

**Date:** Tuesday, February 27, 2024

**To:** Elizabeth Tracy, Chief Administrative Officer

**From:** Gwendolyn Kennedy, Manager, Corporate & Legislative Services

**Subject:** Bill 35: Short-Term Rental Accommodations Act

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## **PURPOSE**

The purpose of this report is to inform the Committee of the Whole of the implications of Bill 35, *Short-Term Rental Accommodations Act*, and to seek the Committee's input on potential changes to Village bylaws in response to the Act.

## **BACKGROUND**

On October 26, 2023, Bill 35, the [Short-Term Rental Accommodations Act](#), received royal assent. The goal of the *Short-Term Rental Accommodations Act* is to "strengthen tools to support local government enforcement of short-term rental bylaws, return short-term rentals to the long-term housing market, and establish a provincial role in the regulation of short-term rentals" (Ministry of Housing, December 2023, [Short-Term Rentals: Policy Guidance for BC Local Governments](#)).

To achieve these goals, the Act establishes a framework for regulation of short-term rentals that includes the following components:

1. Regional district business licensing
2. Principal residence requirement
3. Increased maximum penalty fines (from \$1,000 to \$3,000 per infraction per day)
4. Data sharing from short-term rental platforms to the province
5. Platform accountability
6. End of legal non-conforming use
7. Provincial registry
8. Provincial compliance and enforcement unit.

Bill 35 will be enacted in phases:

- Regional districts received authority to issue business licences and increase penalties on October 26<sup>th</sup>.
- On December 7, 2023, [regulations](#) under Bill 35 were issued, with further regulations expected to be made in 2024.
- Effective May 1, 2024, the new provincial principal residence requirement will come into effect.
- Data sharing, including the requirement for short-term rental platforms to share information about listings with the Province, will come into effect in summer 2024.
- The provincial registry requiring online platforms to remove listings without valid provincial registry numbers is expected to come into effect by late 2024.

## **DISCUSSION & COMMENTS**

### **Short-Term Rental Accommodation Definitions**

The Act defines a short-term rental accommodation service as “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;”.

In contrast, the Village and defines short-term vacation rental in Business Licence Bylaw No. 855, 2019, and Zoning Bylaw No. 832, 2018, as

*the use of a dwelling unit, or a portion of a dwelling unit, for tourism accommodation, but does not include Bed and Breakfast establishment, Bed and Breakfast Inn, Hostel, Motel or Hotel as these establishments are defined in the Village of Pemberton Zoning Bylaw No. 832, 2018*

The definition refers to “tourism accommodation”, defined as:

*the use of land, buildings, or structures for providing temporary commercial lodging by visitors for a period **not to exceed thirty (30) consecutive days or 182 days in a twelve (12)-month period**, and specifically excludes residential occupancy by any person other than the owner and short-term vacation rental unless specifically permitted in this Bylaw.*

The definition under the Act is broader than the Village’s current definition. It includes bed and breakfast establishments which are excluded under the Village’s definition, and, more significantly, the definition is framed by the duration of the accommodation rental, less 90 days, in contrast to the accommodation duration of “not exceeding 30 days or 182 days in a twelve-month period” set out in the Village definition.

Regardless of whether the Village changes its definition of short-term rental to align with the broader definition set out under the Act, a person offering rental accommodation that falls within the definition of the Act will be required to comply with provincial regulations including registration with the Province and the posting of a valid provincial registry number on short-term rental platforms.

If the Village broadens its definition to align with that of the Province, rental accommodation operators currently offering accommodation for more than thirty days but less than 90 days will be required to obtain business licences and comply with Business Licence Bylaw No. 855, 2019, as will bed and breakfast operators. Further, as the number of business licences available to short-term rental operators is limited, and there are wait lists for licences in most neighbourhoods, most of these operators will not be able to obtain business licences, forcing them to offer their rental accommodations for a term of 90 days or more.

### **Principal Residence Requirement**

The provincial principal residence requirement limits short-term rentals to the host’s principal residence plus one secondary suite or accessory dwelling unit on the property. Short-term rental of another property, such as a vacation home or investment property, is not permitted. The Village currently has a similar principal residence requirement set out in section 21.2 of Business Licence Bylaw No. 855, 2019:

*21.2. Principal Residence Requirement*

*a) A short-term vacation rental operator must not operate a short-term vacation rental unless the short-term vacation rental is located in:*

- i. the principal residence of the short-term vacation rental operator; or*
- ii. a secondary suite that is in a detached dwelling where the short-term vacation rental operator has their principal residence.*

Communities with a population of less than 10,000 are exempt from the provincial principal residence requirement. Therefore, Pemberton will not automatically be affected by the provincial requirement. However, a local government exempted from the principal residence requirement may opt-in by submitting a resolution to the Minister of Housing. The request must be received by March 31 and will come into effect on November 1<sup>st</sup>.

