



**RESORT MUNICIPALITY OF WHISTLER**

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**STAFF REPORT TO COUNCIL**

**PRESENTED:** May 14, 2024 **REPORT:** 24-046  
**FROM:** Protective Services **FILE:** 3900-20-2427  
**SUBJECT:** MUNICIPAL TICKET INFORMATION SYSTEM AMENDMENT BYLAW (TOURIST  
ACCOMMODATION FINE AMOUNTS) NO. 2427, 2024

**RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER**

**That** the recommendation of the General Manager of Corporate Services and Public Safety be endorsed.

**RECOMMENDATION(S)**

**That** Council consider giving first, second and third readings to the “Municipal Ticket Information System Implementation Amendment Bylaw (Tourist Accommodation Fine Amounts) No. 2427, 2024”.

**PURPOSE OF REPORT**

This report aims to obtain Council's endorsement of the proposed “Municipal Ticket Information System Implementation Amendment Bylaw (Tourist Accommodation Fine Amounts) No. 2427, 2024” (MTI Amendment Bylaw), which increases the fine for municipal tickets issued for tourist accommodation violations from \$1,000 to \$3,000.

Information Report  Administrative Report (Decision or Direction)

**DISCUSSION**

**Background**

**Tourist Accommodation**

Whistler is a purpose-built resort community, and as such, it has a large inventory of properties that permit tourist accommodation. Whistler carefully manages all municipal accommodation units for visitor and residential use through zoning, restrictive covenants, and business regulations. The municipality maintains an inventory of all accommodation units and notes that approximately 9,000 units are zoned for potential tourist accommodation.

In Whistler, property owners must have both tourist accommodation zoning and a valid business licence to market, manage and provide paid accommodation to tourists. This applies to all vacation rentals, including self-managed tourist accommodation properties with Phase 1 covenants or without covenants. While compliance is high, regular ongoing enforcement is required to ensure consistent compliance with the “Tourist Accommodation Regulation Bylaw No. 2142, 2017”.

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## Short Term Rentals Act

On October 26, 2023, the Province of British Columbia announced the *Short-Term Rentals Accommodations Act* (Bill 35). The legislation focuses on three key areas:

- increasing fines and strengthening tools for local governments;
- returning more short-term rentals to long-term homes; and
- establishing new Provincial rules and creating a Provincial enforcement unit.

The Act applies to short-term rentals being offered to the public, including:

- Listings hosted by a platform where people reserve and pay for the rental service (which may include, for example, AirBnB, VRBO, Expedia and FlipKey).
- Offers on other web listing forums (which may include, for example, Facebook Marketplace, Kijiji, and Craigslist).
- Listings in classified ads in newspapers.

In response to Bill 35 receiving royal assent, the RMOW has reviewed opportunities to improve enforcement of non-compliant tourist accommodation by referencing this new legislation and the tools it offers local governments. Key benefits to Whistler are found within the new enforcement measures include:

- requiring business licences for tourist accommodation (short-term rentals) to be displayed on all online rental platform listings.
- leveraging new options to receive data from the online rental platforms through the new Provincial short-term rental registry.
- the future ability to request platforms remove non-compliant tourist accommodation listings, and
- increasing municipal ticketing fine (MTI) amounts.

In general, bookings made on short-term rental platforms are not covered under the *Residential Tenancy Act*. This is because such accommodations are typically occupied for vacation or travel purposes. The legislation and information provided by the Province refer to "Short-Term Rentals," which is the same as the term the RMOW refers to as "tourist accommodation".

## Analysis

### How Bill 35 Affects Whistler

Bill 35 will benefit the RMOW, as the onus is now on both hosts and the platforms to demonstrate compliance with business licencing regulations. This requirement will help remove non-compliant rentals from the platforms. As noted above, key changes that will help Whistler manage short-term rentals include:

- **Required posting of business licenses**

Effective May 1, 2024, short-term rental hosts must display a valid business license number on their listing in areas where the local government requires one. The RMOW has required all short-term rentals to have a business license since 2017.

