

THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA

BY-LAW XX-2024

A By-Law to Licence, Regulate and Govern Short-Term Rental Accommodations

WHEREAS the Council of the Township of Greater Madawaska may, pursuant to the Municipal Act, 2001, 5.0. 2001, c.25. as amended, enact by-laws for the licensing, regulating, and governing of businesses and occupations in the Township of Greater Madawaska;

AND WHEREAS Section 8(1) of the Municipal Act, 2001, a municipality's powers under this 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;

AND WHEREAS Section 8(3) of the Municipal Act, 2001, a municipality may:

- a. regulate or prohibit respecting the matter;
- b. require persons to do things respecting the matter;
- c. provide for a system of licences respecting the matter;

AND WHEREAS Section 9 of the Municipal Act, 2001, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 11(2) paragraph 6 of the Municipal Act, 2001, a municipality may pass a By-law respecting the health, safety and well-being of persons;

AND WHEREAS Section 23.1 of the Municipal Act, 2001, a municipality may delegate its powers and duties;

AND WHEREAS Section 151 of the Municipal Act, 2001, a municipality may provide for a system of licences with respect to a business and may:

- a) prohibit the carrying on or engaging in the business without a licence;
- b) refuse to grant a licence or to revoke or suspend a licence;
- c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- d) impose special conditions on a business in a class that have not been imposed on all the businesses in that class in order to obtain, continue to hold or renew a licence;
- e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and
- f) licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it.

AND WHEREAS Section 391(1) of the Municipal Act, 2001, a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 429(1) of the Municipal Act, 2001, a municipality may establish a system of fines for a by-law passed under the Act;

AND WHEREAS Section 436(1) of the Municipal Act, 2001, a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

AND WHEREAS Section 444 of the Municipal Act, 2001, a municipality may make an order to require a person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS Section 434.1 (1) of the Municipal Act, 2001, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality;

AND WHEREAS the Council of the Corporation of the Township of Greater Madawaska deems it desirable that it enact this By-law to establish business licensing, regulation and governing for short-term rental accommodations as defined in this By-law.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA ENACTS AS FOLLOWS:

1. Definitions and Interpretation

1.01 Definitions

In this by-law,

“Administrative Penalty” means a financial penalty, authorized under section 434.1 (1) of the Municipal Act, 2001, issued to a Person, Owner, Agent, or Licensee who has contravened or failed to comply with any provision of this by-law.

“Applicant” means the Owner of the Premises where a Short-Term Rental Accommodation is located and the person applying for a Licence or renewal of a Licence under this By-law.

“Bed and Breakfast Establishment” means a single detached dwelling, semi-detached dwelling or townhouse dwelling, which is owned by and is the principal residence of the proprietor and which provides sleeping accommodation for the travelling public and may include the provision of breakfast, but a Bed and Breakfast Establishment shall not include a “Hotel/Motel” or “Inn”.

“Bedroom” means a room offered for Short-Term Rental Accommodation intended primarily for overnight occupation, which complies with the standards for a bedroom, as set forth by the Ontario Building Code Act, and/or a room with one or more beds, murphy beds, pullout beds, sofa beds, day beds, futons or similar places for sleeping, but shall exclude a kitchen, bathroom, foyer, lobby, closet, laundry room, utility room, pantry and balcony.

“Boat” means any vessel, container on water, or floating accommodation, regardless of whether or not it is docked, affixed to land, or can be driven.

“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.

“Council” means the Municipal Council for the Township;

“Dwelling Unit” means one or more rooms used, designed or intended for the domestic use of one or more individuals living as a single housekeeping unit, with living, sleeping and sanitary facilities, and kitchen facilities, having a private entrance from outside the building or from a common hallway or stairway inside or outside the building. For the purpose of this By-law, a Dwelling Unit does not include a tent, trailer, mobile home, vehicle, boat, room or suite of rooms in a boarding or rooming house, hotel, motel or motor home.

“Licence” means a licence issued as proof to operate a Short-Term Rental Accommodation issued pursuant to this by-law.

