



Staff Report

Planning & Development Services – Planning

Report To: Special Committee of The Whole
Meeting Date: March 29, 2018
Report Number: FAF.18.42
Subject: Short Term Accommodation
Proposed Program Updates
Prepared by: Shawn Postma, Senior Policy Planner, Kirsty Robitaille, STA
Coordinator/Municipal Licensing Officer

A. Recommendations

THAT Council receive Staff Report FAF.18.42, entitled “Short Term Accommodation Proposed Program Updates”;

THAT Council direct Staff to circulate notice for a public meeting to consider the attached updated Official Plan Policies, Zoning By-law regulations and Short Term Accommodation Licensing By-law that includes the staff recommendations contained in Staff Report FAF.18.42;

THAT Council revoke the current 6 licensed STA units on Delphi Lane and 3 Licensed STA units on Settlers Way immediately;

B. Overview

The purpose of this report is to provide Council with recommendations for future consideration on the Short Term Accommodation (STA) Licensing Program, as a follow up to the Staff Report FAF.17.130 “Short Term Accommodation Licensing Program Update”. This report also provides draft documents to update Official Plan policies, Zoning By-law Amendment and the Licensing By-law Amendment.

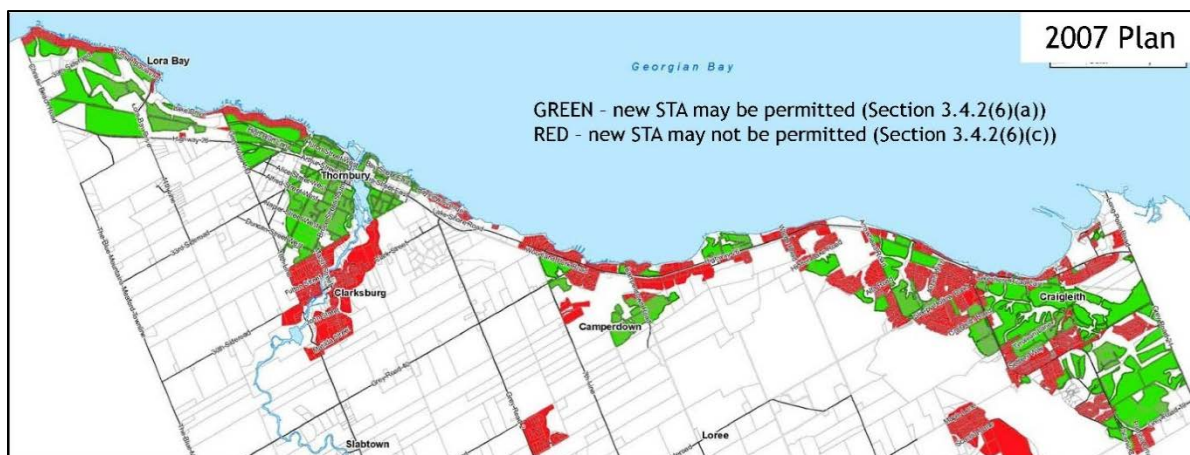
C. Background

The Short Term Accommodation (STA) program was created in June 2011 through an Ontario Municipal Board Decision that created Official Plan Amendment 11 and Zoning By-laws 2009-03, 2009-04 and 2009-05. The STA program was developed in response to the growth of the area as a tourist destination and the growing demand for a range of accommodation types. With this growth there has also been an increase in complaints from area residents about noise, parking, garbage, nuisance, mischief and vandalism to both private and public properties. The Municipal Council determined in 2007 that it needed to take steps to lessen the conflicts between permanent residents and visitors and in particular, the use of single detached dwellings in low density areas for STA uses. In January 2009 Council adopted OPA 11 and enacted the above mentioned By-laws. The documents were appealed to the Ontario

Municipal Board, and after a lengthy detailed hearing process has approved the documents subject to modifications as contained in the Board Order dated June 22, 2011. Through the Ontario Municipal Board process, the Board found that the purpose of the proposed OPA and By-laws were not to eliminate or limit access to STA units, but to regulate this type of accommodation to create a more compatible situation. The Town directed STA units to locations where servicing and appropriate levels of infrastructure are available, where the intensity of use can be better accommodated, and where future growth needs can be met. (PL080455, June 22, 2001, Page 13) The Board also determined that STA units are distinct commercial entities with the goal of making a profit, and that it is the commercial entity that has the potential to conflict with the character and stability of existing neighbourhoods because of the constant turnover of people and the difficulty that turnover brings in controlling noise and other nuisances. The Board found that the Town must ensure that compatibility is achieved between the commercial STA uses and existing residential neighbourhoods. (PL080455, June 22, 2001, Page 15).

In particular, Official Plan Amendment 11 created the policy direction that is now found under Section 3.4.2 of the 2007 Town of The Blue Mountains Official Plan. Numerous commercial accommodation types were identified including STA's, Bed and Breakfasts, Boarding or Rooming House, Tourist Cabin or Cottage, Hotel and Motels and Residential uses. OPA 11 then provided policy direction on where each of these accommodation uses can be located and how they should be regulated. New accommodation uses shall avoid disruption to adjacent residential uses through mitigation of potential impacts including noise control, waste management, setbacks, buffering, servicing and adequate on-site parking among other things. OPA 11 established requirements for additional Council approvals when a new STA is to be considered including Zoning By-law Amendment and Site Plan Approval to reduce any detrimental affects caused by the use of a dwelling as an STA. OPA 11 directs new STA uses to: those land use designations that permit a range of housing types; to provide mitigation measures in the form of zoning provisions and site works; and not be permitted in residential land use designations that restrict the use of land to only single detached dwellings. (OPA 11, Section 3.4.2(6)). Figure 1 below summarizes where new STA's are directed to and directed away from.

Figure 1: 2007 Official Plan Direction on locations for new STA uses.



