




Hamilton

## CITY OF HAMILTON

### PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT Parking and By-law Services Division

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> December 11, 2012	
<b>SUBJECT/REPORT NO:</b> Rental Housing Licensing Model (PED10049(j)) (City Wide) (Outstanding Business List Item)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Joe Xamin (905) 546-2424 Ext. 6656
<b>SIGNATURE</b> 	

### RECOMMENDATION

- (a) That the Rental Housing Licensing Model proposed in Report PED10049(j) and the draft Rental Housing Licensing By-law, attached as Appendix "B" to Report PED10049(j), form the basis for public consultation and public and Planning Committee input for the December 11, 2012 Special Meeting of the Planning Committee;
- (b) That staff be directed to prepare a final recommended Rental Housing Licensing By-law with any revisions to the draft By-law, attached as Appendix "B" to Report PED10049(j), taking into consideration all public input received at the December 11, 2012 Special Meeting of the Planning Committee;
- (c) That the final Rental Housing Licensing By-law, referenced in recommendation (b) above, be considered by the Planning Committee at a Planning Committee Meeting to be scheduled no later than March 2013;

- (d) That the associated staffing and budget impacts and recommended Licensing Fees for Rental Housing be considered as part of the 2013 Operating Budget process.

### **EXECUTIVE SUMMARY**

The need to license rental housing has been an on-going issue for Committee/Council for many years. To assist in the decision, Council approved an 18-month proactive enforcement pilot for Wards 1 to 8 which exposed illegal rental properties and a serious level of substandard living conditions in many units. Report PED10049(h) presented to Planning Committee on September 18, 2012, attached as Appendix "D", summarized the results of the enforcement pilot and concluded there was a justifiable need to move forward with licensing of rental housing.

As a result, Planning Committee, therefore, directed staff "...to prepare comprehensive recommendations, a draft by-law amendment and cost-recovery analysis to be presented to a Special Public Meeting of the Planning Committee to be held before December 15, 2012".

The licensing model and draft by-law involved in this Report have been developed for the purpose of obtaining public comment and receiving direction from the Committee related to considerations for preparing a final recommended Licensing By-law. Staff intends to bring back this final recommended by-law to Planning Committee for final Committee decisions at a March 2013; however, any associated budget impact must be considered as part of the budget process if Council decides to proceed with Rental Housing Licensing.

***Alternatives for Consideration – See Page 10***

### **FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial:** Implementation of the proposed Rental Housing Licensing Model and draft By-law would have a net levy impact estimated to be \$600,000 in 2013 and reduced to \$450,000 net in 2014 (based on 30% cost recovery from fines and fees as experienced through the enforcement pilot during 2011 and 2012). The net levy impact could potentially reduce over time as more units are licensed under the program.

In order to provide an incentive to encourage landlords to license, staff is recommending lower license application fees for an initial six-month, intake application period commencing once the by-law comes into force. The proposed fee during this transition period would be limited to only \$100 per rental dwelling unit. However, if the property owner fails to apply during the initial, six-month intake period or the City identifies an unlicensed rental property after this period, then the fee would be the full-cost recovery fee per unit, which is estimated at \$192 per unit. Once the rental property

is registered and licensed, the annual renewal fee would be \$100 per unit (adjusted by annual Corporate User Fee increases).

Other additional fees may be required on a case-by-case basis either initiated by the City or independently by the landlord, such as Zoning verification (\$103) per property address or an Electrical Safety Authority (ESA) inspection. Appendix "A" to this Report outlines the potential fees per unit as well as the calculations for full cost recovery.

**Staffing:** Seventeen (17) new FTEs would be required to effectively administer and enforce the proposed Rental Housing Licensing By-law. It is proposed that the new staff would be phased in over a three-year period based upon careful monitoring of activity and the corresponding need and demand for staff.

While it is proposed that the by-law be approved in the short-term, it is recommended that the by-law not come into force and effect until the Spring of 2014. Staff requires approximately one year lead time to prepare for the by-law coming into effect (i.e. design, plan and develop necessary tools/forms/processes, implement technology, hire staff, and provide landlord/tenant education, etc.).

The initial staff requirements will be to establish the proactive enforcement team (6.0 FTEs - 5 Enforcement Officers, 1 By-law Clerk). As well, licensing specific staff (3.0 FTEs - 1 Senior Project Manager, 1 Application Analyst and 1 Fire Inspector) will be required to undertake the significant planning and development for the Licensing Program.

Once the by-law comes into force and effect (estimated April 2014), the following administrative and enforcement staff would then be required:

- 8.0 FTEs (4 Enforcement Officers, 1 Fire Inspector, 1 Licensing Clerk and 1 Licensing Facilitator) phased in as application activity warrants; and,
- Hamilton Fire Department requires one (1) FTE in the Fall 2013, and a second FTE Inspector would be hired the following Spring (2015) if the volume of applications warrants additional staff.

Staff expect a flood of applications from landlords to legalize or recognize their buildings. This will have to be monitored and may result in a temporary staffing increase in the Planning Division to accommodate peak demand commencing in 2014.

It should be noted that once the significant effort at the "up front" work is concluded and the demand for Zoning Verifications normalizes, it is anticipated that one Licensing Facilitator position could be eliminated.

**Legal:** The City has the authority to license the business of renting dwelling units under the Municipal Act, 2001. Staff is proposing a City-wide approach to licensing rental

housing which is consistent with the recommendations of the Ontario Human Rights Commission for municipalities considering such a program.

#### **HISTORICAL BACKGROUND (Chronology of events)**

On October 15, 2008, City Council established a Residential Rental Housing Community Liaison Committee (CLC) to investigate regulating rental housing in Wards 1, 8, 10 and 12. The "Neighbourhood Residential Rental Housing Community Liaison Committee" (NRRHCLC) began its work in January 2009. A City-wide CLC to investigate rental housing issues across the City was also established in 2009; however, Council deferred it until the NRRHCLC reported back.

On September 8, 2009, the NRRHCLC presented eight recommendations to the (former) Economic Development and Planning Committee and staff reported back on those recommendations throughout 2010. One of the key recommendations was to proactively enforce existing by-laws before considering the creation of new regulations for rental housing. As a result, in March 2010, Council approved an 18-month enforcement pilot for Wards 1 to 8 (subsequently named "*Project Compliance*") which commenced in July 2010.

On September 14, 2011, City Council extended "*Project Compliance*" until the end of March 2012, and further directed "that staff report back on licensing options based on the experience of other municipalities, including but not limited to a hybrid of a rental housing license/proactive by-law enforcement".

On February 14, 2012, Council extended "Project Compliance" until December 31, 2012 to allow additional time to investigate, analyze and consult on the potential licensing models.

On September 18, 2012 staff presented Report PED10049(h) ("Regulation of Rental Housing") to the Planning Committee which contained much of the justification for requiring a rental housing licensing by-law. Committee approved the following direction:

- a) That the concept of licensing rental housing in low-density buildings, as detailed in Report PED10049(h), be received;
- b) That staff be directed to prepare comprehensive recommendations, a draft by-law amendment and cost-recovery analysis to be presented to a Special Public Meeting of the Planning Committee to be held before December 15, 2012 and that the report be released to the public one week prior to the public meeting;
- c) That all future reports related to the Vital Services By-law be submitted to the Planning Committee with notification provided to the Emergency and Community Services Committee; and,

- d) That staff report back to the Special Public meeting of the Planning Committee with a comprehensive report on proactive enforcement:
- (i) Rentals/Singles;
  - (ii) Any limitations within the Landlord Tenancy Act as to whether or not a landlord can apply licensing and inspection fees to a tenant's rent;
  - (iii) Does the tribunal have authority to enforce non-compliant landlords to live in non-compliant units;
  - (iv) Report on the City of Waterloo's successes and issues;
  - (v) Reconsider our residential care facilities by-law with rental licensing by-law;
  - (vi) Feasibility of utilizing a longer compliance order;
  - (vii) Review fire codes pursuant to current technology; and,
  - (viii) Constitutional use of the rental licensing by-laws as means to gain access without search warrant through justice of the peace.

