





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: | August 10, 2021 |
| SUBJECT/REPORT NO: | Amendments to the Property Standards and Vital Services By-law (PED21049(a)) (City Wide) (Outstanding Business List Item) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Robert Ustrzycki (905) 546-2424 Ext. 4721 |
| SUBMITTED BY: | Monica Ciriello 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 PED21049(a) be approved;
- (b) That the amendment to Table 14 to the City of Hamilton Administrative Penalties By-law 17-255 described in Report PED21049(a) and detailed in the proposed amending By-law attached as Appendix "B" to Report PED21049(a) be approved;
- (c) That the amendment to the City of Hamilton Vital Services By-law 09-190 and 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 "C" to Report PED21049(a) be approved;

SUBJECT: Amendments to the Property Standards and Vital Services By-law (PED21049(a)) (City Wide) - Page 2 of 6

- (d) That the amending By-laws attached as Appendix “A”, Appendix “B”, and Appendix “C” to Report PED21049(a), which has been prepared in a form satisfactory to the City Solicitor be enacted by Council; and,
- (e) That this item (Item 4 of Planning Committee Report 21-004) 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 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 Property Standards By-law.

Council directed staff to bring forward a By-law to amend the Property Standards 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 of Hamilton (the City). In addition, staff is seeking approval that any amendments to the Property Standards By-law be included in the Administrative Penalties System (APS) By-law 17-255.

Further, Report PED21049(a) recommends amending the City’s Vital Services By-law 09-190 to include water into its provisions, more stringent tenant notice when a vital service is shut off and amendments to the APS By-law to include contraventions under the Vital Services By-law.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial/Staffing: The proposed amending By-laws do not have financial or staffing implications.

Legal: Council has the authority to make these amendments pursuant to the *Building Code Act, 1992*, S.O. 1992, c. 23, *Residential Tenancies Act, 2006*, S.O. 2006, c. 17 and the *Municipal Act, 2001*, S.O. 2001, c. 25.

HISTORICAL BACKGROUND

On September 15, 2010, Council enacted the Property Standards By-law to prescribe the standards for the maintenance and occupancy of property within the City. 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. Since the adoption of the Property Standards 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's APS By-law, directing staff to implement an administrative penalty system for the City's regulatory By-laws. The Property Standards By-law was included in the APS By-law for issuing APS tickets to assist in promoting compliance.

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 Property Standards By-law involving rental properties and apartments; and to review and compare our current Property Standards By-law with 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 identified areas of improvement needed in the Property Standards 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 Property Standards 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 *Residential Tenancies Act, 2006* allows municipalities to pass a By-law to provide adequate and suitable vital services to each of the landlord's rental units.

The *Municipal Act, 2001* allows municipalities to pass by-law to provide for the health, safety and well-being of persons as well as the protection of persons and property, including consumer protection. The Municipal Act, 2001 also authorizes the use of APS for designated By-laws, to provide for the payment of administrative monetary penalties if the municipality is satisfied that a person has failed to comply with a By-law of the municipality passed under that *Act*.

RELEVANT CONSULTATION

Legal Services was consulted in the preparation of this Report and the draft amending By-laws attached as Appendix “A”, Appendix “B”, and Appendix “C” to Report PED21049(a).

Public Health Services was also 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 include in the Property Standards 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 *O. Reg. 517/06 MAINTENANCE STANDARDS* under the *Residential Tenancies Act* identified

opportunities to improve and strengthen the Property Standards 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 Property Standards 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 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 Property Standards By-law, except ants which is administered and enforced by LBS.

The Property Standards 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.

Continuous Improvements

Further to the concerns expressed at stakeholder meetings, as part of the LBS continuous improvement efforts, staff will work to review enforcement activities and update various By-laws as needed. The following amendments are needed to address additional tenants’ concerns in relation to the vital services in rental residential properties:

Staff propose amending the City’s Vital Services By-law 09-190 and APS By-law attached as Appendix “C” to Report PED21049(a) to:

- include water alongside gas, fuel, oil and electricity as a vital service;
- require proper notice if a vital service will be shut off for any period of time; and,
- introduce an Administrative penalty of \$500 for failing to provide a vital service, and \$200 for failing to provide notice regarding the shut-off of a vital service.

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” and Appendix “C” 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

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

Appendix “C” to Report PED21049(a) – By-law to Amend the Vital Services By-law 09-190 and the Administrative Penalty System By-law 17-255

RU:eo