

THE CORPORATION OF THE CITY OF WELLAND

BY-LAW NUMBER 2021 – 179

A BY-LAW TO PROVIDE REGULATIONS FOR THE LICENSING AND INSPECTING OF SHORT TERM RENTALS

WHEREAS Section 11(1) of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, (the "Act") permits that a local municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS Section 151(1) of the Act provides that a local municipality may provide for a system of licences with respect to a business wholly or partly carried on within the municipality;

AND WHEREAS pursuant to Part II, Section 10(2) 6 of the Act, a municipality may pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS, as set out in Section 224 of the Act, it is the role of Council, among other things, to represent the public and to consider the well-being and interests of the municipality;

AND WHEREAS Section 391(1) of the Act provides that a municipality may impose fees and charges on person for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 25.1(1) of the Statutory Powers and Procedures Act, R.S.O. 1990, c. S.22 (the "SPPA") provides that a tribunal may make rules governing the practice and procedure before it;

AND WHEREAS Section 5.2(1) of the SPPA provides that hearings may be held electronically in a proceeding;

AND WHEREAS it is necessary and desirable for the public to regulate the short term rentals for the purpose of the health, safety and well-being of people in the City of Welland where Council determines it to be in the municipal interest;

AND WHEREAS Part XIV of the Act provides for certain powers in relation to the enforcement of the municipal by-laws;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND hereby ENACTS AS follows:

SECTION 1 – SHORT TITLE

1.1 This By-law may be referred to as the Short Term Rental Licensing By-law.

SECTION 2 – DEFINITIONS

2.1 "Act" means the Municipal Act, 2001, S.O. 2001, c.25, as amended from time to time, or any successor thereof;

2.2 "Action" means a proceeding in a court or tribunal of competent jurisdiction;

2.3 "Agent" means a Person appointed by a Licensee to ensure the Property is operated in accordance with the provisions of this By-law;

- 2.4 "Appeal Tribunal" means the all-citizen tribunal appointed by Council to conduct hearings under this By-law;
- 2.5 "Applicant" means and includes a Person seeking a Licence or renewal of a Licence or a Person whose Licence is being considered for revocation or suspension;
- 2.6 "Building Code Act" means the Building Code Act, 1992, S.O. 1992, c.23 and all regulations thereto, as amended from time to time, or any successor thereof;
- 2.7 "Building Code" means Ontario Regulation 332/12: Building Code and all regulations thereto, as amended from time to time, or any successor thereof;
- 2.8 "By-law" means this By-law and all schedules forming part of this by-law, and includes and amendments thereto;
- 2.9 "Chief Building Official" means the Chief Building Official for the Corporation of the City of Welland or his or her designate;
- 2.10 "City" means The Corporation of the City of Welland;
- 2.11 "Clean Yards By-law" means the City's Clean Yards By-law 2019-135 as amended from time to time, or any successor thereof;
- 2.12 "Council" means the Council of the City;
- 2.13 "Dwelling Unit" has the same meaning as defined under the Zoning By-law and for greater clarity, means a place of residence with one or more habitable rooms containing separate kitchen and bathroom facilities for private use as a single housekeeping unit.
- 2.14 "Electrical Safety Code" means Ontario Regulation 164/99: Electrical Safety Code and all regulations thereto, as amended from time to time, or any successor thereof;
- 2.15 "EMCPA" means the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9 and all regulations thereto, as amended from time to time, or any successor thereof;
- 2.16 "Fire Chief" means the Chief of Welland Fire and Emergency Services or his or her designate;
- 2.17 "Fire Code" means Ontario Regulation 213/07: Fire Code and all regulations thereto, as amended from time to time, or any successor thereof;
- 2.18 "Fire Protection and Prevention Act" means the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4 and all regulations thereto, as amended from time to time, or any successor thereof;
- 2.19 "Fire Safety Protocol" means a protocol approved by the Fire Chief which contains an outline of actions for a Person to take in the event of a fire emergency, the location of all fire-related safety equipment, a floor plan of the Property indicating the location of all emergency exits, contact information containing the name, phone number and e-mail address of the Owner and Agent and an undertaking to comply with any applicable law;