The items listed in item (d) above are reported on in Supplementary Report PED10049(k), also placed on the Planning Committee's December 11, 2012 meeting agenda.

As part of the November 20, 2012 Planning Committee agenda, staff are requesting, through Report PED10049(i), an extension of Project Compliance and continued funding from the Parking Reserve until the end of December 2013 or sooner if a decision is made regarding Proactive Enforcement and Rental Housing Licensing.

#### **POLICY IMPLICATIONS**

N/A

#### **RELEVANT CONSULTATION**

Extensive consultation was undertaken with Building, Planning/Zoning, Fire Prevention, Public Health Services, Housing Services, Neighbourhood Development, Urban Renewal and Legal in the preparation of this Report. Staff also consulted with representatives of the Housing Help Centre, Social Planning and Research Council of Hamilton, and Hamilton Community Legal Clinic.

#### **ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

The concentration and mix of rental accommodations varies across the City as does the condition ranging from poor to well-maintained units. Complaints are regularly received from tenants and neighbourhood residents about poor living conditions and safety,

density of rental housing, illegally zoned buildings, property maintenance issues such as illegal dumping, hoarding, long grass and weeds, graffiti, pest control, etc.

As identified through proactive enforcement efforts, a total of 3,629 property standard deficiencies were identified from July 2010 to October 2012 of which 2,349 (65%) of these deficiencies were associated with the 551 rental properties and 1,280 (35%) of the deficiencies were identified with 402 non-rental properties. Report PED10049(k) "Supplementary Rental Housing Report" provides more detail regarding the type and frequency of these deficiencies.

Based on these results and after consultation and due consideration to all of the issues and challenges, staff is proposing to regulate rental housing through the creation of a new licensing by-law category along with continued proactive enforcement.

### **Proposed Model to Regulate Rental Housing**

#### **(i) Licensing Businesses Renting Dwelling Units**

The proposed licence requirements, as proposed in the draft Rental Housing Licensing By-law attached as Appendix "B" to this Report, include:

- requiring a licence for any rental building in the City containing from one-to-six dwelling units, including a building which is a single detached dwelling;
- providing proof of ownership and contact information (including a local contact) of the building;
- providing a premises plan for the entire property which may include, but not limited to, a plan(s) showing the location, as applicable, of: all buildings, structures, parking areas and walkways, all dwelling units to be licensed, all entrances/exits to the dwelling units to be licensed and the building where they are located, and, all bedrooms in each dwelling unit;
- providing a property maintenance plan identifying the measures a landlord will take to be in compliance with the City's Yard Maintenance By-law (10-118), Snow Removal By-law (09-067) and Solid Waste Management By-law (09-067);
- providing proof of insurance;
- providing, once every three years, a completed "self-certification checklist" (a draft which is attached in Appendix "C" to this Report) to assure the Issuer of Licences that applicable by-laws and legislation are complied with. The City would through subsequent inspections by staff (estimated to be once every three years based on the proposed staffing levels), verify the accuracy of the checklist;

- providing a zoning verification (if deemed necessary); and,
- providing proof of compliance with Electrical Safety Authority requirements prior to applying for a licence and once every three years thereafter. It is important to note that the City of Waterloo reported that 81% of the 2,000 rental housing buildings inspected by the ESA were not in compliance.

Other noteworthy requirements of the proposed by-law include:

- that owner-occupied buildings be included in the by-law. While it has been suggested that owner-occupied buildings be exempt based on the opinion of some that they are better cared for, this is difficult to substantiate. However, Council could consider an exemption for such buildings in the future if information and compliance performance supports it;
- that Social Housing rental buildings be exempt as they are already subject to oversight through Provincial legislation;
- that, although technically rental buildings, Bed and Breakfasts, Hotels and Motels, Lodging Homes and Residential Care Facilities be exempt as the public interest is currently protected through existing licensing by-law requirements;
- that the number of habitable rooms be used to regulate rental dwelling use as opposed to limiting the number of bedrooms. Hamilton's Zoning By-law (6593) currently allows for eight habitable rooms such as a living room, dining room, kitchen, and bedrooms. Landlords would need to ensure their properties are in compliance with the occupancy standards, height/bedroom requirements, and parking requirements. Any additional habitable rooms require an increase in parking (0.5 parking for each additional room) and are subject to minimum lot size requirements. This requirement would need to be incorporated into new City-wide zoning to ensure consistent application across the City. The requirement for zoning verifications, premises plans and continued inspections under the new by-law would ensure compliance. This allows more flexibility for larger families who often have difficulty finding rental accommodation;
- that the Fire Department (HFD) undertake a Risk Based Evidence Analysis of all license applications as part of the licensing requirements. This would entail a strategic review of applications utilizing specific criteria that will help identify properties requiring targeted inspections by the HFD. In addition, as enforcement staff undertake proactive and random property inspections they will notify HFD of properties with potential fire risks. Beyond the Risk Based Evidence Analysis, the HFD will continue with its current practice of inspecting complaints under the legislative authority of the Fire Protection and Prevention Act; and,

- that, as noted in the Staffing Section of this Report, the By-law come into force and effect one year after it is passed in order to allow staff time to undertake the significant planning and development of the Licensing Program and educational initiatives.

## **(ii) Proactive By-law Enforcement Program**

As noted in Report PED10049(h) proactive by-law enforcement is critical to effectively regulate rental housing, especially for the larger multi-residential units (i.e. seven or more units). A proactive by-law enforcement team would continue to conduct audits of multi-residential buildings to address safety/quality issues. Concerns by social housing advocates about poor living conditions in some multi-residential buildings have been validated through recent proactive efforts. As noted in past reports, Project Compliance's audits have had success in dealing with numerous problems in the interior common areas and exterior of the multi-residential buildings/properties. Over 20 audits of multi-residential buildings/properties have been undertaken to date. Some properties have had numerous issues, for example one building which had a 40% vacancy rate due to the extremely poor conditions, while others have been well-maintained.

Also, in addition to identifying rental properties requiring licences, the proactive enforcement team would also continue to deal with issues across the City and focus more strategically on key problem properties/areas. As noted in the Staffing Section of this Report, it is recommended that the Proactive Team be established early on in order to commence proactive enforcement initiatives and undertake multi-residential audits.

## **Issues and Challenges Associated with Licensing Rental Housing**

While staff recommend licensing and pro-active enforcement, there will no doubt be challenges and issues that must be considered, including:

### **(i) Provincial Legislation and Planning Policy**

Through The Planning Act, the Ontario Government has required that accessory units in single-detached dwellings be allowed, although they are still subject to zoning. This implementation may provide some opportunity to mitigate any potential loss of housing stock. Currently, Hamilton, Dundas and Stoney Creek's Zoning By-laws allow for accessory units by right; however, in lower Hamilton, secondary units may not be possible as properties do not meet current zoning requirements (i.e. minimum lot size and increased parking).

Approval of the City's Urban Official Plan is expected in a year or so, and once approved, the City's Planning Division will again commence the development of further stages of the City's new Comprehensive Zoning By-law which will include Urban Residential Zoning. Rental housing will be considered through the development of



appropriate zoning regulations. In addition to regulating appropriate residential density through a habitable room limit, there are opportunities for more flexibility in allowing for dwelling units. This will create some opportunities to examine options at reducing regulations that can allow for as-of-right accessory units and increasing the opportunities for "pre-zoned" higher density in appropriate locations. However, it is estimated that development, consultation and approval will take two years once the Urban Official Plan is approved.

### **(ii) Licensing and Property Improvement Costs**

Since the on-set, there has been concern that any costs associated with the Rental Licensing By-law will be passed onto tenants. If a property is well-maintained and is in compliance then the financial impact should be minimal. However, where there are numerous or serious deficiencies, the costs of remedying the deficiencies may be expensive, and some of the cost will undoubtedly be passed onto tenants or there may no longer be a business case to continue operating the rental business.

