questionnaire and comments received from Council committees and various internal and external agencies. The proposed regulations may be refined or amended based on the results of the engagement, while maintaining regulations that are based upon the Guiding Principles and are regionally consistent.

Staff will then draft bylaw amendments to regulate the operation, licencing and enforcement of Short Term Rentals for Councils consideration, and if supported, will be moved forward to a public hearing. Staff anticipate regulations could be adopted by April/May of 2021 at the beginning of the tourism/accommodation season. Bylaw amendments will be required to the following bylaws:

- Zoning Bylaw No. 0154
- Business Licensing and Regulations Bylaw No. 0087
- Fees & Charges Bylaw No. 0028
- Bylaw Dispute Adjudication Bylaw No. 0093
- Municipal Ticket Information Utilization Bylaw No. 0095

FINANCIAL IMPLICATIONS

It is not anticipated that Business Licencing fees for Short Term Rentals would be able to completely cover the required resources necessary to implement the program. A budget request has been submitted by the Development Services Department for the Business Licencing Supervisor position. Additional resources will be required to be allocated to the Short Term Rental program to achieve the proposed compliance and enforcement program.

Potential annual costs for third party monitoring (based on the projected number of listings post regulation of approximately 155) are estimated at \$3,000 CAD for compliance monitoring and \$5,000 CAD for address identification. This cost may be higher in the first year of regulation if listing numbers are higher.

The Province has an agreement with one online accommodation platform (OAP) for Short Term Rentals, AirBnB, to automatically collect a Municipal and Regional District Tax

(MRDT) from all bookings. Only municipalities with an MRDT in place receive OAP revenue disbursed by the Province. West Kelowna does not currently have an MRDT in place. Consultation and support from tourism industry stakeholders would be required as well as a minimum of 51% of accommodation providers (representing 51% of the total accommodation units) in support of the MRDT application to the Province. ⁹

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
September 29, 2020	Council provided direction to staff that short term rentals be regulated, and that the creation of regulations for short term rentals be done through the review of regional practices and consultation with both stakeholders and the public. Council's direction followed the decision points presented to Council.	-
September 17, 2019	THAT Council direct staff to investigate and report back to Council regarding Air BnB and short term rentals in West Kelowna within the next 6 months.	C327/19

REVIEWED BY

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Draft Short Term Rental Regulations
2. Draft Compliance & Enforcement Program
3. Draft Engagement Plan

⁹ Destination BC – MRDT Program Requirements <https://www.destinationbc.ca/what-we-do/funding-sources/mrdt/program-requirements-application-procedure/>