

REPORT TO: Mayor James M. Diodati
and Members of Municipal Council

SUBMITTED BY: Planning, Building & Development

SUBJECT: **PDB-2018-19**
AM-2017-005, City Initiated Official Plan and
Zoning By-law Amendments
Vacation Rental Units and Bed and Breakfasts

RECOMMENDATION

1. That Council approve amendments to the Official Plan in accordance with the wording in Appendix “A” to:
 - Permit Vacation Rental Units as of right on Tourist Commercial, Major Commercial and Minor Commercial designated lands.
 - Permit Vacation Rental Units, subject to a Zoning By-law Amendment, on the Residential, Niagara Parkway Residential and Good General Agriculture designated lands.
 - Add definitions for Vacation Rental Units and Bed and Breakfasts to Appendix 1 of the Official Plan.
2. That Council approve amendments to Zoning By-law Nos. 79-200, 395, 1966 (Willoughby) and 1538, 1958 (Crowland) to:
 - Define a Vacation Rental Unit and a Bed and Breakfast as outlined in this report;
 - Require 2 parking spaces for a Vacation Rental Unit with up to 3 bedrooms, and 1 parking space per guest room rented out to tourists in a Bed and Breakfast as well as 1 parking space for the dwelling;
 - Permit a Vacation Rental Unit, with up to 3 bedrooms and 6 persons occupancy, as of right in the Tourist Commercial (TC), General Commercial (GC) and Central Business Commercial (CB) zones;
 - Permit a Bed and Breakfast, with up to 3 guest rooms for rent, as of right in the Residential 1A Density (R1A), Residential 1B Density (R1B), Residential 1C Density (R1C), Residential 1D Density (R1D), Residential 1E Density (R1E), Residential 1F Density (R1F), Residential Two (R2), Residential Mixed (R3), Transition Residential Multiple (TRM), Deferred Tourist

Commercial (DTC), Deferred Commercial (DC), Agriculture (A), Rural (R), and Development Holding (DH) Zones of By-law No. 79-200, the Rural, Niagara River Parkway Residential and Village Residential Zones of By-law No. 395, 1966 and the Rural-Agricultural Zone of By-law No. 1538, 1958;

- Permit a Bed and Breakfast, with up to 6 guest rooms for rent, as of right in the Tourist Commercial (TC), General Commercial (GC) and Central Business Commercial (CB) zones; and
 - Maintain any current site or area specific approvals for cottage rental dwellings or Vacation Rental Units, tourist homes and Bed and Breakfasts.
3. That Council approve amendments to the Licensing By-law to add new regulatory schedules and fees for Vacation Rental Units and Bed and Breakfasts as discussed in this report.

EXECUTIVE SUMMARY

Following extensive consultation with the public, Staff have formulated an approach to regulate Vacation Rental Units and Bed and Breakfasts. Due to differing impacts different approaches are recommended for these two land uses.

Vacation Rental Units and Bed and Breakfasts are forms of tourist accommodation. Tourist Commercial designated lands are intended to be the primary location for various types of accommodations in the City. In addition, Major Commercial and Minor Commercial designated lands, including Downtown and Historic Drummondville, would be appropriate locations for these types of uses as surrounding commercial uses are unlikely to be adversely impacted. It is recommended that a definition for Accommodations, including Bed and Breakfasts and Vacation Rental Units, be added to the Official Plan and that these uses are permitted throughout Tourist Commercial, Major Commercial and Minor Commercial designations. In addition, Bed and Breakfasts with up to 6 guest rooms, and Vacation Rental Units with up to 3 bedrooms and 6 persons occupancy, are recommended to be permitted as of right in the Tourist Commercial (TC), Central Business District Commercial (CB) and General Commercial (GC) zones.

Bed and Breakfasts have long been recognized in the Official Plan. If the owner resides on the property, the residential function is not lost and guests are supervised. It is appropriate to permit this use as of right. Planning staff recommend changes to the Official Plan and Zoning By-law Nos. 79-200, 395, 1966 (Willoughby) and 1538-1958 (Crowland) to permit Bed and Breakfasts with up to 3 guest rooms as a home based business in detached, semi-detached or duplex dwellings, in zones that permit these uses.

A Vacation Rental Unit is a distinct commercial use which has recently become popular. Although there has been an illegal proliferation of this use in residential areas, it is a use that is neither accessory to a dwelling or ancillary to the residential uses, and is currently not permitted by the Official Plan in Residential, Niagara Parkway Residential or Good

General Agriculture designations. It is recommended that policies be added to the Official Plan to permit them in these designations, subject to a site specific zoning by-law amendment demonstrating that introduction of this use will not interfere with the intent of these land use designations and will not impact on surrounding uses.

Should Council approve the recommended amendments to the Official Plan amendments will be necessary to amend the Licensing By-law (No. 2001-031) to effectively control these uses. Draft schedules to the Licensing By-law are included in Appendices 3 and 4 to this report.

BACKGROUND

On June 13, 2017 Council directed staff to hold an open house to obtain further feedback from the public and stakeholders on Vacation Rental Units and Bed and Breakfasts, and to hold a statutory Council Public Meeting to consider related Official Plan and Zoning By-law amendments. Staff have now held 2 Community Engagement Sessions, on September 11, 2017 and March 7, 2018, and have obtained extensive feedback from the public and stakeholders.

Vacation Rental Units are dwellings that are rented in their entirety to one group of travellers at a time for a period of less than 28 days. They have been popular in other parts of the world for many years and are quickly becoming a popular form of accommodation in the City. The Ontario Divisional Court has ruled that a Vacation Rental Unit can be treated as a separate and unique land use and can be regulated by municipalities. Since 2002, Council has amended zoning on site by site basis to allow Vacation Rental Units (Cottage Rental Dwellings).

Bed and Breakfasts are owner/proprietor occupied dwellings or dwelling unit in which the owner or proprietor offer guest rooms to be rented by tourists. For many years the City has permitted Bed and Breakfasts under the term tourist home in Tourist Commercial zones, the River Road neighbourhood or in residential areas on a site by site basis.

