
Subject: Lodging Houses – Business Licensing By-law

Report to: Corporate Services Committee

Report date: Wednesday, June 15, 2022

Recommendations

1. That this report be **RECEIVED** for information;
2. That staff **BE DIRECTED** to issue a response to The Corporation of the City of Port Colborne (“Port Colborne”) advising that The Regional Municipality of Niagara does not currently have legislative authority to implement a business licensing regime in respect of lodging houses;
3. That the CAO **BE DIRECTED** to work with CAOs at the local area municipalities (“LAMs”) to develop one universal business licensing by-law at the local level; and
4. That the Regional Chair, in cooperation with the mayors of all of the LAMs, **BE DIRECTED** to send a resolution to the Minister of Municipal Affairs to develop a provincial solution to this issue.

Key Facts

- On April 26, 2021, Port Colborne Council passed a motion (the “Port Colborne Motion”) providing that a request be issued to the Region’s business licensing department to consider implementing the licensing of lodging houses in the Niagara Region; that was subsequently communicated by Port Colborne Staff to Regional Staff for review.
- Staff have considered the matter, including a legal review and jurisdictional scan of the approach to this issue by other Regional municipalities.
- The Region does not currently have the authority under the *Municipal Act*, 2001, to enact a business licensing regime in respect of lodging houses; which authority rests with the local area municipalities who are also best equipped from an operational perspective to implement such a regime.
- At the Regional CAOs’ meeting of June 3rd, 2022, a draft of this report was shared and discussed with the CAOs in agreement; to develop one universal by-law for approval at the local level; and to develop a framework for cooperative effort in enforcing that by-law once it is approved by all of the LAMs.

Financial Considerations

While there are no direct financial implications arising from this report, it is noteworthy that the ‘uploading’ of business licensing in this area (as explained in the ‘Alternatives’ section, below) would attract considerable costs as the Region does not currently have the resources or expertise to provide the necessary oversight required to implement a licensing regime in this area.

Analysis

A. Background

A lodging house (also referred to as a “rooming” or “boarding” house)¹ is typically a living accommodation where sleeping quarters are rented on a per room basis with each tenant having their own separate lease with the property owner. That is, a resident has exclusive use of a specific “room” within the house, with one or more other areas of the building being shared amongst tenants (e.g., kitchen, bathrooms ...etc.). Accordingly, while tenants may live under a single roof, they do not function as a single housekeeping unit. Often, this type of housing arrangement accommodates vulnerable populations that have difficulty living independently (e.g. persons with mental health or physical health challenges) and/or those who have low income.

In 2017, Community Services staff brought a report to the Public Health and Social Services Committee (Report COM 17-2017, attached as Appendix 1 to Report CSD 29-2022), wherein staff identified concerns with lodging houses operating in some of the local area municipalities within Niagara Region. At that time, staff sought direction to establish

¹ Several pieces of legislation and other regulatory instruments provide various definitions of ‘lodging house’: (i) Municipal Act (Ontario) states that a “lodging house” means any house or other building or portion of it in which persons are lodged for hire, but does not include a hotel, hospital, long-term care home, home for the young or institution if it is licensed, approved or supervised under any other Act (s.11.1); (ii); Building Code states that a boarding, lodging or rooming house mean a building (a) that has a building height not exceeding three stores and a building area not exceeding 600m² (b) in which lodging is provided for more than four persons in return for remuneration or for the provision of services or both and (c) in which the lodging rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants [note: the same definition is used in the Fire Code, see ss. 9.3.1.1].

a local working group with local area municipalities in order to assess options to address some of these concerns, including investigating the potential benefits of a by-law to regulate lodging houses in the Niagara Region. A product of those discussions was the development of a draft commonly worded by-law (for consistency across the Niagara Region) that could be enacted by the local area municipalities who have legal jurisdiction over lodging houses.

On April 26, 2021, Port Colborne staff brought a report to its Council, which included a draft by-law and the following recommendations:

That Council request the Niagara Region's Licencing Department staff to implement licencing of lodging houses in the Niagara Region; and

That, if Regional staff does not wish to pursue Regional licencing of lodging homes, City staff are directed to initiate the process of licencing at the municipal level.

Port Colborne's report is attached as Appendix B to Report CSD 29-2022.

B. Authority to Enact a Lodging House Business Licensing Regime

In section 11 of the *Municipal Act*, 2001 (the "Act"), both upper and lower tier municipalities have been granted relatively broad and general authority to provide any service or things that is deemed by the municipality to be necessary and desirable for its constituents. However, that broad authority has limitations as provided for under subsection 11(4) of the Act which states that if a sphere or part of a sphere of jurisdiction is not assigned to an upper tier municipality as set out in the table found within subsection 11, the upper-tier municipality does not have the power to pass by-laws under that sphere and does not have the power to pass by-laws pursuant to the broad and general authority granted in the Act. In the case of business licensing of lodging houses specifically, jurisdiction is granted to lower-tier municipalities, with the specific exception in the region of York. On this basis, the Region does not have legal authority to pass by-laws in relation to lodging houses and any attempt to do so could be quashed as *ultra vires*.

C. Lodging House Licensing Regimes – A Jurisdictional Scan

Given that the Act does not provide upper-tiers with jurisdiction to enact business licensing by-laws in respect of lodging houses, it is not surprising that staff were unable to find any other upper-tier municipality (other than York Region) in a two-tier system who has proceeded with a lodging house bylaw; however, there are a number of lower-tier and single-tier municipalities who have enacted licensing bylaws that capture lodging

houses, including: Hamilton, Ottawa, Toronto, Kitchener, Waterloo, Guelph, Oshawa, London, Barrie, Brampton and Mississauga.

While each of the aforementioned municipality's by-laws varies in scope they all generally place similar requirements on licensees, including with respect to fire code inspections, property maintenance/standard bylaw compliance, building code and zoning compliance – all of which are legislative functions supported or performed by a lower-tier municipalities. Accordingly, lower-tier (and single-tier) municipalities are well positioned to manage a licensing regime of this nature. Conversely, the Region does not employ in-house expertise in any of these areas, which are also outside of its legal jurisdiction to enforce.

There has been some appetite to address the issue of regulating lodging homes at the provincial level with a view to ensuring a consistent licensing framework with minimum standards across the province (similar to the regulation of retirement homes which commenced in 2012). A private member's bill entitled, "Protecting Vulnerable Persons in Supportive Living Accommodation Act" has been introduced in the Ontario legislature no fewer than four times in the last five years.² The Bill requires persons who operate a supportive living accommodation in specified circumstances to hold a licence issued by the Minister and provides for a framework, to be supplemented by regulations, governing applications for and the issuance of licences, the obligations of persons who operate a supportive living accommodation under the authority of a licence, inspections, and complaints. The current iteration of the Bill passed first reading on December 9, 2021, but has died on the order table on account of the current election.

Alternatives Reviewed

- A. Notwithstanding the fact that the Region does not currently have the authority to pass a by-law in this area, the Municipal Act does include a regime to allow for the transfer of powers between tiers. Pursuant to section 189 of the Act, an upper-tier municipality may pass a by-law to provide for the transfer of all or part of a "lower

² Bill 135, Protecting Vulnerable Persons in Supportive Living Accommodation Act, 2017 was introduced by the then MPP for Welland, Cindy Forster and carried second reading and was referred to the Standing Committee on General Government where it remained. It received support from a number of municipalities. It was again introduced in 2018 as Bill 48, in 2020 as Bill 164 and in 2021, by Jeff Burch as Bill 81.

tier power” to the upper-tier municipality. An upper-tier transfer by-law requires a triple majority, being (i) a majority of all votes of the upper-tier council, (ii) a majority of the councils of all local municipalities having passed resolutions consenting to the assumption, and (iii) the total number of electors in the consenting local municipalities comprise a majority of all electors in the upper-tier municipality. While technically possible, this option is not recommended given that the Region, owing to its spheres of jurisdiction, and the other legislative regimes in place that regulate lodging houses (e.g. Building Code, Fire Code that rest with the local area municipalities), is not well positioned to manage many of the requirements required for a licensing regime of this nature to be effective.