### **(iii) Loss of Rental Housing**

It is anticipated that some properties will need to be rezoned due to illegal changes that have been made without the proper permits which may not comply with the current zoning regulations. The potential loss of rental units that are not in compliance with zoning is the single biggest concern raised. It is difficult to estimate the exact number, but it is anticipated that if landlords are required to return to the last legal use (e.g. from a fourplex to a duplex) up to 30% of rental units could be lost. The other potential loss is where a landlord may choose to de-convert the properties in order to avoid licensing. While Hamilton's vacancy rate for purpose-built rentals is modestly high at 4% there would not be enough stock to absorb the estimated losses and displaced tenants of rental units due to licensing, and this may result in a potential increase of homelessness and waiting lists for social housing.

### **(iv) Taxation**

Concerns have also been expressed that there will be increased taxation as buildings and the number of dwelling units per building are formally identified to the City and licensed. The misconception is that properties will now be taxed at the multi-residential tax rate. However, low density rental buildings containing six or less units are taxed at a residential rate, as the multi-residential tax rate only comes into effect for buildings containing seven units or more.

### **(v) Enforcement /Licensing Tribunal**

Enforcement is an obvious component of any regulation of rental housing. Therefore, the increased workload and resource requirements related to the Licensing Tribunal is likely to increase substantially.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

**Change Components of the Proposed Rental Dwelling Units Licensing Model and By-law Provisions**

Council may direct various changes to the proposed by-law, such as scope, what is included/excluded, issues dealing with habitable/bedrooms limits, licensing fees etc.

**Alternative Implementation Schedule**

One option is to identify an alternative implementation time frame for the Rental Dwelling Licensing which aligns with the internal policy changes. Staff would still recommend that a rental dwelling by-law be passed in 2013 and that proactive enforcement becomes a permanent work program; however, that the by-law comes into force at a later date. Phasing in licensing allows an extended time for education and compliance as well as time for other City initiatives, carried out by housing, planning and neighbourhood development staff, to be implemented.

**City-wide Proactive By-law Enforcement Team**

An alternative to licensing would be to create a permanent Proactive Enforcement Team. Similar to their current work, the team would proactively enforce property standards and yard maintenance issues and focus on key problem areas across the City. They could also focus on illegal zoning if directed. Audits of multi-residential buildings and monitoring key problem areas across the City would also continue. However, appropriate staff would need to be identified for this approach. Currently, as recommended in this Report, staff are recommending 5.0 full-time Enforcement Officers and 1.0 full-time By-law Clerk.

**Reactive Complaint Process for Rental Dwelling Units**

Another alternative to licensing and proactive enforcement would be to rely on the long-standing reactive complaint basis approach. However, while this is a very cost-effective approach it has not demonstrated an effective resolution to substandard housing to-date.

**Options to Mitigate Impact of Loss of Rental Units**

Some other potential options to mitigate the potential loss of housing is to examine whether or not changes in zoning can allow for an increase in housing options or density; for example initiatives identified in the Housing and Homelessness Action Plan.

One option is to change zoning of certain neighbourhoods or districts in order to create greater density.

The other issue which has often been raised is the potential grandfathering of illegal rental units. Staff cannot support wide-spread grandfathering of illegal units. Each must be looked at on a case-by-case basis to determine acceptability and impact.

Another option is to request senior levels of government for funding for purpose-built affordable housing and/or to improve funding for existing programs or creating new programs that aid in rehabilitating the housing stock.

### **CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

#### ***Healthy Community***

Creating a rental housing licensing program, as proposed in this Report, will accrue the following Community benefits which align with the City's strategic direction:

- promotion of quality and safe rental accommodations;
- improved quality of life for citizens living in rental accommodations;
- investment in the local economy as landlords make purchases to bring their properties into compliance; and,
- increased property values for rental and adjacent properties over time.

### **APPENDICES / SCHEDULES**

Appendix "A" to Report PED10049(j) – Licensing Fees and Cost Recovery Overview

Appendix "B" to Report PED10049(j) – Draft Rental Housing Licensing By-law (Schedule 30 – Rental Dwelling Unit)

Appendix "C" to Report PED10049(j) – Draft Rental Dwelling Unit Self-Certification Checklist

Appendix "D" to Report PED10049(j) - Report PED10049(h)

JX/dt

Licensing Fees and Cost Recovery Overview

The following is a break-down of potential costs per rental dwelling units and/or single dwellings under the proposed licensing requirements.

Number of Units **(ESA required prior to application)	2014		
	6 month Transition Period April 7, 2014 – Oct 1 2014	OR	Following Transition Period Cost Recovery Oct 6, 2014 beyond
	Fee per Unit		Fee per Unit
<b>One Unit /Single-Family</b>	<b>\$100</b>	OR	<b>\$192</b>
Zoning (if required)	\$106		\$298
<b>Two Units</b>	<b>\$200</b>	OR	<b>\$384</b>
Zoning (if required)	\$106		\$490
<b>Three Units</b>	<b>\$300</b>	OR	<b>\$576</b>
Zoning (if required)	\$106		\$682
<b>Four Units</b>	<b>\$400</b>	OR	<b>\$768</b>
Zoning (if required)	\$106		\$874
<b>Five Units</b>	<b>\$500</b>	OR	<b>\$960</b>
Zoning (if required)	\$106		\$1,066
<b>Six Units</b>	<b>\$600</b>	OR	<b>\$1,152</b>
Zoning (if required)	\$106		\$1,258

\*Full Cost Recovery (FCR = total staff salary/# of registered units + Zoning) charged to all units which do not apply for licensing during the first six months of the by-law being in effect voluntarily. Costing calculations are based on the number of rental dwelling units (8,500 units used as a base number to estimate cost recovery). Based on Canada Mortgage and Housing Corporation 2011 data, it is estimated that there are 48,113 rental units in apartments (containing six or more dwelling units), row houses and social housing buildings. Based on census data, there are 61,645 renter households in Hamilton. This means 13,532 rental units (61,645 minus 48,113) in buildings containing five or fewer units.

\* \*Electrical Safety Authority Inspection - typical fee is \$266 (2012). Inspections may be required dependent on unit type or if changes are made to the unit(s).

DRAFT

RENTAL HOUSING LICENSING BY-LAW

SCHEDULE 30

RENTAL DWELLING UNITS

INTERPRETATION

1. In this Schedule:

"**building**" means a structure, whether permanent or temporary, containing from one to six dwelling units and includes a building which is a single detached dwelling.

"**dwelling unit**" means a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from the outside or the building or from a common interior hallway, vestibule or stairway;

"**landlord**" means:

- (a) a registered owner of a dwelling unit in a building;
- (b) a person:
  - (i) for the time being managing or receiving rent for a dwelling unit in a building whether on the person's own account or as agent or trustee; or
  - (ii) who would receive rent for a dwelling unit in a building if it were rented;

"**local contact**" means an individual who resides in the City of Hamilton and who is authorized by a landlord to act on their behalf with respect to their dwelling unit, including to ensure compliance with this By-law, but does not include a tenant of the dwelling unit;

"**property**" means a parcel of land which can be legally conveyed pursuant to the provisions of the *Planning Act* and does not include road allowance;

"**registered owner**" means an owner of a dwelling unit whose interest in the dwelling unit is defined and whose name is specified in the proper land registry office;

"**rent**" includes consideration paid or required to be paid by a tenant to a landlord for the right occupy a dwelling unit when used as a noun and has a corresponding meaning when used as a verb; and

"**tenant**" includes a person who pays rent to a landlord for the right to occupy a dwelling unit.

2. This Schedule does not apply to:
  - (a) a bed and breakfast, hotel or motel as defined in Schedule 3 of this By-law;
  - (b) a lodging house as defined in Schedule 9 of this By-law;
  - (c) a residential care facility as defined in Schedule 20 of this By-law;
  - (d) a dwelling unit to which any of the following Acts or their regulations apply:
    - (i) Homes for Special Care Act;
    - (ii) Long Term Care Homes Act, 2007;
    - (iii) Social Housing Reform Act, 2000.

## GENERAL

3. The Issuer of Licences is authorized to prescribe the format and content of any forms or other documents required under this Schedule.

