

# 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, 10 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;

**NOW THEREFORE** the Council of The Corporation of the Town of Amherstburg enacts this by-law to licence Short-Term Rental Owners and to regulate all related activity within the jurisdictional boundaries of the Town of Amherstburg.

## **1. Application and General**

- 1.1 This By-law shall apply throughout the whole of the Town.
- 1.2 This By-law may be referred as the “Short Term Rental By-law”
- 1.3 This By-law applies to all:
  - (a) Short-Term Rental Owners that operate a Short-Term Rental within the jurisdictional boundaries of the Town of Amherstburg;
  - (b) Persons acting as Short-Term Rental Operators within the jurisdictional boundaries of the Town of Amherstburg; and
  - (c) Dwellings Units used as Short-Term Rentals within the jurisdictional boundaries in the Town of Amherstburg.
- 1.4 This By-law does not apply to;
  - (a) Hotels, motels or inns;
  - (b) Bed and Breakfast or Guest House Establishments;
  - (c) Accommodations rented out to tenants in accordance with the *Residential Tenancies Act*, 2006, S.O. 2006, c. 17
  - (d) Retirement homes licensed under the *Retirement Homes Act*, 2010, S.O. 2010, c. 11.
- 1.5 No Person shall own, operate, or carry on a business or activity identified in this By-law at Schedule A hereto other than in accordance with the terms and conditions of a Licence issued pursuant to the terms and conditions of this By-law.
- 1.6 No Person shall advertise, promote, broker, or offer for rent or lease any business or activity identified in this By-law without a current valid Licence and no Owner shall permit any of the foregoing without a current valid Licence.
- 1.7 No Person shall alter or modify or permit the alteration or modification of a Licence.
- 1.8 No Person shall use, or attempt to use, a Licence issued to another Person or Property.
- 1.9 No Person shall own, operate, or carry on any business or activity in any other name other than in the name that appears on the Licence.
- 1.10 Every Person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this By-law or the Town is guilty of an offence.
- 1.11 No Person who is issued a Licence pursuant to this By-law shall contravene any provision set out in this By-law, any other municipal By-law, federal or provincial Act, Statute, or any other legislation applicable to a licensed Premise or Activity.
- 1.12 No Person shall remove an order or placard posted on a Premise under this By-law, except an Officer and Property Owner.
- 1.13 No Person shall cause or permit to be caused a Nuisance on a Premises.

## 2. Definitions and Interpretation

In this By-law;

**“Applicant”** means a Person seeking to become licensed under this By-law (i.e., become a licensee) and who, either in person or through an Authorized Agent, makes such an application;

**“Authorized Agent”** means a Person authorized in writing by an Applicant or licensee to act on behalf of such Applicant or licensee for the identified purpose of making an application, renewing a Licence, or otherwise complying with the provisions of this By-Law;

**“Bed-and-Breakfast or Guest House Establishment”** means a single detached dwelling in which no more than three rooms are made available by the residents of the said dwelling for the temporary accommodation of travellers in the course of which no assistance is offered by any person not residing in the dwelling. This does not include a hotel, motel, boarding or lodging house, or Short-Term Rental;

**“Building”** means a structure occupying an area greater than 10 square metres consisting of a wall, roof, and floor or any of them, or a structural system serving the function thereof, including all plumbing, works, fixtures and services system appurtenant thereto;

**“Chief Building Official”** means the Chief Building Official for the Town or his or her delegate;

**“Clerk”** means the Clerk for the Town or any Person designated by the Clerk;

**“Council”** means the Council of the Town of Amherstburg;

**“Dwelling Unit”** means a room or series of rooms of complementary use, used by an Individual Person or Individual Persons living together under a single tenancy, in which cooking, eating, living, sleeping and sanitary facilities are provided;

**“Exception Area”** means a specific area of the Town as designated in Town's Zoning By-law where Short Term Rental Units are considered a permitted use;

**“Fee”** means as set out in the Town of Amherstburg User Fee By-law as amended from time to time;

**“Fire Chief”** means the Chief of Amherstburg Fire Services, or his or her designate;

**“Fire Code”** means Ontario Regulation 213/07: Fire Code made under the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4 as amended;

**“Individual Person”** means a natural person;

**“Licence”** means the certificate issued under this By-law as proof of licensing under this By-law;

**“Licensee”** means a Person who has been issued and maintains a valid Licence pursuant to the terms of this By-law;

**“Market”, “Marketed” or “Marketing”** means offering, facilitating, or causing or permitting to offer or facilitate, directly or indirectly, the sale, promotion, canvassing, solicitation, advertising, or marketing of a Short-term Rental, and includes placing, posting or erecting advertisements physically or online;

