

ADMINISTRATIVE REPORT



TO: Planning & Development Committee
FROM: B. Newell, Chief Administrative Officer
DATE: September 6, 2012
RE: Short-term Vacation Rentals

Administrative Recommendation:

THAT [Bylaw No. 2595](#), Regional District of Okanagan-Similkameen Textual Amendments to Official Community Plan Bylaws, Amendment Bylaw be supported;

AND THAT [Bylaw No. 2500.02](#), Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw be supported;

AND THAT [Bylaw No. 2523.14](#), Regional District of Okanagan-Similkameen Fees and Charges Amendment Bylaw be supported;

AND THAT Amendment Bylaw No. 2595 be referred to the Electoral Area 'A', 'C', 'D', 'E' and 'F' Advisory Planning Commissions (APCs) for consideration as well as to the agencies listed at Schedule 1 of this Report;

AND THAT Planning and Development Committee directs that Public Open Houses be convened in Naramata, Okanagan Falls and Osoyoos prior to Board consideration of first reading of [Amendment Bylaw No. 2594](#).

Background:

At its meeting of April 5, 2012, the Planning & Development (P&D) Committee of the Regional District Board considered a report from staff regarding "a preferred strategy to be applied in relation to the treatment of bed and breakfast and short-term 'vacation rentals' throughout the Regional District."

Amongst other things, the Committee resolved to direct staff "to explore the use of Temporary Use Permits to control vacation rentals and to bring forward a report on issues and potential policies."

Analysis

Temporary Use Permits (TUP) issued by the Regional District Board allow for a use to occur that is otherwise prohibited under the relevant Zoning Bylaw. At present, most Electoral Area Official Community Plans (OCP) limit the land use designations within which a TUP may be considered. For example, in Naramata, TUPs may only be considered in the Resource Area and Agriculture designations, and nowhere else.

However, to reflect legislative changes enacted to the *Local Government Act* in 2010, the Regional District is currently updating all OCP to allow for TUPs to be considered in all land use designations (such as Low Density Residential) through Amendment Bylaw No. 2570, 2012.

While these amendments would facilitate the use of TUPs as a mechanism to regulate vacation rental uses throughout the Regional District, there remain a number of other issues that would require addressing.

Issue No. 1 – OCP Consistency

Should the Board resolve to regulate vacation rentals through the use of TUPs, Administration considers that supportive wording will need to be introduced to each Electoral Area OCP.

At the moment, each Electoral Area OCP is seen to be silent on the issue of vacation rentals and do not address how such proposals shall be considered.

In order to address this, Administration recommends the following statements be introduced as Commercial policies within each Electoral Area OCP:

Vacation Rental Policies

1. *Provision of paid accommodation for visitors through the short-term rental of residences is supported provided that community and neighbourhood residential needs and other land use needs can be addressed.*
2. *Provision of a residence for short-term vacation rental may be permitted through a Temporary Use Permit or rezoning. The Regional Board will use the following criteria to assess future applications:*
 - a) *capability of accommodating on-site domestic water and sewage disposal;*
 - b) *mitigating measures such as screening and fencing;*
 - c) *provision of adequate off-street parking;*
 - d) *confirmation that the structure proposed for use as a vacation rental complies with the BC Building Code; and*
 - e) *benefits that such accommodation may provide to the community.*

Should the Board resolve to adopt the proposed wording comprised within Amendment Bylaw No. 2570, 2012 (OCP Housekeeping), another consistency issue will also need to be addressed.

Specifically, that the objectives of a TUP are to ensure that they “provide for temporary approval of transitional uses, or uses where uncertainty exists respecting appropriateness or viability of the use, and where it is premature to decide upon rezoning and long-term land use patterns” and to “ensure that temporary use permits are not considered a substitute for a rezoning application.”

The use of TUPs as an on-going substitute for zoning (i.e. as a proxy business licence) in relation to regulation of vacation rentals is not seen to be consistent with these objectives. Administration considers that these objectives would need to be revised should the Board resolve to pursue the regulation of vacation rentals in this way.

In order to address this, Administration recommends the following statement be introduced as an objective of Temporary Use Permits within each Electoral Area OCP:

To consider allowing on-going short-term vacation rental uses on properties designated Residential through the issuance of Temporary Use Permits.

