



# Staff Report

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## Fire Services

**Report To:** Committee of the Whole  
**Meeting Date:** November 5, 2018  
**Report Number:** FAF.18.151  
**Subject:** STA By-law Revision  
**Prepared by:** Rob Collins, Director of Fire and Enforcement Services

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### A. Recommendations

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THAT Council receive Staff Report FAF.18.151, entitled "STA By-law Revision";

AND THAT Council receive the draft Short Term Accommodation licensing By-law as attached to Staff Report FAF.18.151;

AND THAT Council direct staff to initiate the Public Consultation Process including the required Public Meeting for consideration of the draft Short Term Accommodation and draft Property Standards By-law for consideration.

### B. Overview

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This report presents the final draft of the proposed STA Licensing By-law and provides clarification of four specific issues including change to occupant load, use of the Provincial Offences Court, use of the Responsible Person and enforcement of non-licensed Short Term Accommodation properties raised at the October 10 Special COW meeting regarding the changes to the STA program.

### C. Background

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Staff have been working toward a revision of the Short-Term Accommodation Licensing By-law, which has been in place since the STA program started in 2014. The revisions are intended to define certain terms, specify occupant loads, and implement new policies for enforcement of STA regulations. The process has included a Public Meeting, and the comments from that meeting were communicated to Council as part of Staff Report FAF.18.126. On October 10, at a Special Committee of the Whole meeting, Staff presented the draft By-Law, including specific revisions to the existing STA program. Some questions were raised about certain aspects of the program, and changes to existing By-laws. This report will provide detailed answers to those questions, and includes a draft of the proposed new STA Licensing By-law.

## **D. Analysis**

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### **Occupant Load**

The Town's Property Standards By-law contains specific sections that provide controls that regulate certain aspects of the STA licensing rules. Section 5.06 dictates the Occupant Load calculation for STA properties. The Occupant Load is defined in the Property Standards By-law as being two persons per bedroom plus an additional two persons. It has been determined through the review of the STA Program that staff had developed an operational policy prescribing an occupant load of two persons per bedroom plus two plus an additional two persons when a sleeping area could be defined as an additional bedroom. Given that so many licenses had already been issued per this formula, the numerous comments from STA operators stating that the "plus four" model was important to their business operations, and the fact that the higher occupant limits did not contribute to higher complaint statistics, Staff are now recommending that the "plus four" occupant load be adopted. Council, at the October 10 Special COW meeting, directed Staff to proceed with this option.

The Property Standards By-law also contains several sections prescribing certain specific requirements for STA properties, most of which are mandated by the Ontario Building Code. Staff are recommending that these sections should not remain in the Property Standards By-law, as they are not necessary because they are duplication of a Provincial regulation. Staff propose that these sections be removed for the Property Standards By-law when it is reviewed in the new year. The Property Standards By-law is due for significant revision, due to some changes in Provincial legislation and the necessary revisions would be recommended as part of that process.

Changes to the Property Standards By-law will require a formal public process, including a mandatory public meeting. A proposed schedule of the By-law enactment process has been provided with the enactment of a revised By-law being approved in 2019.

### **Use of the Provincial Offences Court**

There were some questions at the October 10 Special COW meeting about the proposed use of Provincial Offences court to prosecute offending STA operators under the STA By-law. There was some concern about the process causing increased delays in dealing with infractions and the issuance of demerit points, as well as a concern about causing a backlog in the courts. The proposed process would see a POA charge laid against the owner of an STA property whenever there was an infraction at their property. For example, in the case of a noise violation, the tenant involved would be charged with the violation through POA court (which is the same as our current practice). Upon conviction of the renter, the owner would then be charged with failing to follow the requirements of the STA By-law, specifically – failing to prevent noise from occurring. The owner would then have the option of contesting the charge in court, or simply to plead guilty and pay the fine. Upon conviction, we would assess the prescribed demerit points, and these points would remain in place for two years from the date of conviction. If the license were to be renewed within that two-year time period, the demerit points would remain on the new license. Under the present system, the owner would automatically be issued demerit

points upon conviction of the tenant. The owner would then have the option of appealing those demerit points to the STA Licensing Committee. The demerit points have typically been applied after the date of the appeal, and remain in place for two years. While concerns have been raised that the POA process would add an undue amount of time to the process, it should be noted that we have seen cases where STA owners have rescheduled their appeal date multiple times.

