

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 2024-61

A BY-LAW TO LICENSE, REGULATE, AND INSPECT SHORT TERM ACCOMMODATIONS AND BED AND BREAKFAST ESTABLISHMENTS IN THE TOWN OF LINCOLN.

WHEREAS:

1. Section 8 of the *Municipal Act, 2001*, S.O. 2011, c. 25 ("*Municipal Act, 2001*" or "*the statute*") provides that the powers of a municipality under the statute or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;
2. Section 9 of the *Municipal Act 2001* provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under the statute or any other Act;
3. Section 11 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws respecting business licensing, the economic, social, and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;
4. Part IV of the *Municipal Act, 2001* authorizes a municipality to provide for a system of licenses with respect to a business or any activity, matter, or thing for which a by-law may be passed under Sections 9 and 11 of the statute;
5. Section 391 of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;
6. Section 425 of the *Municipal Act, 2001* authorizes a municipality to create offences;
7. Section 434.1 of the *Municipal Act, 2001* authorizes a municipality to establish a system of administrative penalties to promote compliance with its by-laws;
8. Section 436 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that the municipality may enter onto any land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law, direction, order, or condition of a license;
9. Section 444 of the *Municipal Act, 2001* provides that if a municipality is satisfied that a contravention of a by-law of the municipality passed under this Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted a contravention or the Owner of the land on which the contravention occurred to discontinue the contravening activity;
10. The Council of the Corporation of the Town of Lincoln considers it necessary and desirable to regulate and license Short Term Accommodations and Bed and Breakfast Establishments for the purpose of protecting the health and safety of the persons residing in residential

properties by ensuring that certain regulations are met; for ensuring that the residential properties do not create a nuisance to the surrounding properties and neighbourhoods; and to protect the residential amenity, character and stability of residential areas.

11. The Town of Lincoln Council approved Report PD-34-24: Short Term Accommodation and Bed and Breakfast Licensing By-law and Zoning By-law Amendment Recommendation on September 16, 2024.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN ENACTS AS FOLLOWS:

1. SHORT TITLE

1.1 This By-law shall be known as the “Short Term Accommodation and Bed and Breakfast Establishment Licensing By-law.”

2. DEFINITIONS

2.1 For the purposes of this By-law:

“Administrative Monetary Penalty” means a monetary penalty administered pursuant to By-law No. 2023-25, as amended from time to time.

“Agent” means a Person duly authorized by an Owner or Licensee to act on behalf of the Owner or Licensee in relation to the Short Term Accommodation Unit or Bed and Breakfast Establishment.

“Accessory Building or Structure” means a detached building or structure used for human habitation but used to house an accessory use and includes a private garage.

“Apartment Dwelling” means a building containing five or more dwelling units, which have a common entrance from the street level and where the occupants have the right in common to use halls, elevators, stairs, yards, and accessory buildings.

“Applicable Law” means all applicable by-laws of the Town and Niagara Region and all applicable Provincial and Federal statutes and regulations.

“Applicant” means a Person applying for a License or renewal of a License under this By-law, and “Application” has a corresponding meaning.

“Application Form” means a form prepared by the Town to obtain from Applicants the information necessary to process an Application for a License.

“Bed and Breakfast Establishment” means a single detached dwelling which is owned by and constitutes the principal residence of the proprietor, and which provides sleeping accommodation for the traveling public, and may include the provision of breakfast, but shall not include a hotel/motel, Short Term Accommodation, Residential Short Term Accommodation, Commercial Vacation Dwelling Unit, or Rural Tourist Accommodation.

“Building” means a structure, whether permanent or temporary, having a roof supported by columns or walls or supported directly on the foundation and used for accommodation, shelter or storage of people, animals or goods but shall not include a fence, trailer, truck camper, motorhome, or tent.

“Building Code Act” means the *Building Code Act, 1992*, S.O. 1992, c. 23 and its regulations.

“Building Code” means Ontario Regulation 332/12 established under the *Building Code Act*.

“By-law” means this Short Term Accommodation and Bed and Breakfast Licensing By-law, and any future amendments made to it.

“Chief Building Official” means the Chief Building Official appointed by by-law of the Town for the purposes of enforcement of the *Building Code Act*, or his or her designate.

“Commercial Vacation Dwelling Unit” means a “Dwelling Unit” above a business on a commercially zoned property that is rented for periods up to 28 consecutive days for use as temporary accommodation but is not occupied continuously as a principal residence. A “Commercial Vacation Dwelling Unit” shall not mean an “Apartment Dwelling”, bed and breakfast establishment, hotel/motel, inn, residential short term accommodation, rural tourist accommodation or similar commercial or institutional use.

“Council” means the Municipal Council of the Town.

“Director” means the Director of Planning and Development, or his or her designate.

“Dwelling, Principal Residence” means a dwelling unit owned by a person which is their principal place of residency majority of the year (i.e., 180 days or more).

“Dwelling Unit” means one room or a group of rooms in a building used or designed or intended to be used as a single, independent, and separate housekeeping unit:

- A) In which a food preparation area and sanitary facilities are provided for the exclusive use of such housekeeping unit; and
- B) Which has a private entrance from outside the building or from a common hallway or stairway inside the building;

but does not include a tent, cabin, trailer, motor home, mobile home, or in a hotel/motel, or in a bed and breakfast establishment, or in a tourist home”.

“Demerit Point” means demerit points imposed against a Short Term Accommodation Unit or Bed and Breakfast Establishment in accordance with Section 13 of this By-law.

“Electrical Safety Code” means Ontario Regulation 164/99 established under the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A.

“Fees and Charges By-law” means the Town By-law No. 2023-01, as amended.

