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STAFF REPORT: Planning & Building Services Department



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

A. Recommendations

1. **THAT** Council receive Staff Report PL.13.128 respecting Short Term Accommodation Licensing & Short Term Accommodation Licensing By-law;
2. **AND THAT** Council enact the attached Short Term Accommodation Licensing By-law with same having an effective date of July 2, 2014 for the areas identified;
3. **AND THAT** Council endorse the recruitment and hiring of 1.5 FTE contract positions previously authorized by Council on June 11, 2012 and as set out in Staff Report B.12.13 so as to support the establishment of the Short Term Accommodation Licensing Program with the scope of these positions as outlined in this Report and Staff Report B.12.13;
4. **AND THAT** Council hereby direct that a Public Meeting be scheduled so as to receive comments with respect to proposed amendments to the Town's Property Standards By-law so as to prescribe standards for the maintenance and occupancy of the interior of a building or structure;
5. **AND THAT** Council provide direction on the composition of the Short Term Accommodation Licensing Committee.

B. Background

Purpose:

To seek Council's consideration and direction related to:

1. The enactment of a Short Term Accommodation (STA) Licensing By-law;
2. Proceeding to a Public Meeting so as to receive comments with respect to proposed amendments to the Town's Property Standards By-law;
3. Proceeding with the recruitment and hiring of 1.5 FTE contract positions so as to support the STA Licensing Program; and,
4. The composition of the STA Licensing Committee.

Background:

The Town has been considering the development and enactment of a STA Licensing By-law and related Program for a number of years.

With the Ontario Municipal Board's Order of June 22, 2011 respecting Town Official Plan Amendment No. 11 and related Zoning By-law Amendments and the subsequent Superior Court of Justice decision of July 19, 2012 related to an application for leave to appeal, the Town proceeded to develop and receive input on an STA Licensing By-law.

The development of the STA Licensing By-law has included Stakeholder Consultations in the fall of 2012; Council's consideration of comments from the Stakeholder Consultations on January 21, 2013; Special Meeting of Council – Council Workshop on January 30, 2013; Public Meeting on April 15, 2013; Council's establishment of a Special STA Stakeholder Committee on May 6, 2013; Council's consideration of the Special STA Stakeholder Committee's Report on July 2, 2013; and, a Special Meeting of Council - Council Workshop on October 28, 2013.

At its Special Meeting of October 28, 2013, Council provided verbal direction with respect to the STA Licensing By-law with staff's summary of these directions being affirmed by Council's Committee of the Whole on November 13, 2013 with six of seven members of council in attendance.

Analysis:

With the directions provided by Council, Town staff has prepared a Draft STA Licensing By-law for Council's consideration (Appendix "A").

These directions from Council have been addressed as follows:

ITEM	SUBJECT	BY-LAW REFERENCE	COMMENT
1	Licence Term	4.12	Two Years
2	Transferability of Licence	4.11 & 4.15	Issued to Owner & not transferable without Town Approval/Consent subsequent to an Application, Inspection, etc.
3	Bedroom	1.1	New definition
4	Maximum Occupant Load per Bedroom ⁽¹⁾	5.9	Continues at two persons
5	Availability of Contact Information for Responsible Person to Residents/Property Owners	4.29 & 5.14	Posted to the Town's website and available to the Public
6	Posting of Licence c/w Responsible Person Information	5.13	Condition of Licence

7	Provision of Security	N/A	Not implemented as Administrative Penalties as set out at 4.18 & 11.0 will allow for collection of unpaid fees, charges, etc.
8	Proof of Licence re Real Estate and Business Brokers Act	N/A	5.22 deleted
9	Suspensions & Revocations	4.20 & 4.21	To be addressed by a Licensing Committee appointed by Council. Also see Demerit Point System at 6.0.
10	Final Appeal	4.24	Council
12	Parking	4.3 (10) & 5.10	Parking Management Plan Requirement
13	Property Standards, Garbage Storage, Etc.	4.3 (11) & 5.10	Property Management Plan
14	Renter's Code	4.3(12) & 5.15	Condition of Licence
15	Implementation	2.2, 3.1 & Schedule A-1	Phased Implementation to address operational capacity concerns

- (1) Town staff has been consistent that this is a legitimate regulation in terms of licensing under the provisions of the Municipal Act, specifically addressing the health, safety and well-being of persons; and, imposing conditions as a requirement for the holding of a licence. Attempts have been made to clarify that Part 9 of the Ontario Building Code (OBC) indicates that the occupant load of a premise is based on two persons per sleeping room or sleeping area and this number is utilized for the purposes of the OBC.