- B. Staff could further investigate the possibility of a lower-tier municipality delegating the task of administering and enforcing its business licensing bylaw to the Region. Section 23 of the Act sets out the general powers of a municipality to delegate (subject to some restriction) to another person or body that could be considered further. However, for the same reasons that the ‘transfer’ of the lower-tier power to the Region is not recommended, so too is this option not recommended – the Region simply does not have the resources or expertise to provide the necessary oversight required to implement a licensing regime in this area.

Relationship to Council Strategic Priorities

The recommendation in this report is consistent with Council’s commitment to providing high quality, efficient, and fiscally sustainable core services.

Other Pertinent Reports

COM 17-2017

Prepared by:

Brian Wilson
Legal Counsel
Corporate Services

Recommended by:

Todd Harrison, CPA, CMA
Commissioner/Treasurer
Corporate Services

Submitted by:

Ron Tripp, P.Eng.
Chief Administrative Officer

This report was prepared in consultation with Adrienne Jugley, Commissioner Community Services and Angelo Apfelbaum, Manager Business Licensing.

Appendices

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| Appendix 1 | COM 17-2017 – Rooming and Lodging Houses in Niagara |
| Appendix 2 | City of Port Colborne Report – Lodging House and Licencing By-law, April 26, 2021 |

Subject: Rooming and Lodging Housing in Niagara

Report to: Public Health and Social Services Committee

Report date: Tuesday, May 30, 2017

Recommendation

That staff **BE REQUESTED** to explore with local area municipalities options, including commonly worded by-laws, that may better ensure the provision of basic and humane necessities of life in boarding and lodging houses in Niagara.

Key Facts

- The purpose of this report is to seek Council's approval to investigate the potential benefits of a by-law to regulate boarding and lodging houses in Niagara.
- A boarding and lodging house is typically a house or building where a resident pays rent to a landlord not only for a room, but also to receive meals and possibly other services.
- This type of housing typically accommodates vulnerable populations that have difficulty living independently, such as persons with significant mental health or physical health challenges, who are on social assistance or have low incomes.
- During the course of inspection visits related to the physical environment or visits to residents by service agencies, staff have encountered very disturbing situations of lack of adequate food provision, risk of abuse and the existence of squalid living conditions in some boarding and lodging houses. Remedy for these conditions falls outside of the jurisdiction of any of the enforcement agencies that have had right of entry, including public health, fire or property standards.
- As of 2017 neither Niagara Region nor any of the local area municipalities have by-laws specific to boarding and lodging houses. This has further resulted in challenges for staff in both levels of government related to data collection, service standards, an ability to adequately respond to complaints and ensure safe and humane conditions of boarding and lodging house residents.

Financial Considerations

There are no direct financial implications arising from this report. Consideration of the costs and benefits of available options, including commonly worded by-laws, as well as a review of best practices in other Ontario jurisdictions can be conducted by staff with input from an existing local working group.

Analysis

Definition

A boarding and lodging house is typically a house or building where a resident pays rent to a landlord not only for a room (which may or may not be shared with other persons), but also to receive meals. Some housekeeping services might also be provided, such as a change of bedding, and sometimes resident medications are stored and distributed as part of the service provided. Boarding and lodging houses are considered in the *Residential Tenancies Act (HSC-1)*.

Scale

Data from Niagara Region Public Health and Emergency Services (NRPHEs) and Planning and Development Services suggests that there are approximately 23 to 65 boarding and lodging houses operating within 8 or 9 municipalities across Niagara. NRPHEs data confirms inspections in 2016 at 23 boarding and lodging houses with ten or more lodgers. These operations accounted for 0.4% of the total 5,764 fixed facilities inspected in 2016 under the purview of Public Health. Planning and Development Services has identified, through the 2017 MPAC assessment index, that there are approximately 65 boarding and lodging houses with various numbers of lodgers operating within the Niagara region. Exact numbers are not currently available, since in the absence of a license, boarding and lodging house operators do not have a duty to report.

Tenants

Boarding and lodging houses provide low rent accommodation, often to vulnerable populations, including those with physical or mental health concerns, and/or developmental disabilities. They are also a housing option for individuals with low income who have been discharged from institutions such as hospitals or correctional facilities. Tenants typically have very low incomes with sources such as social assistance (Ontario Disability Support Program (ODSP), or Ontario Works (OW)) or old age security. After paying operators for accommodation, food and services, these tenants rarely have any remaining funds to spend on food or services beyond those provided by the boarding and lodging house. It is therefore not surprising that government may be expected to hold operators accountable to ensure that the accommodation, food, and service tenants receive is sufficient to meet their needs.

Operators

In Niagara, boarding and lodging houses are operated by either private or non-profit operators. Should by-laws be established in a municipality, operators will expect clearly defined and consistent legislative requirements that support their ability to operate in an efficient and cost effective manner.

Legislation

Boarding and lodging houses are distinct from hotels, hospitals, long term care homes, retirement homes, or institutions for individuals with physical or mental health concerns or developmental disabilities, which are generally covered under other legislation.

Boarding and lodging houses have limited requirements under the provincial *Health Protection and Promotion Act*. Boarding and lodging homes in Niagara, that serve greater than ten boarders, are considered within the Food Premises Regulation, whereby the kitchen and food preparation practices are inspected. While this regulation addresses food handling and food safety concerns, it does not address other food related concerns such as number, frequency, and nutritional quality of meals provided.

Property Standards consider areas such as: safety/structural problems with buildings, pests (cockroaches), vital services (heat/hydro/water), and interior/exterior property maintenance. Non-compliance with property standards is handled by the appropriate local municipality.

Under the *Residential Tenancies Act, 2006*, landlords are required to not withhold the reasonable supply of any vital service, care service, or food that it is the landlord's obligation to supply. With no agreed upon standards for vital services, care services, or food provided at boarding and lodging houses, and no mechanism for ensuring adherence to standards, assurance of quality of life for lodgers is left to the purview of individual operators, or to tenants to address through a complaint process. The latter rarely occurs as all too often tenants find the process too daunting and complicated, or express an unwillingness to complain due to fear of eviction.

Governmental Partners

The examination of Niagara's experience with this sector of housing has involved a number of staff within the Regional and local municipal tiers of government, including: Community Services, Public Health, Planning and Development Services, Niagara Regional Housing (NRH), Mental Health, Niagara Regional Police; as well as municipal Fire and Emergency Services and the Ministry of Community and Social Services.

A group of community stakeholders has been meeting informally for some time and formally since March 2016 in response to growing concerns related to the well-being of tenants in some boarding and lodging houses operating within Niagara. This group includes representatives from mental health, community health, seniors services, municipal fire prevention, police, public health, legal aid and community services. The stakeholder group has spent significant time reviewing existing legislation that might apply to boarding and lodging houses, as well as gaining a better understanding of the impact of the sector on the local housing continuum and the population that resides in them. Further work to explore the merits and considerations of commonly worded by-laws should include local area municipalities' property standards and fire prevention, police, and public health.

Complaints

Anecdotal experience in Toronto suggests that housing conditions in unlicensed boarding and lodging houses are often substandard.¹ This appears to be consistent with the experience in Niagara. Complaints made by tenants, their friends and families, or community agencies received by local building and fire officials, Niagara Region Community Services, and NRPHEs, have raised concern that tenants in some boarding and lodging houses are not receiving adequate care service and/or food and may be at risk for exploitation.

