



THE CORPORATION OF THE  
DISTRICT OF SUMMERLAND  
**REQUEST FOR DECISION**

DATE: December 13, 2021  
TO: Graham Statt, Chief Administrative Officer  
FROM: JoAnn Peachey, Planner II  
SUBJECT: Short Term Rentals – Regulatory Framework (Z21-015)

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FILE: 3360-Z21-015

STAFF RECOMMENDATION:

That Council pass the following resolutions:

1. ***THAT Zoning Bylaw Amendment Bylaw No. 2021-048 be read a first and second time;***  
***AND THAT a Public Hearing be held on January 24, 2022 to receive public feedback on the Zoning Bylaw Amendment Bylaw No. 2021-048;***  
***AND FURTHER THAT January 24, 2021 Public Hearing and Regular Evening Council meeting be held at the Summerland Arena Banquet Room at 8820 Jubilee Road East.***
2. ***THAT Business Licence Amendment Bylaw No. 2021-049 be read a first and second time.***
3. ***THAT Fees and Charges Amendment Bylaw No. 2021-050 be read a first and second time.***
4. ***THAT Bylaw Notice Enforcement Amendment Bylaw No. 2021-051 051 be read a first and second time.***
5. ***THAT Ticket Information Utilization Amendment Bylaw No. 2021-052 052 be read a first and second time.***

STRATEGIC PRIORITY:

**Good Governance** – A regulatory framework for short-term rentals supports the continuation of providing high-quality services to residents of the District. The implementation of a short term rental regulatory framework has also been a strategic priority project of Council's since 2018.

CULTURAL IMPACT STATEMENT

Strategic Direction No. 1: "Reflect Summerland's cultural value in municipal decisions and projects" – incorporate culture in local tourism promotion strategies; review municipal bylaws to ensure they do not impede cultural development or community beautification.

## PURPOSE:

To present Council with a draft regulatory framework for short term rentals that requires a permanent resident to be onsite. This short term rental regulatory framework consists of five associated bylaw amendments to allow the use within the District's zoning bylaw, as well as to licence and enforce.

## BACKGROUND:

At its August 23, 2021 meeting, Council resolved to pass the following resolutions:

*THAT Council direct staff to draft a regulatory framework based on a permissive regulated approach modeled after the City of Penticton to allow and licence short-term rentals; and*

*THAT Council direct staff to initiate the public engagement strategy on short-term rentals to receive feedback on the draft regulatory framework and to identify any additional priorities for consideration.*

At its November 22, 2021 meeting, Council resolved to pass the following resolutions:

*THAT Council direct Staff to draft a short-term rental regulatory framework based on the requirement that a permanent resident be onsite;*

*AND THAT the Short-Term Rentals – Public Engagement Results Report dated November 22, 2021 by the Planner II, be received for information.*

## **Draft Regulatory Framework**

In response to Council direction to staff at the November 22, 2021 meeting, the draft regulatory framework that was originally proposed and discussed through the public engagement process has changed. Given the new requirement of an onsite permanent resident, and the similarity of this requirement to the existing allowed use for a “bed & breakfast home”, staff has drafted amendment bylaws that merges the current regulations for a bed & breakfast home with the draft regulatory framework for short term rentals.

This approach is meant to:

- Incorporate Council's direction to require a permanent resident to be onsite
- Move towards a unified and enforceable approach for all temporary accommodation within residential dwellings
- Provide simplicity and clarity to both staff and the general public on the allowed forms of temporary accommodation within a residential dwelling.

## *Bed & Breakfast Home*

Under the current zoning bylaw, a “bed & breakfast home” is a permitted use in urban residential (RSD1, RSD1(i), RSD2, RSD3, RDH), rural residential (CR1) and agricultural zones (A1 and A2), subject to specific use regulations. A “bed & breakfast home” provides temporary accommodation to the travelling public within a single detached home in the form of individual bedrooms that are rented within the home. It is also required to be operated by a “live-in resident”.

