



CITY OF BURNSIDE

By-law made under the Local Government Act 1999

LODGING HOUSES BY-LAW 2018

By-Law No 7 of 2018

For controlling, licensing, inspecting, and regulating lodging houses.

Part 1 - Preliminary**1. Short title**

This by-law may be cited as the *Lodging Houses By-law 2018*.

2. Commencement

This by-law will come into operation four months after the day on which it is published in the Gazette in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Interpretation

In this by-law:

- 3.1 **authorised officer** means a person appointed by the Council as an authorised person under the *Local Government Act 1999*, an authorised officer under the *Development Act 1993* or a local authorised officer under the *South Australian Public Health Act 2011*;
- 3.2 **bedding** includes any mattress, blanket, sheet, pillow, pillowcase, rug, quilt or other covering or coverings;
- 3.3 **bedroom** includes any dormitory, sleep-out or any other place where lodgers sleep;
- 3.4 **board and lodgings** means the use and occupation of any lodging house by any person to whom meals are served on the premises;
- 3.5 **common room** means a dining room, lounge, main entrance hall, or other compartment where lodgers may congregate;
- 3.6 **flat** includes any self-contained suite of rooms including any self-contained suite of rooms designed, intended or adopted for separate occupation including bathroom and sanitary conveniences provided for that occupation;
- 3.7 **lodger** means any occupant of a lodging house not being the proprietor or a member of the proprietor's family;

- 3.8 **lodging house** includes any building or part thereof which is let, proposed to be let or available to be let as lodgings, or board and lodgings, and occupied by more than five persons not being members of the proprietor's family, but does not include the residential portion of hotels and motels, schools, institutional buildings accommodating members of the staff of an institution, supported residential facilities or any building which comes within the definition of flat in clause 3.6 of this by-law;
- 3.9 **lodgings** means the use and occupation of any lodging house or part thereof by any person who is not served with meals by the proprietor;
- 3.10 **premises** means property which is licensed as a lodging house or used or apparently used as such, whether for gain or otherwise;
- 3.11 **person** includes anybody or persons whether corporate or unincorporated;
- 3.12 **proprietor** includes:
- 3.12.1 the owner of the premises; and
 - 3.12.2 the owner or manager of the undertaking carried on at the premises, or their representative; and
 - 3.12.3 the person by whom or on whose behalf a premises or part of a premises is let as lodgings or for the purpose of board and lodgings and who receives or is entitled to receive the rents and profits arising from such letting; and
- 3.13 **supported residential facility** has the same meaning as in the *Supported Residential Facilities Act 1992*.

4. Application of By-law

The provisions of this by-law apply to all lodging houses.

Part 2 - Minimum Standards of Lodging Houses

5. Accommodation

- 5.1 The proprietor of any lodging house must, in respect of bedroom accommodation, provide not less than 16m³ of space and not less than 6m² of floor area for every lodger.
- 5.2 In determining the minimum number of m³ of (free air) space per person as required by this clause, a room height of more than 3m must be excluded from the calculation.
- 5.3 The proprietor must not use or allow or suffer to be used as a bedroom any room through which other persons gain access to any part of the premises.
- 5.4 The proprietor must mark or cause to be marked in legible and durable character on the entrance door of every bedroom or immediately external to the entrance door of every bedroom used for the accommodation of any lodger an identification number or letter, and immediately below such number a letter or figure indicating the number of persons that may occupy such

bedroom under the provisions of clause 5.1 of this by-law. The room numbers must correspond with the numbers shown on the sketch plan required to be submitted under the provisions of clause 15.2 of this by-law.

- 5.5 The proprietor must not use or allow or suffer to be used as a bedroom any room which can be directly accessed through a dining room, kitchen, servery or any place where food is kept, cooked, prepared or stored with specific permission from the Council.
- 5.6 The proprietor must at all times ensure that the lodging house has a minimum requirement for each lodger:
 - 5.6.1 a mattress;
 - 5.6.2 not less than three blankets at least 2050mm in length or an equivalent down filled quilt;
 - 5.6.3 two sheets at least 2510mm in length;
 - 5.6.4 a pillow;
 - 5.6.5 two pillow cases;
 - 5.6.6 a towel;
 - 5.6.7 a towel rail;
 - 5.6.8 a bed head and base;
 - 5.6.9 a chair;
 - 5.6.10 a bedside locker;
 - 5.6.11 separate wardrobe facilities;
 - 5.6.12 a personal lamp; and
 - 5.6.13 a power outlet.
- 5.7 The proprietor must not allow or permit or suffer a larger number of beds in a bedroom at any time than is sufficient for the accommodation of the number of persons allowable for that particular bedroom under clause 5.1 of this by-law.
- 5.8 The proprietor must not install or cause or permit or allow to be installed a cooking stove of any description in any bedroom, corridor, passage or landing.
- 5.9 The proprietor must provide for the use of lodgers one or more approved common room(s) of a total area of at least 2m² for every lodger occupying or intending to occupy the lodging house. The minimum floor area for a common room must not be less than 7.5 m².
- 5.10 The proprietor must provide for the use of lodgers, external open space of at least 2m² for every lodger occupying or likely to occupy the lodging house.

