

CITY OF ST. THOMAS

BY-LAW NO. 123-88

A By-Law for licensing, regulating and governing lodging houses and the keepers of lodging houses in the City of St. Thomas and for revoking any such license.

AS AMENDED BY:

By-Law 57-91

April 15th, 1991

CITY OF ST. THOMAS

BY-LAW NO. 123-88

A By-Law for licensing, regulating and governing lodging houses and the keepers of lodging houses in the City of St. Thomas and for revoking any such licence.

WHEREAS The Municipal Act, R.S.O. 1980, Chapter 302, authorizes the councils of all municipalities to pass by-laws for licensing, regulating and governing lodging houses and the keepers of lodging houses, and for revoking any such licence.

AND WHEREAS the Council of the City of St. Thomas deems it necessary and desirable that such a by-law be enacted in respect thereof.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST.

THOMAS ENACTS AS FOLLOWS:

SECTION 1 - GENERAL

- 1.1 Short Title  
This by-law may be cited as "The Lodging House By-Law"
- 1.2 Interpretation  
1.2.1. The captions and headings in this by-law are inserted for convenience of reference only and do not define, limit or enlarge the scope, meaning or intent of any provision.  
1.2.2 In this by-law, words used in the present tense include the future tense, words in the masculine gender include the feminine and neuter, and the singular number includes the plural and the plural the singular.  
1.2.3 In this by-law by word "shall" is mandatory and not discretionary.
- 1.3 Application  
The provisions of this by-law shall apply to all property within the geographical boundaries of the City of St. Thomas.
- 1.4 Lodging Houses Prohibited Without a Licence  
1.4.1 No person shall use any property as a lodging house unless he holds a current valid licence therefor.  
1.4.2 No person shall be the keeper of a lodging house upon any premises unless he holds a current valid licence therefor.

1.5 Other Use of Licenced Premises Prohibited  
The use of any premises or such part thereof as is licenced under this by-law for a lodging house, except for the purposes for which the licence was issued, is prohibited.

1.6 Application for Other By-Laws

1.6.1 Nothing in this by-law shall relieve any person from any obligation to comply with the requirements of any other by-law or with the requirement to obtain any licence, permit, certificate, authority, approval, consent or variance otherwise required.

1.6.2 Where a building was lawfully used as a boarding house on or before April 18, 1988 and such use has lawfully continued, if all other requirements of this by-law are met, a lodging house licence may be issued notwithstanding the provisions of paragraph 8.4.2 of By-Law 50-88 as amended. (B/L 57-91)

1.7 Removal of Notices, Orders or Placards Prohibited

The removal from any licenced premises of any notice, order or placard placed thereon pursuant to the provisions of this by-law, is prohibited, provided that this Section shall not apply to an inspector and any person acting under his instructions.

1.8 Validity

Should any section, clause or provision of this by-law be held by a court of competent jurisdiction to be invalid, the validity of the remainder of the by-law shall not be affected.

SECTION 2 - DEFINITIONS

In this by-law, unless the context otherwise requires:

2.1 "accessory" when used to describe a building or structure means customarily incidental, subordinate and exclusively devoted to the main use on the lot and when used to describe a use, means customarily incidental, subordinate and exclusively devoted to the main use of the lot.

2.2 "basement" means that portion of a building between two floor levels which is partly below finished grade level but which has fifty percent (50%) or more of its height from finished floor to finished ceiling above adjacent grade level in which the height from adjacent finished grade level to the ceiling is less than 1.8 metres.

2.3 "boarding house" means a building or part of a building where the owner, tenant or keeper thereof offers or supplies for gain or profit lodging or lodging and meals, and includes a lodging house, but does not include a hotel, hospital, nursing home, home for the young or the aged or institution, if the hotel, hospital, home or institution is licenced, approved or supervised by the Province of Ontario under any general or special Act.

2.4 "building inspector" means any person appointed by the Council of the Corporation as a building inspector and includes the Chief Building Official.