Committee:

Council has provided input that suspensions and revocations are to be addressed by a Committee appointed by Council. In this regard, there are a number of options for Council to consider including:

1. Council as a Whole (7 Members with 4 being a quorum)
2. Committee of Council with Council Members forming the Committee (minimum of 3 members)
3. Committee of Council with a mix of Council Members and Members of the Public (minimum of 3 members)
4. Committee of Council with solely Members of the Public (minimum of 3 members)

It is anticipated that meetings would occur once a month and potentially consume approximately 1 – 3 hours.

Town staff seeks direction with respect to Council's preference. Upon providing this direction Town staff will report back with a Terms of Reference, Policies and Procedures Guide, recommended advertising and appointment process (if applicable) and any other information/material that is required to establish the Committee.

Implementation:

Discussions have been had with the Fire Department with respect to implementation and, subject to Council's adoption of Recommendation 4, Town staff is recommending that the By-law become effective July 2, 2014, with it being noted that the required forms, processes, tracking system revisions and necessary staffing being in place on or about March 24, 2014 enabling review and related inspections of the initial approximate 60 – 80 short-term accommodation applications.

Licensing Fees:

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 Blue Mountains Fire Department:

The Fire Department has advised that on the basis of an initial 60 - 80 properties, and cooperation from the owners/agents, that their initial inspections could be completed with their current staffing compliment within 90 days. Further, they have advised that the turnaround time from the date of an inspection request to the date of the inspection is from 1 – 5 business days.

With respect to Fire Department inspection fees, they have advised that their inspection fee is \$75.00 in accordance with By-law No. 2012-20. The first re-inspection fee is included in the initial \$75.00 with the second re-inspection fee being \$150.00.

Building & By-law Services:

Considerable work will be required to be undertaken prior to the effective date of the By-law. This includes the development of policies and procedures, forms, changes to CityView (tracking system), advertising, recruitment and training of staff resources, etc.

Staff Report B.12.13 (Appendix "B"), adopted by Council on June 11, 2012, approved start-up funding related to a short-term licensing program, including the necessary funds for staff resources.

With regard to staff resources, Staff Report B.12.13 indicated a need for an additional 1.5 Contract FTE positions for the start-up of the short-term accommodation licensing program. Town staff continues to see a need for these additional 1.5 Contract FTE's.

Operationally, the 1.0 Contract FTE position will be a Licensing Officer and the 0.5 Contract FTE position will be combined with the other 0.5 Contract FTE position that

exists and currently supports the Town's Security Alarm Program and By-law Services work group (this position is referenced below as the Hybrid FTE Position).

With the full implementation of remote and/or field entry of data by field staff, greater emphasis on office data entry by field staff, and planned operational changes within the Planning & Building Services Department, including re-allocation of certain services from one operating division to another, opportunity exists to utilize the Hybrid FTE Position so as to include support of the licensing program and also field work/inspections related to by-law enforcement. Town staff will pursue this operationally change through the recruitment and selection process. Further, Town staff will report back to Council on By-law Services staffing needs following full implementation of the short-term accommodation licensing program.

In light of the recommended phased implementation of the program, and the related timelines associated therewith, being somewhat condensed from that which was originally anticipated, Town staff see a need to proceed with recruitment of the 1.5 Contract FTE positions as soon as practicable so as to have staff in place by March 1, 2014.

Property Standards By-law:

As issue that has previously been identified is that there will be an expectation that with a premise being licensed that a certain minimum property standard will be met. In this regard, Town staff recommends that a Public Meeting be scheduled so as to receive comments with respect to proposed amendments to the Town's Property Standards By-law so as to prescribe standards for the maintenance and occupancy of the interior of a building or structure (substantially in accordance with Appendix "C").