Access to Vacation Rental Units and Bed and Breakfasts has increased recently through the popularity of various websites such as airbnb.com, flipkey.com, vrbo.com and others. A review of websites in 2017 identified over 200 listings for these uses. Most of these are illegal and numerous complaints have been received by By-law Enforcement about them due to noise, partying, parking and garbage. To ensure such accommodations do not adversely impact surrounding properties and residents, it is necessary to develop Official Plan policies and zoning provisions and licensing regulations to effectively control these uses.

Community Engagement Sessions

The Community Engagement Sessions held on September 11, 2017 and March 7, 2018 were attended by approximately 180 people and 160 people, respectively. Presentations were made by 28 people at the first Session and 22 people at the second Session. The presentations had differing views on Vacation Rental Units. Some people supported

Vacation Rental Units, noting that this new form of tourist lodging is in demand and provides an opportunity for residents to earn income. Some people expressed concerns about the use citing disruptions, and impacts on the character of neighbourhoods and the availability of housing. Fewer concerns were expressed about owner occupied Bed and Breakfasts, and it was noted that the presence of an owner reduces the potential of disruptions to neighbours. There was broad acceptance of regulating both uses through licensing and requiring the payment of reasonable fees and taxes.

Survey

A survey formed part of the September 11, 2017 consultation. The survey asked 19 questions about the perception of both uses, the appropriate size, operational issues and approaches to controlling these uses. A total of 340 responses were received.

Four options were presented to the public with respect to regulating Vacation Rental Units and Bed and Breakfasts. These options, and the results of the survey, are as follows:

- Prohibit these uses unless currently legally established (17%).
- Permit these uses in tourist commercial areas only (27%).
- Permit these uses on a site by site basis through a zoning by-law amendment (12%).
- Permit these uses as of right in residential, commercial and rural areas (45%).

Although the fourth option received the most positive responses, 55% of respondents supported prohibiting the uses or restricting their location. Other highlights are outlined as follows:

- 88% of respondents thought Bed and Breakfasts were positive for the City.
- However there was more a mixed response for Vacation Rental Units, with only 59% of the opinion that they were positive for the City.
- 69% supported permitting these uses in tourist areas.
- 92% of respondents thought both uses to should be limited to 4 bedrooms/guest rooms or less.
- 78% of respondents thought guest parking should be limited to what can be accommodated on the site of the use, rather than permitting on-street parking.
- 78% of respondents supported requiring guests sign a code of conduct.
- 62% of respondents supported publishing all licensed properties and contact information for the operator on the City's website.

These statistics point to a greater level of comfort where the owner is present such as a Bed and Breakfast versus a Vacation Rental Unit. In addition there is support for limiting the size and controlling such aspects as parking, and imposing regulations on the operational aspects of these uses.

Public Submissions

A total of 53 submissions have been received to date and are included on Council's Agenda for consideration. This correspondence reflects a difference of opinion on permitting these uses, particularly Vacation Rental Units. A substantial number of letters are opposed to permitting Vacation Rental Units in residential areas, often citing the disruption this use has on abutting properties. Some letters recommended that this use be directed to tourist areas or be strictly regulated if it is to be permitted.

A smaller number of submissions and verbal statements go beyond the immediate impacts of converting a substantial number of dwelling units to Vacation Rental Units. These concerns include the impact on the character of a neighbourhood with fewer permanent residents, as well as the impact on the availability of affordable housing if dwellings are converted to Vacation Rental Units.

Letters in support of Vacation Rental Units cite that they provide accommodation to a segment of the travelling public that do not want to stay in more conventional accommodations and provide an opportunity to earn income.

Although submissions were received opposing Bed and Breakfasts in residential areas these were fewer in number than those received on Vacation Rental Units. In fact there was substantial support to allowing this use as "home sharing" provided the "owner is in the house" to control such matters as occupancy and behaviour of guests.

Other Municipalities

Several municipalities were surveyed for their approach to regulating Vacation Rental Units and Bed and Breakfasts. The findings are as follows:

City of Toronto

- Recent zoning changes (December 2017) permit the rental of a principal residence for up to 180 days a year, or an accessory dwelling unit, as a vacation rental, or as a Bed and Breakfast with up to 3 guest rooms. These changes have been appealed to the Ontario Municipal Board.
- A comprehensive licensing scheme has been implemented. Licensees are required to pay \$50 a year for a license and required to have the license number published on any platform (i.e. airbnb.com). These platforms are also required to obtain a City license in order to list properties in the City.

Town of Niagara on the Lake

- Permits vacation rentals and Bed and Breakfasts, with up to 3 bedrooms or guest rooms, as of right on Residential, Commercial and Rural designated lands and related zones.

- Uses are required to be licensed; licensing fees are \$110 per bedroom/guest room.

Town of Blue Mountains

- Restricts vacation rentals with up to 9 persons occupancy to a Resort Commercial zone. The use is not permitted in low density residential zones.
- A comprehensive licensing scheme has been established. Application fees are \$1,500 to \$2500 for an initial 2 year license. By-law enforcement officers can issue administrative penalties for violations rather than going to court. Such administrative penalties can be appealed to a Town Committee.

City of St. Catharines

- Permits Bed and Breakfasts, with up to 4 guest rooms as of right, accessory to a dwelling.
- Vacation rentals are considered a hotel/motel use and not permitted in residential areas.

City of Welland

- Permits Bed and Breakfasts, with up to 3 guest rooms, as of right accessory to a detached dwelling.

ANALYSIS/RATIONALE

1. Provincial Policies

The *Planning Act* requires City planning decisions to comply with Provincial policies.

These policies require the City to provide sufficient housing to meet current and future needs of residents. Staff share the concern that the uncontrolled conversion of dwelling units to Vacation Rental Units may adversely impact the supply of housing available to meet residential demands. Vacancy rates in the City have dropped to the range of 2% to 2.5% in the last couple of years and may be further impacted by a proliferation of further conversions. Therefore it is recommended that policies be implemented to require that the supply of available housing be considered prior approving a zoning by-law amendment for a Vacation Rental Unit. This would be similar to the City's current policy which discourages condominium conversions when the vacancy rate drops.

