

Authority: Item,
Report
CM:
Wards: 1, 8 and 14

Bill No.

CITY OF HAMILTON

BY-LAW NO. 21-XXX

Rental Housing By-law No. 21-XXX to Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

WHEREAS subsection 10 (2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “*Municipal Act, 2001*”) provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; and in paragraph 11, Business Licensing;

AND WHEREAS subsection 151 (1) of the *Municipal Act, 2001* provides that, without limiting sections 9 and 10 of the Act, a municipality may: provide for a system of licences with respect to a business;

AND WHEREAS the Council for the City of Hamilton considers it necessary and desirable for the public to regulate the renting of residential premises for the purpose of protecting the health and safety of the persons residing in residential rental premises by ensuring that certain regulations are met, that the required essentials such as plumbing, heating and water are provided, to ensure that the residential rental premises do not create a nuisance to the surrounding properties and neighbourhood and to protect the residential amenity, character and stability of residential areas;

AND WHEREAS for several years, Wards 1, 8 and parts of 14 have had the most Rental Housing Units, compared to the rest of Hamilton, and many complaints regarding housing issues and “absentee landlords” come from those wards, which is why Council has decided to begin a pilot project in Wards 1, 8 and 14 before deciding to expand the Rental Housing Unit licensing regime across the City;

AND WHEREAS the Council for the City of Hamilton is aware of the Ontario Human Rights Commission’s concerns that these types of rental licensing by-laws may reduce the availability of low-cost rental housing and impact disadvantaged groups that are protected under the *Ontario Human Rights Code* (Code) who rely on low-cost rentals and Council will therefore evaluate the pilot project after 2 years to see whether the licensing regime should be expanded to the entire City in further stages, or if the by-law should be repealed;

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

1. That By-law 01-170 be amended by adding the following at the end of Section 30:

Schedule 31 Rental Housing Units
2. That By-law 01-170 be amended by adding Appendix A to this amending by-law as Schedule 31 – Rental Housing Units, to By-law 01-170;
3. That in all other respects, By-law 01-170 is confirmed; and,
4. That the provisions of this by-law shall become effective on the date passed by Council.

PASSED this _____ day of _____, 20_____.

F. Eisenberger
Mayor

A. Holland
City Clerk

Appendix A

SCHEDULE 31

RENTAL HOUSING UNITS

1: DEFINITIONS

1.1 In this Schedule:

"Applicant" means a person applying for a licence under this Schedule;

"Building" means a structure, whether permanent or temporary, with walls or a roof or part thereof, used or intended to be used for shelter, accommodation or enclosure of persons, animals, goods or chattels;

"Building Code" means Ontario Regulation 332/12, as amended, under the *Building Code Act*;

"Building Code Act" means the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;

"By-law" means the City of Hamilton By-law No. 07-170, a By-law to License and Regulate Various Businesses, and includes this Schedule 31;

"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 Schedule;

"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 outside the building or from a common interior hallway, vestibule or stairway;

"Fire Chief" means the City of Hamilton Chief of the Hamilton Fire Department or his or her designate and includes all members of the Hamilton Fire Department that are designated as an "Assistant to the Fire Marshal" for the purpose of doing inspections as contemplated under this Schedule;

"Fire Code" means Ontario Regulation 213/07, as amended under the *Fire Protection and Prevention Act*;

"Fire Protection and Prevention Act" means the *Fire Protection and Prevention Act*, 1997 S.O. 1997, c.4, as amended;

"Licensee" means any person, corporation or partnership licensed under this Schedule;

"Medical Officer of Health" means the Medical Officer of Health for the Hamilton

Health Unit or their designate and includes public health inspectors for the purpose of doing inspections as contemplated under this Schedule;

"Multiple Dwelling" means a building or part thereof containing five or more self-contained Dwelling Units;

"Municipal Law Enforcement Officer" means an employee of the Licensing and By-law Services Division of the City of Hamilton who is assigned by the Director of Licensing 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 and a Hamilton Police Services police officer;

"Owner" includes:

- (i) each registered owner of a Rental Housing Unit;
- (ii) each person who permits occupancy of a Rental Housing Unit; and
- (iii) the heirs, assigns, personal representatives and successors in title of a person referred to in clauses (i) and (ii);

"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;

"Ontario Fire Code" means O. Reg. 213/07, as amended, under the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended.

"Schedule" means this Schedule 31 to City of Hamilton By-law No. 07-170, a By-law to License and Regulate Various Businesses;

"Single Housekeeping Establishment" - shall mean a household whose members are an interactive group of persons jointly occupying a Dwelling Unit, including joint access to and use of all common areas including living, kitchen, and eating areas within the Dwelling Unit, and sharing household activities and responsibilities such as meals, chores, expenses and maintenance, and in which there is collective decision making with respect to the control of the premises, and the occupants have the largest degree of control over the use of the dwelling and property; and,

"Tenant" includes a person who pays rent or provides services in lieu of paying rent, in return for the right to occupy a Rental Housing Unit and includes the person's heir, assigns (including subtenants) and personal representatives.

