

**Report to  
Rapport au:**

**Community and Protective Services Committee  
Comité des services communautaires et de protection  
20 August 2020 / 20 août 2020**

**and Council  
et au Conseil  
26 August 2020 / 26 août 2020**

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**Submitted by  
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**Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE      File Number: ACS2020-EPS-GEN-0002**

**SUBJECT: Rental Housing Property Management By-law and Rental Accommodation Study Update**

**OBJET: *Règlement municipal sur la gestion des logements locatifs et nouvelles de l'Étude sur les logements locatifs***

## REPORT RECOMMENDATIONS

**That Community and Protective Services Committee recommend that Council approve the Rental Housing Property Management By-law attached as Document 1 and an amendment to the Property Standards By-law (2013-416, as amended) attached as Document 2, as described in this report.**

## RECOMMANDATIONS DU RAPPORT

**Que le Comité des services communautaires et de protection recommande au Conseil municipal d'approuver le Règlement municipal sur la gestion des logements locatifs annexé en tant que document 1, et une modification du Règlement sur les normes d'entretien des biens (no 2013-416, dans sa version modifiée), annexé en tant que document 2, décrite dans le présent rapport.**

## EXECUTIVE SUMMARY

On November 27, 2019, Council approved the Report on Rental Accommodations Study and Regulatory Regime ([ASC2019-EPS-GEN-0015](#)), approving regulatory regimes to be developed for both long-term rental housing and short-term rental accommodations.

Further to Council's approvals in November 2019, this report exclusively addresses rental housing regulations to improve overall rental housing quality. A specific report on short-term rental regulation is planned for Q4 of 2020.

In respect to rental housing, this report recommends:

- The adoption of a new Rental Housing Property Management By-law, attached as Document 1 and described in this report; and
- The adoption of new pest control regulations, through amendments to Property Standards By-law 2013-416, as amended, attached as Document 2 and described in this report.

The overall goals of the rental housing regulatory regime approved by Council in November 2019 include an increase in consistency of rental housing quality through improved property standards and enhanced pest and vermin control across all rental housing properties in the City. More effective pest and vermin control is being introduced through an Integrated Pest Management (IPM) approach and regulations, as described in this report and in Document 3. Property-related enforcement activities will be focused where they are needed most, and cost recovery will be achieved through re-inspection fees from non-compliant addresses.

The regulatory regime will also provide greater resolution of property-related incidents between the landlord and the tenant, without City intervention, by increasing tenant consumer awareness. Appropriate offences will be created in these new regulations, however, in order to allow for enforcement of non-compliance, as appropriate.

The key measures addressing rental housing quality discussed in this report include:

**A New Rental Housing Property Management By-law (Document 1):** The purpose of this proposed by-law is to establish common minimum standards for the provision and use of rental housing, with the aim of improving the consistency of housing quality experienced by residents with minimal intervention by City services. This by-law would apply to all rental housing, including social housing, and contains specific provisions to address the distinct requirements of multi-residential apartment buildings.

The proposed by-law would require owners of apartment buildings with 10 or more units, or three or more storeys, to develop and maintain a capital maintenance plan to ensure the continued reliability and safety of critical capital elements of rental housing, such as accessibility features and equipment, electrical, mechanical and plumbing systems, and fire escapes, among others.

Landlords will also be required to have a process for managing tenant service requests, a process that would provide both additional consumer protection and enhance the health and safety of tenants, and will include a requirement for building owners to respond to urgent requests, such as a loss of vital services, within 24 hours.

The new by-law requires landlords to maintain a Special Assistance Registry in order to address tenants who wish to disclose a need for accommodation under the *Ontario Human Rights Code*. It is noted however that nothing in the proposed by-law relieves a building owner from any duties or responsibilities under applicable legislation such as the *Residential Tenancies Act, 2006* and the *Ontario Human Rights Code*.

Finally, the proposed by-law would require a landlord to provide all tenants with an “Information for Tenants” document to ensure that tenants have all the information necessary to:

- Contact the landlord or property manager.
- Submit requests for service to the landlord or property manager.
- Report problems to the City if the landlord does not address their concern.
- Manage personal responsibilities related to areas of municipal concern.
- Voluntarily register any requirements for special assistance, as described in the Special Assistance Registry section below and in Sections 24 to 28 of the draft by-law.

It is expected that by ensuring that tenants are equipped with this information, there will be a reduction in the number of City service requests caused by a lack of knowledge about applicable on-site conditions or rules, as well as a corresponding increase in accountability for tenants who become aware of municipal requirements but choose not to comply.

