

## Background

During consideration of First Reading for proposed Bylaw 335-2023 (Summer Village of Silver Sands Land Use Bylaw) at Council's meeting on 21 July 2023, Council direct MPS to prepare a report that identifies:

- Different regulatory approaches to controlling/restricting the development of Tourist Homes (i.e. AirBnbs) through a Land Use Bylaw; and
- How the Land Use Bylaw distinguishes (or may distinguish) garage suites from single detached dwellings (above a garage).

The following report is intended to provide Council with additional information on these topics ahead of the public hearing for Bylaw 335-2023, scheduled to be held on 19 August 2023.

## Tourist Homes

The definition of a Tourist home (as defined in the proposed Land Use Bylaw) is:

*"A dwelling or dwelling unit operated as a temporary place to stay, with compensation, and includes all vacation rentals of a dwelling unit. The characteristics distinguish a tourist home from a dwelling unit used as a residence may include any of the following:*

- a. The intent of the occupant to stay for short-term (30 days or less) vacation purposes rather than use the property as a residence;*
- b. The commercial nature of a tourist home;*
- c. The management or advertising of the dwelling unit as a tourist home or "vacation rental," on any website such as Airbnb or Vrbo; and/or*
- d. The use of a system of reservations, deposits, confirmations, credit cards, or other forms of electronic payments, etc.*

*A recreational vehicle shall not be used as a tourist home."*

The Summer Village's current Land Use Bylaw (Bylaw 256-2015) does not define or regulate the development of tourist homes. However, the current LUB does regulate bed and breakfast operations. Bed and breakfast operations are defined as a "minor ancillary/subordinate commercial use of a residence where accommodation is provided for periods of fourteen (14) days or less in three or fewer guest rooms." They are considered a type of minor home occupation and are permitted uses in the residential districts. In the case of bed and breakfast establishments, the development is considered primarily a residential use with a secondary or accessory commercial use (the bed and breakfast). The main use, the dwelling, is occupied by the owner/operator who resides on site and operates the business out of their home. Currently there are no Bed and Breakfast operations with approved development permits in the Summer Village of Silver Sands.

In [Condominium Corporation No. 042 5177 v Kuzio, 2019 ABQB 814 \(Court of Queen's Bench of Alberta\)](#), it is noted that an Airbnb operation is of a "commercial nature" and displays "all hallmarks of commercial enterprises" (e.g. advertising on websites to general public; having reservation systems, availability calendars, deposit and cancellation policies; accepting credit card payments; and charging service and cleaning fees.)

Within the Summer Village of Silver Sands, there are a minimum of 3 tourist homes operating as of Summer 2023. Community feedback on this topic provided during public engagement for the Summer Village's Land Use Bylaw (seven public comments total) was not in favour of allowing tourist homes in the Summer Village. Of note, no comments referenced concerns or issues tourist homes currently operating in the Summer Village.

Municipalities throughout Alberta (particularly those near lakes and other recreational opportunities) have taken different approaches to regulating (or, not regulating) Tourist Homes within their boundaries. While some have chosen to prohibit, others have instituted development permitting requirements to allow for their controlled use. The following is a list of recent approaches to regulating this use undertaken by Summer Villages in Alberta within their Land Use Bylaws:

Summer Village	Amendment/Adoption Date	Approach
Argentia Beach	2022	Defined the use and prohibited
Golden Days	2023	Defined the use, and allowed with a development permit

Norglenwold	2022	Defined the use and prohibited
Parkland Beach	2018	Defined the use and allowed with a development permit
Rochon Sands	2019	Not defined, prohibits rental of guest houses
Sunbreaker Cove	2020	Defined the use and allowed with a development permit
Yellowstone	2012	Not defined, prohibits rental of guest houses

As an alternative to regulating Tourist Homes within the Land Use Bylaw, the Town of Sylvan Lake requires business licenses for Tourist Homes. The Summer Village does not currently have a program for business licenses within the municipality. In the absence of this program, we do not recommend this approach to address Tourist Homes in the Summer Village.