STA operators have expressed the desire to defend charges against them in POA Court, rather than through the Committee appeal process, as the committee has previously refused to consider the “Due Diligence” defense from the owners. The court process would put the decision in the hands of a Provincial Court Justice, which is seen as a more fair and transparent option. A 2017 legal opinion obtained from the Town’s solicitor supports the POA Court option. If Council is in favour of this option, staff will undertake the process of making offences under the STA By-law “Set Fine” offences, a process through the courts which would allow Municipal Law Enforcement Officers to simply issue a ticket for these offences, rather than the more complicated route of issuing a summons. While the owners will still be able to contest the ticket in Court, this option should help to reduce the time needed to resolve the offence. Staff do not believe that the use of POA Courts to deal with STA charges will cause undue delays or a backlog in the court system; staff have dealt with relatively few STA complaints involving demerit points – only eight cases in 2016 and seven in 2017.

### **Responsible Person**

Another major issue raised at the October 10 COW meeting was the use of the Responsible Person in dealing with STA-related complaints. Every licensed STA is required to provide the contact information for a designated Responsible Person. This individual will be notified in the case of any STA-related complaint, and the expectation is that the RP will take immediate steps to correct the issue. When a complaint is received by the By-law Enforcement department, the RP is immediately notified of the issue. The RP then has one hour to correct the issue, and to communicate the solution back to By-law.

To illustrate the process, consider a noise complaint called in to the By-law department and handled by the after-hours answering service. The answering service operator will contact the RP and note the time. The RP will deal with the noise as appropriate, either by dispatching Security personnel they may employ, by attending the address or otherwise contacting the tenant, or by requesting OPP attendance to deal with the complaint. Once the noise is stopped, the RP will advise the operator that the issue has been dealt with and no further action will be taken. The By-law department will be notified of the incident, and a warning notice will be issued to the owner. If the noise is not dealt with within the hour, the operator will notify OPP to deal with the complaint. If charges are brought by OPP, the offender will be prosecuted for the offence and the process of charging the owner under the STA By-law will begin, as discussed previously.

If the complainant chooses not to contact By-law with the complaint, and contacts OPP directly to make the noise complaint officers will attend, based on priority calls, and deal with the complaint. If charges are laid, the tenants will be prosecuted through the courts. In this case,

because the Responsible Person was not notified and given the opportunity to correct the complaint, staff would propose that no action be taken against the owner and no demerit points would be issued. The option of treating late-night complaints, i.e 11:00 pm until 6:00 am, differently has also been discussed. Council may wish to direct that these calls will carry automatic demerit points if the tenant is convicted of a noise violation, even if the RP was not involved. This could be considered at the discretion of Council by way of recommendation of the Director and dependent on the specific conditions of the incident.

In another example, the process of dealing with a long grass complaint would look similar to the way By-law Enforcement would deal with any complaint. When a property is identified as having unacceptably long grass, as defined in the Long Grass By-law, the owner is typically notified and given a deadline to cut the grass. If the owner does not correct the matter in the allotted time, the MLEO would arrange to have the grass cut by a contractor, and the cost would be billed to the owner. In most cases, no further action is taken, although there is the option of charging the owner with an offense under the By-law. The process for an STA property looks similar, except that the complaint would be relayed to the Responsible Person, who would be expected to deal with the issue. A similar deadline would be enforced and staff would ensure that the grass was cut by a contractor if the issue was not resolved in time. Staff would again pass the cost on to the owner of the property, and staff would have the option of laying a charge under the By-law and to issue demerit points for the infraction. It should be noted that the RP program has been very successful in dealing with the majority of complaints received including parking, garbage, and long grass complaints.

### **Enforcement of Non-licensed STA's**

Finally, the issue of illegal unlicensed STA properties has been a topic of concern. Legal STA operators and other residents have expressed concern that illegal STAs can be found on AirBNB and other internet sites. By-law officers have worked diligently at investigating and prosecuting owners of these illegal operations, however it can be difficult to acquire proof of these infractions. That said, 62 owners have been charged with infractions since the program's inception. It has been suggested that Council could direct Staff to change the penalty for operating illegally. Currently the penalty, in addition to a fine, is seven demerit points. The logic of assigning demerit points to a license that does not exist can be questioned. It has been suggested that a two-year prohibition on having an STA license would be more appropriate.

