

Date: Tuesday, May 7, 2024
To: Elizabeth Tracy, Chief Administrative Officer
From: Gwendolyn Kennedy, Manager, Corporate & Legislative Services
Subject: Business Licence Bylaw Amendment (Short-Term Vacation Rentals)

PURPOSE

The purpose of this report is to seek input from the Committee of the Whole regarding proposed amendments to Business Licence Bylaw No. 855, 2019.

BACKGROUND

At Regular Council Meeting No. 1596, held March 19, 2024, Council considered a [staff report](#) examining the impact of Bill 35, *Short-Term Rental Accommodations Act*, and passed the following resolutions:

Resolution 1596-8

THAT Council directs staff to bring to a future Committee of the Whole meeting information regarding how to provide flexibility in the Village's short-term vacation rental regulations to permit homeowners to rent their principal residences as tourist accommodation for less than 90 days when away from home.

Resolution 1596-10

THAT Council directs staff to submit a request to the Province of British Columbia to have the Village of Pemberton included in the principal residence requirement for short-term rental accommodation.

Resolution 1596-11

THAT Council directs staff to draft amendments to Zoning Bylaw No. 832, 2018 and Business Licence Bylaw No. 855, 2019, to bring the existing bed and breakfast business into compliance with Village bylaws.

Resolution 1596-12

THAT Council directs staff to draft an amendment to Zoning Bylaw No. 832, 2018, to align the Villages definition of short-term vacation rental with the definition set out in the Short-Term Rental Accommodations Act.

At this meeting, Council indicated support for keeping the Village's existing short-term vacation rental regulations, including the principal residence requirement and the neighbourhood cap on the number of short-term vacation rental business licences issued, while broadening the definition

of short-term vacation rentals to include rentals of less than 90 days, in alignment with the provincial definition set out in the *Short-term rental Accommodations Act*.

This report considers municipal authority to regulate with respect to business and presents the amendments to Business Licence Bylaw No. 855, 2019, that will accomplish the objectives articulated by Council, subject to Council's jurisdiction with respect to business.

DISCUSSION & COMMENTS

The amendments summarized below are presented in draft bylaw format attached **Appendix A**. For convenience, a draft consolidation of Business Licence Bylaw No. 855, 2019, showing the proposed amendments as track changes, is attached as Appendix B.

Municipal Authority in Relation to Business - Cap on Short-Term Vacation Rentals & Mobile Vendors

Section 8 (6) of the *Community Charter* states that a council may, by bylaw, regulate in relation to business. Section 8 (7) clarifies that the powers of a municipality to regulate, impose requirements, and prohibit are separate powers. Therefore, in giving a municipal council the authority only to *regulate* in relation to business, the *Community Charter* does not give a council the authority to prohibit a business from being established or to impose requirements on an individual business.

Despite the limitations on municipal authority with respect to business, section 479 (1) (c) of Part 14 of the *Local Government Act* gives a local government the authority to regulate the use of land, buildings, and other structures within a zone. Thus, although a council may not prohibit a business or type of business from operating under the authority established by section 8 of the *Community Charter*, such an objective may be accomplished through zoning. Also, section 8 (7) (c) of the *Community Charter* establishes that the powers to regulate, prohibit, and impose requirements may not be used to do anything a council is authorized to do under Part 14 of the *Local Government Act*, further clarifying the limitation to a municipality's powers under section 8.

The Province provides information on the interpretation of section 8 of the *Community Charter* here: [Municipal business regulation - Province of British Columbia \(gov.bc.ca\)](https://www2.gov.bc.ca/gov/content/industry/business/industry-regulation/municipal-business-regulation)

On reviewing section 8 of the *Community Charter* and Part 14 of the *Local Government Act*, staff conclude that the neighborhood cap on short-term vacation rental business licences set out in section 21.5 and the mobile vendor business licence cap set out in section 14.7 of [Business Licence Bylaw No. 855, 2019](#) fall outside the Village's jurisdiction and should be removed from the bylaw. The proposed amendment to Business Licence Bylaw No. 855, 2019, will eliminate these sections and Schedule B, Neighbourhood Allocation Cap Map.

Resolution No. 1596-8 - Rental of Principal Residence, Owner Away from Home

Resolution No. 1596-8 arose from Council's concern that homeowners wishing to rent their homes for a period of less than 90 days when away on vacation would be unable to obtain a business licence because of the neighbourhood cap on short-term vacation rental business licences. Council acknowledged that a homeowner renting their home while away on vacation would have no impact on the long-term rental market, as the home would not be available for rent long-term, being occupied most of the year by its owners.

With the proposed removal of the neighbourhood cap on short-term vacation rentals from Business Licence Bylaw No. 855, 2019, the question of how to build the desired flexibility into short-term vacation rental regulations was directed to Development Services.

