



Committee of the Whole Report For the Meeting of July 11, 2024

To: Committee of the Whole **Date:** July 3, 2024
From: Karen Hoese, Director, Sustainable Planning and Community Development
Mark Fay, Manager, Bylaw and Licensing, Bylaw Services
Subject: Waiving a Public Hearing for Short-Term Rental Zoning Amendments

RECOMMENDATION

1. That, pursuant to section 30 of the *Land Use Procedure Bylaw*, Council waives the requirement for the holding of a public hearing with respect of zoning amendments related to short-term rental regulations.
2. That, after the publication of notifications in accordance with section 467 of the *Local Government Act*, first, second, and third readings and adoption of zoning amendments related to short-term rental regulations be considered by Council.
3. That this matter be advanced for ratification at the July 11, 2024, daytime Council meeting.

EXECUTIVE SUMMARY

Last August, Council directed preparation of various bylaw amendments to better regulate short-term rentals. These bylaws will be brought forward for Council's consideration shortly. Under the *Local Government Act*, holding of public hearings is no longer required for zoning amendments that are consistent with the Official Community Plan. However, the City's *Land Use Procedure Bylaw* continues to require public hearings unless Council waives that requirement.

Dispensing with public hearings does not deprive the public of an opportunity to comment on proposed amendments. Notices of the proposed amendments must still be published and ample time is provided for any interested persons to submit comments in writing prior to the first reading of the bylaw. Written submissions provide a greater opportunity for careful and comprehensive commentary than brief oral submissions at the public hearing.

Last month, Council directed staff to withhold building permits and business licences for proposed changes to modify existing short-term rental operations into hotels. These applications were exploiting ambiguities in existing City bylaws. Adoption of changes to the City's short-term rental regulations will provide clarity and certainty regarding the rules applicable to short-term rentals and similar uses. Therefore, it is recommended that Council waive the requirement for a public hearing and, instead, direct publication of notices in accordance with the *Local Government Act* prior to consideration of the introduction and adoption of the proposed short-term rental zoning changes.

PURPOSE

The purpose of this report is to update Council on the status of zoning amendments related to short-term rental regulations and seek Council's directions to waive public hearing for these amendments.

BACKGROUND

The City regulates short-term rentals through its zoning regulations, as well as through the *Short-Term Rental Regulation Bylaw*, a bylaw adopted pursuant to the City's business regulation authority.

On August 3, 2023, Council directed staff to prepare a number of bylaw amendments to better regulate short-term rentals in light of experiences gained since 2018. The proposed amendments involve various changes to the *Zoning Regulation Bylaw*, the *Zoning Bylaw 2018*, and the *Short-Term Rental Regulation Bylaw*.

Last month, the City received applications for building permits to convert short-term rental operations into "hotels". The applications were exploiting the very ambiguities that Council had directed staff to eliminate through bylaw changes. The work on these amendments has been ongoing but it was interrupted due to the introduction of the provincial legislation, *Short-Term Rental Accommodations Act*, and subsequent regulations, as well as other work commitments.

On June 27, 2024, Council directed staff to withhold for 90 days building permits and business licences for the proposed developments that were inconsistent with the bylaws under preparation. This work has been reprioritized to meet the 90-day deadline and is now nearly complete and the amendment bylaws will be brought forward for Council's consideration shortly.

Although the various bylaw amendments are all related to short-term rental regulation and are intended to work together, they are subject to different procedural requirements and, therefore, have to be treated separately. Zoning bylaws are authorized under the *Local Government Act*, while business regulations rely on the authority of the *Community Charter*.

ISSUES & ANALYSIS

There are no policy issues for Council to consider at this time as Council has already provided policy directions related to requested amendments last August. The sole issue to be considered at this time relates to the process for the introduction and adoption of the zoning amendments related to short-term rentals.

Public hearings are the traditional form of engagement related to land use bylaws. Until recently, they were mandatory prior to adoption of a zoning bylaw or a zoning amendment. Recent amendments to the *Local Government Act*, have eliminated the need for public hearings for zoning changes that are consistent with the Official Community Plan. However, the City's *Land Use Procedure Bylaw* still requires Council to formally waive a public hearing prior to consideration of a zoning amendment. Publication of multiple notices prior to the first reading of a zoning amendment bylaw is still required, which means that a decision to waive public hearing is required at least three weeks before the bylaw can be introduced.

Waiving the public hearing does not deprive the public of an opportunity to comment on the proposed amendments. The proposed amendments have to be formally advertised through notices in local newspapers and the public has ample opportunity to provide written submissions for Council's consideration prior to the first reading of the bylaw. Written submissions offer greater

opportunity for thoughtful and comprehensive comments than brief oral presentations during a public hearing. The notice period is the same as when a public hearing is required, and the public has the same amount of time to provide their comments on the bylaws.

Under the *Community Charter*, prior to adoption of a new business regulation bylaw, or amendment to existing business regulation bylaw, Council must give persons it considers to be affected an opportunity to make representations to Council. A report setting out proposed amendments and recommending appropriate opportunity for affected persons to make representations to Council will be brought for Council's consideration shortly.

OPTIONS & IMPACTS

Option 1: Waive the requirement for a public hearing (recommended)

The proposed zoning amendments do not require a public hearing under the *Local Government Act* because they are all consistent with the Official Community Plan. The only reason Council direction is required is that the City's *Land Use Procedure Bylaw* continues to require a public hearing unless Council decides to waive this requirement.

As noted above, dispensing with a public hearing does not affect the public's ability to comment on the bylaw through written submissions all of which will be provided directly to Council prior to consideration of the proposed bylaws. Therefore, it is recommended that Council waive the holding of the public hearing.

Option 2: Hold the public hearing (not recommended)

Council can direct that a public hearing be held on the proposed zoning amendments. This would add a procedural step and potentially delay adoption of the proposed amendments, which would increase the uncertainty regarding short-term rental regulations in Victoria. At the same time, it would not significantly increase opportunities for meaningful input into Council's decision-making as written submissions are generally more comprehensive than brief oral remarks. Therefore, this option is not recommended.

CONCLUSIONS

Pursuant to Council's direction, bylaws amending the City's regulations related to short-term rentals will shortly be brought forward for Council's consideration. Dispensing with the requirement for a public hearing for the zoning amendments is consistent with the recent amendments to the *Local Government Act*. Notices of the proposed amendments will still be published and the public will have an opportunity to comment on the proposed amendments through written submissions. Therefore, it is recommended that Council waive the requirement, under the *Land Use Procedure Bylaw*, for the holding of a public hearing.

Respectfully submitted,

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Report accepted and recommended by the City Manager