

City of Maple Ridge

SPECIAL COUNCIL WORKSHOP AGENDA

November 3, 2020

11:00 a.m.

Virtual Online Meeting including Council Chambers

The purpose of the Council Workshop is to review and discuss policies and other items of interest to Council. Although resolutions may be passed at this meeting, the intent is to make a consensus decision to send an item to Council for debate and vote or refer the item back to staff for more information or clarification. The meeting is live streamed and recorded by the City of Maple Ridge.

1. APPROVAL OF THE AGENDA

2. UNFINISHED AND NEW BUSINESS

2.1 Metro Vancouver Regional Growth Strategy ("RGS") Presentation

- Sean Galloway, Director of Regional Planning and Electoral Area Services
- Erin Rennie, Senior Planner

2.2 Short Term Rental Options

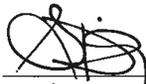
Staff report dated November 3, 2020 recommending that staff implement specific options for short-term rentals and prepare a regulatory and enforcement framework for short-term rentals in Maple Ridge.

2.3 Board of Variance Review

Staff report dated November 3, 2020 providing background and clarification of the role of the Board of Variance.

3. ADJOURNMENT

APPROVED BY:



DATE:

Oct. 29, 2020

PREPARED BY



DATE:

Oct 29, 2020

CHECKED BY:



DATE:

Oct 29/20

TO: His Worship Mayor Michael Morden
and Members of Council

MEETING DATE: November 3, 2020

FROM: Chief Administrative Officer

MEETING: Workshop

SUBJECT: Short-Term Rental Options

EXECUTIVE SUMMARY:

The term “short-term rentals” is an umbrella term used to describe temporary overnight accommodations for paying guests, who are staying fewer than 31 consecutive days. The accommodations can be the rental of bedrooms, a secondary suite, or entire dwelling units.

Many municipalities, including Maple Ridge, regulate various types of short-term accommodations within their jurisdictions through zoning and business licensing. The current Maple Ridge Zoning Bylaw No. 3510-1985 and the anticipated new Zoning Bylaw No. 7600-2019 each permit and regulate some short-term rental accommodations, such as Hotels, Bed and Breakfasts, and Boarding.

However, the growing trend of “short-term rentals” is often associated with tourist accommodations within a private residence that are offered for a nightly fee through online platforms, such as Airbnb and VRBO and do not meet a municipality’s temporary tourist accommodation regulations. Neither the current or anticipated new Zoning Bylaw refers to “short-term rentals”, “home-sharing”, “Airbnbs” or “VRBOs”, terms commonly used today when referring to tourist accommodations in residential dwelling units. However, staff have taken the approach that short-term tourist accommodations that are not specifically defined, regulated, or require a business licence, are not permitted.

The growing number of unregulated short-term rentals within the community is becoming a concern with residents and Council. At the September 17, 2019 Workshop, a brief overview of short-term rentals was presented. The most common benefits of short-term rentals is that the income generated helps homeowners offset housing costs in an expensive housing market as well as provides the homeowners the flexibility to utilize or rent the accommodation spaces during certain parts of the year. Additionally, short-term rentals also help support the tourism market. However, the most common concern is the conversion of long-term rental units into short-term rentals for tourists and visitors.

This report presents a general overview of short-term rentals, including potential impacts and common practises, as well as an overview of the regulatory framework being implemented by some municipalities in British Columbia. In section 2.3 of this report, two options for unregulated short-term rentals in Maple Ridge are presented. The two options include:

1. Implementing specific regulations for short-term rentals that clarify and target the gap between the existing regulations; or
2. Clearly prohibiting unregulated short-term rentals.

Staff are recommending option 1 as a regulatory framework has the opportunity to mitigate some of the potential negative impacts, while benefiting from the potential advantages.

RECOMMENDATIONS:

That staff be directed to proceed with option 1, implementing specific options for short-term rentals, outlined in the November 3, 2020 report titled “Short-Term Rental Options”, and prepare a regulatory and enforcement framework for short-term rentals in Maple Ridge.

1.0 BACKGROUND:

On September 17, 2019, staff brought a report to Council Workshop titled “Secondary Suite Regulatory Review Accountability Mechanisms”, which took an in-depth look the advantages and disadvantages of various options, such as a Good Neighbour Agreement, and also included a discussion on Private Home Tourist Lodging. At this meeting, staff noted the timing of a review on short-term rentals should consider the 2020 BC Summer Games. In the September 17, 2019 report, staff proposed bringing forward a report in Fall 2020 (after the Summer Games) that explored how other municipalities are managing this worldwide trend.

a) Short-Term Rental General Overview

Short-term rentals can be described as temporary overnight accommodations for paying guests who are staying fewer than 31 consecutive days. The umbrella term “short-term rentals” captures a wide variety of accommodations ranging from the rental of beds, suites, to entire dwelling units. Municipalities regulate various types of short-term rentals within their jurisdictions through zoning and business licensing. These types of accommodations typically include everything from hotels and motels (rental of rooms), to Bed and Breakfasts (rental of bedrooms), and time-share vacation condominiums (rental of entire dwelling units).

