

Request for Decision

File No: P 567 001

Date April 7, 2022
Author Michele Bates, Planner
Subject Request for Decision - Short Term Rental Regulation Options

REQUEST

Authorize staff to proceed with the work necessary to implement Temporary Use Permits to regulate short term rentals.

OPTIONS

1. THAT staff proceed with a planning process to regulate short term rentals via Temporary Use Permits.
2. THAT staff proceed with a planning process to regulate short term rentals via zoning bylaw amendments.
3. THAT staff proceed with a planning process to regulate short term rentals via an Order in Council to authorize business licensing.
4. THAT no further work on short term rentals proceed.

RECOMMENDATION

Option 1.

During consultation on this project, enforcement was a high priority for residents. Having the opportunity to address non-compliance seems to be the key to a successful management outcome. Temporary Use Permits (TUP) can address more short term rental operational parameters than zoning bylaws.

If approved, next steps would include another round of public consultation to refine the TUP permitting process and related policies for the Board's consideration.

BACKGROUND

In April 2021, the RDEK Board authorized staff to proceed with a planning process to identify short term rental (STR) concerns and determine management options.

In June 2021, a newsletter providing background on the planning process and request for public feedback was mailed to property owners within the RDEK. An Engage Page was set up including a public survey. The survey was open for comment from June 28th until August 4th, 2021. The RDEK received 1,493 responses, 58.5% from full time residents and 41.5% responses from part-time/seasonal residents.

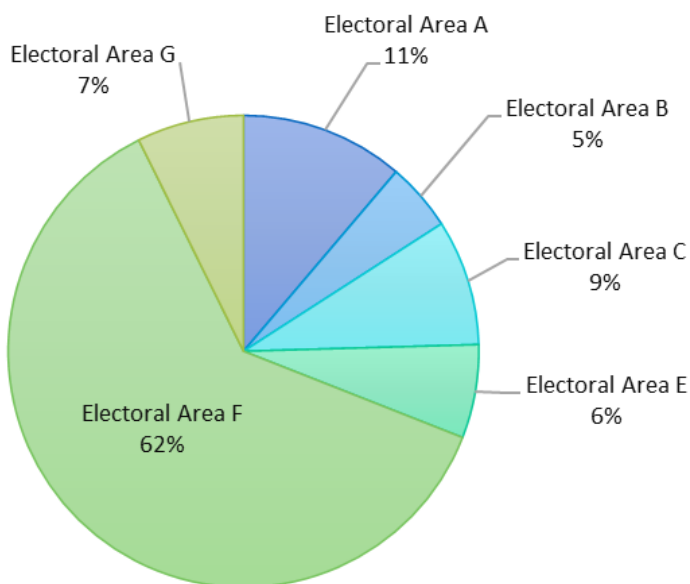
As part of this planning process, staff:

- worked with a consultant to determine STR density and revenue within the RDEK;
- attended multiple webinars, informational seminars, and peer group meetings;

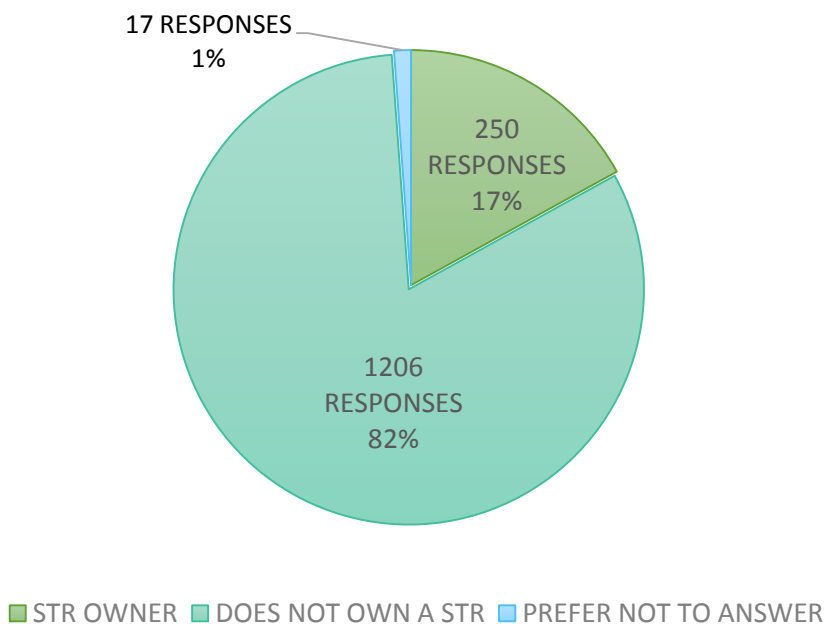
- examined how other Regional Districts and Municipalities are addressing STRs; and
- consulted with representatives from property management companies, community associations, adjacent municipalities, Regional Districts throughout BC, AirBnB and the Provincial Government.

