

**Authority:** Item ,  
Report PED23072  
CM:  
Ward: City Wide

**Bill No.**

**CITY OF HAMILTON  
BY-LAW NO.**

**Renovation Licence and Relocation Listing 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;

**AND 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;

**AND WHEREAS** subsection 151(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes a municipality to provide for a system of licences with respect to a business and may:

- (a) prohibit the carrying on or engaging in the business without a
- (b) licence; refuse to grant a licence or to revoke or suspend a licence;
- (c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- (d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;

- (e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

**AND WHEREAS** subsection 151(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 applies with necessary modifications to a system of licences with respect to any activity, matter or thing for which by-law may be passed under section 9, 10 and 11 of the Act as if it were a system of licences with respect to a business;

**AND WHEREAS**, in accordance with subsection 23.2(4) of the *Municipal Act, 2001*, 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** subsection 39(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may impose fees and charges on persons,

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

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

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

**AND WHEREAS** section 436 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may pass a by-law providing that the municipality may enter

on land at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of a municipality has been complied with;

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

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

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

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

**AND WHEREAS** pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*, a Landlord shall serve a Tenant with a notice of termination of tenancy if the Landlord requires vacant possession of the Rental Housing Unit for the purpose of performing repairs or renovations;

**AND WHEREAS** the City seeks to require that a Landlord take certain steps, including, but not limited to, obtaining a licence to perform repairs or renovations to a Rental Housing Unit for which a notice of termination has been given under subsection 50(1)(c) of the *Residential Tenancies Act, 2006*;

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

**AND WHEREAS** pursuant to subsection 53(2) of the *Residential Tenancies Act, 2006*, a Tenant who wishes to have a right of first refusal shall provide the Landlord notice in writing before vacating the rental unit;

**AND WHEREAS**, pursuant to subsections 54(1) and 54(3) of the *Residential Tenancies Act, 2006*, where a Landlord has served a notice of termination pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006* on a Tenant of a Rental Housing Unit as the Landlord has voluntarily chosen to perform repairs or renovations requiring vacant possession of a Residential Complex or a Rental Housing Unit, that

Landlord shall compensate that Tenant in an amount equal to three (3) months' rent or shall offer the Tenant another rental unit acceptable to the Tenant if that Tenant does not serve notice of its wish to have a right of first refusal pursuant to subsection 53(2) of the *Residential Tenancies Act, 2006*;

**AND WHEREAS** the *Residential Tenancies Act, 2006* provides no other mechanism for the Landlord to provide any information to the Tenant about alternate Rental Housing Units which may be acceptable and/or available to the Tenant where a Landlord has served a notice of termination pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*;

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

**General**

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

2. This By-law shall apply to all Rental Housing Units within the municipality of the City of Hamilton or the geographic area of the City of Hamilton, as the context requires.
  
3. This By-law shall not apply to:
  - (a) a licensed hotel, motel, inn or bed and breakfast, tourist home, licensed lodging house, licensed short-term rental or licensed residential care facilities; and
  
  - (b) any building to which any of the following statutes, or their regulations, apply;
    - (i) the *Homes for Special Care Act*, R.S.O. 1990, c. H.12, as amended;
  
    - (ii) the *Innkeepers Act*, R.S.O. 1990, C. 17, as amended;
  
    - (iii) the *Long-Term, Care Homes Act*, 2007, S.O. 2007, c. 8, as amended;
  
    - (iv) the *Retirement Homes Act*, 2010, S.O. 2010, c.11, as amended;
  
    - (v) the *Social Housing Reform Act*, 2000, S.O. 2000, c. 27, as amended and
  
    - (vi) social housing or affordable housing that is not subject to *Social Housing Reform Act*, 2000, S.O. 2000, c. 27, as amended, but which is subject to an agreement with the City and which has been approved for exemption by the Director.

4. All licence fees and inspection fees related to this By-law shall be paid in accordance with the City’s User Fees and Charges By-law No. 19-160, and such licence fees and inspection fees paid shall be non-refundable.