“Fire Chief” means the Fire Chief as appointed by by-law by Council and includes any persons designated by the Fire Chief to act on his or her behalf with respect to matters contained in this By-law.

“Fire Code” means Ontario Regulation 213/07 established under the *Fire Protection and Prevention Act*.

“Fire Protection and Prevention Act” means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4 and its regulations.

“Fire Safety Plan” means a written fire safety plan in accordance with the requirements of the Fire Code that has been approved by the Fire Chief.

“Fire Safety Protocol” means a written document that in the event of a fire emergency identifies the location of all fire-related safety equipment, a floor plan of the premises indicating the location of all emergency exits, contact information containing the name, phone number and e-mail address of the Owner, and an undertaking to comply with any applicable law, including the Open-Air Burning By-law and Fireworks By-law.

“Guest Room” means a room or suite of rooms used or maintained for the accommodation of individuals to whom hospitality is extended for compensation.

“Hearing Officer” means a “Hearing Officer” as defined in the Screening and Hearing Officer By-law No. 2022-11.

“Licence” means a licence issued under this By-law for the operation of a Short Term Accommodation Unit or Bed and Breakfast Establishment.

“Licensee” means any Person who holds a valid and current license issued under this By-law.

“Licence Administrator” means any person or persons provided the authority by the Town to issue a licence under this By-law.

“Municipal Law Enforcement Officer” means any Municipal By-law Enforcement Officer appointed by Council for the purpose of enforcing by-laws of the Town, and includes any provincial offences officer, or police officer of the Niagara Regional Police Service

“Owner” means any Person that is a registered owner of a property.

“Penalty Notice” means a “Penalty Notice” as defined in the Administrative Penalty By-law No. 2017-24.

“Person” includes a corporation.

“Property” means any land or premises within the Town.

“Region” means the Regional Municipality of Niagara.

“Renter” means the person who has obtained entitlement to exclusive use of a portion or the entirety of a Short Term Accommodation Unit or Bed and Breakfast Establishment from the Licensee.

“Rural Tourist Accommodation” means a building or buildings that are classified as an On-Farm Diversified land use that is used for the purposes of supplying sleeping accommodation to the travelling public, but shall not include a hotel/motel, a residential short term accommodation, a commercial vacation dwelling unit, a bed and breakfast establishment, a boarding house dwelling or similar commercial or institutional use.

“Screening Officer” means a “Screening Officer” as defined in the Screening and Hearing Officer By-law No. 2022-11.

“Short Term Accommodation, Residential (or “Residential STA”)” means all or any portion of a single detached, semi-detached or townhouse dwelling unit, or a dwelling unit in accessory structure used or intended to be used to provide temporary accommodations to members of the travelling public for a maximum of 28 consecutive days per stay. Residential Short Term Accommodations shall not include a bed and breakfast establishment, hotel/motel, boarding house dwelling, commercial vacation dwelling unit, rural tourist accommodation, or similar commercial or institutional use.

“Town” means the Corporation of the Town of Lincoln.

“Town Clerk” means the Town Clerk as appointed by the Council, or his/her designate.

“Short Term Accommodation” means all or any portion of a dwelling unit or an accessory structure used or intended to be used to provide temporary accommodation to members of the travelling public for a maximum of 28 consecutive days. A Short-Term Accommodation shall include Residential Short Term Accommodations, Commercial Vacation Dwelling Units and Rural Tourist Accommodations, but shall not include a bed and breakfast establishment, hotel/motel, boarding house dwelling or similar commercial or institutional use.

“Zoning By-law” means the Town’s Comprehensive Zoning By-law No. 2022-50, as amended from time to time and any successors thereto.

3. ADMINISTRATION

3.1 This By-law shall apply to all lands within the geographic boundaries of the Town, except for those facilities which are exempt under Section 3.2.

3.2 This By-law does not apply to a hotel/motel, or similar commercial or institutional use, as defined in the Zoning By-law.

3.3 For the purpose of this By-law, an Owner shall be deemed to have only one Principal Residence at a time.

4. PROHIBITIONS

4.1 No Person shall offer, operate, rent, or advertise a Short Term Accommodation or Bed and Breakfast Establishment within the Town:

- a) without holding a current and valid licence issued in accordance with this By-law;
- b) except in accordance with this By-law and the regulations set out in this By-law;
- c) while a licence issued to the Person in accordance with this By-law has been suspended;
- d) under any other name than the one endorsed on the licence issued to the Person in accordance with this By-law.

4.2 No Person shall contravene or fail to comply with a term or condition of a licence issued to the Person in accordance with this By-law.

4.3 No Person shall falsely hold himself, herself, or themselves out to be a Licensee.

4.4 No person shall cause or permit any vehicle to be parked on any part of a property where a Short Term Accommodation or Bed and Breakfast Establishment is situated other than in a designated and approved parking spot as shown on the site sketch submitted to and approved by the Town or on an adjacent roadway where parking is permitted, per the Private Property Parking By-law No. 89-2000 and Zoning By-law No. 2022-50.

4.5 No Person shall operate Short Term Accommodation or Bed and Breakfast Establishment during any period in which a building permit affecting occupancy of the dwelling unit has been issued to the Owner in relation to the property where the Short Term Accommodation or Bed and Breakfast is situated and remains open.

4.6 A Person is not eligible to hold a licence for a Short Term Accommodation or Bed and Breakfast Establishment if the proposed use of the land, building or structure on or in which the Short Term Accommodation or Bed and Breakfast is located is not permitted by the Town's Official Plan and Zoning By-law, or the Niagara Escarpment Plan, where applicable.

