

Residential Rental Units Licensing By-law

CP-19 - Enacted – September 21, 2009

In Force – March 1, 2010

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Bill No. 402
2009

By-law No. CP-19

A By-law to provide for the licensing and regulation of Residential Rental Units in the City of London.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25 provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 11 Business Licensing;

AND WHEREAS subsection 151(1) of the *Municipal Act, 2001* provides that, without limiting sections 9 and 10 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 to 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,
- (g) 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 any part of a system of licences established by the municipality;

AND WHEREAS subsection 151(5) of the *Municipal Act, 2001* provides that subsection 151(1) applies necessary modifications to a system of licences 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 the Council for the City of London considers it necessary and desirable for the public to regulate the renting of residential premises for the purpose of protecting the health and safety of the persons residing in residential rental premises by ensuring that the certain regulations are met, that the required essentials such as plumbing, heating and water are provided, for ensuring that the residential rental premises do not create a nuisance to the surrounding properties and neighbourhood and to protect the residential amenity, character and stability of residential areas;

AND WHEREAS section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons,

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and,
- (c) for the use of its property including property under its control;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE The Council of The Corporation of the City of London hereby enacts as follows:

1.0 DEFINITIONS

1.1 For the purpose of this By-law:

“Apartment Building” means a building or existing non-residential building that is divided horizontally and/or vertically into five or more separate Dwelling Units but does not include a Converted Dwelling.

“Applicant” means a person applying for a licence under this By-law;

“Building” means any structure consisting of a roof supported by walls or columns which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment and includes a carport;

“City” means The Corporation of the City of London;

“City Treasurer” means the Treasurer of The Corporation of the City of London or a person delegated by him or her for the purposes of this By-law.

“Converted Dwelling” means an existing dwelling constructed as a single, semi-detached, duplex or triplex dwelling on an existing lot prior to July 1, 1993 in which the number of Dwelling Units has been increased without significant alteration to the exterior of the building except for non-leasable floor such as fire escapes, stairwells and entrances to a maximum of 10 percent (10%) of the dwelling or 30.0 square metres, whichever is the lesser.

“Council” means the Municipal Council of The Corporation of the City of London;

“Director of Building Controls” means the Chief Building Official as appointed by Council pursuant to the *Building Code Act*;

“Dwelling Unit” means a single room or a series of rooms of complementary use which is located in a building, in which food preparation, eating, living, sleeping and sanitary facilities are provided for the exclusive use of the occupants thereof, which has a private entrance directly from outside the building or from a common hallway inside the building, in which all occupants have access to all of the habitable areas and facilities of the unit, and which is occupied and used or capable of being occupied and used as a single and independent housekeeping establishment.

“Fire Chief” means the Chief of London Fire Services of the City or a person delegated by him or her for the purposes of this By-law;

“Hearings Committee” means a person or body that has been delegated the power or duty to hold a hearing or provide an opportunity to be heard for the purpose of this By-law;

“Licensee” means any person licensed under this By-law;

“Licence Manager” means the Director of Building Controls;

“Lot” means a parcel of land which is;

- (i) shown on a registered plan of subdivision; or
- (ii) described in a single Transfer/Deed of Land of legal effect registered in the Land Registry Office or the Land Titles Office for the Land Registry Division of Middlesex.

“Manager of By-law Enforcement” means the Manager of By-law Enforcement of the City or a person delegated by him for the purposes of this By-law;

“Medical Officer of Health” means the Medical Officer of Health for the Middlesex-London District Health Unit or a person delegated by him for the purposes of this By-law;

“Municipality” means the land within the geographic limit of the City of London;

“Owner” includes:

- (i) each owner of a Rental Unit;
- (ii) each person who permits occupancy of a Rental Unit; and,
- (iii) the heirs, assigns, personal representatives and successors in title of a person referred to in clauses (i) and (ii).

“Rental Property” includes each Building containing a Rental Unit and the Lot on which the Rental Unit is situate.

“Rental Unit” means a Building or part of a Building:

- (i) consisting of one or more rooms;
- (ii) containing toilet and cooking facilities;
- (iii) designed for use as a single housekeeping establishment; and
- (iv) used or intended for use as a rented residential premises.

