



**The Corporation of the City of St. Catharines  
CITY COUNCIL AGENDA  
Regular, Monday, May 10, 2021  
Electronic Participation, 6:00 PM**

As part of the City's commitment to safety during the COVID-19 pandemic, this meeting of Council will be held electronically.

This Meeting may be viewed online at [www.stcatharines.ca/youtube](http://www.stcatharines.ca/youtube)

*Public Comments: The public may submit comments regarding agenda matters to the Office of the City Clerk by contacting [clerks@stcatharines.ca](mailto:clerks@stcatharines.ca) by Monday, May 10, 2021 before Noon. Comments submitted will be considered as public information and entered into public record.*

*Electronic Delegations: Those wishing to speak to an item on the agenda must complete the [City's Electronic Delegation Form](#) by Sunday, May 9, 2021 before 11:59 p.m. and attend a test session with City staff on Monday, May 10, 2021 at 10 a.m.*

*His Worship Mayor Walter Sendzik takes the Chair and opens the meeting*

- 1. Mayor's Report**
- 2. Adoption of the Agendas**
- 3. Declarations of Interest**
- 4. Adoption of the Minutes (Council and General Committee)**
  - 4.1 Regular Council, Minutes of [April 26, 2021](#)  
[Addenda]
  - 4.2 General Committee, Minutes of [April 26, 2021](#)  
[Addenda]
- 5. Resolve into General Committee**

*Council will proceed to General Committee Agenda Item 1 - Motion to Move Reports on Consent*

Page

**6. Public Meetings Pursuant to Planning Act and Public Notice By-Law**

- 8 - 69      6.1      Planning and Building Services, Planning Services  
                                Short-term Rental Licensing By-law and Non-Traffic Administrative  
                                Monetary Penalty System  
                                [Addenda]
- 70 - 78      6.2      Financial Management Services, Property Management  
                                Stop Up and Close St. Joseph Street and Declare Surplus part of St.  
                                Joseph Street, Realty File No. 20.013

**7. Special Presentations**

**8. Resolve into General Committee**

*Council will proceed to General Committee Agenda Item 3 - Discussion Reports*

**9. Motion to Ratify Forthwith Recommendations**

**10. Motions**

**10.1 Dragan Brewing and Wine Company - “By the Glass” Manufacturer’s Limited Liquor Sales Licence**

*Councillor Townsend will present the following motion:*

WHEREAS the Alcohol and Gaming Commission of Ontario (AGCO) requires a municipal resolution supporting the issuance of a license to a manufacturer to sell and serve their beer, wine and spirits for consumption at its manufacturing site; and

WHEREAS Dragan Brewing and Wine Company has applied to the AGCO for a “By the Glass” Manufacturer’s Limited Liquor Sales Licence;

THEREFORE BE IT RESOLVED that the City of St. Catharines supports the issuance of a “By the Glass” Manufacturer’s Limited Liquor Sales Licence to Dragan Brewing and Wine Company, located at 100 Grantham Avenue South, Unit 1, St. Catharines.

[Addenda]

**10.2 NPCA 2 Billion Trees RFI Submission Information Package**

*Councillor Williamson will present the following motion:*

WHEREAS the federal government has announced the “Growing Canada’s Forests” program as part of its 2 Billion Trees initiative, making substantial matching funding available to support reforestation efforts across the country; and

WHEREAS this is a timely opportunity to attract federal investment towards implementing nature-based climate solutions in our communities through a strong and coordinated multi-partner approach across the Niagara Peninsula watershed; and

WHEREAS the Niagara Peninsula Conservation Authority (NPCA) is convening partners and collaborators towards a 10-year planning program for a Request for Information submission in application to Growing Canada's Forest Funding Program due May 27, 2021; and

WHEREAS the NPCA has a well-established track record of reforestation with private and public landowners, non-governmental organizations, nature clubs, academic institutions and community groups, has the scientific know-how to identify land and tree species with the biggest ecological and climate benefits, and has partnerships in place to mobilize volunteers to plant and monitor trees; and

WHEREAS the proposed opportunity aligns with the City's environmental sustainability objectives and has the potential to provide multiscale benefits;

THEREFORE BE IT RESOLVED that Council endorse the NPCA's Request for Information submission in application to Growing Canada's Forests 2 Billion Trees initiative; and

BE IT FURTHER RESOLVED that staff be requested to continue to collaborate with the NPCA and other partners in identifying planting opportunities and programs aligned with the City's priorities to be included in the full funding application should the Request for Information submission as an expression of interest be successful.

[Addenda]

79 - 92

10.3 **Endorsement of the Ontario Tennis Association's Safe Return to Tennis Blueprint**

*Councillor Littleton will present the following motion:*

WHEREAS the provincial COVID-19 restrictions under Lockdown and Red-Restrict have caused numerous sports, including tennis, and recreational activities to be cancelled and or restricted; and

WHEREAS some sports organizations have discovered that the Province's vague colour-coded guidelines has resulted in municipalities often interpreting the guidelines in different ways; and

WHEREAS some sports organizations, such as the Ontario Tennis Association, which represents 250 member clubs across the province, have been grateful for the opportunity to play in 2020, even in a limited capacity, the result of some municipalities' interpretations to the guidelines sometimes led to hardship for players, clubs and their employees, and will continue to do so, should the rules not be revised; and

WHEREAS tennis is a sport that is by its nature a socially distanced sport that can be played outside on city courts; and

WHEREAS understanding that the reopening of tennis facilities are subject to when the provincially-mandated closures are lifted; and

WHEREAS the reopening of tennis facilities is subject to the lifting of the provincially-mandated closures;

THEREFORE BE IT RESOLVED that the City of St. Catharines endorse the Ontario Tennis Association's Safe Return to Tennis Blueprint (attached as appendix 1) to facilitate the re-opening of tennis facilities; and

BE IT FURTHER RESOLVED that notice of Council's decision be sent to the Ontario Tennis Association.

[Addenda]

10.4 **Vaccine Appointments for Essential Workers**

*Councillor Porter will present the following motion:*

WHEREAS some essential workers, including those who work in grocery stores, and some front line Municipal Workers, including Transit Workers who are responsible for moving our country's front line health care workers, grocery store clerks and many other essential workers, have responsibilities that put them in daily contact with the general public;

THEREFORE BE IT RESOLVED that the City of St. Catharines ask that Niagara Region Public Health provide assurances that these at-risk workers will be prioritized for timely vaccine appointments.

[Addenda]

**10.5 Unresolved Amendments presented by Councillor Dodge at the Council Meeting of April 26, 2021**

*Councillor Dodge will present the following motion:*

WHEREAS at the Council Meeting of April 26, 2021, Councillor Dodge introduced amendments as part of Council Agenda Item 6.1 ("City of St. Catharines Beaches Strategy and Amendments to Parking By-law, Associated Administrative Monetary Penalty (AMPS) and Rates and Fees"); and

WHEREAS the amendments from Councillor Dodge were put on the floor as part of the discussion for General Committee Agenda Item 3.1 ("COVID-19 Update Report - April 26, 2021"); and

WHEREAS the amendments from Councillor Dodge were deferred to a future meeting of Council with Councillor Dodge asked to meet with staff prior to the amendments being brought back to Council; and

WHEREAS Councillor Dodge has met with City staff regarding the amendments; and

WHEREAS the amendments that were deferred must be brought back to City Council for discussion;

THEREFORE BE IT RESOLVED that the following amendments from Councillor Dodge, initially brought forward at the April 26, 2021 meeting of Council, now be considered by the members of Council:

1. That staff incorporate a virtual public engagement session for Sunset and Lakeside Park Beaches, before the 2022 Beach Season, to gather feedback from residents on the City's beaches Strategy moving forward.
2. That staff continue to communicate and work with Niagara Regional Police Services (NRPS) for an increased police presence at City beaches.
3. That Council request St. Catharines Transit Commission examine and report back on free transit through the city, including routes to Sunset and Lakeside Park Beaches, for the months of June, July and August of 2021 and the financial impact.
4. That Council consider, at the appropriate time, restricting the use of Sunset and Lakeside Park Beach to Niagara residents only, if necessary.

[Addenda]

**11. Call for Notices of Motion**

## 12. Report Requests

## 13. Agencies, Boards, Committee Reports

### 13.1 Minutes to Receive:

- Anti-Racism Advisory Committee, meeting of [April 20, 2021](#) (Draft)
- Clean City Advisory Committee, meeting of [April 13, 2021](#) (Draft)
- Cultural Sustainability Committee, meeting of [April 21, 2021](#) (Draft)
- Green Advisory Committee, meetings of [January 20, 2021](#); [February 17, 2021](#); [March 17, 2021](#); [April 14, 2021](#) (Draft); and [April 28, 2021](#) (Draft)
- Rodman Hall Task Force, meeting of [March 11, 2021](#) (Draft)
- Social Sustainability Committee, meeting of [April 22, 2021](#) (Draft)

[Addenda]

### 13.2 **Motion arising from the Minutes of the Surplus Lands Development Task Force Meeting of April 1, 2021** ***(deferred from the Council Meeting of April 26, 2021)***

That the Task Force recommend to Council:

That staff be directed to prepare a report regarding 2 Facer Street, including condition of the facility and the potential to declare the property surplus with consideration to not displacing the existing tenant.

### 13.3 **Report Request Arising from the Minutes of the Social Sustainability Pillar Meeting of April 22, 2021** **Carousel Accessibility Options**

That staff provide a report on the options for improving accessibility of the Carousel to make it more inclusive.

### 13.4 **Report Request Arising from the Minutes of the Social Sustainability Pillar Meeting of April 22, 2021** **Amendments to Sign By-law**

That the Social Sustainability Committee recommend the proposal from the Anti-Racism Advisory Committee for amendments to the current by-law for the erection of signs be sent to City Council to request a report back from City staff on the following:

Amend the current by-law for the erection of signs and other advertising devices to state that no person shall display or cause to be displayed a sign that bears a hate message or a logo, crest or graphic that would convey such a message.

Page

**13.5 Report Request Arising from the Minutes of the Social Sustainability Pillar Meeting of April 22, 2021**

**Diverse Supplier Policy**

That the diverse supplier policy proposal from the Anti-Racism Advisory Committee, as amended, be sent to City Council to request a report back from City staff on the development of a Diverse Supplier Policy.

**14. Resolve into General Committee**

*Council will proceed to General Committee Agenda Item 4 - In-Camera Session*

**15. Motion Arising from In-Camera Session**

**16. By-laws**

93 - 95

16.1 Reading of By-laws  
[Addenda]

**17. Adjournment**



## Corporate Report City Council

**Report from:** Planning and Building Services

**Report Date:** April 21, 2021

**Meeting Date:** April 26, 2021

**Report Number:** PBS-029-2021

**File:** 56.2.1, 60.35.1

**Subject:** Short-term Rental Licensing By-law and Non-Traffic Administrative Monetary Penalty System

### **Strategic Pillar:**

This report aligns with the following St. Catharines Strategic Plan pillars:



## **Recommendation**

That the Staff Recommendation in Report PBS-029-2021, regarding the Short-Term Rental Licensing By-law, and Non-Parking Administrative Monetary Penalty System (AMPS), be referred to City Council for consideration after a public meeting held on May 10, 2021. FORTHWITH

## **Staff Recommendation**

That Council approve the Short-Term Rental Licensing By-law, attached as Appendix 1; to come into force and effect pursuant to the dates identified in the report; and

That Council approve the proposed Non-Parking Administrative Monetary Penalty System (AMPS) By-law for the purposes of enforcing the Short-Term Rental Licensing By-law, to be effective as of January 3, 2022, attached as Appendix 2; and

That Council pre-approve the short-term rental licensing program for the 2022 operating budget, as detailed in the financial implication section of this report; and

Further, that the City Solicitor be directed to prepare or amend the necessary by-laws to implement the above. FORTHWITH



## Summary

This report outlines the framework for a proposed city-wide licensing by-law to regulate the operation of short-term rentals (STRs).

The recommendations provided for Council's consideration to license STRs, aim to achieve the following outcomes:

- Initiate a review of an application for a proposed STR to confirm compliance with the City's Zoning By-law;
- Review of an application for a proposed STR to ensure compliance with Fire Code and Building Code requirements, protecting safety of residents and guests; and
- Establish a system of demerit points for violations including noise, nuisance, parking, and safety which will encourage STR owners into supplying safe, responsible, and respectful accommodation.

The City's approach to address STRs has been a multi-step process. The City first undertook an extensive public engagement process leading to a Zoning By-law Amendment that regulates short-term rental land use. Council approved the land use permissions in December 2020 but applied a Holding "H" provision until such time that a licensing by-law was established and implemented. The subject of this report and the proposed licensing by-law are part of the second step, which intends to establish and implement a licensing framework that provides enforcement tools beyond the land use permissions and can provide the opportunity for staff to work directly with STR operators to mitigate and manage disruptive guest behavior (e.g. noise, nuisance, garbage etc.). The components and timeline associated with each step are outlined below in Table 1.

**Table 1**

| <b>Background and Direction</b>                                                                                                                                    | <b>Step One: Zoning By-law Amendment</b>                                                                                                                                               | <b>Step Two: Licensing</b>                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>✓ Staff Research</li> <li>✓ Public Feedback</li> <li>✓ Staff Report for Information</li> <li>✓ Council Direction</li> </ul> | <ul style="list-style-type: none"> <li>✓ Draft By-law Amendment</li> <li>✓ Public Open House</li> <li>✓ Public Meeting</li> <li>✓ Council Decision</li> <li>✓ Appeal Period</li> </ul> | <ul style="list-style-type: none"> <li>✓ <b>Draft Licensing By law</b></li> <li>✓ <b>Report to Council</b></li> <li>• <b>Public Meeting</b></li> <li>• <b>Council Decision</b></li> <li>• <b>Implementation</b></li> </ul> |
| June 2019 to February 2020                                                                                                                                         | February 2020 to December 2020                                                                                                                                                         | <b>December 2020 to January 2022</b>                                                                                                                                                                                       |

Through this stage of developing the proposed licensing framework, staff have identified an Administrative Monetary Penalty System (AMPS) as a suitable approach to address contraventions of the licensing by-law. In addition to a proposed licensing by-law, staff have prepared and proposed an AMPS by-law to accompany this report.

## Relationship to Strategic Plan

The proposed licensing by-law ties into and supports several pillars of the City's Strategic Plan:

### Economic Prosperity

Strategic Goal - Support the City's commitment to building and growing a diverse and resilient economy through fiscal responsibility, urban regeneration and collaborative partnerships. The proposed licensing by-law:

- Provides residents with opportunities to earn supplementary income; and,
- Supports accommodation options for visitors to the City.

### Social Well-Being

Strategic Goal – Build and support strong, inclusive neighbourhoods that provide high quality of life for residents of all ages. The proposed licensing by-law:

- Maintains the integrity of residential neighbourhoods by permitting STRs as a home-based business (secondary to the principal residential use).

### Cultural Renaissance

Strategic Goal – Celebrate the City's rich history, diversity, arts and cultural assets through leadership, promotion and investments that support measurable, sustainable creative growth. The proposed licensing by-law:

- Supports visitors to the City by being hosted by residents who can share a local and personalized perspective.

## Background

STRs, often advertised on Airbnb, Vrbo, Flipkey and other online platforms, are a relatively new land use that has, over time, become more prominent within our community. Due to a rapid escalation in complaints about nuisance behaviours originating from STRs in the community, Council first directed staff to review the land use in the City of St. Catharines on June 24, 2019. Previous reports that Council has considered on this topic include:

- Report regarding Municipal Accommodation Tax to Budget Standing Committee on June 17, 2019 ([EDTS-B021-2019](#))
- Report regarding the viability of a Municipal Accommodation Tax on February 24, 2020 ([EDTS-02-620-20](#)).
- Report summarizing options for regulating short-term rentals on February 24, 2020 ([PBS-013-2020](#))
- Report recommending Zoning By-law Amendment to permit short-term rentals as a home based business on November 16, 2020 ([PBS-155-2020](#))
- Report to provide wording for a Holding Provision relating to the Zoning By-law Amendment on November 30, 2020 ([PBS-185-2020](#))

On [December 14, 2020](#), Council approved a Zoning By-law Amendment which allows STRs as a home-based business, subject to a number of requirements crafted to regulate aspects of the use that can potentially impact the surrounding neighbourhood.

Council approved the Zoning By-law Amendment with a Holding provision that precludes a STR from operating until a licensing program is in force and effect. Council requested that staff report back regarding the licensing framework in the first quarter of 2021. This report is in response to Council's direction.

## Report

### Licensing Overview

Licensing is a tool available to municipalities to regulate, govern, and enforce conditions for the operation of a business. In December 2020, Council passed a Zoning By-law Amendment permitting short-term rentals as a home-based business. A STR licensing by-law will focus on the components required to demonstrate that a STR unit is adequately equipped to maintain safety, complies with zoning and will operate within a residential neighbourhood without negatively impacting the surrounding community. While licensing cannot regulate guest behaviour, the structure of the by-law is such that it holds the unit owner responsible for hosting irresponsible and/or disrespectful guests. Licensing allows the municipality to ensure compliance with chosen criteria, such as the following:

- Ontario Building Code;
- Ontario Fire Code;
- Electrical safety standards;
- Zoning regulations; and
- Parking requirements.

Staff will review applications for a STR licence for compliance with the above noted standards. The application for a STR licence will include a requirement for the applicant/operator to acknowledge and agree to ensure compliance with all applicable laws, such as the following:

- Emergency Management and Civil Protection Act;
- Reopening Ontario Act;
- Health Protection and Promotion Act;
- Fireworks By-law;
- Open Air Fires By-law;
- Property Standards By-law;
- Public Nuisance By-law;
- Noise By-law; and
- Waste By-law.

Licensing will also serve to confirm the following:

- Local contact information; and
- Limiting an operator to one licence.

Several other jurisdictions have introduced a licensing program requiring STR hosts to demonstrate compliance with various requirements, established by the City, prior to operating as a STR. Licences can then be used as a tool for enforcement to determine whether a STR is operating in accordance with the established requirements or not.

Implementing the recommended licensing program will require significant staff time to monitor and regulate, including reviewing applications, conducting inspections and investigating complaints.

### **Authority to Establish Licensing**

The Municipal Act establishes the authority for the municipality to establish a licensing by-law for a business. The City's recently approved Zoning By-law Amendment established that STR could be permitted as a form of home-based business in the City of St. Catharines. As a home-based business, STRs can be subject to a licensing by-law.

The proposed STR licensing by-law is a regulatory by-law (business licence) and public notice is required in accordance with the Municipal Notice By-law (By-law 2007-310, as amended). Staff recommend Council table this report to support the Municipal Notice By-law prior to it being considered at the Council meeting of May 10, 2021.

### **Municipal Licensing Goals**

Through the previous stages of the City's review and consideration of STRs, including extensive community consultation, the following goals were identified:

- Protect housing supply;
- Support opportunities for supplementary income;
- Reasonable to enforce;
- Protect residential neighbourhood character; and,
- Support tourism and tourist spending in the City of St. Catharines.

The above goals were considered in the development of the Zoning By-law Amendment, in addition to the development of the proposed Licensing By-law.

### **Draft Licensing By-law**

Based on the information and research obtained, staff have prepared a draft city-wide STR licensing by-law which is attached as Appendix 1. The draft by-law applies to all STRs in the City of St. Catharines.

### **Key Draft By-law Components**

The following discussion provides a description of the parts of the draft by-law:

#### **Key Definitions:**

- **Short-term Rental:** means a Home-based Business wherein a Dwelling Unit is the Principal Residence of the Owner or Long-term Tenant and is rented for a period not exceeding 28 consecutive days.
- **Owner:** means a Person that is the registered owner of a Property.
- **Long-term Tenant:** has the same meaning as "tenant" under the Residential Tenancies Act, 2006, S.O. 2006, c. 17, and has rented or will rent the Dwelling Unit for a period of at least 12 months.
- **Hearing Officer:** means such Persons as appointed by Council pursuant to Schedule "B" of the By-law for the purpose of hearing an appeal or reviewing a decision made by the Director pursuant to this By-law.

## **Exemptions**

- Hotel, motel, or bed and breakfast establishment as defined in the Zoning By-law.

## **Licensing Application Requirements**

The applicant must provide the following information:

- Application fee (valid for two years);
- Completed Application form;
- Evidence of ownership (if owner);
- Lease agreement and Owner's authorization (if long-term tenant);
- Sworn statement of accuracy of information;
- Proof of insurance;
- Parking plan;
- Fire safety protocol;
- Local contact information;
- Floor plans;
- Site sketch;
- Electrical Safety Code compliance evidence; and
- Consent for inspection.

## **Renewal**

- Renewal fee (valid for two years);
- Must be filed three months prior to current licence expiry;
- If no changes have been made to the licensing requirements a declaration that states that no changes have occurred must be submitted; and
- If changes have been made, licensing application requirements (noted above) must be revised and resubmitted.

## **Review of Application and Property Inspection**

- By filing the application, the owner is consenting to an inspection.
- Incomplete applications may be rejected.

## **Issuance of Licence**

- The Director of Planning and Building or their designate may refuse, at their discretion, the issuance of the licence where:
  - Past conduct of an applicant gives reasonable grounds to believe that the requirements will not be carried out in accordance with applicable law or with honesty and integrity;
  - Issuance may be adverse to the public interest;
  - Threat to health and safety of persons or property;
  - There are orders on the property (Property Standards, Building Code, Fire Code, etc.);
  - The property is not in compliance with the Zoning By-law;
  - Fines, fees and/or taxes are owed to the City;
  - Objection is received from the Chief Building Official, Fire Chief, or Planning Staff; or
  - A previous licence has been revoked or suspended within the last two years.

## **Appeals**

- Should the Director not issue a licence, written notice shall be given to the applicant, stating the reasons for the decision.
- The Applicant has the opportunity to appeal the decision to a hearing with the Hearing Officer.

## **Licence Conditions**

- Further to the standard licence conditions outlined in the draft by-law, the Director may impose additional conditions that are determined to be appropriate.

## **Revocation**

- A licence can be revoked or suspended where:
  - Provisions of the licensing by-law are contravened;
  - Conviction of contravention of the Ontario Building Code Act, Ontario Building Code, Fire Protection and Prevention Act; and/or the Fire Code;
  - Reasonable grounds for belief that false information has been provided;
  - Breach of conditions;
  - Issuance in error;
  - Threat to health and safety; and/or
  - New information comes to surface that would have resulted in the initial refusal of the licence application.

## **Enforcement**

Staff recommends that infractions under the STR licensing by-law be enforced through two mechanisms. The first being an administrative monetary penalty system (AMPS) which will serve as a significant deterrent as it has direct financial implications. The second is a demerit point system which has non-monetary consequences, but significant effects regarding whether an individual may continue to hold a STR licence. Both will be further discussed below.

