

BY-LAW OF THE  
CORPORATION OF THE CITY OF KITCHENER

BY-LAW NO. 2024-XXX

BY-LAW TO PROVIDE FOR THE LICENSING AND REGULATION OF SHARED  
ACCOMMODATIONS IN THE CITY OF KITCHENER.

WHEREAS it is deemed expedient to exercise the powers conferred on Council by the *Municipal Act*, 2001, S.O. 2001, c.25 (the "*Municipal Act*"), as amended;

AND WHEREAS Section 8 of the *Municipal Act*, provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising the authority under the Act;

AND WHEREAS Section 8(3) of the *Municipal Act*, authorizes a municipal to provide for a system of licences;

AND WHEREAS Section 11 of the *Municipal Act* authorizes a Municipality to pass bylaws responding health, safety and well-being of person, parking on property, structures includes fences and signs;

AND WHEREAS Section 151(1) of the *Municipal Act* authorizes a municipality to provide for a system of licences with respect to a business and to prohibit carrying on or engaging in the business without a licence and to take other actions with respect to such licences;

AND WHEREAS Section 151 (1) of the *Municipal Act* authorizes a municipality to license, regulate, or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS Section 425 of the *Municipal Act* authorizes a Municipality to create offences;

AND WHEREAS Section 429 of the *Municipal Act* authorizes a Municipality to establish a system of fines or offences under a by-law of Municipality passed under the Act;

AND WHEREAS section 434.1 of the *Municipal Act, 2001* authorizes the City to 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 City;

NOW THEREFORE the Council of The Corporation of Kitchener enacts the following:

## 1. Definitions

**“Additional Contact”** means an agent, representative, or property maintenance company who act for the Owner and is responsible for managing or addressing issues in relation to the Licenced Premises.

**“Adult”** means an individual eighteen years of age or older.

**“Administrative Penalty By-law”** means the Administrative Penalty By-law of the City, as amended from time to time, or any successor thereof.

**“Agent”** means a Person authorized in writing by an Owner or Operator to act on the Owner’s or group of Owner’s behalf.

**“Applicant”** means the Person applying for a Licence or renewal of a Licence under this by-law.

**“Application”** shall include any Application for a Licence or renewal of a Licence on the form provided by the Manager of Licensing, or their designate, and such application being to the satisfaction of the Manager of Licensing.

**“Application Licence Fee”** means a pre-determined fee approved by Council through the User Fee Schedule that is paid by a Person as part of the Application for a Licence.

**“Bed and Breakfast”** means a home occupation that provides overnight accommodation of the traveling public, or temporary living accommodations, and shall not include a hotel, lodging house, group home or short term accommodation.

**“Bedroom”** means a room or area used, designed, equipped, or intended for sleeping.

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

**“Business”** except where inconsistent with the context means any business wholly or partly carried on within the City of Kitchener even if the business is being carried on from a location outside of the City of Kitchener and includes without limitation:

- a) trades and occupations;
- b) exhibitions, concerts, festivals, and other organized public amusement held for profit or otherwise;
- c) the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader; and
- d) the display of samples, patterns, or specimens of goods for the purpose of sale or hire.

**“Chapter”** shall refer to a by-law of the City which has been incorporated in The City of Kitchener Municipal Code and assigned a Chapter number.

**“Chief Building Official”** means the Chief Building Official of the City or their designate.

**“Chief Fire Official”** means the Chief Fire Official of the City or their designate.

**“Chief of Police”** means the Police Chief for the Waterloo Regional Police Services or their designate.

**“City”** means The Corporation of the City of Kitchener.

**“City Property”** means property owned by the City.

**“City Solicitor”** means the City Solicitor of the City or their designate.

**“Corporation”** means a body incorporated pursuant to the Business Corporations Act, R.S.O. 1990 c. B.16, or the Corporations Act, R.S.O. 1990, c. C.38.

**“Council”** means the elected officials comprising the municipal council of the City.

**“Designated Provision”** means any section of this by-law designated in accordance with section 12.4 of this By-law.

**“Director”** means the Director of Legislated Services of the City or their designate.

**“Dwelling”** means a building or part thereof used or intended to be used as a residential unit.

**“Floor Plan”** means a scale diagram of the arrangement of rooms in one story of a building.

**“Government-Issued Identification”** means an official document issued by a government authority that serves as proof person’s identity and includes, but is not limited to, driver’s licence and passport.