## LICENCE REQUIRED

4. No person shall rent out or offer to rent out a dwelling unit in a building without a licence issued under this Schedule.
5. When submitting an application for a licence, an applicant shall:
  - (a) submit a copy of the Transfer/Deed and parcel abstract dated no later than 15 days prior to the date of the application evidencing the registered owner of the dwelling unit;
  - (b) submit a premises plan, drawn to scale, of the property where the dwelling unit is located that has been approved by the Issuer of Licences and the details of such premises plan shall include, but are not limited to, depicting

the location, as applicable, of: all buildings, structures, parking areas and walkways; all dwelling units to be licensed; all entrances/exits to the dwelling units to be licensed and the building where they are located; and, all bedrooms in each dwelling unit;

- (c) submit a maintenance plan identifying the measures that the landlord will implement to comply with:
    - (i) The Snow Removal By-law No. 03-296;
    - (ii) the Solid Waste Management By-law No. 09-067;
    - (iii) the Yard Maintenance By-law No. 10-118;
  - (d) if the landlord does not reside in the City, submit the name, address, telephone number and email address of a local contact;
  - (e) submit proof of insurance that:  
[to be completed]
  - (f) submit a completed dwelling unit self-certification checklist; and
  - (g) upon first applying for a licence and every third year thereafter upon applying for a licence renewal, submit a certificate from the Electrical Safety Authority that each building containing a dwelling unit, including each dwelling unit, complies with the Ontario Electrical Safety Code.
6. As required by the Issuer of Licences when applying for a licence or at any time during the term of a licence, an applicant or licence holder shall submit one or more of the following:
- (i) a certificate from the Electrical Safety Authority that each building containing a dwelling unit, including each dwelling unit, complies with the Ontario Electrical Safety Code;
  - (ii) a certificate from the Fire Department that each building containing a dwelling unit, including each dwelling unit, complies with the applicable fire safety standards;
  - (iii) a certificate of compliance under the Property Standards By-law for each building containing a dwelling unit, including each dwelling unit;
  - (iv) a zoning verification certificate for the use of the property.

7. No licence holder under this Schedule shall change or cause a change to be made to a premises plan or maintenance plan without first obtaining the approval of the Issuer of Licences.

#### DUTIES OF LANDLORD

8. Every landlord shall:
- (a) post inside the front entrance to each dwelling unit in a conspicuous place:
    - (i) a current licence; and
    - (ii) a legible notice stating the name of the landlord or the landlord and the local contact and the telephone number where such landlord or the landlord and the local contact can be contacted immediately;
  - (b) ensure that every advertisement of a dwelling unit for rent includes the current licence number and that the current licence number is either legible or clearly audible depending on the advertising medium used;
  - (c) ensure that the property where a dwelling unit is located, including the building containing the dwelling unit and the dwelling unit, meets all requirements of the *Building Code Act, 1992* and its regulations, the *Fire Protection and Prevention Act, 1997* and its regulations and any applicable by-law including any zoning by-law;
  - (d) ensure that the measures in the maintenance plan under subsection 5(c) are implemented; and
  - (e) not cause, directly or indirectly, a tenant to refuse to consent to lawful entry and inspection of the property where a dwelling unit is located, including the building containing the dwelling unit and the dwelling unit.





Hamilton

## Rental Dwelling Unit Self-Certification Checklist

Municipal Address:

Rental Dwelling Unit #:

This Rental Dwelling Unit Self - Certification Checklist is designed to assist property owners in determining whether their properties comply with the City of Hamilton Property Standards By - Law and Yard Maintenance By-law. Each item on the checklist must be indicated as being "in compliance" or marked as "not applicable". Use the comments section to explain proposed actions to address non - conforming items or to explain why an item is "not applicable". Complete one Checklist for each rental dwelling unit and supply all tenants within the rental dwelling unit with a completed Checklist.

This Self - Certification Checklist is not all - inclusive. In addition to the items listed below, property owners are responsible for ensuring that all their units are in compliance with all applicable City of Hamilton By - Laws (e.g. zoning by - Laws) and all applicable Provincial and/or Federal legislation (e.g. the Building Code and the Fire Code).

Exterior and common areas	Compliance Verified		Comments
<b>Exterior property areas</b>			
The property is free of waste (i.e. garbage and litter)	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
The property landscaping is properly maintained	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
There are no dead, decayed or damaged trees	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
There are no wrecked, dismantled or inoperative vehicles	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
There are no dilapidated or collapsed structures	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
Driveways and parking area are in good condition	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
Exterior lighting is in good working order	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
Accessory buildings (sheds) are well maintained	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
Property fences and gates are in good working order	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
Retaining walls are well maintained	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	
Outside garbage storage area kept in a clean condition	<input type="checkbox"/> In compliance	<input type="checkbox"/> Not applicable	

City of Hamilton Use Only  
Application #: \_\_\_\_\_



Hamilton

### Rental Dwelling Unit Self-Certification Checklist

<b>Municipal Address:</b>
<b>Rental Dwelling Unit #:</b>

Exterior and common areas <i>(continued)</i>		Compliance Verified		Comments
<b>Building</b>				
Foundations are in good condition	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
All doors, windows, skylights and shutters are well maintained and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Roofs are in good repair able to prevent the leakage of water into the building	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Gutter and downspouts are unclogged, in good condition and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Chimneys are well maintained and free from loose bricks	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Staircases are sound and in good condition and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Guards and handrails are in good condition and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Decks and balconies are in good condition	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Exterior paint is well maintained	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Property is free of graffiti	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Building maintained to prevent the entry of vermin and birds	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable

Interior of Units		Compliance Verified		Comments
<b>Kitchen</b>				
Floor covering is free of trip hazards and in good condition	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Electrical outlets and light switches are functional and have cover plates	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Doors, windows and window screens are in good condition and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
The kitchen sink is serviced with potable water	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Interior lights are in good working order	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable
Cupboards, pantries are well maintained and in good working order	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable

City of Hamilton Use Only Application #: _____
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**Rental Dwelling Unit Self-Certification Checklist**

**Municipal Address:**

**Rental Dwelling Unit #:**

<b>Interior of Units (continued)</b>	<b>Compliance Verified</b>		<b>Comments</b>	
<b>Living room - Dining room - Den</b>				
Floor covering is free of trip hazards and in good condition	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Electrical outlets and light switches are functional and have cover plates	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Doors, windows and window screens are in good condition and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Interior lights are in good working order	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Fireplace in good working condition and properly vented	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
<b>Bedrooms</b>				
Floor covering is free of trip hazards and in good condition	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Electrical outlets and light switches are functional and have cover plates	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Interior lights are in good working order	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Doors, windows and window screens are in good condition and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
<b>Bathrooms</b>				
Floor covering is free of trip hazards and in good condition	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Electrical outlets and light switches are functional and have cover plates	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Doors, windows and window screens are in good condition and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Interior lights are in good working order	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	
Sink, bathtub/shower and toilet drain properly and do not leak	<input type="checkbox"/>	In compliance	<input type="checkbox"/> Not applicable	

City of Hamilton Use Only  
Application #: \_\_\_\_\_



**Rental Dwelling Unit Self-Certification Checklist**

<b>Municipal Address:</b>
<b>Rental Dwelling Unit #:</b>

General - Interior and Exterior	Compliance Verified		Comments		
<b>Plumbing Systems and Fixtures</b>					
All plumbing systems and plumbing fixtures in a building/unit are maintained so as to properly perform their intended functions and be free from leaks and defects	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
<b>HVAC - Heating - Ventilation</b>					
HVAC systems in good condition and operational	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
Heating system maintains a temperature of 20°C (68°C) between the 1st of September to the 31st of May	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
Natural or mechanical ventilation of a room or space in a building is Building Code compliant and maintained in good working condition	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
Portable heating equipment is not used as the main source of heat	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
<b>Occupancy Standards</b>					
No room or space within a building is used for a purpose that is not compliant with the Building Code and applicable zoning by-laws	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
All living rooms, dining rooms, kitchens and bedrooms have a minimum room height of not less than 1.9 m over the required floor area over any area that would be normally used as an egress or 2 metres over at least 50% of the required floor area	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
All bedrooms for one person has a floor area of at least 5.6m <sup>2</sup>	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
All bedrooms for two or more persons has a floor area of at least 3.3 m <sup>2</sup> per person	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
All bedrooms have a minimum width of 1.8 m	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	
<b>Ceilings and Walls</b>					
All walls and ceilings are maintained and in good condition	<input type="checkbox"/>	In compliance	<input type="checkbox"/>	Not applicable	