In 2016, NRPHEs received 18 complaints linked to potential health hazards at boarding and lodging houses resulting in the issuance of 8 legal charges. These legal charges represent 33% of the total number of charges laid against inspected facilities in 2016.

A representative sample of complaints from tenants at some boarding and lodging houses to which Community Services or NRPHEs was asked to respond in 2016 includes:

- Units in disrepair: water leaking into walls, mould on walls, lack of running water, or toilets that do not flush;
- Tenants regularly feeling hungry because of inadequately sized meals or being denied meals by the operator;
- Tenants being denied healthy meal options to address health concerns such as diabetes or heart disease;
- Requiring tenants to give control of their finances to the operator as their “Trustee”, and then keeping the tenant’s money with a balance over and above that required by the operator for accommodation, food, and services provided;
- An operator relocating tenants to other properties without providing the tenant with reasonable notice or choice of location;
- Requiring a resident to purchase their medications at a pharmacy as directed by the operator;
- Concerns related to appropriate storage, distribution and administration of medications;
- Tenants not receiving medications as prescribed;
- An operator interfering with a tenant’s ability to enter or exit the facility at will, and freedom to associate with staff or access services from local service providers; and
- An operator actively coercing a tenant not to talk about or complain about their experience at the boarding and lodging house

¹ Hwang, S., Martin, R., Tolomiczenko, G., & Hulchanski, J. (2003). The Relationship Between Housing Conditions and Health Status of Rooming House Residents in Toronto. *Canadian Journal of Public Health / Revue Canadienne De Sante'e Publique*, 94(6), 436-440. Retrieved from <http://www.jstor.org/stable/41993739>

Conclusion

Community Services requests Council direction to investigate the feasibility and benefit of commonly worded by-laws to regulate boarding and lodging houses operating within Niagara. The potential purpose of by-laws would be to set standards with respect to food and service provision, as well as roles and responsibilities for setting and ensuring compliance to standards. By-laws would be intended to protect the interests of tenants while recognizing the unique role of boarding and lodging houses and respecting the needs of operators for a consistent regulatory framework.

Alternatives Reviewed

A review of best practices within Ontario has identified Ottawa, Hamilton, and London as having successfully implemented by-laws to regulate boarding and lodging houses.

Relationship to Council Strategic Priorities

Growing pressure on Niagara's limited rental housing market is increasing the importance of boarding and lodging houses as a critical component of Niagara's affordable housing spectrum. Improving the conditions of this sector will support the availability of quality permanent housing options for vulnerable community members who otherwise would be at risk of homelessness or rely on more costly resources such as local hospitals, or shelters.

Other Pertinent Reports

None

Prepared by:

Jeffrey Sinclair
Homelessness Action Plan Advisor
Community Services

Recommended by:

Adrienne Jugley
Commissioner Community Services
Community Services

Recommended by:

Valerie Jaeger, MD, PhD, MPH
Medical Officer of Health

Submitted by:

Carmelo D'Angelo, BSc, MPA
Chief Administrative Officer

This report was prepared by Jeffrey Sinclair in consultation with Chandra Hardeen, Manager Homelessness Services, Chris Gaspar, Manager Environmental Health, Heather Gillespie, Manager Community Mental Health, and Erik Acs, Planner and reviewed by Cathy Cousins, Director, Homelessness Services & Community Engagement.



Subject: Lodging House Licencing By-law

To: Council

From: Chief Administrative Office

Report Number: 2021-116

Meeting Date: April 26, 2021

Recommendation:

That Chief Administrative Office Report 2021-116 be received;

That Council request the Niagara Region's Licencing Department staff to implement licencing of lodging houses in the Niagara Region; and

That, if Regional staff does not wish to pursue Regional licencing of lodging homes, City staff are directed to initiate the process of licencing at the municipal level.

Purpose:

This report is prepared at the request of Council to provide recommended options to protect vulnerable tenants of Lodging Houses in Port Colborne. Lodging houses are unregulated, and staff feel that there is an opportunity to put regulations in place to protect the occupants of these residential facilities.

Background:

There are a number of lodging houses operating in Port Colborne. Lodging houses are defined in the City's Zoning By-law as:

Boarding or Lodging House: Means a dwelling in which the proprietor supplies, for gain lodging, with or without meals, to more than four persons, but does not include a group home, hotel, hospital or other establishment otherwise classified or defined in this By-law.

Lodging houses are also defined in the Building Code and the Fire Code. In many instances, lodging houses are operating as supportive living homes. Supportive living

homes often provide housing for low-income seniors and people with disabilities who need assistance to live on their own.

In the past, City staff have received complaints about the living conditions and safety conditions in lodging houses, however, the City has no enforcement tools to address these complaints because there is no existing regulation of lodging houses. Without provincial, regional, or municipal regulation, staff have no authority to enforce unsatisfactory conditions in these facilities.

Discussion:

Staff believe that it is important to regulate lodging houses in Port Colborne and see three options to introduce regulation.

Option 1 – Provincial Regulation

Staff believe that the regulation of lodging houses could come in the form of Provincial legislation that licences operations of this type Province-wide. This would be in the same manner that the Province regulates rental accommodations through the Residential Tenancies Act or nursing homes through the Nursing Homes Act. The local Member of Provincial Parliament introduced legislation to regulate supportive living accommodations in the provincial legislature in 2019 (Appendix A). The proposed bill has passed two readings in 2020 and has been referred to the Standing Committee on General Government.

Staff believe that provincial legislation is the preferred method to regulate lodging houses in Ontario, however there is no indication if the Private Member's Bill will pass the legislature or what the expected timing will be. Staff do not feel that there is a likelihood of a provincial solution to the lodging house issue.

Option 2 – Regional Regulation

Staff believe that another model for regulation of lodging homes is through a regional by-law that applies to the entire Niagara Region. Staff believe this model would be beneficial as it would create an operating environment that is consistent throughout the Region.

Port Colborne staff believe that, in the absence of Provincial regulation, Regional regulation is the next best option and is preferable to regulation at the City level. Staff have discussed this option with Regional staff and the initial indication is that the Region would prefer to have lodging by-laws passed at the City level rather than at the Regional level.

Option 3 – Municipal Regulation

A third option to provide a regulatory environment for lodging homes is for the City to enact a by-law that applies to this type of operation within Port Colborne. For several years, staff have been working on a draft by-law with various departments at the City, other municipalities and agencies, the City solicitor, and staff at Niagara Region.

Staff have developed a draft Lodging House Licencing By-law (attached as Appendix B). Staff believe that this by-law is a reasonable choice to implement in the event that a licencing regime is not implemented at either the Province or the Regional level. Staff believe that the Provincial or Regional licencing system is preferred over the municipal licencing system.

If Council decides to direct staff to bring the draft lodging House Licencing By-law before Council for consideration, staff would recommend holding a public open house to gather public comments about the proposed by-law and to provide an opportunity for operators of lodging homes to provide comments to Council.

Internal Consultations:

The proposed by-law has been the subject of several years of effort – both by City staff and external agencies. The Region and a number of other municipalities have worked on similar by-laws and these efforts have contributed to this draft by-law. The draft by-law has also been the subject of discussion at the City's Social Determinants of Health Committee. Likewise, the Region has administered a working group to help develop the draft by-law and the City's previous Deputy Fire Chief was an active contributor to the proposed by-law as a member of the working group.

More recently, staff have been actively working on tailoring the draft by-law to meet the City's needs. This exercise has included the Chief Administrative Officer as well as staff from the By-law Division, Fire Department, Clerk's Division, Planning Department and staff from Niagara Region Community Services.

