

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
LODGING HOUSES 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

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

“**Administrative Penalty By-law**” means the Administrative Penalty System for Violations of Non-Parking By-laws, By-law Number 2024-001 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 Owners’ 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 and in accordance with the requirements set out in this By-law.

“**Application Licence Fee**” means a pre-determined fee as adopted by Council by way of a User Fee Schedule as part of the budget 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, or group home.

“**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, as amended.

“**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 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, the *Corporations Act*, R.S.O. 1990, c. C.38, the *Not-for-Profit Corporations Act*, 201, S.O. 2010, c. 15, or other applicable Federal or Provincial Act, as the case may be.

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

“Criminal Record and Judicial Matters 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 in accordance with the requirements of this By-law.

“Dedicated Responsible Person” means a Person who is either the Owner/Licensee or an agent, representative, or property maintenance company who is authorized to act on behalf of the Owner/Licensee and who is responsible for managing or addressing issues in relation to the Licenced Premises.

“Designated Provision” means any section of this By-law designated in accordance with section 11.4 of this By-law.

“Director” means the Director of Legislated Services of the City, their successor in title, or their designate.

“Dwelling Unit” 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.

“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 Ontario *Human Rights Code*, R.S.O. 1990, 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 refrigerator, cooking devices, and sink.

“Licence” means a licence to operate a Lodging House 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 body designated by Council for the purpose of hearing any appeal under this By-law.

“Lodging House Handbook” means a document that has been prepared and approved by the Manager of Licensing and completed by the Licensee which, among other things, prescribes the roles and responsibilities of the Renter and Owner/Licensee, including but not limited to expectations as they relate to non-disturbance of neighbours; compliance with applicable City by-laws, and adherence to the provisions of this By-law.

“Lodging House” means 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.

“Manager of Licensing” means the City’s Manager of Licensing, their successor in title, 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 enforcement 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” means the registered owner of the Property to which an Application relates.

“Person” means 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.

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

“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 the applicable schedules.

“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 Lodging Unit.

“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.

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

“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. Prohibitions

2.1 This By-law shall not apply to the following, 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.

2.2 No Person shall:

- a) own, operate, permit to be operated, or act in the capacity of a Lodging House without a Licence;
- b) own, operate, permit to be operated, or act in the capacity of a Lodging House without complying with the Regulations of this By-law;
- c) operate a Lodging House 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 By-law; or
 - iv) without complying with 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 Licensed 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 the By-law without holding the appropriate Licence;
- g) advertise or permit the advertisement or operation of a Lodging House without a Licence; or
- h) advertise a Lodging House without including the current Licence number in every advertisement.

3. Licensing Requirements

3.1 An Applicant applying for a Licence shall be a registered owner of the Lodging House and shall submit the following to the Manager of Licensing:

- a) a complete Application in the form prescribed by the Manager of Licensing, 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 Lodging House;
 - iv) satisfactory proof of ownership for the Lodging House;
 - v) a photocopy of Government-Issued Identification;
 - vi) the telephone number and email address for the Applicant; and
 - vii) the information for a Dedicated Responsible Person including telephone number and email address; and
 - viii) Criminal Record and Judicial Matters Check in accordance with Schedule 1 is required for each Owner of the Lodging House and the Dedicated Responsible Person if different from the Owner.
- 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) where the Applicant is a Corporation, a list of the names of all signing officers and their titles;
 - e) any other documents as required by the Regulations of this By-law; and
 - f) any documentation that may be required by the Manager of Licensing to evaluate the Application.

3.2 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 for the purposes of evaluating the Application.

3.3 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.

3.4 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) documents as the Manager of Licensing may require including, without limitation, the documents set out in 3.1 above and in Schedule 5 to this By-law.

3.5 Every Licensee shall:

- a) post the Licence in a conspicuous place at the Licensed Premises;
- b) have a separate Licence for each Lodging House;
- c) have a Dedicated Responsible Person who is responsible for managing or addressing issues in relation to the Licensed Premises and is available to attend the Licensed Premises at all times within a period no greater than one hour to address emergency issues, and within three hours to address non-emergency issues, and shall be responsible for the day-to-day operations of the Licensed Premises;
- d) display within the Licensed Premises, in a location accessible to all Renters, a copy of the Lodging House Handbook, which shall include the total number of Bedrooms permitted;
- e) ensure that nothing is placed so as to obstruct access to the entrances and the exits from the Licensed Premises;
- f) ensure the number of parking spaces provided are in accordance with the Zoning By-law;
- g) ensure the building area of the Licensed Premises does not exceed six hundred (600) square metres and the building height of the Licensed Premises does not exceed three (3) storeys;
- h) ensure that no Renter(s) have the exclusive use of both a Kitchen and bathroom;
- i) 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;
- j) ensure that each Bedroom has:
 - i) a minimum floor area of 7 square metres; and
 - ii) no more than 2 Adult occupants;
- k) ensure that each Bedroom has a door that is capable of being locked from

the inside and the outside;

- l) 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;
- m) 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.
- n) notify the Manager of Licensing within fourteen (14) days of any changes in the ownership of the Licensed Premises;
- o) ensure that the Licensed Premises complies 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;
- p) ensure that all municipal taxes, licences, fines, or charges, and building permits for the Licensed Premises must be current; and
- q) comply with the conditions and restrictions placed on the Licence by the Manager of Licensing or the Licensing Appeal Tribunal.

3.6 No 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; and

c) operate a Business within or on the Licensed Premises.

4. Issuance of Licence and Grounds for Refusal

4.1 The Manager of Licensing shall receive and process all complete Applications for a Licence.

4.2 Upon receipt of a complete Application, the Manager of Licensing shall either issue, renew, or issue with conditions a Licence.

