

STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: June 2, 2014
REPORT NO.: BL.14.17
SUBJECT: Short Term Accommodation
Licensing Related By-law
Amendments
PREPARED BY: Greg Miller, Manager, Building & By-
Law Services/CBO

A. Recommendations

THAT Council receive Staff Report BL.14.17 respecting “Short Term Accommodation Licensing Related By-law Amendments”

AND THAT Council direct Town Staff to proceed to a Public Meeting on June 23, 2014 in accordance with the Town’s Notice Policy so as to receive comments related to amending Town By-law No. 2013-50 and By-law No. 2002-18, as amended as proposed and attached to this Staff Report.

B. Background

Purpose:

1. For Council to consider amending the STA Licensing By-law 2013-50 so as to:
 - a. remove occupancy standards from By-law No. 2013-50;
 - b. to implement revised timeframes for the submission of a STA Licence Application that would be, if approved, be implemented in a two phase approach; and
 - c. to amend to include minor housekeeping items.
2. For Council to consider amending Property Standards By-law 2002-18, as amended so as to:
 - a. Include maximum occupancy standards related to STA premises;
 - b. to further clarify persons to be included in the determination of occupancy; and
 - c. to clarify that the Property Standards By-law applies to all lands in the Town.

1. Proposed Changes to By-Law 2013-50:

Staff has received numerous concerns from STA Industry representatives regarding the requirement to be licensed by July 2, 2014 notwithstanding that Council has on a number of occasion consulted with various stakeholders in addition to statutory public information sessions and creating a Special STA Committee that provided comments to the STA Licensing By-law prior to Council’s enactment in November 2013.

Further, there are concerns with respect to implementing a phased area that only identifies an area of Town of known pre-existing dwellings being operated as short term accommodations versus a Town wide approach which could be viewed as discriminatory. As currently approved by Council; only the properties depicted in zones 1-6 of Schedule "A-1" are required to be licensed by July 2, 2014.

As reported to Council on November 25, 2013 in Staff Report PL.13.128 Addendum (attached to this report) the reasoning for implementing was to address operational capacity and where in the OMB Decision, the Board clearly identified and supported implementing land use controls in areas where there is actual and/or potential conflict between STA's and low density residential uses.

Further to this, Staff have reviewed this and recommend that the STA Licensing By-law be amended to:

- a) Firstly, the areas identified under Schedule 'A-1' would continue to be the first phase, however, it is recommended that the by-law be revised so that STA operators must file a complete application by July 2, 2014 versus the current requirement to be licensed by this date.
- b) Secondly, the remainder of the existing STAs within the balance of the Town would be required to file a complete application by December 1, 2014.

Short Term Accommodation Projected Revenue/Expense Model: Revised

Council at its meeting on March 17, 2014 considered and adopted the recommendations contained in Staff Report PL.14.05, "Short Term Accommodation Licensing Fees" (attached to this report), specifically the recommended Option #1:

Options re Licensing Fees:

1. *Status Quo Assumption at 360 STAs = \$2,000 Initial Licensing Fee and \$750 Renewal Fee and review these fees on an annual basis.*
2. *Assume 540 STAs (50% of the number of units in the complexes surrounding the Village at Blue) = \$1,400 Initial Licensing Fee and \$750 Renewal Fee and review these fees on an annual basis.*
3. *Split the Difference and Assume 450 STAs = \$1,700 Initial Licensing Fee and \$900 Renewal Fee and review these fees on an annual basis.*

Town staff believes Option 1 should continue to be the model that is initially implemented and that the fee be reviewed on an annual basis so as to ensure that the Town's costs are recovered and that superfluous fees are not derived from the STA Licensing Program.

Given the above, the decision by Council to expand the requirement for the submission of a complete application no later than December 1, 2014 Town wide and if approved; the projected revenue and expense model would, based on Option #1 assumptions be reflected as follows:

**Short Term Accommodation
Projected Revenue/Expense Model – 360 STAs
\$2,000 Initial Licence Fee and \$750 Renewal Fee
(Fees and Expenses Constant)**

Year	Projected # of STA Applications Received	Projected # of Newly Licenced Premises	Projected # of Renewals	Revenue @ \$2,000/Initial & \$750/Renewal	Program Expenses (\$1,000)	Surplus/ (Deficit) (\$1,000)	Accumulated Surplus/ (Deficit) (\$1,000)
1 (2014)	360	70	0	\$720k	\$178	\$542	\$542

As Council will note, a surplus in the magnitude of \$500,000 will be realized in the first year of the STA Licensing Program where STA's would be required to have an application submitted in the recommended two phased approach. Subsection 391(3) of the Municipal Act, 2001 provides:

Costs related to administration, etc.

(3) The costs included in a fee or charge may include costs incurred by the municipality or local board related to administration, enforcement and the establishment, acquisition and replacement of capital assets.

It should be noted that any surpluses will be used for the STA Licensing Program in accordance with this subsection.

With respect to processing the STA Licence applications; Staff will review an implementation and communication plan moving forward into 2015 and will report back to Council on various options.

In summary, the following are proposed amendments to the STA Licensing By-law:

- 1) In the Definitions section (1.0), remove the definition of *person* under Section 1.0. *The Interpretation Act* has been repealed and replaced with the Legislation Act and the Legislation Act defines "person" to simply include corporations.
- 2) In the Application section (2.0), amend the current phased area to not only include existing STA's within the areas as identified under Schedule 'A-1' but to expand the STA Licensing By-Law to the entire Town in a revised two phased approach with each phase having corresponding deadlines as outlined below:
 - c) Firstly, the areas identified under Schedule 'A-1' would continue to be the first phase, however, it is recommended that the by-law be revised so that STA operators must file a complete application by July 2, 2014 versus the current requirement to be licensed by this date.
 - d) Secondly, the remainder of the existing STAs within the balance of the Town would be required to file a complete application by December 1, 2014.

- e) In addition to the above, any new STA's created after the STA Licensing By-law effective date; STA operators will need a licence before they can lawfully operate.
- 3) The determination of a complete application would be at the discretion of the Manger and a new section 2.3 is proposed to be introduced to assist in the administration of the STA Licensing By-law.
- 4) Remove the two person per bedroom maximum occupancy provision under s. 5.9 in its entirety from the STA Licensing By-law and introduce into and amend the Property Standards By-law 2002-18.

2. Proposed Changes to Property Standards By-law 2002-18, as amended

As previously outlined in this Report, the occupancy provisions currently within By-law No. 2013-50 prescribe maximum occupancy provisions for a short term accommodation premise. These occupancy provisions should be removed from the said by-law and incorporated into the Property Standards By-law which is a by-law that more aligns with the regulation of occupancy standards versus the requirement to obtain a STA Licence.

Options for Occupancy Standards

There are two standard approaches to regulating maximum occupancy:

- 1) establishing a minimum amount of floor space per resident ("person-per-area"), and
- 2) establishing a maximum number of residents per bedroom.

Person-Per-Area Restrictions

Most municipalities do not impose a fixed maximum number of residents per bedroom, instead using person-per-area restrictions to control maximum occupancy. These restrictions limit occupancy based on the floor area of the bedroom, the entire unit, or both. Occupancy of shared bedrooms is often limited to 1 person per 4 square metres. When bedroom occupancy is tied to the area of the entire dwelling unit, the standard is 1 person per 9 square metres.

Examples of person-per-area restrictions were reviewed from Vaughan, Kitchener, Ottawa and Collingwood. Other municipalities following this approach include Toronto, Mississauga and Lambton Shores (Grand Bend).

Residents-Per-Bedroom Restrictions

In examples where per-bedroom restrictions are preferred, the maximum is set at 2 residents per bedroom. Minors (generally below age 12, sometimes below age 18) are

calculated as ½ residents. Infants below age 1 may not be considered residents. Sample residents-per-bedroom restrictions were reviewed from Cambridge and East Gwillimbury.

Property Standards By-law Amendment: Occupancy Load Provisions

Currently, the relevant provision of occupant loads in By-law No. 2013-50 states:

“5.9 The maximum number of occupants per bedroom shall be two persons.”

The wording above clearly places a focus on how many people are in a bedroom, rather than total occupant load.

The proposed change to the Property Standards By-law 2002-18, as amended would be as follows:

5.06 The maximum number of occupants within a dwelling that is being operated as short term accommodation shall not exceed a number equivalent to two persons for every bedroom within the dwelling being operated as short term accommodation. In determining occupancy in accordance with this section:

- 1) persons aged sixteen years old and under shall be counted as one-half persons;
and
- 2) persons aged one year and under shall not be counted as persons.

The above provision would focus on total building occupant load, rather than on the occupant load of each bedroom, and utilizes the number of bedrooms in the determination of calculating the total occupant load.

This section would be added following “Occupancy Standards” and before “Toilet and Bathroom Facilities”. It incorporates the STA-specific occupancy standard with the exceptions for persons under one and under sixteen. Refer to draft Property Standards By-law attached to this report.

Further to implementing refined occupancy provisions within the Property Standards By-law, Staff has consulted with legal counsel with respect to the Ontario *Human Rights Code* as to whether these proposed amendments would raise a human rights issue.

Given that the proposed amendments are more permissive and that the “2 persons per bedroom” standard is used as a touchstone for determining the maximum occupancy of the entire building; the proposed amendments does not force families to only have two persons in every bedroom; and that defining persons under the age of 16 as half persons would allow more people to occupy a given building, Staff have been advised that issues with the *Human Rights Code* are unlikely.

One issue that theoretically could arise with the proposed amendments to the Property Standards By-law is the definition of a “bedroom”. The term “bedroom” is currently undefined in the Property Standards By-law 2002-18, the Ontario Fire Code and the Ontario Building Code, as amended.

However, “bedroom” is defined in the STA Licensing By-law as follows:

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

If any room “used” or “equipped” for sleeping can be a “bedroom”, then arguably any room in an STA with a bed or a pull-out couch can be deemed to be a “bedroom”. For example, this would mean that a 2-bedroom house with pull-out couches in the living room and recreation room would have a max occupancy of 8 as opposed to 4.

This seems to be consistent of how many STA’s market their premises (ex: rent a three bedroom chalet that sleeps ten people). Many of the property standards by-laws in other municipalities did not define the term “bedroom”.

To reduce the broad interpretation of a “bedroom”; the Town’s Ontario Building Code Program utilizes Standard Practice SP.OBC.13.03 that defines bedroom. Standard Practice SP.OBC.13.03 is attached to this report.

Staff are recommending that the Standard Practice be utilized to administer the STA Licensing By-law and to ensure consistency between building permit review and property standards enforcement related to STA’s

Applicable Lands under the Property Standards By-law

As currently written, the Property Standards By-law only applies to those lands as depicted in Schedule “A” (attached to this report).

As it would be desirous of Council to license, enforce and regulate all STA’s in the Town, the Property Standards By-law would require an amendment under Part VIII, Administration and Enforcement to include the following:

That a new section 8.02 be added with the following:

Notwithstanding 8.01 above, this By-law applies to all lands within the Town uses for short term accommodation.

In summary, the following are proposed amendments to the Property Standards By-law:

- a) That a new section 5.06 be added under OCCUPANCY STANDARDS with the following:

5.06 The maximum number of occupants within a dwelling that is being operated as short term accommodation shall not exceed a number equivalent to two persons for every bedroom within the dwelling being operated as short term accommodation. In determining occupancy in accordance with this section:

- 1) persons aged sixteen years old and under shall be counted as one-half persons; and
- 2) persons aged one year and under shall not be counted as persons.

