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Bill No. 055

CITY OF HAMILTON

BY-LAW NO. 24-055

Renovation Licence and Relocation By-law

WHEREAS section 8 of the *Municipal Act, 2001* 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* 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* 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 licence; refuse to grant a licence or to revoke or suspend a licence;
- (b) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- (c) 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;
- (d) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and,
- (e) 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* applies with necessary modifications to a system of licences with respect to any activity, matter or thing for which a by-law may be passed under sections 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*, 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* 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* 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* 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*;

AND WHEREAS section 436 of the *Municipal Act, 2001* 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* 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 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 unit for the purpose of performing

repairs or renovations;

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 subsections 53(1) and 53(2) of the *Residential Tenancies Act, 2006* establish that a Tenant who receives notice of termination of a tenancy for the purpose of repairs or renovations pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*, may have a right of first refusal to occupy the rental unit as a Tenant when the repairs or renovations are complete at a rental rate that is no more than what the Landlord could have lawfully charged if there had been no interruption in the Tenant's tenancy;

AND WHEREAS the City of Hamilton 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 in making an informed decision as to whether or not the Tenant should deliver a notice of their wish to occupy the rental unit after the repairs and renovations are complete prior to such Tenant vacating the premises;

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

PART I – GENERAL AND INTERPRETATION

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;
 - (ii) the *Innkeepers Act*, R.S.O. 1990, C. 17;
 - (iii) the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8;
 - (iv) the *Retirement Homes Act, 2010*, S.O. 2010, c.11;
 - (v) the Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1, **where Service Manager Consents are required**; and
 - (vi) social housing or affordable housing that is not subject to the Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1, 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:

"Administrative Penalty" means any administrative fee pursuant to the City's Administrative Penalties By-law 17-225;

"Average Market Rent" means rent at average market rent as **most recently** published **annually** by the Canada Mortgage and Housing Corporation (CMHC) **in the Hamilton Census Metropolitan Area**, based on number of bedrooms in a Rental Housing Unit **and Year of Construction**;

"By-law" means this By-law;

"Chief Building Official" means the Chief Building Official as appointed by Council pursuant to the *Building Code Act, 1992*, S.O. 1992, c.23, 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, or their designate;

“Fire Chief” means the City of Hamilton Chief of the Hamilton Fire Department, or their designate;

“Landlord” includes:

- (a) the owner of a Residential Housing Unit 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;
- (b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a); and
- (c) 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 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;

“Provincial Offences Act” means the *Provincial Offences Act*, R.S.O. 1990, c.P33;

“Qualified Person” means a person licensed by, and in good standing with, the Ontario Association of Architects or Professional Engineers Ontario, or any other professional in Ontario that the Director deems to be qualified;

“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;

“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; and

“Tenant Rights and Entitlements Package” means an information package produced by the City to inform Tenants about their rights & entitlements under the *Residential Tenancies Act, 2006*, and this By-law.

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 II- LICENCE REQUIRED FOR REPAIRS AND RENOVATIONS TO RENTAL HOUSING UNITS THAT REQUIRE VACANT POSSESSION

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 submit an application for 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.

PART III – PROHIBITIONS

9. No Landlord or Operator shall perform, or cause to be performed, renovations or repairs requiring vacant possession of the Rental Housing Unit pursuant to

subsection 50(1)(c) of the *Residential Tenancies Act, 2006*, without first being issued a licence as required pursuant to this By-law.

