



City Of Kingston

Ontario

By-Law Number 2021-10

**A By-Law to License and Regulate Short-term Rentals
in the City of Kingston**

(Also referred to as “Short-term Rental Licensing By-Law”)

Passed: January 12, 2021

Takes Effect as of June 1, 2021

Amending By-Laws:

By-Law 2022-109	July 12, 2022
By-Law 2023-196	November 7, 2023

(Office Consolidation)

City of Kingston By-law Number 2021-10
“Short Term Rental Licensing By-Law”

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Kingston**

Passed: January 12, 2021

Whereas Section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may pass By-Laws respecting: health, safety and well-being of persons; protection of persons and property, including consumer protection; and business licensing; and

Whereas Section 151(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that, without limiting Sections 9, 10 and 11 of the Act, a municipality may provide for a system of licences with respect to a business and may:

- (a) prohibit the carrying on or engaging in the business without a licence;
- (b) refuse to grant a licence, or revoke or suspend a licence;
- (c) impose conditions as a requirement of obtaining, continuing to hold, or renewing a licence;
- (d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold, or renew a licence;
- (e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (f) 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 434.1(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended from time to time, provides that a municipality may 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 municipality passed under that Act; and

Whereas Section 429(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may establish a system of fines for offences under a By-Law of the municipality passed under the Act; and

Whereas the Council of The Corporation of the City of Kingston considers it necessary and desirable to regulate Short-term Rentals;

Therefore Be It Resolved That the Council of The Corporation of the City of Kingston enacts as follows:

1 Definitions

1.1 For the purposes of this By-Law:

“Administrative Penalty” means an administrative penalty administered pursuant to the Administrative Penalty Process By-Law;

“Administrative Penalty Process By-Law” means “By-law 2020-69 of the Corporation of the City of Kingston being “A By-Law to Establish a Process for Administrative Penalties;”

“Appeals Committee” means a committee duly appointed by by-law to conduct hearings under this By-Law;

“Bed and Breakfast” means an operator-occupied detached dwelling offering short-term lodging for compensation to the travelling and vacationing public, in which guest rooms or suites may include a private bath, but do not include cooking facilities;

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

“Building Code” means Ontario Regulation 332/12 established under the *Building Code Act*;

“City” means the geographic boundaries of Kingston, Ontario;

“City of Kingston” mean The Corporation of the City of Kingston;

“Council” and **“City Council”** mean the Council of the City of Kingston;

“Director” means the Director of Building and Enforcement Services for the City of Kingston, or his or her designate, or, in the event of organizational changes, the director of the appropriately titled department;

“Dwelling Unit” means a suite operated as a housekeeping unit, used or intended to be used by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;

“Fees and Charges By-Law” means City of Kingston By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston;”

“Fire Protection and Prevention Act” means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4;

“Fire Code” means Ontario Regulation 213/07 established under the *Fire Protection and Prevention Act*;

“**Licence**” means a licence issued under this By-Law;

“**Licensing and Enforcement Division**” and “**Division**” means the Licensing and Enforcement Division, Planning Services Department, Community Services Group or, in the event of organizational changes, another unit designated by Council to carry out the Division’s responsibilities for the administration and enforcement of this By-Law;

“**Market**” means to offer, promote, canvass, solicit, advertise, or facilitate a Short-term Rental accommodation, and includes placing, posting or erecting advertisements, either physically or online and “**Marketing**” has the corresponding meaning;

“**Municipal Act**” means the *Municipal Act, 2001*, S.O. 2001, c. 25;

“**Officer**” means any person who has been assigned the responsibility of administering and enforcing this By-Law and includes a Provincial Offences Officer, a Municipal Law Enforcement Officer, and an Officer of the Kingston Police or other police force assisting the Kingston Police;

“**Operator**” means any Person who operates or permits the operation of a Short-term Rental;

“**Penalty Notice**” means a notice given pursuant to sections 2.2 and 2.4 of “By-Law 2020-69 of the Corporation of the City of Kingston being “A By-Law to Establish a Process for Administrative Penalties

“**Person**” means an individual, a corporation, a partnership, a sole proprietorship or an association;

“**Property Standards By-Law**” means City of Kingston By-Law Number 2005-100, enacted under Section 15.1 of the *Building Code Act* that prescribes minimum standards for the maintenance and occupancy of property within the Municipality;

“**Short-term Rental**” means all or part of a Dwelling Unit used to provide sleeping accommodations for a period equal to or less than thirty (30) consecutive days in exchange for payment, and includes a Bed and Breakfast;

“**Zoning By-Law**” means a By-Law enacted by the City of Kingston under Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13.