4.7 Licenses issued pursuant to this By-law are conditional upon compliance by the Licensee with all Town By-laws and compliance with all Provincial and Federal laws and regulations and any conditions imposed to the holding of the License.

4.8 No Licensee shall rent any guest room in a Short Term Accommodation or Bed and Breakfast Establishment other than a guest room identified and approved as such on the floor plan submitted with the Application for the Licence.

4.9 Every Licensee shall be responsible for maintaining the amenity and parking areas at a Short Term Accommodation or Bed and Breakfast Establishment and ensuring that guests use only the areas designated on the approved floor plan submitted with the Application for the License.

4.10 Where a lot contains a Secondary Residential Unit as defined in the Zoning By-law which is intended to be used as a Short Term Accommodation, a Principal Residence of the Owner shall be located on the same lot as the Short Term Accommodation.

4.11 No person who is required under this By-law to maintain insurance shall fail to keep the policy in force for the period for which the licence is in effect, inclusive of any renewal period.

4.12 No Person shall advertise, promote, broker, or offer for rent or lease, or cause the advertisement of a Short Term Accommodation or Bed and Breakfast Establishment without including a valid license number on the advertisement or promotional material.

4.13 No person shall fail to comply with the provisions of this By-law.

5. LICENSE APPLICATION

5.1 Every application for a new license or renewal of an existing license shall be submitted in accordance with this By-law, on the Town's current Application Form, and shall be accompanied by the full license fee as set out in the Fees and Charges By-law.

5.2 Every application for a new license or renewal of a license shall be made by the Owner of the Property where the Short Term Accommodation or Bed and Breakfast Establishment is situated, or the Agent of the Owner. However, only the Owner of the Property is eligible to become a Licensee. For greater certainty, any Licence issued pursuant to this By-law shall be issued only to the Owner and not to an Agent or any other Person.

5.3 Every application for a licence shall include a completed Application Form and the following information and documents:

- a) The name and contact information of the Owner including their address, telephone number and email address.
- b) Proof of ownership of the property on which the Short Term Accommodation or Bed and Breakfast Establishment is situated, which may include a copy of the transfer/deed, a copy of the parcel register from the Land Registry Office, and/or such other evidence as may be required by the Town.
- c) The name and contact information of any Agent including their address, telephone number, and email address.
- d) If the Applicant is an individual, two pieces of government identification must be provided to prove principal residency at the time of application.
- e) If the Applicant is a corporation, proof that the corporation is a lawfully existing corporation entitled to conduct business in Ontario, which may include a current copy of the articles of incorporation or other incorporating documents, duly certified by the proper government official or department of the Province of Ontario or of the Government of Canada, a certified copy of an annual return which contains a list of all shareholders of the corporation, and/or such other evidence as may be required by the Town.
- f) Where the Applicant is an Agent, an authorization and consent form signed by the Owner authorizing the Agent to act on the Owner's behalf.
- g) The name and contact information of a local contact, who shall be an individual, who is no further than thirty (30) minutes away from the Short Term Accommodation or Bed and Breakfast Establishment who is to be available to address complaints promptly as they arise.
- h) The municipal address and legal description of the Short Term Accommodation or Bed and Breakfast Establishment premises.
- i) A site sketch depicting the location of the Short Term Accommodation or Bed and Breakfast Establishment, including setbacks, any proposed storage and refuse area(s), designated driveway(s) and parking locations for all spaces intended to be used for parking on the premises in accordance with the Zoning By-law, which is subject to approval by the Director and/or Licence Administrator prior to issuing a Licence.
- j) Where the Short Term Accommodation or Bed and Breakfast Establishment is intended to host 4 or fewer guests, a fire safety protocol, for the Town's records.

- k) Where the Short Term Accommodation or Bed and Breakfast Establishment is intended to host more than 4 guests, a fire safety plan that outlines actions and responsibilities for owners and occupants to take in the event of a fire emergency is required, which plan shall be submitted to the Fire Chief for review and approval. Each fire safety plan must meet the requirements of Section 2.8 of the Fire Code.
- l) Proof of insurance for the use of the dwelling unit as a Short Term Accommodation or Bed and Breakfast Establishment of not less than \$2 million, which shall contain an indemnity in favour of the Town from and against claims, demands, losses, costs, damages, actions, suits, or proceedings that arise out of, or are attributable to, the STA's business and services, which shall be in a form satisfactory to the Town.
- m) Consent for the Town to use any information, database and/or registry available to it to verify information provided by the Applicant or to enforce the provisions of this By-law.
- n) A statement signed by the Owner certifying the accuracy, truthfulness, and completeness of the application.
- o) The prescribed fees as required by the Town's Fees and Charges By-law.
- p) Any outstanding fees required under this By-law owed to the Town by the Applicant.
- q) Where a property is located within the Niagara Escarpment Commission's Regulatory Control Area, a Development Permit authorizing the change in use prior to the issuance of a license or confirmation from the NEC stating that the proposed use is permitted is required, as applicable.

5.4 The Director and/or Licence Administrator may, in their sole and absolute discretion, require the following additional materials to be submitted with an application:

- 5.4.1 The inspection of the Short Term Accommodation premises or Bed and Breakfast Establishment at any reasonable time and when permitted by law in order to determine compliance with all Applicable Law, and that such inspection shall be in accordance with the *Municipal Act, 2001*.
- 5.4.2 A statement prepared by the Fire Chief dated within 12 months of the date of the application indicating that the premises and its proposed use comply with the Fire Protection and Prevention Act and the Fire Code, and that such statement indicated the occupant load for sleeping purposes for the premises. The Applicant shall pay any additional fees for any fire safety inspection necessary to prepare said statement.
- 5.4.3 Any other supporting information or material that may be relevant to review or as may be required in any other part of this By-law or by the Director and/or Licence Administrator.