Seamless Approach:

Town staff has been dialoguing with respect to ensuring that the process is as seamless as possible. Every effort will be made to ensure that a single point of contact is in place in terms of information requirements, applications, payment of fees, processing of applications, messaging, etc.

Communication Plan:

If the recommendations of this Report are adopted, Town staff will develop a Communication Plan that will assist the public in understanding roles and responsibilities, requirements, effective date of the by-law, etc.

Summary:

It is recommended that:

1. That Council enact the attached STA Licensing By-law with same having an effective date of July 2, 2014 for the areas identified.

2. That Council endorse the recruitment and hiring of 1.5 FTE contract positions previously authorized by Council on June 11, 2012.
3. That Council direct that a Public Meeting be scheduled so as to receive comments with respect to proposed amendments to the Town's Property Standards By-law.
4. That Council provide direction on the composition of the STA Licensing Committee.

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

Per B.13.12

F. In Consultation With

The Blue Mountains Fire Department re FD Operational Capacity, Fees & Processes
T. Speck, CAO re staffing implications/recommendations
L. Longo, Aird & Berlis LLP, re Draft STA Licensing By-law
G. Miller, Manager, Building & By-law Services

G. Attached

Draft Short Term Accommodation Licensing By-law
Staff Report B.12.13
Draft Amendment to the Town's Property Standards By-law

Respectfully submitted,

D. Finbow
Director, Planning & Building Services

The Corporation of The Town of The Blue Mountains

By-Law No. 2013- _____

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</i> /Fire Code	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

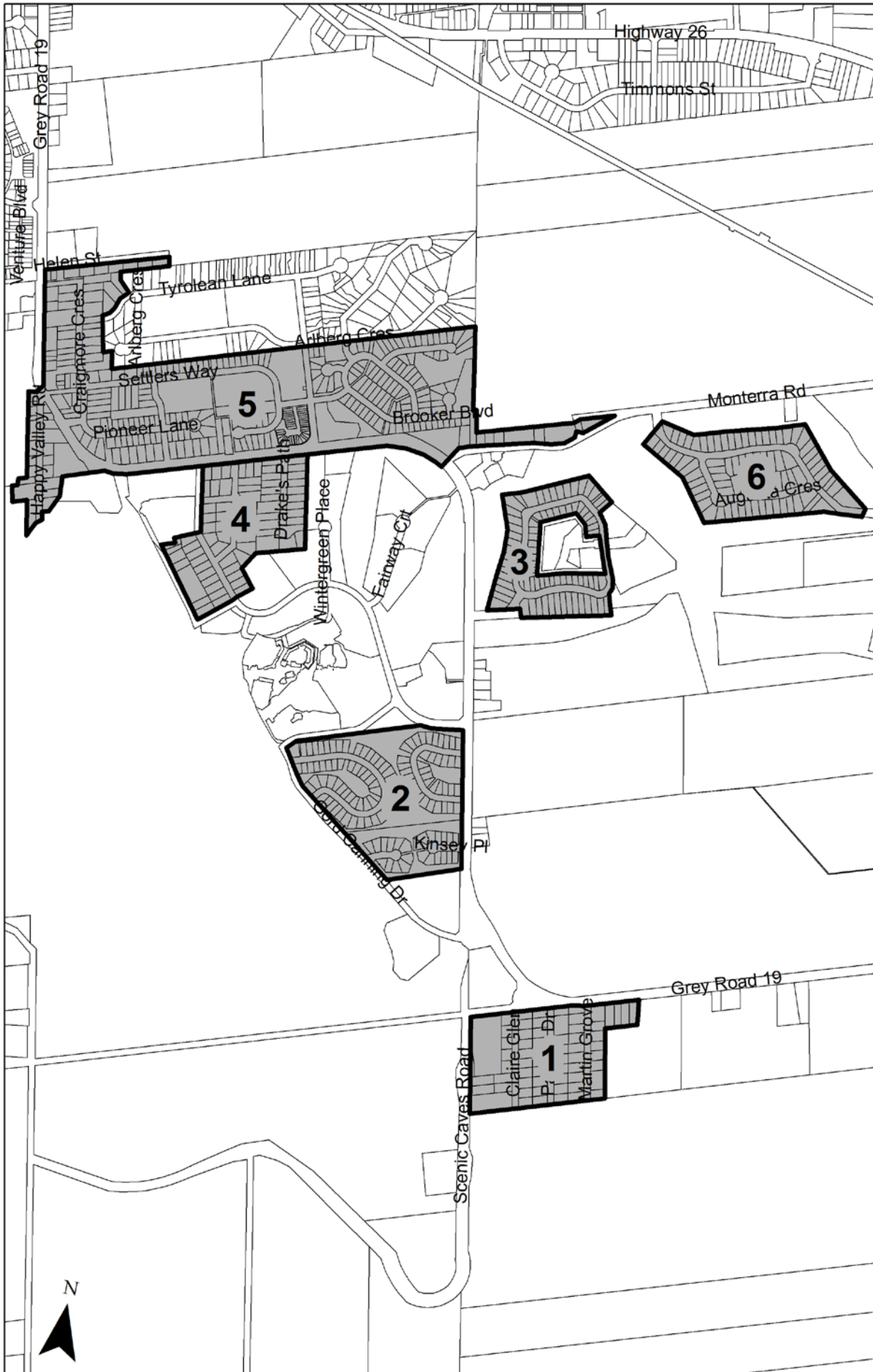
15.1 This by-law comes into force on July 2, 2014.