“Licensee” means the person to whom a Short-Term Rental Accommodation licence has been issued.

“Municipal Act” means the Municipal Act, 2001 S. O.2001 c.25 as amended from time to time.

“Officer/Licensing Officer” is a person duly appointed within the Township’s administration to enforce the Township’s by-laws. This includes the delegated authority to issue, administer, and approve licenses in accordance this By-law or their delegate.

“Owner” means the Person holding title to the Premises where the Short-Term Rental Accommodation is located, and "Ownership" has a corresponding meaning.

“Parking Area” means an area on the Premises provided for the parking of motor vehicles. It may include aisles, parking spaces, pedestrian walkways, and related ingress and egress lanes, but it shall not include any part of a public street or private road.

“Person” means any individual, director, partnership, group or association, organization, company, corporation or cooperative which is an Owner of Premises, the Owner of Premises, any occupant of the Premises in question with authority to act on behalf of the Owner, any person authorized by the Owner to act on his or her behalf, or any lessee or

“Premises” means the property upon which one or more Short-Term Rental Accommodations are operated, inclusive of buildings or structures or any part thereof used for such purpose.

“Renter” means a person that uses the Short-Term Rental Accommodation for overnight lodging but shall not include daily guests to the Premises.

“Responsible Person” means an Owner or a Person responsible for ensuring the Short-Term Rental Accommodation is operated in accordance with the provisions of this By-law, the Licence, and applicable laws.

“Short-Term Rental Accommodation, Short-Term Accommodation (STA)” means a dwelling unit or any part thereof that operates or offers a place of temporary residence, lodging or occupancy, by way of concession, permit, lease, Licence, rental agreement or similar commercial arrangement for any period less than a month, throughout all or any part of a calendar year. Short-term rental accommodation uses shall include bed and breakfast establishments and shall not include hotels, trailer parks, campgrounds, lodging houses, hospitals, or similar residential or commercial uses.

“Accessory Structure” means a detached building or structure, the use of which is naturally and normally incidental to, subordinate to, or exclusively devoted to the principal use of the main building on the same lot.

“Township”, “Township of Greater Madawaska” or “Greater Madawaska” means The Corporation of the Township of Greater Madawaska and includes its entire geographic area;

“Zoning” means the applicable Township of Greater Madawaska zoning by-law for the area in which the Short-Term Rental Accommodation is located.

1.02 Interpretation Rules:

- (a) The Schedules attached to this by-law form part of the by-law and are enforceable as such.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- (c) Wherever this by-law refers to a person or thing with reference to gender or gender neutral, the intention is to read the by-law with the gender applicable to the circumstances.

(d) Words shall be read as being plural as the context requires.

1.03 Statutes:

References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

2. Short-Term Rental Accommodation Prohibitions

- 2.01 No Person shall operate, advertise, permit the advertisement of, or permit the use of a Short-Term Rental Accommodation unless the Person holds a current Short-Term Rental Accommodation licence issued pursuant to this By-law.
- 2.02 No Person shall permit the use of a Short-Term Rental Accommodation in breach of a licence issued under this By-law or in contravention of any term or condition of a licence issued under this By-law.
- 2.03 The maximum number of persons permitted to occupy a Short-Term Rental Accommodation shall be restricted to two (2) persons over the age of two (2) per approved bedroom, in accordance with Ontario Building Code Provision 9.9.1.3.
- 2.04 No Short-Term Rental Accommodation shall contain more than six (6) bedrooms or accommodate more than 12 occupants (persons).
- 2.05 No Person shall rent any room other than a Bedroom that was identified and approved as such on the floor plans submitted with the application for the Short-Term Rental Accommodation licence.