Region of Niagara Comments:

The following background information has been provided by Niagara Region staff:

In 2017 Regional Council directed that regional staff create a working group with the mandate to explore with local area municipalities options, including commonly worded by-laws, that may better ensure the provision of basic and humane necessities of life in boarding and lodging houses in Niagara. This work was linked to the goal of Niagara's 10-year Housing and Homelessness Action Plan (HHAP) to provide safe, affordable housing options for all Niagara residents.

The challenge crossed multiple levels of government (Provincial, Regional, and Municipal) and areas of responsibility/jurisdiction (Fire, Residential Tenancies, Health, Mental Health, Police, and Food Safety). To address this, the working group engaged a variety of subject matter and sector experts from municipal government and community agencies, including: Homelessness Services, Social Assistance, municipal Fire Prevention, municipal Planning and By-law, Public Health (Mental Health and Environmental Health), Community Legal Clinic, and service providers. Differences in local context were addressed by including representatives from different local area municipalities, including Port Colborne.

Through a facilitated process the working group identified specific issues related to rooming houses to be addressed, identified the interests and needs of key stakeholders, developed a list of possible solutions, evaluated the possible solutions, and developed recommendations. The group also explored examples from different jurisdictions including Alberta, London, Ottawa, Hamilton, and local area municipalities. As a result of this process the group recommended the creation of a commonly worded By-law for Rooming Houses that could be adapted to meet the needs of local area municipalities. A draft commonly worded by-law was completed in December 2018 and shared with local area municipalities in 2019.

A staff member from Niagara Region who was involved in the regional working group and the preparation of the draft commonly worded by-law was available to the City of Port Colborne in a consultancy role during the development of the City's draft municipal by-law.

Financial Implications:

There would be a cost in staff time to implement and administer a licencing regime for lodging houses in Port Colborne. Staff would recommend implementing a licence fee to help mitigate the financial impact of administering the licencing program.

Public Engagement:

If Council chooses to direct staff to bring the draft by-law forward, staff recommend that a public meeting be held to receive comments from the community with respect to the proposed Lodging House Licencing By-law. If a public meeting is scheduled, staff will notify the proprietors of any known lodging houses in Port Colborne.

Conclusion:

Staff believe that it is important to provide protection to residents of lodging homes by regulating their operations in Port Colborne with a licencing regime. Staff are of the opinion that the most appropriate agency to establish licencing is the Province of Ontario, in the event that the Province is unwilling to regulate these activities, staff believe the Region of Niagara is the next most appropriate agency. If neither the Province, nor the Region undertakes licencing of lodging homes, staff recommend the attached licencing by-law be enacted at the City level.

Appendices:

- a. Appendix A – Article – Supporting Living Homes
- b. Appendix B – Draft Lodging House By-law

Respectfully submitted,

Scott Luey
Chief Administrative Officer
905-835-2900 ext. 306
Scott.Luey@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final approval is by the Chief Administrative Officer.

NDP MPP Jeff Burch tables legislation to protect vulnerable Ontarians in supportive living homes

Report 2021-116
Appendix A

QUEEN'S PARK- NOP MPP Jeff Burch (Niagara Centre) has announced a new private member's bill to regulate supportive living homes.

The Protecting Vulnerable Persons in Supportive Living Accommodation Bill provides a framework for operators and sets minimum standards that must be met so that tenants are no longer at risk.

"Residents of supportive living homes are some of the most vulnerable people in our province, and deserve to be protected.

"The sector remains unregulated with no minimum standards of care. We've heard too many shocking stories of high-risk adults and seniors being mistreated, neglected and left to live in deplorable conditions," said Burch on Tuesday during a press conference at the Ontario legislature.

"When things go wrong there is nowhere for residents and their families to turn, and these unlicensed private operators are allowed to carry on offering inadequate care to others.

"This legislation will finally require operators to be licensed to ensure all Ontarians in supportive living homes receive a high standard of quality of care, food and accommodation."

Supportive living homes include low-income seniors and people with disabilities who need assistance to live on their own, and also provide accommodation for people experiencing mental health and addictions issues.

Burch was joined at the press conference by Karen Barry, the daughter of a former supportive living home resident, who shared her father's first-hand experiences as a resident of an unregulated group home.

"In the home my father was placed in, he had to contend with unsanitary conditions, bed bugs in the apartments above him and rodent infestation in the basement below him that was also used for food storage," said Barry.

"He lived in fear and neglect and he paid a significant amount each month to do so. He ended up living a nightmare that I can't forget, I don't think he can either."

Burch's private member's bill, to be tabled Tuesday, will create a framework for inspection and complaint protocols, introduce new safeguards to protect residents, and will make failure to have a license a punishable offence with fines of up to \$7,000 per day.

"Alberta introduced provincial legislation to protect their vulnerable residents living in supportive living facilities almost a decade ago. We need action in Ontario to stop more vulnerable people suffering at the hands of these unlicensed for-profit operators," added Burch.

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to provide for the licensing, regulating and governing of Lodging Houses.

WHEREAS section 151 of the Municipal Act, R.S.O. 1990, c. M.45, as amended, provides that the Council of a local Municipality may pass by-laws for licensing, regulating and governing any business carried on within the Municipality.

AND WHEREAS on the following dates, the City held open houses and public meetings with respect to the licensing proposal: **(add dates)**

AND WHEREAS Council of the Corporation of City of Port Colborne approved Report **(add report and date)** recommending the adoption of a by-law to provide for the licensing and regulation of Lodging Houses within the City of Port Colborne.

AND WHEREAS the Council of the Corporation of City of Port Colborne deems it desirable and expedient to license, regulate and govern Lodging Houses.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF CITY OF PORT COLBORNE ENACTS AS FOLLOWS:

DEFINITIONS:

1. In this by-law

“Applicant” means a Person applying for a licence under this by-law;

“Assistance in daily activities” means assistance with activities that allow individuals to live independently in their community, such as cleaning and maintaining a house, managing money, preparing or provision of meals, shopping for groceries and other necessities, using the telephone or other form of communication, taking prescription drugs, or transportation.

“Clerk” means the Clerk for The Corporation of City of Port Colborne;

“Council” means the Council of The Corporation of City of Port Colborne;

“Guardian of the Person” means the Guardian of the Person or attorney for Personal care who is responsible for decisions regarding the Tenant’s Personal care, including health care, pursuant to the *Substitute Decisions Act*, 1992, S.O. 1992, c. 30, as amended;

“Guardian of Property” means the attorney for property or statutory or court-appointed Guardian of Property who is managing the property of the Tenant pursuant to the *Substitute Decisions Act*, 1992, S.O. 1992, c. 30, as amended;

“Health and Support Worker” means a Person who provides services or assistance to a Tenant in order to improve the Tenant’s health and social condition and who is not a Health Care Professional;

“Health Care Professional” means a Person who is a member of a College that is governed by a health profession act included in Schedule 1 of the *Regulated Health Professions Act*, 1991, c.18, as amended;

“Inspector” means the Medical Officer of Health, the Fire Chief of the Municipality, the Chief Building Official of the Municipality, & a Municipal Law Enforcement Officer or their respective designate.