### **Introduction of Integrated Pest Management in pest and vermin control**

**regulations and standards:** The November 2019 Report provided staff analysis of service request data indicating that pest control is the most frequently occurring issue impacting rental housing quality. Approximately 23 per cent of service requests from rental housing relate to pests such as cockroaches, bed bugs and ants, and a further 9 per cent involve vermin such as rats, mice, squirrels and raccoons.<sup>1</sup> To better address pest control within the City, staff are recommending the implementation of Integrated Pest Management (IPM) in all rental housing. Integrated Pest Management is an ongoing process that aims to prevent infestations from occurring and resolve them effectively and efficiently when they do occur. A further description of Integrated Pest Management is attached to this report as Document 3.

To implement Integrated Pest Management (IPM) in rental housing, staff are recommending amendments to the existing provisions in the Property Standards By-law as further set out in Document 2. These amendments strengthen the element of prevention and treatment, and will apply to all residential housing, not just rental housing. Specific provisions for rental housing, including obligations of landlords and tenants, are provided in the recommended Rental Housing Property Management By-law, attached as Document 1.

Under the recommended by-law, all landlords would be required to have an Integrated Pest Management Plan for their rental properties that include, among other components:

- A schedule of preventative inspections that is reasonable for the age and condition of each rental property
- Educational information about the prevention of infestations to be made available to tenants
- Reporting processes for suspected infestation
- Notifications and instructions to the tenant about treating the infestations, including how to prepare the unit for treatments and post-treatment instructions

The tenant's role in prevention is also reflected in the proposed regulations and standards. Tenants would be required to keep their units reasonably free from conditions which may encourage pest infestations, and to report infestations or

conditions that might encourage infestation to their landlord. Tenants must also follow instructions provided in a pest treatment plan, including preparing their unit for treatment, and keep their pets free of fleas, ticks and other pests.

Staff propose to make resources available on ottawa.ca to assist landlords with the development of Integrated Pest Management plans, including sample plans and educational resources for tenants.

This report also provides a status update on other key items identified in the Regulatory Regime for Rental Housing approved by Council in November 2019, including non-regulatory measures:

**Increased re-inspection fees for non-compliant properties:** Approved by Council in November 2019, a re-inspection fee for property standards matters where the property continues to be non-compliant has been put into place and has been applied in property standards cases since February 2020. These fees have enabled the creation of two additional by-law enforcement officer positions (2 FTEs) to undertake focused enforcement of property standards and property maintenance matters. These two approved positions were filled in February 2020.

**Tracking mechanisms for rental housing quality:** Following an initial review of the intake processes for municipal service requests received at the City, planning work has been completed to allow Service Ottawa agents and by-law officers to identify and record service requests concerning rental properties. This will enable the monitoring and analysis of rental housing quality and will assist in identifying addresses with high volumes of demand for by-law enforcement services. This work is expected to be completed within existing City resources through the ongoing corporate initiative to replace the case management software system used by By-law and Regulatory Services. This Information Technology Services (ITS) project is planned for implementation in early 2021.

**Explore the feasibility of establishing a consumer protection and education website and searchable database:** Staff will begin development of resource pages for both tenants and landlords on ottawa.ca. The approach will leverage existing community resources where available. Implementation and supporting communications will be coordinated with the implementation of the new by-law.

In addition, an online searchable database for prospective tenants is under development. This database will provide a five-year history of property standards and maintenance violations searchable by address. Staff have conducted initial planning, including a legal review with respect to privacy legislation. Further development of this

initiative will occur concurrently with the implementation of the new case management system in early 2021. Council will be advised once this work has been completed.

Finally, staff are continuing to explore the feasibility of providing greater transparency through Property Standards Compliance Reports or other documentation to both tenants and landlords following investigations, in order to assist these parties in resolving disputes or prepare for hearing as the Landlord and Tenant Board. Staff are continuing research in this area and will introduce any new reports with the new case management system in early 2021. In addition, staff are currently planning a workshop with Ontario Legal Aid and the Property Standards Enforcement Unit of By-law and Regulatory Services to develop shared understanding of each organization's operations and identify opportunities to improve services.

The report recommendations follow extensive research and public consultations that occurred in 2019, as described in the Report on Rental Accommodations Study and Regulatory Regime (ASC2019-EPS-GEN-0015). Subsequent to that report, additional stakeholder consultations have occurred, and Staff have benefited from input received from the Eastern Ontario Landlord Association, Ottawa ACORN, Legal Aid Ontario, Ottawa Public Health and Ottawa Community Housing, among others as described under the Public and Stakeholder Consultation heading in the Background Section of the report.

Staff recommend monitoring the implementation of the Regulatory Regime for Rental Housing for a minimum period of three years to enable the City to collect sufficient data in support of future policy development.

