



City of Hamilton

CITY COUNCIL ADDENDUM

24-008

Wednesday, April 10, 2024, 9:30 A.M.

Council Chambers

Hamilton City Hall

71 Main Street West

5. COMMUNICATIONS

5.3 Correspondence respecting the Mayor Horwath's Veto:

*d. Joshua Weresch

Recommendation: Be received.

8. NOTICES OF MOTIONS

*8.1 Amendment to Item 2 of the Public Health Committee Report 23-007, respecting Hamilton Opioid Action Plan (BOH23021) (City Wide)

(A request to waive the rules will be introduced)

12. BY-LAWS AND CONFIRMING BY-LAW

*12.10 054

Safe Apartment Buildings By-law

Ward: City Wide

*12.11 055

Renovation Licence and Relocation By-law

Ward: City Wide

5.3 (d)

To Hamilton's mayor and councillors:

I write as a life-long resident in Hamilton, Ontario regarding the use of strong mayor powers and Council's ability to support or deny the mayor's veto.

I urge Council to deny the mayor's veto. While affordable housing is absolutely and crucially important in this place and in other locations in the city, it can and should be had by the mass expropriation of properties, which the city is legally capable of doing under the *Expropriations Act*. Moreover, Councillor Cassar's motion sought ways to balance the concerns of Stoney Creek's residents about parking by finding 36 spots elsewhere and Councillors Francis and Beattie's motion sought affordable housing elsewhere in the ward; debate on these motions would have been welcomed. Finally, according to a letter to the editor in the *Hamilton Spectator* (Tom Winning, "Housing needed, not LRT", 30 March 2024), the funding for the LRT project could be directed to affordable housing, if Council requests it, and could have been done in 2017. Given the power to expropriate lands, these motions, and the re-direction of LRT's funding, the acquisition of housing for the poor does not require the subversion of the principle of majority rule, which is fundamental to democracy, in favour of the minority rule enacted under Bill 39's 'strong mayor' powers. All people in Hamilton require both a functional democracy and many places for those in need to rest their heads, but the price of the latter should never be the former: we need structures which allow all, particularly minorities', voices to be heard as well as places to rest those voices at day's end. What is to stop the mayor, after affordable housing is built, from invoking 'strong mayor' powers on an issue which may not be as politically palatable as building affordable housing? Once these powers are used, it is very hard to stop using them, and democracy and the participation of the public is better served by setting those powers aside and doing the more difficult work of listening and responding to the varied needs and voices of citizens, abiding by the will of the majority while clearly and deeply listening to and responding to the voices and concerns of the minority.

Public housing must be built. About that, there is no question. People need places to call home. It is equally important, however, to enact a public process in which the voices of all peoples can be equally heard. I urge Council to deny the mayor's veto and continue to work and flourish and model the difficult necessity of democratic majority rule.

Respectfully,

Joshua Weresch

30 March 2024

CITY OF HAMILTON

NOTICE OF MOTION

Council Date: April 10, 2024

MOVED BY COUNCILLOR M. WILSON.....

Amendment to Item 2 of the Public Health Committee Report 23-007, respecting Hamilton Opioid Action Plan (BOH23021) (City Wide)

WHEREAS, at its meeting of June 21, 2023, City Council approved Item 2 of Public Health Committee Report 23-007, respecting Hamilton Opioid Action Plan (BOH23021) (City Wide);

WHEREAS, the Hamilton Opioid Action Plan was approved including municipal investment in an 18-month supervised consumption site in a men’s shelter pilot through a Call for Applications by the Housing Services Division and, resulted in no submissions from men’s shelter service providers;

WHEREAS, on January 15, 2024 the Public Health Committee deferred the consideration of Report HSC24001/BOH23021(a), respecting Hamilton Opioid Action Plan: Embedded Harm Reduction Pilot be to the April 2, 2024, Public Health Committee meeting, and directed Public Health Services staff to report back upon further consultation with the Opioid Action Table and the Hamilton Drug Strategy Steering Committee;

WHEREAS, staff, as directed, consulted with the Hamilton Opioid Action Table and Hamilton Drug Strategy Steering Committee to develop a recommendation to reallocate the use of \$667,000 to implement Hamilton Opioid Action Plan goals within the next three months; and

WHEREAS, in the absence of a new safe consumption site, the Hamilton Opioid Action Table developed the following recommendation to reallocate the use of \$667,000, which have been endorsed by the Hamilton Drug Strategy Steering Committee, and will balance the current needs of our community by supporting an existing safe consumption site, bringing new harm reduction support to men’s emergency shelters, and providing peer support to unhoused people who use substances, including those living in encampments.

THEREFORE, BE IT RESOLVED:

- (i) That Item 2 of the Public Health Committee Report 23-007, respecting Hamilton Opioid Action Plan (BOH23021) (City Wide), **be amended**, to read as follows:

2. Hamilton Opioid Action Plan (BOH23021) (City Wide) (Item 8.2)

- (a) That the Hamilton Opioid Action Plan, attached as Appendix “A” to Report BOH23021, be approved;
- (b) That the Public Health Services budgeted complement be increased by 1.0 FTE Health Strategy Specialist, with funding for the 2023 costs of \$39,048 to come first from any Public Health Services levy funded surplus, then from the Public Health Services Reserve (112219), and that the 2024 operating cost of \$116,760 be included in the 2024 Tax Operating Budget;
- (c) That a one-year drug checking and surveillance system pilot be implemented in a manner satisfactory to the City Solicitor and that staff report back to the Public Health Committee in Q3 2024, at a cost of \$118,000 to be funded in 2023, first from any Public Health Services levy funded surplus, then from Public Health Services Reserve (112219), and that the 2024 operating costs of \$60,000 be included in the 2024 Tax Operating Budget;
- (d) That ~~**an 18-month pilot be implemented to provide a supervised consumption site in a men’s shelter by Housing Services through a Call for Applicants, for a total cost of \$667,000 be used to balance the current needs of our community by supporting an existing safe consumption site, bringing new harm reduction support to men’s emergency shelters, and providing peer support to unhoused people who use substances, including those living in encampments, by initiating the following initiatives over the 2024-2025 budget years:**~~
- (i) **by authorizing and directing the General Manager Healthy & Safe Communities to implement an agreement in a form satisfactory to Legal Services for 12 months of bridge funding with the Young Women’s Christian Association (YWCA) Hamilton for the Safer Use Space at a maximum cost of \$300,000;**
- (ii) **by authorizing the General Manager Healthy & Safe Communities to implement a 12-month pilot for Embedded Harm Reduction in Men’s Emergency Shelters at a cost of \$300,000; and**

- (iii) by authorizing the General Manager Healthy & Safe Communities to fund Peer Support to support unhoused people who use substances, including those living in encampments, through a Call for Applicants at a cost of \$67,000.**
- (e) That the cost of \$667,000, as outlined in subsection (d), be funded through the Early Years System Reserve (11218), as approved by the 2024 Tax Operating Budget \$120,000 for 2023 ~~be funded from first from any Healthy and Safe Communities departmental levy funded surplus, then from Public Health Services Reserve (112219), and that the costs of \$547,000 be included in the 2024 and 2025 Tax Operating Budget;~~**
- (f) That the General Manager, Healthy and Safe Communities Department or delegate be authorized and directed, on behalf of the City of Hamilton, to enter into, execute and administer all agreements and documents necessary to implement the *initiatives outlined in subsection (d) Call for Applicants for a shelter based supervised consumption space, including but not limited to spending caps, benefit frequency limits, or other controls necessary to ensure costs are contained within the approved budget;* and**
- (g) That Public Health Services report back with an evaluation of the initiatives, including the perspectives of people with lived experience, no later than Q4 of 2025.**

