

## DRAFT BY-LAW NUMBER XX-2022

BEING A BY-LAW RESPECTING THE LICENSING OF SHORT TERM RENTAL OWNERS AND TO REGULATE ALL RELATED ACTIVITY

**WHEREAS** Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the “Municipal Act”) provides that the powers of a municipality shall be interpreted broadly as to confer broad authority on a municipality to (a) enable it to govern its affairs as it considers appropriate, and (b) enhance its ability to respond to municipal issues;

**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 City of Windsor 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 City of Windsor enacts this by-law to licence short-term rental owners and to regulate all related activity within the jurisdictional boundaries of the City of Windsor.

## **1 Applicability and Scope**

1.1 This By-law applies to all:

- (a) Short-Term Rental Owners that operate a Short-Term Rental within the jurisdictional boundaries of the City of Windsor;
- (b) Persons acting as Short-Term Rental Operators within the jurisdictional boundaries of the City of Windsor; and
- (c) Dwelling units used as Short-Term Rentals within the jurisdictional boundaries of the City of Windsor.

1.2 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.

## **2 Definitions and Interpretation**

2.1 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 home-based business for the temporary accommodation of the traveling public located within a single detached dwelling which is occupied on a full-time basis by the owner of such single detached dwelling or the principal shareholder (or one of them if more than one shareholder holds the greatest number of shares) of the corporation registered as the legal owner of the building, including during the time the Bed and Breakfast or Guest House is in operation, and shall contain at least one (1) bedroom for the exclusive use of the owner and at least two (2) accessory guest rooms for use in the Bed and Breakfast or Guest House operation, and shall mean and include any Bed and Breakfast or Guest House legally established under any predecessor by-law, but shall not include a Lodging House, Hotel, or Short-Term Rental;

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

**“Chief of Police”** means the Chief of Windsor Police Service, or his or her delegate.

**“City”** means the Corporation of the City of Windsor or any person authorized to act on behalf of the Corporation for the purposes of exercising its powers under this By-law;

**“Collection”** means charging, receiving, accounting for, and remitting to the City the Municipal Accommodation Tax;

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

**“Fire Chief”** means the Chief of Windsor Fire and Rescue Services, or his or her delegate;

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

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

**“Licence Commissioner”** means the Licence Commissioner for the City and shall mean and include any delegate or delegates of the Licence Commissioner for the City as well as any successor position to the Licence Commissioner carrying out the responsibilities of the Licence Commissioner at the time of the passing of this By-law;

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

**“Windsor Licensing Commission”** means the Windsor Licensing Commission;

**“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;

**“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;

**“Municipal Accommodation Tax” or “MAT”** means the tax imposed under the City of Windsor’s Municipal Accommodation Tax By-law, as may be amended from time to time, or its successor by-law.

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

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

**“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 City 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.

**“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.

**“Short-Term Rental”** means a dwelling unit or part of a dwelling unit used to provide temporary accommodation for a rental period of not more than 29 consecutive days and shall not include a hotel, motel or Bed-and-Breakfast Establishment;

**“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.

### **3 Licensing Requirements for Short-Term Rental Owners**

- 3.1 No person shall carry on the business of a Short-Term Rental Owner unless a licence to do so has been obtained from the City.
- 3.2 Applicants for a Short-Term Rental Owner licence must:
- (a) be individual persons;
  - (b) have permanent residency in Canada; and
  - (c) have the property on which the proposed Short-Term Rental is located be:
    - (i) the principal residence of at least one of the Applicants;
    - (ii) located in an area that permits residential uses; and
    - (iii) 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.
- 3.3 If the applicant is the registered owner of the property proposed as a Short-Term Rental, every registered owner of such property shall be considered a joint applicant and shall be listed on the completed application form in Subsection 3.13(a).
- 3.4 If the applicant is the tenant of the dwelling unit proposed as a Short-Term Rental, every tenant of such dwelling unit shall be considered a joint applicant and shall be listed on the completed application form in accordance with Subsection 3.13(a).
- 3.5 Applicants required, in accordance with the City's Municipal Accommodation Tax By-law, as amended from time to time, or its successor by-law, to collect the Municipal Accommodation Tax must be registered with the City to do so prior to making an application for a licence.
- 3.6 Applicants or licensees may use more than one Short-Term Rental Brokerage, but must identify each such Short-Term Rental Brokerage at the time of application, and shall notify the Licence Commissioner in accordance with Section 4.1 if they use a further Short-Term Rental Brokerage not identified at the time of application.
- 3.7 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 Licence Commissioner.
- 3.8 Despite 3.7, 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 Licence Commissioner.