2. Official Plan

a. Current Official Plan Policies Governing Bed and Breakfasts

The Official Plan permits a Bed and Breakfast as an accessory use to a dwelling within the areas designated Residential, Parkway Residential, and Good General Agriculture. This use is also permitted in the River Road Satellite Tourist District, provided the residential character of the neighbourhood is protected.

The Tourist Commercial designation and certain districts of the Major Commercial designation permit accommodations, which would include a wide range of tourist lodging, including Bed and Breakfasts and Vacation Rental Units.

The Official Plan currently uses a number of different terms to refer to Bed and Breakfasts including Tourist Homes, Bed and Breakfast Accommodations, Bed and Breakfast Facilities and Bed and Breakfast Establishments. As a housekeeping measure, these terms should be changed to “Bed and Breakfast” to eliminate any confusion.

b. Vacation Rental Units

The Residential designation permits uses that are accessory to a dwelling unit (Bed and Breakfasts, home occupations) and uses that provide services to residents (schools, parks and neighbourhood commercial) and are ancillary to the residential function.

Staff had previously reviewed applications for Vacation Rental Units in Residential areas under the policies for Bed and Breakfasts. However the Ontario Municipal Board criticised this approach as it viewed Vacation Rental Units as a unique use. The Ontario Divisional Court has ruled that a Vacation Rental Units are a separate land use. Therefore appropriate policies are needed.

c. Recommended Changes – Definitions

To formulate policies for these uses, a number of terms need to be defined. The draft Official Plan attached as Appendix “A” includes the following terms:

“Accommodations” - means uses intended to provide temporary lodging to the travelling public and include, but are not limited to, a Hotel, Motel, Inn, Bed and Breakfast or a Vacation Rental Unit.

“Bed and Breakfast” - means a home based business that is licensed to provide Guest Rooms to the travelling and vacationing public and may provide breakfast and is within the principal dwelling of the proprietor.

“Guest Room” - means a room or suite which is capable of being rented separately to travelers and does not have any cooking facilities.

“Vacation Rental Unit” - means a dwelling or dwelling unit that is licensed to provide temporary lodging to a single group of travelers for a period of 28 consecutive days or less.

The term Accommodation makes it clear that Vacation Rental Units and Bed and Breakfasts are included in policies permitting these uses in Tourist Commercial, Major Commercial and Minor Commercial designations.

To better clarify that an operator should reside where a Bed and Breakfast is operated, the Bed and Breakfast definition has been revised to specify it is a home based business within the dwelling of the proprietor. A Guest Room definition has been added to state that the rooms can be individually rented to travellers.

The definition Vacation Rental Unit states that it is a dwelling or dwelling unit to be rented out in its entirety to a single group of travellers, and differentiates the use from other forms of accommodation.

d. **Recommended Changes – Tourist Commercial, Major Commercial and Minor Commercial Designations**

The Official Plan intends Tourist Commercial designated lands to be the primary location for accommodations. The above noted definitions clarify that Bed and Breakfasts and Vacation Rental Dwellings are forms of Accommodation that are permitted in Tourist Commercial designated lands.

Accommodations are currently permitted in the Major Commercial designation, however specific reference to these uses is only made in reference to the Niagara Square Retail District. Accommodations are not specified as being permitted within the Minor Commercial designated lands, though the implementing zoning in these areas (General Commercial) permits hotels and motels as of right.

Planning staff recommend that Accommodations, including Bed and Breakfasts and Vacation Rental Units be permitted in Major and Minor Commercial areas. These uses would be compatible with abutting uses, which are mainly commercial and not expected to be adversely impacted. Additional forms of accommodation in these designations offer an opportunity to diversify the uses that can be developed and, in the case of the Central Business District and Drummondville Area, provide another opportunity to redevelop these areas.

e. **Recommended Changes – Residential Designation**

Home occupations are permitted as accessory uses on Residential lands in the Official Plan, and also permitted as of right in most residential zones. Bed and Breakfasts are similar in that they are home based businesses, but

must be zoned on a site by site basis (except for the River Road neighbourhood).

Home based businesses within a dwelling are intended to be operated by the owner/occupant, which reduces the potential for disturbances to neighbours. As the dwelling retains the residential function and character, Planning staff recommend the wording “home based business” be added to the Official Plan in lieu of the term “accessory” to more precisely identify the nature of the use.

To permit Bed and Breakfasts as of right Planning Staff recommend the wording be changed to remove the requirement for site specific zoning amendments. This would allow Council to pass a general amendment to the zoning by-law to permit Bed and Breakfasts on Residentially designated lands. Any bed and breakfast proposed at a larger scale than recommended would still be considered on a site-by-site basis.

A Vacation Rental Unit is a commercial use, similar to a motel or hotel but on a smaller scale, and policies are needed to permit the use and guide its regulation. Planning Staff are concerned about the impact of these commercial uses in residential areas and as such are recommending that Vacation Rental Units in residential areas be subject to a site by site review through a Zoning By-law amendment, subject to a set of criteria, in order to ensure:

- The residential character is maintained;
- An undue concentration of Vacation Rental Units on a residential block or in a residential neighbourhood is not created;
- Conversions of dwellings to Vacation Rental Units are controlled such that Residential areas continue to provide permanent housing for residents; and
- A Vacation Rental Unit is regulated to control its size in order to minimize disturbances to neighbours.

Recommended policies are included in the draft Official Plan amendment attached as Appendix “A”. Review of a Zoning By-law amendment should consider the following:

- Limiting Vacation Rental Units to 3 bedrooms to ensure the physical size of the unit and related parking are maintained at a scale that is compatible with surrounding dwellings. A larger size may be permitted through a zoning by-law amendment but should be limited to locations where surrounding uses are less impacted, such as

locations on collector or arterial roads close to the Central Tourist District and on lots sufficiently sized to accommodate additional parking;

- The number of Vacation Rental Units existing in a neighbourhood to ensure excess concentrations that may affect the character of a residential block or neighbourhood are not created; and
- Current vacancy rates to ensure housing availability is not adversely affected.

