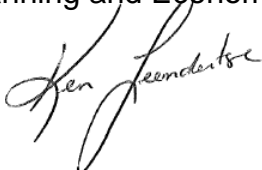




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division
and
Transportation Planning and Parking Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 6, 2021
SUBJECT/REPORT NO:	Property Standards By-law Review and Municipality Comparison (PED21049(a)) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Robert Ustrzycki (905) 546-2424 Ext. 4721
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	
SUBMITTED BY:	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the amendment to the City of Hamilton Property Standards By-law 10-221 with respect to improvements and maintenance involving rental properties and apartments described in Report PED21049(a) and detailed in the proposed amending By-law attached as Appendix "A" to Report 21049(a) be approved;
- (b) That the amendment to Table 14 to the City of Hamilton Administrative Penalty By-law 17-255 described in Report PED21049(a) and detailed in the proposed amending By-law attached as Appendix "B" to Report 21049(a) be approved;

**SUBJECT: Property Standards By-law Review and Municipality Comparison
(PED21049(a)) (City Wide) - Page 2 of 6**

- (c) That the amending By-laws attached as Appendix “A” and Appendix “B” to Report PED21049(a), which has been prepared in a form satisfactory to the City Solicitor be enacted by Council; and,
- (d) That the matter respecting this item, Item 4 of Planning Committee Report 21-004, be identified as complete and removed from the Planning Committee be removed from the Outstanding Business List.

EXECUTIVE SUMMARY

On January 22, 2020, Council approved Item 12 of Planning Committee Report 20-001 directing Licensing and By-law Services (LBS) staff to consult with stakeholders and review best practices relating to rental properties and apartments for improvements to the Property Standards (PS) By-law 10-221.

Staff review and stakeholder consultation detailed in Information Report PED21049 (Property Standards By-law Review and Municipality Comparison) dated March 23, 2021 identified areas of improvement needed to the PS By-law.

Council directed staff to bring forward a By-law to amend the PS By-law to reflect the areas for improvement found in Information Report PED21049 to enhance the health and safety of rental houses and apartments within the City. In addition, staff is seeking approval that any amendments to the PS By-law be included in the Administrative Penalty System (APS) By-law 17-255.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial / Staffing: The cost of the proposed amending By-law (attached as Appendix “A” to Report 21049(a)) would not have an impact on current LBS resources or change the annual operating budget.

Legal: The use of APS tickets with Property Standards Orders offers a simple and straightforward mechanism that dovetails with existing enforcement and administrative practices and procedures.

HISTORICAL BACKGROUND

On September 15, 2010, Council enacted PS By-law to prescribe the standards for the maintenance and occupancy of property within the City of Hamilton. By-law amendments are occasionally required to improve enforcement activities and update various By-laws to ensure that the City has the most efficient and effective By-laws.

SUBJECT: Property Standards By-law Review and Municipality Comparison (PED21049(a)) (City Wide) - Page 3 of 6

Since the adoption of the PS By-law, there have been eight amendments made to improve the By-law.

At its meeting of September 27, 2017, Council approved Item 3 of Planning Committee Report 17-015 to enact the City of Hamilton APS By-law, directing staff to implement an administrative penalty system for the City's regulatory By-laws. The PS By-law was included in the APS By-law for issuing APS tickets to assist in promoting compliance with the By-law.

On January 22, 2020, Council approved Item 12 of Planning Committee Report 20-001 directing LBS staff to meet with internal and external stakeholders concerning possible improvements to the PS By-law involving rental properties and apartments; and to review and compare our current PS By-law against other municipalities to determine best practices and improvements to our current legislation.

Staff review of best practices and stakeholder consultation detailed in Information Report PED21049, dated March 23, 2021, identified areas of improvement needed in the City of Hamilton PS By-law. At its meeting of March 31, 2021, Council approved Item 4 of Planning Committee Report 21-004 directing LBS staff, in consultation with Legal Services, to bring forward a By-law to amend the PS By-law to reflect the areas for improvement found in Information Report PED21049.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Building Code Act, 1992* allows municipalities to pass a By-law to prescribe standards for the maintenance and occupancy of property.