Zoning By-law 2009-03, 2009-04 and 2009-05 created the site specific regulations for new STA's and other accommodation types. General Provisions were developed to direct STA uses to particular areas (zones), establish occupant loads, minimum separation requirements, and to require Site Plan approval to address landscaping, parking, garbage and servicing requirements. All new STA uses are subject to a site specific Zoning By-law Amendment to ensure the above items can be adequately addressed and subject to Council approval. By-law 2009-03 also identified a number of exception areas within the former Township of Collingwood exempting certain areas from the maximum occupant load and minimum separation distance requirements. These areas were specifically identified based on condominium areas that were purpose built for short term accommodation or commercial resort unit uses, and other areas that were historically used for short term accommodation uses (Tyrolean Lane and area). By-law 2009-04 established similar zoning requirements for those lands located in the former Town of Thornbury, and By-law 2009-05 modified the zoning category for Resort Residential 'RR' uses to also include Short Term Accommodation uses, while also removing the Resort Residential 'RR' zone from the Castle Glen area. The new Resort Residential 'RR' zone provided a unique zoning category and zone standards for new STA uses.

The licensing bylaw has helped with regulating and the control of Short Term Accommodation uses within the Municipality. The implementation of the Licensing By-law, Zoning and Property Standards By-law shall establish appropriate provisions related to occupant load per unit, parking requirements, noise complaints, and waste management. Since 2014 when the Licensing of STA came into effect statistics have shown a decline in noise complaints and noise charges laid for STA properties that appear directly related to the demerit point system in place.

Since June 2011 278 STA's have been recognized:

- 144 recognized by the By-laws
- 82 recognized as legal non-conforming (grandfathered).
- 43 recognized in Mountain Springs
- 9 recognized on Delphi Lane and Settlers Way

A number of issues and concerns have come forward since 2011 that have been attempted to be addressed by Town Staff, interpretation policies and Council direction. No changes have been made to the original approved OPA 11 or Zoning By-laws. The Licensing By-law was last updated in 2014 (By-law 2014-45). Other than this update to the Licensing By-law, the 2011 documents are overdue to be reviewed and updated to ensure they are modernized and align with current Planning documents. Going forward, staff also see merit in providing annual updates to Council so that minor updates and changes can be made to the STA program in incremental steps rather than a major overhaul of all documents every 5+ years.

The issues that have been identified since 2011 include the following, and have been brought to Councils attention through Staff Report FAF.17.130 dated October 23, 2017. Following this report a workshop was also held with Council in December 2017 where Council provided Staff with direction on areas of the STA program that need clarification. Below is an overview of the issues and concerns that were discussed:

1. Legal non-conforming
2. Parking
3. Minimum Distance Separation
4. Occupant Load
5. Commercial Resort Units vs. VCRU and STA
6. Assessment of Penalties and Demerit Points
7. Responsible Person
8. Interpretation Policies

In addition to working through the above issues, the planning regime has changed with the approval of the new Town of The Blue Mountains Official Plan (2016 OP). The 2016 OP deferred new policies related to STA uses until such time as the Zoning provisions could also be considered. The new Draft Comprehensive Zoning By-law is nearing completion and it is now appropriate for Council to concurrently consider new Official Plan policies, Zoning regulations and Licensing requirements. It is anticipated that the new STA updates will run alongside the new comprehensive Zoning By-law so both can be dealt with but with specific attention to both projects separately. Until the new Official Plan policies and Zoning By-law regulations are in place, the Town continues to work off of the original OPA 11 and By-laws 2009-03, 2009-04 and 2009-05 documents as approved by the OMB.

D. Analysis

Based on success and challenges of the existing STA program, it is clear that updates are required to the Official Plan, Zoning By-law and STA Licensing By-law. The fundamental basis of these updates are to:

1. Maintain the intent of the original OMB decision as described above;
2. To not become more permissive or more restrictive in the policy direction or implementation on new STA uses;
3. To provide new language in the STA documents to align with new planning documents;
4. To provide clarification and new direction on the issues listed in this report.

There continues to be a need to govern resort accommodation uses including STA's in the Town. Official Plan policies, Zoning By-law regulations and Licensing requirements are needed to ensure new STA's can be created in appropriate locations where appropriate provisions and protections can be put in place. It is noted that there is no possible way to simply insert the original OMB decision, OPA 11 and Zoning By-laws into the new planning documents. The STA documents must instead be updated to meet the modern planning framework and organization of the new documents. Through this process individual properties may see change, but the overall purpose of the program will be maintained by: directing new STA's away from low density residential areas; and, to require new STA's to pass a consistent and thorough review and where required, council approval prior to being permitted.

The sections below break down the STA program by document and describes the original objectives, known issues, and proposed direction. Town Staff will provide recommendations on

the direction that can be taken on each document, and pending endorsement from Council will then finalize the draft documents for public review, circulation and future public meeting.

Town of The Blue Mountains Official Plan

OPA 11 inserted new Official Plan policies into the 2007 Official Plan. Since that time, the 2007 Official Plan has been replaced with the new 2016 Official Plan save and except for the STA policies. The result is that development in the Town is reviewed against the 2016 OP, but any new STA applications are reviewed against the 2007 OP. The policies work, but Staff need to update the STA policy section, receive approval from the County of Grey, insert the policies into the 2016 OP and then the 2007 OP is no longer required or used.

OPA 11 directed STA's to avoid/target specific land use categories within the 2007 OP that no longer exist in the new 2016 OP. Based on the 2011 OMB decision it is the opinion of Staff that:

1. New STA's shall be directed away from existing residential developed residential areas unless it can be proven that there is no potential for an adverse land use conflict between the STA and surrounding uses.
2. New STA's may be permitted on future development residential lands. It is clear that STA's may be permitted, but the use must still be evaluated against all other STA policies and other implementing By-laws. On future development lands a Zoning By-law Amendment will be required triggering public process, ability to create specific STA buffering and other zoning requirements and ultimately a Council decision. Also, because the lands are future development, the land use conflicts that arise between STA's and residential uses can be more carefully evaluated and planned for including buffering, separation distance, etc. If STA's are not to be included on future development lands, the Zoning By-law that implements the development can include provisions that prohibit new STA's.