**“Manager of Licensing and Enforcement”** means the Manager of Licensing and Enforcement for the Town of Amherstburg, or his or her designate;

**“Medical Officer of Health”** means the Medical Officer of Health for the Municipality of Windsor, Ontario;

**“Multiple Unit Dwelling”** means a building or part of a building containing three or more Dwelling Units;

**“Nuisance”** means an activity or behavior that causes a material inconvenience, discomfort, or damage to others, either to individuals and/or to the general public;

**“Officer”** means a Provincial Offences Officer or Municipal Law Enforcement Officer of the Town, or any other person appointed by or under the authority of a Town by-law to enforce this By-law;

**“Ontario Building Code”** means Ontario Regulation 332/12: Building Code made under the Building Code Act, 1992, S.O. 1992, c.23 as amended;

**“Ontario Police Service”** means a police service established in Ontario under the Police Services Act, R.S.O. 1990, c. P.15, as amended, or its successor legislation;

**“Operate”, “Operated” or “Operating”** means to rent out, provide, offer to rent out or provide, or facilitate or broker or Market or cause to be Marketed, the offer or rental, whether directly or indirectly, including, without limitation, via the internet or other electronic platform, of a Short-Term Rental and shall include a Person collecting a fee or handling payments in respect of a Short-Term Rental;

**“Order”** means a direction issued by the Town under statutory authority, including but not limited to Orders under the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the Building Code Act, 1992, S.O. 1992, c. 23, as amended, and the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended;

**“Owner”** means the registered owner of the lands or Premise or his or her authorized agent that is in lawful control of the lands or Premise;

**“Person”** means an Individual Person, a partnership, or a corporation (including any of such corporation's affiliates, subsidiaries or parent corporations, as the case may be) to which the context can apply and "Person" shall also include multiple Persons who, acting together, carry on the business of a Short-Term Rental business, despite the fact that no single one of those Persons carries on the activity in its entirety;

**“Principal Residence”** means a Dwelling Unit owned or rented by an Individual Person, either alone or jointly with others, where the Individual Person is ordinarily resident;

**“Prohibited Ground”** means the prohibited grounds of discrimination as provided for under the Ontario Human Rights Code, R.S.O. 1990, c. H.19;

**“Property”** means a building, and includes the lands and premises appurtenant thereto, and includes vacant property;

**“Rental Period”** means the span of consecutive days for which a Short-Term Rental has been rented;

**“Renter”** means the Person responsible for the rental of the Premise by way of concession, permit, Licence, rental agreement or similar commercial arrangement;

**“Short-Term Rental”**

**“Short-Term Rental Brokerage”** means any Person who facilitates or brokers or Markets or causes to be Marketed or assists in any capacity in the booking process of a Short-Term Rental reservation for others, whether directly or indirectly, including, without limitation, via the internet or other electronic platform, of a Short-Term Rental, provided such Person collects, handles or receives a payment, fee, compensation or other financial benefit as a result of, or in connection with, the Short-Term Rental;

**“Short-Term Rental Operator”** means a Person who has care and control, at any time and for any length of time, of a Dwelling Unit, or part thereof, that is used as a Short-Term Rental, but who is not the Short-Term Rental Owner;

**“Short-Term Rental Owner”** means any Person who Operates a Short-Term Rental and is either:

- (a) a registered owner of the Property, or part thereof, that is being Operated as a Short-Term Rental; or
- (b) a tenant of the Property, or part thereof, that is being Operated as a Short-Term Rental.

**“Town”** means the Corporation of the Town of Amherstburg or any Person authorized to act on behalf of the Corporation of the Town of Amherstburg for the purposes of exercising its power under this By-law;

**“Zoning By-law”** means any By-law administered by the Town passed pursuant to Section 34 of the Planning Act or a successor thereof, as may be amended from time to time.