**“Gross Floor Area”** means the area of a floor, measured to the inside of all outside walls enclosing any floor or part of a floor that complies with all applicable law for the shelter, accommodation or enclosure of persons, above which has a clear height of at least two (2) metres for any floor below grade and above which has a clear height of at least one (1) metre for any floor above grade, excluding the area of any garage, porch, veranda, sun room or stairwell;

**“Group Home”** means a residence licensed or funded under a federal, provincial, or regional statute for the accommodation of 3 to 10 persons, exclusive of staff, that provides

a group living arrangement for their well-being. A group home shall not include a correctional group home.

**“Guest”** is an individual staying temporarily at a place that is not their primary residence, and for the purpose of this by-law is at least 18 years of age.

**“Health Approval”** means the approval of the Region of Waterloo Public Health.

**“Hospital”** means the use of a premises for the medical care, observation, supervision, and skilled nursing care of persons afflicted with or suffering from sickness, disease, or injury; or for the convalesce of chronically ill persons, that is approved under the Public Hospitals Act or under the Private Hospitals Act

**“Human Rights Code”** means the *Human Rights Code*, R.S.O. 19901, c. H.19, as amended.

**“Incomplete Application”** means where required information is missing on the Application form; information or documentation required by the Manager of Licensing as part of the Application has not been provided; or the full Application Licence Fee is unpaid including any late fee and/or penalty fee.

**“Kitchen”** means a room or area in a Licensed Premises with cooking facilities, which may include a fridge, cooking devices, and sink.

**“Licence”** means a licence to engage in a Shared Accommodation issued under this By-law and the term “licensed” shall have a corresponding meaning.

**“Licensed Premises”** means the Premises referred to on a Licence.

**“Licensee”** means a Person who has been issued a Licence under this By-law.

**“Licensing Appeal Tribunal”** means a committee designated by Council for the purpose of hearing any appeal under this By-law.

**“Lodging House”** a dwelling unit where five or more persons, not including a resident owner of the property, may rent a lodging unit and where the kitchen and other areas of the dwelling unit are shared amongst the persons occupying the dwelling unit. Lodging house can include student residences but shall not include a group home; hospital; any small residential care facility or large residential care facility licensed, approved, or supervised under any general or specific Act; or hotel.

**“Lodging Unit”** means a room or set of rooms located in a lodging house or other dwelling designed or intended to be used for sleeping and living accommodations which:

- a) is designed for the exclusive use of the resident or residents of the unit;

- b) is not normally accessible to persons other than the residents or residents of the unit; and,
- c) does not have both a bathroom and kitchen for the exclusive use of the resident or residents of the unit

**“Long-term Rental Accommodation”** means any accommodation that does not fall under one of the Schedules of this By-law and does not operate as a Lodging House or a Short-Term Rental.

**“Manager of Licensing”** means the Manager of Licensing of the City or their designate.

**“Medical Officer of Health”** means the Medical Officer of Health for the Region of Waterloo Public Health or their designate.

**“Officer”** means an employee or agent of the City or a member of the Waterloo Regional Police Services and shall include, without limitation, the Manager of Licensing, a municipal law enforcement officer, by-law officer, or business licensing inspector, the Director, the Chief Fire Official, the Chief Building Official, the City’s Director of By-law Enforcement, or any person or inspector duly authorized on their behalf or otherwise authorized by Council.

**“Ontario Fire Code”** means the *Ontario Regulation 213/07: Fire Code*, under the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4.

**“Owner”** includes the registered owner of the property.

**“Person”** includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in their capacity as heir, trustee, executor, administrator, or other legal representative.

**“Police Record Check”** means a police record check or criminal record and judicial matter check issued to the Applicant by the police service in whose jurisdiction the Applicant resides.

**“Premises”** means land, Property or any part thereof including all Buildings or other parts thereon.

**“Principal Residence”** means the primary and permanent place of residence where an owner or owners of a household predominantly reside and has designated the property as their principal residence on their income tax filing, property bills, and in other government records.

**“Property”** means any lot, block, or other area in which land is held or into which it is subdivided, including the building and structures, and pools hereon.

**“Regulations of this By-law”** means the provisions of this By-law including its schedules that are applicable to a Business.

**“Rent”** means an amount paid or required to be paid or given by or on behalf of a Renter for the right to occupy a Rental Unit. This includes bill payments or services provided in exchange for occupancy of a Rental Unit.

**“Rental Unit”** means a Dwelling or part thereof offered for Rent.

**“Renter”** means a Person who rents a Dwelling or Rental Unit.

**“Renter’s Code”** means a set of guidelines and rules outlining the roles and responsibility of Renters, Tenants and landlords in a rental agreement, or other type of agreement, and shall include regulations and requirements in this By-law.

**“Reservation”** means a commitment or booking between a short-term rental operator and a Renter that will reserve the short-term accommodation for the person’s use for a specified period of time.

