

To: Her Worship Mayor McKortoff and Members of Council

From: Christopher Garrish, Planner

Date: December 10, 2024

Subject: Short-Term Rental Regulation Review

Tracker No: BLW-389

RECOMMENDATION:

THAT the proposed bylaw amendments contained in draft OCP Amendment Bylaw No. 1375.07, draft Zoning Bylaw No. 1395.04, draft MTI Bylaw No. 1279.25 and draft Business Licence Bylaw No. 1400, be initiated;

AND THAT public engagement on the proposed OCP and Zoning Bylaw amendments be initiated.

CAO Comments:

Approved for Council consideration.

Executive Summary:

The purpose of this report is to provide options for Council in relation to the Short-Term Rental Regulation Review project and proposed amendments to the Town's Official Community Plan (OCP), Zoning, Municipal Ticketing Information (MTI) and business licencing bylaws.

Background:

Official Community Plan (OCP):

Under the Town's Official Community Plan (OCP) Bylaw No. 1375, 2021, Council has adopted the following policies in relation to short-term rental accommodations:

- Consider establishing a policy to regulate short-term rentals as an option for tourist accommodations and to ensure that long-term rental housing stock is protected (s. 6.B.3.1(e));
- Consider implementing a short-term rental permitting process to regulate the use of residential properties for commercial uses (s. 6.B.3.2(h)); and
- Allow a wide variety of ownership and rental structures for tourist accommodation facilities within the Tourist Commercial designation, including rental pool, short term rentals ... (s. 7.C.2.4.(e)).



Zoning Bylaw:

Between 2022 and 2024, the Town undertook a Zoning Bylaw Update project, which incorporated new requirements resulting from amendments to the *Local Government Act* enacted under *Housing Statutes (Residential Development) Amendment Act, 2023* (Bill 44).

Although these amendments required that the introduction of zoning to permit expanded residential densities on parcels within the Town's "urban growth boundary" that are serviced by Town water and sewer (i.e., 3 - 4 units, dependent on parcel size), the Town had submitted a request to the Minister of Housing for an extension to implementing these density requirements due to current water production wells being unable to provide sufficient water to meet current peak hour demands. On September 16, 2024, the Minister of Housing formally approved an Extension to SSMUH Implementation to December 31, 2029.

Zoning Bylaw No. 1395, 2024, was subsequently adopted on September 24, 2024, repealing Zoning Bylaw No. 1085, 1998, and currently permits a maximum density of only two (2) dwelling units in the new Small-Scale Multi-Unit Residential (RS1) Zone, which may be in the form of a single detached dwelling, duplex dwelling, secondary suite or accessory dwelling.

With the adoption of Zoning Bylaw No. 1395, 2024, the allowance for short-term rental accommodation uses was carried forward in the form of a new CT4 Zone in which "resort residential building" is listed as the only principal permitted use and is defined as meaning:

an apartment building within which a dwelling unit may be used for a residential or shortterm rental accommodation use, with the latter being for periods of less than one month. The resort residential building may include accessory facilities such as eating and drinking establishments, banquet and convention rooms, recreation facilities and personal service establishments for the convenience of residents and guests

It was anticipated that this definition may require an amendment depending on the outcome of the separate Short-Term Rental Regulation Review.

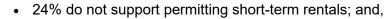
Short-Term Rental Regulation Review:

Further to the policy direction contained in the Town's OCP, a project to recommend policies and/or programs that could be used in relation to the regulation of short-term rental accommodations was initiated in 2022 (along with the Zoning Bylaw Update).

This included exploring options with the community to determine the best approach for incorporating short-term rentals in a manner that balances the positive and negative impacts associated with these uses.

Throughout 2023, the Town conducted a series of public engagement initiatives to gather insights on key short-term rental topics with residents. Some of the key themes that emerged from this consultation was:

- 51% of survey respondents support permitting short-term rentals in Osoyoos;
- 16% of participants would support permitting short-term rentals, so long as they were restricted to certain areas within the Town;



• 9% of participants were unsure of their position on short-term rentals.

Many participants acknowledged that short-term rentals already play a big role for tourism and other businesses in Osoyoos whereas participants who were against permitting short-term rentals were opposed because of their potential impact on the long-term housing supply and overall community wellbeing.

