

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 82 - 2024

Being a By-law to License, Regulate and Govern Short-Term Rentals in the Town of Kingsville

WHEREAS Section 11(2) of the *Municipal Act, 2001*, SO. 2001, c. 25, as amended ("*Municipal Act*") provides that a municipality may pass by-laws for the economic and social well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property, including consumer protection;

AND WHEREAS Section 151 of the *Municipal Act* provides that a municipality may provide for a system of licences with respect to businesses wholly or partly carried on within a municipality;

AND WHEREAS Section 391 of the *Municipal Act* provides that a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 436 of the *Municipal Act* provides that a municipality may pass by-laws providing that a municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not there is compliance with a by-law, a direction or order, or a condition of a licence issued by the municipality;

AND WHEREAS Section 445 and 446 of the *Municipal Act* respectively, provides for the municipality to make an order requiring a person who contravenes a by-law or who causes or permits the contravention or the owner or occupier of land on which a contravention occurs to discontinue the contravening activity or do work to correct a contravention;

AND WHEREAS the Council of The Corporation of the Town of Kingsville deems the licensing of Short-Term Rentals and the regulation of all related activity to be in the interest of public safety and community well-being;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

1. Definitions

1.1. In this By-law:

"Agent" means an individual person duly appointed by an owner with delegated authority to act on their behalf in all circumstances and who will be available to respond to events of an urgent concern or emergency at the Short-Term Rental and is responsible for ensuring the Short-Term Rental is operated in accordance with the provisions of this By-law.

"Applicant" means the person or corporation applying for a licence or renewal of a licence under this By-law.

"Authorized Official" means:

- a) any employee, officer or agent of the Town who is appointed and/or retained to enforce the by-laws of the Town in accordance with the *Community Safety and Policing Act, 2019*, R.S.O. 2019, c. 1, Sched. 1, or the *Municipal Act*;
- b) any employee, officer or agent of the Town who is appointed and/or retained to enforce the provisions of this By-law, or any other by-law related to fire prevention, in accordance with the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4;

- c) any employee, officer or agent of the Town who is appointed and/or retained to enforce the provisions of this By-law, or any other by-law related to building construction standards, in accordance with the *Building Code Act, 1992*, S.O. 1992, c. 23;
- d) the Clerk of the Town of Kingsville; and
- e) any designate appointed by the foregoing.

“Clerk” means the Clerk of the Town of Kingsville or their designate.

“Commercial” means the Property is subject to a commercial property tax rate on the most recent tax bill generated by the Town.

“Comprehensive Zoning By-law” means the Town's Comprehensive Zoning By-law in effect at the time.

“Maximum Occupancy” means the maximum number of Occupants permitted to temporarily reside at, lodge in, or occupy an STR.

“Occupant” means a person who temporarily resides at, lodges in, or occupies a Short-Term Rental but does not include daily visitors to the Property or the Owner.

“Property” means the lot upon which a Short-Term Rental is operated, inclusive of all buildings and structures, or any part thereof used for such purposes.

“Residential” means the Property is subject to a residential property tax rate on the most recent tax bill generated by the Town.

“Short-Term Rental” and **“STR”** means a structure or part thereof which is used for temporary lodging for a rental period not greater than twenty-eight (28) consecutive days or less in exchange for payment and includes a bed and breakfast, hotel, motel, and inn, but does not include short-term accommodations where there is no payment.

“Town” means The Corporation of the Town of Kingsville, and, where the context so requires, means the area of land within the geographical boundaries thereof.

2. Interpretation

- 2.1. This By-law shall be known as the “Short-Term Rental By-law.”
- 2.2. This By-law includes the Schedules annexed hereto which are hereby declared to form part of this By-law.
- 2.3. This By-law shall not apply to:
 - a) accommodations rented out to tenants in accordance with the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17;
 - b) a home for special care operated under a licence issued under the *Homes for Special Care Act*, R.S.O. 1990, c. H.12;
 - c) a long-term care home operated under a licence issued under the *Fixing Long-Term Care Act, 2021*, S.O. 2021, c. 39;
 - d) a retirement home operated under a licence issued under the *Retirement Homes Act, 2010*, S.O. 2010, c. 11.
- 2.4. If any section, subsection, schedule, appendix or part, or parts of this By-law are declared by any Court of Law to be invalid, illegal or ultra vires, such section, subsection, schedule, appendix or part, or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