The recent approvals for accessory dwelling units are intended to provide affordable housing for City residents. The use of an accessory dwelling unit as a Vacation Rental Unit should only be considered through a site specific zoning amendment subject to the above noted criteria.

f. **Recommended Changes – Niagara Parkway Residential and Good General Agriculture Designations**

The Niagara Parkway Residential Designation, like the Residential designation, primarily permits residential dwellings and therefore the Official Plan policies proposed for these designations are very similar to those proposed for the Residential designation. Bed and Breakfasts are proposed to be permitted through a general by-law passed by Council. The policies for Vacation Rental Units would be identical to those for the Residential designation.

The Good General Agriculture designation of the Official Plan permits ancillary uses, including Bed and Breakfasts up to 6 bedrooms, home industries and agritourism uses, provided they retain the agricultural and rural character of the area. No changes are necessary to these policies to permit Bed and Breakfasts. Planning staff recommend a section be added to allow Zoning By-law amendments for Vacation Rental Units with up to 3 bedrooms be considered on a site-by-site basis in keeping with these policies.

3. **Zoning By-law**

Schedules 1 and 2 to this report illustrate the general locations where Bed and Breakfasts and Vacation Rental Units would be permitted as of right. In addition Appendix 2 provides a general summary where these uses would be permitted.

a. **Recommended Changes – Bed and Breakfasts and Vacation Rental Units in Tourist Commercial (TC), Central Business Commercial (CB) and General Commercial (GC) Zones**

As the above noted commercial zones permit accommodations (hotels and motels) as of right it is appropriate to permit Bed and Breakfasts and Vacation Rental Units as of right. Similar to the Good General Agriculture policies it is recommended that Bed and Breakfasts be permitted to have up to 6 guest rooms in these commercial zones. Surrounding uses tend to be commercial and would not be impacted by these uses. Site plan control will be employed where applicable to regulate parking, access, landscaping and garbage.

Based on complaints received, disturbances to neighbours appear to increase when occupancy in Vacation Rental Units is increased beyond the typical occupancy of a dwelling. Therefore, Planning staff recommend that as of right zoning limit Vacation Rental Dwellings to 3 bedrooms and 6 persons occupancy. Under the Ontario Building Code, a bedroom is expected to be occupied by up to 2 people, therefore a 3 bedroom Vacation Rental Unit could be occupied by 6 people. Occupancy should be limited to this number. Increases to occupancy should be considered only through zoning amendments or variances.

Accommodations are not permitted in the Shopping Centre Commercial (SC) or the Neighbourhood Commercial (NC) zones. In addition NC facilities are expected to be integrated with residential areas and thus a Vacation Rental Unit or a larger Bed and Breakfast may have an impact on surrounding residences. For these reasons Vacation Rental Units or Bed and Breakfasts are not recommended in these zones.

Certain areas (Heartland Forest and the campgrounds on Lundy's Lane) are regulated by the Resort Commercial (RC) and Camping Establishment (CE) zones respectively; these areas are not recommended for as of right zoning for Bed and Breakfasts and Vacation Rental Units as they are intended to be used for specific accommodations only (trailer camps) and interpretive centres.

b. Recommended Changes – Bed and Breakfasts in Other Zones

In keeping with the Official Plan changes above it is recommended that a Bed and Breakfast be permitted as a home based business in detached, semi-detached and duplex dwelling in any zone that permits these dwelling types. These zones include the Residential 1A to 1F Density (R1A-R1F), Residential Two (R2), Residential Mixed (R3), Transition Residential Multiple (TRM), Deferred Commercial (DC), Deferred Tourist Commercial (DTC), Agricultural (A), Rural (R) and Development Holding (DH) Zones in By-law No. 79-200, the Rural, Niagara River Parkway Residential and Village Residential Zones of By-law No. 395, 1966 (Willoughby) and the Rural-Agricultural Zone of By-law No. 1538, 1958 (Crowland).

Since 1979, the site specific R2-2 zone which applies to the residential area along River Road, between the Rainbow Bridge and Downtown has permitted tourist homes with up to 4 guest rooms in detached, semi-detached and duplex dwellings. There is no intention to remove existing rights. In addition, this area is on the WEGO route and close to tourism attractions, and has long supported Bed and Breakfasts.

As the above zoning regulations have permitted Bed and Breakfast type accommodations in detached, semi-detached and duplex dwellings, it would be appropriate to extend this permission to zones that permit these dwelling types. However a maximum of 3 guest rooms is proposed for these zones, as of right, other than the above noted R2-2 zone, for the following reasons:

- When a bedroom is included for the owner, this would result in a dwelling with the equivalent of 4 bedrooms, similar in size to a dwelling;
- A Bed and Breakfast with 4 bedrooms or more is required to meet building and fire standards similar to a hotel. It therefore is appropriate to limit the as of right size to below this amount; and
- Other municipalities, such as Town of Niagara on the Lake and City of Welland, restricts a Bed and Breakfast to 3 guest rooms.

Current parking requirements for Bed and Breakfasts are 1 space per guest room and 1 space for the dwelling unit. These spaces are to be independently accessed from the street or an on-site aisle and are to be 2.75 metres wide by 6 metres long. In addition residential properties are to have 30% of the lot area landscaped, with front yard parking areas restricted to 60% of the lot frontage up to a maximum of 9 metres. These standards are important to ensure enough off-road parking is provided, and landscaping is provided to maintain the residential character of the neighbourhood, and therefore are not proposed to be changed.