**“Residential Care Facility”** means a commercial enterprise which consists of a Rental Unit that offers beds and provides counselling, custodial, supervisory, personal, basic nursing and/or full-time nursing care, and is not considered a hospital, long-term care, or treatment centre.

**“Shared Accommodation”** means a dwelling or part thereof, accessory unit, or property that is listed for rent, intended for rent or advertised for rent, and may include a Lodging House or Short-Term Accommodation Rental.

**“Shared Accommodation Owner”** means the registered owner of a property in which the unit or part thereof is a Rental Unit.

**“Short-term Accommodation Rental”** means a dwelling or part thereof used to provide sleeping accommodations for any rental period that is less than 90 consecutive days in exchange for Rent, but does not include Hotel, Lodging House, Motel, and Long-Term Rental Accommodations.

**“Student Residence”** means residences that are owned and operated by post-secondary institutions.

**“Temporarily”** means for a limited period not exceeding 90 consecutive days.

**“Zoning By-law”** means all by-laws passed by Council pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, that restrict the use of land in the City.

## **2. Regulated Businesses**

2.1 The Shared Accommodations set out in Schedule 1 are subject to the requirements of this By-law and to the requirements of the applicable schedules as shown therein.

2.2 The applicable requirements of a schedule to this By-law shall prevail over the general requirements of this By-law to the extent of any conflict.

### **3. Prohibitions**

3.1 No Person shall:

- a) own, operate, permit to be operated, or act in the capacity of a Shared Accommodation set out in Schedule 1 without a Licence;
- b) own, operate, permit to be operated, or act in the capacity of a Shared Accommodation set out in Schedule 1 without complying with the Regulations of this By-law;
- c) operate a Shared Accommodation licensed under this By-law:
  - i. at a location other than the Licensed Premises where applicable;
  - ii. under any other name than the name(s) identified on the Licence;
  - iii. except in accordance with the Regulations of this this By-law; or
  - iv. without complying with any and all conditions or restrictions placed on the Licence by the Manager of Licensing;
- d) transfer or assign a Licence to any other Person or to any other location other than the Licenced Premises;
- e) provide false or misleading information to the City when applying for a licence under this by-law, renewing a licence or at any other time;
- f) hold themselves out as Licensed under this By-law without holding the appropriate Licence;
- g) advertise or permit the advertisement or operation of a Shared Accommodation without a licence; or
- h) advertise a Shared Accommodation without including the current licence number in every advertisement.

3.2 This By-law shall not apply to the following Shared Accommodations, where not defined herein shall be defined in section 3 of City of Kitchener Zoning By-law

2019-051, as amended:

- a) Hotel;
- b) Motel;
- c) Group home;
- d) Nursing home;
- e) Hospital or treatment centre;
- f) Bed and breakfast;
- g) Student residence; or
- h) any Rental Unit to which any of the following *Acts*, or their regulations apply:
  - i) *Homes for Special Care Act*, R.S.O. 1990, c.H12, as amended;
  - ii) *Long-Term Care Homes Act*, R.S.O. 1990, c.17, as amended;
  - iii) *Retirement Homes Act, 2010 S.O. 2010, c. 11, as amended; and*
  - iv) *Social Housing Reform Act, 2000, S.O. 2000, c.27, as amended.*

#### **4. Licensing Requirements**

4.1 An Applicant applying for a Licence shall submit the following to the Manager of Licensing:

- a) a complete Application in the form prescribed by the Manager, which shall include the following information where applicable:
  - i) the Applicant's legal name;
  - ii) the Applicant's residential and mailing address;
  - iii) the address of the Shared Accommodation;
  - iv) the ownership of the Shared Accommodation;
  - v) a photocopy of Government-Issued Identification;
  - vi) the telephone number and email address for the Owner and Applicant; and
  - vii) Additional Contact information including telephone number and email address.



- b) the applicable Application Licence Fee and any documentation or forms required by the Manager of Licensing;
- c) where the Applicant is a partnership, a list of all the names of the partners;
- d) any other documents as required by the Regulations of this By-law; and
- e) any documentation that may be required by the Manager of Licensing with respect to investigations required pursuant to this By-law.

4.2 If not prescribed by the By-law, upon receipt of an Application, the Manager of Licensing shall make or cause to be made all investigations which they deem necessary.

4.3 The Manager of Licensing may require the Applicant to have investigations conducted and obtain documentation from and provide to the Manager of Licensing, or to have documentation provided by any of the following or their designates: the Chief Fire Prevention Officer, Chief Building Official, Regional Medical Officer of Health, Waterloo Regional Police Services, and Director of By-law Enforcement.