- 3.9 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 Rentals is permitted.
- 3.10 If the applicants are not the registered owners of the dwelling unit being used as a Short-Term Rental, the application must be accompanied by a letter from the registered owner of the dwelling unit giving the applicants explicit permission to use the dwelling unit or part thereof as a Short-Term Rental.
- 3.11 The letter in Section 3.10 shall be an original and notarized or certified by a notary public or commissioner for oaths authorized to do so under the laws of the Province of Ontario.
- 3.12 Prior to the issuance of a licence, a copy of the application may be forwarded for a report or comments to the Medical Officer of Health, the Fire Chief, the Chief Building Official, the Chief of Police and any other departments of the City, and any other public authorities which may have an interest in the licence application, or for such information as may be required under this By-law or any other legislation.
- 3.13 Persons presenting an application for a Short-Term Rental Owner 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 Licence Commissioner;
  - (c) the applicable, non-refundable licence fees, as set out in Schedule 1 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 photo identification of the authorized agent;
  - (g) a complete Vulnerable Sector Check for every applicant, issued by 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 document, that provides proof satisfactory to the Licence Commissioner, that the property to be used as a Short-Term Rental is the principal residence of at least one of the applicants;
  - (i) a list of all Short-Term Rental Operators at the time of application, including their contact information;

- (j) proof, satisfactory to the Licence Commissioner, that every Short-Term Rental Owner in 3.13(h) and every Short-Term Rental Operator in 3.13(i), who is an individual person, is at least eighteen (18) years of age at the time of application submission;
  - (k) any other information required to be provided under this By-law or as may be requested by the Licence Commissioner.
- 3.14 Where the Licence Commissioner is of the opinion that an inspection of the dwelling unit or part thereof that is proposed to be used as a Short-Term Rental is required, such inspection shall be carried out in accordance with Part 12 of this By-law and no licence shall be issued or renewed until all matters identified by the inspecting officer have been remedied to the satisfaction of the Licence Commissioner.
- 3.15 Receipt of the application, request for renewal, or submission of the licence fee shall not constitute approval of the application for, or renewal of a licence, nor shall it obligate the City to issue or renew any such licence.
- 3.16 Despite 3.14 and 3.15, if a licensee has remitted the prescribed renewal fee, the licence shall be deemed to continue until the renewal is granted or refused, subject to the licensees' avenue for appeal under Parts 5 and 6.
- 3.17 Every licence issued under this By-law shall expire on November 30th, of the year following issuance, unless revoked or otherwise terminated under this By-law, prior to that date. When a renewal deadline expires on a Saturday, Sunday or holiday, the act or proceeding may be done or taken on the day next following that is a business day.
- 3.18 A licence may be obtained for one-half the applicable fee as established in Schedule 1 to this By-law if the licence is obtained on or after August 1st of the same year.
- 3.19 A licence not renewed by the deadline day shall be deemed to have lapsed at 12:01 a.m. the following day and the person whose name the original licence was issued under shall not operate a Short-Term Rental.
- 3.20 Despite 3.19, a licence that has not lapsed by more than 365 days from the date of the renewal deadline may still be renewed and the applicant shall be liable to pay the licence fee established by this By-law together with the penalty of 50% over the base fee.
- 3.21 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.
- 3.22 A licensee who operates with a licence that has been cancelled under 3.21 may not apply for a new licence unless the outstanding renewal fee, late renewal fee and Municipal Accommodation Tax, if any is owed, has been paid.

