

From: HISTRA Association <hornbyshortterm@gmail.com>

Sent: Tuesday, March 19, 2024 11:17 AM

To: Alex Allen; Grant Scott; Timothy Peterson

Cc: northinfo; reachme@danielarbour.ca; Sonja Zupanec; Ian Cox; Michael Williams; Eulala Mills; Patrick Lui; Karen; Ray Therrien; Arifin Graham; Donna Tuele; Michelle Metzelaar-Easterly; Angela Hudson; Karen Young

Subject: Feedback regarding the Staff Report and Recommendations for the March 22nd Community Meeting

Attachments: Suggested Actions for Vacation Rental - Revised Document 03 02 2024.pdf

Dear Alex, Grant and Tim;

We are writing ahead of the Community Meeting on March 22nd regarding the Staff Report and the potential of a Licencing program to create a management system for Vacation Rentals on Hornby that, as Trustee Allen has said, "Can make everyone happy".

We want to acknowledge the work that has gone into this issue by the APC, the IT staff, the LTC and many members of the Hornby Community. Many minds have come together and we believe as a community, we are close to creating a system that addresses the complexity of Vacation Rentals on Hornby. We have also worked hard with our members, the APC Recommendations and the feedback and concerns expressed by the LTC and across our community, to develop a robust framework for how a licencing program could work (the document, endorsed by the HISTRA members representing the majority of Hornby Vacation Rentals and first sent to you and the CVRD in February, is attached again here). Our suggestions and recommendations are drawn from several effective Vacation Rental licencing systems in BC and the San Juan Islands.

Last week, as you asked them to, the CVRD approved the first step towards creating a robust licensing program for Hornby Island Vacation Rentals. While we acknowledge the development of this program will take time, once in place it will accomplish the goals set out by the LTC, the recommendations of the APC and community expectations for managing Vacation Rentals on Hornby.

In looking at the staff report we are surprised to see that the options provided have no reference to how they might fit with the program you have asked the CVRD to investigate. We hope that discussion will be added to the document ahead of the meeting or at least brought forward at the meeting. It is so important that the community knows that there is work going on to address these very important community concerns. The Trustee's have been proactive in requesting the licencing program and HISTRA supports a licencing framework that would address the APC recommendations.

We think it is important to make a correction to the analysis in the staff report.

- The Provincial Legislation states that the Principal Residence requirement does not apply to communities under 10,000. Therefore Hornby Island IS ALIGNED with the Provincial Legislation.
- The Province anticipated and intended for smaller communities to be exempt from the Principal Residence requirement.
- It is therefore incorrect to state that our regulations are 'not aligned' because Vacation Rentals are allowed in dwellings that are not a Principal Residence.
- It is accurate to state that our Vacation Rental regulations, as currently written, are more restrictive than, or fully aligned with, the Provincial legislation.

As you are aware from the letters you have received from so many residents of Hornby, Vacation Rentals are offered by a wide range of our community members. We are full time residents, long term legacy families, and part time residents. Regardless of the option chosen, opting-in to the Principle Residence requirement will cripple the community's Vacation Rentals and cause real harm to the workers, businesses and artists in our community who depend on them for their living. It will also cut more than half of the annual MRDT funds, now set aside to support affordable worker housing on Hornby.

A robust licencing program will create a contained, strong and fair management system, which reflects Hornby's values and the diversity of its community.

We support:

- Option 1 - Make no changes to Vacation Rental provisions in the OCP and LUB, review the number and density of Vacation Rentals once the provincial registration information is available and determine next steps at that time -
- or Option 3 - Make changes to the regulations related to Vacation Rentals (e.g. expand water and septic requirements, allow only one per property, make the season shorter, and other changes, with no opt in to the Principal Residence requirement.

Both fit well with a licencing program and can meet the needs of the community as a whole, while asking for compromise to better manage Vacation Rentals, including capping the number.