Authority: Item 2, Emergency & Community Services Committee Report 23-010
(PED23072)
CM: August 18, 2023 Ward: City Wide

Bill No. 054

CITY OF HAMILTON
BY-LAW NO. 24-

Safe Apartment Buildings By-law

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25, states that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and enhance the municipality's ability to respond to municipal issues;

WHEREAS section 10 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides a single-tier municipality with the broad authority to pass by-laws respecting the economic, social, environmental well-being of the municipality, the health, safety and well-being of persons, the protection of persons and property and business licensing;

WHEREAS subsection 391(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may impose fees and charges on persons,

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

WHEREAS subsections 425(1) and 429(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 authorize a municipality to pass by-laws providing that a person who contravenes a municipal by-law is guilty of an offence and to establish a system of fines for offences under a by-law;

WHEREAS section 434.1 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may require a person, subject to such considerations as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that person has failed to comply with a by-law of the municipality passed under the *Municipal Act, 2001*, S.O. 2001, c.25.;

WHEREAS section 436 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may pass a by-law providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of a municipality has been complied with; and

WHEREAS sections 444 and 445 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may make an order requiring a person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity and do work to correct the contravention.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

PART 1 – TITLE AND INTERPRETATION

Short Title

1. This By-law may be referred to as the “Safe Apartment Buildings By-law”.

Definitions

2. In this By-law:

“**Administrative Penalty**” means any administrative fee pursuant to the City of Hamilton’s Administrative Penalties By-law 17-225;

“**Apartment Building**” means a purpose-built building, or related group of buildings, with two (2) or more storeys and six (6) or more Rental Units which share at least one (1) Common Area and includes the lands and premises on which the building is located on, but does not include a condominium, a long-term care home, a licensed residential care facility, a licensed retirement home, a lodging home or a housing co-operative;

“**Audit**” means an Inspection and assessment of the physical condition of an Apartment Building, its systems and site components, subsequent to a failed Evaluation, to determine compliance with applicable laws;

“**By-law**” means this By-law;

“**City**” means the municipality of the City of Hamilton or the geographic area of the City of Hamilton as the context requires;

“**Common Area**” means a shared area or areas inside or outside of an Apartment Building available for the use of its Tenants including, but not limited to, vestibules, lobbies, hallways, stairs, elevators, underground parking, outdoor areas on the premises, meeting rooms, exercise and recreational facilities and garbage storage areas;

“**Council**” means the Council of the City of Hamilton;

“**Director**” means the City’s Director of Licensing and By-law Services and their designate or successor;

“**Domesticated Mouse or Rat**” means a mouse or rat:

- (a) kept as a pet by the occupiers of a Rental Unit, building or structure, normally in an enclosed cage or container within the Rental Unit, building or structure;
- (b) cared for and fed by the occupiers, which care includes clean up and removal of mouse or rat waste and soiled rodent bedding from the Building or Structure and cage or container; and
- (c) kept in compliance with any applicable animal control laws or by-laws;

“Evaluation” means an Inspection performed by an Officer on an Apartment Building to assign a score for maintenance practices and standards using criteria developed by the City;

“Infestation” includes, but is not limited to:

- (a) in the case of mice, rats, bed bugs, fleas, cockroaches or Fire/European ants, evidence of an active infestation including, but not limited to burrows, feces, eggs, nests or other indications of an infestation;
- b) in the case of ants, but not including Fire/European ants, the presence of any occupied nest in the interior of a building; or
- (c) in the case of wasps or hornets, the presence of any occupied nest attached to the interior or exterior of a building or structure;

“Inspection” means an inspection performed by an Officer in accordance with this By-law and includes an Evaluation and Audit;

“Licensing By-law” means the City’s By-law to License and Regulate Various Businesses 07-170;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O. 2001, c.25;

“Officer” means a provincial offences officer, or a person appointed under the authority of a municipal by-law or by Council to enforce City by-laws;

“Operator” means the superintendent or property manager or any other person who may take on some or all of the roles relating to permitting occupancy, but does not include an Owner;

“Owner” means any person or persons who have any legal right, title, estate or interest in an Apartment Building and shall include, but is not limited to, a landlord, lessor, sublessor or other person permitting the occupation of a Rental Unit, their agents, heirs, assigns, personal representatives and successors in title;

“Penalty Notice” means a penalty notice given to a person pursuant to the Administrative Penalties By-law No. 17-225.

“Pest” includes, but is not limited to, any mouse, rat, ant, bed bug, flea, wasp, hornet, cockroach or any other rodent, insect or otherwise that the City considers to be a pest, but does not include any Domesticated Mouse or Rat;

“Person” includes an individual, sole proprietorship, partnership, limited partnership, trust, party or body corporate, and the personal or other legal representatives of a person to whom the context can apply according to the law;

“Plan” means a written procedure required by the City, and includes but is not limited to, a cleaning plan, electrical maintenance plan, state of good repair plan, integrated pest management plan, waste management plan and vital services disruption plan;

“Property Standards By-law” means the City’s Property Standards By-law 23-162;

“Rental Unit” means any living accommodation used or intended for use as a rented residential premises;

“Tenant” includes a person who pays rent in return for the right to occupy the Rental Unit and includes their heirs, assigns and personal representatives, but does not include a person who has the right to occupy a Rental Unit by virtue of being an Owner of the Apartment Building in which the Rental Unit is located or a shareholder of a corporation that owns the Apartment Building;

“Tenant Service Request” means any communication from a Tenant to an Owner for the purpose of identifying and rectifying concerns regarding their Rental Unit or the Apartment Building;

“User Fee By-law” means the City’s User Fees and Charges By-law No. 23-112;

“Vital Service” means hot or cold water, fuel, electricity, gas or, during the part of each year prescribed by the regulations, heat;

“Vital Services By-law” means the City’s Vital Services By-law No. 23-XXX.

3. A term not defined in section 2 of this By-law shall have the same meaning as the term in the Building Code Act, 1992, S.O. 1992, c.23 or the City’s Property Standards By-law.
4. In this By-law,
 - (a) a word importing the masculine, feminine or neutral gender only includes members of the other genders;
 - (b) a word defined in or importing the singular number has the same meaning when used in the plural number, and vice versa;
 - (c) a reference to any Act, bylaw, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, bylaw, rule or regulation or provision enacted in substitution therefor or amendment thereof;
 - (d) the headings to each section are inserted for convenience of reference only and do not form part of the By-law;

- (e) words and abbreviations which have well-known technical or trade meanings are used in the By-law in accordance with those recognized meanings; and
- (f) where an officer of the City is named, or a reference is made to an office of the City, that reference shall be deemed to include a reference to the designate of that person, as appointed in accordance with policies and procedures of the City in force from time to time.

Application of the By-law

- 5. This By-law applies to all Apartment Buildings and all Rental Units in Apartment Building in the City.

PART 2 – REGISTRATION REQUIREMENTS

Registration Required

- 6. No Owner shall operate or allow the operation of an Apartment Building that is not registered in accordance with this By-law.
- 7. An Owner shall at all times ensure that an Apartment Building complies with all applicable laws, including, but not limited to, applicable public health regulations, the Ontario Building Code, the Ontario Fire Code, and the City's Property Standards By-law.
- 8. Upon completing the application for registration required pursuant to section 10 of this By-law, the application shall be reviewed by the Director and, if the Director is satisfied with the contents of the application, the Director shall issue a registration certificate to the Owner.
- 9. A registration certificate issued under this By-law is non-transferable.