2. PROHIBITIONS

2.1 No person shall operate a Rental Housing Unit without holding a current valid licence

issued under the provisions of the By-law;

- 2.2 No person shall hold themselves out to be licensed under the By-law if they are not;
- 2.3 No person shall contravene or fail to comply with a term or condition of their licence imposed under the By-law;
- 2.4 No person shall operate a Rental Housing Unit while their licence issued under the By-law is under suspension;
- 2.5 No person shall transfer or assign a licence issued under the By-law;
- 2.6 No person shall provide false or misleading information to the City when applying for a licence under the By-law, renewing a licence or at any other time;
- 2.7 No person shall hinder or obstruct an Officer or attempt to hinder or obstruct an Officer who is performing a duty under the By-law; and,
- 2.8 Any person who provides false information to the City shall be deemed to have hindered or obstructed an Officer in the execution of his or her duties.

3. APPLICATION OF SCHEDULE 31 – RENTAL HOUSING UNITS

- 3.1 This Schedule shall apply to the geographic area as shown in Appendix "A" of this Schedule (Appendix "A" – Rental Housing Units in Wards 1, 8 and 14).
- 3.2 This Schedule shall not apply to:
 - a) a Multiple Dwelling;
 - b) a hotel, motel, inn or bed and breakfast; tourist home, lodging house or short-term rental; or
 - c) a Rental Housing Unit 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 of Hamilton and which has been approved for exemption by the Director.

4. APPLICATIONS FOR A LICENCE AND RENEWAL OF LICENCE

- 4.1 Every application for a licence and renewal shall be made to the Director on the forms provided by the Director. Without limitation, and in addition to the

requirements under the General Provisions of By-law 07-170, every application for a licence or a renewal shall include the following information:

- a) the municipal address and legal description of the Rental Housing Unit;
- b) the name, municipal address, telephone number and email address of each Owner;
- c) If the Owner is a partnership, the name, address, telephone number and e-mail address of each partner;
- d) If the Owner is a corporation, the address of its head office, the name, address, telephone number of each director and officer and a copy of:
 - i. Articles of incorporation;
 - ii. A copy of the last initial notice or notice of change which has been filed with the provincial or federal government; and,
 - iii. A Certificate of Status issued by the Ministry of Government and Consumer services.
- e) Evidence of ownership of the property to the satisfaction of the Director;
- f) A sworn statement by each Applicant certifying the accuracy, truthfulness and completeness of the application;
- g) If none of the Owners reside in the City of Hamilton, or if the Owner is a corporation, the name and contact information of any local contact including their address, telephone number, facsimile number and e-mail address;
- h) Proof of Insurance that:
 - i. Includes a limit of liability of no less than \$2,000,000 (two million dollars) per occurrence for property damage and bodily injury;
 - ii. Identifies that the proposed use of the premise is that of a rental property; and,
 - iii. Requires that the Director be notified of any intended cancellation by the insurer no fewer than 14 days prior to such cancellation; and,
- i) Any other documentation or information as may be required in any other part of the By-law or this Schedule, and by the Director.

4.2 Every person applying for a license shall, in addition to completing the application provided for in this Schedule and in addition to the requirements under the General Provisions of By-law 07-170, provide the following additional materials in support of the license application:

- (a) Floor plan of the Rental Housing Unit including, for each room, its dimensions and proposed use, clearly indicating the location and number of bedrooms;
- (b) A site sketch that indicates the location of the Rental Housing Unit, any external garage/recycling facilities, and parking spaces (clearly indicate the number of spaces provided and their dimensions) for the Rental Housing Unit;
- (c) Evidence satisfactory to the Director confirming that the Rental Housing Unit and its proposed use complies with the *Electrical Safety Code*, O. Reg. 164/99;
- (d) Certificate of compliance from the City verifying that the Rental Housing Unit complies with the minimum maintenance requirement of the City’s Property Standards By-law;
- (e) Certificate of zoning verification from the City;
- (f) Completed fire inspection from the City confirming compliance with the Fire

Code;

- (g) A completed self-certification check list, as provided by the City;
- (h) A signed written statement that: The Licensee acknowledges that the Rental Housing Unit must comply with all relevant federal and provincial legislation, including the Ontario Human Rights Code, as well as all relevant municipal by-laws, and that they will comply with all of them; and,
- (i) Any other documentation or information as may be required in any other Part of the By-Law or by the Director.