- 2.20 "Fireworks By-law" means the City's Fireworks By-law 2003-127, as amended from time to time, or any successor thereof;
- 2.21 "Highway" has the same meaning as defined under the Highway Traffic Act, R.S.O. 1990, c. H.8. and all regulations thereto, as amended from time to time, or any successor thereof;
- 2.22 "License" means a license issued under this By-law;
- 2.23 "Licensing Officer" means a Person appointed by the Council of the Corporation of the City of Welland for the purposes of enforcing this By-law;
- 2.24 "Licensee" means a Person to whom a License has been issued;
- 2.25 "Medical Officer of Health" means the Medical Officer of Health for the Regional Municipality of Niagara or his or her designate;
- 2.26 "Noise By-law" means the City's Noise By-law 2015-23, as amended from time to time, or any successor thereof;
- 2.27 "Officer" means a Person appointed by the Corporation of the City of Welland for the purposes of enforcement of its By-laws;
- 2.28 "Open-Air Fire By-law" means the City's Open-Air Fire By-law 2011-85, as amended from time to time, or any successor thereof;
- 2.29 "Owner" means a Person that is the registered Owner of a Property;
- 2.30 "Parking Management Plan" means a plan, depicting the size, surface material, and location of all parking spaces intended to be used for parking on the Property, and such plan shall be compliant with the Zoning By-law and the Traffic & Parking By-law;
- 2.31 "Person" means an individual, Owner, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau, agency or other entity;
- 2.32 "Principal Residence" means a Dwelling Unit in which a Person resides a majority of the year;
- 2.33 "Property" means any land or Property where the Short Term Rental is located that is within the jurisdiction of the City;
- 2.34 "Property Standards By-law" means the City's Property Standards By-law 2009-108, as amended from time to time, or any successor thereof;
- 2.35 "Provincial Offences Act" means the Provincial Offences Act, R.S.O. 1990, c. P. 33, and all regulations thereto, as amended from time to time, or any successor thereof;
- 2.36 "Public Nuisance By-law" means the City's Public Nuisance By-law 2011-129, as amended from time to time, or any successor thereof;
- 2.37 "Region" means the Regional Municipality of Niagara;
- 2.38 "Reopening Ontario Act" means the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17;

- 2.39 "Short Term Rental" has the same meaning as defined under the Zoning By-law and for greater clarity, means a Dwelling Unit that is rented for a period of 28 consecutive days or less but does not include a bed and breakfast, hotel/motel, or boarding or lodging house;
- 2.40 "Sidewalk Snow Clearing By-law" means the City's Sidewalk Snow Clearing By-law 2008-185 as amended from time to time, or any successor thereof;
- 2.41 "Sign By-law" means the City's Sign By-law 2005-21, as amended from time to time, or any successor thereof;
- 2.42 "Traffic & Parking By-law" means the City's Traffic & Parking By-law 89-2000, as amended from time to time, or any successor thereof;
- 2.43 "Zoning By-law" means the City's Zoning By-law 2017-117, as amended from time to time, or any successor thereof;

SECTION 3 – SHORT TERM LICENCE REQUIRED

- 3.1 No Person shall carry on, or intend to carry on, any trade, business or occupation of a Short Term Rental for which a licence is required under this By-law unless that Person has first obtained a Licence as required under this By-law.
- 3.2 No Person shall carry on, or intend to carry on, any trade, business or occupation of a Short Term Rental for which a Licence under this By-law is required if the Licence has expired or been revoked or while the licence is under suspension.
- 3.3 No Person shall rent, or communicate with anyone to rent, a Short Term Rental that is not licensed pursuant to the provisions of this By-law.
- 3.4 No Person shall advertise, promote, broker, or offer for rent or lease any Short Term Rental without a valid Licence.
- 3.5 For greater certainty, the requirements of this by-law do not apply to a hotel, motel or bed and breakfast establishment as defined in the Zoning By-law.