5.5 An applicant shall notify the Town of any changes to the information provided on the application within five (5) business days.

6. LICENSE RENEWAL APPLICATION

6.1 Every Licensee applying for a license renewal shall submit a complete application as set out in Section 5 of this By-law, on the forms or in the manner prescribed by the Director and/or Licence Administrator for the purposes of renewal, along with the following:

6.1.1 If no changes have been made to the site sketch or fire safety plan/protocol submitted with the initial application for a licence, a declaration that there have been no such changes is required.

6.1.2 If changes have been made to the site sketch or fire safety plan/protocol submitted with the initial application for a licence, the following shall be submitted:

6.1.2.1 A revised site sketch, if changes have been made to the original site sketch.

6.1.2.2 A revised fire safety plan, if changes have been made to the original fire safety plan, which has been approved by the Fire Chief.

6.1.2.3 A revised fire safety protocol, if changes have been made to the original fire safety protocol.

6.1.3 The prescribed fees as required by the Town's Fees and Charges By-law.

6.2 Subject to the sole and absolute discretion of the Director and/or Licence Administrator, which shall not be reviewable, a licensee that does not submit a license renewal application three (3) months prior to the expiration of their license may be required to submit a new application pursuant to Section 5 of this By-law.

6.3 If a Licence has expired, a license renewal application submitted under this Section 6 does not permit a Licensee to continue to operate a Short Term Accommodation or Bed and Breakfast Establishment until such time that the renewal application has been reviewed and approved by the Director and/or Licence Administrator, or unless an administrative temporary extension of the existing License has been granted by the Director and/or Licence Administrator.

7. REVIEW OF APPLICATION AND PREMISES INSPECTION

7.1 The Director is hereby authorized to issue or renew a licence, refuse to issue, or refuse to renew a Licence, to cancel, to impose terms and conditions, including special conditions, on a Licence, and the Director may delegate any of these functions to the Licence Administrator.

7.2 The Director and/or License Administrator shall generally perform all the administrative functions conferred upon him or her by this By-law and without limitation may:

7.2.1 Receive and process all applications for all licenses and renewals of licences under this By-law.

7.2.2 Issue licences in accordance with this By-law.

7.2.3 Impose terms and conditions on licences in accordance with this By-law.

7.2.4 Refuse to issue or renew a licence or revoke or suspend a license in accordance with this By-law.

7.3 The Licence Administrator shall receive all License applications and shall maintain a record to document all applications received and reviewed, and all Licenses issued pursuant to this By-law. The License Administrator shall further establish and maintain a registry of all Short Term Accommodations and Bed and Breakfast Establishments within the Town.

7.4 Upon receipt of a complete application as set out in Section 5 of this By-law, the Licence Administrator may make such inquiries and may require such additional information and/or documents as the Licence Administrator determines are reasonably necessary to ascertain if the Applicant is eligible to be issued a Licence under the provisions of this By-law.

7.5 Upon receipt of a complete application as set out Section 5 of this By-law and additional information or documents required by the Licence Administrator in accordance with Section 7.2 of this By-law, the Licence Administrator may require an inspection of the Short Term Accommodation or Bed and Breakfast Establishment to ascertain if the Applicant is eligible to be issued a Licence under the provisions of this By-law.

7.6 As a part of the review, the Licence Administrator may, in his or her sole discretion, circulate the application to those other departments and agencies deemed necessary or relevant to ascertain if the Applicant is eligible to be issued a Licence under the provisions of this By-law.

7.7 The Director may cause such investigations and inspections of Short Term Accommodations or Bed and Breakfast Establishments to be undertaken respecting an application for a licence as the Director determines to be relevant to the application.

8. ISSUANCE OF A LICENCE

8.1 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 Director and/or Licence Administrator, which shall not be contestable or subject to review.

8.2 The Director and/or Licence Administrator may issue a new Licence or renewal of a Licence to any Applicant if, in his or her opinion, the application meets the requirements of this By-law.

8.3 Notwithstanding Section 8.2 of this By-law, the Director and/or Licence Administrator may at any time impose such terms and conditions on a Licence as he or she considers reasonable and appropriate in the circumstances, including but not limited to terms and conditions pertaining to the size, location, or particulars of the Short Term Accommodation or Bed and Breakfast Establishment, and may refuse to issue or renew a Licence or may suspend or revoke a Licence in accordance with Section 9 and 10 of this By-law.

8.4 The Licence fee paid by the Applicant for a new Licence, or a renewal of a licence is non-refundable if a decision is made by the Director and/or Licence Administrator to refuse to issue or renew a licence or to suspend or revoke a licence.

8.5 Every Licence issued under this By-law shall be in the form that is prescribed by the Town and shall include without limitation the following information:

- a) The License number;
- b) The date the Licence was issued and the date it expires;
- c) The municipal address of the Short Term Accommodation or Bed and Breakfast Establishment; and
- d) The name, address, telephone number and e-mail address of the Licensee.

8.6 A License issued under this By-law shall be valid for a period of one (1) or two (2) years from the date of issuance or renewal.

8.7 A Licence issued or renewed pursuant to this By-law is not transferrable to any other Person, Short Term Accommodation Unit or Bed and Breakfast Establishment A License shall be deemed to have expired upon a change in ownership of the Property where the Short Term Accommodation is located.

8.8 Licences issued or renewed in accordance with this By-law are conditional upon the Licensee's compliance with this By-law, all Applicable Law and any terms or conditions imposed on the Licence.