**3. Application for a Licence**

- 3.1 A person making an application for a licence or for a renewal of licence shall submit:
  - (a) a completed application in the form provided by the Town;
  - (b) when applicable, the Business Name Registration and/or Articles of Incorporation obtained from the applicable provincial or federal/Ministry;
  - (c) all required documents, and obtain all required approvals and inspections as outlined in the applicable Schedule to this By-law;
  - (d) the required Licence application fee, approval, and inspection fees.
- 3.2 Acceptance of a Licence application does not constitute approval of the application or oblige the Town to issue a licence.
- 3.3 An application shall only be made in person by the Applicant, who at the time of application shall present two (2) forms of government issued identification, one being photo and the other demonstrating proof of status in Canada, to the satisfaction of the Manager of Licensing and Enforcement.
- 3.4 Despite Section 3.3, an Authorized Agent of the Applicant may make the application if he or she has written authorization to do so from at least one (1) of the Applicants along with two (2) forms of government issued identification, one being photo and the other demonstrating proof of status in Canada, to the satisfaction of the Manager of Licensing and Enforcement.
- 3.5 If the proposed Short-Term Rental is to be located in a Multiple Unit Dwelling, the Applicants shall provide, at the time of application, a letter from the owner of such Multiple Unit Dwelling declaring that the Operation of Short-Term Rental is permitted.
- 3.6 The letter in section 3.5 shall be original and notarized or certified by a notary public or commissioner of oaths to do so under the laws of the Province of Ontario.

- 3.7 Persons presenting an application for a Short-Term Rental Licence under this By-law shall submit the following:
- (a) a completed application form or forms, signed by all applicants;
  - (b) proof of ownership or tenancy, satisfactory to the Manager of Licensing and Enforcement;
  - (c) the applicable, non-refundable licence fees, as set out in Schedule XX of this By-law;
  - (d) a Canadian government document that proves the Canadian permanent residency of at least one (1) Applicant;
  - (e) a Canadian or Provincial government-issued photo identification of all Applicants;
  - (f) if applicable, a Canadian government document that proves the Canadian permanent residency and a Canadian or provincial government-issued identification of the Authorized Agent
  - (g) a complete Criminal Record Check for every Applicant, issued by or on behalf of an Ontario Police Service for the jurisdiction in which each Applicant resides, not more than thirty (30) days old, from the date of application submission;
  - (h) a list of all Short-Term Rental Operators, Responsible Person(s) for the property at the time of application, including their contact information;
  - (i) proof, satisfactory to the Manager of Licensing and Enforcement, that every Short-Term Rental Owner in Section 3.7(h) and every Short-Term Rental Operator in Section 3.7(i), who is an individual person, is at least eighteen (18) years of age at the time of application submission;
  - (j) any other information required to be provided under this By-law or as may be requested by the Manager of Licensing and Enforcement.
- 3.8 Despite Section 3.1, if a Licensee has remitted the prescribed renewal fee, the Licensee shall be deemed to continue until the renewal is granted or refused, subject to the Licensees' avenue for appeal.
- 3.9 A licence not renewed by the deadline day shall be deemed to have lapsed at 12:01am the following day and the Person whose name the original licence was issued under shall not operate a short-term rental.
- 3.10 A licence that has lapsed more than 365 days from the date of the renewal deadline shall be deemed cancelled and no longer eligible for renewal.
- 3.11 No person shall carry on the business of a Short-Term Rental Owner unless a Licence to do so has been obtained from the Town.
- 3.12 Applicants for a Short-Term Rental Owner Licence must:
- (a) have permanent residency in Canada; and
  - (b) have the property on which the proposed Short-Term Rental is located be:
    - (i) be otherwise in compliance with all applicable law, including the requirements of the *Building Code Act*, 1992, S.O. 1992, c.23 and *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4.

#### **4. Licenses**

- 4.1 The Licence Officer is hereby delegated authority to issue a Licence in accordance with the provisions of this By-law and the applicable Schedule(s) to this By-law.
- 4.2 The Manager of Licensing and Enforcement is hereby delegated authority to impose additional conditions on a Licence that are reasonable and taking into consideration:
- (a) the health, safety, and well-being of persons;
  - (b) the impact on a neighbouring property or neighbouring property owner;
  - (c) the past conduct of an applicant or licensee;

(d) the impact to the Town or the need within the Town if supported by Policy or By-law, as approved and adopted by Town Council, if applicable. A condition imposed under this Section may be appealed to the Licensing Committee as outlined in Section 8, 9, 10 of this By-law.

- 4.3 A licence issued by the Town is not transferable.
- 4.4 A licence issued pursuant to this By-law is valid for a period of time as outlined in the applicable Schedule(s) to this By-law.
- 4.5 Every Licence shall remain at all times the Property of the Town.
- 4.6 A Licence shall be issued by the licence Issuer:
- (a) upon the requirements of this By-law being;
  - (b) upon submission of the documents as required by this By-law and as outlined on the applicable Schedule(s) to this By-law;
  - (c) upon obtaining the required approvals and inspections required to this By-law and as outlined on the applicable Schedule(s) to this By-law.
- 4.7 The licence Issuer shall not issue a Licence if the owner(s) or applicant(s) have any outstanding fines, penalties, legal costs, disbursements, Property taxes and late payment charges owing to the Town for the Property subject to the Licence application.
- 4.8 A Licence issued shall include the following:
- (a) the municipal address;
  - (b) licence type;
  - (c) licence number;
  - (d) effective date and expiry date of the licence;
  - (e) licensee name and contact information;
  - (f) responsible person name and contact information.

## **5. Licence Terms and Conditions**

- 5.1 A Licence is subject to the terms and conditions of this By-law and the terms and conditions as set out in the applicable Schedule(s) to this By-law.
- 5.2 A licensee shall notify the Town within 7 (seven) days of any changes to the:
- (a) business name;
  - (b) location of the business premise;
  - (c) ownership of the business;
  - (d) a change in the licensee's policy of liability insurance;

And such changes shall be subject to submission of the necessary documentation to the Town.

- 5.3 A Licensee shall be responsible for the act(s) and omission(s) of its employees, representatives and agents in the carrying on of the business in the same manner and to the same extent as though the Licensee did the act(s) or omission(s).
- 5.4 Any record required by this By-law shall be produced by the Licensee upon request of an Officer.

## **6. Licence Administrative Suspensions**

- 6.1 Where the Licensee's policy of liability insurance expires, is cancelled, or is otherwise terminated, then the applicable Licence shall be automatically suspended effective on the date of such expiration, cancellation, or termination and shall remain so until such insurance has been reinstated.

- 6.2 An Administrative suspension of a licence without a hearing shall be imposed for:
- (a) fourteen (14) days if the Town is satisfied that the continuation of the business poses an immediate danger to health and safety of any Person or to any Premises.

Before any suspension is imposed, the Town shall provide the Licensee with the reasons for the suspension, either orally or in writing, and an opportunity to respond to them.

Any suspension imposed under this section shall be effective immediately upon notification being given to the Licensee, and the Licensee having been given a opportunity to respond, and such suspension may be lifted at the discretion of the Town, upon receipt of the Licensee's response.

- 6.3 An administrative suspension imposed under Section 6.2 may be imposed on such conditions as the Manager of Licensing and Enforcement considers appropriate.

## **7. Licence Ground for Refusal, Revocation or Suspension**

- 7.1 An applicant or Licensee may be granted a Licence upon meeting the requirements of this By-law except where:

- (a) the past or present conduct of any Person, including the officers, directors, employees or agents of a corporation affords reasonable cause to believe that the Person will not carry or engage in the business in respect of which the application is made in accordance with the law or with honesty or integrity; or
- (b) the Applicant or Licensee has past breaches or contraventions of any law or any provision of this By-law or any other municipal By-law or Provincial or Federal Statute associated with the carrying on of such business; or
- (c) the Applicant or Licensee has failed to pay an Administrative Monetary Penalty imposed by the Town or a fine or fines imposed by a Court for convictions for breach of this or any other Town By-law or provincial offence related to the licensed Premise; or
- (d) the Applicant or Licensee has failed to comply with any term, condition or direction of the Licence Issuer or Officer or has failed to permit any investigation by the Licence Issuer or Office; or
- (e) the applicant or Licensee has failed to comply with the requirements set out in this By-law or any of the applicable Schedules to this By-law; or
- (f) the issuing of a Licence would be contrary to the public interest with respect to health and safety, consumer protection, or nuisance control; or
- (g) the Applicant or Licensee has submitted an application or other documents to the Town containing false statements, incorrect, incomplete, or misleading information; or
- (h) the Applicant or Licensee is carrying on or engaging in activities that are, or will be, if the Applicant or Licensee is licensed, in contravention of this By-law, or any other applicable law; or
- (i) the Applicant or Licensee has not paid the required Licence fees; or

- 7.2 The Manager of Licensing and Enforcement may revoke, suspend, or refuse to issue a Licence, where the Applicant or Licensee would not be entitled to a Licence on any grounds set out in this By-law.

- 7.3 Where the application for a Licence has been revoked, suspended, or cancelled, the fees paid by the Applicant or Licensee, in the respect of the Licence, shall not be refunded.

- 7.4 Where a Licence has been revoked, suspended, or cancelled, the Licensee shall return the Licence to the Licence Officer within two (2) days of service of the notice of the decision.



