

Authority: Item ,
Report PED22091
CM:
Ward: Ward 15

Bill No. XXX

CITY OF HAMILTON

BY-LAW NO. 2X-XXX

DRAFT Rental Housing Protection By-law

WHEREAS Subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended ("Municipal Act") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on a municipality to enable it to govern its affairs as it considers appropriate;

AND WHEREAS Subsection 11(2) of the *Municipal Act* provides that a local municipality may adopt by-laws for the economic, social and environmental well-being of the municipality and for the health, safety and well-being of persons;

AND WHEREAS under Sections 20 to 24 of the *Municipal Act* the City may delegate its powers and duties under the Act to an officer or employee of the City;

AND WHEREAS, without limiting the broad municipal powers, Section 99.1 of the *Municipal Act* provides municipalities with the authority to prohibit and regulate the demolition of residential rental properties and the conversion of residential rental properties to a purpose other than the purpose of a residential rental property;

AND WHEREAS the City wishes to exercise its powers under Section 99.1 of the *Municipal Act* to protect residential rental housing in order to meet the needs of current and future residents;

AND WHEREAS under Sections 425 and 429 of the *Municipal Act* the City may pass by-laws to create offences and a system of fines for offences, that are designed to eliminate or reduce any economic advantage or gain from contravening the by-law;

AND WHEREAS Section 436 of the *Municipal Act* provides that a municipality may pass by-laws to authorize inspections to determine compliance with a by-law;

AND WHEREAS Subsection 391(1) (a) of the *Municipal Act* provides that the City may pass by-laws imposing fees or charges on persons for services or activities provided or done by or on behalf of it;

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

PART 1 - DEFINITIONS

1. For the purposes of this By-law, the following definitions and interpretations shall govern:
 - a) “**Average Market Rent**” or “**AMR**” means, in respect of a **Rental Unit**, rent that is at or below the average market rent by type of unit in the City of Hamilton as established annually by the **CMHC**;
 - b) “**Building Code Act, 1992**” means the *Building Code Act, 1992 S.O. 1992, c. 23* as may be amended;
 - c) “**Chief Building Official**” means the person appointed under Subsection 3(2) of the *Building Code Act, 1992*, as the Chief Building Official for the City of Hamilton;
 - d) “**City**” means City of Hamilton;
 - e) “**City Official**” means a person who is an employee of the City, and who has been appointed by Council to administer and/or enforce all or part of this By-law on behalf of the City, and shall include any and all municipal By-law enforcement officers;
 - f) “**CMHC**” means the Canadian Mortgage and Housing Corporation;
 - g) “**Condominium Act, 1998**” means the *Condominium Act, 1998, S.O. 1998, c. 19* as may be amended;
 - h) “**Conversion**” or “**Convert**” means converting a **Residential Rental Property** to a purpose other than a **Residential Rental Property** and includes:
 - i. Conversion as a result of a consent to sever land under Section 53 of the *Planning Act*;
 - ii. Conversion to:
 1. A non-residential use;
 2. Living accommodation other than **Dwelling Units**;
 3. A **Co-ownership**, a condominium or a building organized as a **Life Lease Project**; and,
 4. Freehold or other forms of ownership of **Dwelling Units**;
 - iii. Conversion to **Co-ownership** is deemed to occur when the first lease or sale of an interest in **Residential Rental Property** or of a share in a corporation owning or leasing any interest in **Residential Rental Property** takes place that carries with it the right to occupy a specific unit in the

Residential Rental Property or when a **Residential Rental Property** is transferred or leased to a corporation of the type described in s. 1(9)(b);

- i) **“Co-ownership”** means an equity co-operative or other co-ownership form of housing where the residential property is:
- i. Ultimately owned or leased or otherwise held, directly or indirectly by more than one person where any such person, or a person claiming under such person, has the right to present or future exclusive possession of a **Dwelling Unit** in the residential property; or,
 - ii. Ultimately owned or leased or otherwise held, directly or indirectly, by a corporation having more than one shareholder or member, where any such shareholder or member, or a person claiming under such shareholder or member, by reason of the ownership of shares in or being a member of the corporation, has the right to present or future exclusive possession of a **Dwelling Unit** in the residential property;
- For certainty, **Co-ownership** does not include a condominium, a residential building that is organized as a **Life Lease Project**, or a non-profit housing co-operative under the *Co-operative Corporations Act*, R.S.O. 1990, c. C. 35;
- j) **“Demolition”** or **“Demolish”** means to do anything in the removal of a building or any material part thereof and includes (but is not limited to) interior renovations or alterations that will result in a change to the number of:
- i. **Dwelling Units**; or,
 - ii. **Dwelling Units** by bedroom type;
- k) **“Director”** means the Director of Planning and Chief Planner for the City or his or her designate;
- l) **“Dwelling Unit”** means one (1) or more habitable rooms designed, occupied or intended to be occupied as living quarters as a self-contained unit and shall, as a minimum contain sanitary facilities, accommodation for sleeping and one (1) kitchen;.
- m) **“Guidelines”** means guidelines for applications to permit **Demolition** or **Conversion** under this By-law;
- n) **“Heritage Act”** means *Ontario Heritage Act*, R.S.O. 1990, c. O. 18 as may be amended;
- o) **“Life Lease Project”** means a life lease project as described in paragraph 1

of Subsection 3(1) of Ontario Regulation 282/98, under the *Assessment Act*, R.S.O. 1990, c. A. 31;

- p) "**Person**" includes, but is not limited to, an individual, sole proprietorship, partnership, association, or corporation;
- q) "**Planning Act**" means the *Planning Act*, R.S.O. 1990, c. P.13, as may be amended;
- r) "**Planning Committee**" means the Standing Committee of Council as constituted and governed by the City's Council Procedure By-Law 10-053, as may be amended or its successor;
- s) "**Related Planning Application**" means:
 - i. An Application that provides for the **Demolition of Residential Rental Property** or the **Conversion of Residential Rental Property** to a purpose other than a **Residential Rental Property**, expressly or by necessary implication;
 - ii. For greater certainty, paragraph (a) includes but is not limited to an Application for the following:
 - 1. A permit under Section 8 or 10 of the ***Building Code Act, 1992***;
 - 2. A consent or permit to alter part of a property or to demolish or remove a building or structure under Section 33, 34, 34.5 or 42 of the ***Heritage Act***;
 - 3. Approval or registration of a description for a proposed condominium or exemption from approval for a condominium, under Section 9 of the ***Condominium Act***;
 - 4. An amendment to the Official Plan under Section 22 of the ***Planning Act***;
 - 5. A zoning by-law amendment under Section 34 of the ***Planning Act***;
 - 6. A minor variance under Section 45 of the ***Planning Act***;
 - 7. Approval of plans and drawings under Subsection 41(4) of the ***Planning Act***;
 - 8. Approval of a plan of subdivision under Section 51 of the ***Planning Act***;
 - 9. A consent under Section 53 of the ***Planning Act***; and,
 - 10. A demolition permit under Section 33 of the ***Planning Act***.
 - iii. Despite subparagraph (b)v., paragraph (a) does not include a City-initiated general zoning by-law amendment to implement area land use studies and other general policies, except for any site specific exemptions or other site specific provisions at the request of a land owner;

- t) “**Related Buildings**” means:
- i. Buildings that are under the same ownership and on the same parcel of land (as defined in Section 46 of the **Planning Act**); or,
 - ii. Buildings that form part of the same Application under this By-law or under a **Related Planning Application**;
- u) “**Rental Unit**” means a **Dwelling Unit** used, or intended for use, for residential rental purposes, including:
- i. A **Dwelling Unit** that has been used for residential rental purposes and is vacant, and,
 - ii. A **Dwelling Unit** in a **Co-ownership** that is or was last used for residential rental purposes;
- But does not include a **Dwelling Unit** in a condominium registered under Section 2 of the **Condominium Act, 1998** or in a building organized as a **Life Lease Project** where the right to occupy the **Dwelling Unit** is based on a life lease interest;
- v) “**Residential Tenancies Act, 2006**” means the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17 as may be amended;
- w) “**Residential Rental Property**” means a building or **Related Buildings** containing one or more **Rental Units** and includes all common areas and services and facilities available for the use of its residents;
- x) “**Section 99.1 Permit**” means the permit issued by the **Director** or his or her designate after the approval of an Application under this By-law; and,
- y) “**Vacancy Rate**” means the average percentage of all available rental units for a dwelling unit or structure type that are vacant or unoccupied at a particular time within a designated geographical area.

PART II – SCOPE

2. This By-law shall apply to all **Residential Rental Properties** in the City containing six or more **Dwelling Units** and all **Related Planning Applications**;
3. Notwithstanding Section 2, this By-law does not apply to a **Residential Rental Property** that is:
 - a) A condominium governed by the **Condominium Act, 1998**;

- b) Organized as a **Life Lease Project**;
- c) Described in Section 5 (Exemptions from Act) of the **Residential Tenancies Act, 2006** other than Subsection 5(c), a member unit of a non-profit housing co-operative;
- d) Described in Section 7 (Exemptions related to social, etc., housing) of the **Residential Tenancies Act, 2006**; or,
- e) Required for the implementation of a municipal, provincial, or federal government project previously approved by City Council or a provincial or federal authority and for which an environmental assessment has been conducted pursuant to the **Environmental Assessment Act, R.S.O. 1990, c. E.18**, except if the Residential Rental Property in question is designated as a property of cultural heritage value or interest under the **Ontario Heritage Act, R.S.O. 1990, c. O.18**.

PART III – DEMOLITION & CONVERSION PROHIBITED WITHOUT A PERMIT

Demolition

- 4. No person shall **Demolish**, or cause to be demolished, the whole or any part of a **Residential Rental Property containing six or more units** unless the person has received a **Section 99.1 Permit** and except in accordance with the terms and conditions of the **Section 99.1 Permit**.

Conversion

- 5. No person shall **Convert** a **Residential Rental Property**, or cause a **Residential Rental Property** to be converted, to a purpose other than a **Residential Rental Property** unless the person has received a **Section 99.1 Permit** and except in accordance with the terms and conditions of the **Section 99.1 Permit**.

When Permit Not Required

- 6. Notwithstanding Sections 4 and 5, a **Section 99.1 Permit** is not required if only a part of a **Residential Rental Property** is proposed for **Demolition** or **Conversion** and that part does not contain any part of a **Dwelling Unit**; and,
- 7. Notwithstanding Section 5, a **Section 99.1 Permit** is not required if a **Residential Rental Property** is subject to an Application for a consent to sever under Section 53 of the **Planning Act** and if after the proposed conveyance:
 - a) Each parcel of land resulting from the severance will have six or more **Rental Units**; or,
 - b) One or more parcels of land resulting from the severance will have six or more **Rental Units** and all the other parcels of land at the time of the Application

contained no **Dwelling Units**.

PART IV – APPLICATION FOR SECTION 99.1 PERMIT

8. (1) An owner, or their authorized agent, who wishes to **Demolish** or **Convert** a **Residential Rental Property** shall submit an application for approval in writing on a form prescribed by the **Director**, and shall supply any additional information or documentation relating to the application in a form approved by and as required by the **Director**; and,
 - (2) The Director is delegated authority to develop **Guidelines** to assist applicants with the application process and requirements.

9. An Application under Section 8 shall include the following information:
 - a) Description of the proposed **Demolition** or **Conversion**;
 - b) The number of existing dwelling units;
 - c) The number of existing and proposed **Rental Units** by unit type, including number of bedrooms and floor area;
 - d) The rents roll(s) including utilities for the **Residential Rental Property**, categorized by unit type;
 - e) A list containing the names and mailing addresses of the tenants of the **Residential Rental Property** proposed for **Demolition** or **Conversion**;
 - f) Identification of any **Related Planning Applications**, including copies of any plans, drawings, studies, or reports submitted in support of such Application;
 - g) Where applicable, a proposal for the replacement or retention of the **Rental Units** proposed for **Demolition** or **Conversion**;
 - h) If applicable, a proposed agreement between applicant and tenants which includes consideration for condo purchase by tenants or renting back to pre-conversion tenants;
 - i) A proposal for tenant engagement by the owner or Applicant, including consultation and education;
 - j) The Applicant shall hold a meeting for all tenants of the Residential Rental Property in advance of submitting an application, and shall provide a record of the public meeting which includes the following information:
 - i. A copy of the notice of the meeting which was provided to tenants, which

shall include notification of the rights of tenants under Provincial Residential Tenancy Legislation;

- ii. A list of all occupied units which received notice including the date and time when the notices were issued to tenants;
- iii. The total number of notices that were sent;
- iv. A copy of the public meeting sign-in-sheet;
- v. A copy of all information distributed or presented at the meeting;
- vi. A copy of the meeting minutes; and,
- vii. A copy of all comments received in relation to the meeting;

All to the satisfaction of the Director;

- k) Any additional information or documentation required to evaluate the application, as specified by the **Director**; and,
 - l) The applicable fees;
10. The **Director** may require that the application information be verified by a person who, in the **Director's** opinion, is qualified to do so; and,
 11. No person shall knowingly furnish false or misleading information in any Application under this By-law.

Fees and Charges

12. The applicable fee for the Application for a **Section 99.1 Permit** shall be paid at the time the Application is submitted to the City;
13. If Section 8 or 10 of the *Building Code Act, 1992* apply to the proposed **Demolition** or **Conversion**, the Applicant must also pay the fees required for such an Application as described in [INSERT FEE SCHEDULE];
14. All fees collected by the City under this By-law shall be used for the purpose of processing the Application; and,
15. All fines and charges and cash-in-lieu payments collected by the City under this By-law shall be offered to the Housing Services Division for the purpose of replacing, renewing or creating affordable housing in the City in accordance with the Urban Hamilton Official Plan.

Notice of Application to Tenants

16. In addition to s. 9(i) of this By-law, an Applicant for a **Section 99.1 Permit** shall also provide proof of notice of the Application to the tenants of the **Residential Rental Property** to the satisfaction of the **Director** within 14 days after the **Director** has advised that the Application is complete or within such other time period as determined

by the **Director**.

Related Planning Application

17. If a person makes a **Related Planning Application**, the person shall also file an Application under this By-law without delay;
18. (1) If a **Related Planning Application** is made with respect to a **Residential Rental Property** for which a **Section 99.1 Permit** is required, the Applicant shall provide written notice to the applicable approval authority and, in the case of an appeal or referral, to the Ontario Land Tribunal or court; and,
 - (2) The notice required under Subsection 14(1) shall be filed at the time the Application for a **Section 99.1 Permit** is filed with the approval authority, or at the same time the referral or appeal of a **Related Planning Application** is filed with the Ontario Land Tribunal or the court, as the case may be;
19. The notice required under Section 14 shall include a statement that the **Demolition** or **Conversion** is not permitted unless a **Section 99.1 permit** has been given for the **Demolition** or **Conversion** under By-law XXXXX, *A By-law to Regulate the Demolition and Conversion of Residential Rental Properties*.

Withdrawal of Application

20. If an Applicant for a **Section 99.1 Permit** does not provide all the required documentation to the **Director** within one (1) year from the date the Application is received by the City, the Applicant shall be deemed to withdraw the Application and shall not be entitled to any refunds of any payments made;
21. Despite Section 19, the **Director** may extend the timeframe for an Application to be completed where the **Director** determines that the applicant is actively taking steps to move the Application forward; and,
22. If the Application is withdrawn or deemed to have been withdrawn under Section 19 before the **Director** or Council makes a decision, no further application under this By-law to approve the **Demolition** or **Conversion** of the **Residential Rental Property** may be made within two years after the withdrawal, unless Council gives its consent.

PART V – ELIGIBILITY FOR SECTION 99.1 PERMIT

23. A **Section 99.1 Permit** shall be approved where an application demonstrates that all of the criteria in either (1),(2) or (3) are met:
 - (1) All the following criteria are met:
 - a) The City-wide rental vacancy rate by dwelling unit and structure type has

- been at or above 3.0% for the preceding 24 months;
- b) The rental vacancy rate by dwelling unit and structure type for the respective local housing market zone (as identified in Volume 1, Schedule G of the Urban Hamilton Official Plan), has been at or above 2.0% for the preceding 24 months;
 - c) The proposed conversion shall not reduce the rental vacancy rate by dwelling unit and structure type to below 3.0% for the City and below 2.0% for the respective local housing market zone;
 - d) The existing market rent levels for the units proposed to be converted are not significantly (approximately 10%) below the average market rent levels for the City and the respective local housing market zone for rental units of a similar dwelling unit and structure type and size;
 - e) For vacant rental units, the last market rent levels charged prior to vacancy for the units proposed to be converted were not significantly (approximately 10%) below the average market rent levels at the time for the City and the respective local housing market zone for rental units of a similar dwelling unit and structure types and size; and,
 - f) Where a **Demolition** is proposed, the units are not located within the boundary of the Downtown Hamilton Secondary Plan;
- (2) Where a **Conversion** is proposed, the subject building or group of buildings is a protected heritage property, as defined in the Urban Hamilton Official Plan, on the date of Application; and,
- (3) Where a **Conversion** is proposed by way of a consent to sever under section 53 of the *Planning Act*, that such **Conversion** will not result in an alteration of the form of Dwelling Unit.
24. Where an Application fails to satisfy the requirements of Section 22 above, a **Section 99.1 Permit** may be approved in accordance with Part VI and subject to such conditions as are appropriate in the Director's or Council's discretion, as the case may be, where the Applicant demonstrates that either (1), (2), (3), (4), (5), (6) or (7) below are met:
- (1) Where a **Conversion** is proposed, it is demonstrated to the satisfaction of the Director that:
 - a) Repair or retrofitting is immediately required to meet health and safety standards, including but not limited to the Ontario Building Code, in accordance with Section 50(1)(c) of the **Residential Tenancies Act, 2006** or an order under the **Building Code Act, 1992**; and,
 - b) Income received from rent and available from government funding programs, including rent increases permitted under provincial legislation, is not capable of supporting the capital repairs and maintenance work required;
 - (2) Where a **Conversion** is proposed, units are retained as **Rental Units** at similar

rents for a defined term and existing tenants shall have a right of first refusal to such units upon completion of the Conversion, with rent to be charged in accordance with section 53(3) of the *Residential Tenancies Act, 2006*;

- (3) Where a **Conversion** is proposed and new units are available for purchase by members of the public, pre-conversion tenants shall be prioritized for ownership of units upon completion of the conversion, with purchase value based on market conditions;
 - (4) Where a **Demolition** is proposed, the building (or buildings) is determined to be structurally unsound, confirmed by the submission of a structural audit, prepared by a qualified professional with the conclusions of such audit deemed acceptable by the City;
 - (5) Where a **Demolition** is proposed in the area comprising the Downtown Hamilton Secondary Plan:
 - a) Conditions are imposed requiring **Rental Units** to be replaced on-site; and,
 - b) Conditions are imposed requiring an acceptable tenant relocation and assistance plan addressing the right to return to occupy the replacement rental units at similar rents, the provision of alternative accommodation at similar rents, and other assistance as appropriate;
 - (6) Where a **Demolition** is proposed outside of the area comprising the Downtown Hamilton Secondary Plan:
 - a) Conditions are imposed requiring **Rental Units** to either be replaced on-site, off-site in a comparable location in the same Local Housing Market Zone, or through cash-in-lieu payment; and,
 - b) If applicable, conditions are imposed requiring an acceptable tenant relocation and assistance plan addressing the right to return to occupy replacement Rental Units at similar rents, the provision of alternative accommodation at similar rents, and other assistance as appropriate;
 - (7) Where a **Conversion** is proposed by way of a consent to sever under section 53 of the *Planning Act*, that such **Conversion** will not result in a loss of form of Dwelling Units in accordance with XXXXX, to the satisfaction of the Director.
25. Conditions imposed on a **Section 99.1 Permit** may include:
- a) Requirements to replace the **Rental Units** proposed for **Demolition**, or retention of proposed converted units as **Rental Units**, at similar rents and for a defined term;
 - b) Requirement to provide tenants in the converted property and opportunity for owning the condominiums developed as a result of successful property

conversion;

- c) Requirements that the owner of the **Residential Rental Property** notify any tenants who reside in **Rental Units** affected by the approval of the relevant provisions in the **Residential Tenancies Act, 2006**;
- d) The following, in accordance with any Guidelines:
 - i. Requirements securing tenants' right to return to the replaced or retained Rental Units at similar rents, and associated notification requirements;
- e) Requirements for tenant relocation and assistance including but not limited to the following:
 - i. Alternative accommodation for displaced tenants at similar rents and in a comparable location until tenants return to the replacement Rental Units; and,
 - ii. Financial assistance and such other support as may be necessary to reduce hardships to tenants resulting from a **Demolition** or **Conversion**;
- f) Provisions concerning the applicant's entitlement to claim or act under any of the following until the conditions imposed have been satisfied or secured, to the satisfaction of the **Director**:
 - i. A permit under Subsection 8(1) or Section 10 of the **Building Code Act, 1992** for construction, **Demolition** or **Conversion** of a building;
 - ii. A permit for demolition under under Section 33 of the **Planning Act**;
 - iii. A consent or permit to alter part of a property or to demolish or remove a building or structure under Section 34, 34.5 or 42 of the **Heritage Act**;
 - iv. Approval or registration of a description for a proposed condominium under Section 51 of the **Planning Act**, or an exemption from approval for a condominium, under Section 9 the **Condominium Act, 1998**; and,
 - v. A consent under Section 53 of the **Planning Act**, except for provisional consent that is conditional on receiving a **Section 99.1 Permit** under this By-law;
- g) Any other requirements or provisions reasonably related to minimizing the impact of the **Demolition** or **Conversion** on the City's rental housing supply;
- h) A requirement that other conditions to the approval shall be secured by an agreement with the City, that the agreement may include restrictions on the transfer, charge or other dealings with the lands unless the transferee, chargee or other party enters into a direct agreement with the City to assume all obligations of the original owner, and that all restrictions and agreements shall be to the satisfaction of the Director and City Solicitor;

- i) Requirements that the owner of the **Residential Rental Property** provide information from time to time sufficient to verify that the terms of an agreement are being met; and,
 - j) Conditions providing for the lapsing of the approval in accordance with any Guidelines.
26. Where conditions are imposed under Section 24, the owner of the **Residential Rental Property** to which the Application for **Section 99.1 Permit** relates shall, as a condition of obtaining a **Section 99.1 Permit**, enter into to an agreement with the City securing conditions to the approval of the **Section 99.1 Permit**;
27. The agreement referenced in Section 25 shall be registered on title to each property to which the agreement applies and may be enforced against the owner and any subsequent owners of the **Residential Rental Property**. The registration of the agreement shall be to the satisfaction of the City Solicitor and with such priority as may be required to ensure its proper enforcement by the City;
28. Conditions imposed under Subsection 24(1) may require the **Rental Units** proposed for **Demolition** be replaced on-site, in a comparable off-site location to the **Residential Rental Property**, by a cash-in-lieu payment for the replacement value of the units, or a combination thereof;
29. Similar, for the purposes of subsection 24(1), includes but is not limited to consideration of the following factors:
- a) Type of residential rental property;
 - b) Proximity to existing and proposed transportation options, including transit service;
 - c) Proximity to community infrastructure such as, recreational facilities, libraries, police stations, schools and places of religious assembly;
 - d) Proximity to commercial services and amenities; and,
 - e) Number of bedrooms;
30. Conditions imposed under Section 23(1) requiring off-site replacement units may also specify a timeframe within which those units must be constructed.

PART VI – APPROVAL AND ISSUANCE OF SECTION 99.1 PERMIT

Approval by Director under Delegated Authority

31. The **Director** is authorized to approve an Application for a **Section 99.1 Permit** when:

- a) The Application meets the requirements of Section 22 or 23 (including any conditions as are appropriate in the Director's discretion);
 - b) The **Residential Rental Property** at the time of the Application has six or more **Dwelling Units**, but less than six **Rental Units**; or
 - c) The **Residential Rental Property** at the time of the application has six or more **Rental Units**, and:
 - i. The combined number of existing **Rental Units** affected by the proposed **Demolition** or **Conversion** and any previous **Demolition** or **Conversion** activities within the preceding five-year period is less than six; and,
 - ii. The proposed **Demolition** or **Conversion** will not reduce the number of **Rental Units** to less than six;
32. For the purposes of Subsection 30 (c)(a), the "preceding five-year period" is deemed to be the earlier of the date all the required Application information is provided to the City under Part IV for a **Section 99.1 Permit** or the complete Application date of a **Related Planning Application** as determined in accordance with the **Planning Act**;
33. The **Director** shall consider the Application not earlier than 14 days after the notice has been given to the tenants under Section 15; and,
34. Where the provisions of Sections 31 to 33 have been met, the **Director** shall approve a **Section 99.1 Permit**.

Referral to Council by Director

35. The **Director** may refer an Application to the **Planning Committee** for Council's approval if, in the **Director's** opinion, the Application should be considered by Council with a **Related Planning Application**, or that the application has implications for more than one Ward or is of City-wide interest, or if a request is made by Council or the Planning Committee for the Application to be considered by Council;
36. If the approval of an Application is not delegated to the **Director** under Section 30, the **Director** shall submit a report respecting the Application to the **Planning Committee**;
37. The **Planning Committee** shall recommend to Council whether to refuse or approve the Application, including any conditions; and,
38. Council may refuse the Application or approve the Application, and may impose any of the conditions set out in Section 21 on the approval.

Section 99.1 Permit Issuance

39. Subject to Section 40, if Council or the **Director** approves a **Section 99.1 Permit**, the **Director** is authorized to issue the **Section 99.1 Permit** after all the conditions have been satisfied or secured to the satisfaction of the **Director**; and,
40. Where Applications for **Demolition** or **Conversion** are also subject to Section 8 or 10 of the **Building Code Act, 1992** or to a demolition control by-law under Section 33 of the **Planning Act**, the **Director** may designate the **Chief Building Official** to issue the **Section 99.1 Permit**, which shall only be issued once approval for the **Section 99.1 Permit** is given and together with all other applicable requirements related to the **Demolition**.

Application for Revision to Conditions

41. If the owner of a **Residential Rental Property** applies for revisions to the conditions on a **Section 99.1 Permit**, the **Director** may treat the request as a new Application under this By-law or may otherwise require the owner to comply with the notice and meeting requirements of this By-law; and,
42. The **Planning Committee** will consider and make recommendations to Council on the proposed revisions only after a report has been submitted to the **Planning Committee** by the **Director**.

Revocation of Section 99.1 Permit

43. The **Director** may revoke a **Section 99.1 Permit** if:
 - a) The **Section 99.1 Permit** was issued on mistaken, false or incorrect information;
 - b) The conditions to the **Section 99.1 Permit** are not complied with; or,
 - c) The owner of the **Residential Rental Property** or other holder of a **Section 99.1 Permit** has contravened this By-law;
44. Where a **Section 99.1 Permit** for **Demolition** has been issued under this By-law and the building permit for the new construction is revoked under the **Building Code Act, 1992**, the **Section 99.1 Permit** shall be deemed to be revoked and this By-law shall apply to any subsequent application for a **Demolition** of the **Residential Rental Property** for which the original **Section 99.1 Permit** was issued; and,
45. Section 45 does not apply if the **Residential Rental Property** has been demolished under a **Section 99.1 Permit** before the building permit for the new construction was revoked.

Council or Director Decision Final

46. Council's or the Director's decision to approve, refuse or revoke a **Section 99.1 Permit**, or impose or revise conditions on a **Section 99.1 Permit** in accordance with this By-law is final, without any further right of appeal.

PART VII – ENFORCEMENT

Harassment of Tenant

47. No owner of **Residential Rental Property** or person acting on the owner's behalf shall interfere with a tenant's reasonable enjoyment of a **Rental Unit** in the **Residential Rental Property** with the intent of discouraging the participation of the tenant in the Application or approval process described herein or with the intent of otherwise facilitating the obtaining of the approval of Council or the **Director** on an Application made under this By-law.

Powers of Entry and Inspection

48. Any **City Official** may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether the following are being complied with:
- a) This By-law;
 - b) Any direction or order issued under this By-law;
 - c) Any **Section 99.1 Permit** condition imposed under this By-law; and,
 - d) An order issued under Section 431 of the **Municipal Act**;
49. Subject to the requirements under Section 437 of the **Municipal Act** related to entry to dwellings, submission of an Application for a **Section 99.1 Permit** is deemed to be the consent of the owner for any **City Official** to enter at any reasonable time onto the **Residential Rental Property** for the purpose of carrying out an inspection;
50. Where an inspection is conducted under this By-law, any **City Official** may:
- a) Require the production of documents and things that may be relevant to the inspection;
 - b) Inspect and remove documents or things which may be relevant to the inspection for the purpose of making copies;
 - c) Require information from any person concerning a matter related to the inspection, including but not limited to name(s), address(es), contact

information, and proof of identity or other identification; and,

- d) Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take photographs necessary for the purpose of the inspection;
- 51. No person shall hinder or obstruct, or attempt to hinder or obstruct, any **City Official** from exercising any power or authority, or performing a duty as permitted under this By-law;
- 52. No person shall decline or neglect to give, produce or deliver any access, information, document or other thing that is requested by any **City Official** pursuant to this By-law; and,
- 53. Every person from whom information, or any other thing, has been requested in relation to an inspection conducted under this By-law shall identify themselves to any **City Official** and failure to identify shall constitute hindering and/or obstructing under Section 47.

Offences

- 54. Every person, either by their own actions or through the action of any other person, who contravenes any Section of this By-law, including an Order issued pursuant to this By-law or Sections 444 or 445 of the **Municipal Act** is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended and the **Municipal Act**;
- 55. Every director or officer of a corporation who knowingly concurs in a contravention of this By-law by the corporation is guilty of an offence;
- 56. Every person who fails to comply with a term or condition of a **Section 99.1 Permit** under this By-law is guilty of an offence;
- 57. All contraventions of this By-law or an Order issued pursuant to this By-law are designated multiple and continuing offences pursuant to subsection 429(2) of the **Municipal Act**; and,
- 58. For greater certainty, a separate offence may be charged for each or any **Rental Unit** within a single **Residential Rental Property**.

Penalty

59. Every person who is charged with an offence under this By-law upon conviction is liable as follows:
- a) The maximum fine for an offence is \$100,000;
 - b) In the case of a continuing offence, in addition to the penalty mentioned in Subsection 56(1), for each day or part of a day that the offence continues, the maximum fine shall be \$10,000, and the total of all daily fines for the offence is not limited to \$100,000;
 - c) In the case of a multiple offence, including offences as described in Section 59 herein, for each offence included in the multiple offence, the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000; and,
 - d) If a person is convicted of an offence under this By-law, the potential for economic advantage acquired by or that accrued to the person as a result of the commission of the offence may be considered an aggravating factor for sentencing purposes which may attract a special fine and the maximum amount of the special fine may exceed \$100,000 or such other maximum amount permitted by the ***Municipal Act***,
60. If any Section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-law, 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.

PART VIII – TRANSITION

Effective Date

61. This By-law will come into force on XXXXX, 20XX.

Applicability

62. This By-law applies to a proposal for **Demolition** or **Conversion of Residential Rental Property** in any **Related Planning Application** made on or after XXXXX, 22XX, except where:
- a) A determination on the **Related Planning Application** is made by the applicable approving authority before the Effective Date; or,
 - b) The **Related Planning Application** relates to Development Applications for

site- specific official plan amendments under Section 22 of the **Planning Act** and/or site- specific zoning bylaw amendments under Section 34 of the **Planning Act** that were approved or appealed to the Ontario Land Tribunal prior to XXXXX, 20XX;

63. In the case of Applications under Section 8 of the **Building Code Act, 1992**, for interior renovations as described in the definition of **Demolition** in subsection 1(7), this By-law applies to any Application made after the Effective Date.

PART IX – GENERAL

64. Any section of this By-law, or any part thereof, that is found by a court of competent jurisdiction to be invalid shall be severable, and the remainder of the By-law shall continue to be valid;
65. In this By-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context so requires;
66. References in this By-law to any legislation (including but not limited to regulations and by-laws) or any provision thereof include such legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto; and,
67. This By-law may be referred to as the “Rental Housing Protection By-law”.

PASSED this ____ day of ____, 202X.

F. Eisenberger
Mayor

A. Holland
City Clerk