9. REFUSAL TO ISSUE OR RENEW A LICENCE

9.1 The Director and/or Licence Administrator may refuse to issue a new Licence or renew a Licence where:

- 9.1.1 The Short Term Accommodation or Bed and Breakfast Establishment does not meet any requirement of this By-law;
- 9.1.2 The past conduct of the Applicant, Agent or Licensee affords the Licence Administrator reasonable grounds to believe that the Applicant, Agent, or Licensee has not or will not operate the Short Term Accommodation or Bed and Breakfast Establishment in accordance with applicable law;
- 9.1.3 The License Administrator believes that an application or other document submitted by or on behalf of the Owner contain false information;
- 9.1.4 The License Administrator reasonably believes that issuing a Short Term Accommodation or Bed and Breakfast Establishment License might be averse to the public interest;
- 9.1.5 The Licence Administrator reasonably believes that issuing the Licence may pose a threat to the health and safety of persons or property;
- 9.1.6 A Licence issued to the Owner was suspended or revoked under Section 10 of this By-law within the previous two (2) years;

- 9.1.7 A Short Term Accommodation or Bed and Breakfast Establishment or the Property on which it is situated is in violation of or is subject to an order or orders made under Applicable Law including any by-law of the Town or Niagara Region, the *Building Code Act*, the Building Code, the *Fire Protection and Protection Act* and/or the Fire Code;
- 9.1.8 The Owner owes any fine or fee to the Town in relation to the Short Term Accommodation or Bed and Breakfast Establishment;
- 9.1.9 The Owner of the Property or the Property on which the Short Term Accommodation or Bed and Breakfast Establishment is situated is indebted to the Town by way of fines, administrative penalties, judgements and/or past due property taxes;
- 9.1.10 The Short Term Accommodation Property or Bed and Breakfast Establishment is not in compliance with the Town's Zoning By-law; or
- 9.1.11 The Director and/or Licence Administrator has received an objection to the issuance of the Licence by the Chief Building Official or the Fire Chief.

10. SUSPENSION OR REVOCATION OF A LICENCE

10.1 The Director and/or Licence Administrator may suspend or revoke a Licence at any time where:

- 10.1.2 The Licensee contravenes any condition that is required under Section 12 of this By-law;
- 10.1.3 The Licensee contravenes the provisions of the Zoning By-law;
- 10.1.4 The Licensee fails to comply with the requirements of this By-law, all other Applicable Law and/or any terms or conditions imposed on the Licence;
- 10.1.5 The Licensee is convicted of an offence related to the contravention of any provision of this By-law, the Building Code Act, the Building Code, the Fire Prevention and Protection Act, and the Fire Code;
- 10.1.6 The Short Term Accommodation or Bed and Breakfast Establishment and/or the Property on which is it situated do not comply with the provisions of this By-law or other Applicable Law;
- 10.1.7 The total number of demerit points assessed against a Licensee cause a Licensee to contravene any of sections 13.4, 13.5 or 13.6 of this By-law.
- 10.1.8 The Licensee fails to pay any property taxes, administrative penalties or fines owing to the Town within the prescribed time;
- 10.1.9 The Director and/or Licence Administrator reasonably believes that the Short Term Accommodation or Bed and Breakfast Establishment being licensed poses a threat to the health and safety of a person(s);

10.1.10 The Director and/or Licence Administrator becomes aware of any fact(s) which, if known at the time of the application, may have resulted in the refusal to issue or renew the Licence.

10.2 The Director and/or Licence Administrator may suspend a Licence for a period of time and subject to such terms and conditions that he or she considers appropriate.

10.3 Where the Director and/or License Administrator suspends or revokes a license for reasons related to public health or safety issues, the License may be automatically suspended by the Director and/or Licence Administrator until such time as a determination on the issue has been made by the Hearing Officer, provided that:

10.3.1 Before suspending the License, the Town provides the Licensee with the reasons for the suspension either verbally or in writing and provide an opportunity to respond to them;

10.3.2 The suspension shall not exceed fourteen (14) days, unless otherwise authorized by the Director/Licence Administrator.

10.4 Notwithstanding anything in this Section 10, the Director and/or Licence Administrator may revoke a Licence at any time if it was issued on mistaken, false or incorrect information, or due to a technical or clerical error.

11. NOTICE AND APPEALS

11.1 The Director shall provide the Licensee notice that their Short Term Accommodation or Bed and Breakfast Establishment License has been suspended or revoked and provide written reasons outlining why their license has been suspended or revoked. The Director's written notice of that decision shall be given to the Licensee by registered or regular mail, personal service, or email to the last known address of the Licensee, and shall be deemed to have been given on the fifth day after it is mailed, in the case of personal service, on the same day it was delivered, or in the case of email, on the same day it is sent if it was emailed before 4 p.m., otherwise, it is deemed to be given the day after.

11.2 The written notice to be given under Section 11.1 of this By-law shall:

11.2.1 Set out the reasons for the decision;

11.2.2 Be signed by the Director;

11.2.3 State the Licensee is entitled to a hearing by the Hearing Office which shall take place within sixty (60) days of the written notice of a License being suspended or revoked if the Licensee delivers to the Director within 30 days after the notice given under Section 11.1 is served and provides to the Town the appeal fee as set out in the Fees and Charges By-law.

11.3 An Applicant or Licensee whose Licence was denied, suspended, or revoked may, within thirty (30) days of being notified of the refusal, suspension, or revocation, as the case may be, submit an application to

appeal to the Hearing Officer for a review of the decision, unless the revocation is pursuant to Section 10.3 of this By-law.