If a listing does not include a valid business license where required by the local government, the short-term rental platform must remove the listing at the request of the local government.

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- **Platform accountability and data sharing**

In May 2024, the Province expects short-term rental platforms to share information about short-term listings with the Province. The Province can then share this information with local governments.

By early 2025, the Province expects to establish a provincial short-term rental registry. All short-term rental hosts and platforms are required to register.

- **Increasing the maximum municipal ticketing (MTI) fine**

A local government may set fines under the provincial *Community Charter Bylaw Enforcement Ticket Regulation* (Ticket Regulation) which has increased from a maximum of \$1,000 to \$3,000 per infraction daily.

- **Provincial Enforcement Unit**

This enforcement unit is expected to be operational later in 2024. With the addition of this Provincial enforcement unit, the RMOW's ability to enforce its bylaws regarding non-compliant tourist accommodation should be significantly enhanced.

### **MTI Amendment Bylaw (Tourist Accommodation Fine Amounts)**

The proposed MTI Amendment Bylaw leverages the portion of Bill 35 that allows for increased MTI fines for non-compliant short-term rentals. Staff propose to increase the MTI fines for tourist accommodation violations from \$1,000 to \$3,000 per infraction daily (the maximum allowed under section 2(2) of the Ticket Regulation). Staff believe that increasing the MTI fine to \$3,000 will help dissuade non-compliant tourist accommodation listings within the community. Bylaw Notices (the most common municipal ticketing system) can still be used for non-MTI fines. Bylaw Notice fines continue to have a maximum provincially allowed fine amount of \$500.

### **Related Adjudication, Court Orders and Debt Collection Updates**

#### **Bylaw Adjudication and Court Orders**

So far in 2024, 11 Bylaw Notices relating to non-compliant tourist accommodation were heard in an adjudication hearing, and all were upheld in favour of the RMOW (100 per cent). In 2023, the RMOW hosted five adjudication hearings, with 18 disputes related to non-compliant tourist accommodation and 17 of the Notices were upheld (94 per cent). As these numbers indicate, staff occasionally have people try to dispute their fines, but this case history indicates that the RMOW has been highly successful in defending against associated disputes. Bylaw Services wrote 91 tickets in 2023 and 61 tickets thus far in 2024 for non-compliant tourist accommodation.

It is worth noting that in one recent case, the RMOW pursued enforcement proceedings in the BC Supreme Court. In response to these proceedings, earlier this year the RMOW entered into a consent order and financial settlement with the property owner, requiring the owner to cease advertising and using the property for tourist accommodation in contravention of the zoning and tourist accommodation bylaws. This consent order was filed in the BC Supreme Court.

#### **Debt Collection**

Furthermore, outstanding tickets (including non-compliant nightly rental tickets) can be collected through debt collection channels and payment hearings. Payment hearings are handled in Small Claims Court, where disputes can be settled for matters worth up to \$35,000. These processes require

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the debtor to provide their income and assets to determine whether they can pay their debts. If the debtor does not attend the payment hearing, a warrant can be issued for arrest.

In 2023, the RMOW initiated steps to collect outstanding tickets with payment hearings and collected \$4,890 through this process. Looking ahead, the RMOW has forecasted \$15,000 in revenue in 2024 through payment hearings.

A debt collection company can also be used to collect outstanding debts. Staff have recently awarded a five-year contract to a debt collection agency and will be handing over unpaid fines to the agency to collect. This provides efficiencies for the RMOW by reducing staff time on payment hearings and providing another tool to locate individuals that have outstanding debt. Staff continue to work with the Province on other ways to collect debt that reduces staff time and money.

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## POLICY CONSIDERATIONS

### Relevant Council Authority/Previous Decisions

This bylaw amendment is consistent with *Council Policy G-26 – Tourist Accommodation Properties Zoning and Covenant Use Provisions*, which supports prohibiting tourist accommodations in residential areas (i.e., properties not zoned for temporary lodging or temporary accommodation).