5. ISSUANCE OF LICENCES

5.1 Without limiting the requirements under the General Provisions of the By-law, every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold and renewing a licence all of which shall be performed and observed by the Applicant or the Licensee:

- a) the Applicant or Licensee shall allow, at any reasonable time and when permitted by law, the City to inspect the Rental Housing Unit;
- b) the Rental Housing Unit shall be in accordance with the requirements of the *Building Code Act* and the regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the regulations thereunder, and the City's Property Standards By-law 10-221;
- c) where the Rental Housing Unit is altered and a building permit is required to carry out the alterations, the Rental Housing Unit, as altered, shall be altered to the satisfaction of the City;
- d) the use of the Rental Housing Unit is permitted or conforms with the uses permitted under the applicable zoning by-law or is a legal non-conforming use;
- e) the Applicant or Licensee shall not directly or indirectly require or cause a Tenant to refuse to consent to lawful entry and inspection of a Rental Housing Unit for the purpose of determining compliance with the By-law; and,
- f) the Licensee shall produce a copy of its tenant agreement immediately when requested to do so by an Officer.

5.2 A licence issued under the By-law shall be valid only for the number of bedrooms that were indicated on the application form.

5.3 A separate licence shall be required for each Rental Housing Unit.

5.4 No licence issued under this By-law may be sold or transferred.

5.5 The Licensee shall notify the Director of any change in ownership of the Rental

Housing Unit and shall surrender his, her or its licence to the Director within seventy-two (72) hours of the completion of such change.

- 5.6 All licence fees and inspection fees related to this By-law shall be paid in accordance with the applicable fees and charges by-law, as may be passed and amended by the Council from time to time, and such licence fees and inspection fees paid shall be non-refundable;

6. POWERS OF THE DIRECTOR

- 6.1 Notwithstanding any other provision in the By-law, the power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to cancel, revoke or suspend a licence, to impose terms and conditions, including special conditions on a licence are delegated to the Director.

- 6.2 (a) The Director shall issue a licence or renew a licence where the requirements or conditions of the By-law and this Schedule have been met:

(b) In addition to the powers granted to the Director under the General Provisions of the By-law, the Director may refuse to issue, refuse to renew or revoke or suspend a licence or impose a term or condition on a licence on the following grounds;

- i) The conduct of the Applicant or the Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the operation of the Rental Housing Unit in accordance with the law or with honesty or integrity;
- ii) There are reasonable grounds to believe that an application or other documents provided to the Director by or on behalf of the Applicant or a Licensee contains a false statement;
- iii) There are reasonable grounds to believe that the issuing of the licence would not be in the public interest;
- iv) There are reasonable grounds to believe that the issuing of the licence would pose a threat to the health and safety of person or property;
- v) An Applicant or Licensee is carrying on activities that are in contravention of the By-law;
- vi) The Applicant or Licensee’s Rental Housing Unit is subject to an order, or orders, made pursuant to or by:
 - 1) The City of Hamilton’s Property Standards By-law No. 10-221, Property Maintenance (Yards) By-law No. 10-118, Snow and Ice By-law No. 03-296, By-law Respecting the Prohibition and Inspection of Marijuana Grow Operations (By-law 07-244), By-law to Prohibit and Regulate Fortification and Protective Elements of Land (By-law 10-122), or By-law to Regulate Enclosures for Privately-Owned Outdoor Pools (By-law 16-184);
 - 2) The *Building Code Act*, 1992 or any regulations made under it, including the Building Code;
 - 3) The *Fire Protection and Prevention Act*, 1997, as amended, or any

regulation made under it, including the Fire Code; or

- 4) The *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7
- vii) An Applicant or Licensee does not meet all the requirements of the By-law or that the Rental Housing Unit does not comply with the provisions of the By-law;
- viii) The Director has received an objection to the issuance or renewal of the license by:
 - 1) the Chief Building Official;
 - 2) the Fire Chief;
 - 3) Medical Officer of Health; and/or,
 - 4) chief planner for the City of Hamilton, or his or her designate.

6.3 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.

6.4 Notwithstanding any other provision in the 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 necessary in the opinion of the Director to give effect to this Schedule.

6.5 Before revoking or suspending a license, the Director shall consider:

- a) The impact of any such license revocation or suspension on any Tenant; and
- b) Imposing terms or conditions on any such license revocation or suspension that would minimize the adverse impact on Tenants, including the possibility of providing a reasonable time period before the license revocation or suspension takes place to permit Tenants to find new housing or to seek relief in a Court or before the Ontario Landlord and Tenant Board;

7. ENFORCEMENT

7.1 This Schedule may be enforced by an Officer.

7.2 An Officer performing a duty under this By-law may be accompanied by a person under his or her direction.

File Name/Number: Appendix A - Rental Housing Units in Wards 1, 8 and parts of 14

