

CITY OF ST. CATHARINES

BY-LAW NO. 2022-159

A By-law to require adequate and suitable vital services for rental units.

WHEREAS subsection 8(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, ("Municipal Act, 2001") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS Council deems it necessary to require the supply of Vital Services by landlords and the suppliers of such vital services and to prohibit the cancellation of such vital services to rental units;

AND WHEREAS Part XIII, Sections 215 through 223 of the Residential Tenancies Act, 2006, S.O. 2006 Chapter 17, provides for the enactment and enforcement of a vital services by-law, lien and rent collection rights, and related matters;

AND WHEREAS subsection 11(1) of the Municipal Act, 2001 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 11(2) of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting: in paragraph 6, Health, safety and wellbeing of persons;

AND WHEREAS section 23.1 of the Municipal Act, 2001 provides that a municipality may delegate its powers and duties under that Act;

AND WHEREAS Section 446 of the Municipal Act, 2001 provides that if a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and allowing the municipality for that purpose enter upon lands at any reasonable time;

NOW THEREFORE the COUNCIL OF THE CORPORATION OF THE CITY OF ST.

CATHARINES enacts as follows:

PART I – SHORT TITLE

1. This By-law may be referred to as the “The Vital Services By-law”.

PART II – DEFINITIONS

2. For the purposes of this By-law:

"adequate and suitable heat" means that the minimum temperature of the air in the accommodation which is available to the tenant or lessee is twenty (20) degrees Celsius at one and one-half (1.5) metres from above floor level and one (1) metre from exterior walls in all habitable space and in any area intended for normal use by tenants, including recreation rooms and laundry rooms but excluding locker rooms and garages;

"adequate and suitable supply of hot water" means a supply of hot water at the ordinary temperature of at least forty-nine (49) degrees Celsius in a quantity of at least one hundred sixty-five (165) litres for fifteen (15) minutes with a minimum recovery rate for the temperature of forty-five (45) litres per hour;

"adequate and suitable supply of water" means a continuous and uninterrupted supply of potable water of sufficient quantity for normal use of kitchen, laundry and bathroom facilities;

“By-law” means this By-law;

“City” means The Corporation of the City of St. Catharines;

“Council” means the Council of The Corporation of the City of St. Catharines;

“Director” means the Director of Planning and Building Services, or their designate;

“Landlord” means and includes,

- a. the owner of a Rental Unit or any other person who permits occupancy of a Rental Unit, other than a tenant who occupies a Rental Unit in a residential complex and permits another person to also occupy the unit or any part of the unit,
- 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 lawfully occupying a Rental Unit in a residential complex, who is entitled to possession of the Rental Unit and who attempts to enforce any of the rights of a landlord under a tenancy agreement or applicable legislation, including the right to collect rent;

“Person”, or any expression referring to a person, means an individual, sole proprietorship, partnership, limited partnership, trust or body corporate, or an individual in his or her capacity as a trustee, executor, administrator or other legal representative;

“Rental Unit” means any living accommodation used or intended for use as rented residential premises, and “rental unit” includes,

- a. a site for a mobile home or site on which there is a land lease home used or intended for use as rented residential premises, and
- b. a room in a boarding house, rooming house or lodging house and a unit in a care home;

“Vital Service” means hot or cold water, fuel, electricity, gas or heat; and

“Municipal Law Enforcement Officer” means a person employed by the City and appointed as a Municipal Law Enforcement Officer by the City.

PART III – REQUIREMENTS OF LANDLORDS

3. Every Landlord shall provide Vital Services for Rental Units, as provided for in this By-law.

4. Every Landlord shall ensure that:

- a. each Rental Unit is provided with adequate and suitable heat between the 15th day of September in each year and the first day of June of the following year, or as ordered by the Director of Planning and Building Services pursuant to Subsection 12 of this By-law;
- b. there is heating equipment or a heating system capable of maintaining adequate and suitable heat that supplies each Rental Unit;
- c. each Rental Unit is not equipped with auxiliary heating equipment as the primary source of heat; and

- d. each Rental Unit is provided with an adequate and suitable supply of hot or cold water, fuel, electricity, and gas.
5. No Landlord shall cause or allow the discontinuance of a Vital Service to a Rental Unit, except when it is necessary to safely make repairs or alterations to the Rental Unit and then only for the minimum period necessary to effect the repair or alteration.
6. For the purposes of Subsection 5, a Landlord shall be deemed to have caused the cessation of a Vital Service for a Rental Unit if the Landlord is obligated to pay the supplier for the Vital Service and fails to do so, and as a result of the non-payment, the Vital Service is no longer provided for the Rental Unit.
7. No Landlord shall advise a supplier of a Vital Service to bill a tenant directly except where such tenant has expressly assumed the obligation to pay for that service directly in a tenancy agreement.
8. No person shall obstruct, hinder, delay or prevent a Municipal Law Enforcement Officer in the exercise of any power conferred or the performance of any duty imposed by this By-law.

EXTRAORDINARY CLIMATE CONDITIONS

9. The Director is hereby delegated the authority to shorten or extend the dates for the provision of adequate and suitable heat set out in Subsection 4 of this By-law resulting from extreme variations and deviations from normal climatic conditions.
10. For the purposes of Subsection 9, the Director will:
 - a. commence monitoring environmental conditions no later than two weeks prior to the 15th day of September in each year and the first day of June of each year to assess extreme and prolonged heat/cold climatic conditions;
 - b. post and communicate in a coordinated manner an order setting out the date upon which a Landlord shall comply with the provisions of Subsection 4(a), on the City of St. Catharines website, no later than one week prior to the 15th day of September in each year and the first day of June of each year; and
 - c. continue to monitor the environmental conditions and amend the order as necessary.