“Landlord” includes,

- (a) the Owner of a Rental Unit or any other Person who permits occupancy of a Rental Unit, other than a Tenant who occupies a Rental Unit in a residential complex, and who permits another Person to also occupy the unit or any part of the unit,
- (b) the heirs, assigns, Personal Representatives and successors in title of a Person referred to in clause (a), and
- (c) a Person, other than a Tenant occupying a Rental Unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a Landlord under a tenancy agreement or this Act, including the right to collect rent;

“Licensee” means a Person who holds a valid licence issued under the provisions of this by-law;

“Lodging House” means a building or portion thereof in which Persons are provided living accommodation in separate Rental Units which do not have both sanitary and food preparation facilities for the exclusive use of individual Tenants, and in which Tenants may be provided with meals or other Assistance in daily activities by another Person or Persons, who receives remuneration to provide this assistance, but does not include a tourist establishment or hotel or a hospital, long term care home, nursing home, retirement home, or group home if the institution is licensed, approved or serviced under any provincial statute;

“Medical Officer of Health” means the Medical Officer of Health for the Regional Municipality of Niagara, a designate, or a Person acting under a direction given by the Medical Officer of Health for the Regional Municipality of Niagara;

“Medications” means Medications prescribed or approved by a Health Care Professional or over-the-counter Medications approved by the Tenant’s Guardian of the Person or attorney for Personal care pursuant to the *Substitute Decisions Act*, 1992, S.O. 1992, c. 30;

“Municipality” means The Corporation of City of Port Colborne;

“Municipal Law Enforcement Officer” means a Person appointed by The Corporation of City of Port Colborne to enforce its by-laws and the laws of the Province of Ontario;

“Operator” means an Owner or another Person who has responsibility for carrying out the business of the Lodging House, including but not limited to financial responsibility for accounts payable and receivable and the management of any employees of the Lodging House.;

“Order” means a compliance order issued under section * of the By-law;

“Owner” means a Person who alone or with others has the right to any freehold or other estate in the lands of a Lodging House or to possess or occupy a Lodging House or actually does possess or occupy a Lodging House, other than a Tenant;

“Person” includes, where the context permits, any legal entity;

“Receipt” means an individual Receipt or accounting of an expenditure. The Receipt may be an accounting of the expenditures after a certain point of time (i.e. Monthly) or at the time of each expenditure;

“Rental Unit” means a unit that consists of self-contained living accommodation in a Lodging House that is used, or intended to be used as a residence;

“Representative” of a Tenant means the Guardian of the Person or Guardian of Property for the Tenant, as the context requires, or, if the Tenant does not have a Guardian of the Person or Guardian of Property, the Person the Tenant has authorized in writing to assist the Tenant with specific activities or services;

“Sanitary Facilities” means a room containing the following: a toilet, a wash basin, and a bathtub or shower;

“Tenant” includes a Person who pays rent or provides services in lieu of paying rent, in return for the right to occupy a Rental Unit;

“Trust Accounts” means any account (group or individualized) or internal holding system (cash box or safe) where funds held by the Operator on behalf of the Tenant(s) are kept. This includes situations where the Operator receives deposits

from the Tenant or Guardian of Property for a Tenant and the Tenant withdraws the funds. Money that is provided by a Tenant to the Operator as a rent deposit (last month's rent) for their accommodation is not a trust account;

"Vital Services" includes electricity, heat, fuel, gas, or water (hot and cold).

SHORT TITLE

2. This By-law shall be known as the "Lodging House Licensing By-law".

PROHIBITION

3. Every Owner of a Lodging House shall procure and maintain in good standing a licence from the City authorizing him or her to carry on or engage in the business of owning a Lodging House.
4.
 - (a) No Person shall carry on or engage in the business set out in section 3 within the boundaries of the Municipality unless he or she has a valid licence issued under this by-law permitting him or her to do so.
 - (b) No Person shall fail to comply with a term or condition of a licence issued under this By-law.
 - (c) No Person shall fail to comply with an Order issued under this By-law
 - (d) No Person shall provide false or misleading information to the City when applying for a licence under this By-law, renewing a licence or at any other time.
5. A licence issued under this by-law is not transferable to another Person or another Lodging House.
6. The requirement of obtaining a licence under this by-law is in addition to and not in substitution for any other requirement to obtain a licence or licenses or other regulatory approval under any other federal, provincial or municipal regulation, and obtaining a license under this by-law does not remove any obligations to comply with other applicable law or standards.
7. Subject to section 12, every Licensee and Applicant, respectively, shall, within four business days of any change occurring in any of the information submitted to the Municipality by the Licensee and Applicant in support of the issuance of a license , notify the Clerk in writing of such change, and provide full written disclosure to the Clerk of all relevant information existing after such change.

8. It shall be a condition of every licence that the Licensee shall comply with the provisions of this by-law in operating the business and ensure such compliance by every other Person involved in the operation of such business.

EXEMPTION

9. Notwithstanding any other provision of this By-law to the contrary, a licence to carry on a Lodging House business is not required in any Lodging House with fewer than 3 Tenants.

ADMINISTRATION

10. The power and authority to issue and renew a licence, refuse to issue and refuse to renew a licence, to cancel, to impose terms and conditions including special conditions on a licence are hereby delegated to the Clerk.
11. The Clerk 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 licences and renewal of licences under this By-law;
 - (b) Issue licences 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.

APPLICATION FOR LICENCE

12. Every Applicant seeking to obtain a licence to carry on a Lodging House business shall attend the office of the Clerk and provide:
 - (a) a completed application in the form required by the Municipality which shall include:
 - (i) the municipal address and legal description of the Lodging House;
 - (ii) the name, municipal address, telephone number and email address of each Owner;
 - (iii) evidence of Ownership of the property to the satisfaction of the Clerk;
 - (iv) proof of insurance that:
 - a. Includes a limit of liability of not less than \$2 million for property damage and liability;
 - b. Identifies the use as a Lodging House;

- (v) a sworn statement by each Owner certifying the accuracy, truthfulness and completeness of the Application
 - (b) the fee prescribed in Schedule "A"; and
- 13. Each Lodging House shall be individually licensed to carry on the business of the Lodging House business.
- 14. In the case of a Lodging House owned or operated by a partnership, attendance shall be made by one of the partners, who shall file the application package on behalf of every other partner.
- 15. In the case of a Lodging House owned or operated by a corporation, attendance shall be made by an officer of the corporation who shall file the application package on behalf of the corporation which shall include the following documentation:
 - (a) a certified copy of the corporation's letters of incorporation or other incorporating documents;
 - (b) a certified copy of the most recent filing by the corporation with the Ministry of Government & Consumer Services listing all directors and officers and the address of the head office of the corporation;
 - (c) a resolution of the directors of the corporation authorizing the application for a licence; and
 - (d) the name and address of every Person having responsibility for the management of the Lodging House business of the Applicant.
- 16. A licence issued under this By-law to carry on a Lodging House business expires two (2) years from the date of issuance, unless suspended or revoked.
- 17. A renewal application must be filed at least sixty (60) days prior to a current licence expiring.
- 18.
 - (1) Every Person applying for the renewal of a licence shall submit a renewal application package in the form required by the Municipality to the Clerk by ordinary mail without the necessity of attending at the office of the Clerk.
 - (2) Notwithstanding Section 18(1) above, the Clerk may require an Owner to comply with Section 12, where, in the opinion of the Clerk, the renewal application in respect of the Lodging House is substantially different than the original application.

19. (1) Every Licensee shall report in writing to the Clerk particulars of any pending change in Ownership of the Lodging House business or control of the corporation that owns the Lodging House business at least thirty days prior to such change taking effect. The change in ownership shall trigger a new application, and the prospective Owner or controlling shareholder shall file an application for a licence in accordance with section 12..
- (2) Upon Receipt of the information required to be filed by subsection (1), the Clerk shall circulate and review notice of the change in Ownership or control in accordance with the provisions of this By-law and shall on completion of the required circulation and review, notify in writing, the Licencee, and the prospective Owners, as the case may be of:
- (a) the approval of the license; or
 - (b) the failure of the Applicant to satisfy the requirements of this By-law, with the details of the deficiencies in the application.

