

# **Brampton Appeal Tribunal (BAT)**

## ***Orientation***

**Council Chambers  
City Hall**

**September 15, 2023**

# Overview

1. Welcome and Outline
2. Orientation e-Binder
3. Context and Jurisdiction of the Brampton Appeal Tribunal
4. Relevant City By-laws
  - Mobile Licensing By-law 67-2014
  - Business Licensing By-law 332-2013
  - Adult Entertainment Establishment By-law 114-2017
  - Dog By-law 250-2003
  - Animal Control By-law 261-93
  - Property Standards By-law 165-2022
  - Short-Term Rental By-law 165-2021
5. Hearing Process
6. Provincial Legislation
7. Roles - City Staff, External Counsel, Tribunal Members
8. Discussion / Q & A

# Orientation Binder

- Welcome letter
- Key contact list
- Brampton Appeal Tribunal By-law 48-2008
- Hearing process summary and sample materials and decisions
- By-laws subject to Tribunal jurisdiction
  - Mobile Licensing By-law 67-2014
  - Business Licensing By-law 332-2013
  - Adult Entertainment Establishment By-law 114-2017
  - Dog By-law 250-2003
  - Animal Control By-law 261-93
  - Property Standards By-law 165-2022
  - Short-Term Rental By-law 165-2021
- Relevant provincial legislation

# Brampton Appeal Tribunal

## Appointment

- 2022-2026 term Brampton Appeal Tribunal appointed May 17, 2023 by Council Resolution C132-2023, until November 14, 2026 or until successor are appointed

## Membership

- 10 members of the public appointed by City Council

Henry Verschuren	Pathik Shukla
Baljinder Baring	Parminder Grewal
Cynthia Kilfeather	Pritpal Grewal
Sam Basra	Despina Agathos ( <i>resigned</i> )
Sukhjot Naroo	Harjeet Sahota

# Brampton Appeal Tribunal

## **Attendance and Quorum**

- Majority of membership (six members) required to convene a hearing
- If a member is absent for three consecutive hearings, that position may be declared vacant and a new member appointed

## **Honorarium**

- Chair or Acting Chair - \$125.00 per hearing attendance
- Members - \$100.00 per hearing attendance
- No travel required

## **Hearing Dates and Location**

- Usually once per month (2nd Monday of each month)
- If no appeals received by 4 weeks prior to scheduled date, the hearing is cancelled with notification
- Hearings held in hybrid format in the Council Chambers (City Hall)
  - in-person and virtual participation options

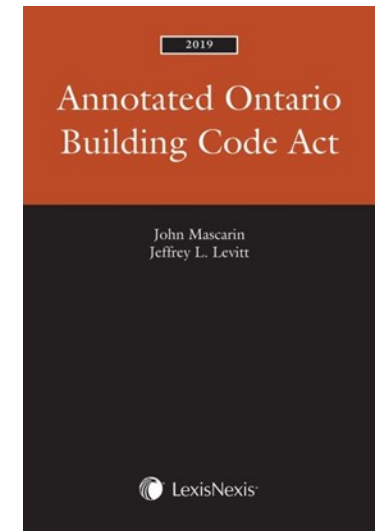
# History and Context

## Property Standards Committee

- Enabled under *Building Code Act*
- Council shall establish a Committee through by-law:
  - Minimum of three (3) persons
  - Appointment term defined
  - Council determines member compensation
  - Elect a chair from among membership
  - Majority constitutes quorum for meeting
  - Committee shall appoint a Secretary (Tribunal Coordinator)
  - Tribunal Coordinator keeps meeting records
  - Committee may adopt own procedures

## Minimum Maintenance By-law 104-96

- Established Committee to hear appeals to a Property Standards Order
- Replaced by **Property Standards By-law 165-2022**



# History and Context

## Brampton Appeal Tribunal

- Before 2007, Council delegated the responsibility for hearing licensing appeals to a Licensing Committee, established each new Council term
  - Recommendations were subject to Council approval
- *Municipal Act* was amended in 2007 to permit Council to delegate appeals to an independent tribunal
  - Council's role to create a licensing "system" not to perform the function

## Brampton Appeal Tribunal By-law 48-2008

- The creation of the Brampton Appeal Tribunal permitted the City to separate its *quasi-judicial* functions from its *legislative* and *executive* functions
- The establishment of a citizen tribunal removes the risk for Members of Council to be put in a situation where their role as community leaders may conflict with that of an individual hearing officer
- Amended in 2023 to integrate Property Standards Committee functions

# Brampton Appeal Tribunal

The Tribunal shall hear Appeals from a:

- **Decision** of a Licence Issuer for which a right of appeal exists in the **Business Licensing By-law, Mobile Licensing By-law, Adult Entertainment Establishment By-law and Short-Term Rental By-law**
  - Refusal of a licence
- **Decision** of a Poundkeeper for which a right of appeal exists in the **Dog By-law**
  - Designation of a dog as dangerous or potentially dangerous
- **Decision** of a Licence Issuer pertaining to pigeons, hens, or rabbits for which a right of appeal exists in the **Animal Control By-law**
  - Refusal of hen, rabbit or pigeon licence
- **Property Standards Order** issued in respect of the property standards set out in the Property Standards By-law for which a right of appeal exists in the **Building Code Act**
  - Order to Comply with Property Standards By-law

# Powers of the BAT

## Licensing By-law Appeals

The power to make any decision the License Issuer could make:

- grant a licence, with or without conditions;
- refuse an application for a licence;
- refuse to reinstate a licence;
- revoke a licence;
- suspend a licence; or
- alter, cancel or impose a term or condition of a licence.

## Dog By-law Appeals

The power to make any decision the Poundkeeper could make:

- or direct that the owner do anything under that By-law, as the Tribunal considers proper and for such purpose may substitute its opinion for that of the Poundkeeper

# Powers of the BAT

## **Animal Control By-law Appeals**

The power to make any decision, pertaining to pigeons, hens or rabbits, the License Issuer could make:

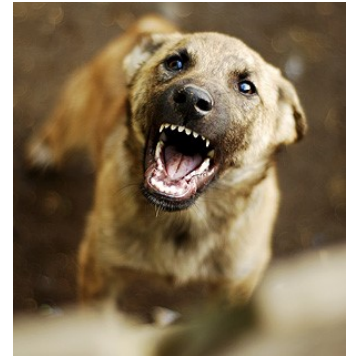
- grant a licence, with or without conditions;
- refuse an application for a licence;
- refuse to reinstate a licence;
- revoke a licence;
- suspend a licence; or
- alter, cancel or impose a term or condition of a licence.

## **Property Standards By-law Appeals**

The power in respect of an Appeal of a Property Standards Order are those which are conferred upon a committee appointed in accordance with the *Building Code Act*

# Review of Applicable By-laws

## Dog By-law 250-2005



### ***Potentially Dangerous Dog***

- Any individual dog that chases or approaches any person or domestic animal in a menacing fashion or apparent attitude of attack, including but not limited to, behaviour such as growling or snarling
- *Conditions, if Poundkeeper designation:*
  - Cannot be owned by a minor
  - Cannot be transferred freely
  - Must be microchipped
  - Must be sterilized
  - Must be muzzled and leashed in public
  - If in yard, fence must be 2m. high
  - Must be warning sign on property
  - Must not be bred
  - Cannot be trained for fighting
  - Must be specially licenced

# Review of Applicable By-laws

## Dog By-law 250-2005



### ***Dangerous Dog***

- An individual dog that:
  - has, in the absence of any mitigating factor, attacked, bitten, or caused injury to a person, or has demonstrated a propensity, tendency or disposition to do so;
  - has significantly injured a domestic animal;
  - having been previously designated as a potentially dangerous dog, is kept or permitted to be kept in violation of the requirements for such a dog
- *Conditions, if Poundkeeper designation:*
  - If unattended in yard, fence must be a six-sided pen
  - Must be warning sign on property re. dangerous dog
  - Owner must have liability insurance of \$25,000
  - Must be specially licenced

# Review of Applicable By-laws

## Animal Control By-law 261-93 (*pigeons, hens and rabbits*)

### ***Hens and Rabbits:***

- No person shall keep more than two (2) hens or rabbits on a lot unless an annual licence is obtained from the Licence Issuer
  - if lot one (1) acre or larger, up to 10 total hens and/or rabbits may be kept with annual licence



### ***Pigeons:***

- No person shall keep more than two (2) pigeons on a lot unless an annual licence is obtained from the Licence Issuer
  - a maximum of 60 pigeons during racing season (40 in non-racing season) may be kept with annual licence
  - Other conditions apply for pigeon coops (use and boundary setbacks)



# Review of Applicable By-laws

## Licensing By-laws

Council considered it desirable to separate former consolidated general licensing by-law into separate by-laws.

- Business Licensing By-law 332-2013
- Mobile Licensing By-law 67-2014
- Adult Entertainment Establishment By-law 114-2017
- Short-Term Rental By-law 165-2021

# Review of Applicable By-laws

## Business Licensing By-law 332-2013

### Purpose:

Council considers it desirable and necessary to licence, regulate and govern certain types of businesses:

- for the purpose of ***health, safety and well-being*** of persons, consumer protection and nuisance control to ensure business does not adversely affect the health and safety of persons or result in illness, hazardous conditions, injury or loss
- to ensure the facility is operated in a manner and location that it will ***not adversely affect or become a nuisance*** to other persons or businesses
- for the purpose of ***consumer protection*** for the prevention of unfair or potentially unfair business practices that could result in loss on the part of the consumer