Application for Registration

- 10. The application for registration shall be signed by the applicant and shall contain the following information relating to each Apartment Building for which application is made:
 - (a) the Owner's name and contact information, including a mailing address, email address and telephone number;
 - (b) the name of a secondary contact and his/her contact information, including a mailing address, email address and telephone number;
 - (c) if there is an Operator of the Apartment Building, the Operator's name and contact information, including a mailing address, email address and telephone number;

- (d) a full description of the Apartment Building and the Rental Units in the Apartment Building, including street address, number of rooms and any other information about the Apartment Building and Rental Units in the Apartment Building as required by the Director;
 - (e) proof of general liability insurance for the Apartment Building, with a minimum per occurrence limit of \$2,000,000.00;
 - (f) security features existing at the Apartment Building including, but not limited to, locking systems, cameras and security services;
 - (g) a copy of each Plan as required pursuant to this By-law; and
 - (h) other information or documentation as may be required by the Director.
11. An Owner shall notify the Director, within seven (7) days, of any change to any information relating to the registration issued to the Owner pursuant to this By-law, including:
- (a) the name, mailing address, email address and/or phone number of the Owner, the primary contact and/or secondary contact listed on the most recent application for registration;
 - (b) the name, mailing address, email address and/or phone number of the Operator listed on the most recent application for registration; and
 - (c) the ownership of the Apartment Building.

Term of Registration

12. The registration of an Apartment Building expires on the anniversary of the date of its registration.
13. An Owner shall apply for registration in a form and manner satisfactory to the Director for each Apartment Building owned by that Owner every twelve (12) months and shall pay the fee specified in the City's User Fees By-law;

Posting of Registration

14. Every Owner that is registered under this By-law shall prominently display their registration in an inside Common Area at the Apartment Building which is visible to Tenants, prospective Tenants and visitors of the Apartment Building at all times.

False, Inaccurate and Misleading Information

15. No Owner shall provide inaccurate, misleading or otherwise incorrect information to the City.

16. Where the Director determines subsequent to the issuance of a registration that any or all of the information provided in section 10 of this By-law is inaccurate, misleading or otherwise incorrect, the Director shall notify the Owner in writing of such inaccurate, misleading or otherwise incorrect information.
17. Should the Owner fail to correct the registration within fourteen (14) calendar days of receipt of the notice provided pursuant to section 16 of this By-law, the Director shall revoke the Owner's registration without further notice to the Owner.

PART 4 – OWNER AND OPERATOR OBLIGATIONS

Application

18. This Part applies to all Apartment Buildings and Rental Units in an Apartment Building in the City.

Owner's Duties and Obligations

19. Every Owner and Operator of an Apartment Building is responsible for complying with this By-law and shall not use, permit the use of, rent or offer to rent any Rental Unit in an Apartment Building that does not conform to the minimum maintenance standards prescribed under the City's Property Standards By-law.

Tenant Service Requests Process

20. An Owner or Operator shall have a process for managing Tenant Service Requests.
21. The process for managing Tenant Service Requests shall include, at a minimum, the following:
 - (a) a means of receiving Tenant Service Requests;
 - (b) a means of maintaining a record of all Tenant Service Requests, which incorporates:
 - (i) the date and time the request was made;
 - (ii) the address and Rental Unit number to which the request relates;
 - (iii) the contact information provided by the Tenant;
 - (iv) a description of the issue, as reported by the Tenant;
 - (v) an evaluation of the urgency of the request, as set out in section 22 of this By-law;
 - (vi) a record of actions taken to address the request; and
 - (vii) the date and method by which the Tenant was notified of the resolution of the request;

- (c) a prioritization of incoming Tenant Service Requests to identify the urgency as set out in section 22 of this By-law; and
- (d) a verification if the Tenant has registered to be on the contact list of Tenants who have voluntarily chosen to self-identify as requiring assistance as set out in sections 31 and 32 of this By-law.

Urgent Tenant Service Request

22. For the purpose of subsection 21(c) of this By-law, an urgent Tenant Service Request is any such request made by a Tenant regarding their Rental Unit or the Apartment Building in relation to:

- (a) a loss or interruption to Vital Services;
- (b) a breach of security of a Rental Unit or the Apartment Building.

Response to Tenant Service Request Required

23. An Owner or Operator who is in receipt of an urgent Tenant Service Request shall respond to the Tenant making the request within twenty-four (24) hours of the request being made.

24. An Owner or Operator in receipt of a Tenant Service Request that is not urgent shall respond to the Tenant making the request within five (5) days of the request being made.

25. An Owner or Operator shall maintain any information and records necessary to demonstrate compliance with the Tenant Service Request process as required by section 20 of this By-law.

Tenant Notification Procedures

26. An Owner or Operator shall erect or install a notification board in a central and prominent location inside a Common Area within the Apartment Building.

27. The most recent information relating to the following shall be posted on the Tenant notification board:

- (a) Planned or unplanned service disruptions to Vital Services involving more than one (1) Rental Unit in an Apartment Building or a disruption to elevator(s), including, but not limited to, information relating to the:
 - (i) nature of the disruption;
 - (ii) expected duration of the disruptions; and
 - (iii) Rental Unit numbers, if any, impacted by the disruption.

- (b) Major capital projects and all information relating to:
 - (i) the nature of the project;
 - (ii) duration of the project; and
 - (iii) Rental Units, if any, impacted by the project.
- (c) The name and telephone number of the emergency building contact that is available on a 24-hour basis;
- (d) Evaluation completed by an Officer for the Apartment Building;
- (e) Instructions for Tenants on how to:
 - (i) submit and follow up on a previously submitted Tenant Service Request;
 - (ii) report unresolved issues to the City; and
 - (iii) obtain a copy of a Plan required pursuant to this By-law.
- (f) Notice of any scheduled Audit by the City, posted at least thirty (30) days prior to the Audit date, which notice contains information for Tenants allowing them to provide their concerns about the Apartment Building or their Rental Unit to the Owner and the City;
- (g) Any orders or notices issued by the City that apply to a Common Area, including:
 - (i) an order issued in accordance with the City's Property Standards By-law;
 - (ii) a notice issued in accordance with the City's Vital Service's By-law.
- (h) Any notice of any appeal to an order made pursuant to an Inspection in relation to a Common Area of an Apartment Building;
- (i) Information in relation to any violation of the Ontario Fire Code as identified by Hamilton Fire;
- (j) Information on the voluntary list of Tenants requiring additional information referred to in section 30 of this By-law, including:
 - (i). the existence and purpose of the voluntary list of Tenants;
 - (ii). that the Tenant may request to be placed on the voluntary list of Tenants requiring assistance; and
 - (iii). the manner in which a Tenant who wishes to self-identify as requiring assistance.
- (k) information on the Safe Apartment Buildings By-law; and

(l) any other information or document required by the Director.

28. The Owner or Operator shall provide information to Tenants and prospective Tenants on the Safe Apartment Buildings By-law, including but not limited to, informing Tenants of the rating of the Apartment Building and the basis on which that rating was determined prior to the Tenant signing a lease agreement and on an annual basis thereafter.

29. The Owner or Operator shall provide a copy of the most recent Evaluation result document received by the Owner or Operator from the Director to any person who requests this document.

Voluntary List of Tenants Requiring Additional Assistance

30. An Owner or Operator shall have and maintain a list of Tenants who may require additional assistance during periods of evacuation, elevator disruption or temporary discontinuance of Vital Services.

31. The list of Tenants required in section 30 of this By-law shall be comprised of Tenants who choose to voluntarily self-identify to the Owner or Operator of the Apartment Building as needing assistance.

