

## City of Kingston By-Law Number 2024–XXX

### ***By-Law to Amend City of Kingston By-Law Number 2021-10, A By-Law to License and Regulate Short-term Rentals in the City of Kingston***

#### **Whereas:**

The Corporation of the City of Kingston (the “**City**”) is a single-tier municipality incorporated pursuant to an order made under section 25.2 of the *Municipal Act*, R.S.O. 1990, c. M.45.

The powers of a municipality must be exercised by its council (*Municipal Act, 2001*, S.O. 2001, c. 25 (the “**Municipal Act, 2001**”), s. 5 (1)).

A municipal power must be exercised by by-law unless the municipality is specifically authorized to do otherwise (*Municipal Act, 2001*, s. 5 (3)).

A single tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public (*Municipal Act, 2001*, s. 10 (1)).

On January 12, 2021, council for the City (“**council**”) enacted *City of Kingston By-Law Number 2021-10, “A By-Law to License and Regulate Short-term Rentals in the City of Kingston”*.

*Council* considers it necessary and desirable for the public to amend *City of Kingston By-Law Number 2021-10*:

**Therefore, council enacts:**

#### **1. Amendment**

1.1 *City of Kingston By-Law Number 2021-10, A By-Law to License and Regulate Short-term Rentals in the City of Kingston*, is amended as follows:

- (a) by adding the following heading immediately before the “Definitions” section: “**PART 1 – DEFINITIONS, ADMINISTRATION & INTERPRETATION**”;

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- (b) by adding the following definition of “Boarding, Lodging or Rooming House” in subsection 1.1:
- “**Boarding, Lodging or Rooming House**” means a building,
- a. that has a building height not exceeding three (3) storeys and a building area not exceeding 600 square metres,
  - b. in which lodging is provided for more than four (4) persons in return for remuneration or for the provision of services or for both, and
  - c. in which the lodging rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants;”;
- (c) the definition of “Director” in subsection 1.1 is amended by deleting the words “Director of Building and Enforcement Services” and replacing them with the words “Director of Licensing and Enforcement Services”;
- (d) the definition of “Licensing and Enforcement Division” and “Division” is amended by deleting the words “Planning Services Department, Community Services Group” and replacing them with the words “Growth & Development Services”;
- (e) by adding the following definition of “Short-term Rental Brokerage” in subsection 1.1:
- “**Short-term Rental Brokerage**” means any Person who facilitates or brokers or Markets or causes to be Marketed or assists in any capacity in the booking process of a Short-term Rental reservation for others, whether directly or indirectly, including, without limitation, via the internet or other electronic platform, provided such Person collects, handles or receives a payment, fee, compensation or other financial benefit as a result of, or in connection with, the Short-term Rental;”;
- (f) subsection 2.4 is amended by deleting the words “of this By-Law” and replacing them with the following: “or Section 9 of this By-Law, as applicable,”;
- (g) by adding the following as subsection 2.10:
- “2.10 All Licence fees payable pursuant to this By-Law are non-refundable.”;
- (h) by adding the following after subsection 4.3:

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- “4.4 No Person shall carry on the business of a Short-term Rental Brokerage without holding a valid Licence issued under the provisions of this By-Law.
- 4.5 No Person shall Market a Short-term Rental with an unlicensed Short-term Rental Brokerage.

**PART II – SHORT-TERM RENTAL OPERATOR”;**

- (i) subsection 5.1 is amended by deleting the words “This By-Law” and replacing them with the words “This Part”;
- (j) subsection 5.2 is deleted in its entirety and replaced with the following:
- “5.2 An Operator shall not hold more than two (2) Licences and shall not operate or permit the operation of more than two (2) Short-term Rentals at any time, either individually as a natural person or as an officer or director of a corporation that holds a Licence.”;
- (k) subsection 5.3 is amended by deleting the words “this By-Law” and replacing them with the words “this Part”;
- (l) subsections 5.4 and 5.5 are deleted in their entirety and replaced with the following:
- “5.4 A Licence under this Part is valid for a maximum of one (1) year from the date of issuance to March 31, and may be renewed prior to March 31 by paying the applicable annual Licence fee.
- 5.5 A Licence issued under this Part shall expire if it is not renewed by the date required in Section 5.4 above.
- 5.6 A Licence issued under this Part cannot be assigned or transferred from the Operator to another Person.”;
- (m) subsection 6.1 is amended by adding the following after the words “The Director shall issue or renew a Licence”: “under this Part”;
- (n) clause 6.1(a) is amended by adding the following after the words “in accordance with applicable”: “provisions of this”;
- (o) subsection 6.1 is amended by adding the following after clause (d) and by re-lettering the balance of subsection 6.1 accordingly:

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- “e. the Short-term Rental and/or the Operator is not otherwise compliant with all applicable law, including 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; or”;
- (p) by adding the following after subsection 6.1 and by renumbering the balance of section 6 accordingly:
- “6.2 Where the Director is of the opinion that an inspection of the Dwelling Unit or part thereof that is proposed to be used as a Short-term Rental is required, such inspection shall be carried out in accordance with Section 12 of this By-law and no Licence shall be issued or renewed until all matters identified in the inspection have been remedied to the satisfaction of the Director.”;
- (q) by deleting subsections 7.1 and 7.2 in their entirety and replacing them with the following:
- “7.1 If a Short-term Rental is being rented by the room, no more than three (3) rooms shall be individually rented, to a maximum of four (4) occupants in the aggregate.
- 7.2 No Operator shall permit more than two (2) occupants in each bedroom within a Short-term Rental, provided that children aged two (2) years old or younger shall not be included in this restriction, and no Operator shall permit more than ten (10) occupants rented under a single booking within a Short-term Rental.”;
- (r) subsection 7.6 is amended by adding the following clause (d):
- “d. provide the Division with a link to the medium or material used to Market the Short-term Rental.”;
- (s) subsection 7.7 is amended by adding the following as clause (c) and by re-lettering the balance of subsection 7.7 accordingly:
- “c. The total municipal accommodation tax charged and collected;”;
- (t) by adding the following as subsection 7.9:
- “7.9 Every Operator shall collect and remit municipal accommodation