2.5 "cellar" means that portion of a building between two floor levels which has more than fifty percent (50%)

of its height from finished floor to finished ceiling below adjacent grade level.

- 2.6 "Corporation" means The Corporation of the City of St. Thomas.
- 2.7 "Council" means the Council of the Corporation.
- 2.8 "dwelling" means a building or structure or part of a building or structure occupied or capable of being occupied in whole or in part for the purposes of human habitation.
- 2.9 "dwelling unit" means one or more habitable rooms, occupied or designed to be occupied as an independent and separate housekeeping establishment.
- 2.10 "finished grade level" means the average elevation of the finished surface of the ground abutting the external walls of a building or structure, exclusive of any embankment in lieu of steps.
- 2.11 "fire inspector" means any person appointed by the Council of the Corporation as a Fire Inspector, and includes the Fire Prevention Officer.
- 2.12 "habitable living space" means any floor space in a dwelling or dwelling unit used, or intended to be used, for living, sleeping, cooking or eating space.
- 2.13 "habitable room" means any room in a dwelling or dwelling unit used or intended to be used for living, sleeping, cooking or eating purposes, but excludes non-habitable living space.
- 2.14 "inspector" means any person appointed by the Council of the Corporation as an inspector and includes a licence inspector, a building inspector, a fire inspector, a property standards officer and a public health inspector.
- 2.15 "keeper" means any person licenced to keep a lodging house.
- 2.16 "licence inspector" means any person appointed by the Council of the Corporation as a licence inspector and includes a licence officer, licence issuer and the Licence Administrator.
- 2.17 "lodger" means any person harboured for gain, with or without meals within a lodging house.
- 2.18 "lodging house" means a building or portion thereof in which persons are harboured, received or lodged for hire, and includes a boarding house, but does not include a hotel, hospital, nursing home, home for the young or the aged or institution, if the hotel, hospital, home or institution is licenced, approved or supervised by the Province of Ontario under any general or special Act.
- 2.19 "Medical Officer of Health" means any person appointed by the Board of the Elgin-St. Thomas Health Unit as Medical Officer of Health for the City of St. Thomas and County of Elgin.
- 2.20 "non-habitable living space" means any floor space in a dwelling or dwelling unit other than habitable living space and includes a bathroom, toilet room, laundry, pantry, lobby, communicating corridor, stairway, closet, boiler room or other space for service and maintenance of the dwelling or dwelling

unit, for common use and for access to, and vertical travel between, storeys.

2.21 "owner" means the assessed owner and all persons shown by the records of the Registry Office and/or Land Titles Office to have an interest in a property, and includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property, who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.

2.22 "person" includes a corporation, partnership, agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law.

2.23 "property" means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto.

2.24 "Property Standards Officer" means any person appointed by the Council of the Corporation as a Property Standards Officer.

2.25 "Public Health Inspector" means any person appointed by the Board of the Elgin-St. Thomas Health Unit as an inspector and "health inspector" and "public health inspector" have corresponding meanings.

### SECTION 3 - STANDARDS FOR LODGING HOUSES

3.1 Every property licenced or required to be licenced as a lodging house shall comply with and be maintained in compliance with the provisions of The Property Standards By-Law of the Corporation.

3.2 Every property licenced or required to be licenced as a lodging house shall be maintained in compliance with the provisions of all other municipal by-laws, legislative acts, regulations and codes of the Province of Ontario or of Canada which are applicable to the use, occupancy, construction, maintenance and operation of the property as a lodging house.

3.3 No person shall occupy any part of any lodging house for sleeping purposes, which is:

- (a) non-habitable living space, or
- (b) a cellar or part thereof, or
- (c) an accessory building or part thereof.