Issue No. 2 – Processing Procedures, Guidelines and Permit Requirements

Short-term vacation rentals are seen to present a number of challenges for a community as they are commonly identified with increased noise, loss of security, parking and traffic overflow, safety and fire hazards due to overcrowding, and a reduced sense of community.

In order to address this, Administration recommends the following statement be introduced as a policy for Temporary Use Permits within each Electoral Area OCP:

6. *In issuing a Temporary Use Permit related to a short-term vacation rental, the Regional District shall specify conditions, in addition to those listed under sub-section 5, including, but not limited to:*
 - a) *provision of screening or fencing in order to address potential impacts or to address neighbour privacy issues;*
 - b) *requiring an owner provide neighbours within a distance of 100 metres with the manager’s or owners contact information and a copy of the Temporary Use Permit;*

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- c) *requiring an owner or manager be accessible 24 hours/day, 7 days per week by telephone;*
 - d) *requiring an owner or manager to post for patrons information about:*
 - i) *the location of property lines by way of a map;*
 - ii) *any applicable Regional District noise bylaws;*
 - iii) *measures to address water conservation;*
 - iv) *fire safety regulations;*
 - v) *storage and management of garbage;*
 - vi) *septic system care; and*
 - vii) *control of pets (if pets are permitted) in accordance with the applicable Regional District bylaw.*
 - e) *no more than two (2) patrons shall be accommodated within each available bedroom;*
 - f) *prohibiting the use of recreational vehicles or camping on the property or any use of accessory buildings for vacation rental occupancy;*
 - g) *requiring confirmation from a qualified person that the building meets BC Building Code requirements; and*
 - h) *other requirements that the Regional District Board may consider appropriate.*

The Regional District's Development Procedures Bylaw does not contemplate requests to renew TUPs. As the renewal process is going to be an important function of regulating vacation rentals, it is recommended that wording related to renewal applications be introduced to Schedule 5 (Temporary Use Permits) of the Bylaw.

In order to address this, Administration recommends that Schedule 5 (Application for a Temporary Use Permit) of the Development Procedures Bylaw be amended to include references, where appropriate, to:

an application a Temporary Use Permit, or an application to renew a Temporary Use Permit.

In order to provide consistency to applicants and neighbourhoods in which it is proposed to introduce a vacation rental use, Administration recommends that the Board adopt a policy specifying that the maximum term for an initial TUP related to vacation rentals shall be not be greater than 18 months. In this way, should it be determined that a vacation rental use is inappropriate, incompatible or unviable at a particular location, the permit could be allowed to lapse or not renewed (subject to application) within a relatively short period.

In order to address this, Administration recommends that a Regional District Board Policy be adopted limiting the maximum term of a TUP to 18 months for an initial vacation rental use of a property.

Issue No. 3 – Application Fees

When establishing an application fee, Section 931 of the *Local Government Act* requires that the Regional District not establish a fee that will “exceed the estimated average costs of processing, inspection, advertising and administration that are usually related to the type of application or other matter to which the fee relates.”

Under the Regional District's Fees and Charges Bylaw No. 2523, 2010, the cost of a TUP application is \$700.00, while the bylaw does not currently specify a renewal fee (NOTE: the absence of a permit renewal fee is seen to be a deficiency of the bylaw that should be addressed independently of the vacation rental issue).

As there is no legislative restriction on how many times a TUP (including renewals) may be issued for a specific use on a parcel of land, and the term of a Permit (as well as any renewal) can vary anywhere between 1 day to 3 years, it is very difficult to estimate what a standard application fee for such a Permit might be.

Assuming, however, that the Regional District adopted a policy of issuing all new “vacation rental” uses an initial 18 month Permit in order to determine the suitability/compatibility of the use in an area, and, if successful, the option for a 3 year renewal, the average annual cost of the Permit could be approximately \$233.33. This assumes an initial application fee of \$700 along with a hypothetical renewal fee of \$350 (being half the cost of an initial application fee) averaged over the four year term of a Permit.

By comparison, the City of Penticton charges an annual business licence fee of \$365 for vacation rental uses (being the base fee of \$165 plus a \$200 per year tourism levy). As of July 1, 2012, the City has approximately 35 current vacation rental licences, or which six have been issued within the current calendar year.