6. Kitchen Facilities

- 6.1 The proprietor must provide at all times facilities to enable lodgers to prepare hot and cold refreshments and meals.
- 6.2 In order to comply with clause 6.1, kitchens and kitchen areas must be provided to the following standard and must contain the following facilities:
 - 6.2.1 oven;
 - 6.2.2 grill;
 - 6.2.3 microwave;
 - 6.2.4 cook top (at least 4 hobs);
 - 6.2.5 double bowl sink and drainer (of suitable size);
 - 6.2.6 worktop (at least 1 m²);
 - 6.2.7 4 electric sockets (at least 2 sockets to be at the worktop);
 - 6.2.8 refrigerator;
 - 6.2.9 electric kettle;
 - 6.2.10 cupboard (for food storage);
 - 6.2.11 access to hot and cold running water.
- 6.3 Kitchens and kitchen areas must have a minimum floor area of 3.7 m² and be so arranged to allow safe access and use.
- 6.4 The kitchen area must have a suitable washable floor covering.
- 6.5 In a premises where meals are served to lodgers, the proprietor must ensure that the kitchen is fitted with a double bowl stainless steel sink and drainer and a separate hand basin together with soap and a suitable single use hand-drying facility.

7. Natural Lighting

The proprietor of a lodging house must:

- 7.1 ensure that any room used as a bedroom, common room or kitchen has at least one wall exposed to the open air having a window with a total glass area equal to at least 1m² or 1/15th of the floor area, (whichever is the greater) having a sill height of not more than 1.5m above the floor;
- 7.2 ensure that toilets, shower rooms and bathrooms have a window area to the external air of not less than 0.2m² or ensure that toilets, shower rooms and bathrooms are provided with artificial lighting in accordance with this by-law;
- 7.3 not use or allow or suffer to be used as a bedroom any room unless it complies with the requirements of this clause.

8. Artificial Lighting and Electrical Installations

The proprietor of a lodging house must ensure that:

- 8.1 The supply of electricity and all electrical installations including all connected equipment and artificial lighting complies with the provisions of Australian Standard AS3000:2007;
- 8.2 bedrooms, common rooms, kitchens, stairways, landings, passageways, water closets, laundries, shower rooms and bathrooms are provided with artificial lighting in accordance with the following:
 - 8.2.1 incandescent lighting – 9W (nominal) per m² of floor space;
 - 8.2.2 fluorescent lighting – 3W (nominal) per m² of floor space.

9. Ventilation

The proprietor of a lodging house must ensure that:

- 9.1 a cooking stove is provided with an approved mechanically ventilated canopy and flue (which provides the room with not less than six air changes per hour);
- 9.2 toilets, shower rooms and bathrooms are provided with openable windows or are mechanically ventilated so as to provide not less than ten air changes per hour;
- 9.3 a toilet, shower room or bathroom must not open directly into any dining room, kitchen, servery, and common room or room used for the preparation or storage of food; and
- 9.4 the air space between the ground surface and the floor (except in the case of concrete or other solid floors) is efficiently ventilated in accordance with the provisions of the Building Code of Australia.

10. Drainage

The proprietor of a lodging house must:

- 10.1 keep and maintain all drains, waste pipes, traps, fixtures and fittings in a satisfactory and sanitary condition;
- 10.2 cause all roofs, skylights, rainwater gutters and downpipes to be kept in a state of good repair;
- 10.3 provide such drains as may be necessary to convey storm waters to the street water table or such other approved discharge point; and
- 10.4 cause the land and yards to be suitably graded away from the building to prevent the accumulation of storm waters.

