

REPORTS OF COMMITTEES

2. Committee of the Whole – September 21, 2017

11. Short Term Rental Business Regulations and Enforcement Strategy

Motion:

It was moved by Councillor Isitt, seconded by Councillor Young, that Council:

1. Approve the proposed short term rental regulatory framework, as described in this report, which allows short-term rentals in principal residences, subject to a business licence and compliance with operating requirements;
2. Direct staff to engage stakeholders on the proposed business regulations, and report back to Council in Q 4 of 2017 with the bylaws required to enact these regulations; and,
3. Direct staff to report back to Council in Q 1 of 2018 with an implementation plan, including schedule, resourcing proposal, and impacts to the financial plan.

Carried Unanimously

7. STAFF REPORTS

7.4 Short Term Rental Business Regulations and Enforcement Strategy

Committee received a report dated September 19, 2017, from the City Clerk regarding a proposed regulatory framework for short term rentals in the City of Victoria, including business regulations and an enforcement strategy.

Committee discussed:

- Consideration of requiring a hotel tax for all short term rentals.

Motion: It was moved by Councillor Isitt, seconded by Councillor Loveday, that Council:

1. Approve the proposed short term rental regulatory framework, as described in this report, which allows short-term rentals in principal residences, subject to a business licence and compliance with operating requirements;
2. Direct staff to engage stakeholders on the proposed business regulations, and report back to Council in Q 4 of 2017 with the bylaws required to enact these regulations; and,
3. Direct staff to report back to Council in Q 1 of 2018 with an implementation plan, including schedule, resourcing proposal, and impacts to the financial plan.

Committee discussed:

- Increasing housing stock for residents and ensuring minimal impacts to neighbourhoods.

CARRIED UNANIMOUSLY 17/COTW



**Committee of the Whole Report
For the Meeting of September 21, 2017**

To: Committee of the Whole

Date: September 19, 2017

From: Chris Coates, City Clerk

Subject: Proposed Short Term Rental Regulatory Framework

RECOMMENDATIONS

That Council:

1. Approve the proposed short term rental regulatory framework, as described in this report, which allows short-term rentals in principal residences, subject to a business licence and compliance with operating requirements;
2. Direct staff to engage stakeholders on the proposed business regulations, and report back to Council in Q 4 of 2017 with the bylaws required to enact these regulations; and,
3. Direct staff to report back to Council in Q 1 of 2018 with an implementation plan, including schedule, resourcing proposal, and impacts to the financial plan.

EXECUTIVE SUMMARY

Short Term Rentals (STR), defined as stays of less than 30 days, are occurring across the City of Victoria, despite being permitted in only two instances: multi-unit residential buildings zoned for transient accommodation and in up to two bedrooms in an occupied single family dwelling.

Over the last year, Council has directed staff to proceed with four main strategies to manage short term rentals, including the development of comprehensive business regulations, a proactive enforcement strategy, advocating for fair taxation, and zoning amendments. This report describes proposed business regulations for short term rentals, as well as outlines an enforcement strategy.

In summary, the proposed business regulations are:

1. Permit STR use in all principal residences (i.e. the place where an individual usually lives and conducts their daily affairs). This includes owners and renters.
2. Require STR operators to obtain a business licence
3. Require STR operators to comply with operating requirements

The enforcement strategy involves engaging a third party monitoring service to proactively identify short term rental addresses and identify non-compliant operators. New City staff, both temporary and permanent, would be hired to oversee the program, process new business licence applications and pursue punitive action on all non-compliant operators such as fines, licence revocation, and court action.

Should Council approve the proposed regulatory framework, staff will engage with stakeholders, including neighbourhood, tourism and housing associations as well as outreach to short term rental operators and host platforms to refine the proposed business regulations and report back to Council in Q 4 of 2017 with the bylaws needed to enact the regulations. Following bylaw adoption, staff will prepare an implementation plan, including financial implications, and schedule for Council approval in Q 1 of 2018.

PURPOSE

The purpose of this report is to provide Council with a proposed regulatory framework for short term rentals in the City of Victoria, including business regulations and an enforcement strategy.

BACKGROUND

Short term rentals are defined as the renting of a dwelling, or any portion of it, for a period of less than 30 days. This can include an entire dwelling (i.e. condo or house) or a room (shared or private), within an occupied dwelling. Over the last decade, online platforms such as Airbnb have developed profitable marketplaces that connect people looking for this type of short term accommodation with people who want to rent their homes.

Short Term Rental in Victoria

In Victoria, there are:

- Close to 1,500 unique listings, which include entire units, private and shared rooms
- A concentration of short term rentals in the downtown core and in adjacent neighbourhoods
- Numerous multiple listing hosts (commercial operators)
- A prevalence of entire units for rent (as opposed to private or shared rooms)

Existing Permitted STR

In Victoria, short term rentals are currently permitted to operate in two instances:

1. Multi-unit residential buildings zoned for transient accommodation, which allow for the commercial use of residential units as short term rentals in some areas of the City; and,
2. Up to two bedrooms in an occupied single family dwelling, as a home occupation.

Council is currently considering amending the zoning bylaw to remove transient accommodation as a permitted use. If approved, these units will be affected in that their underlying zoning will change, but their right to operate a STR will continue due to non-conforming use provisions of the Local Government Act.

Despite existing regulations, short term rentals are occurring in various forms throughout the City.