“Stacked Townhouse” means a building designed to contain three or more Dwelling Units attached side by side, two units high, with each Dwelling Unit having a private entrance to grade level and a private open space area of any upper unit may utilize a portion of the roof of any lower unit.

“Townhouse” means a building divided vertically into three or more attached Dwelling Units by common walls extending from the base of the foundation to the roof line, each Dwelling Unit having a separate entrance at grade, and so located on a lot that individual units may not have legal frontage on a public street.

“Tenant” includes a person who pays rent in return for the right to occupy a Rental Unit and includes the person's heirs, assigns (including subtenants) and personal representatives.

2.0 PROHIBITIONS

2.1 No person shall operate a Rental Unit without holding a current valid licence issued under the provisions of this By-law.

2.2 No person shall hold himself, herself or itself out to be licensed under this By-law if they are not.

2.3 No person shall contravene or fail to comply with a term or condition of his, her or its licence imposed under this By-law.

2.4 No person shall operate a Rental Unit while their licence issued under this By-law is under suspension.

3.0 APPLICATION OF BY-LAW

3.1 This By-law shall not apply to:

- (a) a Rental Unit in an Apartment Building, a Stacked Townhouse or a Townhouse;
- (b) a Rental Unit that meets all of the following conditions:
 - (i) the Rental Unit constitutes the principle residence of the registered owner;
 - (ii) the Rental Unit is temporarily rented by the registered owner for a period of time no greater than 12 consecutive months in any 24 month period;
 - (iii) the Rental Unit was occupied by the registered owner immediately prior to its rental;
 - (iv) the registered owner of the Rental Unit is temporarily living outside of the Municipality; and,
 - (v) the registered owner intends to reoccupy the Rental Unit upon termination of the temporary rental.

4.0 ADMINISTRATION

4.1 The administration of this By-law is assigned to the Licence Manager who shall generally perform all of the administrative functions conferred upon him or her by this By-law and without limitation may:

- (a) receive and process all applications for all licenses and renewals of licences under this By-law;
- (b) issue licenses in accordance with the provisions of this By-law;
- (c) impose terms and conditions on licences in accordance with this By-law; and,
- (d) refuse to issue or renew a licence or revoke or suspend a licence in accordance with this By-law.

5.0 APPLICATIONS FOR A LICENCE AND RENEWAL OF LICENCE

5.1 Every application for a licence and renewal licence shall be made to the Licence Manager on the forms provided by the Licence Manager. Without limitation, every application for a licence or a renewal shall include the following information:

- (a) the name, municipal address and telephone number of each Owner;
- (b) if the Owner is a partnership, the name, address and telephone number of each partner;
- (c) if the Owner is a corporation, the address of its head office, the name, address and telephone number of each director and officer;
- (d) the municipal address and legal description of the Rental Unit;
- (e) a sworn statement by the Owner certifying the accuracy, truthfulness and completeness of the application;
- (f) if the Owner is a partnership, a sworn statement by each partner certifying the accuracy, truthfulness and completeness of the application; and,
- (g) if the Owner is a corporation, a sworn statement by an officer of the corporation duly authorized for that purpose certifying the accuracy, truthfulness and completeness of the application.

5.2 Every person applying for a licence or a renewal of a licence shall provide in full at the time the application is submitted all of the information requested on the application form as well as:

- (a) payment of the prescribed fee as set out in Schedule "A" of this By-law;
- (b) a copy of the Transfer/Deed and parcel abstract dated no later than fifteen (15) days prior to the date of the application evidencing the Owner's ownership of the Rental Unit;
- (c) if the Applicant or Licensee is a corporation, a copy of the incorporating documentation, a copy of the last initial notice or notice of change which has been filed with the provincial or federal government and a Certificate of Status issued by the Ministry of Government and Consumer Services dated no later than fifteen (15) days prior to the date of the application;
- (d) if the Applicant or Licensee is a partnership, details of each partner's interest in the partnership; and,
- (e) any other documentation or information as may be required in any other Part of this By-law and by the Licence Manager.

