



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 165-2011

A By-law to Amend the *Refuse and*

Dumping By-law 381-2005

WHEREAS Part XIV of the *Municipal Act, 2001* governs the authority of municipalities to enforce by-laws;

AND WHEREAS Sections 435, 436 and 437 provide that subject to certain restrictions the municipality may set out in its by-laws powers of entry to determine compliance with a municipal by-law or municipal order;

NOW THEREFORE, the Council of the Corporation of the City of Brampton ENACTS as follows:

1. Section 1 of By-law 381-2005 is amended by adding the following definition:

“dwelling” means a unit that:

- (a) consists of a self-contained set of rooms located in a building or structure,
- (b) is used as a residential premises,
- (c) contains kitchen and bathroom facilities that are used only by the occupants of the unit,
- (d) is used as a single housekeeping unit, which includes a unit in which no occupant has exclusive possession of any part of the unit, and
- (e) has a means of egress to the outside of the building or structure in which it is located, which may be a means of egress through another residential unit

And for greater certainty a dwelling does not include a backyard outdoor swimming pool located on the same Private Property where the dwelling is located, so long as the swimming pool is not located with the walls of the building or structure that constitutes the dwelling.

2. Section 10 of By-law 321-2005 is repealed and replaced with the following:

10 (1) A By-law Officer may enter on Private Property at any reasonable time for the purpose of carrying out an inspection under this By-law to determine whether or not the provisions of this By-law are being obeyed and to enforce and carry into effect the provisions of this By-law

10 (2) For the purposes of an inspection referred to in subsection 10(1) the By-law Officer may,

- (a) require the production for inspection of documents or things from any person relevant to the inspection;

- (b) inspect and remove documents or things from any person relevant to the inspection for the purpose of making copies or 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 purposes of the inspection.

10 (3) A sample taken under subsection 10(2) clause (d) shall be divided into two parts, and one part shall be delivered to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

10 (4) If a sample is taken under subsection 10(2) clause (d) and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.

10 (5) The By-law Officer shall provide a receipt for any document or thing removed under subsection 10(2) clause (b) and the document or thing shall be promptly returned after the copies or extracts are made.

10 (6) Copies of or extracts from documents and things removed under subsection.

10 (2) and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the originals.

3. Section 11 is repealed and replaced by the following:


11 (1) A By-law Officer exercising a power of entry under section 10 of this By-law shall not enter or remain in any room or place actually being used as a dwelling unless, the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused.

(2) If entry is refused, then the By-law Officer may only gain entry if the appropriate warrant or order is obtained under section 438, 439 or 386.3 of the *Municipal Act, 2001*

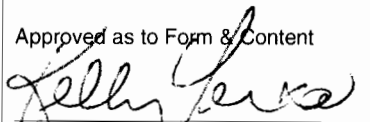
(3) Notwithstanding subsection 11(2) entry is permitted if:

- a) the delay necessary to obtain an order under section 438 of the *Municipal Act, 2001*, or to obtain a warrant under section 439 of the *Municipal Act, 2001* or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any person; or
- b) the municipality has given notice of its intention to enter to the occupier of the land as required under subsection 435 (2) and the entry is authorized under section 79, 80 or 446 of the *Municipal Act, 2001*.

Read a FIRST, SECOND and THIRD TIME and PASSED in Open Council this 22nd day of June, 2011



 Susan Fennell, Mayor

Approved as to Form & Content

 Kelly G. Yerxa
 Deputy City Solicitor June 21/11



 Peter Fay City Clerk