

## AGENDA

**Committee of the Whole  
to be held on Thursday October 19, 2017 in the Council Chambers  
Municipal Hall, 977 South Maquinna Drive**

**Call to Order** Mayor Schooner at 10:30 a.m.

Mayor Schooner would like to acknowledge and respect that we are upon Mowachaht/Muchalaht traditional territory.

**Introduction of  
Late Items** None.

**Approval  
of the  
Agenda**

**Business  
Arising** **1 Water Meter Program Review**

**New Business** **1 Vancouver Island Regional Library- Tahsis Branch (Verbal Report)**

**2 Short- Term Rental Accommodations**

**Adjournment**

# VILLAGE OF TAHSIS

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## **Report to Council**

### **Committee of the Whole**

**To:** Mayor and Council  
**From:** Chief Administrative Officer  
**Date:** October 13, 2017  
**Re:** Water Rates and Fees

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#### **PURPOSE OF REPORT:**

To appraise Council of the policy and financial implications of not proceeding with a residential and commercial water meter program.

#### **OPTIONS/ALTERNATIVES**

1. Receive the Report for information only.
2. Receive the Report and direct staff to analyze the Water Regulation and Rates Bylaw No. 581, 2016 to identify any amendments that could be required if a water meter program does not proceed and adjust water utility accounts, including refunds.
3. Any other option that Council deems appropriate.

#### **BACKGROUND:**

In 2016 Council adopted the Water Regulation and Rates Bylaw No. 581, 2016 to establish the legal basis for a water meter program that could potentially be applied to all water customers in the municipality. However, rather than impose a meter program on all consumers, the bylaw provides for a two-tiered fee structure – a flat rate and a meter rate. Council affirmed that customers could choose between the two rates on the assumption that water meters would be acquired and installed in a relatively short period of time for those who opted for a meter.

The announcement of the Clean Water and Wastewater Fund program delayed the implementation of the meter program to allow for the Village to apply for and receive the grant. The delay was compounded by the procurement process and failure to achieve a contract with the successful bidder, Corix.

The meter project was premised on installing meters at the curbstop to accurately measure all of the water consumed by each household or business. As curbstops were only found in 30% of the intended metered properties, the project may need to be re-scoped.

**DISCUSSION:**

Council may wish to reassess the policy and financial implications that formed the basis of the 2016 water bylaw. Questions that Council may wish to consider are:

1. Does Council wish to proceed with a water meter program for the Village? If so, what would be the objective(s) of the program, e.g., water conservation, revenue, data collection?
2. Does Council wish to consider a selective water meter program, e.g., only certain categories of consumers? What would be the objectives of a selective program? Would the program be mandatory or voluntary?
3. If Council chooses not to proceed with the water meter program, does Council wish to eliminate the two-tiered fee structure? If so, does Council support refunding “flat rate” customers for difference between the meter rate and the flat rate for years 2016 and 2017?
4. Also, if the two-tiered fee structure is eliminated, does Council wish to re-visit the flat rate fee?

Staff notes that maintaining the two-tiered fee structure without proceeding with meters is not recommended by Ministry of Municipal Affairs and Housing staff based on the requirements of the Community Charter, specifically:

- s. 194 (4): A municipality must make available to the public, on request, a report respecting how a fee imposed under this section was determined

**POLICY / LEGISLATIVE REQUIREMENTS:**

1. Water Regulation and Rates Bylaw No. 581, 2016
2. *Community Charter*

**FINANCIAL IMPLICATIONS:**

Refunding as per #3 above is estimated to cost \$30,888.00 representing refunds to residential and commercial customers in 2016 and residential customers in 2017. (Commercial customers have not been billed for 2017.)

**RECOMMENDATION:**

Option #2

Respectfully submitted:

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Mark Tatchell, CAO

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# VILLAGE OF TAHSIS

## Report to Council

**To: Mayor and Council**  
**From: Chief Administrative Officer**  
**Date: October 10, 2017**  
**Re: Short-Term Rental Accommodation**

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### Purpose of Report

This report discusses the current situation of short-term rentals and/or guest houses in the Village of Tahsis and proposes possible options regarding the regulation of this type of seasonal accommodation.

