

Vital Services By-law

PH-6 Consolidated May 23, 2001

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PUBLIC HEALTH

By-law PH-6

A by-law concerning the PROVISION OF VITAL SERVICES AND THE MAINTENANCE OF SUITABLE HEAT AT LEASED OR RENTAL DWELLINGS

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WHEREAS under the *City of Humber Bay Act (Vital Services)*, 1993 Council is authorized to pass by-laws concerning the provision of vital services at leased or rented dwellings.

AND WHEREAS paragraph 76 of section 210 of the *Municipal Act, R.S.O. 1990, c.M.45*, provides that a municipality may pass a by-law for requiring the maintenance of adequate heat for rented or leased dwellings or living accommodations and for defining adequate and suitable heat for such purposes and for providing for the inspection of such dwellings or living accommodation:

THEREFORE the MUNICIPAL COUNCIL of The Corporation of the City of Humber Bay enacts as follows:

VITAL SERVICES BY-LAW

**PART I
INTERPRETATION**

1.1 Definitions

In this by-law:

"**Act**" means the *City of Humber Bay Act (Vital Services)*, 1993;

"**adequate and suitable**" in reference to vital services at a rented residential unit means sufficient to enable,

- (a) the refrigerating, freezing, preparing and cooking of food for human consumption;
- (b) the heating of the unit on and between the 15th day of September of one year and the 15th day of June of the following year to a minimum temperature of 20 degrees Celsius (68 degrees Fahrenheit) between six o'clock in the morning and eleven o'clock in the evening of the same day, and to a minimum temperature of 18 degrees Celsius (65 degrees Fahrenheit) at all other times;
- (c) the washing of dishes and utensils used for food;
- (d) the operation of a toilet;
- (e) the cleansing and bathing of human beings; and
- (f) the lighting of the unit.

"**Director**" means the Director of Building Controls and all persons acting under the direction of the Director;

"heating system" means equipment owned or supplied by the landlord located in a building for the purpose of supplying heat to a rented residential unit, and includes a furnace, a boiler, a solid fuel burning stove, an electrical baseboard heating system and all mechanical systems appurtenant thereto.

"landlord" includes a person who is lessor, owner, the person giving or permitting the occupation of the rented residential unit in question, and those persons' heirs and assigns and legal representatives;

"rented residential unit" means a building or part of a building that is rented or leased as a dwelling or lodging unit;

"supplier of a vital service" means a person who carries on the business of or whose business includes supplying a vital service to an end user, and includes,

- (a) in the case of electricity, The Hydro-Electric Commission of the City of Humber Bay and Ontario Hydro;
- (b) in the case of artificial and natural gas, Union Gas Limited;
- (c) in the case of municipal water, the City Engineer; and
- (d) in the case of chilled water, hot water and steam, Trigen-Humber Bay District Energy Corporation;

"system used for the distribution" includes all parts of a system owned or supplied by a landlord and located in a building for the purpose of supplying and distributing a vital service to a rented residential unit;

"tenancy agreement" means an agreement between a tenant and a landlord for possession of a rented residential unit, whether written, oral or implied, and includes a licence to occupy premises;

"tenant" includes a person who is lessee, occupant, sub-tenant, under-tenant, border, roomer, and lodger, and the person's assigns and legal representatives;

"vital service" means fuel, electricity, gas, hot water, water and steam.

PART II GENERAL PROVISIONS

2.1 Administration of by-law

The administration of this by-law is assigned to the Director.

2.2 Application of by-law

This by-law applies to a building or a part of a building that contains one or more rented residential units in which at least one rented residential unit is occupied.

2.3 Exception to by-law application

Despite section 2.2, this by-law does not apply to a landlord in respect of a rented residential unit and a vital service to the extent that the tenant has as part of a tenancy agreement expressly agreed to obtain and maintain the supply of the vital service or to provide and/or maintain or repair the heating system that supplies heat to the unit.

2.4 By-law applicable despite dispute

This by-law shall apply despite any dispute as between the landlord and the tenant, so long as the rented residential unit is occupied by the tenant.

PART III RESPONSIBILITIES OF LANDLORD

3.1 Provision of vital services

A landlord shall provide adequate and suitable vital services at every rented residential unit that is occupied by a tenant.

3.2 Cessation - Repairs

Section 3.1 does not apply to a cessation of vital services necessary to alter or repair the rented residential unit, but such cessation shall only be for the minimum period necessary to effect the alteration or repair.

3.3 Heating system - provide - maintain - repair

A landlord shall provide, maintain and repair a heating system for every building in which a rented residential unit is located, in working order sufficient to ensure the supply of adequate and suitable vital services to each part of the building used as a dwelling, so that the requirements of this by-law are met.