10. No Landlord or Operator shall be issued a licence as required pursuant to 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*.
11. No Landlord or Operator who received notice from a Tenant of their wish to have a right of first refusal pursuant to section 53 of the *Residential Tenancies Act, 2006*, shall be issued a licence under this By-law without first making arrangements with the Tenant in accordance with section 25 of this By-law, unless otherwise exempted in accordance with section 28 of this By-law.
12. No Landlord or Operator who has obtained a licence under this By-law shall fail to adhere to the arrangements made with the Tenant pursuant to this By-law.
13. No Landlord or Operator who has obtained a licence under this By-law shall prevent a Tenant who has informed the Landlord or Operator in writing of their wish to exercise their right of first refusal, pursuant to subsection 53(2) of the *Residential Tenancies Act, 2006*, from reoccupying the Rental Housing Unit upon the completion of repairs or renovations at a rent that is no more than what the Landlord or Operator could have lawfully charged if there had been no interruption in the Tenant's tenancy.
14. No Landlord or Operator who has obtained a licence under this By-law shall advertise, or cause to be advertised, a renovated or repaired Rental Housing Unit for rent if the Tenant of that Rental Housing Unit has informed the Landlord or Operator in writing of their wish to exercise their right of first refusal, pursuant to subsection 53(2) of the *Residential Tenancies Act, 2006*, unless:
 - (a) the Tenant informs the Landlord or Operator, in writing, that the Tenant no longer wishes to exercise their right of first refusal to reoccupy the Rental Housing Unit; or,
 - (b) the Landlord (i) gave the Tenant sixty (60) days after the Rental Housing Unit was ready for occupancy to exercise their right of first refusal to occupy the Rental housing Unit and thereafter (ii) the Tenant chose not to exercise their right of first refusal within that sixty (60) day period.
15. No Landlord or Operator shall hold themselves out to be licensed under this By-law if they are not licensed.
16. 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.
17. No Landlord or Operator shall transfer or assign a licence issued under this By-law.
18. No Person shall provide false or misleading information to the Director when applying for or renewing a licence under this By-law.
19. 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.

20. Any Person who provides false or misleading information to the Director shall be deemed to have hindered or obstructed an Officer in the execution of their duties.

PART IV - APPLICATION FOR AND RENEWAL OF LICENCE

Application for a Licence

21. Prior to submitting an application for a licence under this By-law, the Landlord or Operator shall provide a copy of the City's Tenant Rights and Entitlements Package to all Tenants who received a notice pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*.
22. Every Landlord or Operator applying for a licence as required pursuant to section 7 of this By-law shall provide the following information and materials in support of the application for a licence:
- (a) the Landlord's name and contact information, including a mailing address, email address and telephone number;
 - (b) if there is an Operator of the Residential Complex, the Operator's name and contact information, including a mailing address, email address and telephone number;
 - (c) full description of the Residential Complex, including street address, number of Rental Housing Units, number of rooms within the Rental Housing Units, number of tenanted Rental Housing Units, rental rates for each of the tenanted Rental Housing Units and the commencement date and term of the tenancy agreement for each tenanted Rental Housing Unit at the time of submitting the application for a licence;
 - (d) a copy of the notice of termination served on the Tenant pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*;
 - (e) a copy of the building permit issued to the Landlord or Operator by the Chief Building Official and any other permit required to carry out the repairs or renovations;
 - (f) certification from the Landlord or Operator that the Landlord or Operator has provided a copy of the Tenant's Rights and Entitlements Package to all Tenants who received a notice pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*;
 - (g) a copy of a report prepared by a ~~professionally designated engineer or other person with the requisite qualification~~ Qualified Person stating that the repairs or renovations are so extensive that they require vacant possession of the Rental Housing Unit; and,
 - (h) any other information as may be required by the Director.

Notice of Application

23. Within five (5) days of submitting the application for a licence under this By-law, the Landlord or Operator shall provide notice of the application submitted to the City, pursuant to this By-law, to all Tenants who received a notice of termination pursuant to section 50(1)(c) of the *Residential Tenancies Act, 2006*.
24. Where a Residential Complex has more than one (1) tenanted Rental Housing Unit, within five (5) days of submitting an application for a licence to the City pursuant to this By-law, the Landlord or Operator shall post the notice in location on the premises, so as to be clearly visible to all residents of the premises until such time that a licence has been issued or the application for a licence has been withdrawn or revoked.

PART V – TEMPORARY ALTERNATE ACCOMMODATION

Temporary Alternate Accommodation Required

25. Where a Tenant has notified their Landlord or Operator of their wish to have a right of first refusal pursuant to section 53 of the *Residential Tenancies Act, 2006*, the Landlord or Operator shall within one-hundred and twenty (120) days of the Landlord or Operator serving the notice on the Tenant requiring vacant possession of the Rental Housing Unit, or before the date on which the Tenant notifies the Landlord of its intention to vacate the Rental Housing Unit, whichever is earlier:
 - (a) make arrangements with the Tenant:
 - (i) for the Tenant's temporary alternate accommodation that is comparable to the Tenant's current Rental Housing Unit during the period of repair or renovation; or
 - (ii) to provide the Tenant with compensation in an amount equal to the difference between the rent rate currently paid by the Tenant for the Rental Housing Unit being repaired or renovated (including utilities, only if utilities were included in the tenancy agreement with the Tenant of that Rental Housing Unit) and:
 - (a) if the current Rental Housing Unit is a bachelor or one-bedroom unit, the Average Market Rent for a one-bedroom Rental Housing Unit constructed in 2015 or later; or
 - (b) if the current Rental Housing Unit is a two-bedroom unit, the Average Market Rent for a two-bedroom constructed in 2015 or later; or
 - (c) if the current Rental Housing Unit is a three-bedroom unit or more, the Average Market Rent for a two-bedroom constructed in 2015 or later, increased by 15%;