Should the Village opt into the provincial principal residence requirement, the provincial Compliance and Enforcement Unit would enforce the provincial requirements. Any requirements specific to Village bylaws would remain the jurisdiction of the Village. For simplicity and clarity, staff recommend that, if Council chooses to opt into the provincial principal residence requirement, section 21.2 of Business Licence Bylaw No. 855, 2019, be amended to align with the Act by allowing short-term rentals in both the principal residence plus one secondary suite or accessory dwelling unit.

The Village's principal residence requirement applies to short-term rental operators as defined in Zoning Bylaw No. 832, 2081 and Business Licence Bylaw No. 855, 2019. If the Village opts into the provincial principal residence requirement, this restriction will apply to short-term rental operators as defined by the Act (rentals of up to 90 days). If the Village does not opt in, staff would continue to enforce the principal residence requirement set out in Business Licence Bylaw No. 855, 2019.

**Penalty Fines**

The maximum penalty fines that local governments may issue under the Bylaw Enforcement Ticket Regulations have been increased from \$1,000 to \$3,000 per infraction per day. Currently, the highest penalty fine applicable to a short-term rental in the Village is \$600 for advertising a short-term rental without a business licence. Council may choose to amend Municipal Ticket Information Utilization Bylaw No. 845, 2018 to increase penalties.

**Data Sharing**

The Province will establish a data sharing system requiring online short-term rental platforms to share listing information with the Province and will share the information with local governments to assist with bylaw enforcement.

**Platform Accountability**

Short-term rental platforms will be required to remove listings that do not display valid local government business licences, if applicable, and must not post listings that do not have a valid provincial registry number. This will reduce the burden on staff who monitor platforms for non-compliant listings. Staff will seek clarification from the Province regarding how business licensing requirements will be enforced if a local government does not require that all short-term rental accommodations that fall under the provincial definition be licensed.

**End of Non-Conforming Use**

This element of the Act does not apply to the Village as we have not permitted short-term rentals as a non-conforming use.

### **Provincial Registry**

Hosts and platforms will be required to register with the Province.

### **Provincial Compliance and Enforcement Unit**

A provincial Compliance and Enforcement Unit will be established to enforce provincial short-term rental regulations. Local governments will maintain responsibility for enforcement of local bylaws. To the extent that Village bylaws align with provincial regulations, the Compliance and Enforcement Unit will relieve staff of monitoring and enforcement.

### **Summary**

Bill 35, Short-Term Rental Accommodations Act, overlaps with Village bylaws on many aspects. There are, however, a few significant differences, including the definition of short-term rental accommodations, the principal residence requirement, and penalty fines. Depending on Council's desire to align with the provincial regulations, Council may consider the following actions:

- amending the Village's definition of short-term rental set out in Zoning Bylaw No. 832, 2018, and Business Bylaw No. 855, 2019, to align with the definition set out in the Act;
- amending to section 21.2 of Business Licence Bylaw No. 855, 2019, to align with the provincial principal residence requirement;
- amending Municipal Ticket Information Utilization Bylaw No. 845, 2018, to increase fines to the new maximum; and
- by Council resolution, requesting to opt-in to the provincial principal residence requirement.

### **COMMUNICATIONS**

Consideration of the implications of Bill 35 does not entail a communications element.

### **LEGAL CONSIDERATIONS**

Legal considerations are described in the Background and Discussion & Comments sections of this report.

### **BUDGET & STAFFING**

There are no impacts to the budget or staff hours.

### **INTERDEPARTMENTAL IMPACT**

There are no interdepartmental impacts.

### **COMMUNITY CLIMATE ACTION PLAN**

Consideration of the impacts of Bill 35 has no impact on the [Community Climate Action Plan](#) strategies.

### **STRATEGIC PRIORITIES**

Consideration of the impact of Bill 35 aligns with the strategic priority, plan and manage growth, as changes to short-term rental regulations may increase the availability of long-term rental housing.

### **IMPACT ON THE REGION**

Consideration of Bill 35 has no impact on the region or neighbouring jurisdictions.

### **ALTERNATIVE OPTIONS**

**Option 1:** Recommend to Council to direct staff to draft amendments to Business Licence Bylaw No. 855, 2019, and Zoning Bylaw No. 832, 2018, to change the definition of short-term rental to align with the provincial definition.

**Option 2:** Recommend to Council to direct staff to amend Business Licence Bylaw No. 855, 2019, to align the Village's principal residence requirement with the provincial principal residence requirement.

**Option 3:** Recommend to Council to direct staff to draft an amendment to Municipal Ticket Information Bylaw No. 845, 2018, to increase penalty fines for infractions of Business Licence Bylaw No. 855, 2019.

**Option 4:** Recommend to Council that the Village, by Council resolution, opt-in to the provincial principal residence requirement under the *Short-Term Rental Accommodation Act*.

### **RECOMMENDATIONS**

**THAT** the Committee of the Whole recommends to Council that staff be directed to:

- *Committee to provide list of directions*

### **ATTACHMENTS:**

None

Prepared by:	Gwendolyn Kennedy, manager, Corporate & Legislative Services
CAO approval:	Elizabeth Tracy, Chief Administrative Officer