



The Corporation of the City of Courtenay

Staff Report

To: Council
From: Director of Development Services
Subject: Short-term rental regulation Bill 35

File No.: 3010-01-2401
Date: April 24, 2024

PURPOSE:

To provide an update for Council regarding the *Short-Term Rental Accommodations Act* proclaimed October 26, 2023 (Bill 35), and request Council's direction regarding appropriate amendments to relevant City Bylaws (Business Licencing Bylaw No. 2523, 2008, Zoning Bylaw No. 2500, 2007 and Municipal Ticketing Information Bylaw No. 2435, 2006).

BACKGROUND:

Provincial legislation

The *Short-Term Rental Accommodations Act* is in response to a joint Union of BC Municipalities (UBCM) and Province of BC report (2021), identifying concerns with municipal ability to regulate short-term rental accommodation including: platform accountability, regulatory tools and enforcement capacity, as well as concerns that the short-term rental market is diverting rental units from the long term residential rental market, thereby reducing the supply of affordable rental housing within BC.

Effective May 1, 2024, in areas where the provincial principal residence requirement applies, short-term rentals will be limited to a host's principal residence, and either a secondary suite or accessory dwelling unit for most types of accommodation. The legislation provides a province-wide framework for the regulation of short-term rental accommodation, with the principal residence rules designed to target areas with high housing needs. Smaller communities and tourist destinations can continue as-is, or opt into the provincial legislation if they so choose.

The City of Courtenay, having a population of greater than 10,000 and a residential rental vacancy rate of less than 3% (0.6% in 2023) is subject to the new provincial regulations. On May 1, 2024, whether or not the City of Courtenay chooses to take any further action, operators of short-term rental accommodation within the City will be required to observe the provincial principal residence requirement and register with the provincial registry (when available). The principal residence requirement will not apply for strata titled hotels and motels, and in other limited instances (i.e. Farm classification, Student Accommodation). The provincial compliance unit will be responsible for enforcing the provincial principal residence requirement and the mandatory registration with the provincial registry.

Previous Council direction

A staff report entitled "Short-Term Rental Accommodations Background Report" was presented to Council's Regular Meeting of June 1, 2020 and Council passed the following resolution:

That based on the March 16, 2020 staff report “Short-Term Rental Accommodations Background Report” Council determine the preferred regulatory approach for short-term rentals and direct staff to begin the process of developing regulations.

Existing Courtenay regulatory framework

Currently, City of Courtenay Business Licencing or Zoning Bylaws do not define or have specific regulations with respect to short-term rentals.

Business Licencing Bylaw No. 2523, 2008 regulates Apartments, Hotel, Motel, Hostel, Mobile Home Parks in that they are required to have a valid Business Licence renewed annually. The current Business Licence fee is \$150 per year for operations having more than 10 units and \$50 per year for those with less than 10 units. Operations having no more than two rooms for rent are exempt from holding a Business Licence.

Zoning Bylaw 2500, 2007 does not define Bed and Breakfast or Short-Term Rentals, but contains conditions of use and parking requirements for bed and breakfast uses. Since the Zoning Bylaw does not define Short-Term Rentals as a specific use, and Short-Term Rental accommodation is not listed as a permitted use in residential zones, the City has taken the position that they are not permitted to locate anywhere in Courtenay and are not operating within Courtenay’s existing legal framework. The City has received some complaints with respect to Short Term Rentals in the community.

DISCUSSION:

Responding to Council’s direction in 2020, additional background research was completed in 2021 but did not come back to Council formally. Data from the updated Housing Needs Assessment as prepared by Turner Drake and Associates for CVRD, identifies 286 short-term rentals currently operating in Courtenay. The data for the updated Housing Needs Assessment was collected by Turner Drake and Partners Ltd aggregated from AirDNA™ for the period commencing January 2016 to November 2023. AirDNA™’s “Property Performance Data” service tracks short-term rental listings for the major booking platforms Airbnb and VRBO.

Notwithstanding that Courtenay does not define or regulate Short-Term Rental accommodation, one can see on Figure 1 below that the numbers of listings for this type of accommodation have been steadily increasing within Courtenay and other municipalities in the Comox Valley since 2016. Figure 2 shows their distribution.