A “bed & breakfast home” currently is limited, among other things, to be only within a single detached dwelling and have up to a maximum of 4 guestrooms (and 8 people total). Parking of one stall per 2 guestrooms is required, in addition to the 2 stalls for the single detached dwelling

(i.e. 4 stalls total for a 4 guestroom “bed & breakfast home”). There are also specifications on bedroom sizes and width as well as prohibition of kitchens within guest bedrooms. No changes to the external appearance that alter the “principal residential character” of the dwelling are allowed.

A business licence is currently required to operate a “bed & breakfast home”. The Fire Department conducts annual inspections of “bed & breakfast homes” as part of the licence renewal process.

#### *Draft Zoning Bylaw Amendment*

Under the draft zoning amendment bylaw (Attachment No.1), “short term rentals” are limited to those with an on-site permanent resident in the zoning bylaw through the inclusion of new definitions for “short term rentals” and “primary residence”, as described below:

*“Primary Residence* means the *dwelling* unit that a person resides in for the majority of the year and declares for legal purposes as their principal home. For the purposes of this bylaw, a person cannot have more than one Primary Residence within the District of Summerland.”

*“Short-Term Rental* means the use of a legal *dwelling* unit for the temporary accommodation (less than 28 consecutive days) of the travelling public for remuneration. Specific Use regulations for *Short-Term Rentals* are in Section 7.2.”

In addition, it is proposed to allow the “short term rental” use as an accessory use in all zones that currently allow for a “bed & breakfast home”, including agricultural zones, (and adding the Residential Strata Housing (RSH) zone), removing all references to “bed and breakfast home” (as it will now be incorporated into the “short term rental” definition) and introducing specific use regulations for “short term rentals” similar to the existing specific use regulations of a “bed & breakfast home”. By incorporating “bed & breakfast home” into the definition of a short term rental, a short term rental could therefore be either:

- A “traditional” bed & breakfast operation where individual rooms are rented within the residence and there is common shared space with the resident operator and guests; OR
- Rental of an entire dwelling unit (either a secondary suite, carriage house or main house) if a permanent resident is onsite (i.e. living in the other dwelling unit on the property)

The proposed specific use regulations include the following:

- Must have at least one “primary residence” dwelling unit on the lot (where someone lives most of the year and declares it as their principal home)
- Must be operated by a person residing in and occupying the “primary residence” on the lot, unless it is a rental of the entire (non-principal) dwelling operated by a property management company (primary resident requirement still applies)
- Limit of one short term rental per lot
- Limit to be within a single detached dwelling, manufactured housing (type 1 or 2), secondary suite or carriage house
- Limit occupancy to 4 bedrooms and 8 guests
- No kitchens in bedrooms

The proposed specific use regulations would not allow for a traditional bed & breakfast home plus an additional short term rental within a suite/carriage house. It would also not allow the use of RVs, tents or other buildings to be used for sleeping accommodation, as all guests and residents must be staying within one of the dwelling units on site.

In addition to the specific use regulations, the “short term rental” use will require one (1) additional parking stall in addition to the parking requirements for the dwelling units. In this manner, if a property had a house and a carriage house, and either the house or carriage house was proposed to be a short term rental, a total of four (4) parking stalls (2 for single family dwelling, 1 for carriage house, 1 for short term rental) would be required on-site prior to the District being able to issue a short term rental licence.

#### *Business Licence Bylaw*

Under the draft business licence bylaw amendment (Attachment No. 2), a business licence would be required to operate a short term rental and will require a passing health and safety inspection by the District’s building official, a good neighbour agreement, a floor plan and a parking plan to ensure conformance to the District’s zoning bylaw prior to licence issuance. It also includes licence terms to require an operator to be available 24/7, respond within 2 hours to complaints, and not allow sleeping units that have not been approved (vehicles, tents, RVs, extra bedrooms, unauthorized buildings). A short term rental can only be advertised under the business licence bylaw if there is a valid business licence and the licence number is included in the ad. The proposed fines included the Bylaw Notice Enforcement Bylaw (Attachment No. 5) for not following this requirement could be up to \$500 per day.