STR Impacts

The rapid growth of short term rentals in many communities has led to both positive and negative impacts. For travellers, STRs are often cheaper, more amenity-rich, personalized, and localized than traditional hotels. For residents, the ability to easily and relatively safely commodify an existing asset (a home) can be a means of income supplementation. Negative impacts meanwhile can include a decrease in the availability of long-term rental housing when a short term rental is used as a commercial enterprise, public safety and nuisance concerns, and unfair advantages over traditional accommodation providers such as lack of regulation and taxation. The City's role in regulating STR is to balance these competing objectives.

Previous Council Direction

Council direction has focused on four main strategies to manage short term rentals: the development of comprehensive business regulations, a proactive enforcement strategy, advocating for fair taxation, and zoning amendments. This report responds to the following Council motions:

Table 1. Previous Council Motions

Date	Direction
March 9, 2017	<ul style="list-style-type: none">• Report back to Council on options for permitting and enforcing limited use of residential properties (in multi-unit and single family dwellings, in all neighbourhoods in the city) by the occupants (owners or renters) for a limited number of maximum days in each calendar year for the commercial purpose of providing short-term vacation rentals• Permitted: 1-2 bedrooms in occupied dwellings, including a house or condo for STR• Prohibited: entire secondary suites, including basement suites and garden suites for use as STR
June 22, 2017	<ul style="list-style-type: none">• Bring forward a comprehensive scheme of business regulations for existing and future STR, including business licencing, fees and rules of operation• Report back with a short term rental enforcement strategy
July 13, 2017	<ul style="list-style-type: none">• Council referred a report to staff containing supplementary material to be considered in the regulatory and business licencing framework for STR.

A compilation of all Council Motions related to short term rentals is attached as Appendix A. Staff also developed an analysis and evaluation of proposed Council requirements to consider when developing short term rental business regulations, attached as Appendix B, based on the above July 13, 2017 Council Motion.

An additional staff report brought forward to Council on September 7, 2017, attached as Appendix C, addresses a subsequent motion related to STR: transient accommodation zoning changes. A public hearing on the proposed zoning changes is scheduled for September 21, 2017.

Emerging Best Practice in Regulating Short Term Rentals

There is no 'one size fits all' regulatory approach for short term rentals, as each jurisdiction is solving problems unique to their community. However, based on interviews with municipal staff, including in Tofino, Kelowna, Vancouver, Toronto and Bend, Oregon as well as industry experts across North America, coupled with additional desktop research and analysis, some best practice has emerged:

1. **Say yes to STR** - STR bans have proven ineffective in stemming STR growth
2. **Keep it simple** – simple, straightforward regulatory requirements achieve higher levels of voluntary compliance
3. **Point of non-compliance** – is best achieved through business licence verification, not on whether a unit or room has been rented
4. **Avoid relying on host platforms for help regulating STR** – municipalities and host platforms often have competing objectives
5. **Utilize technology** – third party monitoring firms have sophisticated tools to verify compliance efficiently and effectively

6. **Communicate widely** – proactive and widespread communication of regulations can generate high rates of voluntary compliance
7. **Be adaptable** - the rapid growth and fluid nature of the industry means that best practices will evolve over time and policy approaches may need to change

Common Regulatory Tools

Stemming from these best practices, some common regulatory tools to manage STR are being implemented across North American municipalities, including:

1. **Principal Residence** – STR is only permitted in the *usual place that a person makes their home*
2. **Night Caps** – establishes a maximum number of days that a unit can be rented per calendar year
3. **Business Licence** – a special business licence or permit is required prior to operating an STR
4. **Safety Provisions** – can include enhanced fire safety, a maximum number of occupants, compliance with building codes
5. **Nuisance Provisions** – can include parking restrictions, liability insurance and host contact information
6. **Taxation** – can include provincial sales tax, municipal and regional tax, lodging tax, and others. *Note: the City of Victoria does not have sales tax authority.*

The usage and specifics of each of these regulatory tools is dependent on individual jurisdictions and the specific problems or policy objectives they are trying to solve, as well as their legislative authority.

ISSUES & ANALYSIS

Research, comparative analysis and previous Council direction have informed the following recommendations, which seek to enable some forms of STR, while mitigating negative impacts.

The basis of the proposed regulations is to allow individuals to rent out their homes in ways that do not materially impact the long-term rental housing market, subject to obtaining a business licence and adhering to operating requirements.

In summary, the proposed regulations are:

1. Permit STR use in all principal residences (i.e. the place where an individual usually lives and conducts their daily affairs). This includes both owners and renters.
2. Require STR operators to obtain a business licence
3. Require STR operators to comply with operating requirements

Investment properties, commercial operations, and housing including apartments, secondary and garden suites that are not principally occupied by a long-term resident would all be prohibited from STR use to ensure the greatest retention of long-term rental stock for residents.

As previously noted, there will remain some exceptions to the principal resident requirement due to transient zoning or non-conforming use provisions of the Local Government Act in areas previously zoned for transient accommodation.¹

¹Non-conforming use provisions of the Local Government Act is dependent on approval of forthcoming proposed amendments to the *Zoning Regulation Bylaw* as outlined in Appendix C. Should these bylaw amendments not be approved, areas zoned for transient accommodation will continue to permit full-time commercial STR use. In either case, some full-time STR use will continue in Victoria due to existing zoning.

Principal Residence vs. Night Caps

The following section responds to the March 9, 2017 Council Motion to report back with options for permitting occasional use of residential properties (all dwelling types) as short term rentals.