- b) That the subsequent sections be renumbered accordingly.
- c) That section 8.01 be amended with the following:

This By-law shall apply to all property located within the area indicated on Schedule "A" to this By-law in addition to any lands used for short term accommodation.

C. The Blue Mountains' Strategic Plan

*Providing a strong, well managed municipal government.
Managing growth to ensure the ongoing health and prosperity of the community.*

D. Environmental Impacts

N/A

E. Financial Impact

Not known at this time.

F. In Consultation With

Fire Services Department
Aird and Berlis

G. Attached

- G.1 Amending By-law to By-law 2013-50
- G.2 STA Licensing By-law 2013-50
- G.3 Amending By-law to By-law 2002-18
- G.4 Property Standards By-law 2002-18, as amended
- G.5 Schedule "A" of the Property Standards By-law
- G.6 Standard Practice SP.OBC.13.03: Definition of a Bedroom
- G.7 Staff Report PL.13.128, "Addendum STA Licence Report"
- G.8 Staff Report PL.14.05, "*Short Term Accommodation Fees*"
- G.9 Draft copy of Public Meeting Notice

Prepared by:

Respectfully submitted by:

Greg Miller
Manager, Building & By-Law Services

Troy Speck
CAO

**THE CORPORATION OF THE TOWN OF
THE BLUE MOUNTAINS**

BY-LAW 2014-

Being a By-law to amend By-law 2013-50, 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. c.25 (“The 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*, S.O. c.25 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, R.S.O. 2001, c. 25* 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 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 2013-50;

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

1. That the following definition under section 1.0 Definitions be removed:

Person means a person as defined in the *Interpretation Act* and includes a Corporation;

2. That section 2.1 be amended with the following:

The requirements of this by-law shall apply to the trade, business or occupation of providing short term accommodation within the geographic limits of the Town as of the date this by-law comes into effect

3. That section 2.2 be replaced with the following:

Persons who own, operate or offer a premise for short term accommodation as of the effective date of this By-law must file an application for a license under this By-law:

- (1) no later than July 2, 2014, for existing premises located within the geographic areas identified by Schedule A-1 to this By-law; or
- (2) no later than December 1, 2014, for existing premises located within the balance of the geographic limits of the Town.

4. That section 2.3 be renumbered 2.4 and a new section 2.3 be added with the following:

The determination of whether a licence application is “complete” in accordance with the requirements of this By-law shall be within the sole discretion of the Manger.

5. That section 3.1 be amended with the following:

No person shall carry on any trade, business or occupation of short term accommodation unless that person has first obtained a licence.

6. That the word "licenced" in section 4.5 be replaced with the word "licensed"

7. That section 5.8 be amended with the following:

A person is not eligible to hold a licence unless a Renter's Code for the premise has been submitted to and approved by the Manager.

8. That section 5.9 is removed and that the subsequent sections are re-numbered accordingly.

9. That the word "by-law" be replaced with "By-law" accordingly throughout.

10. This By-law shall come into force and take effect upon being passed by Council.

Enacted and passed this _____ day of _____, 2014.

Ellen Anderson, Mayor

Corrina Gilles, Town Clerk

**The Corporation of The
Town of The Blue Mountains**

By-Law No. 2013- 50

A By-Law to licence, regulate and govern short term accommodation uses.

WHEREAS the *Municipal Act, 2001* authorizes a municipality to provide for a system of licences with respect to a business and to regulate and govern any business carried on within the municipality;

AND WHEREAS the *Municipal Act, 2001* authorizes a municipality to require the payment of licence fees and to pass by-laws to impose fees or charges for permits and services;

AND WHEREAS the *Municipal Act, 2001* authorizes a municipality to add outstanding fees and charges to the tax roll and collect them in the same manner as municipal taxes;

AND WHEREAS notice of a public meeting was given, and a public meeting was held, at which time any persons who attended had an opportunity to make representation with respect to this By-law or to provide written comments;

AND WHEREAS Council of the Corporation of the Town of The Blue Mountains has duly considered representations and written comments with respect to this By-law;

AND WHEREAS Council of the Corporation of the Town of The Blue Mountains considers it desirable to exercise its licensing powers, including the imposition of conditions as are set out in this By-law;

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

1.0 DEFINITIONS

1.1 In this by-law:

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

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

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

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

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

Building & By-law Services Division means the Building & By-law 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;

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

Committee means the Committee to which Council has delegated the responsibility of handling appeals, suspensions and revocations;

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

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

Division means the Building & By-law Services Division;

Fee means those fees as set out in By-law No. 2000-90, as amended, or reenacted from time to time, being the Town's Tariff of Fees By-law;

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

Health Unit means the Grey Bruce Health Unit;

Licence means a licence issued under this by-law;

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

Manager means the Manager, Building & By-law Services, or his/her designate;

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

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

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

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

Person means a person as defined in the *Interpretation Act* and includes a corporation;

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

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

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

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

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

Responsible Person means the person assigned by the owner or operator of a short term accommodation premises to ensure the premises are operated in accordance with the provisions of this By-law, the licence and the relevant provisions of the Fire Code;

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

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

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

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

2.0 APPLICATION

- 2.1 The requirements of this by-law apply to the trade, business or occupation of providing short term accommodation within the geographic limits of the Town.
- 2.2 The requirements of this by-law to hold a licence will be implemented in phases to specific geographic areas of the Town with such geographic areas as identified by Schedule A-1 to this By-law.
- 2.3 For greater certainty, the requirements of this by-law do not apply to a hotel, motel, bed and breakfast establishment, hospital, commercial resort unit, village commercial resort unit or similar commercial or institutional use as defined by the applicable zoning by-law.

3.0 LICENSING REQUIREMENTS

- 3.1 No person shall carry on any trade, business or occupation of short term accommodation within the area identified in Schedule A-1 unless that person has first obtained a licence.
- 3.2 A person who obtains a licence shall comply with the regulations set out in this By-law for such licence. Failure to comply with the regulations constitutes an offence.
- 3.3 An agent of persons who own, operate or offer a premise for short term accommodation purposes without a licence shall also be personally liable for the compliance of his principal, beneficiary or persons he represents. Failure by such a person to comply with this By-law constitutes an offence.
- 3.4 Licences issued pursuant to this By-law are conditional upon compliance by the licensee with all municipal by-laws and compliance with all Provincial and Federal Laws and Regulations and any conditions imposed to the holding of the licence.

4.0 ADMINISTRATION

- 4.1 The Building & By-law Services Division is responsible for the administration and enforcement of this by-law.
- 4.2 Every application for a new licence or a renewal or extension of an existing licence shall be submitted to the Division on the forms prescribed.
- 4.3 Every application for a new licence or a renewal or extension of an existing licence shall include:
- (1) each owner, applicant and/or agent's name, address, telephone number, facsimile transmission number and e-mail address;
 - (2) a copy of the transfer/deed evidencing the ownership of the premises;
 - (3) in the instance of an applicant or agent acting on behalf of the Owner, an Owner's written authorization permitting the applicant or agent to act on their behalf;
 - (4) the rental agent's or agency's name, address and telephone number;
 - (5) in the instance of a corporation or partnership, the name, address and telephone number of each director and officer or partner of the Owner and/or rental agent or agency;
 - (6) the name, address, telephone number and e-mail address of a person who has been assigned by the owner or operator to be the responsible person for the operation and conduct of the inhabitants of the licenced short term accommodation premises;
 - (7) a statement from the Owner certifying the accuracy, truthfulness, and completeness of the application;
 - (8) proof of placement of insurance specific to the rental nature of the property that includes a limit of liability of not less than \$2 million per occurrence for property damage and bodily injury and includes provisions that the Town will be notified of

- any intended cancellation by the insurer no fewer than 15 days prior to such cancellation;
- (9) floor plans and a site plan, drawn to scale and fully dimensioned, of the short term accommodation premises depicting the use of the premises including the proposed occupancy of each room; occupant load for sleeping purposes of each room; location of smoke detection and early warning devices; location of fire extinguishers, and, related site amenities including parking, landscaping and other buildings or structures on the land;
 - (10) a Parking Management Plan that complies with the applicable Town zoning by-law;
 - (11) a Property Management Plan identifying measures the Owner will implement for the purpose of complying with the Town's Property Standards By-law, Waste Collection By-law and any other by-law related to property maintenance and/or management;
 - (12) a Renter's Code;
 - (13) the prescribed fees; and,
 - (14) any outstanding fees or fines owed to the Town by the Owner respecting any short term accommodation premises.
- 4.4 A licensee shall inform the Division of any changes to the information provided in 4.3 within a period of 15 days.
- 4.5 In addition to the requirements of 4.3, an applicant shall provide, if requested, evidence that the use of the short term accommodation premises is protected by virtue of S. 34(9)(b) of the *Planning Act* with such evidence including, but not be limited to, a sworn Statutory Declaration confirming the continued use of the premises for short term accommodation purposes from prior to the enactment of a by-law that prohibited such use through to the present; rental receipts, advertisements and any other records that may be relevant that are supportive of the establishment and continued use of the premises for short term accommodation purposes; and, an opinion, from a solicitor licenced to practice in Ontario, as to whether the premises is protected by virtue of S. 34(9)(b) of the *Planning Act* and, in support of that opinion, the reasons why.
- 4.6 Every application for a licence will be reviewed by the Manager to determine whether it meets the requirements of this By-law.
- 4.7 As part of the review referenced at 4.6, the application will be circulated to those agencies deemed necessary and/or relevant by the Manager.
- 4.8 Those agencies referenced at 4.7 may require an inspection of the premises prior to the provision of comments and prior to the consideration of the application by the Manager. The applicant shall cooperate and facilitate in arranging the inspection of the premises in a timely manner and shall be in attendance during the inspection. In the instance of the requirement of the payment of fees for such an inspection, the applicant shall pay the fees as required prior to the inspection.
- 4.9 If it is determined that an application meets the requirements of this by-law and all circulated agencies, the Manager shall issue the licence.
- 4.10 If it is determined that an application does not meet the requirements of this by-law and the requirements of all of the circulated agencies, the Manager shall refuse the issuance of the licence.
- 4.11 A licence shall be issued to the owner of the short term accommodation premises.
- 4.12 A licence is valid for a period of 2 years from the date of issuance.
- 4.13 Adjustments in the fees prescribed shall automatically be effected each year based on the percentage change in the Consumer Price Index of Statistics Canada.
- 4.14 A licensee is not eligible for the renewal or extension of an existing licence unless the licensee has provided an application form.
- 4.15 A licence is not transferable.