2 Administration

- 2.1 The City of Kingston's Licensing and Enforcement Division is responsible for the administration of this By-Law.
- 2.2 Every application for a new Licence or a renewal of an existing Licence shall be submitted to the Division in the form as prescribed by the Director.
- 2.3 Every application for a new Licence or a renewal of an existing Licence shall be accompanied by the full Licence fee, as set out in the Fees and Charges By-Law.
- 2.4 The Division shall review each complete application in accordance with Section 6 of this By-Law and shall grant or refuse to issue a Licence and shall notify the applicant of its decision in writing.
- 2.5 A Person whose application for a new Licence or a renewal of an existing Licence has been refused, or a Person whose Licence has been suspended or revoked, may, within fifteen (15) days of being notified of the refusal, suspension or revocation, as the case may be, submit an application to appeal to the Appeals Committee for a review of the decision.
- 2.6 An application to appeal shall be submitted in writing OR in the form prescribed by the Director to the Clerk's office, and shall be accompanied by the full appeal fee, as set out in the Fees and Charges By-Law.
- 2.7 On appeal, the Appeals Committee has the power to affirm the decision of the Division to refuse, suspend or revoke the Licence, or to direct the Division to issue, renew or reinstate the Licence.
- 2.8 The Appeals Committee may, when reviewing a denied, suspended or revoked Licence, impose such terms or conditions on the Licence as the Appeals Committee considers appropriate.
- 2.9 Decisions of the Appeals Committee are final.

3 Interpretation

- 3.1 This By-Law shall not be interpreted as exempting any Person from the requirement to comply with any other City By-Law or federal or provincial legislation. In the event of conflict between the provisions of this By-Law and any other City of Kingston By-Law, the provision that establishes the higher standard of health, safety and well-being of persons and protection of persons shall apply.
- 3.2 Any reference herein to any By-Law or Act of any government shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto then in force.

4 Prohibitions

- 4.1 No Person shall Market or permit the Marketing of a Short-term Rental without holding a valid Licence issued under the provisions of this By-Law.
- 4.2 No Person shall operate or permit to be operated a Short-term Rental without holding a valid Licence issued under the provisions of this By-Law.
- 4.3 No Person shall knowingly submit an application for a Licence that contains false, misleading or deceptive information.

5 Licensing Requirements

5.1 This By-Law applies to every Short-term Rental in the City of Kingston except that section 5.2 shall not prevent the renewal of a Licence to operate or permit the operation of more than two Short-term Rentals if:

- a. the Licence to operate or permit the operation of such Short-term Rentals was issued pursuant to a complete application submitted to the Division in the form prescribed by the Director prior to the passage of By-Law Number 2022-109; and
- b. the Licence has not expired.

(By-Law 2021-10; 2022-109)

5.2 An Operator shall not hold more than one Licence and shall not operate or permit the operation of more than two Short-term Rentals at any time.

(By-Law 2021-10; 2022-109)

5.3 Any Person seeking to obtain or renew a Licence under this By-Law shall:

- a. be the intended Operator of the Short-term Rental;
- b. be the registered owner(s) of the Short-term Rental, as identified on the parcel register from the Land Registry Office;
- c. complete an application in the form prescribed by the Director, including setting out such information and attaching such additional documentation as may be required by the Director;
- d. submit a completed application to the City's Licensing and Enforcement Division; and
- e. pay the applicable fee as prescribed by the Fees and Charges By-Law.

5.4 A Licence under this By-Law is valid for one (1) year only from the date of issuance and may be renewed each year by the anniversary of the date on which the Licence was first issued, as applicable, by paying the applicable annual Licence fee.

- 5.5 A Licence issued under this By-Law shall expire if it is not renewed by the date required in Section 5.4 above.

