

DATE OF MEETING September 21, 2021

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SUBJECT SHORT-TERM RENTAL BYLAW AMENDMENTS

OVERVIEW

Purpose of Report

To amend "Zoning Bylaw 2011 No. 4500" and "Off-Street Parking Regulations Bylaw 2018 No. 7266" in order to regulate and license short-term rental accommodations.

Recommendations

That:

1. "Zoning Amendment Bylaw 2021 No. 4500.186" (To regulate short-term rentals) pass first reading;
2. "Zoning Amendment Bylaw 2021 No. 4500.186" pass second reading;
3. "Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.01" (To require one parking space for a short-term rental use) pass first reading;
4. "Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.01" pass second reading; and

That Council:

5. confirm a business licence is required for all short-term rentals, including bed and breakfasts, in Nanaimo; and
6. direct Staff to prepare an explanatory guide and operator declaration form for Nanaimo residents interested in operating a short-term rental, including a bed and breakfast.

BACKGROUND

The review of regulations for short-term rentals (STR) is a direct recommendation of the 2018 Affordable Housing Strategy. On 2020-OCT-26, the City of Nanaimo Governance and Priorities Committee (GPC) received a report and presentation regarding regulating short-term rental accommodation. The report included information on previous consultation, STRs in Nanaimo, and municipal best practices. At the time, Council was presented with a number of options for regulating and licensing short-term rental accommodation. During the meeting, it was moved and seconded that the GPC recommend Council direct Staff to:

1. Prepare amendments to the City of Nanaimo's "Business Licence Bylaw 1998 No. 5351", "City of Nanaimo Zoning Bylaw 2011 No. 4500", and "Off-Street Parking Regulations Bylaw 2018 No. 7266" in order to:
 - a) add a definition to "City of Nanaimo Zoning Bylaw 2011 No. 4500" for "Short-Term Rentals";
 - b) add the definition of "Permanent Resident";
 - c) permit short-term rentals in Residential, Commercial, Downtown, and Corridor zones where the operator is a permanent resident of the dwelling unit or suite;

- d) apply existing limits on the number of guests and guestrooms permitted within a bed and breakfast to all short-term rentals;
 - e) continue to allow short-term rental guestrooms within a secondary suite provided the total number of long- and/or short-term rental rooms does not exceed two per dwelling unit (house and suite);
 - f) require a business licence for all short-term rentals and bed and breakfasts within the City of Nanaimo based on proof of residency (including two of the following: voter registration, income tax returns, British Columbia driver's licence, British Columbia medical services card, Home Owner Grant application, and British Columbia identification card); and
 - g) require one additional parking space for each short-term rental.
2. Prepare an explanatory guide and operator declaration form for short-term rentals that outlines short-term rental operator requirements, including providing contact information to Staff and neighbouring residences where the owner can be reached within 24 hours.
 3. Consult further with stakeholders and the public regarding Council's recommended option before returning to Council with bylaw amendments.

DISCUSSION

In response to Council's direction, Staff have consulted further with stakeholders and the public regarding Council's recommended option to permit licensed short-term rentals where the operator is a permanent resident of the dwelling unit or suite.

Following consultation, Staff have prepared amendments to the "City of Nanaimo Zoning Bylaw 2011 No. 4500" (the "Zoning Bylaw") and "Off-Street Parking Regulations Bylaw 2018 No. 7266" (the "Off-Street Parking Bylaw") for Council's consideration.

Consultation Summary

Prior to the 2020-OCT-26 GPC report, Staff undertook a consultation process for the STR review that included:

- Direct stakeholder engagement with Tourism Nanaimo/Vancouver Island, the hotel industry, and the Nanaimo Neighbourhood Network;
- A pre-COVID-19 public open house with approximately 40 attendees; and
- An online survey with 86 responses.

During the 2020-OCT-26 GPC meeting, Council requested Staff consult further with stakeholders and the public regarding Council's recommended option before returning to Council with bylaw amendments.

Following Council's direction, Staff launched a revised STR survey using the REIMAGINE Nanaimo engagement platform that was open between 2021-APR-07 and 2021-MAY-12 (see Attachment A). The survey focused on gauging public support for the proposed land use and business licence recommendations related to the regulation of short-term rental accommodation. A total of 484 people responded to the survey, with 461 completing all questions. It should be noted that the majority – 387 (80%) – of the 487 survey respondents

indicated they were home owners, with a smaller proportion – 93 (19%) renters – and a remaining 7 (1%) either selecting the ‘other’ category or not completing the question. This means the overall total responses are more reflective of the view of home owners versus renters.

The survey asked respondents to identify if they operate or plan to operate an STR and if they own or rent their home. A total of 196 respondents (41%) noted they either operate or plan to operate an STR. Given the significant percentage of respondents currently or interested in operating an STR, as well as the difference in participation rates between renters and owners, the results were summarized to include the following categories: all responses, STR operator responses, non-STR-operator responses and renter-only responses.

