

# ADMINISTRATIVE REPORT



**TO:** Planning & Development Committee

**FROM:** J. Zaffino, Chief Administrative Officer

**DATE:** December 19, 2024

**RE:** Vacation Rental Review – Business Licence Bylaw (X2024.014-ZONE)

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## Administrative Recommendation:

**THAT the Regional District of Okanagan-Similkameen Business Licence Regulation Bylaw No. 3100 and Chief Administrative Officer Delegation Amendment Bylaw No. 3033.01 be initiated.**

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## Purpose:

The purpose of this report is to outline options in relation to the regulation of businesses in the electoral areas, specifically; short-term rental accommodation (STR) uses (i.e. “vacation rentals”).

## Legislative Requirements:

In order to regulate businesses, the Regional Districts is required to first adopt a regulatory service establishing bylaw in accordance with the requirements of the *Local Government Act*.

Following the adoption of a service establishing bylaw, the Regional District can move forward with developing a regulatory scheme (e.g. Business Licence Bylaw) in accordance with Section 326.1 (Bylaw authority in relation to business regulation) of the *Local Government Act*.

Importantly, before the Board can adopt a Business Licence Bylaw, Section 59(2) of the *Community Charter* requires that the Regional District must:

- give notice of its intention to regulate businesses; and
- provide an opportunity for persons who consider they are affected by the bylaw to make representations to the Board.

## Authority, Delegation & Reconsideration:

Under Section 60 (Business licence authority) of the *Community Charter*, a business licence may be suspended, cancelled or refused, and this authority may be delegated to staff.

In the event of a refusal, it “must not be unreasonably refused” and, on request, “the person or body making the decision must give written reasons for the refusal.”

With regard to a cancellation or suspension of a business licence, this may be done for reasonable cause, but the licence holder must be given notice of the proposed action and an opportunity to be heard and, if the decision is delegated, to have the decision reconsidered by the Board.

## Background:

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.

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At its meeting of June 6, 2024, the Board completed the second workshop, which included consideration of the implementation of a business licence bylaw to regulate short-term rental accommodation uses.

At its meeting of July 25, 2024, the Planning and Development (P&D) Committee of the Board resolved that:

- *THAT the bylaw amendments be initiated in support of a Vacation Rental Review corresponding to Option No. 2 for specific (permit short term rental accommodation uses in zoning);*
- *THAT community engagement be in the form described in the "Vacation Rental Review – Land Use Regulation Options" Administrative Report dated July 25, 2024; and*
- *To update the zoning in the OCP to align with provincial policies in Electoral areas "D", "F", and "I".*

The direction provided by the P&D Committee as well as subsequent meetings with Electoral Area Directors indicated a desire to introduce business licencing requirements for STR uses in Electoral Areas "A", "B", "D", "F" & "I".

#### Board Consideration – Service Establishment Bylaw:

At its meeting of October 3, 2024, the Board adopted the *Business Licensing Service Establishment Bylaw No. 3078, 2024*, which would enable the Regional District to regulate and license businesses within Electoral Areas "A", "B", "D", "E", "F", "G" & "I".

#### **Analysis:**

Administration considers the introduction of a business licence bylaw to be important in ensuring that the Board's land use objectives, policies and regulations are being adhered to. Specifically, the benefits of a business licence bylaw are seen to include:

- confirmation that a business is operating in an area that has been zoned to permit that specific use (which is also generally related to ensuring that conflicts with adjacent land uses are avoided);
- ensuring that businesses comply with safety and health regulations, such as fire codes and building standards (e.g. creation of a "level playing field" as well as a framework for inspecting and monitoring business to ensure on-going compliance with applicable regulations);
- providing another mechanism for addressing complaints or disputes involving businesses (e.g. reducing the risk of unlicensed or informal businesses gaining an unfair advantage over compliant businesses);
- providing a source of revenue through licensing fees, which can be used by the Regional District to fund bylaw enforcement activities; and
- facilitating the tracking of economic trends within the electoral areas through the creation of a database of businesses operating in the area.