#### **4 Changes in Information**

- 4.1 Every applicant or licensee shall notify the Licence Commissioner in writing within seven (7) days of any change in any information contained in the application for a licence or renewal thereof.

- 4.2 Where the changes in Section 4.1 include a change in the legal entity of the licensee, the existing licence shall be cancelled and a new licence shall be obtained by the said legal entity, subject to all of the licensing requirements of this By-law.
- 4.3 Notwithstanding Section 4.2, where there is a change in any of the registered owners or tenants who are licensed as Short-Term Rental Owners, a new licence shall be obtained by all the parties operating or proposing to operate a Short-Term Rental.
- 4.4 Where there is a change to a Short-Term Rental as a result of a renovation or other similar work, the Short-Term Rental Owner shall notify the Licence Commissioner, as per 4.1 and the Licence Commissioner may require such Short-Term Rental Owner to apply for a new licence if such renovations or similar work are deemed to be significant.
- 4.5 Where a Short-Term Rental Owner intends to operate a Short-Term Rental at a location different than the dwelling unit identified in his or her application, the existing licence shall be cancelled and a new licence shall be obtained before the intended Short-Term Rental may operate.

## **5 Powers and Duties of the Licence Commissioner**

- 5.1 The Licence Commissioner:
  - (a) Shall receive and process all applications for licences and renewal of licences to be issued under this By-law;
  - (b) Shall coordinate the enforcement of this By-law;
  - (c) Shall perform all the administrative functions conferred upon him or her by this By-law;
  - (d) Shall make or cause to be made all investigations and inspections which he or she deems necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws;
  - (e) Shall make or cause to be made a circulation, respecting each application, which may include circulation of the licence application to the Medical Officer of Health, the Fire Chief, the Chief Building Official, the Chief of Police and any other departments of the City, and any other public authorities which may have an interest in the licence application for comment;
  - (f) May issue licences to persons who meet the requirements of this By-law and may suspend licences pursuant to the requirements of this By-law; and
  - (g) May, where a licence has been issued pursuant to this By-law and otherwise remains in full force and effect, renew the licences of persons who meet the requirements of this By-law.
- 5.2 Upon reviewing a licence application, including an application for renewal of a licence, or upon receiving information or a complaint as against a licensee, the Licence Commissioner may, in his or her sole discretion refer the application to the Windsor Licensing Commission, to refuse to grant or



revoke or suspend or place conditions on a licence upon the following grounds:

- (a) Where there are reasonable grounds for belief that such applicant or licensee will not carry on or engage in the business in accordance with the law, or with integrity and honesty;
- (b) Where there are reasonable grounds for belief that the carrying on by the applicant or licensee of the business in respect of which the licence is sought or held, would infringe the rights, or endanger the health or safety of, members of the public;
- (c) Where there are reasonable grounds for belief that the carrying on of the business by the applicant or licensee will result in non-compliance with this By-law or any other requirement or prohibition imposed by any other law;
- (d) Where there are reasonable grounds for belief that the nature, condition or use of the place or premises, or any equipment, vehicle or other personal property used or to be used by the applicant or licensee in the carrying on or engaging of the business would involve non-compliance with any provision of this By-law or any other law;
- (e) Where there are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the applicant or licensee, contains a false statement or provides false information;
- (f) Where information provided to the City by or on behalf of the applicant or licensee, whether oral or in writing, has ceased to be accurate, and the applicant or licensee has not provided up-to-date accurate information to the City sufficient to allow the Licence Commissioner, or the Windsor Licensing Commission, as the case may be, to conclude the licence should be granted or maintained as valid and subsisting;
- (g) Where a licensee's or applicant's insurance, as approved by the Licence Commissioner, has expired and he or she continues to carry on business for which the licence was issued; or
- (h) Where a licensee or applicant fails to comply with a request to inspect or hinders an inspection in any way;

5.3 The Licence Commissioner's decision under 5.2 shall be guided by the following considerations:

- (a) the safety, health and well-being of the community;
- (b) the impact on neighbouring properties;
- (c) compliance with remittance of the Municipal Accommodation Tax;
- (d) financial impact to the City;

- (e) consistency with the terms and conditions of ~~the~~ any agreement between the Short-Term Rental Brokerage and the Short-Term Rental Owner, if requested by the Licence Commissioner.

