



COUNCIL REPORT

To: Paul Gipps, CAO

Date: June 22, 2021

From: Hailey Rilkoff, Planner II

File No: P 20-16

Subject: **P 20-16; Regulatory Bylaw Amendments (1st, 2nd, 3rd); Short Term Accommodations**

RECOMMENDATION

THAT Council give first second and third readings to City of West Kelowna Business Licensing and Regulations Amendment Bylaw No. 0087.11, 2021; and

THAT Council give first, second and third readings to City of West Kelowna Fees and Charges Amendment Bylaw No. 0028.68, 2021; and

THAT Council give first, second and third readings to Bylaw Notice Enforcement Amendment Bylaw No. 0093.46, 2021; and

THAT Council give first second and third readings to City of West Kelowna Ticket Information Utilization Amendment Bylaw No. 0095.43;

AND FURTHER THAT Council direct staff to enter into third party servicing agreements to support compliance and enforcement activities for short term accommodations.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity – Initiate the regulation of short-term rentals across the city; Promote continued growth in tourism to West Kelowna and the Greater Westside

Foster Safety and Well-Being - Increase police services, including adding additional resources required to serve our community.

BACKGROUND

This report outlines the required regulatory bylaw amendments to support regulation of Short Term Accommodations. Zoning Amendment Bylaw No. 0154.99 has been considered by Council previously to include the use of Short Term Accommodations as a secondary use within residential zones.

DISCUSSION

Business Licensing and Regulations Amendment Bylaw No. 0087.11 (Attachment 1)

The proposed Business Licensing and Regulations Amendment Bylaw No. 0087.11, 2021 provides specific regulations surrounding obtaining and maintaining a business licence for a Short Term Accommodation. These bylaw amendments outline the required application materials for a STA business licence, which will include:

- Application Form confirming:
 - Operator Name and Contact Information
 - Local Contact (alternate host) Name and Contact Information
 - Required Permissions (from property owner or strata if applicable)
- Signed Good Neighbour Agreement
- Completed Fire Self-Evaluation Safety-Audit
- STA Floor/Fire Safety and On-Site Parking Plans

The Business Licensing and Regulations Bylaw will require that only licensed dwellings may operate as STA's, that they may only operate a hosted accommodation, and that no more than one booking is permitted at any one time. A definition to further define what is expected of a hosted accommodation is included, which speaks to the availability at all times to respond to nuisance complaints:

***“Hosted”** means, for a short term accommodation, where there is interaction between the operator, or their local contact, and guests during operation. The operator, or local contact, must be available to respond to any nuisance complaints at all times during operation of the short term accommodation.*

The requirement in these regulations is for the operator of an STA to provide the name and contact information for a local contact. The local contact is to be a person designated by the operator to act as an alternate host for times when they may occasionally be unavailable or away. The alternate contact will also be required to sign the Business Licence Application and their contact information must be made available to STA guests. The amendment bylaw includes the following definition:

***“Local Contact”** means, for a short term accommodation, a person designated as an alternate host for a short term accommodation by the operator. The local contact must be available to respond to any nuisance complaints if the operator is unavailable.*

The regulations allow for the operator to be occasionally absent overnight from the property while the short term accommodation is rented. This allows for flexibility for operators who wish to rent their principal residence while they are away (for example camping for the weekend or out of town for a week long business trip). The regulation stipulates that an operator may be away for up to two weeks (14 days) in any one month while their STA is operating, with a maximum of being absent up to 30 days within any one calendar year. The operator must ensure their local contact is available during the times when they are absent to respond to any nuisance complaints. If an operator were

planning to be absent for a time period of longer than 14 days in one month or if they exceed the 30 day maximum per year, they must not operate their short term accommodation during these extended periods when they are absent from the property.

A response time of 2 hours is required by the operator or local contact if requested by the City and there is a potential offence if the required response time is not met. It would be expected that within two hours the operator or local contact would be able to respond or attend the property in person if required.

Additional regulations include:

- **Licence number displayed in marketing/listings:** This will assist in determining if an operator is licensed if a complaint is lodged in regards to their operations.
- **Only licensed dwellings may be rented:** The rental of any vehicle, recreational vehicle, tent or accessory building is prohibited from being rented as an STA.
- **Only one booking permitted at a time:** This means that unlike a Bed and Breakfast operator who can rent out each bedroom separately to different parties in the same period, a STA operator shall only rent their bedrooms or dwelling to one group in any one period.
- **No pro rating of licence fees or refunds:** The licence fee for a short term accommodation shall not be reduced if an application is made part way through the year or if a licence is cancelled before the year is completed.