APPLICATION PROCEDURES

20. (1) Upon the receipt of a complete application, the Clerk shall undertake the following:
- (a) the Clerk shall circulate the application to the Planning department of the Municipality for determination of compliance with the Zoning By-law #6575/30/18 as amended, and for comments and objections, if any, to the application;
 - (b) the Clerk shall circulate the application to the Medical Officer of Health, the Fire Chief of the Municipality and the Planning department of the Municipality for their comments and objections, if any, with respect to the application; and
 - (c) the Clerk shall determine if all inspections and approvals of the Medical Officer of Health, the Fire Chief of the Municipality and the Building Division of the Municipality, if any are required, have been completed and all lawful requirements satisfied.
- (2) Every Applicant shall:
- (a) ensure that all inspections are completed annually and every lawful requirement of the Medical Officer of Health, the Fire Chief of the

Municipality and the Building Division of the Municipality has been complied with; and

- (b) ensure that any relevant objections or adverse comments relating to the application, if any, by the Medical Officer of Health, the Fire Chief of the Municipality and the Building Division of the Municipality are addressed satisfactorily within the timeline requested by the Inspector.

ISSUANCE, RENEWAL AND REFUSAL OF A LICENCE

21. (1) Upon completion of the investigations and searches set out in section 20, the Clerk shall issue or renew a licence, provided that:

- (a) the provisions of the licence applied for have been complied with;
- (b) the Applicant has not been convicted of an offence under this or any other by-law relating to licences;
- (c) no objection is received from any of the agencies to which the application was circulated;
- (d) the Clerk reasonably believes that the issuing of the licence for the Lodging House is in the public interest;
- (e) the Applicant does not owe any fine or fee to the City in respect of the Lodging House; and
- (c) each Applicant is eighteen (18) years of age or older.

(2) The Clerk may impose conditions to a licence upon issuance as the Clerk determines are appropriate. A licensee who is dissatisfied with conditions imposed may appeal to Council in accordance with the process set out below.

22. (1) In the event that the Clerk does not issue the licence, or in the event that the Clerk issues a licence with conditions, the Clerk shall notify the Applicant of the Clerk's decision by sending the Applicant a Notice of Refusal or Notice of Imposition of Conditions, within seven (7) days of making the decision.

(2) The Clerk, in delivering any notice under subsection (1), shall give reasons for the decision.

23. (1) Subject to subsection (2), an Applicant or Licensee who receives a notice under section 22(1) may, upon written request, have the matter heard by Council, and the Clerk shall place the matter on a Council agenda for consideration by Council.
- (2) A request referred to in subsection (1) must be filed with the Clerk in writing, within ten days of the delivery of the notice to the Applicant or Licensee.
24. The Licensee shall be given a notice of hearing, and the Licensee shall be entitled to attend the hearing and adduce evidence and make submissions either personally or through a Representative, in accordance with law, including the procedures of Council.
25. (1) The Council shall, in accordance with applicable law, hear the matter and shall:
- (a) grant the licence to the Applicant;
 - (b) refuse to grant the licence to the Applicant; or
 - (c) grant the licence and impose conditions on the licence at the time it is granted;
- Council's decision shall be final.
- (2) Council shall give its reasons, in writing, for any decision made under clauses (1)(b) or 1(c).
- (3) Council may notify any licensing authority or Person, as it considers appropriate, if any action is taken under this section of the by-law.
26. No Person licensed to carry on business under this by-law shall advertise or promote or carry on such business under any name other than the name endorsed upon the licence.
27. Every Licensee shall keep the licence issued in respect of the Lodging House exposed in a conspicuous place in the interior of the said premises at all times during the currency of the licence.

LISTS, FILES, AND RECORDS

28. (1) Every Licensee shall maintain a list of current Tenants in the Lodging House.
- (2) The list referred to in subsection (1) shall contain the first and last names of the Tenants in alphabetical order, and the date of the start of tenancy.

29. Every Licensee shall maintain a separate file for each Tenant, stating the following particulars of each Tenant: name; date of start of tenancy; date of end of tenancy, if any; the name, address and telephone number of the Tenant's emergency contact and Health Care Professional contact; nutritional needs and preferences; allergies; and the particulars of each occurrence listed in section 17 involving the Tenant in the Lodging House.
30. Every Licensee shall maintain a record for each Tenant of the following occurrences:
- (a) death of the Tenant in the Lodging House that resulted from any accident;
 - (b) assaults caused by or directed to the Tenant in the Lodging House;
 - (c) injuries caused by or directed to the Tenant in the Lodging House;
 - (d) harassment caused by or directed to the Tenant in the Lodging House;
- and shall keep this record in the file referred to in section 28 for each Tenant.

GENERAL REGULATIONS - BUILDING AND FACILITIES

Hazards and Cleanliness of Common Areas

31. Every Licensee shall ensure the Lodging House, including any Rental Units in it, are kept in a good state of repair and fit for human habitation in accordance with the *Residential Tenancies Act*, 2006, S.O. 2007, c. 17, as amended and are free from hazards in accordance with the Ontario Fire Code and property standards.
32. Every Licensee shall ensure that the physical structure provides resistance to insect and vermin ingress in accordance with the Building Code Act and the Municipality's By-laws.
33. Every Licensee shall ensure that the common areas of the Lodging House available for the use of Tenants, including, including furniture, appliances, furnishings, parking and related facilities, laundry facilities, elevator facilities, common recreational facilities and garbage facilities are maintained in a clean and hazard free manner.

Food Preparation and Service Areas

34. Every Licensee shall ensure that all areas where food is prepared, processed, packaged, served, transported, manufactured, stored and handled comply with the

Dining Rooms

35. Every Licensee shall provide a common dining room or rooms in the Lodging House with a minimum aggregate floor area of 1.85 square metres per Rental Unit, but in no case shall the minimum floor area be less than the minimum requirements for dining rooms prescribed by the Ontario Building Code.

Sitting Room

36. (1) Every Licensee shall provide a common sitting room or rooms in the Lodging House with a minimum aggregate floor area of 1.39 square metres per Rental Unit, but in no case shall the minimum floor area be less than the minimum requirements for sitting rooms prescribed by the Ontario Building Code.
- (2) The sitting room required by subsection (1) may be located in the dining room, provided that all Tenants dine at the same time and, if so located, shall be regulated by section 22 of this by-law.

Sanitary Facilities

37. Every Licensee shall provide Sanitary Facilities that are not adjacent to, or open directly into, any dining room, kitchen, food preparation or food storage room.
38. Every Licensee shall provide at least 1 sanitary facility for every five Tenants, but in no case shall the number of Sanitary Facilities be less than the minimum requirements of the building code.
39. Every Licensee shall ensure that there is provided at all times an adequate supply of clean towels for each resident, and other customary toilet supplies, and that access to and use of all Sanitary Facilities is provided without extra charge.

Rental Units

40. (a) Each Rental Unit shall have an area of not less than 7 square meters per Person, but in no case shall the minimum floor area be less than the minimum requirements for private dwelling areas prescribed in the Ontario Building Code.
- (b) Where the Rental Unit is used on the basis of double occupancy, the Rental Unit, shall have an area of not less than 4.6 square meters per Person, but in no case shall the minimum floor area be less than the minimum requirements for private dwelling areas prescribed in the Ontario Building Code Act.

(c) Every Licensee shall ensure that every Rental Unit complies with the City's Property Standards By-law.

Safety and Security of Rental Units

41. The Licensee shall provide for the safety and security of Rental Units in accordance with the Residential Tenancies Act, including ensuring that:
 - (a) Every window and exterior door that is capable of being opened and that is accessible from outside a Rental Unit shall be equipped so that it can be secured from the inside,
 - (b) At least one entrance door in a Rental Unit shall be capable of being locked from outside the Rental Unit.
 - (c) The Tenant is provided a key to any locks used to secure the Rental Unit.
42. Every Licensee shall ensure that the entrance door to a Rental Unit is capable of being secured by the Tenant.