Staff recommend that Council direct Staff to draft a new section to the 2016 Official Plan based on the 2007 Official Plan policies and updated to align with the format of the 2016 Official Plan. The Draft section will be made available for public review, public meeting, Council adoption and Council approval.

Zoning By-law

The purpose of the STA Zoning By-law is to implement the Official Plan policies that are described above, and to mirror the STA zoning regulations that were approved through By-laws 2009-03, 2009-04 and 2009-05. Staff recognize that the Zoning By-law regulations have been effective in managing existing and new STA's throughout the Municipality. A number of issues have come forward through the implantation of the Zoning By-law, and it is the purpose of the Zoning By-law update to clarify and streamline the STA requirements. Below is a summary of zone regulations, issues and proposed direction for the new Zoning By-law:

1. Legal Non-Conforming Uses:

A legal non-conforming use (grandfathered STA) is an STA that is not permitted under the applicable zoning currently in force. Section 34(9) of the Planning Act states that a Zoning By-law does not prevent the use of any land building or structure for any purpose prohibited by the By-law if such land, building or structure was legally used for such a purpose on the day of the passing of the By-law, so long as it continues to be used for that purpose. The intent of legal non-conforming uses is to protect the owner who had a lawfully established STA prior to the enactment of By-law 2009-03, and also to recognize that these uses should eventually cease to exist and that the lands eventually be brought back into conformity with the Zoning By-law.

It is recognized that all legal non-conforming STA's have been accounted for at this time. 9 years has passed since the enactment of By-law 2009-03, and 5 years has passed since the implementation of the Licensing By-law. Staff do not anticipate any additional legal non-conforming STA's to come forward.

A number of STA's have been deemed legal non-conforming and clarification may be required at time of license renewal to determine what aspects of the property are legal non-conforming. Aspects such as servicing, parking, occupant load, separation distance, etc. all need to be accounted for and should intensification be proposed to a legal non-conforming use, it should be demonstrated that the property can be brought into conformity with the Zoning By-law or that approval is received to vary the required sections of the By-law.

2. Parking:

2009-03 requires: (Section 5.14(a)(xxiv) Multi Unit Building = 1.75 parking spaces per unit having 4 guest rooms or less plus 1 parking space for each additional guest room

Single Detached Dwelling = 0.5 parking spaces per occupant or 1 parking space per guest room whichever is greater.

Issues: Insufficient parking provided based on occupant load, legal non-conforming uses need parking management plans, Multi Unit Buildings demand a minimum number of parking spaces similar to single detached dwellings.

Recommended Zoning: Require additional parking for Multi-Unit Buildings at a more appropriate rate. Maintain the parking requirements as established in By-law 2009-03 for single detached dwellings.

Licensing requires: A Parking Management Plan is required to indicate the size and location of all parking spaces intended to be used on the property.

Issues: Parking Management Plan is required for all licenses. Legal non-conforming uses may be deficient in required parking spaces.

There needs to be a clear connection between the number of occupants and the number of parking spaces provided.

Recommended Licensing: Clarification is needed on license requirements for legal non-conforming uses, and additional details to be provided from legal non-conforming STA's clarifying all areas of non-compliance.
Parking to be reviewed at time of license renewal.

3. Separation Distance:

Zoning By-law requires: (Section 5.24.1.(c) "no short term accommodation use shall be located closer than 120 metres in a continuous path over the shortest distance from another short term accommodation use or bed and breakfast establishment."

The Zoning By-law recognizes an exemption area to the separation distance where the 120 metre distance does not apply (mostly in the Tyrolean Village Area).

Issues:

Six units at Delphi Lane "Summit Shores" and 3 units at Heritage Corners were issued an STA licence in 2015 within the prescribed 120m separation distance and are located outside of the exemption area, these units are currently in contravention of Zoning By-law No. 2009-03 Section 5.24.1 (c) as described above. Concerns have also been raised as to how the 120 metres should be measured. It is also noted that the six STA units at Delphi Lane are not a permitted use.

Recommended Zoning: Maintain the existing requirement for 120 metre separation distance between STA uses, require measurement from property line, develop mapping showing all existing STA uses and provide a 120 metre buffer distance to illustrate properties impacted by 120 metre separation distance.

Recommended Licensing:

1. THAT Council direct staff to revoke the current 6 Licensed Short Term Accommodation units on Delphi Lane and 3 Licensed Short Term Accommodation units on Settlers Way immediately, OR
2. THAT Council direct staff to discontinue the current 6 Licensed Short Term Accommodation units on Delphi Lane and 3 Licensed Short Term Accommodation units on Settlers Way upon their renewal date;

Staff Recommendation:

Staff recommend that Council Consider Option 1. Revoke the current 6 licensed STA units on Delphi Lane and 3 Licensed STA units on Settlers Way immediately

4. Occupant Load:

Zoning By-law requires: (Section 5.24.1(b)) No person can operate an STA that secures nine (9) or more occupants.

(Sections 5.24.3 and 5.24.4(b)) removes the maximum occupant load requirement described above on certain lands.

Issues: interpretation of maximum of 8 or maximum of 9 occupants, conflicts with the permitted occupant load under the licensing by-law, provision of additional sleeping areas that are not bedrooms.