However, there has been a growth in the use of private residences for tourist and visitor accommodations. Tourists and visitors can now access a multitude of listings available for short-term rental through one-stop online platforms (e.g. Airbnb, VRBO, etc.). These platforms, for a fee, enable listing, searching and booking an accommodation, often within a private residence, for short-term stays. Property owners can offer an entire unit, individual rooms in a unit, or a bed in a shared room for a set price. The online platforms often allow prospective visitors to filter their search results according to their preferences.

The distinction between residential uses and short-term tourist accommodation has become somewhat blurred with the emergence of various online platforms. The services provided within residential buildings and tourist accommodations are becoming somewhat similar as well, with Bed and Breakfasts operating out of residences and hotels offering self-catering suites as accommodations. As short-term rentals of private residences become more popular, many municipalities have adopted or are considering regulatory frameworks that clarify the differentiation, address any gaps in regulations, and mitigate negative impacts on the long-term rental stock.

b) Existing Short-Term Accommodation Regulations in Maple Ridge

Zoning Bylaw No. 3510-1985

The current City of Maple Ridge Zoning Bylaw No. 3510-1985 does permit and regulate some Tourist Accommodations, such as Hotels, Bed and Breakfasts, and Boarding. The Zoning Bylaw No. 3510-1985 defines “Tourist Accommodation” as:

a use providing for the accommodation of the transient public in individual dwelling units or sleeping units, or providing space for tents, camper vehicles, or trailer for such lodging, may include dining facilities.

The interpretation of the definition is that it permits Hotels, Motels, Bed and Breakfasts, and Campgrounds as each term is mentioned specifically within Zoning Bylaw No. 3510-1985. The term “Boarding” is also defined to permit the stay of two (2) non-family members maximum, within the dwelling unit and as it is silent on length of stay, meaning boarders could be short-term or long-term.

Within Zoning Bylaw No. 3510-1985, regulations for Tourist Accommodations are specified in a listed zone. Some of these permitted Tourist Accommodation zones are residential and the regulations

specify that only one sleeping unit is permitted on a lot that is less than 0.4 hectares (1 acre) and a maximum of two sleeping units is permitted if the lot is larger than 0.4 hectares (1 acre).

As the current language in Zoning Bylaw No. 3510-1985 does not refer to "short-term rentals", "home-sharing", "Airbnbs" or "VRBOs", terms commonly used today when referring to tourist accommodations or vacation rentals in residential dwelling units, staff's approach is that uses that do not meet the requirements for a Hotel, Motel, Bed and Breakfast, or Boarding are prohibited.

Zoning Bylaw No. 7600-2019

The anticipated new Zoning Bylaw No. 7600-2019, increases the clarity around regulations for Hotels, Bed and Breakfasts, and Boarding as the definition of "Tourist Accommodations" states:

a Commercial Use providing for the accommodation of the travelling public for no longer than thirty (30) consecutive days per annum in individual Dwelling Units or Sleeping Units. Includes hotels, motor hotels and motels; but does not include Boarding, Bed and Breakfast or Campground Uses.

Table 1, below, provides a snapshot of the three main short-term accommodation regulations drafted in Zoning Bylaw No. 7600-2019. A complete list of all regulations relating to the three types of short-term accommodations listed in Table 1 can be found in the proposed Zoning Bylaw No. 7600-2019.

Table 1 – Short-Term Accommodation Regulations in Maple Ridge

Regulation	Length of Stay	Guest Cap	Sleeping Unit Cap	Meal Facilities/ Services	Additional Regulations
TOURIST ACCOMODATION (i.e. Hotel)	Maximum thirty (30) consecutive days per year	Accommodation ratio specified in zoning requirements		Dining facilities, meeting rooms, Recreational Facilities	Additional requirements specified in zoning
BED AND BREAKFAST	Maximum thirty (30) consecutive days per year	Maximum six (6) guests*	Maximum of three (3) Sleeping Units**	Breakfast provided on the premises; Does not provide Cooking Facilities within the Sleeping Unit**	Operated by an owner who resides on the Lot; Requires a Business Licence
BOARDING	Unrestricted period of time	Maximum two (2)	Maximum two (2)	Access to common Cooking Facility or provided with regular meals	

* Maximum six (6) guests at any one time includes the number of Boarders in calculating the maximum number of guests.
 **SLEEPING UNIT means a use providing one or more rooms for the lodging of one or more Persons when the Sleeping Unit contains no Cooking Facilities.