SECTION 4 – APPLICATION FOR A SHORT TERM RENTAL LICENCE

- 4.1 Any Person seeking to obtain a new License shall submit a complete application to the Licensing Officer on the forms or in the manner prescribed by the Licensing Officer.
- 4.2 Every Applicant for a License shall be the Owner of the Property.
- 4.3 The Licensing Officer shall not accept any application for a License if any of the applicants are under the age of 18 years.
- 4.4 Every Applicant for a License shall submit, to the satisfaction of the Licensing Officer, the following:
- a) the fully and correctly completed Short Term Rental application form;
 - b) the application fee, as set out in the City of Welland Fees and Charges By-law, as amended;

- c) a certificate of insurance which confirms that the Applicant has in place at the time of the application, general liability insurance of not less than two million dollars per occurrence;
- d) a site plan that indicates the location of the Short Term Rental Property, the adjacent Highway, and any external garbage/ recycling facilities;
- e) a floor plan of the Short Term Rental Property clearly indicating the location and number of rooms, the proposed total occupancy limit, and for each room, accompanying photos, its dimensions, a description of its proposed use and the proposed number of beds;
- f) a Parking Management Plan that complies with the Zoning By-law;
- g) a Fire Safety Protocol;
- h) a letter of compliance from the Electrical Safety Authority dated within 12 months of the date of the application indicating the Property and its proposed use comply with the Electrical Safety Code;
- i) a Fire Safety Checklist and photographs demonstrating the location of smoke and carbon monoxide alarms;
- j) any other information required pursuant to this By-law.

4.5 The Licensing Officer shall not accept any application for a Short Term Rental until all requirements relating to the application, as set out in this By-law, have been met.

SECTION 5 – APPLICATION FOR RENEWAL

5.1 Every application for renewal of a License under this By-law, shall be made in a form satisfactory to the Licensing Officer and shall include:

- a) the fully and correctly completed renewal application form, if applicable;
- b) the application renewal fee, as set out in the City of Welland Fees and Charges By-law, as amended;
- c) If changes have been made to the floor plan, site plan, Parking Management Plan, or Fire Safety Protocol submitted with the original application, the Applicant shall submit a revised floor plan, site plan, Parking Management Plan, or Fire Safety Protocol.
- d) If changes have been made to the power supply or electrical wiring of the Property, a letter of compliance from the Electrical Safety Authority dated within 12 months of the date of the renewal application indicating the Property and its proposed use comply with the Electrical Safety Code;
- e) any other information required pursuant to this By-law.

5.2 A Short Term Rental License that is not renewed by the expiry date is no longer valid.

SECTION 6 - INSPECTIONS

- 6.1 Upon receipt of a complete application as set out in Section 4 of this By-law, and all accompanying documentation and the required fees, the City shall schedule an inspection of the Short Term Rental Property, at a reasonable time.

SECTION 7 - REVIEW OF APPLICATION

- 7.1 The Licensing Officer may reject a Licence application or its renewal where any of the documents required by this By-law are incomplete or have not been filed.
- 7.2 As a part of the review, applications may be circulated to those agencies deemed necessary or relevant by the Licensing Officer.
- 7.3 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;
- 7.4 A Short Term Rental is only permitted in a single-detached dwelling, two-unit dwelling, townhouse dwelling, multiple dwelling, apartment dwelling or an accessory Dwelling Unit and shall not contain more than three (3) guest bedrooms;
- 7.5 The Short Term Rental shall be a secondary use to the principal residential use of a dwelling, and shall maintain the residential character of the dwelling. A Short Term Rental can be a principal use in Commercial Zones where residential uses are permitted;
- 7.6 A Short Term Rental may be the principle use of an accessory Dwelling Unit in Residential, Institutional, Open Space and Agricultural Zones where Residential uses are permitted only if the operator is residing on the Property.
- 7.7 All references in this By-law to Zones shall be those Zones as so defined or described in the Zoning By-law;

SECTION 8 - ISSUE OF SHORT TERM RENTAL LICENCE

- 8.1 The Licensing Officer is authorized to issue and to renew Short Term Rental Licenses in accordance with this By-law
- 8.2 All Licences issued and renewed shall be signed by the Licensing Officer.
- 8.3 The Licensing Officer may revise the Licence where the licence contains an error.
- 8.4 In the event a legal non-conforming Short Term Rental ceases to operate for a period of one year, a licence will no longer be issued for the legal non-conforming use.
- 8.5 The Licensee, upon issuance of a License and thereafter shall comply with all provisions of this By-law.

SECTION 9 – CARRYING ON A SHORT TERM RENTAL

- 9.1 The submission of an application for a License, including the related fee(s), does not entitle the Applicant to carry on, or intend to carry on a Short Term Rental. The Applicant is only entitled to do so once the Licence has been issued for the Short Term Rental.

