



## PUBLIC HEARING REPORT

To: Paul Gipps, CAO

Date: March 16, 2021

From: Hailey Rilkoff, Planner II

File No: P20-16

Subject: **P20-16; Zoning Amendment Bylaw No.0154.99 (PH); Short Term Rental Regulations**

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### BACKGROUND

Bylaw No. 0154.99 (File P20-16) was given 1<sup>st</sup> and 2<sup>nd</sup> reading at the February 23, 2021 regular Council meeting (Attachment 1).

### ADDITIONAL INFORMATION FOR PUBLIC HEARING

The potential opportunities and challenges that accompany regulation of short term rentals are broad and interconnected. Regulating short term rentals requires balancing competing priorities of tourism and housing as well as potential impacts on neighbourhoods, operators, and stakeholders.

Additional information and clarification is provided to complement the 1<sup>st</sup> and 2<sup>nd</sup> Reading Report and presentation to Council and to address some of the discussion and questions that stemmed from Council's initial consideration of the Zoning Bylaw amendments.

#### Guiding Principles

The proposed zoning amendments to regulate short term rentals were developed using the following Guiding Principles. Based on the order of priority of the Guiding Principles, maintaining long term rentals was given a higher priority than increasing tourism accommodations. Changing the order of priority for the Guiding Principles would result in substantial changes to the proposed regulations.

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

The number one priority was to address the negative neighbourhood impacts that residents have been experiencing due to un-hosted short term rentals operating in an unregulated environment. Having a comprehensive regulation program for short term rentals will address many of the negative impacts. It is noted that regulation of short term rentals has been seen to lead to a decrease in the overall number of listings in the

community<sup>1</sup>. Protecting long term rentals was the second priority in the development of the regulations. Excluding short term rentals from secondary suites and carriage homes is intended to aid in maintaining the City's existing stock of affordable housing. It is recognized that providing options for short term rentals also contributes to the tourism industry and economy. A comprehensive licensing program has been designed and supported with resources to obtain compliance and enhance enforcement when necessary.

#### Minor vs. Major Short Term Rentals

The proposed zoning amendments include two new use definitions: Minor Short Term Rental and Major Short Term Rental.

***SHORT TERM RENTAL, MINOR*** means the licensed use of a single detached dwelling by an occupant of the dwelling as a vacation rental where the operator remains on-site during guest stays; this use includes bed and breakfasts.

***SHORT TERM RENTAL, MAJOR*** means the licensed use of a single detached dwelling by an occupant of the dwelling as a vacation rental where the operator may be off-site during guest stays.

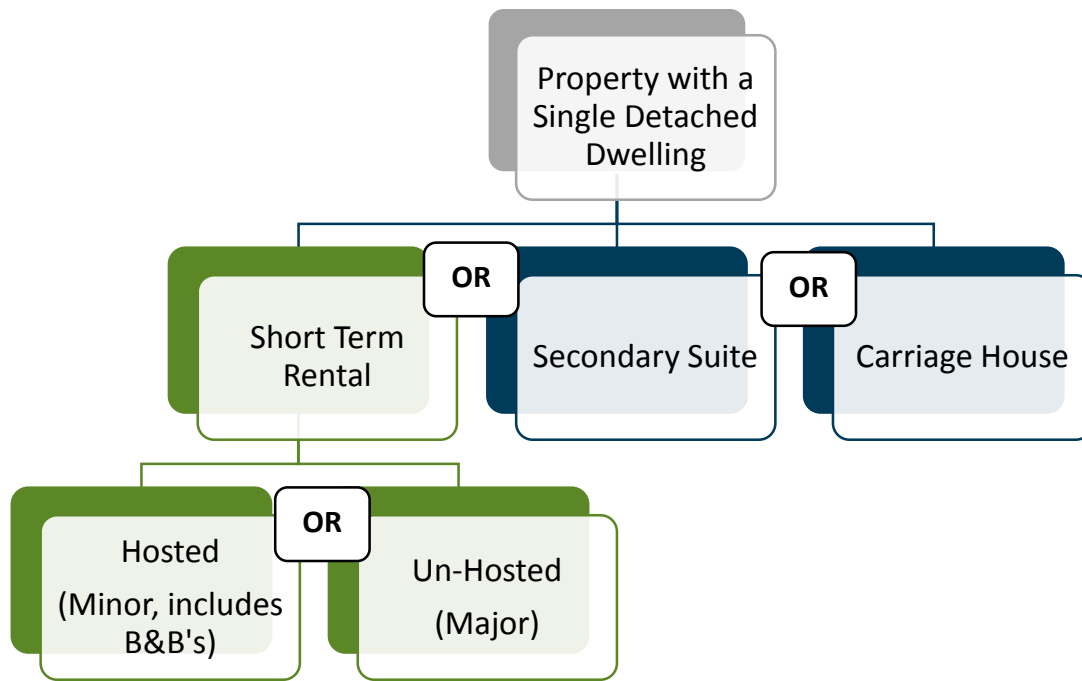
These new use definitions acknowledge the various degrees of use of a residential property for short term accommodation for tourists or visitors. The definitions also acknowledge that there are many similarities between the two forms of short term accommodation rentals: **hosted<sup>2</sup> and un-hosted<sup>3</sup>** accommodations. Both utilize residential properties as a form of vacation rental to provide accommodation to tourists and visitors. Both require business licenses and inspections to ensure the buildings are safe for occupants and guests. Both require the operator of the short term rental to be the primary resident of the dwelling.