A draft of the revised STA Licensing By-law is attached to this report. Any new direction from Council will be incorporated into the draft, which will be brought to Council on November 19<sup>th</sup> for final approval.

## **E. The Blue Mountains Strategic Plan**

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- Goal #1: Create Opportunities for Sustainability
- Objective #1 Retain Existing Business
- Objective #2 Attract New Business

Goal #2: Engage Our Communities & Partners  
Objective #1 Improve External Communication with our Constituents  
Objective #3 Strengthen Partnerships

Goal #4: Promote a Culture of Organizational & Operational Excellence  
Objective #2 Improve Internal Communications Across our Organization  
Objective #3 To Consistently Deliver Excellent Customer Service

## **F. Environmental Impacts**

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Ensuring STA operations are reflective and non-intrusive to the local area community

## **G. Financial Impact**

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Review of Short Term Accommodation Licence Fees through h the 2019 Budget process

## **H. In Consultation With**

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Shawn Everitt, Interim CAO

Nathan Westendorp, Director of Planning & Development Services

John Metras, Acting Director of Planning & Development Services

Wayne DeWitt, By-law Supervisor / Prosecutor

Shawn Postma, Senior Policy Planner

## **I. Public Engagement**

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The topic of this Staff Report has been the subject of a Public Meeting and/or a Public Information Centre which took place on May 28, 2018. Comments from that meeting have been communicated in a previous Staff Report to COW.

This chart outlines the proposed timeline for the public consultation process and consideration of the revised STA Licensing By-law and the revised Property Standards By-law going forward.

<b>Date</b>	<b>Meeting</b>	
November 5 2018	Committee of the Whole	Staff Report FAF.18.151 “considered”
November 10, 2018	Council	FAF.18.151 “adoption”
December 17, 2018	Council (Public Meeting)	
January 14, 2019	Committee of the Whole	Staff Report to Follow up on comments received at Public Meeting “considered”
January 28, 2019	Council	Staff Report to Follow up on comments received at Public Meeting “adoption”
February 25, 2019	Committee of the Whole	Staff Report to Enact a By-law(s) “considered”
March 11, 2019	Council	Staff Report to Enact a By-law(s) “adoption”
April 1, 2019	Council	Enactment of By law(s)

## **J. Attached**

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1. Draft STA Licensing By-law

Respectfully submitted,

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Director of Fire & Enforcement Services

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# The Corporation of the Town of The Blue Mountains

## By-Law Number 2018 –

### **“Being a By-law to licence, regulate and govern short term accommodation uses”.**

Whereas Section 8 of the Municipal Act, 2001, S.O. 2001, c.25 (“Municipal Act, 2001”) provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act; and

Whereas Section 9 of the Municipal Act, 2001, provides that Section 8 and Section 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and, (b) enhance their ability to respond to municipal issues; and

And whereas the Council of the Corporation of the Town of The Blue Mountains has enacted By-law No. 2013-50, as amended to licence, regulate and govern short term accommodation uses in the Town of The Blue Mountains; and

Now Therefore Council of The Corporation of the Town of The Blue Mountains hereby enacts as follows:

### **1.0 DEFINITIONS**

#### **1.1 In this By-law:**

**Action** means a proceeding under Part I or Part III of the Provincial Offences Act;

**Agencies** means those agencies, authorities, boards, commissions, departments and ministries that are involved in the review of an application; commenting on an application; or, where applicable, the inspection of a premise;

**Agent** means a person duly appointed by the Owner to act on their behalf;

**Applicant** includes a person seeking a licence or renewal of a licence or a person whose licence is being considered for revocation or suspension;

**Bedroom means** a room or area used, designed, equipped or intended for sleeping;

**Chief of Police** means the local Ontario Provincial Police Detachment Commander;

**Council** means Council of the Corporation of the Town of The Blue Mountains;

**Demerit Points** means the demerit points on a Short Term Accommodation licence.

**Director** means the Director, Enforcement Services Division, or his/her designate;

**Disturbance** means an event where an action has commenced with respect to nuisance, noise or other disturbance;

**Division** means the Enforcement Services Division

**Enforcement Services Division** means the division responsible for the administration and enforcement of this By-law;

**Fee** means those fees as set out in By-law No. 2018-8 or re-enacted from time to time , being the Town’s Tariff of Fees By-law;

**Fire Chief** means the individual appointed to this position by Council or his/her designate;

**Friendly Notice** means a written notice outlining the details of a violation warning issued.

**Health Unit** means the Grey Bruce Health Unit;

**Infraction Notice** means a written notice outlining an incident that occurred at a licensed short term accommodation premise and a Certificate of Offence pursuant to the Provincial Offences Act as issued by an officer.