5.3 The Licence Manager may require affidavits in support of an application for or a renewal of a licence.

5.4 Every application may be subject to investigations by and comments or recommendations from the municipal or provincial department or agencies as the Licence Manager deems necessary including but not limited to:

- (a) the Director of Building Controls;
- (b) the Manager of By-law Enforcement;
- (c) the Fire Chief; and,
- (d) the Medical Officer of Health.

6.0 ISSUANCE OF LICENCES

6.1 Every licence issued under this By-law shall be in the form and manner as provided by the Licence Manager and without limitation shall include on its face the following information;

- (a) the licence number;
- (b) the name, address and telephone number of each Licensee;
- (c) the date the licence was issued and the date it expires; and,
- (d) the municipal address of the Rental Unit.

6.2 Every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold and renewing a licence all of which shall be performed and observed by the Applicant or the Licensee:

- (a) the Applicant or Licensee shall pay the prescribed licence fee as set out in Schedule "A" to this By-law;
- (b) the Applicant or Licensee shall pay all fees and fines owed by the Applicant or Licensee to the City;
- (c) the Applicant or Licensee shall allow, at any reasonable time and when permitted by law, the City to inspect the Rental Unit and the Rental Property;
- (d) the Applicant or Licensee shall ensure that the Rental Unit and the Rental Property are not constructed or equipped so as to hinder the enforcement of this By-law;
- (e) the conduct of the Applicant or Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, shall not afford reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the operation of the Rental Unit in accordance with the law or with honesty or integrity;
- (f) the Rental Unit and Rental Property shall be in accordance with the requirements of the *Building Code Act* and the Regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the Regulations thereunder, and the City's Property Standards By-law CP-16;
- (g) where the Rental Unit or Rental Property is altered and a building permit is required to carry out the alterations, the Rental Unit and Rental Property, as altered, shall be in accordance with the *Building Code Act* and the Regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the Regulations thereunder, and the City's Property Standards By-law CP-16;
- (h) the use of the Rental Unit and Rental Property is permitted or conforms with the uses permitted under the applicable zoning by-law or is a legal non-conforming use;
- (i) the Applicant or Licensee shall not directly or indirectly require or cause a Tenant to refuse to consent to lawful entry and inspection of a Rental Unit or Rental Property for the purpose of determining compliance with this By-law;
- (j) if the Applicant or Licensee is a partnership or a corporation, any change in the composition of the partnership or of the officers and/or directors of the corporation shall be reported to the Licence Manager within ten (10) days;
- (k) the Licensee shall ensure that a legible copy of the license issued under this By-law is posted and maintained in a prominent and visible position inside the Rental Unit near the front entrance.

6.3 A licence issued under this By-law shall be valid only for the period of time for which it was issued.

6.4 The issuance of a licence or renewal thereof under this By-law is not intended and shall not be construed as permission or consent by the City for the Licensee to contravene or fail to observe or comply with any law of Canada, Ontario or any by-law of the City.

6.5 Every licence, at all times, is owned by and is the property of the City and is valid only in respect of the person and for the Rental Unit on the Rental Property named therein. A separate licence shall be required for each Rental Property.

6.6 No licence issued under this By-law may be sold, purchased, leased, mortgaged, charged, assigned, pledged, transferred, seized, distrained or otherwise dealt with.

6.7 The Licensee shall notify the Licence Manager of any change in ownership of the Rental Unit or Rental Property and shall surrender his, her or its licence to the Licence Manager within seventy-two (72) hours of the completion of such change.

6.8 All licence fees and inspection fees paid under this By-law are non-refundable.

7.0 POWERS OF THE LICENCE MANAGER

7.1 The power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to cancel, revoke or suspend a licence, to impose terms and conditions, including special conditions, on a licence, are delegated to the Licence Manager.

7.2 (a) The Licence Manager shall issue a licence or renew a licence where the requirements or conditions of this By-law have been met.

(b) The Licence Manager may refuse to issue, refuse to renew or revoke or suspend a licence or impose a term or condition on a licence on the following grounds:

- (i) the conduct of the Applicant or Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the operation of the Rental Unit in accordance with the law or with honesty or integrity;
- (ii) there are reasonable grounds to believe that an application or other documents provided to the Licence Manager by or on behalf of the Applicant or a Licensee contains a false statement;
- (iii) an Applicant or Licensee is carrying on activities that are in contravention of this By-law; or,
- (iv) an Applicant or Licensee does not meet all of the requirements of this By-law or that the Rental Unit or Rental Property does not comply with the provisions of this By-law.