## **Administrative Monetary Penalty System**

The recommendation of this report is to enforce the STR licensing by-law through the establishment of a non-parking AMPS program in lieu of charges or tickets pursued through the Provincial Offences Court. This enforcement mechanism is identical to the already established parking administrative penalty system. Where an individual must pay a penalty under AMPS, as staff is recommending, the municipality cannot charge individuals for the same infraction under the Provincial Offences Act.

AMPS creates a system for collecting penalties. These are not to be confused with fines under the Provincial Offences Act, which are collected by the Provincial Offences Court. Administrative penalties are paid to and retained by the municipality. The municipality is responsible for the administration, enforcement, and collection of the AMPS.

Section 434.1 of the Municipal Act, 2001, provides that municipalities may create administrative penalties where an individual fails to comply with a by-law. This provides an alternative route for municipalities to enforce their by-laws. Typically, when an individual violates a municipal by-law, it is prosecuted as a Part 3 offence under the

Provincial Offences Act. That means the individual would have to appear before a Provincial Offences Court where they could be subject to fines and possible imprisonment. The process of dealing with provincial offence matters requires significant court and law enforcement resources which are paid for by the taxpayer. A non-parking AMPS would serve to redirect those resources to other needs.

Implementing a non-parking AMPS as a civil procedure for enforcing compliance would modernize the City's By-law Enforcement division's methods of enforcement. A monetary penalty is assessed and imposed in the form of a penalty notice with a prescribed date and time for payment. Rather than going to court to dispute a fine in front of a judge, an individual can dispute an administrative penalty with a screening or hearing officer.

The City of St. Catharines implemented an administrative penalty system in 2015 for the purposes of parking infractions. The City has a screening officer and a hearing officer to resolve disputes. An AMPS for non-parking related by-laws, such as the STR licensing by-law, would be an extension of that system. The reason why a second administrative penalty system has to be created is because an AMPS for parking has its own specific rules and requirements under Ontario Regulation 330/07, and must be treated as a separate system. A non-parking AMPS is not constrained by prescriptive regulations, but would nonetheless look similar to a parking administrative penalty system, as the latter serves as a useful guide.

An AMPS is proposed to be implemented for infractions against the STR licensing by-law. Staff have prepared a draft by-law to establish a system for non-parking related administrative penalties (Appendix 2). At this time, the proposed AMPS by-law only includes penalties related to infractions under the STR licensing by-law; however, it should be noted that the City could consider transitioning enforcement of other City by-laws to the non-parking AMPS in the future.

The proposed non-parking related administrative penalty by-law establishes penalties for identified offences. The proposed penalties range from \$100 to \$1,000 as outlined in Table 2 below.

**Table 2**

| <b>Offence under AMPS By-law</b>                    | <b>Administrative Penalty</b> | <b>By-law Reference</b> | <b>Municipal Comparators</b>                                       |
|-----------------------------------------------------|-------------------------------|-------------------------|--------------------------------------------------------------------|
| Operating STR without licence                       | \$1,000                       | 3.4                     | Toronto = \$1,000<br>Fort Erie = \$300<br>London = \$450           |
| Failure to display licence                          | \$100                         | 9.1.2                   | Fort Erie = \$75<br>London = \$300                                 |
| Failure to provide updated information              | \$100                         | 9.1.3                   | Toronto = \$400<br>Newmarket = \$300                               |
| Operating STR without conforming to applicable laws | \$400                         | 9.1.4                   | Fort Erie = \$200<br>London = \$300<br>Kingston = \$103 to \$2,060 |

|                                                                 |       |       |                                                          |
|-----------------------------------------------------------------|-------|-------|----------------------------------------------------------|
| Failure to display fire safety protocol                         | \$400 | 9.1.6 | Toronto = \$400                                          |
| Failure to include licence number in advertisement or promotion | \$700 | 9.1.8 | Toronto = \$1,000<br>Newmarket = \$300                   |
| Non-availability of contact person                              | \$100 | 9.1.9 | Fort Erie = \$100                                        |
| Obstruction of Director or officer                              | \$200 | 13.2  | Fort Erie = \$100<br>Toronto = \$400<br>Kingston = \$515 |

### Demerit Points

The STR licensing by-law includes non-monetary penalties by establishing a system of demerit points associated with each identified offence, shown in Table 3 below.

**Table 3**

| Infraction                                  | By-law Reference | Demerit Points |
|---------------------------------------------|------------------|----------------|
| <i>Fire Protection &amp; Prevention Act</i> | 9.1.4.1          | 10             |
| Fire Safety Protocol                        | 9.1.6            | 10             |
| Obstruction of Inspection                   | 13.2             | 10             |
| <i>Building Code Act</i>                    | 9.1.4.2          | 8              |
| <i>Electrical Safety Code</i>               | 9.1.4.3          | 8              |
| Orders under the EMCPA                      | 9.1.4.4          | 8              |
| Reopening Ontario Act                       | 9.1.4.5          | 8              |
| Open Air Fires By-law                       | 9.1.4.10         | 8              |
| <i>Health Protection and Promotion Act</i>  | 9.1.4.6          | 8              |
| Public Nuisance By-law No. 2007-295         | 9.1.4.12         | 7              |
| Noise By-law No. 95-198                     | 9.1.4.13         | 7              |
| Fireworks By-law                            | 9.1.4.9          | 7              |
| Non-availability of responsible Person      | 9.1.9            | 4              |
| Not posting Licence number                  | 9.1.8            | 4              |
| Not posting Licence                         | 9.1.2            | 4              |
| Not providing updated information           | 9.1.3            | 3              |
| Parking Management Plan                     | 9.1.5            | 3              |
| Zoning By-law No. 2013-283                  | 9.1.4.7          | 3              |
| Property Standards By-law No. 2014-248      | 9.1.4.11         | 3              |
| Waste By-law No. 2020-106                   | 9.1.4.14         | 2              |
| Garbage collection                          | 9.1.4.15         | 2              |

The demerit points will remain active against the licence for two years from the date of the demerit points being allocated. The licensing by-law establishes penalties when 5, 10, and 15 demerit points are accumulated, shown in Table 4 below:



Table 4

| <b>Demerit Points Accumulated</b> | <b>Penalty</b>                               | <b>Recourse</b>     |
|-----------------------------------|----------------------------------------------|---------------------|
| <b>5-9</b>                        | Licence suspended for 3 months               | Licensee may appeal |
| <b>10-14</b>                      | Licence to be revoked for remaining duration | Licensee may appeal |
| <b>15+</b>                        | Licence to be revoked for remaining duration | No right to appeal  |

## Process

A flow chart depicting the full proposed licensing process is attached as Appendix 3. At this time, it is proposed that the By-law Enforcement division of the Planning and Building Services department will administer the By-law.

## Application

- All requirements are submitted to City staff.

Staff have reviewed the application fees required by other Municipalities for similar STR licensing. There is variation in the amount charged by each Municipality and the term of their STR licence. Table 5 below outlines examples from other Municipalities. Staff is proposing fees that are in the middle range. While a higher fee could be charged, there is a risk that an application fee that is too high will deter people from applying. Later in the report, staff discuss options to collect fees for by-law infractions in addition to the application costs.

Table 5

| <b>Municipality</b>               | <b>Application Fee</b> | <b>Renewal Fee</b> | <b>Term</b>    | <b>Appeal</b> |
|-----------------------------------|------------------------|--------------------|----------------|---------------|
| <b>Toronto</b>                    | \$50                   | \$50               | 1 year         |               |
| <b>Town of the Blue Mountains</b> | \$2,500                | \$1,000            | 2 years        | \$500         |
| <b>Niagara on the Lake</b>        | \$175 per room         | \$175 per room     | 4 years        | \$269         |
| <b>Fort Erie</b>                  | \$300                  | \$300              | 1 year         |               |
| <b>Vancouver</b>                  | \$159                  | \$99               | 1 year         |               |
| <b>Prince Edward County</b>       | \$200 per room         | \$100 per room     | 1 year         |               |
| <b>St. Catharines</b>             | <b>\$500</b>           | <b>\$400</b>       | <b>2 years</b> | <b>\$100</b>  |

## Application Review

- Application will be checked for completeness.
- Information circulated to the appropriate department and reviewed.
- A resubmission will be required if there is outstanding information or an outstanding fee.

## Inspection Conducted

Upon review of an application for STR licence, should staff have any need to inspect a property, by-law enforcement staff will arrange and conduct inspections, where needed. Violations will likely incur re-inspections and the need for further building or fire inspections which will result in additional fees.

### **Licence Approval Decision**

- Once the inspections are satisfactory and all information is complete the Director may issue a licence.
  - Conditions may be associated with the licence. An applicant may appeal a condition of the licence for a fee of \$100.
  - The property will be added to a Short-term Rental Licence Register
- If information is found to be unsatisfactory or inspection violations are not resolved the licence will be denied.
  - The applicant has 30 days from notice of decision to appeal if they disagree. After an appeal fee is paid, the appeal is heard by a Hearing Officer who gives an oral decision at the end of the hearing and written notice of the decision within 30 days. The decision is considered to be final. By-law implementation involves the appointment of an Officer along with Council passage of a protocols and procedures by-law.

### **Implementation**

Currently, City By-law Enforcement staff enforce violations of the Zoning By-law by undertaking an investigation of the allegation, collecting evidence preparing a prosecution brief, and laying a charge at the Provincial Offence Court (Part 3 Offence). Typically, there are several appearances to set procedural matters and hearing dates. It is not uncommon for a matter to be heard by a Justice of the Peace 12-18 months after the infraction. Depending on the infraction, the evidence presented, and case law, fines may be levied that are so low that they can be considered the cost of doing business. It is a time consuming, expensive, long drawn out process that does little to convince the public that a matter is being appropriately dealt with.

While this is a common method of by-law enforcement, the institution of a municipal licensing by-law to enforce short-term rentals is an opportunity to re-consider how by-law enforcement can be conducted at the City. Staff is recommending the creation and implementation of a Non-Parking Administrative Monetary Penalty System (AMPS) to assist with timely and effective enforcement.

### **Next Steps**

The passing of the recommended non-parking related administrative penalty by-law is the first step of the implementation. Internal processes need to be created, contracts need to be investigated and secured for a ticket system, staff need to be trained, AMANDA needs to be modified to reflect the new processes, and a Screening Officer and Hearing Officer need to be appointed. It is anticipated that these activities will occur over the next two quarters to be ready for a licensing system to be operational January 3, 2022.

Currently, staff do not have the resources or staff complement to implement the recommended STR licensing by-law and the AMPS for non-parking related offences.

## Staff Resources

Enforcement of land use, property standards, and municipal by-laws that apply to private property are under the purview of four By-law Enforcement full-time employees in the Planning and Building Services Department. The officers currently report to the Manager of Inspections in the Building Division.

Staff have undertaken a survey of comparator municipalities within the Region, GTAH, and Province. To date, the following information was able to be compiled:

**Table 6**

| <b>Municipality</b>    | <b>Population</b> | <b>Evening/<br/>Weekend<br/>Shifts</b> | <b>AMPS<br/>for<br/>BLE</b> | <b>Annual # of<br/>BLE<br/>Complaints</b> | <b>BLE<br/>Staff</b> | <b>Complaints<br/>per BLE<br/>Staff</b> |
|------------------------|-------------------|----------------------------------------|-----------------------------|-------------------------------------------|----------------------|-----------------------------------------|
| City of St. Catharines | 134,000           | No                                     | No                          | 3750                                      | 4*                   | 938                                     |
| City of London         | 383,822           | Yes                                    | Yes                         | 6000                                      | 20*                  | 300                                     |
| City of Oshawa         | 166,000           | Yes                                    | Yes                         | 6687                                      | 21*                  | 318                                     |
| City of Kingston       | 123,798           | Yes                                    | Yes                         | 7169                                      | 22*                  | 326                                     |

\*Does not include Parking Enforcement complement

By-law Enforcement activities are currently undertaken Monday to Friday during regular business hours. STR complaints are typically generated on weekends when there are no staff available to intervene. In summer 2020, By-law Enforcement staff undertook substantial overtime to investigate short-term rental complaints on weekends.

Combined with COVID-19-related beach enforcement, By-law Enforcement staff undertook 248.5 hours of overtime in 2020. Based on this and an increased demand of service by residents for STRs, property standards, and graffiti, additional By-law Enforcement Officers are needed. The addition of three By-law Enforcement Officers to be onboarded in 2022 will provide residents with the level of service that is expected, including one dedicated officer per ward and a shift for evening and weekends.

By-law Enforcement staff currently report to the Manager of Inspections in the Building Division. Building Inspections are tightly regulated by the Ontario Building Code Act, including mandatory timeframes within hours of a request. The construction season typically coincides with short-term rental season (i.e. Spring to Fall). For a City the size of St. Catharines, having one manager oversee both divisions is not effective, nor appropriate. The next steps for the creation of the AMPS and implementation of a short-term rental licensing by-law and new enforcement model will require substantial work over the next seven months, in addition to on-going support and management. A full-time permanent Manager of By-law Enforcement and Licensing is warranted regardless if Council approves the recommended Short-Term Rental Licensing By-law and AMPS.

The creation of a STR Licensing By-law and AMPS will require substantial administrative support. Currently, administrative staff in the Planning and Building Services Department are working above capacity and are unable to take on additional responsibilities. Discussions with the City's Senior Leadership Team have determined that administrative support can be obtained within the organization, utilizing a combination of the 2021 gapping dollars and Flexible Staffing budget dollars, in alignment with the strategy approved by Council in December 2019. Staff will also require hardware (e.g. laptop, mobile phone), software licences, clothing, mileage and training allowances.

## Lift Holding

The Zoning By-law Amendment approved by Council in December 2020 included a holding provision that requires a licensing program is in force and effect before a short-term rental is permitted to operate. This Holding Provision will need to be lifted once the licensing program is approved, staffing and resources are in place for implementation, and prior to the issuance of any licences. To avoid an unmanageable amount of licence applications all at once, staff propose to phase-in the licensing program by wards. The proposed phasing would work through the City's six wards, from north to south (Appendix 4). To accomplish this, staff propose lifting the holding provisions in three phases, so the Hold would be lifted from Wards 5 and 6 first, and remain in effect for Wards 1 to 4. Staff anticipate the Lift Hold for phase two (Wards 3 and 4) would occur within 2 to 4 months, with the Hold remaining in effect for Wards 1 and 2. The final Lift Hold would occur after another 2 to 4 months.

To ensure the by-laws are in effect and staff are prepared to issue licences once the holding is lifted, staff recommend the Hold would be lifted for Wards 5 and 6 at the first meeting of Council in 2022.

## Timing

A proposed timeline for the next steps is outlined in Table 7 below.

**Table 7**

|                            | April | May | June | July | August | September | October | November | December | January 2022 | February | March   | April | May | June | July |
|----------------------------|-------|-----|------|------|--------|-----------|---------|----------|----------|--------------|----------|---------|-------|-----|------|------|
| <b>Council Direction</b>   |       |     |      |      |        |           |         |          |          |              |          |         |       |     |      |      |
| <b>Public Consultation</b> |       |     |      |      |        |           |         |          |          |              |          |         |       |     |      |      |
| <b>Council Approval</b>    |       |     |      |      |        |           |         |          |          |              |          |         |       |     |      |      |
| <b>Preparation</b>         |       |     |      |      |        |           |         |          |          |              |          |         |       |     |      |      |
| <b>Transition</b>          |       |     |      |      |        |           |         |          |          | Phase 1      | Phase 2  | Phase 3 |       |     |      |      |
| <b>Monitoring</b>          |       |     |      |      |        |           |         |          |          |              |          |         |       |     |      |      |

### **Council Direction**

Council direction has been provided previously for staff to develop a licensing framework. At this time, Council direction is required to table to proposed draft licensing by-law to provide time to review the draft by-law and to consider the by-law after a public meeting anticipated to occur at the meeting of Council on May 10, 2021.

### **Public Consultation**

Public consultation is one of the most important factors in the creation of the STR licensing by-law. It should be noted that extensive public consultation has been conducted as part of the Zoning By-law Amendment. Consultation specific to the proposed Licensing By-law will be achieved through the publication of the draft by-law to the City's website, notification being provided to those who participated in the Zoning By-law Amendment, and a public meeting anticipated to occur at the meeting of Council on May 10, 2021.

### **Council Decision**

The timeline outlined above anticipates that Council will consider whether to approve a STR licensing by-law in May 2021. This estimate includes timing for public consultation, analysis of comments, further data gathering, giving notice, and holding the public meeting.

### **Preparation**

This step includes hiring of new employees, administration set up, creation of required documentation, technological support and staff training. More detail will be required in the next steps of the process to outline the exact functionality of the licensing program. A marketing/advertising campaign advising the public of the requirement for a STR licence should occur at this time.

### **Transition**

Staff also propose the STR licence be phased-in to assist in balancing the quantity of applications submitted at one time. Staggering the submission times across the city will allow for the applications to be staggered throughout the year rather than an influx of applications at one period. Staff recommend the phasing be based on wards and facilitated by Lifting the Holding Provision in phases. The Lift of Holding will need to occur before licenses can be issued.

### **Monitoring**

A monitoring program should be established to measure the outcomes and effects of the program. Effectiveness of the licensing by-law should be measured along with the by-law's effect on average rents and the vacancy rate in the City.

## **2021 Interim Strategy**

Should Council approve the recommended STR Licensing By-law and AMPS, a Manager of By-law Enforcement and Licensing will need to be hired to undertake the implementation of the program. It is anticipated that the program will be operational for January 2022.

The intersection of an early Spring/Summer in 2021 and the third lockdown of the COVID-19 pandemic is anticipated to drive people to congregate and/or recreate in

public spaces (such as public beaches) or in private residences (including STRs). The Provincial legislation with regards to the various Emergency Orders changes rapidly depending on infection rates and in the more serious lockdown, shut down, and stay at home order categories, STR use is not permitted. By-law Enforcement staff have better success at enforcing these orders than the current Part 3 Offence of Zoning non-compliance. As such, as an interim strategy, existing By-law Enforcement Staff will vary their hours to have some evening and weekend coverage with the intent of targeting STR use in contravention of Provincial legislation.

Staff recommend for the remainder of 2021, that contract By-law Enforcement services be brought online to supplement these immediate needs while new Licensing, AMPS, and staffing are brought online for 2022.

## **Financial Implications**

### **Staffing**

The following staff resources are required to appropriately implement the short-term rental licensing by-law and recommended AMPS system:

#### **2021:**

The Manager of By-law Enforcement and Licensing can be accommodated with the 2021 operating budget through existing gapping dollars. Details are provided in Table 8 below.

It is the City's intention to increase enforcement for City By-law and Provincial Order Infractions related to the COVID-19 pandemic. Additional By-law Enforcement would allow for weekend coverage. The estimated cost of additional By-law Enforcement in 2021 is estimated at \$110,000. This cost could be offset by the beaches parking revenues or from the 2021 COVID-19 Recovery Funding for Municipalities.

#### **2022:**

The Manager of By-law Enforcement and Licensing and three additional By-law Enforcement Officers, permitting one for each ward and additional coverage for evening and weekends, will be added to the 2022 operating budget. Details of financial impacts are provided in Table 8 below.

## **Resources**

The current ticket monitoring software can support any penalty notices uploaded into their system at a cost of \$0.20 per tickets. The City's current enforcement software will not be able to support the non-parking related penalties notice and will require staff to research other available software opportunities with municipalities using the AMPS system for enforcement.

Included in the AMPS by-law is the authority for the City to add any outstanding Administrative Penalties, including administrative fees, to the tax roll and collected in the same manner as municipal taxes. The fees collected by this method would be directed back to the municipality, as opposed to the Provincial court system.

Table 8 below summarizes the estimated net financial impact of the STR Licensing program for the City of St. Catharines. The estimated additional net cost for 2021 of \$23,000 may be covered within the existing budget. The estimated net financial impact for 2022 at this time is \$462,500 which would have an annual impact on the median home based on 2020 tax rates of \$6.62.

**Table 8**

| <b>Description</b>                                                        | <b>2021 Dollar Amount</b> | <b>2022 Dollar Amount</b> |
|---------------------------------------------------------------------------|---------------------------|---------------------------|
| <b>Estimated Expenditures</b>                                             |                           |                           |
| Manager of By-Law Enforcement and Licensing (wage & benefits)             | \$89,800                  | \$141,500                 |
| Additional Job Supports – Laptop, Cellphone, Clothing, Mileage & Training | \$12,000                  | \$9,500                   |
| 3 Additional By-Law Enforcement Officers to start January 3, 2022         | NA                        | \$302,500                 |
| Additional Job Supports – Laptop, Cellphone, Clothing, Mileage & Training | NA                        | \$36,000                  |
| Ticket Software and Handheld Devices (estimated)*                         | \$11,000                  | \$23,000                  |
| Additional AMPs support costs, such as Hearing Officer, ticket, etc.**    | NA                        | TBD                       |
| <b>Total Estimated Expenditures</b>                                       | <b>\$124,800</b>          | <b>\$512,500</b>          |
|                                                                           |                           |                           |
| Estimated Revenues:                                                       |                           |                           |
| STR Licences (200 x \$500/2)***                                           |                           | \$50,000                  |
| Violations Revenue****                                                    |                           | TBD                       |
| Gapping wage dollars to offset addition of Manager of By-Law in 2021      | \$89,800                  | NA                        |
| <b>Total Estimated Revenues</b>                                           | <b>\$89,800</b>           | <b>\$50,000</b>           |
|                                                                           |                           |                           |
| <b>Net Financial Impact</b>                                               | <b>\$35,000</b>           | <b>\$462,500</b>          |

\*Estimate is based on Parking software, which is similar and seven handheld devices, which is one for each By-Law Enforcement officer in 2022

\*\*The AMPs approach would require the use of an external Hearing Officer, similar to what is currently used for the AMPS-Parking.

\*\*\*Since the STR Licence is for two years, 50% of the licence revenue would need to be deferred to the following year, assuming January 1<sup>st</sup> issuance. Estimated revenues for licensing is based on 200 STR licences being applied for in 2022.

\*\*\*\* Violation revenues received will further offset the cost of STR licensing by-law program. At this time, the number and amount of violation revenues is difficult to determine as the aim is for compliance. However, any violation revenue collected will offset the program costs. This amount will be improved in future years based on actual experience with compliance and violations issued.

## Environmental Sustainability Implications

There are no environmental sustainability implications associated with this report.

## Conclusion

In response to Council's direction to place a Holding "H" symbol on the STR land use zoning regulations until such time as a Licensing program is in effect, a collaborative effort by staff in multiple City departments have worked to create a Short Term Rental Licensing By-law and an associated Non-Traffic Administrative Monetary Penalty System to enforce the by-law. In order to implement the licensing by-law and AMPS, a Manager of By-law Enforcement and Licensing is necessary to undertake this work and manage the division moving forward. Furthermore, for 2022, it is also recommended that the By-law Enforcement complement be increased to address the increase in workload generated by short-term rentals, as well as to provide a better level of service City-wide. For 2021, staff is recommending an interim enforcement approach by utilizing contract By-law Enforcement to undertake COVID-19-related enforcement of short-term rentals, in addition to other Provincial Emergency Order enforcement.

