

# The Corporation of the Town of Aurora

## By-law Number XXXX-23

### Being a By-law to require adequate and suitable vital services for rental units in the Town of Aurora.

**Whereas** subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, (the “Act”) as amended, provides that powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

**And whereas** subsection 11(1) of the Act provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

**And whereas** subsection 11(2) of the Act provides that a municipality may pass by-laws respecting health, safety and well-being of persons, and protection of persons and property, including consumer protection;

**And whereas** section 446 of the Act provides that a municipality may proceed to do things at a person's expense which that person is otherwise required to do under a by-law but has failed to do and to recover the costs of doing so by adding the costs to the tax roll and collecting them in the same manner as property taxes;

**And whereas** Council for The Corporation of the Town of Aurora considers it desirable and necessary to address the provision of vital services to rental units;

**Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:**

#### 1. Definitions

1.1 In this by-law, the following words have the following meanings:

- (a) **“Act”** means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;
- (b) **“Adequate and Suitable Heat”** means that the minimum temperature of the air in the accommodation which is available to the tenant or lessee is twenty (20) degrees Celsius at one and on-half (1.5) meters from above floor level and one (1) meter from exterior walls in all habitable space and in any area intended for normal use by tenants, but excludes locker rooms and garages;
- (c) **“Adequate and Suitable Supply of Hot Water”** means a supply of hot water at the ordinary temperature of at least forty-nine (49) degrees Celsius for a period of ten (10) minutes or more;
- (d) **“Adequate and Suitable Supply of Water”** means a continuous and uninterrupted supply of potable water of sufficient quantity for normal use of kitchen, laundry, and bathroom facilities;
- (e) **“Central Air Conditioning System”** shall mean a mechanical system designed to cool air from a central location and to distribute it to and from rooms by one or more fans and ductwork, and does not include any portable air conditioning units or any window air conditioners;

- (f) **“Council”** means the Council of the Town;
  - (g) **“Director”** means the Department Head of the Bylaw Services Division of the Town, or his/her designate or successor;
    - i) the owner of a rental unit and any other person who permits occupancy of a rental unit, but does not include a tenant who occupies a rental unit in a residential complex and permits another person to also occupy the unit or any part of the unit,
    - 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 rental unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;
  - (h) **“Officer”** means any individual designated or appointed by the Town to enforce this by-law, and includes any Municipal Law Enforcement Officer and any police officer;
  - (i) **“Person”** includes a natural person, corporation, sole proprietorship, partnership, limited partnership, trust, estate, and the personal or other legal representatives to whom the context can apply according to law;
  - (j) **“Rental Unit”** means any living accommodation used or intended to be used as a rented residential premises and, without limiting the generality of the foregoing, includes:
    - i) a site for a mobile home or site on which there is a land lease home used or intended for use as a rented residential premises, and
    - ii) a room in a boarding house, rooming house, short term rental, or lodging house and a unit in a care home;
  - (k) **“Suitably Cooled Air”** shall mean a maximum air temperature, in any part of an accommodation that is normally used, of no more than twenty-six (26) degrees Celsius that is achieved and maintained without the use of portable air conditioning units or window air conditioners;
  - (l) **“Town”** means The Corporation of The Town of Aurora and/or the geographical limits of the Town of Aurora, depending on the context of the provision in which the term appears;
  - (m) **“Vital Services”** mean hot and cold water, fuel, electricity, gas, heat and air conditioning;
- 1.2 For clarity, a reference to Vital Services shall refer to all the services outlined in the aforementioned definition and a reference to a Vital Service shall refer to any of the services outlined in the aforementioned definition.
2. **Interpretation and Application of this By-law**
- 2.1 This by-law shall be known and may be cited as the “Vital Services By-law”.