Any Bed and Breakfast would be subject to the Ontario Building Code and fire regulations, including a Change in Use Building Permit. In addition, Bed and Breakfasts on private services will need to meet the requirements of Regional Public Health.

c. Other Recommended Changes – Vacation Rental Units

In accordance with Official Plan policies Vacation Rental Units are not intended to be permitted in other zones as of right and therefore the use is not proposed to be added to any residential zone. Vacation Rental Units should be generally limited to 3 bedrooms and 6 persons occupancy in site

specific zoning amendments to minimize the potential for disturbances to neighbours.

It is possible that a group of 6 people could arrive in 2 vehicles. Therefore a parking requirement of 2 spaces for a 3 bedroom Vacation Rental Unit is recommended. These spaces could be provided in tandem. For Vacation Rental Units beyond 3 bedrooms additional parking should be provided and determined on a site by site basis.

A total of 16 properties have been zoned for Vacation Rental Units (cottage rental dwellings) in the City. Although more recent approvals have limited the use to 3 bedrooms, older approvals permit 4 bedrooms or do not limit the size of the use. These facilities have operated for many years and there do not appear to be recent complaints about them. Given this, Staff propose that a clause be put in the amending zoning by-law to maintain regulations for these existing approvals.

4. Licensing Regulations

The City's Licensing By-law includes regulations for Bed and Breakfasts as lodging houses. Currently, Vacation Rental Units have been licensed as cottages under the Motel Schedule. Annual license fees are \$65 for a Bed and Breakfast and \$40 plus \$5 per room for a Vacation Rental Unit. The terminology, regulations and fees for these uses need to be updated.

A new schedule is proposed to be added to the Licensing by-law to specifically regulate Vacation Rental Units; a draft is attached as Appendix "3". In addition, an update to Bed and Breakfasts regulations is attached as Appendix "4". Proposed regulations include the following:

- The posting of the name address and phone numbers of licensees or designates on the City website;
- An application for a licence shall include a detailed site plan and floor plans to confirm zoning compliance;
- To require licensees of Vacation Rental Units to attend the licensed property promptly upon notice of an alleged violation of the City's Noise By-law;
- Require a code of conduct to be signed by renters of a Vacation Rental Unit;
- Application of an administrative penalty to licensees where there has been a violation of the Licensing By-law; and
- The revocation of a license for a Vacation Rental Unit where there have been 3 or more penalty notices in calendar year.

The revisions to the Bed and Breakfast schedule involve changing terminology from lodging house to Bed and Breakfast, and requiring the submission of site and floor plans for review of zoning compliance. The schedule for motels should be updated to remove the reference to cabins.

Planning fees are set on a cost recovery basis. Similarly, increased fees are required for the following matters:

- Increased policing of unlicensed properties and enforcement of by-law and licensing provisions for licensed properties;
- Inclusion of an initial fire inspection in a new license application (any follow up inspections would be at the applicant's cost);
- Introduction of an Administrative penalty of a sufficient amount to act as a deterrent to License By-law violations; and,
- Development of a database of licensees for the City's Website

Staff recommend the following fees be added to the Licensing By-law:

New application for a Vacation Rental Unit	\$1000.00 for 1 year
New application for a Bed and Breakfast	\$1000.00 for 1 year
Renewal of an application for either a Vacation Rental Unit or a Bed and Breakfast	\$500 for 1 year
Administrative Penalty	\$500.00

LIST OF ATTACHMENTS

- Appendix 1 – Draft Official Plan Policies
- Appendix 2 – Recommend As Of Right Zoning – Accessory Dwelling Units, Vacation Rental Units and Bed and Breakfasts
- Schedule 1 – Recommended Locations For Bed and Breakfasts
- Schedule 2 – Recommended Locations For Vacation Rental Units
- Appendix 3 – Draft Licensing Schedule – Vacation Rental Units
- Appendix 4 – Draft Licensing Schedule - Bed & Breakfasts

Recommended by: _____

Alex Herlovitch, Director of Planning, Building & Development

Respectfully submitted: _____

Ken Todd, Chief Administrative Officer

A.Bryce:mb
 Attach.

APPENDIX 1**Draft Official Plan Policies**

- a) PART 2, Section 1.4 is hereby deleted and replaced with the following:
- 1.4 Home based businesses within owner or proprietor occupied residential units, such as home occupations and Bed and Breakfasts, may be permitted where they are limited in size to be compatible with the residential neighbourhood. These uses will be regulated by the implementing zoning by-law. Zoning by-law amendment applications to increase the size of such uses will be carefully considered to minimize potential disturbances to adjacent properties and to protect the character and identity of the overall neighbourhood.
- b) The following is hereby added as PART 2, Section 1.5 and the rest of the Sections are numbered accordingly:
- 1.5 Zoning By-law Amendments to permit Vacation Rental Units, either in detached or semi-detached dwellings, or in accessory dwelling units, may be considered subject to the following criteria:
- 1.5.1 Vacation Rental Units shall be limited to 3 bedrooms to ensure the scale and physical character is compatible with the surrounding neighbourhood, and parking and landscaping requirements consistent with a residential environment shall be implemented.
- 1.5.2 Where applications for additional bedrooms are submitted, Council shall have regard to a larger lot size, ability to accommodate additional required parking, landscaped open space elements, a location on an arterial or collector road, and proximity to tourist areas.
- 1.5.3 To ensure lands which are designated Residential fulfil their primary purpose in providing housing, Council shall consider the supply of housing available for residents and current vacancy rates.
- 1.5.4 To avoid impacting the residential environment and liveability of a neighbourhood, concentrations of Vacation Rental Units shall be avoided.
- 1.5.5 Vacation Rental Units will be subject to a licensing by-law passed under the Municipal Act to regulate operational aspects of the Vacation Rental Unit, which may include, but shall not be limited to, compliance with zoning, noise and property standards by-laws and obtaining adequate insurance.

