

The Corporation of the Town of South Bruce Peninsula

By-Law Number 104-2021

Being a By-Law to License and Regulate Short-Term Rental Accommodations in the Town of South Bruce Peninsula

Whereas Section 151 of the *Municipal Act, 2001, SO 2001 c.25*, as amended ("*Municipal Act*") provides that a municipality may provide for a system of licensing, regulating and governing with respect to a business;

And whereas Section 11 (2) of the *Municipal Act* provides that a lower-tier municipality has the authority to pass by-laws respecting economic, social and environmental well-being of the municipality, the health, safety and well-being of persons and the protection of persons and property;

And whereas Section 11(3) of the *Municipal Act* provides that a lower-tier municipality has the authority to pass by-laws regarding waste management, parking and business licensing;

And whereas Section 390 to 400 of the *Municipal Act* enables a municipality to pass by-laws to impose fees and charges to permits and services provided or done by them;

And whereas Section 434.1 of the *Municipal Act* permits a municipality to impose a system of administrative penalties and fees as an additional means of encouraging compliance with its by-laws;

And whereas Section 436 of the *Municipal Act* permits a municipality to pass by-laws providing that the municipality may enter on lands at any reasonable time for the purpose of carrying out an inspection to determine compliance with by-laws, directions, orders and license conditions;

And whereas Section 444 of the *Municipal Act* provides that if a municipality is satisfied that a contravention of a by-law has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

And whereas Council has enacted a Zoning By-Law amendment under the provisions of the *Planning Act, RSO 1990 CP13*, as amended which defines short-term rental accommodations, establishes areas of permitted use and notes that a short-term accommodation must be licensed with the Town of South Bruce Peninsula;

And whereas the Town of South Bruce Peninsula deems it expedient to license and regulate short-term rental accommodations being operated in the Town of South Bruce Peninsula;

Now therefore the Council of the Town of South Bruce Peninsula enacts as follows:

1. Definitions

For the purpose of this by-law, the following definitions shall apply:

- 1.1 **"Agent"** means a person duly appointed by an owner or the Town to act on their behalf.
- 1.2 **"Applicant"** means the person applying for a license or renewal of a license under this by-law.
- 1.3 **"Building"** means a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems related thereto, or, structures designated in the *Ontario Building Code*.
- 1.4 **"By-Law Enforcement Officer"** means a person duly appointed by the Town of South Bruce Peninsula by by-law for the purpose of enforcing the provisions of the Town's by-laws and any person whose statutory position permits them at law to enforce applicable provincial and federal legislation and regulations including any police officer. The term By-Law Enforcement Officer may be used interchangeably with the term officer.
- 1.5 **"Council"** shall mean the body of people, elected to govern the affairs of the Town of South Bruce Peninsula.
- 1.6 **"Dwelling Unit"** holds the same meaning as contained in the Zoning By-Law and additionally, for the purpose of this by-law, a dwelling unit does not include a tent, trailer, mobile home or a room or suite of rooms in a boarding or rooming house, a hotel or motor home.
- 1.7 **"Fee"** means an amount payable in relation to this by-law and is as stated in the Town of South Bruce Peninsula Fee By-Law, as may be amended from time to time. The word fee may be used interchangeably with the words penalty and fine, where those words carry the same meaning.
- 1.8 **"Guest Room"** means a room offered for short-term rental accommodation, which conforms to the standards for a bedroom, as set forth by the *Ontario Building Code*.

- 1.9 **“Licence”** means the document issued under the provisions contained within this by-law, which document serves as the proof of permission to carry on the business of a short-term rental accommodation.
- 1.10 **“Licensee”** means a person who holds a license or is required to hold a licence under this by-law.
- 1.11 **“Licence Issuer”** means any person or persons provided the authority by the Town of South Bruce Peninsula to issue a licence under this by-law.
- 1.12 **“Order”** means any notice to comply with the provisions of this by-law issued by a By-Law Enforcement Officer, after investigation of any allegations of contravention with this by-law are completed, and it is determined that there are justified contraventions of the by-law.
- 1.13 **“Owner”** means the person or persons holding title to the property on which the short-term rental accommodation is located. Ownership has a corresponding meaning.
- 1.14 **“Parking Area”** means an area provided for the parking of motor vehicles and may include aisles, parking spaces, pedestrian walkways and related ingress and egress lanes but shall not include any part of a public street.
- 1.15 **“Person”** means an individual, Corporation, partnership or an association and includes a licensee or an applicant for a license under this by-law as the context requires.
- 1.16 **“Premises”** means the dwelling unit which is being used as a short-term accommodation.
- 1.17 **“Property”** means the land upon which a short-term rental accommodation is operated, exclusive of buildings or structures or any part thereof.
- 1.18 **“Renter”** means the person responsible for the rental of the premises by way of concession, permit, lease, license, rental agreement or similar commercial arrangement.
- 1.19 **“Renter’s Code of Conduct”** means those provisions, prepared by the Town, that prescribes the roles and responsibilities of the renter, including but not being limited to behavioral expectations as they relate to non-disturbance of neighbors, compliance with applicable Town by-laws and adherence to the provisions of this by-law. This document will be amended from time to time, as required.
- 1.20 **“Responsible Person”** means the owner of the property or agent assigned by the owner of the short term rental accommodation dwelling who will hold responsibility to ensure that the short term rental accommodation is being

operated in accordance with the provisions of this by-law, any licence issued and all applicable laws. The responsible person must have attained at least the age of 18 years.

- 1.21 **“Short Term Rental Accommodation”** shall have the meaning and definition contained within the Town’s Zoning By-Law. For greater certainty, a Guest Cabin (often referred to as a Bunkie), as defined in the Zoning By-Law shall not be used as a short term rental accommodation.
- 1.22 **“Town”** means the Corporation of the Town of South Bruce Peninsula.
- 1.23 **“Zoning By-Law”** means the Comprehensive Zoning By-Law for the Town of South Bruce Peninsula, as amended from time to time and any successor by-law, as amended.

2. General Provisions

- 2.1 No person shall operate any short term rental accommodation unless he or she holds a current licence.
- 2.2 No person shall advertise or otherwise offer for rent or use, any short term rental accommodation without a licence.
- 2.3 No person shall operate any short term rental accommodation which does not comply with all Town by-laws, Provincial legislation and any other applicable law.
- 2.4 No person shall transfer or assign a license issued under this by-law.
- 2.5.1 No person shall permit the maximum number of persons on a premises at any one time, including but not limited to residents, renters and their guests, to be greater than two (2) persons per guest room (bedroom).
- 2.5.2 Notwithstanding Section 2.5.1 above, an exception from the maximum occupancy of 2 persons per guestroom (bedroom) will be granted for children of the renter, under the age of 12, where the Town will permit no more than three (3) persons per guestroom (bedroom).
- 2.6 No person shall operate short term rental accommodation unless parking is provided which includes:
 - 2.6.1 A minimum of one parking space for every two guest rooms;
 - 2.6.2 Parking space size which measures two and one half (2.5) metres by six (6) metres each;
 - 2.6.3 A parking surface suitable for the parking of vehicles.

- 2.6.4 Compliance with all parking provisions for the particular zone as provided in the Zoning By-Law.
- 2.7 No person shall allow or permit any renter of a short term rental accommodation to park in any area on the property which is not meant for parking.
- 2.8 No person shall offer a short term rental accommodation to any guest without making available to renters:
 - 2.8.1 A copy of the current licence, displayed on the interior of the dwelling unit, in a conspicuous place.
 - 2.8.2 A copy of the current Noise By-Law.
 - 2.8.3 A copy of the site plan including parking provisions as they relate to the short term rental accommodation.
 - 2.8.4 A copy of the approved floor plans of the short term rental accommodation.
 - 2.8.5 A copy of the Renter's Code of Conduct
- 2.9 Every person who operates a short term rental accommodation shall ensure the building is equipped with a class ABC fire extinguisher on each floor of the dwelling unit (preferably near exits).
- 2.10 No licensee shall rent any guest room in a short term rental accommodation other than a guest room that was identified and approved as such on the floor plans submitted with the application for the short term rental accommodation licence.
- 2.11 Every owner of a short term rental accommodation is required to provide to the Town, the name and contact information of the owner, agent or responsible person who can be contacted by the Town and who can respond to any issue, emergency or contravention of any Town by-law within thirty (30) minutes of the initial contact by the Town and who can attend at the property and premises not later than sixty (60) minutes after the initial contact by the Town.
- 2.12 Issued licences, along with the legal description, civic address and associated owner, agent and responsible person contact information may be posted on the Town's website, at the sole discretion of the Town.
- 2.13 No person shall rent any short term rental accommodation unless the short term rental accommodation has a current and valid licence.
- 2.14 No person shall violate the provisions of the Renter's Code of Conduct.

- 2.15 Every owner, agent or responsible person must respond to the Town when contacted within thirty (30) minutes and must appear at the property within sixty (60) minutes of the initial contact by the Town.

3. Licensing Requirements

- 3.1 Every application for a new licence or the renewal of an existing licence shall include:
- 3.1.1 A completed application in the form required by the Town, which shall include the name, address, telephone number and email address for each owner, applicant, agent and responsible person.
 - 3.1.2 Proof of ownership of the property and premises.
 - 3.1.3 Proof that the owner, agent, applicant and responsible person is/are at least eighteen (18) year of age.
 - 3.1.4 Where any of the owner, agent, applicant or responsible person is/are a corporation, proof that the corporation is legally entitled to conduct business in the Province of Ontario and must provide an article of incorporation or other incorporating documents, duly certified by the proper government official or department of the Province of Ontario or Government of Canada.
 - 3.1.5 A written authorization permitting the applicant, agent or responsible person to act on behalf of the owner.
 - 3.1.6 A site plan and floor plan, drawn to scale and fully dimensioned of the property and premises including the location of all buildings and structures on the property, the use of each room, the location of smoke detection and early warning devices, the location of fire extinguishers, the location of all entrances/exits to and from the building, the location of all exterior decks that are appurtenant to the premises and related site amenities including dimensioned parking spaces and locations for garbage and recycling storage and disposal.
 - 3.1.7 Verification in the form required by the Town that the short term rental accommodation meets the requirements of all applicable law including but not being limited to the Ontario Building Code Act, Ontario Building Code, Fire Protection and Prevention Act, Fire Code, Electricity Act and the Electrical Safety Code. This includes compliance with septic system requirements, HVAC provisions and a properly functioning electrical system.
 - 3.1.8 Proof of insurance which includes a liability limit of no less than two (2) million dollars per occurrence.

- 3.1.8.1 Coverage shall include but not be limited to bodily injury, personal injury, property damage including loss of use thereof, contractual liability, non-owned automobile and contain a cross liability, severability of insured clause.
- 3.1.8.2 The Town shall be added as an additional insured.
- 3.1.8.3 The policy must identify that the property and premises are being operated as a short term rental accommodation business.
- 3.1.9 Written confirmation that the owner, agent or responsible person can be contacted by the Town and can respond to any issue, emergency or contravention of any Town by-law within thirty (30) minutes of the initial contact by the Town and can attend at the property and premises not later than sixty (60) minutes after the initial contact by the Town.
- 3.1.10 Payment of the applicable licensing fee.
- 3.2 A licence which has been issued pursuant to this by-law shall expire upon the earliest of the following:
 - 3.2.1 The date that is one (1) year after the date of the issuance of the license.
 - 3.2.2 Upon the date of sale or transfer of the property and premises.
 - 3.2.3 The date of suspension or revocation of the by-law by the Town.
- 3.3 A licence cannot be assigned or transferred from the licensee to any other person, party or corporation.
- 3.4 The licensee shall be responsible for informing the Town in writing of any changes to the information contained in the application or approved licence or any deviation from any approved plans within seven (7) days of such change or deviation. Nothing herein allows a licensee to rent the short term rental accommodation other than as identified and approved on the application and licence unless the Town has approved said change or deviation in a written format.
- 3.5 Upon determination by the licence issuer that information requirements and all regulatory and by-law requirements of the Town are met, a licence shall be issued and remain valid for a period of one (1) year unless suspended or revoked or unless the licence has been expired.
- 3.6 A licence may be considered for renewal if:

- 3.6.1 An application for renewal is received from the owner, subject to all provisions contained within this by-law and any other applicable law, as the case may be.
- 3.6.2 The licence was not previously suspended or revoked.
- 3.6.3 The licence had not previously expired.
- 3.6.4 No changes to the premises and/or property have occurred.
- 3.6.5 The property and/or premises is not the subject of an investigation under any applicable law including but not limited to criminal investigation and any investigations into environmental compliance, public health compliance, structural compliance, or any other proposed breach of any applicable law.

4. Inspection

- 4.1 An officer may at any reasonable time enter upon the property to inspect the property and premises where a licence has been issued under this by-law, to inspect for and determine compliance with this by-law or any other applicable law, as the case may be.
- 4.2 It is the responsibility of the owner or any person acting as an agent or responsible person to ensure that all inspections, permits and permissions as they relate to the property and premises have been undertaken to ensure that the property and premises are suitable to be operated and used as a short term rental accommodation.
- 4.3 It shall be hereby understood that any inspections, permits and permissions required shall be deemed to be considered to be at the expense of the owner, agent or responsible person.

5. Enforcement, Orders, Penalties and Collection

Enforcement

- 5.1 A By-Law Enforcement Officer shall be responsible for the enforcement of the provisions of this by-law.
- 5.2 No person shall obstruct or interfere with a By-Law Enforcement Officer during the performance of their duties under this by-law.
- 5.3 No person shall refuse to provide identification to an officer when requested.

Orders

- 5.4 Upon determination that a contravention of the provisions of this by-law has occurred, a By-Law Enforcement Officer may issue an order.
- 5.4.1 An order issued under this by-law shall set out:
- 5.4.1.1 The reasonable particulars of the contravention giving enough detail to identify the contravention and the location of the contravention.
 - 5.4.1.2 The work to be done or action to be taken to remedy the contravention.
 - 5.4.1.3 The date by which the work or action must be completed.
 - 5.4.1.4 The date by which the owner must make the property/premises available for inspection.
 - 5.4.1.5 The consequence for not complying with the order.
 - 5.4.1.6 Any administrative or other penalty or fee associated with the issuance of the order.
- 5.5 Every person shall comply with an order issued by an officer.
- 5.6 An order under this by-law may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force and effect.

Penalties

- 5.7 Every person, including a corporation who contravenes any provision of this by-law is guilty of an offence and all contraventions of the by-law are designated as continuing offences pursuant to Section 429 of the *Municipal Act*.
- 5.7.1 A minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000.
- 5.7.2 In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000.
- 5.8 Every person who violates a provision of this by-law is guilty of an offence and upon conviction is liable to the penalty provided in Section 61 of the *Provincial Offences Act R.S.O. 1990 Chapter 33* as amended from time to time.
- 5.9 Where a person has been convicted for an offence under this by-law by a court of competent jurisdiction, the court may in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition

of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.

- 5.10 Any violations of any Acts, regulations or other applicable law as it relates to the requirements under this by-law may also be addressed pursuant to the respective remedies set forth in said Acts, regulations or applicable law.
- 5.11 Every person guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine in accordance with the set fine schedule as it relates to the provisions of this by-law and as approved by the Ontario Court of Justice.
- 5.12 Any person who contravenes any provision of this by-law shall, upon issuance of an order pursuant to this by-law, be liable to pay to the Town an administrative penalty in the amount as established in the Town Fee By-Law, which may be amended from time to time.