City of Hamilton Use Only Application #: _____
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**Pest Infestation**

The dwelling units are free and clear of rodents, vermin and insects  In compliance  Not applicable

**Means of Access or Egress**

Means of access or egress are free and clear and in good condition  In compliance  Not applicable

**Rental Unit Information**

**Completion Date**

**Location of rental property**

<input type="text"/>	<input type="text"/>
----------------------	----------------------

**Special Note:** Every home in Ontario must have a working smoke alarm on every storey and outside all sleeping areas

I acknowledge and certify to be true the following:

1. That the subject rental dwelling unit has been inspected and it meets or exceeds the minimum criteria listed in the Rental Dwelling Unit Self-Certification Checklist.
2. That the completed Rental Dwelling Unit Self- Certification Checklist was provided to all tenants living within the rental dwelling unit.
3. That I am responsible as the property owner for ensuring this rental dwelling unit is in compliance with all applicable City of Hamilton By - Laws (e.g. zoning by - Laws) and all applicable Provincial and/or Federal legislation (e.g. the Building Code and the Fire Code).

Print Name: \_\_\_\_\_ Check box:  Property owner  Property agent

\_\_\_\_\_  
Property owner or agent signature

\_\_\_\_\_  
Date (dd/mm/yy)

*\* If signed by an agent then a signed authorization form indicating your authority from the property owner must accompany this document – see attached form.\**

City of Hamilton Use Only  
Application #: \_\_\_\_\_



Hamilton

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Parking and By-law Services Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> September 18, 2012	
<b>SUBJECT/REPORT NO:</b> Regulation of Rental Housing (PED10049(h)) (City Wide) (Outstanding Business List Item)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Joe Xamin (905) 546-2424 ext. 6656
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the concept of licensing rental housing in low-density buildings, as detailed in Report PED10049(h), be endorsed, and that staff be directed to prepare comprehensive recommendations, a draft by-law amendment and cost-recovery analysis to be presented to the Planning Committee for approval by November 2012;
- (b) That all future reports related to the Vital Services By-law be submitted to the Planning Committee with notification provided to the Emergency and Community Services Committee.

**EXECUTIVE SUMMARY**

On January 1, 2007, the Municipal Statute Law Amendment Act, 2006 (Bill 130) made significant changes to the Municipal Act, 2001, respecting business licensing and the regulations, which included eliminating regulations which prohibited municipalities from

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 2 of 12**

licensing residential rental housing such that municipalities now have the authority to license rental properties.

To augment the extensive work undertaken by the Neighbourhood Residential Rental Housing and the City-Wide Community Liaison Committees, City Council on March 31, 2010, approved an 18 month Proactive By-law Enforcement Pilot Program for Wards 1 to 8 (subsequently named "Project Compliance") to assist in investigating the feasibility of regulating residential rental housing in the City of Hamilton.

Staff updated the Planning Committee on several occasions with respect to the findings and success of the pilot. City Council extended the pilot to the end of December 2012, and directed staff to report back "*...on licensing options based on the experience of other municipalities, including but not limited to a hybrid of a rental housing license/proactive By-law enforcement.*"

This Report fulfills the above direction and recommends that Council endorse the concept of licensing low density rental housing and direct staff to develop comprehensive recommendations to include:

- (i) an amendment to the City's Licensing By-Law 07-170 to add a Schedule for the licensing of Single-Detached/Semi-Detached /Duplexes/ Triplexes/ Quads and/or multiplex buildings containing 6 or less independent housekeeping rental units, and
- (ii) a proactive by-law enforcement program to:
  - identify rental housing which requires licenses,
  - deal with problem properties and areas through-out the City; and
  - conduct proactive property blitzes and audits/inspections of multi-residential buildings.

All past decisions regarding the Vital Services By-law have been made by the City's Emergency and Community Services Committee. Staff is recommending that the Planning Committee assume all further decisions related to Vital Services due to the impact that licensing of rental housing will have on the implementation of the Vital Services By-law.

***Alternatives for Consideration – See Page 11***

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial/Staffing/Legal: N/A**

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 3 of 12****HISTORICAL BACKGROUND (Chronology of events)**

On October 15, 2008, City Council approved the establishment of a Residential Rental Housing Community Liaison Committee (CLC) to investigate the potential to regulate rental housing in Wards 1, 8, 10 and 12. The "Neighbourhood Residential Rental Housing Community Liaison Committee" (NRRHCLC) began its work in January 2009. A City-wide CLC to investigate rental housing issues across the City was also established in 2009; however, it was deferred by Council in November 2009, until the NRRHCLC reported back.

On September 8, 2009, the NRRHCLC presented eight recommendations, Report 009-001, (Citizen Committee Report), to the (former) Economic Development and Planning Committee and staff reported back on each of these recommendations throughout 2010. One of the key recommendations was to proactively enforce the City's existing by-laws before considering the creation of new regulations for rental housing. As a result, an 18-month pilot program for Wards 1 to 8 was approved by Council in March 2010 (subsequently named "Project Compliance") consisting of six temporary part-time Municipal Law Enforcement Officers and one temporary full-time Clerk. The pilot program commenced in July 2010.

Planning Committee, and subsequently City Council on September 14, 2011, approved the following:

- "a) That Project Compliance (Property Standards) be extended by four months through to the end of March 2012 to be funded through the Parking Reserve #108021.
- b) That staff report back on licensing options based on the experience of other municipalities, including but not limited to a hybrid of a rental housing license/proactive by-law enforcement."

Subsequently, on February 14, 2012, Council approved Report PED10049(g) which recommended a further extension of Project Compliance until December 31, 2012 to allow staff additional time to investigate, analyze and consult on the potential models of licensing.

Another matter related to rental licensing is the Vital Services By-law 05-322. To date, all Reports and approvals have been through the Emergency and Community Services Committee. However, due to the impact that the licensing of rental housing will have on the implementation of the Vital Services By-law, staff is recommending that all further decisions related to the Vital Services By-law be vetted through the Planning Committee with notification and information provided to the Emergency and Community Services Committee, as necessary.



**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 4 of 12****POLICY IMPLICATIONS**

N/A

**RELEVANT CONSULTATION**

Staff has monitored other Ontario municipalities' approaches to dealing with rental housing issues, including Guelph, London, Mississauga, North Bay, Oshawa, St. Catharines, Toronto, and Waterloo.

The Fire Prevention Division is "very supportive of the overarching goal to establish a Rental Housing By-law", and is currently examining the approach taken by the Cities of London and Waterloo in order to be able to assess and develop an option that would best meet the needs of Hamilton.

The Housing Services Division has expressed concerns that a licensing by-law and focus on illegally zoned rentals may result in potential loss of housing stock, lead to evictions, and impact affordable housing options. The concern is that landlords may de-convert properties (likely apartments in houses) rather than be subject to licensing. Licensing may also act as a disincentive to the creation of new rental units.

The Tenant Advisory Committee supports the concept of a residential licensing program in order to address poor living conditions in rental units. However, there is concern about the potential impact on tenants if landlords pass home improvement costs and licensing fees onto tenants.

Based upon feedback received from these stakeholders, further consultation needs to be undertaken to formulate the recommendations to be presented to the Planning Committee for approval by November 2012.

Legal Services was consulted in the preparation of this Report.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(Include Performance Measurement/Benchmarking Data, if applicable)

**Comparative Licensing Models**

Hamilton's rental housing stock ranges from single detached/semi-detached dwellings, duplexes, triplexes, to multiple dwellings (low-rises and high-rises). The concentration and mix of rental accommodations varies across the City as does the condition ranging from poor to well-maintained units. Complaints are regularly received from tenants and neighbourhood residents about:

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 5 of 12**

- poor living conditions/safety,
- density of rental housing,
- behavioural problems of landlords/agents and tenants,
- property maintenance issues such as but not limited to illegal dumping, hoarding, long grass and weeds, graffiti, pest control, etc.