- 7.5 When a revoked, suspended or cancelled licence has not been returned, an Officer may enter upon the Premise excluding entry into a Dwelling Unit for the purpose of receiving, taking, or removing the said Licence.

## **8. Licenses Grounds for Refusal, Revocation or Suspension – Right to a Hearing**

- 8.1 With the exception of Section 6.2, before Licence is refused, revoked, suspended or cancelled written notice shall be given to the Applicant or Licensee.
- 8.2 Notice shall be served to the Applicant's or Licensee's last known address or email address filed with the Town and shall:
- (a) contain sufficient information to specify the nature or, reason for, any recommendation;
  - (b) inform the Applicant or Licensee of entitlement to a hearing before the Licensing Committee, if a request in writing for a hearing is returned to the Clerk within fifteen (15) days after the date of service of the notice; and
  - (c) inform the Applicant or Licensee that if no written request is received, the Licensing Appeal Committee may proceed and make a decision with respect to the Licence.
- 8.3 On receipt of a written request for a hearing from an Applicant or Licensee, the Clerk shall:
- (a) schedule a hearing; and
  - (b) give the Applicant or Licensee notice of the hearing at least twenty (20) days prior to the hearing date; and
  - (c) post notice on the hearing on the Town's website at least twenty (20) days prior to the hearing date.
- 8.4 Service of any notice on the Applicant or Licence under this By-law shall be made by Personal delivery, ordinary mail, or email transmission. The notice shall be deemed to have been served on the fifth (5th) day after the day of mailing or on the date of Personal service or on the date the email is sent.

## **9. Establishment of a Licensing Appeal Committee**

- 9.1 The Licensing Appeal Committee and shall hear and render decisions regarding the refusal, revocation or suspension of a Licence, and the imposing of terms and conditions on a Licence.
- 9.2 The decision of the Licensing Appeal Committee shall be final and binding.

## **10. Hearing Process**

- 10.1 The provisions of the Statutory Powers and Procedures Act, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted under this By-law, and the Licensing Appeal Committee may pass rules for the practice and procedure of the Committee.
- 10.2 A hearing shall be held in public, unless determined otherwise in accordance with the Statutory Powers and Procedures Act, R.S.O. 1990, c. S. 22, as amended, and the Licensing Appeal Committee shall hear the Applicant or Licensee and every other Person who desires to be heard, and the Licensing Appeal Committee may adjourn the hearing or reserve its decision.
- 10.3 No decision of the Licensing Appeal Committee is valid unless it is concurred in by the majority of the members of the Licensing Appeal Committee that heard the matter, and the decision of the Licensing Appeal Committee, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision.

- 10.4 Any authority or permission granted by the Licensing Appeal Committee may be for such time and subject to such terms and conditions as the Licensing Appeal Committee considers advisable and as are set out in the decision.
- 10.5 When a Person who has been given written notice of a hearing does not attend at the appointed time and place, the Licensing Appeal Committee may proceed with the hearing in his absence, and the Person shall not be entitled to any further notice of the proceedings.
- 10.6 The Clerk shall not later than ten (10) days from the making of the decision send one (1) copy of the decision to:
- (a) the Applicant or Licensee; and
  - (b) each person who appeared in person or by Counsel or by Agent at the hearing and who filed with the Clerk a written request for notice of the decision.

## **11. Demerit Point System**

- 11.1 The Demerit Point System established in Schedule B to this By-law shall be used in the consideration of the issuing, issuing with conditions, suspension, refusal to issue and revocation of a Licence.
- 11.2 A Licensee may be assessed demerit points as outlined in Schedule B for a contravention of this By-law or as a fine or conviction imposed by a Court for a breach of this By-law, or a By-law as identified in Schedule B.
- 11.3 A Licensee shall be given Notice forthwith upon any Demerit Points being issued against their Property. Any Demerit points issued pursuant to this By-law may be appealed to the Licence Appeal Committee in accordance with Sections 8,9,10 of this By-law.
- 11.4 Subject to Section 11.2 of this Bylaw, Demerit points accumulated by a Licensee shall remain in place against the Licensee for a period of three (3) years from the date the demerit points were impose unless the property ownership changes hands.
- 11.5 Where Demerit points have been accumulated by the Licensee and remain in place, the Manager of Licensing and Enforcement may take into account the Demerit points and may reduce the term of a new Licence or impose additional conditions on a new Licence, including a reduction in the maximum permitted occupancy, as if it was a condition as imposed under section 4.2.
- 11.6 A Licence may be suspended for a period of not longer than six months if the total Demerit points in effect respecting a Licence is greater than 7.
- 11.7 A Licence may be revoked if the total of all Demerit points in effect is greater than 15.
- 11.8 Notice of a suspension or revocation under this section shall be provided to the Owner or Licensee in accordance with section 8.2 of this By-law and an Owner or Licensee may appeal the suspension or revocation in accordance with sections 8, 9, and 10 of this By-law.