- 4.16 No person shall enjoy a vested right in the continuance of a licence.
- 4.17 Licences shall remain the property of the Town.
- 4.18 If at any time the Manager determines as a result of evidence that is provided that the operation of a licenced short term accommodation premises does not conform to the requirements of this by-law, the Manager may impose an Administrative Penalty or refer the matter to the Committee.
- 4.19 If at any time the Manager determines as a result of evidence that is provided that the operation of a licenced short term accommodation premises does not conform to the requirements of this by-law, the Manager may commence with proceedings pursuant to the *Provincial Offences Act*.
- 4.20 A person whose application for a new licence or a renewal of a licence has been refused may, within fifteen days of being notified of the Manager's decision, apply to the Committee for a review of the decision. If an application for review has not been applied for within fifteen days, the licence application will be deemed to be closed. An application for a review of a decision is not complete until the fee as prescribed is paid.
- 4.21 A person who has been imposed an Administrative Penalty may, within fifteen days of being notified of the Administrative Penalty, apply to the Committee for a review of the decision. If an application for review has not been applied for within fifteen days, or if the Administrative Penalty has been paid, the Administrative Penalty levied is deemed to be confirmed. An application for a review is not complete until the fee as prescribed is paid.
- 4.22 A person who has applied for a review to the Committee of the Manager's decision noted at 4.10 or 4.18 will be given an opportunity to make written representations to or to appear before the Committee when it reviews the matter.
- 4.23 The Committee will review the matter and may affirm, modify or rescind the decision of the Manager or, in the instance of a licence refusal, direct that the licence be issued with such terms and/or conditions deemed appropriate by the Committee or, suspend or revoke a licence.
- 4.24 Decisions of the Committee as they relate to a licence refusal may be appealed to Council.
- 4.25 A person who wishes to appeal the Committee's decision to Council as noted at 4.24 shall file an application for a hearing and pay the fee as prescribed. If an application for appeal has not been applied for within fifteen days of the Committee's decision, the Committee's decision is deemed to be confirmed. An application for appeal is not complete until the fee as prescribed is paid.
- 4.26 A person who has appealed the Committee's decision noted at 4.24 will be given an opportunity to make written representations to or to appear before Council when it reviews the matter.
- 4.27 Council will review the matter and may affirm, modify or rescind the decision of the Committee or, in the instance of a licence refusal, direct that the licence be issued with such terms and/or conditions deemed appropriate by Council.
- 4.28 Decisions of Council are final.
- 4.29 Applications for licence and issued licences, along with the legal description and/or emergency number and associated owner, agent, applicant and responsible person contact information will be posted to the Town's website.
- 4.30 Matters to be considered by the Committee and/or Council, including that information identified at 4.29 and the location, date and time of the Hearing shall be posted to the Town's website.

- 4.31 Matters, notices, orders and communications related to a non-compliance under a Federal or Provincial Law or Regulations or a municipal by-law, including, but not limited to, the Property Standards By-law; the *Building Code Act*; the Building Code; the *Fire Protection and Prevention Act*; the Fire Code; the Ontario Electrical Safety Code; or, an order of the Medical Officer of Health are not appealable to the Committee or Council.

5.0 GENERAL REGULATIONS

- 5.1 No person shall carry on any trade, business or occupation of short term accommodation for which a licence is required under this by-law unless that person has first obtained a licence.
- 5.2 No person shall carry on any trade, business or occupation of short term accommodation for which a licence is required under this by-law if the licence has expired or been revoked; or, while the licence is under suspension.
- 5.3 A person is not eligible to hold a licence if the proposed use of the land, building or structure is not permitted by the zoning by-law that applies to the property.
- 5.4 A person is not eligible to hold a licence unless the person has provided a statement prepared by the Fire Chief dated within a period of 24 months of the date of application for licence indicating that the premises conforms to the *Fire Protection and Prevention Act* and its regulations as they relate to the operation and use of the premises for short-term accommodation purposes with such statement indicating the occupant load for sleeping purposes for the premises.
- 5.5 A person is not eligible to hold a licence unless the person has provided a certificate from the Electrical Safety Authority dated within a period of 24 months of the date of application for licence indicating that the premises conforms to the Electrical Safety Code.
- 5.6 A person is not eligible to hold a licence if the person is indebted to the Town in respect of fines, penalties, judgments or any other amounts owing, including awarding of legal costs and disbursements and outstanding property taxes and late payment charges against all properties owned by the owner.
- 5.7 A person is not eligible to hold a licence if the property to be used for carrying on the trade, business or occupation does not conform with applicable Federal and Provincial Law and Regulations or municipal by-laws, including, but not limited to, the Zoning By-law; Property Standards By-law; the *Building Code Act*; the Building Code; the *Fire Protection and Prevention Act*; the Fire Code; the Ontario Electrical Safety Code; or, an order of the Medical Officer of Health.
- 5.8 A person is not eligible to hold a licence unless a Renter's Code Template for the premise has been submitted to and approved by the Manager.
- 5.9 The maximum number of occupants per bedroom shall be two persons.
- 5.10 The owner shall operate the short term accommodation premises in accordance with the Parking Management Plan and Property Management Plan that has been approved by the Manager.
- 5.11 The owner shall keep a record of the renter with such record containing the date of entry, the length of stay, home address of the renter and confirmation of receipt of the Renter's Code with such record readily available for inspection at all times by an Officer for a period of one year.
- 5.12 The owner shall display the licence permanently in a prominent place in the short term accommodation premises to which it applies.
- 5.13 Each licence shall include the following:
- (1) Building/site/location address/identifier (i.e. Emergency or 911 Number);
 - (2) Licence number;
 - (3) Effective date and expiry date of the licence;

- (4) Owner's name and contact information;
- (5) Rental agent or agency's name and contact information;
- (6) Responsible person's name and contact information; and,
- (7) A plan, that is plaqued or framed, that depicts the location of each bedroom, smoke alarm, extinguisher and exit/egress door or window.

- 5.14 The owner of a short term accommodation premise shall ensure that there is a responsible person available to attend to the short term accommodation premises at all times within a period of no greater than one hour from the time of contact by way of telephone or e-mail.
- 5.15 The owner of a short term accommodation premise shall ensure that each renter has been provided with the Renter's Code with the owner retaining a copy of the confirmation of receipt of the Renter's Code for a period of one year.
- 5.16 The owner of a short term accommodation premise for which a licence is required under this by-law shall allow, at any reasonable time, an employee or agent of the Town to inspect the premises used for the purposes of short term accommodation so as to determine compliance with the requirements of this by-law, Fire Code, Building Code, Property Standards By-law or other applicable law.
- 5.17 No person shall obstruct, hinder or otherwise interfere with an authorized employee or agent of the Town while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this by-law or any other municipal by-law or Provincial legislation or regulation.
- 5.18 No person shall construct or equip a place of business or premises used for the business so as to hinder the enforcement of this By-law.
- 5.19 Every owner shall maintain the short term accommodation premises in a clean and sanitary condition, with adequate measures for the storage and disposal of garbage and waste and sufficient levels of illumination to permit the safe use of the premises. For the purposes of this subsection, adequate measures for the storage and disposal of waste shall mean a self enclosed building, structure or container, located outside of the short-term accommodation premises, which is of a sufficient size that will store the garbage and waste generated by the premises until such garbage and waste is disposed of.
- 5.20 Every licensee shall ensure that the short term accommodation premises is operated and used in a fashion such that the operation or use will not cause a disturbance.
- 5.21 Every licensee shall provide an undertaking to operate the short term accommodation premises in accordance with all Town By-laws including, but not limited to, the Town's Noise Control By-law, Property Standards By-law and Garbage Collection By-laws, and any applicable Provincial or Federal laws or statutes including the Ontario Fire Code and laws related to the making of a disturbance. Further, every licensee shall include in such undertaking a confirmation that they will require that each renter enter into a Renter's Code.
- 5.22 No licensee or employee of a licensee shall discriminate in the carrying on of the trade, business or occupation of short term accommodation against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.
- 5.23 The Manager may revoke a licence if it was issued on mistaken, false or incorrect information.

6.0 DEMERIT POINT SYSTEM

- 6.1 A demerit point system is established as follows without prejudice to options otherwise available to enforce this By-law or any other by-law of the municipality or Provincial Act or Regulation including, but not limited to, administrative penalties as set out in this By-law and actions pursuant to the *Building Code Act*, *Fire Protection and Prevention Act* and the *Provincial Offences Act*.

- (1) The number of demerit points referenced in Column 3 of Table 1 below will be assessed against a short term accommodation premises in respect of the matter noted in Column 1 upon the following event respecting a contravention:
 - (a) the expiry of the period for appealing a fine imposed pursuant to Part I or Part III of the *Provincial Offences Act*;
 - (b) the expiry of the period for appealing against a conviction in the Ontario Court of Justice;
 - (c) the confirmation of an administrative penalty; or,
 - (d) the confirmation of an order.

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

- (3) Meeting with the Committee
 - (a) If the total of all demerit points in effect respecting a short term accommodation premises is at least seven, the Manager will require the Owner to attend a meeting with the Committee.
 - (b) Notice shall be provided by e-mail or regular mail at the address given in accordance with 4.3 a minimum of two weeks in advance of the meeting date.
 - (c) The provision of Notice as set out in 3(b) shall be deemed to be sufficient Notice with, or without, confirmation of receipt of the Notice.
 - (d) The fee payable by the Owner for the Meeting shall be as prescribed.
 - (e) The purpose of the meeting is for the Owner to identify to the Committee what steps and/or measures that they intend on implementing so as to mitigate further instances of the levying of demerit points.
 - (f) If the Owner fails to attend the meeting, the Manager shall require the Owner to attend a Hearing.

- (4) Hearing with Committee
 - (a) If the total of all demerit points in effect respecting a short term accommodation premises is at least fifteen, the Manager will require the Owner to attend a Hearing with the Committee.
 - (b) Notice shall be provided by e-mail and regular mail at the addresses given in accordance with 4.3.
 - (c) The provision of Notice as set out in 4(b) shall be deemed to be sufficient Notice with, or without, confirmation of receipt of the Notice.
 - (d) The fee payable by the Owner for the Hearing shall be as prescribed.
 - (e) If the Owner fails to attend the Hearing the Committee may proceed in absentia.
 - (f) After hearing the matter, the Committee may impose conditions as they deem appropriate for the continued holding of the licence, suspend the licence or revoke the licence.

Table 1		
Column 1	Column 2	Column 3
Infraction	Reference	Demerit Points
<i>Fire Protection & Prevention Act/Fire Code</i>	FPPA	15 (1)
Operating without a licence	3.1	7
<i>Building Code Act</i> (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
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 4.31, 5.4 and 5.8
 (2) See 4.31

7.0 LICENSING COMMITTEE

7.1 Council shall appoint a Licensing Committee.

7.2 The term of the Committee shall coincide with the term of Council.

7.3 The Committee shall be comprised of a minimum of three members.

7.4 Quorum of the Committee shall mean a majority (more than half) of the whole members of the Committee but shall be not less than three members.

7.5 The Committee shall hear appeals as set out in 4.20 and 4.21 save and except for determinations related to conformity with applicable Federal and Provincial Law and Regulations or municipal by-laws, including, but not limited to, the Property Standards By-law; the *Building Code Act*; the Building Code; the *Fire Protection and Prevention Act*; the Fire Code; or, an order of the Medical Officer of Health.

7.6 The Committee may hear appeals to the revocation of a licence as set out in 5.22.

8.0 COUNCIL (COMMITTEE APPEAL)

8.1 Council shall hear all appeals to decisions of the Committee.

9.0 REVOCATION AND SUSPENSION

9.1 In accordance with 4.23, the Committee may affirm, modify or rescind the decision of the Manager or, in the instance of a licence refusal, direct that the licence be issued with such terms and/or conditions deemed appropriate by the Committee or, suspend or revoke a licence.

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

10.0 OFFENCE AND PENALTY PROVISIONS

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

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

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

11.0 ADMINISTRATIVE PENALTIES

11.1 An Officer who finds that a person has contravened any provision of this By-law may issue a penalty notice addressed to that person.

11.2 Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice pursuant to Section 11.1, be liable to pay to the Town an administrative penalty in the amount of \$250.00.

