

CITY OF PORT ADELAIDE ENFIELD
BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999
By-law No. 6 of 2015—Lodging Houses

A by-law for controlling, licensing, inspecting and regulating lodging houses within the Council's area.

PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Lodging Houses By-law 2015 and is By-law No. 6 of the City of Port Adelaide Enfield.

2. *Authorising Law*

This by-law is made under Section 246 of the Local Government Act 1999 and Sections 667 (1) 3.XVI, 4.I and 9.XVI of the Local Government Act 1934.

3. *Purpose*

The objectives of this by-law are to control, licence, inspect and regulate lodging houses:

- 3.1 to prevent and mitigate nuisances;
- 3.2 to protect the convenience, comfort and safety of members of the public;
- 3.3 to ensure adequate protection for residents of lodging houses;
- 3.4 to enhance the amenity of the Council area; and
- 3.5 for the good rule and government of the area.

4. *Commencement, Revocation and Expiry*

4.1 The following by-laws previously made by the Council are revoked from the day on which this by-law comes into operation¹:

4.1.1 By-law No. 6—Lodging Houses.²

4.2 This by-law will expire on 1 January 2023.³

Note:

¹ Generally a by-law comes into operation four months after the day on which it is *gazetted*: Section 249 (5) of the Act.

² Section 253 of the Act provides that the revocation of a by-law by another by-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a by-law to a part or parts of the Council area.

³ Pursuant to Section 251 of the Act, a by-law will expire on 1 January following the seventh anniversary of the *gazettal* of the by-law.

5. *Application*

5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2015.

5.2 This by-law applies throughout the Council area.

6. *Interpretation*

In this by-law, unless the contrary intention appears:

6.1 *Act* means the Local Government Act 1999;

6.2 *authorised person* means a person appointed by the Council under Chapter 12 Part 3 of the Act;

6.3 *building* includes part of a building;

6.4 *Council* means the City of Port Adelaide Enfield

6.5 *fire safety report* means a report prepared by the South Australian Metropolitan Fire Service stating the current fire safety standard of a lodging house (or proposed lodging house);

6.6 *flat* includes any self-contained suite of rooms designed, intended or adopted, for separate occupation including bathroom and sanitary conveniences provided for that occupation;

6.7 *licence* means a licence issued by the Council under this by-law;

6.8 *lodger* means any person who occupies or resides in a lodging house who is not the proprietor or a member of the proprietor's family.

6.9 *lodging house* means residential premises in which:

6.9.1 rooms are available, on a commercial basis, for residential occupation;
and

6.9.2 accommodation is available for at least five or more persons on a commercial basis;

but does not include any building which comes within the definition of a flat, nor any motel, hotel, healthcare facility, boarding house managed by a school or any premises licensed under the Supported Residential Facilities Act 1992;

6.10 *lodging house agreement* means an agreement under which accommodation is provided to a lodger in a lodging house;

6.11 *residential premises* means premises for occupation as a place of residence;

6.12 *person* includes any natural person or incorporated or unincorporated entity;
and

6.13 *proprietor* means the owner and/or manager of a lodging house.

Note:

Section 14 of the Acts Interpretation Act 1915, provides that an expression used in a by-law has, unless the contrary intention appears, the same meaning as in the Acts under which the by-law was made.

PART 2—LICENCES

7. *Requirement for Licence*

7.1 A person must not, without having been issued with a licence or, other than in accordance with the terms and conditions of a licence issued to the person:

7.1.1 operate a lodging house; or

7.1.2 cause, suffer or permit a building or structure to be used as a lodging house; or

7.1.3 let any building comprising a lodging house to another person.

7.2 A licence may be issued at the discretion of the Council and entitles the licence holder to operate a lodging house at the building specified in the licence in accordance with the terms and conditions set out in the licence.

7.3 A person must not without having been issued with a licence represent or hold out to any other person that he or she is the proprietor of a lodging house.