5.4 Despite Section 5.2, a licence shall not be issued or renewed and the Licence Commissioner shall refer the matter to the Windsor Licensing Commission where:

- (a) the property for which the Short-Term Rental is being proposed has any outstanding unpaid penalties or fines from the City;
- (b) any of the applicants, within the previous five years from the date of application or renewal have been convicted of any of the following under the Criminal Code of Canada:
  - (i) homicide or manslaughter;
  - (ii) sexual offences;
  - (iii) assault offences;
  - (iv) confinement offences;
  - (v) robbery or extortion offences;
  - (vi) break and enter offences; or
  - (vii) fraud or forgery offences.

5.5 In the case where the Licence Commissioner refuses, revokes or suspends a licence upon any one or more of the grounds listed in Section 5.2 of this By-law, the applicant, or licensee, as the case may be, may appeal the Licence Commissioner's decision to the Windsor Licensing Commission, by notifying the Licensing Commissioner, in writing of its request to appeal to the Windsor Licensing Commission no later than fourteen (14) days after the date the licence application is refused, revoked or suspended by the Licence Commissioner.

5.6 In the case where the Licence Commissioner or the applicant, or licensee, as the case may be, refer or appeal to the Windsor Licensing Commission, the Windsor License Commission may refuse to grant, or revoke or suspend or place conditions on a licence upon any one or more of the grounds listed in Section 5.2 of this By-law.

5.7 Where after a hearing, the Windsor Licensing Commission concludes that any one of the grounds set out under Section 5.2 exist, the Windsor Licensing Commission may, instead of refusing, revoking, suspending a licence, grant a licence or allow a licence to continue upon such conditions as the Windsor Licensing Commission may see fit to impose, for the purpose of ensuring the proper and lawful carrying on of the business, or such other conditions, as are authorized by law.

5.8 No revocation or suspension of a licence under this By-law shall be final, except after a hearing by the Windsor Licensing Commission, or after the licensee has been given the opportunity for such a hearing, in accordance with the law.

- 5.9 The Licence Commissioner may suspend a licence where there are reasonable grounds to believe that such is required to prevent a breach of the By-law, or for any of the reasons that would form grounds for the revocation of a licence pursuant to Section 5.2;
- 5.10 A suspension under Section 5.2 shall take effect upon service of written notice thereof to the licensee, or upon the delivery of written notice to the business premises of the licensee at the address shown on the City's records;
- 5.11 A suspension under Section 5.2 shall remain in effect for no more than fourteen (14) days from the date of service of the notice under Section 5.9;
- 5.12 Following suspension of a licence under Section 5.2, the Licence Commissioner shall prepare a written report to the Windsor Licensing Commission, advising of the suspension and:
- (a) Recommend that the Windsor Licensing Commission hold a hearing to determine whether the suspension should continue, or be terminated, and whether the Windsor Licensing Commission should give consideration to whether or not the licence should be revoked or otherwise dealt with pursuant to the By-law; or
  - (b) Recommend reinstatement of the licence on the basis that the conditions leading to the suspension have been remedied; or
  - (c) Recommend that no action be taken upon the termination of the suspension.