- c) PART 2, Section 2.1 is hereby deleted and replaced with the following:
- 2.1 In order to preserve and enhance the qualities of the Niagara River Parkway, development shall be limited to detached dwellings on large estate-type lots. Home based businesses with owner or proprietor occupied detached dwellings, such as home occupations and Bed and Breakfasts, may be permitted where they are limited in size to be compatible within the neighbourhood. These uses will be regulated by the implementing zoning by-law. Zoning by-law amendment applications to increase the size of such uses will be carefully considered to minimize potential disturbances to adjacent properties and to protect the character and identity of the overall neighbourhood. Private sewage disposal systems will be installed and maintained to the satisfaction of the Regional Public Health Department and/or Ministry of the Environment.
- d) The following is hereby added to PART 2, Section 2.2:
- 2.2.5 Vacation Rental Units may be permitted in detached dwellings through zoning by-law amendments, subject to the policies of Part 2, Section 1.5.
- e) The following is added to PART 2, Section 3.1:
- 3.1.3 Accommodations may be developed in Major or Minor Commercial Districts only.
- f) The following is hereby added to PART 2, Section 7.2.1:
- (iv) Zoning by-law amendments to permit Vacation Rental Units with up to 3 bedrooms in detached dwellings may be considered. This use shall be subject to the policies above, regulated to its location, size and operation and subject to appropriate regulations under a Licensing By-law.
- g) The words “Bed and Breakfast facility(ies)”, “Bed and Breakfast accommodations”, “Bed and Breakfast establishments” and “tourist home” are hereby deleted where they occur in the Official Plan and are replaced with the words “Bed and Breakfast(s)”.
- h) The following definitions are added to APPENDIX 1 – DEFINITIONS
- “Accommodations” - means uses intended to provide temporary lodging to the travelling public and include, but are not limited to, a Hotel, Motel, Inn, Bed and Breakfast or a Vacation Rental Unit.
- “Bed and Breakfast” - means a home based business that is licensed to provide Guest Rooms to the travelling and vacationing public and may provide breakfast and is within the principal dwelling of the proprietor.

“Guest Room” - means a room or suite which is capable of being rented separately to travelers and does not have any cooking facilities.

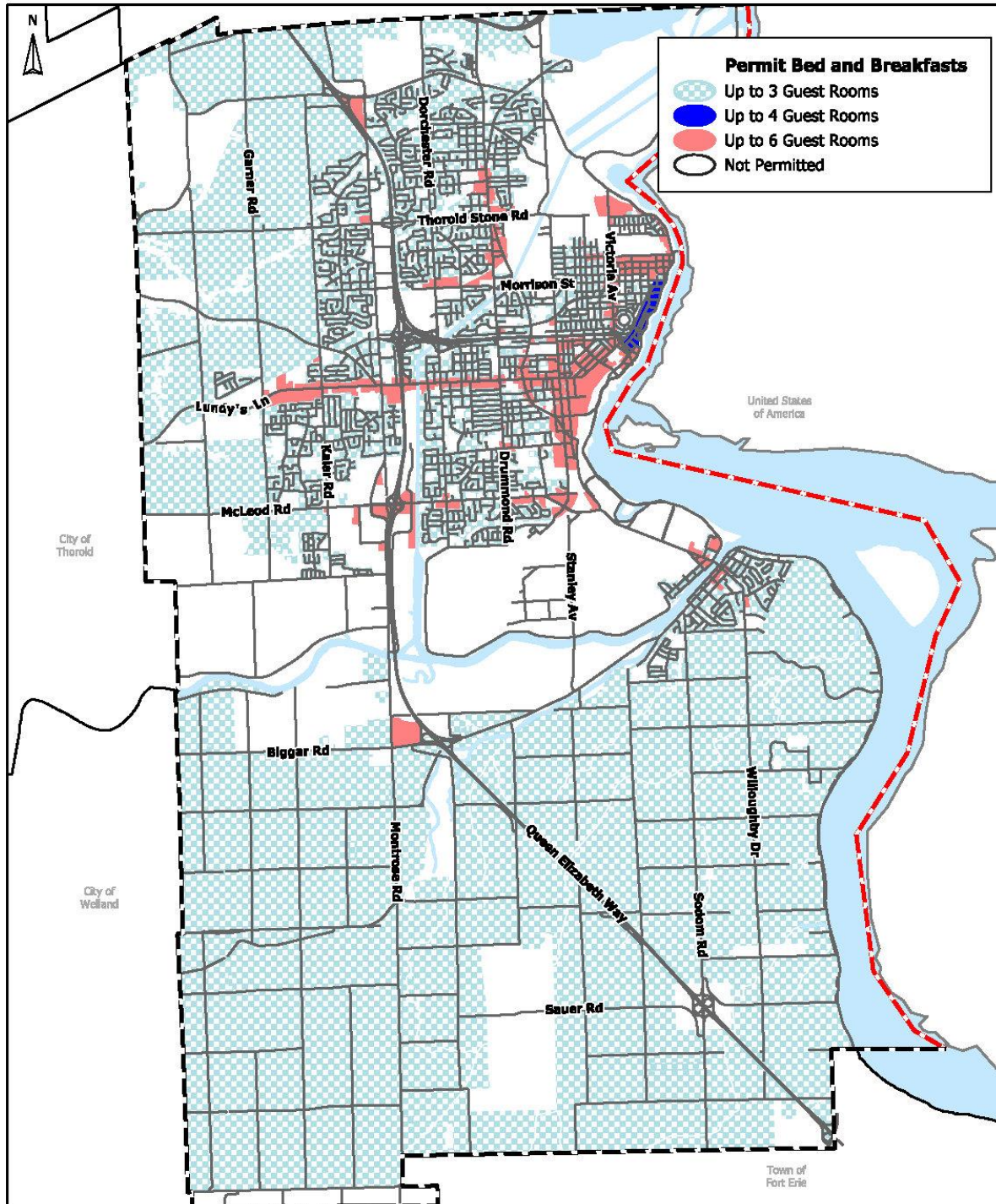
“Vacation Rental Unit” - means a dwelling or dwelling unit that is licensed to provide temporary lodging to a single group of travelers for a period of 28 consecutive days or less.