### Options/ Alternatives

1. Status quo (By not acting, allowing the “grey market” to continue)
2. Establishing a temporary use permit system with new policies and procedures.
3. Re-zoning residential areas to permit seasonal or short-term rentals.
4. Enforce the current zoning bylaw, including taking action against property owners who contravene the zoning bylaw, subject to receiving legal advice.
5. Other alternatives that Council may deem appropriate

### Background

Many communities in British Columbia permit, or are considering how to regulate, some form of short-term seasonal rental accommodation along with traditional Bed and Breakfast establishments, resorts, lodges, hostels, hotels and motels. In some communities, short-term rentals where residents rent their entire property, a self-contained suite or a room to visitors are deemed by visitors and property owners to be a positive accommodation option. Some visitors see the short-term rental as the best option in terms of cost and time than other accommodation options. The so-called “sharing economy” purports to make lower cost options available for consumers who are also seeking a different experience than a hotel or motel. An expanded supply of seasonal accommodation may meet a latent demand for tourist accommodation. As a result, the tourism market could expand, thus supporting local businesses. In addition, local residents offering short term accommodation can earn additional income. However, an emergence of unregulated short term rentals may constitute unfair competition to more traditional forms of tourism accommodation like hotels and motels.

In Tahsis, Zoning Bylaw No. 176, 1981, does not permit short-term rentals or guest houses in R-1, R-2 and RM-1 zones. The bylaw permits motels and hotels in commercially zoned areas (C-1 and C-2).

In 1991, “Village of Tahsis Zoning Amendment Bylaw No. 326, 1991” was adopted by Council. This amendment allowed Bed and Breakfast establishments in areas zoned R-1, R-2 and RM-1, subject to the following restrictions:

- 1) Principal use of the building shall be for occupation by a single family.
- 2) Not more than two bedrooms are used for transient accommodation.
- 3) Persons employed in a Bed and Breakfast operation are limited to those residing on the property on which the Bed and Breakfast operation is located, plus one non-resident employee.
- 4) No meals, other than breakfast, shall be provided to the customer of the operation.
- 5) No liquor shall be served to customers.

Currently, some property owners in residentially zoned areas have chosen non-compliant uses of their property(s) for temporary rentals. By operating contrary to the zoning bylaw, these “businesses” create an unfair playing field for B&Bs and the local motel. Moreover, residents who purchased homes in residentially zoned areas are potentially deprived of the quiet enjoyment of their property if neighbors are using their property for an unpermitted use.

This report offers some policy options for a short-term rental framework for the Village, based on a review of other BC local governments and legal advice.

## **Discussion**

### **Option 1 – Status quo:**

The existing situation allows non-compliance with the zoning bylaw without risk of consequence. While the informal or “grey market” may benefit some property owners and visitors, other accommodation providers are potentially deprived of revenue and an equal playing field. Moreover, noise, parking and other disturbances occurring at properties used for short term rentals can negatively impact neighbors. It also potentially leaves the impression that the Village’s bylaws can be ignored without consequence.

Not requiring business licenses may be seen as contributing to this “grey market”.

### **Option 2 – Issuing Temporary Use Permits:**

The *Local Government Act* ([RSBC 2015] Chapter 1, Part 14-Planning and Land Use Management, Division 8-Temporary Use permits, Section 492-497), states that an Official Community Plan or a zoning bylaw may “designate areas where temporary uses may be allowed, and specify general conditions regarding the issue of temporary use permits in those areas”.

On application by an owner of land, a local government may issue a temporary use permit by resolution and by bylaw. Temporary use permit may:

- 1) allow use not permitted by a zoning bylaw;
- 2) specify conditions under which the temporary use may be carried on;

A temporary use permit may be utilized where a condition prevails that warrants such a use for a short period of time, but does not warrant a change of land use designation or zoning of the

land. But, it can limit the use of land. Public consultation and notification would be required to take place prior to the Council considering whether to approve the temporary use permit.

Temporary use permit applications must be considered by Council on each occasion. Council decides whether or not to permit the temporary use. A temporary use permit (“TUP”) is valid for maximum of three years and renewable once only. The operator needs to seek approval on an ongoing basis. After one renewal, a new TUP application would need to be submitted, if the owner wanted to continue for another 3 year period. Renewal of an existing permit or consideration of a new permit would allow the Council and the local community to consider the impact of the use based on actual experience. Introducing regulations that are difficult or not possible to apply through zoning can be applied through temporary use permit. For example, a TUP could establish a maximum number of days in a year the business could operate.

Council may establish special provisions related to the TUP. The terms and conditions for temporary use permit also can be included. Prior to issuance of the permit Council would need provide public notice of the permit application in accord with provisions in the *Local Government Act*.