### Prepared by

Taya Devlin  
Planner I

### Submitted and Approved by

Tami Kitay, MPA, MCIP, RPP  
Director, Planning and Building Services

## Appendices

- Appendix 1 - Draft Licensing By-law
- Appendix 2 - Draft AMPS By-law
- Appendix 3 - Process Flow Chart
- Appendix 4 - Ward Phasing



CITY OF ST. CATHARINES

BY-LAW NO. \_\_\_\_\_

A By-law to provide for the licensing, regulating and inspecting of Short-term Rentals in the City of St. Catharines.

AND WHEREAS subsection 11(1) of the Municipal Act, 2001, S.O. 2001, C. 25 (the “Act”) provides that a local municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 11(3) of the Act provides a local municipality with jurisdiction with respect to business licensing;

AND WHEREAS subsection 23.2(4) of the Act permits a local municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS subsection 151(1) of the Act provides that, without limiting Sections 9, 10 and 11 of the Act, a local municipality may provide for a system of licenses with respect to a business;

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

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

AND WHEREAS Council for the City of St. Catharines considers it necessary and desirable for the public to regulate the short-term renting of residential property for the purpose of protecting the health and safety of the persons residing in residential rental properties by ensuring that certain regulations are met; for ensuring that the residential rental properties do not create a nuisance to the surrounding properties and neighbourhoods; and, to protect the residential amenity, character and stability of residential areas.

THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. CATHARINES enacts as follows:

1. **SHORT TITLE**

1.1 **Short title.** This by-law shall be known as the “Short-term Rental Licensing By-law”.

2. **DEFINITIONS**

“**Action**” means a proceeding in a court or tribunal of competent jurisdiction.

“**Agent**” means a Person duly appointed by a Licensee to ensure the premises are operated in accordance with the provisions of this By-law.

“**Applicant**” means and includes a Person seeking a License or renewal of a License or a Person whose License is being considered for revocation or suspension.

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

“**Building Code**” means Ontario Regulation 332/12: Building Code.

“**By-law**” means this Short-term Rental Licensing By-law, and any future amendments made to it.

“**Chief Building Official**” means the Chief Building Official for the Corporation of the City of St. Catharines or his or her designate.

“**City**” means the Corporation of the City of St. Catharines.

“**Council**” means the Council of the Corporation of the City of St. Catharines.

“**Reopening Ontario Act**” means the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17.

“**Director**” means the department head responsible for City by-law enforcement or his or her designate.

“**Dwelling Unit**” has the same meaning as defined under the Zoning By-law and for greater clarity, the definition forms a part of Schedule “A” attached to this By-law.

“**Electrical Safety Code**” means Ontario Regulation 164/99: Electrical Safety Code.

“**Electronic Hearing**” means a hearing held by a form of electronic technology allowing persons to hear and see one another, and includes hearings conducted by video conference.

“**Electronic Recording**” means a record created, generated, sent, communicated, received, or stored by electronic means.

**“EMCPA”** means the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9.

**“Fire Chief”** means the Fire Chief of the City or his or her designate.

**“Fire Code”** means Ontario Regulation 213/07: Fire Code.

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

**“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 premises indicating the location of all emergency exits, contact information containing the name, phone number and e-mail address of the Owner or Long-term Tenant, and an undertaking to comply with any applicable law, including the Open Air Fires By-law and Fireworks By-law, and which also includes a “Fire Safety Plan” that would be required under the Fire Protection and Prevention Act.

**“Fireworks By-law”** means the City’s Fireworks By-law No. 2016-6.

**“Hearing Officer”** means such Persons as appointed by Council pursuant to Schedule “B” of this By-law for the purpose of hearing an appeal or reviewing a decision made by the Director pursuant to this By-law.

**“Highway”** has the same meaning as defined under the Highway Traffic Act, R.S.O. 1990, c. H.8.

**“Home-based Business”** has the same meaning as defined under the Zoning By-law and for greater clarity, the definition forms a part of Schedule “A” attached to this By-law.

**“License”** means a license issued under this By-law.

**“Licensed Electrician”** means an electrical contractor duly licensed pursuant to the provisions of Ontario Regulation 570/05: Licensing of Electrical Contractors and Master Electricians.

**“Licensee”** means any Person who holds a License.

**“Long-term Tenant”** has the same meaning as “tenant” under the Residential Tenancies Act, 2006, S.O. 2006, c. 17, and has rented or will rent the Dwelling Unit for a period of at least 12 months.

**“Medical Officer of Health”** means the Medical Officer of Health for Niagara Region.

**“Non-Parking AMPS By-law”** means the City’s Non-Parking Administrative Monetary Penalty System By-law No.\_\_\_\_\_

**“Officer”** has the same meaning as “provincial offences officer” under the Provincial Offences Act, including a by-law enforcement officer or property standards officer.

**“Open Air Fires By-law”** means the City’s Open Air Fires By-law No. 2015-29.

**“Owner”** means a Person that is the registered owner of a Property.

**“Parking Management Plan”** means a plan, drawn to scale, depicting the size, surface material, and location of all parking spaces intended to be used for parking on the premises, and such plan shall be compliant with the Zoning By-law and the Traffic By-law.

**“Person”** means an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau or agency.

**“Powers of Entry By-law”** means the City’s Power’s of Entry By-law No. 107-2020.

**“Principal Residence”** has the same meaning as defined under the Zoning By-law and for greater clarity, the definition forms a part of Schedule “A” attached to this By-law.

**“Property”** means any land or premises that is within the jurisdiction of the City.

**“Provincial Offences Act”** means Provincial Offences Act, R.S.O. 1990, c. P. 33, and its regulations.

**“Rates and Fees By-law”** means the City Rates and Fees By-law.

**“Region”** means the Regional Municipality of Niagara.

**“Short-term Rental”** means a Home-based Business wherein a Dwelling Unit is the Principal Residence of the Owner or Long-term Tenant and is rented for a period not exceeding 28 consecutive days.

**“Traffic By-law”** means the City’s Traffic By-law No. 89-2000.

**“Zoning By-law”** means the City’s Comprehensive Zoning By-law No. 2013-283.

### **3. APPLICATION AND ADMINISTRATION**

3.1 Jurisdiction. This By-law shall apply to all Dwelling Units within the geographic boundaries of the City, save and except for those facilities which are exempt under section 3.2.

- 3.2 Exemption. This By-law does not apply to a hotel, motel, or bed and breakfast establishment as defined in the Zoning By-law.
- 3.3 Administration. This By-law shall be administered and enforced by the Director.
- 3.4 No License. No Person shall carry on, or intend to carry on, any trade, business or occupation of a Short-term Rental for which a License is required under this By-law unless that Person has first obtained a License as required under this By-law.
- 3.5 Renting an unlicensed Short-term Rental. 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.
- 3.5 Expiry and Revocation. No Person shall carry on any trade, business or occupation of Short-term Rental for which a License is required under this By-law if the License has expired or been revoked; or, while the License is under suspension.
- 3.6 Zoning compliance. A Person is not eligible to hold a License if the proposed use of the land, building or structure is not permitted by the Zoning By-law that applies to the Property.
- 3.7 Director powers. The power and authority to issue or renew a License, refuse to issue or refuse to renew a License, to cancel, to impose terms and conditions, including special conditions, on a License, is hereby delegated to the Director.
- 3.8 Director duties. The Director shall generally perform all of the administrative functions conferred upon him or her by this By-law and without limitation may:
  - 3.8.1 receive and process all applications for all Licenses and renewals of Licenses under this By-law;
  - 3.8.2 issue Licenses in accordance with this By-law;
  - 3.8.3 impose terms and conditions on Licenses in accordance with this By-law; and
  - 3.8.4 refuse to issue or renew a License or revoke or suspend a License in accordance with this By-law.
- 3.9 Hearing Officer powers. The power and authority to hear an appeal or review the Director's decision to refuse to issue a License, refuse to renew a License, suspend a License or impose conditions on a License is hereby delegated to the Hearing Officer. The Hearing Officer shall have no authority to further delegate his or her powers or duties.
- 3.10 Legal compliance. Licenses issued pursuant to this By-law are conditional upon compliance by the Licensee with all City by-laws and compliance with all provincial

and federal laws and regulations and any conditions imposed to the holding of the License.

- 3.11 Non-refundable fees. Subject to the Director's sole discretion, which shall be final and non-reviewable, all fees paid under this By-law are non-refundable.

#### **4. LICENSE APPLICATION**

- 4.1 Application forms. Every application for a new License or a renewal of an existing License shall be submitted to the City on the forms or in the manner prescribed by the Director.

- 4.2 Application requirements. Every Applicant for a new License or a renewal of an existing License shall be the Owner or Long-term Tenant of the premises, be at least 18 years of age, and provide to the satisfaction of the Director the following materials for a complete application as set out in section 7.1 of this By-law:

- 4.2.1 the municipal address and legal description of the Short-term Rental premises;
- 4.2.2 the name of the Owner and their address, telephone number, and e-mail address;
- 4.2.3 where the Applicant is the Owner, a copy of the transfer/deed evidencing their ownership of the premises, or, where the Applicant is a Long-term Tenant, a copy of their rental/lease agreement of the premises and written authorization from the Owner satisfactory to the Director that the Owner consents to the operation of a Short-term Rental on the premises;
- 4.2.4 the name, address, telephone number and e-mail address of any Agent assigned by the Applicant to be the responsible Person for the operation and conduct of the inhabitants of the licensed Short-term Rental premises;
- 4.2.5 a certificate of insurance which confirms that the Applicant has in place at the time of the application, general liability insurance which can form part of or is included in a "home sharing", "host insurance", "short-term rental" or other similar type of insurance of not less than \$2 million per occurrence including property damage and bodily injury, and if requested, that the City be included as an additional insured, but only with respect to the Applicant's operation of the premises as a Short-term Rental;
- 4.2.6 a site sketch that indicates the location of the Short-term Rental premises, the adjacent Highway, and any external garbage/recycling facilities;
- 4.2.7 a floor plan of the Short-Term Rental premises 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;
- 4.2.8 a Parking Management Plan that complies with the Zoning By-law;
  - 4.2.9 a Fire Safety Protocol;
  - 4.2.10 a certificate from a licensed electrician dated within 12 months of the date of the application indicating the premises and its proposed use comply with the Electrical Safety Code;
  - 4.2.11 a sworn statement from the Applicant certifying the accuracy, truthfulness, and completeness of the application;
  - 4.2.12 consent for the City to use any information or database available to it, to verify the information provided by the Applicant or enforce the provisions of this By-law;
  - 4.2.13 consent to the inspection of the Short-term Rental premises at any reasonable time and when permitted by law, and that such inspection shall be in accordance with the Powers of Entry By-law;
  - 4.2.14 the prescribed fees as required by the City's Rates and Fees By-law.
  - 4.2.15 any outstanding fees required under this By-law owed to the City by the Applicant.
- 4.3 Additional material. The Director may require the following additional materials:
- 4.3.1 a statement prepared by the Fire Chief dated within 12 months of the date of the application indicating that the premises and its proposed use comply with the Fire Protection and Prevention Act and the Fire Code, and that such statement indicates the occupant load for sleeping purposes for the premises. The Applicant shall pay any additional required fees for any fire safety inspection necessary to prepare said statement; and
  - 4.3.2 any other supporting information or material that may be relevant to review or as may be required in any other part of this By-law or by the Director.

## 5. **LICENSE RENEWAL APPLICATION**

- 5.1 Renewal application. Every Licensee applying for a License renewal shall submit a complete application as set out in section 7.1 of this By-law, on the forms or in the manner prescribed by the Director for the purposes of renewal along with the following:

- 5.1.1 if no changes have been made to the floor plan, site sketch, Parking Management Plan, or Fire Safety Protocol submitted with the original application, a declaration that there have been no such changes;
- 5.1.2 if changes have been made to the floor plan, site sketch, Parking Management Plan, or Fire Safety Protocol submitted with the original application:
  - 5.1.2.1 a revised floor plan of the Short-term Rental premises clearly indicating the location and number of rooms, a description of its proposed use, and the number of beds, if changes have been made to the floor plan;
  - 5.1.2.2 a revised site sketch that indicates the location of the Short-term Rental premises, the adjacent Highway, and any external garage/recycling facilities, if changes have been made to the site sketch;
  - 5.1.2.3 a revised Parking Management Plan, if changes have been made to the Parking Management Plan; and
  - 5.1.2.4 a revised Fire Safety Protocol, if changes have been made to the Fire Safety Protocol.
- 5.1.3 if changes have been to the power supply or electrical wiring of the premises, a certificate from a licensed electrician dated within 12 months of the date of the application indicating the premises and its proposed use comply with the Electrical Safety Code, O. Reg. 164/99.
- 5.1.4 the prescribed fees as required by the City's Rates and Fees By-law.
- 5.2 Additional material. Notwithstanding section 5.1, the Director may require that an Applicant provide in their License renewal application, anything required under section 4.3, if in the opinion of the Director, the renewal application is substantially different than the original application or circumstances warrant it.
- 5.3 Renewal application deadline. Subject to the sole discretion of the Director which shall not be reviewable, a Licensee that does not submit a License renewal application prior to three (3) months of the expiration of their License may be required to submit a new application pursuant to section 4 of this By-law;
- 5.4 Non-continuance. A License renewal application submitted under this section does not permit a Licensee to continue to operate a Short-term Rental until such time the renewal application has been reviewed and approved by the Director, or an administrative temporary extension of the existing License has been granted by the Director.
- 6. **REVIEW OF APPLICATION AND PREMISES INSPECTION**



- 6.1 Powers of review. The Director may cause such investigations and inspections of Short-term Rentals to be undertaken respecting an application for a License as the Director determines to be relevant to the application.
- 6.3 Scheduling inspections. Upon receipt of a complete application as set out in section 7.1 of this By-law, and all accompanying documentation and the required fees, the City may schedule an inspection of the Short-term Rental premises, at any reasonable time and when permitted by law, and that such inspection shall be in accordance with the Powers of Entry By-law.
- 6.4 Rejection of application. The Director may reject a License application or its renewal where any of the documents required by this By-law are incomplete or have not been filed.
- 6.5 Third-party review. As a part of the review, applications may be circulated to those agencies deemed necessary or relevant by the Director.

## **7. ISSUANCE OF LICENSE**

- 7.1 Complete application. The determination of whether a License application is “complete” in accordance with the requirements of this By-law shall be within the sole discretion of the Director, and such decision shall not be reviewable.
- 7.2 License content. Each License shall include, without limitation, the following:
  - 7.2.1 the License number;
  - 7.2.2 the date the License was issued and the date it expires;
  - 7.2.3 the municipal address of the Short-term Rental premises;
  - 7.2.4 the number of beds in the Short-term Rental.
  - 7.2.5 the name, address, telephone number and e-mail address of the Licensee
- 7.3 License period. A License is valid for a period of two (2) years from the date of issuance.
- 7.4 Ownership of License. Every License, at all times, is owned by and is the property of the City and is valid only in respect of the Licensee for the Short-term Rental premises named therein.
- 7.5 Change in ownership. An issued License shall automatically expire upon a change in ownership of the Short-term Rental premises, in the case of an Owner, or upon termination or expiry of the lease of the Short-term Rental premises, in the case of a Long-term Tenant.

7.6 No vested right. No Person shall enjoy a vested right in the continuance of a License.

7.7 Non-transferable. Unless transferred under this section, a License is not transferable.

## 8. **NON-ISSUANCE AND NON-RENEWAL OF LICENSE**

8.1 Non-issuance. The Director may refuse to issue or renew a License where:

8.1.1 the past conduct of the Applicant or Licensee affords the Director reasonable grounds to believe that the Applicant or Licensee has not or will not carry on their Short-term Rental License in accordance with applicable law or honesty and integrity;

8.1.2 the Director reasonably believes that issuing the Short-term Rental License might be adverse to the public interest;

8.1.3 the Director reasonably believes that issuing the Short-term Rental License poses a threat to the health and safety of Persons or Property;

8.1.4 the Applicant or Licensee owes any fine or fee to the City in respect of the Short-term Rental premises;

8.1.5 the Short-term Rental premises is subject to an order, or orders made pursuant to or by:

8.1.5.1 a City by-law;

8.1.5.2 the Building Code Act;

8.1.5.3 the Fire Protection and Prevention Act;

8.1.5.4 the Medical Officer of Health; and

8.1.5.5 any other applicable law.

8.1.6 the Short-term Rental premises is not in compliance with the City's Zoning By-law;

8.1.7 the Director has received an objection to the issuance of the License by the Chief Building Official or the Fire Chief;

8.1.8 Where a previous License issued to the Licensee was suspended or revoked pursuant to section 11 of this By-law; or

8.1.9 a license has been revoked or suspended within the last two (2) years.

8.2 Notice. Where the Director has made a decision of non-issuance of a License outlined under section 7.2, the Director's written notice of that decision shall be given to the Applicant or the Licensee, in the case of a renewal, by registered or regular mail, personal service, or e-mail to the last known address of the Applicant or Licensee, and shall be deemed to have been given on the fifth day after it is mailed, or in the case of e-mail, on the same day it is sent if it was e-mailed before 4 p.m., otherwise, it is deemed to be given the day after.

8.3 Notice content. The written notice of non-issuance or non-renewal of a License to be given under section 7.3 shall:

8.3.1 set out the reasons for the decision;

8.3.2 be signed by the Director; and

8.3.3 state that the Applicant or Licensee is entitled to a hearing by the Hearing Officer which shall take place within 30 days of the notice of the decision of the non-issuance or non-renewal of a License under section 8.2 if the Applicant or Licensee delivers to the Director within 10 days after the notice of decision in section 8.2 is served, and provides to the City the applicable appeal fee as set out in the Rates and Fees By-law.

8.4 Final decision. Where no appeal is registered within the required time period, the decision of non-issuance or non-renewal of a License made by the Director shall be final as of the day the decision was made.

## 9. LICENSE CONDITIONS

9.1 Conditions. The following conditions are attached to each License issued under this By-law:

9.1.1 the Short-term Rental is lawfully constructed;

9.1.2 when the premises is occupied for the purposes of a Short-term Rental, a legible copy of the License shall be posted in a conspicuous location within one (1) meter of the interior of the Short-term Rental's primary entrance;

9.1.3 a Licensee shall notify the Director in writing within seven (7) days of any change to any information provided pursuant to sections 4 and 8 of this By-law;

9.1.4 the Licensee shall ensure compliance with all applicable laws including:

9.1.4.1 the Fire Protection and Prevention Act;

- 9.1.4.2 the Building Code Act;
- 9.1.4.3 the Electrical Safety Code;
- 9.1.4.4 the EMCPA
- 9.1.4.5 the Reopening Ontario Act
- 9.1.4.6 the Health Protection and Promotion Act, R.S.O. 1990, c. H.7;
- 9.1.4.7 the Zoning By-law;
- 9.1.4.8 the Traffic By-law;
- 9.1.4.9 the Fireworks By-law;
- 9.1.4.10 the Open Air Fires By-law;
- 9.1.4.11 the City's Property Standards By-law No. 2014-248;
- 9.1.4.12 the City's Public Nuisance By-law No. 2007-295;
- 9.1.4.13 the City's Noise By-law No. 95-198;
- 9.1.4.14 the City's Waste By-law 2020-106; and
- 9.1.4.15 the Regional Municipality of Niagara's Waste Collection By-law No. 2017-56.
- 9.1.5 when the premises 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 premises except within a parking space identified on the Parking Management Plan filed pursuant to the provisions of this By-law;
- 9.1.6 when the premises 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 the Fireworks By-law and Open Air Fires By-law;
- 9.1.7 the Licensee shall allow, at any reasonable time and when permitted by law, the City to inspect the Short-term Rental premises to ensure compliance with this By-law, and that such inspection shall be in accordance with the Powers of Entry By-law;

- 9.1.8 the Licensee shall include the License number in any advertisement or promotion related to the renting out of the premises intended to be used as a Short-term Rental;
- 9.1.9 the Licensee shall ensure that the Licensee or their Agent is available to attend to the Short-term Rental premises at all times within a period of no greater than one hour from the time of contact by way of telephone or e-mail.
- 9.1.10 within three (3) months of every anniversary of the issuance or renewal of the License, the Licensee shall provide to the City an updated certificate of insurance as required in section 4.2.5.
- 9.2 Additional Conditions. The Director may impose such additional conditions as the Director determines are appropriate in relation to the issuance of any License at any time during the term of the License, as are necessary in the opinion of the Director to give effect to the purposes of this By-law.
- 9.3 Review of conditions. Where a Licensee is dissatisfied with any condition imposed by the Director pursuant to section 9.2 of this By-law, the Licensee may request a review of the condition by the Hearing Officer.

## **10. REVOCATION AND SUSPENSION OF LICENSES**

- 10.1 Decision to revoke. The Director may revoke or suspend a Short-term Rental License at any time where:
  - 10.1.1 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;
  - 10.1.2 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;
  - 10.1.3 a Licensee contravenes any condition that is required under section 9 of this By-law;
  - 10.1.4 the total number demerit points assessed against a License cause a Licensee to contravene any of sections 12.1.3, 12.1.4, or 12.1.5 of this By-law;
  - 10.1.5 the License was issued in error;
  - 10.1.6 the Director, acting reasonably, is of the opinion that the Short-term Rental premises being licensed poses a threat to the health and safety of Persons or Property; or

- 10.1.7 the Director becomes aware of any fact or facts which, if known at the time of the application, may have resulted in the Director refusing to issue the License.
- 10.2 Suspension conditions. The Director may suspend a Short-term Rental License for a period of time and subject to such terms or conditions that the Director considers appropriate.
- 10.3 Notice. The Director shall provide the Licensee notice that their Short-term Rental License has been suspended or revoked and provide written reasons outlining why their License has been suspended or revoked. The Director's written notice of that decision shall be given to the Licensee by registered or regular mail, personal service, or e-mail to the last known address of the Licensee, and shall be deemed to have been given on the fifth day after it is mailed, or in the case of e-mail, on the same day it is sent if it was e-mailed before 4 p.m., otherwise, it is deemed to be given the day after.
- 10.4 Notice Content. The written notice to be given under section 9.3 shall:
- 10.4.1 set out the reasons for the decision;
  - 10.4.2 be signed by the Director; and
  - 10.4.3 state that the Licensee is entitled to a hearing by the Hearing Officer which shall take place within 60 days of the written notice of a License being suspended or revoked if the Licensee delivers to the Director within 30 days after the notice in section 9.3 is served, and provides to the City the appeal fee as set out in the Rates and Fees By-law.
- 10.5 Automatic suspension. Where the Director suspends or revokes a License for reasons related to public health or safety issues, the License may be automatically suspended by the Director until such time as a determination on the issue has been made by the Hearing Officer, provided that:
- 10.5.1 before suspending the License, the City provides the Licensee with the reasons for the suspension either verbally or in writing and an opportunity to respond to them; and
  - 10.5.2 the suspension shall not exceed 14 days, unless otherwise authorized by the Director.