Currently, the short-term accommodations listed in Table 1 are not permitted within Accessory Dwelling Units, such as secondary suites and detached garden suites. However, the proposed Zoning Bylaw No. 7600-2019 does not specifically speak to the length of stay within a secondary suite or detached garden suite. As such, it is intended that the short-term rental of these housing forms will be interpreted as prohibited within the anticipated Zoning Bylaw No. 7600-2019. Remaining silent on short-term rentals in private dwelling units in the proposed new Zoning Bylaw was intentional, as this topic warrants Council discussion and consideration on what is an appropriate approach for Maple Ridge.

c) Short-Term Rental Market in Maple Ridge

Collecting accurate and detailed data on short-term rental operations is difficult for municipalities to obtain without the assistance of third party technologies that scrape listing and booking information from the internet. However, in 2017, a Hotel Feasibility Study was completed by the Economic Development Department and it provides a snapshot of short-term accommodations available in Maple Ridge. At the time, the Study indicated that tourist accommodations in Maple Ridge included:

- 117 hotel rooms (split between two accommodations);
- a small number of Bed and Breakfasts offering rooms throughout the community; and
- 63 short-term rental units active on Airbnb.

The section 'Shared Accommodation Strategy', within the Hotel Feasibility Study (2017), provides an overview of the performance of active Airbnb units in Maple Ridge from April 1, 2016 to March 31, 2017. The third party software Airdna found that from March 31, 2016 to April 1, 2017, the City of Maple Ridge had 56 hosts renting out 63 active units. However, the Study only captures how many short-term rentals units are advertised, and does not note if any of these active short-term rental units were licenced Bed and Breakfast or Hotels advertising through the platform. Ultimately, the Study concluded that there is a demand for more tourist accommodations in Maple Ridge and suggested that a 90 room hotel would be beneficial.

The Economic Development Department anticipates updating this feasibility study in early 2021. The update will provide current information on the unregulated short-term rental units available across several online platforms.

d) Provincial Taxation of Short-Term Rentals

In 2018, the Provincial government announced that it had reached an agreement with Airbnb for the online platform to collect the 8% Provincial Sales Tax (PST) and remit up to 3% for Municipal and Regional District Tax (MRDT) on all short-term accommodations booked through its website. The main purpose of the MRDT program is to support tourism marketing for a local government. The marketing spent to attract visitors to an area benefits the accommodation operators and provides economic benefits to the City.

The second benefit is that a portion of the funds could be used to create more affordable housing within a municipality. Affordable housing was added as a permissible use of MRDT funds in the 2018 Provincial Budget to help address local housing needs. Local governments have the flexibility to define, identify, and fund affordable housing initiatives that they deem appropriate to meet local needs using MRDT revenue.

In order for the 3% to be remitted, a municipality must be part of the MRDT program. To become part of the MRDT program, a municipality must meet specific criteria and have an approved application. Since the Provincial agreement with Airbnb has been reached, the Economic Development Department has been working towards meeting the requirements in order to submit an application. The MRDT program and requirements will be the subject to a future report.

e) Market Rental Housing in Maple Ridge

Rental housing is an important part of Maple Ridge's housing continuum, providing a range of housing options for persons who are unable to afford or choose not to enter homeownership. There is currently high demand for rental housing in Maple Ridge as evidenced by a 2019 rental vacancy rate of 1.8%, up from 1.6% in 2018. A healthy vacancy rate is generally considered to be between 3-4%.

f) Maple Ridge Housing Action Plan

Council has remained committed to creating new rental housing opportunities since the endorsement of the Housing Action Plan on September 14, 2015. Council reiterated this commitment on August 29, 2016 with a direction to staff to review regulations for secondary suites and detached garden suites. Since 2016, Business Plans have included work on rental creation, such as the Detached Garden Suite Pilot Project and removal of the Owner Occupancy Requirement for secondary suites and detached garden suites.

While work has been ongoing through various initiatives to increase rental housing in Maple Ridge, one downside of allowing short-term rentals within private homes is the potential impact to the long-term rental housing supply.