~~the Average Market Rent of a Rental Housing Unit with the same number of bedrooms as the Tenant's current Rental Housing Unit,~~ within seven (7) calendar days before the first (1st) day of each

month during the period of repair or renovation; and

(b) make arrangements with the Tenant to:

- (iii) arrange and pay for an insured moving company to relocate the Tenant; or
- (iv) provide compensation at a rate of:
 - (a) \$1,500 if the current Rental Housing Unit is a bachelor or one-bedroom unit; or
 - (b) \$2,500 if the current Rental Housing Unit has two or more bedrooms; and

(c) make arrangements for the Tenant's return to the Rental Housing Unit after completion of the repairs and renovations at a rent that is no more than what the Landlord or Operator may have lawfully charged if there had been no interruption to the Tenant's tenancy.

26. The Landlord or Operator shall provide to the Director the particulars of the arrangements made with the Tenant forthwith after such arrangements have been made pursuant to section 25 of this By-law **by submitting a completed "City of Hamilton Renovation License Attestation", in a form prescribed by the Director, as amended from time to time.**
27. Comparable, for the purposes of section 25 of this By-law includes, but is not limited to, consideration of the following factors:
- (a) the rental rate for the unit is equal or less than the rent for the Rental Housing Unit being repaired or renovated;
 - (b) proximity between existing and proposed transportation options, including transit service;
 - (c) relative proximity to community infrastructure such as, recreational facilities, libraries, police stations, schools and places of religious assembly;
 - (d) relative proximity to commercial services and amenities;
 - (e) number of bedrooms; and
 - (f) size of proposed temporary alternate accommodation.

Application for Exemption

28. A Landlord or Operator who is subject to the provisions of section 25 of this By-law may apply to the Director for an exemption from the provisions of that

section, on the grounds that the Landlord or Operator was unable to make the required arrangements within the specified time period in accordance with section 25 of this By-law.

29. A Landlord or Operator who has made an application for exemption under section 28 of this By-law shall submit to the Director the following information and documentation in support of the application for exemption:
- (a) an explanation for the reason that the Landlord or Operator was unable to make the required arrangements within the specified time period in accordance with section 25 of this By-law;
 - (b) documentation disclosing all proposed temporary alternate accommodations proposed by the Landlord, Operator or Tenant as required pursuant to subsection 25(a)(i) of this By-law, as applicable;
 - (c) copies of all correspondence between the Landlord, Operator and Tenant regarding the proposed temporary alternate accommodations referred to in subsection 29(b), as applicable;
 - (d) copies of all correspondence between the Landlord, Operator and Tenant, and any other related documentation, pertaining to the proposed arrangements to provide the Tenant with compensation in an amount equal to the difference between the rent rate currently paid by the Tenant for the Rental Housing Unit being repaired or renovated (including utilities, only if utilities were included in the tenancy agreement with the Tenant of that Rental Housing Unit) and the Average Market Rent ~~of a Rental Housing Unit with the same number of bedrooms as the Tenant's current Rental Housing Unit as required~~ pursuant to subsection 25(a)(ii) of this By-law, as applicable; and
 - (e) any other information or documentation as required by the Director to assist in determining whether an exemption under this By-law should be granted.
30. The Director may, in approving an application for exemption pursuant to this By-law, impose conditions on both the Tenant and the Landlord.