- 2.5. If there is a conflict between the provisions of this By-law and any other by-law of the Town in force or a provincial or federal statute or regulation, the more restrictive provisions shall apply.
- 2.6. Unless otherwise defined in this By-law, the words and phrases used in this By-law shall be assigned their normal and ordinary meaning.
- 2.7. Headings are inserted for ease of reference only, form no part of this By-law, and shall have no affect in any way the meaning or interpretation of the provisions of this By-law.

3. Prohibitions

- 3.1. No person shall operate or permit a person to operate or hold themselves out as being licensed to operate a Short-Term Rental:
 - a) without a licence to do so issued under this By-law;
 - b) under any other name than the one endorsed on their licence issued under this By-law; or
 - c) except in accordance with the regulations of this By-law, including any applicable Schedule.
- 3.2. No person shall:
 - a) transfer or assign a licence issued under this By-law;
 - b) obtain a licence by providing mistaken, false or incorrect information;
 - c) enjoy a vested right in the continuance of a licence and upon the issue, renewal, transfer, suspension or revocation thereof, the licence shall be the property of the Town; or
 - d) advertise a Short-Term Rental on any medium without a licence.

4. Licensing Requirements

- 4.1. A completed application for a licence or for renewal of a licence in a form determined by the Clerk shall be submitted to the Town accompanied by the requirements prescribed in Schedule 1, and any other information that the Clerk may request from time to time.
- 4.2. The Clerk may, for renewal applications, on a case-by-case basis review and waive any documentary requirements not related to public safety or consumer protection.
- 4.3. Every person licensed under this By-law shall:
 - a) comply with the regulations contained in Schedule 2; and
 - b) notify the Clerk immediately of any change in any of the particulars required to be filed with the application.

5. Issuance of Licence and Grounds for Refusal

- 5.1. The Clerk shall:
 - a) receive and process all applications for licences and for renewal of licences to be issued under this By-law;
 - b) issue licences and renew licences, either conditionally or unconditionally, to Applicants who meet the requirements of this By-law, except where:

- i) in the sole discretion of the Clerk, there are reasonable grounds for belief that the carrying on of the Short-Term Rental may be adverse to the public interest or is likely to pose a danger to the health and safety of any person;
 - ii) the Applicant or Property has previously been issued a licence that has been revoked, suspended or made subject to certain conditions;
 - iii) the Applicant or Property has had complaints made against it of non-compliance with this By-law, other Town by-laws, or federal or provincial statutes and regulations, and for which the Clerk in their sole discretion reasonably believes to be true and a reason for denying the licence;
 - iv) the Applicant or Property is the subject of an active investigation regarding the contravention of a Town by-law or federal or provincial statute or regulation, and for which the Clerk in their sole discretion reasonably believes to be true and a reason for denying the licence;
 - v) the Applicant is unable or likely to not be able to satisfy any requirements of this By-law; and/or
 - vi) the Applicant is indebted to the Town in respect of fines, penalties, judgements or any other amounts owing, including awarding of legal costs, disbursements, outstanding property taxes and late payment charges against any property owned by the owner in the Town;
- c) generally perform all the administrative functions conferred upon them by this By-law.

5.2. Licences issued pursuant to this By-law are conditional on compliance by the licensee with all Town by-laws, including, but not limited to, the Comprehensive Zoning By-law and the Property Standards By-law, and compliance with all provincial and federal legislation.

5.3. Every licence issued hereunder shall set out:

- a) the name of the licensee;
- b) the address of the licensed Property;
- c) the Maximum Occupancy;
- d) the name and contact information of the Agent;
- e) the date of issuance and date of expiry; and
- f) any conditions imposed by the Clerk.

6. Term of Licence

6.1. A licence issued under the provisions of this By-law shall be valid for one (1) year from the date of issuance, unless it is renewed or revoked in accordance with the provisions of this By-law.

7. Revocation and Suspension

7.1. The Clerk in their sole discretion shall have the authority to revoke or suspend a licence, or impose conditions on a licence issued under this By-law, where:

- a) the licensee would be disentitled to a licence or a renewal of a licence for the reasons set out in this By-law;

- b) the licensee has failed to comply with the regulations required by this By-law;
 - c) the licence was issued in error; or
 - d) the licence has been reinstated after a period of suspension.
- 7.2. Notwithstanding any other provision, the Clerk, if satisfied that the continuation of the licence poses an immediate danger to the health or safety of any person, may, for the time and such conditions as are considered appropriate and without a hearing, suspend a licence for not more than fourteen (14) days, and, prior to suspending the licence, shall provide the licensee with the reasons for the suspension, either orally or in writing.

8. Appeal

- 8.1. An Applicant or Agent may appeal a decision of the Clerk to refuse to issue, renew, suspend, or revoke a licence under this By-law to the Committee of Adjustment and Appeals by providing written notice to the Clerk within ten (10) days of the Clerk's decision to refuse to issue a licence, or revoke or suspend the licence.
- 8.2. The Clerk will schedule a public meeting of the Committee of Adjustment and Appeals to hear the appeal.
- 8.3. The Committee of Adjustment and Appeals has the authority to confirm, amend, or substitute the decision of the Clerk and such decisions of the Committee of Adjustment and Appeals shall be final and not subject to any further appeal.
- 8.4. A request to appeal a decision of the Clerk does not act as a stay of the decision, including any condition or requirement imposed therein.

9. Enforcement

- 9.1. This By-law may be enforced by an Authorized Official.
- 9.2. An Authorized Official may enter on land, and into buildings, at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-law or an order made under this By-law is being complied with.
- 9.3. Despite any other provision, an Authorized Official may not enter a room or place actually being used as a dwelling unless the requirements of the *Municipal Act* are met.
- 9.4. For the purposes of conducting an inspection pursuant to this By-law, an Authorized Official may:
- a) require the production for inspection of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c) require information from any person concerning a matter related to the inspection; and
 - d) alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 9.5. If an Authorized Official is satisfied that a contravention of this By-law has occurred, the Authorized Official may make an order requiring the licensee to discontinue the contravening activity or to do work to correct the contravention.

- 9.6. An order made under this By-law shall set out the following:
- a) reasonable particulars of the contravention adequate to identify the contravention;
 - b) the location of the land on which the contravention occurred;
 - c) the work to be completed; and
 - d) the date(s) by which there must be compliance with the order.
- 9.7. An order under this By-law may require work to be done even though the facts which constitute the contravention of the By-law were present before this By-law came into force.
- 9.8. An order under this By-law may be served personally or by registered mail to the address of the Applicant on file with the Clerk.
- 9.9. No person shall prevent, hinder or obstruct, or attempt to hinder or obstruct an Authorized Official who is exercising a power or performing a duty under this By-law.

10. Offences, Penalties and Other Remedies

- 10.1. Every person who contravenes any provision of this By-law and/or fails to comply with an order made under this By-law is guilty of an offence.
- 10.2. A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and is liable to a fine, and such other penalties, in accordance with the *Municipal Act*, as amended.
- 10.3. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.
- 10.4. If a person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an order:
- a) prohibiting the continuation or repetition of the offence by the person convicted; and
 - b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

11. Enactment

- 11.1. This By-law shall come into force and effect upon its final passage.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this
4th day of NOVEMBER, 2024.**