SECTION 10 - LICENCE CONDITIONS

- 10.1 The following conditions are attached to each Licence issued under this By-law:
- a) the Short Term Rental is lawfully constructed;
 - b) when the premise is occupied for the purposes of a Short Term Rental, a legible copy of the Licence shall be posted in a conspicuous location within one (1) meter of the interior of the Short Term Rental's primary entrance;
 - c) a Licensee shall notify the Licensing Officer in writing within fifteen (15) days of any change to any information provided pursuant to Sections 4 and 5 of this By-law;
 - d) the Licensee shall ensure compliance with all applicable laws including:
 - i) the Fire Protection and Prevention Act;
 - ii) the Building Code Act;
 - iii) the Electrical Safety Code;
 - iv) the EMCPA;
 - v) the Reopening Ontario Act;
 - vi) the Health Protection and Promotion Act;
 - vii) the Zoning By-law;
 - viii) the Traffic & Parking By-law;
 - ix) the Fireworks By-law;
 - x) the Open Air Fire By-law
 - xi) the Property Standards By-law;
 - xii) the Public Nuisance By-law;
 - xiii) the Noise By-law;
 - xiv) the Clean Yards By-law
 - xv) the Sidewalk Snow Clearing By-law;
 - xvi) the Sign By-law;

- e) when the Property is occupied for the purposes of a Short Term Rental, the Licensee shall ensure that no vehicle is stopped or parked on any part of the Short Term Rental Property except within a parking space identified on the Parking Management Plan filed pursuant to the provisions of this By-law
- f) when the Property is occupied for the purposes of a Short Term Rental, the Licensee shall ensure that a legible copy of the Fire Safety Protocol shall be posted in a conspicuous location within one (1) meter of the interior of the Short Term Rental's primary entrance, and that the occupant complies with all applicable laws;
- g) a copy of the floor plan contained within the Fire Safety Protocol shall be posted in a conspicuous location within one (1) meter of the interior of the Short Term Rental's primary entrance;
- h) the Licensee shall allow, at any reasonable time and when permitted by law, the City to inspect the Short Term Rental Property to ensure compliance with this By-law;
- i) the Licensee shall include the Licence number in any advertisement or promotion related to the renting out of the Property intended to be used as a Short Term Rental;
- j) the Licensee shall ensure that the Licensee or their Agent is available to attend to the Short Term Rental Property at all times within a period of no greater than one (1) hour from the time of contact by way of telephone or e-mail;
- k) the Licensee shall provide to the City an updated certificate of insurance as required in Section 4.4 (c) prior to the expiry date of the current certificate of insurance;
- l) the Licensing Officer may impose additional conditions as the Licensing Officer determines are appropriate in relation to the issuance of any Licence at any time during the term of the Licence, as are necessary in the opinion of the Licensing Officer to give effect to the purposes of this By-law;
- m) where a Licensee is dissatisfied with any condition imposed by the Licensing Officer pursuant to Section 10 of this By-law, the Licensee may request a review of the condition by the Appeal Tribunal.

SECTION 11 - REFUSAL TO ISSUE OR RENEW A SHORT TERM RENTAL LICENCE

11.1 The Licensing Officer may refuse to issue or renew a License:

- a) if all inspections required pursuant to this By-law have not been completed and passed;
- b) where the conduct of the Applicant or Licensee including the conduct of any officer, director, employee or Agent of an Applicant or Licensee affords reasonable cause to believe that the Applicant or Licensee will not carry on or operate the Short Term Rental in accordance with the law or with honesty and integrity;

- c) where the Licensing Officer reasonably believes that issuing the License might be adverse to the public interest;
- d) where the Licensing Officer reasonably believes that issuing the License poses a threat to the health and safety of Persons or Property;
- e) the Applicant or Licensee owes any fine or fee to the City in respect of the Short Term Rental Property;
- f) the Short Term Rental is subject to an order, or orders made pursuant to or by:
 - i) a City By-law;
 - ii) the Building Code Act;
 - iii) the Fire Protection and Prevention Act;
 - iv) the Medical Officer of Health; and
 - v) any other applicable law.
- g) the Short Term Rental Property is not in compliance with the City's Zoning By-law;
- h) the Licensing Officer has received an objection to the issuance of the Licence by the Chief Building Official or the Fire Chief;
- i) a licence pursuant to this By-law has been revoked or suspended within the last two (2) years;
- j) where the Applicant or Licensee has past convictions under this By-law, or any other By-law, statute or regulation;
- k) where there is a Court order, or any federal or provincial order ceasing the activity of the Short Term Rental;

