

# THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

## BY-LAW 29 OF 2022

### BEING A BY-LAW TO REGISTER SHORT-TERM RENTALS

**WHEREAS** subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c. 25 (“*Municipal Act*”) provides that a municipal power shall be exercised by by-law;

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

**AND WHEREAS** pursuant to section 11 of the *Municipal Act*, Council is exercising its authority in the interest of health and safety, well-being of persons, consumer protection, and nuisance control;

**AND WHEREAS** the Council for the Corporation of the Municipality of Lambton Shores has deemed it necessary and desirable to require the registration of Short-Term Rentals in the Municipality of Lambton Shores;

**THEREFORE** the Council of the Corporation of the Municipality of Lambton Shores enacts as follows:

#### 1.0 DEFINITIONS

“Agent” means a person duly appointed by the Owner to act on their behalf;

“Applicant” means the person applying to register the building or structure as a Short-Term Rental under this by-law;

“Bed and Breakfast Establishment” means the provision of Lodging Units within a dwelling with or without meals for the temporary lodging of the travelling public;

“Business” means any business wholly or partly carried on within the Municipality even if the business is being carried on from a location outside the Municipality, and includes trades and occupations, exhibitions, concerts, festivals and organized public amusements; the sale or hire of goods or services on an intermittent or one-time basis; and the display of samples, patterns or specimens of goods for the purpose of sale or hire;

“Council” means the Council for The Corporation of the Municipality of Lambton Shores;

“Director” means the Chief Administrative Officer of the Municipality, the Director of Corporate Services, or designate;

“Dwelling” means a place of residence with one or more Habitable Rooms containing or providing access to a separate kitchen and bathroom facilities for private use as a single housekeeping unit on the same property as the Short-Term Rental;

“Habitable Room” means a room designed to provide living, dining, sleeping, bathroom or kitchen accommodation for Persons. This definition shall not include any private garage, carport, cellar, unheated porch or veranda, unfinished attic, unfinished basement, or any space used for the service and maintenance of a Dwelling or for vertical travel between storeys.

“Market” means to offer for rent, promote, canvass, solicit, advertise, or facilitate a Short-Term Rental, but does not include the mere provision of a neutral space or location for such marketing in newspapers, bulletin boards, or online;

“Municipality” means The Corporation of the Municipality of Lambton Shores, and “Municipal” has a corresponding meaning;

“Officer” means any person authorized by the Municipality to enforce by-laws and includes a Municipal Law Enforcement Officer appointed to enforce the by-laws of the Municipality or a police officer while in the course of his or her duties;

“Owner” means a person (or persons) on title as the owner(s) of a building or parcel of land identified on the parcel register from the Land Registry Office;

“Owner-occupied Short-Term Rental” means a Short-Term Rental being offered in a primary Dwelling where the Owner or Tenant is permanently residing, or a single legal accessory Dwelling on the same property as a primary Dwelling where the owner or Tenant is permanently residing, and includes a Bed and Breakfast Establishment;

“Person” includes an individual, a corporation, a partnership, and an association, and without limiting the generality of the foregoing, includes an Owner, Tenant, or an Applicant seeking to register a Short-Term Rental under this by-law, as the context requires;

“Premises” means any place, premises or location, or part thereof, in which a trade, Business or occupation of Short-Term Rental is carried on;

“Registration” means a licence issued pursuant to this by-law;

“Short-Term Rental” means all or part of a legally established Dwelling that operates or offers a place of temporary residence, lodging or occupancy by way of a rental agreement or similar commercial transaction for a period of less than thirty (30) consecutive nights throughout all or any part of a calendar year, but does not include an Owner-occupied Short-Term Rental, motel, hotel, hospital, campground, couch surfing or other short-term accommodations where there is no payment;

“Tenant” means the Person responsible for and in possession of the Premises under a long-term lease.