4.4 For a renewal of a Licence, an Applicant shall submit the following to the Manager of Licensing:

- a) a renewal Application in the form prescribed by the Manager of Licensing;
- b) the applicable Application Licence Fee; and
- c) other such documents as the Manager of Licensing may require including, without limitation, the documents set out in 4.1.

4.5 Every Licensee shall:

- a) post the Licence in a conspicuous place at the Licensed Premises;
- b) have an Additional Contact who is responsible for managing or addressing issues in relation to the Owner's Licensed Premises and is available to attend at all times within a period no greater than one hour for emergency issues, and within three hours of non-emergency issues, and shall be responsible for the day-to-day operations of the Shared Accommodation;
- c) create and display the Renter's Code, which shall include the total number of bedrooms permitted where applicable;
- d) ensure that nothing is placed so as to obstruct access to the entrances and the exits from the Licensed Premises;

- e) ensure the number of parking spaces provided are in accordance with the Zoning By-law;
- f) ensure that all containers for garbage, recyclable materials and yard waste on exterior property areas are kept in a rear or side yard in an enclosed structure with a lid or roof. The structure shall:
  - i) screen the containers from the view of streets, sidewalks, multi-use trails, and neighbouring properties;
  - ii) be kept closed at all times except when the containers contained therein are actually being filled or emptied;
  - iii) be kept in good working order, free of odours, and without any visible deterioration; and
  - iv) that any needle disposal containers are properly discarded.
- g) notify the Manager of Licensing within fourteen (14) days of any changes in the ownership of the Licensed Premises;
- h) Every Licensed Shared Accommodation shall comply with all applicable federal, provincial or municipal legislation, including, but not limited to, the *Building Code*, as amended, the *Fire Code*, as amended, and all applicable municipal by-laws, including Noise, Zoning, Parking, and Property Standards, and other applicable law, code or Act, such as the Human Rights Code and Criminal Code of Canada;
- i) All municipal taxes, licences, fines, or charges, and building permits for the Licensed Shared Accommodation must be current and not outstanding before a licence will be issued; and
- j) comply with the conditions and restrictions placed on the Licence by the Manager of Licensing or the Licensing Appeal Tribunal.

## **5. Issuance of Licence and Grounds for Refusal**

- 5.1 The Manager of Licensing shall receive and process all complete Applications for a Licence.
- 5.2 Upon receipt of a complete Application, the Manager of Licensing shall either issue, renew, or issue with conditions a Licence.
- 5.3 Except where otherwise provided herein, every Licence issued or renewed pursuant to this By-law shall be issued in the name of Council by the Manager of Licensing.
- 5.4 Where the Manager of Licensing receives an Incomplete Application, the Manager of Licensing shall, whereas an address or other contact information has been provided, notify the Applicant that the Application is incomplete and, where applicable, any steps required to complete the Application.
- 5.5 The Manager of Licensing will deem an Application to be incomplete where:
- a) required information has not been provided on the Application form;
  - b) information or documentation required by the Manager of Licensing as part of the Application has not been provided; or
  - c) the full Application Licence Fee is unpaid including any late fee and/or penalty fee.
- 5.6 Where no action has been made to remedy an Incomplete Application by the Applicant in the time specified by the Manager of Licensing the Application shall be deemed abandoned. The Application will be cancelled, and any associated Application Licence Fee will be deemed non-refundable.
- 5.7 The Manager of Licensing shall, where an address or other contact information has been provided, notify the Applicant of the intention to refuse an Application and shall advise the Licensee of their right to appeal.
- 5.8 The Manager of Licensing may refuse an Application where:
- a) an unsatisfactory report regarding an investigation carried out pursuant to this By-law or any other applicable by-law of the City and any condition causing the report to be unsatisfactory has not been remedied; or
  - b) the past conduct of the Applicant affords the Manager of Licensing reasonable grounds to believe that the Applicant has not or will not carry on their business in accordance with applicable law or by-laws, or with integrity and honesty; or

- c) the Dwelling specified on the Application are subject to any Order that has not been complied with made pursuant to the *Building Code Act 1992*, S.O. 1992, c. 23 or the *Fire Protection and Prevention Act 1997*, S.O. 1997, c.4, or by the Medical Officer of Health; or
- d) provided no pardon has been granted with respect to the conviction, the Applicant has been convicted of an offence that relates in any way to the business; or
- e) the Licence has been suspended or revoked by the Manager of Licensing or the Licensing Appeal Tribunal.

## **6. Terms of Licence**

6.1 A licence issued pursuant to the provisions of this By-law shall expire one year from the date it was issued or on the expiry date listed on the licence unless it is revoked in accordance with any provisions of this By-law.

6.2 Where a Person sells or transfers ownership of a Shared Accommodation to another Person, the Licence issued for that Dwelling shall be void upon transfer.

