

# Staff Report for Decision

DATE OF MEETING March 18, 2024

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SUBJECT SHORT-TERM RENTAL REVIEW

## **OVERVIEW**

### **Purpose of Report**

To provide Council with an update on the City of Nanaimo's Short-Term Rental program, the new provincial and federal short-term rental legislation, and proposed regulatory amendments.

### **Recommendation**

That Council direct Staff to review the "Business Licence Bylaw 2021 No. 7318"; the "Bylaw Notice Enforcement Bylaw 2012 No. 7159"; and, the "Zoning Bylaw 2022 No. 4500"; and present amendments to these bylaws to improve short-term rental compliance and enforcement tools, including increasing the fines from \$250 to \$500 per infraction, per day.

## **BACKGROUND**

The City of Nanaimo's short-term rental (STR) regulations were adopted by Council on 2022-FEB-07. The changes included amending the City's "Zoning Bylaw 2011 No. 4500", and "Off-Street Parking Regulations Bylaw 2018 No. 7266" in order to:

- a) Require that all STR operators obtain a business licence;
- b) Permit STR in residential, commercial, or mixed-use zones;
- c) Permit STR in all housing types (e.g. residential dwelling unit, multi-dwelling unit, secondary suite, coach house);
- d) Permit STR only in a principal residence where the operator lives at least eight months in a calendar year;
- e) Limit stays to less than 30 consecutive days;
- f) Limit the maximum number of bedrooms and guests that may be rented to:
  - a. no more than two guest rooms and four guests (inclusive of secondary suite guests rooms) in most residential zones; and,
  - b. no more than four guest rooms and six guests in commercial and multi-family zones;
- g) Require an additional off-street parking space for each short-term rental booking;
- h) Require rental tenants to obtain permission from the registered property owner to be a STR host; and,
- i) Require strata owner to obtain permission from the strata council to be a STR host.

The regulations are intended to restrict short-term rental uses of residential housing to increase the supply of residential units available for long-term rental. The regulations were informed by the *Affordable Housing Strategy*, best practice research, and input from residents and stakeholders. With the regulatory framework now in place for close to two years, the *Integrated Action Plan*

(action C3.2.6) calls on the ongoing monitoring of the short-term rental program to understand what impacts it may be having on the long-term rental supply.

### **Housing Needs Report 2023**

Based on the City's recent *Housing Needs Report* (2023), rental housing continues to be in high demand. Although the number of secured or purpose-built rental units increased by 687 between 2016 and 2021, the rental population increased by 1,665 overall. This means only 40% of new renter households were accommodated by the purpose-built rental market. This ongoing shortage of rental housing is evident by the vacancy rate of 2.6% in 2023, remaining below healthy levels since 2015. Median rents also increased by 86% over the past ten years, from \$725 (2012) to \$1,305 (2022). The shortfall in purpose-built rentals places additional pressure on the secondary rental market. The secondary market includes the type of housing that is not considered purpose-built, such as secondary suites, detached suites, rented single-detached houses, duplexes and/or rented freehold townhomes, or condos.

## **DISCUSSION**

This section focuses on an evaluation of the City's STR program, the new provincial and federal STR regulations, key findings on the status of other local government STR programs, and proposed regulatory amendments to improve the program.

### **Review of the Short-Term Rental Program**

This section details the licensing, complaints, violations, enforcement, and hospitality data as they relate to the STR program. Overall, the review has found the program to be working adequately, with areas of concerns. These include the number of unlicensed STRs, the City's capacity to regulate, and the impact on the long-term rental housing.

#### **Licensed Short-Term Rentals**

As of 2024-MAR-01, there were 291 STRs approved for a business licence in Nanaimo. The uptake in the number of licensed operators has been steady since the program was implemented on 2022-APR-01. Of the licensed STRs, 60% are within a primary residence, 35% are within a secondary suite, and 5% are within a detached suite (e.g. coach house) [see Table 1].