11.3 The penalty notice shall be given to the person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:

- (1) Particulars of the contravention, including to which property it applies;
- (2) The amount of the administrative penalty;
- (3) Information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and,

(4) A statement advising that an administrative penalty will, unless modified or rescinded pursuant to the review process, constitute a debt to the Town.

11.4 A person may appeal an administrative penalty to the Committee as set out in 4.21.

11.5 An administrative penalty that is deemed to be affirmed constitutes a debt to the Town of each person to whom or to which the penalty notice was given.

11.6 An administrative penalty that is not paid may be added to the tax roll to the property to which it applies and collected in the same manner as taxes.

12.0 DELEGATION

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

13.0 VALIDITY

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

14.0 SHORT TITLE

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

15.0 EFFECTIVE DATE

15.1 This by-law comes into effect on July 2, 2014.

Enacted and passed this 25th day of November, 2013.

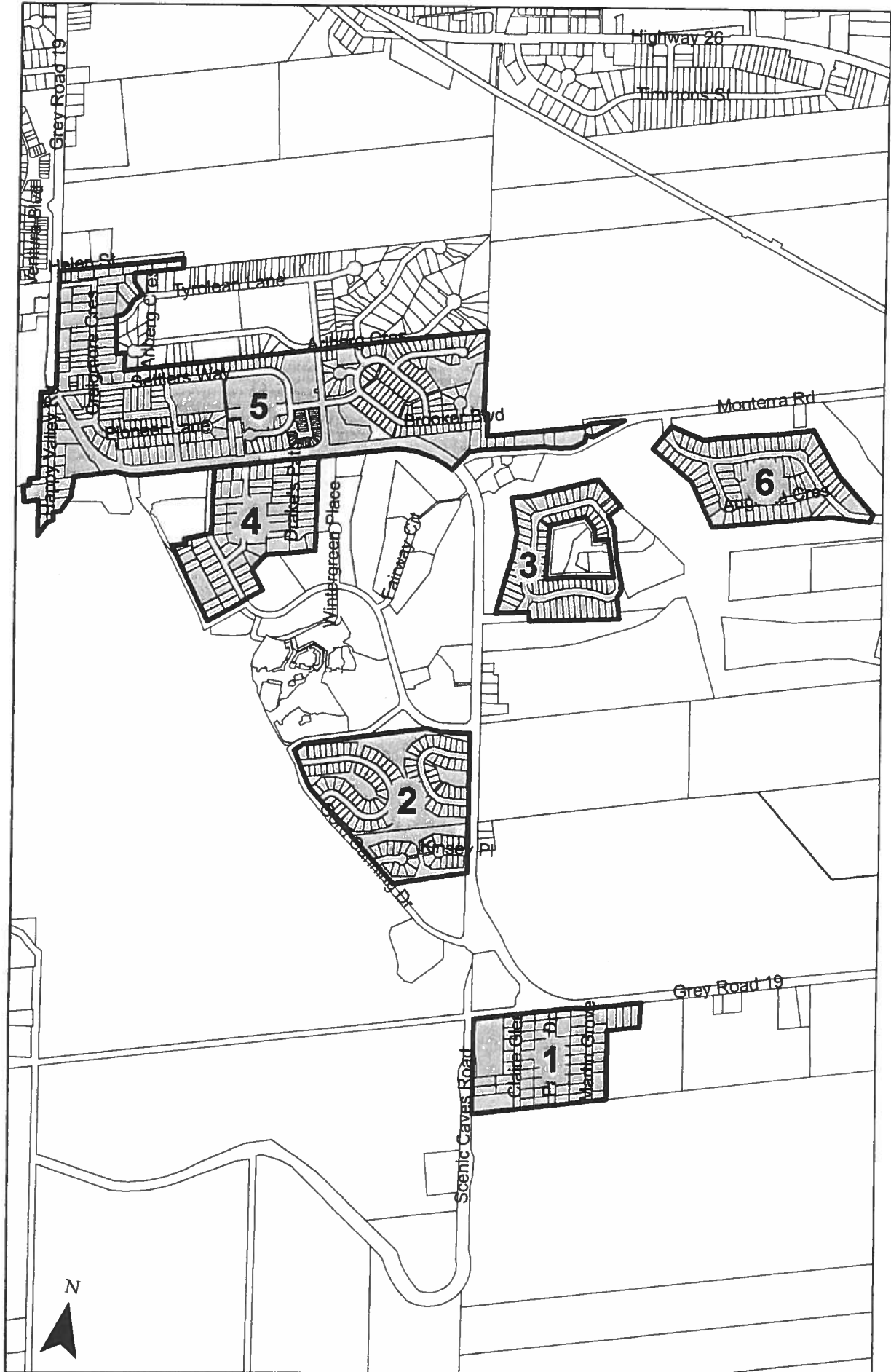


Ellen Anderson, Mayor



C. Giles, Clerk

Schedule 'A-1'
By-law No. 2013-50



**THE CORPORATION OF THE TOWN OF
THE BLUE MOUNTAINS**

BY-LAW 2014-

Being a By-law to amend By-law 2002-18, as amended, a By-law prescribing the standards for the maintenance and occupancy of certain property within the municipality, to include provisions for the maximum number of occupants within a dwelling that is being operated as short term accommodation within the Town of The Blue Mountains.

WHEREAS Section 8 of the *Municipal Act, 2001, S.O. c.25* ("The 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, S.O. c.25* 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, R.S.O. 2001, c. 25* 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 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 has enacted By-law No. 2002-18, as amended, so as to prescribe standards for the maintenance of certain property within the Town;

AND WHEREAS under Section 15.1(3) of the *Building Code Act, S.O. 1992, c.23*, a by-law may be passed by the Council of a municipality prescribing the standards for the maintenance and occupancy of property within the municipality provided the official plan for the municipality includes provisions relating to property conditions;

AND WHEREAS the Official Plan for the Town of The Blue Mountains includes provisions relating to property conditions;

AND WHEREAS the Council of the Corporation Town of The Blue Mountains is desirous of passing an amending by-law to By-law No. 2002-18, as amended;

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

1. That a new section 5.06 be added under OCCUPANCY STANDARDS with the following:

5.06 The maximum number of occupants within a dwelling that is being operated as short term accommodation shall not exceed a number equivalent to two persons for every bedroom within the dwelling being operated as short term accommodation. In determining occupancy in accordance with this section:

 - 1) persons aged sixteen years old and under shall be counted as one-half persons; and
 - 2) persons aged one year and under shall not be counted as persons.
2. That the subsequent sections be renumbered accordingly.
3. That a new section 8.02 be added with the following:

Notwithstanding 8.01 above, this By-law applies to all lands within the Town uses for short term accommodation.

4. This By-law shall come into force and take effect upon being passed by Council.

Enacted and passed this _____ day of _____, 2014.

Ellen Anderson, Mayor

Corrina Gilles, Town Clerk

DRAFT

CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW No. 2002 - 18

OFFICE CONSOLIDATION (By-law No. 2003-26 & 2014-15)

WHEREAS Council at its meeting of April 3, 2002 enacted By-law No. 2002-18, "The Property Standards By-law";

AND WHEREAS Council at its meeting of March 24, 2003 enacted a By-law to regulate and prohibit long grass and noxious weeds:

AND WHEREAS certain provisions of The Property Standards By-law have been duplicated in the Long Grass and Weed Control By-law;

AND WHEREAS Council are desirous of repealing those provisions contained in The Property Standards By-law

NOW THEREFORE and respecting under Section 15.1(3) of the *Building Code Act, S.O. 1992, c.23*, a by-law may be passed by the Council of a municipality prescribing the standards for the maintenance and occupancy of property within the municipality provided the official plan for the municipality includes provisions relating to property conditions;

AND WHEREAS the Town of Thornbury Official Plan includes provisions relating to property conditions;

AND WHEREAS Amendment No. 12 (Craigleith/Camperdown Secondary Plan) to the Official Plan of the Beaver Valley Planning Area includes provisions relating to property conditions;

AND WHEREAS Amendment No. 27 (North Collingwood Township Secondary Plan) to the Official Plan of the Beaver Valley Planning Area includes provisions relating to property conditions;

AND WHEREAS the Council of The Town of The Blue Mountains is desirous of passing a by-law under Section 15.1(3) of the *Building Code Act, S.O. 1992, c.23*;

AND WHEREAS Section 15.6(1) of the *Building Code Act, S.O. 1992, c.23* requires that a by-law passed under Section 15.1(3) of the *Building Code Act, S.O. 1992, c.23* shall provide for the establishment of a Property Standards Committee;

NOW THEREFORE the Council of The Town of The Blue Mountains hereby enacts the following:

PART I

DEFINITIONS

In this by-law:

- 1.01 **"Accessory Building"** means a detached building or structure, not used for human habitation, that is subordinate to the primary use of the same property.
- 1.02 **"Approved"** means acceptance by the Property Standards Officer.
- 1.03 **"Dwelling"** means a building or structure or part of a building or structure, occupied or capable of being occupied, in whole or in part for the purpose of human habitation.
- 1.04 **"Dwelling Unit"** means a room or a suite of rooms operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and supporting general living conditions usually including cooking, eating, sleeping, and sanitary facilities.
- 1.05 **"Guard"** means a protective barrier installed around openings in floor areas or on the open sides of a stairway, a landing, a balcony, a mezzanine, a gallery, a raised walkway, and other locations as required to prevent accidental falls from one level to another. Such barriers may or may not have openings through them.
- 1.06 **"Long Grass"** means grass that exceeds a length, on average, of 180 mm (7").
- 1.08 **"Non-Residential Property"** means a building or structure or part of a building or structure not occupied in whole or in part for the purpose of human habitation, and includes the lands and premises appurtenant and all of the outbuildings, fences or erections thereon or therein.

- 1.09 **“Normal Farm Practice”** means a normal farm practice as defined by the *Farming and Food Production and Protection Act*, 1998.
- 1.10 **“Owner”** means the registered owner of a property.
- 1.11 **"Person"** means an individual, firm, corporation, association or partnership.
- 1.12 **"Residential Property"** means any property that is used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals, and includes any lands or buildings that are appurtenant to such establishment and all stairways, walkways, driveways, parking spaces, and fences associated with the dwelling or its yard.
- 1.13 **"Standards"** means the standards of the physical condition prescribed for property by this By-Law.
- 1.14 **“Unsightly Appearance”** means something that is displeasing to the eye.
- 1.15 **"Yard"** means the land other than publicly owned land around or appurtenant to the whole or any part of a residential or non-residential property and used or capable of being used in connection with the property.

PART II

COMPLIANCE

- 2.01 Except as explicitly provided for in Section 4.01 of this By-law, all owners of property shall repair and maintain such property to comply with the standards prescribed by this By-law.
- 2.02 The provisions of this By-law do not apply to normal farm practices.

PART III

GENERAL STANDARDS FOR ALL PROPERTY

- 3.01 All repairs and maintenance of property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. All new construction or repairs shall conform to the Ontario Building Code, Ontario Fire Code and the *Fire Prevention and Protection Act* where applicable.

YARDS

- 3.02 Every yard, including vacant lots, shall be kept clean and free from:
- (1) rubbish or debris and objects or conditions that may create a health, fire or accident hazard;
 - (2) wrecked, dismantled, discarded or abandoned machinery, vehicles, trailers or boats, unless it is necessary for the operation of a business enterprise lawfully situated on the property;
 - (3) brush & undergrowth (By-law 2003-26);
 - (4) dilapidated, collapsed or partially constructed structures which are not currently under construction;
 - (5) injurious insects, termites, rodents, vermin or other pests; and
 - (6) dead, decayed or damaged trees.