### SECTION 4 - REQUIRED FACILITIES

#### 4.1 Food Preparation and Storage

4.1.1 Where food preparation is permitted or meals are served upon the premises, the keeper of every lodging house shall provide adequate facilities for food preparation and without limiting the generality of the foregoing, shall provide cooking appliances, cooking utensils, counter space, storage space for food, utensils and cleaning supplies, refridgerated food storage, a kitchen sink with an adequate supply of hot and cold running water, with plumbing connected to discharge to the building sewer, and an adequate, approved energy source.

4.1.2 All kitchen facilities, equipment and appliances shall be maintained by the keeper in a clean and sanitary condition and in good operating condition.

4.2 Bathrooms, Washrooms and Toilet Rooms

4.2.1 The keeper of every lodging house shall provide at least one toilet, one wash basin and one bath or shower for each eight persons occupying the lodging house.

4.2.2 All bathrooms, washrooms and toilet rooms shall be maintained by the keeper in a clean and sanitary condition and in good operating condition.

4.2.3 The keeper shall provide sufficient toilet tissue, towels, and soap to every person harboured in the lodging house and provide such cleaning supplies and utensils as are required to ensure good sanitation and health conditions are maintained.

4.3 Laundry Facilities

4.3.1 Where laundry services are provided or lodgers are permitted to launder clothing, bedding or other items upon the premises, the keeper of every lodging house shall provide laundry facilities in a location conveniently accessible to the occupants thereof, including, for each eight persons occupying the premises, one automatic washing machine, one automatic clothes dryer, and one laundry tub with an adequate supply of hot and cold running water, with plumbing connected to discharge to the building sewer and adequate, approved energy source.

4.3.2 All laundry facilities shall be maintained by the keeper in a clean and sanitary condition and in good operating condition.

4.4 Sleeping Accommodation

4.4.1 The keeper of every lodging house shall provide each lodger with a separate bed, which shall:

- (a) Provide safe support, adequate to his size and weight,
- (b) be equipped with an adequate mattress, free from conditions which may pose a health or safety hazard,
- (c) be covered with a non-absorbent covering which shall be capable of being cleaned and sanitized, and
- (d) be equipped with adequate bed sheets, pillows and pillow cases, and blankets.

4.4.2 The keeper of every lodging house shall at least weekly, provide fresh, clean laundered bed sheets, and pillow cases for each bed and at least once monthly provide a fresh clean laundered blanket for each bed, provided always that in every event of a change in lodgers assigned to any bed, a complete change of bedding shall be provided.

SECTION 5 - LICENCES

5.1 Application for Licences

5.1.1 Every application for a lodging house licence and a lodging house keeper licence shall be filed with the Licence Administrator, in the form prescribed, and shall state:

- (a) the proposed name of the lodging house,

- (b) the name and address and telephone number of the property owner,
- (c) the name and address and telephone number of the proposed keeper of the lodging house,
- (d) the location and description of the property and the part of the premises proposed to be licenced,
- (e) any uses, other than the proposed lodging house, that exist or will or may exist upon the property within which the proposed licenced premises is located,
- (f) the maximum number of persons proposed to be lodged therein at any one time, and the total number of persons harboured or accommodated at any one time on the said premises, including the owner, owner's family, tenant, tenant's family, keeper, keeper's family, and all other persons.

5.1.2 Every application for a lodging house licence shall be accompanied by a certificate signed by a building inspector, a fire inspector, a public health inspector or the Medical Officer of Health, and a property standards officer and by the Licence Administrator, certifying that each of them has inspected the premises in respect of which the application is made and that with respect to the matters within their authority and responsibility, has found that it is in compliance with the provisions of this by-law.

5.1.3 Every application for a lodging house licence shall be accompanied by such plans, specifications, and information as the Council may reasonably require and without limiting the generality of the foregoing, shall include a comprehensive site plan, showing the location and dimensions of the site, the location of all buildings and structures, off-street parking, off-street loading, landscaping and recreational areas and a floor plan of the proposed licenced premises, showing all rooms or space proposed to be occupied by lodgers, kitchens, bathrooms, toilet rooms, laundry rooms, lounge and recreation rooms, points of access and egress and other pertinent plan details, all of which shall be drawn to scale and show all pertinent dimensions, floor areas and spatial areas of all bedrooms and space intended for sleeping accommodation.