#### MPS Recommendation:

During first reading of proposed Bylaw 335-2023, Council considered allowing tourist homes within the Summer Village and requiring development permits for tourist homes to be time-limited (temporary), to allow for an annual review of the tourist home's compliance with Summer Village bylaws/policies, prior to the issuance of a new annual permit.

<b>1</b>	<p><b>If Council supports <u>allowing</u> the development of tourist homes in the Summer Village, MPS recommends the following amendments to the first read bylaw:</b></p> <ul style="list-style-type: none"> <li>• That 'tourist homes' be included in the list of discretionary uses in the R1 and R2 Districts; and</li> <li>• That Section 9.28 - Tourist Homes be revised to include the following as 9.28.3 (and all following regulations be renumbered accordingly): <ul style="list-style-type: none"> <li>○ The development of a Tourist home in the Summer Village of Silver Sands shall require a Development Permit. A development permit for a Tourist home shall be issued for a temporary period up to but not exceeding 12 months.</li> </ul> </li> </ul>
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## Single Detached Dwellings Above a Garage and Garage Suites




The proposed Land Use Bylaw allows for the development of garage suites (sleeping facility for temporary usage located within a detached garage). The proposed regulations state:

- The development of a garage suite is not allowed prior to the development of a single detached dwelling on a lot; and
- The maximum square footage of a suite cannot exceed more than fifty percent (50%) of the total floor area of the principal dwelling.


During first reading of proposed Bylaw 335-2023, Council requested clarification regarding the development of single detached dwellings where the main floor of the building was primarily occupied by a garage. MPS noted that one prospective development proponent in the Summer Village was looking to develop a primary dwelling above a garage, and that this may not be allowed given the current (and proposed new) regulations.

The following images are provided to Council for their information in assessing what forms of dwelling/garage combinations they feel may be compatible with the community.

Example	Image	MPS Observations	
1		Could it be considered a single detached dwelling?	Could it be considered a garage suite?
		<b>No</b>	<b>Yes</b>
		<ul style="list-style-type: none"> <li>• Main dwelling space occupies 2nd floor only.</li> <li>• No visible front door; garage doors faces the road/front yard.</li> <li>• Dwelling space has similar floor area as the garage.</li> </ul>	<ul style="list-style-type: none"> <li>• Habitable dwelling space developed above the accessory space.</li> <li>• Could be considered a garage suite, if: <ul style="list-style-type: none"> <li>○ A habitable, single detached dwelling is developed on the lot.</li> <li>○ It complies with other regulations respecting setbacks, site coverage, floor area, and height.</li> </ul> </li> </ul>
2		Could it be considered a single detached dwelling?	Could it be considered a garage suite?
		<b>Yes</b>	<b>Yes</b>
		<ul style="list-style-type: none"> <li>• If main dwelling space occupies all or part of the 1st and 2nd floors.</li> <li>• Front door faces the road/front yard.</li> <li>• Dwelling has larger floor area than the garage and conforms to the minimum floor area requirements in the corresponding district.</li> </ul>	<ul style="list-style-type: none"> <li>• Could be considered a garage suite, if: <ul style="list-style-type: none"> <li>○ A habitable, single detached dwelling is developed on the lot.</li> <li>○ The suite is developed within the second floor only (may require reconfiguration)</li> <li>○ It complies with other regulations respecting setbacks, site coverage, floor area, and height.</li> </ul> </li> </ul>