SURFACE CONDITIONS

- 3.03 Surface conditions of yards shall be maintained so as to:
- (1) prevent ponding of storm water;
 - (2) prevent instability or erosion of soil;
 - (3) not exhibit an unsightly appearance;
 - (4) be kept free of garbage and refuse;
 - (5) be kept free of deep ruts and holes; and,
 - (6) provide for safe passage under normal use and weather conditions, day or night.
- 3.04 Section 3.03 (1) shall not apply to naturally occurring ponds, approved storm water management ponds, ponds forming part of an irrigation or snow making system or other approved ponds.

SEWAGE AND DRAINAGE

- 3.05 Sewage shall be discharged into a municipal sewage system or an approved private sewage system.

3.06 Sewage of any kind shall not be discharged onto the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.

3.07 Roof or foundation drainage shall not be discharged onto adjacent private property or, onto public property unless such drainage has been authorized by the authority having jurisdiction.

PARKING AREAS, WALKS AND DRIVEWAYS

3.08 All areas regularly used for vehicular traffic and parking shall have a surface covering of asphalt, concrete, or compacted stone or gravel and shall be kept in good repair, free of dirt and litter.

3.09 Steps, walks, driveways, parking spaces and other similar areas shall be maintained so as to afford safe passage under normal use and normal weather conditions, day or night.

ACCESSORY BUILDINGS, FENCES, AND OTHER STRUCTURES

3.10 Accessory buildings, fences and other structures appurtenant to the property shall be maintained in structurally sound condition and in good repair.

GARBAGE DISPOSAL

3.11 Every building, dwelling, and dwelling unit shall be provided with a sufficient number of suitable receptacles to contain all garbage, refuse and ashes that may accumulate on the property between the regularly designated collection days. Such receptacles shall be constructed of watertight material, provided with a tight fitting cover, and shall be maintained in a clean and odour free condition at all times.

3.12 All garbage, refuse, and ashes shall be promptly placed in a suitable container and made available for removal in accordance with the municipal garbage collection by-law where applicable.

3.13 Garbage storage areas shall be screened from public right-of-ways.

COMPOST HEAPS

3.14 The occupant of a residential property may provide for a compost heap in accordance with the health regulations, provided that the compost pile is no larger than two square metres and 2.0 metres (6'-7") in height and is enclosed on all sides by concrete block, or lumber, or in a forty-five gallon container, a metal frame building with a concrete floor, or a commercial plastic enclosed container designed for composting, or other approved container. Any such building or structure used to enclose the compost heap shall be situated in accordance with the provisions of the applicable zoning by-law.

PART IV DWELLING UNIT, SHORT TERM ACCOMMODATION AND COMMERCIAL RESORT UNIT STANDARDS

4.00 The following standards apply to those uses defined as a dwelling unit, short term accommodation and/or commercial resort unit by the applicable zoning by-law:

INTERIOR STRUCTURE-COLUMNS-BEAMS

4.01 In every building, all structural components, including but not limited to all joists, beams, studding, and roof rafters, shall be of sound material and adequate for the load to which they are subjected.

WALLS-CEILINGS

4.01 Every interior surfaces and finishes of walls and ceilings shall be maintained:

- 1) in good repair, a surface which is reasonably smooth, clean, tight and easily cleaned
- 2) free of holes, cracks, loose plaster or other material
- 3) in a safe condition; and
- 4) so as to possess the fire resistant properties required by the Building and Fire Codes.

4.02 In any bathroom the walls to a height of forty-two (42) inches above a bathtub equipped with a shower or six (6) feet above the floor of a shower stall, shall be maintained as to be water resistant and readily cleaned.

FLOORS

- 4.03** Every floor shall be smooth and level and maintained so as to be free of all loose, warped, protruding, broken or rotted boards that may create an unsafe condition or surface. Such defective floors shall be repaired or replaced.
- 4.04** Where a floor covering has become worn or torn so that it retains dirt or may create an unsafe condition, the floor covering shall be repaired or replaced.
- 4.05** Every bathroom, kitchen, laundry and shower room shall have a floor covering of water-resistant material and be capable of being cleaned.
- 4.06** Every cellar and basement shall have a floor of concrete or other material acceptable under the provisions of the Building Code, to ensure water drainage and to guard against the entry of vermin.

STAIRS-HANDRAILS-GUARDS

- 4.07** Every inside or outside stair and every porch or landing appurtenant to it shall be maintained so as to be free of holes, cracks and other defects which constitute accident hazards.
- 4.08** All handrails and balustrades, stairways, fire escapes, balconies, landings and porches and similar appurtenances shall be maintained in good repair so as to be free of holes and other defects which constitute accident hazards, shall be properly anchored so as to be kept in a safe and secured condition, shall be structurally sound for the loads imposed through their normal use and, if metal, shall be protected from rust or similar decay by a periodic application of paint.
- 4.09** Handrails shall be installed and maintained in good repair on all exterior stairs that have more than 3 risers and on all interior stairs within dwelling units that have more than 2 risers.
- 4.10** All handrails and balustrades, stairways, fire escapes, balconies, landings and porches and similar appurtenances shall be maintained in good repair, shall be properly anchored so as to be kept in a safe and secured condition, shall be structurally capable of supporting the loads imposed through their normal use and, if metal, shall be protected from rust or similar decay by a periodic application of a protective coating such as paint.

ELEVATORS

- 4.11** Elevating devices in a building, including all parts, lighting fixtures, lamps, elevator buttons, floor indicators and ventilation fans shall be maintained in good repair and operational.
- 4.12** All elevating devices including elevators, dumb-waiters, hoists, escalators, incline lifts and other elevating devices shall be installed and maintained:
 - 1) in good working order and good repair; and
 - 2) in a safe condition.

MEANS OF EGRESS

- 4.13** Every building, structure or dwelling unit shall have a safe, continuous and unobstructed passage from the interior to an exit or the outside of the building at street or grade level.
- 4.14** Exterior stairs and fire escapes shall be maintained in a safe state of repair and kept free of ice and snow.
- 4.15** The passage required as egress from one dwelling unit shall not pass through any other dwelling unit.
- 4.16** In every multi-residential dwelling where a security locking-and-release system has been provided in the front or rear lobby for the entrance into the multiple dwelling and that system is controlled from each dwelling unit, such system shall be maintained in good repair and in an operating condition.
- 4.17** Where a non-residential building contains dwelling units located at other than grade level, there shall be a secondary means of continuous and unobstructed egress from such dwelling units.
- 4.18** All means of egress within a non-residential property shall be maintained free from all obstructions or impediments;
 - a) provided with clear, unobstructed and readily visible exit signs, for every required exit; and
 - b) provided with lighting facilities capable of illuminating the means of egress to ensure the safe passage of persons exiting the building.

HEATING-AIR CONDITIONING

- 4.19** Every residential dwelling shall have heating equipment capable of maintaining a temperature of 21°Celsius (70 °Fahrenheit).
- 4.20** It is the responsibility of the owner that all heating and mechanical systems, and their components be installed, operational and maintained in good working order.
- 4.21** Only heating equipment approved for use by a recognized standards and testing authority shall be provided in a room used or intended for use for sleeping purposes.
- 4.22** No rental residential dwelling unit shall be equipped with portable heating equipment as the primary source of heat.
- 4.23** Solid fuel burning appliances shall conform to the standards as set out in the Building Code. Fireplaces and similar construction used or capable of being used for burning fuels in open fires shall be connected to approved chimneys and shall be installed so as not to create a fire hazard to nearby or adjacent combustible materials and structural members.
- 4.24** If heating equipment burns solid or liquid fuel, a storage place or receptacle for the fuel shall be provided in a safe place and maintained in a safe condition.
- 4.25** Fuel-burning equipment shall be vented to a flue by means of rigid connections leading to a chimney or a vent or flue. All flues shall be kept clear of obstructions
- 4.26** Every chimney, smoke pipe and flue shall be maintained so as to prevent gas from leaking into the building.

AIR CONDITIONING

- 4.27** Air conditioners shall be equipped with adequate devices for the prevention of condensation drainage on to entrance areas, sidewalks or pathways and shall be maintained in a safe mechanical and electrical condition.
- 4.28** Cooling water from water-cooled equipment shall not be discharged on driveways, walkways or other areas used for pedestrian or vehicular traffic, or in such manner that it may cause damage to the walls, foundations or other parts of a building.
- 4.29** The discharge of cooling water from all water-cooled equipment shall be made to a proper drainage system and shall be connected in accordance with all applicable governmental regulations.

ELECTRICAL

- 4.30** Every dwelling and dwelling unit shall be wired for electricity and shall be connected to an approved electrical supply system. An adequate supply of electrical power shall be available in all occupied parts of every dwelling, suite and building.
- 4.31** The connection to the building and the system of circuits and outlets distributing the electrical supply within the building shall provide adequate capacity for the use of the building and such connections, circuits, wiring and outlets along with any fuses, circuit breakers and other appurtenances thereto shall be installed and maintained in good working order.
- 4.32** Extension cords are not permitted on a permanent basis.

VENTILATION

- 4.33** Ventilation shall be provided to and maintained and operated in all rooms and spaces within a building so as to prevent accumulations of heat, dust, fumes, gases, including carbon monoxide, vapours and other contaminants which may create a fire, explosion, toxic hazard or health hazard.
- 4.34** Every ventilation system shall be cleaned regularly and maintained in good working condition and good repair.
- 4.35** When an exterior opening is used or required for ventilation and is not required to be protected by a door, window or similar closure, it shall be protected with screens in accordance with this Bylaw.
- 4.36** An opening for natural ventilation may be omitted from a bathroom or toilet room where a system of mechanical ventilation has been provided.
- 4.37** Every basement, cellar, unheated crawl space and attic shall be vented and such vents shall be designed and maintained to prevent entry of snow, rain, rodents and insects:

LIGHTING

- 4.38** Every stairway, exterior exit and entrance doorway, bathroom, toilet room, kitchen, hall, cellar, basement, laundry, furnace room and non-habitable work room in a suite, dwelling unit or building shall have a permanently installed lighting fixture that shall be maintained in a safe condition and in good working order.
- 4.39** Lighting equipment shall be installed throughout every property to provide adequate illumination for the use of each space so as to provide safe passage.

PLUMBING

- 4.40** All plumbing, drain pipes, water pipes and plumbing fixtures in every building and every connecting line to the sewage system shall be maintained in good working order and free from leaks and defects and all water pipes and appurtenances thereto shall be protected from freezing.
- 4.41** Plumbing systems on a property shall be provided, installed and maintained:
- 1) in compliance with the respective requirements of any applicable Act or Bylaw;
 - 2) in good working order and good repair; and
 - 3) in a safe condition.
- 4.42** All plumbing fixtures shall be connected to the sewage system through water seal traps.

WATER SUPPLY

- 4.43** Every dwelling and every building to which water is available under pressure through piping shall be provided with:
- 1) adequate supply of hot water with a temperature range from 60 to 73.8 Celsius or 140 to 165 degrees Fahrenheit shall be provided and maintained in all dwelling units; and
 - 2) piping for hot and cold water connected to every kitchen fixture, every washbasin, bathtub, shower, sink and laundry area; and
 - 3) piping for cold water connected to every toilet and hose bib.