## **6 Powers and Duties of the Windsor Licensing Commission**

- 6.1 At any time before the Licence Commissioner shall issue or renew a licence, or recommend to the Windsor Licensing Commission that it refuse to issue or refuse to renew a licence, the Licence Commissioner may as he or she sees fit, or shall at the request of the applicant, refer the application for issuance or renewal of the licence to the Windsor Licensing Commission.
- 6.2 Where there is a referral to the Windsor Licensing Commission pursuant to this section, the Windsor Licensing Commission shall hold a hearing for the purpose of:
- (a) issuing or renewing the licence;
  - (b) refusing to issue or renew the licence;
  - (c) suspending the licence;
  - (d) revoking the licence; or,
  - (e) issuing or renewing the licence with the imposition of conditions.
- 6.3 Where the Licence Commissioner intends to recommend to the Windsor Licensing Commission that it refuse to issue, refuse to renew, place conditions on, revoke or suspend a licence, the Licence Commissioner shall give notice of the intended recommendation and the reasons for the intended recommendation to the applicant or licensee as well as to such

other persons, civic departments, boards, commissions, authorities and agencies having an interest in the recommendation. Under this section, notice to the applicant or licensee shall be written notice served personally or sent by ordinary, prepaid mail addressed to the address shown on the application or licence. The notice of the hearing shall:

- (a) contain a reason or reasons for the proposed refusal, suspension, revocation or imposition of conditions;
- (b) specify the time, place and purpose of the hearing of the Windsor Licensing Commission at which the proposed refusal, suspension or revocation will be considered;
- (c) inform the affected applicant or the affected holder of the licence that he is entitled to attend the hearing and make submissions regarding the proposal and that, in his absence, the Windsor Licensing Commission may proceed to consider the proposal, and the applicant or affected holder of the licence will not be entitled to any further notice in the proceeding;
- (d) afford the affected applicant or the affected holder of the licence a reasonable opportunity, before the hearing, to show or achieve compliance with all lawful requirements for the retention of the licence; and
- (e) be given at least seven (7) days notice prior to the date of the Windsor Licensing Commission hearing.

6.4 At a hearing, the Windsor Licensing Commission:

- (a) shall afford the affected applicant or the holder of the licence an opportunity to make submissions in respect of the matter that is the subject of the Commission's proceedings;
- (b) shall afford any person, civic department, board, commission, authority or agency given notice under Section 6.3 of this by-law and in attendance at the hearing, or any other person in the discretion of the Commission, an opportunity to make submissions in respect of the matter that is the subject of the Commission's proceedings;
- (c) the hearing shall be open to the public but the Commission may close a portion of the hearing for the purposes of receiving confidential legal information pertaining to the affected applicant or licensee;
- (d) the hearing shall be open to the public but the Commission may close all or a portion of the hearing to the public if the Commission is of the opinion that intimate financial or personal matters may be disclosed of such a nature, having regards to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest, outweighs the desirability of adhering to the principle that the hearing be open to the public;
- (e) shall give due consideration to the submissions made to it;

- (f) shall take such action to refuse, suspend revoke or impose conditions on the application or licence, or not to refuse, suspend revoke or impose conditions on the application or licence, as the Windsor Licensing Commission considers proper in the circumstances; and
- (g) shall give notice of its decision to the Licence Commissioner, to the applicant or to the licensee, and to any person, civic department, board, commission, authority or agency in attendance at the hearing, together with the reasons for its decision.

6.5 At the hearing, the Windsor Licensing Commission may suspend, revoke, and refuse to issue or impose conditions on any licence under this By-law:

- (a) for any reason that would disentitle any licensee to a licence;
- (b) where the licensee or applicant is in breach of a condition of the licence;
- (c) where the licensee or applicant is in breach of any of the provisions of this By-law;
- (d) if there are reasonable grounds to believe any of the statements made on the application for issuance or renewal are false;
- (e) if, subsequent to the issuance of the licence, a report is filed by any body which originally provided its approval that indicates that the licensee is no longer in compliance with this By-law;
- (f) upon such grounds as are set out in this By-law;
- (g) if the applicant has outstanding fees or fines owing to the City, or if the applicant has not paid the required application fee;
- (h) if the conduct or character of the applicant or licensee affords reasonable grounds to believe that the applicant or licensee will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- (i) if the geographic location of the business does not meet land use requirements or does not comply with this By-law;
- (j) if, in the case of a corporate applicant or licensee, the conduct of its officers, directors, employees or agents affords reasonable cause to believe that the business will not be carried on in accordance with the law or with honesty and integrity;
- (k) if issuing the licence is not in the public interest;
- (l) if a licensee's or applicant's insurance, as approved by the Licence Commissioner, has expired and he or she continues to carry on business for which the licence was issued; or
- (m) if a licensee or applicant fails to comply with a request to inspect or hinders an inspection in any way.