Fees and Charges Amendment Bylaw No. 0028.68 (Attachment 3)

Currently, fees for a business licence in the City of West Kelowna range from \$60 to \$360. It is proposed that the business licence fee for a Short Term Accommodation be set with the goal to offset the anticipated costs of implementing and ongoing provision of this program. Other municipalities in the region and across the province have a range of licence fees for short term accommodations:

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| <ul style="list-style-type: none"> • Okanagan Region <ul style="list-style-type: none"> ○ Lake Country: \$100 ○ Penticton: \$180 - \$250 ○ Kelowna: \$345 - \$750 | <ul style="list-style-type: none"> • Provincially <ul style="list-style-type: none"> ○ Pemberton: \$300 ○ Nelson: \$200 - \$450 ○ Squamish: \$450 - \$900 |
|---|---|

It is proposed that a \$500 business licence fee be set for STA's. With an estimated number of listings post regulation at 170¹, this would result in \$85,000 in revenue to offset program costs.

Table 1 – Proposed Business Licence Fees	
Business Licence Category	Business Licence Fee

¹ Based on an estimated ~60% reduction in listings post regulation and up to ~60% of these listings being issued Business Licences (Low: 90; Med: 130; High: 170). Based on data provided by the City of Kelowna's Business Licensing Department regarding pre-and post-regulation listing and licence numbers.

Resort Rental (Resort Apartment, Resort Townhouse, Single Detached Dwelling in CD8 Zone)	\$60 ²
Bed and Breakfast	\$135
Short Term Accommodation	\$500

A new fee is also proposed for Resort Rentals, which was identified through the regulation development process as being a current gap in the City’s business licensing regulations. This would apply to any rental of a resort apartment, resort townhouse or single family dwelling in the CD8 zone³. This fee would only be applied if these units were being rented outside of a licensed resort operation with a central reservation service. Resort apartments and resort townhouses are permitted uses within the City’s C6 – Tourist Commercial Zone.

Bylaw Notice Enforcement Amendment Bylaw No. 0093.46 (Attachment 5)

An amendment is proposed to the Bylaw Notice Enforcement Bylaw to include eleven (11) new ticketing offences in relation to various short term accommodation zoning and business licensing regulations. A stepped level of offences is proposed if an operator contravenes the short term accommodation regulations.

Municipal Ticket Information Utilization Amendment Bylaw No. 0094.43 (Attachment 7)

An amendment is proposed to the Bylaw Notice Enforcement Bylaw to include eleven (11) new ticketing offences to be added in relation to various short term accommodation zoning and business licensing regulations. A stepped level of offences is proposed if an operator contravenes the short term accommodation regulations.

The maximum daily fine within the City’s Municipal Ticket Information Utilization Bylaw No. 0095 (MTI Bylaw) will increase from \$500 to \$1,000 to act as a deterrent for non-compliance. Provincial legislation sets the maximum penalty that can be issued at \$1,000. Tickets under the MTI Bylaw can only be served in person and cannot be mailed.

Compliance and Enforcement

The City of West Kelowna supports a compliance based approach when dealing with municipal bylaw complaints, including complaints regarding short term accommodations. City staff will endeavour to work with property owners and STA operators who are cooperative to address non-compliant activities or situations in relation to STA operations. Enforcement action is to be taken on a gradual basis, always beginning with educating the public on the bylaw requirements of the City.

Voluntary compliance is always the most desired result when dealing with municipal bylaw offences, however if voluntary compliance cannot be achieved, enforcement measures may be required. Bylaw Officers will utilize escalating level of response options which may include:

² \$60 is consistent with the current business licence fee for home occupations that do not require inspections

³ For example 4014 Pritchard Drive (C6 Zone - Barona Beach Resort) or 3060 Seclusion Bay Road (CD8 Zone)

- **1st Offence:** Verbal Warning; Daily Fines of \$250
- **2nd Offence:** Warning Letter; Ticket; Daily Fines \$350
- **3rd and Ongoing Offences:** Daily Fines \$500 to \$1000; Business Licence Suspension; Court Action

Depending on the property/operator history or if the operator has demonstrated a willful act of non-compliance, an officer may escalate to a higher level of enforcement response immediately to ensure that the enforcement action is proportional to the non-compliance issue. If a complaint is received or proactive enforcement is underway in relation to a Short Term Accommodation, officers will utilize the guidelines below in determining the level of response required:

- **Low Priority (General Nuisance):** Incidents of minor nuisance to neighbours or contraventions that are minor regulation infractions.
 - *Examples: Failing to display licence number or unpermitted signage.*
- **Medium Priority (Regulatory):** Contraventions or nuisance activity with significant negative impact to adjacent properties.
 - *Examples: Excessive noise or parking violations.*
- **High Priority (Life Safety):** Unsafe conditions that could result in safety issues or concerns.
 - *Examples: Unsafe building or nuisance activity where life safety is affected.*

Expanded Contract Services

It is proposed to expand current contracts with the after-hours call service and security company the City utilizes. The public would be able to call the after-hours service number if significant nuisance activities were occurring at a short term accommodation. The call service will take the callers information and complaint details and, if warranted, forward the address of the nuisance property to the contracted third party security company to attend. The security company would dispatch a mobile patrol unit to attend the location to verify the nature of the nuisance, record evidence to forward to Bylaw for follow-up, or call the RCMP if required.