A significantly higher proportion of STR operators (84%) compared to non-STR operators (53%) supported allowing an STR rental of an entire home where the STR dwelling unit or suite is the primary residence of the STR operator. Only 44% of renters support allowing STR rental in an entire home.

A higher proportion of non-STR operators – 65% (66% for renters only) – compared to 53% of STR operators supported maintaining existing guestroom limits. A lower proportion of non-STR operators supported allowing STRs in secondary suites (55%) versus STR operators (89%), this number was even lower (45%) among renters. Finally, a significantly higher proportion of non-STR operators – 77% (82% for renters) – versus 23% of STR operators supported the business licence requirement.

The STR survey was launched concurrently with separate renter and landlord surveys. The landlord survey, directed at current rental property owners and managers, included the following question about STRs: “Do you, or have you ever considered renting out some or all of your units as short-term rentals?” Of the 243 respondents who completed this question, 23 (9%) already own or manage an STR and another 80 (33%) are considering converting their long-term rental to an STR. The remaining 140 (58%) indicated they do not have any interest in operating an STR.

The renter survey did not include any direct questions regarding STRs; however, STRs were frequently mentioned within the respondents’ comments (see Attachment B - Renter Survey - STR comments). Respondents noted a connection between STRs and the lack of available and affordable rentals in the city.

In addition to the survey, Staff held discussions by phone or Zoom with 21 interested stakeholders, including existing and future STR operators, the Nanaimo Hospitality Association, Vancouver Island University (VIU), the Nanaimo Regional General Hospital (NRGH), and the Nanaimo Family Life Association. A summary of these discussions is included in Attachment C - Stakeholder Feedback Summary

Proposed Zoning Bylaw Amendments

The proposed amendments will add the following definition of Short-Term Rental to the Zoning Bylaw:

Short-Term Rental: means the temporary rental (less than 30 consecutive days) of a portion of or the entire dwelling unit, secondary suite or room located on a property that is zoned to permit residential use. This definition specifically includes Bed and Breakfast.

The proposed Zoning Bylaw amendments are consistent with the Staff and Council recommendation within the 2020-OCT-26 GPC report. The amendments, if adopted, will permit the short-term rental of an entire dwelling unit or a portion of the unit provided the STR is located within the owner's primary residence. Tenants will not be able to operate short-term rentals due to challenges associated with enforcement, operator accountability, and obtaining property owner permission. Primary residence is defined within the amendment bylaw as follows:

Primary Residence: means the dwelling unit that a person resides in for at least eight months per calendar year, and that a person declares for legal purposes, including voter registration, filing of income taxes, British Columbia Driver's Licence, British Columbia Medical Services Card, Home Owner Grant, and British Columbia Identification Card.

In other words, Nanaimo residents will be permitted to rent out the entire home they own and live in on a temporary basis (maximum four months a year).

The maximum number of bedrooms that may be rented as a short-term rental will continue to be limited to no more than two guest rooms and four guests, including secondary suites, in most residential zones; and four guestrooms and six guests in commercial and multiple-family zones. As such, while property owners would be permitted to rent out their entire primary residence as a short-term rental, the number of guests and guest rooms available for rent as an STR would be limited.

Parking Requirements

The existing Off-Street Parking Bylaw requires one parking space per sleeping unit used as a bed and breakfast (B&B). The proposed bylaw amendment will replace this requirement by requiring all STRs, including B&Bs, to provide one off-street parking space per rental booking. This means that one extra parking spot would be required for the booking/rental of an entire dwelling unit to one person/family regardless of the number of guestrooms. If the dwelling unit is rented as multiple, separately bookable guestrooms, a separate parking space will be required for each guestroom.

Business Licence Bylaw

B&Bs are not currently required to obtain a business licence in the city of Nanaimo. Going forward, Staff are recommending that business licences be required for all STRs (including B&Bs) to allow for better monitoring and enforcement. It is recommended that the annual \$165 fee for the majority of Nanaimo business licences, including for hotels and home-based businesses, would be applied to STRs. All STRs that apply for a business licence will receive an explanatory guide and be required to complete an operator declaration form. AirBnB staff

have confirmed the platform can add a field for a business licence, but will not make the field mandatory or enforce business licensing or other municipal regulations.

The “Business Licence Bylaw 1998 No. 5351” (the “Business Licence Bylaw”) states that “any business entity carrying on business in Nanaimo must hold a valid City of Nanaimo business licence.” The definition of “business” in the bylaw states: “means carrying on a commercial or industrial undertaking of any kind or providing professional, personal or other services for the purpose of gain or profit, but does not include an activity carried on by the government, its agencies or government-owned corporations.” This definition of “business” can clearly include STRs and B&Bs. As such, changes to the Business Licence Bylaw are not needed in order to require STRs and B&Bs to obtain a business licence.

