



Briefing Note

To: Council

From: Phil Armstrong, MDS / Planner

Date: 2019-11-05

File: 3900-20 Bylaw XXXX ToG Short Term Rentals

RE: Short Term Rentals draft bylaw (Report 7)

SUMMARY OF ISSUE

Enclosed is a first draft of the short term rental zoning amendment bylaw for Council discussion .

BACKGROUND

On April 16th, 2019 Council passed the following motion and provided updated short term rental bylaw drafting direction.

Motion 2019-125 - THAT Council DIRECT staff to abandon a TUP based regulatory framework for short term rentals management;

AND THAT Council DIRECT staff to implement an alternative and achievable regulatory short term rentals management framework using a more basic licensing and operational regulation system.

Draft regulatory framework for Short Term Rentals (STRs)

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
10. Allow full dwelling units to be rented short term in commercial zones.

DISCUSSION

Enclosed with this report is a first draft of the zoning amendment bylaw. Further bylaw work is needed including amendments to the business license bylaw/business regulations and an OCP amendment.¹

The proposed bylaw encapsulates Council's direction with the exception of item 3 - the the owner requirement. Based on legislation, common law principles and case law, zoning bylaws must be drafted in such a way that they regulate the "use" on a given parcel or lot, not the "user." What this means is that zoning regulations must be concerned with the functional characteristics of a given use and not on the personal or legal circumstances of the person engaging in that use.

In the case of the STR use and the draft bylaw amendment, the term "Permanent Resident" has been formally defined and will be utilized in place of "registered owner." The Permanent Resident terminology, is acceptable from a legal standpoint in that it addresses the functional aspect of the use, and not whether the person in question (the user) is the registered owner or a renter of the dwelling units. This still meets the intent of keeping the property as long term residential, but with an accessory home based B&B or home based STR commercial use.

Additionally, in the case of a long term Secondary Residential Dwelling use (secondary suite or detached secondary residential dwelling unit), the term Permanent Resident will also replace registered owner. To further illustrate the concept, a historically common term for a secondary suite is an in-law or granny suite. This terminology is unacceptable for use in a zoning bylaw in that it directly addresses the personal / legal circumstances of the user, not the functional or technical characteristics of the use.

The proposed amendment bylaw includes amendments to the secondary residential dwelling and home based regulations to be in compliance with the above as well as removing caps on suite size to be consistent with current and proposed building code.

The proposed bylaw includes considerations for existing single detached dwellings in commercial zones as well as dwelling units above commercial units.

Enclosed is the recent letter from Mrs. Lindsey Cox and a similar site specific allowance could be included in the proposed bylaw. If this is Council's desire then staff recommends this to be site specific to test this on only one of the five multi-family lots in Canyon Ridge.

Staff has begun compiling a frequently asked questions (FAQ) document (enclosed) to assist in clarifying the draft bylaw as well staff will also provide Council and post on the website a marked up version of section 9 of the zoning bylaw.

Staff's intent is to continue work on the less technical bylaws mentioned above and return to Council and subsequently to to move forward to an open house in early December.

¹ Note the OCP states:

Prohibit "vacation rentals" in new and existing residential areas and encourage "vacation rentals" in commercial areas. Canyon Ridge subdivision will be the only residential area where "vacation rentals" will be considered, subject to, design considerations which lessen the potential impact on adjacent existing neighbourhoods.

OCP definition: Vacation rentals: Means the use of an otherwise residential dwelling unit for the temporary accommodation of paying guests.

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 bring the proposed bylaw forward for first reading and schedule an open house.
2. Provide direction for changes to the bylaw and direct staff to bring the bylaw forward for first reading.
3. Other action.

Respectfully Submitted,



Phil Armstrong MCIP, RPP

Manager of Development Services / Planner

Enclosed

- ✓ Draft B&B and STR zoning amendment bylaw
- ✓ Draft B&B and STR FAQs
- ✓ Lindsey Cox's letter

For previous public engagement and staff reports:

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



BYLAW RATIONALE STATEMENT

Town of Golden Zoning Amendment Bylaw No. _____

The purpose of this bylaw is to amend the Zoning Bylaw to update Section 9 Specific Use Regulations including home based business, secondary residential dwellings, and primarily to introduce the use of short term rental.

TOWN OF GOLDEN

BYLAW NUMBER _____, 2019 ZONING BYLAW AMENDMENT

A Bylaw to amend the “Town of Golden Zoning Bylaw No. 1294, 2011”

NOW THEREFORE the Council of the Town of Golden, in open meeting, enacts as follows:

1. Name

The name of this bylaw for citation purposes is “Town of Golden Zoning Amendment Bylaw No. _____, 2019.”