APPENDIX 2

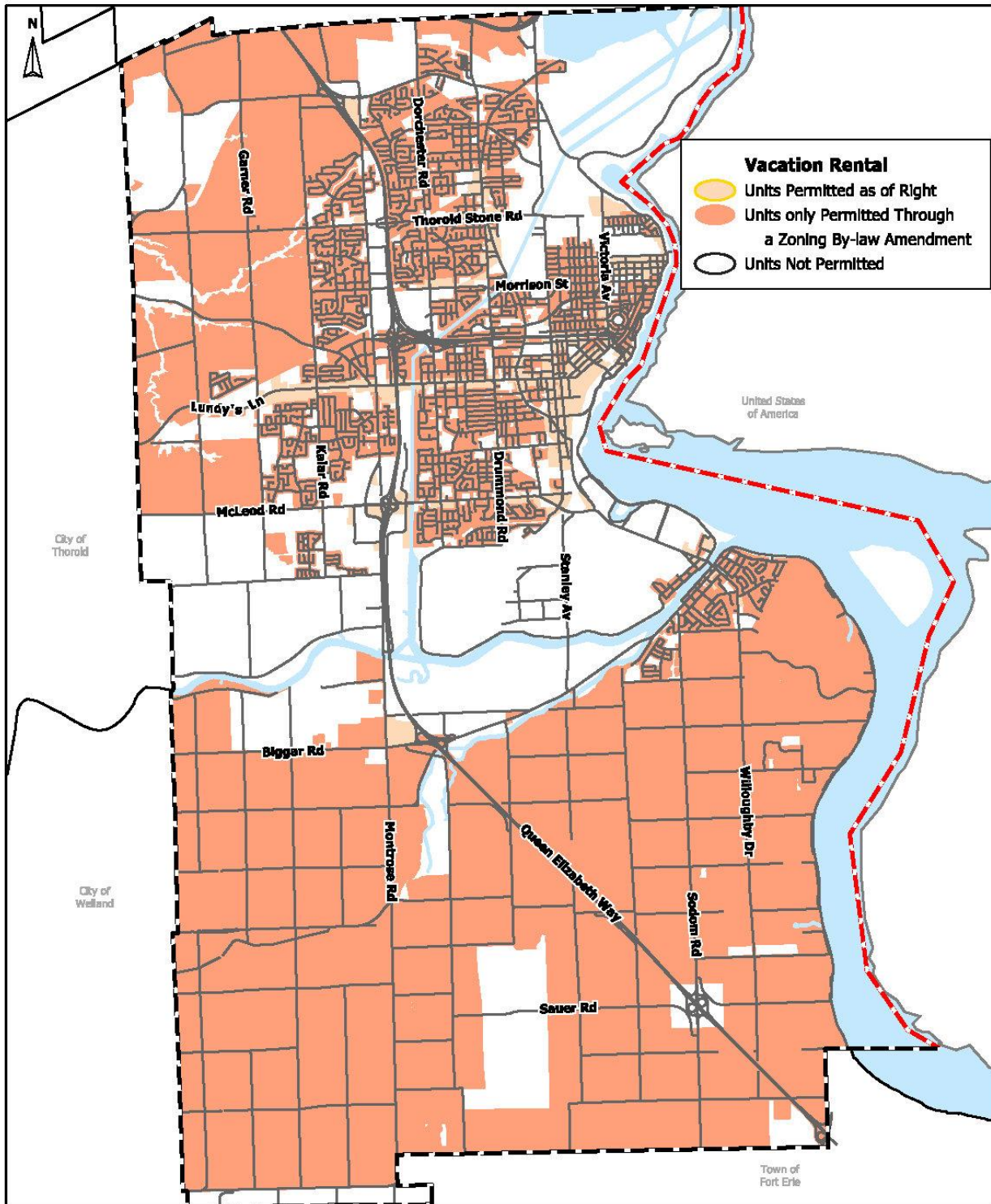
Recommended As Of Right Zoning – Accessory Dwelling Units, Vacation Rental Units and Bed and Breakfasts

Type of Use	Permitted – R1, R2, R3 Zone	Permitted – GC, TC, CB Zone	Parking	License Required?
Vacation Rental Unit	No	Yes, either stand alone or above a commercial unit	2 spaces for a 3 bedroom unit	Yes
Bed and Breakfast	Yes	Yes	1 space for the dwelling an 1 space per guest room	Yes

SCHEDULE 1

Recommended Locations to Permit Bed and Breakfasts

SCHEDULE 2

Recommended Locations for Vacation Rental Units

APPENDIX 3**Draft Licensing Schedule – Vacation Rental Units**

- 1) In this Schedule,
 - a) “Vacation Rental Unit” means a dwelling or dwelling unit that is licensed to provide lodging to single group of travelers for a period of 28 consecutive days or less but shall not mean a hotel, motel, inn or Bed and Breakfast.
 - b) “Applicant” is a person who applies for a licence to operate a Vacation Rental Unit, but does not include a licensee.
- 2) Every person who operates a Vacation Rental Unit shall obtain a license and pay an annual license fee in accordance with Schedule 1 to this By-law.
- 3) The City shall not issue a license for a Vacation Rental Unit unless the proposed Vacation Rental Unit conforms to the applicable Zoning By-law governing the premises. An applicant shall provide a site plan and floor plans, to the satisfaction of Planning, Building and Development Department.
- 4) In addition to the information required by Part II, Sections 4 and 5 and clause 3 above, an applicant shall provide the City with a copy of the standard rental agreement used by the operator. Said agreement shall contain the following:
 - a) Notification to guests of applicable regulations from the City’s Noise By-law, being By-law 2004-105, as amended from time to time; and
 - b) A copy of the code of conduct, to be signed by a representative of each group occupying the vacation rental dwelling, agreeing to abide by all rules and regulations of the municipality.
- 5) An applicant shall provide proof of a separate liability insurance coverage policy for the Vacation Rental Unit for a minimum of Two Million Dollars (\$2,000,000).
- 6) A licensee shall be required to maintain the liability insurance coverage policy specified in clause 6 above for the duration of the of the license period and shall notify the Clerk immediately if the policy is cancelled and replaced. Cancellation of such policy without notification shall be cause for immediate revocation of a license.
- 7) Every licensee shall provide the name, address, and phone number of the licensee or a designate who can attend the property in the licensee’s absence. Furthermore, the licensee authorizes the City to publish such information on the City’s website or on any other publication the City deems appropriate to advise the public of the contact information of the licensee.