Enacted and passed this _____ day of _____, 2013.

Ellen Anderson, Mayor

C. Giles, Clerk

Schedule 'A-1'
By-law No. _____



STAFF REPORT: Planning & Building Services Department



REPORT TO: Planning & Building Committee
MEETING DATE: June 6, 2012
REPORT NO.: B.12.13
SUBJECT: Short Term Accommodation
Licencing Program
PREPARED BY: D. Finbow, Director, Planning &
Building Services

A. Recommendations

THAT Council receive Staff Report B.12.13 respecting "Short Term Accommodation Licencing Program";

AND THAT Council direct Town Staff to proceed with the finalization of a Draft Short Term Accommodation Licencing By-law based on the draft attached hereto;

AND THAT Council direct Town Staff to proceed with a Public Meeting so as to receive comments with respect to a Draft Short Term Accommodation Licencing By-law;

AND THAT Council, subject to enacting a Short Term Accommodation Licencing By-law, approve the start-up funding related to a Short Term Accommodation Licencing Program as outlined in this Report.

B. Background

On June 22, 2011 the Ontario Municipal Board approved Official Plan Amendment No. 11 and Zoning By-law Amendments respecting Short Term Accommodation Uses.

During the course of the 2012 Town Budget process, consideration was given to additional staff resources so as to implement proactive short term accommodation enforcement while maintaining existing by-law enforcement service levels. Ultimately, Council gave direction to utilize existing staff resources to provide for short term accommodation enforcement while recognizing that adjustments to other by-law enforcement service levels and response times would occur. Council also gave direction with respect to on-call services, by-law enforcement coverage/shifts and focussed by-law enforcement initiatives (i.e. long weekend and evening patrols and the related expectations/desired outcomes subject to appropriate health and safety policies, procedures and measures being addressed).

The matter of short term accommodation licencing was also considered with Council requesting that Town staff report back on the overall enforcement and licencing of short term accommodation uses prior to the 2013 Town Budget process.

Licencing

Subsection 10(2) of the *Municipal Act* provides that a municipality may pass by-laws respecting a number of matters including:

- The economic, social and environmental well-being of the municipality;
- Health, safety and well-being of persons;
- Protection of persons and property, including consumer protection; and,
- Business licencing.

Part IV of the *Municipal Act* allows municipalities to provide for a system of licences with respect to a business. Further, the *Act* allows a municipality to impose fees and/or charges related to the administration and enforcement of a licencing system.

Short Term Accommodation Licencing

Background information, financial implications, funding model and a draft licencing by-law have previously been presented to Council with Council indicating that the matter be deferred pending firstly the adjudication by the Ontario Municipal Board of the appeals with regard to the Official Plan and Zoning By-law Amendments and then subsequently the 2012 Town Budget Process. As noted previously, Council has given direction to Town staff to report back on these matters prior to the 2013 Town Budget Process.