Staff recommend that the principal residence requirement be used instead of a maximum number of days, or a 'night cap' requirement. Both of these regulatory tools serve the same purpose: to limit the number of days that a unit can be rented. However, there are more benefits to the principal residence approach.

Principal residence is defined as the *usual place that a person makes their home*. A principal residence is where an individual lives and conducts their daily affairs like paying bills and receiving mail and is generally the residence used in government records (e.g. income tax, medical services plan, driver's licence and vehicle registration). In contrast, night caps require a municipality to set a maximum number of days (e.g. 60) that a unit can be rented.

Between the two, principal residence is substantially easier to enforce. Under the principal residence requirement, business licences will not be granted to operators unless they can prove that the place they wish to rent is the place they normally reside. Enforcing a night cap requirement meanwhile is reliant on cooperation from platforms such as Airbnb to provide an accurate report of the number of nights the unit is rented.

As platforms and municipalities often have competing objectives – the former to protect their users (operators) and maximize business and profits, and the latter to regulate and limit STR to mitigate negative impacts – transparent data exchange can prove difficult if not impossible. In other jurisdictions where a platform is in disagreement with a municipality, legal proceedings have resulted, and have been complex and drawn out, leading to significant time and expense on the part of the municipality as well as delays in enforcement and the continued proliferation of STR in the meantime.

Enforcing a night cap without platform cooperation is extremely challenging and requires significant municipal resources, as ascertaining the number of booked nights for each listing requires extensive data analysis, tracking, and observation, each of which is limited in its ability to be accurate to the degree that a municipality can clearly ascertain when an operator has gone a day over their limit. The burden on operators who want to cooperate is also high, as the operator would need to keep comprehensive records, tallying nights spent, and commit to producing regular reports to the City, and what has been seen in other jurisdictions is that compliance drops steeply the more complex the regulations become.

While the principal residence requirement does not guarantee that unpermitted STR will not occur, it is expected that this will be the exception rather than the rule due to registration requirements, active monitoring and auditing of listings for adherence to regulations, and high fine structure for non-compliance. Further, the simplicity and enforceability of the principal residence requirement over night caps ensures that more operators are likely to voluntarily comply with regulations and the City will more easily be able to enforce the regulations.

Business Licencing

The proposed regulations establish a new type of business licence for short term rental operators. The registration process has been kept intentionally as simple as possible as it has been repeatedly demonstrated that jurisdictions with simple registration processes see the highest compliance rates.

In order to obtain a licence, operators will have to:

1. Submit an application form, including all mandatory documentation
2. Pay a fee, ranging from \$200-\$2,500, depending on the type of STR
3. Agree to comply with operating requirements

Application Form

When submitting an application form to operate an STR, individuals will need to include the following mandatory documentation:

1. Two items proving principal residence, one of which must include government issued photo ID. Examples include a recent utility bill, drivers licence, Medical Services Plan or Canada Revenue Agency mail.
2. If a renter, a letter from the owner permitting STR use
3. If in a strata, a letter from the Strata council permitting STR use

Applicants will also be advised at the time of licencing that all STR operators will be subject to verification and audit.

Supplementary Material

As part of receiving a business licence, operators will be provided with the following supplementary material:

- A user-friendly guide and FAQ for operators on the new business regulations
- City of Victoria Home Fire Safety Checklist, which provides helpful tips on how to protect homes from a fire and how to prepare for emergencies
- Guest Guidelines, which will include information on relevant city bylaws (e.g. quiet hours), guest parking, recycling schedules and host contact information
- A neighbour notification template, which will allow hosts to share details on their short-term rental as well as their contact information with neighbours, if they choose.

Fees

Staff recommend a two-tiered fee schedule that is applied by type of STR and ranges from \$200-\$2500 annually. The lowest fees will apply to operators who occasionally list their entire unit (e.g. while on vacation) or rent a shared room or private room while they are present (home occupation). The highest fees will apply to entire units that are able to operate year-round and are not the principal residence of the operator (either due to non-conforming use provisions of the Local Government Act or as transient accommodation, depending on zoning bylaw changes scheduled for September 21, 2017).

Table 2. Proposed Business Licence Fees

STR Type	Example	Annual Business Licence Fee
Home share	<ul style="list-style-type: none">• Entire unit while principal resident is away (e.g. vacation)• Shared room (i.e. couch) while principal resident is present (home occupation)• Private room while principal resident is present (home occupation)	\$200
Commercial	<ul style="list-style-type: none">• Entire unit with non-conforming use provisions of the Local Government Act or an entire unit zoned for transient accommodation	\$2,500

Proposed fees for home sharing are in line with other municipalities but are substantially higher for commercial operators. Staff recommend the proposed fee structure to:

- recover the costs of reviewing and issuing licence applications and renewals
- 'level the playing field' between STR operators and traditional accommodation providers, especially as changes to provincial sales tax legislation are expected to take time
- ensure that commercial operators pay a fee commensurate with revenue generated, (especially important in Victoria, which is unique amongst municipalities for transient accommodation considerations in zoning bylaws)
- discourage casual operators who are unwilling to pay to operate

Operating Requirements

Jurisdictions with complicated operating requirements do not see fewer STRs, but rather lower compliance with regulations and more illegal operations. Therefore staff recommend operating requirements be kept to a minimum in order to achieve a "critical mass" of compliance with new regulations.

Operators will be required to display their business licence number in all advertisements for the STR listing, either in a specific field created by the platform or in the unit description. In addition, all operators will have to adhere to City bylaws, including the Noise bylaw and Nuisance bylaw.