### **Definitions**

5. In this By-law:

“**By-law**” means this By-law;

“**Chief Building Official**” means the Chief Building Official as appointed by Council pursuant to the *Building Code Act*, or their designate, and may include building inspectors for the purpose of doing inspections as contemplated under this By-law;

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

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

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

“**Fire Chief**” means the City of Hamilton Chief of the Hamilton Fire Department;

“**Landlord**” includes (i) the owner of a Residential Complex or any other person who permits occupancy of a Rental Housing Unit, other than a Tenant who occupies a Rental Housing Unit in a Residential Complex and who permits another person to occupy the Rental Housing Unit or any part thereof, (ii) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (i), and (iii) a person, other than a Tenant occupying a Rental Housing Unit in a Residential Complex, who is entitled to possession of the Residential Complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or the *Residential Tenancies Act 2006*, including the right to collect rent;

“**Licensee**” means any person, corporation or partnership licensed under this By-law;

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

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

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

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

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

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

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

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

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

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

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

**PART I- REPAIRS AND RENOVATIONS  
TO RENTAL HOUSING UNITS**

**Licence Required**

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

**Prohibitions**

9. No Landlord or Operator shall be issued a licence as required pursuant to section 7 of this By-law without first being issued all permits required to carry out the repairs or renovations requiring vacant possession of the Rental Housing Unit pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*.
10. No Landlord or Operator shall hold themselves out to be licensed under this By-law if they are not licensed.
11. No Landlord or Operator shall contravene or fail to comply with any of the terms and conditions of their licence issued under this By-law.
12. No Landlord or Operator shall transfer or assign a licence issued under this By-law.



13. No Person shall provide false or misleading information to the Director when applying for or renewing a licence under this By-law.
14. No Person shall hinder or obstruct an Officer or attempt to hinder or obstruct an Officer who is performing a duty under this By-law.
15. Any Person who provides false information to the Director shall be deemed to have hindered or obstructed an Officer in the execution of their duties.

**Application for and Renewal of Licence**

16. The application for a licence shall be signed and submitted to the Director by the Landlord or Operator no later than seven (7) days after service of any notice given pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*.
17. Every Landlord or Operator applying for a licence pursuant to section 16 of this By-law shall provide the following information and materials in support of the application:
  - (a) a copy of the building permit issued by the Chief Building Official and any other permit required to carry out the repairs or renovations, issued to the Landlord or Operator;
  - (b) a copy of the notice of termination delivered to the Tenant by the Landlord or Operator pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*; and
  - (c) a copy of a report prepared by a professionally designated engineer or other person with the requisite qualification stating that the repairs or renovations are so extensive that they require vacant possession of the Rental Housing Unit.

### **Issuance of Licence**

18. A licence issued under this By-law shall only be valid for the repairs or renovations of the Rental Housing Unit as provided for on the application form.
19. A licence issued under this By-law shall be valid for either the period of one (1) year or the estimated date by which the Rental Housing Unit is expected to be ready for occupancy following the repairs or renovations, whichever is sooner.
20. A licence, in accordance with the provisions of this By-law, shall be required for each Rental Housing Unit and/or each Residential Complex for which a building permit is issued.

### **PART II- PROVISION OF LISTING TO TENANTS FOR ALTERNATE HOUSING**

#### **Purpose**

21. The purpose of this part of the By-law is to require a Landlord or Operator of a Residential Complex who has obtained a licence to repair or renovate a Rental Housing Unit pursuant to this By-law to provide, or cause to be provided, a listing of Rental Housing Units which are comparable to the Tenant's present Rental Housing Unit so that the Tenant can make an informed choice about whether or not to deliver a Notice to Re-Occupy the Rental Housing Unit at the end of the renovations or repairs.

#### **Requirement to Provide Listing**

22. Where a Landlord has served a notice of termination on a Tenant pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006* for the purpose of performing repairs or renovations on the Rental Housing Unit that require vacant possession of same, the Landlord or Operator shall obtain a listing of alternative Rental Housing Units which are comparable to the Tenant's present Rental Housing Unit and shall serve the said listing on the Tenant no later than two (2) months before the expiry of the one hundred and twenty (120) days' notice period pursuant to subsection 50(2) of the *Residential Tenancies Act, 2006*. To be comparable, the alternative Rental Housing Units must be within a one-mile radius

of the Rental Housing Unit that requires vacant possession, have the same or a greater number of bedrooms, comply with the maintenance standards of the City’s Property Standards By-law and the rent for each of the alternative Rental Housing Units is no greater than Fifteen Per Cent (15%) of the rent for the Rental Housing Unit that is being renovated or repaired.