5.1.4 Every application for a lodging house licence and a lodging house keeper licence shall be certified in writing by the applicant to be true and correct.

5.1.5 Every application for a licence shall be accompanied with a written consent by the owner and keeper of the lodging house to the entry upon the property and into every part of the premises proposed to be licenced by any inspector for the purposes of carrying out the inspections required pursuant to the provisions of this by-law.,

## 5.2 Duration of Licences

All licences issued under the authority of this by-law shall be valid for the calendar year of issue only.

## 5.3 Renewal of Licences

All licences may be renewed on application for renewal thereof filed with the Licence Inspector at least 30 days prior to the expiration of the current year's licence, and subject to the same terms and

conditions as the current licence, provided the lodging house and the keeper thereof continue to conform and comply with the provisions of this by-law, and on payment of the annual licence fees prescribed herein.

#### 5.4 License Fees Payable

the licence fees are hereby fixed as follows:

- (a) for a lodging house licence or for a renewal thereof, an annual fee.....\$100.
- (b) for a lodging house keeper licence or for a renewal thereof, an annual fee of .....\$100.

#### 5.5 Transfer of Licences

5.5.1 Where a licenced lodging house is sold or legal ownership thereof passes by any lawful means, the purchaser or other person to whom the legal ownership has passed shall, within 30 days, make application for a lodging house licence and shall surrender the licence issued to the previous owner. An application for licence shall be subject to the provisions of Sections 5.1, 5.2 and 5.4 hereof.

5.5.2 A previous owner shall provide a new owner with:

- (a) the register; and
- (b) all records required to be maintained under this by-law, as contain entries and relevant information for at least one year before the change of ownership.

5.5.3 A new owner shall maintain those entries and records until:

- (a) the expiration of the period of time required under this by-law; or
- (b) he delivers them to a subsequent new owner.

5.5.4 The licence of a lodging house keeper shall not be transferable.

#### 5.6 Revocation of Licences

5.6.1 The Council may, by written notice to the keeper and/or the owner of a lodging house, revoke any licence where:

- (a) the lodging house is found to be in contravention of any municipal by-law or the terms and conditions of licence, or
- (b) the information provided in the application is found to be false or incorrect,
- (c) the keeper is found to be in contravention of any municipal by-law or the terms and conditions of licence, or
- (d) the keeper has failed to comply with an order which has been confirmed within the time stated in the order, or
- (e) the keeper has failed to permit entry of an inspector or has in any manner impeded or obstructed an inspector in carrying out an inspection of the licenced premises.

#### SECTION 6 - RESPONSIBILITY OF KEEPER

- 6.1 The keeper of every lodging house shall:
  - (a) comply with all the provisions of this by-law,



- (b) provide such management, administration and supervision of the lodging house as may be required to maintain the lodging house free of conditions which may pose a health, fire or safety hazard,
- (c) establish and maintain such records as may be required for the proper and efficient administration of the lodging house which, without limiting the generality of the foregoing, shall include:
  - i) a register of all persons harboured or accommodated in the lodging house, which shall consist of a bound book, card index or other registration system,
  - ii) a record of inspections made by any duly authorized municipal, provincial or federal inspector including copies of the inspector's reports, orders, certificates of approval and/or compliance, licences, permits and other documents relating to the management, administration, operation and maintenance of the lodging house.
- (d) require each person harboured or accommodated in the lodging house to enter in the register:
  - i) his name and home address, and
  - ii) the trade name of his motor vehicle, the vehicle licence number thereof, and the name of the Province, State or other authority issuing the vehicle licence.
- (e) enter in the register in respect of each person harboured or accommodated in the lodging house:
  - i) the name or number of the room or unit occupied by each person registered,
  - ii) the date of arrival and of departure of each person harboured or accommodated.
- (f) not enter, nor knowingly permit to be entered in the register any information he reasonably suspects to be false.
- (g) preserve all entries in the register for at least one year from the date of the entry.
- (h) at the request of an inspector or police officer, produce for inspection any register, licence, record or notice required under this by-law.
- (i) not allow, at any time, more persons to be harboured in the lodging house than the number expressly permitted by the licence issued in respect of such lodging house.
- (j) maintain all equipment, appliances, furnishings, and fixtures in safe condition and good working order.
- (k) inspect each resident room at reasonable intervals to ensure that every room, furnishings and equipment are maintained in a clean and sanitary condition.
- (l) provide sufficient supplies and services to every person harboured in the lodging house to ensure good sanitation and health conditions are maintained.
- (m) display his lodging house keeper licence in a prominent and conspicuous place upon the licenced premises.
- (n) display in a prominent place upon the licenced premises, a notice giving the name, address and telephone number of the keeper and the name, address