The *Municipal Act, 2001* authorizes the use of APS for designated By-laws. In 2017, amendments to the *Building Code Act, 1992*, authorize for the use of administrative penalties to assist in promoting compliance with a Property Standards By-law.

RELEVANT CONSULTATION

Legal Services was consulted in the preparation of this Report and the draft amending By-laws attached as Appendix "A" to Report 21049(a) and Appendix "B" to Report 21049(a).

Public Health Services was consulted in the preparation of this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The Property Standards By-law 10-221 sets minimum standards to ensure that property owners maintain their properties. These standards are put in place to protect the health

and safety of those that reside on the property as well as the general public. Section 15.2 of the *Building Code Act, 1992*, provides authority to issue Orders requiring compliance for all aspects of the property's interior and exterior features that are non-compliant with the By-law. If the property owner does not comply with the Order, the officer can use various tools to resolve the violation which may include:

- A fee for inspection cost that would be added to the property taxes;
- Registering the Order on title;
- APS tickets or court action; and,
- Sending out a contractor to complete the required work with the costs added to the property taxes as a priority lien.

Concerns were expressed by community organizations/associations and members of the public about the quality and safety of rental accommodations. Consultation with tenant advisory groups, neighbourhood associations, members of the legal community, building owners and apartment associations identified the following key issues for staff to examine in the PS By-law:

- Intercoms and Security Locking;
- Appliances Kept in Good Repair;
- Mail Collection Areas;
- Common Area/Hallways Cleanliness;
- Garbage Chutes - Washed and Disinfected;
- Ventilation Systems Cleaned;
- Floors/Walls Similar Finishes Upon Repair;
- Cupboards/Fixtures/Faucets in Good Repair; and,
- Pest and Vermin Control.

Staff review of By-laws from comparable municipalities and Regulation O. Reg. 517/06 *MAINTENANCE STANDARDS* under the *Residential Tenancies Act* identified opportunities to improve and strengthen the PS By-law in relation to rental accommodations. Attached as Appendix "A" to Report PED21049(a) is a draft amending By-law that updates and improves the PS By-law. These amendments address the maintenance and occupancy concerns as detailed in Report PED21049, except pests and vermin.

Pest and Vermin Control

Currently, pest issues in the City of Hamilton are addressed under the authority of the Property Standards By-law 10-221, as amended. Section 26 requires that an owner of a dwelling unit, or a property located within the urban boundaries, be kept free of pests.

Public Health Services currently administers and enforces designated pests under the provisions of the PS By-law, excepting ants which is administered and enforced by LBS. The PS By-law does not set minimum standards for treatment efforts, which has been problematic when dealing with some pests. In November 2015, Council approved the Board of Health motion that Public Health staff review Hamilton's By-laws dealing with pest control. An internal review involving multiple City departments and outside agencies to develop a Pest Control By-law to facilitate effective strategies to deal with pest and vermin control, including:

- Integrated Pest Management plans for property owners/landlords;
- Pro-active Rodent Management plans for demolition, building construction as well as infrastructure projects; and,
- The transfer for the administration and enforcement to Licensing and By-law Services.

LBS and Public Health staff continue to discuss the guiding principles for the administration and enforcement of a comprehensive Pest Control By-law, including staffing considerations and cost implications on City operations. The proposed changes to the issue of pests will be brought back under a separate report once further consultation is completed with Public Health and Legal Services.

Administrative Penalties System

The current process for Property Standard Orders involves a formal appeal procedure that may delay the required remedial work. The use of APS has produced positive impacts to administer and enforce minor contraventions. Issuing APS tickets does not include the lengthy formal process found in appeals to Property Standards Orders. It has proven to be an important step in the Progressive Enforcement Policy established by LBS as a fair, effective and efficient enforcement tool to compel voluntary compliance. Staff propose amending the APS By-law to include those contraventions attached as Appendix "B" to Report PED21049(a).

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Our People and Performance

OUR Vision: To be the best place to raise a child and age successfully.
OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.
OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED21049(a) – By-law to Amend the Property Standards By-law 10-221

Appendix “B” to Report PED21049(a) – By-law to Amend the Administrative Penalty System By-law 17-255

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