4.3 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.

4.4 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.

4.5 The Manager of Licensing will deem an Application to be incomplete where:

- a) required information has not been provided on the Application;
- 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.

4.6 Where no action has been made to remedy an Incomplete Application by the Applicant in the time specified by the Manager of Licensing the Incomplete Application shall be deemed abandoned. The Incomplete Application shall be cancelled, and any associated Application Licence Fee shall be deemed non-refundable.

4.7 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 Applicant of their right to appeal.

4.8 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 where 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 operate a Lodging House in accordance with applicable law or by-laws, or with integrity and honesty; or
- c) the Lodging House 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) the Applicant or Dedicated Responsible Person has been convicted of an offence that relates in any way to the operation of a Lodging House for which a pardon has not been granted; or
- e) a previous Licence issued to the Applicant under this By-law has been suspended or revoked by the Manager of Licensing or the Licensing Appeal Tribunal.

5. Terms of Licence

5.1 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.

5.2 Where a Person sells or transfers ownership of a Licensed Premises to any other Person, the Licence issued for that Licensed Premises shall be void upon transfer.

6. Revocation and Suspension

6.1 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.

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

- a) the Manager of Licensing is of the opinion that the Licensed Premises poses a threat to the health and safety of the public, or Renters;
- 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; or

- e) the Licence was issued upon provision or receipt of false or misleading information.

6.3 If appealed, Renters residing in the Licensed Premises may continue to reside in said Licensed 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 Licensing Appeal Tribunal issuing a decision.

7. Appeal

7.1 All appeals shall be submitted in writing to the Manager of Licensing within fourteen (14) days of the date of the notification issued by the Manager of Licensing pursuant to section 6 of this By-law.

7.2 The Licensing Appeal Tribunal is adjudicated by a body designated by Council.

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

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

7.5 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 operation of a Licensed Premises in accordance with the law, or with honesty and integrity;
- d) the Licensee has contravened this By-law or any other by-law or federal or provincial statute or regulations while operating the Licensed Premises;
- e) the Applicant, Licensee, or Dedicated Responsible Person has been convicted of an offence that relates in any way to the operation of a Lodging House 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.

7.6 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.

7.7 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 operation of a Lodging House in accordance with the law or with honesty and integrity;

g) without limiting the generality of section 7.7(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 the operation of a Lodging House;

- 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.

7.8 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.

7.9 For the purpose of section 7.6 of this By-law, the Applicant or Licensee's last known address and email address shall be deemed to be those provided pursuant to section 3.1 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.

8. Inspections

8.1 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 Lodging House in respect of which a Person is required to be licensed under this By-law.

8.2 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.

8.3 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.

8.4 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.

9. Orders

9.1 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.

9.2 An Order under section 9.1 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.

9.3 An Order under section 9.1 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.

9.4 No Person shall fail to comply with an Order under section 9.1 of this By-law.

9.5 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.

9.6 For the purpose of section 9.5, the Person's last known address and email address shall be deemed to be those provided pursuant to section 3.1 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.

10. Enforcement

10.1 Council hereby authorizes the Waterloo Regional Police Service or any Officer thereof to act as agent for the City, as necessary, for the purpose of enforcing this By-law.

10.2 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.

11. Offences and Penalties

11.1 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).

11.2 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).

11.3 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.

11.4 Sections 2.2, 7.8, 8.2 and 9.4, 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.

11.5 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.

12. Collection of unpaid fines

12.1 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.

12.2 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*.

13. Schedules

13.1 The Schedules attached to this By-law shall form part of this By-law.

14. Short Title

14.1 This By-law shall be known as the “Lodging House By-law”.

15. Severability

15.1 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.

16. Repeal

16.1 By-law 2004-250 and the contents of the Chapter 553 of the City of Kitchener Municipal Code are hereby repealed as of the date this by-law comes into effect.

17. Coming into force

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

18. Transitional Provisions

18.1 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 18.1.b), or a penalty, forfeiture, or punishment described in section 18.1.c).

18.2 An investigation, proceeding, or remedy described in section 18.1. d) may be commenced, continued, or enforced as if the by-law or chapter had not been repealed or revoked.

18.3 A penalty, forfeiture, or punishment described in section 18.1. c) may be imposed as if the by-law or chapter had not been repealed or revoked.

18.4 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.

19. Municipal Code

19.1 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 Municipal Code.

SCHEDULE 1

CRIMINAL RECORD AND JUDICIAL MATTERS CHECK

1. This Schedule 1 shall apply to each Person 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 where 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 2

INSURANCE

1. This Schedule 2 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 3

FLOOR PLANS

1. This Schedule 3 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 Lodging House;
 - 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 4

APPLICATION REQUIREMENTS

1. In addition to the licensing requirements set out in Section 3 of this By-law; an Applicant for a Lodging House Licence shall supply the following:

- a) Criminal Record and Judicial Matters Check;
- b) Proof of Insurance;
- c) Floor Plan;
- d) Fire Approval;
- e) Building Approval;
- f) Planning Approval; and
- g) Property Standards Approval

SCHEDULE 5

RENEWAL APPLICATION REQUIREMENTS

1. In addition to the licensing requirements set out in Section 3 of this By-law; an Applicant for a renewal of a Lodging House Licence shall supply the following:

- a) Criminal Record and Judicial Matters Check (every 3rd renewal period);
- b) Proof of Insurance;
- c) Floor Plan (if applicable);
- d) Fire Approval;
- e) Planning Approval; and
- f) Property Standards Approval