PART IV – ADMINISTRATION AND ENFORCEMENT

11. A Municipal Law Enforcement Officer may, at all reasonable times, enter and inspect a building or part of a building for the purpose of determining compliance with the provisions of this Bylaw.

12. Despite Subsection 11, a Municipal Law Enforcement Officer shall not enter a Rental Unit,

- a. unless the Municipal Law Enforcement Officer has obtained the consent of the occupier of the Rental Unit after informing the occupier that he or she may refuse permission to enter the unit; or
- b. the Municipal Law Enforcement Officer is authorized to do so under the authority of a warrant duly issued.

13. 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.

14. A Municipal Law Enforcement Officer may, for the purposes of the inspection under sections 11:

- 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 Municipal Law Enforcement 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.

15. Any cost incurred by the City in exercising its authority to inspect under Subsection 11, 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.

16. A Municipal Law Enforcement 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 he or she has been prevented or is likely to be prevented from carrying out an inspection under Subsection 12.

17. If a Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the By-law and/or who caused or permitted the contravention and/or the owner of the property on which the contravention occurred to:

- a. discontinue the contravening activity; and
- b. to do work to correct the contravention;

18. An order under Subsection 17 shall set out, including but not limited to:

- a. reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred;
- b. the time frame, date, or dates by which there must be compliance with the order;
- c. the work to be completed; and
- d. the time frame, date, or dates by which the work must be completed.

19. An order under Subsection 17 may be served personally, by registered mail, or by email to the last known address or email address of:

- a. the owner of the property where the contravention occurred; and/or
- b. such other persons affected by it as the Municipal Law Enforcement Officer making the order determines.

20. Service by registered mail shall be deemed to have taken place five (5) business days after the date of mailing.

21. In addition to service given in accordance with Subsection 19, an order made under Subsection 17 may be served by a Municipal Law Enforcement Officer, placing a placard containing the order in a conspicuous place on the property where the contravention occurred.

22. Where service cannot be affected in accordance with Subsection 19, sufficient service is deemed to have taken place when given in accordance with Subsection 21.

23. 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 owner(s) expense.

24. The City may recover the costs of doing a matter or thing under section 23 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 10 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.

OFFENCES

25. Every Person is guilty of an offence if the Person,

- a. hinders, obstructs or interferes with the Director or Municipal Law Enforcement Officer in the exercise of his or her powers and duties under this By-law;
- b. prevents a Municipal Law Enforcement Officer from entering land or premises, refuses to answer questions on matters relevant to the inspection or provides the Municipal Law Enforcement Officer with information, on matters relevant to the inspection, that the person knows, or ought reasonably to know, to be false or misleading;
- c. contravenes any provisions of this By-law; or
- d. refuses or neglects to obey or carry out the order and/or directives of the Director or a Municipal Law Enforcement Officer given under the authority of this By-law.

PENALTY, PERSON

26. A Person convicted of an offence under Subsection 26 is liable to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a subsequent offence.

SAME, CORPORATION

27. A corporation convicted of an offence under Subsection 26 is liable to a fine of not more than \$50,000 for a first offence and not more than \$100,000 for a subsequent offence.

OFFENCE, DIRECTOR OR OFFICER OF A CORPORATION

28. A director or officer of a corporation who knows that the corporation is violating or has violated a provision of this By-law is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a subsequent offence.

OFFENCE, REMOVAL OF POSTED ORDER

29. Any person who removes a copy of an order or of a notice posted in accordance with this By-law without the approval of the Director or a Municipal Law Enforcement Officer is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and not more than \$25,000 for a subsequent offence.

OFFENCE, FAILURE TO COMPLY WITH ORDER, DIRECTION, OR REQUIREMENT

30. Every Person who fails to comply with a direction, an order, or a requirement made under this By-law is guilty of an offence and on conviction is liable to a fine of not more than \$20,000 for every day during which the default continues, and the imposition or payment of the fine does not relieve the person from complying with the order.

POWER TO RESTRAIN, DISCONTINUE, OR REMEDY

31. Sections 431 and 440 of the Municipal Act, 2001, S.O. 2001, c. 25, apply to this By-law, providing respectively that if this By-law is contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction is entered, and any court of competent jurisdiction thereafter, may make an order:

- a. prohibiting the continuation or repetition of the offence by the Person convicted; and
- b. requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

ADMINISTRATIVE PENALTIES

32. Administrative Penalties (Non-Parking) By-law 2021-68, as amended, applies to this By-law. Every Person who contravenes a provision of this By-law designated in “Schedule B” of the Administrative Penalties (Non-Parking) By-law 2021-68, shall upon issuance of a Penalty Notice be and is liable to pay to the City of St. Catharines an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 2021-68, as amended.

GENERAL PROVISIONS

33. All measurements in this By-law are given in the metric short form.

34. Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Part II of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.

35. Wherever a word defined in Part II of this By-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.

36. All words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.

37. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

38. This By-law shall not apply to a Landlord with respect to a Rental Unit and Vital Service in connection thereof, to the extent that the tenant has expressly agreed to obtain and maintain the Vital Service.

ENACTMENT

39. This By-law comes into force on the date of its passing.

Read and passed this 29 day of AUGUST 2022.



CLERK



W. R.