**Table 1 – Approved STR business licences**

Year	Approved STR within a Primary Residence	Approved STR within a Secondary Suite	Approved STR within a Detached Suite	Total Approved STR
2022 (as of April 1)	68	55	7	130
2023	88	37	5	130
2024 (as of March 1)	19	10	2	31
Total	175 (60%)	102 (35%)	14 (5%)	291

Accessing data on the number and types of STRs operating is challenging due to platforms such as Airbnb's and VRBO's reluctance to share data. Using one source, AirDNA, a STR marketing

tool, on 2024-MAR-01, there were 980 active listings within Nanaimo's city limits. As the data from AirDNA is based solely on Airbnb and VRBO listings, the data represents the lowest number of possible listings operating at any given time in Nanaimo. Other platforms, private property management websites, high season listings, or other social media advertising are not included. If we compare the number of STR listings on AirDNA, 980 units, to our internal records of 291 licensed STR's as of 2024-MAR-01, Nanaimo has an estimated compliance rate of 30%. Data from AirDNA also shows that the number of available listings increased by 24.5% from 2022 to 2023.

### Complaints, Violations, & Enforcement

There were 62 complaints connected to STRs since the inception of the program. Of those, 67% were for unlicensed STRs and 2% for too many rooms and guests. Less than 1% of calls were concerning parking and noise. Two violation tickets were issued to the same STR business, one for operating without a business licence, and one for failing to comply with licence terms and conditions (e.g. renting too many guestrooms).

### Hospitality Data

Data from the Nanaimo Hospitality Association (NHA) shows average occupancy rates for hotels and motels in Nanaimo have remained below 70% since 2020. The average occupancy rate in 2023 was 68.5% and 65.8% in 2022, a change of 2.7%. There does not appear to be a significant change in occupancy rates since the STR program was enacted. The NHA is working on gathering additional data to fully understand the impacts STRs may be having on the hospitality sector.

## **Provincial & Federal Short-Term Rental Legislation**

This section provides an overview of the new provincial and federal legislation governing STRs.

### Provincial Legislation | Bill 35 – Short-Term Rental Accommodation Act

The provincial government has introduced legislation to restrict STRs and help municipalities further regulate STRs to improve housing supply and affordability across BC. The new Short-Term Rental Accommodation Act, Bill 35, adopted in October 2023, provides stronger tools to help increase compliance within the City of Nanaimo. The changes, which will be brought through a phased-in approach, include:

Effective as of 2023-OCT-26 |

- **Increased Fines and Tickets:** Municipal ticketing fine maximum increased to \$3,000 (from \$1,000) per infraction, per day, in accordance with the *Community Charter Bylaw Enforcement Ticket Regulation*.

*Staff Comment: The City typically issues fines under the Local Government Bylaw Notice Enforcement Act. Under the Act, the maximum fine is \$500 and remains unchanged. Currently, the maximum fine for operating without a business licence is \$250. Staff have the option of using the Enforcement Ticket Regulation for ticketing if it is appropriate to seek penalties greater than \$500. However, this comes at a substantially greater expense to prosecute in Provincial Court and at a greater burden of proof to obtain a conviction. To align with the maximum fine currently permitted per the Bylaw Notice Enforcement Act, Staff are recommending that the Business Licence*

*Bylaw, the Bylaw Notice Enforcement Bylaw, the Zoning Bylaw and the Off-Street Parking Regulation Bylaw be amended to increase the fine to \$500 per infraction, per day along with other minor amendments to improve clarity for bylaw enforcement purposes. Often the strength of bylaw enforcement lies with clear bylaw wording.*

Effective 2024-MAY-01 |

- Definition of Short-Term Rental: The Provincial definition includes the service of accommodation for less than 90 consecutive days or another prescribed period, if any.

*Staff Comment: The City of Nanaimo defines STRs as less than 30 consecutive days. The STR Accommodations Act does not prevent local governments from continuing to enforce the stricter time frame of 30 consecutive days.*

- Provincial Principal Residence Requirements: STRs will be limited to the host's principal residence and either a secondary suite or accessory dwelling units (i.e. coach house). Principal residency requirement will be enforced at the provincial level. Hotels, motels, RVs, tents, or other temporary shelters are exempt from the *Short-Term Rental Accommodations Act*. Strata hotels or motels, timeshares, home exchanges, lodges, guest suites in stratas, and formal student accommodations are exempt from the principal residence requirement.

*Staff Comment: The provincial principal residence requirement is intended to be a "floor" or minimum standard for regulating STRs. The City of Nanaimo's regulations are more restrictive, by only permitting one STR either within the primary dwelling, secondary suite, or coach house. It is the local government's responsibility to enforce bylaws that are more restrictive than the Act.*

- Business Licence & Display Requirement: STR hosts must display a valid City of Nanaimo business licence number on their listing. STR platforms will be required to enable the posting of the business licence number.