Figure 1: Courtenay Average Monthly and Total Annual Short-term rental listed properties, as aggregated by Turner Drake and Associates from Air DNA™ data

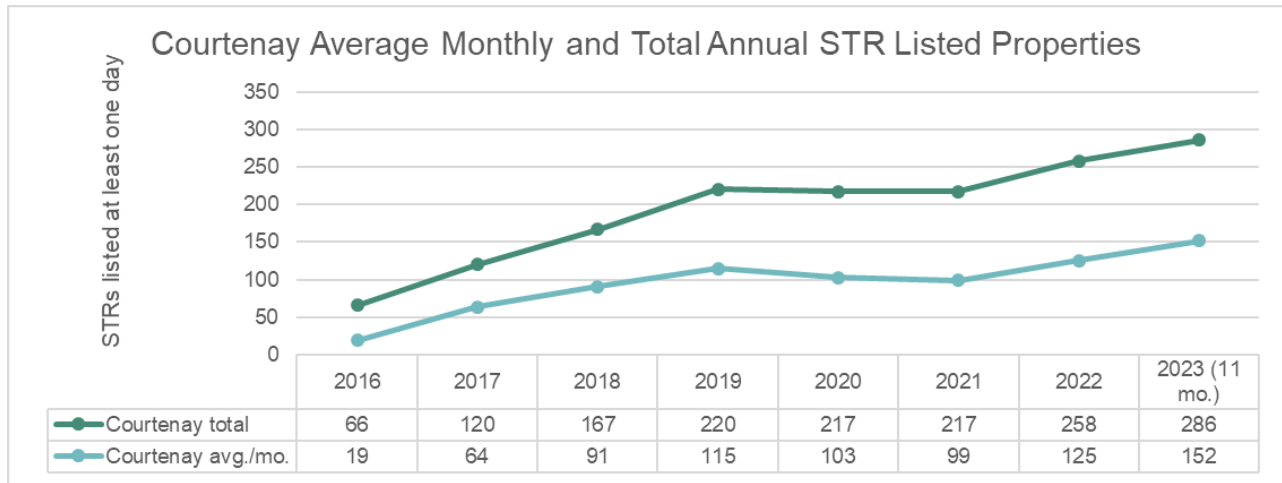
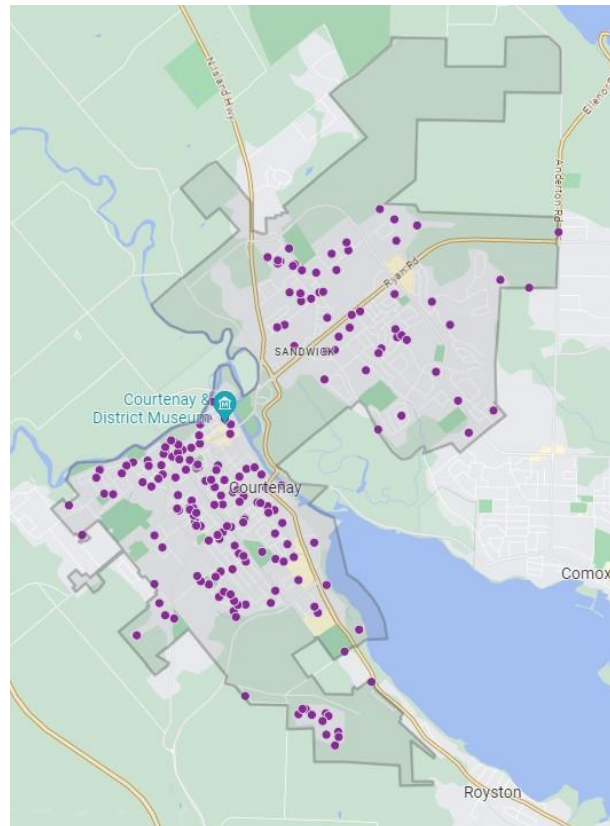


Figure 2: Approximate locations of short-term rental listed properties in the City of Courtenay, AirDNA™ data provided by Turner Drake and Associates.



Staff note that the aggregate AirDNA™ data source provided by Turner Drake and associates has limitations such as not including other online booking platforms or private bookings and that the following

should be interpreted with the understanding of these data limitations. Accuracy in data tracking is an important objective of the provincial regulations.

With that caveat in mind, a number of other trends since 2016 are identified below:

- The total number of STR units in Courtenay has been increasing over the years from 66 to 286.
- Courtenay has 18% of total STRs in region and trends in Courtenay generally reflect those in the region.
- If more than one rental room is listed separately for the same residential unit, each separately listed room is counted as a separate property.
- The number of listed STRs that are entire units has been increasing rapidly over the years, from 39 in Courtenay (2016) to 245 (2023), while the number of room rentals within a residence grew from 25 (2016) to 49 (2019) before falling to 40 (2023).
- Many listings are available much of the year (averaging 5.5-6.5 months/year since 2017) and therefore aren't being part of the rental housing stock other parts of year.
- Many listings are not available for all of a month and of the listings booked, they are only booked part of the available time, averaging 11 booked days and 12 additional available days per month.
- Seasonality presents itself somewhat in higher prices and higher occupancy as well as slightly more listings in summer months.
- Average annual revenue has been increasing from \$1,696.45 (2016) to \$10,414.88 (2022). 2023 averaged \$9,374.34 as of November, which \$47.20 less than the first 11 months of 2022.