and telephone number of another person authorized to act in the case of an emergency or in the absence of the keeper.

- (o) keep posted in every resident's room or every room used for sleeping accommodation a conspicuous notice of the emergency evacuation procedures and exit routes approved for the lodging house by the Fire Prevention Officer.
- (p) keep posted in every resident's room or every room used for sleeping accommodation information specifying the rates, in Canadian currency charged for the room, indicating the highest single rate, and where meals, laundry and other resident services are provided, the highest single rate for each of such services. Such posted information shall state precisely what the rates include and the amount of any extra charges for facilities and services.
- (q) not require or accept a payment for the provision of accommodation, meals, laundry, or other resident services or use of facilities or services of the lodging house in excess of the rates posted.
- (r) post a notice of any change in the rates referred to in subsection 7.1 (p) above in each location where such rates are posted, and no change shall be made until seven days have elapsed after the posting of the change notice.
- (s) where the keeper requires a person to pay a deposit when he registers, inform such person the manner in which such deposit is to be applied to the cost of such person's accommodation, meals, resident services and/or other facilities and services provided, and the conditions on which such deposit may be forfeited or refunded.
- (t) permit any inspector to inspect the premises, books and records of any lodging house for the purpose of enforcing the provisions of this by-law.
- (u) inform the Licence Administrator in writing of any change in the information contained on the licence and on the application for licence.

#### SECTION 7 - RESPONSIBILITY OF OWNER

- 7.1 The owner of every lodging house shall:
- (a) comply with all the provisions of this by-law, in respect of those sections, subsections, clauses and provisions or parts thereof which apply directly to the owner of the property which is used in whole or in part for a lodging house,
  - (b) not permit any person to use or occupy any property owned by him for a lodging house unless such property conforms to the provisions of this by-law,
  - (c) comply with all lawful orders of an inspector, within such time and in such manner as specified herein.
  - (d) inform the Licence Administrator in writing of any change in the information contained on the licence or on the application for licence.
  - (e) display his lodging house licence in a prominent place upon the licenced premises.

SECTION 8 - ADMINISTRATION AND ENFORCEMENT

8.1 Duty of Inspector

It shall be the duty of the Licence Administrator, with the assistance of every inspector, to administer and enforce the provisions of this by-law, and in the performance of such duty, he shall have all the responsibilities and powers provided by law.

8.2 Right of Entry

8.2.1 an inspector may inspect the premises, books and records of any lodging house for the purpose of enforcing this by-law, and, for the purposes of an inspection, may,

- (i) enter the premises of the lodging house or any part thereof and be accompanied on his inspection by a constable or police officer, a licence inspector, a building inspector, a fire inspector, a property standards officer, a public health inspector, or any of them; and
- (ii) require the production of the books and records of the lodging house, and examine and copy such books and records or any part thereof.

8.2.2 Nothing in subsection 8.2.1 authorizes an inspector to enter any premises or dwelling unit forming part of a lodging house this is rented and actually occupied by a member of the public without the consent of the occupant, except under the authority of a warrant issued under section 142 of the Provincial Offences Act.