FINANCIAL IMPLICATIONS

It is not anticipated that business licensing fees for Short Term Accommodations would be able to completely cover the required resources necessary to implement the program. With a licence fee of \$500 per STA, the following revenue estimations could be expected, depending on the number of licence applications received and issued⁴:

Table 2 - Short Term Accommodation Revenue Estimations			
Fee	Low 90 Licences	Med 130 Licences	High 170 Licences
\$500	\$45,000	\$65,000	\$85,000

⁴ Based on data provided by the City of Kelowna’s Business Licensing Department regarding pre-and post-regulation listing and licence numbers.

Additional resources will be required to be allocated to the Short Term Accommodation program to achieve the proposed compliance and enforcement program, including:

- **Third Party Monitoring Contract Costs - \$8,000:** Potential annual costs for third party monitoring (based on a conservative projected number of listings post regulation) 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.
- **Business Licensing Clerk Full-Time Status - \$26,700 - \$30,700:** This position is currently a 0.5 FTE term position which will be reviewed in 2021 for full-time status.
- **Senior Business Licensing Officer:** This position has been approved in the 2021 Budget and recruitment is currently underway.
- **Expanded On-Call Service and Security – \$8,000:** The security company would charge \$60 per call out and the expanded call service is up to \$145 per month. Note that the scope and cost for this service may be reduced in future years as the program becomes more established.

Additional staff resources to assist the Business Licensing department may be required during the summer of 2021 in the initial intake period for STA applications. This will be reviewed by the Business Licensing department as implementation is occurring and department needs are identified.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
June 8, 2021	Public Hearing	
May 11, 2021	<p>THAT Council rescind second reading of Zoning Amendment Bylaw No. 0154.99, 2021; and</p> <p>THAT Council give second reading as amended, to Zoning Amendment Bylaw No. 0154.99, 2021; and</p> <p>THAT Council direct staff to schedule the bylaw for a public hearing.</p>	C172/21
April 6, 2021	<p>THAT Council direct staff to require all short term rentals to be principal residences.</p>	C132/21
	<p>THAT Council direct staff to revise the regulations to require all short term rentals to be hosted.</p>	C133/21
	<p>THAT Council direct staff to revise the regulations in order to permit short term rentals on properties with secondary suites and carriage houses.</p>	C134/21

	THAT Council direct staff to keep the existing regulations for Bed and Breakfasts within the Zoning Bylaw.	C135/21
	THAT Council direct staff to revise the minor and major terminology proposed for short term rentals.	C136/21
	THAT Council direct staff to revise the layout for parking requirements to show .5 parking spaces per bedroom in a table format.	C137/21
	THAT Council direct staff to bring the concept of a license cap back for Council consideration after the initial intake period is over.	C138/21
March 16, 2021	Public Hearing	
February 23, 2021	THAT Council give first and second reading to the “City of West Kelowna Zoning Amendment Bylaw No. 0154.99, 2021”; and THAT Council direct staff to schedule a public hearing.	C092/21
January 26, 2021	Information Update for Council on Short Term Rental Engagement Results	
November 24, 2020	THAT Council direct staff to further engage the community and stakeholders on the proposed Short Term Rental program as outlined in this report.	C300/20
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

CONCLUSION

The proposed bylaw amendments complement the previously considered Zoning Amendment Bylaw No. 0154.99 for regulating short term accommodations. These regulatory bylaw amendments further outline requirements related to operating a short term accommodation within the City of West Kelowna, set the business licensing fee to offset program costs and introduce new offences for non-compliant operators. Discussions and questions provided by both Council and the public during the two public hearings for the Zoning Amendment Bylaw touched on many aspects of these complementary bylaw amendments and they have been considered by staff.

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. Business Licensing and Regulations Amendment Bylaw No. 0087.11, 2021
2. Redlined version of the Business Licensing and Regulations Bylaw No. 0087
3. Fees and Charges Amendment Bylaw No. 0028.68, 2021
4. Redlined version of the Fees and Charges Bylaw No. 0028 Schedule 16
5. Bylaw Notice Enforcement Amendment Bylaw No. 0093.46, 2021
6. Redlined version of the Bylaw Notice Enforcement Bylaw No. 0093 Schedule 2 and Schedule 5
7. Ticket Information Utilization Amendment Bylaw No. 0095.43, 2021
8. Redlined Version of the Ticket Information Utilization Bylaw No. 0095 Schedule 2 and Schedule 5
9. DRAFT Business Licensing Materials (Application Form, Operator Guidebook)