SECTION 12 - REFUND OF FEE/ REFUSAL TO ISSUE/ RENEW A SHORT TERM RENTAL LICENCE

- 12.1 Where the Licensing Officer's decision to refuse to issue or renew a License is not appealed in accordance with this By-law, a portion of the fee paid in relation to the application for the Short Term Rental or application for renewal, as the case may be, equivalent to the application portion of the fees as set out in the City of Welland Fees and Charges By-law, as amended, shall be refunded to the Applicant. All other fees under this By-law are non-refundable.

SECTION 13 - REVOKING OR SUSPENDING A SHORT TERM RENTAL LICENCE

13.1 The Licensing Officer has the powers and authority to revoke or suspend a License at any time where:

- a) the conduct of the Licensee, including the conduct of any officer, director, employee or Agent of a Licensee affords reasonable cause to believe that the Licensee will not carry on or operate the Short Term Rental in accordance with the law or with honesty and integrity;
- b) a Licensee is charged or convicted of an offence related to the contravention of any provision of this By-law, the Building Code Act, the Building Code, the Fire Protection and Prevention Act, and the Fire Code;
- c) there are reasonable grounds for belief that an application or any other document or information provided on behalf of the Licensee contains a false statement or false information;
- d) a Licensee contravenes any condition that is required under Section 10 of this By-law;
- e) the total number of demerit points assessed against a Licence cause a Licensee to contravene any of Sections 21.4, 21.5, 21.6;
- f) the Licence was issued in error;
- g) the Licensing Officer, acting reasonably, is of the opinion that the Short Term Rental Property being licensed poses a threat to the health and safety of Persons or Property; or
- h) the Licensing Officer becomes aware of any fact or facts which, if known at the time of the application, may have resulted in the Licensing Officer refusing to issue the Licence.

13.2 A License issued under this By-law shall remain in effect until a decision to revoke or suspend the Licence has been made by the Licensing Officer or, where an appeal has been filed, the Appeal Tribunal.

SECTION 14 - REFUND OF FEE ON REVOKATION OF SHORT TERM RENTAL LICENCE

14.1 When the Licensing Officer or Appeal Tribunal makes a decision to revoke or suspend a License, no portion of the fees paid are refundable.

SECTION 15 - CHANGES IN INFORMATION

15.1 Where, at any time, there is any change in, or relating to, any of the information or documents required to be filed with the City under this By-law, the Applicant or Licensee, as the case may be, shall report the change in writing to the Licensing Officer no later than fifteen (15) calendar days following the change.

SECTION 16 - TERM OF SHORT TERM RENTAL LICENCE

- 16.1 Every License shall be in effect from the date of issue, as shown on the Licence:
- a) for the whole of the calendar year to which it applies, expiring on December 31st of said calendar year; or
 - b) where the application for a License is received after January 1 and prior to the 2nd Monday in November of any calendar year, for the remainder of such calendar year, expiring on December 31st of said calendar year; or
 - c) where the application for a License is received on or after the 2nd Monday in November but prior to December 31st in any calendar year, for the whole of the following calendar year, expiring on December 31st of that calendar year.
- 16.2 Every License shall be renewed no later than its date of expiry. Any License which is not renewed shall become null and void.
- 16.3 Every License shall cease to be valid if the Short Term Rental ceases to operate;

SECTION 17 - DUPLICATE OR REPLACEMENT SHORT TERM RENTAL LICENCE

- 17.1 In the event that a License issued in accordance with this By-law is lost or destroyed, the Licensing Officer upon request by the Applicant or Licensee, and payment of a replacement fee of \$25.00, shall issue a duplicate of the original License, upon which shall be stamped or marked "duplicate".
- 17.2 Issuance of a duplicate License in accordance with Section 17.1 shall not affect the expiry date of the License.