The desired outcomes of a Short Term Accommodation Licencing By-law include, but are not limited to, the following:

- Addressing health and life-safety issues/concerns (fire detection, early warning, proper exits, adequate deck guards, etc.) prior to the issuance of a licence
- Ensuring that premises that offer short term accommodation are appropriately zoned and meet the applicable regulations
- Ensuring that owners/managers of premises are identified, provide contact information and are available to respond 24/7 to issues on their premises
- Addressing overcrowding of premises
- Addressing consumer concerns (consumer protection)
- Ensuring that properties are adequately maintained
- Ensuring that adequate and appropriate parking is available
- Ensuring that waste management measures are in place
- Addressing nuisance control through various methodologies including the suspension and/or revocation of a licence if warranted
- Ensuring that there is not a financial burden on the taxpayer

Town staff, in consultation with Aird & Berlis LLP, has developed a Draft Short Term Accommodation Licencing By-law (Appendix "A") that addresses some of these issues. Further review and modification to the Draft By-law are necessary to ensure that the Draft address all of the above.

Other potential requirements could include:

1. Prior to the issuance of a license, all premises used as short-term accommodation must be inspected and approved by the Medical Officer of Health or Public Health Inspector and be in compliance with the Health Protection and Promotion Act, R.S.O. 1990, c. H.7, or successor legislation.
2. There shall be displayed in each room so licensed a current certificate certifying that the room has been duly inspected and is a properly licensed room according to this by-law.
3. No beds or bunks shall be placed one above another, and no one shall be permitted to sleep, lodge or dwell in a cellar or basement.
4. All mattresses shall be so arranged as to be at all times easily inspected. All beds, bed clothing, mattresses and pillows shall be kept clean at all times and free from vermin.
5. Clean sheets and clean pillow cases shall be furnished for each bed and shall be changed as often as necessary to keep the same clean or as may be required by the Medical Officer of Health.
6. Every licensed location shall provide a register in which all lodgers shall be registered and such register shall specify the date of entry of such lodger, the period of stay and the home address of such lodger, and such register shall be open for inspection by any Officer of the Municipality.
7. Consumers are protected by requiring minimum liability insurance as a condition of operating a business and by further ensuring that sufficient information is provided and maintained by the Town to assist in the enforcement of the by-law.
8. The Licensee complies, and continues to comply, with all nuisance control regulations.
9. The health and safety of visitors of such premises are protected through regular or required inspections and compliance with legislation pertaining to fire safety, building safety and health safety.

Public Meeting would be held to receive input on a Draft By-law, including consideration of incorporating additional measures, and the other potential requirements noted above.

It is noted that in addition to the Licencing By-law, consideration will have to be given to amending the Town's Property Standards By-law so as to address the interior of premises and that further dialogue with the Town's Fire Department and the Grey Bruce Health Unit in terms of their respective capacities to conduct Fire Code inspections and inspections on the applicable health standards.

Costs Associated with a Short Term Accommodation Licencing

As noted previously, the *Municipal Act* enables a municipality to charge fees so as to recover its costs associated with a licencing program. However it is noted that costs would be incurred by the Town prior to the Town realizing the fees associated with licencing. It is estimated that approximately six to eight months would be required post Council enactment of a Licencing By-law before licencing fees would be fully realized. This time would be utilized to develop the Program's policies and procedures, forms, general information packages, inspection protocols, software updating/revisions,

establishment of a Terms of Reference for the Appeals Committee and to put into place all other necessary administrative practices.

Based on approximately 100 - 150 premises that would be initially licenced, it is estimated that one additional employee (1 FTE) would be required immediately post Council enactment of a Licencing By-law and one-half of a support position (0.5 FTE) approximately two months in advance of the effective date of the Licencing By-law

The roles/duties of these positions would include the following:

Licencing Officer (1 FTE)

General Duties

1. Day-to-day administration of the Short Term Licencing Program
2. Developing policies, procedures, forms, information packages, inspection protocols, etc. for the Manager's approval
3. Review and make recommendations with regard to the issuance, suspension and revocation of licence applications and licences
4. Conduct inspections of short term accommodation premises (initial, annual inspections and as warranted) (Note: As noted, a minimum of 100 – 150 initially and annually)
5. Lead enforcement/investigator on compliance/non-compliance of the Short Term Accommodation Licencing By-law
6. Respond to complaints
7. Issue violation notices
8. Liaison with the Fire Department, OPP and the Grey-Bruce Health Unit
9. Attending Licence Appeals Committee Meetings
10. Giving evidence before the Licence Appeals Committee
11. Attending Provincial Offences Court and providing evidence