PART 5 – MINIMUM MAINTENANCE STANDARDS

32. This Part applies to all Apartment Buildings and Rental Units in Apartment Buildings in the City.

Use of Certified Tradespersons

33. An Owner or Operator shall demonstrate that they have retained or used the services of a certified tradesperson where required by law for activities including, but not limited to, servicing heat, ventilation, air conditioning and plumbing systems.

Integrated Pest Management Plan

34. Every Owner shall have an integrated pest management plan for an Apartment Building in accordance with this By-law.

35. The integrated pest management plan required pursuant to section 34 of this By-law shall include:

- (a) include a schedule of preventative inspections that are performed on a quarterly basis of each calendar year to inspect the age and condition of each Apartment Building;
- (b) require an Owner or Operator to inspect the Apartment Building for Pests in any area of the Apartment Building within seventy-two (72) hours of receiving

- a Tenant Service Request relating to suspected Infestations in any part of the Apartment Building;
- (c) standing treatment plans to be applied in the event of an Infestation of:
- (i) mice;
 - (ii) rats;
 - (iii) ants;
 - (iv) bed bugs;
 - (v) fleas;
 - (vi) wasps;
 - (vii) hornets;
 - (viii) cockroaches; and
 - (ix) any Pest that has re-occurred at the Apartment Building.
36. An Owner or Operator who is aware of the presence of Pests at the Apartment Building or a Rental Unit in an Apartment Building shall take adequate measures to:
- (a) prevent the spread of the Pests into other Rental Units and/or other areas of the Apartment Building;
 - (b) eliminate or exterminate the Pests in all areas where the presence of the Pests is detected; and
 - (c) ensure that the integrated pest management plan and any other educational information about pest infestation prevention is made available to Tenants.
37. The Owner and Operator shall maintain any information or records necessary to demonstrate compliance with the integrated pest management plan required by section 34 of this By-law.
38. The Owner or Operator shall retain a pest management operator or exterminator licensed by the Ministry of Environment to conduct all pest extermination or elimination activity.
39. No Owner or Operator shall take any action which is likely to:
- (a) cause the spread of the Pests into other portions of the Apartment Building or Rental Units in the Apartment Building; or
 - (b) prevent the control or extermination of Pests.
40. No Owner or Operator shall take any action or permit any person to take any action intended to obstruct or hide the presence of Pests in any part of an Apartment Building or Rental Unit in an Apartment Building.
41. No Owner or Operator shall fail to provide Tenants with a copy of an integrated pest management plan prior to treating an Infestation within their Rental Unit.

42. No Owner or Operator shall fail to post an integrated pest management plan in the lobby of an Apartment Building prior to treating an Infestation within a Common Area of that Apartment Building.
43. No Owner or Operator shall fail to have an area that has been previously treated for Pests re-inspected between 15 and 30 days from the date of completion of the initial treatment.
44. No Tenant shall fail to submit a Tenant Service Request to report an Infestation, suspected Infestation, or conditions likely to cause an Infestation.
45. No Tenant shall knowingly cause conditions which may attract or harbour Pests.
46. No Tenant shall fail to treat an Infestation of fleas, lice or ticks on an animal under their care.
47. No Tenant shall fail to abide by an integrated pest management plan developed pursuant to this By-law.

Waste Management Plan

48. Every Owner shall have a waste management plan for an Apartment Building in accordance with this By-law.
49. The waste management plan required pursuant to section 48 of this By-law shall include information on:
 - (a) the dates and times of garbage, recycling and, if applicable, organic material collection for the Apartment Building;
 - (b) the location and storage of garbage, recycling and, if applicable, organics material bins, or receptacles in or around the Apartment Building;
 - (c) a process for dealing with bulk waste, debris, excess garbage, recycling or other waste between collections.
50. An Owner or Operator shall clearly identify with posters in Common Areas of the Apartment Building the location and the proper receptacles for the deposit of garbage, bulk waste, debris, recycling and, if applicable, organic material.
51. The Owner or Operator shall maintain any information or records necessary to demonstrate compliance with the waste management plan required by section 48 of this By-law.

Cleaning Plan

52. Every Owner shall have a cleaning plan for the Apartment Building in accordance with this By-law, which includes, but is not limited to:

- (a) an inspection schedule setting out the nature and frequency of inspections to be performed for the purposes of ensuring the cleanliness of the Common Areas and the Apartment Building;
- (b) a cleaning schedule setting out the nature and frequency of the cleaning services to be provided for all Common Areas in and around the Apartment Building; and
- (c) a process to address any unexpected health or safety hazards that require the cleaning of all or part of any Common Area.

53. The Owner or Operator shall maintain any information or records necessary to demonstrate compliance with the cleaning plan required by section 52 of this By-law.

State of Good Repair Plan

54. Every Owner shall have a state of good repair plan for an Apartment Building in a form and manner satisfactory to the Director that includes a comprehensive five (5) year forecast of capital element and common element repairs and improvements necessary to:

- (a) protect or restore the physical integrity of any part of the Apartment Building;
- (b) maintain the provision of Vital Services;
- (c) maintain or improve the security of any part of the Apartment Building; or
- (d) maintain the safe movement of persons.

55. A state of good repair plan referred to in section 54 of this By-law shall include a list of the capital and common elements of the Apartment Building and a date upon which any of the capital and common elements of the Apartment Building will be scheduled to be replaced, repaired or updated.

56. For the purposes of section 55 of this By-law, capital and common elements shall include:

- (a) roofs;
- (b) elevators;
- (c) building facades;
- (d) windows;
- (e) major mechanical and air treatment systems;
- (f) garages;
- (g) interior flooring and wall finishes;

- (h) balconies;
- (i) guardrails;
- (j) stairwells and stairwell handrails; and
- (k) building access and emergency exit doors.

57. The Owner or Operator shall maintain any information or records necessary to demonstrate compliance with the state of good repair plan required by section 54 of this By-law.

58. An Owner or Operator shall provide a copy of the state of good repair plan to any Tenant or prospective Tenant within five (5) business days of receiving a request.

Electrical Maintenance Plan

59. Every Owner shall have and maintain an electrical maintenance plan for an Apartment Building in accordance with this By-law.

60. An Owner and Operator shall maintain an electrical maintenance plan in collaboration with an electrical contractor holding a valid ECRA/ESA Electrical Contractor licence issued by the Electrical Safety Authority.

61. The Owner or Operator shall maintain any information or records necessary to demonstrate compliance with the electrical maintenance plan required by section 59 of this By-law.

Vital Service Disruption Plan

62. Every Owner shall have a vital services disruption plan for an Apartment Building in accordance with this By-law.

63. An Owner or Operator shall maintain a vital services disruption plan for the Apartment Building and such vital services disruption plan shall include preventative measures and processes to address any potential disruptions to Vital Services.

64. Any document required to be posted to the Tenant notification board with respect to any disruption to Vital Services in an Apartment Building pursuant to subsection 27(a) of this By-law shall be posted:

- (a) within twenty-four (24) hours of the occurrence of any unplanned Vital Service disruption;
- (b) a minimum of twenty-four (24) hours prior to any planned service disruption.

65. The Owner or Operator shall maintain any information or records necessary to demonstrate compliance with the vital services disruption plan required by section 62 of this By-law.
66. An Owner or Operator who does not implement the vital services disruption plan in accordance with this By-law during a time of prolonged Vital Service disruption is guilty of an offence.

PART 6 – RECORD KEEPING REQUIREMENTS

67. An Owner or Operator shall create, maintain and retain records necessary to demonstrate compliance with this By-law.
68. The records referred to in section 67 of this By-law shall include, but are not limited to:
- (a) Tenant Service Requests referred to in section 20 of this By-law;
 - (b) logs of all scheduled or unscheduled cleaning activities including, but not limited to, the nature of the cleaning activity and the date and location on which it occurred;
 - (c) logs of all scheduled or unscheduled activities relating to the waste management plan including, but not limited to, the nature of the activity and the date and location on which it occurred;
 - (d) logs of all scheduled or unscheduled pest inspections including, but not limited to:
 - (i). the date and location of all proactive and reactive pest inspections;
 - (ii). the name of the pest management operator or exterminator licensed by the Ministry of Environment retained to conduct inspections; and
 - (iii). the results of the inspection, including the recommended treatment, if any;
 - (e) logs of all pest treatment activities including, but not limited to:
 - (i) the date and location of the treatment;
 - (ii) the name of the pest management operator or exterminator licensed by the Ministry of Environment undertaking the treatment; and
 - (iii) the nature of the treatment.

- (f) logs of service and maintenance conducted on fuel burning appliances, heating systems, cooling systems, electrical systems, ventilation systems and plumbing systems including, but not limited to:
 - (i) the date and nature of the service; and
 - (ii) the name of the certified tradesperson who carried out the service or maintenance, if applicable.

69. Any Plan required pursuant to this By-law shall be available for review by the Director forthwith upon receiving an initial registration certificate pursuant to section 8 of this By-law with respect to the Apartment Building and any renewal of the registration certificate thereafter.

70. An Owner or Operator shall provide a copy of a Plan required pursuant to this By-law to any Tenant forthwith after receiving a written request for same.

71. An Owner or Operator shall provide a copy of the most recent Evaluation completed by the City for the Apartment Building to any Tenant forthwith after receiving a written request for same.

72. All records created in accordance with section 68 of this By-law shall be maintained by the Owner or Operator and stored in a secure and accessible manner for a period of no less than thirty (30) months from the date that the record was created.

PART 7 – INSPECTIONS

73. An Officer is authorized to conduct Inspections of an Apartment Building to determine compliance with this By-law and the Owner shall be responsible for the fees associated with such Inspections as set out in the City's User Fees By-law.

74. An Owner or Operator shall, upon receiving notification of an Inspection, make arrangements for a representative of the Owner or Operator to be in attendance for the entire duration of the Inspection, when required by an Officer.

75. Upon request by an Officer, an Owner or Operator shall provide access to conduct Inspections any room of an Apartment Building not actively being occupied or used as a Rental Unit at any reasonable time to confirm compliance with this By-law.

76. An Officer is authorized to conduct an Audit of any Apartment Building that requires further investigation and is further authorized to re-inspect such Apartment Building to determine whether the Owners or Operators are complying with any issued orders and is further authorized to take any other action necessary and authorized by law.

PART 8 – PROHIBITION ON RENTING NON-COMPLIANT RENTAL UNITS

Prohibition on Rental of Vacant Rental Units in an Apartment Building

77. No Owner or Operator shall rent out a Rental Unit in an Apartment Building to a new Tenant if there is a property standards order issued by the City pursuant to the City's Property Standards By-law against that Rental Unit.
78. No Owner or Operator shall rent out a Rental Unit in an Apartment Building to a new Tenant during a period of time where there is a discontinuance of any Vital Services in the Rental Unit.
79. No Owner or Operator shall rent out a Rental Unit in an Apartment Building to a new Tenant if the Owner or Operator knows of the presence of Pests in the Rental Unit.

PART 9 – ADMINISTRATION AND ENFORCEMENT

Fees

80. All fees referred to in this By-law and all fees for services, including applicable Audit, Evaluation and Inspection fees, shall be as set out in the City's User Fees By-law, or as otherwise set and approved by Council from time to time.

Administration and Enforcement

81. The administration and enforcement of this By-law is assigned to the Director who shall perform all of the functions conferred upon them by this By-law.
82. The Director may delegate any responsibilities conferred upon the Director under this By-law to an employee of the City.

Power of Entry

83. An Officer may enter upon land at any time in accordance with section 436 of the *Municipal Act, 2001* for the purpose of carrying out an Inspection to determine whether or not the following are being complied with:
- (a) this By-law;
 - (b) a notice or order issued pursuant to this By-law.
84. For the purpose of an inspection carried out under this By-law, an Officer may:
- (a) require the production of documents or things relevant to the Inspection;
 - (b) review and remove documents or things relevant to the Inspection for the purpose of making copies or extracts;

- (c) require information from any person concerning a matter related to the Inspection; and
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the Inspection.

Orders and Remedial Action

85. An Officer who finds a contravention of this By-law may issue one (1) or more notices or orders against the Owner or Operator directing that the contravening activity be discontinued or that work be done to correct the contravention.
86. If an Owner or Operator fails to comply with a notice or order issued under section 85 of this By-law, an Officer may enter upon lands at any reasonable time for the purposes of doing the corrective actions described in the notice or order at the Owner's expense.

Notices

87. Unless otherwise specified in this By-law, a notice or order served in accordance with this By-law may be served personally, by regular mail or by email to the last known mailing address or email address on record for the person to whom it is directed.
88. If the City is unable to effect service under section 87 of this By-law, or the delay necessary to serve a notice or order would result in an immediate danger to the health or safety of any person, a placard stating the terms of the notice and placed in a conspicuous place upon land on or near the Apartment Building shall be deemed to be notice to the person to whom the notice is directed.
89. The City may recover the costs of doing the matter or thing as directed pursuant to the notice or order issued under section 85 of this By-law by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

Penalties and Offences

90. No person shall:
- (a) fail to comply with a notice or order issued under section 85 of this By-law;
 - (b) hinder or obstruct or attempt to hinder or obstruct any person exercising a power or performing a duty under this By-law;
 - (c) neglect or refuse to produce or provide any information or thing to any person acting pursuant to an order made under section 438 of the Municipal Act, 2001; and

- (d) make, participate in, assent to or acquiesce in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this By-law.

91. Every person who contravenes any provision of this By-law is liable to pay to the City an Administrative Penalty in the amount specified in the Administrative Penalties By-law No. 17-225, and shall follow the procedures for payment, screening reviews and hearing reviews as outlined in the Administrative Penalty By-law. If a person is required to pay an Administrative Penalty, the person shall not be charged with an offence in respect of the same contravention.

92. Every person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, and the *Municipal Act, 2001*, as each may be amended from time to time.

93. In addition to Section 92, every person who is charged with an offence for a contravention of any provision of this By-law, by the laying of an information under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, is guilty of an offence and on conviction is liable to a minimum fine of \$500 and a maximum fine of \$100,000.

General

94. In this By-law, a reference to an Act, regulation or by-law is to that Act, regulation or by-law as it is amended or replaced from time to time.

95. Should any part of this By-law be determined by a Court of competent jurisdiction to be invalid or of no force, it is the stated intention of Council that such invalid part of the By-law shall be severable and that the remainder of this By-law shall continue to operate and to be in force.

PASSED this 10th day of April, 2024.

A. Horwath
Mayor

J. Pilon
Acting City Clerk

Authority: Item 7, General Issues Committee Report 24-001 (PED23072(a))
CM: January 24, 2024 Ward: City Wide

Bill No. 055

CITY OF HAMILTON

BY-LAW NO. 24-

Renovation Licence and Relocation By-law

WHEREAS section 8 of the *Municipal Act, 2001* states that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS section 10 of the *Municipal Act, 2001* provides a single-tier municipality with the broad authority to pass by-laws respecting (i) the economic, social and environmental well-being of the municipality, (ii) the health, safety and well-being of persons, (iii) the protection of persons and property and (iv) business licensing;

AND WHEREAS subsection 151(1) of the *Municipal Act, 2001* authorizes a municipality to provide for a system of licences with respect to a business and may:

- (a) prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence;
- (b) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- (c) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- (d) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and,
- (e) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it.