## **2.0 PROHIBITIONS**

- 2.1 No Person shall operate or permit a Person to operate a Short-Term Rental:
- (a) without having registered the Short-Term Rental and obtained a Short-Term Rental Registration under this by-law;
  - (b) under any other name than the one endorsed on their Short-Term Rental Registration;
  - (c) except in accordance with this by-law and the regulations set out in this by-law; and/or
  - (d) while the Short-Term Rental Registration has been suspended or revoked under the provisions of this by-law
- 2.2 No Person shall Market, operate, or provide a Short-Term Rental in:
- (a) any structure other than a Habitable Room
  - (b) a motor vehicle or trailer;
  - (c) an unlawful residential unit;
  - (d) community housing;
  - (e) a docked boat;
  - (f) a building or unit where Short-Term Rentals have been prohibited under this section of the by-law;
  - (g) in a Dwelling that has not been registered through this by-law.
- 2.3 No Person shall:
- (a) transfer or assign a Short-Term Rental Registration
  - (b) provide mistaken, false or incorrect information; or
  - (c) obstruct or permit the obstruction of an inspection pursuant to this by-law.

## **3.0 ADMINISTRATION**

- 3.1 The administration of this by-law is assigned to the Director who shall generally perform all of the administrative functions conferred upon them by this by-law, and without limitation may:
- (a) receive and process all registrations for Short-Term Rental Registrations under this by-law;
  - (b) enforce the provisions of this by-law

## **4.0 REGISTRATION REQUIREMENTS**

- 4.1 Every application for a Short-Term Rental Registration shall be made to the Director on the forms provided by the Director. Without limitation, every application for a Short-Term Rental Registration shall include the following information:
- (a) A completed application form that will include each Owner, Applicant and/or Agent's name, municipal address of the Short-Term Rental, telephone number, and email address;

- (b) Proof that the Applicant is at least eighteen (18) years of age, if the Applicant is an individual;
- (c) In the instance of an Applicant or Agent acting on behalf of the Owner, an Owner's written authorization permitting the Applicant or Agent to act on their behalf.
- (d) If a Tenant, the consent of the Owner of the property.
- (e) A photograph of the front of the Short-Term Rental.
- (f) A sworn declaration by the Owner, and if there is a Tenant, by the Owner and the Tenant, that:
  - (i) The Short-Term Rental is not subject to an order made pursuant to the *Building Code Act, 1992*, and any regulation made under it, including the Building Code;
  - (ii) The Short-Term Rental contains functioning smoke alarms, carbon monoxide alarms, fire extinguishers, and exits;
  - (iii) The information submitted is accurate, truthful, and complete.

4.2 Every Applicant, Owner, Tenant, and Agent shall at all times:

- (a) Comply with the regulations contained in this by-law;
- (b) Notify the Director in writing within 10 days of any changes to the information provided pursuant to section 4.1 of this by-law.

## **5.0 GENERAL REGULATIONS**

5.1 Every Person operating a Short-Term Rental shall:

- (a) maintain the Short-Term Rental in a clean and sanitary condition, with adequate measures for the storage and disposal of garbage and waste and sufficient levels of illumination to permit the safe use of the Short-Term Rental. For the purposes of this subsection, adequate measures of the storage and disposal of waste shall mean a self-enclosed building, structure or container, located outside of the Short-Term Rental, which is of a sufficient size that will store the garbage and waste generated by the Premises until such garbage and waste is disposed of; and
- (b) ensure that the Short-Term Rental is operated and used in such a fashion that the operation or use will not cause a breach or contravention of any current municipal by-law.

## **6.0 REFUSAL AND REVOCATION**

6.1 The Director shall register the Short-Term Rental and issue a Short-Term Rental Registration when the requirements of this by-law are met.

6.2 The Director may refuse to register any Short-Term Rental and issue a Short-Term Rental Registration which does not meet the requirements set out in this By-Law.

- 6.3 The Director may revoke any Short-Term Rental Registration which, at any time after registration, ceases to meet the requirement set out in this by-law.
- 6.4 A Short-Term Rental Registration issued under this by-law shall expire on January 31, 2023 unless it is revoked in accordance with the provisions of this by-law.