We believe that the LTC can meet the expectations of, and be aligned with, the Provincial legislation, and enable a licencing system with the following actions:

1. **Define “Short Term Vacation Rental”** – definition should read that a Short Term Rental are rentals on Hornby are for periods of 30 days or less.
 - The Province has defined short term rentals as anything less than 90 days. That makes the rental of any home on Hornby for less than 90 days (even in off season) subject to the provincial fines.
 - The Province made a provision^[1] that a local government could create a different definition of short term.
 - Hornby provides workforce housing off season, teachers, health care workers, City West, Summit etc., most of which are less than 90 days.
2. **Define who is able to continue offering Vacation Rentals once a Licencing program is operational**
 - An **owner/family/family trust/home** that would have been considered a ‘legal non-conforming’ use prior to the provincial legislation, at the date of the bylaw change:
 - The owner/family/family trust had operated their Hornby home as an vacation rental in the last year/season; and
 - The property is bylaw compliant or actively resolving identified Vacation Rental infractions.
3. **Define “Bylaw Compliant”** – The Vacation Rental owner must meet OCP/LUB or legal requirements:
 - Displaying a sign (name and number to contact while renting);
 - Meet the minimum number of parking stalls (one per bedroom);
 - Offer no more than the maximum number of bedrooms (3 if the property is less than 10 acres and 4 for 10 acres +);
 - Have an septic certificate if the property has a septic system in designated IA (Whaling Station, Anderson Drive and High Salal);
 - Operate as a Vacation Rental only from May 1 to Sept 30 in each year;

- No unresolved or not in active resolution Vacation Rental Bylaw infractions; and
 - The owner is registered for MRDT/PST on Vacation Rentals.
4. **Use the Provincial Registry or Establish a Vacation Rental Registry** to capture all operating and bylaw compliant Vacation Rentals on Hornby.
 5. **Enable the Vacation Rentals in the Registry to continue operation until a Licensing Program is established and operating.**
 6. **Cap the Number Vacation Rental licences** at those in the Registry, as at a specific date.

Both Option 1 and 3, with no opt in, combined with a licencing program can:

- Cap the number of licences available thereby limiting the number of Vacation Rentals on Hornby.
- Meet your stated intention of allowing the current bylaw compliant Vacation Rentals to continue operation.
- Set criterion for Vacation Rentals that addresses community concerns including septic, water, guest capacity, unaddressed bylaw infractions and parking.
- Enable Full time, part time and legacy family community members while eliminating off-island investors.
- Protect the \$50,000 or more each year generated by Vacation Rentals from the MRDT and dedicated to supporting Affordable Workforce Housing.
- When combined with licencing, uncouple Vacation Rentals from property values.
- Improve fire safety and emergency preparedness.

We also want to reiterate our support for separating the Housing changes to the OCP from the Vacation Rental discussion. HISTRA shares the concerns about the needs for affordable worker housing on Hornby and separating these two issues allows the focus on providing affordable housing to stand alone.

There appears to be a misunderstanding in the community. While the Province has permitted secondary accommodation in its legislation, it DOES NOT automatically apply here. The Trustee's can bring Hornby into alignment on this issue by changing the land use bylaw to provide for it. Doing so would immediately legalize many secondary dwellings (provided they meet lot line setback, septic and water approvals) and create caretaker/ affordable housing solutions quickly.

HISTRA also supports the approval of one secondary legal long term living accommodation on 1/2 acre lots with minimum sq. footage for long term affordable housing and/or owner accommodation provided there is approved septic and water servicing to the secondary accommodation.

Combined with moving forward on the critical housing issues, the willingness of the CVRD to move ahead with Licencing gives the LTC an opportunity to make real progress on housing and meet the expectations it had for Vacation Rentals before the Legal Non-conforming legislation was changed by the Province. You can move ahead and meet the needs of the community for well managed Vacation Rentals into the future. We urge you to include licencing in the discussion and considerations on March 22, 2024.

Sincerely, the HISTRA Board

Michael Williams, Patrick Lui, Donna Tuele, Ray Therrien, Karen Young, Karen Ross, Angela Therrien, Michelle Easterly, Arifin Graham and Eulala Mills, Directors



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Recommendations for Capping and Managing Vacation Rentals on Hornby Island

Community Issues Addressed by These Recommendations

The community has expressed several concerns about the impact of Vacation Rentals on our neighbourhoods, environment and resources. At the same time, the Advisory Planning Commission (APC) and Local Trust Committee (LTC) along with much of the community have recognized the importance of properly managed Vacation Rentals to Hornby. The actions and changes outlined below can address many of these concerns and will enable well-managed and controlled Vacation Rentals. Hornby Island Short Term Rental Association (HISTRA) is recommending the following actions to address identified concerns and support previous recommendations from the community.

