

# ADMINISTRATIVE REPORT



**TO:** Planning & Development Committee  
**FROM:** J. Zaffino, Chief Administrative Officer  
**DATE:** July 25, 2024  
**RE:** Vacation Rental Review – Land Use Regulation Options (X2024.009-ZONE)

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## Administrative Recommendation:

**THAT bylaw amendments be initiated in support of a Vacation Rental Review corresponding to Option No. 2 (permit short term rental accommodation uses in zoning); and**

**AND THAT community engagement be in the form described in the “Vacation Rental Review – Land Use Regulation Options” Administrative Report dated July 25, 2024.**

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## Purpose:

The purpose of this report is to seek direction in relation to the scope of the pending Vacation Rental Review.

## Background:

At its meeting of April 4, 2024, the Planning and Development (P&D) Committee of the Regional District Board considered an Administrative Report that outlined a project scope and engagement plan for a “Vacation Rental: Policy Review” project.

The Board subsequently resolved to defer consideration of this item pending the completion of a workshop related to the requirements to regulate short-term rental accommodations through business licenses.

At its meeting of May 9, 2024, the Corporate Services Committee of the Board undertook a “Business Licenses and Short-Term Rental Accommodation Workshop” and subsequently resolved to defer consideration of this item and to schedule a second workshop.

On June 6, 2024, the Regional District Board completed the Workshop commenced on May 9, 2024, and which included consideration of the following land use regulation options in relation to “vacation rentals”:

- 1) Status Quo (approve through the issuance of TUPs);
- 2) Permit “Short-Term Rental Accommodations” in zoning; or
- 3) Explore the implementation of a new “Short-Term Rental (STR) Permit”.

The Board subsequently provided the following directions:

Area	Land Use	Business Licence	Licencing Authority	Licence Fee
“A”	Explore “STR Permit”	Require a Licence	CAO delegated issuance	Averaged
“B”	Explore “STR Permit”	Require a Licence	CAO delegated issuance	Averaged

"C"	Explore "STR Permit"	Do not require a Licence	CAO delegated issuance	Averaged
"D"	Permit STRs in zoning	Require a Licence	CAO delegated issuance	Averaged
"E"	Explore "STR Permit"	Require a Licence	CAO delegated issuance	Averaged
"F"	[TBD]	[TBD]	[TBD]	[TBD]
"G"	Explore "STR Permit"	Do not require a Licence	CAO delegated issuance	Averaged
"H"	Explore "STR Permit"	Do not require a Licence	CAO delegated issuance	Averaged
"I"	[TBD]	Require a Licence	[TBD]	Averaged

**Statutory Considerations:**

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.”

Of relevance to the Board’s Vacation Rental Review project, the new tools provided by the *Short-Term Rental Accommodations Act* include (amongst other things):

- extinguishing non-conforming use rights under the *Local Government Act* for short-term rental accommodation uses;
- granting business licensing authority to Regional Districts; and
- increasing maximum fines for bylaw offences and municipal ticketing.

**Analysis:**

Further to the previous direction provided by the Board on June 6, 2024, Administration has explored the option of introducing a new “Short-Term Rental (STR) Permit” (“Option 3” at the Workshop) and can advise the following:

- authority for such a permit would be under Section 493(3) of the *Local Government Act* (e.g. Temporary Use Permits);
- “short-term rental accommodation” (i.e. “vacation rental”) should continue to be a prohibited use in all zones outside of Apex Mountain Resort;
- in order to differentiate such a permit from the Regional District’s current approach, staff are recommending that delegation be granted to issue new permits as well as renewals subject to certain parameters (e.g. compliance with maximum occupancy, provision of parking, etc.);
- public notice of such permits should adhere to minimum legislative requirements (e.g. email notification only, representations not be requested or considered); and
- the term of such permits should not extend beyond the end of a calendar year in order to align with any proposed business licensing requirements.