Short Term Rental Survey Results

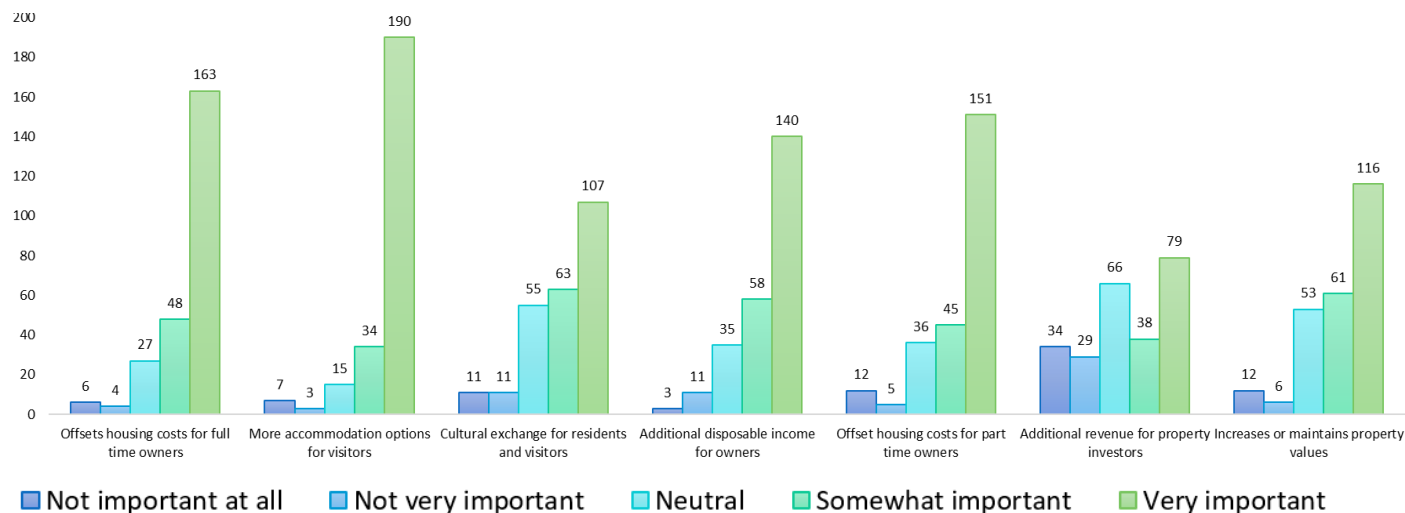
Locations where respondents own or rent property:



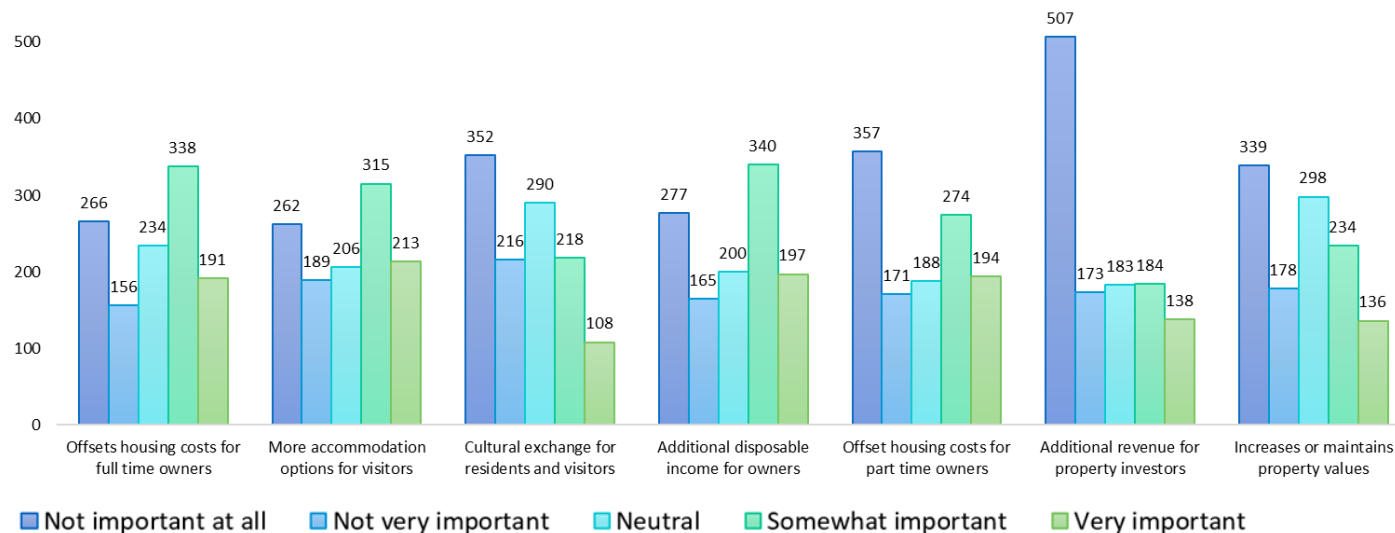
Respondents who have/have not listed their home, condo, room, etc. as a STR in the last 12 months (August 2020 – August 2021):



STR operators views on housing related benefits of STRs (250 respondents):