- 1) A Vacation Rental Registry is established
 - This will ensure that we have an agreed to and reliably determined number of Vacation Rentals. It is from this that the cap can be set.
- 2) Vacation Rentals are capped (APC Recommendation)
 - This ensures Vacation Rentals do not expand beyond the current number operating within the bylaws but also allows for new offerings as Licenced owners move out of offering Vacation Rentals.
 - Capping at the current number operating in compliance with bylaws is fair to owners as Current/continuing owners and families have their rights to operate preserved and ensures growth is contained.
- 3) Vacation Rentals are Licenced (APC Recommendation);
 - This meets the requirements of the provincial legislation and the Province has enabled the CVRD to create and maintain a licencing program. .
- 4) Consideration is given to full time permanent Residents of Hornby Island (HISTRA Recommendation, reflects aspects of APC recommendations);
 - Reduced fees, priority access to licences (after the first year of licence operation) and more flexibility in how and when Vacation Rentals operate help to support those who live full time on Hornby.
- 5) Consideration is given to 'Legacy' families, current and future (HISTRA Recommendation);
 - Many Vacation Rentals are offered by second and third generation Hornby families. Family groups, siblings, immediate family, family trusts and those 'on title', many of whom who rely on Vacation Rentals to remain a part of our community, are enabled to retain a Vacation Rental licence when ownership changes within the family group.
- 6) The licence applies to owner/family not property;
 - The intention here is to allow changes of ownership among families, or groups who share ownership of the property in some way. Enabling the license to remain when ownership is 'continuous' in a family, partnership group, or other arrangement on title, but not when the property is sold at arms length and to an unrelated and non-continuous new owner.
 - By enabling owners to operate a Vacation Rental but not tying it to the property, there is no potential increase in property value due to a property offering Vacation Rentals.



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- Current/continuing owners and families have their rights to operate within the bylaws protected and families are enabled to continue to offer Vacation Rentals through generations.
- 7) Investors who spend no time in their home on Hornby are not eligible for a Vacation Rental Licence (HISTRA Recommendation)
 - This closes the door on investors who are not directly connected to Hornby and who do not spend any time on the island.
 - 8) Removes impact on property values
 - By enabling owners to operate a Vacation Rental but not tying it to the property, there is no potential increase in property value due to a property offering Vacation Rentals. Denying off island (those who spend no time at their Hornby property) investors a Vacation Rental licence also removes Vacation Rental as a local driver of property values.
 - 9) Water Sustainability plans are required (APC Recommendation);
 - Addresses water use concerns, shared across the Island.
 - We support the LTC to move towards rainwater augmentation for all properties on Hornby, over time.
 - 10) Septic System maintenance is required (APC Recommendation);
 - We recommend this be developed in line with the new CVRD requirement (coming in spring 2024)
 - 11) Easy to reach contacts are required during the rental period. The contact information is posted on sign at the entrance to the property. (HISTRA Recommendation);
 - This supports a 'good neighbour' philosophy and allows for concerns to be addressed quickly and locally.
 - 12) Capacity of the Vacation Rental is limited, and one rental per week is continued, (current bylaw);
 - This is an important aspect of managing the impact within neighbourhoods as well as the whole island and it should be maintained.
 - 13) Off street parking is required (current bylaw);
 - This is part of a 'good neighbour' philosophy and limits direct impacts on a neighborhood.
 - 14) Those that have open or are not working actively on resolution for Vacation Rental bylaw infractions must resolve them for them to retain their Vacation Rental Licence (HISTRA Recommendation);
 - This ensures that Vacation Rental infractions are corrected or the Licence is revoked.
 - 15) Emergency Management and Fire Safety tools are required (HISTRA Recommendation); and
 - This addresses safety both on site and in the event of a larger emergency. The Emergency Management information has already been developed in partnership with HIRRA and is available to download from the HISTRA website.
 - 16) Vacation Rental Insurance is required (HISTRA Recommendation).
 - This ensures that guests, neighbours and owners are protected if there is an accident or damage.



