

TO: Planning & Development Committee

FROM: J. Zaffino, Chief Administrative Officer

DATE: January 18, 2024

RE: Short-Term Rental Accommodations Act – “Principal Residence Requirement”

Administrative Recommendation:

THAT the Regional District of Okanagan-Similkameen not submit a request to the Minister of Housing to “opt-in” to the “Principal Residence Requirement” under the *Short-Term Rental Accommodations Act* for 2024-25.

Purpose:

The purpose of this report is to provide options in relation to the pending deadline for an electoral area to request to “opt-in” to the Provincial “Principal Residence Requirement” under the *Short-Term Rental Accommodations Act*.

Background:

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 will go into effect on May 1, 2024.

For Regional District electoral areas, which typically have a population of less than 10,000 persons, the Province is providing an “opt-in” process, whereby a request may be submitted to the Minister of Housing to have the “Principal Resident Requirement” applied to an electoral area.

To “opt-in”, the Regional District is required to submit a resolution to the Province by **March 31st** of each year for the change to take effect **November 1st** of the same year.

Of note, ski resorts in rural areas and BC Parks resorts are exempt from the “Principal Residence Requirement”, even if the electoral area within which they are situated elects to “opt-in”. Within the Regional District, this would apply to Apex Mountain Resort and Manning Park.

In addition, property that has been assessed as “farm” (Class 9) by BC Assessment is exempt from the “Principal Residence Requirement”, regardless of whether the land is designated as Agricultural Land Reserve (ALR).

Analysis:

In considering this issue, Administration notes that the Regional District has not previously considered whether a dwelling that is the subject of a vacation rental application is also the principal residence of the property owner/resident.

Instead, the Regional District has sought to ensure that the principal use of a dwelling under application remains residential by ensuring that an approved vacation rental use does not occur for more than 50% of the year (e.g. that the dwelling remains available for residential uses for not less than 6 months in a calendar year).

This approach has allowed for property owners who reside outside of the Regional District, but have purchased a property in an electoral area as either seasonal/second homes, a future retirement property or as an investment property to be eligible for a vacation rental approval.

Based on 2021 Census data (first row) as well as current BC Assessment data (second row), the average number of property owners in the electoral areas whose principal residence is elsewhere is as follows:

	“A”	“B”	“C”	“D”	“E”	“F”	“G”	“H”	“I”
Census	16.9%	8.4%	7.5%	12.1%	17.8%	6.5%	13.6%	48.5%	40%
BCA	15.7%	10.3%	13.2%	8.5%	37.9%	10.3%	25.7%	39.2%	15.7%

NOTE: the reasons for the general discrepancies between Census and BC Assessment data are not known.

Enforcing a principal residence requirement was also seen to be beyond the capabilities of the Regional District as there was not cost-effective way of establishing whether the occupant of a dwelling being used for short-term accommodation purposes was a patron or an owner.

While it is recognized that the Province will be assisting local governments with enforcement of the “Principal Residence Requirement”, it is also advising local government that may be contemplating the submission of a formal “opt-in” request to first consider things such as “their Housing Needs Report, the number of short-term rental listings, and the rental vacancy rate for their community.”

This is challenging for the Regional District at present as:

- the Province has mandated that all Housing Needs Reports (HNRs) be updated by December 31, 2024, based on a methodology that has not yet been released;
- the Vacation Rental Review identified by the Board as a strategic project for 2023-24 has not yet commenced due to other strategic land use projects remaining incomplete, so the number of short-term rental listings occurring in the electoral areas remains unknown at this time; and
- current rental vacancy rates in the electoral areas also remains unknown and was not addressed in the 2021 Regional Housing Needs Assessment.

Duration of Short-Term Accommodations:

In addition, the Province is defining short-term accommodation as being for a period of 90 consecutive days or less, whereas the Regional District has defined short-term accommodation as being for a period of 30 consecutive days or less with monthly rentals (30 days or more) deemed a residential use of a dwelling.

The province is advising that local governments requesting to “opt-in” should not “grant zoning (or other permission) to short-term rental hosts, where inconsistent with the provincial legislation. Local governments may wish to review their bylaws and consider whether any updates may be warranted in light of the new provincial rules.”

Administration considers that the bylaw amendments necessary to ensure consistency with the provincial approach should occur prior to requesting to “opt-in” and be considered in the context of the pending Vacation Rental Review project.

Agricultural Properties:

Further to the above, and with regard to the provincial exemption for parcels that have been assessed as “Farm” (Class 9) by BC Assessment, it is Administration’s understanding that the Regional District would have to provide a similar residency exemption for such parcels.

A review of temporary use permits (TUPs) submitted to the Regional District for vacation rental uses between 2022 and 2023, indicated that approximately 16% (7) of the 44 received involved land assessed as “Farm”.

Intensity of Use:

The Provincial “Principal Residence Requirement” is also understood to be more permissive than the Regional District’s current approach in that it allows for 2 vacation rental options to occur on a parcel in the form of the principal dwelling unit as well as an accessory dwelling (e.g. secondary suite or “carriage house”). In comparison, the Regional District has generally limited vacation rentals to one (1) per parcel, although this can be varied by the Board when considering a temporary use permit (TUP) application.

Summary:

Should the Board resolve not to opt-in to the “Principal Residence Requirement” for 2024-25, the Regional District can focus on completing other steps, such as the Vacation Rental Review, Housing Needs Report Update, implementing a Business Licencing scheme for vacation rental uses and to review the fines applied to vacation rental infractions under the Municipal Ticket Information Bylaw (e.g. increase from \$1,000 to \$3,000).

After completing these steps, the Board can reconsider “opting-in” to the “Principal Residence Requirement” for 2025-26 (by March 31, 2025).

Alternative:

Conversely, the option is available to the Board to request of the Minister that certain electoral areas “opt-in” to the “Principal Residence Requirement” under the Act.

This would allow the Regional District to benefit from additional provincial enforcement resources when an operator contravenes applicable provincial regulations.

Alternatives:

1. THAT the Regional District of Okanagan-Similkameen submit a request to the Minister of Housing for the following electoral areas to “opt-in” to the “Principal Residence Requirement” under the *Short-Term Rental Accommodations Act*:

i) TBD

Respectfully submitted:



C. Garrish, Senior Manager of Planning