2. Amendments

“Town of Golden Zoning Bylaw No. 1294, 2011” is amended as follows:

a) “Section 4 Definitions” by replacing the existing definition in section 4.3 with the following:

“**Bed and Breakfast**” means the commercial use of a Single Detached Dwelling by a **Permanent Resident** of the **Dwelling Unit** to provide temporary accommodation in the form of **Sleeping Units** in the **Dwelling Unit** to the travelling public, while the operator continues to reside in the **Dwelling Unit**, and where the room rate may include meals.

b) “Section 4 Definitions” by adding the following definitions in section 4.3 in alphabetical order:

“**Permanent Resident**” means, in respect of any **Dwelling Unit** or **Lot**, a person who normally resides in a **Dwelling Unit** or on the **Lot**, and for these purposes a person cannot normally reside at more than one location within the Town.

“**Residential Use**” means the use of a building or a part thereof as a **Dwelling Unit** by persons as a fixed place of abode and as their primary residence from which they are absent only as a part of a domestic routine including, without limitation, work and vacations.

“**Short Term Rental**” means the commercial use of a **Dwelling Unit** to provide temporary accommodation to the traveling public.

c) “Section 8 Parking and Loading Regulations” by adding to “Table 8-1 Minimum Parking Requirements” the following after the **Single Detached Dwelling** Use:

Short Term Rental	1 per Sleeping Unit to a max of 3, plus 2 for the Principal Dwelling Unit		
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- d) Section 9.2 “Bed and Breakfast” by replacing sections 9.2.1(a), (b) and (c) with the following:
- a. be an **Accessory Use** within a **Single Detached Dwelling** or a **Duplex**;
 - b. be permitted only when operated by a Permanent Resident residing in the Dwelling Unit while the Bed and Breakfast use is occurring;
 - c. be permitted only where a **Residential Use** occupied by a **Permanent Resident** is occurring in the **Dwelling Unit** in which the **Bed and Breakfast** use is occurring;
- e) Section 9.2 “**Bed and Breakfast**” by replacing section 9.2.1(g) with the following:
- g. not be permitted on a Lot where a **Child Care, Home; Home Based Business Class 2**; or **Short Term Rental** use is operating.
- f) Section 9.2 “**Bed and Breakfast**” by adding a new section 9.2.1(h) with the following and changing the subsequent letters accordingly:
- h. not be permitted on a Lot where a **Detached Secondary Residential Dwelling** exists.
- g) Section 9.4 “**Home Based Business**” by replacing section 9.4.1(d) with the following:
- d. be permitted only when operated by a **Permanent Resident** residing in the **Dwelling Unit** while the Home Based Business use is occurring;
- h) Section 9.5 “**Secondary Residential Dwellings**” by deleting section 9.5.1(c), 9.5.2(a), and (c) and changing the subsequent letters accordingly.
- i) Section 9.5 “**Secondary Residential Dwellings** by replacing section 9.5.2(d) with the following:
- d. have a maximum of three bedrooms; and
- j) By adding in “Section 9 Specific Use Regulations” a new section as follows:

9.6 Short Term Rentals

1) Short Term Rentals shall:

- a. be an **Accessory Use** within a **Single Detached Dwelling** or a **Duplex** on a single titled **Lot**;
- b. be permitted only when operated by a **Permanent Resident** residing in a **Dwelling Unit** on the **Lot** while the **Short Term Rental** use is occurring;

- c. be permitted only where a **Residential Use** occupied by a **Permanent Resident** is occurring in a **Dwelling Unit** on the **Lot** other than the **Dwelling Unit** in which the **Short Term Rental** use is occurring;
- d. in a residential zone, have a maximum of three **Sleeping Units** within any Dwelling Unit and a maximum of 6 guests within any **Dwelling Unit** at any one time;
- e. in a commercial, have a maximum of eight **Sleeping Units** within any **Dwelling Unit** and a maximum of 16 guests within any **Dwelling Unit** at any one time;
- f. not change the residential character or external appearance of the **Single Detached Dwelling** or **Duplex**;
- g. not exceed one **Short Term Rental** per **Lot**;
- h. not be permitted on a Lot where a **Child Care, Home; Home Based Business Class 2**; or **Bed and Breakfast** use is operating
- i. not be permitted on a Lot where a **Detached Secondary Residential Dwelling** exists;
- j. be in accordance with Section 8 [*parking and loading regulations*];
- k. as a limited exception to the requirements set out in Sections 9.6.1(a) to (c) and (g), a lawful **Dwelling Unit** in the C1, C2, and C3 zones may be used for **Short Term Rental** use when the **Dwelling Unit** is not occupied for **Residential Use**.

k) By adding “**Short Term Rental**” as an **Accessory Use** in the following zones: R1, R1S, R1D, R2, R2A, R5, C1, C2 and C3.

