

SUMMARY:

The Short Term Rental Accommodation Bylaw regulates short-term rental accommodation businesses and requires that such businesses be licenced accordingly.

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CITY OF KELOWNA

BYLAW NO. 11720

Short-Term Rental Accommodation Business Licence and Regulation Bylaw

WHEREAS under sections 8(6) and 15 of the *Community Charter*, S.B.C. 2003, c. 26, a municipal council may, by bylaw, regulate in relation to business;

AND WHEREAS under section 15 of the *Community Charter*, a municipal council may provide for a system of licences, permits or approvals;

AND WHEREAS the Council of the City of Kelowna considers it necessary and expedient to provide for the regulation of short-term rental accommodation businesses and to require that such businesses be licenced;

AND WHEREAS the Council of the City of Kelowna has provided notice of its intention to adopt this bylaw and an opportunity to make representations, and the Council of the City has done so in a form and manner and at times and as often as it considers reasonable;

NOW THEREFORE the Council of the City of Kelowna, in open meeting assembled, enacts as follows:

SECTION 1 - INTRODUCTION

1.1 This Bylaw may be cited as the "Short-Term Rental Accommodation Business Licence and Regulation Bylaw No. 11720".

1.2 Definitions

1.2.1 In this Bylaw:

"Business Licence Bylaw" means the City of Kelowna Business Licence and Regulation Bylaw No. 7878, 1996; as amended or replaced from time to time.

"Licence Inspector" means the officials appointed by Council under Section 14 of the Business Licence and Regulation Bylaw No. 7878, and also includes Building Inspectors and Plumbing Inspectors and Fire Inspection Officers.

"marketing" means to offer for sale, promote, canvass, solicit, advertise, book, arrange or facilitate a rental, and includes placing, posting or erecting advertisements physically or online, but does not include the mere provision of a neutral space or location for such marketing activities in newspapers, bulletin boards or online.

"operator" means a person who rents out, or offers for rent, any **premises** for **short-term rental accommodation** but does not include a person who acts as an intermediary between the short-term rental tenant and the person who receives the rent.

“**premises**” means an area of land, including a lot or parcel of land with or without buildings.

“**principal residence**” means the usual place where an individual makes their home for the majority of a calendar year and lives within the residence a minimum 240 days per year and for these purposes a person cannot normally reside at more than one dwelling or location.

“**responsible person**” means a person designated by an **operator** as the primary contact for the **short-term rental accommodation**.

“**short-term rental accommodation**” has the same definition described within the **Zoning Bylaw**.

“**short-term rental property**” means **premises** in the City where accommodation of paying guests for 29 days or less is a permitted use pursuant to the **Zoning Bylaw** and other land use enactments.

“**sleeping unit**” has the same definition described within the **Zoning Bylaw**.

“**strata corporation**”, “**strata council**”, and “**strata lot**” have the same meaning as in the *Strata Property Act*.

“**Zoning Bylaw**” means the City of Kelowna Zoning Bylaw No. 8000, 1998; as amended or replaced from time to time.

SECTION 2 – LICENCING PERIOD

- 2.1 Each licence issued under this Bylaw shall commence on January 1 of the year in which it is issued and terminate on December 31 of the same year, unless earlier renewed for the following calendar year by submission of a complete licence renewal form and payment of the annual licence fee prior to January 15 of the following year.

SECTION 3 – PRO-RATING OF LICENCE FEE FIRST YEAR ONLY

- 3.1 The licence fees described in this Bylaw may be reduced pro-rata on a quarterly basis in respect of any **operator** who becomes liable to be licenced after January 15 in a year, during that **operator’s** first year of operation only.

SECTION 4 - LICENCE REQUIRED

- 4.1 A person must not carry on business as an **operator** unless the person holds a valid licence issued under the provisions of this Bylaw and the Business Licence and Regulation Bylaw No. 7878.
- 4.2 A person applying for the issuance or renewal of a licence to operate a **short-term rental accommodation** must, in addition to meeting the requirements of the **Zoning Bylaw** and the **Business Licence Bylaw**:
- (a) make an application to the **Licence Inspector** on the form provided for that purpose;