*Staff Comment: Obtaining a business licence is already a requirement. Displaying the business licence number on the listing will be a new requirement and is expected to improve compliance rates and address the concerns of unlicensed STRs.*

- End of Legal Non-Conforming Use for Short-Term Rentals: Non-conforming use of a property under section 528 of the *Local Government Act* will not longer apply to STRs.

*Staff Comment: This is consistent with the City of Nanaimo's approach. No change to City practice required.*

Spring 2024

- Provincial Compliance & Enforcement: The Province is introducing a provincial STR compliance and enforcement unit within the Ministry of Housing to support implementation of the new legislation. The unit will comprise various teams, including those that will act as a conduit between the platforms and local governments for data-sharing, facilitate the removal of short-term rental listings that do not have valid local government business licence from platforms, host the upcoming STR registry, and undertake enforcement actions related to the provincial STR regulatory regime. Future

regulations are expected to be introduced to provide added support for local government regulations.

*Staff Comment: Local governments will continue to be responsible for enforcing their bylaws, while the provincial compliance unit will be responsible for enforcing the provincial STR Accommodations Act. The provincial unit is intended to complement local government's bylaw enforcement and become a key provincial contact for local governments on STR regulation.*

#### Summer 2024

- **Data Sharing:** The Province will be launching a new data sharing system, requiring platforms to submit STR data to the Province. The system will receive STR listing data directly from platforms and then share it with local governments. Data sharing is expected to include information such as names, addresses, and booking information, along with other host information.

*Staff comment: Staff have had several meetings with provincial staff on the functionality and process by which the data sharing platform will be employed. As accessing reliable data on STRs has been a challenge for the City, the new data sharing system will be beneficial.*

#### Late 2024/Early 2025

- **Provincial Registry:** The Province will establish a STR registry and make it mandatory for short-term rental hosts and platforms to register with the Province. The registry will help ensure that all hosts and platforms are following the regulations. Hosts will also be required to display a provincial registry number on their listing and platforms will need to validate those numbers against the Province's registry data.

*Staff Comment: Further information on how local government business licensing and the provincial registration requirement will work in unison will be communicated by the Province by fall 2024.*

- **Platform accountability:** As of mid-2025, hosting platforms like Airbnb will be accountable for removing listings that are not compliant with provincial and municipal regulations.

The timelines and changes are summarized in Attachment A. Local governments are obligated to align municipal processes with provincial legislation and not grant zoning (or other permission) to STR hosts where inconsistent with the provincial legislation.

#### Federal Legislation

Effective 2024-JAN-01, STRs not abiding by provincial and municipal STR regulations will no longer be able to claim their rental expenses against the income they generate.

#### **Jurisdictional Review of STR Programs**

Staff reviewed the approach of seven other BC municipalities regulating STRs, including, New Westminster, District of North Vancouver, Victoria, Burnaby, Kelowna, and Tofino (see Attachment B). Similar to the jurisdictional review conducted in 2020, there continues to be a spectrum of regulatory approaches used. New Westminster and the District of North Vancouver

have maintained bed and breakfasts as a permitted use and not enacted any STR regulations. Whereas jurisdictions like Burnaby, Victoria, and Tofino continue to permit STRs, but with varying degrees of restrictions. Of note, are the restrictions on the types of residences STRs are permitted (see Attachment C). Burnaby and Victoria have opted to prohibit STRs in secondary suites and detaches suites, whereas Tofino prohibits STRs in duplexes and multi-family dwellings. Kelowna on the other hand has opted to amend their existing STR regulations and begin prohibiting all new STRs as of 2024-JAN-22. Only existing STRs with a valid business licence that meet the provincial principal residency requirements will be grandfathered. One commonality to these restrictions is the need to protect existing long-term rental housing.

All other restrictions imposed by local government including business licensing, principal residency, maximum number of guests, rooms, consecutive stays, and parking generally align with Nanaimo's regulatory program. There is one notable exception, which are fines for STR infractions. Jurisdictions that use the same ticketing system set a maximum fine of \$500 per infraction per day, compared to Nanaimo's \$250 fine per infraction per day.