3		<p>Could it be considered a single detached dwelling?</p> <p><b>Yes</b></p> <ul style="list-style-type: none"> <li>Habitable dwelling space occupies 2nd floor only.</li> <li>Front door faces road/front yard.</li> <li>Dwelling space has similar floor area as the garage.</li> <li>Habitable floor area of dwelling is greater than floor area of garage and conforms to the minimum floor area requirements in the corresponding district.</li> </ul>	<p>Could it be considered a garage suite?</p> <p><b>Yes</b></p> <ul style="list-style-type: none"> <li>Habitable dwelling space developed above the accessory space.</li> <li>Could be considered a garage suite, if: <ul style="list-style-type: none"> <li>A habitable, single detached dwelling is developed on the lot.</li> <li>It complies with other regulations respecting setbacks, site coverage, floor area, and height.</li> </ul> </li> </ul>
4		<p>Could it be considered a single detached dwelling?</p> <p><b>Yes</b></p> <ul style="list-style-type: none"> <li>Habitable dwelling space occupies 1<sup>st</sup> and 2nd floors.</li> <li>Front door faces road/front yard.</li> <li>Dwelling space has similar floor area as the garage.</li> <li>Dwelling has a larger floor area than the garage and conforms to the minimum floor area requirements in the corresponding district.</li> </ul>	<p>Could it be considered a garage suite?</p> <p><b>Yes</b></p> <ul style="list-style-type: none"> <li>Habitable dwelling space developed above the accessory space.</li> <li>Could be considered a garage suite, if: <ul style="list-style-type: none"> <li>A habitable, single detached dwelling is developed on the lot.</li> <li>The suite is developed within the second floor only (may require reconfiguration)</li> <li>It complies with other regulations respecting setbacks, site coverage, floor area, and height.</li> </ul> </li> </ul>
5		<p>Could it be considered a single detached dwelling?</p> <p><b>Yes</b></p> <ul style="list-style-type: none"> <li>Dwelling is located on main (only) floor.</li> <li>Front door faces road/front yard.</li> <li>Dwelling has a larger floor area than the garage and conforms to the minimum floor area requirements in the corresponding district.</li> </ul>	<p>Could it be considered a garage suite?</p> <p><b>No</b></p> <ul style="list-style-type: none"> <li>Could not be considered a garage suite as the suite is not developed above the garage.</li> </ul>



6		<p>Could it be considered a single detached dwelling?</p> <p><b>No</b></p> <ul style="list-style-type: none"> <li>• Shop/garage has a larger floor area than the habitable area of the dwelling.</li> </ul>	<p>Could it be considered a garage suite?</p> <p><b>No</b></p> <ul style="list-style-type: none"> <li>• Could not be considered a garage suite as the suite is not developed above the garage.</li> </ul>
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MPS Recommendation:

1	<ul style="list-style-type: none"> <li>• Revise the definition for “dwelling, single detached” to read (changes shown in bold): <i>means a building consisting of one (1) dwelling unit. A single detached dwelling is normally constructed on-site. However, a single detached dwelling may be constructed in pieces off-site, or even in one piece, with the piece(s) being transported to the site for assembly on-site and thus may be a modular dwelling. Single detached dwellings do not include manufactured home dwellings, mobile home dwellings, suites, park models, <b>relocatable industrial accommodations (i.e. ATCO trailers)</b>, or recreational vehicles. A single detached dwelling must:</i> <ul style="list-style-type: none"> <li>○ <i><b>have a front door facing the road or clearly visible from the road directly into the main level of building;</b></i></li> <li>○ <i><b>occupy a greater floor area than the attached garage in the building; and</b></i></li> <li>○ <i><b>comply with orientation and design requirements in Section 9.3 -Building Orientation and Design.</b></i></li> </ul> </li> </ul>
2	<ul style="list-style-type: none"> <li>• Revise the definition for “habitable” to read (changes shown in bold and strikethrough): <i>means a room or enclosed space used or usable for human occupancy, including but not limited to kitchens, bedrooms, living rooms, family rooms, <b>bathrooms</b>, and dens, excluding NON-HABITABLE ROOMS which include <del>bathrooms</del>, laundries, pantries, foyers, hallways, entry ways, storage areas and rooms in basements and cellars used only for recreational purposes or any space in a dwelling providing a service function and not intended primarily for human occupancy.</i></li> </ul>