Proposed Zoning: No change from the current By-law occupant load requirement. Clarification to the By-law is proposed to: modify the text to recognize a maximum of eight (8) occupants; and to provide a clear definition of a bedroom. It is noted that a new STA must continue to meet both the requirements of the Zoning By-law and Licensing By-law whichever is more restrictive. The number of bedrooms that are provided must be accepted as bedrooms by Town Staff. The additional 2 occupants permitted by the licensing By-law is intended to recognize a pull out couch in a living room

Property Standards: (Section 5.06 of Property Standards By-law 2002-18 as amended) The maximum occupant load shall be a maximum of 2 persons per bedroom plus an additional 2 persons.

Issues: Further to the Zoning issues above, it is noted that the Legal Non-conforming properties have been issued for a higher occupant load using a different formula.

Proposed Licensing:

THAT Council direct staff to maintain the Licensing By-law requirements for an Occupant Load within a Short Term Accommodation premise shall be two persons per bedroom, plus two additional persons;

AND THAT Council direct that enforcement of the Occupant load of all existing STA Licenses be issued/renewed as directed by the consolidated By-law.

Staff Recommendation:

Staff recommend that Council consider maintaining the current occupant load requirements as set out in the Zoning By-law and Licensing By-law. It is noted that Occupant Load is not limited

to the number of bedrooms available. Parking in accordance with the Zoning By-law must also be met on the property. Occupant load is calculated based on the lesser of the number of bedrooms or available parking. It is further noted that at time of STA license issue or renewal, Staff will be expecting all STA properties to meet this occupant load requirement.

5. Commercial Resort Units and Commercial Resort Unit Complexes:

Commercial Resort Units (CRU's) are individual units with kitchen/sanitary facilities that can be purchased and used by an owner for 120 days per year and the remainder of the time is part of a rental management pool. A Commercial Resort Unit Complex is a building or group of buildings containing ten or more CRU's on a single lot. CRU's exist on various commercial properties throughout the municipality, mostly concentrated around the mountain. Commercial Resort Units were a popular form of resort accommodation developed in the 1980's and 1990's. Craiglieth Shores, Mountain Springs and Cachet Crossing are all zoned with permissions for CRU's. It would appear that CRU's today are operated differently than they were originally designed for. Original CRU complexes included a central check in desk, on site laundry, on site maintenance, security, etc. comparable to a hotel. If guests had an issue with their unit or an adjacent unit they could simply call the front desk to have the issue addressed. Today more and more check-ins are completed online, there are no longer physical keys required to enter a unit, and maintenance/laundry/security can be completed by a unit owner or contracted out. The current system is not as 'complete' as the previous system as there can be gaps in service and unknown points of contact -especially after hours.

The Village Resort Area Core permits Village Commercial Resort Units (VCRU's). VCRU's are different to CRU's where a VCRU cannot be a principal residence, is serviced by a central lobby, and where a minimum 80% of the units created must not be occupied for more than 120 days. A Village Resort Unit Complex is a building or group of buildings containing 10 or more VCRU's. VCRU's exist in the Blue Mountain Village Core area with additional buildings still to be developed. VCRU's are operating appropriately and no changes are recommended to the VCRU policies or zoning requirements.

CRU's are recognized as purpose built commercial resort accommodation uses and should continue as one type of resort accommodation. There is a certain level of increased noise and nuisance that can be expected within a CRU complex versus a low density residential area of permanent residents. Issues have come forward in the change of how these developments previously operated with a central check-in desk and an overall management company. It was the overall management company that provided responsibility for many short term issues including noise, parking, garbage, nuisance and mischief.

Over time new CRU owners opted out of the central check-in and management company and became non-compliant with the Zoning By-laws as they were no longer part of a rental/lease management program with 10 or more CRU's. When complaints against a CRU unit that is not part of a rental/management program there is now a void

as to how those complaints can be addressed. Similar to STA's, there appears to be a need to have resort accommodation uses controlled in a way that can provide efficient response to complaints and concerns.

Option 1: Individual Commercial Resort Units (or groups of CRU's less than 10) must move into compliance and become part of a Commercial Resort Unit Complex. The Commercial Resort Unit Complex does not require to have a physical check-in desk, but at a minimum a rental or lease management program must provide a point of contact that is available 24 hours a day to deal with guest questions and concerns/complaints that may arise from other units. All guests should expect a certain level of accountability and responsibility of other guests and their unit owners.

Option 2: Council could consider implementing a CRU program similar to the STA program where CRU units that are not part of a Commercial Resort Complex can be individually licensed to ensure that a responsible person is available to respond to concerns against an individual unit. Direction will be required from Council if Town Staff should enforce the Commercial Resort Unit requirement to be part of a Commercial Resort Unit Complex, or alternatively if a Zoning By-law Amendment can be considered to permit individual Commercial Resort Units to exist and be subject to a licensing program similar to STA's. A Licensing program for CRU's in groups less than ten can developed off the framework and requirements of the STA Licensing program. Requirements for fire safety, property standards, responsible person, garbage, parking, insurance, and other items.

Staff Recommendation:

Staff recommends Option 1 and that all commercial resort units move back into compliance with the requirements of the Zoning By-law. The draft Zoning By-law attached to this report provides some clarification and additional flexibility that: Commercial Resort Units may exist in one or more buildings on one or more properties; and that a Commercial Resort Unit Complex can comprise of ten or more Commercial Resort Units in one or more buildings on one or more properties. Clarification is also proposed to define what a "Rental or Lease Management Program" is. Currently there is no definition.

6. Assessment of Penalties and Demerit Points

The STA Licensing By-law contains a list of violations which can be found under Section 6 of the By-law whereby Demerit Points and Administrative Penalties may be imposed in cases of their violation.

Currently a person who contravened any provision of the Short Term Accommodation By-law is subject to an administrative penalty and demerit points. The person that the

penalty has been addressed to may appeal the decision to the STA Committee as set out in Section 4.21.

The Committee shall hear appeals as set out in 4.20 and 4.21. Under the By-law, currently noise infractions are confirmed by the courts decision and the Committee relies on the Provincial Offence Act conviction. Once the conviction the owner is then issued demerit points and an administrative Penalty of \$250.00. Previously the appeal process has delayed the implementation of demerit points, as we have had to reschedule appeal dates over time. In some cases, the demerit points would expire.