Staff has been monitoring the rental housing issues, by-laws and experiences of other municipalities including Guelph, London, Mississauga, North Bay, Oshawa, St. Catharines, Toronto, and Waterloo; some of which have implemented rental housing licensing by-laws.

The following table outlines some of the highlights of each municipality's licensing by-law, with greater detail provided in Appendix "A" to this Report.

Municipality	Attributes of the By-law/ Administration and Enforcement of the By-law	Fees
City of Oshawa <sup>1</sup> (enacted 2008)	<ul style="list-style-type: none"> <li>- By-law applies to a geographical area around local College and University</li> <li>- Limits the number of bedrooms to four</li> </ul>	<ul style="list-style-type: none"> <li>- \$500 fee for a property, if applying for the 1<sup>st</sup> time</li> <li>- \$75 non-refundable application submission fee</li> <li>- \$360 fee for renewing an existing licence</li> </ul>
City of London <sup>2</sup> (enacted 2009)	<ul style="list-style-type: none"> <li>- By-law applies City-wide to all rental housing containing four or less rental units</li> <li>- Property owner is required to complete a self-audit checklist certifying compliance with the City's Property Standards By-law and submit it with their application</li> </ul>	<ul style="list-style-type: none"> <li>- annual fee is \$25 per rental property regardless of the number of units (however, considering an increase to these fees)</li> </ul>
City of Waterloo (enacted 2011)	<ul style="list-style-type: none"> <li>- By-law applies City-wide to all low-density residential buildings (i.e. one to three rental units) (a maximum of four rental bedrooms permitted in any rental unit)</li> </ul>	<ul style="list-style-type: none"> <li>- fees are dependent upon the Class of Licence and the number of bedrooms in the rental unit</li> </ul>

<sup>1</sup> The City of Oshawa has faced several challenges to its approach. To date, its zoning and licensing by-laws have been upheld. A Superior Court decision, upholding Oshawa's licensing by-law, is being appealed and will likely be argued in 2012.

<sup>2</sup> The City of London's licensing by-law was upheld in October 2011. Its zoning by-law, limiting the number of bedrooms to five, was upheld by the Ontario Municipal Board.

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 6 of 12**

Municipality	Attributes of the By-law/ Administration and Enforcement of the By-law	Fees
	<ul style="list-style-type: none"> <li>- includes five classes of licences based on such criteria as owner occupation and sole rental use</li> <li>- lodging home by-law repealed and consolidated into new By-law. Lodging homes must conform to additional regulations but not the new bedroom limit until they are sold.</li> <li>- Written tenancy agreements for every tenant</li> <li>- Property owner required to complete a self-audit checklist certifying compliance with the City's Property Standards By-law and submit it with their application</li> </ul>	<ul style="list-style-type: none"> <li>- fees set to fully recover the costs of administering and enforcing the licensing program</li> <li>- initial application fees range from \$412 to \$757</li> <li>- annual renewal fees range from \$204 to \$413</li> </ul>
City of North Bay (enacted 2011)	<ul style="list-style-type: none"> <li>- By-law applies to properties zoned for low-density residential use, containing no more than 5 rental units in specific geographical areas</li> <li>- No more than 40% of the gross floor area of the rental unit's ground floor may be comprised of bedrooms</li> <li>- Being implemented in phases from January 2012 to January 2016</li> </ul>	<ul style="list-style-type: none"> <li>- annual fee is \$300 per property</li> <li>- proof of payment of any fine/fee/property taxes owed to the City</li> </ul>
City of Mississauga (enacted 2010)	<ul style="list-style-type: none"> <li>- has a "Residential Rental Accommodation Licensing By-law" requiring all landlords to obtain an annual lodging house licence</li> <li>- by-law language indicates that this is primarily a lodging home by-law as opposed to rental housing</li> </ul>	<ul style="list-style-type: none"> <li>- annual fee \$500 per property</li> </ul>
City of Guelph (being currently proposed)	<ul style="list-style-type: none"> <li>- Staff have been directed to develop a Shared Rental Housing Licensing program and are considering licensing all lodging houses (with 5 or more bedrooms in a single detached dwelling); two unit dwellings (basement apartments); and, rentals involving one to four bedrooms.</li> </ul>	

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 7 of 12**

**Possible Models Regulating Rental Housing in Hamilton**

Given the scope of housing types and issues in Hamilton, in staff's opinion, there are two practical approaches for consideration:

**(1) Multiple Dwelling Audits (Low-rise & High-rise Buildings)**

Project Compliance has been conducting "audits" of multiple dwellings, which consist of an inspection of the external sides of the building and the interior common areas, stairwells, laundry room, corridors, etc. An audit also includes inspections of individual tenant units if the tenant allows staff to enter. This is similar to the Multi-Residential Rental Audit Program adopted by the City of Toronto in 2009 as an alternative to licensing multi-residential buildings.

Project Compliance's audits have had success in dealing with numerous problems in the interior common areas and exterior of the buildings. Initially, Officers were able to gain entry into only 20% to 40% of the individual tenant's units. Some tenants decline the inspection and there are a number of tenants who are not home during the audit. However, in recent months, staff has been able to increase contact with tenants to roughly 90% and have increased inspections of individual units from 40% to 60%. This is accomplished by attending the property twice in one day to revisit units/tenants who did not answer earlier in the day.

Over 20 audits of multi-residential buildings have been undertaken to date. Some properties have had numerous issues while others have been well-maintained. Based on these findings, staff recommends that a multi-residential building audit/inspection program continue, but that this type of housing not be subject to licensing requirements.

**(2) Licensing of Rental Units in Low-Density Housing (i.e., Single-Detached/Semi-Detached/Duplexes, Triplexes, Quads, and Multiplexes)**

The age and condition of this housing stock varies depending upon what part of the City it is located. Project Compliance inspections suggest that interior conditions can be quite poor, even threatening to the safety of tenants. A licensing by-law, drawing on the London and Waterloo By-laws, might be considered for rental units in single-detached/semi-detached/duplexes, triplexes, quads, and multiplexes.

Considerations in developing a low-density rental housing licensing by-law and program include:

**(a) Potential Requirements under a Licensing By-law:**

- owner to provide proof of ownership and contact information, proof of insurance and local emergency contact information,
- self/City inspections for compliance with the City's property standards and yard maintenance by-laws,
- property to meet electrical safety and fire safety requirements,

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 8 of 12**

- floor plan for the building,
- property/yard maintenance plan and parking plan,
- proof of tenant agreements, and
- annual licence fee.

**(b) Scope of the By-law:**

A municipality can narrow the application of a Licensing By-law from all residential rental accommodation in a number of ways including by dwelling type, geographic area and/or owner occupation. The City of Hamilton may wish to apply a licensing by-law to the whole of the City, similar to London and Waterloo; however, it could limit the by-law to certain geographical areas of the City; for example, areas that have a higher concentration of rental housing. The *Municipal Act, 2001* further requires that there be a valid basis for imposing limits. For example, evidence that rental housing in a particular geographic area has given rise to a relatively higher number of by-law violations relating to yard maintenance, property standards, illegal uses, etc., than rental housing in other areas.

The City of Hamilton also needs to be careful that the by-law is not focused or directed at the type of person renting, which was one of the challenges faced by the City of Oshawa, drawing unfavourable comment from the Human Rights Commission as targeting students. In 2009, Hamilton was also cautioned by the Ontario Human Rights Commission when the Neighbourhood Residential Rental Housing Community Liaison Committee began to investigate the feasibility of licensing rental housing. The City of North Bay has placed a geographical limit on its rental housing licensing by-law; staff is closely monitoring this situation to see what the response of the Human Rights Commission will be.

Another consideration is whether or not social housing rental buildings should be licensed. According to the City's Housing Services Division, there are a few hundred scattered single and semi-detached units in the social housing portfolio in Hamilton (mostly owned by City Housing Hamilton, but also by Hamilton East Kiwanis Non Profit Homes and Urban Native Homes).