The health and safety inspection is proposed to be a pared-down “life-safety” code-compliance inspection that will specifically consider only the elements included in the draft “health and safety” checklist provided in Attachment No. 7. For all dwelling units that were not previously authorized for residential use in the form of a building permit, a building permit will be requirement prior to the District considering the issuance of a short term rental licence for the dwelling unit.

The proposed licencing fee for a short term rental is \$500 (Attachment No. 3). Other municipalities in the Okanagan Valley and across the province have a range of fees depending on type of short term rental (Attachment No. 4).

#### *Bylaw Enforcement & Ticketing Bylaws*

Under the draft Bylaw Notice Enforcement Bylaw Amendment (Attachment No. 5) and Ticket Information Utilization Bylaw Amendment (Attachment No. 6), penalties and fines are attributed to specific violations of either operating a short term rental without a licence or operating in contravention to the terms of the licence.

#### **Official Community Plan**

Although the OCP is silent on short-term rentals, there are general policies stemming from the Regional Growth Strategy to promote inclusive and accountable governance, promote sustainable economic diversification and create safe, culturally diverse and healthy communities (OCP Section 2.0). The OCP also speaks to housing needs and housing affordability, and identifies a lack of affordable rental housing in Summerland (OCP Section 5.3.3).

#### **Consultation**

##### *Public Engagement*

The results of public engagement were included in a separate report to Council on November 22, 2021. Staff notes that the revised draft regulations presented generally align with the results of the short term rental survey results previously presented, where there is support for requiring a business licence (74%), requiring a health and safety inspection (71%), allowing short term rentals in urban residential, rural residential and agricultural zones (50%-56%, depending on zone), allowing in single family dwellings, mobile homes, secondary suites and carriage houses (48%-60%, depending on the dwelling type), and allowing for year-round operation (53%).

However, it is noted that the short term rental survey also supported allowing for off-site operators given the licencing terms (53%), indicating that potential concerns of off-site operators could be mitigated by licencing terms to increase accountability/availability.

#### **Internal Referral Comments:**

- The scope of requirements for health and safety inspections need to be specific and clear if BC Building Code requirements will be applied to all secondary suites
- BC Building Code requires a building with occupancy sleeping 10 or more people to have a Fire Alarm. Fire Extinguishers are also required, at least one 5 lb APC (3A 10BC) Rechargeable Fire Extinguisher
- Waste collection will occur based on the property type and the same requirements will apply.
- There are general challenges with short term rental bylaw complaints as noted below:
  - Increased expectations of neighbours as people learn and are aware of regulations/restrictions in place
  - Based on other communities' experience, most complaints are related to noise and parking
  - Calls coming in after hours (over-night/evenings) default to the RCMP who are also challenged with staffing
  - It is challenging to have someone attend in a timely fashion and to gather evidence on responsible parties. If a property owner is taken to Court for repeated offences, the trial would require more witnesses to attend and give evidence, which adds to workload
  - Fining for multiple offences assists in effective enforcement of problem properties (as the maximum fine for a Bylaw Offence Notice is \$500).
- Applications, inspections, and active bylaw enforcement will take staff time and may affect other workload priorities of Bylaw Enforcement, Building, Planning and Fire staff.

#### **External Referral Comments:**

The draft zoning bylaw based on a permissive approach was referred to BC Assessment Authority, Interior Health, Provincial Ministry of Transportation and Infrastructure and local RCMP on November 4, 2021. MoTI granted preliminary approval of the proposed text amendments on November 5, 2021. Interior Health provided recommendations based on housing needs and wastewater considerations.

External agencies will be re-referred the revised bylaw amendments following Council's consideration of first and second reading with comments due prior to the scheduled public hearing.