Communications and Engagement

Council did not direct staff to undertake a formal engagement process on short term rentals prior to developing the proposed regulations. However, Section 59 of the Community Charter states that before adopting a business regulation bylaw, persons affected by this bylaw must be given an opportunity to provide feedback. Therefore, feedback will be sought on the proposed registration process, licence fees and operating requirements.

Staff recommend providing both online and an in-person opportunity for feedback on the business regulations. Through the fall of 2017, stakeholders will be informed of the proposed business regulations through email, social media and the City's website. Stakeholders can also provide feedback at an open house and by email, prior to returning to Council with the business regulation bylaws for adoption.

Enforcement Strategy

In a Closed Council meeting on September 14, 2017, Council approved a short term rental enforcement strategy which includes two phases; (1) identification and compliance monitoring and (2) enforcement action. A third party monitoring service will be retained to complete Phase 1. This will include identifying addresses of online listings, monitoring the listings (e.g. determining type of unit listed, frequency of booking) and assessing if a listing is non-compliant (e.g. operating without a business licence). New staff will also be hired (two temporary administrative positions as well as a permanent bylaw officer position), to oversee the program, process new applications, administer fines and address ongoing enforcement where necessary.

The enforcement strategy anticipates that the cost of enforcement will total approximately \$512,000, which includes the cost of third-party monitoring, the three additional staff, a legal contingency fund, and communication costs to widely broadcast the new rules, regulations, and consequences of non-compliance. These expenses would likely decrease as the number of STRs are reduced, and the implementation plan will identify reporting mechanisms to appraise Council of changes in funding required following implementation. The enforcement approach also analysed possible cost-recovery mechanisms and noted that fee and fine collection could at least partly cover these expenses. However, it is recommended that Council direct staff to also include potential financial implications with the implementation plan to determine the level to which this work will impact future financial plans.

OPTIONS AND IMPACTS

Option 1 (Recommended): Approve the proposed short term rental regulatory framework.

Option 2: Council may identify further amendments or considerations to be included in the short term rental regulatory framework. It should be noted that any significant changes to this framework would delay implementation.

Accessibility Impact Statement

There are no impacts on accessibility associated with the recommendations contained in this report.

2015 - 2018 Strategic Plan

This work is identified as a key priority in the Strategic Plan under Objective 6: Make Victoria More Affordable 2017 Actions: Strengthen policy and regulations related to Short Term Rentals.

Impacts to Financial Plan

No funding has been allocated in the current Financial Plan for this work. However, the proposed business licence fees have been developed to offset some of the increased costs of these new regulations, including additional staff resources. The licence fees and degree of cost recovery will require ongoing monitoring.

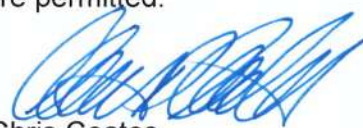
Official Community Plan Consistency Statement


The recommended approach aligns with the directions in the Official Community Plan of "Land Management and Development" and "Housing and Homelessness."

CONCLUSIONS

The preceding report outlines an evidence-based, straightforward set of regulations that, combined with proactive enforcement of these regulations, will assist Victoria in achieving its policy objectives of allowing some STR in ways that do not negatively affect long-term rental housing stock and with provisions that limit their negative impacts where permitted.


Shannon Jamison
Legislative Planning Analyst



Chris Coates
City Clerk


Lindsay Milburn
Senior Planner - Housing Policy
Community Planning


For
Jonathan Tinney
Director
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager:

Date:


Sept. 19, 2017

List of Attachments

Appendix A: Short Term Rental Council Motions
Appendix B: Evaluation and Analysis of July 13, 2017 Council Motion
Appendix C: September 7, 2017 Zoning Bylaw Amendments Council Report

REPORTS OF COMMITTEES

2. Committee of the Whole – July 13, 2017

6. Supplementary Material on Short-Term Rental Regulatory Framework

Motion:

It was moved by Councillor Isitt, seconded by Councillor Coleman, that Council refer this report and the attachments to staff, and request that the following provisions be considered for inclusion in the City of Victoria's regulatory and business licensing framework for Short-Term Rentals:

- One host = One listing;
- Proof of the host's identity and municipal address;
- Proof of a current police background check;
- Proof that the property is the host's principal/primary residence;
- Proof that the listed space is in a habitable room in the principal/primary residence;
- Proof that the host has sufficient insurance coverage;
- Proof that mortgage terms are not violated, if an owner;
- Proof that short-term rentals are consistent with the use of the strata lot in the host's land titles declaration, if a strata resident;
- Proof that the host's strata council rules permit short-term rentals, if a condominium resident;
- Proof that the listing does not violate existing zoning by-laws, building codes, fire codes and health and safety standards;
- Submission of site and floor plans accurately depicting the size and location of the existing dwelling;
- Submission of the number and location of the designated off and on-street parking spaces and the number of vehicles allowed for overnight guests, if applicable;
- Submission of a list of responsible contact persons;
- Submission of a list of all online platforms used to advertise the listing.