7.3 Notwithstanding any other provision of this By-law, the Licence Manager may impose terms and conditions on any licence at issuance, renewal or any time during the term of the licence, including special conditions, as are necessary in the opinion of the Licence Manager to give effect to this By-law.

7.4 Where the Licence Manager is of the opinion that:

- (a) an application for a licence or renewal of a licence should be refused;
- (b) a reinstatement should not be made;
- (c) a licence should be revoked;
- (d) a licence should be suspended, or,
- (e) a term or condition of a licence should be imposed;

the Licence Manager shall make that decision.

7.5 Where the Licence Manager has made a decision under subsection 7.4 the Licence Manager's written notice of that decision shall be given to the Applicant or the Licensee by regular mail to the last known address of that person and shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the address of the corporation's registered head office.

7.6 The written notice to be given under subsection 7.5 shall:

- (a) set out the grounds for the decision;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licence Manager; and,
- (d) state that the Applicant or Licensee is entitled to a hearing by the Hearings Committee if the Applicant or Licensee delivers to the City Clerk, within ten (10) days after the notice in subsection 7.5 is served, and the appeal fee as set out in Schedule "A" of this By-law.

7.7 Where no appeal is registered within the required time period, the decision of the Licence Manager shall be final.

7.8 Despite subsection 7.6 where a licence is voluntarily surrendered by the Licensee for revocation, the Licence Manager may revoke the licence without notice to the Licensee.

8.0 HEARINGS BEFORE THE HEARINGS COMMITTEE

8.1 The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Hearings Committee.

8.2 The provisions of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, except sections 17, 17.1 and 19, applies to all hearings conducted by the Hearings Committee under this By-law.

8.3 When the Applicant or Licensee, who has been given written notice of the hearing, does not attend at the appointed time and place, the Hearings Committee may proceed with the hearing in his or her absence and the Applicant or Licensee shall not be entitled to any further notice of the proceeding.

8.4 At the conclusion of the hearing, the Hearings Committee may give its decision orally or in writing but in each case it shall provide its decision in writing, with reasons, within thirty (30) days of the hearing to the Applicant or Licensee and the Licence Manager.

8.5 The Hearings Committee may uphold or vary the decision of the Licence Manager or make any decision that the Licence Manager was entitled to make in the first instance.

8.6 The decision of the Hearings Committee is final.

9.0 ENFORCEMENT

9.1 This By-law may be enforced by a City municipal law enforcement officer or a London Police Service police officer.

9.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law, including carrying out an inspection.

10.0 PENALTY

10.1 Any person who contravenes any provision of this By-law is guilty of an offence.

10.2 A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law is guilty of an offence.

10.3 A person convicted under this By-law is liable to a maximum fine of \$25,000.00 upon a first conviction and a maximum fine of \$50,000.00 for any subsequent conviction.

10.4 Despite section 10.3 where the person convicted is a corporation, the corporation is liable to a maximum fine of \$50,000.00 upon a first conviction and a maximum fine of \$100,000.00 for any subsequent conviction.

10.5 If this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make 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.

11.0 GENERAL

11.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

11.2 If there is a conflict between a provision of this By-law and a provision of any other City by-law, then the more restrictive provision shall apply.

12.0 MISCELLANEOUS

12.1 This by-law may be referred to as the "Residential Rental Units Licensing By-law".

12.2 This by-law shall come into force and effect on March 1, 2010.

PASSED in Open Council on September 21, 2009.

Anne Marie DeCicco-Best
Mayor

Linda Rowe
Acting City Clerk

First Reading - September 21, 2009
Second Reading - September 21, 2009
Third Reading - September 21, 2009

SCHEDULE "A"
FEES

Licence Fee for a licence for each Rental Property	\$ 25.00
Licence Renewal Fee for each licence renewed under this By-law	\$ 25.00
Appeal Fee	\$0.00