## **7.0 NOTICE AND APPEAL**

- 7.1 Where the Director refuses to register, refuses to issue, or revokes the Short-Term Rental Registration, the Director shall notify the Owner, and where there is a Tenant, the Owner and the Tenant of such refusal or revocation, and provide a brief explanation of the reason for the refusal or revocation. Notice may be sent by regular mail to the address of the building or structure, or the address of the Owner of the building or structure.
- 7.2 Where the Director refuses to register, refuses to issue, or revokes the Short-Term Rental Registration, the Applicant, Owner and/or a Tenant may appeal the decision to Council by filing with the Clerk an appeal in writing of the said decision within fifteen (15) days of the date of mailing of the decision of the Director.
- 7.3 Where an appeal is received, the Clerk shall fix a date and time for such matter to be considered by Council and shall mail a Notice of Hearing to the Applicant, Owner, or Tenant, as applicable, and to any Person who has applied to be heard with regard to the matter.
- 7.4 Such Notice of Hearing shall be mailed at least fifteen (15) days prior to the date and time fixed for such hearing.
- 7.5 At such hearing Council shall receive a report, either verbally, or in writing, from the Director and from such other officers or employees of the Municipality who may be involved in the matter being considered by Council.
- 7.6 At the hearing before Council, the Applicant, Owner, and/or Tenant, as applicable, either personally or through his agent or solicitor shall be afforded the opportunity to present such material and evidence relevant to the issue before Council as he may deem appropriate and he/she may ask questions of any person presenting evidence or a report to Council relevant to the said issues.
- 7.7 For the purpose of this by-law, a quorum of Council shall be a majority of the members of Council, and a decision by the majority of members present shall be the decision of Council.
- 7.8 Council may, after having heard all of the evidence and submissions made to it by the Applicant, Owner, and/or Tenant, as applicable, and the Director, debate the matter and reach its decision.

- 7.9 Council may, after the appropriate hearing is conducted:
- (a) direct the registration of the Short-Term Rental and the issuance of a Short-Term Rental Registration;
  - (b) confirm the decision of the Director to refuse the registration as a Short-Term Rental and the issuance of a Short-Term Rental Registration;
  - (c) confirm the decision of the Director to revoke the Short-Term Rental Registration;
  - (d) and the decision of Council shall be final and binding.

## **8.0 ORDER**

- 8.1 Where the Director has reasonable grounds to believe that a contravention of this by-law has occurred, the Director may serve an order on the Owner and/or Tenant setting out the reasonable particulars of the contravention and directing:
- (a) compliance within a specified timeframe;
  - (b) any work that is required to be done, and in default of such work being done, the work may be done at the Owner and/or Tenant's expense and the Municipality may recover the expense in the same manner as municipal taxes; or
  - (c) the activity be discontinued.
- 8.2 Any Person who contravenes an order under this by-law is guilty of an offence.
- 8.3 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.

## **9.0 INSPECTION**

- 9.1 The Director or an Officer may, at any reasonable time inspect:
- (a) any premises, vehicle, or place where a business which is subject to this by-law is carried on or where there are reasonable or probable grounds to believe a business is carried on;
  - (b) any goods, equipment, books, records or documents used or to be used by the Owner, Tenant, or Applicant under this by-law.
- 9.2 It shall be an offence to obstruct or permit the obstruction of such inspection.

## **10.0 OFFENCE AND PENALTY PROVISIONS**

- 10.1 Every Person who contravenes any of the provisions of this by-law, and every director of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction liable to a fine not exceeding \$25,000 for a first offence and \$50,000 for any subsequent offence.

10.2 Where a corporation is convicted of an offence under this by-law, the maximum penalty is \$50,000 for a first offence and \$100,000 for any subsequent offence.

**11.0 REFERENCES**

11.1 References in this by-law to any legislation or by-law means as may be amended or replaced from time to time and include any regulations thereunder.

**12.0 SEVERABILITY**

12.1 In the event any provisions of this by-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

**13.0 SHORT TITLE**

13.1 This by-law shall be known as the “Short-Term Rental Registration By-Law”.

**14.0 EFFECTIVE DATE**

14.1 This by-law comes into effect on the date of passing.

**BYLAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED** this 26<sup>th</sup> day of April, 2022.

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Mayor

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Clerk