### 2023-2026 Strategic Plan

The 2023-2026 Strategic Plan outlines the high-level direction of the RMOW to help shape community progress during this term of Council. The Strategic Plan contains four priority areas with various associated initiatives that support them. This section identifies how this report links to the Strategic Plan.

#### Strategic Priorities

Housing

*Expedite the delivery of and longer-term planning for employee housing.*

Climate Action

*Mobilize municipal resources toward the implementation of the Big Moves Climate Action Plan.*

Community Engagement

*Strive to connect locals and to the RMOW.*

Smart Tourism

*Preserve and protect Whistler's unique culture, natural assets, and infrastructure.*

Not Applicable

*Aligns with core municipal work that falls outside the strategic priorities but improves, maintains, updates, and protects existing and essential community infrastructure or programs.*

Implementing this bylaw amendment involves several strategic actions aligned with the 2023-2026 Strategic Plan:

- **Protect and Optimize Employee Housing:** The provincial data-sharing platform will be utilized to enhance the RMOW's enforcement capabilities, ensuring that short-term rental regulations are adhered to and supporting the strategic goal of regulatory effectiveness.

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- Articulating Whistler’s capacity constraints: The new tools enforcement will help remove non-compliant rentals from the platforms ensuring less negative impact on the local population and environment.

### **Community Vision and Official Community Plan**

The Official Community Plan (OCP) is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

The MTI Amendment Bylaw aims to prevent non-compliant tourist accommodations, promotes a consistent and high-quality visitor experience by helping to maintain legal tourist accommodation listings on hosting platforms while preserving the existing residential neighbourhoods to allow for long-term rentals to Whistler employees and residents. Specifically, the MTI Amendment Bylaw supports following goals, objectives, and policies of Whistler’s OCP:

#### **5.5. Goal**

Maintain an appropriate supply and variety of visitor accommodation to support Whistler’s sustainable year-round tourism economy.

##### **5.5.1 Objective**

Maintain a broad range of accommodation offerings to serve visitor needs.

##### **5.5.1.8. Policy**

Actively enforce against non-compliant visitor accommodation use of residential properties.

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### **BUDGET CONSIDERATIONS**

Staff time to administer the initiatives described in the project will be funded through the existing 2024 RMOW operating budget.

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### **LÍL’WAT NATION & SQUAMISH NATION CONSIDERATIONS**

The RMOW is committed to working with the Líl’wat People, known in their language as *L’il’wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumixw*, to create an enduring relationship; establish collaborative processes for Crown land planning; achieve mutual objectives; and enable participation in Whistler’s resort economy.

There are no specific considerations to include in this report.

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### **COMMUNITY ENGAGEMENT**

Level of community engagement commitment for this project:

Inform     Consult     Involve     Collaborate     Empower

The community will likely be aware of the upcoming short-term rental regulations as the changes have received extensive media coverage around the Province. The RMOW is working to inform property owners, management companies, and the broader community about the new regulations and benefits to community sustainability and housing stock. This public education appears on [whistler.ca](http://whistler.ca) to provide

residents and visitors the most up-to-date information.

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## REFERENCES

*Short Term Rentals Accommodations Act, SBC 2023 CH. 32*

*Community Charter Bylaw Enforcement Ticket Regulation, B.C. Reg. 269/2023*

“Municipal Ticket Information System Implementation Amendment Bylaw (Tourist Accommodation Fine Amounts) No. 2427, 2024” (included in the Council Package)

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## SUMMARY

The proposed amendment to the “Municipal Ticket Information System Implementation Amendment Bylaw (Tourist Accommodation Fine Amounts) No. 2427, 2024” for non-compliant tourist accommodation reflects the RMOW's proactive stance in aligning with provincial regulations and addressing community concerns regarding non-compliant tourist accommodation by increasing the maximum fine from \$1,000 to \$3,000 allowed through the new Provincial legislation.

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## SIGN-OFFS

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