To give effect to this option, Administration anticipates that amendments to the following bylaws will be required:

- Electoral Area OCP Bylaws
- Electoral Area Zoning Bylaws
- Fees and Charges Bylaw
- Development Procedures Bylaw

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- CAO Delegation Bylaw
  - Municipal Ticketing Information Bylaw
  - Bylaw Notice Enforcement (BNE) Bylaw

While Administration considers that implementation of this option *may* alleviate some of the concerns that have been raised in relation to the current TUP permitting process being too arduous and adversarial, it is unclear what the benefit or purpose of assigning this task to staff through a discretionary permitting process are in light of recent legislative changes.

Specifically, the Regional District now has authority to require business licences, which was not available to it when it opted to use TUPs to regulate vacation rental uses in 2013.

A zoning bylaw established under Part 14 of the *Local Government Act* allows for the regulation of uses of land, buildings and structures and may impose requirements related to the size, siting, dimension, location or density of these uses. In contrast, business licensing allows for a broader range of regulatory powers, including the ability to “regulate, prohibit and impose requirements”, in relation to a business operation.

Of equal importance, non-conforming use rights (i.e. “grandfathering”) for short-term rental accommodation uses have been removed from the legislation, which is seen to provide the Regional District with greater flexibility in the future should it wish to modify its zoning approach to STRs.

Administration is also concerned that an STR Permit would still require substantial staff time and resources to receive, process and notify the proposed use. Direction will also be required in relation to the Board’s preference on the assessment criteria to be used by staff when assessing applications, such as requiring septic compliance.

In light of the above, Administration is recommending that the option of an STR Permit not be pursued.

Alternative (Recommended):

Conversely, Administration considers there to be significant merit in regulating short-term rental accommodation uses through the issuance of business licences rather than through the issuance of discretionary permits (e.g. TUPs).

Moreover, there is also seen to be a significant benefit in applying a consistent regional approach to the regulation of short-term rental accommodations as this will provide consistency, equality of opportunity (e.g. residents will, regardless of Electoral Area, have a “level playing field” in which to undertake such a use) and reduce the likelihood of error occurring in administering a bifurcated program.

Accordingly, Administration is recommending that “short-term rental accommodations” be treated in the same way as a “Bed and Breakfast Operation” (B&B) and be listed as a permitted use in the same zones as B&Bs under the Electoral Area zoning bylaws.

The consolidation of B&Bs and STRs is in recognition that the *Short Term Rental Accommodation Act* does not differentiate between these use classes and is intended to streamline local land use regulations with Provincial licensing requirements.

Permitting the short-term rental accommodation of residential dwellings through zoning *may* reduce the sometimes adversarial nature of the current vacation rental TUP scheme (e.g. by avoiding

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instances where proposals that align with the OCP guidelines are denied) while allowing staff to issue business licences only for operations that comply with the Board’s stated preferences for number of bedrooms, parking, health and safety standards, etc.

(NOTE: it is anticipated that the Board will still be required to consider the occasional TUP or rezoning application from a land owner when a proposal does not comply with zoning and/or business licence regulations, such as proposals in accessory structures, non-seasonal proposals, proposals exceeding maximum bedroom or occupancy restrictions, etc.)

### Sewage Disposal Requirements

Administration requires clarification from the Board regarding its preferred approach to ensuring that an on-site sewage disposal system is capable of accommodating the flows from a proposed short-term rental accommodation use.

Administration sought clarification from the Board regarding this issue in 2021 when a proposal was brought forward to introduce a requirement for the submission of a “Septic Compliance Inspection Report”.

Amongst other things, this Report would have required “a summary statement from the Authorized Person concluding whether the proposed or existing septic system is suitable for the intended use in their professional opinion.” (see Attachment No. 1)

The Board resolved not to accept this recommendation, and also did not provide any further direction on how assessing the capability of an on-site sewage disposal to accommodate a short-term rental accommodation use could be confirmed by an applicant.

As the Board opted not to require a “Septic Compliance Inspection Report” in 2022, Administration is recommending that this no longer be an assessment criteria for issuance of a permit and/or business licence.