TENANCY AGREEMENTS

43. A Licensee shall comply with all requirements of the Residential Tenancies Act regarding Rental Units, including any rooms within the Lodging House used or intended for use as residential premises.
44. Persons residing in a Rental Unit used or intended for use as residential premises, as defined in the *Residential Tenancies Act*, shall be considered Tenants under the *Residential Tenancies Act*.
45. The Licensee shall provide each Tenant with a tenancy agreement in accordance with the *Residential Tenancies Act*.
46. Where the Licensee agrees to provide a Tenant with Assistance in daily activities of living, the tenancy agreement shall clearly indicate separately the amount of rent, any services to be provided by the Licensee, and the cost for any services provided.
47. Relocation of a Tenant shall constitute the termination of a tenancy, and shall be conducted in accordance with the requirements for termination of a tenancy in the Residential Tenancies Act.
48. Every Licensee shall ensure that a copy of this by-law is given to every Tenant, and their Representative, where applicable.

ACCESS TO SERVICES

49. Every Licensee shall ensure the provision of Vital Services in accordance with the Residential Tenancies Act.

ACCESS TO MEDICAL SERVICES

50.

- (a) No Licensee shall withhold or interfere with the provision of any medical, health or care service, or interfere with a Tenant obtaining medical, health or care services of a Tenant's choice.
- (b) No Licensee shall harass, obstruct, coerce, threaten or interfere with a Tenant contrary to the provisions of the Residential Tenancies Act.
- (c) No Licensee shall obstruct a Health Care Professional or health care support worker from providing care services to a Tenant at the Lodging House.

GUESTS

51. (a) No Licensee shall interfere with the reasonable enjoyment of the Lodging House by a Tenant in respect of guests in accordance with the Residential Tenancies Act;
- (b) No Licensee shall:
- (i) Restrict, harass, obstruct, coerce, threaten or interfere with short-term visitors or non-frequent guests;
 - (ii) Impose visiting hours;
 - (iii) Require the Tenant to notify the Operator of guests and to receive permission beforehand; or
 - (iv) charge Tenants additional fees or raise rents for short term visitors or non-frequent guests.
52. Each Tenant shall be responsible for the actions of their guests in accordance with the *Residential Tenancies Act*, including any damage, harassment, intimidation, committing of illegal acts by a guest or interference of a guest with another Tenant's right to reasonable and quiet enjoyment.

CLEANING

53. Unless otherwise stated in the tenancy agreement, the cleanliness of a Tenant's Rental Unit shall be the responsibility of the Tenant in accordance with the Residential Tenancies Act.
54. If a tenancy agreement identifies the cleanliness of a Tenant's Rental Unit to be the responsibility of the Licensee, the Licensee shall ensure the Rental Unit is cleaned as stipulated within the tenancy agreement and at least once per week while respecting the scheduling preferences of the Tenant as much as possible.

NUTRITION

55. Where a tenancy agreement identifies the provision of a meal or meals to be the responsibility of the Licensee, the Licensee shall ensure that,
- (a) if the Licensee is the sole provider of the Tenant's meals, the Tenant is offered at least three meals per day at reasonable and regular meal hours, a beverage between the morning and midday meals, a snack and a beverage between the midday and evening meals and a snack and a beverage after the evening meal;
 - (b) menus are consistent with standards of *Canada's Food Guide for Healthy Eating*;
 - (c) an individualized menu is developed for the Tenant if the Tenant's needs cannot be met through the Lodging House's menu cycle;
 - (d) the Tenant is informed of his or her daily and weekly menu options with menus posted in a publicly accessible location;
 - (e) the Tenant is given sufficient time to eat at his or her own pace, and is accommodated if they are unable to eat during a regular meal period;
 - (f) food service workers and staff assisting the Tenant are aware of the Tenant's diet, special needs and preferences; and
 - (g) staff monitor the Tenant during meals as required.

PRESCRIPTION DRUGS

56. (1) Every Licensee shall ensure that there are written policies and procedures for employees for the distribution of Medications to Tenants, which policies and procedures are in accordance with current professional practices and provincial regulations for medication distribution.

(2) Lodging House employees shall not administer medication unless permitted to do so under the *Regulated Health Professions Act*.

(3) Every Licensee and every employee shall strictly adhere to the policies and procedures set out in subsections (1) and (2).

TENANT REPRESENTATIVES

57. No Licensee or any of its Operators or employees shall act as Guardian of Property or Guardian of the Person for a Tenant.

TRUST ACCOUNTS

58. If a Tenant or Representative requests that a Licensee hold money on behalf of the Tenant, the Licensee shall

- (a) deposit those funds into a trust account opened and maintained for that purpose, and
- (b) provide a Receipt for each transaction, and
- (c) provide records of the trust account transactions and balance to the Tenant or the Representative.

59. A Licensee shall ensure that easily understandable records are maintained in respect of the trust account showing opening and closing balances and make those records available for inspection by the Tenant or the Tenant's Representative without charge.

60. If the Licensee is required to provide money from the trust account or statements regarding the trust account to the Tenant or their Representative on an 'upon request' basis, the Licensee shall ensure that the request is fulfilled within two business days for day to day transactions and within 60 calendar days in respect of the closure of a trust account.

DOCUMENTATION OF COMPLAINTS

61. Every Licensee shall keep a record of each complaint submitted to the Licensee or his or her staff by a Tenant or Guardian for Property or Guardian of the Person, provided the complaint pertains to a matter regulated by this by-law or other applicable legislation.

62. Records of complaints shall be in a form satisfactory to the Clerk, and shall include, where applicable:

- (1) the date and time the complaint is received;

- (2) the name and telephone number of the complainant or their Representative, if provided;
 - (3) the name of any employee(s) identified in the complaint;
 - (4) the name of the reviewer of the complaint;
 - (5) the details of the complaint;
 - (6) the action taken in response to the complaint; and
 - (7) the date and time the complainant is notified of the action taken.
63. The Licensee shall report any complaint concerning the safety of a Tenant immediately to the Clerk, and shall:
- 64.
- (a) retain complaint records for at least three years; and
 - (b) make complaint records available to the Clerk or an Inspector upon request.
- FORMAL COMPLAINT PROCESS**
65. Every Licensee shall post in a conspicuous place within the Lodging House, the municipal complaints hotline telephone number.
66. Any Person who has reason to believe that a Licensee has failed to comply with this by-law or an order issued under this by-law or a condition of a licence may make a complaint on the complaints hotline.
67. The identity of a complainant will not be shared with Licensee or the Operator of the Lodging House about which the complaint was made.
68. Complaints submitted to the complaints hotline will be submitted to a Compliance Officer.

Compliance Officers

69. (1) The Clerk may designate one or more Persons as Compliance Officers for the purposes of this By-law.
- (2) A Compliance Officer has all of the powers of an Inspector.
 - (3) A Compliance Officer shall:
 - (a) review complaints received under this section to determine whether an investigation of the complaint is necessary, and for that purpose may
 - (i) make inquiries;

- (ii) enlist expertise relevant to the complaint; and,
 - (iii) take any other action the Compliance Officer considers appropriate in the circumstances, including, without limitation, attempting to resolve the complaint through mediation or conciliation and notifying the Clerk of an offence under this by-law, and
- (b) refer the complaint to an Inspector if the Compliance Officer determines that an investigation of the complaint is necessary.
- (4) A Compliance Officer may refuse to refer a complaint to an Inspector if,
 - (a) the Compliance Officer considers the complaint to be frivolous or vexatious, or
 - (b) the Compliance Officer has resolved the complaint under subsection (3)(a)(iii).
- (5) A Compliance Officer shall inform the complainant, if the identity of the complainant is known, and any other Person the Compliance Officer considers appropriate of a decision made under subsections (3) or (4).