8. *Licence Application Requirements*

8.1 An application for a licence or to renew an existing licence must:

8.1.1 be made to the Council in the form (if any) required by the Council;

8.1.2 be accompanied by the fee fixed by the Council from time to time and set out in the Council's schedule of fees and charges;

8.1.3 be accompanied by any information required by the Council including (but not limited to):

(a) a fire safety report in the case of an application for a licence; and

(b) unless otherwise directed by the Council, a sketch plan of the proposed lodging house that must:

(i) be drawn to a scale of not less than 1:100;

(ii) show the position, dimensions and intended use of every room in the lodging house; and

(iii) show any other details required by the Council.

8.2 An application for renewal of a licence must be submitted to the Council on or before 31 May in each year and be accompanied by the applicable licence fee.

8.3 A licence expires on 30 June in each year.

9. *Licence Conditions*

9.1 A licence is subject to the terms and conditions set out therein.

9.2 A licence holder must comply with all terms and conditions that attach to a licence. Failure to do so is an offence.

9.3 The Council may, at any time, by notice in writing to the licence holder impose an additional condition or vary or revoke a condition of a licence.

10. *Transfer of Licence*

10.1 A proprietor who has been issued with a licence may make application to the Council to transfer the licence to another person.

10.2 An application to transfer a licence must be in the form (if any) specified by the Council and must be accompanied by any information required by the Council.

10.3 If the Council approves an application to transfer a licence it must endorse its approval on the licence and the transferee is, as and from the date the application was granted, liable to comply with the requirements of this by-law.

11. *Licence Refusal, Revocation*

11.1 The Council may, at any time by providing written notice, revoke or suspend a licence if:

11.1.1 the Council considers that the building in respect of which the licence holder is licensed is, by reason of its condition, unsafe, causing a nuisance or otherwise unsuitable for use as a lodging house; or

11.1.2 the Council has reasonable cause to believe that the licence holder has committed an offence against this by-law, the Act, or any other Act;

11.1.3 the Council considers that the licence holder is not a fit and proper person to operate a lodging house; or

11.1.4 the licence holder fails to comply with the requirements of a fire safety notice issued in respect of the lodging house pursuant to Section 71 (2) of the Development Act 1993; or

11.1.5 the licence holder breaches a condition of the licence.

11.2 Before the Council revokes or suspends a licence or refuses an application to renew a licence, notice must be given to the proprietor inviting the proprietor to make submissions to the Council within a period determined by the Council that is not less than 14 days from the date of the notice as to why the proprietor considers that the licence should not be revoked or suspended or, the application for renewal should not be refused (as the case may be).

PART 3—MISCELLANEOUS

12. *Alterations*

12.1 A person must not, without the permission of the Council:

12.1.1 cause any addition or alterations to be made to any lodging house; or

12.1.2 use any part of a lodging house other than for a purpose indicated on a sketch plan submitted under Clause 8.1.3 (b) or as otherwise specified by the Council.

13. *Access to Lodging House for Inspections*

13.1 The proprietor of a lodging house must retain a key to the door of every room in the lodging house and must make the key or keys available to an authorised person upon request.

13.2 Every lodger in a lodging house must, upon request by an authorised person, provide the authorised person access to the interior of any room or rooms that have been let to the lodger for the purposes of inspection.

14. *Records*

14.1 The proprietor of a lodging house must keep a register of all persons who reside at the lodging house that includes all information that may be required by the Council by notice in writing to the proprietor from time to time.

15. *Lodging House Agreements*

15.1 The proprietor of a lodging house must enter into a lodging house agreement with each lodger.

15.2 A lodging house agreement must be in writing.

15.3 Subject to the Residential Tenancies Act 1995, the Council may determine the form of a lodging house agreement and stipulate the terms and conditions that must be included in a lodging house agreement.

15.4 A proprietor must ensure that a lodging house agreement contains any terms and conditions stipulated by the Council under Clause 15.3.

This by-law was duly made and passed at a meeting of the City of Port Adelaide Enfield held on 14 July 2015, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

M. WITHERS, Chief Executive Officer