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<sup>1</sup> The City of Kelowna saw a 60% reduction in the number of short term rental listings after regulations were in place for a year.

<sup>2</sup> A hosted accommodation is where the operator remains on-site during the guests stay. For example, a vacation rental of bedrooms within the operator's home where the operator is on-site to check guests in, answer questions and may offer breakfast.

<sup>3</sup> An un-hosted accommodation is where the operator is off-site during the guests stay. For example, a vacation rental of the operator's home where the operator is out of town or off-site.



**Figure 1 - Illustration of Permitted Secondary Uses**

Figure 1 (above) clarifies the options for secondary uses on a single detached residential property. As the regulations are drafted, a property may have one of the following three secondary uses: short term rental, secondary suite or carriage house. If the secondary use is a short term rental, one of two forms may be chosen: a hosted (minor) short term rental or un-hosted (major) short term rental. In effect, a hosted (minor) short term rental operator would provide accommodation within a portion of their home, such as is seen in a traditional Bed and Breakfast, but would not be required to provide the guests breakfast. An un-hosted (major) short term rental operator rents their home while they are away.

The differences between the Minor and Major Short Term Rental uses within the Zoning Bylaw relate to occupancy, parking and operation:

Table 1 – Differences between Minor and Major Short Term Rentals		
	Short Term Rental, Minor	Short Term Rental, Major
<b>Maximum Occupancy</b>	3 Bedrooms (6 Adults)	4 Bedrooms (8 Adults)
<b>During Operation</b>	Operator must remain <b>on-site</b> during operation	Operator may be <b>off-site</b> during operation
<b>Required Parking</b>	1 space per bedroom	1 space per 2 bedrooms

**Bed & Breakfast Changes**

The phrase “Bed and Breakfast”, is commonly understood to mean the rental of rooms within an operator’s home for tourists and visitors. However, classifying the use under the name “Bed and Breakfast” does not necessarily require an operator to serve breakfast to be classified as such. Whether or not an operator of a short term rental offers their guests a breakfast does not have an impact on the use of the property or the impact to the

neighbourhood. The key factor which can contribute to nuisance issues is whether or not the operator is on-site.

Re-naming the “Bed and Breakfast” use to “Minor Short Term Rental” is intended to acknowledge that a hosted form of tourist accommodation typically results in a lower potential for negative impacts on the neighbourhood and surrounding properties.

Beyond changing the defined use to “Minor Short Term Rental”, there is one proposed major change to the current regulations for “Bed and Breakfasts”. This relates to the reduced occupancy from four bedrooms to three bedrooms. This is proposed in order to acknowledge that most currently licensed bed and breakfasts have three rooms or less. A four bedroom bed and breakfast is less common as it is difficult to provide the required parking spaces for the residence (two spaces) and bed and breakfast (four spaces) on a standard residential property.

The proposed changes to the Zoning Bylaw would not apply to existing bed and breakfast operators who have a valid Business Licence. Any bed and breakfasts currently operating and licensed for up to four bedrooms would be able to continue this use and would be considered “grandfathered”<sup>4</sup> as a non-conforming use<sup>5</sup>. However, if the bed and breakfast use ceased on the property for a period greater than six months, the property would be subject to the new regulations (or any regulations in place at the time).

Any modifications to the proposed bed and breakfast regulations may be further amended at Council’s discretion.

### Secondary Suites and Carriage Houses

The proposed regulations would not permit a short term rental to be operated on a parcel that has a secondary suite or carriage house. The Business Licensing and Regulations Bylaw defines a Secondary Suite and Carriage House as follows:

*“**Secondary Suite**” means second dwelling unit which contains at least 3 rooms including a bedroom, kitchen and bathroom, but no more than 2 bedrooms, located within the structure of a single detached house that provides living accommodation based on rental periods of one month or greater.*

*“**Carriage House**” means a detached building containing a secondary dwelling, which may also contain one or more off street parking spaces for the single detached dwelling on the same parcel or for the carriage house.*

There are currently approximately 515 licensed secondary suites and 17 carriage houses in West Kelowna<sup>6</sup>. There are an unknown number of unauthorized suites or carriage houses which may have been built without permits and are being used for long-term or short-term rentals. The rationale for not permitting short term rentals on parcels with

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<sup>4</sup> As a four bedroom Bed and Breakfast is permitted under the Zoning Bylaw currently.