#### **Advisory Planning Commission:**

The Advisory Planning Commission (APC) considered the draft regulatory framework at their meeting on November 26, 2021. Comments from the APC are detailed below:

- Generally supportive of regulating short term rentals

- Concern was raised about the restrictive nature of the framework and that it may create a black market and less “buy in” than a permissive approach
- Concern was raised about the definition of a short term rental being too limited
- Concern was raised about losing sight of benefits of short term rentals and how they contribute to the community (bringing in visitors and fostering investment)
- Questions about occupancy limit for smaller houses, application of the good neighbour bylaw, tenants being allowed to be operators, and being able to run both a B&B and short term rental
- Concern was raised about the impact to the neighbourhood feel in general and how short term rentals affect the feel of a neighbourhood
- Comments on the revised approach being more of a balance between short term rentals and residents
- Concern was raised about long-term vibrancy of Summerland and deterring new uses
- Concern was raised on how many short term rentals would be able to comply with proposed regulations
- Discussion about the benefits of an on-site operator
- Discussion about whether the approach should be revisited and what an appropriate amount of time would be to reassess the approach

The APC passed the following resolutions:

*THAT the draft regulatory framework to regulate and licence short term rentals be supported by Council.*

*THAT the APC is generally supportive of the draft regulatory framework for short term rentals, but Council should consider that the regulations may be overly restrictive in requiring owner/principal resident occupancy, and that the regulations should be reviewed in 18 months to determine if changes required.*

#### DISCUSSION:

The District’s overarching goal of the short term rental review is to establish a clear, easily understood approach that can be successfully administered in Summerland and provide certainty of outcome to staff, council, operators, residents and visitors.

As per Council’s direction on November 22, 2021, the draft regulatory approach has been modified to incorporate requirements for a permanent resident to be onsite. The advantages of requiring a principal resident to operate and be on-site for a short term rental are similar to a traditional bed and breakfast. Mainly, there is some flexibility for allowing tourist accommodation in residential and rural areas but mitigates concerns associated with impact to housing supply by maintaining the principal use as long-term tenancy residential and also potential concerns associated with disruption to neighbours of the short term rental with an on-site operator that is more likely to facilitate a quick resolution of any potential nuisances.

This regulatory approach seemingly addresses the concern of a residential property being used solely for a commercial venture (i.e. only a short term rental). However, the success of such an approach is dependent on gaining compliance throughout the community (i.e. “shutting down” non-compliant operators and licensing operators that may comply). A general perusal of sites like “AirBnB” or “VRBO” demonstrates a number of full-house rentals being offered within Summerland on a short-term basis with no indication of a permanent resident being located on the property. The risk of this regulatory approach is the creation of additional enforcement

workload in continually having to “shut down” non-compliant operators who weigh the risk of receiving repeated bylaw enforcement violation tickets, versus the potential revenue that they can gain from a short term rental operation. In many cases, some operators may perceive bylaw infractions as the “cost of doing business” for operating their unlicensed short term rental and proceed anyways due to expected revenue windfalls. Because of the lack of alternative forms of tourist accommodation within the community (i.e. one resort hotel, one motel, and limited campground space), and the tourist accommodation demand the community experiences during the peak season, this is a real possibility.

In the above enforcement scenario, the District may elect to proceed with either a Municipal Ticket Information or take an operator directly to Court via a Long Form Information to shut down the operation and/or seek financial retributions. However, these type of enforcement files take a significant amount of staff time in evidence gathering, warning periods and letter writing, legal costs, and often this additional administrative and legal cost is not fully recovered by the municipality.

Additionally, the District can expect a reduction in the number of licences being issued on an annual basis, as only a subset of current operators will be able to fit within the requirements of the regulatory framework. This will result in less licence fee revenue being gained to offset the expected additional operational impact for the bylaw enforcement area. For this reason, the proposed regulatory approach may result in additional enforcement costs moving forward and more reliance on municipal taxation to fund this operational demand. Any additional information required for the licence application also increases workload for staff administering that application. Of concern is the ability to verify residency at the application stage (as a property owner may have documentation to “prove” residency even if they do not live there). Of more concern, however, is the difficulty of gathering evidence and proving non-residency to enforce upon a non-compliant operator when a complaint arises.