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First Steps Needed

1. **Hornby Island LTC to Define “Short Term Vacation Rental”** – definition should read that a Short Term Rental are rentals on Hornby are for periods of 30 days or less.
 - Hornby provides workforce housing off season, teachers, health care workers, City West, Summit etc., most of which are less than 90 days.
 - The Province has defined short term rentals as anything less than 90 days. That makes the rental of any home on Hornby for less than 90 days (even in off season) subject to the provincial fines.
 - The Province did make a provision¹ that a local government could create a different definition of short term.
2. **The CVRD establish a registry** of all operating and bylaw compliant Vacation Rentals on Hornby (APC Recommendation, enabled by Provincial Legislations).
3. **Hornby Island LTC to Define who is able to continue offering Vacation Rentals**
 - An **owner/family/family trust/home** that would have been considered a ‘legal non-conforming’ use prior to the provincial legislation, at the date of the bylaw change:
 - The owner/family/family trust had operated their Hornby home as an vacation rental in the last year/season; and
 - The property is bylaw compliant.
4. **Hornby Island LTC to Define “Bylaw Compliant”** – The Vacation Rental owner must meet OCP/LUB or legal requirements:
 - Displaying a sign (name and number to contact while renting);
 - Meet the minimum number of parking stalls (one per bedroom);
 - Offering no more than the maximum number of bedrooms (3 if the property is less than 10 acres and 4 for 10 acres +);
 - Have an septic certificate if the property is in designated IA (currently Whaling Station, Anderson Drive and High Salal);
 - Operate as a Vacation Rental only from May 1 to Sept 30 in each year;
 - The owner has no unresolved or not in active resolution Bylaw infractions specific to Vacation Rental; and
 - Registered for MRDT/PST on Vacation Rentals.

¹ Refer to pages 11 & 12 in the BC Government STR Policy Guide updated December 2023. https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/tools-for-government/short-term-rentals/str_policy_guidance_2023.pdf



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Recommendations for the Hornby Island LTC for updates to the OCP/LUB

- 1. A cap on Vacation Rentals implemented at the number established by a CVRD managed Registry.**
- 2. Require all Vacation Rentals to have a Licence**
 - Licences to be issued through the Comox Valley Regional District. (Similar to San Juan as enabled by Provincial Legislation, requires CVRD to develop this program).
 - A licence is issued once and remains, as long as a Certificate of Compliance is submitted annually and by the deadline.
- 3. Enable the Vacation Rentals in the Registry to continue operation until a Licensing Program is established and operating.**
- 4. The Vacation Rental Licence for those whose residents whose homes meet the Principal Residence requirements for property tax purposes would:**
 - Be permitted to operate Vacation Rentals at any time throughout the year, to a maximum of 22 weeks per year (the current number of permitted weeks); and
 - Be permitted to operate vacation rentals in accessory buildings other than the main house (with approved septic and water) on properties 5 acres and greater.
- 5. The Vacation Rental Licence for those who DO NOT meet the Principal Residence requirements for property tax purposes would:**
 - Be permitted to operate vacation rentals between May 1 and September 30.
 - Be permitted to operate one Vacation Rental per property
 - Be permitted to operate Vacation Rentals in the main house only
- 6. Require all Licensed Vacation Rentals to have an Annual Certificate of Compliance** once the Vacation Rental has a Licence to operate (Similar to San Juan)
 - The process would be managed by the CVRD;
 - The Annual Certificate of Compliance would be completed and submitted online or by mail; and
 - The process would be form based and easy to complete.



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Recommendations for the scope and content of CVRD Operation and Management of a Vacation Rental Licence and Certificate of Compliance:

1. Initial Vacation Rental Licences would be granted to owners who:

- a. Meet the LTC definition of bylaw compliant outlined in first steps above; and
- b. Are registered as a Vacation Rental in the CVRD Registry at the time of the initial granting of the Licence.

2. Licence is in place until surrendered or rescinded

- a. A licence is issued once and remains in place as long as a Certificate of Compliance is submitted annually and by the deadline and the owner has no outstanding Short Term Rental bylaw infractions.
- b. New Vacation Rental Licences can only be granted if there are unassigned Licences within the LTC established cap on Vacation Rentals. New applicants would be required to meet the conditions of a New Licence.

Unassigned Licences will become available if:

- a. The property is sold to an 'arm's length' purchaser (see definition in number 5 below).
- b. The current Vacation Rental owner does not offer short term rentals for a period of 24 months (as identified on the annual certificate of compliance).
- c. The Vacation Rental owner is in violation of the conditions of the Vacation Rental Licence.
- d. The Vacation Rental owner did not submit their Annual Certificate of Compliance by the deadline (see 4 below).