11. Toilets, Showers, Bathrooms and Laundries

The proprietor of a lodging house must:

- 11.1 provide on the premises toilets and showers which are properly constructed and conveniently situated.
- 11.2 ensure the lodging house has:
 - 11.2.1 one toilet for every eight persons who may at any one time be or likely to be occupying the premises. However, if a toilet is situated in a bathroom or shower room without separate and private access to such toilet, such toilet must be deemed sufficient for not more than four persons;
 - 11.2.2 one shower for every eight persons who may at any one time be or likely to be occupying the premises. However, if a shower is situated in a bathroom without separate and private access to such shower, such shower must be deemed sufficient for not more than four persons;
 - 11.2.3 wash basins (which must be in the same room as the toilet).
- 11.3 Where ensuite facilities are provided to a bedroom, the requirements of clauses 11.2.1 to 11.2.3 must be calculated as if that bedroom and ensuite did not form part of the lodging house.
- 11.4 The proprietor of a lodging house must provide on the premises:
 - 11.4.1 laundry facilities fitted with troughs;
 - 11.4.2 a washing machine for use by lodgers; and
 - 11.4.3 a clothes line, electronic tumble dryer or other means of clothes drying for the use of lodgers.

12. Water Supply

- 12.1 The proprietor of a lodging house must cause a continuous cold water supply to be provided to all toilets, showers, baths, hand basins, kitchen sinks, and laundry troughs.
- 12.2 The proprietor of a lodging house must cause a continuous hot water supply to be provided to all showers, baths, hand basins, kitchen sinks and laundry troughs.

13. General Sanitary Provisions

- 13.1 The proprietor of a lodging house must:
 - 13.1.1 maintain the premises in such condition as to discourage the harbourage and/or breeding of vermin and must take all practicable measure for the destruction of any vermin on the premises;
 - 13.1.2 at all times keep (or cause to be kept) the premises, in a clean and sanitary condition and in a state of good repair;
 - 13.1.3 make provision for the storage and disposal of rubbish;

- 13.1.4 keep (or cause to be kept) all yards forming part of the premises (including sheds and outbuildings) clean and free from rubbish, garbage and offensive matter;
- 13.1.5 conduct (or cause to be conducted) inspections at least once a month of any room or rooms which are maintained or cleaned by any lodger or person residing on the premises for the purpose of ensuring that such room or rooms are being maintained in a clean condition;
- 13.1.6 provide sufficient and appropriate staff for the proper control and management of the premises;
- 13.1.7 retain possession of a duplicate key to the door of every room;
- 13.1.8 not use, suffer or permit:
 - 13.1.8.1 any verandah, balcony, balconette, portico, passage, stairway, landing, bathroom, toilet, laundry or bedroom to be used as a kitchen or for cooking purposes;
 - 13.1.8.2 any room (other than a kitchen) to be used as a kitchen or for cooking purposes;
 - 13.1.8.3 any room in use as a kitchen, pantry, scullery or common room or any passage, stairway or landing to be used or occupied as a bedroom.
- 13.1.9 cause each towel, sheet and pillow case which any lodger must have used to be laundered before being used by any other lodger;
- 13.1.10 cause the floors of all common rooms, sanitary compartments, passages and stairs to be vacuumed, swept and/or cleansed regularly;
- 13.1.11 provide and maintain in effective condition at all times fly proofing of all external openings; and
- 13.1.12 cause every bedstead and all bedding to be kept clean, free from vermin and in good repair and appropriate standard.
- 13.2 A lodger or person resident in a lodging house must not:
 - 13.2.1 use any part of the premises as a shop, store or factory, or for manufacturing or trading purposes;
 - 13.2.2 use any bath, shower or wash hand basin for any purpose other than ablutions;
 - 13.2.3 use any bathroom for laundry purposes;
 - 13.2.4 use any sink installed in any kitchen for any purpose other than for the washing and cleansing of food utensils, vessels, kitchenware and for culinary purposes.

- 13.3 A person must not place or keep any luggage, clothing, bedding or furniture in any part of a lodging house if such articles are infested with vermin.
- 13.4 A lodger or person who occupies any room in a lodging house must not obstruct or prevent the proprietor of such lodging house from making an inspection or examination of the room occupied by such lodger or person.

Part 3 – Licensing

14. Prohibition on use of Premises as Lodging House without Licence

A person must not use or allow or suffer to be used any premises as a lodging house unless and until:

- 14.1 such premises are licensed as a lodging house pursuant to this by-law; and
- 14.2 the proprietor of such premises is the holder of a licence pursuant to this by-law.