**Licence** means a licence issued under this By-law;

**Licencee** means a person who holds a licence under this By-law;

**Medical Officer of Health** means the Medical Officer of Health of the Grey Bruce Health Unit or his/her designate;

**Officer** means the person, or persons, who have been appointed to enforce the provisions of this By-law and includes a provincial offences officer as defined by the Provincial Offences Act;

**Owner** means the person holding title to the lands on which the short term accommodation premises is located;

**Parking Management Plan** means a plan, drawn to scale, depicting the size and location of all parking spaces intended to be used for parking on the premises;

**Premises** means any place, premises or location, or part thereof, in which a trade, business or occupation of short term accommodation is carried on;

**Property Management Plan** means a plan that identifies those measures the Owner will implement so as to ensure compliance with the Town's Property Standards By-law, Waste Collection By-law and any other By-law related to property maintenance and/or management;

**Property Standards By-law** means the Property Standards By-law of the Town enacted under S. 15.1 of the Building Code Act that prescribes standards for the maintenance and occupancy of property;

**Renter** means the person responsible for the rental of the premises by way of concession, permit, lease, licence, rental agreement or similar commercial arrangement;

**Renter's Code** means a document that has been prepared by the Owner that has been approved by the Town that is agreed to in writing by a renter that sets out the roles and responsibilities of the renter, including behavioral expectations as they relate to non-disturbance; which provides a warning related to the making of a disturbance; and, which identifies applicable Town By-laws that the renter must comply with including the provisions of this By-law as they relate to, amongst other things, the Parking Management Plan;

**Short Term Accommodation** means a building or structure or any part thereof that operates or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, licence, rental agreement or similar commercial arrangement for any period less than thirty (30) consecutive calendar days, throughout all or any part of a calendar year. Short term Accommodation uses shall not mean or include a motel, hotel, bed and breakfast establishment, tourist cabin or cottage, hospital, commercial resort unit, village commercial resort unit or similar commercial or institutional use;

**Short Term Accommodation Coordinator** means the person, or persons, who have been appointed to enforce the provisions of this By-law;

**Town and Town of The Blue Mountains** mean the Town of The Blue Mountains;

**Zoning By-law** means a By-law enacted under section 34 of the Planning Act that restricts and/or regulates the use of land.

1.2 Words or phrases contained herein and which are not defined by this By-law, are firstly to be assigned the definition or meaning attributable to them in the applicable zoning By-law and, failing such a definition or meaning, the everyday meaning of such word or phrase.

## **2.0 APPLICATION**

- 2.1 The requirements of this By-law apply to the trade, business or occupation of providing short term accommodation within the geographic limits of the Town as of the date this By-law comes into effect.
- 2.2 Persons who own, operate or offer a premises for short term accommodation as of the effective date of this By-law must file an application for a licence under this By-law:
- (1) no later than July 2, 2014, for existing premises located within the geographic areas identified by Schedule A-1 to this By-law; and
  - (2) no later than December 1, 2014, for existing premises located within the balance of the geographic limits of the Town.
- 2.3 The determination of whether a licence application is “complete” in accordance with the requirements of this By-law shall be within the sole discretion of the Director.
- 2.4 For greater certainty, the requirements of this By-law do not apply to a hotel, motel, bed and breakfast establishment, hospital, commercial resort unit, village commercial resort unit or similar commercial or institutional use as defined by the applicable zoning By-law.