## **12. Fees**

- 12.1 The fees for any Licence application, inspections and approvals required pursuant to this By-law shall be as prescribed in the Town's Fees and Charges By-law and is payable upon submission of an application.

- 12.2 The fees for any Licence to be issued pursuant to this By-law shall be as prescribed in the Town's Fees and Charges By-law and are payable upon the issuing of a Licence.

### **13. Orders**

- 13.1 Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may make an Order requiring the Person who contravened this By-law, or who has caused or permitted the contravention, or the Owner or Licensee of the Premises on which the contravention has occurred, to discontinue the contravening activity.
- 13.2 An Order under section 13.1 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention;
  - (b) the location of the Premise on which the contravention occurred; and
  - (c) the date by which there must be compliance with the Order.
- 13.3 An Order to discontinue a deficiency and/or contravening activity made under this section may be served Personally, by registered mail to the last known addresss or by email transmission to:
- (a) the Person the Officer believes contravened this By-law; and
  - (b) such other Persons affected by the Order as the Officer making the Order determines.
- 13.4 The Order shall be deemed to have been served on the fifth (5th) day after the date of mailing or on the date of Personal delivery or email transmission.
- 13.5 An Officer who is unable to effect service of an Order pursuant to this By-law shall place a placard containing the Order in a conspicuous place on the Premise and the placing of the placard shall be deemed to be sufficient service. The placing of the placard contained the Order shall be deemed to be served on the date of placing the placard.
- 13.6 Any Person who contravenes an Order under this By-law is guilty of an offence.

### **14. Enforcement and Penalty Provisions**

- 14.1 The enforcement of this By-law shall be conducted by an Officer.
- 14.2 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not:
- (a) the By-law is complied with;
  - (b) the Licence, or the term or condition of a Licence, or the term or condition of this By-law is complied with;
  - (c) the approved plans are complied with;
  - (d) a direction or order made under the *Municipal Act, 2001*, or this By-law is complied with.
- 14.3 For the purposes of an inspection under this By-law, an Officer may:
- (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any Person concerning a matter related to the inspection; and

(d) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

- 14.4 All documents and records shall be kept in a good and business-like manner for review by the Officer at their request.
- 14.5 A receipt shall be provided for any document or thing removed under this By-law and the document or thing shall be promptly returned after the copies or extracts are made.
- 14.6 A sample taken under this By-law shall be divided into two parts, and one part shall be delivered to the Person from whom the sample is taken, if the Person so requests at the time the sample is taken and provides the necessary facilities.
- 14.7 If a sample is taken under this By-law and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the Person from whom the sample was taken.
- 14.8 Every corporation who contravenes any provision of this By-law and every director or officer of a corporation, who knowingly concurs in the contravention by a corporation is guilty of an offence and upon conviction is liable to:
- (a) on a first offence, to a fine not more than \$50,000.00; and
  - (b) on a second offence and each subsequent offence, to a fine of not more than \$100,00.00
- 14.9 Every Person who is issued a Part 1 offence notice or Part III summons and is convicted is guilty of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 14.10 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- 14.11 Every Person who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of his or her duties.
- 14.12 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 14.3 If a Person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

## **15. Severability**

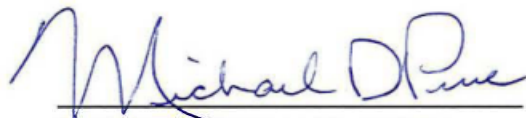
If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of Council of the Town that the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

## **16. Schedules**

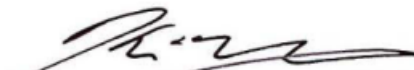
The Schedules attached to this By-law form part of this By-law.

Further that this By-law shall come into force and take effect upon being read and passed three (3) times.

Read three times and finally passed this 23<sup>rd</sup> day of May, 2023.



MAYOR – MICHAEL PRUE



CLERK – KEVIN FOX

**Town of Amherstburg**  
**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	2 <sup>nd</sup> 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	2 <sup>nd</sup> 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