

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 62 - 2023

A By-law to Licence Boarding, Lodging, Rooming Houses (BLRH) in the Town of Kingsville

WHEREAS Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the "*Municipal Act*") provides that the powers of a municipality shall be interpreted broadly as to confer broad authority on a municipality to (a) enable it to govern its affairs as it considers appropriate, and (b) enhance its ability to respond to municipal issues;

AND WHEREAS Section 151(5) of the *Municipal Act* provides that a municipality may pass by-laws with respect to any activity, matter or thing for which a by-law may be passed under Sections 9, 10 and 11 as if it were a system of licences with respect to a business;

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

AND WHEREAS Section 425 of the *Municipal Act* provides for a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Section 426 of the *Municipal Act* provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under the *Municipal Act* or under a by-law passed under the *Municipal Act*;

AND WHEREAS Section 429 of the *Municipal Act* provides for the municipality to establish a system of fines for offences under a by-law of the municipality passed under the *Municipal Act*;

AND WHEREAS Section 431 of the *Municipal Act* provides that if any by-law of the municipality is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order to prohibit the continuation or repetition of the offence by the person convicted;

AND WHEREAS Sections 444 and 445 of the *Municipal Act* respectively, provide 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 for The Corporation of the Town of Kingsville considers it necessary and desirable to regulate the use of Boarding, Lodging, Rooming Houses for the purpose of protecting the health and safety of the persons residing in the premises by ensuring that certain regulations are met, for ensuring that the premises do not create a nuisance to the surrounding properties and neighbourhood and to protect the residential amenity, character and stability of residential areas;

THEREFORE, BE IT RESOLVED that the Council of The Corporation of the Town of Kingsville enacts this by-law to licence Boarding, Lodging, Rooming housing within the jurisdictional boundaries of the Town of Kingsville as follows:

SECTION 1 – SHORT TITLE

This by-law may be cited as the Boarding, Lodging Rooming Houses (BLRH) By-law.

SECTION 2 - DEFINITIONS

In this By-law;

“**Authorized Official**” shall mean:

- (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 *Police Services Act*, R.S.O. 1990, c. P.15 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 *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) any employee, office or agent of the Windsor-Essex County Health Unit with authority to perform an inspection in accordance with applicable provincial and/or federal legislation;
- (e) any designate to the foregoing.

“**Operator**” shall mean the person to whom a licence is issued under this By-law and a licence may be issued to a person who alone or with others, owns, operates, or is an agent of a BLRH;

“**Municipal Act**” shall have the meaning set forth in the preamble of his By-Law.

“**Boarding, Lodging, and Rooming House**” or “**BLRH**” shall mean a dwelling unit where bedrooms are rented or provided to occupants, rather than the entire unit. Occupants of a BLRH share bathroom and/or kitchen facilities, and may be unrelated. A BLRH is rented or provided to occupants for twenty-eight (28) days or more.

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

SECTION 3 - APPLICABILITY AND SCOPE

3.1 A BLRH licence may be issued by the Town Clerk for one or both of the following classifications:

- 3.1.1 **RESIDENTIAL - Boarding, Lodging, and Rooming House:** ten (10) or fewer occupants on lands designated as residential in the Town of Kingsville’s Zoning By-law.
- 3.1.2 **AGRICULTURAL - Boarding, Lodging, and Rooming House:** Any number of occupants on land designated as agricultural in the Town of Kingsville’s Zoning By-law.

SECTION 4 - RELATING TO OPERATORS OF ALL BLRHS

4.1 No person shall operate a BLRH without a licence.

- 4.2 Every applicant for a licence to operate a BLRH shall include in their application a statement setting forth:
- 4.2.1 name and address of the applicant and the registered owner(s);
 - 4.2.2 address of BLRH for which the licence is sought;
 - 4.2.3 in the event that the applicant does not intend to reside in the Town of Kingsville, they shall file a "Consent of Agent" (attached hereto as Appendix "B").
 - 4.2.4 maximum number of occupants and number of rooms available for purposes of the BLRH;
 - 4.2.5 a floor plan in duplicate of such premises showing measurements and designation of each room, provided that it shall not be necessary to submit such floor plan if the application is for a renewal of a licence held in the previous year for the same premises, and if such application states that there has been no change in the number, location, size and use of the rooms in such premises since the time of issue of the former licence.
- 4.3 At the discretion of the Town Clerk, no licence shall be issued to an Operator of a BLRH until he/she has been furnished with the following:
- 4.3.1 confirmation from the Chief Building Official or designate that the building intended to be used as a BLRH is in compliance with the requirements of the *Building Code Act*, 1992, S.O. 1992, c. 23, and applicable regulations;
 - 4.3.2 confirmation from the Manager of Planning or designate that the intended use of the lands as a BLRH is in compliance with the requirements of the Zoning By-law of the Town of Kingsville;
 - 4.3.3 confirmation from the Chief Fire Official or designate that the building intended to be used as a BLRH is in compliance with the requirements of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, and applicable regulations;
 - 4.3.4 confirmation from the local Medical Officer of Health or designate that the facilities in the building intended to be used as a BLRH are in compliance with the requirements of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7 (where applicable), and applicable regulations and conform to the housing requirements of the federal Seasonal Agricultural Worker Program if applicable; and
 - 4.3.5 confirmation from a By-law Enforcement Officer or designate that the building intended to be used as a BLRH, and property on which it is situated, has not been the subject of a Town By-law Order within the last 12 months preceding the date of the application; and,
 - 4.3.6 the original results of a criminal record check for the applicant and/or agent of the BLRH, from each jurisdiction in Canada in which the applicant and/or agent have been resident during the prior three hundred and sixty-five (365) days that is satisfactory in form and content to the Town Clerk. The criminal record check must be dated no more than thirty (30) days prior to the application for a licence.
- 4.4 Every licence issued hereunder shall set out:
- 4.4.1 name and address of the Operator;
 - 4.4.2 name of the Operator's agent if applicable and their address, if

the Operator does not reside in the Town of Kingsville;