Resolution No. 1596-12 - Definition of Short-Term Vacation Rental

Resolution No. 1596-12 was referred to Development Services for inclusion in an amendment to Zoning Bylaw No. 832, 2018. However, recognizing that zoning definitions, with their focus on the use of a property and based on the assumption that a use is prohibited unless stated otherwise, may not be suited to a business licence bylaw that focuses on the business operation. As such, staff crafted a new definition based on the definition provided in section 1 of the *Short-Term Rental Accommodations Act*. The definition set out in the *Act* reads as follows:

"short-term rental accommodation service" means the service of accommodation in the property of a property host, in exchange for a fee, that is provided to members of the public for a period of time of less than 90 consecutive days or another prescribed period, if any, but does not include a prescribed accommodation service.

Staff propose the following definition:

short-term vacation rental means the service of accommodation in the property of a property host, in exchange for a fee, that is provided to members of the public for a period of time of less than 90 consecutive days but does not include a *bed and breakfast, bed and breakfast inn, hotel, motel, or hostel*.

The proposed definition eliminates the reference to *tourism accommodation* so that a reader need not refer to another enactment to understand the definition. Also, the definition keeps the Province's use of the term "property host", which is absent from the zoning bylaw definition because of the zoning focus on a property. Hotels, motels, hostels, bed and breakfasts, and bed and breakfast inns are excluded and are not subject to the 5% limit per neighbourhood that will be established in the forthcoming zoning bylaw amendment.

Resolution No. 1596-11 - Bed and Breakfast Inn

At Regular Council Meeting No. 1596, Council indicated support for the following staff recommendation to bring the current bed and breakfast business licence holder into compliance with Village zoning and business licence bylaws:

- a. add a new licence type, *bed and breakfast inn*, to Business Licence Bylaw No. 855, 2019; and,
- b. in section 7.9 of Zoning Bylaw No. 832, 2018, remove (b), which sets out the restriction that a B&B inn may not offer cooking facilities to guests.

Staff propose amending Part 21, Short-Term Vacation Rentals (STVRs), to include bed and breakfasts (B&Bs) and bed and breakfast inns (B&B Inns), as the provisions set out in this section apply equally to the three licence types. The three business types are distinguished only by the requirements set out in sections 7.8, 7.9, and 7.24 of Zoning Bylaw No. 832, 2018, as follows:

- B&Bs and B&B Inns will be exempted from the 5% limit by neighbourhood;
- accommodation occupancy is limited to a maximum of two bedrooms for a B&B; three for an STVR; and five bedrooms for a B&B Inn;

- the operator must be the owner of the home for a B&B whereas a B&B Inn or STVR may be operated by a full-time resident who is not the property owner;
- the operator must be present during operation of a B&B or B&B Inn; an STVR operator may rent their principal residence when they are away from the home;
- cooking facilities are prohibited in a B&B but permitted in an STVR and a B&B Inn; and
- the zones in which the uses are permitted differ.

COMMUNICATIONS

Section 59 (2) of the *Community Charter* requires that before adopting a bylaw that regulates business, a council must give notice and provide an opportunity for persons who consider they are affected by the bylaw to make representations to council. Section 59 indicates that a council may determine what constitutes appropriate notice. Staff recommend following the Village's usual procedure of providing notice in two consecutive editions of Pique Newsmagazine and posting the notice on the Village website and Facebook page.

LEGAL CONSIDERATIONS

The legal authority to regulate business is described in the Discussion & Comments section of this report.

BUDGET & STAFFING

There are no impacts to the budget or staff hours.

INTERDEPARTMENTAL IMPACT

Review and amendment of Business Licence Bylaw No. 855, 2019 has no impact on other departments.

COMMUNITY CLIMATE ACTION PLAN

Review and amendment of the Business Licence Bylaw No. 855, 2019 has no impact on the Community Climate Action Plan strategies.

STRATEGIC PRIORITIES

Review and amendment of Business Licence Bylaw No. 855, 2019, including incorporation of changes to short-term vacation rental regulations, aligns with the strategic priority to *plan and manage growth*.

IMPACT ON THE REGION

Review and amendment of Business Licence Bylaw No. 855, 2019 has no impact on other jurisdictions.

ALTERNATIVE OPTIONS

Alternative options for consideration are as follows:

Option One (recommended):

THAT the Committee of the Whole refers the proposed business licence amendment bylaw to Council for first, second, and third readings at a future regular meeting of council;

AND THAT the Committee of the Whole directs staff to provide public notice of the bylaw readings in two consecutive editions of Pique Newsmagazine and post the notice on the Village website and Facebook page prior to readings of the bylaw.

Option Two:

THAT the Committee of the Whole directs staff to bring back the proposed business licence bylaw amendment to the Committee of the Whole for further discussion with the following changes:

- *(Committee of the Whole to list changes)*

RECOMMENDATIONS

THAT the Committee of the Whole refers the proposed business licence amendment bylaw to Council for first, second, and third readings at a future regular meeting of council;

AND THAT Committee of the Whole directs staff to provide public notice of the bylaw readings in two consecutive editions of Pique Newsmagazine and post the notice on the Village website and Facebook page prior to readings of the bylaw.

ATTACHMENTS:

Appendix A: Draft Business Licence Amendment Bylaw

Appendix B: Draft Consolidated Business Licence Bylaw No. 855, 2019 showing proposed changes

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