In addition, in instances where operators are unable to meet regulatory requirements such as parking or occupancy limits under the zoning bylaw, the property owner has the right to apply for a development variance permit and such applications could also add to the workload for Council and staff.

For the above reasons, staff offers caution with Council’s proposed regulatory approach. However, as noted, the proposed regulatory approach improves the status quo and, at a minimum, allows the District to initiate a licencing regime in the community which could be tweaked or amended in the future. In this regard, staff supports the Advisory Planning Commission’s recommendation to review the short term rental regulation framework in a 18 month timeline to determine the effectiveness and efficacy of the program and potential considerations for any changes to the District’s regulations.

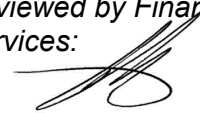
#### LEGISLATION and POLICY:

- *Official Community Plan*
- *Zoning Bylaw 2000-450*
- *Business Licencing Bylaw 95-004*
- *Bylaw Notice Enforcement Bylaw 2000-375*
- *Fees and Charges Bylaw 98-001*
- *Good Neighbour Bylaw 2021-023*
- *Ticketing Information Utilization Bylaw 95-030*

### FINANCIAL IMPLICATIONS:

The proposed bylaw amendments will have financial impacts from both revenue and operational costs, and also additional staffing needs. At the proposed licensed fee of \$500, staff initially projected a total of 150 licenses issued in 2022, providing a total projected revenue of \$75,000 in 2022. With the change in approach to require permanent residency on the property, staff have now amended the proposed licence fee revenue in the 2022 budget to be a total of 75 licences issued and only \$37,500. This reduction is due to only a subset (estimated at 50%) of the current short term rentals operating being able to meet the permanent residency requirements of the District's zoning bylaw.

*Reviewed by Financial  
Services:*



The 2022 draft budget includes a new staff position that will, in part, support the administrative responsibilities of a short term licencing program and additional bylaw enforcement administrative duties related to the bylaw enforcement demand expected from implementation of the short term rental program. However, only 50% of this position is planned to be funded from the bylaw enforcement area, as the remaining 50% is dedicated to the building inspection area to provide additional administrative and plan review support to the District's Building officials.

An additional expense for short term rentals that is included in the 2022 budget is a contracted monitoring services to support bylaw enforcement through address identification of properties advertised as short term rentals online, mailing of initial warning letters to non-compliant locations and 24/7 hotline for reporting incidents (estimated at \$20,000).

It is anticipated that the licencing fee may need to be adjusted in future budget years to recover costs once future revenues and expenses can be more accurately projected based on the uptake of short term rental licences and bylaw enforcement demand experienced in 2022.

### SUPPORTING DOCUMENTS:

1. Zoning Amendment Bylaw No. 2021-048
2. Business Licence Amendment Bylaw No. 2021-049
3. Fees and Charges Amendment Bylaw No. 2021-050
4. Licence Fee Comparison Table
5. Bylaw Notice Enforcement Amendment Bylaw No. 2021-051
6. Ticket Information Utilization Amendment Bylaw No. 2021-052
7. Draft Health & Safety Inspection Checklist
8. External Agency Comments

### CONCLUSION:

Staff is recommending Council provide the first two readings of the five proposed bylaw amendments to license and regulate short term rentals and schedule a public hearing date on the proposed zoning bylaw amendments for January 24, 2022.

### OPTIONS:

1. Move the motion as recommended by staff.
2. Refer to staff for other options.



Respectfully submitted,



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*JoAnn Peachey*  
*Planner II*

Reviewed by,



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*Brad Dollevoet*  
*Director of Development*  
*Services*

Endorsed by,



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*Graham Statt*  
*Chief Administrative*  
*Officer*

Presentation: Yes  No