Carried

For: Councillors Alto, Coleman, Isitt, Loveday, and Thornton-Joe
Against: Councillor Young

REPORTS OF COMMITTEES

2. Committee of the Whole – June 15, 2017

6. Correcting the Zoning of Residential Strata Buildings in Downtown Victoria

Motion:

It was moved by Councillor Isitt, seconded by Councillor Loveday, that Council direct staff to:

1. Prepare bylaw amendments for first reading to correct the zoning of residential strata property in Downtown Victoria, removing transient accommodation as a permitted use;
2. Provide the following information to Council when the bylaw amendments are considered for first reading: (a) the number of buildings and units to which this change would apply; and (b) the resource requirements of initiating this change to the Zoning Regulation Bylaw; (c) legal non-conforming status;
3. Convene a public hearing as part of the rezoning process to provide members of the public, including owners of residential strata property in Downtown Victoria, with the opportunity to provide input to Council prior to final consideration of the bylaw amendments;
4. Invite residential strata councils to indicate to the City whether they consent by mutual agreement to amending Housing Agreements registered on title, to clarify that provisions barring strata councils from introducing bylaws restricting rentals shall apply only to rentals under the Residential Tenancy Act, and that strata councils shall have the authority to introduce bylaws restricting transient accommodation and short-term rentals.
5. Prepare these bylaw amendments for Council's consideration on a priority basis, reflecting the severity of the housing affordability and housing availability crisis in Victoria.

Carried

For: Councillors Alto, Coleman, Isitt, Loveday, and Thornton-Joe
Opposed: Councillor Young

2. That staff report back with policy, regulatory, and enforcement recommendations based on the workshop discussion.

Amendment:

It was moved by Councillor Loveday, seconded by Councillor Thornton-Joe, that Scenario 2 be amended as follows:

Scenario 2: Entire condo with transient zoning

Direct staff to provide advice on what tools are available to limit the number of Short-Term Vacation Rentals where they are currently allowed, and that this report includes options for:

- (a) a City-initiated rezoning to remove transient accommodation as a permitted use from residential strata property, with an "opt-out" process where stratas can apply to retain transient accommodation as a permitted use, where a majority of strata lot owners in a residential strata indicate their support for that use.
- (b) a business license scheme for Short-Term Vacation Rentals that is consistent with the Strata Property Act and does not include granting licences for stratas that do not allow Short-Term Vacation Rentals in their bylaws.
- (c) maintaining transient accommodation as a permitted use, with the option of an "opt-in" mechanism for a City initiated rezoning to prohibit transient accommodation as a permitted use, where a majority of owners of units in a residential multi-unit building (condominium) downtown indicate their preference for this rezoning.

Council discussed the following:

- *That the amendment will allow for more available options and considerations.*

On the amendment:
Carried Unanimously

Amendment:

It was moved by Councillor Isitt, seconded by Councillor Loveday, that Scenario 2 be amended as by removing part c, as follows:

Scenario 2: Entire condo with transient zoning

Direct staff to provide advice on what tools are available to limit the number of Short-Term Vacation Rentals where they are currently allowed, and that this report includes options for:

- (a) a City-initiated rezoning to remove transient accommodation as a permitted use from residential strata property, with an "opt-out" process where stratas can apply to retain transient accommodation as a permitted use, where a majority of strata lot owners in a residential strata indicate their support for that use.

Main motion as amended:

Scenario 1: Entire condo with no transient zoning

1. That Council direct staff to proactively enforce current prohibition in zoning so Short-Term Vacation Rentals cease.
2. That staff report back to Council on options for permitting and enforcing limited, ancillary use of residential properties (in multi-unit and single-family dwellings, in all neighbourhoods in the city) by the occupants (owners or renters) for a limited number of maximum days in each calendar year for the commercial purpose of providing short-term vacation rentals.
3. Motion to refer to the February 16, 2016 Committee of the Whole meeting and invite comment from the BnB Association, the Hotel Association and other operator, industry representatives that want to provide comment:
That the City write to the province asking there be a repeal of Section 78(1)(b) of the Provincial Sales Tax exemption and refund regulation.

Scenario 2: Entire condo with transient zoning

Direct staff to provide advice on what tools are available to limit the number of Short-Term Vacation Rentals where they are currently allowed, and that this report includes **options for:**

- (a) a City-initiated rezoning to remove transient accommodation as a permitted use from residential strata property, with an "opt-out" process where stratas can apply to retain transient accommodation as a permitted use, where a majority of strata lot owners in a residential strata indicate their support for that use.
- (b) a business license scheme for Short-Term Vacation Rentals that is consistent with the Strata Property Act and does not include granting licences for stratas that do not allow Short-Term Vacation Rentals in their bylaws.
- (c) maintaining transient accommodation as a permitted use, with the option of an "opt-in" mechanism for a City initiated rezoning to prohibit transient accommodation as a permitted use, where a majority of owners of units in a residential multi-unit building (condominium) downtown indicate their preference for this rezoning.

Scenario 3: 1-2 bedrooms within occupied condo

That Council direct staff to permit and proactively enforce through business license registration and tracking.

Scenario 4: Entire homes

That Council direct staff to proactively enforce current regulations so Short-Term Vacation Rentals cease.

Scenario 5: Entire secondary suites (including garden suites)

That Council direct staff to proactively enforce current regulations so Short-Term Vacation Rentals cease.

Scenario 6: 1 - 2 Bedrooms within occupied SFD

That Council direct staff to proactively enforce current zoning rights through business license registration and monitor use through business license tracking.

REPORTS OF COMMITTEES

1. **Committee of the Whole – February 16, 2017**
2. **Short Term Vacation Rental – Motion to Refer from the January 26, 2017 Council Meeting**

Motion:

It was moved by Councillor Alto, seconded by Councillor Isitt, that the City write to the province asking there be a repeal of Section 78(1)(b) of the *Provincial Sales Tax Exemption and Refund Regulation*.