<sup>5</sup> “...if, at the time a land use regulation bylaw is adopted, the land does not conform to the bylaw, the use may be continued as a non-conforming use.” *Local Government Act* Section 528.1

<sup>6</sup> 464 secondary suites identified through business licencing, 51 secondary suites with active building permits; 17 carriage houses identified through business licencing.

secondary suites or carriage houses is based on the City's policies which relate to secondary suites, affordable/rental housing policy and data, regional consistency (primarily City of Kelowna).

#### *Existing City Policy – Secondary Suites*

Secondary suites and carriage houses are a form of infill residential development that can offer an affordable rental housing option that form part of the secondary rental market. The Official Community Plan supports secondary suites as a form of affordable infill housing and identifies the critical need to maintain the existing stock of affordable housing (which includes affordable home ownership, affordable rentals and subsidized housing).

Council's Secondary Suites Policy (approved in 2014) has three core objectives, the first of which is to build and maintain secondary suites which provide affordable rental accommodation<sup>7</sup> (*Attachment 2*). This policy also speaks to secondary suites as a “*means of achieving sensitive infill development with negligible impacts upon neighbourhood character.*”

To date, City policies have specifically identified secondary suites as a critical part of the community's affordable, and more specifically the affordable rental, housing supply. A more comprehensive review of residential and affordable housing policies in the OCP, amendments to Council's Secondary Suite Policy, and the completion of a Regional Housing Strategy should be considered if secondary suites are proposed to be used for vacation rentals rather than housing.

#### *Affordable/Rental Housing*

The Regional Housing Needs Assessment (RHNA) for the Central Okanagan indicates that almost two thirds of long term rental units are provided by the secondary rental market<sup>8</sup> in the region as opposed to the primary rental market<sup>9</sup> comprised of purpose-built rentals<sup>10</sup>. The RHNA provided a snapshot of available long term rental listings in the City of West Kelowna by scanning rental listings on Castanet in January of 2019. In 2019, there were 123 listings for long term rentals in West Kelowna. As of March 3, 2021, there were 24 long-term rental listings on Castanet for West Kelowna.

The current rental vacancy rate for West Kelowna was recently reported to have dropped to 1.0% by the Canadian Mortgage and Housing Corporation (CMHC) (*Attachment 3*). The CMHC vacancy rate only accounts for the primary rental market of purpose-built rental apartments and does not include secondary suites, carriage houses or single detached dwellings. Regionally, the vacancy rates also fell in Kelowna from 2.3% to 2.2%, Penticton from 1.9% to 0.8% and Vernon from 1.9% to 1.0% (data for Lake Country was not available).

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<sup>7</sup> 3.1.1 Secondary Suites – Council Policy Manual

<sup>8</sup>Secondary Rental Market – rental units that were not originally purpose-built for the rental market (including rented single-detached houses, rented secondary suites, rented carriage houses, rented duplexes, rented townhouses and rented apartments or condominiums)

<sup>9</sup> Primary Rental Market – rental units in privately initiated apartment structures with at least three rental units

<sup>10</sup> 5,772 primary rental market units; 10,073 secondary rental market units

### *Regional Regulation Consistency*

Regionally in the Central Okanagan the use of accessory dwelling units (secondary suites or carriage houses) for short term rentals is varied:

- Kelowna does not permit “short-term rental accommodations” within either secondary suites or carriage houses.
- Lake Country allows a “short term vacation rental” within a secondary suite only.
- Penticton allows “vacation rentals” within secondary suites and carriage houses. However, only one dwelling on a property may be used for a “vacation rental”.

The proposed regulations were drafted to be primarily consistent with the City of Kelowna as the closest neighbouring municipality with regulations in place. However, across the province, there is also variation among which municipalities permit short term rentals in accessory dwelling units. Out of the ten additional municipalities short term rental regulations reviewed, seven permitted short term rentals in secondary suites and four permitted short term rentals in carriage houses.