3. Priority of Issuing New Vacation Rental Licences

- 1) For the first year of licence program operation only:
 - Owners who meet the 'legal non confirming' definition outlined above and are in the CVRD Registry.
- 2) All subsequent New Vacation Rental Licences:
 1. First priority - Owners whose Vacation Rental is in/at their principal residence; and then
 2. Owners/family (immediate family, and/or anyone already registered on title, family trusts) who live on Hornby part of the year.

Investors who spend no time at their home/property on Hornby are not eligible for a Vacation Rental Licence.

4. Licence fee

- a. The Vacation Rental is the owner's Permanent Residence: \$250 (actual cost, TBD, program cost dependent on the costs of CVRD Licencing program)
 - The principal of this recommendation is that owners whose Vacation Rental is their 'Principal Residence' pay 50% less than that charged to those owners who are part time residents of Hornby Island.
- b. Vacation Rental Licence fee for at all other property owners: \$500 (TBD, program cost dependent on the costs of CVRD Licencing program).



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5. **Licence is given to the owner/family/family trust not the property**
 - a. If the property is sold at arm's length, new owners will need to apply for a new licence when one is available; and
 - b. Licence can continue if ownership changes within a family (immediate family of those on title, inside a family or ownership trust or other ownership structure, as an inheritance and/or to anyone previously registered on title.
 - c. The intention here is to allow changes of ownership among families, or groups who share ownership of the property in some way. Enabling the license to remain when ownership is 'continuous' in a family, partnership group, or other arrangement on title, but not when the property is sold at arms length and to an unrelated and non-continuous new owner.
6. **Licences are revoked where:**
 - a. the property is sold at arm's length
 - b. the owner listed on title has notified the CVRD they have ceased Vacation Rental use (must be done by October 31st); or
 - c. the Certificate of Compliance is not filed by the established deadline; or
 - d. the property has not been used as a Vacation Rental in the previous 24 months.
7. **New Licences** are issued:
 - a. in December of each year for the subsequent year, up to the cap set by the LTC in the OCP/LUB;
 - b. on a first come first served basis; and
 - c. in the priority sequence outlined above (see #3 in this list).
8. **Annual Compliance Certification**
 - a. Annual Compliance Certificate is required to keep a Licence active;
 - b. Certificate must be submitted by the owner between June 1 and October 31 for the subsequent year;
 - c. Certificate is considered approved unless staff contact the owner, which must be within 4 weeks of submission date or by November 15th, whichever comes first.
9. **Compliance Certification Requirements:**
 - a. Payment of fee: \$200 (actual cost, TBD, program cost dependent on the costs of CVRD Licencing program);
 - b. Submitted between June 1 and October 31 for the following year;
 - c. Maximum Capacity (2 persons per bedroom);
 - d. Maximum weeks offered for Vacation Rental (up to 22 weeks)
 - e. Only one rental to one family group in a 7 day period
 - f. Has a minimum number of off street parking stalls (one per bedroom);
 - g. Demonstrated Septic Maintenance - consistent with CVRD regulations, to be in place soon;
 - h. Copy of Water sustainability guest instructions/tools;
 - i. Proof of Vacation Rental Insurance;
 - j. Easy to reach contact during rentals;
 - k. Proof of Posted Sign 6"x12" minimum (current requirement) – with on island contact information posted;
 - l. Description of Fire safety - smoke and CO² Alarms, fire suppression tools in place; and
 - m. Copy of Emergency Management information accessible to guests.

If a CVRD registry and licencing program is not an option – a simple, administrative process to create a registry and then mirroring the Certificate of Compliance requirements will need to be developed and operated by Islands Trust using the criteria outlined above.



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Some Notes on Housing on Hornby

1. The Housing recommendations for the OCP/LUB should be separated and managed independently from the Vacation Rental discussions.
2. All dwellings, non-conforming, existing or new should be supported to move towards appropriate water and septic systems including expanding rainwater augmentation/collection.
3. Allow caretaker suites or Additional Dwelling Units on all R1 properties PROVIDED there is septic approval and a water sustainability plan. The units are only for personal or property caretaker, long term rental or owner occupation, NOT Vacation Rental.
4. Through the established processes, request that MRDT monies support specific housing activities on Hornby.