- 6.6 A decision of the Windsor Licensing Commission refusing, suspending, revoking or imposing conditions on an application or licence takes effect upon the rendering of such decision by the Windsor Licensing Commission. No licensee shall operate or carry on the activity for which the licence was issued while his licence is under suspension.
- 6.7 The Windsor Licensing Commission shall give its decision to the Licence Commissioner within seven (7) days of the hearing.
- 6.8 The Licence Commissioner shall forthwith notify the applicant in writing of such decision by serving a copy personally or sent by ordinary, prepaid mail addressed to the last known address for the person appearing on the records of the City.
- 6.9 The proceedings of the Windsor Licensing Commission shall, at the request of the applicant and upon payment of a fee determined by the Licence Commissioner, be transcribed in writing and a copy of the transcript shall be made available to the applicant on payment of such additional fees as may be determined by the Licence Commissioner.
- 6.10 Upon receipt of a notice of the decision of the Windsor Licensing Commission suspending or revoking a licence, the licensee shall, within twenty-four (24) hours of service of notice by certified mail or immediately if the notice is personally served, return the licence to the Licence Commissioner and the Licence Commissioner shall have access to any premises, or other property of the licensee for the purpose of receiving or taking the same. All licences not returned within twenty-four (24) hours of service of notice will automatically be deemed invalid.
- 6.11 No person shall refuse to deliver a suspended or revoked licence to the Licence Commissioner or designate or shall in any way prevent or hinder the Licence Commissioner or designate from receiving or taking the same.
- 6.12 Where a licence is revoked, the licensee is entitled to a refund of that part of the licence fee proportionate to the unexpired part of the term for which it was granted, such refund to be prorated on a monthly basis.
- 6.13 Where the Windsor Licensing Commission renders a decision granting the applicant the licence applied for, the licence shall be issued upon the applicant complying with the terms of this By-law and the conditions imposed on the licence, if any, and the applicant shall complete the application within fourteen (14) days of the decision of the Windsor Licensing Commission.
- 6.14 No person licensed under the provisions of this by-law shall fail to maintain, on a continuous basis, the standards and requirements that were necessary to obtain the original approval of the licence application, or have been imposed since the issuance of the licence.
- 6.15 Decisions made by the Windsor Licensing Commission are final.

## **7 General Regulatory Requirements**

- 7.1 No person shall operate a Short-Term Rental in contravention of the City's Zoning By-law, as amended, or its successor by-law, or in contravention of any other of the City's by-laws or any other applicable law.

- 7.2 No person licensed or required to be licensed under this By-law shall charge any person, or provide services to any person, or deny service to any person, in a manner that in the opinion of the Licence Commissioner discriminates on the basis of a prohibited ground under the *Ontario Human Rights Code*, R.S.O. 1990, c.H.19, as amended, or is deemed by the Licence Commissioner to have the same or similar effect.