If council approves the proposed change in this process, STA committee will no longer need to hear appeals of demerit points and administrative penalties. Instead, the owner will be charged with violating the provisions of the STA Bylaw, and will have the opportunity to argue their case in Provincial Court. For example, if a renter gets charged by OPP or By-law Enforcement under the noise By-law, staff would then proceed with a separate prosecution against the License holder of the STA.

Once staff have been notified that a Noise charge has been laid, a Summons can then be issued to the licensee under Section 5.19 of the STA Licensing By-law; "Every Licensee shall ensure that the short term accommodation premises is operated and used in a fashion such that the operation or use will not cause a disturbance"

This would also allow the Operator to present evidence of "due diligence" and if the Operator is found guilty, they would then be subject to demerit points. If they are not found guilty, no demerit points are applied.

Further to this Staff have received an legal opinion on this process and it is being recommended that council consider allowing these STA appeals be dealt through the POA courts, If this is the process that Council wish to consider, the STA Committee would then no longer have to hear noise related appeals as well as other By-law infractions such as parking, garbage, over- occupancy, etc. The Administrative penalty will not be applied because of the assign court fine.

Staff Recommendation:

Staff are recommending that the application of demerit points be done via Provincial Offences Act charges for violation of the STA Bylaw and that the current practice of the STA Committee hearing appeals of Administrative Penalties and Demerit Points be discontinued.

7. Responsible Person

During the implementation of the STA program, Council and the STA operators worked together to implement the Responsible Person (RP) system. This was to ensure that there is a responsible person available to attend to the short term accommodation premises at all times within one hour from the time of contact by way of telephone or email in event a complaint occurs. In order to facilitate this program, the bylaw

department has implemented an afterhours answering service in order to direct STA related complaints to the Responsible Person even during times when By-law coverage is not available.

Currently this system is not being used to its full potential by all residents that have a complaint against an STA premise. Over the years staff have been encouraging residents to contact the after hour service or Responsible person in event of a complaint as this was the intent of the By-law. Staff are recommending that any complaint regarding an STA premise be dealt with through the Town's after hour service as this would then prompt the Responsible Person to take action against the property and deal with the By-law infraction accordingly. It is noted that any complaint that is not dealt with through the Responsible Person (RP) program, will not lead to the assessment of demerit points and only a verbal warning will be issued to the property owner.

Staff Recommendation:

Staff Recommend that Council consider that demerit points will only be issued in the cases where the responsible person was not able to correct the issue within one hour of receiving the initial complaint.

8. Existing Interpretation Policies

Currently there are 2 Interpretation Policies with respect to the STA Program. The 2 interpretation Policy Statements include;

- POL.STAL.16.09 Parking Management Plan
- POL.STAL.14.02 STA Premises: Definition of a Bedroom

It is our intent that the Policy Statements referenced above be incorporated into the proposed Official Plan policies, Zoning By-law Amendment and Licensing By-law updates. These policy statements can provide some additional direction to areas of the STA program that require further clarification and modification.

Moving forward with the STA program, it has been discussed that the Planning Services Division take a larger role in the review of Short Term Accommodation uses for zoning compliance and site plan approval requirements. Planning Staff and By-law Enforcement Staff will coordinate together a new STA license and STA license renewal to ensure all requirements of Zoning, Property Standards and Licensing requirements can be met.

Staff Recommendation:

Staff Recommend that the above interpretation policies be integrated into the attached Zoning By-law and Licensing By-law documents and that the interpretation policies be dissolved. To aid in the review of new licenses or renewal licenses, Planning Staff and Enforcement Staff will continue to use a pre-screening review checklist for all licenses to review all aspects of zoning and licensing compliance. Elements regarding Site Plan Approval, parking, occupant load, separation distance, and legal non-conforming elements will be reviewed and licenses will be

issued in accordance with approved By-laws. Enforcement and Planning Staff will also work together to develop a 'how to: guideline' to summarize the requirements of the Official Plan, Zoning By-law, Licensing By-law and Property Standards By-law into one document.

Project Timeline

1. March 29 Special Committee of the Whole – Consideration of this Staff Report and confirm direction for the preparation of Official Plan Policies, Zoning By-law Regulations, and Licensing By-law Requirements. Documents will be updated.
2. April 16 Council - Council endorsement of recommendations from March 29 COW.
3. April 23 Committee of the Whole – Follow up Staff Report to March 29 COW report. This report will attached the revised Official Plan, Zoning By-law, Licensing By-law documents. Staff will be seeking authorization to proceed to a Public Meeting.
4. May 7 Council – Council endorsement of recommendations from April 23 COW.
5. May 28 Council – Public Meeting to receive comments on Official Plan, Zoning By-law and Licensing By-law documents.
6. June 25 Committee of the Whole – followup Staff Report attaching all comments received from May 28 Public Meeting and recommend approval of final version of Official Plan, Zoning By-law and Licensing By-law documents.
7. July 9 Council – Council will receive the recommendations from June 25 COW meeting and consider passing the Official Plan, Zoning By-law and Licensing By-law documents.

E. The Blue Mountains Strategic Plan

Goal #3 - Support healthy lifestyles

Goal #4 - Promote a culture of organizational and operational excellence

F. In consultation with

Rob Collins, Director of Enforcement Services and Fire Chief
Shawn Everitt, Interim Chief Administrative Officer
Michael Benner, Director of Planning and Development Services
Corrina Giles, Town Clerk
Blue Mountain Resorts
Blue Mountain Ratepayers Association

Blue Mountain Short Term Accommodation Owners Association
STA Operators

G. Attached

Respectfully Submitted,

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Kirsty Robitaille
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Director of Planning and Development
Services

Rob Collins
Director of Enforcement Services and Fire
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For more information, please contact:
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2016 TOWN OF THE BLUE MOUNTAINS OFFICIAL PLAN
D-R-A-F-T SHORT TERM ACCOMMODATION POLICIES D-R-A-F-T

PREAMBLE:

In order to harmonize the OMB decision and OPA 11 to the new Official Plan we must update the STA policy section of the Plan. First and foremost, we can no longer rely on specific residential land use designations to dictate where new STAs may be located. The new Plan now encourages a mix of residential densities and housing types across the municipality. We no longer include land use designations strictly limited to single detached dwellings (save for LDR designation). We are also striving to encourage a permanent population within a range of housing density and housing types.

