



Briefing Note

To: Council

From: Phil Armstrong, MDS / Planner

Date: 2019-04-16

File: 3900-20 Bylaw XXXX ToG Short Term Rentals

RE: Short Term Rentals Temporary Use Permit (Report 6)

SUMMARY OF ISSUE

On February 20, 2018 Council affirmed short term rental bylaw drafting direction. Since that time staff began bylaw drafting work; however, prior to delving into this to deeply, staff has reflected on the required human resources to implement a Temporary Use Permit scheme.

BACKGROUND

Please refer to the enclosed documents for background on this topic.

The expressed goal of the short term rental review process is:

To create a fairly regulated environment that supports a viable Short Term Rental sector while meaningfully preserving housing stock for residential purposes.

It is felt that the best way of addressing the latter part of the goal was to utilize a Temporary Use Permit (TUP) scheme.

DISCUSSION

A TUP is a three year, renewal permit and although more administratively burdensome than issuing a simple business license has advantages:

- ✓ In a new and evolving sector a TUP facilitates the Town experimenting with this use; meanwhile, it avoids the lawful non-conforming use issues associated with amending the zoning bylaw, holding public hearings, and then deciding later to reverse the use or tweak the bylaw.
- ✓ Keeps an operator under watch in relation to breach of permit conditions or bylaw compliance with the risk of losing their temporary permitted use.
- ✓ A TUP could also be utilized to limit the number of short term rentals. Establishing a quota/cap was discussed with legal counsel and this can be extremely complex and done via the business regulation power. Rather, the advice at this point is to rely on the discretionary powers of evaluating TUP applications on policies such as preserving neighbourhood character and residential housing stock by area. This discretionary consideration can achieve the same result as a neighbourhood cap by limiting the number per block or neighbourhood.

A TUP is in essence a simplified zoning amendment bylaw that does not require a public hearing, but there is still a notification requirement, report/analysis process, and yes this can be delegated to an officer of the municipality which saves some time and process, but this would need to occur every three years and we could see 20-40 applications a year.

Concerns of human resources requirements to implement the TUP scheme were discussed at the February 20, 2018 Council meeting and staff offered this would be further analyzed prior to advancing with this regulatory scheme.

Staff is now of the opinion that a TUP system is simply too administratively burdensome under our current and proposed staffing complement. It is planned to add an additional FTE to the Development Services department after six years of not having this in the HR budget; however, there is already a considerable backlog of files and completion of work on previous files is required. In order to implement the TUP system and meaningfully enforce it another additional FTE would be required.

It is still proposed to be part of the regulatory scheme, to draft zoning and business regulation bylaw amendments which will refine/clarify critical definitions and implement restrictions of the business including requirements for an owner to occupy the residence, re-inspections (rather than the one time inspection), posting of the business license number in all advertisements/website and prohibition of advertising without a business license (enforcement tool), on site signage requirement etc. These bylaw amendments are maintained and separate from implementing a TUP system.

The goal of “*meaningfully preserving housing stock for residential purposes*” could still be protected, although not as robustly, by the requirement that the short term rental be the owner’s principal dwelling and that the owner be present during the stay as already proposed in item three of the bylaw drafting direction. The reason this is not as robust as the TUP approach is because under a non-TUP zoning approach every single detached dwelling, suite and half duplex (or part thereof) in town (if it is the owner’s principal dwelling and occupied by the owner) could be operated as a short term rental. Compared to the TUP system that would look at this on a block by block or neighbourhood level. Without a TUP system the approach would be adding short term rental as an accessory use just like, or more precisely, like an expanded version of the current B&B process. This leaves the community’s housing stock more open to further commercialization, but restricted by owner occupancy.

For clarity, this is the proposed bylaw drafting directions:

1. ~~Support for the proposed Temporary Use Permit and business license/regulation framework as a way to control the number of STRs in a particular area or on a particular street.~~
2. A short term rental (accommodation of 30 days or less) can occur in single detached dwelling or in a secondary suite as well as within a duplex.
3. The single detached dwelling, duplex or ½ duplex, must be occupied during the short term rental by the owner, it must be the owner’s principal dwelling, and the owner must be present. Council was also cognizant of neighbourhood impact and wanted the owner to be present to address potential noise, parking and other nuisances.
4. A duplex or ½ duplex being operated as an STR must be on one title/one real estate entity:
 - a. If an owner owns both halves of the duplex, on one title, the owner can reside in one half of the duplex and operate an STR in the other.
 - b. In the case of a fee simple duplex the owner can operate a B&B/STR only in the side where they reside/own.
5. Short term rentals are not to be permitted:
 - a. On a property with a detached secondary residential dwelling (carriage house or garden suite);
 - b. Within a unit in a multi-family residential development.
6. Prior to approval, an initial life-safety inspection is to be conducted by the building official then inspections every three years.
7. Requirements such as **signage posting requirements, requiring license number to be posted in advertisements/websites and** no advertising without a business license will also be implemented for efficient enforcement purposes.
8. Council is comfortable with the on-site (off-street) parking requirements of two parking stall per single detached dwelling and one additional stall for each bedroom operated as a B&B/STR up to three bedrooms.
9. There was no support for seasonal operators paying reduced licensing or water/sewer fees.

For clarity staff is also proposing that we allow full dwelling units to be rented short term in commercial zones i.e. vacation rentals.

Moving towards a licensing regime that is modernized and enforced will contribute to a more equitable playing field with traditional accommodators. Of course this needs to be coupled with senior government initiatives such collecting MRDT from STRs.

IMPLICATIONS

Strategic

-To provide affordable, seasonal and attainable housing opportunities (OCP) i.e. not lose our housing stock to short term rentals.
-Preserve the character of existing neighbourhoods (OCP).

Financial

-legal budget implications.

Administrative

-Staff time to create a more robust STR regulatory framework and administer said framework, and subsequent enforcement time.

OPTIONS

1. Direct staff to abandon a TUP based regulatory framework for STR management.
2. Direct staff to implement an alternative and achievable regulatory STR management framework using a more basic licensing and operational regulation system.
3. Direct staff to implement a regulatory framework for STR management with specific objectives Council deems appropriate.

Respectfully Submitted,



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For previous reports:

- ✓ <http://www.golden.ca/Current-Issues-Public-Processes/Current-Issues-and-Publications/Short-Term-Rentals-in-Golden.aspx>