11.4 An application to appeal to the Hearing Officer shall be submitted in writing to the Licence Administrator and shall be accompanied by the full appeal fee as set out in the Fees and Charges By-law.

11.5 An Applicant or Licensee's right to request a review of a decision are exercised by attending the review hearing electronically or in person, at the place or in the manner specific within the applicable form and the filing of said form.

11.6 Any documents that the Licensee or Applicant intends to rely on at the hearing must be submitted via email prior to the scheduled hearing. All submitted documents, the notice of the decision being reviewed, and the request for review form will be compiled into one (1) package and distributed to the Hearing Officer, Director, and the Applicant or Licensee and their authorized representative, if applicable, for review prior to the hearing. No new material is permitted to be introduced at the hearing. Should any documentation be requested for reference purposes (ex., applicable By-law information, etc.), it must be requested by the Applicant or Licensee prior to the hearing.

11.7 If an Applicant or Licensee has not requested a review within the time limit set out in Section 11.2.3:

11.7.1 The Applicant or Licensee shall be deemed to have waived the right to request a hearing;

11.7.2 The decision shall be final and binding; and

11.7.3 The decision shall not be subject to any further review.

11.8 The only individuals permitted to be present during the course of the hearing are the Hearing Officer, the Applicant or Licensee or their authorized representative, if applicable, and any individuals that the Hearing Officer requires, additional designated Town staff members (solely for the purpose of administering the hearing and recording minutes of the hearing) and where applicable, a Person designated to provide assistance and support for Persons with disabilities under the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c.11, or any other applicable legislation. Any such Person present will not be allowed to participate in the hearing without permission of the Hearing Officer.

11.9 When the Applicant or Licensee, who has been given written notice of the hearing, does not attend at the appointed time and place, the Applicant or Licensee shall be deemed to have abandoned the request for a review of the decision and the Town's decision shall be final and binding.

11.10 After holding a hearing, the Hearing Officer may affirm, vary or overturn the decision of the Director/Licensing Administrator under appeal, and may impose any condition that the Director/Licensing Administrator could have imposed. At the conclusion of the hearing, the Hearing Officer may give their decision orally or in writing but in each case, it shall provide its decision in writing, with reasons, within 30 days after the hearing to the Applicant or Licensee and the Director, and the decision shall be signed by the Hearing Officer.

11.11 The decision of the Hearing Officer is final.

11.12 The hearing may be held electronically, in accordance with Schedule C, which is appended to this By-law.

11.13 No person shall attempt, directly or indirectly, to communicate with the Hearing Officer for the purpose of influencing his or her decision respecting the determination of an issue in a proceeding that is or will be pending before the Hearing Officer. Exceptions shall include:

11.13.1 A person who is entitled to be heard in the proceeding or the person's authorized representative;

11.13.2 Only by that person or the persons authorized representative during the hearing of the proceeding in which the issues arise.

11.14 The Hearing Officer shall not have jurisdiction to consider questions of law relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation, or by-law.

11.15 Matters arising during the course of an appeal that are not provided for in this By-law shall be governed by the *Statutory Powers Procedure Act*, R.S.O 1990, c. S.22.

11.16 An appeal to the Hearing Officer pursuant to this Section 11 shall not operate as a stay of the decision or order being appealed.

12. LICENCE CONDITIONS

12.1 The following conditions are attached to each Licence issued under this By-law:

12.1.1 When a Dwelling Unit is occupied as a Short Term Accommodation or Bed and Breakfast, a legible copy of the Licence shall be posted in a conspicuous location within one (1) metre of the interior of the Short Term Accommodation or Bed and Breakfast's primary entrance;

12.1.2 When a Dwelling Unit is occupied as a Short Term Accommodation or Bed and Breakfast, a legible copy of the Fire Safety Plan and/or Fire Safety Protocol shall be posted in a conspicuous location within one (1) metre of the primary entrance to the Short Term Accommodation or Bed and Breakfast. The location must be approved by the Fire Chief;

12.1.3 When a Dwelling Unit is occupied as a Short Term Accommodation or Bed and Breakfast, a legible copy of the Site Plan shall be posted in a conspicuous location within one (1) metre of the interior of the Short Term Accommodation or Bed and Breakfasts primary entrance;

12.1.4 The Licensee shall ensure compliance with all Applicable Law;

12.1.5 The Licensee shall allow, at any reasonable time and when permitted by law, the Town to inspect the Short Term Accommodation or Bed and Breakfast Establishment to ensure compliance with this By-law and that such inspection shall be in accordance with the *Municipal Act, 2001*;

