

**TO:** EXECUTIVE COMMITTEE OF COUNCIL (ECC)  
**FROM:** GENERAL MANAGER COMMUNITY SAFETY  
**SUBJECT:** **NEW PROVINCIAL REGULATIONS RELATED TO SHORT-TERM RENTALS**  
**PURPOSE:** To provide the Executive Committee of Council with information on recently announced Provincial regulations related to Short-Term Rentals.

## RECOMMENDATION

**THAT** the report titled “New Provincial Regulations Related to Short-Term Rentals” dated December 6, 2023, be received for information.

**THAT** a letter be sent to the Attorney General and Minister of Municipal Affairs to advocate for an increase in the maximum penalty amount under the *Local Government Bylaw Notice Enforcement Act* to enforce compliance with local government bylaws.

### 1.0 POLICY SECTION

This report is based on an announcement from the provincial government of BC as well as the adoption of Bill 35-2023 *Short-Term Rental Accommodations Act* by the Legislative Assembly of British Columbia on October 26, 2023. The Act will not come into force until the related provincial regulations are passed, which is expected starting in May 2024.

### 2.0 BACKGROUND

The provincial government has announced that B.C. is facing a housing crisis, with a shortage of all forms of attainable housing, including long-term rentals. This crisis is being amplified by the number of short-term rentals (STRs) which have expanded rapidly over recent years throughout B.C. In response to the rise in STRs, on October 16, 2023, the province announced that new measures will soon be implemented. These new rules will be introduced over the coming months and are designed to limit the expansion of new STRs and to ensure that existing STRs are not impacting permanent housing stock.

Prior to the provincial action, Burnaby City Council had taken steps to regulate STR operations within Burnaby. Amendments to the Burnaby Zoning Bylaw, Burnaby Business Licence Bylaw, Business Licence Fee Bylaw (now incorporated into the Consolidated Fees and Charges Bylaw) and Burnaby Bylaw Notice Enforcement Bylaw related to regulation and enforcement of STRs in the City came into effect on August 1, 2022 (see Attachments 1 and 2 for related Committee and Council reports and Attachment 3 for

current Schedule “G” – Short-Term Rental Regulations in the Burnaby Business Licence Bylaw).

Staff from the Burnaby Licence Office recently attended an information session, hosted by the Ministry of Housing, Housing and Policy Branch, to obtain additional details on the proposed provincial STR regulations. At this point in time, many of the details on some of the new initiatives are still being developed. However, based on the high-level information provided during the session, staff are confident that the new program will greatly improve the City’s STR bylaw enforcement practices.

This report is intended to provide the Executive Committee with information on how new provincial STR regulations and the existing Burnaby short-term rental regulations will work in tandem to address enforcement against noncompliant operators. As the provincial program continues to take shape, additional information may be passed along to the Committee.

### **3.0 GENERAL INFORMATION**

Beginning in August 2022, Burnaby residents have been permitted to offer STR accommodation in residential buildings as long as the premises and operation of the business complies with all City bylaw regulations. The City’s STR regulations include:

- only permitting STRs within the principal residence of the registered owner of a residential property
- prohibiting STRs in rental units, caretaker units, single and two family homes with secondary suites (including within the suites), laneway homes and accessory buildings and structures
- requiring STR operators in strata buildings to obtain authorization from their strata corporation
- limiting the STR operation to a maximum of 90 nights per calendar year and no more than 28 nights with the operator absent from their residence;
- requiring STR operators to obtain a Burnaby business licence before marketing and/or beginning operations and restricting operators to no more than one business licence and marketing more than one STR;
- providing adjacent properties with the STRs contact information each year prior to operating a STR
- providing guests with the STR operator’s contact information and information on relevant City bylaws and posting fire safety plans in the STR premises
- maintaining required written records

#### **3.1 STR Bylaw Enforcement Practices and Challenges**

Advertisements for STRs normally provide photographs and a description of the property being offered for rent, but do not include an address. Historically this has made enforcement extremely difficult. In order to detect properties that are offering STR accommodations, the City contracted the services of a data analysis company to obtain

information from various websites used to advertise STRs, including Airbnb and VRBO. The company then applies a variety of data comparison tools to determine the address of the properties being advertised. Each month the company provides a report to the Licence Office listing all of the current STRs operating in Burnaby with the property address. STRs that are already known to be compliant with the bylaw and have received a business licence are removed.

After the City obtains the monthly list of STRs operating in Burnaby, these properties are then reviewed against known characteristics of the location (e.g., does the property contain a suite, is the location a single family, two family or multi-family location, etc.) and the regulations contained in the bylaw. The properties are then filtered into one of two categories:

- A.** Properties that are eligible for a business licence but have yet to apply.
- B.** Properties that, based on the known characteristics and the bylaw regulations, are operating in violation of the City's STR regulations and are therefore ineligible for a business licence. Often this is due to the presence of a secondary suite.

Once categorized, the property owners are advised by letter(s) to either obtain a business licence or to cease operating the STR. A reasonable grace period is provided to the property owner to come into compliance. If the property remains noncompliant after the grace period Bylaw Violation Notices are then issued. The most recent STR bylaw enforcement information is listed below and includes all enforcement activity to date:

Category A		Category B	
Properties identified	155	Properties identified	298
Obtained a business licence	53	Voluntarily agreed to cease operating after notification	259
Voluntarily agreed to cease operating after notification	73	Number of properties issued violation notices	47
Number of properties issued violation notices	38	Continue to operate despite notification	39
Failed to obtain licence and continue to operate	29		

Despite all enforcement actions taken by staff, the monthly reports indicate that 68 (15%) of the 453 properties identified continue to post their properties as STRs and operate in defiance of the City's regulations.