3. Severability

If any portion of this bylaw is found invalid by a court of competent jurisdiction, the invalid portion is severed without effect on the remaining portions of the bylaw.

READ A FIRST TIME THIS	DAY OF	, 2019.
PUBLIC HEARING ON THIS	DAY OF	, 2020.
READ A SECOND TIME THIS	DAY OF	, 2020.
READ A THIRD TIME THIS	DAY OF	, 2020.
ADOPTED THIS	DAY OF	, 2020.

DRAFT Preliminary
Bed and Breakfast & Short Term Rental
Frequently Asked Questions (FAQs)



1. Do I need a business license for a bed and breakfast (B&B) and a short term rental (STR)?
 - Yes, the Town of Golden recognizes the benefits that short-term rentals can provide, from secondary income for residents to increased tourism. That said, regulatory fairness is essential. Traditional accommodators are required to comply with municipal bylaws by obtaining business licenses and undergoing safety inspections, as well as paying commercial property taxes, income, sales, and tourism taxes. The Town has an interest in providing a fair market, enforcing council approved land-use regulations, that building codes are followed, and working to protect neighbourhood integrity. Currently there are numerous unlicensed accommodation providers in the Town and the Town of Golden intends to move forward to ensure compliance.

2. Is there a control on the total number of B&Bs and STRs within the Town of Golden?
 - Having a regulatory system in place that is proactively monitored and the permanent resident requirements will contribute to maintaining residential properties as long term housing stock as well as managing the growth of B&Bs and STRs. The Town did examine quotas, caps, lotteries and temporary use permits to more directly control numbers, but these systems are complicated and very administratively burdensome.
 - In residential zones, the Town of Golden is proposing to limit B&Bs and STRs to only the R1, R1-S, R1-D, R2, R2-A and R5 zones i.e. not the R3, R4, R6 and R7. These latter zones will be omitted as they typically contain more affordable / attainable housing options and there are often common spaces that are desired to feel safe i.e. shared hallways in apartment and condominiums.
 - The Town will only allow a B&Bs and STRs to be operated by a permanent resident who is occupying the dwelling unit or lot while the use is occurring which will ensure the property is long term residential in nature.

3. What is the difference between a B&B and a STR and what will the inspection involve?
 - A bed and breakfast is the rental of sleeping rooms to provide temporary accommodation to the traveling public within a single detached dwelling occupied by a permanent resident.
 - The inspection will examine some of the following life safety items: smoke and CO alarms, hand/guard rails, egress from sleeping rooms, range hood/bathroom exhaust, fire extinguishers, exits etc.
 - In a residential zone, a short term rental is renting a dwelling unit (i.e. its own kitchen) to provide temporary accommodation to the traveling public where another dwelling unit within the building is occupied by a permanent resident.

- The inspection will involve the same items as a B&B as well as a secondary suite occupancy permit, verifying for life safety deficiencies and a review of building code Part 9 section 9.37 etc.

4. What if I don't get a business license?
 - More details will follow on the enforcement strategy, but at first there will be a voluntary compliance period and education and then daily fines of up to \$500 could be implemented.
5. I am a renter, can I operate a B&B or an STR?
 - Yes, as long as you are the permanent resident in the dwelling unit or on the lot, except a lot with a Detached Secondary Residential Dwelling Unit (carriage house or garden suite). Please make sure you have your landlord's permission.
6. Where can I operate a B&B or STR?
 - R1, R1-S, R1-D, R2, R2-A and R5 zones
 - In the C1, C2 and C3 commercial zoned dwelling units you can operate either but only a B&B in the C5 zone.
7. I live in a residentially zoned multiple dwelling (apartment, condominium, townhouse) can I apply for a B&B or STR?
 - These units are often more affordable and attainable as well they have shared spaces, hallways, live in close proximity i.e. noise / safety and therefore they have been excluded.
8. Why don't "Airbnb" listings have to pay commercial property tax?
 - Property tax assessment is outside of a municipality's authority. BC Assessment is responsible for assessing the tax required of each property in the province. Although there are nuances to this, provincial regulations have a four unit or less basis before a property is split classified residential/commercial.
9. Does my standard homeowner's or tenant's insurance policy cover me as a host?
 - This varies case-by-case. You are strongly advised to consult with a licensed insurance broker. Canadian media reports indicate that many residential insurance policies are void if commercial activities like short-term renting take place. This includes both property damage and liability insurance.
10. Can I have guests in my B&B or STR if I am out of town?
 - The bylaws intent is that the operator is also occupying the dwelling unit or building in residential areas during the rental period.
11. Can I have other accessory uses if I have a short term rental?