## **7. Revocation and Suspension**

7.1 The Manager of Licensing shall, where an address or other contact information has been provided, notify the Licensee of the intention to revoke or suspend a Licence and shall advise the Licensee of their right to appeal.

7.2 The Manager of Licensing may revoke or suspend a Licence where:

- a) the Manager of Licensing is of the opinion that the Dwelling poses a threat to the health and safety of the public, Renters, or Guests;
  - b) the Licence was issued in error;
  - c) the Licensee has violated any of the provisions of this By-law or any other applicable laws;
  - d) any conditions placed on the Licence have been violated;
  - e) the Licence was issued upon provision or receipt of false or misleading information.
- 7.3 If appealed, Renters residing in the Licensed Premises may continue to reside in the premises until a final decision has been rendered by the Licensing Appeal Tribunal, unless an order or other directive is issued under any other legislation or

by a court of competent jurisdiction which orders or directs the removal or departure of the Renters prior to the Licencing Appeal Tribunal issuing a decision.

## **8. Appeal**

8.1 All appeals shall be submitted in writing to the Manager of Licensing within 14 days from the notification issued by the Manager of Licensing.

8.2 The Licensing Appeal Tribunal is adjudicated by a committee designated by Council.

8.3 The decision of the Licensing Appeal Tribunal is final and binding.

8.4 If the Manager of Licensing refuses a Licence, the Applicant shall have the right to appeal the decision to the Licensing Appeal Tribunal.

8.5 The Manager of Licensing may refer an Application or a Licence to the Licensing Appeal Tribunal where:

- a) the Applicant or Licensee does not meet the requirements of this By-law or any other applicable law or by-law;
- b) there are reasonable grounds for belief that an Application or other documents provided to the Manager of Licensing by or on behalf of an Applicant or Licensee contains a false statement or provides false information;
- c) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe the Person will not carry on or engage in the Shared Accommodation in accordance with the law, or with honesty and integrity;
- d) any Licensee has contravened this By-law or any other by-law or federal or provincial statute or regulations while engaged in or conducting the business at the Shared Accommodation;
- e) the Applicant or Licensee has been convicted of an offence that relates in any way to the Licenced Premises for which a pardon has not been granted;
- f) any special conditions placed by the Manager of Licensing or Licensing Appeal Tribunal on a former or current licence of the Applicant or Licensee under this By-law have not been met; or
- g) the provisions of this By-law provide grounds not to issue or renew.

8.6 When any matter has been referred or appealed to the Licensing Appeal Tribunal the Applicant or Licensee shall be given reasonable notice of the time and place of the hearing and shall be invited to make a submission either in writing or verbally.

8.7 When any matter has been referred or appealed to the Licensing Appeal Tribunal, after due consideration of the Application or Licence and after the Licensing Appeal Tribunal has heard such representations as the Applicant or Licensee and staff may care to make, may direct that the Licence be issued or renewed, or may refuse, suspend, revoke, or add conditions to a Licence where:

- a) the Applicant or Licensee does not meet the requirements of this By-law or any other applicable law or by-law;
- b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
- c) the Application is incomplete or the Application Licence Fee is unpaid including any late and/or penalty fee;
- d) the Manager of Licensing received an unfavourable report regarding an investigation carried out pursuant this By-law or any other by-law of the City;
- e) there are reasonable grounds for belief that an Application or other document provided to the Manager of Licensing by or on behalf of an Applicant or Licensee contain a false statement or provides false information;
- f) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe the person will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- g) without limiting the generality of section 8.5 (f), any Person, including the officers, directors, employees or agent of a corporation, has contravened this By-law or any other by-law of the City or federal or provincial statute or regulation while engaged in or conducting the business of the Shared Accommodation;
- h) any special conditions placed by the Manager of Licensing, on a former or current Licence of the Applicant or Licensee under this By-law have not been met;
- i) the provisions of this By-law provide grounds not to issue or renew in the circumstances; or

- j) the Applicant or Licensee has consented to the refusal, suspension, revocation, or adding of conditions to the licence.
- 8.8 No Person shall violate any conditions that the Manager of Licensing or the Licensing Appeal Tribunal has placed on a Licence issued under this By-law.
- 8.9 For the purpose of section 8.6, the Person's last known address and email address shall be deemed to be those provided pursuant to section 4.1 of this By-law unless notice in writing has been given to the Manager of Licensing providing new information in which case the most recently provided information shall be deemed correct for the purpose of providing notice hereunder.