- 2.2 The provisions of this by-law shall apply to all lands and premises within the Town of Aurora.
- 2.3 Unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections clauses, and schedules in this by-law.
- 2.4 The part and section headings contained throughout this document are for reference purposes only and do not form a part of this by-law. This by-law is to be interpreted without reference to such headings.
- 2.5 References in this by-law to any statute or statutory provisions include references to that statute or statutory provision as it may from time to time be amended, extended, or re-enacted.
- 2.6 This by-law shall be read with all changes in gender or number as the context requires.
- 2.7 References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 2.8 The words “include”, “includes”, “including” are not to be read or interpreted as limiting the words, phrases, or descriptions that precede it.
- 2.9 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid or to be of no force and effect, it is the intention of the Town in enacting this by-law that such provision or part of a provision shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this by-law.
- 2.10 This by-law and the provisions contained within are intended to be complementary to other by-laws passed by Council and in the event that any other applicable law requires a higher standard than the provisions contained in this by-law, the higher standard shall apply.
- 3. Requirements of Landlords**
- 3.1 Every Landlord shall provide Vital Services for Rental Units, as provided for in this By-law.
- 3.2 Every Landlord of a Rental Unit shall ensure that the Rental Unit:
- (a) is provided with Adequate and Suitable Heat between the 15<sup>th</sup> day of September in each year and the 1<sup>st</sup> day of June of the following year, or as ordered by the Director or posted on the Town website;
  - (b) is provided with a permanent heating equipment or system that is capable of maintaining Adequate and Suitable Heat at any time of the year without the use of any portable or auxiliary units;
  - (c) if required to be provided with an air conditioning system by a lease governing the Rental Unit between the tenant or lessee and the Landlord, is provided with a central air conditioning system that is normally serviced with power supplied by or at the expense of the Landlord that maintains Suitably Cooled Air between the 1<sup>st</sup> day of June and the 14<sup>th</sup> day of

September in each year, or as ordered by the Director or posted on the Town website;

- (d) is provided with an adequate and suitable supply of hot and cold water and electricity; and
  - (e) is provided with an adequate and suitable supply of gas, unless the Rental Unit is only equipped with a fuel burning system in lieu of gas, in which case an adequate and suitable supply of fuel shall be provided.
- 3.3 No Landlord shall cause or allow the discontinuance of a Vital Service to a Rental Unit, except:
- (a) when it is necessary to safely make repairs or alterations to the Rental Unit and then only for the minimum period necessary to effect the repair or alteration;
  - (b) when a fuel burning or powered system is being immediately replaced by a gas-based system that will perform the same function, or otherwise a gas-based system is being immediately replaced by a fuel burning or powered system that will perform the same function; or
  - (c) when a lease between a tenant and the Landlord for the Rental Unit has been amended in writing to remove the requirement to provide an air conditioning system for the unit, in which case the air conditioning may be discontinued by the Landlord in accordance with the amendment.
- 3.4 For the purpose of section 3.3, a Landlord shall be deemed to have caused the discontinuance of a Vital Service for a Rental Unit if the Landlord is obligated to pay the supplier for the Vital Service and fails to do so and as a result of the non-payment the Vital Service is no longer provided for the Rental Unit.
- 3.5 No Landlord shall advise a supplier of a Vital Service to bill a tenant directly except where such tenant has expressly assumed the obligation to pay for that service directly in a tenancy agreement.

#### **4. Administration and Enforcement**

- 4.1 The Director shall be responsible for and are delegated the power to administer and enforce this by-law, including prescribing the content and form of any licences, forms or other documents required under this by-law.
- 4.2 The Director and Officers are hereby delegated the authority to enforce this by-law, including the authority to conduct inspections and investigations under this by-law, the Act, as amended, and any other applicable by-law or legislation.
- 4.3 The Director is authorized to delegate responsibilities for the administration and enforcement of this by-law to any Town staff or external third parties deemed to be qualified and appropriate by the Director for such purposes.

#### **5. Power of Entry, Inspection, Prohibitions**

- 5.1 An Officer, or any other individual authorized to enforce this by-law on behalf of the Town, 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 under this by-law; or
- (c) an order issued under section 431 of the Act.

5.2 Where an inspection is conducted pursuant to this section, an Officer or any other individual authorized to enforce this by-law on behalf of the Town, may:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
- (c) require information from any Person concerning a matter related to the inspection; and
- (d) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

5.3 No Person shall hinder or obstruct or attempt to hinder or obstruct the Town, its employees, officers or agents from carrying out any powers or duties under this by-law.

5.4 No Person shall fail to comply with, or contravene, any order or direction issued by the Town pursuant to this by-law or the Act.

5.5 Where an Officer, or an individual authorized to enforce this by-law, has reasonable grounds to believe that an offence has been committed by any Person, they may require the name, address and proof of identity of that Person, and the Person shall supply the required information.

5.6 No Person shall decline or neglect to give, produce or deliver any information, document or other thing that is requested by the Town pursuant to this by-law.

5.7 No Person shall knowingly make, participate in, assent to or acquiesce in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this by-law.