More specifically, and in relation to the regulation of short-term rental accommodation uses, business licencing in conjunction with the separate decision by the Board to request that Electoral Areas "D",

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“F” & “I” be included in the provincial “Principal Residence Requirement”, may afford the Regional District to avail itself of provincial enforcement initiatives.

For these reasons, Administration is supportive of Draft Bylaw No. 3100, and notes that this bylaw has been drafted to facilitate the regulation of businesses and issuance of licences (e.g. by specifying application requirements, conditions of licence approval, reconsiderations, transfers, renewals, etc.).

Types of businesses to be regulated:

Of note, the Board is asked to be aware that Draft Bylaw No. 3100 has been drafted to facilitate the regulation of *any* business in future, but is currently proposed to apply only to short-term rental accommodation and bed and breakfast operation uses.

This is due to the similarity of these uses (e.g. both occur in dwelling units sited in residential neighbourhoods) and it is proposed that comparable regulations be applied to each use under the bylaw in order to create a “level playing field” and to avoid confusion (see below).

Consideration could also be given at this time to including other similar types of tourist accommodation uses such as; agri-tourism accommodations, campgrounds, hotels, motels or hostels.

Alternatively, the Board could consider expanding the business licencing program to all businesses operating within the electoral areas.

Proposed Regulations:

It is being proposed that STRs be required to obtain business licences and meet, amongst other things, the following regulations:

- compliance with the provincial principal residence requirement;
- provision of adequate off-street vehicle parking;
- completion of a Health and Safety Inspection to ensure minimum health and life safety standards under the BC Building Code; and
- provision of a fire evacuation plan for the dwelling.

The Board is asked to be aware that it is not being proposed to continue requiring proof of septic compliance in relation to an STR use due to the difficulties in confirming how this can be achieved.

Area of Application:

Based upon the service establishment bylaw (which does not include Electoral Areas “C” & “H”) as well as subsequent feedback from electoral area Directors, it is proposed that Draft Bylaw No. 3100 apply to Electoral Areas “A”, “B”, “D”, “F” & “I” at this time.

Delegated Authority:

To support the efficient processing of business licence applications, it is being proposed that the Chief Administrative Officer (CAO), or their delegate, be given authority to grant, refuse, suspend or cancel a licence.

The alternative would be for the Board to retain the authority to grant, refuse, suspend or cancel a licence, however, this would require the scheduling of each application for a forthcoming Board meeting and is not seen to be an efficient use of available resources.

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Administration further notes that applicant's retain the right to have any delegated decision re-considered by the Board.

**Financial Implications:**

The financial implications of implementing a Business Licence Regulation Bylaw will primarily be in relation to the administration of the bylaw (e.g. receiving, reviewing and determining licence applications, responding to complaints, etc.).

This includes the fees to be applied to an application as well as the fines to be applied to bylaw contraventions (e.g. enforcement) – both of which are the subject of separate Administrative Reports that are to be considered by the Planning and Development (P&D) Committee at its meeting of December 19, 2024.

**Communication Strategy:**

Under Section 59 of the *Community Charter*, the Regional District is required to give notice of its intention to adopt a business licence bylaw, and provide an opportunity for persons who consider they are affected by the bylaw to make representations.

Under sub-section 59(3) of the *Community Charter*, the notice that is required to be provided to residents “may be ... in the form and manner, at the times and as often as the [Board] considers reasonable.”

In response, as the requirements for notifying and hearing from residents under this section are similar in nature to the requirements for a public hearing in support of a land use bylaw, it is being proposed that the bylaw be notified as follows:

- posting information to the Regional District’s website,
- distributing a notice to residents in all electoral areas via VoyentAlert!;
- posting a notice to the Regional District’s “Bulletin Board” at 101 Martin Street;
- notifying the bylaw via two (2) consecutive advertisements in local print newspapers (e.g. Penticton Herald and The Western); and
- mailing notices to all property owners who currently possess a temporary use permit (TUP) approved by the Board for a “vacation rental” use on their property.

**Alternatives:**

1. THAT the Regional District of Okanagan-Similkameen Business Licence Regulation Bylaw No. 3100 and Chief Administrative Officer Delegation Amendment Bylaw No. 3033.01 not be initiated.

**Respectfully submitted:**



C. Garrish, Senior Manager of Planning