2.0 DISCUSSION:

2.1 Impacts of Short-Term Rentals

There has been considerable debate about the rise in popularity of short-term rentals and their growth through the use of online platforms. The most common concern is the conversion of long-term rental units into short-term rentals for tourists and visitors. These conversions are incentivized by the exemption from the responsibilities of the *Residential Tenancy Act* and potential for increased rental income by renting a unit for a nightly fee to visitors or tourists instead of renting to a longer term tenant. There is also the concern that short-term rentals create nuisance, safety, and parking issues within multi-family buildings and neighbourhoods.

However, below are some common reasons to permit and regulate short-term rentals, such as:

- the income generated from short-term rentals helps homeowners offset housing costs in an expensive housing market and allowing for flexibility in choosing blackout periods at certain times of the year;
- local businesses outside traditional tourist areas benefit from increased tourist spending; and
- there is a demand for additional tourists accommodations

These impacts, whether negative or positive, are considered when a jurisdiction is deciding to regulate or prohibit short-term rentals.

2.2 Short-Term Rental Regulations in Other Jurisdictions

2.2.1 Common Practices for Regulation Short-term Rentals

In response to the growth of short-term rentals of residential units, many municipalities across Canada have sought to regulate accommodations commonly found on online platforms (i.e. rental of entire dwelling unit). From reviewing different jurisdiction approaches to short-term rentals, a number of common practices for regulating short-term rentals as a separate category from Hotels, Bed and Breakfasts, and Boarding, have emerged. Table 2, below, is a list and description of common practises that jurisdictions in British Columbia, and across Canada have implemented.

Table 2 – Common Practices for Regulating Short-Term Rentals

Common Practice	Description
Regulate rather than prohibit	Bans on short-term rentals have proven ineffective in eliminating this use.
Simple regulations	Simple and straightforward regulations and processes achieve greater voluntary compliance.
Primary residences*	Permitting short-term rentals only within dwelling units occupied as someone's principal residence is an effective regulation to reducing the impact of this use on long-term rental supply and disruptions to neighbourhoods.
Business Licences	Requiring a business licence helps to monitor the use and more easily identify non-compliance.
Active enforcement	Actively pursuing enforcement of regulations ensures they are applied in a comprehensive and equitable manner.
Higher fines	Fines for non-compliance should be high enough to be a deterrent for noncompliance.
Obtain third party data	Third party monitoring firms have the staff resources and tools necessary to verify compliance efficiently and cost effectively.
Extensive communications	Proactive, multi-faceted and widespread communication of regulations achieves higher rates of voluntary compliance.

* A primary residence is the primary location that a person inhabits, also referred to as primary residence or main residence. It does not matter whether it is a house, apartment, trailer, or boat, as long as it is where an individual, couple, or family household lives most of the year.

2.2.2 Other Jurisdictions Short-Term Rental Regulations

Staff undertook a review of adopted and proposed temporary tourist accommodation regulations in 21 jurisdictions across British Columbia. In Metro Vancouver, Fraser Valley, and the Interior, most jurisdictions have regulations for Bed and Breakfasts, Boarding, and Tourist Accommodations (i.e. Hotels). Some jurisdictions have specific short-term rental regulations, separate from Bed and Breakfast, Boarding, and Tourist Accommodations such as:

- City of Vancouver
- City of Coquitlam
- City of White Rock
- City of Kelowna

Each of these municipalities have implemented regulations that target the gap between the existing regulations for short-term rentals and what is being offered through online platforms, such as Airbnb.

Table 3 outlines the most common regulations used by municipalities and a description or example of the regulation. These municipalities also regulate by zone, lot size, and/or permit the use in specific areas, such as a downtown. The full regulatory framework for the listed municipalities specifically regulating short-term rentals can be found in Appendix B.

Table 3 – Common Regulations Implemented to Permit Short-Term Rentals

Regulation	Description
Business Licence Required	The operator requires a valid business licence issued by the municipality.
Primary Residences Only	Regulations to maintain that the primary use of all dwelling units be as a permanent home for one family, not as transient accommodations. Confirmation of permanent occupancy and strata bylaw compliance are usually proposed to be required as part of a new Business Licencing process.
Number of Guests Cap	A cap on the number of guests at any one time.
Number of Nights Cap	A cap on the number of nights that the short-term rental could be operated. Can be capped per month and per year.
Parking	The number of onsite and/or offsite parking stalls required per sleeping unit.
Safety Provisions	Additional specific provisions that ensure the safety of the visitors (i.e. short-term rental unit inspected prior to issuance of business licence).
Nuisance Provisions	Additional specific provisions that reduce community impact (i.e. Provide guests with 24/7 contact).