## **8 Regulatory Requirements for Short-Term Rental Owners**

- 8.1 Every Short-Term Rental Owner shall carry on their business in accordance with the conditions of the licence.
- 8.2 No Short-Term Rental Owner shall offer or accept multiple reservations where the proposed accommodation rental periods of said reservations overlap.
- 8.3 No Short-Term Rental Owner shall operate a Short-Term Rental unless the building in which the Short-Term Rental is located is in compliance with both Ontario Building Code and Fire Code.
- 8.4 No Short-Term Rental shall be operated in any area where a residential use is not permitted under the City's Zoning By-law, as amended, or its successor by-law.
- 8.5 No Short-Term Rental Owner shall allow any person to operate his or her Short-Term Rental unless such person has been registered with the City as per Subsections 3.13(i), 3.13(j) and Section 8.6.
- 8.6 Every Short-Term Rental Owner shall ensure that the list of Short-Term Rental Operators relating to the Short-Term Rental is up-to-date and accurate in accordance with Section 4.1.
- 8.7 Notwithstanding the requirements under Subsection 3.13 (i) and Section 8.6, every Short-Term Rental Owner shall be fully responsible for any and all decisions and actions governed by this By-law, including those taken by a Short-Term Rental Operator, whether or not such individual has been identified as such by the Short-Term Rental Owner and whether or not such individual was granted explicit permission or authority to make such decisions or take such actions.
- 8.8 Every Short-Term Rental Owner shall post the licence supplied by the City at the time of issuance or renewal in a conspicuous place visible from the outside of the dwelling unit, on, or as near as possible to, the main entrance to the Short-Term Rental.
- 8.9 No Person shall Operate a Short-Term Rental within the jurisdictional boundaries of the City without:
- (a) having registered with the City for purposes of collecting the Municipal Accommodation Tax in accordance with the City's Municipal Accommodation Tax By-law, as amended, or its successor by-law; and
  - (b) being current on all Municipal Accommodation Tax Collection requirements to the City.

- 8.10 No Short-Term Rental Owner shall hold, advertise, permit, or otherwise allow any occupancy that exceeds the maximum under either the Ontario Building Code or Fire Code, or which may otherwise pose a hazard or public nuisance, as determined by the Licence Commissioner.
- 8.11 No Short-Term Rental Owner shall use or permit his or her Short-Term Rental to be used for the carrying on of a party for which an entrance fee is advertised or otherwise charged.

## **9 Regulatory Requirements for Short-Term Rental Operators**

- 9.1 No Short-Term Rental Operator shall operate a Short-Term Rental unless he or she is registered with the City for that purpose by the Short-Term Rental Owner, in accordance with Subsection 3.13(i) and Section 8.6.
- 9.2 Every Short-Term Rental Operator registered in accordance with Subsection 3.13(i) and Section 8.6 and who is an individual person shall be at least 18 years of age at the time of registration.
- 9.3 Every Short-Term Rental Operator shall be required to identify him or herself upon request by an Officer or any other person authorized to administer or enforce this By-law.

## **10 Administrative Matters**

- 10.1 Any notice or other information required or authorized to be forwarded, given or served under this By-law is sufficiently given if delivered personally or sent by ordinary, prepaid mail addressed to the person to whom delivery is required to be made at the address shown on the application or at last address shown or appearing on the records of the City and in the case of a corporation shall include delivery personally or by ordinary prepaid mail delivered to any individual person who acts or appears to act for the benefit of such corporation, including a sales or customer service representative or an individual person employed or contracted by such corporation who is located at the premises of such corporation or any of such corporation's affiliates, subsidiaries or parent corporations, as the case may be.
- 10.2 Where service is effected by ordinary prepaid mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing, unless the person on whom service is being made establishes to the satisfaction of the Licence Commissioner, that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the notice or order until a later date.
- 10.3 For the purposes of Section 23.2(4) of the *Municipal Act*, it is the opinion of Council that the powers delegated to the Licence Commissioner, the Windsor Licensing Commission pursuant to this By-law are of a minor nature.
- 10.4 The Licence Commissioner, on behalf of the City, may enter into a data sharing agreement with a Short-Term Rental Brokerage for the purposes of collection and disclosure of information required under this Bylaw.

## **11 Enforcement**

- 11.1 The provisions of this By-law may be enforced by an Officer.