SECTION 18 - TRANSFERABILITY, CHANGE OF OWNERSHIP, CHANGE OF LOCATION

- 18.1 Every License issued under this By-law shall be personal to the Licensee(s) indicated on the License, and to the location as indicated on the License, and shall not be transferable from Person to Person or location to location.
- 18.2 A License shall be deemed to be void immediately upon change of ownership or location of the Short Term Rental, or upon discontinuation of the Short Term Rental.

SECTION 19 - ALTERATIONS PROHIBITED

- 19.1 No Person shall alter or deface a License in any way.
- 19.2 Every Licensee shall ensure that the License is not altered or defaced in any way.

SECTION 20 - COMPLIANCE WITH OTHER LAWS REQUIRED

- 20.1 The issuance of a License under this By-law does not permit or condone the violation of any by-law, statute, order, or regulation in effect in the City of Welland, the Province of Ontario or the Dominion of Canada and it shall be the responsibility of the Licensee to ensure that such applicable legislation is complied with at all times.

SECTION 21 - DEMERIT SYSTEM

- 21.1 A demerit point system is established without prejudice to options otherwise available to enforce this By-law or any other City By-law or provincial act or regulation including Actions pursuant to the Fire Protection and Prevention Act, the Building Code Act, and the Provincial Offences Act.
- 21.2 The number of demerit points referenced in Column 3 of Table 1 attached as Schedule "A" will be assessed against a Short Term Rental Property in respect of the matter noted in Column 1 if the Licensing Officer is of the opinion that the matter noted in Column 1 has occurred.
- 21.3 Demerit Points remain in place until the two-year anniversary of the date on which the demerit points were allocated.
- 21.4 If the total number of demerit points in effect respecting a Short Term Rental Property is at least five (5), the Licensing Officer shall suspend the License for three (3) months. The Licensee may appeal the decision in the same manner as provided for under Section 22 of this By-law.
- 21.5 If the total number of demerit points in effect respecting a Short Term Rental Property is at least ten (10), the Licensing Officer shall revoke the License for its remaining duration. The Licensee may appeal the decision in the same manner as provided for under Section 22 of this By-law.
- 21.6 If the total of all demerit points in effect respecting a Short Term Rental Property is at least fifteen (15), the Licensing Officer shall revoke the Short Term Rental License for its remaining duration, and the Licensee shall have no right to appeal the decision.

SECTION 22 - APPEALS PROCEDURE

- 22.1 Where the Licensing Officer refuses to issue or renew a License or where the Licensing Officer elects to suspend or revoke a License:
- a) the Licensing Officer shall send written notice advising the Applicant or Licensee of the refusal, suspension or revocation of the License;
 - b) the written notice of the Licensing Officer shall be sent by registered mail to the Applicant or Licensee at the address of the Applicant or Licensee provided on the Application, or where a change of information has been provided by the Applicant or Licensee regarding address, at the address reflecting that change of information;

- c) written notice shall:
 - i) set out the grounds for the refusal, suspension or revocation;
 - ii) be signed by the Licensing Officer; and
 - iii) indicate the final date and time by which the Applicant or Licensee may appeal the decision of the Licensing Officer to suspend, revoke, refuse to issue or renew the License, and the method for doing so, as set out in Section 22.1 (d); and,
 - iv) indicate the hearing of appeals fee, as set out in the City of Welland Fees and Charges By-law, as amended; and
- d) the Applicant or Licensee may appeal the decision of the Licensing Officer to suspend, revoke or refuse to issue or renew the Licence, by filing a written request with the City Clerk, which request must set out the grounds or basis for the request, and must be received in the Clerks Department no later than 4:00 p.m. on the fourteenth (14th) calendar day from the date on the notice is deemed received by the Applicant or Licensee. Such notice shall be deemed received five (5) business days after it has been mailed; and,
- e) the Applicant or Licensee shall have no right to appeal the decision of the Licensing Officer to suspend, revoke, or refuse to issue or renew the License as a result of a Fire Code or Building Code violations;

22.2 If no written request for an appeal is received from the Applicant(s) or Licensee(s) before the deadline as set out in Section 22.1 (d) regarding the Licensing Officers decision to suspend, revoke, refuse to issue or renew the License;

- a) no extension of the time to request an appeal or hearing will be granted; and,
- b) the decision of the Licensing Officer will be final.