## **6. Orders**

6.1 Where any Officer is satisfied that a contravention of this by-law has occurred, such Officer may make an order requiring the Person who caused or permitted such contravention, or the Owner of the land on which the contravention occurred, to discontinue the contravening activity and/or to do work to correct the contravention.

6.2 An order pursuant to this section shall set out the following:

- (a) reasonable particulars identifying the location of the land on which the contravention occurred;

- (b) reasonable particulars of the contravention;
- (c) what is required of the Person subject to the order (i.e., what activity is to be seized and/or actions or work to be done);
- (d) the date by which there must be compliance with the order and/or, if any work is ordered, the date by which any such work must be done; and
- (e) information regarding the Town's contact person.

6.3 An order pursuant to this section shall be deemed to have been received upon:

- (a) personal service of the order on the Person subject to the order;
- (b) one day after transmission of the order through electronic means to an email or social media address provided by the Person subject to the order;
- (c) one day after posting the order in a conspicuous location on the property subject to the order;
- (d) the fifth (5th) day after the order is sent by registered mail to the last known address of the Person who is subject to the order.

## 7. Remedial Action and Cost Recovery

7.1 Wherever this by-law or an order issued under this by-law directs or requires any matter or thing to be done by any Person within a specified time period, in default of it being done by the Person directed or required to do it, the action may be taken under the direction of the Director or an Officer at that Person's expense and the Town may recover the costs incurred through a legal action or by recovering the costs in the same manner as taxes.

7.2 For the purposes of taking remedial action under this section, the Town, its staff and/or its agents may enter, at any reasonable time, upon any lands on which a default to carry out a required thing or matter occurred.

## 8. Offences and Penalties

8.1 Every Person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

8.2 Every Person who contravenes any order issued pursuant to this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

8.3 If a corporation has contravened a provision of this by-law, including an order issued under this by-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence.

8.4 Pursuant to subsection 429(2) of the Act, all contraventions of this by-law or orders issued under this by-law are designated as continuing offences. If a contravention of any provision of this by-law has not been corrected, or an order issued under this by-law has not been complied with, the contravention of such a provision or an order shall be deemed to be a continuing offence for each day or

part of a day that the contravention remains uncorrected or an order not complied with.

- 8.5 On conviction of an offence under this by-law, every Person is liable to a fine in accordance with the following rules pursuant to the Act:
- (a) to a fine of not less than \$500.00 and not more than \$100,000.00;
  - (b) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00, despite paragraph (a), the total of all the daily fines for an offence is not limited to \$100,000;
  - (c) in the case of multiple offences, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00, despite paragraph (a), the total of all fines for each included offence is not limited to \$100,000.
- 8.6 In addition to fines under this section, a Person convicted of an offence under this by-law may be liable to a special fine in the amount of the economic advantage or gain that such a Person obtained from the contravention of this by-law. Notwithstanding subsection 8.5 above, a special fine may exceed \$100,000.
- 8.7 Where a Person is convicted of an offence under 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.
9. **Administrative Penalties**
- 9.1 Instead of laying a charge under the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, for a breach of any provision of this by-law, an individual authorized to enforce this by-law on behalf of the Town may issue an administrative penalty to the Person who has contravened this by-law.
- 9.2 Individuals authorized to enforce this by-law on behalf of the Town have the discretion to either proceed by way of an administrative penalty or a charge laid under the *Provincial Offences Act*, R.S.O. 1990, c. P.33. If an administrative penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach.
- 9.3 The amount of the administrative penalty for a breach of a provision of this by-law, shall be as established pursuant to applicable Town by-laws.
- 9.4 A Person who is issued an administrative penalty shall be subject to the procedures as provided for in the applicable Town by-laws relating to administrative penalties.
10. **Presumption**
- 10.1 An Owner of a property on which a non-compliance or contravention has occurred shall be presumed to have carried out or caused or permitted to be carried out the non-compliance or contravention, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

11.     **Repeal**

- 11.1    By-law Number 4737.05.P is hereby repealed.
- 11.2    For the purpose of transition to this by-law, any orders issued or proceedings commenced pursuant to By-law Number 4737.05.P prior to the effective date of this by-law shall remain effective and be subject to the provisions of by-law 4737.05.P, as amended, as if unrepealed until such time as finally satisfied or disposed.

12.     **Effective Date**

- 12.1    This by-law comes into full force and effect on the date of final passage hereof.

Enacted by Town of Aurora Council this 26th day of September, 2023.

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Tom Mrakas, Mayor

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Michael de Rond, Town Clerk