3. Licensing Requirements

- 3.01 A licence that has been issued pursuant to this By-law shall expire upon the earliest of the following events:
- a) December 31st of the year issued;
 - b) Upon the sale or transfer of the Premises. For clarity, a licence cannot be assigned or transferred to another Person; or
 - c) The licence has been revoked in accordance with the provisions of this By-law.
- 3.02 Only one licence per Premises shall be permitted.
- 3.03 A licence may only be issued to the Owner of the Premises. For greater certainty, where a Short-Term Rental Accommodation consists of a room or rooms within a dwelling unit, the Owner of the dwelling unit is deemed to be the owner of the Short-Term Rental Accommodation. No licence shall be issued to a Person or Tenant renting a room or rooms within a dwelling unit on a long-term basis.
- 3.04 Every application for a new licence, or the renewal of an existing licence, shall include:
- a. A completed application in the form required by the Township of Greater Madawaska, which shall include each Owner's name, address, telephone number, and email address;
 - b. Proof of Ownership for the premises;
 - c. Responsible Person Consent Form;
 - d. Drinking Water Test confirmation that the Premise has drinking water that is potable;
 - e. Septic Records within the last 3 years;
 - f. WETT Certificate, required if there are wood-burning appliances within the proposed rental;

- g. A site plan drawn to scale and fully dimensioned of the premises identifying:
 - i. the location of all Buildings and structures on the Premises;
 - ii. the location of septic and wells;
 - iii. the exterior decks and related site amenities, including dimensioned parking spaces and other Buildings or structures on the Premises;
- h. A floor plan drawn to scale and fully dimensioned of the premises identifying:
 - i. each room and its intended use;
 - ii. the location of smoke and carbon monoxide alarms, and early warning devices;
 - iii. the location of fire extinguishers;
 - iv. the location of all gas and electric appliances;
 - v. the location of all fireplaces and fuel-burning appliances;
 - vi. all entrances/exits to and from all buildings.
- i. a certificate of insurance which includes a liability limit of no less than two million dollars (\$2,000,000.00) per occurrence for property damage or bodily injury;
- j. The name and contact information of the Responsible Person who can be readily contacted within sixty (60) minutes and respond to an emergency or contravention of any Township of Greater Madawaska by-law;
- k. a statutory declaration signed by the Owner stating that each and every Owner agrees to abide by and adhere to all relevant by-laws, rules and regulations and to any applicable federal or provincial legislation or regulation; and
- l. a signed indemnification agreement that the STA Operator at all times indemnify and save harmless the Corporation of the Township of Greater Madawaska, its employees and Members of Council from and against any and all manner of claims, demands, losses, actions and other proceedings whatsoever made or brought against, suffered by, or imposed on the Township in respect of any loss, damage or injury to any person or property, which are occasioned by or attributable to the issuance of this license or operation of the business.

3.05 Every Person named as a Licensee shall be responsible for informing the Township of Greater Madawaska, in writing, of any changes to the information contained within the application or any deviation to the approved plans within seven (7) days of such change or deviation.

4. Inspection

4.01 Every Person named in a licence for a Short-Term rental Accommodation shall comply with the following, where applicable:

- a. the provisions of this By-law;
- b. the Ontario Building Code Act, 1992, S.O. 1992 c.23; including Sewage System;
- c. the Ontario Fire Protection and Prevention Act, 1997, S.O. 1997, c.4;
- d. the Zoning By-law; and
- e. any other municipal by-laws or provincial legislation that may affect the safety and well-being of persons occupying the Short-Term Rental Accommodation.

4.02 During the application and inspection process, all relevant departments of the Township of Greater Madawaska may be circulated and provided comments on any known matters that would assist with determining licence eligibility.

4.03 Every application for a Licence shall include the consent of the Owner to allow the Township to inspect the Premises regardless of the fact that the Premises may be used as or occupied as a dwelling unit. Failure to consent to an inspection shall result in a refusal of the Licence.

5. Issuance of Licence and Grounds for Refusal

5.01 The Licensing Officer shall have the authority to issue, refuse to issue or renew a licence, to revoke or suspend a licence, or to impose terms and conditions on a licence.