# Review of Applicable By-laws

## Business Licensing By-law 332-2013

- Own/operate a **Personal Service Facility**
- Own/operate a **Place of Amusement**
- Act as an **Auctioneer**
- Own/operate an **Automobile Service Station or Parking Lot**
- Own/operate a **Billiard Hall or Bowling Alley**
- Engaged in business of **Building Renovator**
- Own/operate a **Carnival or Circus**
- Engaged in business of **Drain Laying Contractor**
- Engaged in business of **Driveway Paving Contractor**
- Engaged in business as **Fence Installation Contractor**
- Owns/operates a **Fixed Food Premises**
- Owns/operates a **Flea Market**
- Engaged in business of **Heating, Air Conditioning and Ventilation Contractor**
- Owns/operates a **Horse Riding Establishment**
- Owns/operates a **Lodging House**
- Engaged in business of **Pawnbroker**
- Owns/operates a **Pet Shop**
- Owns/operates a **Place of Public Assembly or Public Hall**
- Engaged in business of **Plumbing Contractor**
- Engaged in business of **Pool Installation Contractor**
- Owns/operates a **Salvage Shop or Salvage Yard**
- Owns/operates a **Second Hand Goods Shop**
- Owns/operates a **store where tobacco cigars or cigarettes are sold by retail**
- Owns/operates a **Vehicle Pound Facility**

# Review of Applicable By-laws

## Mobile Licensing By-law 67-2014

### Purpose:

Council considers it desirable and necessary to licence, regulate and govern mobile businesses including the licensing of owners, drivers and businesses relating to vehicles

- Runs/operates the business of a **Driving School**
- Teaches others to drive a Motor Vehicle
- Owns a Motor Vehicle used **for Driving School Instruction**
- Owns a **Limousine**
- Drives a Limousine
- Owns a **Refreshment Vehicle**
- Drives a Refreshment Vehicle
- Owns a **Taxicab**
- Owns an **Accessible Taxicab**
- Drives a Taxicab or Accessible Taxicab
- Owns a **Taxicab Brokerage**
- Owns a **Tow Truck**
- Drives a Tow truck
- Runs, operates the business of a **Personal Transportation Company**

# Review of Applicable By-laws

## Mobile Licensing By-law 67-2014

### Threshold Policy:

When a police check or drivers abstract reveals a prior conviction for a serious offence, the Licence Issuer must conclude that it is not in the public interest for the person to be licensed and shall refuse or suspend the licence

- Applies to following mobile licences:
  - Driving Schools
  - Limousines
  - Refreshment Vehicles
  - Taxicabs
  - Tow Trucks
  - Personal Transportation Company





# Review of Applicable By-laws

## Adult Entertainment By-law 114-2017

### Purpose:

Council considers it desirable and necessary to licence, regulate and govern adult entertainment establishments to protect the public and workers

- Owns/operates an **Adult Entertainment Business**
- Owns/operates a **Body-rub Business**
- Owns/operates an **Adult Merchandise Business**
- Acts as an **Attendant** or **Entertainer**

Similar Threshold Policy like Mobile Licencing By-law applies in this case

# Review of Applicable By-laws

## Property Standards By-law 165-2022

### Purpose:

Committee established and functions as set out in the *Building Code Act*, to hear appeals against an Order of a Property Standards Officer

### *Building Code Act*

### **Appeal of an Order**

- Owner or occupant who is served with an Order and who is not satisfied with the terms or conditions of the Order may appeal to the Committee
  - Send notice of appeal to Coordinator within 14 days after served the Order
  - Committee shall hear an appeal
  - Order not appealed within 14 days is deemed confirmed

# Review of Applicable By-laws

## *Building Code Act*

### **Powers of the Committee**

- Powers and functions of a Property Standards Officer who made the Order
- May do any of the following things if, in the Committee's opinion, doing so would maintain the general intent and purpose of the by-law and of the official plan:
  - Confirm, modify or rescind the Order to demolish or repair
  - Extend the time for complying with the Order

# Review of Applicable By-laws

## *Building Code Act*

### **Appeal of Committee Decision**

- Municipality, owner, occupant or person affected by decision may appeal to the Superior Court of Justice within 14 days after a copy of the decision is sent

### **Court Powers**

- Same powers and functions as the Committee
- Final and binding decision

### **Municipal Powers if Order Not Complied With**

- Cause property to be repaired or demolished accordingly
- May enter property without warrant
- Place a lien on land for amount of repair or demolition