3.4 Maintain heat - September to June - minimum requirements

Between the 15th day of September of one year and the 15th of June of the following year, a landlord shall provide a continuous supply of heat to a rented residential unit so that a minimum temperature of 20 degrees Celsius (68 degrees Fahrenheit) will be maintained between the hours of six o'clock in the morning and eleven o'clock in the evening of the same day, and a minimum temperature of 18 degrees Celsius (65 degrees Fahrenheit) at all other times.

3.5 Distribution systems - provide - maintain - repair

In addition to the heating system referred to in section 3.3 of this by-law, a landlord shall provide, maintain and repair a system or systems used for the distribution of adequate and suitable vital services to each part of a building that is used as a dwelling, so that the requirements of this by-law are met.

3.6 Non payment - deemed cessation - landlord

A landlord shall be deemed to have caused the cessation of a vital service at a rented residential unit, if the landlord is obliged 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 at the unit.

PART IV RESPONSIBILITIES OF VITAL SERVICES SUPPLIER

4.1 Notice of disconnection - supplier of vital service

Every supplier of a vital service shall give a notice in accordance with this by-law if the vital service is being discontinued at a building to which this by-law applies because the landlord has breached a contract with the supplier for the supply of the vital service.

4.2 Notice - 15 days before cessation of service

The notice of disconnection shall be given in writing to the City Clerk and to the landlord at least fifteen days before the supplier ceases to provide the vital service and shall contain the following:

- (a) the name, address, telephone number, and facsimile number of the supplier;
- (b) the type of vital service being supplied;
- (c) the name, address and telephone number of the landlord with whom the supplier has a contract for the supply of the vital service and the name of the registered owner if not the same name as the landlord;
- (d) the municipal address of the building at which the vital service is being supplied;
- (e) confirmation that at least one rented residential unit is occupied at the subject site;
- (f) the nature of the landlord's breach of contract with the supplier;
- (g) if the breach in clause (f) is nonpayment of charges for supply of the vital service, the amount of the unpaid charges, any interest and administration charges, and the amount of any disconnection and reconnection charges;
- (h) the date and time when the supplier will cease to provide the vital service; and
- (i) the name, municipal address, and telephone number of an individual authorized by the supplier to receive a direction made under section 4.3.

- (j) a reference to the Vital Services By-law and a statement that if the breach of contract is for nonpayment of charges for the supply of vital services, the City of Humber Bay may act without further notice to pay to the supplier the outstanding charges and add the amount paid to the property owner's taxes in accordance with the provisions of the Vital Services By-law.

4.3 Restoration - service

Every supplier of a vital service who discontinues the vital service at a building to which this by-law applies shall promptly restore the vital service at the building when directed to do so by the Director.

PART V CORRECTIVE MEASURES AND APPEAL

5.1 Director - authority

The Director,

- (a) may enter all reasonable times and inspect a building or the part of a building to which this by-law applies for the purpose of determining compliance with this by-law or a direction given under the Act or this by-law;
- (b) may instruct any person to enter and inspect in the manner and for the purpose mentioned in clause (a);
- (c) may apply for warrant under the *Provincial Offences Act* for authority to enter a place actually used as a rented residential unit;
- (d) may direct a landlord to provide adequate and suitable vital services at a rented residential unit that is occupied by a tenant if
 - (i) the vital services are not adequate or suitable; or
 - (ii) the landlord has ceased to provide the vital services and the cessation is not necessary to alter or repair the rented residential unit or is beyond the minimum period necessary to effect the alteration or repair;
- (e) may direct a supplier of a vital service who discontinues the vital service at a building to which this by-law applies to promptly restore the vital service at the building;
- (f) may arrange for a vital service to be provided at a rented residential unit if a landlord does not provide a vital service at the unit in accordance with this by-law;
- (g) may enter into agreements on behalf of the City with the supplier of a vital service to ensure that adequate and suitable vital services are provided at a building or the part of a building to which this by-law applies;
- (h) shall provide sufficient information to enable the City Clerk to add the amount and the administration fee mentioned in section 5.4 to the collector's roll and to send the interim certificate directed in section 5.7;
- (i) may direct a tenant to pay any or all of the rent for the rented residential unit to the City if it has arranged for a vital service to be provided at the unit;
- (j) shall cause rent received from a tenant to be applied to reduce the amount spent by the City to provide the vital service and the related administration fee, and shall cause any amount remaining after the rent is so applied to be paid to the person otherwise entitled to receive the rent; and
- (k) shall provide the Community and Protective Services Committee with sufficient information to enable it to conduct a hearing described in section 5.8 if an appeal is made from an interim certificate.