AND WHEREAS subsection 151(1) of the *Municipal Act, 2001* applies with necessary modifications to a system of licences with respect to any activity, matter or thing for which a by-law may be passed under sections 9, 10 and 11 of the Act as if it were a system of licences with respect to a business;

AND WHEREAS, in accordance with subsection 23.2(4) of the *Municipal Act, 2001*, Council for the City of Hamilton is of the opinion that the delegation of the legislative

powers under this by-law to the Director including, without limitation, the power to issue and impose conditions on a licence are powers of a minor nature having regard to the number of people, the size of the geographic area and the time period affected by the exercise of the power;

AND WHEREAS subsection 39(1) of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons,

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

AND WHEREAS subsections 425(1) and 429(1) of the *Municipal Act, 2001* authorize a municipality to pass by-laws providing that a person who contravenes a municipal by-law is guilty of an offence and to establish a system of fines for offences under a by-law;

AND WHEREAS section 434.1 of the *Municipal Act, 2001* provides that a municipality may require a person, subject to such considerations as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that person has failed to comply with a by-law of the municipality passed under the *Municipal Act, 2001*;

AND WHEREAS section 436 of the *Municipal Act, 2001* provides that a municipality may pass a by-law providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of a municipality has been complied with;

AND WHEREAS sections 444 and 445 of the *Municipal Act, 2001* provides that municipality may make an order requiring a person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity and do work to correct the contravention;

AND WHEREAS the Province of Ontario has enacted the *Residential Tenancies Act, 2006* and such *Act* states that:

“The purposes of this Act are to provide protection for residential Tenants from unlawful rent increases and unlawful evictions, to establish a framework for the regulation of residential rents, to balance the rights and responsibilities of residential Landlords and Tenants and to provide for the adjudication of disputes and for other processes to informally resolve disputes.”

AND WHEREAS pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*, a Landlord shall serve a Tenant with a notice of termination of tenancy if the Landlord requires vacant possession of the rental unit for the purpose of performing

repairs or renovations;

AND WHEREAS subsection 50(3) of the *Residential Tenancies Act, 2006*, requires that the notice of termination served pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*, inform the Tenant that if they wish a right of first refusal to occupy the premises as a Tenant after the repairs or renovations are complete, they must give the Landlord notice of this fact before vacating the rental unit;

AND WHEREAS subsections 53(1) and 53(2) of the *Residential Tenancies Act, 2006* establish that a Tenant who receives notice of termination of a tenancy for the purpose of repairs or renovations pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*, may have a right of first refusal to occupy the rental unit as a Tenant when the repairs or renovations are complete at a rental rate that is no more than what the Landlord could have lawfully charged if there had been no interruption in the Tenant's tenancy;

AND WHEREAS the City of Hamilton seeks to regulate by way of licensing, any Landlord who intends to perform repairs and renovations and serves a notice of termination pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006* in order to assist the Tenant in making an informed decision as to whether or not the Tenant should deliver a notice of their wish to occupy the rental unit after the repairs and renovations are complete prior to such Tenant vacating the premises;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

PART I – GENERAL AND INTERPRETATION

1. In this By-law;
 - (a) a word defined in or importing the singular number has the same meaning when used in the plural number, and vice versa;
 - (b) a reference to any Act, by-law, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, by-law, rule or regulation or provision enacted in substitution therefor or amendment thereof;
 - (c) the headings to each section are inserted for convenience of reference only and do not form part of the By-law;
 - (d) words and abbreviations which have well-known technical or trade meanings are used in the By-law in accordance with those recognized meanings; and

- (e) where an officer of the City is named, or a reference is made to an officer of the City, that reference shall be deemed to include a reference to the designate of that person, as appointed in accordance with policies and procedures of the City in force from time to time.
2. This By-law shall apply to all Rental Housing Units within the municipality of the City of Hamilton or the geographic area of the City of Hamilton, as the context requires.
3. This By-law shall not apply to:
- (a) a licensed hotel, motel, inn or bed and breakfast, tourist home, licensed lodging house, licensed short-term rental or licensed residential care facilities; and
 - (b) any building to which any of the following statutes, or their regulations, apply;
 - (i) the *Homes for Special Care Act*, R.S.O. 1990, c. H.12;
 - (ii) the *Innkeepers Act*, R.S.O. 1990, C. 17;
 - (iii) the *Long-Term, Care Homes Act, 2007*, S.O. 2007, c. 8;
 - (iv) the *Retirement Homes Act, 2010*, S.O. 2010, c.11;
 - (v) the *Social Housing Reform Act, 2000*, S.O. 2000, c. 27; and
 - (vi) social housing or affordable housing that is not subject to *Social Housing Reform Act, 2000*, S.O. 2000, c. 27, but which is subject to an agreement with the City and which has been approved for exemption by the Director.
4. All licence fees and inspection fees related to this By-law shall be paid in accordance with the City's User Fees and Charges By-law No. 19-160, and such licence fees and inspection fees paid shall be non-refundable.

Definitions

5. In this By-law:

"Administrative Penalty" means any administrative fee pursuant to the City's Administrative Penalties By-law 17-225;

"Average Market Rent" means rent at average market rent as published annually by the Canada Mortgage and Housing Corporation (CMHC) based on number of bedrooms in a Rental Housing Unit;

"By-law" means this By-law;

"Chief Building Official" means the Chief Building Official as appointed by Council pursuant to the *Building Code Act, 1992*, S.O. 1992, c.23, or their designate, and may include building inspectors for the purpose of doing inspections as contemplated under

this By-law;

“City” means the municipality of the City of Hamilton or the geographic area of the City of Hamilton as the context requires;

“Council” means the Council of the City of Hamilton;

“Director” means the City’s Director of Licensing and By-law Services, or their designate;

“Fire Chief” means the City of Hamilton Chief of the Hamilton Fire Department, or their designate;

“Landlord” includes:

- (a) the owner of a Residential Housing Unit or any other person who permits occupancy of a Rental Housing Unit, other than a Tenant who occupies a Rental Housing Unit in a Residential Complex and who permits another person to occupy the Rental Housing Unit or any part thereof;
- (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 Housing 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 the *Residential Tenancies Act 2006*, including the right to collect rent;

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

“Medical Officer of Health” means the Medical Officer of Health for the Hamilton Health Unit and includes public health inspectors;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O. 2001, c.25;

“Municipal Law Enforcement Officer” means an employee of the Licensing and By-law Services Division of the City of Hamilton who is appointed by Council to enforce the provisions of this By-law;

“Officer” shall include a Municipal Law Enforcement Officer, Medical Officer of Health, Fire Chief, Chief Building Official, a Hamilton Police Services police officer, or any other person appointed under the authority of a municipal by-law or by Council to enforce City by-laws;

“Operator” means the superintendent or property manager or any other person who may take on some or all of the roles relating to permitting occupancy in a Rental Housing Unit, but does not include an Owner;

“Owner” means any person or persons who have any legal right, title, estate or interest in a Rental Housing Unit and shall include, but is not limited to, a Landlord, lessors, sublessor or other person permitting the occupation of a Rental Housing Unit, their agents, heirs, personal representatives and successors in title;

“Person” includes an individual, sole proprietorship, partnership, limited partnership, trust, party or body corporate, and the personal or other legal representatives of a person to whom the context can apply according to the law;

“Provincial Offences Act” means the *Provincial Offences Act*, R.S.O. 1990, c.P33;

“Rental Housing Unit” means a building or part of a building: (i) consisting of one or more rooms; (ii) containing toilet and cooking facilities; (iii) designed for use as a single housekeeping establishment; and (iv) used or intended for use as a rented residential premise;

“Residential Complex” means a building or related group of buildings in which one or more Rental Housing Units are located and includes all common areas and services and facilities available for the use of its residents;

“Residential Tenancies Act, 2006” means *the Residential Tenancies Act, 2006*, S.O. 2006 c.17;

“Tenant” includes a person who pays rent in return for the right to occupy the Rental Housing Unit and includes their heirs, assigns and personal representatives, but does not include a person who has the right to occupy a rental unit by virtue of being an Owner of the Residential Complex in which the Rental Housing Unit is located or a shareholder of a corporation that owns the Residential Complex; and

“Tenant Rights and Entitlements Package” means an information package produced by the City to inform Tenants about their rights & entitlements under the *Residential Tenancies Act, 2006*, and this By-law.