15. Requirements for Licence Application

- 15.1 When applying for a licence for a lodging house or application for renewal every applicant must submit the application in the form prescribed for that purpose in Schedule 'A' of this by-law.
- 15.2 Every application must be accompanied by:
 - 15.2.1 a sketch plan of the building or buildings drawn to scale of not less than 1 to 100 showing the position and dimensions of each compartment and the purpose for which it is intended to use each compartment. The bedrooms shown on the plan must be identified in accordance with the provisions of clause 5.4 of this by-law; and
 - 15.2.2 a certificate of a licensed electrician, certifying that the lodging house complies with Clauses 8, 9.1 and 9.2 of this by-law;
 - 15.2.3 an appropriate certificate of insurance for the lodging house and its contents.
- 15.3 Every application must be accompanied by a statement of relevant qualifications and experience of the proprietor, and where the resident manager is not the proprietor, a statement of relevant qualifications and experience of the resident manager.
- 15.4 Where there is change of proprietor a statement of relevant experience and qualifications of the new proprietor or resident manager must be forwarded to the Council within 14 days of the change taking place.
- 15.5 The plan required to be provided by clause 15.2 must be retained by the Council and it must not be necessary for the proprietor to submit a further plan when applying for renewal of the licence for the premises unless changes are proposed to the layout or the use of rooms or the number of lodgers.

- 15.6 Every proprietor of a lodging house whose application for licence has been approved must be issued with a licence in the form set forth in Schedule 'B' of this by-law.
- 15.7 The proprietor of any licensed lodging house may apply to the Council for its consent to have such licence transferred into the name of the person named in such application for transfer and a fee as determined by the Council from time to time must be paid with every application for transfer. The fee must be repaid to the applicant in the event of the application being refused. If the Council approves of such application for transfer it must endorse its approval upon the licence and the transferee must then become liable in every respect under this by-law as if the transferee had been the original holder of the licence.
- 15.8 Every application for a renewal of the licence of a lodging house must be submitted to the Council on or before the first day of June in each year and must be accompanied by the annual fee set by the Council.
- 15.9 An authorised officer of the Council may, by written notice, require the proprietor of a lodging house to provide the information necessary for the licensing a lodging house including (but not limited to):
 - 15.9.1 total number of rooms in the lodging house;
 - 15.9.2 total number of lodgers proposed to be received at any time in the lodging house;
 - 15.9.3 number of toilets, shower and bathrooms in the lodging house; and
 - 15.9.4 a sketch plan of the premises in accordance with the provisions of clause 15.2.
- 15.10 The proprietor must, within 10 days of service of a notice under clause 15.9 of this by-law, provide the information required by the notice to the Council, in writing.
- 16. Licence Term**
 - 16.1 The licence of every lodging house will continue in force for twelve months from the first day of July in each year.
 - 16.2 Every licence which has not been renewed after the thirtieth day of June each year will be deemed to have lapsed and the lodging house referred to in such lapsed licence will be deemed to be an unlicensed lodging house.
- 17. Licence Fees**
 - 17.1 Annual fees as determined by the Council from time to time are due and payable to the Council by the applicant for a licence or renewal of a licence (as the case may be) for a lodging house and must be deposited with the application.
 - 17.2 Such annual fee must, when deposited, be kept to the credit of the applicant and must, if a licence or renewal is granted, be applied in payment for the fees thereof.

- 17.3 If such licence or renewal (as the case may be) is not granted such deposit must be refunded to the applicant within thirty days after notice to him/her by the Council of such refusal to grant such licence or renewal.

18. Licence Conditions

The granting or the renewal of any licence may be made subject to such conditions in any particular case as the Council may think fit.

19. Refusal or Revocation of Licence

- 19.1 The Council may at its discretion refuse to grant any application for licensing of a lodging house if it is of the opinion that:

19.1.1 the lodging house, unsuitable, not in conformity or does not comply with this by-law; or

19.1.2 the proprietor or resident manager referred to in the application is not a fit and proper person.

- 19.2 The Council may revoke any licence issued under this by-law for:

19.2.1 any breach of the by-law; or

19.2.2 if the Council is of the opinion that the premises are in such a state as to be a nuisance or injurious to health or offensive; or

19.2.3 if the Council has reasonable cause to believe that the proprietor has committed an offence against this by-law or under any of the following legislation:

19.2.3.1 the Local Government Act 1999;

19.2.3.2 the South Australian Public Health Act 2011;

19.2.3.3 the Food Act 2001;

19.2.3.4 the Development Act 1993;

19.2.3.5 the Planning, Development and Infrastructure Act 2016;

19.2.3.6 the Supported Residential Facilities Act 1992; or

19.2.3.7 the Residential Tenancies Act 1995; or

19.2.4 if the Council considers that the proprietor is unsuitable to continue as the proprietor of the lodging house.

- 19.3 Before the Council revokes or refuses to renew a licence issued under the by-law notice must be given to the proprietor to show cause why the licence should not be revoked, cancelled or renewal refused, as the case may be. In such case, the proprietor will be given a period of two weeks to make written representations to the Council as to why the licence should not be revoked, cancelled or renewal refused.