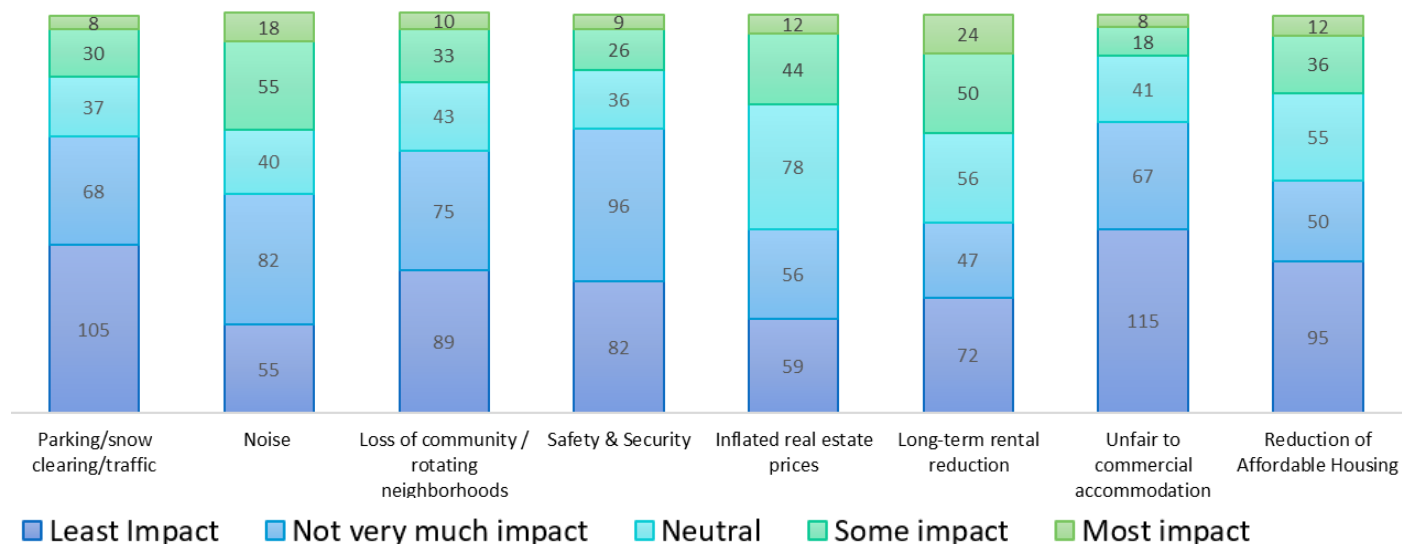
Non STR operators views on housing related benefits of STRs (1206 respondents):



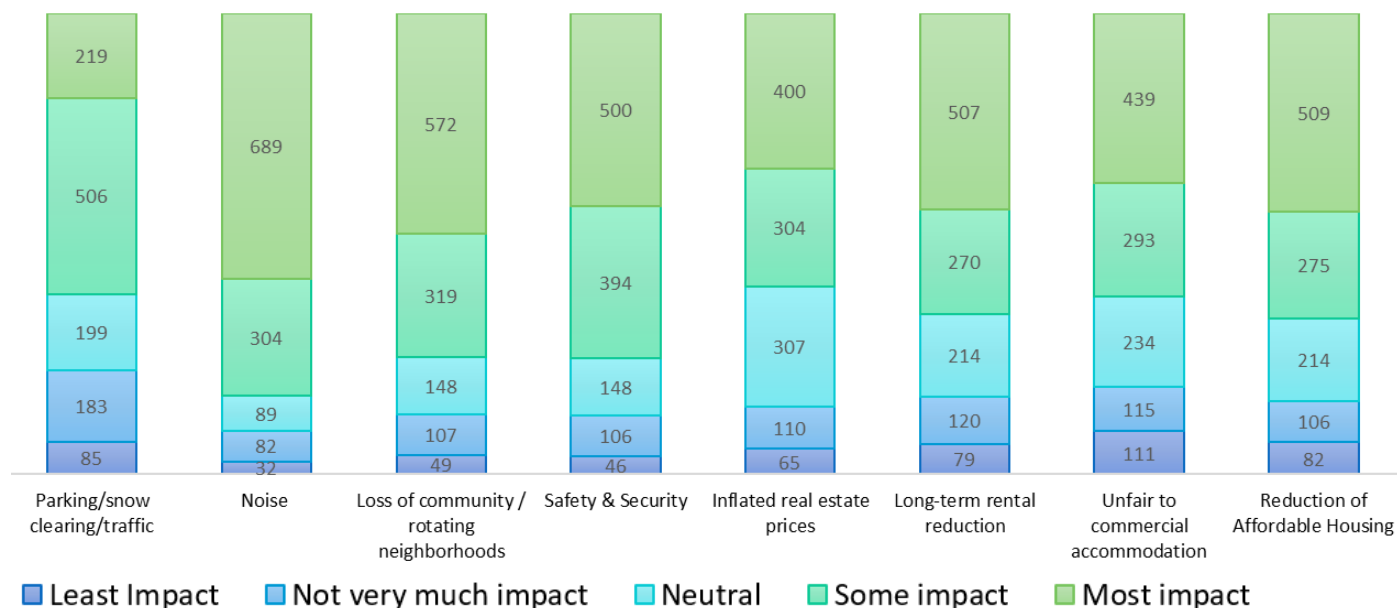
Other benefits heard:

- Properties are not left vacant, reduction in vandalism
- Increase in tourism dollars
- benefits local businesses
- Increased employment in the area
- STRs are better visually maintained
- STR renters become permanent residents after visiting area
- Revenue for small scale farmers
- Taxes collected by Airbnb benefits communities

STR operators views on housing related concerns regarding STRs (250 respondents):



Non STR operators views on housing related concerns regarding STRs (1206 respondents):



Other concerns heard:

- Lack of appreciation of the environment
- littering, campfires left unattended, fireworks, stress on roads
- Renters are abusive, inconsiderate of neighbors
- Over usage of water/sewer systems, increase in maintenance costs
- Noncompliance with COVID regulations
- Renters are not aware of local bylaws
- Trespassing on private property
- Overuse of common facilities, such as beach areas, boat launches, marinas

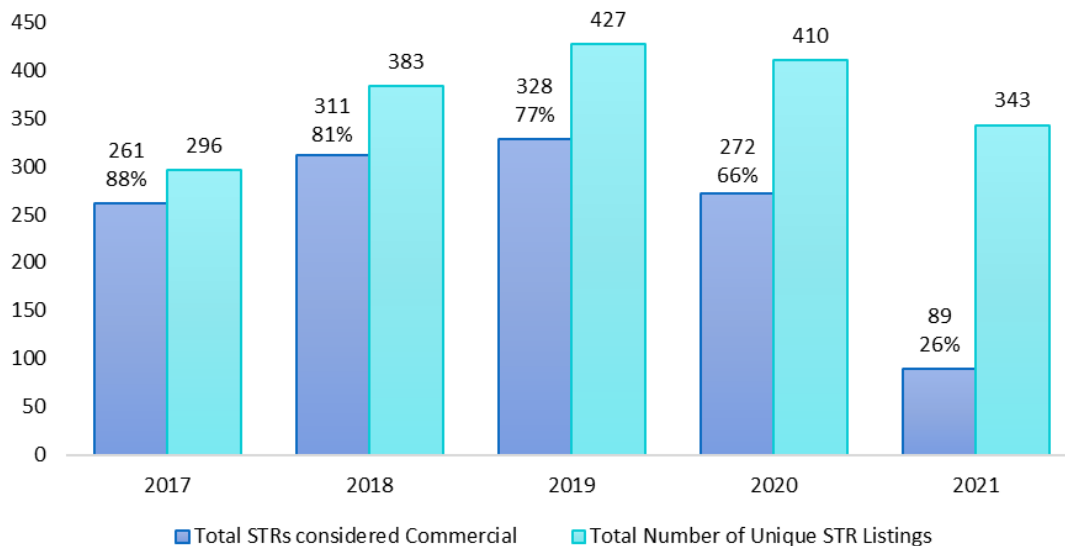
RDEK Short Term Rental Inventory

As part of this planning process, STR data was purchased from AirDNA. The following data spans from January 2017 to June 2021 and includes every property that has been listed on a STR platform.

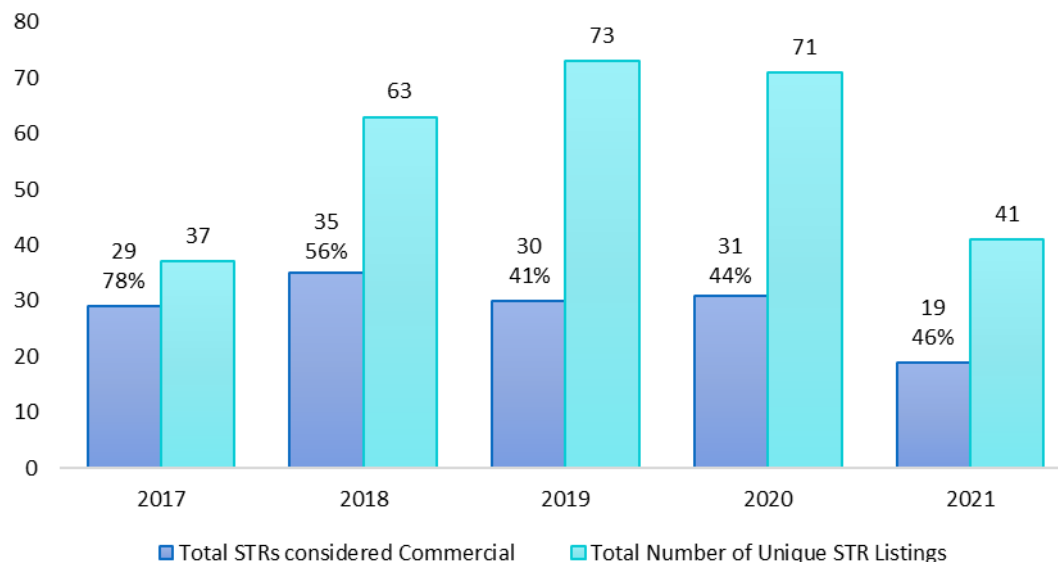
“Total Unique STR Listings” means that any listings for the same property have been cleared from the data to indicate how many units at any given time may have existed within an area's market. Being listed as a unique property does not mean it was active, but rather that it was in the "potential inventory" of units that could come onto the market.

A “Commercial” property is an entire home or apartment unit that has been calculated to be primarily for commercial purposes versus residential. To be "commercial" the unit must be available or reserved for at least half of the calendar year.