SEWAGE SYSTEM

- 4.44** Every plumbing fixture in every building shall discharge the water, liquids or sewage into drainage piping, which shall be connected to a municipal sewage system, or a system approved by the authority having jurisdiction and in accordance with all applicable law.
- 4.45** Sewage or organic waste shall not be discharged to the surface of the ground, but into a sewage system where such system exists. Where a sewage system does not exist, sewage or organic waste shall be disposed of in a manner according to the Ontario Building Code.
- 4.46** The land in the vicinity of a sewage system shall be maintained in a condition that will not cause damage to, or impair the functioning of the sewage system.

VERMIN CONTROL

- 4.47** Every property shall be maintained so as to be free from vermin and conditions that may promote an infestation at all times.

PART V

ADDITIONAL REQUIREMENTS FOR DWELLING UNIT, SHORT TERM ACCOMMODATION AND COMMERCIAL RESORT UNIT OCCUPANCY

- 5.00** The following standards apply to those uses defined as a dwelling unit, short term accommodation and/or commercial resort unit by the applicable zoning by-law:

OCCUPANCY STANDARDS

- 5.01** A non-habitable room shall not be used as a habitable room.
- 5.02** No kitchen shall be used as a bedroom.
- 5.03** The minimum dimension of any habitable room shall be 2 metres (6.5 feet).
- 5.04** Every habitable room shall have a ceiling height of at least 2.29 metres (7 feet, 6 inches). For the purpose of computing the floor area of a habitable room, no floor area under a ceiling height which is less than 2.13 metres (7 feet) shall be counted except for a bedroom which complies with the provisions that at least one half of any habitable room located directly beneath a roof and having a sloping ceiling, shall have a ceiling height of at least 2.29 metres (7 feet, 6 inches) and the area of that part of the room where the ceiling height is less

than 1.5 metres (4.9 feet) shall not be considered as part of the area of the room for the purpose of determining the maximum permissible occupancy thereof.

- 5.05** No basement or portion thereof shall be used as a dwelling unit, unless it meets the following requirements:
- 1) access to each habitable room shall be gained without passage through a furnace room, boiler room or storage room;
 - 2) each habitable room shall comply with all the requirements for ingress, egress,
 - 3) light, ventilation and ceiling height set out in this Bylaw;
 - 4) floors and walls are constructed so as to be impervious to leakage of underground or surface run-off water

TOILET AND BATHROOM FACILITIES

- 5.06** Every dwelling unit shall contain plumbing fixtures in good repair and in an operative condition, consisting of a minimum of one toilet, one sink, and one bathtub or shower.
- 5.07** All bathrooms and toilet rooms shall be located within and accessible from within the dwelling unit.
- 5.08** All bathrooms and toilet rooms shall be fully enclosed and maintained so as to provide privacy for the occupant.
- 5.09** No toilet or urinal shall be located within a bedroom or a room that is used for the preparation, cooking, storing or consumption of food.

PART VI

VACANT LANDS AND BUILDINGS

- 6.01** All repairs and maintenance of property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. All new construction or repairs shall conform to the Ontario Building Code where applicable.

VACANT LANDS

- 6.02** Vacant land shall be maintained to the standards as described in Part III, Articles 3.02 and 3.03, of this By-Law.
- 6.03** Vacant land shall be graded, filled or otherwise drained so as to prevent recurrent ponding of water.

VACANT BUILDINGS

- 6.04** Vacant buildings shall be kept cleared of all garbage, rubbish and debris and shall have all water, electrical and gas services turned off except for those services that are required for the security and maintenance of the property.
- 6.05** The owner or agent of a vacant building shall protect the building against the risk of fire, accident, damage or other danger thereto or to adjoining premises by effectively preventing the entry thereto by all unauthorized persons.
- 6.06** Without restricting the generality of Section 5.05, protection may include the boarding up of all openings to the building with at least 12.7 mm (2") weatherproof sheet plywood, composite panels or sheathing boards securely fastened to the building and painted a colour compatible with the surrounding walls.

PART VII

NON-RESIDENTIAL PROPERTY STANDARDS

- 7.01** All repairs and maintenance of property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. All new construction or repairs shall conform to the Ontario Building Code where applicable.

YARDS

- 7.02** The yards of non-residential property shall be maintained to the standards as described in Part III, Articles 3.02 and 3.03 of this By-Law.
- 7.03** The warehousing or storage of material or operative equipment that is required for the continuing operation of the industrial or commercial aspect of the property shall be maintained in a neat and orderly fashion so as not to create a fire or accident hazard or any unsightly condition and shall provide unobstructive access for emergency vehicles. Where conditions are such that a neat and orderly fashion is achieved but is still offensive to view,

the offensive area shall be suitably enclosed by a solid wall or a painted board or metal fence not less than 1.8 metres (6') in height and maintained in good repair.

PARKING AREAS, AND DRIVEWAYS

- 7.04** All areas regularly used for vehicular traffic and parking shall have a surface covering of asphalt, concrete, or compacted stone or gravel and shall be kept in good repair free of dirt and litter.
- 7.05** All areas used for vehicular traffic, parking spaces and other similar areas shall be maintained so as to afford safe passage under normal use and weather conditions.

STRUCTURAL SOUNDNESS

- 7.06** Every part of a building structure shall be maintained in a sound condition so as to be capable of safely sustaining its own weight load and any additional load to which it may be subjected through normal use, having a level of safety required by the Ontario Building Code. Structural members or materials that have been damaged or indicate evidence of deterioration shall be repaired or replaced.
- 7.07** Walls, roofs, and other exterior parts of a building or structure shall be free from loose or improperly secured objects or materials.

EXTERIOR WALLS

- 7.08** Exterior walls of a building or a structure and their components, including soffits, fascia, windows and doors, shall be maintained in good repair free from cracked, broken or loose masonry units, stucco, and other defective cladding, or trim. Paint or some other suitable preservative or coating must be applied and maintained so as to prevent deterioration due to weather conditions, insects or other damage.
- 7.09** Exterior walls of a building or a structure and their components, shall be free of unauthorized signs, painted slogans, graffiti and similar defacements.

EXTERIOR GUARDRAILS

- 7.10** Exterior guards shall be installed and maintained in good repair on the open side of any stairway or ramp containing three (3) or more risers including the landing or a height of 600 mm (24") between adjacent levels. Guardrails shall be installed and maintained in good repair around all landings, porches, decks and balconies. Guardrails, balustrades and handrails shall be constructed and maintained rigid in nature.

PART VIII

ADMINISTRATION AND ENFORCEMENT

- 8.01** This By-Law shall apply to all property located within the area indicated on Schedule AA@ to this By-law.
- 8.02** The imperial measurements contained in this By-Law are given for reference only.

OFFICERS

- 8.03** The Council of the municipality shall appoint a Property Standards Officer(s) to be responsible for the administration and enforcement of this By-Law.

PROPERTY STANDARDS COMMITTEE

- 8.04** Council shall appoint by Resolution of Council no fewer than three (3) persons to the Property Standards Committee.
- 8.05** Every person who initiates an appeal of an Order made under Section 15.2 (2) of the *Ontario Building Code Act, S.O. 1992, c23*, shall submit a Notice of Appeal in the time frame and the manner as prescribed in section 15.3 (1) of the *Act*.

PENALTY

- 8.06** An owner who fails to comply with an order that is final and binding under this By-law is guilty of an offence under Section 36(1) of the *Building Code Act, S.O. 1992, c.23*, and is liable to a penalty or penalties as set out in section 36 of that Act.

VALIDITY

- 8.07** If an article of this By-Law is for any reason held to be invalid, the remaining articles shall remain in effect until repealed.

8.08 Where a provision of this By-Law conflicts with the provision of another by-law in force within the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

TRANSITIONAL RULES

8.09 After the date of the passing of this By-law, By-Law No. 93-3, as amended, of the former Township of Collingwood and By-law No. 10/95, as amended, of the former Town of Thornbury shall apply only to those properties in which an Order to Comply has been issued prior to the date of passing of this By-law, and then only to such properties until such time as the work required by such Order has been completed or any enforcement proceedings with respect to such Order, including any demolition, clearance, or repair carried out by the municipality shall have been concluded.

REPEAL

8.10 By-Law No. 93-3, as amended, of the former Township of Collingwood and By-law No. 10/95, as amended, of the former Town of Thornbury, are hereby repealed.

TITLE

8.11 This By-Law may be referred to as "The Property Standards By-Law".

Read a first and second time this _____ day of _____, 2002.

Read a third time and passed this _____ day of _____, 2002.

Ross Arthur
Mayor


Stephen Keast
Town Clerk

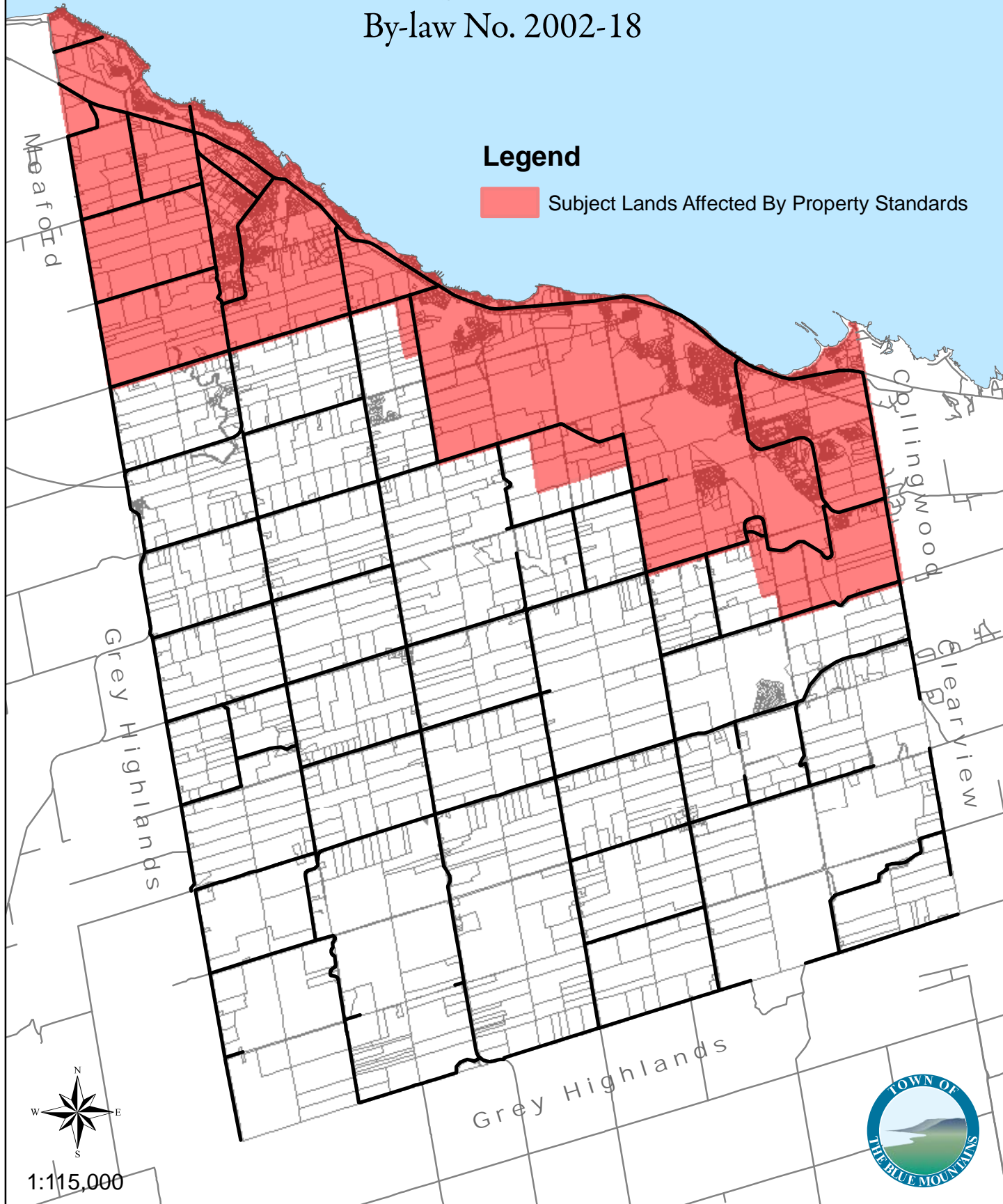
Town of The Blue Mountains

Key Map - Schedule 'A1'