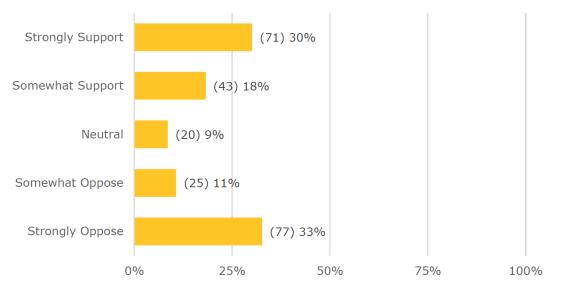
Multiple participants provided suggestions for regulation, such as only permitting short-term rentals on owner-occupied properties.

Proposed "Pilot Program":

The following Short-Term Rental "Pilot Program" that would last for a 2-3 year period was also put to residents who participated in the 2023 Engagement process:

- Allow STRs to be permitted in any single-detached or low density residential zone, in a principal dwelling unit or a secondary suite. A principal dwelling unit is the building housing the primary residence on the lot. In Osoyoos, this could be a single detached home. A secondary suite is an additional residence on a property that may be located within the same building as a primary residence.
- Issue a number of 1-year permits for STRs on a first-come, first-served basis (the number of permits would be decided through discussions with the community and Council). To renew, an STR inspection facilitated by the Town would be required for a fee.
- Require applicants to demonstrate that they have valid insurance, one parking space allocated for the STR (in addition to any required parking spaces for the primary residence), and an application for a valid business license at the time of APPLICATION to the pilot program.

The response of participating residents to this "Pilot Program" was as follows:





Short-Term Rental Accommodations Act:

On October 26, 2023, the *Short-Term Rental Accommodations Act* received Royal Assent and is intended, amongst other things, to "give local governments stronger tools to enforce short-term rental bylaws."

One of the ways that the Act does this is through the introduction of a "Principal Residence Requirement", which limits short-term rentals to:

- the host's principal residence; and
- one (1) secondary suite or one (1) accessory dwelling unit.

The Province's "Principal Residence Requirement" is intended to function as a minimum requirement, or a "floor", meaning that local governments may choose to have more restrictive short-term rental bylaws depending on local needs.

The "Principal Resident Requirement" applies to all municipalities with a population of 10,000 and over, and came into effect on May 1, 2024.

For local governments that have a population of less than 10,000 persons, the Province provides an "opt-in" process, whereby a request may be submitted to the Minister of Housing to have the "Principal Resident Requirement" applied to a municipality.

At its meeting of March 12, 2024, Council resolved "that the Committee recommend to Council to approve the decision to opt-in to the principal residence requirement for permitting short-term rentals in the Town and pursuing the proposed process for implementation."

On May 1, 2024, the Town of Osoyoos was listed as a community in which the requirement applies, and the "Principal Residence Requirement" subsequently came into effect on November 1, 2024.

Exemptions to the Provincial Principal Residence Requirement

The *Short-Term Rental Accommodations Regulation* provides for various exemptions to the new "Principal Residence Requirement", which are summarized as follows:

- Strata-titled hotels or motels, meeting specified conditions of operation, where property owners may not use the property as a principal residence due to a restrictive rental management agreement, restrictive covenant, or land use regulation (e.g., zoning provisions);
- Properties with fractional ownership which cannot be used as a principal residence due to a restrictive fractional ownership agreement;
- Time share properties;
- Home exchanges;
- Student accommodations;
- Accommodations provided for visitors of residents of a strata; and,



• Accommodations provided by an operator of outdoor recreational activities (e.g., hunting, fishing, water sports).

As it relates to the exemption for strata-titled hotels and motels, the Regulation defines "strata-titled hotel or motel" as meaning:

a property in which accommodation is provided in a manner similar to that of a hotel or motel and, in respect of which property,

- (a) a strata plan is filed under the Strata Property Act, and
- (b) different owners own different strata lots.

