

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 3 - 2024

A By-law to Licence Boarding, Lodging, and 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 and 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, and 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 and 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) the Clerk of the Town of Kingsville; and
- (f) any designate appointed by the foregoing.

“**Clerk**” shall mean the Clerk of the Town of Kingsville or designate.

“**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.

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

“**Person**” includes an individual person, a partnership, or a corporation to which the context can apply.

“**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 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 issued by the Clerk.
- 4.2 Every applicant for a licence to operate a BLRH shall complete an application in a form determined by the Clerk and shall include the following:
 - 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 contact information for the applicant and owner in the event of an urgent concern or emergency at the BLRH, which shall be responded to promptly, and shall include a cell phone number, text message number, and/or email address;
 - 4.2.4 maximum number of occupants and number of rooms available for purposes of the BLRH;
- 4.3 No licence shall be issued to an applicant and/or Person for a BLRH until the Clerk 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 not subject to an open building permit or order under 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 has been inspected within the preceding twelve (12) months and is not subject to an order under the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, and applicable regulations;
 - 4.3.4 confirmation from the Medical Officer of Health or designate that the building intended to be used as a BLRH is not subject to an order under the *Health Protection and Promotion Act*, RSO 1990, c. H-7, and applicable regulations; 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 of the BLRH, from each jurisdiction in Canada in which the applicant has been resident during the prior three hundred and sixty-five (365) days that is satisfactory in form and content to the 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 applicant;
 - 4.4.2 address of licensed premises;
 - 4.4.3 maximum number of occupants and number of rooms available; and
 - 4.4.4 Date of issuance and date of expiry.

- 4.5 Every licensee shall notify the Clerk within 7 (seven) days of any change of information from the information provided in the last application for a licence.
- 4.6 Every licensee shall display the licence issued hereunder in a prominent place in the main entranceway of the BLRH and such licence shall not be transferable.
- 4.7 No licensee shall permit a person to occupy for sleeping purposes, any cellar or any space that can be used as a garage, lobby, hallway, closet, bathroom, laundry, stairway or kitchen.
- 4.8 No licensee 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.
- 4.9 The Clerk may revoke a licence, impose any conditions on a license, or require any conditions be met before an applicant obtains a license.

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 licensee 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 applicant on file with 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 Person, whether a licensee or applicant or member of the public, may appeal any decision of the Clerk under this By-law to the Committee of Adjustment and Appeals by providing written notice to the Clerk within 10 (ten) days of the Clerk's decision to revoke the licence or impose conditions. The Clerk will then schedule a public meeting of the Committee of Adjustment and Appeals to hear the appeal. The Committee has the authority to substitute or change the decision of the Clerk and such decisions of the Committee shall be final without further appeal.
- 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 contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.
- 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 Clerk referred to herein are those of the Town.
8. By-law 62-2023 is hereto repealed on the date this By-law comes into force and effect.
9. This By-law comes into force and takes effect on January 8, 2024.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 8th day of JANUARY, 2024.

MAYOR, Dennis Rogers

ACTING CLERK, Angela Toole

Appendix “A” – Set Fine Schedule
Part I Offences – Provincial Offences Act
Town of Kingsville By-law 03-2024

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Operate a BLRH – no licence	Section 4.1	\$1000.00
2	Fail to notify Clerk of change of information	Section 4.2	\$150.00
3	Fail to display licence in a prominent place	Section 4.6	\$150.00
4	Transfer licence to any other location other than the licensed premises	Section 4.6	\$200.00
5	Permit person to occupy for sleeping a cellar, garage, lobby, hallway, closet, bathroom, laundry, stairway, or kitchen	Section 4.7	\$1000.00
6	Permit cooking appliance in room used for sleeping purposes	Section 4.8	\$1000.00
7	Permit gas heating appliance in room used for sleeping purposes	Section 4.8	\$1000.00
8	Permit oil heating appliance in room used for sleeping purposes	Section 4.8	\$1000.00
9	Fail to comply with conditions placed on licence	Section 4.10	\$750.00
10	Fail to permit an Authorized Official to conduct inspection	Section 5.2	\$200.00
11	Fail to provide requested document or thing to Authorized Official	Section 5.4.1	\$200.00
12	Prevent Authorized Official from removing requested document or thing for purpose of making copies	Section 5.4.2	\$200.00
13	Prevent Authorized Official from obtaining information from any person related to inspection	Section 5.4.3	\$200.00
14	Prevent Authorized Official from examining, or taking tests, samples, and photographs for the purpose of inspection	Section 5.4.4	\$200.00
15	Prevent, hinder, or obstruct an Authorized Official from exercising a power or performing a duty under this By-law	Section 5.9	\$300.00
16	Prevent, hinder, or obstruct an Authorized Official from exercising a power or performing a duty under this By-law	Section 5.10	\$300.00