Some jurisdictions are currently reviewing current accommodation regulations, such as:

- City of Burnaby – has proposed a regulatory framework
- City of Delta – reviewing regulations
- City of Surrey – reviewing regulations

Some jurisdictions advertise their Bed and Breakfast regulations as short-term rentals. For example, the City of Richmond’s Bed and Breakfast regulations permit residents who host traditional Bed and Breakfasts, as well as those who are simply renting rooms within their home. However, the City of Richmond clearly states that the short-term rental of an entire house for less than 30 days is not permitted under any circumstance.

2.3 Options for Regulation of Short-Term Rentals in Maple Ridge

There are two main approaches Council could take regarding short-term rentals in Maple Ridge:

1. Implementing specific regulations for short-term rentals that clarify and target the gap between the existing regulations; or
2. Clearly prohibiting unregulated short-term rentals.

Option 1 is the approach recommended in this report. However, if Council prefers, an alternative recommendation is provided for proceeding with option 2. Each of these approaches are discussed from 2.2.1 to 2.2.2 and a summary is provided in Appendix A.

2.3.1 Recommended Option 1 - Implementing Specific Regulations for Unregulated Short-Term Rentals

The recommended option is for implementing specific regulations for short-term rentals. These specific regulations for short-term rentals will target the gap between the existing regulations and adapt existing regulations if needed. The regulatory framework would regulate short-term rentals in housing forms such as, an entire house, detached garden suite, secondary suite, and apartments. If Council were to direct, staff would prepare a regulatory framework based on common practices and regulations presented in section 2.2 of this report as well as an enforcement approach. Should Council support proceeding with the creation of the regulatory framework, staff would come back to Council with draft bylaw amendments to the Zoning Bylaw and potentially the Business Licencing and Regulation Bylaw.

If Council were to implement a regulatory framework for short-term rentals, there are advantages and disadvantages, which are outlined in Table 4. Staff are recommending option 1 as a regulatory framework has the opportunity to mitigate some of the potential negative impacts, while benefiting from the potential advantages.

Table 4 –Advantages and Disadvantages of Implementing Specific Regulations for Short-Term Rentals

Advantages	Disadvantages
<ul style="list-style-type: none"> • Creates clarity on when and where a short-term rental are permitted. • Residents have the option to offset housing costs with short-term rental income. • Local businesses outside traditional tourist areas benefit from increased tourist spending. • Creates fair competition to more traditional tourist accommodations that are subject to various regulations. • Opportunity to collect revenue from Airbnb through the MRDT program (once the City has an approved application). • Tourist parking could be addressed as part of the framework. • Provides needed tourist accommodations. • Could be regulated by zone, lot size, and/or by area (such as the Town Centre). • Research suggests prohibitions have been ineffective. 	<ul style="list-style-type: none"> • May create nuisance, safety, and parking issues within buildings and neighbourhoods. • Long-term rentals may be impacted (dependent on regulations and enforcement approach).

2.3.2. Alternative Option 2- Clearly Prohibiting Unregulated Short-Term Rentals

Both the current Zoning Bylaw and anticipated new Zoning Bylaw are silent on "short-term rentals", "home-sharing", "Airbnbs" or "VRBOs". However, the Zoning Bylaw does refer to "Bed and Breakfasts" and short-term rentals that meet the regulations have been given a Business Licence to operate.

The alternative option, in Appendix A, is to clearly prohibit unregulated short-term rentals. This means that while a Bed and Breakfast use and a Boarding use would still be permitted, any other form of short-term accommodations in a residential unit would not.

Should Council wish to prohibit unregulated short-term rentals, staff would prepare a zone amending bylaw to include appropriate language within the Zoning Bylaw. Staff could also provide an enforcement approach if Council chooses. If Council were to prohibit unregulated short-term rentals, there are advantages and disadvantages, which are outlined in Table 5.

Table 5 –Advantages and Disadvantages of Prohibiting Unregulated Short-Term Rentals

Advantages	Disadvantages
<ul style="list-style-type: none"> • Clarity on whether unregulated short-term rentals, meaning the short-term accommodations being offered through online platforms, such as Airbnb, are prohibited. • Long-term rental supply is not impacted. • Eliminates competition to more traditional tourist accommodations that are subject to various regulations. 	<ul style="list-style-type: none"> • Does not respond to tourist or visitor demands for alternatives to traditional hotels. • Residents are not able to generate income from short-term rentals to help offset housing costs. • Not able to collect revenue from Airbnb through the MRDT program (once the City has an approved application).