6. A term not defined in section 5 of this By-law shall have the same meaning as the term in the *Building Code Act, 1992*, S.O. 1992, c.23 or the City’s Property Standards By-law.

PART II- LICENCE REQUIRED FOR REPAIRS AND RENOVATIONS TO RENTAL HOUSING UNITS THAT REQUIRE VACANT POSSESSION

7. A Landlord or Operator who has delivered a notice of termination pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006* to a Tenant in order to perform repairs or renovations which require vacant possession of a Rental Housing Unit shall, within seven (7) days of serving the notice of termination pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*, submit an application for a licence issued by the Director in accordance with the provisions of this By-law.
8. A Landlord or Operator who fails to submit an application for a licence pursuant to section 7 of this By-law is guilty of an offence and is subject to a penalty in the amount prescribed in this By-law for each day that the Landlord or Operator fails to comply with section 7 of this By-law.

PART III – PROHIBITIONS

9. No Landlord or Operator shall perform, or cause to be performed, renovations or repairs requiring vacant possession of the Rental Housing Unit pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*, without first being issued a licence as required pursuant to this By-law.
10. No Landlord or Operator shall be issued a licence as required pursuant to this By-

law without first being issued all permits required to carry out the repairs or renovations requiring vacant possession of the Rental Housing Unit pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*.

11. No Landlord or Operator who received notice from a Tenant of their wish to have a right of first refusal pursuant to section 53 of the *Residential Tenancies Act, 2006*, shall be issued a licence under this By-law without first making arrangements with the Tenant in accordance with section 25 of this By-law, unless otherwise exempted in accordance with section 28 of this By-law.
12. No Landlord or Operator who has obtained a licence under this By-law shall fail to adhere to the arrangements made with the Tenant pursuant to this By-law.
13. No Landlord or Operator who has obtained a licence under this By-law shall prevent a Tenant who has informed the Landlord or Operator in writing of their wish to exercise their right of first refusal, pursuant to subsection 53(2) of the *Residential Tenancies Act, 2006*, from reoccupying the Rental Housing Unit upon the completion of repairs or renovations at a rent that is no more than what the Landlord or Operator could have lawfully charged if there had been no interruption in the Tenant's tenancy.
14. No Landlord or Operator who has obtained a licence under this By-law shall advertise, or cause to be advertised, a renovated or repaired Rental Housing Unit for rent if the Tenant of that Rental Housing Unit has informed the Landlord or Operator in writing of their wish to exercise their right of first refusal, pursuant to subsection 53(2) of the *Residential Tenancies Act, 2006*, unless:
 - (a) the Tenant informs the Landlord or Operator, in writing, that the Tenant no longer wishes to exercise their right of first refusal to reoccupy the Rental Housing Unit; or,
 - (b) the Landlord (i) gave the Tenant sixty (60) days after the Rental Housing Unit was ready for occupancy to exercise their right of first refusal to occupy the Rental housing Unit and thereafter (ii) the Tenant chose not to exercise their right of first refusal within that sixty (60) day period.
15. No Landlord or Operator shall hold themselves out to be licensed under this By-law if they are not licensed.
16. No Landlord or Operator shall contravene or fail to comply with any of the terms and conditions of their licence issued under this By-law.
17. No Landlord or Operator shall transfer or assign a licence issued under this By-law.
18. No Person shall provide false or misleading information to the Director when applying for or renewing a licence under this By-law.
19. No Person shall hinder or obstruct an Officer or attempt to hinder or obstruct an Officer who is performing a duty under this By-law.
20. Any Person who provides false or misleading information to the Director shall be deemed to have hindered or obstructed an Officer in the execution of their duties.

PART IV - APPLICATION FOR AND RENEWAL OF LICENCE

Application for a Licence

21. Prior to submitting an application for a licence under this By-law, the Landlord or Operator shall provide a copy of the City's Tenant Rights and Entitlements Package to all Tenants who received a notice pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*.
22. Every Landlord or Operator applying for a licence as required pursuant to section 7 of this By-law shall provide the following information and materials in support of the application for a licence:
 - (a) the Landlord's name and contact information, including a mailing address, email address and telephone number;
 - (b) if there is an Operator of the Residential Complex, the Operator's name and contact information, including a mailing address, email address and telephone number;
 - (c) full description of the Residential Complex, including street address, number of Rental Housing Units, number of rooms within the Rental Housing Units, number of tenanted Rental Housing Units, rental rates for each of the tenanted Rental Housing Units and the commencement date and term of the tenancy agreement for each tenanted Rental Housing Unit at the time of submitting the application for a licence;
 - (d) a copy of the notice of termination served on the Tenant pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*;
 - (e) a copy of the building permit issued to the Landlord or Operator by the Chief Building Official and any other permit required to carry out the repairs or renovations;
 - (f) certification from the Landlord or Operator that the Landlord or Operator has provided a copy of the Tenant's Rights and Entitlements Package to all Tenants who received a notice pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*;
 - (g) a copy of a report prepared by a professionally designated engineer or other person with the requisite qualification stating that the repairs or renovations are so extensive that they require vacant possession of the Rental Housing Unit; and,
 - (h) any other information as may be required by the Director.

Notice of Application

23. Within five (5) days of submitting the application for a licence under this By-law, the Landlord or Operator shall provide notice of the application submitted to the City, pursuant to this By-law, to all Tenants who received a notice of termination

pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*.

24. Where a Residential Complex has more than one (1) tenanted Rental Housing Unit, within five (5) days of submitting an application for a licence to the City pursuant to this By-law, the Landlord or Operator shall post the notice in location on the premises, so as to be clearly visible to all residents of the premises until such time that a licence has been issued or the application for a licence has been withdrawn or revoked.