In order to qualify for an exemption, the Regulation establishes a number of specific requirements that a "strata-titled hotel or motel" must satisfy, including, and amongst other things, the following:

- (a) in the case of a strata-titled hotel or motel in which, before December 8, 2023, accommodation was being provided in a manner similar to that of a hotel or motel,
 - (i) on December 8, 2023, the strata-titled hotel or motel had, and continues to have, all of the following services, which are provided in a manner similar to that of a hotel or motel:
 - (A) a platform that is available exclusively for each of the owners of strata lots in the strata-titled hotel or motel to make platform offers;
 - (B) one or more employees or contractors provide services to administer a front desk in person at the strata-titled hotel or motel;
 - (C) one or more employees or contractors provide housekeeping services within the strata lots in which the accommodation is provided.
 - (ii) two or more of the strata lots in the strata-titled hotel or motel were, on December 8, 2023, not able to be used, and continue to not be able to be used, as a principal residence by any person due to a restriction under
 - (A) a rental management agreement between the manager and one or more owners of the strata lots in the strata-titled hotel or motel,
 - (B) a restrictive covenant registered against the land or a covenant under section 219 [registration of covenant as to use and alienation] of the Land Title Act registered against the land,
 - (C) a land use regulation bylaw, within the meaning of section 455 [definitions in relation to Part 14] of the Local Government Act ...

(NOTE: The Regulation also includes similar exemption criteria for strata-titled hotels and motels which have an occupancy date after December 8, 2023).

Council Consideration:



At its meeting of October 10, 2023, the Committee of the Whole (COTW) of Council resolved that the "Committee of the Whole suggest to Council that Administration proceed with the next steps for full-implementation of the Short-Term Rental Program in 2025."

At its meeting of March 12, 2024, the COTW of Council received an update on the Short-Term Rentals timeline to date from Urban Systems staff. There was no resolution provided in relation to this update.

Analysis:

In light of the introduction of the *Short-Term Rental Accommodation Act* and the Small-Scale Multi-Unit Housing (SSMUH) provisions of the *Local Government Act*, Administration is recommending that the proposed "Short Term Rental 'Pilot Program'" presented to Council in 2023 proceed, but in a modified form.

Permitted Zones:

Further to the direction provided by Council at its meeting of October 10, 2023, and in recognition that the SSMUH Extension has afforded the Town a 5-year window in which the maximum density in the Town's RS1 Zone will not exceed two (2) units per parcel, Administration is recommending that STRs to be listed as permitted accessory use in the RS1.

This would allow for an STR use to occur within either a single detached dwelling, secondary suite, accessory dwelling or one unit of a duplex and it is further proposed that the maximum number of STRs permitted per parcel be limited to one (1).

For the duration of the "Pilot Program", this would preclude the issuance of a business license for an STR use occurring in an apartment building or townhouse, which are generally within the Medium Density Residential One (RM1) Zone.

Despite this, the "Pilot Program" would not impact the Town's ability to issue business licenses for STRs within "resort residential buildings", which are permitted in the Resort Commercial (CT4) Zone.

Of note, a business license for a short-term rental within "resort residential buildings" may only be issued where the strata operation is consistent with the prescribed exemption criteria under the *Short-Term Rental Accommodations Regulation*.

Zoning Regulations:

It is being proposed that the regulations applied to STRs generally match those applied to bed and breakfast (B&B) operations as both involve the short-term rental of residential dwelling.

Accordingly, it is being proposed that an STR use be limited to dwellings with no more than four (4) bedrooms to a maximum occupancy of eight (8) patrons at any one time.

Similar to a B&B, it is also being proposed that on-site vehicle parking be provided at a ratio of one (1) space for each bedroom in the dwelling unit.

For comparison purposes, the zoning regulations applied by other local governments in the South Okanagan is presented at Attachment No. 1.



Business Licence Requirements:

In order to obtain a business license from the Town, it is being proposed to require the submission of the following:

- proof that principal residence requirement is met;
- floor plan;

- health and safety inspection;
- fire evacuation plan; and,
- parking plan.

It had previously been suggested that the Town might want to require the submission of "valid insurance" in support of a business licence application for a STR use. Administration does not favour this as it would create another administrative burden that the Town is not equipped to address and is also not a common requirement by other local governments (see Attachment No. 1).

Ensuring insurance is valid is beyond the expertise of staff and further creates on-going monitoring challenges in terms of insurance policies expiring or being cancelled in the course of a year. This becomes more problematic if the requirement for insurance by the Town creates a perception by patrons and neighbours that the risks associated with an STR use have been fully vetted by the Town.