4.0 INTERDEPARTMENTAL IMPLICATIONS:

Should Council move forward with either the recommended option of “Implementing specific regulations for short-term rentals”, or the alternative option of “Prohibiting unregulated short-term rentals”, there would be a multi-department undertaking between the Planning, Economic Development, Bylaw & Licensing Services, and Building Department.

5.0 ALTERNATIVE RECOMMENDATION:

Should Council choose to clearly prohibit unregulated short-term rentals, meaning the short-term accommodations being offered through online platforms, such as Airbnb, that do not meet current regulations for Tourist Accommodations, Bed and Breakfast, and Boarding, the following alternative recommendation is provided:

That staff be directed to prepare a zone amending bylaw to clarify short-term rental accommodations are prohibited.

CONCLUSION:

The City of Maple Ridge already permits and regulates some short-term rentals, such as Hotels, Bed and Breakfasts, and Boarding. However, the term ‘short-term rental’ is often used interchangeably with online platforms, such as Airbnb and VRBO, which offer rooms in Bed and Breakfasts and Hotels as well as secondary suites, apartments, and entire single family homes that are unregulated. The interpretation of the current and anticipated new Zoning Bylaw is that short-term accommodations, that are not specifically regulated (i.e. Bed and Breakfast) in a residential zone, are prohibited. Once Council determines whether to continue prohibiting or proceed with a regulatory approach, staff will prepare bylaw amendments to ensure clarity within the Zoning Bylaw and any other bylaws, if needed.

“Original signed by Krista Gowan”

Prepared by: **Krista Gowan, HBA, MA
Planner 1**

“Original signed by Chuck Goddard”

Reviewed by: **Charles R. Goddard, BA, MA
Director of Planning**

“Original signed by Christine Carter”

Approved by: **Christine Carter, M.PL, MCIP, RPP
GM Planning & Development Services**

“Original signed by Al Horsman”

Concurrence: **Al Horsman
Chief Administrative Officer**

The following appendices are attached hereto:

Appendix A – Proposed Short-term Rental Options for Maple Ridge

Appendix B – Examples of Other Jurisdiction’s Short-Term Rental Regulations

Option	Advantages	Disadvantages
<p>1 Bringing Forward a Regulatory Approach Staff explore regulation option for Short-term Rentals in Maple Ridge and bring forward a report proposing a regulatory framework as well as proposed public consultation process.</p>	<ul style="list-style-type: none"> • Can create clarity on when and where a short-term rental, such as an Airbnb or VRBO, is permitted. • Residents are able to offset housing costs with short-term rental income. • Local businesses outside traditional tourist areas benefit from increased tourist spending. • Creates fair competition to more traditional tourist accommodations that are subject to various regulations. • Opportunity to collect revenue from Airbnb through the MRDT program (once the City has an approved application). • Tourist parking could be addressed as part of the framework Provides needed tourist accommodations. • Could regulated by zone, lot size, and/or by area (such as the Town Centre). • Research suggests prohibitions have been ineffective. 	<ul style="list-style-type: none"> • May create nuisance, safety, and parking issues within buildings and neighbourhoods. • Long-term rentals may be impacted (dependent on regulations and enforcement approach).
<p>2 Prohibiting Unregulated Short-term Rentals Prohibit Short-term Rentals that do not meet the criteria for Bed & Breakfast, Hotel, or Boarding. In order to operate, the operator must meet the criteria for a Bed and Breakfast or another regulated accommodation in the Zoning Bylaw.</p>	<ul style="list-style-type: none"> • Clarity on whether unregulated short-term rentals, meaning the short-term accommodations being offered through online platforms, such as Airbnb, are prohibited. • Long-term rental supply is not impacted. • Eliminates competition to more traditional tourist accommodations that are subject to various regulations. 	<ul style="list-style-type: none"> • Does not respond to tourist or visitor demands for alternatives to traditional hotels. • Residents are not able to generate income from short-term rentals to help offset housing costs. • Not able to collect revenue from Airbnb through the MRDT program (once the City has an approved application).