- 11.2 An Officer who has reasonable grounds to believe that a person has contravened any provision of this By-law may require that person provide identification to the Officer.
- 11.3 Any information provided to the Officer under Section 11.2 is presumed to be correct and accurate and is admissible in any proceeding.
- 11.4 All persons who are required by an Officer to provide identification under Section 11.2 shall provide such identification to the Officer. Failure to provide sufficient or correct and accurate identification shall constitute an offence as set out under Section 11.6 of this By-law.
- 11.5 An Officer may issue an Order to any person governed by the provisions of this By-law, directing such person to:
- (a) discontinue a contravening activity; or
  - (b) do work to correct a contravention.
- 11.6 Failure to comply with an Order under Section 11.5 is an offence and every person named in such Order shall be subject to penalties and remedies prescribed under this By-law.
- 11.7 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law.

## **12 Powers of Entry and Inspection**

- 12.1 Officers, and any person acting under their direction, may, at any reasonable time or at any time when there are reasonable grounds to believe that a contravention of this By-law is occurring or alleged to be occurring and subject to applicable law, enter onto any property to determine if the provisions of this By-law are being complied with.
- 12.2 Officers are authorized, for the purposes of an inspection to determine and enforce compliance with the By-law, to:
- (a) enter, at any reasonable time, onto any property, other than a dwelling unit unless authorized by the occupier of such dwelling unit or under the authority of a warrant issued by a court of competent jurisdiction;
  - (b) require any person to produce for inspection any substance, equipment, documents, or other things relevant to the alleged offence or inspection;
  - (c) alone or in conjunction with persons possessing special or expert knowledge, make examinations, take tests, obtain samples, and/or make audio, video and/or photographic records relevant to the alleged offence or inspection; and/or
  - (d) require information from any person concerning the alleged offence or inspection.

## **13 Offences and Penalties**

- 13.1 Every person who contravenes a provision of this by-law or direction provided by an Officer in order to achieve compliance shall be guilty of

an offence and upon conviction shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, C. P.33, and as set out below:

- (a) Upon a first conviction, a fine of not less than \$500 and not more than \$5,000.00.
- (b) Upon a second or subsequent conviction, a fine of not less than \$500.00 and not more than \$10,000.00.
- (c) Upon conviction for a multiple offence, for each offence included in the multiple offence, a fine of not less than \$500.00 and not more than \$10,000.00.
- (d) Upon a first conviction, where the person is a corporation, a fine not less than \$500.00 and not more than \$100,000.00.
- (e) Upon a second or subsequent conviction, where the person is a corporation, a fine of not less than \$500.00 and not more than \$100,000.00.
- (f) Upon conviction for a multiple offence, for each offence included in the multiple offence and where the person is a corporation, a fine of not less than \$500.00 and not more than \$100,000.00.

13.2 Upon the conviction of a Short-Term Rental Owner, for which the offence or offences relate to the carrying on of a party and for which an entrance fee was advertised or otherwise charged, a special fine, in addition to any other applicable fines, equivalent to the number of participants estimated by the Licence Commissioner to have attended multiplied by the amount advertised or charged per person.

## **14 Collection of Unpaid Penalties and Fines**

14.1 Where a fine is in default, the City may proceed with civil enforcement against the person upon whom the fine has been imposed, pursuant to the *Provincial Offences Act*, R.S.O 1990, Chapter P.33.

## **15 Continuation, Repetition Prohibited by Order**

15.1 The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the Person convicted.

## **16 Evidentiary Requirements**

16.1 A court or the Windsor Licensing Commission may, in the absence of evidence to the contrary, infer that a listing on the platform of a Short-Term Rental Brokerage or a public advertisement to the effect, and by any means, is proof that the premises or part thereof is being rented or offered for rent as a Short-Term Rental. For greater certainty, a witness need not possess special or expert knowledge for the court or the Windsor Licensing Commission to make any such inference.

## **17 Severability**

17.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or

inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

**18 Force and Effect**

18.1 This By-law shall come into force on the XX day of XXX of XXXX.

## SCHEDULE 1 – SHORT TERM RETNAL LICENCE FEE

CATEGORY	INITIAL APPLICATION	RENEWAL APPLICATION*
Short Term Rental Owner	\$232.00	\$191.00

*\* STR licences are due for renewal by November 30<sup>th</sup> annually.*