## 9. Inspections

- 9.1 Any person authorized by the Manager of Licensing may at all reasonable times and in accordance with any applicable requirements in the *Municipal Act, 2001*, as amended, inspect any premises used for the carrying on of any business in respect of which a person is required to be licensed under this By-law.
- 9.2 No person shall obstruct or hinder or cause to be obstructed or hindered any person or persons designated under this By-law to perform their duties.
- 9.3 An inspection may be conducted by an Officer to determine whether or not the following are being complied with:
- a) any by-law of the City under the *Municipal Act* including this By-law;
  - b) a direction or order of the City made under the *Municipal Act* or made under a by-law of the municipality passed under the *Municipal Act*;
  - c) a condition of a Licence issued under a by-law of the municipality passed under the *Municipal Act*; or
  - d) an order made under section 431 of the *Municipal Act, 2001*, c. 25.
- 9.4 For the purpose of an inspection of any premises to which any provision of this By-law applies, an Officer may:
- a) require the production for inspection of documents or items relevant to the inspection in a timeframe prescribed by the Manager of Licensing;
  - b) inspect documents or items relevant to the inspection;
  - 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 examination or take tests, samples, or photographs necessary for the purpose of the inspection.

## **10. Orders**

10.1 Where the Manager of Licensing has reasonable grounds to believe that a contravention of this By-law has occurred, the Manager of Licensing may make an Order requiring the Person who contravened this By-law, or who caused or permitted the contravention, or the Owner or Renter, of the land on which the contravention occurred, to do work to correct the contravention.

10.2 An Order under section 10.1. of this By-law shall set out:

- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
- b) the work to be done and the date by which the work must be done, or that the activity deemed to discontinue has ceased.

10.3 An Order under section 10.1. of this By-law may require work to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.

10.4 No Person shall fail to comply with an Order under section 10.1 of this By-law.

10.5 Any Order pursuant to this By-law shall be given in writing and is effective:

- a) on the date on which it is delivered to the Person to whom it is addressed;
- b) on the fifth day after it is sent by registered mail to the Person's last known address; or
- c) upon the sending by email transmission to the Person's last known email address.

10.6 For the purpose of section 10.5, the Person's last known address and email address shall be deemed to be those provided pursuant to section 4.1 of this By-law unless notice in writing has been given to the Manager of Licensing providing new information in which case the most recently provided information shall be deemed correct for the purpose of providing notice hereunder.



## **11. Enforcement**

- 11.1 Council hereby authorizes the Waterloo Regional Police Services or any Officer thereof to act as agent for the City, as necessary, for the purpose of enforcing this By-law.
- 11.2 The Manager of Licensing is hereby charged with the responsibility for the enforcement of this By-law and the City Solicitor, City Clerk/Director of Legislated Services, Director of By-law Enforcement, and any other municipal official are hereby required to render the Manager of Licensing any reasonable assistance in that regard.

## **12. Offences and Penalties**

- 12.1 Every Person, excluding a corporation, who contravenes any provision of this By-law or an Order made under this By-law and every director or officer of a corporation who concurs in a contravention by the corporation is guilty of an offence and is liable, upon conviction, to a fine not exceeding Twenty-Five Thousand Dollars (\$25,000).
- 12.2 Every corporation that contravenes any provision of this By-law or an order made under this By-law is guilty of an offence and is liable, upon conviction, to a fine not exceeding Fifty Thousand Dollars (\$50,000).
- 12.3 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- 12.4 Sections 3.1, 8.8, 9.2 and 10.4, inclusive of all subsections thereunder, of this By-law are hereby designated as parts of this by-law to which the Administrative Penalty By-law applies.
- 12.5 Any person who contravenes any Designated Provision of this by-law shall, upon issuance of a penalty notice in accordance with the Administrative Penalty By-law, be liable to pay an administrative penalty and any administrative fees.

## **13. Collection of unpaid fines**

- 13.1 Pursuant to section 441 of the *Municipal Act*, if any part of a fine for a contravention of this By-law remains unpaid after the fine becomes due and payable under section 66 of the *Provincial Offences Act* including any extension of time for payment ordered under that section, the Manager of Licensing may give the Person against who the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable which shall be not less than twenty one (21) days after the date of the notice.

13.2 If the fine remains unpaid after the final date specified in the notice, the fine shall be deemed to be unpaid taxes for the purpose of Section 351 of the *Municipal Act*.

#### **14. Schedules**

10.2 The schedules attached to this By-law shall form part of this By-law.

#### **15. Short Title**

a. This By-law shall be known as the “Shared Accommodation By-law”.

#### **16. Severability**

a. If a Court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in full force and effect.

#### **17. Repeal**

a. By-law 2004-250 and the contents of the Chapter 553 are hereby repealed as of January 1, 2025.

#### **18. Coming into force**

a. This By-law shall come into force and effect on January 1, 2025.