Inspections

- 70. Before a licence is issued under this By-law, an Applicant shall authorize, in writing, as a condition of the licence, the inspection of the Lodging House by an Inspector.
- 71. The Clerk or an Inspector may require a Licensee to produce the licence, records or other documents for the purpose of determining whether such Person is validly licensed under this by-law, or whether this by-law is being contravened.
- 72. (1) Subject to subsection (2), an Inspector may, for the purposes of ensuring compliance with this by-law, an Order issued under this by-law or a condition of a licence:
 - (a) at any reasonable hour enter the property upon which the Lodging House is situated or the Lodging House for the purposes of an inspection;
 - (b) require the production of any relevant books, records or other documents in respect of the Lodging House and examine them, make copies of them or remove them temporarily for the purpose of making copies;
 - (c) inspect and take samples of any material, food or equipment being used in the Lodging House;

- (d) perform tests, take photographs or make recordings in respect of the Lodging House; and,
 - (e) interview the Operator of the Lodging House with respect to matters relevant to the inspection.
- (2) An Inspector may enter the Rental Unit of a Tenant only with the permission of the Tenant or the Tenant's Representative.
- (3) An Inspector may interview employees and Tenants of the Lodging House, friends or relatives of Tenants, Representatives of Tenants and any other Person who may have information relevant to the inspection.
- (4) When an Inspector removes any books, records or other documents under subsection (1)(b), the Inspector shall:
- (a) give a Receipt for those items to the Person from whom those items were taken, and
 - (b) forthwith return the items to the Person from whom they were taken when they have served the purposes for which they were taken.
- (5) When an Inspector takes samples of any material, food or equipment under subsection (1)(c), the Inspector shall:
- (a) give a Receipt for those items to the Person from whom those items were taken, and
 - (b) on that Person's request, return those items to that Person when those items have served the purposes for which they were taken.
- (6) A Licensee or Operator shall provide on request the list, file, and record of Tenant names and information referred to in sections 28 to 30 to an Inspector.
- (7) No Person shall obstruct or hinder an Inspector in the exercise of his or her duties under this By-law.
- (8) The Inspector shall inform the Licensee, every Operator and the Clerk of the results of an inspection of the Lodging House.

Orders

72. (1) Where, an Inspector is of the opinion that this By-law or a condition of a licence is not being complied with, the Inspector may in writing order the Licensee to take the measures specified to address the contravention within the time limits specified in the Order.

- (2) Every order issued under this section shall be delivered personally to the Licensee or sent by first class prepaid mail to the Licencee's last known address and shall be posted in a prominent place in the Lodging House.
 - (3) Every Order shall contain the reasons for its issuance.
 - (4) An Order served on a Licensee under this section must inform the Licensee of the right to appeal the Order to the Municipality's Property Standards Appeal Committee as outlined in the Municipality's Property Standards By-law section XX. An appeal of an Order shall follow the process set out in section 74 below with the necessary modifications.
73. In any case where an Order may result in the loss of housing for one or more Tenants:
- (a) the Inspector shall notify Niagara Region Community Services of any potential loss of housing; and
 - (b) Niagara Region Community Services will support Tenants through housing loss, including as appropriate the provision of:
 - (i) information about available emergency housing and related supports,
 - (ii) access to emergency housing and related supports.

SUSPENSION, REVOCATION AND CONDITIONS

74. The Clerk may, at any time during the term of a licence:
- (a) suspend any licence;
 - (b) revoke any licence; or
 - (c) impose conditions on any licence issued pursuant to this by-law.
- The Clerk shall issue written reasons for its exercise of a power under this section and shall advise the Licencee of its right to appeal the decision of the Clerk to Council.
75. Where a Licencee advises the Clerk of its intention to appeal to Council, the Clerk shall schedule the hearing for the next regularly scheduled meeting. Council shall conduct a hearing, and the Licensee shall be entitled to attend the hearing and adduce evidence and make submissions either Personally or through a Representative, in accordance with law, including the procedures of Council.

76. (1) The Council shall, in accordance with applicable law, hear the matter and shall:
- (a) confirm the decision to suspend or revoke the Licence; or
 - (b) reinstate the licence with or without conditions, as the case may be,
- Council's decision shall be final.
- (2) Council shall give its reasons, in writing, for any decision made under clause (1)(a).
77. (1) The following are the grounds upon which a licence may be revoked or suspended, or upon which conditions to an existing licence may be imposed:
- (a) that the Applicant, Licensee, any partner, officer, or director of the Applicant or Licensee, any employee or agent of the Applicant or Licensee, has not complied with or satisfied any requirement of this By-law.
 - (b) that the conduct of the Applicant, Licensee, any partner, officer, or director of the Applicant or Licensee, any employee or agent of the Applicant or Licensee, affords reasonable grounds for belief that they, or any of them, have not or will not carry on the trade, calling, business or occupation in accordance with the law or with honesty and integrity;
 - (c) that the Licensee has breached any condition of the licence;
 - (d) that the Licensee has been convicted of contravening any provision or provisions of this by-law; or
 - (e) that the Licensee or Applicant has furnished any false, misleading or incomplete information to the Clerk, or failed to provide all information and documents required to be provided to the Clerk under this by-law, including any changes to such information or documents within four (4) days of their occurrence.
- (2) The Clerk of Council, as the case may be, in making any decision referred to in subsection (1), shall give written reasons for such decision.
78. Council may notify any licensing authority or Person, as it considers appropriate, if any action is taken under this section.

79. If a licence is revoked, the former Licensee is entitled to a refund of that part of the licence fee proportionate to the unexpired part of the term for which it is granted.

FEES

80. Fees for the licence shall be paid as prescribed in Schedule "A".
81. Each application or renewal for a licence must be accompanied by the fees prescribed.
82. Where a licence is not issued to an Applicant, the fee paid by the Applicant shall be returned to the Applicant less the non-refundable processing fee, if any, as set out in Schedule "A".

NOTICES

83. Any notice required by this by-law to be given to an Applicant or to a Licensee may be given,
- (a) by mailing a copy of the notice by pre-paid ordinary post to the residence address of the Applicant or Licensee, as the case may be, listed on the most recent application for a licence;
 - (b) by delivering a copy of the notice Personally to the Applicant or the Licensee;
84. Any notice served by pre-paid ordinary post in accordance with section 67 shall be deemed to have been received by the Applicant or Licensee on the fourth day following mailing.

OFFENCES AND PENALTIES

85. (1) Every Person who contravenes this by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable to a fine of not more than \$100,000, pursuant to subsection 425 (2) of the Municipal Act, 2001, S.O. 2001, c. 25, as may be amended from time to time.
- (2) Where a Corporation is convicted of an offence to this By-law, the maximum fine that may be imposed on the Corporation is \$100,000, pursuant to subsection 425 (2) of the Municipal Act, 2001, S.O. 2001, c. 25, as may be amended from time to time.

CONFLICTS

86. In the event of any conflict between the provisions of this by-law and any other general or special by-law, the more restrictive provision shall apply.

SEVERABILITY

87. If any provision of this By-law or the application thereof shall to any extent be invalid or unenforceable, the remainder of this By-law and/or the application of such term to circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term of this By-law shall be separately valid and enforceable to the fullest extent of the law.

ENACTMENT

88. Schedule "A" shall form part of this By-law
89. By-law No. 4323/159/02 is repealed.
90. This By-law shall come into force and effect on **

Passed this [DATE].