## **3.0 LICENSING REQUIREMENTS**

- 3.1 No person shall carry on any trade, business or occupation of short term accommodation unless that person has first obtained a licence.
- 3.2 A person who obtains a licence shall comply with the regulations set out in this By-law for such licence. Failure to comply with the regulations constitutes an offence.
- 3.3 An agent of persons who own, operate or offer a premise for short term accommodation purposes without a licence shall also be personally liable for the compliance of his principal, beneficiary or persons he represents. Failure by such a person to comply with this By-law constitutes an offence.
- 3.4 Licences issued pursuant to this By-law are conditional upon compliance by the licensee with all municipal By-laws and compliance with all Provincial and Federal Laws and Regulations and any conditions imposed to the holding of the licence.

## **4.0 ADMINISTRATION**

- 4.1 The Enforcement Services Division is responsible for the administration and enforcement of this By-law.
- 4.2 Every application for a new licence or a renewal or extension of an existing licence shall be submitted to the Division on the forms prescribed.
- 4.3 Every application for a new licence or a renewal or extension of an existing licence shall include:
- (1) each owner, applicant and/or agent’s name, address, telephone number, facsimile transmission number and e-mail address;
  - (2) a copy of the transfer/deed evidencing the ownership of the premises;
  - (3) in the instance of an applicant or agent acting on behalf of the Owner, an Owner’s written authorization permitting the applicant or agent to act on their behalf;
  - (4) the rental agent’s or agency’s name, address and telephone number;
  - (5) in the instance of a corporation or partnership, the name, address and telephone number of each director and officer or partner of the Owner and/or rental agent or agency;

- (6) the name, address, telephone number and e-mail address of a person who has been assigned by the owner or operator to be the responsible person for the operation and conduct of the inhabitants of the licenced short term accommodation premises;
- (7) a statement from the Owner certifying the accuracy, truthfulness, and completeness of the application;
- (8) proof of placement of insurance specific to the rental nature of the property that includes a limit of liability of not less than \$2 million per occurrence for property damage and bodily injury and includes provisions that the Town will be notified of any intended cancellation by the insurer no fewer than 15 days prior to such cancellation;
- (9) floor plans and a site plan, drawn to scale and fully dimensioned, of the short term accommodation premises depicting the use of the premises including the proposed occupancy of each room; occupant load for sleeping purposes of each room; location of smoke detection and early warning devices; location of fire extinguishers, and, related site amenities including parking, landscaping and other buildings or structures on the land;
- (10) a Parking Management Plan that complies with the applicable Town zoning by-law;
- (11) a Property Management Plan identifying measures the Owner will implement for the purpose of complying with the Town's Property Standards By-law, Waste Collection By-law and any other By-law related to property maintenance and/or management;
- (12) a Renter's Code;
- (13) the prescribed fees; and,
- (14) any outstanding fees or fines owed to the Town by the Owner respecting any short term accommodation premises.

- 4.4 A licensee shall inform the Division of any changes to the information provided in 4.3 within a period of 15 days.
- 4.5 In addition to the requirements of 4.3, an applicant shall provide, if requested, evidence that the use of the short term accommodation premises is protected by virtue of S. 34(9)(b) of the Planning Act with such evidence including, but not be limited to, a sworn Statutory Declaration confirming the continued use of the premises for short term accommodation purposes from prior to the enactment of a By-law that prohibited such use through to the present; rental receipts, advertisements and any other records that may be relevant that are supportive of the establishment and continued use of the premises for short term accommodation purposes; and, an opinion, from a solicitor licensed to practice in Ontario, as to whether the premises is protected by virtue of S. 34(9)(b) of the Planning Act and, in support of that opinion, the reasons why.
- 4.6 Every application for a licence will be reviewed by the Director with consultation of the Planning and Development Services staff to determine whether it meets the requirements of this By-law.
- 4.7 As part of the review referenced at 4.6, the application will be circulated to those agencies deemed necessary and/or relevant by the Director.
- 4.8 Those agencies referenced at 4.7 may require an inspection of the premises prior to the provision of comments and prior to the consideration of the application by the Director. The applicant shall cooperate and facilitate in arranging the inspection of the premises in a timely manner and shall be in attendance during the inspection. In the instance of the requirement of the payment of fees for such an inspection, the applicant shall pay the fees as required prior to the inspection.
- 4.9 If it is determined that an application meets the requirements of this By-law and all circulated agencies, the Director shall issue the licence.

- 4.10 If it is determined that an application does not meet the requirements of this By-law and the requirements of all of the circulated agencies, the Director shall refuse the issuance of the licence.
- 4.11 A licence shall be issued to the owner of the short term accommodation premises.
- 4.12 A licence is valid for a period of 2 years from the date of issuance.
- 4.13 Adjustments in the fees prescribed shall automatically be effected each year based on the percentage change in the Consumer Price Index of Statistics Canada.
- 4.14 A licensee is not eligible for the renewal or extension of an existing licence unless the licensee has provided an application form.
- 4.15 A licence is not transferable.
- 4.16 No person shall enjoy a vested right in the continuance of a licence.
- 4.17 Licences shall remain the property of the Town.
- 4.18 If at any time the Director determines as a result of evidence that is provided that the operation of a licenced short term accommodation premises does not conform to the requirements of this By-law, the Director may refer the matter by way of an open session report to Council.
- 4.19 If at any time the Director determines as a result of evidence that is provided that the operation of a licenced short term accommodation premises does not conform to the requirements of this By-law, the Director may commence with proceedings pursuant to the Provincial Offences Act.
- 4.20 A person whose application for a new licence or a renewal of a licence has been refused may, within fifteen days of being notified of the Director's decision, may appeal to Council review the decision. If an application for review has not been applied for within fifteen days, the licence application will be deemed to be closed.
- 4.21 A person who has applied for a review to Council of the Director's decision noted in Section 4.9 or 4.17 will be given an opportunity to make written representations or to appear before Council when it reviews the matter.
- 4.22 Council will review the matter and may affirm, modify or rescind the decision of the Director or, in the instance of a licence refusal, direct that the licence be issued with such terms and/or conditions deemed appropriate by the Council or, suspend or revoke a licence.
- 4.23 Council will review the matter and may affirm, modify or rescind the decision of the Director or, in the instance of a licence refusal, direct that the licence be issued with such terms and/or conditions deemed appropriate by Council.
- 4.24 Decisions of Council are final.
- 4.25 Matters to be considered by Council, including that information identified at 4.25 and the location, date and time of the Hearing shall be posted to the Town's website.
- 4.26 Matters, notices, orders and communications related to a non-compliance under a Federal or Provincial Law or Regulations or a municipal By-law, including, but not limited to, the Property Standards By-law; the Building Code Act; the Building Code; the Fire

Protection and Prevention Act; the Fire Code; the Ontario Electrical Safety Code; or, an order of the Medical Officer of Health are not appealable to Council.

- 4.27 Council will review the matter and may affirm, modify or rescind the decision of the director or, in the instance of a licence refusal, direct that the licence be issued with such terms and/or conditions deemed appropriate by Council.
- 4.28 Decisions of Council are final.
- 4.29 Applications for licence and issued licences, along with the legal description and/or emergency number and associated owner, agent, applicant and responsible person contact information will be posted to the Town's website.
- 4.30 Matters to be considered by Council, including that information identified at Section 4.29 and the location, date and time of the Hearing shall be posted to the Town's website.
- 4.31 Matters, notices, orders and communications related to a non-compliance under a Federal or Provincial Law or Regulations or a municipal By-law, including, but not limited to, the Property Standards By-law; the Building Code Act; the Building Code; the Fire Protection and Prevention Act; the Fire Code; the Ontario Electrical Safety Code; or, an order of the Medical Officer of Health are not appealable to the Committee or Council.

## **5.0 GENERAL REGULATIONS**

- 5.1 No person shall carry on any trade, business or occupation of short term accommodation for which a licence is required under this By-law unless that person has first obtained a licence.
- 5.2 No person shall carry on any trade, business or occupation of short term accommodation for which a licence is required under this By-law if the licence has expired or been revoked; or, while the licence is under suspension.
- 5.3 A person is not eligible to hold a licence if the proposed use of the land, building or structure is not permitted by the zoning By-law that applies to the property.
- 5.4 A person is not eligible to hold a licence unless the person has provided a statement prepared by the Fire Chief dated within a period of 24 months of the date of application for licence indicating that the premises conforms to the Fire Protection and Prevention Act and its regulations as they relate to the operation and use of the premises for short-term accommodation purposes with such statement indicating the occupant load for sleeping purposes for the premises.
- 5.5 A person is not eligible to hold a licence unless the person has provided a certificate from the Electrical Safety Authority dated within a period of 24 months of the date of application for licence indicating that the premises conforms to the Electrical Safety Code.
- 5.6 A person is not eligible to hold a licence if the person is indebted to the Town in respect of fines, penalties, judgments or any other amounts owing, including awarding of legal costs and disbursements and outstanding property taxes and late payment charges against all properties owned by the owner.
- 5.7 A person is not eligible to hold a licence if the property to be used for carrying on the trade, business or occupation does not conform with applicable Federal and Provincial Law and Regulations or municipal By-laws, including, but not limited to, the Zoning By-law; Property Standards By-law; the Building Code Act; the Building Code; the Fire Protection and Prevention Act; the Fire Code; the Ontario Electrical Safety Code; or, an order of the Medical Officer of Health.
- 5.8 A person is not eligible to hold a licence unless a Renter's Code for the premises has been submitted to and approved by the Director.

- 5.9 The owner shall operate the short term accommodation premises in accordance with the Parking Management Plan and Property Management Plan that has been approved by the Director.
- 5.10 The owner shall keep a record of the renter with such record containing the date of entry, the length of stay, home address of the renter and confirmation of receipt of the Renter's Code with such record readily available for inspection at all times by an Officer for a period of one year.
- 5.11 The owner shall display the licence permanently in a prominent place in the short term accommodation on premises to which it applies.
- 5.12 Each licence shall include the following:
- (1) Building/site/location address/identifier (i.e. Emergency or 911 Number);
  - (2) Licence number;
  - (3) Effective date and expiry date of the licence;
  - (4) Owner's name and contact information;
  - (5) Rental agent or agency's name and contact information;
  - (6) Responsible person's name and contact information; and,
  - (7) A plan, that is plaqued or framed, that depicts the location of each bedroom, smoke alarm, extinguisher and exit/egress door or
- 5.13 The owner of a short term accommodation premise shall ensure that there is a responsible person available to attend to the short term accommodation premises at all times within a period of no greater than one hour from the time of contact by way of telephone or e-mail.
- 5.14 The owner or agent of a short term accommodation premise shall ensure that each renter has been provided with the Renter's Code with the owner retaining a copy of the confirmation of receipt of the Renter's Code for a period of one year.
- 5.15 The owner of a short term accommodation premise for which a licence is required under this By-law shall allow, at any reasonable time, an employee or agent of the Town to inspect the premises used for the purposes of short term accommodation so as to determine compliance with the requirements of this By-law, Fire Code, Building Code, Property Standards By-law or other applicable law.
- 5.16 No person shall obstruct, hinder or otherwise interfere with an authorized employee or agent of the Town while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this By-law or any other municipal By-law or Provincial legislation or regulation.
- 5.17 No person shall construct or equip a place of business or premises used for the business so as to hinder the enforcement of this By-law.
- 5.18 Every owner shall maintain the short term accommodation premises in a clean and sanitary condition, with adequate measures for the storage and disposal of garbage and waste and sufficient levels of illumination to permit the safe use of the premises. For the purposes of this subsection, adequate measures for the storage and disposal of waste shall mean a self-enclosed building, structure or container, located outside of the short-term accommodation premises, which is of a sufficient size that will store the garbage and waste generated by the premises until such garbage and waste is disposed of.
- 5.19 Every licensee shall ensure that the short term accommodation premises is operated and used in a fashion such that the operation or use will not cause a disturbance.
- 5.20 Every licensee shall provide an undertaking to operate the short term accommodation premises in accordance with all Town By-laws including, but not limited to, the Town's Noise Control By-law, Property Standards By-law and Garbage Collection By-laws, and any applicable Provincial or Federal laws or statutes including the Ontario Fire Code and

laws related to the making of a disturbance. Further, every licensee shall include in such undertaking a confirmation that they will require that each renter enter into a Renter's Code.

- 5.21 No licensee or employee of a licensee shall discriminate in the carrying on of the trade, business or occupation of short term accommodation against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.
- 5.22 The Director may revoke a licence if it was issued on mistaken, false or incorrect information.
- 5.23 The maximum number of occupants within a dwelling that is being operated as a Short Term Accommodation shall not exceed the maximum number permitted under the Town's zoning by-laws. If the Town's zoning by-laws do not prescribe a maximum number of occupants within a dwelling that is being operated as a Short Term Accommodation, the maximum total number shall be based upon a maximum of two (2) persons per bedroom plus an additional four (4) persons or the lesser number of occupants allowed based on the number of approved parking spaces.
- 5.24 The Provincial Offences Court shall hear all offences.
- 5.25 Appeals to a conviction shall be processed through a high court.

## **6.0 DEMERIT POINT SYSTEM**

- 6.1 A demerit point system is established as follows without prejudice to options otherwise available to enforce this By-law or any other By-law of the municipality or Provincial Act or Regulation including, but not limited to, actions pursuant to the Building Code Act, Fire Protection and Prevention Act and the Provincial Offences Act.
  - (1) The number of demerit points referenced in Column 3 of Table 1 below will be assessed against a short term accommodation premises in respect of the matter noted in Column 1 upon the following event respecting a contravention:
    - (a) the expiry of the period for appealing a fine imposed pursuant to Part I or Part III of the Provincial Offences Act;
    - (b) the expiry of the period for appealing against a conviction in the Ontario Court of Justice;
    - (c) the confirmation of an order.
  - (2) Demerit Points shall remain in place until the two year anniversary of the date on which the demerit points were confirmed.
- 6.1(2) (a) Demerit Points are applied on the day of conviction of any violation.

<b>Table 1</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Infraction</b>	<b>Reference</b>	<b>Demerit Points</b>
Fire Protection & Prevention Act/Fire Code	FPPA	15 (1)
Operating without a licence	3.1	7
Building Code Act (Construction without a permit)	BCA	7
Sleeping in excess of maximum permitted	5.4(1) & 5.9	5
Non-availability of Responsible Person	5.14	5
Noise By-law Infraction	5.19 & 5.20	5
Allowing activity that causes a disturbance	5.19	5
Not providing updated information	4.4	3
Contrary to Parking Management Plan	5.10	3
Contrary to Property Management Plan	5.10	3
Not posting licence	5.12	3
Property Standards	5.20	3
Long Grass	5.20	2
Waste/Garbage Collection	5.20	2

(1) See 5.4 and 5.7

6.2 Where a warning is issued;

(a) A friendly notice issued by the Director outlining the detail of the violation warning issued at a short term accommodation shall be sent to the short term accommodation operator/owner(s) as soon as reasonably practical after the warning having been issued by an officer.

(b) An infraction notice is to serve as a reminder to the operator/owners(s) of the disturbance that occurred at the short term accommodation premise and that any future occurrence to that particular short term accommodation premises may result in the issuance of an infraction Notice with corresponding Demerit Points.

## **7.0 REVOCATION AND SUSPENSION**

7.1 In accordance with 4.22, Council may affirm, modify or rescind the decision of the Director or, in the instance of a licence refusal, direct that the licence be issued with such terms and/or conditions deemed appropriate by Council or, suspend or revoke a licence.

7.2 Regard to the nature, severity and frequency of non-compliances related to the premises, and any other premise owned by the owner, shall be considered by Council in considering the length of a suspension and/or a revocation.

## **8.0 OFFENCE AND PENALTY PROVISIONS**

8.1 Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Municipal Act, 2001 or the Provincial Offences Act and to any other applicable penalties.

8.2 If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

8.3 If this By-law is contravened and a conviction entered, the court may also order that the premises or part of the premises be closed to any use as short term accommodation.

## **9.0 DELEGATION**

9.1 For the purposes of subsection 23.2(4) of the *Municipal Act*, it is the opinion of Council that the powers delegated pursuant to this By-law are minor.

9.2 Regard to the nature, severity and frequency of non-compliances related to the premises, and any other premise owned by the owner, shall be considered by Council in considering the length of a suspension and/or a revocation.

**10. VALIDITY**

10.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law that each and every provision of this By-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

**11.0 SHORT TITLE**

11.1 This By-law shall be known as the "Short Term Accommodation Licensing By-law".

1. That the
2. That the
3. The Mayor

Upon the enactment of this By-law, By-law 2013-50, as amended will be repealed.

Enacted and passed this \_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
John McKean, Mayor

\_\_\_\_\_  
Corrina Giles, Clerk