Jurisdiction	Dwelling Type	Primary Residence Only*	Permitted in Accessory Dwelling Units	Guest Cap	Room Cap	Entire Unit Permitted	Length of Stay	Parking
City of Coquitlam	Single Family & Multi Family units	Yes	Yes	1 family or 2 boarders max	Not specified	Yes (if primary residence)	no more than 30 consecutive days	Not Specified
City of Vancouver	Single Family & Multi Family	Yes	No	2 people per sleeping unit	Not specified	Yes (if primary residence)	no more than 30 consecutive days	Not Specified
City of White Rock	Single Family & Multi-Family	Yes	Yes	4 adult guests at any given time	2 sleeping units	Not specified	no more than 30 consecutive days	1 off street parking space
City of Kelowna	Single Family & Multi-Family	Yes	No	2 adults per bedroom	Number of permitted bedrooms depends on zone	Yes (if primary residence)	no more than 30 consecutive days	1 per 2 bedrooms

* A primary residence is the primary location that a person inhabits, also referred to as primary residence or main residence. It does not matter whether it is a house, apartment, trailer, or boat, as long as it is where an individual, couple, or family household lives most of the year.



mapleridge.ca

City of Maple Ridge

TO: His Worship Mayor Michael Morden
and Members of Council
FROM: Chief Administrative Officer
SUBJECT: Board of Variance Review

MEETING DATE: November 3, 2020
FILE NO:
MEETING: Workshop

EXECUTIVE SUMMARY:

The role of the Board of Variance is an independent body which is empowered to hear and adjudicate variances to the Maple Ridge Zoning Bylaw regarding the siting, size and dimensions of buildings and structures. The Board consists of five members, each appointed by Council. Meetings are monthly and they require Planning, Building, and Legislative Services support. Records of Board decisions are kept as public records. Board members serve as volunteers and receive no remuneration, except for expenses in performing their duties such as: mileage for visits and training opportunities.

The City of Maple Ridge is legislated by Section 536 of the Local Government Act to establish a Board of Variance (“BOV”) and it exists independently of Council. The BOV’s principal function is to provide an avenue of relief for persons seeking a variance to the Zoning Bylaw where compliance would create undue hardship. While the BOV is an independent statutory tribunal, members are appointed by Council and can be dismissed at any time. The BOV is comprised of five members, one of which is the elected Chair. Staff liaisons attend the meetings to provide technical assistance but do not vote. The Board has jurisdiction to either grant or refuse an application for a variance within the parameters set out in Section 542 of the Local Government Act.

As the Board of Variance is a statutory body required by provincial legislation, Council must appoint a Board and ensure that it is functioning continually. Council also cannot overturn Board decisions. Council can, however, seek to challenge a Board’s decision via court action.

RECOMMENDATION:

For information only.

DISCUSSION:

a) History of the BOV in British Columbia:

The introduction of zoning to British Columbia, through the Town Planning Act of 1925, also required Municipalities to establish a Board of Variance. The thinking was, and still is, if generalized zoning rules are established, they may not always apply well to every individual parcel of land and thus a simple way must be found to introduce balance and common sense into land regulations. From this thinking the Board of Variance was born. The Municipal Council and BOV were intended to play complementary roles with zoning matters, with the Council making the general rules and the Board fine-tuning applications to a particular circumstances in cases of hardship.

b) Background Context:

The City of Maple Ridge is legislated by Section 536 of the *Local Government Act* to establish a Board of Variance ("BOV"). The BOV's principal function is to provide an avenue of relief for persons seeking a variance to certain provisions of the Maple Ridge Zoning Bylaw 3510-1985, where compliance would create undue hardship.

While the Board is an independent statutory tribunal, members are appointed by Council and can be dismissed at any time. However, once appointed it is meant to operate at arm's length from Council. The BOV is comprised of five (5) members, one of which is elected Chair. Staff liaisons attend the meetings to provide advice but do not vote. The Board has jurisdiction to either grant or refuse an application for a variance within the parameters set out in Section 542 of the Local Government Act.

The City also has its own Bylaw 6290-2005, which establishes the Board and outlines the process for:

- appeals;
- required application materials;
- fee (\$200.00);
- meeting procedures;
- record keeping;
- staffing support and procedures.

c) Discussion:

The Board of Variance sits to arbitrate primarily on Zoning Bylaw matters (the siting, dimensions or size of buildings or structures) brought before it by applicants who feel conforming to zoning regulations constitute a hardship. The Board also has some specific, but rarely exercised authority to make judgements on specific matters related to non-conforming uses and damaged buildings by fire that cannot be dealt with by Development Variance Permits (DVP's). The issue of what constitutes "hardship" is vague. Provincial legislation does not define the term "hardship" and thus it has been left to the courts to define "hardship" as anything the Board wishes to support. The same broad interpretation has come to define the term "minor amendment" when the Board carries out its work. Therefore, the jurisdiction of the Board over time has become one of almost absolute authority over its delegated responsibilities from Council's, apart from Council's ability to appoint and dismiss board members at will.