## **BACKGROUND**

The Rental Accommodations Study was approved by Council in Budget 2018 for the purpose of providing Council with recommendations concerning the regulation of various forms of rental accommodations within the City of Ottawa. In November 2019, Council approved the first report on this study: Report on Rental Accommodations Study and Regulatory Regime (ASC2019-EPS-GEN-0015), which included specific policy recommendations for 1) long-term rental housing and 2) short-term rental accommodations as well as direction to develop regulations for these two areas.

This second report therefore addresses long-term rental housing regulation exclusively and provides recommendations for rental housing regulations in the form of a new by-law as well as updates on the non-regulatory measures approved by Council to improve rental quality. A third report on short-term rental regulations will be submitted for Committee and Council consideration in Fall 2020.

The Report on Rental Accommodations Study and Regulatory Regime (ASC2019-EPS-GEN-0015) details the research that informed the formulation of the regulatory regime. For ease of reference, the key studies attached to that report, and available on ottawa.ca, include:

- The Rental Accommodations Literature Review and Inter-jurisdictional Environmental Scan, prepared by Prism Economics and Analysis, which provides an examination of leading academic research and promising practices implemented in other Canadian and international jurisdictions for rental accommodations regulations and policies
- The Rental Market Analysis, prepared by Prism Economics and Analysis, which provides detailed metrics on the present state of Ottawa's rental market, including the number, age and size of rental units, vacancy rates and rental prices, city-wide and at the community level
- The Property Standards in Rental Housing report, prepared by City staff, which provides analysis of a ten-year history of property standards and property maintenance service requests made to By-law and Regulatory Services
- The Regulation of Long-Term Rental Accommodations report, prepared by Maclaren Municipal Consulting, which provides an independent assessment of local regulations and recommendations for municipal consideration

As noted in the November 2019 report to Council, the desired outcomes of the above-noted measures are as follows:

- Increased consistency in rental housing quality through strategies directed towards addresses where repeated property standards, property maintenance, or other service requests are received
- Improved effectiveness of property-related enforcement activities to be focused where it is needed most, and full cost recovery through service fees from non-compliant addresses
- More effective pest and vermin control through an Integrated Pest Management (IPM) approach
- Greater resolution of property-related incidents between the landlord and the tenant, without City intervention, by increasing tenant consumer awareness

## **DISCUSSION**

The focus of this report is the introduction of the key regulatory measures included in the Council-approved regulatory regime for rental housing, namely regulations for rental housing property management and regulations for pest and vermin control. Each of these regulatory measures is discussed in detail below.

## Policy Rationale for Rental Housing Regulation

The objective of the proposed Rental Housing Property Management By-law (attached as Document 1) and amendments to the Property Standards By-law (attached as Document 2) is to improve consistency in rental housing quality across the City while minimizing any negative impacts on rental housing availability or affordability. This objective will be achieved by focusing resources towards known property-related problems and issues, as identified in the November 2019 report.

This approach aligns with Council's Strategic Priorities, including:

- Supporting Economic Growth and Diversification by protecting housing quality and affordability
- Supporting Thriving Communities through:
  - Access to safe, adequate and affordable housing
  - Increased protection for the quality and character of residential neighbourhoods
  - New measures to improve inclusivity for residents living with disabilities or experiencing language barriers
- Supporting Service Excellence Through Innovation by:
  - Improving service delivery through data analysis
  - Providing more self-serve access to information and services
  - Using public engagement and client insight to design and refine City services

## Research and Findings

The considerable body of research undertaken to inform and shape the City's Rental Accommodation Study is noted above and fully reported in the *Report on Rental Accommodations Study and Regulatory Regime* approved by Council in November 2019.

In respect of the pest and vermin control regulations and approach specifically discussed and proposed in this report, it is noted that public consultations undertaken for the Rental Accommodations Study indicated broad public support for a revision of pest control regulations, including the introduction of specific obligations for both landlords and tenants, which is further discussed below. In the final round of public consultations conducted in 2019, 90 per cent of respondents indicated that "Landlords and tenants should be required to work together to address pest and vermin issues." This sentiment was shared by 92 per cent of landlords and 81 per cent of tenants.<sup>ii</sup>



Based on this foundation, and in accordance with Council's direction, staff conducted additional research on the subject of pest control to supplement and to inform the new regulations discussed further below. This included a review of literature from multiple government agencies and industry groups as well as an environmental scan of municipal pest control regulation in the municipalities of Barrie, Guelph, Hamilton, Kitchener, London, Montreal, Oshawa, St. Catharines-Niagara, Toronto, Windsor and Montreal.

Staff's analysis of pest control practices has concluded that an Integrated Pest Management (IPM) solution provides the most likelihood of success for reducing the overall number of infestations and for effectively managing infestations when they occur. As described by the United States' Environmental Protection Agency, "IPM is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM programs use current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment."<sup>iii</sup> A further description of Integrated Pest Management is attached to this report as Document 3.