## 11. APPEALS

- 11.1 Right to appeal. An Applicant or Licensee who has been denied a License, a License renewal, or has had their License suspended or revoked, may appeal the decision to a Hearing Officer, unless the revocation is pursuant to section 9.5 of this By-law.

- 11.2 Request to review. An Applicant or Licensee may request a review of the decision within 30 days after the decision has been delivered to the Person.
- 11.3 Absence of request. If an Applicant or Licensee has not requested a review within the time limit set out in section 10.2, the Applicant or Licensee shall be:
- 11.3.1 deemed to have waived the right to request a hearing;
  - 11.3.2 the decision shall be deemed to be affirmed; and
  - 11.3.3 the decision shall not be subject to any further review.
- 11.4 Submitting the form. An Applicant's or Licensee's right to request a review of a decision are exercised by attending the review hearing in person, or electronically, at the place or in the manner specified in the applicable form and filing said form.
- 11.5 Scheduling a review. A review shall only be scheduled by the City if the Applicant or Licensee has exercised his or her right to request a review within the time limit set out in section 10.2.
- 11.6 Document submission. Any documents that the Licensee or Applicant intends to rely on at the hearing must be submitted via e-mail prior to the scheduled hearing. All submitted documents, the notice of the decision being reviewed, and the request for review form will be compiled into one (1) package and distributed to the Hearing Officer, Director, and the Applicant or Licensee and their authorized representative, if applicable, for review prior to the hearing. No new material is permitted to be introduced at the hearing. Should any documentation be requested for reference purposes (e.g. applicable by-law information, etc.), it must requested by the Applicant or Licensee prior to the hearing.
- 11.7 Permitted attendees. The only individuals permitted to be present during the course of the hearing are the Hearing Officer, the Applicant or Licensee, their authorized representative, if applicable, the Director and any individuals that the Director requires, additional designated City staff members (solely for the purpose of administering the hearing and recording minutes of the hearing) and, where applicable, a Person designated to provide assistance and support for Persons with disabilities under the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c.11, or any other applicable legislation. Any such Person present will not be allowed to participate in the hearing without the permission of the Hearing Officer.
- 11.8 Absence. When the Applicant or Licensee, who has been given written notice of the hearing, does not attend at the appointed time and place, the Applicant or Licensee shall be deemed to have abandoned the request for a review of the decision and the Hearing Officer may proceed with the hearing in his or her

absence and the Applicant or Licensee shall not be entitled to any further notice of the proceeding.

- 11.9 Decision. On a review of the decision, the Hearing Officer may affirm, vary, or overturn the decision of the Director or make any decision that the Director was entitled to make in the first instance.
- 11.10 SPPA. All hearings conducted by the Hearing Officer shall be in accordance with the SPPA.
- 11.11 Communication of Decision. At the conclusion of the hearing, the Hearing Officer may give its decision orally or in writing but in each case, it shall provide its decision in writing, with reasons, within 30 days after the hearing to the Applicant or Licensee and the Director, and the decision shall be signed by the Hearing Officer.
- 11.12 Notice of decision. The Hearing Officer's written decision shall be given to the Applicant or Licensee by registered or regular mail, personal service, or e-mail to the last known address of that Person and shall be deemed to have been given on the fifth day after it is mailed, or in the case of e-mail, on the same day it is sent if it was e-mailed before 4 p.m., otherwise, it is deemed to be given the day after.
- 11.13 Electronic hearing. The hearing may be held electronically, in accordance with Schedule "C" attached to this By-law.
- 11.14 Final decision. The decision of the Hearing Officer is final.
- 11.15 Non-consideration of law. The Hearing Officer shall not have jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.
- 11.16 Interference. No Person shall attempt, directly or indirectly, to communicate for the purpose of influencing a Hearing Officer's decision respecting the determination of an issue in a proceeding that is, or will be, pending before the Hearing Officer. Exceptions include:
  - 11.16.1 a Person who is entitled to be heard in the proceeding or the Person's authorized representative; and
  - 11.16.2 only by that Person or the Person's authorized representative during the hearing of the proceeding in which the issue arises
- 11.17 Legal advice. Section 1.16 does not prevent a Hearing Officer from seeking and receiving legal advice, including from a City lawyer.

## 12. DEMERIT SYSTEM



12.1 Demerit system. 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.

12.1.1 the number of demerit points referenced in Column 3 of Table 1 below will be assessed against a Short-term Rental premises in respect of the matter noted in Column 1 if the Director is of the opinion that the matter noted in Column 1 has occurred;

12.1.2 demerit points remain in place until the two-year anniversary of the date on which the demerit points were allocated;

12.1.3 if the total of all demerit points in effect respecting a Short-term Rental premises is at least 5, the Director shall suspend the Short-term Rental License for three (3) months. The Licensee may appeal the decision in the same manner as provided for under section 10 of this By-law;

12.1.4 if the total of all demerit points in effect respecting a Short-term Rental premises is at least 10, the Director shall revoke the Short-term Rental License for its remaining duration. The Licensee may appeal the decision in the same manner as provided for under section 10 of this By-law; and

12.1.5 if the total of all demerit points in effect respecting a Short-term Rental premises is at least 15, the Director shall revoke the Short-term Rental License for its remaining duration, and the Licensee shall have no right to appeal the decision.

| TABLE 1                                     |                       |                            |
|---------------------------------------------|-----------------------|----------------------------|
| Column1<br>Infraction                       | Column 2<br>Reference | Column 3<br>Demerit Points |
| <i>Fire Protection &amp; Prevention Act</i> | 9.1.4.1               | 10                         |
| Fire Safety Protocol                        | 9.1.6                 | 10                         |
| Obstruction of Inspection                   | 13.2                  | 10                         |
| <i>Building Code Act</i>                    | 9.1.4.2               | 8                          |
| <i>Electrical Safety Code</i>               | 9.1.4.3               | 8                          |
| Orders under the EMCPA                      | 9.1.4.4               | 8                          |
| Reopening Ontario Act                       | 9.1.4.5               | 8                          |
| Open Air Fires By-law                       | 9.1.4.10              | 8                          |
| <i>Health Protection and Promotion Act</i>  | 9.1.4.6               | 8                          |
| Public Nuisance By-law No. 2007-295         | 9.1.4.12              | 7                          |
| Noise By-law No. 95-198                     | 9.1.4.13              | 7                          |
| Fireworks By-law                            | 9.1.4.9               | 7                          |
| Non-availability of responsible Person      | 9.1.9                 | 4                          |
| Not posting License number                  | 9.1.8                 | 4                          |
| Not posting License                         | 9.1.2                 | 4                          |
| Not providing updated information           | 9.1.3                 | 3                          |

|                                        |          |   |
|----------------------------------------|----------|---|
| Parking Management Plan                | 9.1.5    | 3 |
| Zoning By-law No. 2013-283             | 9.1.4.7  | 3 |
| Property Standards By-law No. 2014-248 | 9.1.4.11 | 3 |
| Waste By-law No. 2020-106              | 9.1.4.14 | 2 |
| Garbage collection                     | 9.1.4.15 | 2 |

### 13. **ENFORCEMENT**

- 13.1 **Inspection.** The Director or an Officer, along with any Person necessary to assist the Director or Officer with their duties, may, at any reasonable time and when permitted by law, enter and inspect any Short-term Rental for the purpose of determining whether the Property is in compliance with any section of this By-law, and that such inspection shall be in accordance with the Powers of Entry By-law.
- 13.2 **Obstruction.** No Person shall hinder or obstruct the Director or an Officer, who is carrying out an inspection of the Property for the purpose of enforcing this By-law, nor shall any Person hinder or obstruct any employee or agent of the City directed to carry out work to bring the Short-term Rental into compliance with any section of this By-law.
- 13.3 **Presumption of operation.** In the absence of evidence to the contrary, if an advertisement or promotion related to the renting out of a premises intended to be used as a Short-term Rental is found, the Owner or Long-term Tenant, whichever the case may be, is deemed to have posted the advertisement or promotion, or consented to the posting of the advertisement or promotion of the premises as a Short-term Rental.

### 14. **OFFENCES**

- 14.1 **Offence.** Every Person who contravenes any provision of this By-law is liable to such penalties as provided for in the Municipal Act, 2001, S.O. 2001, c. 25.
- 14.2 **Administrative penalties.** An Officer who finds that a person has contravened a provision of this By-law may issue a penalty notice pursuant to the Non-Parking AMPS By-law.
- 14.2 **Continuing offence.** A contravention of the requirements set out in this By-law is deemed to be a continuing offence on each day or part of a day that the contravention continues.

### 15. **GENERAL**

- 15.1 **Gender and number.** In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

- 15.2 And/Or. The word “and” is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required as the case may be. The word “or” is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word “or” may also be an inclusive conjunction having the same meaning as the word “and”.
- 15.3 Severability. If any or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative on particular circumstances, the balance of this By-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 15.4 Delegation. For the purposes of subsection 23.2(4) of the Municipal Act, it is the opinion of Council that the powers delegated pursuant to this By-law are minor.
- 15.5 Compliance with other by-laws. This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations. If there is a conflict between a provision of this By-law and a provision of any other City by-law, the provision that establishes the higher standard shall apply.
- 15.5 Legislation. Any reference to legislation in this By-law includes the legislation referred to and its amendments as well as any subsequent legislation which may replace the legislation referred to, and its amendments thereto.
- 15.6 Effective date. This by-law comes into force and effect in the City wards listed below on the following dates:
- 15.6.1 WARD 6 – PORT DALHOUSIE: December 1, 2021
  - 15.6.2 WARD 5 – GRANTHAM: December 1, 2021
  - 15.6.3 WARD 4 – ST. PATRICK’S: February 1, 2022
  - 15.6.4 WARD 3 – GEORGE’S: February 1, 2022
  - 15.6.5 WARD 2 – ST. ANDREW’S: April 1, 2022
  - 15.6.6 WARD 1 – MERRITON: April 1, 2022

Read and passed this                      day of                      2021.

CLERK

MAYOR

DRAFT

SCHEDULE "A"

Definitions under the City's Zoning By-law No. 2013-283 as of February 3, 2021

**"Dwelling Unit"** means a self-contained housekeeping unit of one or more rooms containing cooking facilities, living quarters, sleeping quarters and sanitary facilities for the exclusive use of those residing within the dwelling unit, and which has an exclusive entrance.

**"Home-based Business"** means a use conducted within a Dwelling Unit which is secondary to the primary residential use of the Dwelling Unit, and may include outdoor activities associated with the home based business.

**"Principal Residence"** means a Dwelling Unit in which a person resides a majority of the year (i.e. 183 days or more).

SCHEDULE "B"  
Hearing Officer Appointment Process

**1. APPOINTMENT OF HEARING OFFICER**

- 1.1 Ineligible persons. The following are not eligible for appointment as a Hearing Officer:
- 1.1.1 an employee or member of Council of the City;
  - 1.1.2 the relative of a Person referenced in section 1.1.1 of Schedule "B";
  - 1.1.3 a Person indebted to the City other than:
    - 1.1.3.1 in respect of real property taxes; or
    - 1.1.3.2 pursuant to an agreement with the City, the terms with which the Person is compliant.
- 1.2 Terms and length of employment. The Hearing Officer shall be appointed for such period and subject to such terms and conditions as may be determined by City staff in accordance with the City's employment or contract policies and guidelines, with preference to those candidates with knowledge of administrative law and being of good character.

SCHEDULE "C"  
Virtual Hearings

**1. RULES FOR ELECTRONIC HEARINGS**

- 1.1 Format and procedure. Video and audio must be enabled at all times by all participants during the hearing. In the event that any technical difficulties are faced during the course of the hearing, the following steps shall be followed:
- 1.1.1 in the event of failed audio communication, arrangements will be made to remain on video and to use the telephone number as provided with the information and video link for the Electronic Hearing to the Person (and/or their authorized representative (if applicable)) to be able to continue the remainder of the hearing;
  - 1.1.2 In the event of failed video, the hearing will be put on hold and an attempt to re-establish video connection will take place. If the video connection cannot be re-established, the hearing will be adjourned and re-scheduled.
  - 1.1.3 An Electronic Recording of the hearing is not permitted unless consent of all participants is given, save and except for the purpose of administering the hearing and recording of minutes of the hearing by the Hearing Officer and designated City staff.

CITY OF ST. CATHARINES

BY-LAW NO. \_\_\_\_\_

A by-law to establish a system for non-parking related administrative penalties.

**WHEREAS** sections 8, 9, and 11 of the Municipal Act, 2001, S.O. 2001, c. 25 (the “Municipal Act”) authorize the Corporation of the City of St. Catharines to pass by-laws necessary or desirable for municipal purposes;

**AND WHEREAS** section 434.1 of the Municipal Act provides that 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** pursuant to section 391 of the Municipal Act 2001, a municipality may pass by-laws imposing fees or charges for costs payable to it for services or activities, and services or activities provided or done by or on behalf of the municipality;

**AND WHEREAS** The City of St. Catharines considers it desirable to have an administrative penalty system for non-parking or traffic related by-laws to which administrative penalties may apply and may designate other non-parking or traffic related by-laws to be applicable to the administrative system established through this by-law;

**AND WHEREAS** the City of St. Catharines considers it desirable to enforce and seek compliance with the designated by-laws, or portions of those by-laws, through the administrative penalty system;

**NOW THEREFORE** the Council of the Corporation of the City of St. Catharines enacts as follows:

**1. SHORT TITLE**

1.1 Short title. This by-law shall be known as the “Non-Parking AMPS By-law”.

**2. DEFINITIONS**

2.1 Interpretation. For the purposes of this by-law:

“**Administrative Fee**” means any fee specified in this by-law and listed in Schedule “A” to this by-law.

“**Administrative Penalty**” means an administrative penalty established by a Designated By-law [OR means any fee specified in this by-law and listed in Schedule “B” to this by-law for a contravention of a Designated By-law;



**“City”** means the Corporation of the City of St. Catharines;

**“Council”** means the elected Council of the City;

**“Director”** means the department head responsible for City by-law enforcement or his or her designate.

**“Designated By-law”** means a by-law or part of a by-law that is designated under this or any other by-law, as a by-law or part of a by-law to which this by-law applies and is listed in Schedule “B” to this by-law;

**“Electronic Review”** means a review held by a form of electronic technology allowing persons to hear and see one another, and includes hearings conducted by video conference.

**“Electronic Recording”** means a record created, generated, sent, communicated, received, or stored by electronic means.

**“Hearing Absence Fee”** means an administrative fee from time to time established by the Rates and Fees By-law in respect of a Person’s failure to appear at the time and place scheduled for a hearing review before a Hearing Officer;

**“Hearing Decision”** means a notice that contains the decision of a Hearing Officer;

**“Hearing Officer”** means each hearing officer from time to time appointed pursuant to the Screening and Hearing Officer Appointment By-law.

**“Late Payment Fee”** means an administrative fee from time to time established by the Rates and Fees By-law in respect of a Person’s failure to pay an Administrative Penalty by the date on which it is due and payable;

**“Officer”** has the same meaning as “provincial offences officer” under the Provincial Offences Act, including a by-law enforcement, and any individual appointed under the authority of a City by-law to enforce a Designated By-law;

**“Penalty Notice”** means a notice given pursuant to section 4.3 of this by-law.

**“Penalty Notice Date”** means the date on which the Penalty notice was issued;

**“Penalty Notice Number”** means the unique identifying number associated with a particular a Penalty Notice;

**“Person”** includes an individual, corporation, partnership or limited partnership and their authorized representative;

**“Rates and Fees By-law”** means the City Rates and Fees By-law.

**“Screening Absence Fee”** means an administrative fee from time to time established by the Rates and Fees By-law in respect of a Person’s failure to appear at the time and place scheduled for a review by a Screening Officer;

**“Screening and Hearing Officer Appointment By-law”** means the City’s Screening and Hearing Officer Appointment By-law No. 2014-157.

**“Screening Decision”** means a notice which contains the decision of a Screening Officer;

**“Screening Officer”** means each screening officer from time to time appointed pursuant to the Screening and Hearing Officer Appointment By-law.

### 3. **APPLICATION AND ADMINISTRATION**

3.1 Application. This by-law shall apply to all Designated By-laws.

3.2 Administration. This by-law shall be administered and enforced by the Director. The Director shall establish any practices, policies and procedures necessary to implement this by-law and may amend such practices, policies and procedures from time to time as the Director deems necessary.

3.3 Forms. The Director shall prescribe all forms and notices, including the Penalty Notice, necessary to implement this by-law and may amend such forms and notices from time to time as the Director deems necessary.

3.4 Review locations. The Director may designate areas within the City for conducting screening reviews and hearing reviews pursuant to this by-law.

3.5 Holidays. Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a holiday.

### 4. **PENALTY NOTICE**

4.1 Contravention. Every person who contravenes a provision of a Designated By-law shall be liable, upon issuance of a Penalty Notice, to pay an Administrative Penalty in an amount specified by the Designated By-law [or Schedule “B”], for each day or part of a day on which the contravention continues.

4.2 Issuance of penalty notice. An Officer who has reason to believe that a Person has contravened any provision of a Designated By-law may issue a Penalty Notice to that Person.

4.3 Penalty notice information. A Penalty Notice shall include the following information:

- 4.3.1 the date of the contravention;
  - 4.3.2 the Penalty Notice Date;
  - 4.3.3 a reference number that is unique to the Penalty Notice;
  - 4.3.4 particulars of the contravention;
  - 4.3.5 the amount of the Administrative Penalty;
  - 4.3.6 information respecting the process by which the Person may pay the Administrative Penalty or request a screening review of the Administrative Penalty; and
  - 4.3.7 a statement that the Administrative Penalty, unless cancelled as a result of a review process, constitutes a debt to the City.
- 4.4 Penalty notice actions. A Person who has been issued a Penalty Notice shall within fifteen (15) days after the Penalty Notice Date:
- 4.4.1 pay the Administrative Penalty;
  - 4.4.3 request the Administrative Penalty be reviewed by a Screening Officer in accordance with section 5.1; or
  - 4.4.4. request an extension of time to request a screening review by a Screening Officer in accordance with section 5.1.
- 4.5 First past due notice. If a Person who has been given a Penalty Notice does not exercise an option under section 4.4 within fifteen (15) days, City staff shall deliver a notice to the person indicating that no such option has been exercised and that;
- 4.5.1 the Person is deemed to waive their right to request the Administrative Penalty be reviewed or request an extension to request a screening review by a Screening Officer; and
  - 4.5.2 the Person may request an extension of up to thirty-five (35) days after the Penalty Notice Date to pay the Administrative Penalty, and that such an extension may only be granted due to extenuating circumstances.
- 4.6 Second past due notice. If an extension has been granted, and a Person fails to pay the Administrative Penalty within thirty-five days (35) of the Penalty Notice Date, City staff shall deliver a notice to the person indicating as such and that:

- 4.6.1 a Late Payment Fee shall be added to the Administrative Penalty and that the Late Payment Fee is not subject to review or appeal, including a review or appeal by a court of competent jurisdiction; and
- 4.6.2 the Person may pay the Administrative Penalty within fifty (50) days of the Penalty Notice Date.
- 4.7 Expiration. If a Person fails to pay the Administrative Penalty within fifty (50) days of the Penalty Notice Date, or fifteen (15) days if no extension has been granted:
  - 4.7.1 the Administrative Penalty shall be deemed to be affirmed;
  - 4.7.2 an additional Late Payment Fee shall be added to the Administrative Penalty;
  - 4.7.3 the Administrative Penalty and any Late Payment Fees, shall not be subject to any further review or appeal, including a review or appeal by any court of competent jurisdiction.

**5. REVIEW BY SCREENING OFFICER**

- 5.1 Screening review request. A Person's right to request a screening review or to request an extension of time to request a screening review of the Administrative Penalty are exercised by:
  - 5.1.1 submitting the appropriate form available at the City's website as set out in the Penalty Notice by mail or e-mail;
  - 5.1.2 scheduling a screening review with City staff by contacting the telephone number provided in the Penalty Notice; or
  - 5.1.2 attending in-person at the location listed in the Penalty Notice to submit the appropriate form to City staff.
- 5.2 Scheduling. A screening review or request for an extension of time to request a screening review shall only be scheduled by the City if the person has exercised his or her right to request a screening review or an extension of time to request a screening review within fifteen (15) days of the Penalty Notice Date.
- 5.3 Submission of documents. Any documents that the Person intends to rely on at the screening review must be submitted via e-mail prior to the scheduled review. All submitted documents, and the Penalty Notice being reviewed, must be compiled into one (1) package and distributed to the Screening Officer, Director, and the Person and their authorized representative, if applicable, for review prior to the screening review. No new material is permitted to be introduced at the screening review. Should any documentation be requested for reference

purposes (e.g. applicable by-law information, etc.), it must be requested prior to the screening review.

- 5.4 Permitted individuals. The only individuals permitted to be present during the course of the screening review are the Screening Officer, the Person, their authorized representative, if applicable, the Director and any individuals that the Director requires, designated City staff members (solely for the purpose of administering the screening review and recording minutes of the screening review) and, where applicable, a Person designated to provide assistance and support for Persons with disabilities under the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c.11, or any other applicable legislation. Any such Person present will not be allowed to participate in the screening review without the permission of the Screening Officer.
- 5.5 Failure to attend. Where a Person fails to attend at the time and place scheduled for a screening review of the Administrative Penalty:
  - 5.5.1 the Person shall be deemed to have abandoned the request for a screening review of the Administrative Penalty;
  - 5.5.2 a Screening Absence Fee shall be added to the Administrative Penalty; and
  - 5.5.2 the Administrative Penalty as set out in the Penalty Notice shall be deemed to be affirmed fifteen (15) days after the Penalty Notice Date and is not subject to any further review or appeal, including any review or appeal by any court of competent jurisdiction.
- 5.6 Extension of time to request screening review. The Screening Officer may only extend the time to request a screening review of an Administrative Penalty where the Person demonstrates, on a balance of probabilities, the existence of extenuating circumstances that warrant the extension of time.
- 5.7 Non-extension affirmation. Where an extension of time to request a screening review is not granted by the Screening Officer, the Administrative Penalty is deemed to be affirmed.
- 5.8 Decision of screening officer. At the conclusion of a screening review, the Screening Officer may affirm the Administrative Penalty, or the Screening Officer may cancel, vary, or extend the time for payment of the Administrative Penalty, including any Administrative Fee, on the following grounds:
  - 5.8.1 where the Person establishes on a balance of probabilities, that he or she did not contravene the Designated By-law as described in the Penalty Notice;
  - 5.8.2 where the Person demonstrates that they took all reasonable steps to prevent the contravention; or

5.8.3 where the Person establishes on a balance of probabilities that the reduction or extension of time for payment of the Administrative Penalty, including any Administrative Fee, is necessary to relieve any undue hardship.