PART VI- POWERS OF THE DIRECTOR AND ISSUANCE OF LICENCE

31. 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.
32. The Director shall issue a licence or renew a licence where the requirements or conditions of this By-law have been met.
33. 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 any or all material or information submitted in support of an application for a licence pursuant to section 22 of this By-law or an application for exemption pursuant to

section 29 of this By-law or any other documents provided to the Director by the Landlord or Operator as required pursuant to this By-law contain a false or misleading statement;

- (b) the Residential Complex 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 of the requirements, terms or conditions of this By-law.
34. A licence issued under this By-law shall be posted in location on the premises, so as to be clearly visible to all residents of the premises for the duration of the licence period.
35. A licence issued under this By-law shall only be valid for the repairs or renovations of the Rental Housing Unit as provided for in the application for licence referred to in this By-law.
36. 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 earlier.
37. 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 one or more~~ building permits ~~are~~ ~~is~~ issued.
38. (a) The Director may reject an application for a licence ~~or its~~ renewal where any of the documents required by this By-law in support of such application are incomplete or have not been filed.
- (b) The Director shall reject an application for a licence where any of the documents required by this By-law in support of such application are incomplete or have not been filed within one-hundred and twenty (120) days of delivering a notice of termination pursuant to subsection 50(1)(c) of the *Residential Tenancies Act, 2006* to a Tenant.
39. 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.

PART VII – ADMINISTRATION AND ENFORCEMENT

40. The Director is authorized to administer and enforce this By-law including, but not limited to, prescribing the format and content of any forms or other documents required under this By-law.
41. Registration and other fees under this By-law shall be as approved by Council from time to time and then included in the User Fees and Charges By-law No.

23-112.

42. An Officer may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this By-law;
 - (b) a direction or order made under this By-law; or
 - (c) an order made under section 431 of the *Municipal Act, 2001*.
43. An Officer may, for the purposes of any inspection carried out under section 42 of this By-law:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information in writing or otherwise as required by the Officer from any person concerning a matter related to the inspection; or
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
44. Any cost incurred by the City in exercising its authority to inspect under section 42 of this By-law including, but not limited, to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the owner of the property where the inspection takes place.
45. An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001* where they have been prevented or are likely to be prevented from carrying out an inspection pursuant to section 42 of this By-law.
46. If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner of the property on which the contravention occurred to discontinue the contravening activity.
47. An order under section 46 of this By-law shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and,
 - (b) the date or dates by which there must be compliance with the order.
48. An order to discontinue any contravening activity made under section 46 of this By-law may be served personally, **by email to the last known email address**, or by registered mail to the last known address of:
- (a) the owner of the property where the contravention occurred; and

- (b) such other persons affected by the order as the Officer making the order determines.
49. (a) Service by registered mail, for the purposes of section 48 of this By-law, shall be deemed to have taken place five (5) business days after the date of mailing.
- (b) Service by email, for the purposes of section 48 of this By-law, shall be deemed to have been made on the day of sending unless,
- (i) the email was sent after 5 p.m., in which case service shall be deemed to have been made on the following day; or
- (ii) the person to whom the order is given establishes that, acting in good faith, through absence, accident, illness or other unintentional cause, the order was not received until a later date.
50. In addition to service given in accordance with section 48 of this By-law, an order to discontinue any contravening activity made under section 46 of this By-law may be served by an Officer by placing a placard containing the order in a conspicuous place on the property where the contravention occurred.
51. Where service cannot be given in accordance with section 48 of this By-law, service is deemed to have taken place when given in accordance with section 50 of this By-law.
52. Where a Person does not comply with a direction, an order or a requirement under this By-law to do a matter or thing, the Director, with such assistance by others as may be required, may carry out such direction, order or requirement at the Person's expense.
53. The City may recover the costs of doing a matter or thing under section 52 of this By-law by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an interest rate of 15 per cent per year commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
54. The Director is authorized to give immediate effect to any direction, order or requirement where the costs of carrying out the direction, order or requirement do not exceed \$30,000 and, where the costs do exceed \$30,000, as the City's Council may authorize.
55. Every person who contravenes any provision of this By-law and every director or officer of a corporation who knowingly permits a contravention of this By-law is, upon conviction, guilty of an offence and is liable:
- (a) on a first conviction, to a fine of not more than \$10,000; and
- (b) on any subsequent conviction, to a fine of not more than \$25,000.
56. Despite section 55 of this By-law, where the person convicted is a corporation:
- (a) the maximum fine in subsection 55 (a) is \$50,000; and
- (b) the maximum fine in subsection 55 (b) is \$100,000.

57. Where a Person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.

PASSED this 10th day of April, 2024.

A. Horwath
Mayor

J. Pilon
Acting City Clerk