Temporary use permits (or business licensing) can improve the accountability of short term rental providers. Owners can be assessed to see if they are “fit and proper” to be granted approval and, if they fail to comply with the requirements, they could be denied a future temporary use permit (or have their current permit revoked). The Village previously developed an application form for temporary use permits.

Local governments have adopted temporary use policies and systems for regulating short-term seasonal rentals, e.g., District of Tofino, District of Sechelt, City of Fernie, City of Richmond, Town of Golden, City of Nelson, Sunshine Coast Regional District to name a few.

An appendix is attached to this report, where some examples of other municipalities regarding their bylaw and public information about temporary use permit for short-term rentals are included.

### **Option 3 – Re-zoning:**

As noted above, short-term rentals are not permitted in most residentially zoned areas. This has been confirmed by legal advice. And non-conforming land use is prohibited by the OCP bylaw. So, rezoning of property could be one option to resolve this issue.

According to the **Village of Tahsis Zoning Bylaw No. 176, 1981**, the permitted use of R-1, R-2, RM-1, RM-2 and RU-1 are summarized in the following table.

<b>Zone</b>	<b>Permitted Use</b>
Residential Zone One (R-1)	One single family dwelling per lot.
Residential Zone Two (R-2)	a) One single family dwelling per lot, or b) One duplex per lot, or c) One boarding home per lot restricted to not more than 4 boarders or lodgers

Residential Multiple Zone One (RM-1)	<ul style="list-style-type: none"> <li>a) Single family dwellings</li> <li>b) Duplexes</li> <li>c) Boarding houses</li> <li>d) Townhouses</li> <li>e) Apartments</li> <li>f) Bunkhouses</li> </ul>
Residential Multiple Zone Two (RM-2)	<p>Land and structures shall be used for mobile homes, including:</p> <ul style="list-style-type: none"> <li>a) mobile homes</li> <li>b) accessory structures and service buildings</li> </ul>
Rural Zone One (RU-1)	<ul style="list-style-type: none"> <li>a) One single family dwelling including a mobile home;</li> <li>b) Agricultural use including the sale of products grown on the property;</li> <li>c) Animal kennels and shelters;</li> <li>d) Silviculture and commercial nurseries;</li> <li>e) Airports, heliports and associated uses;</li> <li>f) Campsite and tenting sites subject to a maximum density of 25 units per hectare;</li> <li>g) A single fully enclosed building to house a maximum of three (3) people being employed and subject to the following conditions: <ul style="list-style-type: none"> <li>(1) no outdoor storage whatsoever</li> <li>(2) building height limitation of 4.5 metres</li> <li>(3) minimum yard clearance along all property lines of 7.5 metres</li> <li>(4) maximum gross floor area of 75 square metres.</li> </ul> </li> </ul>

By bylaw, before 1991, these zones did not permit seasonal or temporary rentals. As noted above, in 1991, Bed and Breakfast accommodation was permitted in Residential zone 1, 2 and Residential Multiple Zone One by virtue of the "Village of Tahsis Zoning Amendment Bylaw No. 326, 1991". Residential Multiple Zone (RM-2) and Rural Zone One (RU-1) do not permit Bed and Breakfast establishments.

Through rezoning, a short-term rental could be allowed in a small house or on properties over a certain size. The rules of rezoning could vary depending on location or property size. Spot zoning or site-specific zoning is another option for short-term rental businesses. Spot zoning of existing guest houses or other short-term rental accommodations could "grandfather" these properties and allow the businesses to continue without the need for a temporary use permit. Spot zoning could also stipulate specific requirements for guest houses and similar properties. Again, the rules could vary depending on location or property size.

Generally speaking, rezoning can be a tool to achieve community goals and objectives such as quality of life, economic development, environmental protection and future growth. Also, local issues or concerns can be incorporated through rezoning. However, the challenge with the Tahsis situation is that rezoning at this point in time could be seen as rewarding bylaw violators and penalizing legitimate business owners.

**Option 4 - Enforcement:**

Under the zoning bylaw it is unlawful for any person to cause, suffer, or permit any building or structure to be constructed, reconstructed, altered, moved, extended or used, or land to be occupied or used, in contravention of this Bylaw or otherwise to contravene or fail to comply with this Bylaw except as provided for under Section 722, sub-section 3 of the Municipal Act (replaced with the *Local Government Act*). Any person who violates the provisions of this Bylaw

is liable on summary conviction to a penalty not exceeding five hundred (\$500.00) dollars. If the bylaw is enforced and violators penalized this may prevent these and other unlawful land uses. The Village does not need to amend the zoning bylaw to enforce it.