By-law No. 2002-18

Legend

 Subject Lands Affected By Property Standards





**TOWN OF THE BLUE MOUNTAINS
BUILDING SERVICES DIVISION
ONTARIO BUILDING CODE STANDARD PRACTICE**

Subject Title:	Definition of a Bedroom		
Date Issued:	Mar. 15, 2013	Standard Practice No.:	SP. OBC. 13.03
Date Effective:	Mar. 15, 2013	No. of Pages:	3
Date Revised:		Name of Division:	Building Services
Approved By:	Greg Miller, Chief Building Official		OBC Program

Policy Statement

This standard practice is intended to provide guidance to Building & By-Law staff when reviewing building permit applications, checking plans, investigating complaints and inspecting buildings as to the approved intended use of a room and will be used by all staff in determining whether a room will be considered a bedroom (sleeping area).

Purpose

To ensure that Building & By-Law staff of the Town of The Blue Mountains are clearly informed of the various definitions of a bedroom as defined in the Ontario Building Code and to provide a uniform interpretation and application of these regulations.

Application

This policy applies to Building & By-Law staff while performing their plan examination and/or building inspection duties.

Definitions

Bedroom: any space in the conditioned area of a dwelling unit or accessory structure which is 75 square feet and greater in size and which is located along an exterior wall, but not including the following:

hall; bathroom; kitchen; living room (maximum of one per dwelling unit); dining room (in proximity to kitchen, maximum of one per dwelling unit); family room (maximum of one per dwelling unit), laundry room, closet/dressing room opening off of a bedroom.

Conditioned space: An area, room or space normally occupied and being heated or cooled by any equipment for human habitation.

Standard Practice

9.5.7.1.(1), Div. B of the Ontario Building Code requires: that at least one bedroom in every dwelling unit shall have an area of not less than 7m² (75ft²) where built-in cabinets are not provided and not less than 8.8m² (65ft²) where built-in cabinets are provided.

The Chief Building Official, or designate may grant exceptions if a room, by its design, cannot function as a bedroom. However, the following interpretation shall be uniformly applied:

1. Sewing rooms, dens, studios, lofts, game rooms, and any other conditioned room along an exterior wall which is 7m (75ft²) or greater in area will be considered to be bedrooms unless the room is specifically exempted.
2. A home office, library or similar room that is proposed, may be exempted from being considered a bedroom provided:
 - a. There is no closet; **and**
 - b. At least one of the following is present:
 - i. permanently built-in bookcases, desks and other feature that encumber the room in such a way that it cannot be used as a bedroom;
 - ii. a minimum 4 foot opening, without doors, into another room; or
 - iii. a half wall (4 foot maximum height) between the room and another room. A detached building which contains only a half bath will not routinely be considered as having a bedroom unless it is specifically identified and permitted as a guest house under the Zoning By-law.
3. When an exception is made per the above, it shall be documented in City View in the comments section so that all staff is aware of the interpretation.
4. A written conditional statement may be required to be signed by the property owner if the permit is for an outbuilding which has been determined to be a use other than a bedroom or other living space. This statement may be registered on title as necessary to inform future property owners of restrictions on use of the building.

Implementation

An interpretation bulletin will identify the rules of this policy and provide examples to assist building permit holders, contractors and builders in understanding these rules.

Consequences of Non-Compliance

N/A

References and Related Policies

Review Cycle

This policy will be reviewed annually by the Chief Building Official.

Greg Miller, C.E.T., CBCO
Manager, Building & By-law Services
Chief Building Official

STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: November 25, 2013
REPORT NO.: PL.13.128 Addendum
SUBJECT: Short Term Accommodation Licensing & Short Term Accommodation Licensing By-law
PREPARED BY: D. Finbow, Director, Planning & Building Services

A. Recommendations

THAT Council receive Staff Report PL.13.128 Addendum respecting Short Term Accommodation Licensing & Short Term Accommodation Licensing By-law for information purposes.

B. Background

Purpose:

To address or respond to comments/issues raised subsequent to the release of Staff Report PL.13.128.

Comments/Issues:

1. **Letter from Blue View Chateaux Inc. dated Nov 21/13 (Appendix A) & Subsequent Opinion Letter of BRA Engineering dated Nov 21, 2013:**

A. Licence all STA's

It is recommended that the Town implement Short Term Accommodation (STA) Licencing in phases so as to address operational capacity (see 2.2 and 3.1 of Draft STA Licencing BL).

The Draft STA Licencing By-law anticipates all STA's will eventually be subject to the By-law.

With respect to CRU's, they are not STA's by definition, be it in the Draft STA Licencing By-law or the Town's Planning documents.

The Special STA Stakeholder Committee recommended that Council consider amending our Planning documents so as to include CRU's as STA's. Council at its meeting of October 28/13 considered this and decided not to proceed at this time.

B. “Why licence STA’s and not CRU’s?”

The *Municipal Act* indicates that a municipality may pass by-laws respecting, amongst other things, the following:

- Economic, social and environmental well-being of the municipality.
- Health, safety and well-being of persons.
- Protection of persons and property, including consumer protection.

The Ontario Municipal Board in its Order related to Town OPA No. 11 and the related Zoning By-laws indicates the following:

Extract A:

In this context the Board has considered LBM’s argument that STA units are dwellings and that they are compatible in any residential area. The Board, however, disagrees. The Board finds that STA units are distinct commercial entities with the goal of making a profit. They are often managed by a professional manager who uses a system of reservation, collects taxes and accepts credit cards from paying guests whose permanent residences are elsewhere and who have no right of renewal. Those premises are occupied by paying guests for a short span of time and for the purpose of allowing enjoyment of the recreational and tourist facilities in the area. This commercial entity 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. In the Town of the Blue Mountains, “the proof of the pudding is in the eating”; the evidence of conflict is categorical. The Board finds that the Town must ensure that compatibility is achieved between the commercial STA use and existing residential neighbourhoods in order to be in conformity with its Official Plan.

Extract B:

The Board finds, however, that in this case the complaints are well founded. There is convincing evidence of incompatibility and convincing evidence that the integrity and character of the low density residential neighbourhoods are being undermined by the presence of STA units in those areas. These are legitimate concerns to which the Municipality has turned its attention appropriately. The Board finds that the proposal is a reasonable response to the situation and represents good planning.

Extract C:

The Board agrees with the Residents, the Town and BMR that unlike the areas zoned for medium density residential development, the expectation is that low density residential neighbourhoods are reserved for permanent dwellings. Preservation and protection of the integrity and character of these established neighbourhoods must therefore be the paramount objective when considering whether commercial uses should be established within those residential areas.

Extract D:

BMR's evidence is that it has developed 345 STA units within medium density residential zones where the expectations by residents are different. This approach has proven to be successful. BMR's STA units were developed within a set of comprehensive planning tools such as site plan controls for proper buffering and other mitigation measures to achieve greater compatibility. These are the same standards that the Town seeks to impose by the proposal before the Board.

As Council will note, the Board found that there is conflict and incompatibility between the operation of commercial STA's and the existing residential neighbourhoods (Extracts A, B and C).

Further, Council will note that the Board turned its attention to the difference between the low density and medium density residential zones, being the "CRU's around the Village" (Extract D).

From a licensing perspective, i.e. putting into place measures to address the social well-being of the municipality; the health, safety and well-being of persons in the municipality; and, the protection of persons and property, Town staff believe that it is appropriate to require licences for STA's and not CRU's. Should there be a need identified and demonstrated in the future, Town staff will report back on this matter.

It is Town staff's belief that the enactment of the Draft STA Licensing By-law will assist in addressing this conflict and incompatibility of existing STA's and existing residential neighbourhoods and that, at this time, licensing of CRU's is not required.

C. Maximum 2 Persons per Bedroom

The Town has never indicated that the OBC "limits" occupancies of bedrooms to 2 persons. Town staff has indicated/advised that Part 9 of the OBC indicates that the occupant load of a bedroom "shall be based on 2 persons per bedroom" (it is noted that there are other prescriptive provisions in Part 9 of the OBC that are sensitive to occupant load that may be a derivative of the 2 persons per bedroom, such as the prescriptive ventilation requirements found at OBC 9.32).

With respect to RBA's letter dated November 21, 2013, copy attached, the Town's Fire Department has indicated that:

"I have reviewed RBA's letter; the writer is referencing OBC Part 3 and the buildings in question are Part 9 small buildings.

Removing the 2 persons per bedroom is not an option. Establishing an occupant load, including it in the fire safety plan and clearly defining it in the rental agreement is all part of due diligence on the owner and breaking that established number could result in the license suspension and or fire code prosecution.

The Ontario Building Code and The Ontario Fire Code are the minimum requirements in construction and life safety.

OBC Part 9-9.9.1.3. (1) (a) 2 persons per sleeping room or sleeping area in a dwelling unit or suite

OBC Part 9-9.9.8.2. (3) (b) where sleeping accommodation is not provided in the basement, a single exit is permitted from the basement floor area.

Establishing a safe occupant load that does not conflict with OBC, OFC and Retrofit where applicable is also clearly referenced in the Fire Safety Commissions decision."

Further, the Town's Fire Department has advised that:

"(We) do not want (the) dept and or the municipality in court trying to defend why we let 4, 5, 6 or 7 people occupy 1, 2, or 3 bedrooms and a death occurs as a result of a fire. The first question asked would be who authorized the exception to the OBC and Fire Code Commission ruling. Trust me when I say the STA owners will be nowhere to be found."

RBA has advised that their reference at 4.0 of "required to incorporate the current OBC criteria for sleeping area" should have been "recommended to incorporate the current OBC criteria for sleeping area".

The Draft STA Licensing By-law contains a maximum of 2 persons per bedroom. Town staff believes that this is within the Town's authority to do in accordance with the *Municipal Act* and related Regulations as a condition for holding a licence.

2. Email from Blue Mountain Resorts dated November 22, 2013

A. Request to revise Section 5.15 of the Draft STA Licensing By-law

Include the words “or agent” after “owner”.

“The owner *or agent*” (it’s hard for an Owner to ensure each renter is provided with the Renter’s Code if they have entrusted an Agent to manage the rental on their behalf).

Town staff concurs with this request and same has now been included in the Draft STA Licensing By-law (Appendix B).

B. Clarify Footnote to Table 1 of the Draft STA Licensing By-law

Is footnote (1) supposed to reference 4.31, 5.4 and 5.7 (not 5.8)?

Town staff concurs with this request and same has now been included in the Draft STA Licensing By-law (Appendix B).