5.2 Inspection of occupied unit

Despite clauses 5.1(a) and (b), the Director or the person acting under his or her instructions shall not enter a place actually used as a rented residential unit,

- (a) unless he or she has obtained the consent of the occupier of the unit after informing him or her that he or she may refuse permission to enter the unit; or
- (b) unless he or she is authorized to do so by a warrant issued under the *Provincial Offences Act*.

5.3 Effect of rent paid

Despite the *Landlord and Tenant Act* a payment to the City of any or all of the rent by a tenant pursuant to a direction by the Director shall be deemed not to constitute a default in the payment of rent due under a tenancy agreement or a default in the tenant's obligations for the purposes of the *Landlord and Tenant Act*.

5.4 Lien

The City has a lien for the amount it spends for a vital service that it arranges to be provided at a rented residential unit under this by-law plus an administration fee of 10 percent of that amount against the property at which the vital service is provided.

5.5 Deemed taxes

The amount and the administration fee mentioned in section 5.4 shall be deemed to be municipal taxes levied in the year in which the amount was spent and shall be added to the collector's roll and be subject to the same penalty and interest charges as real property taxed and shall be collected in the same manner and with the same remedies as real property taxes.

5.6 Certificate

The certificate of the City Clerk as to the amount spent by the City is proof, in the absence of the contrary, of the amount.

5.7 Interim certificate

Before issuing a certificate described in section 5.6, the City Clerk shall send an interim certificate by registered mail to the registered owner of the property that is subject to the lien and to all mortgagees or other encumbrances registered on title.

5.8 Appeal

An affected owner, mortgagee or other encumbrancer may, within fifteen days after the interim certificate is mailed, appeal the amount shown on it to Council in the manner described in clauses (a) to (c),

- (a) The Community and Protective Services Committee shall hear the appellant or afford the appellant an opportunity to be heard in the place of Council.
- (b) Upon the conclusion of a hearing conducted by the Committee, it shall as soon as practicable make a recommendation to Council on the merits of the appeal.
- (c) After considering the recommendation of the Committee, Council may allow the appeal in whole or in part or dismiss the appeal.

PART VI ENFORCEMENT

6.1 Landlord - not to cause cessation of supply

A landlord shall not cause the cessation of a vital service at a rented residential unit that is occupied by a tenant.

6.2 Landlord - failure to maintain heat - prohibited

A landlord shall not fail to provide a continuous supply of heat to a rented residential unit in accordance with the requirements of this by-law.

6.3 Landlord - heating system - failure to repair - prohibited

A landlord shall not cease to provide a vital service as a result of the failure to provide, maintain or repair a heating system sufficiently to enable the supply of adequate and suitable vital services to each part of a building used as a dwelling in accordance with the requirements of this by-law.

6.4 Landlord - distribution system - failure to repair - prohibited

A landlord shall not cease to provide a vital service as a result of the failure to provide, maintain or

repair a system used for the distribution of the supply of adequate and suitable vital services to each part of a building used as a dwelling in accordance with the requirements of this by-law.

6.5 Supplier - lack of notice - prohibited

A supplier of a vital service shall not cease to provide the vital service at a building or the part of the building to which this by-law applies until at least fifteen days after the supplier gives notice to the City Clerk in accordance with section 4.2.

6.6 Supplier - failure to restore service - prohibited

A supplier of a vital service who discontinues the vital service at a building to which this by-law applies shall not fail to promptly restore the vital service at the building when directed to do so by the Director.

6.7 Hindering authorized acts - prohibited

No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with the Director or with a person acting under his or her instructions in the exercise of a power or performance of a duty under the Act or this by-law.

6.8 Fine - for contravention

Every person who contravenes or fails to comply with any provision of this by-law is, upon conviction, guilty of an offence for each day or part of a day on which the offence occurs or continues and is liable to any penalty as provided in the *Provincial Offences Act*.

6.9 Corporation - officer - offence

Every director or officer of a corporation that is convicted of an offence who knowingly concurs in the commission of the offence is guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

6.10 Continuation - repetition - prohibition - by order

The Court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted and such order shall be in addition to any other penalty imposed upon the person convicted.

**PART VII
REPEAL-ENACTMENT**

7.1 By-laws - previous

By-law P.H.-68-282 and by-law PH-2 and all amendments thereto are hereby repealed.

7.2 Effective date

This by-law comes into force on the day it is passed.

Passed in Open Council on March 6, 1995.

Dianne Haskett
Mayor

K.W. Sadler
City Clerk

First Reading - March 6, 1995
Second Reading - March 6, 1995
Third Reading - March 6, 1995