Home based business 1 - no client visits	Yes
Home based business 2 – up to five clients a day	No
Home child care	No
Detached Secondary Residential Dwelling	No

12. Can I have other accessory uses if I have a bed and breakfast?

- Only a home base, class one, which is essentially a desk and telephone home office and no client visits.

13. How much parking do I need to provide?

Single Detached Dwelling	Two
Bed and Breakfast	Two plus 1 per B&B room
Short Term Rental	Two plus 1 per STR room
Secondary Suite long term residential use	Two plus 1 per the suite

14. Do I have to pay more for Water and Sewer fees?

- Yes, fees are based on number of sleeping units.

DRAFT

September 09, 2019

Mayor and Council,
Town of Golden
PO Box 350
Golden, BC
VOA 1H0

Dear Mayor Oszust and Members of Council,

I am writing this letter in regards to the proposed bylaw for short term/vacation rentals, particularly as it relates to multi-family developments.

I believe that the proposed blanket restriction on short term/vacation rentals for multi-family developments needs to be reconsidered. I do understand the concerns regarding the impact upon neighbours and permanent residents, and as a former member of the steering committee for the Official Community Plan, I recall that considerable discussion was held on that issue. Ultimately, it was decided that short term/vacation rentals would play a significant role in future tourism and developments, and that Canyon Ridge should be considered for exemption from the vacation rental restrictions.

The two main concerns regarding short-term/vacation rentals, are the potential impact upon the neighbourhoods, and upon the permanent residents in the building. As I am sure you are all aware, I have recently completed the first phase of a development in Granite Drive. I made the decision to build in that location because of the way it is set apart from the rest of the community, which was the reasoning behind the recommendations by the OCP to exempt it from restrictions. I am hoping that the new bylaw will consider those recommendations. I chose to build townhomes, rather than a higher density structure, in order to address the concerns for permanent residents. There are no common areas within the building, and the interior walls are concrete, which provides full soundproofing between units. All units have an indoor garage, as well as a driveway, so parking issues should not arise.

The R4 lots in Canyon Ridge are located across the road from the main part of the subdivision, setting the multi-family developments apart from the rest of the neighbourhood. Granite Drive is a quiet, dead end road, with parking along the length of it. Unlike in tight residential areas, there would be minimal disruption from the additional traffic created by short term or vacation rentals in this area.

Other concerns for allowing short term rentals in multi-family developments are the loss of affordable housing units, and that the money generated is taken out of the community. As these, and likely any future multi-family units in the area, are higher-end, they would not constitute affordable housing. I have found, however, that many locals now want the option of earning extra income from short term rentals within their homes. Since listing my units for sale, I have had a number of potential buyers, both local and out of town, express concern over the possibility that they will not be allowed to use the property to generate income in order to help pay the mortgage. This has become a common practice, and allows people to buy units they might otherwise not be able to afford, whether as a home or an investment property.

As to the income generated being taken out of town, this is offset by the increased tax base, and by the money spent in local businesses. Vacationers who stay at the ski hill tend to spend the majority of their money there, not venturing into town much at all. Vacationers who stay within the town limits are far more likely to shop in the local stores, and eat at the local restaurants.

A concern related specifically to vacation rentals, is that there is no one onsite to ensure that properties are maintained, and that guests behave with consideration. I often stay at VRBO properties, and these concerns are dealt with through strict bylaws, and stiff penalties for infractions. In any medium to higher end property, it is in the strata corporation's best interest to ensure that solid bylaws are put into place, and backed up by stiff penalties, in order to protect the owners' investments and the development's reputation.

When the Official Community Plan was written, short term rentals were a relatively new concept. Since then, they have become a major factor in tourism. I think it is unrealistic for Golden not to offer the types of high-end rentals that people can expect in other places. Tourism is a very competitive industry, and with close neighbours like Invermere, Radium and Revelstoke offering many of the same recreational activities, as well as high end vacation rentals, Golden runs the risk of not giving their local businesses the ability to be competitive.

I am hoping that you will take this proposal into consideration, and look forward to the opportunity to discuss it with you in council.

Sincerely,

Lindsey Cox