4.4.3 address of licensed premises;

4.4.4 maximum number of occupants and number of rooms available;
and

4.4.5 Date of issuance and date of expiry.

4.5 If, at any time after the issuance of a licence the Operator, or their agent as the case may be, moves to a new address outside of the geographic boundaries of the Town of Kingsville, the Operator shall within seven (7) days of such move file with the Town Clerk a new "Consent of Agent" (attached hereto as Appendix "B") of another person who is a permanent resident of the Town of Kingsville, to act as the agent of the Operator. Upon receipt of such consent the Town Clerk shall issue a certificate confirming the change aforesaid. The Operator and the agent shall forthwith notify the Town Clerk in writing of a change of the residence address or telephone number of the Operator and/or agent.

4.6 Every Operator and/or agent shall display the licence and/or certificate issued hereunder in a prominent place in the main entranceway of the BLRH and such licence shall not be transferable.

4.7 Where the Operator has appointed another person as agent and the signed consent of such person has been submitted to the Town Clerk, and a certificate confirming the appointment has been issued by the Town Clerk, such person shall for the purposes of this by-law be deemed to have full authority to act as agent of the Operator in the operation of the licensed premises, and shall be equally responsible with the Operator for any violation of the regulations contained herein.

4.8 No Operator and/or agent 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.

4.9 No Operator and/or agent shall permit any cooking appliances of any kind and no gas or oil-fire heating appliances other than those specifically designed and authorized by the regulations made under the *Building Code Act*, 1992, S.O. 1992, c. 23, to be installed or maintained in any room used for sleeping purposes or anything other room not specifically designed for such purpose.

4.10 All Operators and/or agents shall comply with the Code of Ethics attached to this schedule as Appendix "A".

4.11 The Town Clerk may revoke a licence or impose conditions on the licence where the Operator fails to comply with this By-Law or any other by-law enacted by the Town.

SECTION 5 - ENFORCEMENT

5.1 The provisions of this By-Law may be enforced by an Authorized Official.

5.2 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.

5.3 Despite section 5.2, 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.

5.4 For the purposes of conducting an inspection pursuant to this By-law, an Authorized Official may:

- 5.4.1 require the production for inspection of documents or things relevant to the inspection;
 - 5.4.2 inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - 5.4.3 require information from any person concerning a matter related to the inspection; and
 - 5.4.4 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.
- 5.5 If an Authorized Official is satisfied that a contravention of this By-Law has occurred, he or she may make an order requiring the Owner or agent to discontinue the contravening activity or to do work to correct the contravention.
- 5.6 An order under s. 5.5 above shall set out the following:
- 5.6.1 reasonable particulars of the contravention adequate to identify the contravention;
 - 5.6.2 the location of the land on which the contravention occurred;
 - 5.6.3 the work to be completed; and
 - 5.6.4 the date(s) by which there must be compliance with the order.
- 5.7 An order under s. 5.5 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.
- 5.8 An order under s. 5.5 may be served personally or by registered mail to the address of the Operator and/or agent on file with the Town Clerk.
- 5.9 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.

SECTION 6 - OFFENCES, PENALTIES AND OTHER REMEDIES

- 6.1 Any Operator who has had their BLRH licence revoked by the Clerk or has had conditions imposed by the Clerk pursuant to section 4.11 of this By-law may appeal the Clerk's decision to the Committee of Adjustment and Appeals by providing written notice to the Clerk within 10 days of the Clerk's decision to revoke the licence or impose conditions. The revocation of the licence and the imposition of conditions will continue in effect unless or until varied by the Committee of Adjustment and Appeals.
- 6.2 Any 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.
- 6.3 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.
- 6.4 Any person who is convicted of an offence under this By-Law is liable to a fine or penalty under the *Municipal Act*, as amended:
- 6.4.1 the minimum fine for an offence is \$500.00 and the maximum fine for an offence is \$100,000.00;

- 6.4.2 in the case of a continuing offence, for each day that the offence continues, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 and the total of all daily fines for the offence is not limited to \$1000,000.00; and
- 6.4.3 in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 and the total of all fines for each included offence is not limited to \$100,000.00.
- 6.5 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:
 - 6.5.1 prohibiting the continuation or repetition of the offence by the person convicted; and
 - 6.5.2 requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- 7. The Chief Building Official, Chief Fire Official, Manager of Planning, and Town Clerk referred to herein are those of the Town.
- 8. This By-Law comes into force and takes effect on January 1, 2024.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 10th day of OCTOBER, 2023.

MAYOR, Dennis Rogers

CLERK, Paula Parker

Appendix “A” to By-law XX-2023

CODE OF ETHICS

1. We will maintain the highest standards of integrity in all of our dealings with residents, families, employees and suppliers.
2. We will deal honestly, openly and fairly with our residents and their families.
3. We will uphold the principle of appropriate and adequate compensation for the services provided.
4. We will provide adequate, safe and pleasant facilities having regard for the total physical, emotional and spiritual needs of our residents.
5. We respect the rights of our residents as individuals.
6. We will comply with relevant municipal and provincial regulations governing our industry and work toward improvement in regulations to ensure the best interests and well-being of our residents.
7. We will avoid all conduct or practice likely to discredit our industry.

Appendix “B” to By-law XX-2023

CONSENT OF AGENT