5.9 Notice of screening decision. A copy of the Screening Decision will be communicated orally at the conclusion of the screening review and a written decision will be provided to the Person, and their authorized representative, if applicable, in accordance with section 8 as soon as practicable.

5.10 SPPA. All screening reviews conducted by the Screening Officer shall be in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22.

5.11 Electronic reviews. The screening review may be held electronically, in accordance with section 10.

## **6. REVIEW BY HEARING OFFICER**

6.1 Right to request hearing review. A Person may request a review of a Screening Decision by a Hearing Officer and shall do so within fifteen (15) days after the Screening Decision has been delivered to the Person.

6.2 Expiration. If a Person has not requested a hearing within fifteen (15) days of the delivery of the Screening Decision, a Person may request that the Hearing Officer extend the time to request a review within thirty (30) days of the delivery of the Screening Decision. A Person's right to request an extension of time expires if it has not been exercised within thirty (30) days after the Screening Decision has been delivered at which time:

6.2.1 the Person shall be deemed to have waived the right to request a hearing review;

6.2.2 the Screening Decision and the Administrative Penalty, if applicable as modified in the Screening Decision, shall be deemed to be affirmed; and

6.2.3 the Screening Decision and the Administrative Penalty, if applicable as modified in the Screening Decision, shall not be subject to any further review or appeal including a review or appeal by a court of competent jurisdiction.

6.3 Hearing review request. A Person's right to request a hearing review of a Screening Decision or to request an extension of time to request the hearing review are exercised by submitting the appropriate form to City staff.

6.4 Scheduling. A hearing review or request for an extension of time to request a hearing review shall only be scheduled by the City if the person has exercised his

or her right to request a hearing review or an extension of time to request a hearing review within the time limits set out in section 6.1 and 6.2, respectively.

- 6.5 Submission of documents. Any documents that the Person intends to rely on at the hearing review must be submitted via e-mail prior to the scheduled hearing review. All submitted documents, including the Penalty Notice and the Screening Decision being reviewed must be compiled into one (1) package and distributed to the Hearing Officer, Director, and the Person and their authorized representative, if applicable, for review prior to the hearing review. No new material is permitted to be introduced at the hearing review. Should any documentation be requested for reference purposes (e.g. applicable by-law information, etc.), it must be requested prior to the hearing review.
- 6.6 Permitted individuals. The only individuals permitted to be present during the course of the hearing review are the Hearing Officer, the Person, their authorized representative, if applicable, the Director and any individuals that the Director requires, designated City staff members (solely for the purpose of administering the hearing review and recording minutes of the hearing review) and, where applicable, a Person designated to provide assistance and support for Persons with disabilities under the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c.11, or any other applicable legislation. Any such Person present will not be allowed to participate in the hearing review without the permission of the Hearing Officer.
- 6.7 Failure to attend. Where a Person fails to attend at the time and place scheduled for a hearing review by the Hearing Officer:
  - 6.7.1 the Person shall be deemed to have abandoned the request for a hearing review of the Screening Decision;
  - 6.7.2 the Screening Decision and the Administrative Penalty, if applicable as modified in the Screening Decision, shall be deemed to be final and are not subject to any further review or appeal, including a review or appeal by a court of competent jurisdiction;
  - 6.7.3 the Administrative Penalty, if applicable as modified in the Screening Decision, is deemed to be affirmed on the date the Screening Decision was served on the Person; and
  - 6.7.4 the Person shall pay to the City, a Hearing Absence Fee.
- 6.8 Extension of time to request hearing review. The Hearing Officer may only extend the time to request a hearing review of a Screening Decision where the Person demonstrates, on a balance of probabilities, the existence of extenuating circumstances that warrant the extension of time.

- 6.9 Non-extension affirmation. Where an extension of time is not granted by the Hearing Officer, the Screening Decision and Administrative Penalty, if applicable as modified in the Screening Decision, are deemed to be affirmed.
- 6.10 Opportunity to be heard. A Hearing Officer shall not make any decision respecting a review of a Screening Decision unless the Hearing Officer has given the Person and the City an opportunity to be heard at the time and place scheduled for the hearing review.
- 6.11 Decision of hearing officer. At the conclusion of a hearing review, the Hearing Officer may affirm the Screening Decision, or the hearing Officer may cancel, vary, or extend the time for the payment of the Administrative Penalty, including any Administrative Fee, on the following grounds:
  - 6.11.1 where the Person establishes on a balance of probabilities, that he or she did not contravene the Designated By-law as described in the Penalty Notice;
  - 6.11.2 where the Person demonstrates that they took all reasonable steps to prevent the contravention; or
  - 6.11.3 where the Person establishes on a balance of probabilities, that the reduction or extension of time for payment of the Administrative Penalty, including any Administrative Fee, is necessary to relieve any undue hardship.
- 6.12 Notice of decision. A copy of the Hearing Decision will be communicated orally at the conclusion of the hearing review and a written decision will be provided to the Person, and their authorized representative, if applicable, in accordance with section 8 as soon as practicable.
- 6.13 Decision is final. Any decision by a Hearing Officer is final, and is not subject to further review or appeal, including review or appeal by a court of competent jurisdiction.
- 6.14 SPPA. All hearing reviews conducted by the Hearing Officer shall be in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22.
- 6.15 Electronic review. The hearing review may be held electronically, in accordance with section 10.

## **7. SCREENING AND HEARING OFFICERS**

- 7.1 Non-consideration of law. Neither a Screening Officer nor a Hearing Officer has jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.



7.2 Interference. No Person shall attempt, directly or indirectly, to influence the decision of a Screening Officer or Hearing Officer respecting the determination of an issue in a review that is, or will be, pending before the Screening Officer or Hearing Officer. Exceptions include:

7.2.1 a Person who is entitled to be heard in the review or the Person's authorized representative; and

7.2.2 only by that Person or the Person's authorized representative during the review in which the issue arises.

7.3 Legal advice. Section 7.2 does not prevent a Screening Officer or Hearing Officer from seeking and receiving legal advice, including from a City lawyer.

## **8. SERVICE OF DOCUMENTS**

8.1 Effective service. Service of any document or notice, including a Penalty Notice, respecting this by-law may be given in writing in any of the following ways and is effective:

8.1.1 by personal delivery;

8.1.2 by registered or regular mail and is effective five (5) days after a copy is sent to the Person's last known address; or

8.1.3 By sending a copy by e-mail and is effective if sent before 4:00 PM that day. If it is sent after 4:00 PM it shall be deemed to be delivered the following day at 8:00 AM.

8.2 Last known address. For the purposes of sections 7.1.1, 7.1.2, 7.1.3, a Person's last known address or e-mail address may include an address, or e-mail provided by the Person to the City as may be required by any form, practice or policy developed under this by-law.

## **9. FINANCIAL ADMINISTRATION**

9.1 Debt to the City. An Administrative Penalty, including any Administrative Fee, that is affirmed is due and payable and constitutes a debt to the City owed by the Person to whom the penalty Notice was given.

9.2 NSF Fee. Where a Person provides payment for any Administrative Penalty or Administrative Fee, if the instrument from which payment was drawn has insufficient funds, the Person shall pay to the City a non-sufficient funds fee.

9.3 Fee cancellation. Where an Administrative Penalty is cancelled by a Screening Officer or a Hearing Officer, any Administrative Fee is also cancelled.

9.4 Refunds. Where a Person has paid an Administrative Penalty or an Administrative Fee that is then cancelled or reduced pursuant to this by-law, the City shall refund the amount cancelled or reduced.

9.5 Non-acceptance of payment. No Officer may accept payment in respect of an Administrative Penalty.

## 10. **RULES FOR ELECTRONIC REVIEWS**

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

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

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

10.2 Electronic recordings. An Electronic Recording of the review is not permitted unless consent of all participants is given, save and except for the purpose of administering the review and recording of minutes of the review by the Hearing Officer or the Screening Officer, whichever the case may be, and designated City staff.

## 11. **GENERAL PROVISIONS**

11.1 Gender and number. In this by-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

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

- 11.3 Headings. Article and section headings used herein are for convenience of reference only, and do not form a part of this by-law.
- 11.4 Schedules. Any schedule attached to this by-law forms part of this by-law.
- 11.5 Delegation. For the purposes of subsection 23.2(4) of the Municipal Act, it is the opinion of Council that the powers delegated pursuant to this By-law are minor.
- 11.6 Severability. If any or part of a provision of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative on particular circumstances, the balance of this by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 11.7 Legislation. Any reference to legislation in this by-law includes the legislation referred to and its amendments as well as any subsequent legislation which may replace the legislation referred to, and its amendments thereto.
- 11.8 Effective date. This by-law shall come into force on [DATE].

SCHEDULE "A"  
Administrative Fees

| ITEM                     | FEE     |
|--------------------------|---------|
| Late Payment Fee         | \$20.00 |
| Screening Absence Fee    | \$25.00 |
| Hearing Absence Fee      | \$50.00 |
| Non-Sufficient Funds Fee | \$48.10 |

**Note:** The fees and charges as listed in this Schedule "A" to this by-law will be subject to Harmonized Sales Tax (H.S.T.) where applicable.

SCHEDULE "B"  
Designated By-law Provisions

**1. GENERAL**

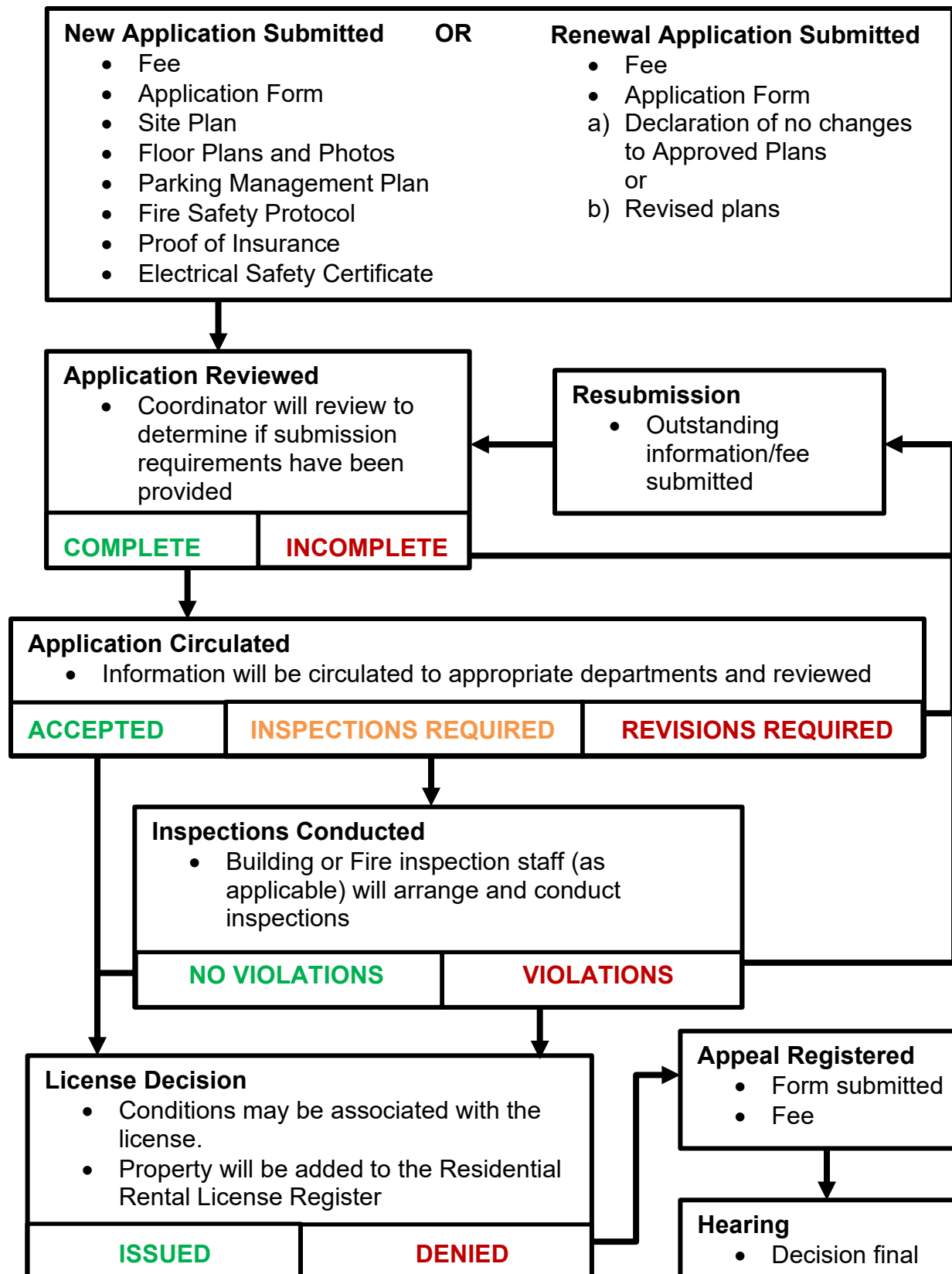
- 1.1 Column 1 in the following tables lists the provisions in the corresponding by-law that are hereby designated for the purpose of establishing an administrative monetary penalties system.
- 1.2 Column 2 in the following tables sets out the short form wording to be used in a Penalty Notice for the contravention of the designated provisions listed in column 1.
- 1.3 Column 3 in the following table sets out the Administrative penalty amounts that are payable for contraventions of the designated provisions listed in column 1.

**2. DESIGNATED BY-LAW PROVISIONS – STR LICENSING [BY-LAW NO. \_\_\_\_\_]**

| ITEM | COLUMN 1<br>Designated Provisions | COLUMN 2<br>Short Form Wording                      | COLUMN 3<br>Administrative Penalty |
|------|-----------------------------------|-----------------------------------------------------|------------------------------------|
| 1.   | 3.4                               | Operating STR without license                       | \$1,000.00                         |
| 2.   | 9.1.2                             | Failure to display license                          | \$100.00                           |
| 3.   | 9.1.3                             | Failure to provide updated information              | \$100.00                           |
| 4.   | 9.1.4                             | Operating STR without conforming to applicable laws | \$400.00                           |
| 5.   | 9.1.6                             | Failure to display fire safety protocol             | \$400.00                           |

|    |       |                                                                 |          |
|----|-------|-----------------------------------------------------------------|----------|
| 6. | 9.1.8 | Failure to include license number in advertisement or promotion | \$700.00 |
| 7. | 9.1.9 | Non-availability of contact person                              | \$100.00 |
| 8. | 13.2  | Obstruction of director or officer                              | \$200.00 |

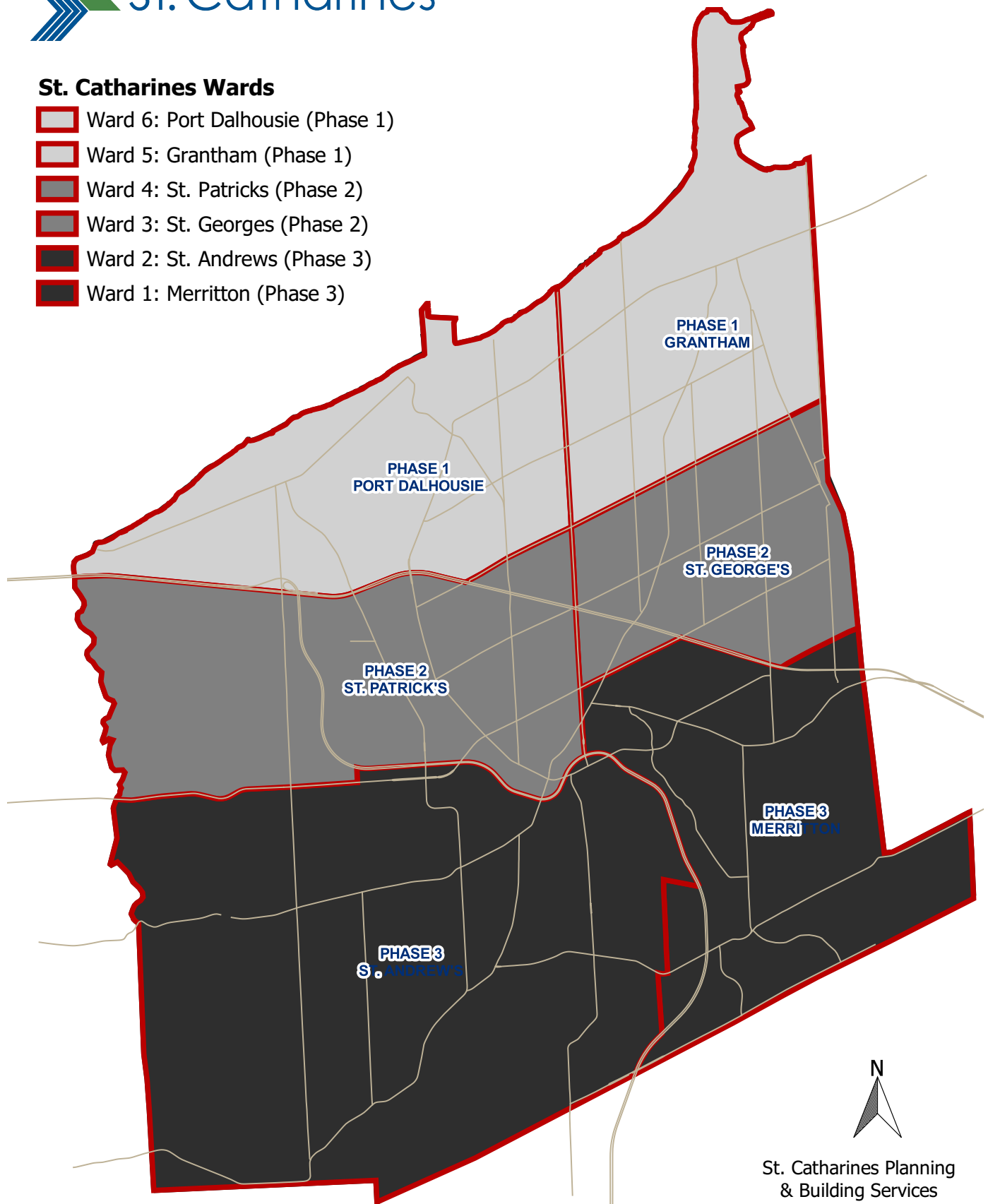
## Application Review Process





### St. Catharines Wards

-  Ward 6: Port Dalhousie (Phase 1)
-  Ward 5: Grantham (Phase 1)
-  Ward 4: St. Patricks (Phase 2)
-  Ward 3: St. Georges (Phase 2)
-  Ward 2: St. Andrews (Phase 3)
-  Ward 1: Merritton (Phase 3)





## Memorandum

**To:** Mayor Sendzik and Members of Council

**Cc:** Shelley Chemnitz, CAO and Members of Senior Leadership Team

**From:** Taya Devlin, Planner

**Date:** May 6, 2021

**Subject:** Supplemental Memorandum: Responses to Council Questions about Short Term Rental Licensing and AMPS By-law

---

### 1 Licensing

**1.1 Has there been consideration to also require STR companies themselves to buy a license to be able to have operators in the city, not just the operators? The City of Toronto requires platforms to purchase a license, and that license includes an agreement that they will follow up on operators not complying with their bylaws.**

Staff did consider a requirement for STR platforms to obtain a licence. In discussions with STR platforms it was noted that there is significant proprietary information collected by the platform that they would not be able to share with the Municipality. Through consideration it was determined that the challenges associated with licensing platforms outweighed the benefits and would not be an effective tool for St. Catharines based on the scale of STR use relative to other large Cities.

**1.2 Who is the "Hearing Officer" for appeals and who appoints him/her?**

The Hearing Officer will be appointed by the Director, in accordance with Schedule B of the proposed licensing by-law. The Hearing Officer is not a full-time employee position.

**1.3 Licensees should have to provide a contact for complaints accessible 24-7.**

The proposed licensing by-law includes a requirement that either the Licensee or the Agent is available to attend the STR within an hour of contact by staff (9.1.9).

**1.4 If an operator accumulates demerit points and the licence is suspended, is their license eligible for renewal?**

After a license is suspended, a licensee may apply for a renewal. The Director does have authority to refuse to issue or renew a licence based on past conduct.

## **2 Administrative Monetary Penalty System (AMPS)**

### **2.1 What other By-Laws could be enforced via AMPS system? Could AMPS be applied to existing by-laws such as Nuisance?**

The AMPS by-law could be expanded to include enforcement of any by-law passed under the Municipal Act.

### **2.2 Can non-compliant STRs be fined?**

An administrative penalty can be issued for an offence identified in the AMPS by-law. The proposed by-law includes offences such as operating without a license, not posting a license, and operating an STR without complying with applicable by-laws.

## **3 Enforcement**

### **3.1 Staff on numerous occasions claimed that they could not prove that a unit was being used as a STR. If we licence STRs and one operates without a permit how can we prove they are a STR when we could not in the past?**

The standard of proof required for an offence under an AMPS model is different than what is required for an offence under the Provincial Offences Act.

Under the proposed model, penalties can be issued when an offence has occurred, based on the balance of probabilities. A person issued a penalty notice/notice of an offence, has the option to file an appeal and they are then provided a hearing date to present evidence to support their appeal.

This represents a shift from the current model prosecuted under Part 3 of the Provincial Offences Act where the City is responsible for providing evidence to prove the offence occurred beyond a reasonable doubt.

### **3.2 What other methods could be used to improve and speed up enforcement if STR use was to remain illegal?**

The Zoning By-law Amendment was approved in December 2020, which permits STR use as a home-based business, subject to the establishment of a licensing framework.

The Zoning By-law is approved under the Planning Act and therefore cannot be enforced using AMPS. If STRs remain an illegal use, the City would only be able to address enforcement of the by-law under Part 3 of the Provincial Offences Act. This is the current approach, which has proven to be challenging for staff to enforce.

### **3.3 Could STRs not be considered illegal under a By-Law other than ZB - e.g. Parking, Nuisance or Noise?**

No. Whether or not an STR is an illegal use is strictly a zoning issue.

However, operators of STRs that cause or permit to be caused the offences identified in the nuisance by-law or noise by-law could be prosecuted under those by-laws. The fact that the property is used as a STR would not be relevant to the offence.

Parking offences attach only to the owner of the vehicle.

### **3.4 What will be done when a STR operator doesn't register?**

Operating an STR without a license is identified as an offence with an associated monetary penalty in the proposed AMPS by-law. By-law enforcement staff will be able to issue offences for STRs operating without obtaining a licence.

### **3.5 If there are issues at a non-registered STR will the City be required to go through the court process to fine them?**

No. If the Licensing By-law and AMPS by-law are approved, the City would have the option to issue penalties without going to Provincial Offences Court.