Conversely, should the Board support requiring applicants confirm the capability of their septic system, Administration maintains its support for a “Septic Compliance Inspection Report”.

### Community Engagement

Each of the options presented to regulate short-term rental accommodations will require amendments to the Electoral Area Official Community Plans and, as such, will trigger statutory requirements for consultation with the public, affected agencies and First Nations.

Due to the potential scope of the amendments, Administration considers it appropriate to hold a minimum of one (1) on-line public information meeting (PIM) and one (1) in-person PIM in each affected Electoral Area (e.g. 9 PIMs in total).

In support of this work, it is proposed that a consultant be retained who will also be responsible for undertaking the following public engagement:

- an on-line survey pertaining to the proposed OCP & Zoning bylaw amendments;
- information releases to be sent to media including social media;
- information to be shared through the VoyentAlert! mass notification system;

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- documents, draft Bylaw(s), and a feedback form will be available on the Regional District’s webpage;
  - written notices to all affected property owners, being those with a current temporary use permit authorizing the use of a property for a vacation rental use;
  - physical copies of the materials will be available at the RDOS office and the municipal offices; and
  - referrals will be sent to agencies most likely affected by the policies identified for review.

Administration is proposing that the use of citizen or other advisory committees not be utilized as part of the Vacation Rental Review.

Administration considers that more valuable input can be obtained through the survey and PIMs open to all residents. However, the option of establishing a committee to provide input into the Vacation Rental Review is available to the Board and could take the following form:

- the Electoral Area Advisory Planning Commissions (APCs);
- an appointed group comprised of the current Electoral Area APC Chairs; or
- an appointed Citizen’s Advisory Group comprised of up to 16 volunteers from the region (e.g. 2 from each Electoral Area that currently regulates vacation rentals).

### Summary

In summary, Administration considers that there is significant merit in regulating short-term rental accommodation uses by bylaw rather than by discretionary approval and that historical reasons for preferring to regulate vacation rental uses through the issuance of temporary use permits no longer apply.

For these reasons, administration is recommending that the Board initiate a Vacation Rental Review corresponding to Option No. 2 (see “Background” section above).

### **Alternatives:**

1. THAT bylaw amendments be initiated in support of a Vacation Rental Review corresponding to the following option:

i) *TBD*

AND THAT community engagement be in the following form:

i) *TBD*

### **Respectfully submitted:**

*Ben Kent*

Ben Kent, Planner II

### **Endorsed By:**

*CG*

C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Draft Septic System Assessment Requirements (2022)

### **Septic System Assessment**

- .1 Where a Septic System Assessment is specified as an application requirement by this bylaw or is requested as Development Approval Information, it shall be in the form of a report prepared, signed and sealed by an Authorized Person who is defined in the BC Sewerage System Regulation.
- .2 A Septic System Assessment shall include the following:
  - a) An assessment of the proposed or existing onsite septic system for suitability with the new use that is consistent with the most current BC Sewerage System Standard Practice Manual and includes:
    - i) identification of the proposed or existing onsite septic system as either a Type 1, 2, or 3;
    - ii) a review of all existing permits, filing documents, and/or maintenance records available;
    - iii) identification of the daily design flow of the system as currently installed or proposed; and
    - iv) estimation of the daily design flow required for the intended use using the maximum flow rate.
  - b) A summary statement from the Authorized Person concluding whether the proposed or existing septic system is suitable for the intended use in their professional opinion;
  - c) a site map drawn to an identifiable scale that includes the following information:
    - i) the location and size of each existing or proposed septic system on the property;
    - ii) the location of all buildings and structures to be serviced by each existing or proposed septic system, including any paving or landscaping that may impact the septic field(s).
  - d) If under section 3.14.1 (b) the Authorized Person finds that the system is not suitable for the intended use, then the report shall also include:
    - i) any repairs, maintenance, or improvements required to make the system suitable for the intended use such that a health hazard is not likely to occur; or
    - ii) a suggested design for a replacement system that would be suitable for the intended use.

**NOTE:** these regulations were not supported by the Regional District Board in 2022.