DEPUTY MAYOR, Kimberly DeYong

ACTING CLERK, Angela Toole

SCHEDULE 1

Short-Term Rental Licensing Requirements

1. A completed application for a licence or for renewal of a licence shall include the following requirements:
 - a) name, address, phone number and email address of the Applicant;
 - b) address of the Property for which a licence is sought;
 - c) payment of the licensing fee as prescribed in the Town's Fees and Charges By-law in effect at the time;
 - d) if the Applicant is not the registered owner of the Property for which a licence is sought, the application must be accompanied by a letter from the registered owner of the Property giving the Applicant explicit permission to use the Property or part thereof for the purposes of a Short-Term Rental;
 - e) contact information for the Applicant or Agent who will be available to respond to events of an urgent concern;
 - f) written confirmation that the location and municipal address of the Property and the name and contact information of the Agent will become public information upon the issuance of a licence;
 - g) a signed Hold Harmless and Indemnification Agreement in favour of the Town from and against claims, demands, losses, costs, damages, actions, suits or proceedings that arise out of, or are attributable to, the operation of the Short-Term Rental, which shall be in a form satisfactory to the Town;
 - h) a certificate of insurance, specifically noting the operation of the Property as a Short-Term Rental, which includes a liability limit of no less than two million dollars (\$2,000,000.00) per occurrence for property damage and bodily injury, and such proof of insurance shall be endorsed to the effect that the Town shall be given at least thirty (30) days notice in writing of any cancellation or material variation to the policy;
 - i) a complete Criminal Record Check for every Applicant, issued by or on behalf of an Ontario Police Service for the jurisdiction in which each Applicant resides, not more than thirty (30) days old, from the date of application submission; and
 - j) number of beds available and the proposed maximum number of occupants for the Short-Term Rental.
2. No licence for a Short-Term Rental shall be issued to an Applicant who is not an individual person.
3. No licence for a Short-Term Rental shall be issued to an Applicant who is not at least eighteen (18) years of age.
4. No licence for a Short-Term Rental shall be issued to an Applicant if the Property is within three hundred (300) metres of the Property of an existing licensed Short-Term Rental, unless:
 - a) the application is for a Property located within the Downtown STR Area depicted in Schedule 3; or
 - b) the initial application is made before March 31, 2025, and the Short-Term Rental was operating prior to this By-law's passage.

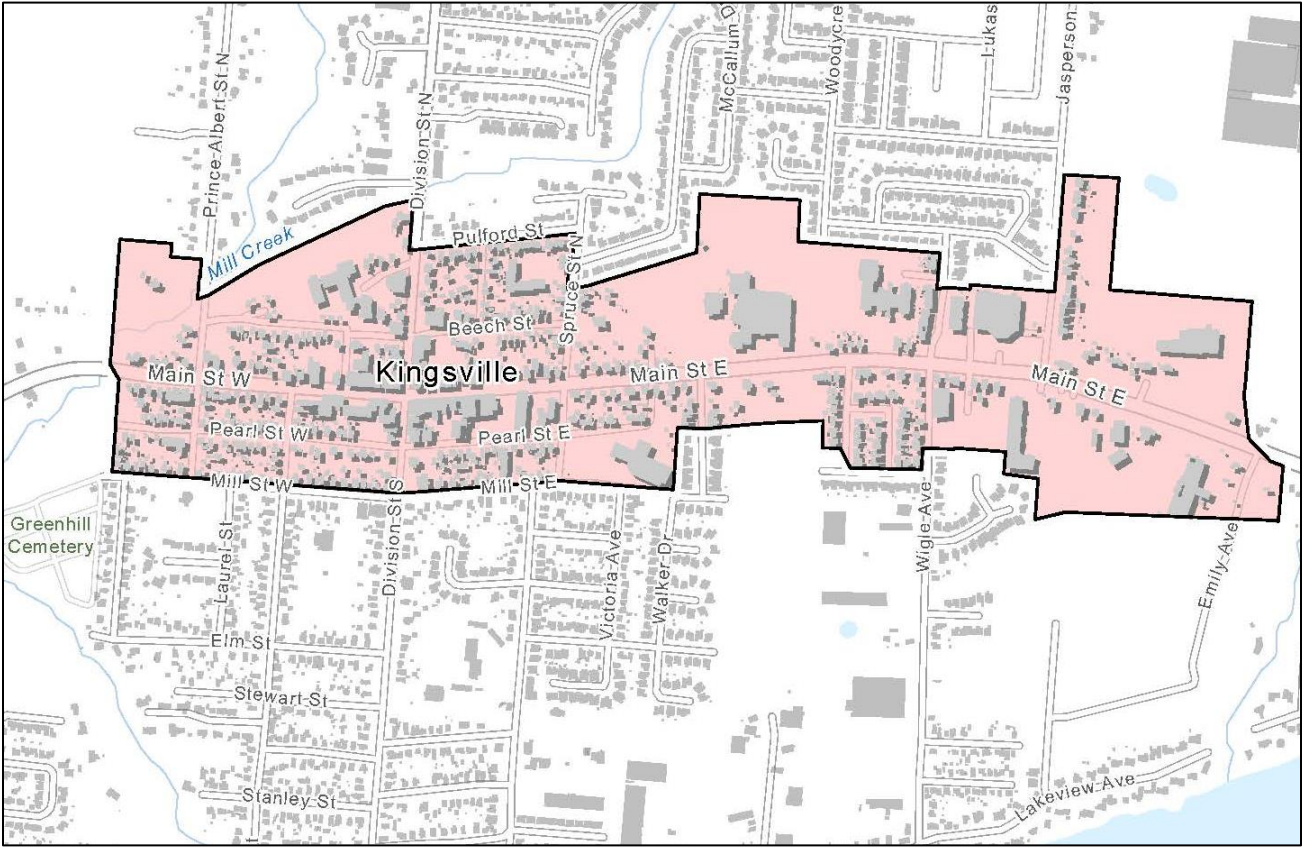
5. In the event of a change of ownership of a licensed Short-Term Rental, where the new owner submits a completed application within ninety (90) days of taking ownership of the Property, Section 4 of Schedule 1 of this By-law shall not apply.
6. No licence shall be issued to an Applicant for a Short-Term Rental until the Clerk has been furnished with the following:
 - a) confirmation from the Fire Chief or designate that the building intended to be used as a Short-Term Rental has been inspected within the preceding twelve (12) months and is not subject to an order under the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, and applicable regulations; and
 - b) confirmation from a By-law Enforcement Officer or designate that the building intended to be used as a Short-Term Rental, and Property on which it is situated, has not been subject of a Town By-law Order within the last twelve (12) months preceding the date of the application.