Skills/Knowledge

1. Self-motivated
2. Detail orientated
3. Resourceful
4. Extensive experience in municipal by-law enforcement, property standards enforcement, zoning by-law interpretation/application and municipal licencing
5. Working knowledge of the Building Code Act, Building Code and Fire Code
6. Formal academic training in Municipal Law Enforcement and Licencing

Support (0.5 FTE)

General Duties

1. Determine completeness of licence applications and accept licence applications
2. Data entry and file management
3. Responding to general inquiries
4. Composing letters, notices, orders, etc.
5. Scheduling initial and subsequent annual inspections with licence holders and other agencies (Fire Department, Health Unit, etc.)
6. Secretary of the Appeals Committee

Skills/Knowledge

1. Detail orientated
2. Experience in municipal by-law enforcement, property standards enforcement and municipal licencing
3. Formal training in Municipal Law Enforcement and Licencing

In addition to staffing costs, there would be other expenses such as recruitment, office expenses, overhead costs, legal expenses, training, vehicular, etc.

Based on a Short Term Accommodation Licencing By-law coming into effect on March 1, 2013, the estimated start-up costs associated with a Short Term Accommodation Licencing Program are:

2012 Estimated Start-up Costs - Short Term Accommodation Licencing Program

2012 Costs

Recruitment Costs	\$3,000
Licencing Officer Salary & Benefits (5 days/wk commencing Sep 1/12)	\$23,500
CityView Software Licencing Module	\$10,000
Office Expenses (Pamphlets, Literature, Advertising, Paper, etc.)	\$2,800
Overhead Costs (HR, Communications, Payroll, etc.)	\$2,000
Legal	\$5,000
Training	\$1,200
Vehicle Mileage	\$1,000
Work Station, Computer, Software Licencing, Etc.	\$5,000
TOTAL	\$53,500

2013 Estimated Start-up Costs - Short Term Accommodation Licencing Program

2013 Costs (January 1 – February 28)

Licencing Officer Salary & Benefits (5 days/wk commencing Sep 1/12)	\$11,550
Licencing Clerk Salary & Benefits (2.5 days/wk)	\$4,200
Office Expenses (Pamphlets, Literature, Advertising, Paper, etc.)	\$5,000
Overhead Costs (HR, Communications, Payroll, etc.)	\$1,250
Legal	\$5,000
Training & Travel	\$500
Vehicle Mileage	\$500
Software Licencing	\$500
TOTAL	\$28,500

The annual estimated costs of operating a Short Term Accommodation Licencing Program are:

Estimated Annual Costs - Short Term Accommodation Licencing Program

Licencing Officer Salary & Benefits (5 days/wk commencing Sep 1/12)	\$75,000
Licencing Clerk Salary & Benefits (2.5 days/wk)	\$25,500
Office Expenses (Pamphlets, Literature, Advertising, Paper, etc.)	\$7,000
Overhead Costs (HR, Payroll, etc.)	\$5,000
Legal	\$15,000
Training & Travel	\$3,000
Vehicle Mileage	\$6,000
Software Licencing	\$1,500
Licencing Appeal Committee	\$10,000
Loan (1)	\$16,400
TOTAL	\$164,400

(1) Repayment of loan for start-up funding over a five year period

Funding/Financing

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.

With regard to the recommended Reserve, Town staff are recommending that should Council decide to proceed that the Town's Working Capital Reserve be utilized for reasons as set out in "Section E – Financial Impact" of this Report.

If Council determines to pursue this, it is recommended that Council commit to reviewing the Program in terms of whether the Program is achieving the desired outcomes and whether the Program has met the financial viability criteria that Council so determines after a two year period, say as part of the 2014 Town Budget Process.