**(c) The Number of Dwelling Units:**

The number of dwelling units in a building subject to licensing would have to be determined; a dwelling unit being defined as an independent single-housekeeping unit with a kitchen and bathroom. Based on consultation that has already taken place, the recommendation is that buildings containing from one to five or six dwelling units be licensed. Further consideration includes the threshold between secondary (low-density) and purpose-built rental markets, the number of potential low-density buildings, and the number of owner-occupied dwelling units.

**(d) The Number of Bedrooms:**

The Cities of Oshawa, Waterloo and North Bay have set limits in their By-laws on the number of rental bedrooms and/or the space for rental bedrooms. The City of

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 9 of 12**

London amended its Zoning By-law to limit the number of bedrooms in a single detached dwelling to five in any new development application. Given the issues in some rental accommodations and the impact on community quality of life, setting a bedroom limit would be an option for consideration.

(e) Lodging Homes:

Whether a rental house is operating as a legal or illegal lodging home is a continuing issue for Municipal Law Enforcement. The City of Waterloo has repealed its Lodging Home By-law and has consolidated lodging homes into its Rental Licensing By-law. How Schedule 9 (Lodging Houses) would work with a new rental housing by-law and to what extent, if any, they could or should be integrated would be considered.

(f) Rental Licensing Fees:

It is assumed that Council would want any licensing program to be based on full cost recovery rather than levy funded. As noted earlier in the Report, licensing fees of other municipalities range from \$25 per year to \$757 per year, which may be based on per bed, per unit, or per building. This range is a result of some cities off-setting the expense of their licensing program while others are at full cost recovery. In order to ensure that the program is full cost recovery, all potential costs associated with the program need to be determined. For example: property standard inspection, fire inspection and zoning verification costs. Once calculated, the apportionment of those costs, i.e) per dwelling unit and/or per dwelling unit size, would have to be determined.

(g) Inspections:

As noted, a rental licensing by-law could require that the owner undertake various inspections in order to ensure the property meets safety requirements and is habitable. Inspections could include property, fire, heating/ventilation and electrical. The Cities of London and Waterloo both require the property owner to submit a "property inspection self-audit". Both municipalities will do random inspections once the owner has been licensed to ensure that the property is in compliance with their respective property standards and yard maintenance by-laws. Oshawa conducts a property inspection prior to issuing a license; this is feasible and manageable as the scope of their by-law is within a small geographical area.

Currently, the City's Fire Prevention Division is investigating options for Hamilton and examining the approach taken by London and Waterloo. The City of London requires a fire inspection every two years. The City of Waterloo does not require a fire inspection as part of licensing; however, they do require specific criteria on the "self-audit" checklist that must be submitted at the time the landlord applies for their licence. Once the licence is issued, Waterloo's Fire Prevention will do random inspections to ensure compliance. For this purpose, the City of Waterloo has hired one full-time Fire Prevention Officer.

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 10 of 12**

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(h) Other Issues:

As with any by-law, care will have to be taken to ensure compliance with Provincial legislation, in this case the Residential Tenancies Act, 2006 and the Municipal Freedom of Information and Protection of Privacy Act (1990). While the judge disagreed, two of the grounds of appeal to London's by-law were that the by-law was in contravention of these acts.

**Vital Services By-law and Program**

When investigating any new rental housing licensing program, consideration will need to be given to the potential impact on the administration of the Vital Services By-Law. This by-law was enacted to ensure the continuation of electricity, water and gas services in the event a utility company cuts service because the landlord is in arrears. The utility provides the City with notification of a potential disruption of service and the City steps in to pay the utility. The by-law allows the City to collect tenant rents to recover the cost of utility payment.

Council approved funding for a temporary Officer upon enactment of the Vital Services By-Law in 2006, and funding to cover the cost of the utilities. Most recently, a final extension of the Vital Services program to December 2012, was approved by Council in response to staff's concern that a rental housing licensing program will impact how the Vital Services By-law will be administered.

While the development of the by-law was initiated by and vetted through the Emergency and Community Services Committee, staff are recommending that any further decisions respecting the Vital Services By-law be dealt with by the Planning Committee because the matter is directly related to rental housing conditions.

**Recommended Rental Housing Licensing Model**

Giving consideration to all the foregoing issues and challenges, staff is recommending a rental licensing model to regulate rental housing consisting of two fundamental components:

- Licensing rental dwelling units in single-detached/semi-detached, triplexes, quads, and/or multiplexes with the applicant submitting an initial self-audit checklist of their rental property with their licensing application (similar to London and Waterloo), followed by random inspection by staff; and
- Proactive by-law enforcement, which would focus more strategically to addresses of key problem properties and areas across the City and continue to undertake proactive property blitzes; identify rental properties which require licences; and, conduct audits of multi-residential dwellings

**SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 11 of 12**

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The recommended rental housing licensing model will require additional staff resources for enforcement, administrative and clerical support, the full costs of which will be determined and reported to the Planning Committee in the final Report, noting that staff is intending to design a program based on full cost-recovery, if at all possible.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

**Options for Regulating Rental Housing**

The following are other options for consideration as potential solutions to address the needs of regulating rental housing in Hamilton.

**Option 1: A Regulated Rental Housing Program consisting of *three components: Licensing of Single-Detached/Semi-Detached/Duplexes, Triplexes etc., Audit Program of Multiple-Dwellings, and City-wide Proactive Enforcement.***

- The staffing and program requirements, as noted in the recommendation above, would remain the same for Option 1 – Licensing of Low Density Housing and Proactive By-law Enforcement.
- The additional expense of this option is a formalized Audit Program of Multiple-Dwellings which would focus on either weekly or bi-weekly audits with dedicated staff assigned to oversee the program and conduct inspections of the exterior/interior areas of the building. The Officers for the Proactive Enforcement would provide assistance in undertaking inspections of individual tenant units on the day of the audit.

**Option 2: City-wide Proactive By-law Enforcement Team**

- Formalize Project Compliance as a dedicated Proactive Enforcement Team to proactively enforce property standards and yard maintenance issues.
- City-wide basis with an approach to continue to monitor key problem areas across the City.
- Multiple Dwelling Audits could occur; however, it would not be as frequent and would likely be the focus of the Proactive Team during the winter months from mid-November to March as noted in Option 1.
- A Proactive Enforcement component would require permanent, full-time Officers and a By-law Clerk for administrative and clerical support.



SUBJECT: Regulation of Rental Housing (PED10049(h)) (City Wide) – Page 12 of 12

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**Option 3: Licensing of Single-Detached/Semi-Detached/Duplexes, Triplexes, Quads, and Multiplexes**

- Strictly a stand alone rental housing licensing by-law for the licensing of single-detached/semi-detached, triplexes, quads, etc. with the applicant submitting a self-audit checklist of their rental property with their licensing application (similar to London and Waterloo).
- The Licensing component would potentially require permanent, full-time Municipal Law Enforcement Officers to inspect licensed properties; a Business Licensing Facilitator to complete zoning verifications and approve the licence; and, By-law Clerks for administrative and clerical support.
- No proactive enforcement or audits of multiple-dwellings.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

**Healthy Community**

- ◆ the recommended rental housing licensing program will promote improved living conditions and quality of life for many residents in rental accommodations.