SCHEDULE 2

General Regulations

1. No Short-Term Rental licence shall be issued for a Property for which a Short-Term Rental licence has already been issued.
2. No licensee shall be entitled to the renewal of a Short-Term Rental licence by the Town.
3. No licensee shall permit the number of Occupants at a Short-Term Rental to exceed the Maximum Occupancy.
4. The Maximum Occupancy permitted at a Short-Term Rental shall be calculated as two (2) Occupants per bedroom plus two (2) additional Occupants, not to exceed a maximum of ten (10) total Occupants in the Short-Term Rental, unless the Property of the Short-Term Rental is considered Commercial as defined in this By-law.
5. Every licensee shall:
 - a) display the licence issued under this By-law in a prominent place in the main entranceway of the Short-Term Rental;
 - b) include the licence number on any online advertisements of the Short-Term Rental;
 - c) ensure the Applicant or Agent is available, in the event of a complaint, concern or emergency at the Short-Term Rental, to attend the Property within sixty (60) minutes to resolve the issue, and attend the Municipal Office upon request within three (3) business days;
 - d) maintain the Short-Term Rental in a clean and sanitary condition with adequate measures for the storage and disposal of garbage and waste and sufficient levels of illumination to permit the safe use of the Short-Term Rental; and
 - e) ensure the Short-Term Rental is operated and used in a fashion such that the operation or use of the Short-Term Rental will not cause a disturbance or nuisance.
6. Every licensee shall provide a minimum of one (1) on-site parking space at the Short-Term Rental if between one (1) and four (4) Occupants are permitted, two (2) on-site parking spaces at the Short-Term Rental if between five (5) and eight (8) Occupants are permitted, and three (3) on-site parking spaces at the Short-Term Rental if between nine (9) and ten (10) Occupants are permitted, unless:
 - a) the Property is located within the Downtown STR Area depicted in Schedule 3; or
 - b) the initial application is made before March 31, 2025, and the Short-Term Rental was operating prior to this By-law's passage.
7. The requirement of a licence under this By-law is in addition to and not in substitution of any other requirement to obtain a licence or permit under any other federal or provincial regulation and does not relieve any party from its obligations to comply with any other law.
8. No licensee shall permit a person to occupy for sleeping purposes any cellar or any space that can be used as a garage, lobby, hallway, closet, bathroom, laundry, stairway or kitchen.