Collection

- 5.13 Pursuant to Section 441 of the Municipal Act, if any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under Section 66 of the Provincial Offences Act, R.S.O 1990 Chapter 33 including any extension of time for payment ordered under that section, the licence issuer may give the person against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall not be less than twenty one (21) days after the date of the notice.
- 5.14 If the fine remains unpaid after the final date specified in the notice, the fine is deemed to be unpaid taxes pursuant to Section 351 of the Municipal Act and may be added to the owner's tax roll and be collected in the same manner as property taxes.

6. Issuance and Renewal of Licence, Grounds for Refusal, Suspension and Revocation

- 6.1 The licence issuer shall have the authority to issue, refuse to issue, renew, refuse to renew, revoke or suspend a licence or to impose terms and conditions on any licence.
- 6.2 The licence issuer may refuse to issue or renew a licence where:
 - 6.2.1 There are reasonable grounds to believe that the operation of the short term rental accommodation may be adverse to the public interest.
 - 6.2.2 A licence has been previously revoked, suspended or expired.

- 6.2.3 A person applying for a licence or renewal has presented a history of contravention of this by-law or other Town by-laws.
- 6.2.4 The Renter's Code of Conduct has been violated.
- 6.2.5 The current and/or proposed use of the premises and/or property is not in compliance with the Zoning By-Law.
- 6.2.6 The owner is indebted to the Town in respect of fines, penalties, judgements or any amounts owing, including awarding of legal costs, disbursements, outstanding property taxes and late payment charges (penalty and interest).
- 6.2.7 The property and premises to be used for the short term rental accommodation does not conform with applicable Federal and/or Provincial law and any regulations thereto.
- 6.2.8 The owner, agent or responsible person fails to respond to the Town when contacted within thirty (30) minutes and fails to appear at the property within sixty (60) minutes.
- 6.3 The licence issuer shall revoke a licence where three (3) or more orders/charges/fines/penalties are issued to the owner or to any renter.
 - 6.3.1 The order total will be a cumulative total for a period of two (2) years from the date of the first order.
- 6.4 The licence issuer may suspend a licence:
 - 6.4.1 When an order is issued for any contravention of this by-law and until compliance with the order is achieved.
 - 6.4.2 When it is believed that a contravention of the provisions of this by-law have occurred and an investigation into the allegations are to be undertaken.
 - 6.4.3 When requested by a government agency having authority.
 - 6.4.4 When it believed that to continue to permit the operation of the short term rental accommodation there would be risk to health and safety.
 - 6.4.5 When the owner, agent or responsible person fails to respond to the Town when contacted within thirty (30) minutes and fails to appear at the property within sixty (60) minutes.
 - 6.4.6 For any reason felt to be justified by the license issuer.

6.5 Where the licence issuer has denied an applicant a licence, a renewal of a licence, or has suspended or revoked a licence, the licence issuer shall inform the applicant by way of written notice, setting forth the grounds for the decision with reasonable particulars and shall advise of the right to appeal such decision to Council.

7. Appeal

7.1 A person may appeal to Council by submitting in a written format, the reasons for the appeal.

7.2 Every appeal must be served on the Town within fourteen (14) business days after service of the order or notice under this by-law.

7.2.1 Appeals received after fourteen (14) business days will not be considered and the decision of the By-Law Enforcement Officer and/or licence issuer will be considered to be final and binding.

7.3 All appeals must be accompanied by the required, non-refundable appeal fee, in such amount as set forth in the Town Fee By-Law, as may be amended from time to time.

7.4 The hearing of appeals will be conducted by Council in an open session. The date of the hearing of the appeal will be relayed to the appellant, giving reasonable notice of the hearing date.

7.5 After hearing from the appellant, the By-Law Enforcement Officer, the licence issuer and any other person deemed by Council to have relevant evidence, Council shall make a decision.

7.5.1 Council may consider any matter pertaining to this by-law or other matter that relates to general welfare, health and safety.

7.5.2 When making its decision, Council may accept the appeal, reject the appeal or partially accept or reject the appeal.

7.5.3 Council may also seek additional information before making a decision, however, must not delay making a decision for an extended or unreasonable period of time.

7.5.4 Council is not required to convene any special meeting to hear an appeal. The regular and usual Council meeting dates shall be considered to be appropriate.

7.5.5 Council in making its decision may impose any terms or conditions on a licence, in its sole discretion.

7.6 The decision of Council shall be final, binding and shall not be subject to review.

7.7 Where the decision of Council is:

7.7.1 To accept the appeal, without condition or alteration, the administrative fee/penalty charged when the order was issued will be reversed.

7.7.2 To deny the appeal in whole or in part or to place any terms and conditions on the licence, the administrative fee/penalty will be considered to be a debt to the Town and will be collected as is provided in Section 5 of this by-law.

8. Entry and Inspection

8.1 A By-Law Enforcement Officer may, at any time, enter onto a property or into a premises to determine whether the provisions of this by-law and any licence, order or notice issued hereunder are being complied with.

8.2 Every person shall permit the By-Law Enforcement Officer to inspect the property and premises and shall provide any document or things relevant to the inspection.

8.3 A By-Law Enforcement Officer may inspect and remove documents or things relevant to the investigation for the purpose of making copies or extracts and may require information from any person concerning a matter related to the inspection.

8.4 No person exercising a power of entry on behalf of the Town shall enter or remain in any room or place used as a dwelling unless permitted at law.

8.5 A By-Law Enforcement Officer exercising a power of entry under this by-law on behalf of the Town may be accompanied by any person, at their discretion.

9. Service of Documents

9.1 Service of any order or notice under this by-law shall be carried out by personal service or by registered mail or courier to the address of the owner shown on the application submitted to obtain a licence under this by-law.

9.2 Service by registered or regular mail or by courier will be considered to be sufficiently given on the fifth (5) day after the day of mailing or courier pick up.

10. Title

10.1 This by-law shall be known by its short title "The Short Term Rental Accommodation By-Law".

11. Severability and Inclusion

11.1 Should any provision contained herein be deemed to be invalid by a court of competent jurisdiction, said clause will be considered to be severed from the remainder of the by-law and the clause which is severed will not serve to invalidate any other provision or clause contained herein.

11.2 The singular in this by-law shall include the plural.

11.3 The masculine in this by-law shall include the feminine.

12. Schedules

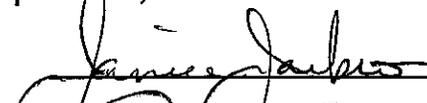
12.1 Any schedules which are attached to this by-law shall form a part of this by-law.

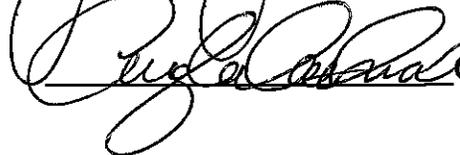
13. Force and Effect

13.1 This by-law shall come into full force and effect upon the final passing thereof.

13.2 Any by-law or part thereof which is inconsistent with this by-law is hereby rescinded and replaced with this by-law.

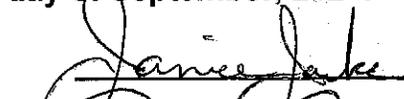
Read a first and second time this 21st day of September, 2021.

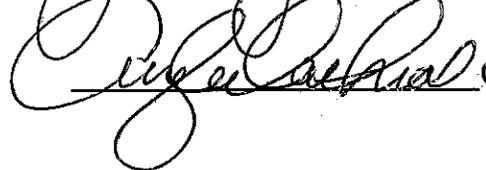


Mayor


Clerk

Read a third time and finally passed this 21st day of September, 2021.



Mayor


Clerk