- (b) pay to the City the applicable licence fee prescribed under subsection 4.3;
- (c) provide, in the form satisfactory to the **Licence Inspector**, evidence that:
 - (i) the **operator** owns the **premises** where the **short-term rental accommodation** will be offered, or
 - (ii) the owner of the **premises** where the **short-term rental accommodation** will be offered has consented to this use of the **premises**;
- (d) when the **premises** where the **short-term rental accommodation** is offered is located within a **strata lot**, provide a letter from the **strata council** confirming that use of the **premises** for **short-term rental accommodation** does not contradict any bylaws of the **strata corporation** or applicable provisions of the *Strata Property Act*;
- (e) when the **premises** where the **short-term rental accommodation** is offered is located in a zone where **short-term rental accommodation** is only permitted as a secondary use, provide in the form satisfactory to the **Licence Inspector**, evidence that the **premises** where the **short-term rental accommodation** will be offered is occupied by the **operator** as their **principal residence**;
- (f) when the **short-term rental accommodation** is a principal use, provide the name and contact information for the **responsible person**;
- (g) submit a self-evaluation safety audit and attestation form provided for that purpose;
- (h) provide a floor plan of the **premises** upon which the **short-term rental accommodation** is to be conducted, identifying the location of smoke alarms and carbon monoxide alarms, fire extinguishers, fire exits, each **sleeping unit**, the types of bed in each **sleeping unit**, and the location of any sofa beds;
- (i) provide a parking plan which complies with the parking requirements of the **Zoning Bylaw**; and
- (j) provide any other information the **Licence Inspector** may require for the purposes of ensuring compliance with the City's bylaws and other enactments.

4.3 The licence fee is:

- (a) Minor **Short Term Rental Accommodation** Licence: (type code: 7316) where the **short-term rental accommodation** is offered in the **operator's principal residence**: \$345.00, plus an amount reflecting the combined annual adjustment

increase starting from 2017, based on the Consumer Price Index (CPI) published by Statistics Canada for Vancouver (2002=100) for the twelve-month period from January to December of the previous year.

- (b) Major **Short Term Rental Accommodation** Licence: (type code: 7317) for all **short-term rental accommodations** that do not qualify under paragraph (a): \$750.00, plus an amount reflecting the combined annual adjustment increase starting from 2017, based on the Consumer Price Index (CPI) published by Statistics Canada for Vancouver (2002=100) for the twelve-month period from January to December of the previous year.

4.4 If a person submits a licence application for which additional information or documentation is required by the **Licence Inspector**, the person shall supply all required information and documentation within 30 days of the request made by the **Licence Inspector**, after which time the application may be refused and a new application for a licence required.

4.5 Where the **short-term rental accommodation** is a secondary use, the **operator** may not be a corporation or society.

SECTION 5 - LICENCE INSPECTOR POWERS

5.0 Council hereby authorizes the **Licence Inspector** to:

- (a) grant, refuse, suspend and cancel licences under this Bylaw;
- (b) suspend, cancel or refuse to issue licences in accordance with subsection 5.1;
- (c) impose conditions on a licence at the time of issuance, renewal, or suspension for the purposes of ensuring compliance with all applicable enactments pertaining to the business;
- (d) enter at all reasonable time, on any property that is subject to the regulation of this Bylaw in order to inspect and ascertain whether such regulations are being observed; and
- (e) prepare, from time to time, forms to be used for the purpose of making applications under this Bylaw, including, but not limited to a form of licence application, information sheet, and licence transfer application.

5.1 In addition to Council's powers under section 60 of the *Community Charter* and the **Licence Inspector's** powers under Section 12.1 of the **Business Licence Bylaw**, the **Licence Inspector** may refuse to grant, or suspend, cancel, or revoke a licence for a **short-term rental accommodation** if, in the opinion of the **Licence Inspector**:

- (a) the applicant for the licence has failed to comply with section 4;
- (b) the **short-term rental accommodation** in question would or does contravene a City bylaw or another enactment;

- (c) the applicant for the licence or the **operator** has provided false information to the **Licence Inspector**; or
 - (d) the **operator** of the **short-term rental accommodation** is not in compliance with the conditions of this Bylaw or of the licence.
- 5.2 When a **Licence Inspector** suspends, cancels or refuses to issue or renew a licence, the **Licence Inspector** will provide the applicant for the licence or the **operator** with a formal letter outlining the reason(s) for the refusal.
- 5.3 An applicant for a licence or an **operator** may request that Council reconsider a decision of the **Licence Inspector** under subsection 5.1 by delivering a request in writing to the City Clerk within 30 days of the **Licence Inspector**'s decision being sent.
- 5.4 No person shall offer, or continue through **marketing** to advertise or provide any **short-term rental accommodation** pursuant to their licence during a period of suspension of that licence.

SECTION 6 - LICENCE NUMBER AND APPROVED SLEEPING UNIT COUNT TO BE INCLUDED IN MARKETING

- 6.1 The **operator** of a **short-term rental accommodation** must ensure that any **marketing**, publication, listing or promotional material offering for the **short-term rental accommodation** includes the licence number of a valid licence issued for that **premises** under this Bylaw and the approved **sleeping unit** count.