#### **19. Transitional Provisions**

a. Notwithstanding any other provisions of this By-law, or the repeal prior to January 1, 2025, various City by-laws and chapters of The City of Kitchener Municipal Code respecting business licensing, such repeal shall not:

- a) affect the previous operation of the repealed Chapters and by-laws;
  - b) affect any right, privilege, obligation, or liability including any licence that came into existence under the repealed Chapter or by-law;
  - c) affect an offence committed against the repealed Chapter or by-law, or any penalty, forfeiture, or punishment incurred in connection with the offence;
- or,

- d) affect an investigation, proceeding, or remedy in respect of a right, privilege, obligation, or liability described in section 20.1.b), or a penalty, forfeiture, or punishment described in section 20.1.c).

19.2 An investigation, proceeding, or remedy described in section 20.1. d) may be commenced, continued, or enforced as if the by-law or chapter had not been repealed or revoked.

19.3 A penalty, forfeiture, or punishment described in section 20.1. c) may be imposed as if the by-law or chapter had not been repealed or revoked.

19.4 A Licence issued under any by-law or chapter of the Municipal Code, as amended, shall be deemed a Licence under this by-law and shall be subject to all provisions of this By-law, but shall expire on the earlier of the two dates:

- a) The expiry date stated on the licence; or
- b) January 1, 2025.

## **20 Municipal Code**

20.1 The Clerk of the City is hereby directed to make this By-law a part of The City of Kitchener Municipal Code by adding it to the concordance and arranging and numbering it as a chapter so as to fit within the scheme of the Code.

## SCHEDULE 1

### TYPES OF SHARED ACCOMMODATION REQUIRING A LICENCE

TYPE OF SHARED ACCOMMODATION	REGULATIONS
Lodging House	Schedule 5
Short-Term Accommodation Rental	Schedule 6

## **SCHEDULE 2**

### **CRIMINAL RECORD AND JUDICIAL MATTERS CHECK**

1. This schedule shall apply to those Persons who are required to provide Criminal Record and Judicial Matters Check with an Application.
2. The Criminal Record and Judicial Matters accepted by the Manager of Licensing shall meet the following requirements:
  - a) must be the original version provided by the Police Department;
  - b) must be completed within the municipality that the Person resides;
  - c) must be obtained by the Person to whom it applies;
  - d) if the Applicant is part of a partnership, a completed Criminal Record and Judicial Matters must be obtained for each partner; and
  - e) if the Applicant is a corporation, a completed Criminal Record and Judicial Matters must be obtained for a director or officer, or a letter of authorization must be provided from any director naming a director, officer or employee of the corporation as their designate.
2. The Criminal Record and Judicial Matters shall only be considered valid if it is completed within six (6) months of the date of Application.
3. The Criminal Record and Judicial Matters shall be completed by a Canadian Police Service, or by a police service in the country where the Applicant resides. A Criminal Record and Judicial Matters completed by a third-party agency will not be accepted.
4. Any Criminal Record and Judicial Matters that is completed in a foreign language must be translated and notarized.

## **SCHEDULE 3**

### **INSURANCE**

1. This schedule shall apply to any Applicant that is required to submit proof of insurance.
2. Upon submitting an Application, the Applicant shall execute the following indemnity to the satisfaction of the City:

The Licensee both during and after the term of the Licence or renewed Licence, shall at all times, and at its own cost, expense, and risk, defend, indemnify and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and all respective heirs, administrators, executors, successors, and assigns from any and all losses, damages (including, but not limited to, incidental, indirect, special and consequential damages, or any loss of use, revenue or profit by any Person or Business), fines, penalties and surcharges, liabilities, judgements, claims, demands, causes of action, contracts, suits, actions or other proceedings of any kind and expenses which the indemnified City may suffer or incur, howsoever caused, provided such losses, damages, fines, penalties and surcharges, liabilities, judgments, claims, demands, cause of action, contracts, suits, actions or other proceedings of any kind and expenses as defined above are due or claimed to be due to the negligence, breach of contract, and/or breach of law of the Licensee.

3. The Applicant shall maintain liability insurance acceptable to the Manager of Licensing throughout the term of the Licence, if the Licence has been granted.
4. The liability insurance shall consist of a comprehensive policy of public liability and property damage insurance in an amount of not less than \$2,000,000.00 per occurrence.
5. The liability insurance shall name The Corporation of the City of Kitchener as additional insured with a cross liability endorsement and severability of interest provision.