Part 4 - General Responsibilities of Proprietor

20. General Duty

The proprietor of a lodging house is responsible for the proper oversight of lodgers and for the cleanliness, safety and management of the lodging house.

21. Register of Lodgers

21.1 The proprietor of a lodging house must keep and maintain a register, which must be available for inspection by an authorised officer.

21.2 The register must record:

21.2.1 the full name, age, sex and last known place of abode of every lodger;

21.2.2 the date on which any lodger commences residing at the lodging house;

21.2.3 the bedroom used by the lodger;

21.2.4 the name and home address of next of kin of every lodger; and

21.2.5 the date on which any lodger leaves the lodging house.

22. Access to By-law

The proprietor of a lodging house must make a copy of this by-law available for perusal by lodgers.

Part 5 - General and Supplementary Provisions

23. Inspections

23.1 An authorised officer may, for the purposes of any inspection:

23.1.1 enter into and upon any premises;

23.1.2 open up drains and execute any other necessary works.

23.2 Where the proprietor of a lodging house occupies or resides in any part of the premises, or retains a general possession or control of the premises, such proprietor must, when required by the authorised officer, facilitate free access to the interior of the premises and to all rooms for the purpose of the inspection by such officer.

23.3 Where the proprietor of a lodging house does not occupy or reside in any part of the premises, or retain a general possession or control of the premises, every lodger or other person who is entitled to have or to exercise the control of the outer door of the premises must, when required by an authorised officer, facilitate free access to the interior of the premises for the purpose of inspection by such officer.

23.4 Every lodger in a lodging house must, when required by an authorised officer, afford free access to the interior of any room or rooms, which may have been let to such lodger, for the purpose of inspection by such officer.

23.5 A person must not wilfully:

23.5.1 obstruct any authorised officer in the inspection of any part of a lodging house;

23.5.2 without reasonable excuse, neglect or refuse, when required by any authorised officer, to render the officer such assistance as may be reasonably necessary for the purpose of such inspection.

23.6 For the purpose of any inspection, an authorised officer may be assisted and accompanied by such persons as he or she considers necessary in the circumstances.

24. No Holding Out

A person must not represent that he or she is the proprietor of a lodging house until such time as he or she has been licensed in accordance with the provisions contained of this by-law.

Part 6 – Miscellaneous

25. Revocation

Council's *By-law No 7 – Lodging Houses By-law 2014*, published in the *Gazette* on 1 May 2014, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the City of Burnside held on the 28th day of August 2018 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



Mr Paul Deb
Chief Executive Officer

SCHEDULE A**CITY OF BURNSIDE****APPLICATION FOR LICENCE OR RENEWAL OF LODGING HOUSE LICENCE**

To the Chief Executive Officer
City of Burnside

I

of
hereby make application to the Chief Executive Officer of the City of Burnside

to license (or renew the licence of) the premises known as

of which

of _____ is the owner and

of

is the proprietor as a lodging house under Council's *Lodging Houses By-law 2018*, in accordance with the particulars in this form to license (or renew the licence to) me as the proprietor of such lodging house.

I also deposit herewith the sum of \$ _____ as the licence fee, such fee to be returned to me if the application is not granted. The particulars above referred to are as follows:

Total number of rooms of lodging house:

Number of toilets in the lodging house:

Number of showers in the lodging house:

Total number of persons proposed to reside at any one time in the lodging house:

Dated this _____ day of _____, 20____

Applicant:

Every application must be accompanied by:

1. A sketch plan of premises as a lodging house. Plan to be drawn to scale is to be not less than 1:100, and must show the position of each compartment and the purpose for which it is intended to use each compartment. The bedrooms shown on the plan must be marked with an identification number or letter, and immediately below such number or letter a figure indicating the number of persons intended to be accommodated in such bedroom.

2. A certificate of a licensed electrician certifying compliance with Clauses 8, 9.1 and 9.2 of the *Lodging Houses By-law 2018*.
3. A certificate of insurance for the lodging house and its contents.

SCHEDULE B

CITY OF BURNSIDE
LODGING HOUSE LICENCE

The premises known as:

in the City of Burnside described in application for licence of:

Dated the day of 20

are hereby licensed as a lodging house in accordance with the *Lodging Houses By-law 2018* of the by-laws of the City of Burnside.

hereby licensed as the proprietor of the lodging house. This licence is issued subject to the following restrictions or limitations.

The maximum number of persons authorised to reside at any one time in each of the several sleeping rooms in this house is the number specified in respect of each room in the appropriate column of the following table:

Description or Use of Each Room	Room Number	Floor Area	Maximum Number of Lodgers
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