Administration recognises that an initial TUP application for a vacation rental use would involve the usual costs associated with the preparation of a staff assessment and permit, undertaking community consultation, etc... but that these costs would likely be reduced in situations where the operator of an established vacation rental use was making re-application.

That said, Administration does not consider it feasible to establish a separate fee structure for uses seeking additional TUPs due to the requirement to treat each proposal as a “new application” and undertake the proper assessments and notifications, etc...

In order to address this, Administration recommends that the current fee for a TUP remains unchanged, but that the Fees and Charges Bylaw be updated to include a TUP renewal fee of \$350.00.

Public Process

The Board will need to make a determination prior to first reading as to whether the public consultation conducted in relation to these proposed amendments is sufficiently “early and on-going” in accordance with Section 879 of the *Local Government Act*.

Administration considers there to be merit to convening two Open Houses in relation to the proposed amendments, one in Naramata, Okanagan Falls and Osoyoos and that these should be co-ordinated with any proposed amendments related to the regulation of bed and breakfasts.

Administration also favours forwarding the amendment bylaw to each of the Okanagan Valley Electoral Area Advisory Planning Commissions (APCs) as well as the agencies listed at Attachment No. 1 prior to the Board considering first reading of the amendment bylaw.

Respectfully submitted:



C. Garrish, Planner

Attachments: Attachment No. 1 – Agency Referral List
Attachment No. 2 – Draft Temporary Use Permit Guidelines
Attachment No. 3 – Draft Board Policy – Vacation Rental Permit Term

Attachment No. 1 – Agency Referral List

Referrals to be sent to the following agencies as highlighted with a , prior to the Board considering first reading of Amendment Bylaw No. 2595, 2012.

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Kootenay Boundary Regional District
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input checked="" type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input checked="" type="checkbox"/>	District of Summerland
<input checked="" type="checkbox"/>	Ministry of Energy & Mines	<input checked="" type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Community, Sport and Cultural Development	<input checked="" type="checkbox"/>	Town of Osoyoos
<input checked="" type="checkbox"/>	Ministry of Environment	<input type="checkbox"/>	Town of Princeton
<input checked="" type="checkbox"/>	Ministry of Forest, Lands & Natural Resource Operations	<input type="checkbox"/>	Village of Keremeos
<input checked="" type="checkbox"/>	Ministry of Jobs, Tourism and Innovation	<input checked="" type="checkbox"/>	Okanagan Nation Alliance (ONA)
<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure	<input checked="" type="checkbox"/>	Penticton Indian Band (PIB)
<input checked="" type="checkbox"/>	Integrated Land Management Bureau	<input checked="" type="checkbox"/>	Osoyoos Indian Band (OIB)
<input checked="" type="checkbox"/>	BC Parks	<input type="checkbox"/>	Upper Similkameen Indian Bands (USIB)
<input checked="" type="checkbox"/>	School District #53 (Okanagan Similkameen)	<input type="checkbox"/>	Lower Similkameen Indian Bands (LSIB)
<input type="checkbox"/>	School District #58 (Nicola Similkameen)	<input checked="" type="checkbox"/>	Environment Canada
<input checked="" type="checkbox"/>	School District #67 (Okanagan Skaha)	<input checked="" type="checkbox"/>	Fisheries and Oceans Canada
<input checked="" type="checkbox"/>	Central Okanagan Regional District	<input checked="" type="checkbox"/>	Archaeology Branch

The text highlighted in **blue** indicates proposed amendments contained within Draft Amendment Bylaw No. 2595:

XX.0 TEMPORARY USE PERMITS

XX.1 Background

Temporary Use Permits may be considered by the Regional Board to allow specific land uses to occur for a short period of time. The permit can contain very detailed requirements such as indicating the buildings that can be used, the time frame of the permit, and other conditions.

Such permits are provided at the discretion of the Regional Board and are only in effect for a limited period of time. They are not a substitute for a rezoning.