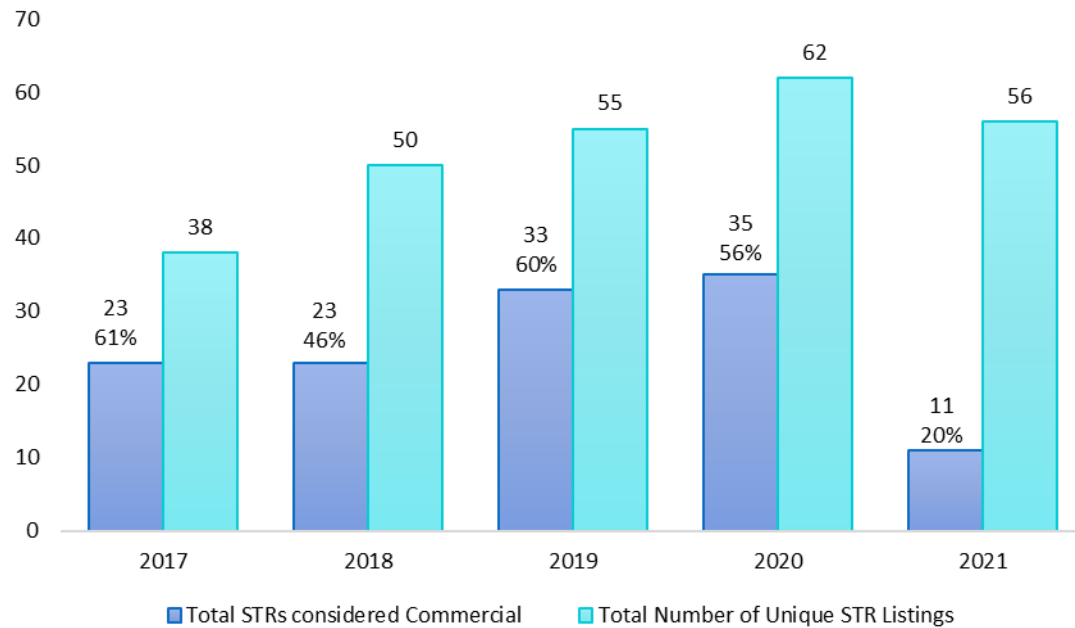
Electoral Area A



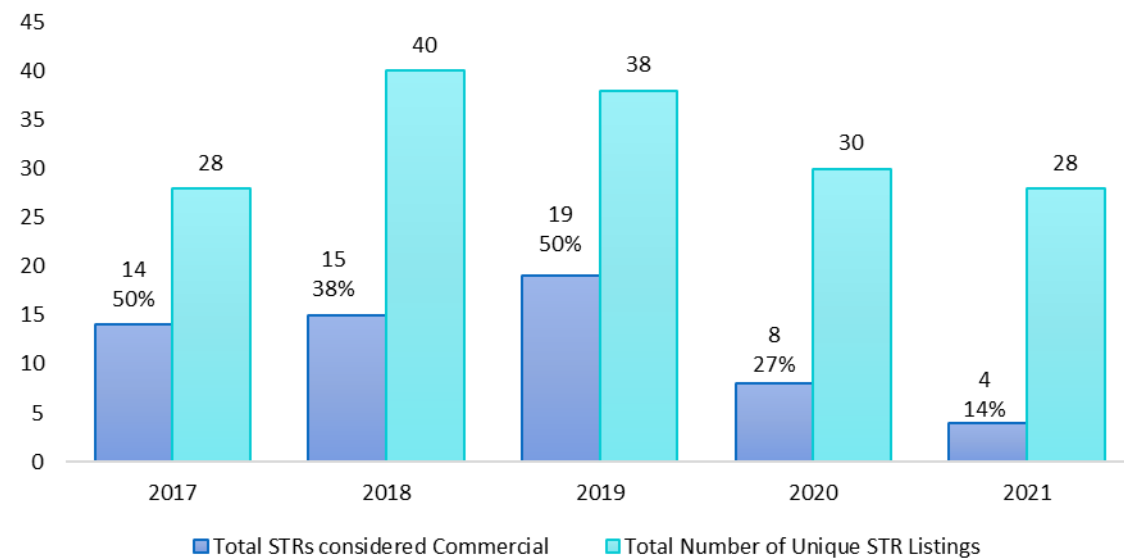
Electoral Area B:



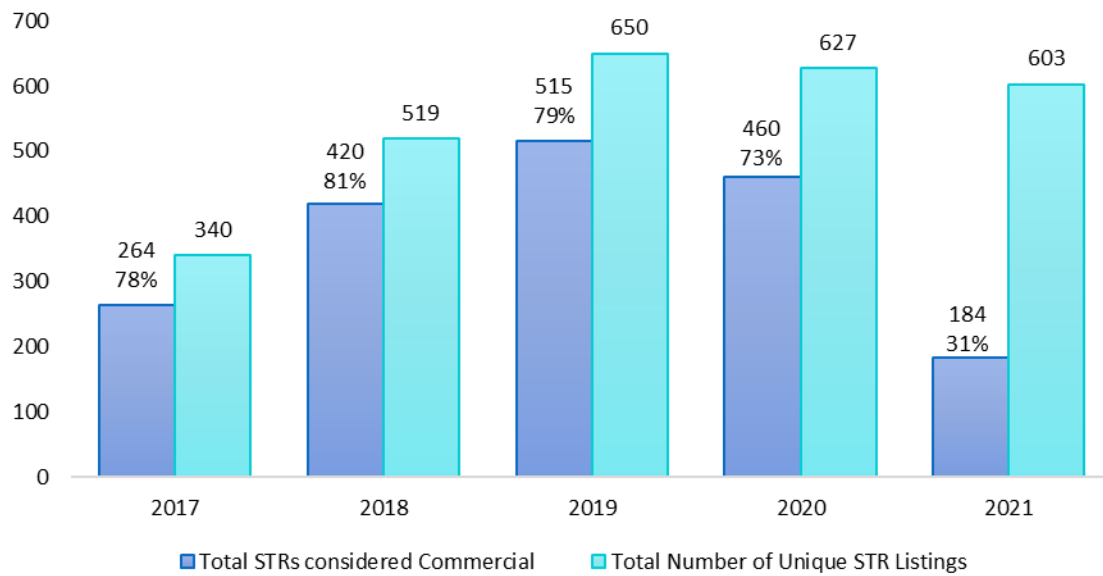
Electoral Area C:



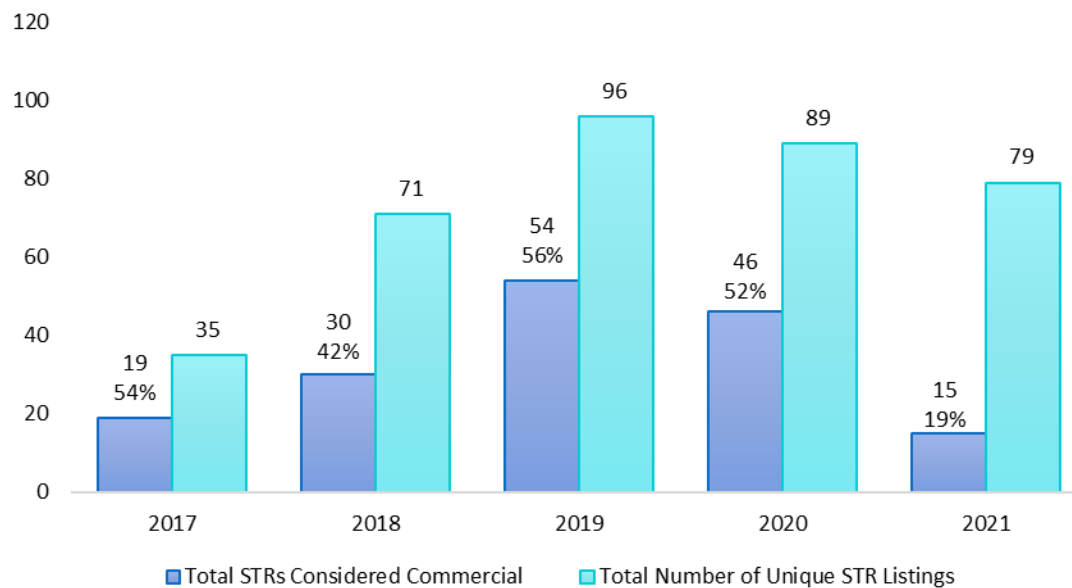
Electoral Area E:



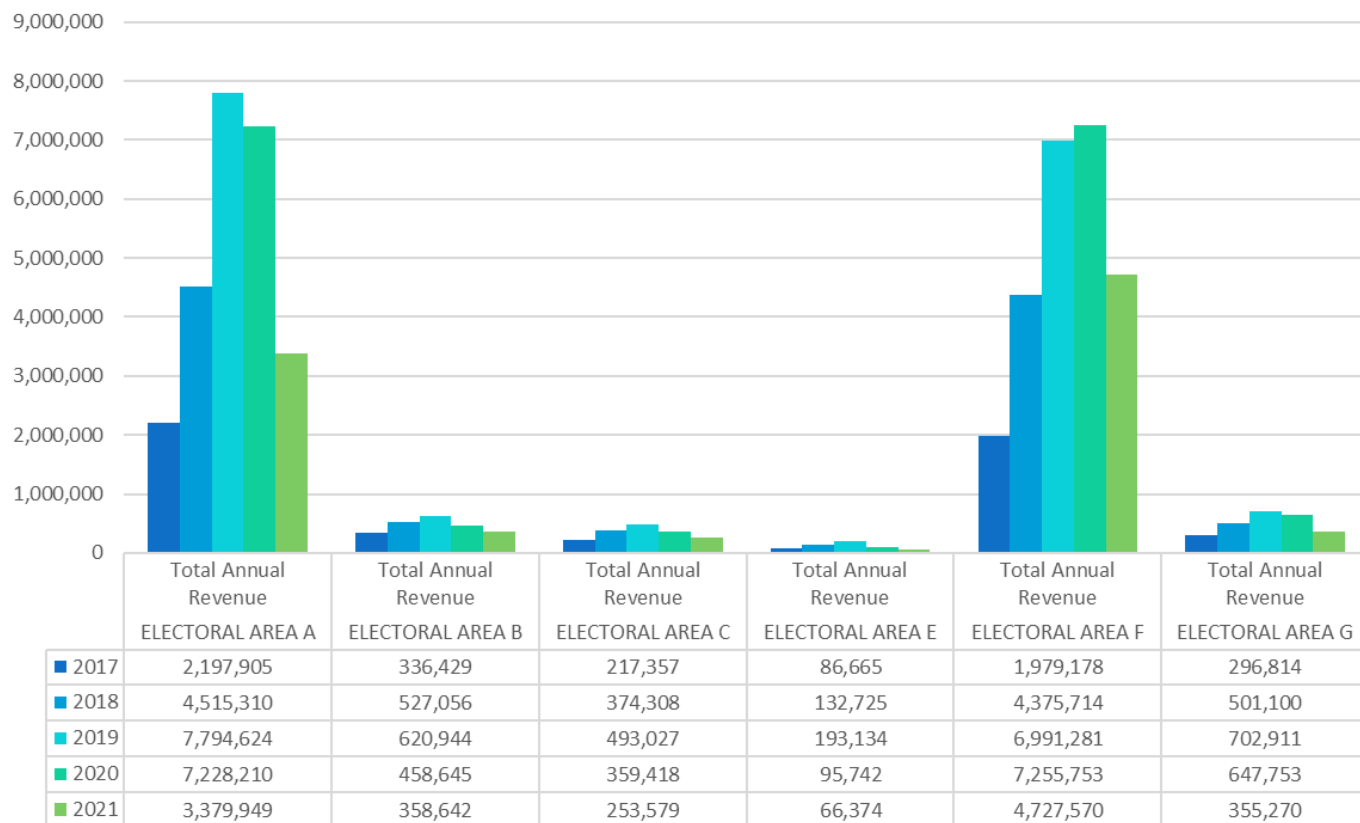
Electoral Area F:



Electoral Area G:



Total Annual STR Revenue by Electoral Area:



Regional Districts & Municipalities Response to Short Term Rentals

Regional Districts:

Regional District of Okanagan-Similkameen (RDOS) – Temporary Use Permits: In 2014, the RDOS amended their land use bylaw to allow vacation rental uses through issuance of a Temporary Use Permit. The maximum duration of a new permit is one season (ex. May 1st to Oct 31st). The application is assessed against criteria that addresses community consultation, servicing capabilities, screening, parking, safety, and benefits to the community.

Squamish-Lillooet Regional District – Temporary Use Permits which require host/operator to reside on-site. The permit includes insurance requirements, disclosure of bedrooms, disclosure of max number of guests, provision of onsite parking, and acknowledgement that the permit may be revoked if contravention occurs.

Regional District of Central Kootenay – Zoning: permitted in specific zones. General regulations require the proprietor to reside in the principal dwelling and restricts the number of guests.

Regional District of Kootenay Boundary – Zoning: the definition of dwelling unit specifically excludes temporary accommodation which is defined as short-term commercial occupancy by a series of occupiers whose primary residence is elsewhere.

Sunshine Coast Regional District (SCRD) - Zoning: In 2020, SCRCD amended their zoning bylaw to regulate STRs. An STR is only permitted if an operator resides on the property. Depending on the size of the parcel, the number of bedrooms permitted for a STR range from 2 to 5 per dwelling unit.

Thompson-Nicola Regional District – Zoning: “traveller accommodation” is a permitted use in commercial and comprehensive development zones and includes a density cap.

Columbia Shuswap Regional District – Zoning: STRs are permitted in single family dwellings and secondary dwelling units. The bylaws permit 5 bedrooms with max of 10 guests.

Municipalities:

City of Kimberley – STRs are permitted in several neighborhoods located in the area surrounding Kimberley Alpine Resort through licencing. A business licence is required, a responsible person must be appointed who is always available when the STR is rented and must respond within 2 hours, a maximum of 12 guests are permitted. The business licence is subject to a review of proposed floor, safety, and parking plans.

City of Cranbrook – zoning bylaws do not speak to STRs; however, the definition of a dwelling states use by one family only and defines family as one or more individuals who are related through marriage or common law, blood relationship, legal adoption, or legal guardianship, or a group of not more than five unrelated persons including boarders and lodgers.

City of Fernie – An approved business licence is required which regulates number of parking spaces, snow and ice removal, and requires a contact person who is available to respond to the City within 24 hours. Secondary homes are not permitted to be rented short-term. Secondary dwelling units are not permitted to be rented short-term if they have permanent cooking facilities present in the unit.

Village of Radium Hot Springs – STRs require a business licence which includes a 24 hour contact person as well as guest safety requirements. In residential zones, STR business licences are limited to one licence per individual or corporation.

District of Invermere – currently undertaking a public consultation process. The survey deadline was October 12, 2021. Based on the responses received, Invermere Council may consider how to address STRs within the District.

ANALYSIS

Bylaw Compliance – STR Complaints:

The following are the complaints received regarding STRs from 2018 - 2021. These numbers are based on formal complaints only (written, with complainant contact information provided). The complaints below include a wide range of issues related to STR use such as: noise, zoning, fireworks, garbage/unsightly, abandoned fires and parking/blocked roadways.

Electoral Area A	5	Electoral Area E	7
Electoral Area B	3	Electoral Area F	28
Electoral Area C	10	Electoral Area G	3

Regulatory Options:

The RDEK currently has two regulatory options to manage STRs.

1. *Zoning Amendments*

As per section 479 of the *Local Government Act*, a zoning bylaw may regulate the use, location, size, and density of the use of land, buildings and other structures. If zoning was used to address STRs the size and location of the STR, number of bedrooms and guests, and parking requirements could be addressed. Other operational aspects of the STR business can be difficult to regulate and enforce through zoning.

If the Board elects to regulate STRs through zoning, eight zoning bylaws would need to be amended. In addition, potentially some, or all, of our 15 OCPs would also require amending, including deciding in advance where we want and do not want zoning to permit STR use.