While the City of Courtenay is not required to amend its Business Licencing or Zoning Bylaw to be compliant with provincial legislation, the *Short-Term Rental Accommodations Act* does not prevent local governments from defining short-term rentals differently from the Province's less than 90 consecutive days definition if they so choose, or for specifying where the short-term rental may operate and providing conditions of operation for the purposes of their local bylaws. Staff have been reviewing local government short-term rental regulatory options and recommend that Council consider:

1. Where Short-Term Rental accommodation may be permitted, for example in specific zones, or in any principal residence and/or accessory dwelling unit subject to appropriate conditions of use, and what uses they may not be permitted to be located with (e.g. daycare use).
 - Staff is recommending that short-term rental be allowed in all residential zones and principal resident may be either the owner or a long-term renter who is designated as the operator.
2. Length of stay of any one unit, whether it be the principal residence or the accessory dwelling unit, or bedrooms within a home.
 - Staff is proposing that maximum stay be 27 days and only one unit is permitted on a property.
3. Parking requirements.
 - Staff is recommending one parking stall per short-term rental property.
4. Defining maximum number of guests.
 - Staff recommend no more than six guests, two per bedroom and no more than 3 bedrooms.
5. Requiring a fire and safety plan.
 - To be posted as per provincial regulations.
6. Requirement that signage be provided identifying vacation rental name and contact information.
 - To be provided as per provincial regulations.

A review of other local communities shows:

- Village of Cumberland:
 - Permits short-term rentals in their Residential Infill zone (R1-A, close to their downtown), requires a business license, resident requirement on property, limit to only one short-term rental per property, limit to 3 bedrooms and 6 guests, parking and signage requirements.
- Town of Comox:
 - Short-term rentals are considered Bed and Breakfast Accommodation, which is permitted in some of the low-density residential zones. A maximum of two bedrooms may be rented on a short-term basis and a business licence is required.
- Comox Valley Regional District:
 - The electoral areas, including Mt. Washington, are exempt from the principal residence provisions of the provincial Act. However, most of the electoral area residential zoning only permits short-term vacation rentals in the form of a Bed and Breakfast. Property owners who want to operate a short-term rental in a different form, such as using an entire dwelling unit for tourist accommodation, must make a site-specific land use application, such as a Temporary Use Permit, or zoning amendment to a commercial tourist accommodation use. Short-term rental regulations will be reviewed as part of the Rural Official Community Plan update to occur by December 31, 2025.

It is recommended that Council consider amendments to both Business Licencing and Zoning Bylaws in order to provide clarity for how such businesses should operate in Courtenay. Concurrent amendments to the Municipal Ticketing Information Bylaw will enable enforcement in a consistent and equitable manner.

Staff recommend that the following amendments to the following bylaws be presented:

Business Licencing Bylaw No. 2523, 2008:

- New definitions to differentiate the types of rental accommodation being offered: Bed and Breakfast, Short-Term and longer residential rental accommodation (see draft definitions in Attachment 1).
- Introduce a requirement for Short-Term Rental accommodation to obtain a Business Licence and provide specific conditions of operation.
- Introduce new categories of Business Licence and fees for Short-Term Rental accommodation.

Zoning Bylaw No. 2500, 2007:

- Introduce new definitions to differentiate the types of uses being regulated: Bed and Breakfast, Short-Term Rental accommodation and longer-term residential use (see draft definitions in Attachment 1).
- Introduce new conditions of use for Short-Term Rental accommodation.
- Define where they may be permitted

Municipal Ticket Information Bylaw No. 2435, 2006

- Review Schedule 1 Appendix 3 (Business Licencing Bylaw) and Appendix 9 (Zoning Bylaw) as required for consistency with proposed new sections.

Note that the City is working with the Regional District and Town of Comox to produce a Bylaw Notice Enforcement Bylaw (ticking bylaw under the adjudication process, adjudication equivalent to the MTI Bylaw) to replace the existing Municipal Ticket Information Bylaw system. It is expected that a

comprehensive review of relevant bylaws to be included, as well as offences and associated fines, will be undertaken through this process, therefore any fines proposed would be comparable in scale to those already in effect, although the *Short-Term Rental Accommodation Act* provides for increased maximum fines.

Staff will present the Bylaw amendments at a subsequent Council meeting.

POLICY ANALYSIS:

OCP Affordable Housing (AH 12) Policy states: Ensure short-term rental accommodation limits impact on the long-term rental housing supply. Explore options such as requiring owner occupation of short-term rental accommodations and business licenses.