8.3 Notice of Violation

- 8.3.1 If, after inspection, an inspector is satisfied that in some respect the lodging house is not being operated and maintained in conformity with the provisions of this by-law or the keeper or owner thereof is not complying with the provisions of this by-law he shall serve or cause to be served, a notice containing particulars of the non-conformity or non-compliance upon the keeper and owner of the property and any other person or persons having any interest therein, and may, at the same time provide all occupants with a copy of such notice and shall serve or cause to be served an order containing, the municipal address or the legal description of such property,
- (a) reasonable particulars of the corrective measures to be taken to comply with the provisions of this by-law and the period in which there must be compliance with the terms and conditions of the order, and notice that, if such corrective measures are not taken within the time specified in the order, the licences issued in respect of the lodging house and the keeper thereof may be revoked.

8.3.2 Service of an order given under Section 8.3.1 shall be considered effective when it is:

- (a) served personally upon the keeper and owner of the premises, or
- (b) mailed by registered mail to the keeper and owner of the premises, or
- (c) posted up on the licenced premises.

8.3.3 A copy of any order given under Section 8.3.1 shall be filed with the Licence Administrator.

#### 8.4 Appeal to the Council

8.4.1 An owner or keeper of a lodging house upon whom an order has been served, may appeal to the Council, by sending notice of appeal by registered mail to the Clerk within fourteen days after the service of the order, and in the event no appeal is taken, the order shall be deemed to have been confirmed.

8.4.2 The Clerk shall, upon receipt of the notice of appeal, fix an appointment for hearing thereof and within seven days of the receipt of the notice of appeal give notice in writing of the appointment for hearing at least fourteen days prior to the date fixed therefor to the appellant and to the Inspector who issued the order.

#### 8.5 Decision on Appeal

8.5.1 Where an appeal has been taken, the Council shall hear the appeal within twenty-one days of the date of notice of the appeal and shall have all the powers and functions of the inspector and may confirm the order, or may modify or quash it, or may extend the time for complying with the order, provided that, in the opinion of the Council, the general intent and purpose of the by-law is maintained.

8.5.2 The Clerk shall give a copy of the written decision of the Council to the appellant and to the inspector who issued the order.

#### 8.6 Effect of Decision of Board

The order as deemed to have been confirmed, or as confirmed or modified by the Council under Section 8.5.1 shall be final and binding upon the owner and keeper of the lodging house, who shall comply with the order within the time and in the manner specified in the order or any modification thereof directed by the Council.

### SECTION 9 - FAILURE TO COMPLY - ENFORCEMENT - PENALTIES

#### 9.1 Failure to Comply

An owner or keeper of a lodging house who fails to comply with an order that is final and binding may have the licences issued in respect of the lodging house and the keeper of the lodging house revoked by the Council.

#### 9.2 Enforcement

9.2.1 Where this by-law 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 prohibiting the continuation or repetition of the offence by the person convicted.

9.2.2 Where this by-law is contravened, in addition to any other remedy and to any penalty imposed by the by-law, such contravention may be restrained by action at the instance of a ratepayer or the Corporation.

9.2.3 This by-law shall be enforceable pursuant to the provisions of the Provincial Offences Act.

#### 9.3 Penalties

Any person who contravenes this by-law is guilty of an offence and upon conviction is liable to a fine of not more than \$5,000., exclusive of costs. (B/L 57-91)

SECTION 10 - EFFECTIVE DATE

10.1 This by-law shall become effective and take force on the date of the final passing thereof, provided however that with respect to every premises that was lawfully used for the purposes of a lodging house on the day of the passing of this by-law, this by-law shall become effective on the 1st day of January, 1989.

READ a First and Second time this 15th day of August, 1988.

READ a Third time and Finally passed this 15th day of August, 1988.

P. J. Leack

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City Clerk

Janet Golding

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Mayor