The City could still charge under Part 3 of the Provincial Offences Act and proceed to Court; however, the municipality cannot charge individuals for the same infraction under the Provincial Offences Act and the AMPS by-law.

## **4 Resources**

### **4.1 What are the projected economic benefits to the City, such as increased tourism expenditure, to justify a net expenditure of approximately half a million per annum?**

Tourism expenditure was not the rationale nor the end goal for initiating STR licensing. A Municipal Accommodation Tax (MAT) will follow the operational phase of STR in St. Catharines scheduled for January 2022. The MAT would result in a new revenue source to be reinvested in tourism product development and visitor attraction efforts.

### **4.2 Would the new bylaw officers be used for other infractions (property standards, etc.)?**

Yes, the by-law officers would join the existing complement and enforce by-laws (e.g. zoning, property standards), in addition to the STR Licensing and AMPS by-laws.

**4.3 Why is the total cost of hiring 3 additional bylaw officers credited to the STR program when they will be performing other duties as well as STRs?**

The proposed addition of three by-law enforcement officers is being brought forward as a result of staff's consideration of a licensing framework for STRs. The costs are not solely the result of the STR program and would be reflected in the budget of Planning and Building Services as a whole.

**4.4 Do we really need an additional 3 bylaw officers? I think it would be a mistake assigning one per ward, if that is the intent. I can see an extra one for duties during the week and one assigned on the weekend. Even with these staff additions bylaw enforcement of other infractions (property standards etc.) than STR's will be enhanced.**

Three additional by-law officers are proposed to assist in providing more effective enforcement of various by-laws throughout the City. The additional staff would allow for enforcement on evenings and weekends, where the City currently either does not conduct enforcement or relies on staff working overtime to fulfill this need.

**4.5 Proposed fees for Licenses and for Appeals seem too low to be a deterrent. To reduce costs should the City charge more for a license, operating without a license, and obstruction of an officer?**

Staff propose a License Application fee of \$500, which is in the middle range, when compared with other Municipalities. The fee could be increased; however, staff are mindful that an accessible licence fee promotes operators obtaining a licence, which assists the City in understanding the interest and demand for STRs.

The proposed penalty for operating without a licence is \$1,000, which is the maximum penalty that can be imposed through AMPS. The proposed penalty of \$200 for obstruction of an officer could be increased. It is important to note that in addition to the monetary penalty proposed in the AMPS by-law, Obstruction of an Officer would also result in 10 demerit points under the Licensing By-law. Accumulation of 10 demerit points results in the licence being revoked for the remainder of the term.

**4.6 It is mentioned in the report that some costs can be recovered from proceeds of beach parking. Are those proceeds not expected to pay for additional operating staff at the beaches as well as possible improvements?**

Yes, the revenues from beach parking are expected to pay for additional operating staff at the beaches. There is potential that additional enforcement for beach parking could also serve as enforcement for STRs for 2021 and some of these costs could be shared.

**4.7 Would it be possible to have the staff member responsible for hearing traffic claims trained to handle STR infractions?**

No. The existing Parking AMPS and proposed Non-Traffic AMPS are two different by-laws and will have protocols for hearing appeals specifically outlined in each respective by-law. While both by-laws use a Hearing Officer, the purpose and role are different for each.

**4.8 Is it correct to assume that STRs have significantly reduced business from Oct. to May, therefore alleviating pressure on staff during the off season?**

It is certainly reasonable to assume that April to September would see an increase in rentals due to warm weather activities, such as beaches and rowing events. During the off-peak season, there may be decreased activity specific to STRs but staff would continue to be responsible for all other enforcement, including property standards, and zoning.

## **5 Terminology/Clarification**

**5.1 Please clarify regarding the long-term rental mentioned on page 5. According to the new Ontario standard lease, you can have a long-term lease — and, really, no landlord wants a 12-month lease anyway — through month-to-month leases. Why is the City limiting long-term rental to more than 12 months.**

An operator is only permitted to operate a STR from their primary residence (the unit they reside in a majority of the year). The intent of including the term 'long-term tenant' is for ensuring that the unit has or will be occupied by the STR operator for at least 12 months. This definition is not to limit the period that a person may rent for housing purposes. But it is intended to ensure a unit is used for residential purposes first and foremost before being used for STR as an accessory use.

**5.2 I have read the first paragraph on page 13 and I'm not sure of its' meaning. Please clarify.**

In considering the enforcement strategy for STRs, staff have identified an opportunity to modernize the City's overall approach to by-law enforcement.

Currently, the Manager of Inspections, in the Building Division, oversees building inspections pertaining to building permits as well as the by-law enforcement officers and intake of by-law complaints. Having one Manager oversee both divisions is not effective.

Staff propose to divide this work so the Manager of Inspections would retain responsibility for overseeing building inspections and a new Manager of By-law Enforcement and Licensing would be introduced to oversee the by-law enforcement officers and intake of by-law complaints.



## Corporate Report City Council

**Report from:** Financial Management Services, Property Management

**Report Date:** March 4, 2021

**Meeting Date:** May 10, 2021

**Report Number:** FMS-040-2021

**File:** 77.44.99

**Subject:** Stop Up and Close St. Joseph Street and Declare Surplus part of St. Joseph Street, Realty File No. 20.013

### Strategic Pillar:

This report aligns with the following St. Catharines Strategic Plan pillars: economic



## Recommendation

That Council authorize the stopping up and closing of St. Joseph Street, Corporation Plan 2 (all of PIN 46184-0108 and PIN 46182-0090 LT) (the “lands”) as shown outlined in blue on Appendix 1; and

That Council declare a portion of St. Joseph Street, Corporation Plan No. 2 (All of PIN 46182-0090 LT) between St. Paul Street West and Hainer Street (the “surplus lands”) as shown outlined in blue on Appendix 2 surplus and that it be transferred to Niagara Region for nominal consideration; and

That Sections 4.6 and 4.7 of By-law 2007-309 relating to notification of School Boards and placing of a “For Sale” sign and listing the property on the local Real Estate Board, be waived; and

That the Manager, Realty and Insurances Services be authorized to execute an agreement with Niagara Region, satisfactory to the City Solicitor to set out terms and conditions of the transfer of surplus lands; and

Further, that the City Solicitor be directed to prepare the necessary documents and by-laws. FORTHWITH

## Relationship to Strategic Plan

Economic Prosperity for All is enhanced through effective asset management, which, in this case, is receipt of revenue through the sale of a vacant parcel of underutilized land.

## Background

St. Joseph Street previously connected to Hainer Street and passed under the Burgoyne Bridge on the south (west) slope of the Twelve Mile Creek. There were only three houses on the street at 19, 21 and 25 St. Joseph Street as shown shaded in green on Appendix 1. Due to the reconstruction of the Burgoyne Bridge, maintaining access to the three houses during the reconstruction was going to be challenging and costly, therefore in 2013 City Council through report FMS-144-2013 approved the purchase of the houses at 19, 21 and 25 St. Joseph Street. The City subsequently demolished the houses. St. Joseph Street and the underground services were also decommissioned during the reconstruction of the Burgoyne Bridge. The majority of the lands now form part of the City's Renown Road site where the City's Municipal Works Storage Facility, Fire Training Tower and snow storage area are located. St. Joseph Street has been removed and there is no access under the Burgoyne Bridge along the former road as the concrete abutments for the bridge take up the entire road allowance as shown in Appendix 3. The removal of the road north of the bridge and the demolition of the three houses resulted in an addition of approximately 1.55 acres of green space at this location. The Region also acquired properties at 20 Hainer Street, 25 St Paul Street West and 4 Henrietta Street at the western limit of the bridge, which have been landscaped and are shown in Appendix 4.

Niagara Region (the "Region") acquired numerous properties along Hainer Street to facilitate the Burgoyne Bridge reconstruction, including vacant parcels of land known as 12A-18B Hainer Street as shown outlined in black on Appendix 2. The Region acquired approximately 0.7 acres for a construction laydown area and widened limit of the new bridge. Approximately 0.118 acres is required for the widened bridge and will be dedicated as Part of Regional Road No. 81 (St. Paul St West).

As a small portion of the decommissioned St. Joseph Street between St. Paul Street West and Hainer Street is adjacent to the Region's properties, the City would like to transfer the surplus land to the Region to consolidate this portion of the Street with the Region's land to provide greater development potential. The portion of the surplus lands outlined in blue on Appendix 2 will be retained by the Region as it forms part of the widened limit of the Burgoyne Bridge and will be dedicated as Part of Regional Road No. 81 (St. Paul Street West).

As St. Joseph Street is still considered public highway, it must be stopped up and closed prior to any disposition. The public will be given the opportunity to object to the stop up and close prior to the passing of the by-law and prior to the consideration of this report.

## Report

St. Joseph Street previously connected to Hainer Street and passed under the Burgoyne Bridge on the south (west) slope of the Twelve Mile Creek. As part of the Burgoyne Bridge reconstruction, the three houses on St. Joseph Street were purchased by the City and subsequently demolished, the road and underground services were decommissioned and the lands now form part of the City's Renown Road site where the City's Municipal Works Storage Facility, Fire Training Tower and snow storage area are located.

The Niagara Region has declared surplus and plans to dispose of their vacant properties along Hainer Street. The Region owned lands are on the east side of that portion of St. Joseph Street between St. Paul Street West and Hainer Street and contain approximately 0.564 acres after the widening for the bridge is dedicated. 12A-18B Hainer Street is zoned R3 – Medium Density Residential.

The total area of the City's surplus land is approximately 218.3 square metres however the portion of surplus land outlined in blue on Appendix 2 (approximately 49.3 square metres) is required for the widened limit of the Burgoyne Bridge and will be dedicated as Part of Regional Road No. 81 (St. Paul St.). The remaining surplus land area of approximately 169 square metres (0.042 acres) as shown hatched in blue on Appendix 2 will be transferred to the Region and consolidated with their surplus parcels which will subsequently be sold for residential development with an overall area of approximately 0.606 acres. While the land required for the realigned bridge will impact the developability of the parcel, Region and City Planning staff will be consulted to determine the highest and best use of the parcel with a view to enhancing the market value of the land.

Staff recommend that the City enter into an agreement with the Region that will define the roles, responsibilities and revenue sharing of the parties with respect to the development, marketing and sale of the lands. All costs and revenues will be shared based on each parties' apportioned overall area of land.

Property information was circulated to the City's Property Coordinating Committee which is comprised of staff from Community, Recreation and Culture Services, Engineering, Facilities and Environmental Services, Financial Management Services, Legal & Clerks Services, Municipal Works and Planning and Building Services. The City has no requirements for the surplus lands and staff have no objections to this request.

The City's surplus lands are not developable in isolation due to their size. By consolidating the surplus lands with the Region's vacant land it creates greater development opportunity for the consolidated parcel. Staff therefore also request the procedures outlined in Property By-law 2007-309 relating to notification of Niagara Region and School Boards, placing of a "For Sale" sign and listing the property on the local real estate board be waived.

The stopping up and closing of a public highway requires that public notice to hear any objections to the proposed stop up and closure be given in accordance with the City's Public Notice By-law 2007-310 prior to the passage of the by-law to stop up and close



the highway. Members of the public who wish to speak to the recommendation will be provided an opportunity to address Council. Subject to Council's approval, after hearing from any members of the public, the necessary by-law will be presented to Council at this meeting. The Municipal Act then requires that a certified copy of the by-law be registered in the Registry Office for Niagara North to give it effect.

Should Council approve the stop up and close of St. Joseph Street and declare surplus a portion of St. Joseph Street between St. Paul Street West and Hainer Street, staff will proceed to finalize an agreement with the Niagara Region and proceed to transfer the lands to the Region.

## **Financial Implications**

The agreement between the City and the Region will define the roles, responsibilities and revenue sharing of the parties with respect to the development, marketing and sale of the lands. All costs and revenues will be shared based on each parties' apportioned overall area of land. An appraisal of the land has not been prepared yet and will be based on the development scenarios proposed for the land. In accordance with City policy, the sale proceeds the City receives will be credited to the Civic Project Fund.

## **Environmental Sustainability Implications**

The transfer of that portion of St. Joseph Street between St. Paul Street West and Hainer Street to the Region will allow for a consolidation of the lands to facilitate residential development of the vacant lands.

## **Conclusion**

This report recommends the stop up and close of St. Joseph Street and declare surplus the portion of St. Joseph Street between St. Paul Street West and Hainer Street and subsequent transfer to Niagara Region. A portion of the surplus lands will form part of the widened limit of the Burgoyne Bridge and be dedicated as Regional Road No. 81 (St. Paul Street) and the other portion will be consolidated with the Region's surplus land and sold for residential purposes.

### **Prepared by**

Ruzica Ojvan, Realty / Insurance Assistant

### **Submitted by**

Stephanie Tripp, Manager, Realty and Insurance Services

### **Approved by**

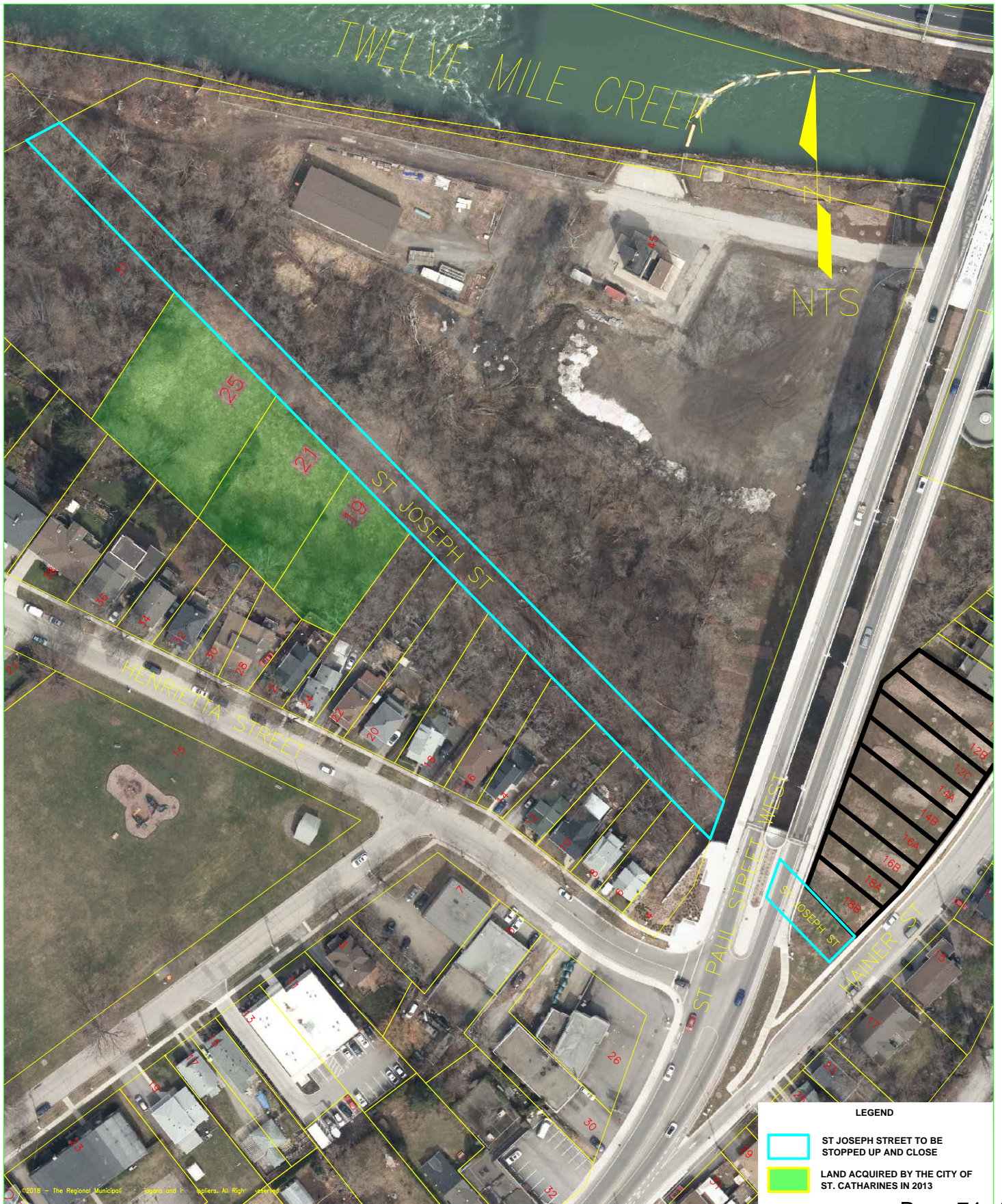
Kristine Douglas, Director, Financial Management Services / City Treasurer

## **Appendices**

- Appendix 1 – St. Joseph Street
- Appendix 2 – Surplus Lands
- Appendix 3 – City Surplus Land – portion of former St. Joseph Street
- Appendix 4 – 4 Henrietta Street and 20 Hainer Street & 25 St. Paul Street

St. Joseph Street

1





# Surplus Lands

2



## LEGEND

-  REGIONAL MUNICIPALITY OF NIAGARA OWNED LAND
-  ST JOSEPH STREET TO BE DECLARED SURPLUS AND TRANSFERRED TO THE REGION
-  ST JOSEPH STREET TO BE TRANSFERRED TO REGION FOR HIGHWAY



3



City Surplus Land – portion of former St. Joseph Street

4



4 Henrietta Street looking east





20 Hainer Street and 25 St.Paul Street West looking west



This item ("Ontario Tennis Association's Safe Return to Tennis Blueprint") is included as part of Council Agenda Item 10.3 for the Council Meeting of May 10, 2021. The motion for Item 10.3 is for Council to endorse this item.

# Return to the Court

## A Pathway to the Safe Return of Outdoor and Indoor Tennis

# A Pathway to the Safe Return of Outdoor and Indoor Tennis

The sport of tennis was fortunate after the first wave of Covid-19 was partially under control. The Province of Ontario allowed clubs and public facilities to open, and players returned to the courts in May, albeit under strict protocol. The OTA's member indoor and outdoor clubs rose to the occasion and provided a safe, fun place for their members to enjoy. The summer and fall saw people swarm to the game, with many clubs achieving record numbers of new members. When the second wave hit, the Province tightened the rules, particularly with respect to indoor capacities. These new rules made it impossible for our indoor member clubs and academies to remain open. The economic impact of this was devastating to many of the clubs and the thousands of people they employ. Hardest hit of all were the many full and part time teaching pros who are paid hourly for work done. Fast forward to Spring 2021; just as our outdoor member clubs were getting ready to open, the Province suddenly shut them down on April 17.

Along with many other groups and individuals, the OTA has been lobbying to ask the Province to reconsider re-opening sports like tennis. The OTA believes that its member clubs can open safely, as they did last year, and provide hundreds of thousands of players with the physical, emotional and mental benefits so important to Ontarians, particularly in these difficult times.

The OTA will continue to lobby the Province to walk back its recent rulings regarding tennis court closure but also wants to make sure, whenever people are allowed on the courts again, that the rules governing their return are consistent across the province and follow common sense. The Province's rules with respect to Covid-19 are general in nature and much is left to individual municipalities when it comes to the interpretation and enforcement of these rules. Sometimes the rules are applied inconsistently. This document is intended to clarify some inconsistencies and put forth some recommendations that the Association and the larger tennis community feels is fair and safe when it comes to a safe return to the sport of tennis during the pandemic. For these purposes, unless otherwise noted, a return to the Grey Zone is the minimum expectation.

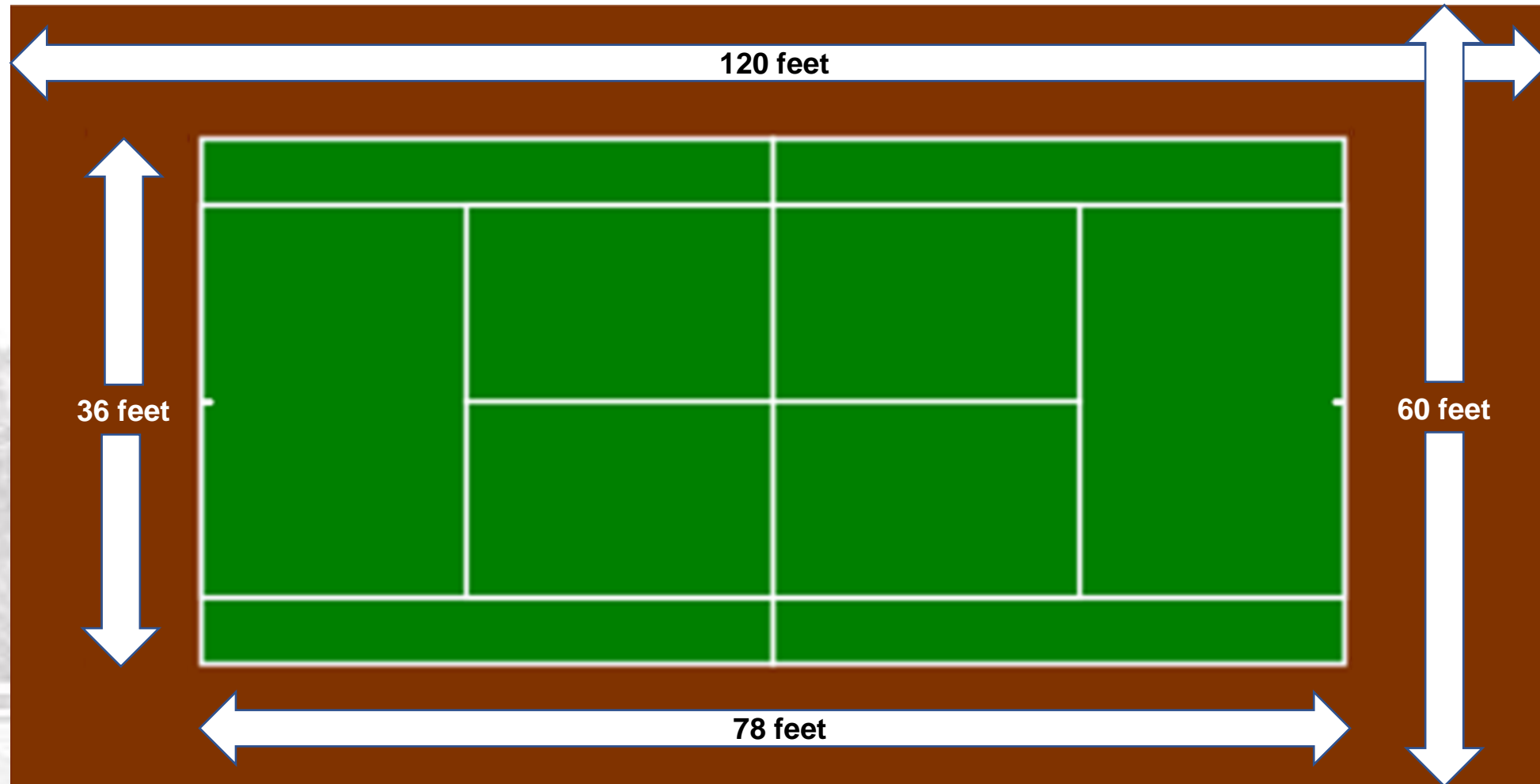


# A Pathway to the Safe Return of Outdoor and Indoor Tennis

## Areas of Concern once tennis is allowed to return:

- **Number of players allowed safely on a tennis court – the case for safe physical distancing**
  - The OTA position is that tennis more than meets the minimum standards set out by the Province when it comes to the 2-metre distancing standard and size of gatherings standards
- **Singles vs Doubles – tennis is an individual sport, a dual sport, but not a team sport**
  - When singles is played, tennis is an individual sport. When doubles is played it is a dual “non-contact” sport. It is not a team sport in the traditional sense. It was lumped into the team sport category by some municipalities, but the intention of restricting team sports was clearly to avoid close personal contact
- **Tennis instruction – should it be permitted?**
  - Apart from the devastating economic impact on clubs and pros, the OTA believes that tennis instruction, including junior summer camps, is safe and can easily be modified in terms of numbers on courts to suit any of the Provincial Covid-19 Zones a municipality finds itself in
- **Indoor Tennis – should it be permitted?**
  - Indoor tennis clubs were unfairly lumped in with other indoor activities based on number of people allowed in a “room”. The definition of a room was never made clear. A four-court indoor tennis facility should not be compared to an indoor recreation facility, e.g., a small Yoga studio