Staff would need to consult with legal counsel for advice as to how to proceed with enforcing zoning non-compliance.

**Option 5:**

Any alternative option suggested by the Council.

**Policy/Legislative Requirements**

1. *Local Government Act* ([RSBC 2015] Chapter 1, Part 14-Planning and Land Use Management, Division 8-Temporary Use permits, Section 492-497)
2. Village of Tahsis Zoning Amendment Bylaw No. 326, 1991
3. Village of Tahsis Zoning Bylaw No. 176, 1981

Regardless of the option selected, Council may wish to conduct community engagement and consultation.

**Financial Implications**

Both Options 2 and 3 have potential positive revenue implications for the Village through permitting fees and property taxes. Creating a temporary use system or rezoning will entail staff time and resources which is difficult to quantify at this stage.

**Recommendation**

No recommendation other than recommending community consultation.

Respectfully submitted:



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Mark Tatchell  
Chief Administrative Officer



**Appendix**

**1. Local Government Options for short-term rentals (“STR”):**

Options	Possible Conditions	Required Process	Pros	Cons
Rezoning or spot zoning to Permit STR	<ul style="list-style-type: none"> <li>-Could include setting site specific regulations such as a limit on the number of houses and/or rooms used on each property</li> <li>-Allow in a small house, or on properties over a certain size</li> <li>-The rules could vary depending on location or property size.</li> <li>-Possibly require an operator to be on site</li> </ul>	<ul style="list-style-type: none"> <li>- a completed Re-zoning Application with a drawing of the lot, structure (house/building), the interior layout, where the Short-term Rental rooms will be located, entry, exits etc., legal parking spaces</li> <li>-Application fee</li> <li>-Application is considered by the Council, advisory committees, referrals to government agencies and the public</li> <li>-A public information meeting</li> <li>-A public hearing before the Council makes its decision</li> </ul>	<ul style="list-style-type: none"> <li>-Rules would be known</li> <li>-Local issues or concerns can be incorporated.</li> <li>-Local residents are consulted and have input into the rezoning decision</li> </ul>	<ul style="list-style-type: none"> <li>-Length of time to develop the amendments to the zoning bylaws that best reflect community input</li> <li>-Challenging to reach consensus by all interested parties.</li> <li>-This can be relatively lengthy and potentially costly process for the applicant</li> </ul>
Temporary Use Permits	<ul style="list-style-type: none"> <li>-Time limit of permit</li> <li>-Use and noise limit</li> </ul>	<ul style="list-style-type: none"> <li>-Public consultation and notification would take place prior to the council considering approval of a TUP</li> <li>-Once approved, it lasts for up to three years</li> </ul>	<ul style="list-style-type: none"> <li>-Renewal of an existing permit or consideration of a new permit would allow the Council and the local community to consider the impact of the use based on actual experience</li> </ul>	<ul style="list-style-type: none"> <li>-Operation may feel constrained by conditions</li> <li>-Operations may have to seek approval on an on-going basis.</li> <li>-Does not provide long term stability to operators</li> </ul>

		<p>-May be renewed once for another period of up to three years</p> <p>-After one renewal, a new TUP application would need to be submitted.</p>	<p>-Introduce regulations that are difficult or not possible to apply through zoning</p> <p>-For example, a TUP could establish a maximum number of days in a year the business could operate or contact information for the operator must be posted in a public place on the property</p>	
Bylaw Enforcement	<p>-A large fine could act as a deterrent</p> <p>-In the event that fines went unpaid and the problematic short-term rentals continued, staff are aware of a possible remedy involving having the unpaid fine liability registered against the property title</p>	<p>- An amendment to the bylaw would be required to increase the fine or have the option to register unpaid fines against the title (if allowed by law)</p>	<p>- A service already exists: the village can issue fines under a notice enforcement bylaw (Tahsis does not have a notice enforcement bylaw).</p> <p>-The same fine can be issued for a contravention of the zoning bylaw.</p> <p>-More than one fine can be issued if the complaints continue or the issues are not resolved.</p>	-Reactive tool only

**2. Some examples of other municipalities**

**(a) District of Tofino:**

In the District of Tofino, short-term rental is permitted both as temporary accommodation and Bed and Breakfast. According to the zoning bylaw, temporary accommodation use located in a secondary suite, caretaker cottage, or principal residence; whereas, a business located in a single family dwelling that provides temporary accommodation to the travelling public and includes the provision of breakfast by the owner/occupant is termed Bed and Breakfast. The bylaw requires owners or operators of businesses to hold valid business licenses, sets the license fees and establishes different regulations for different classes of business. For instance, business license application form, business license information sheet and \$50.00 application fee are required for each new business license application. These documents, accompanied by a copy of all necessary certificates from federal, provincial or municipal government authorities (or whenever the same documents are requested by the Bylaw Enforcement Officer).