In this instance, Administration favours minimizing regulatory interventions and not requiring insurance as part of the business licencing process and that Council give consideration of building code and fire hazard compliance through required inspections.

Inspection Requirements:

As referenced above, Administration is recommending that a business licence application be accompanied by a health and safety inspection that would address the following items:

- proper civic addressing is displayed on all dwellings on a property;
- a fire evacuation plan is posted in the dwelling;
- at least one (1) fire extinguisher per floor is mounted in a visible location;
- interconnected smoke alarms are provided on each level of a dwelling;
- carbon monoxide alarms be installed in dwellings with appliances fueled by gas or wood;
- spark arrestors are installed and wood burning chimneys are cleaned regularly;
- bedrooms have windows that comply with Building Code requirements for egress;
- stairs, decks and balcony have guard rails installed (as required);
- electrical and gas systems must be in good general condition; and,
- hot tubs have a lockable cover and pools are surrounded by a min. 4 foot high fence.

The requirement for a basic health and safety inspection is common amongst other local governments in the region and is understood to ensure a dwelling proposed for a STR use meets current building codes and zoning regulations, especially if modifications have been made to accommodate additional guests (e.g. new bedrooms have been created).

Inspections further help verify compliance with occupancy limits to prevent overcrowding and potential safety hazards while also potentially limiting nuisance complaints from adjacent property owners and residents.

Finally, there is a fairness argument that basic health inspection requirements ensure that a STR use is being held to somewhat comparable standards as are applied to hospitality sector accommodations (e.g. hotels and motels).

Limiting the Total Number of Operators:

While Council has previously indicated a preference to limit the maximum number of STR uses within the Town at approximately 130 — which is understood to represent approximately 5% of the housing stock in the Town — Administration is recommending that this not be implemented.

This is primarily a reflection of the logistical challenges of administering such a system given available resources. For instance, a system structure on a "first-come, first-served basis" can encourage rushed applications, which creates inefficiencies and a loss of staff time trying to correct incomplete applications.

In addition, such an approach may encourage the submission of multiple applications, queue manipulation (hiring agents to camp out in order to secure an early place in line), prioritizing speed over merit while it is not clear how disputes will be resolved (especially if demand exceeds available licences).

While a suitable alternative that might address these concerns would be one in which randomized selection occurs (e.g. a "lottery system"), the Town is not currently resourced to undertake such a process.

For these reasons, Administration is recommending that licences be issued to all property owners who are able to meet the criteria established by Council to obtain a business licence for a STR.

Of note, under Section 36 (Authority to continue use does not apply) of the *Short-Term Rental Accommodations Act*, the use of a property for a STR cannot benefit from non-conforming use rights under the *Local Government Act* if Council resolves to amend its land use bylaws as they relate to STRs in future.

What this means, is that should Council resolve to re-visit its approach to the number of STRs that may operate within the Town in future (e.g., by amending permissive zoning), it can do so without being hampered by the number of operations that may have been lawfully licenced as part of the "Pilot Program".

"Resort Residential" Buildings:

The Town's zoning bylaw historically provided an allowance for STR uses in a limited number of (former) comprehensive development (CD) zones.

While this allowance was carried forward into the current zoning bylaw through the introduction of a CT4 Zone that lists "resort residential building" as a permitted principal use, the licensing of these strata-titled hotels and motels may be challenging.

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This is due to the Principal Residence Requirement and the Town not historically collecting or keeping records on the number of dwelling units within a strata, or which of these are utilized as a principal residence. In future, the Town will likely be relying on property owners/strata rental management to self-declare if they meet the exemption criteria.

It is being proposed that the public engagement component of this strategic project include directed outreach to the four (4) parcels that could be affected by this to confirm the use of the parcels and to ensure that they are aware of the implications of the Provincial Principal Residence Requirement in relation to the CT4 zoning of these properties.

Other Commercial Tourist Accommodation Uses:

There are a number of parcels within the Town which are zoned to permit "tourist accommodation" and currently contain strata-titled hotels or motels.

One of the key differences between the "tourist accommodation" and "resort residential building" uses is that "tourist accommodations" consist of sleeping units which are solely intended to be used for commercial purposes as temporary accommodations.

Whereas, a "resort residential building" contains dwelling units which may be used for both residential purposes *and* commercial purposes as short-term rental accommodations.