23. For the purpose of section 22 of this By-law, the number of alternative Rental Housing Units provided on the listing to the Tenant shall be no less than the number of Tenants in the Residential Complex who have been served with a notice of termination pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006* and, in no case shall there be less than three (3) Rental Housing Units set out on the listing for the purpose of allowing the Tenant to determine whether to exercise its right to first refusal pursuant to subsection 53(2) of the *Residential Tenancies Act, 2006* as a result of being served with a notice of termination pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006*.
  
24. In the event that the Landlord or Operator is unable to provide a listing to the Tenant with the number of alternative Rental Housing Units as required pursuant to section 22 of this By-law due to an inadequate supply of available and comparable Rental Housing Units:
  - (a) where the Landlord or Operator is still able to provide a listing to the Tenant with a lesser number of alternative Rental Housing Units than required by section 22 of this By-law, the Landlord or Operator shall provide the listing to the Tenant with a lesser number of alternative Rental Housing Units listed on the listing than what is required by section 22 of the By-law and the Landlord or Operator shall provide a certification to the Director, signed by the Landlord or Operator, certifying that the Landlord or Operator is unable to comply with section 22 and that the reason for such non-compliance is due to an inadequate supply of available and comparable Rental Housing Units, or

- (b) where the Landlord or Operator is unable to provide any listing to the Tenant as required by section 22 of the By-law, then the Landlord or Operator shall provide a certification to the Director, signed by the Landlord or Operator, certifying that the Landlord or Operator is unable to comply with section 22 and that the reason for such non-compliance is due to there being no available comparable Rental Housing Units.
25. The following information shall be included on the listing provided to each Tenant:
- (a) the name of the proposed Landlord or Operator of each proposed alternative Rental Housing Unit;
  - (b) the address of each proposed alternative Rental Housing Unit;
  - (c) the quantum of rent per month for each proposed alternative Rental Housing Unit;
  - (d) the minimum rental term required by the Landlord or Operator for each proposed alternative Rental Housing Unit; and
  - (e) any other information that may assist the Tenant in making an informed decision about whether to give notice of its intention pursuant to subsection 53(2) *Residential Tenancies Act, 2006* to have a right of first refusal to occupy the Rental Housing Unit as a Tenant when the repairs or renovations are completed.
26. The Landlord or Operator shall ensure that each of the proposed alternative Rental Housing Units set out on the listing served upon the Tenant shall be available for rent by the Tenant at the time of service of the listing on the Tenant.
27. After the service of the initial listing referred to in section 22, the Landlord or Operator may provide the Tenant with further listings to assist the Tenant in making an informed decision when considering whether to give notice of its intention to have a right of first refusal to occupy the Rental Housing Unit as a

Tenant pursuant to the option provided to the Tenant under subsection 53(1) of the *Residential Tenancies Act, 2006*.

28. Where the Landlord or Operator does not provide the Tenant with the listing as required in section 22 of this By-law, the Landlord or Operator shall be in breach of this By-law.

### **PART III-ADMINISTRATION AND ENFORCEMENT**

#### **Powers of the Director**

29. Notwithstanding any other provision in this By-law, the power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to revoke a licence, and to impose terms and conditions, including special conditions on a licence are delegated to the Director.
30. The Director shall issue a licence or renew a licence where the requirements or conditions of the By-law have been met.
31. The Director may refuse to issue, refuse to renew, or revoke a licence, or impose a term or condition on a licence on the following grounds:
- (a) there are reasonable grounds to believe that an application or other documents provided to the Director by the Landlord or Operator contains a false statement;
  - (b) the Residential Complex of the Owner and/or any Rental Housing Unit in the Residential Complex is subject to an order, or orders, made pursuant to any governmental authority;
  - (c) a Landlord or Operator does not meet all the requirements of this By-law.
32. The Director may reject an application or its renewal where any of the documents required by this By-law are incomplete or have not been filed.

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

**Offences**

34. 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*.

35. In addition to section 34 of this By-law, 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

<b>PASSED</b> this _____ day of _____, 2023	
_____	_____
Mayor: Andrea Horwath	City Clerk: