THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2023-059

A By-law for the Licensing, Regulating and Governing of Short Term Rentals in the Town of Amherstburg

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WHEREAS Subsection 8(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the Act) provides that the powers of a Municipality under any act shall be interpreted broadly so as to confer broad authority on Municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to Municipal issues;

AND WHEREAS Section 9 of the Act provides that a Municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS Section 10(2) of the Municipal Act provides that a lower-tier municipality may pass by-laws respecting health, safety and well-being of persons, business licensing and protection of persons and property, including consumer protection;

AND WHEREAS Section 151 (5) of the Municipal Act provides that a municipality may pass by-laws with respect to any activity, matter or thing for which a by-law may be passed under Sections 9, 1O and 11 as if it were a system of licences with respect to a business;

AND WHEREAS Section 391 of the Municipal Act provides for the municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 425 of the Municipal Act provides for a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Section 426 of the Municipal Act provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under the Municipal Act or under a by-law passed under the Municipal Act;

AND WHEREAS Section 429 of the Municipal Act provides for the municipality to establish a system of fines for offences under a by-law of the municipality passed under the Municipal Act;

AND WHEREAS Section 431 of the Municipal Act provides that if any by-law of the municipality is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an Order to prohibit the continuation or repetition of the offence by the person convicted;

AND WHEREAS Sections 444 and 445 of the Municipal Act respectively, provide for the municipality to make an Order requiring a person who contravenes a by-law or who causes or permits the contravention or the owner or occupier of land on which a contravention occurs to discontinue the contravening activity or do work to correct a contravention;

AND WHEREAS the Council of The Corporation of the Town of Amherstburg deems the licensing of Short-Term Rental Owners and the regulation of all related activity to be in the interest of public safety, community well-being and nuisance control;

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Schedule A of By-law 2023-059

Short Term Rental

In this Schedule of the By-law:

1. Definitions

"Bedroom" means a room or area, separated from the common living area(s) of the Short-Term Rental Property Unit, which is equipped with a sleeping type bed and a closable, latching door for privacy. A Bedroom shall further meet the requirements for natural light as set out in the Ontario Building Code, and, must provide for adequate means of egress, as approved by the Fire Department;

"Dwelling Unit" means a suite operated as a housekeeping unit, used, or intended to be used by one or more Persons and usually containing cooking, eating, living, sleeping and sanitary facilities;

"Fit for Duty" means **a condition in which an employee's physical, physiological and psychological state enables them to continuously perform assigned tasks safely.**

"Maximum Occupancy" means the maximum number of occupants permitted on the Premises;

"Parking Management Plan" means the process through which a property owner provides a parking plan without negatively affecting the neighbourhood in which the property is located.

"Principal Residence" means a Person's permanent lodging place to which, whenever absent he or she intends to return;

"Renter's Code" means a document prepared by the Owner that:

(a) sets out the roles and responsibilities of a Renter including behaviour expectations as they relate to causing a disturbance;
(b) provides a written warning related to the making of a disturbance;
(c) identifies the Town By-laws and the provisions of the Town By-laws to be complied with;
(d) includes the Parking Management Plan.

"Responsible Person" means a Person that is Fit for Duty and designated by a Licensee who is over the age of eighteen (18) and is able to respond to the Premise as required by the Licence;

"Short Term Rental Property Unit" or **"STRPU"** means a Building or structure, or any part thereof being used for the habitation of tenants of that temporary residence, lodging or occupancy by way of concession, permit, lease, Licence, rental agreement, or similar commercial arrangement for any period less than twenty-eight (28) consecutive calendar days, throughout all or any part of a calendar year;

2. Terms and Conditions

2.1 This licence is a licence to operate a Short-Term Rental property in the Town of Amherstburg. In addition to the licensing requirements set out in this By-law an Applicant or Licensee shall submit the following:

(a) An Inspection approved by the Town's Fire Chief dated within the previous year stating the Premise is in compliance with the Fire Protection and Privacy Act, 1997, S.O. 1997, c.4, as amended, and its regulations and the maximum occupancy;

(b) A Renter's Code;
(c) proof of insurance by way of certificate of insurance showing a minimum limit of two million dollars ($2,000,000) in commercial general liability for a rental property for the term of the Licence with an endorsement that notice in writing at least thirty (30) days prior to cancellation, expiration, or variation thereof will be given to the Town by the insurance underwriter;
(d) acknowledgement and consent to the posting of the following information on the Town's website:
  i) the municipal address of the premise;
  ii) the legal description of the premise;
  iii) the contact information for the owner, agent, applicant and responsible person;
(e) certificate from a Licensed Electrician dated within the previous ninety (90) days of making application for a licence stating the premise is in compliance with the Electrical Safety Code;
(f) The Parking Management Plan.

2.2 In addition to the licensing requirements set out in Section 3 of the General Provisions of this By-law the issuing of a licence is subject to the following:
(a) Compliance with the Town's Zoning By-law, as amended from time to time, or its successor by-law;
(b) Complete fire safety requirements checklist;
(c) Compliance with the FPPA (Fire Protection and Prevention Act)
(d) Posting of Fire Safety instructions that is placard or framed, that depicts the location of each bedroom, fire alarm, smoke alarm, carbon monoxide alarm, extinguisher, mechanical room, exit/egress doors or windows on the premise to the satisfaction of the Town;
(e) Confirmation that the owner(s) and applicant(s) have no outstanding fines, penalties, legal costs, disbursements, property taxes and late payment charges owing to the Town for the subject property.

2.3 A licence is valid for a period of 12 months from the date on which it is issued.

2.4 The Maximum Occupancy within a dwelling unit for a licence shall be calculated as follows:
(a) Two (2) persons per bedroom;
(b) And two (2) additional persons;
(c) The number permitted under the Town's Zoning By-law, as amended from time to time, or its successor by-law.

2.5 The maximum occupancy calculated under Section 2.4 of this Schedule of this By-law may be reduced by the Manager of Licensing and Enforcement taking into consideration the number of approved parking spaces in the Parking Management Plan, or occupancy load issues identified by a Fire Chief.

2.6 A licensee shall:
(a) be the registered owner of the property;
(b) provide and maintain on the premise a self-enclosed building, structure, or container for the disposal of waste;
(c) designate a responsible person;
(d) display the licence in a conspicuous place on the licensed premise in close proximity to the entrance of the property and visible to the public at all times;
(e) display the licence in a prominent place on the interior of the licensed premise; and,
(f) post the fire safety instructions next to the licence displayed on the interior of the licensed premise.

2.7 Every Person who owns or operates a Short-Term Rental Property shall:

(a) operate the premises in accordance with the approved;
  (i) Renter's Code;
  (ii) Parking Management Plan;
  (iii) Maximum occupancy calculation.

(b) Operate the premise in accordance with the Town's:
  (i) Property Standards By-law;
  (ii) Waste Collection By-law;
  (iii) Emission of Sound (Noise) By-law;
  (iv) Any other By-law and the Ontario Human Rights Code;

(c) provide adequate measures for the storage and disposal of waste in accordance with this By-law and keep the Premise in a clean and sanitary condition;

(d) provide sufficient levels of illumination to facilitate the safe passage of occupants to the satisfaction of the Fire Chief;

(e) not make, cause, or permit a disturbance or Nuisance;

(f) provide the renter with a copy of the Renter's Code;

(g) keep a written record of the following:
  (i) the date of entry;
  (ii) the length of stay of a renter;
  (iii) the home address of the renter;
  (iv) confirmation including the date of receipt of the Renter's Code by the Renter
  (v) the dates on which smoke and carbon monoxide alarms were tested, batteries replaced, or unit replaced;
  (vi) the dates on which fire extinguishers are checked or maintained;
  (vii) the dates on which exit, and emergency lighting is checked or maintained;
  (viii) annual gas or wood fired appliances, chimneys, vents, and flue inspections.

(h) maintain the records required by subsection (g) for a minimum of two (2) years;

(i) include the valid licence number on all;
  (i) advertisement and promotional materials;
  (ii) website;
  (iii) contracts and agreements entered into with a renter;

(j) not permit the use or occupation of an outdoor hot tub and or outdoor pool outside the hours of 0700hrs and 2300hrs exclusively;

(k) ensure that the hot tub is covered and secured when not in use, and pools are properly secured at all times;

(l) not permit the ignition of any outdoor fire other than an approved outdoor barbeque for the purposes of preparing and cooking of food unless authorized by formal permit provided by the Town of Amherstburg's Fire Department as part of the Licensing process;

(m) not permit any outdoor open air or tent and/or dome sleeping;

(n) not permit any motorhomes, pop up trailers or RV to be used as sleeping quarters on the licensed premise.

2.8 A Responsible Person and/or Rental or Lease Management Program Representative, as applicable, shall be responsible for the operation of the Premise, the conduct of the Renter and the occupants of the Premises.

2.9 A Responsible Person and/or Rental or Lease Management Program Representative, as applicable, shall be available by email and telephone, 24 hours a day, 7 days a week to attend a licensed Premise within ½ hour of being contacted or notified by the Town or an authorized agent or representative of the Town or an Officer.

Town of Amherstburg

Schedule "B" of By-law 2023-059

Short Form Wordings and Associated Demerit Points

For the purpose of Section 11 of this By-law:

(a) the Designated Provisions column in the following table lists the provisions of this By-law that are hereby designated as being subject to the demerit point system;

(b) the Short Form Wording column in the following table sets out the nature of the violation;

(c) the Demerit Points Column in the following table sets out the Demerit Points imposed for a contravention of this By-law, or for a Conviction under a Town By-law pursuant to a Licence, and as referenced in the below chart.

(i) For greater certainty, Conviction means a fine, charge, or conviction has been entered to Part I or Part II of the Provincial Offences Act or in the Ontario Court of Justice, and the time for appealing said fine, Charge, or conviction has expired.

Item	Section	Short Form Wording	Demerit Points
1	Section 2.4	Exceed Maximum permitted occupancy between 2300 and 0700hrs	3
2	Section 2.4	2nd or subsequent offence for exceeding maximum occupancy between 2300 and 0700hrs	8
3	Section 2.8 & 2.9	Term and Condition of Licence – non availability of Responsible Person	5
4	Section 2.5 & 2.7	Waste Collection (2022-025, as amended) conviction related to premise	5
5	Section 2.5 & 2.7	Property Standards (2023-020, as amended) Conviction related to premise	5
6	Section 2.5 & 2.7	Noise By-law (2001-43, as amended) Conviction related to premise	5
7	Section 2.5 & 2.7	2nd or subsequent contravention related to premises under the Noise, Waste Collection or Property Standards By-laws	10
8	Section 2.5 & 2.6	Fail to Post Licence	3
9	Section 2.5 & 2.7	Advertising without a Town Licence number being included in advertisement	3
10	Section 2.5	Permitting an activity that causes a Nuisance	1
11	Section 2.7(a)(ii)	Using or permitting premises to be used contrary to a Parking Management Plan	3
12	Section 2.7(j)	Permit the operation or occupation of an outdoor hot tub or outdoor pool outside the hour of 0700-2300hrs	5
13	Section 2.7(k)	Failure to properly or adequately secure a Pool or Hot Tub	5

14	Section 2.7(l)	Ignite or permit the ignition of an outside fire or provision of a fire pit without authorization provided by Licence	5
15	Ontario Building Code	Building Code Act (construction without a permit) Conviction	7
16	Section 2.2 & 2.3	Fire Protection and Prevention Act/Fire Code Conviction	15
17	Section 13 of this By-law	Failure to comply with an Order	10
18	Section 2.2 (b)	Failure to comply with Fire Safety Checklist	5