- 12.1.6 When the premises is occupied for the purpose of a Short Term Accommodation or Bed and Breakfast Establishment, the Licensee shall ensure that no vehicle is stopped or parking on any part of the Short Term Accommodation or Bed and Breakfast premises except within a parking space identified on the site plan filed pursuant to the provisions of this By-law;
- 12.1.7 The Licensee shall include the License Number in any advertisement or promotion related to the renting out of the premises intended to be used as a Short Term Accommodation or Bed and Breakfast Establishment;
- 12.1.8 The Licensee shall ensure that the Licensee or their Agent/Local Contact is available to attend to the Short Term Accommodation premises or Bed and Breakfast Establishment at all times within a period of no greater than thirty (30) minutes from the time of contact by way of telephone or email;
- 12.1.9 A Licensee shall notify the Director in writing within five (5) days of any change to any information provided pursuant to Sections 4 and 8 of this By-law;
- 12.1.10 The Licensee shall catalogue all rentals including length of stay and rental fee paid for each rental period. The Licensee shall provide the catalogue to the Director or Licence Administrator upon request for review by municipal staff.
- 12.1.11 A Short-Term Accommodation or Bed and Breakfast Establishment may display up to one sign in accordance with the Town's Sign-By-law No. 05-60 and Zoning By-law No. 2022-50.
- 12.2 The Licensee shall ensure compliance with all applicable laws, which shall include, without limiting the generality of the foregoing:
- 12.2.1 The Fire Protection and Prevention Act;
- 12.2.2 The Building Code Act;
- 12.2.3 The Electrical Safety Code;
- 12.2.4 The Health Protection and Promotion Act;
- 12.2.5 The Town of Lincoln Zoning By-law No. 2022-50 (as amended);
- 12.2.6 Town to of Lincoln Fireworks By-law No. 07-77 (as amended);
- 12.2.7 The Town of Lincoln Open Air Burn By-law No. 2017-110 (as amended);
- 12.2.8 The Town of Lincoln Property Standards By-law No. 2016-27 (as amended);
- 12.2.9 The Town of Lincoln Public Nuisance By-law No. 2021-30 (as amended);
- 12.2.10 The Town of Lincoln Noise By-law No. 2019-44 (as amended);
- 12.2.11 The Regional Municipality of Niagara Waste Collection By-law No. 2017-56 (as amended); and

12.2.12 The Town of Lincoln Traffic and Parking on Municipal Roads By-law No. 89-2000 (as amended).

Infraction	By-law Section Reference	Demerit Points
Failure to comply with Fire Protection & Prevention Act	12.2.3	10
Failure to provide Fire Safety Protocol	12.1.3	10
Obstruction of Inspection	14.3	10
Failure to comply with Building Code Act	12.2.2	8
Failure to comply with Open Air Burning By-law	12.2.7	2
Failure to comply with Public Nuisance By-law	12.2.9	2
Failure to comply with Fireworks By-law	12.2.6	2
Failure to Post Site Sketch	12.1.4	2
Failure to comply with Zoning By-law	12.2.5	2
Failure to comply with Property Standards By-law	12.2.8	2
Breach of the Health Protection and Promotion Act	12.2.4	8
Failure to comply with the Noise Control By-law	12.2.1	2
Failure of Local Contact to respond or attend STA or B&B within 30 minutes	12.1.9	3
Failure to Post Licence	12.1.2	2
Failure to Post Licence Number	12.1.8	2
Failure to provide updated information	12.1.10	3

13. ENFORCEMENT

13.1 The Director or a Municipal Law Enforcement Officer, along with any Person necessary to assist the Director or Municipal Law Enforcement Officer with their duties, may, at any reasonable time and when permitted by law, enter, and inspect a Short Term Accommodation or Bed and Breakfast Establishment for the purpose of determining whether the Property is in compliance with any section of this By-law, and such

inspection shall be in accordance with the *Municipal Act, 2001*. For the purpose of an inspection pursuant to this By-law, the Director of Municipal Law Enforcement Officer may:

- a) require the production for inspection of any goods, equipment, books, records or documents used or to be used by the Owner, Licensee or Applicant under this By-law;
- b) inspect and remove any documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) require information from any person concerning a matter related to the inspection; and
- d) alone or in conjunction with a person retained by the Town, make examinations or take tests, samples or photographs or video records of any matter related to the inspection.

13.2 The Town may undertake an inspection pursuant to an order issued or Section 438 of the *Municipal Act, 2001*.

13.3 No Person shall hinder or obstruct the Licence Administrator or an Officer carrying out an inspection for the purposes of enforcing this By-law, nor shall any Person hinder or obstruct the Town or its agents from carrying out any work necessary to bring the Short Term Accommodation or Bed and Breakfast Establishment into compliance with this By-law.

13.4 In the absence of evidence to the contrary, if an advertisement or promotion related to the renting out of a premises intended to be used as a Short Term Accommodation or Bed and Breakfast Establishment is found, the Owner shall be deemed to have posted the advertisement or promotion or consented to the posting of the advertisement or promotion of the premises as a Short Term Accommodation or Bed and Breakfast Establishment.

13.5 Where the Director or a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this By-law has occurred, her or she may serve an order to the Licensee or Owner setting out the reasonable particulars of the contravention and directing:

- a) any work that is required to be done to remedy the contravention, and that in the event of a default of such work being done, the work may be done by the Town at the Owner's or Licensee's expense and may be recovered in the same manner as municipal taxes;
- b) compliance within a specified period of time; or
- c) that the activity that constitutes a contravention be discontinued.

13.6 An order made pursuant to this By-law shall be given to the Owner or Licensee by registered or regular mail, personal service, or email to the last known address of the Owner or Licensee, and shall be deemed to have been given on the fifth day after it is mailed, in the case of personal service, on the same day it was delivered, or in the case of email, on the same day it is sent if it was emailed before 4 p.m., otherwise, it is deemed to be given the day after.

13.7 Where a Person fails to comply with an order made pursuant to this By-law within the time prescribed in the order, the Town may carry out any work necessary to bring the Short Term Accommodation or Bed and Breakfast Establishment into compliance, which work shall be done at the expense of the Owner or Licensee and may be recovered in the same manner as municipal taxes.

14. OFFENCES

14.1 Every Person who contravenes any provision of this By-law is liable to such penalties as provided for in the *Municipal Act, 2001*, S.O. c.25 and the *Provincial Offences Act*.

14.2 An Officer who finds that a Person has contravened a provision of this By-law may issue a penalty notice imposing an Administrative Monetary Penalty, pursuant to the Non-Parking Administrative Monetary Penalties System By-law. The Administrative Monetary Penalties for failures to comply with this By-law are set out in Schedule "B", which is attached hereto and forms part of this By-law.