6 Licence Issuance

- 6.1 The Director shall issue or renew a Licence to any Person who meets the requirements of this By-Law, except where:
- a. the past conduct of the Person affords the Director reasonable grounds to believe that the Person has not or will not carry on the Short-term Rental business in accordance with applicable By-Law;
 - b. the Director reasonably believes that the issuing of a Licence to a Person could be adverse to the public interest;
 - c. the lot on and/or building in which the Short-term Rental is situated is subject to an order, or orders, made pursuant to (or by):
 - i) the Property Standards By-Law;
 - ii) the *Building Code Act* or any regulations made under it, including the Building Code;
 - iii) the *Fire Protection and Prevention Act* or any regulations made under it, including the Fire Code;
 - iv) Kingston, Frontenac, Lennox & Addington (KFL&A) Public Health; or
 - v) the Ministry of Environment, Conservation and Parks;
 - d. the Short-term Rental, including the building in which it operates, or the lot on which the building is situated, is not in compliance with the applicable Zoning By-Law; or
 - e. the Operator or the lot on which the Short-term Rental is situated is indebted to the City by way of fines, penalties, judgments and or outstanding (past due) property or municipal accommodation taxes.
- 6.2 The Director may, when issuing or renewing a Licence, or at any time the Director deems appropriate, impose such terms or conditions on the Licence as the Director considers appropriate.
- 6.3 An Operator shall notify the Director, in writing, within fourteen (14) days of any change to the information or documentation submitted with the Operator's application, and as soon as is practicable, provide such updated information or documentation as may be required by the Director.

7 Regulations

- 7.1 **Subject to Section 7.2 below, a Short-Term Rental shall have:**
- (a) no more than three (3) rooms individually rented; and
 - (b) sleeping accommodation for a maximum of four (4) individuals.
- 7.2 Section 7.1 of this By-Law does not apply to a Short-Term Rental that consists of an entire single-detached Dwelling Unit rented under a single booking.
- 7.3 A Short-term Rental and an Operator shall comply with the *Building Code Act* and any regulations made under it, including the Building Code, and the *Fire Protection and Prevention Act* and any regulations made under it, including the Fire Code.
- 7.4 No Person shall permit a Short-term Rental in a Dwelling Unit in combination with a Bed and Breakfast accommodation.
- 7.5 An Operator shall adhere to and require guests to comply with parking regulations contained in the Zoning By-Law and the City's Parking By-Law 2010-128, "A By-Law to Regulate Parking."
- 7.6 An Operator shall:
- a. provide to every guest of the Short-term Rental the emergency contact information of a person available during the guest's entire rental period, and ensure that such information is prominently displayed in the Short-term Rental at all times when the Short-term Rental is operated;
 - b. post a copy of the Licence in a prominent place near the entry to the Short-term Rental at all times when the Short-term Rental is operated; and
 - c. include the Operator's Licence number in a conspicuous place in any medium or material used to Market the Short-term Rental.
- 7.7 Every Operator shall keep a record of each concluded transaction related to the Operator's Short-term Rental business for at least three (3) years following the date of the transaction. A transaction is concluded on the last day of the rental period. The records retained shall include the following:
- a. The number of nights the Short-term Rental was rented;
 - b. The nightly and total price charged for each rental;
 - c. Whether the rental was an entire-unit rental or partial-unit rental; and
 - d. Any other information required by the Director.
- 7.8 Every Operator shall provide the information referred to in Section 7.7 to the Director within thirty (30) days of being requested to do so by the Division.

8 Exemptions

- 8.1 This By-Law does not apply to:
- a. a group home;
 - b. hotel, motel, inn or resort as defined and regulated by the Ontario Building Code and Zoning By-Laws;
 - c. a residence operated by a post-secondary institution;
 - d. a charitable, non-profit philanthropic corporation organized as a shelter for the relief of the poor or for emergency;
 - e. accommodation supplied by employers to their employees in Dwelling Units operated by the employer;
 - f. a hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health and Long-Term Care under the *Public Hospitals Act*, R.S.O 1990, C. P.40, and a private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, R.S.O. 1990, c. P.24;
 - g. a home for special care operated under the authority of a licence issued under the *Homes for Special Care Act*, R.S.O. 1990, c.H.12;
 - h. a long-term care home operated under the authority of a licence issued under the *Long-Term Care Homes Act*, 2007, S.O. 2007, c.8;
 - i. a retirement home operated under the authority of a licence issued under the *Retirement Homes Act*, 2010, S.O. 2010, c.11; and
 - j. a boarding, lodging or rooming house, as defined in the Building Code.