Despite this, Administration notes that the Town has received queries regarding the residential allowances permitted within tourist accommodations.

As the Town does not actively monitor the use of each privately owned strata-titled hotel or motel unit, it is not known whether these tourist accommodations are solely utilized as temporary accommodations for the traveling public.

As such, it is being proposed that the public engagement component of this project also include directed outreach to the strata-titled tourist accommodation operations within the TC, C1 and CT1 Zones to confirm whether their current zoning accurately reflects the use of these parcels, and to assess whether a zoning change would be appropriate and how such a change could be impacted by the Provincial Principal Residence Requirement.

Community Engagement:

Public engagement has been undertaken in relation to this project to date, including digital engagement (i.e., StoryMap, online survey) and three public engagement sessions in 2023 (two in-person sessions and one online).

The engagement sessions were undertaken in two-parts, with the first part including a presentation providing an overview on what short-term rentals area, the benefits and challenges of short-term rentals and the project process, and a question and answer period.

The second part being a "World Café" workshop allowing residents to rotate between tables to provide input on specific topics.

Going forward, it is recommended that further engagement with the community be scheduled and it is noted that this could be in the form of a workshop and review of the draft bylaws by the community (to be completed by Urban Systems). Additional opportunities for feedback to be



received may be available.

Options/discussion:

- 1. THAT the proposed amendments to the OCP Bylaw, Zoning Bylaw, MTI Bylaw and/or draft Business Licence Bylaw be revised as follows:
 - i) TBD

Attachments:

- No. 1 Summary of SILGA Member STR Business Licence Fees
- No. 1 Summary of Resort Municipality STR Business Licence Fees
- No. 3 Summary Comparison of Local Government Zoning Regulations and Licencing Requirements
- No. 4 Draft OCP Amendment Bylaw No. 1375.07
- No. 5 Draft Zoning Bylaw No. 1395.05
- No. 6 Draft MTI Bylaw No. 1279.25
- No. 7 Draft Business Licence Bylaw No. 1400



Attachment No. 1 – Summary of SILGA Member STR Business Licence Fees*

Local Government		Business Li	cence Fee	Comments		
		STR B&B				
1.	Penticton	\$775.00 (H.O.) \$515.00 (major) \$260.00 (minor)	\$220.00	"H.O." = High Occupant STR with 6 or more patrons		
2.	Kelowna	\$750.00 (major) \$345.00 (minor)	\$160.00	Minor occurs in a principal residence		
3.	Summerland	\$500.00	\$500.00			
4.	West Kelowna	\$500.00	\$500.00			
5.	CORD	\$360.00	\$160.00	Includes administrative fees		
6.	Sicamous	\$265.00	\$265.00			
7.	Oliver	\$200.00	\$200.00			
8.	Armstrong	\$193.00	\$193.00			
9.	Chase	\$175.00 (major) \$125.00 (minor)	\$175.00 (major) \$125.00 (minor)	Minor is less than 3 bedrooms		
10.	Lillooet	\$150.00	\$150.00			
11.	Spallumcheen	\$130.00	\$130.00			
12.	Peachland	\$112.00	\$112.00			
13.	Keremeos	\$100.00	\$100.00			
14.	Lake Country	\$100.00	\$100.00	\$350 fee for an STR and B&B on parcel		
15.	Lumby	\$100.00	\$100.00			
16.	Vernon	\$100.00	\$100.00			
17.	Clinton	\$100.00	\$100.00			
18.	Salmon Arm	N/A	\$100.00			
19.	Clearwater	N/A	\$100.00			
20.	Barriere	N/A	\$100.00			
21.	Logan Lake	N/A	\$100.00			
22.	Princeton	\$85.00	\$85.00			
23.	Osoyoos	\$75.00	\$75.00			
24.	Enderby	\$75.00	\$75.00			
25.	Coldstream	\$70.00	\$60.00	Additional charge per bed applied		
26.	Kamloops	\$67.20	\$67.20			
27.	Ashcroft	\$60.00	\$60.00			
28.	Merritt	\$50.00	\$50.00			
29.	Cache Creek	\$50.00	\$50.00			
30.	Lytton	\$50.00	\$50.00			

