

Authority: Item ,
Report (PED23072)
CM:
Ward: City Wide

Bill No.

CITY OF HAMILTON

BY-LAW NO.

Repairs and Renovations 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 to 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 (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;

WHEREAS, in accordance with subsection 23.2(4) of the *Municipal Act, 2001*, S.O. 2001, c.25, 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 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.

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

REPAIRS AND RENOVATIONS BY-LAW

Definitions

In this By-law:

“**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;

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

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

“**Manager**” means the City’s Manager of Licensing;

“**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;

“**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;

“**Rental 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**”

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

“**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.

1.0 Application

This By-law does not apply to:

- (a) any Rental Unit in a building that has been determined by an architect or professional engineer or any governmental authority having jurisdiction, including the local assistant to the fire commissioner, to have been damaged by natural disaster, fire, water, smoke, insect infestation or structural failure to the point that it is unsafe for any person to occupy the building, if the determination of the architect, engineer or governmental authority is made in writing and a copy has been delivered to the City's Manager; or
- (b) any Rental Unit in a building in respect of which the Council has authorized an exemption under section 3.

2.0 Restriction on Evictions

(a) No Owner shall deliver to any Tenant a notice of termination of their tenancy of a Rental Unit in order to renovate or repair the Rental Unit, or having delivered such a notice prior to the enactment of this section 2.0(a), require the Tenant to vacate their Rental Unit pursuant to the notice, unless the Owner has obtained every building permit, plumbing permit, development permit, special development permit or heritage alteration permit required by any City bylaw and any other permit or approval required to authorize the renovation or repair, and has either:

- (i) entered into a new tenancy agreement with the Tenant on the same terms as the tenancy agreement pertaining to the Rental Unit being renovated or repaired, or terms that are more favourable to the Tenant, in respect of a comparable Rental Unit in the same Residential Complex, and provided a copy of the agreement to the Manager; or

- (ii) made other arrangements in writing for the Tenant's temporary accommodation during the renovation or repair, and for their return to their original Rental Unit under the terms of the existing tenancy agreement following completion of the renovation or repair, and provided to the Manager satisfactory documentation of the arrangements including evidence of the Tenant's consent to the arrangements.

(b) No Owner shall, having failed to comply with section 2.0(a), continue to fail to enter into a new tenancy agreement as described in section 2.0(a)(i) or make other arrangements for the tenant's temporary accommodation and return to their original Rental Unit as described in subsection 2.0(a)(ii).

(c) For the purposes of subsection (a)(i),

- (i) a Rental Unit in another building that is located on the same parcel as the building that is being renovated or repaired and owned by the same owner is deemed to be a Rental Unit in the same Residential Complex,

- (ii) a Rental Unit is comparable to a Rental Unit that is being renovated or repaired if it has the same or a greater number of bedrooms and complies with the maintenance standards, and the rent for the unit is equal to or less than the rent for the Rental Unit that is being renovated or repaired; and

(iii) the new tenancy agreement may either transfer the Tenant’s tenancy permanently to the other Rental Unit, or entitle the Tenant to occupy the other Rental Unit temporarily during the course of the renovation or repair and return to their original rental unit following completion of the renovation or repair.

(d) No Owner shall, having renovated or repaired a Rental Unit as permitted by subsection (a)(ii), increase the rent payable by the Tenant upon their return to their rental unit, except as an “additional rent increase” approved under the Residential Tenancies Act.

(e) The Manager may require any Owner to provide, prior to obtaining a business licence or business licence renewal under this bylaw, a statutory declaration that states the rent payable in respect of any rental unit prior to and following renovation or repair work that required the Tenant of the rental unit to vacate the unit. If the rent was increased, the declaration must include a copy of the Director’s approval of the rent increase under the Residential Tenancies Act.

(f) The Manager may issue or renew a business licence under this bylaw to an Owner who has applied for an additional rent increase related to renovation or repair under the Residential Tenancies Act if the director has not yet decided the rent increase application. In doing so, the Manager may indicate on the licence that a surcharge may become payable under subsection (g) if the additional rent increase is not allowed but the rent for the rental unit in question exceeds the rent that is allowed without the additional rent increase.

(g) The Manager may levy a monthly business licence surcharge on any Owner who contravenes subsection (d), in the amount that is the difference between the rent permitted by that subsection and the rent that the Owner’s Tenant is paying in respect of the Rental Unit that has been renovated or repaired, and may refuse to renew the business licence of any owner who, being subject to such a surcharge, has not paid the surcharge by the date on which the licence renewal is required.

3.0 Application for Exemption

(a) An Owner who is subject to section 2.0 may apply to the Council for an exemption from that section in respect of the Owner’s building or one or more portions of the building, on the grounds that the Owner’s renovation or repair plans cannot be safely implemented unless the building or portion is vacated.

(b) An application under subsection (a) must be accompanied by a certification by an architect, professional engineer or qualified building code consultant that certifies that, after due consideration of all practical alternative approaches to the work, the implementation of the Owner’s renovation or repair plans requires that the owner’s building be vacated in whole or in part.

(c) The Council may require an Owner who has provided a certification under subsection (b) to pay the City’s cost in obtaining a second opinion from an architect, professional engineer or qualified building code consultant, as the case may be, on whether the implementation of the owner’s plans requires that the owner’s building or portion of the building be vacated.

(d) The Council may, in approving an application for exemption, impose conditions pertaining to the relocation of Tenants, including conditions related to the accommodation of Tenants being displaced during and following the renovation or repair period and the rent that may be charged for the rental units following the completion of the renovations or repairs.

(e) The Council may not refuse an application under this section if the certification mentioned in subsection (b) is provided and the repairs proposed by the Owner are required by any other enactment respecting health or safety.

4.0 Offences

(a) Every Person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine, and other such penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act, 2001*.

(b) Every Person who contravenes any provision of this By-law and was charged with an offence for a contravention of any provision of this By-law by the laying of an information of Part III of the *Provincial Offences Act*, is guilty of an offence and on conviction is liable to a minimum fine of \$1,000.00 and a maximum fine of \$50,000.00

Miscellaneous

5.0 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.

6.0 This By-law may be referred to as the “Repairs and Renovations By-law”.

7.0 This By-law shall come into force on May 1, 2024.

PASSED this _____ , _____

A. Horwath
Mayor

A. Holland
City Clerk