- 5.02 The Licensing Officer may refuse to issue or renew a licence where:
- a. there are reasonable grounds to believe that the operation of the Short-Term Rental Accommodation may be adverse to the public interest;
 - b. an Applicant has had a Licence previously revoked, suspended, or made subject to terms and conditions;
 - c. an Applicant has a history of contravention of this By-law;
 - d. the proposed use of the Premises is not permitted by the Zoning By-law;
 - e. the Applicant is indebted to the Township in respect of fines, penalties, judgements, or any other amounts owing, including awarding of legal costs, disbursements, outstanding property taxes and late payment charges; or
 - f. the Premises do not conform to applicable federal and provincial law and regulations or municipal by-laws, including, but not limited to, the Zoning By-law, Property Standards By-law, Building Code Act, Fire Protection and Prevention Act, and Electricity Act.
- 5.03 The Licensing Officer, if satisfied that the continuation of a licence poses a danger to the health or safety of any person, may suspend a licence for not more than 14 days. If, after this period, the Licensing Officer is satisfied that the continuation of a licence will continue to pose a danger to the health or safety of any person, the Licensing Officer may suspend a licence for further terms of not more than 14 days or may revoke the licence.
- 5.04 The Licence Officer may revoke a licence if it was issued in error or granted based on incorrect or false information.
- 5.05 The Licence Officer may revoke a Licence where the Owner or Licensee have engaged in criminal activity associated with the Premises; or for unpaid fees or penalties, serious incidents impacting public health and safety, and egregious or repeated public nuisances

6. Ground for Appeal

- 6.01 Where the Licensing Officer has denied an Applicant a licence, a renewal of a licence, or has suspended or revoked a licence, the Licensing Officer shall inform the Applicant or Licensee 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.
- 6.02 A request for an appeal must be made within 15 business days of service of the written notice. An appeal shall be submitted in writing to the Township Clerk, setting forth the reasons for the appeal.
- 6.03 Where no request for an appeal is received in accordance with Section 6.02, the Licensing Officer's decision is final and binding.
- 6.04 Where a request for an appeal is received, the request will be added to the agenda of the next available Council meeting, and the Licensee shall be provided reasonable written notice thereof.
- 6.05 If the Licensee fails to appear at the appointed time for their request to appeal, the Licensing Officer's decision is final and binding.
- 6.06 After such an opportunity to be heard is afforded, Council shall make a decision. When making its decision, the Council may consider any matter pertaining to this By-law, or other matter that relates to the health, safety, and well-being of the public. When making its decision, Council may refuse to issue or renew a licence, or revoke, suspend,

or impose any condition to a licence. Council's decision is final and binding and shall not be subject to review.

7. Orders

- 7.01 If the Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an order requiring the Renter, or Person who contravened this By-law, or Person who caused or permitted the contravention, or the Licensee to take actions to correct the contravention.
- 7.02 The order shall set out:
- a. reasonable particulars of the contravention to adequately identify the contravention and the location of the contravention; and
 - b. the work to be done and the date by which the work must be done, if any.
- 7.03 An order may be served personally upon the Person to whom it is directed to or sent by regular mail to the address shown on the last revised assessment roll or to the last known address.
- 7.04 An order under Section 7.01 may require action even though the facts constituting the contravention of this By-law were present before this By-law came into force.
- 7.05 No Person shall fail to comply with an order issued pursuant to the By-law.
- 7.06 In the event the Officer is unable to serve any order under the provisions of this By-law, the order shall be posted in a conspicuous place on the Premises, and the posting of the order shall be deemed to be sufficient service of the order on the Renter or Licensee/Owner.
- 7.07 Where the Person to whom an order is issued fails to comply, the Township may enter upon the Premises and undertake the work required by the order. Where the Township undertakes any work on any Premises to comply with an order the work shall be done as an agent for the Owner and the Owner shall reimburse the Township for all costs incurred.
- 7.08 Any owner who fails to reimburse the costs of the Township incurred pursuant to section 7.07 within thirty (30) days of receiving a request for payment shall be in breach of this By-law. The Township may collect any unpaid amounts as a debt owed to the Township, including without limitation adding any unpaid amounts to the tax roll of the Premises and collecting said amounts in the same manner as property taxes.
- 7.09 The issuance of an order shall not prevent the Township of Greater Madawaska from taking legal action against a Renter, Person or Licensee/Owner for violation of Township of Greater Madawaska By-Laws.