Carried Unanimously

Motion:

It was moved by Councillor Coleman, seconded by Councillor Thornton-Joe, that Council reconsider the motion on short-term vacation rentals.

Carried Unanimously

Motion:

It was moved by Councillor Isitt, seconded by Councillor Loveday, that Council refer the issue of short-term vacation rentals to the next Committee of the Whole Meeting.

Carried Unanimously

4. That staff report back with policy, regulatory and enforcement recommendations based on the workshop discussion.

Carried Unanimously

Councillor Loveday withdrew from the meeting at 1:05 a.m. due to a potential pecuniary conflict of interest with the following item, due to his association with Tourism Victoria.

Motion:

Scenario 1: Entire condo with no transient zoning

6. Motion to refer to the February 16, 2016 Committee of the Whole meeting and invite comment from the BnB Association, the Hotel Association and other operator, industry representatives that want to provide comment:

That the City write to the province asking there be a repeal of Section 78(1)(b) of the Provincial Sales Tax exemption and refund regulation.

Council discussed the following:

- *Clarification on when a letter would be written to the provincial government.*

Carried Unanimously

REPORTS OF COMMITTEES

2. Committee of the Whole – October 27, 2016

4. Short-Term Vacation Rentals

It was moved by Councillor Coleman, seconded by Councillor Young, that this item be referred to a Committee of the Whole workshop in January 2017.

Amendment:

It was moved by Councillor Isitt, seconded by Councillor Alto, that the motion be amended as follows:

That this item be referred **back to staff to report back** to a Committee of the Whole workshop in January 2017.

Amendment to the amendment:

It was moved by Councillor Loveday, seconded by Councillor Isitt, that the amendment be amended as follows:

That this item be referred **back to staff to report back** to a Committee of the Whole workshop in January 2017, **and direct staff to highlight any applications coming forward that include transient accommodations.**

On the amendment to the amendment:

Carried Unanimously

Amendment to the amendment:

It was moved by Councillor Isitt, seconded by Councillor Alto, that the amendment be amended as follows:

That this item be referred **back to staff to report back** to a Committee of the Whole workshop in January 2017, **and no further residential land use applications will be considered until this review has been completed** ~~direct staff to highlight any applications coming forward that include transient accommodations.~~

The Chair ruled that the amendment to the amendment was out of order.

On the amendment:

Carried Unanimously

Main motion as amended:

That this item be referred back to staff to report back to a Committee of the Whole workshop in January 2017, and direct staff to highlight any applications coming forward that include transient accommodations.

On the main motion as amended:

Carried Unanimously

Appendix B

	Council Motion	Included in regulatory approach?	Rationale
1	One host = One listing	Partially	<ul style="list-style-type: none"> In principal, this is aligned with staff's recommended Citywide regulatory approach, except if the units continue to be zoned as transient accommodation (or if the units meet the non-conforming use provisions of the Local Government Act) Residents could not rent a unit that is not their principal residence, so can only have one property they are renting short term (the one they normally reside in); however, one host could have multiple listing <i>types</i> within the same unit (i.e. entire dwelling occasionally, private room and shared room)
2	Proof of the host's identity and municipal address/ proof that the property is the host's principal/primary residence	Yes	<ul style="list-style-type: none"> Except for properties zoned for transient accommodation (or if the units meet the non-conforming use provisions of the Local Government Act), operators will be required to show government ID verifying their address and identity, and documentation to prove the STR licence is for a unit they normally reside in (ex. utility bills, tax documents, drivers licence etc.)
3	Proof of a current police background check	No	<ul style="list-style-type: none"> Police record checks are usually required for individuals working with children or vulnerable adults Not a requirement of any other business licence in the City Potentially significant privacy intrusion which offers little effective control as there are no criteria for how the information would be used
5	Proof that the listed space is in a habitable room in the principal/primary residence	No	<ul style="list-style-type: none"> Definition of habitable is subjective Inconsistent with municipal and provincial policy – verifying a unit meets building code or other metric of habitability is not a requirement of a residential tenancy or occupation of dwelling units Hosts provide photos and descriptions of rooms, which guests view ahead of renting the space to make a determination of whether they want to pay for and stay in that space The purpose of STR is to accommodate people on a short term basis, ex. traveling for business or pleasure, so people are not making 'hard choices' based on scarcity as they might for a long term tenancy
6	Proof that the host has sufficient insurance coverage	No	<ul style="list-style-type: none"> The City would not have an exposure to third party liability claims for bodily injury or property damage arising out of the business licencing process STR operate as private for-profit ventures and should assess their risks and insurance requirements with the benefit of professional licensed brokers As part of a business licence for STR, the City could include a standard indemnity clause If any insurance requirements were considered, the City would have to bear further administrative burden to review or audit without appreciable benefit
7	Proof that mortgage terms are not violated, if an owner	No	<ul style="list-style-type: none"> Not a requirement of any other business licence in the City Enforcement of mortgage terms is a private matter between property owner and lender, and not a proper basis for the City to deny a business licence Would create unnecessary administrative burden to review and interpret mortgage terms
8	Proof that short-term rentals are consistent with the use of the strata lot in the host's land titles declaration, if a strata resident	Yes	<ul style="list-style-type: none"> Addressed through item 9
9	Proof that the host's strata council rules permit short-term rentals, if a condominium resident	Yes	<ul style="list-style-type: none"> STR operators in strata buildings will need to submit a letter of approval from the Strata Council confirming that the STR is not operating contrary to strata rules in order to receive a business licence A Strata Council will be allowed to raise any legitimate objections to STR use under the Strata Property Act, including strata bylaws, land title declarations, etc.