PART V – TEMPORARY ALTERNATE ACCOMMODATION

Temporary Alternate Accommodation Required

25. Where a Tenant has notified their Landlord or Operator of their wish to have a right of first refusal pursuant to section 53 of the *Residential Tenancies Act, 2006*, the Landlord or Operator shall within one-hundred and twenty (120) days of the Landlord or Operator serving the notice on the Tenant requiring vacant possession of the Rental Housing Unit, or before the date on which the Tenant notifies the Landlord of its intention to vacate the Rental Housing Unit, whichever is earlier:
- (a) make arrangements with the Tenant:
 - (i) for the Tenant's temporary alternate accommodation that is comparable to the Tenant's current Rental Housing Unit during the period of repair or renovation; or
 - (ii) to provide the Tenant with compensation in an amount equal to the difference between the rent rate currently paid by the Tenant for the Rental Housing Unit being repaired or renovated (including utilities, only if utilities were included in the tenancy agreement with the Tenant of that Rental Housing Unit) and the Average Market Rent of a Rental Housing Unit with the same number of bedrooms as the Tenant's current Rental Housing Unit, within seven (7) calendar days before the first (1st) day of each month during the period of repair or renovation; and
 - (b) make arrangements for the Tenant's return to the Rental Housing Unit after completion of the repairs and renovations at a rent that is no more than what the Landlord or Operator may have lawfully charged if there had been no interruption to the Tenant's tenancy.
26. The Landlord or Operator shall provide to the Director the particulars of the arrangements made with the Tenant forthwith after such arrangements have been made pursuant to section 25 of this By-law.
27. Comparable, for the purposes of section 25 of this By-law includes, but is not limited to, consideration of the following factors:
- (a) the rental rate for the unit is equal or less than the rent for the Rental

Housing Unit being repaired or renovated;

- (b) proximity between existing and proposed transportation options, including transit service;
- (c) relative proximity to community infrastructure such as, recreational facilities, libraries, police stations, schools and places of religious assembly;
- (d) relative proximity to commercial services and amenities;
- (e) number of bedrooms; and
- (f) size of proposed temporary alternate accommodation.

Application for Exemption

28. A Landlord or Operator who is subject to the provisions of section 25 of this By-law may apply to the Director for an exemption from the provisions of that section, on the grounds that the Landlord or Operator was unable to make the required arrangements within the specified time period in accordance with section 25 of this By-law.
29. A Landlord or Operator who has made an application for exemption under section 28 of this By-law shall submit to the Director the following information and documentation in support of the application for exemption:
- (a) an explanation for the reason that the Landlord or Operator was unable to make the required arrangements within the specified time period in accordance with section 25 of this By-law;
 - (b) documentation disclosing all proposed temporary alternate accommodations proposed by the Landlord, Operator or Tenant as required pursuant to subsection 25(a)(i) of this By-law, as applicable;
 - (c) copies of all correspondence between the Landlord, Operator and Tenant regarding the proposed temporary alternate accommodations referred to in subsection 29(b), as applicable;
 - (d) copies of all correspondence between the Landlord, Operator and Tenant, and any other related documentation, pertaining to the proposed arrangements to provide the Tenant with compensation in an amount equal to the difference between the rent rate currently paid by the Tenant for the Rental Housing Unit being repaired or renovated (including utilities, only if utilities were included in the tenancy agreement with the Tenant of that Rental Housing Unit) and the Average Market Rent of a Rental Housing Unit with the same number of bedrooms as the Tenant's current Rental Housing Unit as required pursuant to subsection 25(a)(ii) of this By-law, as applicable; and

- (e) any other information or documentation as required by the Director to assist in determining whether an exemption under this By-law should be granted.
30. The Director may, in approving an application for exemption pursuant to this By-law, impose conditions on both the Tenant and the Landlord.

PART VI- POWERS OF THE DIRECTOR AND ISSUANCE OF LICENCE

31. Notwithstanding any other provision in this By-law, the power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to revoke a licence, and to impose terms and conditions, including special conditions on a licence are delegated to the Director.
32. The Director shall issue a licence or renew a licence where the requirements or conditions of this By-law have been met.
33. The Director may refuse to issue, refuse to renew, or revoke a licence, or impose a term or condition on a licence on the following grounds:
- (a) there are reasonable grounds to believe that any or all material or information submitted in support of an application for a licence pursuant to section 22 of this By-law or an application for exemption pursuant to section 29 of this By-law or any other documents provided to the Director by the Landlord or Operator as required pursuant to this By-law contain a false or misleading statement;
 - (b) the Residential Complex and/or any Rental Housing Unit in the Residential Complex is subject to an order, or orders, made pursuant to any governmental authority;
 - (c) a Landlord or Operator does not meet all of the requirements, terms or conditions of this By-law.
34. A licence issued under this By-law shall be posted in location on the premises, so as to be clearly visible to all residents of the premises for the duration of the licence period.
35. A licence issued under this By-law shall only be valid for the repairs or renovations of the Rental Housing Unit as provided for in the application for licence referred to in this By-law.
36. A licence issued under this By-law shall be valid for either the period of one (1) year or the estimated date by which the Rental Housing Unit is expected to be ready for occupancy following the repairs or renovations, whichever is earlier.
37. A licence, in accordance with the provisions of this By-law, shall be required for each Rental Housing Unit and/or each Residential Complex for which a building permit is issued.
38. The Director may reject an application for a licence or its renewal where any of

the documents required by this By-law in support of such application are incomplete or have not been filed.

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

PART VII – ADMINISTRATION AND ENFORCEMENT

40. The Director is authorized to administer and enforce this By-law including, but not limited to, prescribing the format and content of any forms or other documents required under this By-law.
41. Registration and other fees under this By-law shall be as approved by Council from time to time and then included in the User Fees and Charges By-law No. 23-112.
42. An Officer may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this By-law;
 - (b) a direction or order made under this By-law; or
 - (c) an order made under section 431 of the *Municipal Act, 2001*.
43. An Officer may, for the purposes of any inspection carried out under section 42 of this By-law:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information in writing or otherwise as required by the Officer from any person concerning a matter related to the inspection; or
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
44. Any cost incurred by the City in exercising its authority to inspect under section 42 of this By-law including, but not limited to, the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the owner of the property where the inspection takes place.
45. An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001* where they have been prevented or are likely to be prevented from carrying out an inspection pursuant to section 42 of this By-law.

46. If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner of the property on which the contravention occurred to discontinue the contravening activity.
47. An order under section 46 of this By-law shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and,
 - (b) the date or dates by which there must be compliance with the order.
48. An order to discontinue any contravening activity made under section 46 of this By-law may be served personally or by registered mail to the last known address of:
 - (a) the owner of the property where the contravention occurred; and
 - (b) such other persons affected by the order as the Officer making the order determines.
49. Service by registered mail, for the purposes of section 48 of this By-law, shall be deemed to have taken place five (5) business days after the date of mailing.
50. In addition to service given in accordance with section 48 of this By-law, an order to discontinue any contravening activity made under section 46 of this By-law may be served by an Officer by placing a placard containing the order in a conspicuous place on the property where the contravention occurred.
51. Where service cannot be given in accordance with section 48 of this By-law, service is deemed to have taken place when given in accordance with section 50 of this By-law.
52. Where a Person does not comply with a direction, an order or a requirement under this By-law to do a matter or thing, the Director, with such assistance by others as may be required, may carry out such direction, order or requirement at the Person's expense.
53. The City may recover the costs of doing a matter or thing under section 52 of this By-law by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an interest rate of 15 per cent per year commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
54. The Director is authorized to give immediate effect to any direction, order or requirement where the costs of carrying out the direction, order or requirement do not exceed \$30,000 and, where the costs do exceed \$30,000, as the City's Council may authorize.
55. Every person who contravenes any provision of this By-law and every director or

officer of a corporation who knowingly permits a contravention of this By-law is, upon conviction, guilty of an offence and is liable:

- (a) on a first conviction, to a fine of not more than \$10,000; and
- (b) on any subsequent conviction, to a fine of not more than \$25,000.

56. Despite section 55 of this By-law, where the person convicted is a corporation:

- (a) the maximum fine in subsection 55 (a) is \$50,000; and
- (b) the maximum fine in subsection 55 (b) is \$100,000.

57. Where a Person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.

PASSED this 10th day of April, 2024.

A. Horwath
Mayor

J. Pilon
Acting City Clerk