8. Entry and Inspection

- 8.01 An Officer, Fire Prevention Officer or Building Inspector may, for the purpose of carrying out an inspection, enter onto any land to determine whether this By-law is being complied with.
- 8.02 Every Person shall permit the Officer, Fire Prevention Officer or Building Inspector to inspect any part of the Premises for the purposes of determining compliance with this By-law.
- 8.03 Subject to Section 4.03, and notwithstanding any provision of this By-law, the Officer or Building Inspector shall not enter or remain in any room or place actually being used as a Dwelling Unit unless:

- a. the consent of the occupier is obtained after the occupier has been informed that the right of entry may be refused and, if refused, entry may only be made under the authority of a warrant issued under the Provincial Offences Act, R.S.O.1990, c.P.33, as amended; or
- b. a warrant is issued under the Provincial Offences Act, R.S.O.1990, c. P.33, as amended, is obtained.

8.04 A Fire Prevention Officer may, without a warrant, enter and inspect land and premises for the purpose of assessing fire safety pursuant to section 19(2) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended.

9. Fees

9.01 An Applicant shall provide payment of the applicable Fee as noted in the Township of Greater Madawaska User Fees and Charges By-law.

9.02 The fee charged at the time of application is a processing/licensing fee, which will not be refunded should the application be approved or denied.

10. Offences/Administrative Penalties

10.1 An Officer who finds that a person has contravened any provision of this By-law may issue a Penalty Notice to the person.

10.2 Any person who has been issued a Penalty Notice shall, upon issuance of the Penalty Notice, be liable to pay an administrative penalty to the Township in the amount of \$300.

10.3 Where the same Person has contravened this By-law for a second time within twenty-four (24) months of the date they received a Penalty Notice upon issuance of a second Penalty Notice the person is liable to pay an administrative penalty to the Township in the amount of \$400.

10.4 If an Officer has issued a penalty notice under subsection 10.2 of this Bylaw and the same Person has contravened the same provision of this By-law for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.

10.5 Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay the Township an administrative penalty of \$500.

10.6 No Penalty Notice shall be issued where the Person has been charged under the Provincial Offences Act for the same incident.

10.7 Licenses may be revoked for criminal activity, unpaid fees or penalties, serious incidents impacting public health and safety, and egregious or repeated public nuisances.

11. Collection of Unpaid Administrative Penalties

Pursuant to Section 441 of the Municipal Act, if any part of an administrative penalty for a contravention of this by-law remains unpaid after the penalty becomes due and payable under Section 66 of the Provincial Offences Act, R.S.O. 1990, c P.33, including any extension of time for payment ordered under that section, the Licensing Officer may give the Person against whom the fine was imposed a written notice specifying the amount of the penalty payable and the final date on which it is payable, which shall be not less than 21 days after the date of the notice. If the penalty 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 collected in the same manner as Property Taxes.

12. Severability

If any court of competent jurisdiction declares any section or part of this By-law to be invalid, such section or part of a section thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such and the remainder of this By-law shall be valid and shall remain in force.

13. Schedules

The schedules attached to this by-law form part of this by-law.

14. Effective Date

This By-law shall come into force on the date it is finally passed.

READ a first and second time this XX of XX, 2024.

READ a third time and passed this XX of XX, 2024.

Rob Weir
Mayor

Robin Emon
Clerk

Schedule 'A'

Short-Term Rental Accommodation License Application Checklist

- Proof of Ownership
- Responsible Person Consent Form
- Proof of Insurance
- Drinking Water Test
- Septic Record within the past 3 years (if applicable)
- WETT Certificate (if applicable)
- Site plan (may be hand drawn)
- Floor plan (may be hand drawn)
- Signed Declaration
- Signed Indemnification Agreement

*Please note that you will be required to have all these of the forms completed before starting the online application.