## **3.2 New Provincial Rules**

### **Platform Accountability and the Establishment of a Provincial Registry**

The provincial government has announced the *Short-Term Rental Accommodations Act* as part of their greater oversight role and to improve rental housing availability in the province. Under this legislation platform service providers, such as Airbnb, VRBO, Expedia and FlipKey, that are commonly used by host properties to advertise STR locations, will now be required to register with the province on an annual basis. If a platform fails to register or does not comply with any other regulations contained in the Act, the service provider could face financial penalties as well as cancellation or suspension of their site privileges.

In addition to the platforms, the Act further requires that all individual ads for STRs posted on a platform must contain a business licence number (if the local government requires), a valid registration number to be provided by the provincial registrar and, any other prescribed information the registrar deems appropriate. If an ad does not contain the required information, including the business licence information, the platform must remove the listing at the request of the local government. The province estimates that the registry will be in place by late 2024.

Among all of the regulatory actions introduced by the province, the establishment of the registry will have the most significant impact on addressing bylaw compliance for Burnaby-based STRs. Rather than the current practice where the City contacts operators only after an ad has been identified, the onus will now be on individual operators to obtain a business licence prior to posting.

### **Principal Residence Requirement**

Similar to the requirements contained in the City's STR regulations, the province is implementing a principal residence requirement for STRs located in municipalities that have a population greater than 10,000.

It is important to note that the provincial regulations will also permit a host to accommodate guests in one additional secondary suite or accessory dwelling unit as well as their principal residences, but only if this activity is also permitted under local bylaws. The City's STR only allow guests to stay in the host's principal residence and prohibit STRs in single and two family homes with secondary suites as well as within secondary suites, laneway homes and accessory buildings and structures.

During the information session, Ministry staff advised that once this requirement is put into effect (estimated to be May 1, 2024), the province will assume responsibility for enforcing the principal residency requirements. The City will continue to be able to enforce the requirement under the City's STR regulations through the City's bylaw enforcement mechanisms (i.e. bylaw violation notices).

### **Increased fines**

The province intends to increase the maximum fine a local government may issue to any bylaw noncompliant operator, from \$1000 to \$3000 per day. However, the increase in fines is only applicable under a Municipal Ticket Information (MTI) system. The MTI system is not utilized in Burnaby to enforce bylaws. Instead, Burnaby uses the *Local Government Bylaw Notice Enforcement Act* (LGBNEA) process as the mechanism to enforce City bylaws. The maximum fine penalty under the LGBNEA is \$500 per day and will not be increasing. It is unclear why the province chose to increase fines under the MTI program and not the LGBNEA given that this is the most widely used enforcement mechanism for local governments.

The City uses the LGBNEA mechanism for bylaw enforcement because of its ease of administration, which allows for bylaw violation notices to be issued by designated City staff and limits appeals to an independent adjudicator through a process administered by the City under the LGBNEA. In contrast, the MTI process resembles the provincial violation ticket system and requires an enforcement officer or police officer to certify the allegation and deliver the ticket to the alleged offender, either personally or at the individual's residence. If the ticket is disputed, the City must refer the dispute to the provincial court for a hearing and it is up to the provincial court to set the date, time and location of the hearing (likely Vancouver or New Westminster Courthouse). The police officer or City bylaw enforcement officer who issued the ticket would need to appear at the hearing to address the dispute and the provincial court judge hearing the dispute has the authority to alter the amount of the fine. If the alleged offender fails to pay the fine and also does not dispute the ticket, the City must submit the ticket to the provincial court to have a judge make a determination and impose a penalty, at the judge's discretion. The MTI process would be quite cumbersome and resource-intensive for the City to implement, without the benefits of certainty of convictions and fine amounts due to the need for hearings before a provincial court judge.

Given the disadvantages of MTIs, City staff do not recommend establishing a MTI system for the City to implement the larger fines for non-compliance with the City's STR regulations, as that would entail a new bylaw, related ticketing mechanism and additional enforcement procedures and resources. Instead, if Council would like to implement larger fines for bylaw violations, including non-compliance with the City's STR regulations, staff recommend that Council advocate to the Attorney General and Minister of Municipal Affairs to increase the maximum penalty amount permitted under the *Local Government Bylaw Notice Enforcement Act*. During the information session on the province's STR legislation, Ministry of Housing staff also encouraged local government staff in attendance to take this step.

### **Provincial Compliance and Enforcement unit**

In order to ensure the new rules are being followed, the province has committed to creating a Compliance and Enforcement Unit. This new enforcement team will be responsible for tracking compliance, issuing orders and administering penalties for violations of the provincial regulations. A time frame for this unit to be in place has not been provided.

## **Data sharing**

Under the new rules, short-term rental platforms will be required to share various information about STR listings with the province. The province will then in turn share this information with local governments through an information sharing agreement and allow the local government to use the information for STR bylaw enforcement purposes. The data sharing function will be in place by summer of 2024.

## **4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT**

Not applicable

## **5.0 FINANCIAL CONSIDERATIONS**

Not applicable

Respectfully submitted,

Dave Critchley, General Manager Community Safety

## **ATTACHMENTS**

Attachment 1 – Planning and Development Committee report titled “Short-Term Rentals – Proposed Bylaw Amendments”

Attachment 2 – Council Report titled “Advancement of Amendment Bylaws Related to Short-Term Rentals to Final Adoption”

Attachment 3 –Schedule “G” - Short-Term Rental Regulations, Burnaby Business Licence Bylaw

## **REPORT CONTRIBUTORS**

This report was prepared by Dan Layng, Chief Licence Inspector and reviewed by May Leung, City Solicitor, and Lee-Ann Garnett Director of Planning.