The situation is essentially that the Board has its roles and Council has its roles. However, a variance related to the siting, dimension and size of a building or structure can be dealt with by either body. Each is absolute in its realm and its decisions are binding on the applicant. However, the decisions are not exclusive in that a decision of one body does not bind the other. Although there is no appeal process of a Board decision, an applicant can make the same appeal to Council via the DVP process. The same stands true for a decision of Council in regards to a variance for a building or structure. Should Council reject a DVP, an applicant can seek a decision from the Board on the same matter under the claim of hardship.

The *Local Government Act* does outline some vague limits on the Boards authority in Section 542 as follows: namely the Board must not permit something that;

- (i) Results in inappropriate development of the site;
- (ii) Adversely affect the natural environment;
- (iii) Substantially affect the use and enjoyment of adjacent lands;

- (iv) Vary permitted uses and densities
- (v) Defeat the intent of the bylaw; and
- (vi) Vary any provision related to residential land tenure.

Again, these so called limitations are judgement calls of the Board and are very difficult to quantify and therefore challenge. However, as with all governmental decisions, the law of procedural fairness and principles of natural justice established by English Common Law apply. The Board must make every effort to act and be perceived as acting: even-handed, impartial and unbiased in its decision making function. A review of the decision's of the Board since 2016 reveals a success rate of 75% (72 approved vs. 17 declined) of all appeals.

d) Board Structure and Process:

The Board of Variance is structured with 5 members, a chairperson and 4 members. A recording Clerk and a member from both the Building and Planning Departments attend to provide advice on relevant bylaw matters. As an open meeting, the public and interested parties are allowed to observe proceeding and ask questions. Applicants and neighbours are encouraged to attend and are notified directly by letter of the meeting date, time, location of meeting and issues under consideration.

The Board has the option of approving, denying or deferring for more information the variance request. They do not have to give reasons for their decisions and do not have to state the specific hardship considered in making their decision. They do, however, often explain their reasoning to the applicant in making their decisions. Decisions must be recorded by the attending clerk and kept as a permanent record of the proceedings.

e) Board of Variance Statistics

Appendix A shows a statistical assessment of the Board of Variance over the past four years, 2017-2022 to date. The overall numbers appear to be rather steady. Meetings occur only when appeals are requested. The maximum total of meetings possible is 11 due to the August summer break.

There has been over the past four years an average of 10 meetings per year, with 2020 being the low point of 7 as of October, with 2 more to go in 2020. Two meetings were lost due to COVID but remote meetings are now instituted.

The chart in Appendix A reveals the results of the BOV decisions for the past four years. Over this period an average of 76.5% of appeals were approved. There is an average of 25 appeal heard per year. An average of 4 appeals are denied per year with an average of 2.5 appeals deferred and asked to return to the next meeting due to a lack of information, or clarity. The overall trend in the past four years has been fewer appeals (32 in 2017 to 22 in 2020) and slight rise in success rate (72% in 2017 to 82% in 2020).

CONCLUSION:

The Board of Variance is an integral component of Local Governments desire to provide to its citizens efficient, convenient and common sense solutions to hardships that may occur from time to time by the imposition of building regulations. Variance applications to the Board are authorized specifically by provincial legislation and serve the community with a cheaper and efficient avenue for resolution of minor building matters and the relief of hardships.

"Original signed by Chuck Goddard"

Prepared by: **Charles R. Goddard, BA, MA**
Director of Planning

"Original signed by Christine Carter"

Approved by: **Christine Carter, M.PL, MCIP, RPP**
GM Planning & Development Services

"Original signed by Al Horsman"

Concurrence: **Al Horsman**
Chief Administrative Officer

Appendix A – Board of Variance Statistics

Board of Variance Statistics (January 2017- October 2020)

<i>Year</i>	<i>No. of Meetings</i>	<i>No. of Appeals</i>	<i>Approvals</i>	<i>Denials</i>	<i>Deferrals</i>
2020	7 to date	22	18 (82%)	2	2
2019	9	17	15 (88%)	2	1
2018	11	28	18 (64%)	8	2
2017	11	32	32 (72%)	4	5

- One (1) meeting a month, submission must be made two (2) weeks in advance of deadline. Therefore, should an applicant miss the submission deadline, the longest possible wait for the next meeting would be 6 weeks or 4 weeks to the followings meetings deadline. This wait could extend only due to the August Summer Break period that the Board shares with Council.
- Meetings are not held if no appeals are received by the monthly meeting deadline date. This only happens once or twice a year. Two meetings were missed in the Spring of 2020 due to COVID, until it was determined the pandemic would continue and then the Board switched to electronic meeting.
- Trends show the Board approves more application on average than in years past and is less likely to refer matters on to Council which avoids delays.