The outcome of this research includes the regulations for landlords and tenants in the proposed Rental Housing Property Management By-law attached as Document 1 and the amendments to the Property Standards By-law attached as Document 2.

### **Public and Stakeholder Consultation**

Extensive public and stakeholder consultation occurred during the development of the regulatory regime for rental housing, as reported to Council in Report on Rental Accommodations Study and Regulatory Regime. Public consultation opportunities leveraged a combination of online tools and in-person meetings to inform the work of the project team in several phases. Extensive stakeholder consultations occurred during this period as well, with more than 230 community organizations and industry associations.

Following Council approval of the regulatory regime in November 2019, and in accordance with Council's direction to staff, additional focused stakeholder consultations occurred as necessary to assist with the development of the draft Rental Housing Property Management By-law attached as Document 1 and Property Standards amending by-law attached as Document 2. Organizations invited to consult on the recommended by-law and by-law amendments included the Eastern Ontario Landlord Organization, Ottawa ACORN, Ottawa Real Estate Board, Building Owners

and Managers Association, Greater Ottawa Homebuilders Association, Legal Aid Ontario, Ottawa Public Health, Ottawa Community Housing, Somerset West Community Health Centre, Sandy Hill Community Health Centre, Cityview Rentals, and Orkin Canada Inc.

### **Methodology**

Staff conducted the additional research concerning pest control regulations, as described above, and formulated two discussion papers to be used for stakeholder consultation which contained key provisions under consideration as well as staff research and findings, respectively. Identified stakeholders were provided 30 days to comment on the discussion papers and were also given the opportunity to meet with City staff to discuss policy proposals in detail. These consultations helped shape the proposed regulations of this report.

### **Recommendation**

**That Community and Protective Services Committee recommend that Council approve the Rental Housing Property Management By-law attached as Document 1, and an amendment to the Property Standards (By-law 2013-416, as amended) attached as Document 2, as described in this report.**

Since the Rental Housing Property Management By-law and amendments to the Property Standards By-law are inter-related, staff is recommending that Council approve both concurrently. An explanation of the included measures is outlined below.

### **RENTAL HOUSING PROPERTY MANAGEMENT BY-LAW**

The purpose of the by-law is to establish common minimum standards that are specific to the provision and use of rental housing, with the aim of improving the consistency of housing quality experienced by residents with minimal intervention by By-law and Regulatory Services. The recommended by-law would apply to all residential rental properties within the City, including community housing providers. Specialized residential facilities, such as long-term care homes, retirement homes, residential services homes and emergency shelters are exempted, as these are already regulated by other legislation and standards, including the City's Property Standards By-law.

Specific recommended measures in these new regulations are as follows:

#### **Capital Maintenance Planning**

Under Sections 3 to 5 of the recommended by-law (Document 1), owners of apartment buildings will be required to establish and maintain a capital maintenance plan. The

purpose of this document is to ensure that property owners are inspecting the critical infrastructure within their buildings and planning for its maintenance, repair or replacement as necessary.

The elements to be included in the Capital Maintenance Plan are identified in subsection 3(2) of the draft by-law and include:

- accessibility features and equipment
- building-wide electrical distribution systems
- plumbing
- fire escapes
- elevators
- mechanical systems
- roofs
- exterior cladding
- balconies and balcony railings
- parking structures

This requirement only exists for apartment buildings, which the by-law defines as “a structure other than a townhouse or rowhouse that contains multiple rental units and is three or more storeys in height or contains 10 or more rental units.” This threshold captures all larger buildings as well as low-rise buildings where the safety and comfort of tenants depend on common mechanical and electrical systems and fire safety equipment. The rationale for excluding individual homes and townhomes is that these properties do not generally require the same level of planning and investment to maintain, and that standards for these units can be addressed with the Tenant Service Request Standards described below.

Under the recommended by-law, a Property Standards Officer within BLRS may request a copy of a building owner’s capital maintenance plan. This will assist with investigations of property standards and maintenance issues and help to determine the most appropriate enforcement action to resolve any issues.

### **Tenant Service Requests**

As prescribed in Sections 6 to 12 of the recommended by-law, all landlords will be required to have and maintain a record of service requests made by their tenants, with a requirement that a landlord accept requests in writing. This will assist By-law and Regulatory Services with their investigations by providing documentation to demonstrate how and when property standards-related service requests are received and addressed at specific properties.

The recommended by-law further establishes minimum time periods for landlords to respond to service requests. Under Sections 10 and 11 of the recommended by-law, landlords will be required to respond to urgent issues, such as those concerning a loss of vital services, security issues, or any issue that could reasonably be expected to make a unit uninhabitable, within 24 hours. For other non-urgent matters, the landlord will be required to respond to the service request within seven (7) days.