The Regional Growth Strategy contains the Housing Goal 1, “ensure a diversity of affordable housing options to meet evolving regional demographics and needs”.

The provincial legislation will aid local governments that seek to prioritize residential use relative to their housing needs and vacancy rates by limiting how and where STR’s may operate.

Short-Term Rental Accommodations Act (Bill 35) comes into effect May 1, at which point the provincial regulations must be followed. In circumstances where the Act applies, Local Governments may adopt more restrictive (but not more permissive) short-term rental regulations.

The municipal bylaw amendments discussed above are independent of the May 1 provincial timeline. After May 1, any short-term rentals that are advertised within Courtenay will have to meet the provincial requirements for principal residence, and maximum length of stay. Courtenay Business Licence and Zoning Bylaw requirements and enforcement through the Municipal Ticketing Information Bylaw will become effective on the date of adoption of proposed bylaw amendments.

FINANCIAL IMPLICATIONS:

New fees would be added to the Business Licencing Bylaw to recover the administration of business licenses for short-term rentals. A new category of fines would be added to the Municipal Ticket Information Bylaw for contravention of the Business Licencing Bylaw should a short-term rental be operated without a business license or in contravention of any conditions of operation.

Short-term rentals of less than 27 continuous days are subject to Municipal and Regional District Tax (MRDT), which is in place for the City of Courtenay, however the application of MRDT is not related to whether an accommodation is captured under the definition of short-term rental under the *Short-Term Rental Accommodations Act* (less than 90 consecutive days).

ADMINISTRATIVE IMPLICATIONS:

With respect to implementation of this provincial legislation, coordination between the City (Development Services and internal departments) and the Province is required. Currently the issues management and implementation (communications and enforcement) is not included in the 2024 work program. Following Council direction, staff will monitor complaints, and consider any necessary enforcement service adjustments based on complaint volume. In accordance with the Bylaw Compliance Policy, in the initial months post bylaw adoption, staff will focus on raising awareness of the new regulations and providing

information to property owners and residents focusing on voluntary compliance. In the event, complaints and non-compliance are beyond the operational capacity of the Bylaw Division, recommendations and resources will be brought forward to Council for consideration during the 2025 budget process.

STRATEGIC PRIORITIES REFERENCE:

This initiative addresses the following strategic priorities:

- Buildings and Landscape - Develop a short-term rental policy
- Buildings and Landscape - Review and update land use regulations and bylaws for consistency with OCP
- Financial Sustainability - Review City Financial processes: Review fees, charges, and fines

PUBLIC ENGAGEMENT:

Staff would inform the public of the new regulations and licensing requirements by posting information updates on the City's website, and social media ads. In addition, information regarding short term rental regulations can be incorporated into the 2024 Good Neighbour Guide series further raising awareness to the changes in regulations.

OPTIONS:

1. THAT Council direct staff to prepare the amending bylaws to "Business Licensing Bylaw 2523, 2008", "Zoning Bylaw No. 2500, 2007" and "Municipal Ticketing Information Bylaw No. 2435, 2006" to address *Bill 35 Short-Term Rental Accommodation Act*.
2. THAT Council provide alternative direction to staff.

ATTACHMENTS:

1. Attachment 1 - Proposed Definitions for Short Term Rental Accommodation

Prepared by: Marianne Wade, RPP MCIP, Director of Development Services
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Reviewed by: Kate O'Connell, MPP, Director of Corporate Services

Concurrence: Geoff Garbutt, M.P.I., MCIP, RPP, City Manager (CAO)

Attachment No. 1 Proposed Definitions for Short Term Rental Accommodation

Note that Business Licence definitions may be different than Zoning Bylaw Definitions as they reference operation of a business, while Zoning Bylaw Definitions reference use of land or property.

Business Licencing Bylaw No. 2523, 2008

Existing Section	Existing Wording	Proposed Wording
Section 1.2 Definitions	New definition, insert after "Auctioneer"	"Bed and Breakfast Accommodation" means the provision of temporary overnight accommodation for tourists and includes the first meal of the day served in a common room within the operator's principal residence.
	New definition, insert after "Council"	"Dwelling Unit" a suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities. (BC Building Code)
	New definition, insert after Residential Business	"Short-Term Residential Rental" means the rental of a dwelling unit or any portion of it for a period of less than 27 days.

Zoning Bylaw No. 2500, 2007

Existing Division 3	Existing Wording	Proposed Wording
	New definition, insert after "auction centre"	"bed and breakfast" means the accessory use of a residence in which temporary overnight accommodation and breakfast served in a common room is provided to tourists.
	New definition, insert after "setback"	"Short-term rental" means the rental of a dwelling unit or any portion of it for a period of less than 27 days.