What is not changing is the potential for land use conflicts between STAs and residential uses. The New Plan proposes wording that remains consistent with the Board Decision and OPA 11 including the need to strictly control new STAs within existing residential areas.

The OMB decision and OPA 11 made two significant distinctions:

First: new STAs shall be directed away from existing developed residential areas unless it can be proven that there is no potential for an adverse land use conflict between the STA and surrounding uses.

Second: new STAs may be permitted on future development residential lands, but the use must still be evaluated against all other STA policies and other implementing By-laws. On future development lands a Zoning By-law Amendment will be required triggering public process, ability to create specific STA, buffering and other zoning requirements and ultimately a council decision. Also, because the lands are future development, the land use conflicts that arise between STAs and residential uses can be more carefully evaluated and planned for including buffering, separation distance, etc. If STAs are not to be included on future development lands, the Zoning By-law that implements the development can include provisions that prohibit new STAs.

The following items is a summary of the proposed Official Plan Text and Mapping changes:

1. Updated section references.
2. Maintain wording of OPA 11.
3. STA definition under OPA 11 is already included in Section E11 Glossary. Therefore 3.4.2(2) of OPA 11 is not included in the above policies.
4. B2.5(e)(i) has been updated to reflect the intent of the OMB decision and OPA 11 Section 3.4.2(6)(a). (as described in the second point above)
5. B2.5(e)(ii) has been updated to reflect the intent of the OMB decision and OPA 11 Section 3.4.2(6)(c). (as described in the first point above)
6. A New Exception is proposed to be inserted matching the former Exception 54 boundaries of OPA 11. This exception is moved from the policies section to the exceptions section consistent with the formatting of the 2016 Official Plan.

The following three (3) items are the technical changes that are proposed to be inserted into the Town of The Blue Mountains Official Plan.

ITEM 1: B2.5 SHORT-TERM ACCOMMODATION USES

The Plan recognizes that there are a variety of commercial accommodation uses within the Town. These may include *bed and breakfast establishments*, care homes, farm vacation homes and dwellings rented for short term periods. In some cases, residential dwellings may be rented in conjunction with commercial hotel operations. Such commercial accommodations may be considered appropriate in some residential areas, provided they are adequately regulated to avoid land use conflicts with the surrounding area. Unlike accommodation uses in commercial areas, as described under Section B2.2, residential neighbourhoods require special attention to ensure the quiet and undisturbed enjoyment of residential living which people expect. Therefore, it is a policy of this Plan that:

- a) Accommodation uses shall avoid disruption to adjacent residences through mitigation of potential impacts including noise control, waste management, setbacks, buffering, servicing and adequate on-site parking, amongst other appropriate site performance standards and operational controls. All *short term accommodation* uses shall be subject to site plan control and shall show sensitivity to surrounding residential uses.
- b) Any building used for short-term accommodation purposes shall be considered a commercial use and shall only be permitted where recognized under the implementing Zoning By-law. It is the foundation of this Plan that such uses should not be considered conventional residential uses and that appropriate regulations shall be established.
- c) Conventional residential rental accommodation in a residential dwelling for periods of thirty (30) days or greater shall not be considered a commercial accommodation use, and shall be considered a principal residential use. The provisions of this Plan for short-term accommodation uses do not apply to such leased conventional residential dwelling units.
- d) The scale and intensity of any short-term accommodation uses may affect the degree of potential disruption in the surrounding neighbourhood. Such accommodation uses should be regulated to ensure that the principal residential *character* is generally maintained. Such uses shall be directed toward a commercial or other appropriate designation and shall be prohibited within a single detached residential neighbourhood.
- e) Based on the commercial nature of this use and its potential to negatively affect adjacent residential property, new *short term accommodation* uses may:
 - i) be permitted on future development lands under the Recreational Residential Area designation and Community Living Area, or within existing Blue Mountain Village Medium Density Residential designation;
 - ii) provide mitigation measures in the form of zoning provisions and site works; and

- iii) not be permitted in existing residential plans of subdivisions which have been registered, and other existing residential areas which have been substantially developed for single detached residential dwellings.
- f) The Implementing Zoning By-law shall establish appropriate provisions related to the scale of short-term accommodation uses, parking requirements, separation distances, setbacks and buffering. The location, size and scale of the short-term accommodation use shall be regulated in a manner, which is considered *compatible* with surrounding uses. Certain types of commercial accommodation uses identified under the introductory paragraph shall be distinguished from *short term accommodation* uses, and may only be permitted by site-specific Amendment to the Zoning By-law or in zones where they are specifically listed as a permitted use.
- g) In some cases, a new STA may be prohibited where it is abutting a low density residential use and where buffering is considered inadequate to properly mitigate a land-use conflict.
- h) In addition to zoning and site plan control by-laws, and associated agreements, short-term accommodation uses may be subject, but not limited to, other municipal by-laws including on-street parking, noise, property standards and fire and safety regulations.
- i) In accordance with the Municipal Act 2001, *Council* may pass a by-law to require a business license for the operation of short-term accommodation uses.
- j) All short-term accommodation uses shall be required to connect to municipal water and sewage services in accordance with Section D1 of this Plan.