**APPENDICES / SCHEDULES**

Appendix "A" to Report PED10049(h) – Licencing By-laws of Comparative Ontario Municipalities

JX/dt

## Licencing By-laws of Comparative Ontario Municipalities

Municipality	Content/Highlights	Current Status	Legal Issues
<p><b>The City of Oshawa</b></p> <p>Residential Rental Housing Licensing (RRHL) By-law – (2008)</p>	<ul style="list-style-type: none"> <li>• Applies to rental houses in a geographical area surrounding Durham College and University of Ontario Institute of Technology</li> <li>• Limits the number of bedrooms to four.</li> <li>• Owner is required to comply with the fire code, building code, electrical code and the City's zoning, property standards and maintenance by-laws.</li> <li>• Annual fire, property standards and electrical safety inspections</li> <li>• Owner must provide proof of insurance, floor plans for each rental unit, a parking plan and a property maintenance plan.</li> <li>• \$500 fee for a property, if applying for the first time</li> <li>• \$75 non-refundable application submission fee</li> <li>• \$360 fee for renewing an existing license</li> </ul>	<ul style="list-style-type: none"> <li>• To date over 100 licences have been issued.</li> <li>• Currently the City is charging property owners who are operating without a licence.</li> <li>• City is considering the use of an administrative penalty for landlords in non-compliance.</li> <li>• City has not commenced inspections of units; awaiting the decision of Court</li> </ul>	<ul style="list-style-type: none"> <li>• Ontario Human Rights Commission sought to appeal by-law which they claim targets students due to the geographical zoning</li> <li>• Challenged City's interpretation of what a Single Housekeeping Establishment means. This term is not part of the Licensing By-law and is not a defined term in the Zoning By-law. Notwithstanding this, the term was judicially considered by Justice Peter Howden in the Windfields/Oshawa vs Death et al case in which he indicated that a group of people who come together as a unit may form a Single Housekeeping Unit.</li> <li>• Oshawa's interpretation/application of Howden's ruling was recently upheld by Justice O'Connell in the Superior Court Case of Hanzelka et al vs the City of Oshawa where the City was being accused of not enforcing its by-laws and/or not enforcing them properly.</li> <li>• Consistent opposition from area residents that they believe that the City can restrict the use of a dwelling to a "traditional family unit" and do not believe that a group of people can come together as a unit to form a Single Housekeeping Unit.</li> <li>• Recently the applicants in the Superior Court case (Hanzelka et al) appealed the recent Superior Court decision. This appeal will be argued before the Ontario Court of Appeal probably in early 2012.</li> </ul>

### Licencing By-laws of Comparative Ontario Municipalities

Municipality	Content/Highlights	Current Status	Legal Issues
<p><b>The City of London</b></p> <p>Residential Rental Units Licensing By-law - (March 2010)</p>	<ul style="list-style-type: none"> <li>• Applied City-wide to all rental housing, which contains four or less rental units.</li> <li>• Annual fee is \$25 regardless of the number of units.</li> <li>• Owner is required to complete a checklist certifying compliance with the City's property standards by-law for each tenant unit at the rental property.</li> <li>• Owners must also submit proof of a recently completed and passed fire inspection.</li> <li>• The owner must provide proof of insurance, floor plans for each rental unit, a parking plan and a maintenance plan.</li> <li>• City will audit the licensed rental properties</li> </ul> <p>NB – Bedroom limit is separate from the licensing by-law. London amended Zoning By-law for all new development applications – limit to 5 bedrooms</p>	<ul style="list-style-type: none"> <li>• To date over 2,300 applications for rental licensing have been submitted</li> <li>• 1,800 applications have been approved by the City</li> <li>• Remaining properties are under review for zoning.</li> <li>• To date only a Clerk has been hired to administer the program</li> <li>• No inspections have occurred; awaiting decision of appeal before 2 full-time inspection Officers are hired</li> </ul>	<ul style="list-style-type: none"> <li>• The London Property Management Association appealed the By-law in May 2011</li> <li>• October 2011 By-law successfully upheld</li> </ul>
<p><b>The City of Waterloo</b></p> <p>Rental Housing Licensing By-law (May 2011)</p>	<ul style="list-style-type: none"> <li>• Applies City-wide to all low density residential buildings containing one to three rental units (a maximum of four rental bedrooms would be permitted in any rental unit).</li> <li>• Includes five (5) classes of</li> </ul>	<ul style="list-style-type: none"> <li>• By-law will come into effect in April 2012</li> <li>• Fee range depending upon the class of licence</li> <li>• Five Classes are: <ul style="list-style-type: none"> <li>○ Class A – all other rental properties</li> </ul> </li> </ul>	<p>No current issues; Director anticipates that there will be an appeal</p>

## Licencing By-laws of Comparative Ontario Municipalities

Municipality	Content/Highlights	Current Status	Legal Issues
	<p>licences based upon owner occupation, use and would include accessory apartments, lodging homes.</p> <ul style="list-style-type: none"> <li>• Current lodging homes that hold a valid Lodging House Licence would be recognized; however, they must conform to additional regulations but will not be limited to the new bedroom limit; regulations concerning bedroom limits would apply if the lodging home is sold.</li> <li>• Owner must submit proof of ownership; local emergency contact information; contact information for the rental unit/property; proof of insurance; a floor plan for entire building; written tenancy agreements for every tenant; a property maintenance plan; and a parking plan.</li> <li>• Property must also be in compliance with the City's various by-laws such as property standards, zoning, lot maintenance, snow and provincial codes and regulations such as fire code, building code act, and electrical safety code.</li> <li>• Similar to the City of London, the property owner will complete a self-audit of their properties and submit it with their application.</li> </ul>	<ul style="list-style-type: none"> <li>○ Class B – Owner Occupied Residential Properties</li> <li>○ Class C – Boarding Houses</li> <li>○ Class D – Recognized Lodging Houses</li> <li>○ Class E – Temporary Rental Unit</li> </ul>	

### Licensing By-laws of Comparative Ontario Municipalities

Municipality	Content/Highlights	Current Status	Legal Issues
	<ul style="list-style-type: none"> <li>• Licensing fee will be set to fully recover the costs of administering and enforcing the licensing program.</li> <li>• fees are dependent upon the Class of Licence and the number of bedrooms in the rental unit</li> <li>• initial application fees range from \$412 to \$757</li> <li>• annual renewal fees range from \$204 to \$413</li> </ul>		
<b>The City of North Bay</b>	<ul style="list-style-type: none"> <li>• Applies to properties that are zoned for low density residential use, containing no more than 5 rental units.</li> <li>• No more than 40% of the Gross Floor area of the rental unit's ground floor may be comprised of bedrooms.</li> <li>• Owner must submit proof of ownership, a floor plan of the rental unit including each room, maintenance plan, parking plan, proof of insurance with a liability no less than \$2,000,000</li> <li>• Owner must also submit proof of recently completed inspections from Fire officials, Electrical Safety Authority, City's Building officials, City's Zoning officials, By-Law Enforcement officials and proof of payment of any fine/fee/property taxes owed to the City.</li> </ul>	<ul style="list-style-type: none"> <li>• Approved in August 2011.</li> <li>• The By-law will be phased in according to the following schedule: <ul style="list-style-type: none"> <li>○ Remainder of Pinewood/Cedar Heights (January 2013)</li> <li>○ West Ferris (January 2013)</li> <li>○ Laurentian/Airport Heights (January 2014)</li> <li>○ Central Business District/Old City (January 2015)</li> </ul> </li> <li>• Circle Lake/Rural (January 2016)</li> </ul>	<ul style="list-style-type: none"> <li>• Ontario Human Rights Commission has warned the City that the By-law is targeting student's due to its geographical nature</li> </ul>

### Licencing By-laws of Comparative Ontario Municipalities

Municipality	Content/Highlights	Current Status	Legal Issues
	<ul style="list-style-type: none"> <li>• Licence/Renewal Fees are \$300</li> <li>• Late Payment Fee is \$50</li> </ul>		
<p><b>The City of Mississauga</b></p> <p>Residential Rental Accommodation Licensing By-law (May 2010)</p>	<ul style="list-style-type: none"> <li>• Requires all landlords to apply for an annual licence to operate a lodging house and applies to residential rental accommodation across the entire city.</li> <li>• Allows the City to inspect to ensure the property is in compliance with the fire and building codes as well as with the City's property standards, maintenance, and zoning by-laws.</li> <li>• A lodging house is defined as a dwelling unit containing more than three rental rooms that are occupied by one person in each room.</li> <li>• A maximum of four lodging units are permitted in a lodging house.</li> <li>• Lodging houses are only allowed in detached homes, and basement apartments are not permitted.</li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• The City is experiencing some difficulty enforcing the By-law as people have been denying entry. It is challenging to provide evidence to obtain a warrant.</li> </ul>	<ul style="list-style-type: none"> <li>• Unknown</li> </ul>