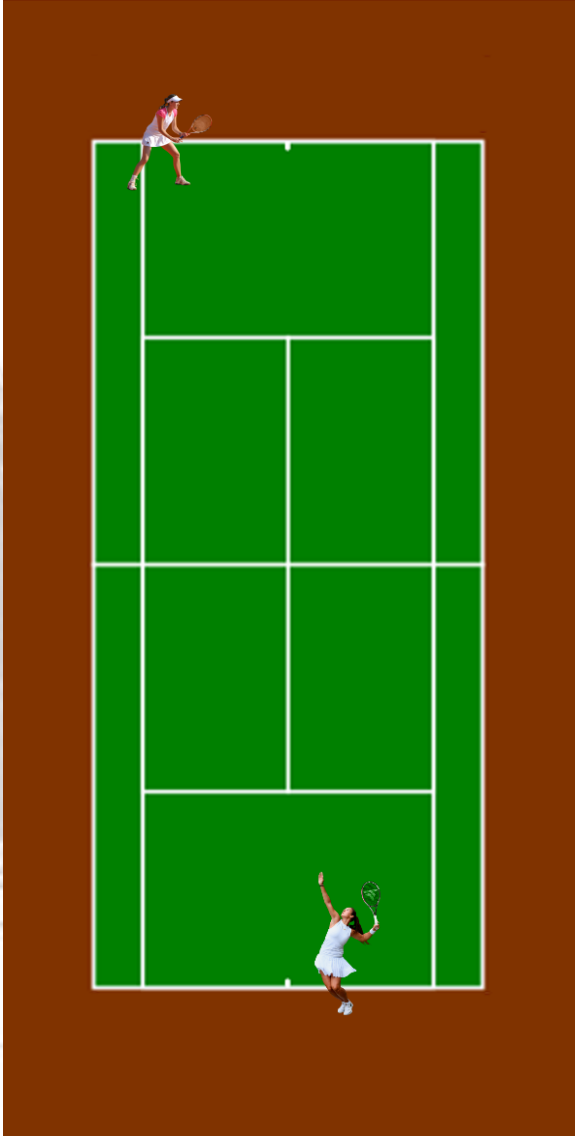
# Tennis Court Dimensions



The size of a single tennis court, including the playing area outside the lines, is approximately 7,200 square feet

# Protocol Adherence – Tennis Players

## Singles



Physical distancing 2m

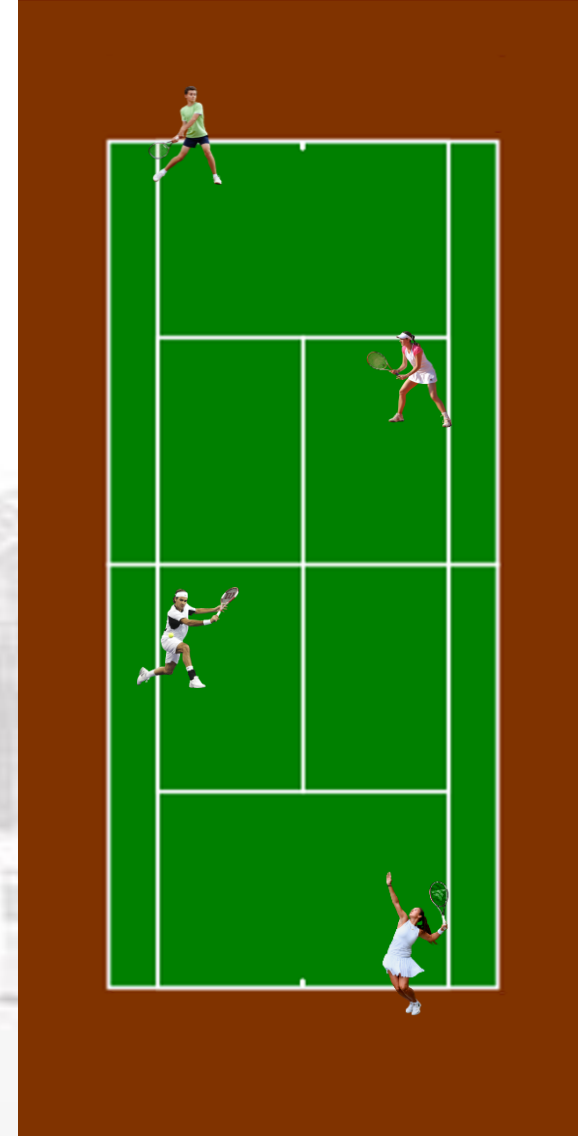


Gathering 5 or under



As was the case in the summer of 2020 when the Province determined tennis to be a safe outdoor activity, the OTA feels, as evidenced by the accompanying illustration, that the Province and individual municipalities should allow singles and doubles play once the sport is allowed to resume.

## Doubles



Physical distancing 2m

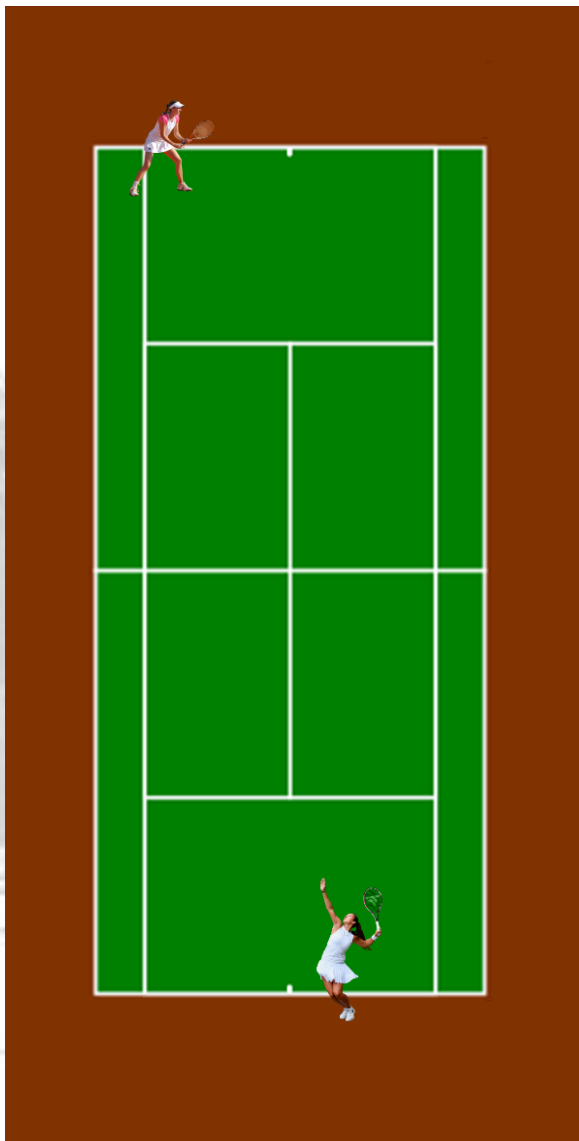


Gathering 5 or under



# Protocol Adherence – Tennis One-on-one Coaching

Singles



Physical distancing 2m

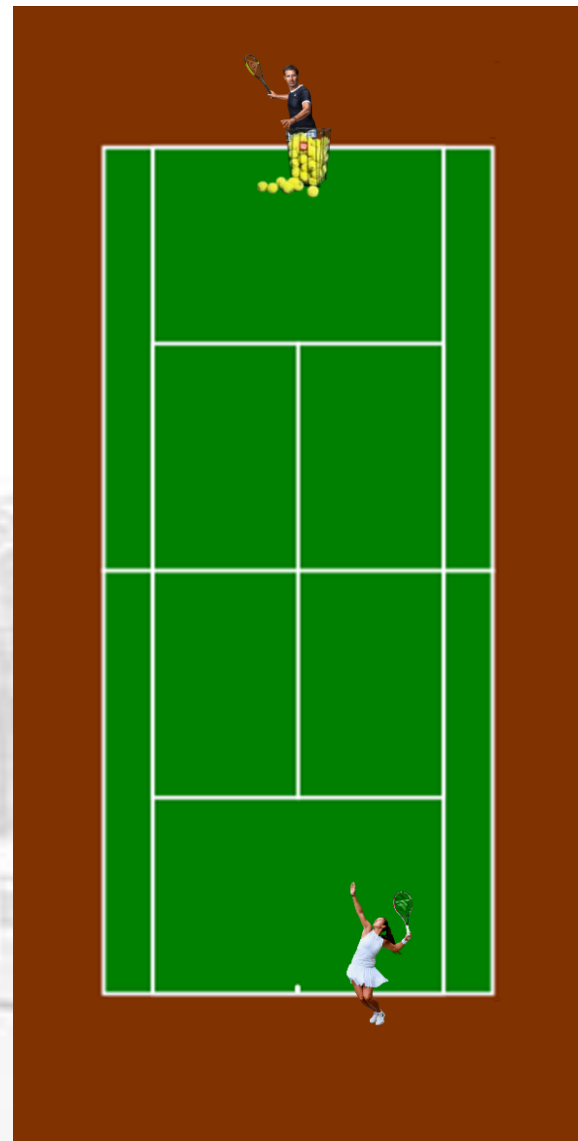


Gathering 5 or under



As was the case in the summer of 2020 when the Province determined coaching to be a safe outdoor activity, the OTA feels, as evidenced by the accompanying illustration, that, as a minimum, the Province and individual municipalities should allow one-on-one coaching once the sport is allowed to resume.

Private Lesson



Physical distancing 2m

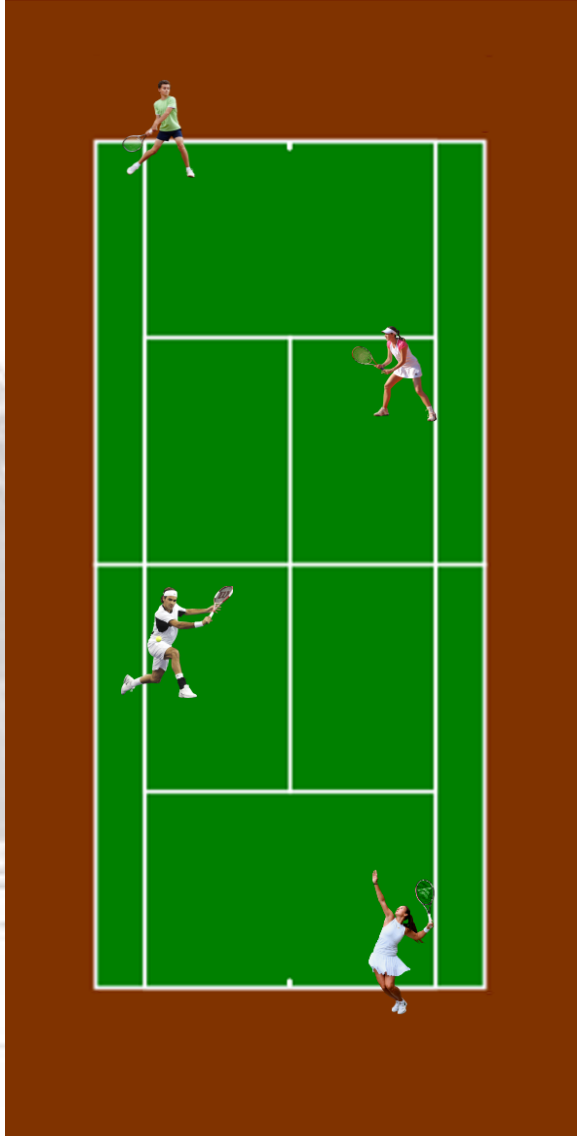


Gathering 5 or under



# Protocol Adherence – Tennis Group Clinic

Doubles



Physical distancing 2m

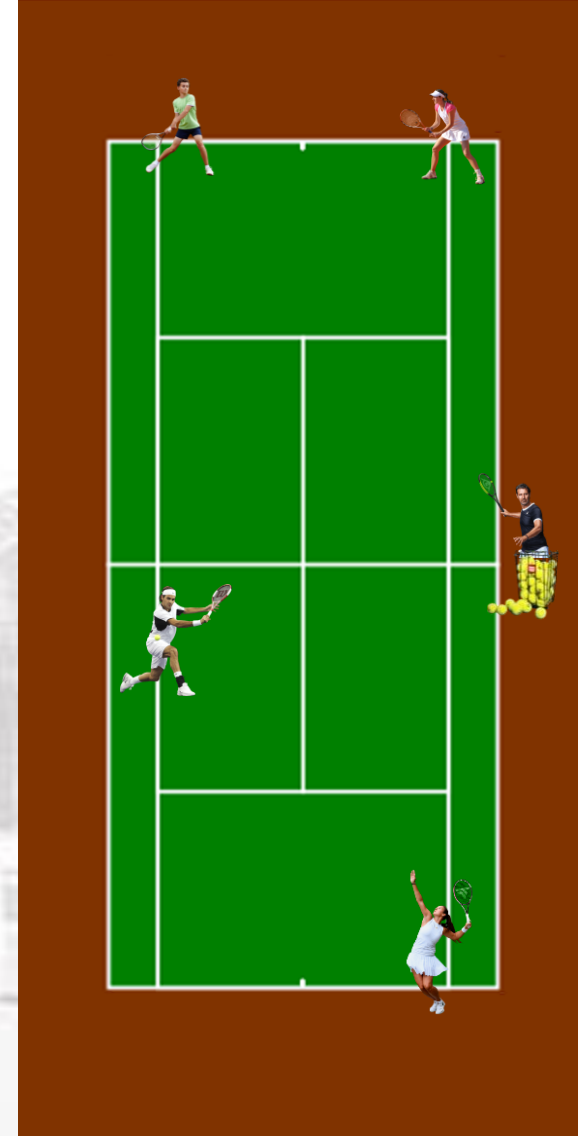


Gathering 5 or under



As was the case in the summer of 2020 when the Province determined group instruction to be a safe outdoor activity, the OTA feels, as evidenced by the accompanying illustration, that the Province and individual municipalities should allow group clinics to proceed once the sport is allowed to resume.

Clinic – up to 4 + Instructor



Physical distancing 2m

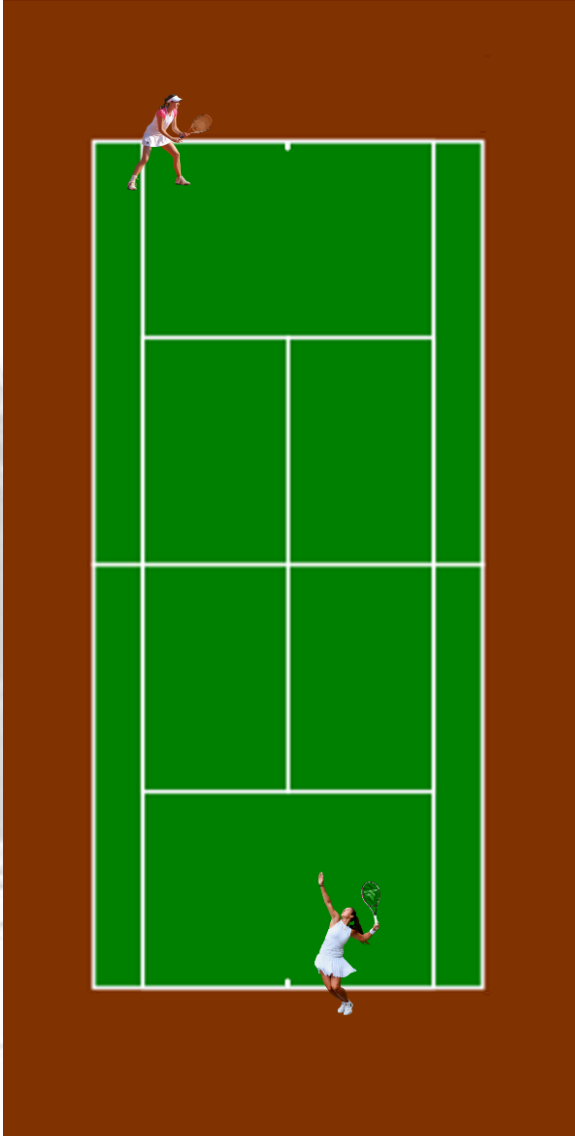


Gathering 5 or under



# Protocol Adherence – Singles Tennis vs Singles Pickleball

Singles tennis



Physical distancing 2m

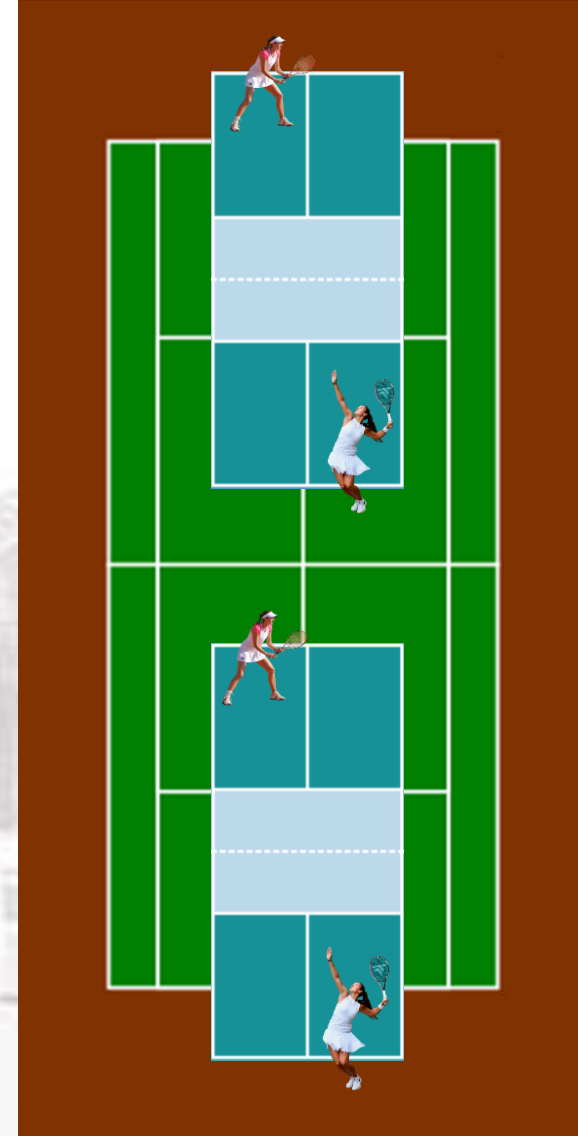


Gathering 5 or under



As further support for doubles play in tennis, the OTA feels that, even when ONLY singles play is allowed for Pickleball, since the sport often shares court space with tennis as evidenced by the accompanying illustration, that the Province and individual municipalities should allow doubles to be played once the sport is allowed to resume.

Singles Pickleball



Physical distancing 2m



Gathering 5 or under

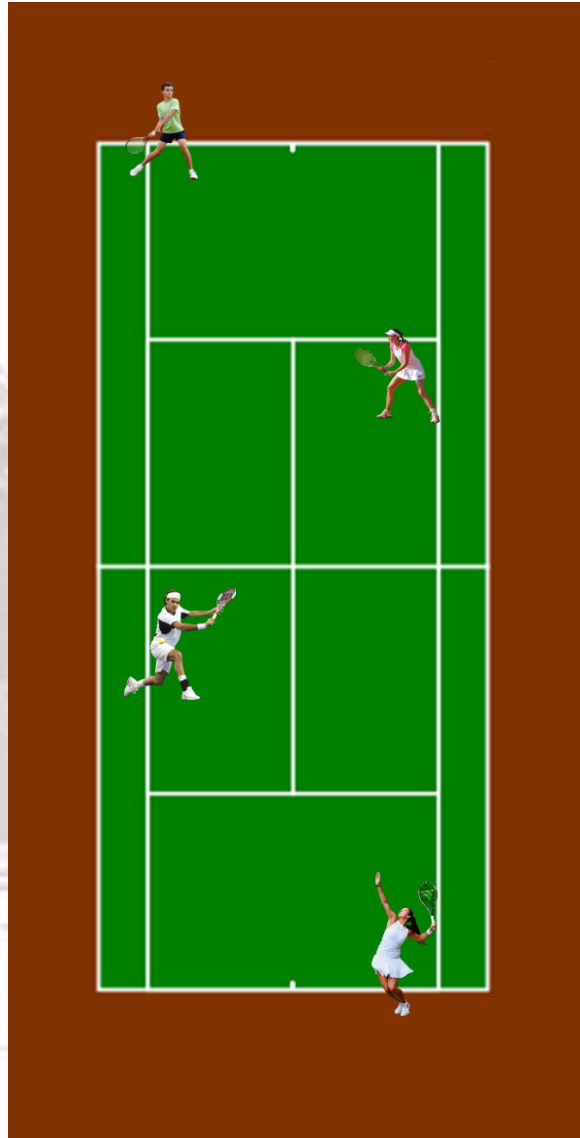




# Protocol Adherence – Doubles Tennis vs Doubles Beach Volleyball



Doubles Tennis



Physical distancing 2m



Gathering 5 or under



As further support for doubles play, similarly to Pickleball, the OTA feels that, when 2 per side Beach Volleyball is allowed, as evidenced by the accompanying illustration, that the Province and individual municipalities should allow doubles to be played once the sport is allowed to resume.