### Tourist Accommodation

Short term rentals are a part of the overall tourism industry in West Kelowna. Currently, there are 471 traditional accommodation units on the Westside which includes hotel/motel rooms (257), resort rooms (148) and bed and breakfasts (66)<sup>11</sup>. With 378 short term rental listings in July of 2020, this means that last summer short term rentals made up approximately 40% of accommodations. This acknowledges that short term rentals do add increased competition for the traditional rental market. However, short term rentals also increase the capacity of the community to accommodate increasing numbers of visitors which contribute to increasing business at restaurants, wineries and tourist services. In addition, there is a new hotel under construction which services the Westside (Carrington Road) which is anticipated to add over 115 new hotel rooms to the community and the City’s Economic Development and Tourism department has had inquiries for additional hotel properties.

Overnight visitors to the area have been increasing year over year, and even with the COVID-19 pandemic, there was in an increase of 5.5% in overnight total visitor trips<sup>12</sup>. Based on tracking from the City’s Economic Development and Tourism department, the average occupancy of short term rentals in West Kelowna (~60%) outpaced the average occupancy of hotels for the Kelowna region(~40%) in 2020. This could be in part due to visitor choices influenced by COVID-19, but could also be attributed to an overall shift on consumer preferences and the rise of technology and the sharing economy.

### **Public Notification**

In accordance with the *Local Government Act*, advertisements have been placed in the local newspaper (West K News), providing notification of the Public Hearing (March 3<sup>rd</sup> and March 10<sup>th</sup>). In addition, information on Short Term Rentals and the proposed public hearing has been included on the main page of the City’s website homepage, an email

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<sup>11</sup> 66 Licenced Bed and Breakfasts as of August 2020 which includes both traditional Bed and Breakfasts and other forms of hosted vacation rentals.

<sup>12</sup> Kelowna Tourism Industry Indicators: <https://www.tourismkelowna.com/industry/tourism-research/monthly-industry-indicators/>

news-blast has been to be sent out to subscribers and the City has utilized social media channels to share information regarding the Public Hearing.

As of the date of writing this report, 15 written submissions have been received for the Public Hearing (*Attachment 4*). Common themes from the submissions received include:

- Confirmation that a principal residence requirement can address nuisance issues;
- Opposition to the idea that short term rentals affect the long term rental market;
- Support for secondary suites and carriage houses to be used for short term rentals;
- Identification that short term rentals provide financial opportunities for operators and support the tourism industry;
- Concern surrounding provincial regulations around long-term rentals (*Residential Tenancy Act*);
- Suggestions to increase the maximum occupancy to accommodate larger groups or families;
- Concern over the incorporation of traditional bed and breakfasts into a broader category of short term rental and impacts to the bed and breakfast industry.

In addition, correspondence from the Public has been received related to the proposed Bylaw Amendments outside of the Public Hearing submission process throughout the project timeline and the development of the regulations.

### **Next Steps**

Following the completion of the Public Hearing staff will bring back a Report for Council outlining options for moving forward. Potential options could include:

- *Adopt Current Regulations*
  - This would move forward the current regulations as proposed.
- *Direction for Minor Amendments*
  - This would allow for minor amendments to the regulations that do not affect use or density, and would not require a new public hearing.
  - Examples of minor amendments could include changes to:
    - Terminology in the definitions to replace “Minor” and “Major”;
    - Maximum occupancy and number of bedrooms permitted to be rented;
    - Required number of on-site parking spaces.
- *Direction for Substantial Amendments*
  - This would allow for substantial amendments to the regulations, which could include changes that affect use or density and would require a new public hearing.
  - Examples of substantial amendments could include:
    - To expand opportunities to permit short term rentals in various dwelling forms (including secondary suites);
    - To change which zones would permit short term rentals;

- To cap the number of short term rentals in order to protect long-term rental housing stock.
- Any other changes which affect 'use' or 'density' related to the bylaw.

## COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
February 23, 2021	<b>THAT</b> Council give first and second reading to the "City of West Kelowna Zoning Amendment Bylaw No. 0154.99, 2021"; and <b>THAT</b> Council direct staff to schedule a public hearing.	<b>C092/21</b>
January 26, 2021	Information Update for Council on Short Term Rental Engagement Results	-
November 24, 2020	<b>THAT</b> Council direct staff to further engage the community and stakeholders on the proposed Short Term Rental program as outlined in this report.	<b>C300/20</b>
September 29, We2020	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	<b>THAT</b> 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.	<b>C327/19</b>

### 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



Attachments:

1. Zoning Amendment Bylaw No. 0154.99 (Short Term Rental Regulations)
2. February 23rd Council Report: P20-16; Zoning Amendment Bylaw No. 0154.99 (1<sup>st</sup> and 2<sup>nd</sup>); Short Term Rental Regulations
3. Council's Secondary Suite Policy
4. CMHC Primary Rental Market Statistics
5. Submissions List – March 10, 2021