XX.2 Objectives

1. To avoid conflicts between different types of uses (i.e. residential, commercial and industrial).
2. To provide for temporary approval of transitional uses, or uses where uncertainty exists respecting appropriateness or viability of the use, and where it is premature to decide upon rezoning and long-term land use patterns.
3. To ensure that temporary use permits are not considered a substitute for a rezoning application.
4. **To consider allowing on-going short-term vacation rental uses on properties designated Residential through the issuance of Temporary Use Permits.**

XX.3 Policies

The Regional Board's policies are as follows:

- .1 Land within all of the Land Use Designations in this OCP is designated under Section 920.2 of the *Local Government Act* as an area in which Temporary Use Permits may be issued.
- .2 The holding of a public information meeting may occur prior to the issuance of a Temporary Use Permit.
- .3 Any proposed access to public roads must be reviewed and approved by the Ministry of Transportation and Infrastructure.
- .4 In evaluating a Temporary Use Permit application submitted to the Regional District by the applicant, the Regional District may consider the following criteria:
 - a) the use must be clearly temporary or seasonal in nature;
 - b) compatibility of the proposal with adjacent uses;
 - c) impact of the proposed use on the natural environment, including groundwater, wildlife, and all environmentally sensitive areas;
 - d) intensity of the proposed use;
 - e) opportunity to conduct the proposed use on land elsewhere in the community; and

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- f) the remedial measures to be carried out to mitigate any damage to the natural environment as a result of the temporary use.
- .5 In issuing a Temporary Use Permit, the Regional District may specify conditions including, but not limited to:
- a) the buildings to be used;
 - b) the area of use;
 - c) the hours of use;
 - d) appearance;
 - e) environmental protection measures, and
 - f) groundwater protection.
- .6 In issuing a Temporary Use Permit related to a short-term vacation rental, the Regional District shall specify conditions, in addition to those listed under subsection 5, including, but not limited to:**
- a) provision of screening or fencing in order to address potential impacts or to address neighbour privacy issues;**
 - b) requiring an owner provide neighbours within a distance of 100 metres with the manager's or owners contact information and a copy of the Temporary Use Permit;**
 - c) requiring an owner or manager be accessible 24 hours/day, 7 days per week by telephone;**
 - d) requiring an owner or manager to post for patrons information about:**
 - i) the location of property lines by way of a map;**
 - ii) any applicable Regional District noise bylaws;**
 - iii) measures to address water conservation;**
 - iv) fire safety regulations;**
 - v) storage and management of garbage;**
 - vi) septic system care; and**
 - vii) control of pets (if pets are permitted) in accordance with the applicable Regional District bylaw.**
 - e) no more than two (2) patrons shall be accommodated within each available bedroom;**
 - f) prohibiting the use of recreational vehicles or camping on the property or any use of accessory buildings for vacation rental occupancy;**
 - g) requiring confirmation from a qualified person that the building meets BC Building Code requirements; and**
 - h) other requirements that the Regional District Board may consider appropriate.**
- .7 As a condition of issuing a Temporary Use Permit, the Regional District may require the posting of a security so as to ensure compliance with the conditions of a permit.

**REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN
BOARD POLICY**

POLICY: TEMPORARY USE PERMIT TERM — VACATION RENTAL USE

AUTHORITY: Board Resolution No. _____ dated _____.

AMENDED: Board Resolution No. _____ dated _____.

POLICY STATEMENT

The Regional District of Okanagan-Similkameen shall apply a term limit of not greater than 18 months to Temporary Use Permits issued for a vacation rental use on land which has not been the subject of such an approved use previously, or which is being proposed by new owners of the land.

PURPOSE

In order to provide consistency to applicants and neighbourhoods in which it is proposed to introduce a vacation rental use, a term limit of not greater than 18 months shall be applied to Temporary Use Permits issued for a vacation rental use on land which has not been the subject of such an approved use previously, or which is being proposed by new owners of the land.

In this way, should it be determined that a vacation rental use is inappropriate, incompatible or unviable at a particular location, a permit may be allowed to lapse or not renewed (subject to application) within a relatively short period (i.e. within one year of operation).

The actual term of a TUP issued in accordance with this Policy shall be at the discretion of the Regional District Board and shall generally be structured to ensure an applicant is afforded one full “season” (i.e. May 1st through October 31st) to operate a vacation rental use.

DEFINITIONS

Not applicable.

RESPONSIBILITIES

Development Services Department.

PROCEDURES

Not applicable.