C. The Blue Mountains’ Strategic Plan

Providing a strong, well managed municipal government.

Managing growth to ensure the ongoing health and prosperity of the community.

D. Environmental Impacts

N/A

E. Financial Impact

N/A

F. In Consultation With

The Blue Mountains Fire Department re Occupant Load of Bedrooms

G. Attached

- A Letter from Blue View Chateaux Inc, November 21, 2013
- B Letter from BRA Engineering, November 21, 2013
- C Extract revisions to the Draft STA Licensing By-law

Respectfully submitted,

D. Finbow
Director, Planning & Building Services

STAFF REPORT: Planning & Building Services Department



REPORT TO: Planning & Building Committee
MEETING DATE: January 13, 2014
REPORT NO.: PL.14.05
SUBJECT: Short Term Accommodation (STA) Licensing Fees
PREPARED BY: D. Finbow, Director, Planning & Building Services

A. Recommendations

THAT Council receive Staff Report PL.14.05 respecting Short Term Accommodation (STA) Licensing Fees;

AND THAT Council direct that a Public Meeting be scheduled so as to receive comments on the proposed schedule of fees as set out in this Report;

AND THAT Council adopt the guidelines as set out in this Report related to Short Term Accommodation Licensing Administrative Penalties.

B. Background

Purpose:

The purpose of this Report is to seek Council's authorization to proceed to a Public Meeting so as to receive comments on proposed fees related to the Town's Short Term Accommodation (STA) Licensing Program and to allow Council to consider adopting guidelines related to Short Term Accommodation Licensing Administrative Penalties

Short Term Accommodation Licensing By-law, By-law No. 2013-50:

Council at its meeting of November 25, 2013 considered Staff Report PL.13.128 respecting Short Term Accommodation and enacted By-law No. 2013-50, being a By-law to licence, regulate and govern short term accommodation uses (Appendix A).

Licensing & Licensing Renewal Fees:

By-law 2013-50 anticipates a Licence Fee (S. 4.3(13)) and a Licence Renewal Fee (S. 4.3(13)). With respect to licensing fees, Staff Report PL.13.128 indicated the following:

Given the change to a two year licence period, implementation of the By-law in phases and uncertainty in terms of the establishment of the Committee, further analysis is required so as to develop a licence fee structure that will represent full cost recovery. These fees will include actual licence application fee, licence replacement fee, Meeting Fee, Hearing Fee, Committee Application Fee, Appeal of Committee Decision to Council Fee and Committee Remuneration (if applicable).

It is intended that licensing fees be incorporated into the Town's Tariff of Fees By-law, By-law No. 2000-90, as amended.

The matter of STA licensing fees was previously explored in Staff Report B.12.13 (Appendix B). This Report reflected on the funding of the program as noted below:

During the 2012 Town Budget process it became evident that there was significant concern with respect to placing the financial burden associated with a licencing system for short term accommodation uses on Town taxpayers by way of the tax rate. Given these concerns, Town staff are recommending that if Council so desires to implement a Short Term Accommodation Licencing Program that Council could direct that the start-up funding be borrowed from the Town's Working Capital Reserve or Policing Reserve with such borrowed funds being paid back over a five year period (\$16,400 per year with such loan being in addition to the above noted Estimated Annual Costs). This would place the Estimated Annual Costs of the Program for the first five years at approximately \$164,400. Based on this, and based on approximately 100 – 150 licenced premises, annual licencing fees per premise would be in the magnitude of \$1,100 to \$1,650.

The above noted licensing fee estimate was based on approximately 100 – 150 licenced premises. Since the development of this estimate in June 2012, a significant amount of enforcement/investigation activity has occurred and it is now estimated that ultimately there will be approximately 350 – 400 premises subject to licensing (see the November 2013 By-law Enforcement Short Term Accommodation Activity Report wherein it was reported that there were a total of 469 STA Files, 344 Open STA Files and 125 Closed Files).

Further, it is noted that the above noted licensing fee estimate was based on annual licencing and therefore annual licensing fees, versus the bi-annual licensing as adopted by Council by way of By-law No. 2013-50. Although it is anticipated that there will be savings in terms of annual processing of licence applications and the related inspections, these savings are not anticipated to be 50% given the fixed costs associated with Program.

The 2014 Draft Budget currently reflects expenses related to the Town's Short Term Accommodation Licensing Program of \$178,325 for the entire year. The majority of this, \$135,825 (76.2%), is attributable to salaries and benefits related to the proposed 1.0 FTE STA Licensing Officer and 0.5 STA Licensing Support positions as well as portions of the salaries and benefits of other positions involved in the development and administration of the program such as the Manager, Building & By-law Services.

Given the phased in approach to licensing, a fee implementation strategy other than that which was explored in Staff Report B.12.13 must be developed that is equitable to all owners while at the same time taking into consideration that the Program should not place a financial burden on the general taxpayer.

With projected annual expenses in the magnitude of \$178,325 (2014 estimate) for the first five years (these expenses are projected to be reduced by an anticipated 33% after year five), and assuming 350 premises to be eventually licenced on a bi-annual basis, a straight line approach would result in an approximate \$1,019 licensing fee.

However, given the phased in approach to licensing, and assuming a constant fee of \$1,019, full cost recovery for the above model would not be achieved until year 6 (2019) and, the accumulated deficit would not be retired until approximately year twelve (2025) (it is estimated that the accumulated deficit would approach \$300,000 in year five).

If full cost recovery was desired to be achieved each and every year, licensing fees would have to be established at an approximate \$2,550 for the first two years and then subsequently reduced to approximately \$1,275 in years three and four. This model would create a situation whereby those required to be licenced in years one and two would pay 100% more than those that were required to be initially licenced in years three through five.

Given the forgoing, it is recommended that an initial licensing fee of \$2,000 and a renewal fee of \$750 be contained in the Draft Licensing Fee Schedule for comment at the Public Meeting. The revenue/expense model associated with this recommendation is reflected in the table below.

**Short Term Accommodation
 Projected Revenue/Expense Model
 Based on \$2,000 Initial Licence Fee and \$750 Renewal Fee
 *Fees and Expenses Constant***

Year	Projected # of Premises Licenced	Projected # of Newly Licenced Premises	Projected # of Renewals	Revenue @ \$2,000/Initial & \$750/Renewal	Program Expenses	Surplus/ (Deficit)	Accumulated Surplus/ (Deficit)
1 (2014)	70	70	0	\$140k	\$178k	(\$38k)	(\$38k)
2 (2015)	140	70	0	\$140k	\$178k	(\$38k)	(\$76k)
3 (2016)	210	70	70	\$192.5k	\$178k	\$14.5k	(\$61.5k)
4 (2017)	280	70	70	\$192.5k	\$178k	\$14.5k	(\$47k)
5 (2018)	350	70	140	\$245k	\$178k	\$67k	\$20k
6 (2019)	350	0	140	\$105k	\$100k*	\$5k	\$15k
7 (2020)	350	0	210	\$157.5	\$100k*	\$57.5k	\$72.5k
8 (2021)	350	0	140	\$105k	\$100k	\$5k	\$77.5k

It is also recommended that this model be monitored on an annual basis and adjusted as needed so as to ensure that cost recovery is achieved and that surplus revenue is not derived from the Program.

Licensing Committee Appeal Fee, Council Appeal Fee & Other Fees:

By-law 2013-50 also anticipates fees related to:

Licensing Committee Appeal Fee (S. 4.20, 4.21)
Council Appeal (S. 4.25)
Replacement Licence
Licensing Committee Meeting Fee (S. 6.1(3))
Licensing Committee Hearing Fee (S. 6.1 (4))

With respect to the forgoing, cost recovery continues to be the primary factor in the establishment of the fee however with respect to appeals, meetings and hearings, there must also be a component that will dissuade frivolous applications. In this regard, and given that it is anticipated that these appeals, meetings and hearings will generate additional effort on the part of staff, potentially after hours work for staff, outside legal support, it is recommended that the Draft Licensing Fee Schedule contain the following:

The Licence Committee Appeal Fee and Council Appeal Fee	\$500
Licensing Committee Meeting and Licensing Committee Hearing Fee	\$250
Replacement Licence	\$ 50

Administrative Penalties:

It is noted that By-law No. 2013-50 anticipates Administrative Penalties for “minor” contraventions/violations of the By-law. It was anticipated that these minor contraventions/violations would include matters such as:

1. Failure to provide notice of changes related to a licence such as change of address, phone number or e-mail address of an Owner, Agent or Responsible person;
2. Failure to maintain the requisite insurance;
3. Failure to operate in accordance with the approved Parking Management Plan or Property Management Plan;
4. Failure to post a licence;
5. Failure to keep and produce records as required;
6. Failure of the Responsible Person to respond within one hour from the point of contact; and,
7. Failure to allow entry to a premise for inspection purposes;

Sever and/or repeated contraventions may “bump” the above noted contraventions/violations from an Administrative Penalty to a *Provincial Offences Act* action.

Matters such as operating without the benefit of a licence; exceeding occupant limits; and, obstructing, hindering or interfering with an authorized employee or agent of the Town were not envisioned as being minor matters but matters that would be pursued by way of a *Provincial Offences Act* action.

It is recommended that Council adopt the forgoing as guidelines as it relates to what constitutes a Licensing Administrative Penalty matter versus a *Provincial Offences Act* action.

Summary:

It is recommended that Council:

Direct that a Public Meeting be scheduled so as to receive comments on the proposed schedule of fees for Short Term Accommodation Licensing By-law related matters as set out in this Report; and,

Adopt the guidelines as set out in this Report related to Short Term Accommodation Licensing Administrative Penalties.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Environmental Impacts

N/A

E. Financial Impact

See the commentary found at Financial Impact found in Staff Report B.12.13 (attached)

F. In Consultation With

N/A

G. Attached

Staff Report B.12.13

Respectfully submitted,

David Finbow
Director, Planning & Building Services



**TOWN OF THE BLUE MOUNTAINS
NOTICE OF APPLICATION & PUBLIC MEETING
PROPOSED AMENDMENT TO THE PROPERTY STANDARDS BY-LAW
NO. 2002-18, AS AMENDED**

The Council of the Corporation of The Town of The Blue Mountains is holding a Public Meeting in order to receive comments from the public with respect to a proposed amendment to the Town's Property Standards By-law, By-law No. 2002-18. The Public Meeting will be held at the **TOWN HALL, 32 MILL STREET, THORNBURY, ONTARIO, COMMENCING AT 7:00 P.M., OR SOON THEREAFTER, ON THE 23rd DAY OF JUNE, 2014.**

The proposed amendment is for Council to consider amending the Property Standards By-law No. 2002-18, as amended to include maximum occupancy standards related to Short Term Accommodation premises, to further clarify persons to be included in the determination of occupancy; and to clarify that the Property Standards By-law applies to all Short Term Accommodation lands in the Town.

Any person or agency may attend the Public Meeting and/or make written or verbal representation. Should you be unable to attend the Public Meeting and have questions or wish to provide written comments, please contact:

Manager, Building & By-law Services & Chief Building Official
32 Mill Street, Box 310 Thornbury, ON N0H 2P0
cbo@thebluemountains.ca
519-599-3131, ext. 261
1-888-258-6867

Additional information relating to the proposed amendment is available on the Town's website at www.thebluemountains.ca, or available during regular office hours in the Building & By-law Services Division at Town Hall, Thornbury.

DATED at Town of The Blue Mountains this 2nd day of June, 2014.