9 Enforcement

- 9.1 The provisions of this By-Law may be enforced by an Officer, or other authorized employee or agent of the City.
- 9.2 No Person shall obstruct or hinder or attempt to obstruct or hinder an Officer or other authorized employee or agent of the City in the exercise of a power or the performance of a duty under this By-Law.
- 9.3 Subject to Section 9.6 below, every Officer shall have the right to enter lands to conduct an inspection to determine whether the provisions of this By-Law and any order(s) issued hereunder are being complied with in accordance with the provisions of Sections 435 and 436 of the *Municipal Act*.
- 9.4 Where an Officer has reasonable grounds to believe that an offence under this By-Law has been committed by a Person, the Officer may require the name, address, and proof of identity of that Person.
- 9.5 Failure to provide proof of identification satisfactory to an Officer when requested to do so pursuant to Section 9.4 of this By-Law shall constitute obstruction of an Officer under Section 9.2 of this By-Law.
- 9.6 No Person exercising a power of entry on behalf of the City shall enter or remain in any room or place actually being used as a Dwelling Unit unless:
- a. the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under Section 438 of the *Municipal Act*, a warrant issued under Section 439 of the *Municipal Act* or a warrant under Section 386.3 of the *Municipal Act*;
 - b. an order issued under Section 438 of the *Municipal Act* is obtained;
 - c. a warrant issued under Section 439 of the *Municipal Act* is obtained;
 - d. a warrant issued under Section 386.3 of the *Municipal Act* is obtained;
 - e. the delay necessary to obtain an order under Section 438 of the *Municipal Act*, to obtain a warrant under Section 439 of the *Municipal Act*, or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any Person; or
 - f. the City has given notice of its intention to enter to the occupier of the land as required under Subsection 435(2) of the *Municipal Act* and the entry is authorized under Sections 79, 80 or 446 of the *Municipal Act*.

- 9.7 A refusal of consent to enter or to remain in a room or place actually used as a Dwelling Unit does not constitute hindering or obstruction within the meaning of Section 9.2 of this By-Law unless the City is acting under an order under Section 438 of the *Municipal Act* or a warrant under Section 439 of the *Municipal Act* or in the circumstances described in clause 437 (d) or (e) of the *Municipal Act*.

10 Orders

- 10.1 If the Director and/or an Officer determines that a Person has contravened a provision of this By-Law, the Director and/or an Officer may make an order requiring the Person who contravened the By-Law or who caused or permitted the contravention, to discontinue the contravening activity and take any reasonable steps to correct the contravention.
- 10.2 No person shall fail to comply with an order issued pursuant to Section 10.1 of this By-Law.
- 10.3 An order issued pursuant to 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 steps that must be taken to correct the contravention and the date by which there must be compliance with the order.
- 10.4 If a Person fails to do a matter or thing as directed or required by this By-Law, including failing to comply with an order issued under this By-Law, the City may do the matter or thing at the Person's expense. The City may recover the costs of doing a matter or thing from the Person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

11 Offence and Penalty Provisions

- 11.1 Every Person who contravenes any provision of this By-Law shall, upon being given a Penalty Notice in accordance with the Administrative Penalty Process By-Law, be liable to pay to the City and Administrative Penalty as set out in Schedule B of the Administrative Penalty By-Law for each day on which the contravention occurs, and the Administrative Penalty Process By-Law applies to each Administrative Penalty given pursuant to this By-Law.

(By-Law 2021-10; 2023-196)

- 11.2 Notwithstanding section 11.1 of this By-law, every Person who contravenes any provision of this By-Law is guilty of an offence as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, and all such offences are designated as continuing offences.

- 11.3 Every officer or director of a corporation who knowingly concurs in the contravention of any provision of this By-Law or the failure to comply with an order issued under this By-Law is guilty of an offence as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, and all such offences are designated as continuing offences.
- 11.4 Upon conviction, every Person, and every officer or director of a corporation who contravenes any provision of this By-Law is liable, for each day or part of a day that the offence continues, to a minimum fine of Five Hundred Dollars (\$500) per day and a maximum fine of Ten Thousand Dollars (\$10,000) per day.
- 11.5 As provided for in Section 431 of the *Municipal Act*, if a Person has been convicted of an offence under this By-Law, the Ontario Court of Justice or any Court of competent jurisdiction may, in addition to any penalty imposed on the Person convicted, issue an order:
 - a. prohibiting the continuation or repetition of the offence by the Person convicted; and
 - b. requiring the Person convicted to correct the contravention in the manner and within the period that the Court considers appropriate.
- 11.6 If a Person is required to pay an Administrative Penalty under section 11.1 in respect of a contravention of this By-Law, the Person shall not be charged with an offence in respect of the same contravention.
- 11.7 In accordance with Section 398(2) of the *Municipal Act*, the treasurer of the City may add unpaid fees, charges and fines under this By-Law to the tax roll and collect them in the same manner as property taxes.

12 Validity

- 12.1 If a Court of competent jurisdiction declares any provision, or any part of a provision, of this By-Law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-Law that each and every provision of this By-Law authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.

13 Short Title of By-Law

- 13.1 This By-Law may be referred to as the “Short-term Rental Licensing By-Law”.

14 Commencement

- 14.1 This By-Law shall come into force and take effect on June 1, 2021.