Explanatory Guide and Operator Declaration Form

The GPC recommendation included the preparation of an explanatory guide that outlines STR requirements and an operator declaration form.

The declaration form will include a safety compliance checklist. This would be in lieu of requiring building, fire building, and fire safety inspections as part of the business licence application process.

Staff are recommending Council direct Staff to bring forward an STR guide and declaration form for endorsement immediately following the adoption of the Zoning Bylaw and Off-Street Parking Bylaw amendments. The guide will include the following:

- Building and fire safety requirements;
- Zoning regulations;
- Parking requirements; and
- Operational best practices, including how to respond to neighbourhood concerns and manage disruptive guests.

All STR business licence applicants will be required to sign a declaration form confirming they have:

- Provided proof of primary residency status and confirmed they have read the guide;
- Completed a building and fire safety compliance checklist; and
- Provided a 24-hour owner contact for City Staff and neighbouring residences.

AirBnB have confirmed they can link the guidelines within their platform.

Enforcement

Currently, City of Nanaimo Staff have been enforcing illegal STRs on a complaint basis, and it is recommended that this approach be continued. Active enforcement would require additional resources for more bylaw officers and/or tools such as compliance monitoring software. Based on a review of the costs of active enforcement, it is not considered to be an effective use of resources to address the anticipated scale of potential problems.

If Council wishes Staff to pursue further enforcement measures to STR compliance and licensing, they may consider directing Staff to purchase a licence for compliance monitoring

software to monitor STR listings on common online platforms, such as AirBnB and VRBO. Compliance monitoring programs, such as Host Compliance, can maintain an address inventory of STRs in the municipality for an additional fee. Programs can also monitor rental activity, assist with enforcement by generating compliance letters, and maintain a 24/7 STR neighbourhood complaint hotline to respond to neighbourhood concerns. The fee for this software varies based on the number of STRs in the city and the software and features included, and can range from between \$20,000 to \$60,000 annually.

OPTIONS

1. That:

1. "Zoning Amendment Bylaw 2021 No. 4500.186" (To regulate short-term rentals) pass first reading;
2. "Zoning Amendment Bylaw 2021 No. 4500.186" pass second reading;
3. "Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.01" (To require one parking space per short-term rental) pass first reading;
4. "Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.01" pass second reading;
5. "Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.01" pass third reading; and

That Council:

6. confirm a business licence is required for all short-term rentals, including bed and breakfasts, in Nanaimo; and
7. direct Staff to prepare an explanatory guide and operator declaration form for Nanaimo residents interested in operating a short-term rental.
 - Advantages: The proposed regulations will allow the City to better regulate short-term accommodation and protect the rental market by only allowing property owners to rent out a portion or all of their primary residence on a short-term basis, while not allowing short-term rentals of any additional residences.
 - Disadvantages: Permitting the short-term rental of secondary suites and entire homes, even in owner-occupied homes, may still impact the availability of long-term rentals in Nanaimo.
 - Financial Implications: The \$165 business licence fee will generate additional revenue; however, this may be offset by the cost of additional Staff time to process licences.

2. That Council provide alternative direction.

- Advantages: A number of alternative options were included within the 2020-OCT-26 GPC report with an evaluation of their advantages and disadvantages.
- Disadvantages: If Council chooses to support a more permissive option, such as allowing STR operators to have STRs on multiple properties, it may negatively impact the long-term rental market, impact neighbours, and permit unfair competition for hotel owners. Alternatively, if Council supports a stricter option, such as prohibiting entire home rental in any context or not allowing STRs at all, it may limit vacation accommodation options available in the city and could result in increased enforcement costs, should STR operators continue operating illegally and the City take a more active enforcement role.

SUMMARY POINTS

- Staff have prepared amendments to the Zoning Bylaw and Off-Street Parking Regulations Bylaw to regulate short-term rental accommodation.
- If the amendment bylaws are adopted, Nanaimo residents will be permitted to rent out part or all of the home they own and live in on a short-term basis, but STR operators will continue to be prohibited from renting out multiple properties that are not their permanent/primary residence.
- All short-term rental accommodations, including bed and breakfasts, will be required to obtain a business licence and declare that they meet life-safety measures.

ATTACHMENTS:

ATTACHMENT A: Survey Response Summary, 2021-APR-07 and 2021-MAY-12
ATTACHMENT B: Renter Survey STR comments, 2021-APR-07 and 2021-MAY-12
ATTACHMENT C (Part 1/Part 2): Stakeholder Feedback Summary including Hospitality Association Response
"Zoning Amendment Bylaw 2021 No. 4500.186"
"Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.01"

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