10	Proof that the listing does not violate existing zoning bylaws, building codes, fire codes and health and safety standards	Partially	<ul style="list-style-type: none"> • This is not required in long-term rental arrangements under residential tenancy agreements • Zoning compliance is part of routine business licence review • Fire and safety information will be shared with operators as part of receiving a business licence • A restriction can be made that a business licence can be denied if there are unresolved non-compliance issues on record at the City (ex. an outstanding bylaw violation or order)
11	Submission of site and floor plans accurately depicting the size and location of the existing dwelling	No	<ul style="list-style-type: none"> • Not a requirement of long term landlords • Each listing already posts pictures and fulsome descriptions and are regularly reviewed by users • Address data for each operation can be provided by third party monitoring firms • Unclear how this information would be used by the City
12	Submission of the number and location of the designated off and on-street parking spaces and the number of vehicles allowed for overnight guests, if applicable	Partially	<ul style="list-style-type: none"> • While not required to obtain a licence, STR operators will share parking details with guests as part of the guest guidelines • Parking requirements are outlined under Schedule D of the Zoning Regulation Bylaw (Home Occupations)
13	Submission of a list of responsible contact persons;	Yes	<ul style="list-style-type: none"> • Host contact information will be required as part of the business licence application form
14	Submission of a list of all online platforms used to advertise the listing	No	<ul style="list-style-type: none"> • Online marketplace means these may frequently change from time of business application and so any information manually collected could be quickly out of date; managing updates will be administratively challenging • Third party monitoring firms can easily determine this information



Council Report

For the Meeting of September 7, 2017

To: Council **Date:** August 28, 2017
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Correcting the Zoning of Residential Strata Buildings in Downtown Victoria

RECOMMENDATIONS

1. That Council consider first and second readings of Bylaw No. 17-084;
2. That Bylaw No. 17-084 be considered at a Public Hearing.

BACKGROUND

Currently, short term rentals (STR) are permitted in entire residential units where 'transient accommodation' is listed as a permitted use in zoning (primarily in downtown Victoria). The purpose of this report is to introduce bylaw amendments to remove short term rental use.

This matter came before Council on June 15, 2017 where the following resolutions were approved:

1. Prepare bylaw amendments for first reading to correct the zoning of residential strata property in Downtown Victoria, removing transient accommodation as a permitted use;
2. Provide the following information to Council when the bylaw amendments are considered for first reading: (a) the number of buildings and units to which this change would apply; and (b) the resource requirements of initiating this change to the Zoning Regulation Bylaw; (c) legal non-conforming status;
3. Convene a public hearing as part of the rezoning process to provide members of the public, including owners of residential strata property in Downtown Victoria, with the opportunity to provide input to Council prior to final consideration of the bylaw amendments;
4. Invite residential strata councils to indicate to the City whether they consent by mutual agreement to amending Housing Agreements registered on title, to clarify that provisions barring strata councils from introducing bylaws restricting rentals shall apply only to rentals under the Residential Tenancy Act, and that strata councils shall have the authority to introduce bylaws restricting transient accommodation and short-term rentals.
5. Prepare these bylaw amendments for Council's consideration on a priority basis, reflecting the severity of the housing affordability and housing availability crisis in Victoria.

Zoning Amendments

In accordance with directions 1, 3, and 5 to prepare zoning amendments, attached for Council's initial consideration are copies of an amendment to the *Zoning Regulation Bylaw* which, if approved, will remove short term rental as a permitted use in zones that currently permit transient accommodation, with the exception of home occupations, which permit use of up to 2 bedrooms as STRs within an occupied single-family home. Home occupation STRs allow homeowners to supplement their income with STRs without impacting the long-term rental market. Per previous Council direction, this use may be expanded to multi-family dwellings as part of future regulatory considerations to provide residents in other housing forms with equal opportunity to offset housing costs.

Additional Information for Council Consideration

Per direction 2, which directs staff to provide additional information on number of buildings/units affected, resource requirements, and legal non-conforming status, staff can share the following information:

- a) It is estimated that approximately 1700 residential units will be affected by this change; however, staff are unable to provide an exact number without a comprehensive inventory, which would be time and cost prohibitive in light of Council's direction to prepare these bylaws on a priority basis. Also, as emphasized in previous staff reports, these units will be affected in that their underlying zoning will change, but their right to operate a STR will continue due to legal non-conforming legislation.
- b) The resource considerations associated with this change involve the standard statutory public hearing notification expenses, as well as additional costs due to the complexity of enforcing regulations in buildings with multiple legal non-conforming operations in place. These financial impacts will be more fully explored in staff's STR Enforcement Strategy report, coming forward to Council this fall.
- c) Currently, the City does not have an inventory nor precise addresses for STRs, and therefore are unable to estimate how many buildings will maintain legal non-conforming status. As legal non-conforming status will apply to all units within any building which currently has a STR operating within it, and given the proliferation of STR as reported anecdotally and evidenced by aggregate information provided to the City, it is reasonable to assume that a large number of buildings will be able to continue to operate STRs under legal non-conforming rules should this change take effect.

Amending Existing Housing Agreements

Item 4 directs staff to invite residential strata councils to indicate to the City whether they consent by mutual agreement to amend existing Housing Agreements to distinguish STR from long-term rental in strata rental provisions. The Housing Agreement template was changed to make this distinction in early 2017, and staff will provide communication to alert stratas of the opportunity to make amendments to existing agreements in Fall 2017.

PUBLIC FEEDBACK

To date, no formal public engagement on this matter has been undertaken; however, since Council began considering these issues in 2016, hundreds of items of correspondence have been received at the City expressing a broad range of opinion on the issue of rezoning and the acceptance of STRs in general. This correspondence will be included in the public hearing documents for Council consideration.

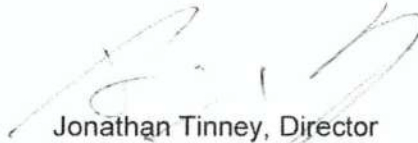
CHANGES AND CONSIDERATIONS

The Council motion specifies 'downtown' as the zoning area to be corrected, likely due to the fact that the majority of properties where both transient accommodation and residential use are permitted are typically located downtown. Other properties in the downtown core area and beyond will be affected by this amendment; however, short term rental as an accessory home occupation has been maintained where it is currently permitted. The proposed approach to the zoning amendments are recommended as the most thorough way to expedite Council's direction.

Respectfully submitted,




Lindsay Milburn
Senior Planner – Housing Policy



Jonathan Tinney, Director
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager:


Date: Aug 30, 2017

Attachments:

Appendix 1 – Bylaw No. 17-084 (Zoning Regulation Amendment Bylaw)

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Zoning Regulation Bylaw by amending the definition of Transient Accommodation, adding a definition for Short-Term Rental and prohibiting Short-Term Rentals in the entire City unless where expressly allowed.

The Council of The Corporation of the City of Victoria enacts the following provisions:

- 1 This Bylaw may be cited as the "ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1112)".
- 2 Bylaw No. 80-159, the Zoning Regulation Bylaw, is amended:
 - (a) in section 17, by adding a new subsection (4) as follows:

"(4) Without limiting the generality of subsection (1), short-term rentals, whether as a principal or accessory use, are prohibited in all zones except

 - (a) where they are expressly permitted subject to regulations applicable in those zones;
 - (b) rental of no more than two bedrooms in a self-contained dwelling unit, as home occupation, provided that:
 - (i) the self-contained dwelling unit is occupied by the operator of the short-term rental; and
 - (ii) short-term rental complies with all regulations in Schedule D as if it were transient accommodation."
 - (b) in Schedule A – Definitions by:
 - (i) deleting the words "vacation rentals" in the "Transient Accommodation" definition; and
 - (ii) adding a definition of "Short-Term Rental" immediately after the definition for "Setback" as follows:

"Short-Term Rental" means the renting of a dwelling, or any portion of it, for a period of less than 30 days and includes vacation rentals."
- 3 This bylaw comes into force on adoption.

READ A FIRST TIME the	day of	2017
READ A SECOND TIME the	day of	2017
Public hearing held on the	day of	2017
READ A THIRD TIME the	day of	2017
ADOPTED on the	day of	2017

CITY CLERK

MAYOR

Short Term Rental Regulatory Framework

Committee of the Whole September 21, 2017



Purpose

- Provide Council with a proposed regulatory framework for short term rentals, including business regulations and an enforcement strategy.



Short Term Rental Framework September 21, 2017 CoTW

Background

- Victoria Context
- Benefits and Challenges
- Previous Council Direction



Short Term Rental Framework September 21, 2017 CoTW

Emerging Best Practice

- Say yes to STR
- Keep it simple
- Point of non-compliance
- Avoid relying on host platforms
- Utilize technology
- Communicate widely
- Be adaptable



Short Term Rental Framework September 21, 2017 CoTW

Issues and Analysis – Proposed Business Regulations

1. Permit STR use in all principal residences
2. Require STR operators to obtain a business licence
3. Require STR operators to comply with operating requirements



Short Term Rental Framework September 21, 2017 CoTW

Issues and Analysis – Business Licencing and Operations

Business Licence

- Submit application form with mandatory documentation
- Pay Fee, either \$200 or \$2,500, depending on type of STR

Operating Requirements

- Display business licence number on all advertisements
- Adhere to City bylaws (e.g.) quiet hours



Short Term Rental Framework September 21, 2017 CoTW

Issues and Analysis – Enforcement Strategy

- September 14, 2017 Closed Council approved short term rental enforcement strategy
- Includes retaining a third party monitoring service and hiring of new staff
- Budget is estimated at \$512,000
- Licencing fee and fines could at least partly cover these expenses



Short Term Rental Framework September 21, 2017 CoTW

Next Steps

Fall 2017

- Consultation required under the Community Charter
- Feedback will be sought on proposed business regulations, including registration process, licence fees and operating requirement

Quarter 4 2017

- Report back to Council with necessary bylaws

Quarter 1 2018

- Implementation plan



Short Term Rental Framework September 21, 2017 CoTW

Recommendations

That Council:

- Approve the proposed short term rental regulatory framework, as described in this report, which allows short-term rentals in principal residences, subject to a business licence and compliance with operating requirements;



Short Term Rental Framework September 21, 2017 CoTW

Recommendations

That Council:

- Direct staff to engage stakeholders on the proposed business regulations, and report back to Council in Q 4 of 2017 with the bylaws required to enact these regulations; and,
- Direct staff to report back to Council in Q 1 of 2018 with an implementation plan, including schedule, resourcing proposal, and impacts to the financial plan.



Short Term Rental Framework September 21, 2017 CoTW