Summary:

Town staff see merit in proceeding with a Short Term Accommodation Licencing Program so as to address:

- The economic, social and environmental well-being of the municipality;
- Health, safety and well-being of persons;
- Protection of persons and property, including consumer protection; and,

It is therefore recommended that Council direct Town Staff to proceed with the finalization of a Draft Short Term Accommodation Licencing By-law; that Council direct Town Staff to proceed with a Public Meeting so as to receive input on a Draft Short Term Accommodation Licencing By-law; and, that Council, subject to enacting a Short Term Accommodation Licencing By-law, approve the start-up funding related to a Short Term Accommodation Licencing Program as outlined in this Report.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Environmental Impacts

N/A

E. Financial Impact

As previously noted in this Report, it is recommended that should Council determine to proceed that Council could direct that the funds necessary to start up the Short Term Accommodation Licencing Program be borrowed from the Town's Working Capital Reserve or Policing Reserve with such loan being in the magnitude of \$82,000. This loan would be paid back from licencing fees over a five year period commencing in 2013 at \$16,400 per annum.

In recent years, the Working Capital Reserve has been borrowed against for the Town's \$10,000 loan to the Marsh Street Centre and the Town's loan of \$420,000 to facilitate the construction of the Thornbury Medical Clinic. The \$10,000 loan has \$8,000 outstanding whereas the \$420,000 loan has \$270,000 outstanding. In addition, it is noted that the funds associated with the \$350,000 grant to the Thornbury Medical Clinic came from this Reserve.

The Working Capital Reserve had a 2011 year end balance of \$2.7 million. It is noted that the Town's Auditor recently advised that based on taxes receivable that the Reserve balance should be \$3.5 to \$4 million.

As to the Policing Reserve, same has a current balance of \$330,000, with it being noted that same has not been earmarked for any specific aspect of policing however it is noted that this Reserve was established to address potential Ontario Municipal Partnership Funding (OMPF) adjustments in the future.

Given the above, it is recommended that should Council determine to borrow from a Reserve that the Town's Working Capital Reserve be utilized.

F. In Consultation With

T. Speck, CAO
R. Cummings, Director, Financial & Information Technology
Aird & Berlis LLP – Draft Licencing By-law

G. Attached

Draft Licencing By-law

Respectfully submitted,

D. Finbow
Director, Planning & Building Services

INTERIOR OF BUILDINGS, STRUCTURES AND DWELLINGS

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

- 4.02 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.
- 4.03 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

- 4.04 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.
- 4.05 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.
- 4.06 Every bathroom, kitchen, laundry and shower room shall have a floor covering of water-resistant material and be capable of being cleaned.
- 4.07 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

4.08 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.

- 4.09 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.
- 4.10 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.
- 4.11 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

- 4.12 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.
- 4.13 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

- 4.14 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.
- 4.15 Exterior stairs and fire escapes shall be maintained in a safe state of repair and kept free of ice and snow.
- 4.16 The passage required as egress from one dwelling unit shall not pass through any other dwelling unit.
- 4.17 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.

- 4.18 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.
- 4.19 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

- 4.20 Every residential dwelling shall have heating equipment capable of maintaining a temperature of 21°Celsius (70 °Fahrenheit).
- 4.21 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.
- 4.22 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.
- 4.23 No rental residential dwelling unit shall be equipped with portable heating equipment as the primary source of heat.
- 4.24 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.
- 4.25 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.
- 4.26 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
- 4.27 Every chimney, smoke pipe and flue shall be maintained so as to prevent gas from leaking into the building.

AIR CONDITIONING

- 4.28 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.
- 4.29 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.
- 4.30 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

- 4.31 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.
- 4.32 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.
- 4.33 Extension cords are not permitted on a permanent basis.

VENTILATION

- 4.34 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.
- 4.35 Every ventilation system shall be cleaned regularly and maintained in good working condition and good repair.
- 4.36 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.
- 4.37 An opening for natural ventilation may be omitted from a bathroom or toilet room where a system of mechanical ventilation has been provided.

4.38 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

4.39 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.

4.40 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

4.41 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.

4.42 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.

4.43 All plumbing fixtures shall be connected to the sewage system through water seal traps.

WATER SUPPLY

4.44 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

- 4.45 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.
- 4.46 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.
- 4.47 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

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

PART 5

ADDITIONAL REQUIREMENT FOR RESIDENTIAL OCCUPANCY

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.