

BY-LAW NO. 184-04

of the

CORPORATION OF THE CITY OF CAMBRIDGE

Being a By-law of the Corporation of the City of Cambridge relating to the provision of Vital Services at rented dwellings.

WHEREAS the Tenant Protection Act, 1997, S. O. 1997, c. 24, Sections 146,147, 148, 149,150,151,152,153, as amended, concerns the provision of Vital Services at rented dwellings;

AND WHEREAS the Tenant Protection Act, 1997, S.O. 1997, c 24, authorizes Council to pass by-laws concerning the provision of vital services at rented dwellings;

AND WHEREAS IT IS CONSIDERED desirable to pass a by-law relating to the provision of Vital Services at rented dwellings in the City of Cambridge;

AND WHEREAS provisions of the Building Code Act, 1997 as amended, provide that the officer there under may issue an Emergency Order with respect to the non-conformity under the Building Code Act, that may pose an immediate danger to the health or safety of any person and further take any measures necessary to terminate the danger;

AND WHEREAS it is in the best interest of the City of Cambridge to have advance notice of the intention of any vital service provider to discontinue the provision of a vital service in order that any interruption to a vital service may be averted;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF CAMBRIDGE enacts as follows:

DEFINITIONS

1. For the purpose of this by-law:
 - a) Director means the Director of Building & Enforcement Services of the Corporation of the City of Cambridge and all persons acting under instructions of the Director.
 - b) Landlord includes,
 - (i) the owner or other person permitting occupancy of a rented residential unit,
 - (ii) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (i), and
 - (iii) a person other than a tenant occupying a residential rented unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any rights of a landlord under the tenancy agreement or the Tenant Protection Act, including the right to collect rent.
 - c) Local Municipality has the same meaning as in the Municipal Act, 2001, S.O. 2001, c.25.

- d) Rented Residential Unit means any living accommodation used or intended for the use as rented residential premises and rental unit includes,
 - (i). a site on which there is a land lease home used or intended for the use as rented residential premises, and
 - (ii). a room in a boarding house, rooming house or lodging house.
- e) Residential Complex means:
 - (i). a building or related group of buildings in which one or more rental units are located,
 - (ii). a site that is a rental unit,
- f) Residential Complex includes all common areas and services and facilities available for the use of its residents.
- g) Supplier of a Vital Service means a person who carries on a business of or whose business includes supplying a vital service to an end user, and includes;
 - (i). in the case of electricity, Cambridge and North Dumfries Hydro Inc., and
 - (ii). in the case of Municipal Water, the Corporation of the City of Cambridge.
- h) System means used for the distribution including all parts of a system owned or supplied by a landlord for the purposes of supplying and distributing a vital service to a rented residential unit.
- i) Tenancy Agreement means a written, oral or implied agreement between a tenant and a landlord for occupancy of a rental unit and includes a license to occupy a rental unit.
- j) Tenant includes a person who pays rent in return for the right to occupy a rental unit and includes the tenant's heirs, assigns and personal representatives, but tenant does not include a person who has the right to occupy a rental unit by virtue of being,
 - (i). a co-owner of the residential complex in which the rental unit is located, or
 - (ii). a share holder of a corporation that owns the residential complex.
- k) Vital Service means hydro, or hot or cold water.

GENERAL PROVISIONS

- 2. Administration
The administration of this by-law is assigned to the Director.
- 3. Application of By-law
This by-law applies to every building or part of a building that contains six or more rented residential units in which at least one rental residential unit is occupied.
- 4. Exception to By-law Application
Despite section 3, this by-law does not apply to a landlord in respect of a rented residential unit to the extent that the tenant has as a part of a tenancy agreement expressly agreed to obtain and maintain the vital service.

RESPONSIBILITIES OF LANDLORD

- 5. Provision of Vital Services
A landlord shall provide adequate and suitable vital services to every rented residential unit that is occupied by a tenant.

6. Cessation – Repairs
Section 5 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.
7. 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 heat to each part of the building used as a rented residential unit, so that the requirements of this by-law are met.
8. Maintain Heat – September to June – Minimum Requirements
Between the 15th day of September of one year and the 15th day of June of the following year a landlord shall provide a continuous supply of heat to a rented residential unit so that a minimum indoor air temperature of 20 degrees Celsius, (68 degrees Fahrenheit) shall be maintained at all times, at the outside winter design temperature of –18 degrees Celsius.
9. Distribution Systems – Provide – Maintain – Repair
In addition to the heating system referred to in section 7 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 rented residential unit so that the requirements of this by-law are met.
10. Non – Payment - Deemed Cessation
A landlord shall be deemed to have caused the cessation of vital services 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 for the unit.

RESPONSIBILITIES OF VITAL SERVICES SUPPLIER

11. Notice of Disconnect – Supplier of Vital Services
Every supplier of a vital service shall give notice of an intended discontinuance in accordance with this by-law if the vital service is to be disconnected 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.

NOTICE FROM SUPPLIER 30 DAYS BEFORE CESSATION OF VITAL SERVICE

12. The Notice of discontinuance shall be given in writing to the City Clerk and to the landlord at least thirty 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 person with whom the supplier has a contract for the supply of the vital service.
 - (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 for nonpayment of charges for the 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 discontinue to provide the vital service,
 - (i) the name, municipal address and telephone number of an individual authorized by the supplier to receive a direction made under section 13, and

- (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 Cambridge may act without further notice to pay to the supplier of the vital service, the outstanding charges.

RESTORATION OF VITAL SERVICE

- 13. Every Supplier of a vital service who discontinues a 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.

POWERS OF DIRECTOR - AUTHORITY

- 14. The Director:
 - (a) may enter at 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;
 - (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, R.S.O. 1990, c.P. 33* for authority to enter a place actually used as a rented residential unit;
 - (d) 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;
 - (e) may enter into agreements on behalf of the City with suppliers 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;

INSPECTION OF OCCUPIED UNIT

- 15. Despite clauses 14(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, R.S.O. 1990, c.P. 33*.

ENFORCEMENT

- 16. 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.
- 17. 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 30 days after the supplier gives notice to the City Clerk and to the Landlord in accordance with section 12 of this by-law.
- 18. 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 Tenant Protection Act, 1997, S.O. 1997, c 24 or this by-law.

19. 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, R.S.O. 1990, c.P. 33*.
20. 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, R.S.O. 1990, c.P. 33*.
21. 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.
22. No proceeding for damages or otherwise shall be commenced against an official or a person acting under his or her instructions or against an employee or agent of the City for any act done in good faith, in the performance or intended performance of a duty or authority under this by-law, or for any alleged neglect or default in the performance in good faith of the duty or authority.
23. Section 22 does not relieve the local municipality of liability to which it would otherwise be subject with the respect to a tort committed by an official or a person acting under his instructions or by an employee or agent of the local municipality.

SHORT TITLE

24. This by-law may be referred to as the Vital Services By-law.

EFFECTIVE DATE

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

READ A FIRST, SECOND AND THIRD TIME

ENACTED AND PASSED, THIS 20TH DAY OF SEPTEMBER, 2004, A.D.

"Doug Craig"
MAYOR

"David Calder"
CLERK