### **Information to Tenants**

As prescribed in Sections 13 to 23 of the recommended by-law, landlords would be required to provide their tenants with information about areas of municipal concern that frequently generate demand for BLRS, such as: property standards, fire safety, on-site solid waste management, and parking. The purpose of this information for tenants is to reduce service demand for BLRS by ensuring that tenants are aware of their rights and responsibilities and have the information needed to prevent or resolve issues.

Information required to be provided to tenants by the landlord would include:

- Contact information for the landlord or property manager, including mailing address, telephone number and at least one method of electronic text communication
- How to submit requests for service to the landlord or property manager;
- How to submit complaints to the City if the landlord does not address their concern
- Site specific information about fire safety equipment, solid waste management (such as where to place waste and recycling materials and curbside collection information) and on-site or nearby parking instructions
- Instructions on how residents can voluntarily register any requirements for special assistance, as described in the Special Assistance Registry section below and in Sections 24 to 28 of the draft by-law

Ensuring that tenants are equipped with this information should reduce the number of service requests where a tenant has caused the issue due to a lack of knowledge and further increase accountability for tenants that are aware of municipal requirements but choose not to comply. During the course of an investigation, a By-law Officer may require the landlord to provide a copy of the Information to Tenants document for examination. A landlord who has not provided the required information to tenants may face enforcement action. The information provided will assist tenants in understanding their duties and relevant by-laws and may also be used to determine if the tenant is responsible for violations. This creates an extra avenue of accountability for tenants

who do not comply with applicable rules for parking, property maintenance or waste disposal.

### **Special Assistance Registry**

Staff note that the *Ontario Human Rights Code* (“the Code”) has primacy over all other Ontario legislation. Legislation or regulations may not contradict the Code, and where contradictions exist between regulations, whatever gives greater accessibility to the individual is what is followed.

Under the *Ontario Human Rights Code*, landlords have an obligation to accommodate tenants living with a disability, except where such accommodation would cause undue hardship. The Special Assistance Registry, prescribed in Sections 24 to 28 of the recommended Rental Housing Property Management By-law (Document 1), provides a mechanism to ensure that tenants and landlords are aware of this requirement and that landlords have a process in place to manage these accommodations.

The recommended by-law provides that tenants will be informed of this right in the Information to Tenants document and given the opportunity to voluntarily disclose a need for special assistance to the landlord. Any disclosure of personal information by a tenant to a landlord in this regard is subject to privacy protections under applicable privacy laws.

The City does not have jurisdiction over human rights issues and does not make determinations about the validity of a request to accommodate or the landlord’s duty to accommodate. However, under subsection 10(2) of the *Municipal Act, 2001*, the City may pass by-laws respecting the health, safety and well-being of persons. The requirement for landlords to maintain a Special Assistance Registry supports this requirement and aligns with the Term of Council Priority for Thriving Communities by promoting the safety, social and physical well-being of all residents.

### **PEST CONTROL**

The November 2019 Report provided analysis of service request data indicating that pest control is the most frequently occurring issue impacting rental housing quality. Approximately 23 per cent of service requests from rental housing relate to pests such as cockroaches, bed bugs and ants, and a further 9 per cent involve vermin such as rats, mice, squirrels and racoons.<sup>iv</sup> To better address pest control within the City, staff are recommending the implementation of Integrated Pest Management (IPM) in all rental housing. Integrated Pest Management is an ongoing process that aims to prevent infestations from occurring and resolve them effectively and efficiently when they do occur. A further description of IPM is attached to this report as Document 3.

In order to implement IPM, Staff are recommending revisions to the Property Standards By-law, attached as Document 2), supported by additional regulations specific to landlords and tenants, to be included in the draft Rental Housing Property Management By-law attached as Document 1. The recommended amendments to the Property Standards By-law, further described below, establish a foundation for the implementation of IPM in rental housing in the City of Ottawa.

The Property Standards By-law currently uses the term “vermin” rather than “pest”, defined in Section 1 as “a mammal, bird or insect injurious to humans, game or crops including but not limited to foxes, rats, mice, moles, owls, weasels, ants, cockroaches, silverfish, fleas, bugs, bedbugs or lice.” Staff are recommending the adoption of the term “pest” as this is more commonly used and understood. Staff are further recommending that this definition be amended as follows:

“pest” means a mammal, bird or insect infestation injurious to humans or property, including but not limited to rats, mice, bats, ants, cockroaches, silverfish, fleas, or bedbugs, but does not include any species designated under the *Species at Risk Act* or *Endangered Species Act, 2007*

This revised definition accounts for additional considerations not included in the current by-law. The revised definition would:

- Include species injurious to humans or property
- Remove at-risk and endangered species from consideration as pests
- Broaden the requirement to conduct exterminations in accordance with the Pesticide Act to include applicable legislation where chemical treatment methods are not appropriate for the type of pest

Staff are also recommending the inclusion of a new definition for infestation, as prescribed in Section 2 of the amending by-law attached as Document 2 to this report:

“infestation” means:

- a) one or more bedbugs;
- b) a multitude of insects other than bedbugs; or
- c) any mammal or bird identified as a pest;

This definition, modeled after the City of Hamilton’s by-law, is included for the purpose of establishing action thresholds for specific types of infestations as per the IPM model. The presence of a single bed bug would require treatment to be implemented immediately. For other insects, the IPM model provides a systemic process for determining when and how to effect treatment, with the advice of a pest control expert.

In addition to the new definitions for “pest” and “infestation”, staff are recommending updated provisions for pest control in residential units. Whereas the current by-law applies an absolute standard requiring that a dwelling be kept “free of pests” at all times, the new approach recommends language that allows for a standard of ‘reasonableness’. In practice this means that the presence of a single spider or bee would not necessarily constitute an infestation and would not automatically place a property owner in violation. However, as a result of the above-noted definition of infestation, the presence of a single bedbug, rat or mouse would require immediate control measures to be taken.

As a result, the revisions discussed above update this standard to align with IPM practices, with emphasis placed on prevention and the necessary flexibility to establish appropriate action thresholds based on the type of pest and nature of infestation. The proposed revised language is set out below with material changes emphasized in bold:

#### PEST CONTROL

13. (1) A dwelling shall be **kept reasonably free of pests** and **from conditions which may encourage infestations** from such pests.
- (2) **Openings and holes in a building**, including chimneys, windows, doors, vents, holes for pipes and electrical fixtures, cracks, and floor drains that might permit the entry of pests shall be **screened or sealed as appropriate** so as to prevent pests from entering.
- (3) Methods used for pest control shall be in accordance with **applicable provincial and federal statutes and regulations**.

The standard of reasonableness enables a property owner to determine what action needs to be taken and when. This discretion is checked by the authority and judgment of By-law Officers to determine if the property owner has acted appropriately based on all relevant circumstances and the applicable regulations. The revised definition also provides for increased prevention by requiring that properties be kept reasonably free from conditions which may encourage infestations and by expanding protection for potential entry points pests may exploit to gain entry to a structure.

Proactively preventing infestations, and avoiding re-infestations, requires restricting access points where possible, and reducing or eliminating access to food, water and shelter. This is only possible if the property owner and building occupants cooperate to keep properties clean and well maintained. Of the 10 jurisdictions reviewed, Hamilton is the only jurisdiction where responsibility for pest control is exclusively the responsibility of the property owner. The other nine jurisdictions have regulations that may be applied

to either owners or occupants. In three of the 10 cities reviewed, prevention is further enhanced by broadly prohibiting conditions that could encourage infestations. Toronto, Montreal and Windsor all have similar provisions to the proposed language in subsection 13(1) above. While other jurisdictions may address issues such as cleanliness or maintenance in other provisions of their property standards by-laws, including this requirement in the pest control provisions serves the prevention component of Integrated Pest Management.

Finally, the above-noted revised language also broadens the current requirement in the Property Standards By-law to require property owners and pest control experts to conform to all applicable federal and provincial laws and regulations for pest control in addition to the provincial *Pesticides Act*. This broader requirement addresses both insect infestations as well as other forms of infestation where insecticide is not a method of treatment.

### **Pest control requirements for landlords**

Staff are recommending that the above-noted amendments be further supplemented with specific provisions in the proposed Rental Housing Property Management By-law (as Document 1).

Under the recommended by-law, all landlords would be required to have an Integrated Pest Management Plan for their rental properties, and the Plan must include:

- A schedule of preventative inspections that is reasonable for the age and condition of each rental property
- Educational information about the prevention of infestations to be made available to tenants
- Reporting processes for suspected infestations
- Treatment plans for common pests and any pests with a history or re-infestations at a particular property

The establishment of IPM is anticipated to reduce the overall number of infestations and enable earlier intervention when infestations do occur.

Treatment of infestations is a responsibility of the landlord. However, the effectiveness of treatments depends on communication and cooperation between landlords and tenants. When an infestation occurs, the proposed by-law requires that landlords provide a copy of the treatment plan, including:

- Notifying the tenant when treatment or treatments will occur
- Providing instructions on how to prepare the unit for treatments



- Providing information about the treatment, including relevant health information about any chemicals to be used
- Instructions for post-treatment
- The planned date for post-treatment inspection

If the infestation is in a common area of an apartment building, and not in an individual dwelling unit or units, the landlord must post a copy of the treatment plan near the building's main entrance.

Subject to Council's approval of the Rental Housing Property Management By-law, resources can be made available on [ottawa.ca](http://ottawa.ca) to assist landlords with the development of Integrated Pest Management plans, including sample plans and educational resources for tenants.

### **Pest control requirements for tenants**

The combined measures of the new Rental Housing Property Management By-law and the amended pest control provisions of the Property Standards By-law aim to reduce incidents of pest infestation by requiring all tenants to maintain sound pest management practices (as described in Document 3).

Under the recommended regulations, tenants would be required to:

- Keep their units reasonably free from conditions which may encourage pest infestations
- Report infestations or conditions that might encourage infestation to their landlord
- Follow instructions provided in a pest treatment plan, including preparing their unit for treatment
- Treat pets for infestations of fleas, ticks or other pests

Consultations and service request data suggest that the above requirements are already common practice in many buildings and that most tenants do keep units clean and most landlords do manage pest control effectively. However, the new enforcement tools provided in the regulations are expected to provide additional accountability and deterrence where warranted.

Staff acknowledge that the ability to enforce tenant compliance with specific regulations must include consideration of the tenant's ability to follow the above requirements. The presence of a disability may factor into a tenant's ability to maintain their unit and/or prepare their unit for treatment when required. According to the Canadian Survey on Disability, approximately one in five Canadians lives with some form of disability. Of

these, approximately two in five (42.5 per cent) live with a severe or very severe disability.<sup>v</sup> Under the *Ontario Human Rights Code*, landlords may be required to provide the necessary support when a tenant cannot manage the above requirements, unless doing so would create undue hardship. The Special Assistance Registry prescribed in Section 24 of the new Rental Housing Property Management By-law provides one means for tenants to register their need for assistance. However, consultations with stakeholders such as Ottawa Public Health, Ontario Legal Aid, and Ottawa ACORN have highlighted the need for additional community supports to provide free or low-cost assistance to tenants needing help with treatment preparation.

While Ottawa Community Housing provides support for unit preparation through their existing Integrated Pest Management program, staff recognize that there is a lack of community support for tenants requiring assistance with unit preparation for pest control treatments and for post-treatment steps. This is particularly true where mental health is the underlying cause of the conditions which enable infestations to occur. While By-law and Regulatory Services does not provide direct supports to tenants, and recommendations for social services and funding are outside the scope of this regulatory report, staff from Emergency and Protective Services department have shared this assessment with the Housing Services Branch of Community and Social Services to inform their work in this regard. In addition, the Special Assistance Registry proposed in the new by-law, and noted above, provides a mechanism to ensure that tenants and landlords are aware of a tenant's requirement for accommodation and that landlords have a process in place to manage these accommodations.

## **OFFENCES AND PENALTIES**

The recommended by-law (Document 1) includes provisions to establish appropriate offences for both landlords and tenants. For landlords, this includes offences related to planning for capital maintenance such as failing to have a capital maintenance plan, failing to track tenant service requests and requests for special assistance, as well as complying with the requirement to inform tenants about specific information related to their occupancy. For tenants, specific offence provisions are included in the proposed by-law to address non-compliance with obligations for building and unit cleanliness, and pest control. General offences, such as obstructing a by-law officer, could be applied to anyone and are included to preserve the integrity of the regulatory regime.

A municipal system of fines, authorized under the *Municipal Act, 2001*, is also recommended and included in the proposed by-law at Document 1, as this will provide the ability to establish escalating fines for repeat offences, and daily fines for continuing

offences, in addition to alternative enforcement processes that will remain available under the *Provincial Offences Act*.

### **Implementation and Next Steps**

The recommended Rental Housing Property Management By-law and the amended pest control provisions of the Property Standards By-law (attached as Documents 1 and 2 respectively), enable the implementation of the Regulatory Regime for Rental Housing approved by Council and described in the Report on Rental Accommodations Study and Regulatory Regime.

It is expected that the proposed Rental Housing Property Management By-law and companion amendments to the Property Standards By-law, if approved, can be implemented and come into effect on or about August 2021, with the necessary administration, resources and communications supports in place to support the by-law. No additional funding or staffing will be required to implement this by-law, as 2 additional enforcement positions have already been created and filled on a cost-recovery basis. The re-inspection fee for non-compliant properties approved by Council in November 2019 has been applied to investigations beginning in February 2020.

Initial planning work has been completed for the establishment of tracking mechanisms to monitor rental housing quality, with the support of Innovative Client Services, Legal Services and By-law and Regulatory Services. This will allow Service Ottawa agents and by-law officers to identify, record and track service requests concerning rental properties. This will enable the monitoring and analysis of rental housing quality as well as the identification of addresses with high volumes of demand for by-law enforcement services. The required work is expected to be completed with existing City resources and is planned for implementation with the new case management system in early 2021.