14.3 A contravention of the requirements set out in this By-law is deemed to be a continuing offence on each day or part of a day that the contravention continues.

15. GENERAL

15.1 In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used with a reference to any gender shall be deemed to include all genders.

15.2 The word "and" is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required, as the case may be. The word "or" is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article, or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word "or" may also be an inclusive conjunction having the same meaning as the work "and".

15.3 If any part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of this By-law, or its application in other circumstances, shall not be affected and shall remain in full force and effect.

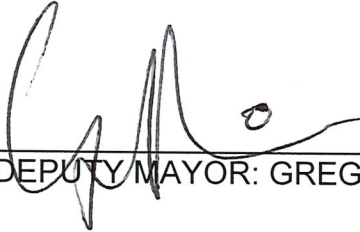
15.4 This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the Town or by any governmental authority having jurisdiction to make such restrictions and regulations. If there is a conflict between a provision of this By-law and a provision of any other Town By-law, the provision that establishes the higher standard shall apply.

15.5 For the purposes of subsection 23.2(4) of the *Municipal Act, 2001*, it is the opinion of Council that the powers delegated pursuant to this By-law are minor.

15.6 Any reference to legislation in this By-law include the legislation referred to and its amendments as well as any subsequent legislations which may replace the legislation referred to, and its amendments thereto.

15.7 This By-law shall come into force and take effect on the day of its final passing.

PASSED AND ENACTED on the 23rd day of September 2024.



DEPUTY MAYOR: GREG REIMER



DEPUTY CLERK: DEVANNE KRIPP

SCHEDULE "A" of By-law 2024-61

Short Term Accommodation Guestroom and Occupancy Chart

Dwelling Type	Short-Term Accommodation Type			Max. No. of Guestrooms	Max Occupancy (persons)
	Rural Tourist Accommodation	Commercial Vacation Dwelling Unit	Residential STA		
Single Detached			ü	6	12
Semi-Detached			ü	2	4
Townhouse			ü	2	4
Accessory Structure	ü	ü	ü	2	4
Other (Specify)	Standalone Buildings (subject to OMAFRA Guidelines)	Accessory Dwellings Above Commercial Units (Max 2 guestrooms) (Max 4 occupants)			
Principal Residency Required	*On Farm Diversified Use	No	Urban - Yes Rural - No		

SCHEDULE "B" of By-law 2024-61
Hearing Officer Appointment Process

1. APPOINTMENT OF HEARING OFFICER

1.1 Ineligible persons. The following are not eligible for appointment as a Hearing Officer:

1.1.1 an employee or member of Council of the Town of Lincoln;

1.1.2 the relative of a Person referenced in section 1.1.1 of Schedule "B";

1.1.3 a Person indebted to the Town of Lincoln other than:

1.1.3.1 in respect of real property taxes; or

1.1.3.2 pursuant to an agreement with the Town of Lincoln, the terms with which the Person is compliant.

1.2 Terms and length of employment. The Hearing Officer shall be appointed for such period and subject to such terms and conditions as may be determined by Town staff in accordance with the Town's employment or contract policies and guidelines, with preference to those candidates with knowledge of administrative law and being of good character.

SCHEDULE "C" of By-law 2024-61

Virtual Hearings

1. RULES FOR ELECTRONIC HEARINGS

1.1 Format and procedure. Video and audio must be enabled at all times by all participants during the hearing. In the event that any technical difficulties are faced during the course of the hearing, the following steps shall be followed:

1.1.1 in the event of failed audio communication, arrangements will be made to remain on video and to use the telephone number as provided with the information and video link for the Electronic Hearing to the Person (and/or their authorized representative (if applicable) to be able to continue the remainder of the hearing;

1.1.2 In the event of failed video, the hearing will be put on hold and an attempt to re-establish video connection will take place. If the video connection cannot be re-established, the hearing will be adjourned and re-scheduled.

An Electronic Recording of the hearing is not permitted unless consent of all participants is given, save and except for the purpose of administering the hearing and recording of minutes of the hearing by the Hearing Officer and designated Town staff.

SCHEDULE "D" of By-law 2024-61

Non-Parking Administrative Penalty System By-law 2023-25

Designated By-law Provisions

DESIGNATED BY-LAW PROVISIONS- SHORT TERM
ACCOMODATIONS AND BED AND BREAKFAST ESTABLISHMENT
BY-LAW 2024-61

Column 1 in the following table lists the provisions within the corresponding By-law that are hereby designated for the purpose of establishing an administrative penalties system,

Column 2 in the following table sets out the short form wording to be used on the Penalty Notice for the contravention of the designated provisions listed in Column 1.

Column 3 in the following table sets out the Administrative Penalties amounts that are payable for contraventions of the designated provisions listed in Column 1.

ITEM	Designated Provisions	Short Form Wording	Administrative Penalty Tier
1	4.1	Operating Short Term Accommodation or Bed and Breakfast without a licence	\$1,000.00
2	12.1.2	Failure to display a licence	\$100.00
3	12.1.10	Failure to provide updated information	\$100.00
4	4.2 12.2	Operating a licenced Short-Term Accommodation or Bed and Breakfast without conforming to applicable laws or By-laws	\$400.00
5	12.1.3	Failure to display a fire safety plan	\$400.00
6	12.1.4	Failure to display a Parking Management Plan	\$200.00
7	12.1.7	Failure to include a licence number in an advertisement or promotion	\$600.00
8	12.1.9	Non-availability of contact person	\$200.00
9	14.3	Obstruction of Director or Officer	\$400.00

10	14.4	Advertising or promoting a Short-Term Accommodation or Bed and Breakfast without a valid licence.	\$1,000 .00
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