2 per side Beach Volleyball



Physical distancing 2m

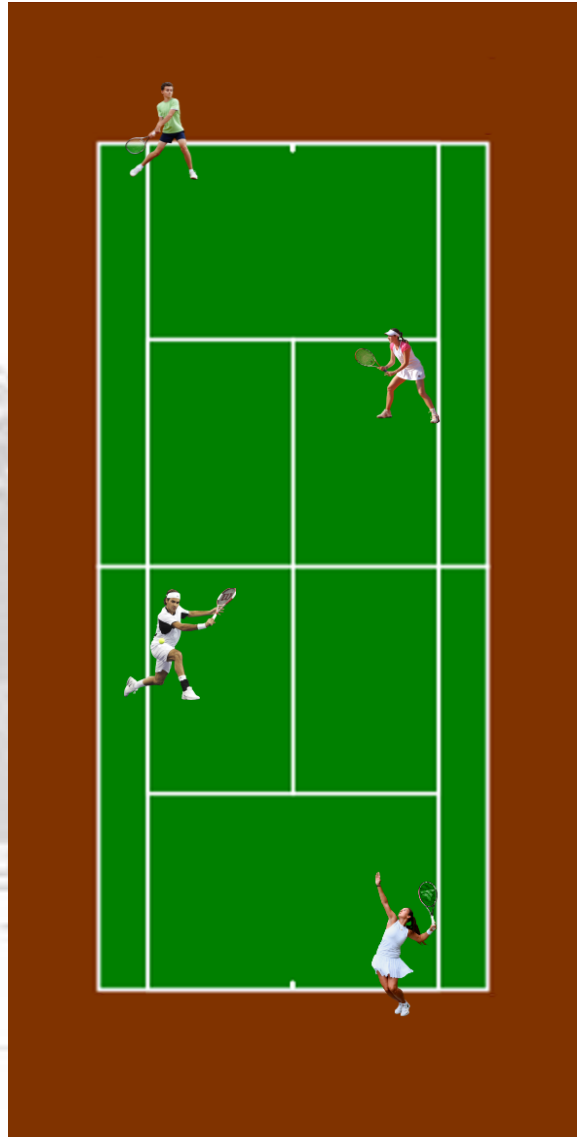


Gathering 5 or under



# Protocol Adherence – Doubles Tennis vs Outdoor Park Setting

Doubles Tennis



Physical distancing 2m

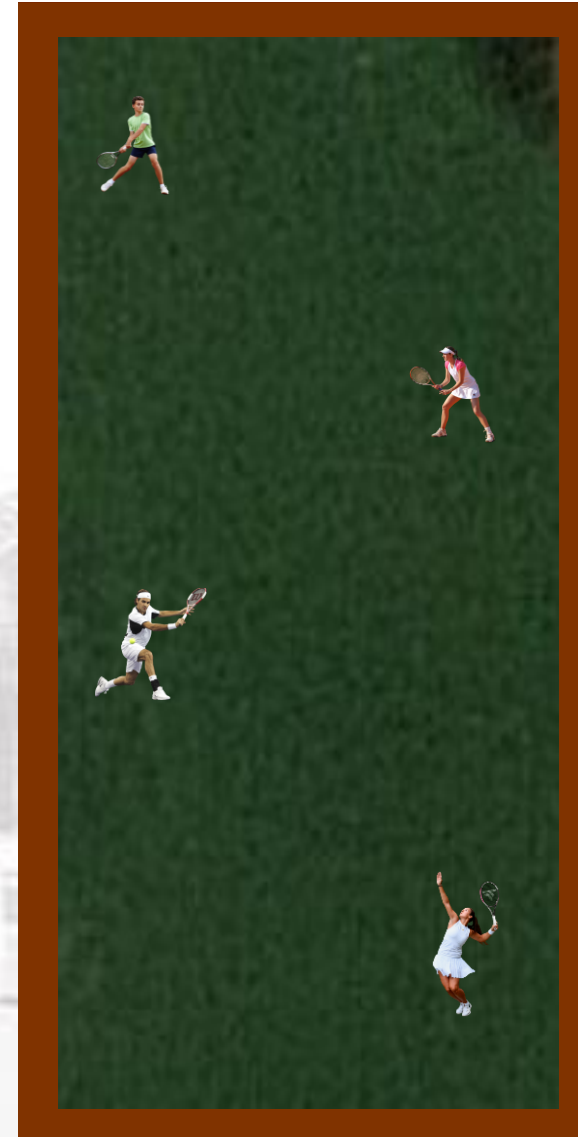


Gathering 5 or under



As further support for doubles play, the OTA feels that, when 4 people are spread out in a park environment roughly the size of a tennis court as evidenced by the accompanying illustration, it is deemed to be safe by the Provincial government.

4 People - Outdoor Park Setting



Physical distancing 2m



Gathering 5 or under

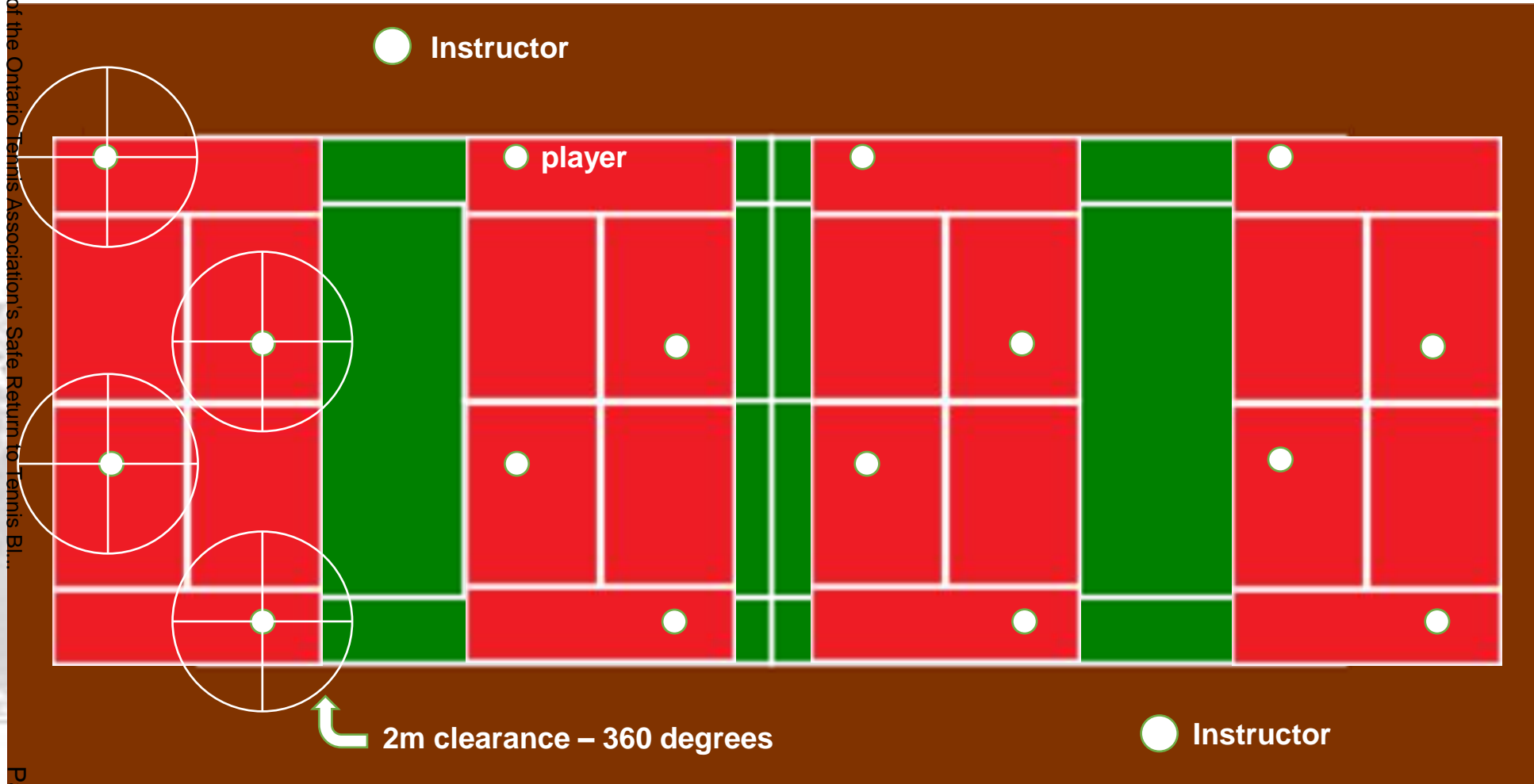




# Protocol Adherence – Junior Tennis Camps, (Red Zone or Better)



4 Junior Red Dot Courts (36 ft. X 18 ft.) per Standard Tennis Court – 4 Juniors per Red Dot Court



Physical distancing 2m



25 people or under in outdoor classes

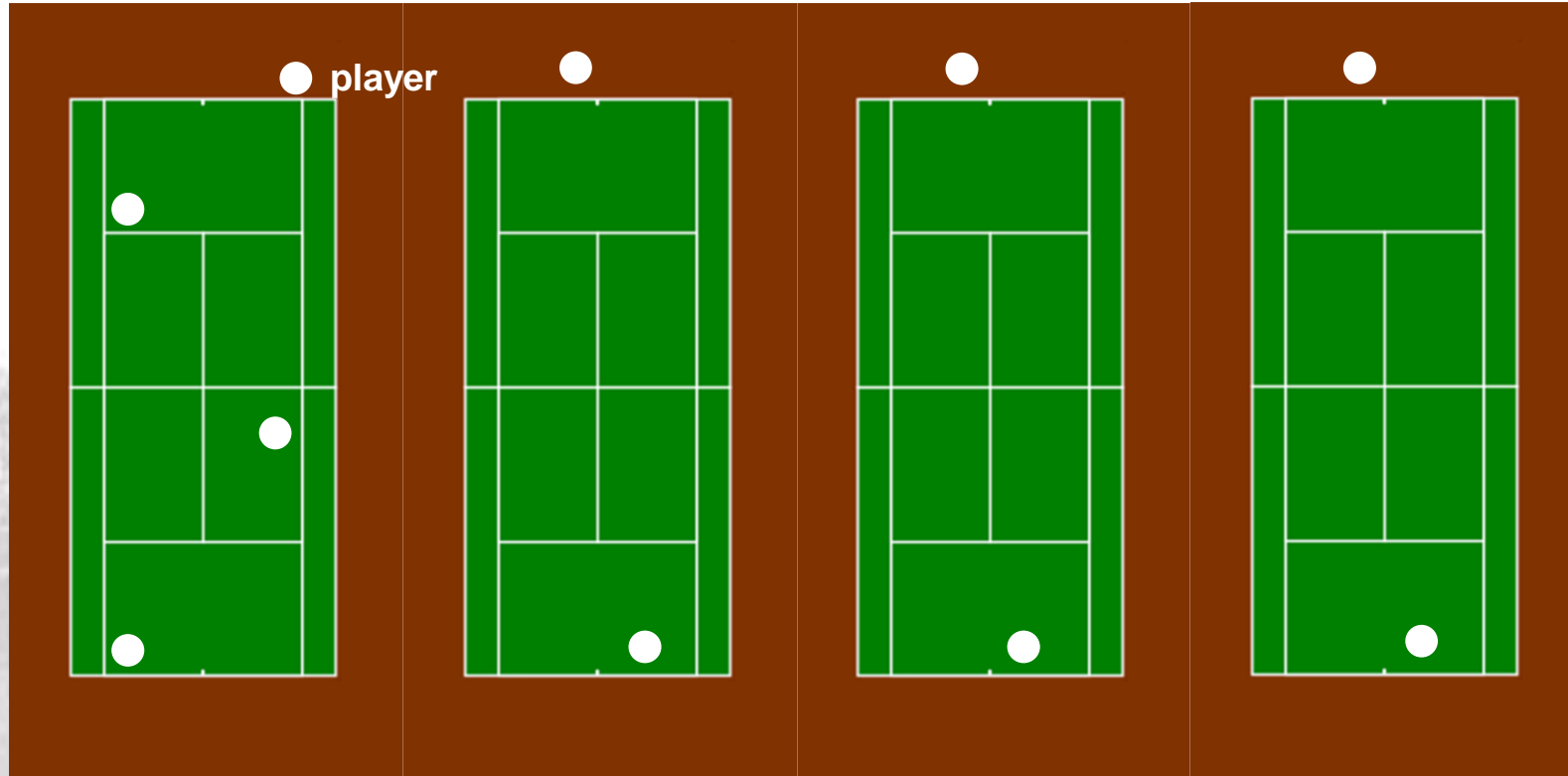


As was the case in the summer of 2020 when the Province determined junior summer camps to be a safe outdoor activity, the OTA feels, as evidenced by the accompanying illustration, that the Province and individual municipalities should allow junior summer camps to proceed once the sport is allowed to safely resume.

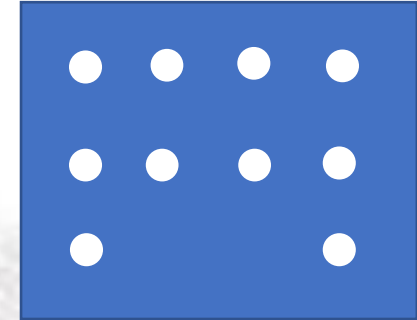
# Protocol Adherence – Indoor Tennis as a Safe Sport



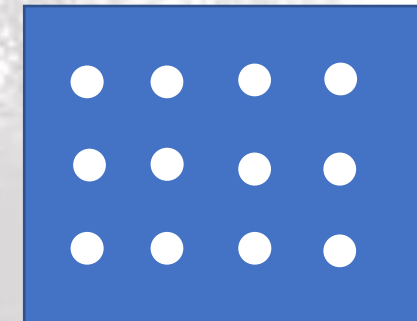
4 court indoor tennis facility: 1 “room” – 28,800 sq. ft. – max. 10



Yoga Studio: 1 “room” – 2,400 sq. ft. – max. 10



Retail Space: 1 “room” – 2,400 sq. ft. – max. 12



The OTA feels strongly that the indoor tennis facilities have been treated unfairly, especially during the second wave. As evidenced by the illustration above, the Province lumped multiple court indoor tennis facilities with smaller sports facilities like Yoga studios; allowing only 10 people per “room”. For further clarification, using the Provinces Ontario Store Capacity Calculator for retailers, a 2,400 square 1 roomed retail location would be allowed to accommodate up to 12 people. The OTA recognizes that medical authorities have deemed indoor spaces as more likely to promote spread of the virus, but coming out of the Stay-at-Home Order, the OTA recommends that the Province introduces a safety protocol based on a safe number of people allowed on a per square foot basis, instead of lumping all recreation facilities under the “one room” label.

# What Medical Experts and Others Saying...

Try sports where there is more natural spacing, such as tennis, badminton or mountain biking. - **Ottawa Public Health Unit.**

... and if lower-risk outdoor socializing replaces higher-risk indoor gatherings, that's a win" - **Dr. Zain Chagla, infectious disease expert with McMaster University**, March 31, 2021.

"Look, what we know is that we estimate, and this is just an estimate, that outdoor activities are probably roughly 20 times safer than indoor activities," – **Dr. Peter Jüni, director of Ontario's COVID Scientific Advisory Table**, April 19, 2021.

"We need to make a distinction between settings that are safe and settings that are unsafe. A park is safe. A tennis court is safe." - **Dr. Peter Jüni, director of Ontario's COVID Scientific Advisory Table**, April 22, 2021.

"I would support any reconsideration of the limits on outdoor activity that is based on scientific advice received." – **Toronto Mayor John Tory**, April 22, 2021.

"Now that the parks and playgrounds are opened, it doesn't make any sense to keep any outdoor recreational activities limited so long as reasonable masking, distancing protocols continue to be enforced. It (outdoor activity) remains an important activity for maintaining physical, mental and social well-being, all of which are compromised as we deepen in this third wave," - **Dr. Abdu Sharkawy, Infectious Disease Specialist, University Health Network**, April 22, 2021.

# A Pathway to the Safe Return of Outdoor and Indoor Tennis



## Conclusions/Recommendations:

- **Tennis is a safe sport when the proper protocols are adhered to**
  - As was proven in 2020, the tennis community acted responsibly and protected their players, often exceeding the minimum safety requirements from the Province and local municipalities. The OTA recommends that tennis be continued to be permitted so long as provincial and municipal medical experts consider it safe to do so.
- **Singles vs Doubles**
  - The OTA recommends that doubles continue to be allowed as it was during parts of 2020. There is little evidence that doubles is any more dangerous than singles, since players generally stay more than 2 metres apart – most of the time the distance between players is far greater.
- **Tennis instruction**
  - The OTA recommends that tennis pros be allowed to instruct individuals and small groups, in accordance with the Covid Zone their municipality is in. Having a pro on court in a supervisory position is potentially safer than general play. As well, tennis instructors are in high demand from players and have been hit hard economically. They need to get back to work.
- **Junior Summer Camps**
  - The OTA recommends that, once a municipality has entered the appropriate Covid Zone, junior summer camps should be permitted. It is important for children's physical, mental and emotional health, helps their parents find a safe summer activity for their children and allows pros to earn a living.
- **Indoor Tennis**
  - The OTA recommends that indoor tennis facilities should be allowed to open and that the current protocol should be adjusted in with appropriate Covid Zone restrictions to be more equitable with other indoor facilities, provided that medical authorities are convinced of its safety.





## By-laws to be considered Monday, May 10, 2021

- (a) A By-law to amend By-law No. 89-2000 entitled "A By-law regulating traffic and parking on City Roads." (One reading - with respect to parking prohibitions on First Street Louth. Delegation of Powers and Duties By-law No. 2020-156.)
- (b) A By-law to amend By-law No. 89-2000 entitled "A By-law regulating traffic and parking on City Roads." (One reading - with respect to parking prohibitions on Wanda Road. Delegation of Powers and Duties By-law No. 2020-156.)
- (c) A By-law to authorize the acceptance of a conveyance of certain lands from KHAN, Dina for road widening along Keswick Street. (One reading - with respect to 4 Keswick Street. Delegation of Powers and Duties By-law No. 2020-156.)
- (d) A By-law to remove certain lands from part lot control. (One reading – with respect to 2 Ellis Avenue. Delegation of Powers and Duties By-law No. 2020-156.)
- (e) A By-law to amend By-law No. 2002-81 entitled "A By-law to appoint certain employees of the Canadian Corps of Commissionaires (Hamilton) as municipal law enforcement officers." (One reading – with respect to change in personnel. Delegation of Powers and Duties By-law No. 2020-156.)
- (f) A By-law to authorize the construction and issuing of debentures for 2012 Arena Improvement Program. (One reading - with respect to Project No. P12-164. General Committee, June 11, 2012, Item No. 340.)
- (g) A By-law to authorize the construction and issuing of debentures for Chiller Replacement at City Hall. (One reading - with respect to Project No. P16-140. General Committee, August 22, 2016, Item No. 3.3 and General Committee, March 6, 2017, Item No. 3.2.)
- (h) A By-law to authorize the construction and issuing of debentures for City Hall - James Street Elevator. (One reading - with respect to Project No. P17-141. General Committee, March 6, 2017, Item No. 3.2.)
- (i) A By-law to authorize the construction and issuing of debentures for Carlisle Street Parking Garage Capital Maintenance. (One reading - with respect to Project No. P18-151. General Committee, March 5, 2018, Item No. 5.2 and General Committee, December 2, 2019, Item No. 3.4.)
- (j) A By-law to authorize the construction and issuing of debentures for Bill Burgoyne Arena Renewal and Improvements. (One reading - with respect to Project No. P18-165 / P18-166 / M2018-5 / ST18-05. General Committee, June 11, 2012, Item No. 340.)



- (k) A By-law to authorize the construction and issuing of debentures for Leeper/McDonald Reconstruction. (One reading - with respect to Project No. P17-001. General Committee, March 6, 2017, Item No. 3.2.)
- (l) A By-law to authorize the construction and issuing of debentures for Admiral/Park Storm Sewers. (One reading - with respect to Project No. P17-020. General Committee, March 6, 2017, Item No. 3.2 and General Committee, March 5, 2018, Item No. 5.2.)
- (m) A By-law to authorize the construction and issuing of debentures for Shoreline Protection Review and Detailed Design. (One reading - with respect to Project No. P17-132 / P18-132. General Committee, March 6, 2017, Item No. 3.2 and General Committee, March 5, 2018, Item No. 5.2.)
- (n) A By-law to authorize the construction and issuing of debentures for 2018 New Sidewalk Construction Program. (One reading - with respect to Project No. P18-041. General Committee, March 5, 2018, Item No. 5.2.)
- (o) A By-law to authorize the construction and issuing of debentures for Rodger/Sharon Storm Sewers. (One reading - with respect to Project No. P16-004. General Committee, March 5, 2018, Item No. 5.2.)
- (p) A By-law to authorize the construction and issuing of debentures for Shoreline Protection - Abbey Mews. (One reading - with respect to Project No. P20-132. General Committee, August 22, 2016, Item No. 3.3.)
- (q) A By-law to provide for the licensing, regulating and inspecting of Short-Term Rentals in the City of St. Catharines. (One reading – with respect to Short-Term Rentals. To be considered by Council, May 10, 2021.)
- (r) A by-law to establish a system for non-parking related administrative penalties. (One reading – with respect to Short-Term Rentals. To be considered by Council, May 10, 2021.)
- (s) A By-law to close permanently St. Joseph Street, CP PL 2 GRANTHAM; ST. CATHARINES, being all of PIN 46184-0108, and ST. JOSEPH ST CP PL 2 GRANTHAM BTN ST. PAUL ST W & HAINER ST; ST. CATHARINES, being all of PIN 46182-0090 LT, in the City of St. Catharines, Regional Municipality of Niagara and to transfer surplus lands to The Regional Municipality of Niagara. (One reading – with respect to stopping up and closing St. Joseph Street, declaring surplus part of St. Joseph Street and transferring surplus lands to The Regional Municipality of Niagara. To be considered by Council, May 10, 2021.)
- (t) A By-law to provide for the setting and levying of rates of taxation for City purposes for the year 2021, and to provide for the payment of taxes after interim taxes. (One reading – with respect to 2021 Property Tax Rates. To be considered by General Committee, May 10, 2021.)



- (u) A By-law to authorize a Cost Sharing Agreement with The Regional Municipality of Niagara. (One reading – with respect to sole sourcing hydraulic modelling for the City's Storm and Sanitary Sewer systems. To be considered by General Committee, May 10, 2021.)
- (v) A By-law to authorize a contract with Anthony's Excavating Central Inc. (One reading – with respect to 8-14 Shore Boulevard Shoreline Protection Improvements, under Project No. P21-132. To be considered by General Committee, May 10, 2021.)
- (w) A By-law to authorize an Agreement with Alectra Energy Services Inc. (One reading – with respect to installation of 18 Electric Vehicle Charging Stations at various locations. To be considered by General Committee, May 10, 2021.)
- (x) A By-law to confirm the proceedings of council at its meeting held on the 10th day of May 2021. (One reading - with respect to confirming the proceedings of the meeting held on May 10, 2021.)