As a next step, staff will continue developing a consumer protection and education website containing educational content on tenant rights and related issues on ottawa.ca, leveraging existing community resources where available. Implementation and supporting communications will be coordinated with the implementation of the new by-law. Staff continue to search for funding for the creation of social media videos in multiple languages, as described in the November 2019 report.

An online searchable database to display the history of property standards and maintenance violations is also under development and will proceed concurrently with the implementation of the new case management system in early 2021. Staff have conducted initial planning, including a legal review with respect to privacy legislation.

Staff have determined that this initiative is feasible and can be completed with existing resources. Council will be advised once this work has been completed.

Staff have consulted with Ontario Legal Aid in 2019 and early 2020 about the Rental Accommodations Study, including discussions about how the City may supplement existing processes for Access to Information and third-party records requests to further support landlords and tenants with the documentation requirements for disputes at the Landlord Tenant Board. Staff are currently planning a workshop with Ontario Legal Aid and the Property Standards Enforcement Unit of By-law and Regulatory Services to develop shared understanding of each organization's operations and identify opportunities to improve services.

As noted in the 2019 report on the Rental Accommodations Study, staff will monitor the implementation of the Regulatory Regime for Rental Housing for a minimum period of three years. This will enable the City to collect sufficient data to advance further policy development concerning rental housing regulations in the City.

## **RURAL IMPLICATIONS**

There are no rural implications in this report.

## **CONSULTATION**

Consultations in support of this report and recommendations began in 2019 and included robust stakeholder and public consultation. Details about these consultations are provided in Report on Rental Accommodations Study and Regulatory Regime (ASC2019-EPS-GEN-0015) and in Document 6 - Public Input on Rental Accommodations Study, attached to that report.

Subsequent to the above noted report, supplemental consultation with key stakeholders continued into 2020 as staff assessed the impact of specific rental housing regulations on individual stakeholders. These consultations included engagement with and participation by the Eastern Ontario Landlord Association, Ottawa ACORN, Legal Aid Ontario, Ottawa Public Health, and Ottawa Community Housing, among others.

## **LEGAL IMPLICATIONS**

There are no legal impediments to implementing the recommendations set out in this report. Further to the *Municipal Act, 2001*, Section 10(2), a single-tier municipality may pass by-laws respecting "economic, social and environmental well-being of the municipality," "health, safety and well-being of persons," and "protection of persons and property, including consumer protection." Additionally, with respect to municipal property

standards, the *Building Code Act, 1992* provides that the council of a municipality may pass a by-law prescribing standards for the maintenance and occupancy of property within the municipality. The by-law and by-law amendments put forward in this report are therefore supported by municipal purposes. While the *Residential Tenancies Act, 2006* is the primary provincial legislation setting out landlord and tenant obligations, the proposed by-law and by-law amendments provide complementary requirements that are authorized by municipal heads of power.

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications arising out of the recommendations of this report.

### **FINANCIAL IMPLICATIONS**

There are no direct financial implications associated with this report.

### **ACCESSIBILITY IMPACTS**

There are no accessibility impacts arising out of the recommendations of this report.

### **TERM OF COUNCIL PRIORITIES**

The staff recommendations presented in this report align with the City's strategic priorities for economic prosperity, healthy and caring communities, service excellence and financial sustainability.

### **SUPPORTING DOCUMENTATION**

Document 1 – Draft Rental Housing Property Management By-law

Document 2 – Draft amending by-law for pest control provisions of Property Standards By-law (2013-416 as amended)

Document 3 – Integrated Pest Management in Rental Housing

### **DISPOSITION**

Following approval of this report's recommendations, Emergency and Protective Services together with Legal Services will prepare the required by-law and by-law amendments for enactment by Council and will apply for appropriate set fines from the Province of Ontario in accordance with applicable processes. In addition, all related

administrative requirements for implementation of the by-law and amendments will be undertaken.

## Reference

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- <sup>i</sup> City of Ottawa, [Property Standards in Rental Housing 2009 – 2018](#), p. 7
- <sup>ii</sup> City of Ottawa, Public Input on the Rental Accommodations Study, November 2019, p. 6
- <sup>iii</sup> United States Environmental Protection Agency, Integrated Pest Management (IPM) Principles, <https://www.epa.gov/safepestcontrol/integrated-pest-management-ipm-principles>, accessed 24 Jan 2020)
- <sup>iv</sup> City of Ottawa, [Property Standards in Rental Housing 2009 – 2018](#), p. 7
- <sup>v</sup> Statistics Canada, [Canadian Survey on Disability, 2017](#), November 2018, accessed 10 Mar 2020