22.3 The fee payable by the Owner or Licensee for the hearing shall be the set out in the City of Welland Fees and Charges By-law, as amended

SECTION 23 - HEARING OF APPEALS

23.1 Upon receipt of a written request for a hearing and the required fee for the hearing from the Applicant or Licensee, in accordance with Section 22.1 (d) the Appeal Tribunal shall:

- a) fix a date and time for such matter to be heard by the Appeal Tribunal within sixty (60) days of receipt of the appeal; and,

- b) send by registered mail or hand delivery the notice of hearing, which shall include the date, time and location of the hearing, at least fifteen (15) days prior to the date and time fixed for such hearing, to the Applicant or Licensee, the Licensing Officer or any other Person who has requested such notification in writing from the Appeal Tribunal.

SECTION 24 - HEARING PROCEDURE

24.1 The following procedure shall be followed for appeals relating to the refusing, suspending or revoking of any License under this By-law:

- a) the Appeal Tribunal shall circulate copies of all reports from the Licensing Officer and any Officers, inspectors, investigators, employees of the corporation or other municipal, provincial, or federal agencies, police officers or Medical Officers of Health, who may be involved in the matter, to the Applicant, Licensee or any other Person to whom notice of the hearing has been given;
- b) the Applicant or Licensee, either personally or through an agent or solicitor, shall be afforded an opportunity to present such material and evidence relevant to the issue before the Appeal Tribunal, and may ask questions of any Person presenting evidence, relating to the evidence presented;
- c) the Appeal Tribunal may afford any other Person who appears to have an interest in the matters under discussion, an opportunity to present material and evidence relevant to the issue before the Appeal Tribunal;
- d) the provisions of the Statutory Powers Procedure Act, R.S.O. 1990, c.S.22, as amended, or any successor thereof, shall apply to all hearings conducted by the Appeal Tribunal under this By-law; and,
- e) any Person presenting evidence relevant to the hearing must be present to answer questions in relation to that evidence.

24.2 If the Applicant or Licensee who has been sent notice of the hearing does not appear at the appointed time and place of the hearing, the Appeal Tribunal may proceed with the hearing in the absence of the Applicant or Licensee and if so, the Applicant or Licensee shall not be entitled to any further proceeding or further notice of proceedings.

24.3 At the conclusion of a hearing, the Appeal Tribunal may give its decision orally or reserve its decision, but in any case it shall provide its decision in writing, with reasons, within thirty (30) days of the hearing to the Applicant or Licensee and the Licensing Officer.

24.4 The Appeal Tribunal, in making its decision, may uphold or vary the decision of the Licensing Officer, or impose conditions, including special conditions as a requirement of continuing to hold a License.

24.5 The decision of the Appeal Tribunal issued under the By-law is final.

SECTION 25 - ADMINISTRATION, ENFORCEMENT AND RIGHT OF ACCESS

- 25.1 This By-law shall be administered and enforced by the City, the Licensing Officer or anyone appointed or otherwise delegated the authority of administration and enforcement.
- 25.2 If there is a conflict between a provision of this By-law and a provision of any other City By-law, the provision in this By-law shall apply.
- 25.3 It is hereby declared that notwithstanding that any part of this By-law, or parts thereof, may be found by any Court of law to be invalid or beyond the power of Council to enact such section or sections or parts there of shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent there from and enacted as such.
- 25.4 Pursuant to the provisions of Sections 23.1 to 23.5 of the Act, the Clerk of the City of Welland is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical, or descriptive nature or kind to this By-law as may be necessary after the passage of this By-law.
- 25.5 A Licensing Officer designated to perform inspections pursuant to this By-law, along with any Person necessary to assist the Licensing Officer with their duties, may at all reasonable times, enter upon any land and inspect any Short Term Rental for the purpose of determining whether the Property is in compliance with any Section of this By-law.
- 25.6 The Licensing Officer shall have inspection powers described in Section 436 of the Act.
- 25.7 No Person shall obstruct or hinder, or attempt to obstruct or hinder, a Licensing Officer, in the exercise of a power or the performance of a duty under this By-law.
- 25.8 No Person shall knowingly furnish false information in any form to the Licensing Officer with respect to this By-law.
- 25.9 In the absence of evidence to the contrary, if an advertisement or promotion related to the renting out of a Property intended to be used as a Short Term Rental is found, the Owner, is deemed to have posted the advertisement or promotion, or consented to the posting of the advertisement or promotion of the Property as a Short Term Rental.