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tax in accordance with City of Kingston By-Law Number 2018-95.”;

- (u) by adding the following after subsection 7.9 and by renumbering the balance of the by-law accordingly:

**“PART III – Short-term Rental Brokerage**

**8 Licensing Requirements**

- 8.1 A Licence issued under this Part is valid for a maximum period of three (3) years and will expire on March 31 of the applicable period. The Licence may be renewed every three (3) years prior to March 31 by paying the applicable Licence fee.
- 8.2 A Licence issued under this Part shall expire if it is not renewed by the date required in Section 8.1 above.
- 8.3 A Licence issued under this Part cannot be assigned or transferred from the Short-term Rental Brokerage to another Person.

**9 Licence Issuance**

- 9.1 The Director shall issue or renew a Licence under this Part 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 Brokerage in accordance with applicable provisions of this By-Law; or
  - b. the Director reasonably believes that the issuing of a Licence to a Person could be adverse to the public interest.
- 9.2 Any Person seeking to obtain a Licence under this Part shall provide:
- a. a completed 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 including:
    - i) the full name of the applicant,

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- ii) if the applicant is a corporation, the relevant duly certified incorporating documents and an updated certified copy of an annual return;
    - iii) if the applicant is a partnership, certified documents indicating the name of the partnership and the names and addresses of each partner; and,
    - iv) any other information required by the Director;
  - b. proof that the applicant is eighteen (18) years of age or older;
  - c. the address of a place of business in the Province of Ontario, which is not a post office box, to which the Director may send during business hours any notice or documentation or communication that may be required under this By-Law and at which the applicant or the applicant's agent will accept receipt of such notice, documentation or communication;
  - d. the name, telephone number and email address of a designated representative;
  - e. the applicable fee as prescribed by the Fees and Charges By-Law; and
  - f. an up-to-date listing of every Short-term Rental being made available by the applicant within the jurisdictional boundaries of the City of Kingston, as at a date that is no later than seven (7) days from the date of the Licence application.
- 9.3 If required by the City, an applicant under this Part shall execute, prior to obtaining a licence, an agreement with the City governing the collection, use, disclosure, and retention of information on Short-term Rentals, hosts, and guests, on terms satisfactory to the Director.
- 9.4 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.
- 9.5 A Short-term Rental Brokerage shall notify the Director, in writing, within fourteen (14) days of any change to the information or documentation submitted with the Short-term Rental Brokerage's application, and as soon as is practicable, provide such updated information or documentation as may be required by the Director.

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**10 Regulations**

**10.1 Every Short-term Rental Brokerage shall:**

- a. remit to the Director the records required pursuant to this Part every three (3) months following the date of Licence issuance;
- b. make available to the Director the records or information required pursuant to this Part for a specific municipal address within forty-eight (48) hours following a request to do so;
- c. have and maintain a system for receiving and responding to complaints from the public;
- d. convey any communications issued by the Director that relate to matters of municipal regulation to all hosts in a format and manner prescribed by the Director;
- e. keep a record of each concluded transaction in relation to a Short-term Rental listed or advertised on its platform within the geographic boundaries of the City of Kingston for three (3) years following the last day of the rental period. A transaction is concluded on the last day of the rental period. The records retained shall include the following:

- i. the name, address, licence number of the Short-term Rental Operator, and email contact information;
- ii. the number of nights the Short-term Rental was rented;
- iii. the nightly and total price charged for the Short-term Rental;
- iv. the municipal accommodation tax charged on the transaction; and
- v. the total number of complaints received by the Short-term Rental Brokerage in respect of each Short-term Rental Operator; and any other information required by the Director.

**10.3** Within forty-eight (48) hours after written request from the Director, every Short-term Rental Brokerage shall remove from its platform any Short-term Rental listings identified by the City for removal.

**10.4** No Short-term Rental Brokerage shall impose any term or condition or type of requirement on any Person, including a Short-term Rental Operator or guest using its platform or services, that prevents or hinders the ability of the City to enforce its by-laws.

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**PART IV – EXEMPTIONS, ENFORCEMENT, AND GENERAL”;**

- (v) the former subsection 8.1 (Exemptions) is amended by deleting clause (j) and replacing it with the following:
  - “j. a Boarding, Lodging or Rooming House; or
  - k. accommodations rented out to tenants in accordance with the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17.”;
- (w) the former section 9 (Enforcement) is amended by replacing all references to Section 9 with Section 12;
- (x) the former section 10 (Orders) is amended by replacing all references to Section 10 with Section 13; and
- (y) the former section 11 (Offence and Penalty Provisions) is amended by replacing all references to Section 11 with Section 14.

**2. Coming into Force**

- 2.1 This by-law will come into force and take effect on the day it is passed.

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|-------------------------|------|
| 1 <sup>st</sup> Reading | date |
| 2 <sup>nd</sup> Reading | date |
| 3 <sup>rd</sup> Reading | date |
| Passed                  | date |

Janet Jaynes  
City Clerk

Bryan Paterson  
Mayor