SCHEDULE 3
Map of Downtown STR Area



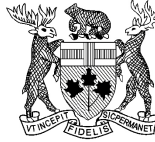
Town of Kingsville
Part I Provincial Offences Act
By-law 82-2024: Short-Term Rental By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	(Operate)(permit person to operate) STR without licence	s. 3.1 a)	\$1000.00
2	(Operate)(permit person to operate) STR under name not on licence	s. 3.1 b)	\$500.00
3	Transfer or assign a licence	s. 3.2 a)	\$500.00
4	Obtain a licence by providing (mistaken)(false)(incorrect) information	s. 3.2 b)	\$500.00
5	Advertise a STR without a licence	s. 3.2 d)	\$1000.00
6	Permit number of occupants at STR to exceed Maximum Occupancy	s. 4.3 a) Sch. 2 – s. 3	\$750.00
7	Fail to display licence in main entranceway of STR	s. 4.3 a) Sch. 2 – s. 5 a)	\$300.00
8	Fail to include licence number in online advertisements of STR	s. 4.3 a) Sch. 2 – s. 5 b)	\$300.00
9	Fail to ensure Applicant or Agent attend STR property within 60 minutes	s. 4.3 a) Sch. 2 – s. 5 c)	\$750.00
10	Fail to ensure Applicant or Agent attend Municipal Office within 3 days	s. 4.3 a) Sch. 2 – s. 5 c)	\$750.00
11	Fail to maintain STR in clean and sanitary condition	s. 4.3 a) Sch. 2 – s. 5 d)	\$500.00
12	Fail to maintain STR with waste and garbage disposal measurers	s. 4.3 a) Sch. 2 – s. 5 d)	\$500.00
13	Fail to maintain STR with adequate measurers of illumination	s. 4.3 a) Sch. 2 – s. 5 d)	\$500.00
14	Fail to ensure STR operation does not cause (nuisance)(disturbance)	s. 4.3 a) Sch. 2 – s. 5 e)	\$500.00
15	Fail to provide minimum number of parking spaces on-site	s. 4.3 a) Sch. 2 – s. 6	\$750.00
16	Permit person to occupy for sleeping a (cellar)(garage)(lobby)(hallway)(closet) (bathroom)(laundry)(stairway)(kitchen)	s. 4.3 a) Sch. 2 – s. 8	\$1000.00
17	Fail to notify the Clerk of change of information	s. 4.3 b)	\$300.00
18	(Prevent)(hinder)(obstruct) Authorized Official from (exercising a power) (performing a duty) under this By-law	s. 9.9	\$300.00

NOTE: The penalty provision for the offences indicated above is Section 10.3 of By-law No. 82-2024, a certified copy of which has been filed.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
WEST REGION

80 DUNDAS STREET, 10th FLOOR, UNIT L
LONDON, ONTARIO N6A 6A8



CABINET DU JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DE L'OUEST

80, RUE DUNDAS, 10^e ÉTAGE, UNITÉ L
LONDON (ONTARIO) N6A 6A8

TELEPHONE/TÉLÉPHONE (519) 660-2292
FAX/TÉLÉCOPIEUR (519) 660-3138

December 13, 2024

Angela Toole
Town of Kingsville

Greetings,

Re: Set Fines - Provincial Offences Act – Part 1 By-law 82-2024, Short-Term Rental By-Law

Enclosed herewith is the Part 1 original Order and original schedule of set fines for the above referenced Bylaw, the Bylaw indicated in the schedules.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

Please ensure that a copy of the said documents is forwarded to the Provincial Offences Court in Windsor, together with a certified copy of the Bylaw.

Yours truly,

A handwritten signature in cursive script that reads 'Ted Graham'.

M. Edward Graham
Regional Senior Justice
Ontario Court of Justice
Encl.

/tz

ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and **By-law 82-2024 of the Town of Kingsville** attached hereto are the set fines for those offences. This Order is to take effect December 13, 2024.

Dated at London this 13th day of December 2024.

A handwritten signature in black ink that reads "Ted Graham". The signature is written in a cursive, flowing style.

M. Edward Graham
Regional Senior Justice
Ontario Court of Justice