## **SCHEDULE 4**

### **FLOOR PLANS**

1. This schedule shall apply to any Applicant that is required to submit Floor Plans.
2. The Floor Plans accepted by the Manager of Licensing shall be drawn to scale on graph paper or digital format and include identifying the following:
  - a) all rooms, spaces or common areas of the Shared Accommodation;
  - b) how each room, space or common area shall be used, which means specifically indicating where all Bedrooms will be located on the floor plan;
  - c) the dimensions (in meters) of all rooms, spaces or common areas;
  - d) dimensions of all windows;
  - e) location of all entrances and exits; and
  - f) location of all smoke and carbon monoxide alarms.

## SCHEDULE 5

### LODGING HOUSE

1. In addition to the licensing requirements set out in section 4 of this By-law; an Applicant for a Lodging House Licence shall supply the following:
  - a) Criminal Record and Judicial Matter Check;
  - b) Proof of Insurance;
  - c) Floor Plan;
  - d) Fire Approval;
  - e) Planning Approval;
  - f) Building Approval; and
  - g) Property Standards Approval.
  
2. Every Lodging House Licensee Shall:
  - a) ensure the building area does not exceed six hundred (600) square metres and the building does not exceed three (3) storeys in height;
  - b) ensure that each bedroom complies with the *Building Code Act, 1992, S.O. 1992, c.23*, as amended, and any regulations thereto with regards to access to natural light and window requirements;
  - c) ensure that each bedroom has:
    - i) a minimum floor area of 7 square metres; and
    - ii) no more than 2 Adults occupants;
  - d) ensure that no Renters have the exclusive use of both a kitchen and bathroom;
  - e) ensure that each bedroom has a door that is capable of being locked from the inside and the outside;
  - f) maintain a written lease with only one (1) Renter per lease, unless:
    - i) the Renter is under the age of eighteen (18) years, in which case a parent or guardian may execute a lease on their behalf; or
    - ii) where the Renters have entered into a joint tenancy agreement to share a bedroom.
  - g) have a separate Licence for each Lodging House location.



3. No Lodging House Licensee shall:

- a) permit any room to be used as a bedroom except where a bedroom has been indicated and approved on the submitted floor plan.
- b) permit an occupancy greater than the number of which the premises was licensed pursuant to this By-law;
- c) operate a Business within or on the Licensed property.

**SCHEDULE 6**  
**SHORT-TERM ACCOMMODATION RENTAL**

1. In addition to the licensing requirements set out in section 4 of this By-law; an Applicant for a Short-Term Accommodation (STA) Licence shall supply the following:

a) for a Class "A" Licence:

- i. Proof of Principal Residence;
- ii. Criminal Record and Judicial Matters Check;
- iii. Proof of Insurance
- iv. Floor Plan;
- v. Fire Approval;
- vi. Planning Approval; and
- vii. Property Standards Approval.

b) For Class "B" Licence:

- i. Criminal Record and Judicial Matters Check;
- ii. Proof of Insurance
- iii. Floor Plan;
- iv. Fire Approval;
- v. Planning Approval; and
- vi. Property Standards Approval.

2. STA - Class "A" (Principal Residence) Licensee may:

- a) operate up to thirty (30) days consecutive, with the option to permit two (2) additional thirty (30) consecutive days up to a maximum of ninety (90) days consecutive;
- b) rent up to five (5) bedrooms; and
- c) rent up to two (2) Guests per bedroom, with a maximum of ten(10) Guests total; and
- d) only hold a maximum of one (1) Class "A" licence.

3. STA - Class "B" (Non-Principal Residence) Licensee may:

- a) operate up to thirty (30) days consecutive, with the option to permit two (2) additional thirty (30) consecutive days up to a maximum of ninety (90) days consecutive;
- b) rent up to four (4) bedrooms;
- c) rent up to two (2) Guests per bedroom, with a maximum of eight (8) Guests total; and

- d) rent a secondary dwelling unit.
4. A Short-term Accommodation Licence will not be granted for any accessory structure, such as a shed, garage, or recreational vehicle.
  5. A Short-term Accommodation Licence will only be granted where approved to the registered owner(s) of the STA.
  6. Every Short-Term Accommodation Licensee shall ensure that the STA is maintained in a clean and hygienic manner and in a state of good repair.
  7. Every Short-Term Accommodation Licensee shall ensure that each bedroom has a minimum floor area of 7 square metres.
  8. Every Short-Term Accommodation Licensee shall maintain the privacy of its guests, and where security cameras are present shall:
    - a) provide notice to the guests that security cameras are in use on the premises;
    - b) place signage in a conspicuous place that security cameras are present;
    - c) ensure that security cameras are not installed or positioned in areas where individuals have a reasonable expectation of privacy, such as bedrooms, bathrooms or changing areas; and
    - d) ensure compliance with all applicable municipal, provincial, and federal laws, regulations, and guidelines governing the use of security camera and protection of privacy.