* excludes SILGA member resort municipalities (see Attachment No. 2); based upon a review of documents posted online by applicable local governments in December of 2024



Attachment No. 2 - Summary of Resort Municipality STR Business Licence Fees*

Local Government		Business Licence Fee STR B&B		Comments		
1.	Osoyoos (proposed)	\$750.00	\$750.00			
2.	Tofino	\$519.70	\$519.70	2025 rate for one sleeping unit/room, not inclusive of processing fee; Bylaw includes 3% fee increase in 2026 and 2027		
3.	Invermere	\$400.00	\$150.00	Includes inspections and administrative time; STR business license renewal fee of \$150.00		
4.	Whistler	\$190.00	\$190.00	Additional \$25.00 fee per tourist accommodation property; Does not include administration fee		
5.	Harrison Hot Springs	\$100.00	\$100.00	Does not include administration fee		
6.	Valemount	\$100.00	\$50.00			
7.	Fernie	\$100.00	\$100.00	\$150.00 inspection fees (initial and additional)		
8.	Ucluelet	\$450.00 (1 unit) + \$125.00/additional unit	\$450.00 (1 room) + \$125.00/additional room	Does not include new applicatio fee; Bylaw includes 2% fee increase as of May 1, 2024		
9.	Radium Hot Springs	\$75.00	\$75.00			
10.	Revelstoke	\$500.00 (+ \$250.00/additional bedroom)	\$500.00 (+ \$250.00/additional bedroom)	Does not include application fee		
11.	Golden	\$175.00 (1 bedroom) \$225.00 (2 bedrooms) \$275.00 (3 bedrooms)	\$125.00 (1 sleeping unit) \$175.00 (2 sleeping units) \$225.00 (3 sleeping units)			
12.	Sun Peaks	\$140.00 (1 bedroom) \$300.00 (2 bedrooms) \$400.00 (\$3 bedrooms) \$500.00 (4+ bedrooms)	\$150.00			



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Local Government		Business Licence Fee		Comments	
		STR	B&B		
13.	Kimberley	\$300.00	\$50.00	Additional \$50.00 fee for STRs to designate a responsible person other than an owner and \$75.00 fee for an STR manager	
14.	Rossland	\$400.00	\$500.00	\$150.00 inspection fee	

* based upon a review of documents posted online by applicable local governments in December of 2024



Municipality	Max. No. per Parcel*	Bedrooms (max.)	Patrons (max.)	Parking Spaces	Health & Safety Inspections	Proof of Insurance
Penticton	1	n/a	2/bedroom	1 / bedroom	\checkmark	×
Summerland	1	4	8	1 / STR	\checkmark	×
Oliver	1	n/a	2/bedroom	1 / bedroom	×	×
RDOS	1	4	8	1 / bedroom	✓	×
Peachland	1	4	8	1 / bedroom	✓	×
West Kelowna	1	4	8	1 per 1-2 bedrooms 2 per 3-4bedrooms	\checkmark	×
Resort Municipality In	itiative Particip	ants				
Tofino	1	3	6	1 / bedroom	×	×
Invermere	1	n/a	10	1 / bedroom	✓ t	×
Whistler	n/a	n/a	n/a	0.75 / bedroom	\checkmark	×
Harrison Hot Springs	1	n/a	n/a	1 / bedroom	✓	×
Valemount	1	n/a	n/a	1 / 2 bedrooms	\checkmark	×
Fernie	1	n/a	n/a	2 spaces	√ †	×
Ucluelet	[variable]	[variable]	[variable]	[variable]	\checkmark	×
Radium Hot Springs	1	n/a	2 / bedroom	1 / 2 bedrooms	✓†	×
Revelstoke	1	4	8	1 / bedroom (max of 4)	✓	×
Golden	1	3	6	1 / bedroom (max of 3)	✓†	×
Sun Peaks	n/a	n/a	[variable]	[variable]	✓	×
Kimberley	n/a	n/a	12	Unclear	✓†	×
Rossland	1	3	6	1 / sleeping unit	✓	\checkmark
Proposed				·	· · · · · · · · · · · · · · · · · · ·	
Osoyoos	1	4	8	1 / bedroom	✓	×

Attachment No. 3 – Summary Comparison of Local Government Zoning Regulations and Licencing Requirements

* low density residential zones

[†] "Self Inspection"