SECTION 7 - RESPONSIBLE PERSON

- 7.1 An **operator** who operates a **short-term rental accommodation** in their **principal residence** is the **responsible person** for that **short-term rental accommodation**.
- 7.2 An **operator** who operates a **short-term rental accommodation** in **premises** other than their **principal residence** must designate a **responsible person** as part of their licence application, and must ensure the **responsible person** has access to the licenced **premises** and authority to make decisions in relation to the **premises** and the rental agreement, at all times that the **short-term rental accommodation** is operated.
- 7.3 The **operator** must ensure that the name and contact information of the **responsible person** is prominently displayed in the **short-term rental property** at all times while the **short-term rental accommodation** is operated.
- 7.4 The **responsible person** must attend at the **short-term rental property** within two hours of being requested by the **Licence Inspector**, **operator** or a short-term rental tenant to do so.
- 7.5 Should an **operator** who operates a **short-term rental accommodation** in their **principal residence** be absent overnight from the **principal residence** at a time when the **short-term**

rental accommodation is rented, the **operator** must appoint an agent to fulfill the obligations of a **responsible person** under this Section 7 during that time.

SECTION 8 - CONDITIONS OF LICENCE

8.1 An **operator** of a **short-term rental accommodation** must:

- (a) operate a **short-term rental accommodation** only on a licenced **premises**;
- (b) operate only on a **short-term rental property**;
- (c) notify neighboring property owners on all adjacent sides of the licenced **premises** that a **short-term rental accommodation** is being operated thereupon, and provide the contact information for the **operator** or **responsible person** to such neighbours;
- (d) display the licence inside the entry way to the **short-term rental property**;
- (e) display in each approved **sleeping unit**, and in the entryway of the of the **short-term rental accommodation**, a floor plan identifying the location of smoke alarms and carbon monoxide alarms, fire extinguishers, fire exits, each approved **sleeping unit**, the types of bed in each **sleeping unit**, and the location of any sofa beds;
- (f) display the **responsible person's** contact information inside the entry way of the **short-term rental property**;
- (g) ensure the **operator** or **responsible person** is available for contact 24 hours a day during periods when the **short-term rental property** is rented to short-term rental tenants, and responds to any nuisance complaint within 2 hours of notification;
- (h) notify the **Licence Inspector** within 24 hours of a change in contact information for an **operator** or **responsible person**;
- (i) hold a separate licence for each **premises** that it operates;
- (j) comply with all applicable requirements in the **Zoning Bylaw**, the Building Bylaw, the BC Building Code, the BC Fire Code, and related enactments;
- (k) cooperate and ensure cooperation of **responsible person** with City Licencing, RCMP or City Bylaw Services during investigation of any complaint associated with the **short-term rental accommodation**;
- (l) facilitate periodic inspections of the **short-term rental property** as requested and conducted by the **Licence Inspector** and other City staff;
- (m) ensure that the **short-term rental property** is in compliance with the City's bylaws regarding signage;

- (n) keep a written registry of all guests that are staying or have stayed on the **premises** and make this registry readily available to the **Licence Inspector** upon request; and
- (o) submit an annual self-evaluation safety audit and attestation in the form provided for that purpose by the **Licence Inspector**; and
- (p) ensure no more than one booking is permitted within the **short-term rental accommodation** at one time.

8.2 An **operator** of a **short-term rental accommodation** must not:

- (a) rent out any **sleeping units** or provide any sleeping accommodation within any secondary suite, carriage house, vehicle, tent, or accessory building; or
- (b) allow to be used as **sleeping units**, any rooms that are not approved and identified on the licence application for that **premises** as **sleeping units**.

SECTION 9 - OFFENCES AND PENALTIES

- 9.1 Every person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this Bylaw or who does any act which violates any of the provisions of this Bylaw, shall be guilty of an offence against this Bylaw.
- 9.2 Every person who commits an offence against this Bylaw shall be liable upon summary conviction to a fine not exceeding \$10,000.00 for every instance that an offence occurs or each day that it continues. Any penalty imposed pursuant to this Bylaw shall be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, law or legislation.
- 9.3 Each day that a violation is of this Bylaw is caused or allowed to continue constitutes a separate offence.

SECTION 10 - SEVERABILITY

- 10.1 If a portion of this Bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

SECTION 11 - TRANSITION PROVISIONS

- 11.1 Any **operator** who, at the time of adoption of this Bylaw, holds a valid licence for a vacation rental under the **Business Licence Bylaw** shall be credited with amount paid for that licence towards the fee payable under subsection 4.3

SECTION 12 - EFFECTIVE DATE

- 12.1 This Bylaw comes into full force and effect and is binding on all persons as from the date of adoption.

Read a first, second and third time by the Municipal Council this 4th day of March, 2019.

Adopted by the Municipal Council this 8th day of April, 2019.

Mayor

City Clerk