ITEM 2: B3.7.6 EXCEPTIONS


B3.7.6.14 Schedule A-5 – Short Term Accommodation Exemption Areas

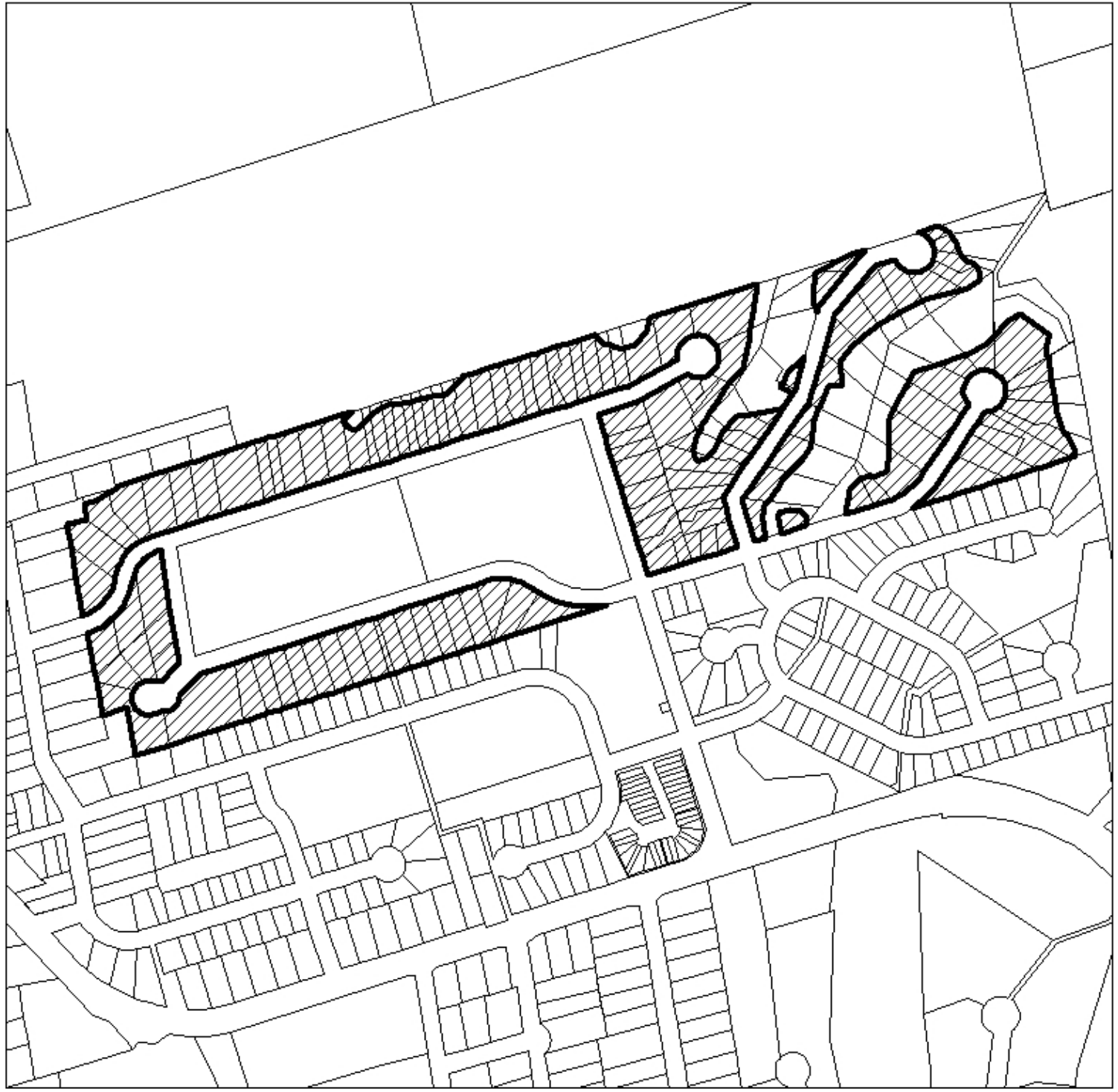
“These lands may also be used for Short Term Accommodation Uses.”

ITEM 3: SCHEDULE A-4 CRAIGLEITH AND SWISS MEADOWS LAND USE PLAN

Add Exception Areas of B3.7.6.14 to Schedule A-4 as shown on the following page.

Short Term Accommodation Areas Exception B3.7.6.14 2016 Town of The Blue Mountains Official Plan

 Area affected by Exception B3.7.6.14



The Corporation of the Town of The Blue Mountains

By-Law Number 2018 –

Being a By-law to amend Zoning By-law No. 83-40 which may be cited as "The Township of Collingwood Zoning By-law"

Whereas the Council of The Corporation of the Town of The Blue Mountains deems it necessary in the public interest to pass a by-law to amend By-law No. 83-40;

And Whereas pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990, c. P.13, the By-law may be amended by Council of the Municipality;

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

1. Delete 3.31(iii) which states:

3.31(iii) Which is part of a rental or lease management program which consists of a minimum of ten (10) commercial resort units in one or more buildings on a single lot;

and replace with:

3.31(iii) Which is part of a rental or lease management program which consists of a minimum of ten (10) commercial resort units in one or more buildings;

2. Delete definition 3.32 which states:

3.32 "Commercial Resort Unit Complex" shall mean a building or group of buildings containing ten (10) or more commercial resort units which is part of a rental or lease management program on a single lot.

and replace with:

3.32 "Commercial Resort Unit Complex" shall mean a building or group of buildings containing ten (10) or more commercial resort units which is part of a rental or lease management program.

3. Add a new definition 3.95(a) as follows:

3.95(a) "Rental or Lease Management Program" means a program that provides for the management of a commercial resort unit including: rental bookings and 24-hour contact information to respond to maintenance, security and general complaints. Housekeeping, interior and exterior property management may also be provided.