2. *Temporary Use Permits*

Temporary Use Permits (TUPs) are authorised under Section 493 of the *Local Government Act* and allow the Regional District to permit uses not otherwise allowed within their zoning bylaws. A TUP can specify conditions under which the proposed use can be carried on and can allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued. A TUP can also require security to guarantee the performance of the terms of the permit. A TUP can be authorized for up to three years with the option to renew once for up to an additional three years. At its expiry, a land owner can then reapply for a new TUP.

It is important to note that strata corporations have bylaws to limit or ban STRs as well as fines for owners violating a STR strata bylaw which can be up to \$1,000 per day. TUP permits could ensure that the strata corporation has authorized the proposed STR.

If the Board elects to regulate STRs through TUPs, policies and guidelines to address the requirements of the TUP and fee structure would need to be drafted. While this is less upfront work than regulating through zoning, the Board also needs to consider the administrative impact on staff to process these new and recurring applications.

Currently, TUPs require Board approval which consists of APC review and notice to the neighbors. As per section 493 of the *Local Government Act*, the Board could choose to delegate that authority. This process would be similar to the current Development Permit (DP) approval process which is delegated to the Manager of Development Services. Delegating the approval process would reduce the staff and Board workload that is associated with applications placed on a Board meeting agenda. Policies could be created that at a specific threshold the TUP would need to be presented to Board for example, square footage of the dwelling, or number of occupants. The same as DPs, the applicant would have the opportunity to request the Board reconsider a decision made by the delegate.

Zoning Amendments vs. Temporary Use Permits

	Zoning	Temporary Use Permits
STR use is linked to the property	✓	
STR use is linked to the property owner		✓

	Zoning	Temporary Use Permits
Can address water/sewer servicing requirements, screening, parking, density, location, size, and number of bedrooms/guests	✓	✓
Can prohibit RVs or watercraft as STRs	✓	✓
Can require owner/manager to be available when STR is rented and contact information available to neighbors		✓
Can require that owner provides guests with neighborhood bylaws and polices re: noise, garbage, water conservation, pet control, campfire use and fireworks		✓
Can require that the owner provides guests with information re: environmentally sensitive areas & that owner will address remediation		✓
Can prohibit use of neighborhood amenities such as marinas, tennis courts, pools, etc.		✓
Can require security deposit from owner for non-compliance which could assist in recovering costs		✓
Can be revoked for non-compliance		✓
Can require that the TUP number be listed on any advertising (excluding Airbnb) and on the property which could make monitoring for non-compliance easier		✓
Can ensure that strata corporations have authorized the STR use		✓

Additional Option to Manage STRs:

Order in Council – Business Licences

As per section 296 of the *Local Government Act*, the RDEK also has the opportunity to request the Province grant the RDEK additional powers respecting the licencing of businesses and regulating the carrying on of businesses within the RDEK. It is our understanding that the RDEK could not restrict its use of business licences to only STRs and that it must apply to all commercial uses within the RDEK.

The requirements necessary include a comprehensive engagement and consultation plan, an analysis of commercial properties and businesses, depth of proposed enforcement, fee structure, proposed approval structure and staffing plan. The Province will also require justification of why business licencing is required versus current regulatory options.

Beginning with the legalization of cannabis, Regional Districts' interest in the business licencing power has increased over time; however, to date no regional districts have pursued business licencing, with the exception of the Regional District of Central Okanagan which acquired it in 1996. In speaking with other local government staff, a more streamlined plan might be to make the request in a more unified fashion. In 2018, North Okanagan RD presented a resolution at UBCM urging the Ministry of Municipal Affairs and Housing to explore options to amend the Local Government Act to provide regional districts the legislative authority for business licencing.

In 2020, the same request was made by the Sunshine Coast Regional District. The Provincial response, both times, has been that the Province is committed to supporting regional districts seeking business licences on a case by case basis.

Enforcement

Short-term rental regulations need to be clear, concise, and enforceable. Instituting regulations that are not enforceable or too complex will not assist with compliance and will only increase the public's and STR operators' frustration. TUPs will take more staff time, as well as more of the Board's time; however, TUPs provide opportunity for specific and detailed STR conditions as well as cost recovery opportunities. TUPS are associated with the owner not the property and the RDEK has the option to revoke the permit. The current enforcement opportunities regarding zoning bylaws may be of little deterrent if the owner is not a responsible STR operator.

SPECIFIC CONSIDERATIONS

Strategic Priority

Public consultation, issues identification and management options for STRs is identified as a 2021 strategic priority.

Bylaws

Depending on the RDEK Board's decision on proposed management options, RDEK zoning bylaws and official community plans may need to be revised as a result of this planning process.

Financial – Budget

The budget will be dependent on the regulatory option selected. All three options will require public consultation and advertising. Depending on the option selected, bylaw amendments or creation of new bylaws or policies will also be required with the Order in Council being the most labor intensive. Both Temporary Use Permits and Business Licencing have cost recovery potential.

Previous Board Action

April 9, 2021

Resolution 49734

THAT a planning process to determine management options for STR accommodations as outlined in the March 29, 2021 Request for Decision proceed.

August 6, 2020

Planning & Development Services Committee

Agenda Item 9.4.4

The Committee discussed STR properties in the East Kootenay, recognizing that additional management of this land use by the RDEK was desirable and that a variety of tools and approaches may be available to address the issue.