SECTION 26 - OFFENCES

- 26.1 Every Person who contravenes any provision of this By-law, including any Schedule hereto, is guilty of an offence;
- 26.2 Every director or officer of a corporation who knowingly is involved in or aware of the contravention by the corporation of any provision of this By-law, including any Schedule hereto, is guilty of an offence.
- 26.3 Every offence under this By-law is designated as a continuing offence.
- 26.4 An Officer who finds that a Person has contravened a provision of this By-law may issue a penalty notice pursuant to the Administrative Penalty By-law 2019-135.

26.5 Administrative Penalty By-law 2019-135 applies to each administrative penalty issued pursuant to this By-law.


26.6 Any Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty By-law 2019-135, be liable to pay to the City an administrative penalty in accordance with the penalties set out in Schedule "B" attached.

SECTION 27 - FORCE AND EFFECT

27.1 This By-law comes into force and effect on January 31, 2022.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS 2ND DAY OF NOVEMBER, 2021.

 _____ MAYOR

 _____ CLERK

SCHEDULE "A"

**TABLE 1
DEMERIT POINTS**

COLUMN 1	COLUMN 2	COLUMN 3
INFRACTION	SECTION	DEMERIT POINTS
Fire Protection & Prevention Act	10.1 (d) i	10
Fire Safety Protocol	10.1 (f)	10
Obstruction	25.7	10
Building Code Act	10.1 (d) ii	8
Electrical Safety Code	10.1 (d) iii	8
Orders under the EMCPA	10.1 (d) iv	8
Reopening Ontario Act	10.1 (d) v	8
Open Air Fire By-law	10.1 (d) x	8
Health Protection and Promotion Act	10.1 (d) vi	8
Public Nuisance By-law	10.1 (d) xii	6
Noise By-law	10.1 (d) xiii	6
Fireworks By-law	10.1 (d) ix	6
Non-availability of Licensee/ Agent	10.1 (j)	4
Not posting Licence number	10.1 (i)	4
Not posting Licence	10.1 (b)	4
Not providing updated information	10.1 (c)	3
Parking Management Plan	10.1 (e)	3
Zoning By-law	10.1 (d) vii	3
Property Standards By-law	10.1 (d) xi	3
Clean Yards By-law	10.1 (d) xiv	2
Sidewalk Snow Clearing By-law	10.1 (d) xv	2
Sign By-law	10.1 (d) xvi	2

SCHEDULE "B"

**CITY OF WELLAND
SET FINE SCHEDULE**

**CITY OF WELLAND BY-LAW 2019-XX, BEING A BY-LAW TO PROVIDE
REGULATIONS FOR THE LICENSING AND INSPECTING OF SHORT TERM
RENTALS**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 4 Penalty
1.	Carry on a Short Term Rental with out a Licence	3.1	\$1000.00
2.	Carry on a Short Term Rental with an expired/ revoked/ suspended licence	3.2	\$1000.00
3.	Communicate to rent an unlicensed Short Term Rental	3.3	\$1000.00
4.	Advertise an unlicensed Short Term Rental	3.4	\$1000.00
5.	Failure to display licence	10.1 (b)	\$300.00
6.	Failure to provide updated information	10.1 (c)	\$250.00
7.	Carry on a Short Term Rental without conforming to applicable laws	10.1 (d)	\$500.00
8.	Failure to display fire safety protocol	10.1 (f)	\$300.00
9.	Failure to display floor plan	10.1 (g)	\$300.00
10.	Failure to include licence number in advertisement or promotion	10.1 (i)	\$750.00
11.	Licensee/ Agent fail to attend Short Term Rental	10.1 (j)	\$400.00
12.	Failure to provide an updated certificate of insurance	10.1 (k)	\$200.00
13.	Alter/ Deface a License	19.1	\$200.00
14.	Licensee fail to ensure License not altered/ defaced	19.2	\$200.00
15.	Obstruction	25.7	\$400.00
16.	Furnish false information	25.8	\$400.00