- 8) The licensee agrees, upon being contacted by the Municipal Law Enforcement Officer, Chief of Police or any member of the public about any alleged violation of any City by-law or any Provincial or Federal law, to attend the property or direct a designate to attend the property at all times within a period of no greater than one hour from the time of contact.
- 9) Prior to the issuance of a license for a Vacation Rental Unit, the Vacation Rental Unit shall be inspected by the City's Building Department and Fire Department and where there are any violations of the Ontario Building Code or Fire Code, said violations shall be corrected.
- 10) Each licensee shall keep a daily register which shall indicate, the guest name, guest home address and home/cell telephone number, the date and duration of stay, the guest's vehicle make, license plate number and Province or State in which the vehicle is registered. The daily register must be kept current and be available for inspection of the licensed premises.
- 11) The licensee, upon request from a Municipal By-law Enforcement Officer or Chief of Police, shall present the daily register.
- 12) A Municipal By-law Enforcement Officer who finds that a licensee has contravened any provision of the Licensing By-law may issue a penalty notice addressed to the licensee.
- 13) Any licensee who contravenes any provision of this By-law shall, upon issuance of a penalty notice pursuant to clause 15 above, be liable to pay to the Municipality an administrative penalty pursuant to schedule 1 of this By-law.
- 14) Where the City and/or the Chief of Police have received three or more complaints regarding noise or other such nuisance complaint, or 3 or more penalty notices, the Municipality shall revoke the license and a new license shall not be issued for a period of 6 months.
- 15) Notwithstanding anything in contained in Part III of this By-law, the Municipality is not required to hold a hearing where a license is revoked under clause 17 above.
- 16) The applicant agrees not to advertise a Vacation Rental Unit in any medium until a license has been issued, and agrees that any such shall constitute a violation of this By-law.

APPENDIX 4**BED & BEAKFASTS****Schedule 30 to By-law No. 2001-31****Authority: Municipal Act, R.S.O. 1990, c. M.45, as amended**

1. In this Schedule, a Bed and Breakfast means a home based business that is licensed to provide Guest Rooms to the travelling and vacationing public and may provide breakfast and is within the principal dwelling of the proprietor.
2. Every person who operates a Bed and Breakfast shall obtain a licence and pay an annual licence fee in accordance with Schedule 1 to this By-law.
3. In making application for a licence, the full name and address of the proprietor of the proposed Bed and Breakfast, the name and address of the owner of the premises, the location, number of rooms, and portion of the building or buildings intended to be used as a Bed and Breakfast shall be stated thereon.
4. An applicant shall provide a site plan and floor plans, to the satisfaction of Planning, Building and Development Services demonstrating conformity with all applicable Zoning By-law regulations.
5. Prior to the issuance of a licence, all premises used as a Bed and Breakfast must be inspected and approved by the Medical Officer of Health or Public Health Inspector and be in compliance with the Health Protection and Promotion Act, R.S.O. 1990, c. H.7, or successor legislation.
6. Prior to the issuance of a license for a Bed and Breakfast, the Bed and Breakfast shall be inspected by the City's Building Department and Fire Department and where there are any violations of the Ontario Building Code or Fire Code, said violations shall be corrected.
7. There shall be displayed in each room so licensed a current certificate certifying that the room has been duly inspected and is a properly licensed room according to this Schedule.
8. There shall be displayed in a prominent and easily accessible spot in the office or hall of such licensed premises a list, either printed or clearly written in ink, stating thereon the fee to be charged for each licensed room, and there shall be displayed also in a prominent place in each licensed room a notice as to the fee to be charged and the check-out time for such licensed room.
9. No beds or bunks shall be placed one above another, and no one shall be permitted to sleep, lodge or dwell in a cellar or basement.

10. All mattresses shall be so arranged as to be at all times easily inspected. All beds, bed clothing, mattresses and pillows shall be kept clean at all times and free from vermin. Clean sheets and clean pillow cases shall be furnished for each bed and shall be changed as often as necessary to keep the same clean or as may be required by the Medical Officer of Health.
11. An adequate supply of clean towels and hot and cold water shall be provided for the lodgers free of charge. In each Bed and Breakfast shall be provided one water closet for every seven persons, and all such water closets, wash basins and baths shall at all times be kept thoroughly clean and in good repair. Every Bed and Breakfast shall be provided with a sufficient number of garbage pails to take care of all garbage and refuse.
12. Every Bed and Breakfast shall provide a register in which all lodgers shall be registered and such register shall specify the date of entry of such lodger, the period of stay and the home address of such lodger, and such register shall be open for inspection by any Officer of the Municipality.
13. Every Bed and Breakfast shall be open for inspection at all times in every part thereof by the Medical Officer of Health or any other Officer of the Municipality so designated.
14. No person shall erect or continue the erection or use of any sign post, hanging or swing sign or any other advertising device or post any notice on a building or vacant lot of the Municipality purporting to advertise a Bed and Breakfast, or prices charged for accommodation therein, unless the proprietor of the Bed and Breakfast purported to be advertised has received a permit from the Municipality allowing him to do so.
15. Any person wishing to covert an existing building for use as a Bed and Breakfast shall contact the Municipality's Building Division regarding requirements for a Change In Use Permit and /or Building Permit in accordance with the Ontario Building Code.
16. All Bed and Breakfasts in existence at the passage of this By-Law shall be subject to the requirements of the Ontario Fire Code or the policies of the Niagara Falls Fire Department respecting Bed and Breakfasts.
17. All Bed and Breakfasts in rural areas must comply with the Environmental Protection Act as it relates to waste disposal and water supply enforced by the Minister of Health or Regional Health Inspector.