The license must be renewed annually. The Bylaw Enforcement Officer has the authority to grant issue or transfer business licenses where he/she is satisfied that the applicant has complied with the all of the requirements of the by-laws of the District regulating building, zoning, health, sanitation and business. The Bylaw Enforcement Officer shall, with Council direction, have the power to suspend, for such period as he/she may decide, any business license pursuant to the Local Government Act.

In addition, the bylaw provides following regulations governing the use of land, buildings, structures, parking, and landscaping.

Short-term Rental Operation is Permitted	Short-term Rental Operation is not Permitted
a) Not more than six (6) guests shall be accommodated per commercial Short-Term Rental.	a) In any Single Family Dwelling located within a commercial or industrial zone and used for residential purposes.
b) Not more than three (3) sleeping units shall be used within the building.	b) Within any form of multiple dwelling building.
c) No separate or additional cooking facilities or other such facilities for the keeping or preparation of food shall be provided within any sleeping unit intended for Short Term Rental use.	c) Within or on any commercial, industrial or institutional zoned lands.
d) Not more than one (1) Secondary Suite shall be used within a Single Family Dwelling for Short Term Rental operation.	d) In any accessory building, guest house, and caretaker's cottage or Single Family Dwelling containing a Bed and Breakfast.
f) One parking space shall be provided for each sleeping unit utilized for Short-Term Rental plus one parking space for the permanent resident.	e) On any lot that is not occupied by a permanent resident whether it be the owner or a long term renter.

(b) District of Sechelt

In the District of Sechelt, renting of accommodation on a residentially zoned property for periods of less than 30 days, in situations other than a Bed and Breakfast operation, is considered as a short term rental. For short-term rental, it is required to have a license. For the application of a license, the completed application form, the license fee and the amount of \$1000 as the security deposit must be delivered to the District Office as a bond to promote compliance with the regulations. The owners of properties within 100 meters of the short term residential rental property shall be notified in writing of the name, address and telephone number of the Local Contact (or owner where local contact not applicable) within thirty (30) days of the granting or renewal of a short term residential rental business license or within thirty (30) days of notification of a change in the name, address or telephone number of the Local Contact. It is prohibited to transport short term residential rental tenants or guests of short term residential rental tenants to the short term residential rental property by vehicles with a capacity of sixteen (16) passengers or more. Short term residential rental tenants or guests of short term residential rental tenants are prohibited from bringing pets onto a short term residential rental property. The Local Contact shall attend at the property at the commencement of all short term residential rentals and meet the short term residential rental tenants. A Local Contact, including any member of their immediate family, may not be a Local Contact for more than two (2) separate properties unless the Local Contact is the registered owner of such properties.

(c) City of Nelson:

In the City of Nelson, according to the bylaw, the principal use of the property containing or comprising the Short Term Rental shall remain a residential use. The operators of the Short Term Rental must be the permanent residents of the property. Not more than two (2) adult guests shall be accommodated per Guest Room and not more than four (4) adult guests shall be accommodated per Guest Suite. In the case of Guest Rooms for rent, not more than 2 guest rooms in the licensed Dwelling Unit shall be used for guest accommodation. Only one annual short term rental is permitted per lot, notwithstanding that a second short term rental is permitted provided that it is for a period of less than six (6) months.

The short-Term rental is permitted in compliance with the licensing requirements of the Business License Bylaw No. 3328, 2016. It is required that an applicant for a business license, provide proof of certification, approval or qualification required by a Federal, Provincial or Local Government Authority having jurisdiction over the business. Every applicant for a license to carry on the business of, or to operate, a Short-Term Rental must deposit with the City security in the amount of not less than five hundred dollars (\$500). The business license period shall be from January 1 to December 31. A person who contravenes or fails to comply with this Bylaw commits an offense. On being found guilty of an offence under this Bylaw, a person will be liable to pay a fine of up to \$10,000 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment and in default of payment of the fine to imprisonment for an additional term not exceeding six months under the Offence Act.