4. Delete Section 5.14(a)(xxiv) Parking Requirements of By-law 83-40 which states:

5.14(a)(xxiv) Short Term Accommodation

Multiple Unit Building 1.75 parking spaces per unit having four (4) guest rooms used for sleeping or less plus 1.0 parking space for each additional guest room used for sleeping.

Single Detached Building 0.5 parking spaces per occupant or 1.0 parking space per guest room used for sleeping, whichever is greater.

and replace with:

5.14(a)(xxiv) Short Term Accommodation

Multiple Unit Building 1.75 parking spaces per unit having three (3) guest rooms used for sleeping or less plus 1.0 parking space for each additional guest room used for sleeping.

Single Detached Building 0.5 parking spaces per occupant or 1.0 parking space per guest room used for sleeping, whichever is greater.

5. Delete Section 5.24.1(b) which states:

5.2.4.1(b) No person shall use any land or erect, alter or use any building or structure that secures nine (9) or more occupants for the purpose of short term accommodation use.

and replace with:

5.2.4.1(b) A short term accommodation use shall have a maximum of eight (8) occupants.

And Further that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this ____ day of _____, 2018

John McKean, Mayor

Corrina Giles, Clerk

I hereby certify that the foregoing is a true copy of By-law No. 2018-____ as enacted by the Council of The Corporation of the Town of The Blue Mountains on the ____ day of _____, 2018.

Dated at the Town of The Blue Mountains, this ____ day of _____, 2018.

Corrina Giles, Clerk

The Corporation of the Town of The Blue Mountains

By-Law Number 2018 –

Being a By-law to amend By-law No. 2013-50 as amended by By-law 2014-45, a By-law to licence, regulate and govern short term accommodation uses in the Town of The Blue Mountains.

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

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

WHEREAS Section 11 of the Municipal Act, 2001, provides that a lower-tier municipality may pass By-laws respecting matters within the spheres of jurisdiction set out therein; and

WHEREAS the Council of the Corporation of the Town of The Blue Mountains has enacted By-law No. 2013-50 and 2014-45 to licence, regulate and govern short term accommodation uses in the Town of The Blue Mountains; and

WHEREAS the Council of the Corporation of the Town of The Blue Mountains deems it appropriate to amend By-law No. 2013-50 as amended;

NOW THEREFORE the Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. That definition of “Bedroom” in Section 1.1 of By-law no. 2013-50 as amended is hereby deleted.
2. That the definition of “Building & By-law Services Division” in Section 1.1 is hereby deleted and replaced with the following:

Enforcement Services Division means the Enforcement Services Division or, in the event of organizational changes, another unit designated by Council to carry out the Division’s responsibilities for the administration and enforcement of this By-law;

3. That the definition of “Division” in Section 1.1 is hereby deleted and replaced with the following:

Division means the Enforcement Services Division;

4. That the definition of “Manager” in Section 1.1 is hereby deleted and replaced with the following:

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

5. That the definition of “Demerit Points” be added under Section 1.1 as follows:

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

6. That the definition of “Friendly Notice” be added under Section 1.1 as follows:

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

7. That the definition of “Infraction Notice” be added under Section 1.1 as follows:

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

8. That Section 4.1 is hereby deleted and replaced with the following:

4.1 The Enforcement Services Division is responsible for the administration and enforcement of this By-law.

9. That Section 4.21 is hereby deleted.

10. That a new section 5.23 be added under GENERAL REGULATIONS with the following:

5.23 The Maximum number of occupants within a dwelling that is being operated as short term accommodation shall not exceed a total number based upon two (2) persons per bedroom plus an additional two (2) persons.

11. That a new section 5.24 be added under GENERAL REGULATIONS as follows:

5.24 A person who files a complaint regarding an short term accommodation premise shall contact the Responsible Person of that short term accommodation premise or using the Town Hall after hour service system.

12. That a new section 5.25 be added under GENERAL REGULATIONS as follows:

5.25 Demerit points will not be assessed if the Responsible Person was not contacted at the time the complaint was filed.

13. That the table in section 6.1(4)(f) be deleted and replaced with the following table:

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

(1) See Sections 4.31, 5.4 and 5.7

(2) See Section 4.31

14. That a new section 6.1(5) be added as follows:

6.1(5) where a warning is issued;

- (a) A Friendly Notice issued by the Municipal Licensing Officer outlining the detail of the violation warning issued at a short term accommodation shall be sent to the short term accommodation operator/owner(s) as soon as reasonably practical after the warning having been issued by an officer.
- (b) A Friendly Notice is to serve as a reminder to the operator/owner(s) of the disturbance that occurred at the short term accommodation premise and that any future occurrence to that particular short term accommodation premise may result in the issuance of an Infraction Notice with corresponding Demerit Points.

15. That Section 6.1(2) is hereby deleted and replaced with the following:

6.1(2) Demerit Points shall remain in place until the two year anniversary of the date on which the demerit points were confirmed.

16. That a new subsection 6.1(2)(a) be added under DEMERIT POINT SYSTEM as follows:

6.1(2)(a) Demerit Points are applied on the day of conviction of any violation.

17. That Section 8.1 is hereby deleted and replaced with the following:

8.1 The Provincial Offences Court shall hear all offences.

18. That a new Section 8.2 be added under DEMERIT POINT SYSTEM as follows:

8.2 Appeals to a conviction shall be processed through a higher Court.

19. That Section 11.2, 11.3, 11.4, 11.5, and 11.6 under ADMINISTRATIVE PENALTIES are hereby deleted.

And Further that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this ____ day of _____, 2018

John McKean, Mayor

Corrina Giles, Clerk

I hereby certify that the foregoing is a true copy of By-law No. 2018-__ as enacted by the Council of The Corporation of the Town of The Blue Mountains on the ____ day of _____, 2018.

Dated at the Town of The Blue Mountains, this ____ day of _____, 2018.

Corrina Giles, Clerk