### **Proposed Regulatory Amendment**

In light of the new provincial rules, Staff have reviewed the City's STR program to determine whether any updates may be warranted. As outlined above, Staff have concerns about the potential impacts of the STR program. However, until such time as accurate data is available to understand the scope of STRs in Nanaimo and Staff have the tools and resources to achieve compliance, Staff recommend increasing the fines for infractions and monitoring what impacts the new provincial and federal STR regulations have on Nanaimo's STR program. Increasing the fines is recommended to improve enforcement action where warranted and align with the provincial regulatory rollout. The increased fine would be exclusively imposed for a STR operating without a valid business licence, as well as violating the conditions of the STR business licence. In addition, Staff recommend that minor bylaw amendments be considered to the Business Licence Bylaw, the Bylaw Notice Enforcement Bylaw and the Zoning Bylaw to facilitate the higher fines and to expand the ability to ticket for violating the conditions of the STR business licence. Staff can present these bylaw amendments at a future meeting. Continuing to monitor the STR program will provide Staff time to apply the new tools and report back to Council within a year with a status update.

### **Future Considerations**

Enforcement and regulatory amendments that the City may wish to consider in the future includes more proactively seeking compliance of STRs currently operating without a business licence and further restricting the types of housing units STRs are permitted, such as secondary suites and detached suites. Proactively seeking compliance will address STRs operating in contravention of the STR regulations and increase revenues generated from business licensing that can be directed to enforcement efforts. Staff have been successful in bringing a number of unlicensed operators into compliance through a complaints-based approach. However, additional staffing resources and data from the Province will be necessary for a proactive enforcement approach.

Restricting the types of housing units STRs are permitted would help address concerns of STRs eroding the long-term housing rental stock, notably the secondary rental market. As outlined in Table 1, 40% of licensed STRs were located within secondary suites and detached suites. There is a concern about the impacts this may be having on the availability of rental housing, but limited data is available at this time to support this. Unlike the purpose-built rental housing, units in the

secondary rental market tend to be more easily transferred to STRs or taken out of the rental pool entirely. Once the effect of the provincial enforcement program is fully realized, a future consideration may be to explore these two options.

### **Communication Strategy**

To support the public's understanding of the provincial regulatory roll out, staff recommend the following communication strategy which includes both digital and print tools:

#### **Digital Tools:**

1. Website: Updating the City's STR webpage to include an overview and links to the provincial STR regulation roll out (Completed 2024-MAR-01.)
2. E-Notifications: Notifying the general public via My Nanaimo This Week, Chamber of Commerce, Canadian Home Builders Association – Vancouver Island, Nanaimo Hospitality Association, and Tourism Nanaimo.
3. Press Releases: Preparing press releases outlining any changes proposed to the STR program.
4. Social Media: Utilizing the various social media platforms and cross-promotion opportunities.

#### **Print Tools:**

1. Handout: Creating a handout that directs the general public to the City's STR webpage.
2. Operator's Guide: Updating the operator's guide to align with the provincial regulations.

### **OPTIONS**

1. That Council direct Staff to review the "Business Licence Bylaw 2021 No. 7318"; the "Bylaw Notice Enforcement Bylaw 2012 No. 7159"; and, the "Zoning Bylaw 2022 No. 4500"; and present amendments to these bylaws to improve short-term rental compliance and enforcement tools, including increasing the fines from \$250 to \$500 per infraction, per day.
  - Advantages: This option would improve the ability to take enforcement action where warranted and align with the provincial regulatory rollout, while maintaining the existing framework.
  - Disadvantages: Impacts on the secondary rental market, as 40% of licensed STRs were located within secondary suites and detached suites
  - Financial Implications: The increase fine will generate additional revenue to aid with compliance and enforcement.
2. That Council provide alternate direction to Staff. |

### **SUMMARY POINTS**

- As of 2024-MAR-01, there were 291 STRs approved for a business licence in Nanaimo. Of the 291 licensed STRs, 60% are within a primary residence, 35% are within a secondary suite, and 5% are within a detached suite (e.g. coach house).
- Nanaimo's short-term rental program is working adequately, with areas of concern, including the number of unlicensed short-term rentals, the City's capacity to enforce, and the impacts on the rental housing market.
- The new provincial and the federal short-term rental legislative is anticipated to assist local governments with monitoring, compliance, and enforcement.

### **ATTACHMENTS:**

ATTACHMENT A – Provincial Short-Term Rental Accommodation Act Timeline

ATTACHMENT B – Jurisdictional Review of Short-Term Rental Regulations

ATTACHMENT C – Short-Term Rental Regulatory Approach to Housing Types |

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