# Review of Applicable By-laws

*Property Standards By-law 165-2022*

## **What's in it?**

Part I – Interpretation

Part II – Administration

Part III – Enforcement

Part IV – General Provisions

Part V – Exterior Maintenance Standards - Yards

Part VI – Exterior Maintenance Standards - Buildings

Part VII - Interior Maintenance and Occupancy Standards

Part VIII – Vacant Land

Part IX – Damaged and Vacant Buildings

Part X – Heritage Buildings

Part XI - Penalties

# Property Standards – Complaints and Enforcement

## Inspections

- Complaints received by City staff
- Proactive enforcement



## Property Standards Officer inspects property

- Issues **Property Standards Inspection Report**
  - Provides Report to owner for action within # days
  - Follow-up inspection to determine any further action
  - If owner takes no action, issued **Property Standards Order to Comply**

# Property Standards – Complaints and Enforcement

## Property Standards Order to Comply (“Order”):

- **Letter to property owner** re. Order, appeal date and penalties for non-compliance
- **Order** - date issued, City’s powers to act, owner’s appeal rights
- **Property details/deficiencies** - address, description, deficiencies, suggested actions, relevant references to Property Standards By-law
- **Owner's information and address**
- **Affidavit** of Enforcement Clerk issuing Order

## Property owner options:

- Comply with the Order
- Appeal the Order to the Brampton Appeal Tribunal



*Break*

# How the Process Starts...Notice of Appeal

## Notice of Appeal

- An appeal is started by filing a written Notice of Appeal with the Tribunal Coordinator, with required appeal fee (\$200), within 14 days after the Appellant receives (or is deemed to have received) the Decision or Property Standards Order
- Tribunal Coordinator schedules Hearing a minimum 4 weeks from date of receipt of the Notice of Appeal, and provides notice to Appellant and appropriate City staff
- Appellant attendance at Hearing not a requirement



## Late Appeals

- A person with right of appeal may bring a motion to BAT to extend time for filing the Notice of Appeal before or after the 14 day appeal period
- BAT may extend time for filing Notice of Appeal if satisfied there are apparent grounds for appeal and reasonable grounds for an extension

# How is BAT to Make a Decision?

The Tribunal shall make a decision that:

- furthers the public interest
- is consistent with the purpose and intent of the relevant by-law
- is final with no further appeal rights to City Council

# Pre-Hearing Withdrawals / Settlements

- Up to 2 days before Hearing date, Appellant may withdraw Appeal by filing notice with Tribunal Coordinator
  - Tribunal Coordinator will issue notice of cancellation
- Up to 2 days before Hearing date, it may not be adjourned/settled except:
  - on consent of all parties, made in writing and filed with Tribunal Coordinator
  - by order of the Tribunal
- Within 2 days of Hearing date, subject to Tribunal consideration

# BAT Hearing Procedures

## Meeting Agenda

- Call to Order
- Declarations of Pecuniary Interest
- Scheduled Hearings
- Adjournment



### Licensing Matter Hearing Package:

- Notice of Hearing
- Notice of Decision
- Notice of Appeal
- City's Case Presenter Evidence
- Appellant Evidence

### Property Standards Order Hearing Package:

- Notice of Hearing
- City's Property Standards Order
- Notice of Appeal
- Related information
- Location map

- Agenda distributed to Committee Members / Appellant / City staff

# Municipal Conflict of Interest Act

- The Act applies where a **direct, indirect or deemed pecuniary (financial) relationship** may exist for a member as a result of a matter before the Committee
  - *deemed “relationship” includes parent, spouse, child*
- The member must declare a conflict of interest at the beginning of the Hearing and excuse themselves from the proceedings and involvement in the decision
- Declaring a conflict is up to the individual member
- Declaration must also be provided in writing
- Can seek advice regarding conflict of interest from Integrity Commissioner

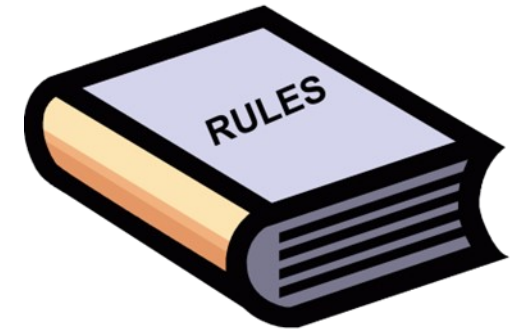
# BAT Hearing Proceedings

- The Hearing is conducted according to the rules established by the City (through BAT By-law) and Committee (through procedural orders) and under the *Statutory Powers Procedure Act*
  - Basic powers and rules for administrative tribunals
    - “fair and liberal interpretation as will best ensure the expeditious and just determination of every proceeding on its merits”*
- Chair leads the meeting and facilitates the Hearing
  - Meeting must start within 30 minutes of scheduled start time
- Committee Members cannot leave Hearing once started
  - Breaking quorum stops the Hearing
  - Compromises fairness from not hearing all relevant evidence
- Legislative Coordinator records proceedings and distributes Tribunal decision

# BAT Order of Hearing

- **City Opening Statement**
- **Appellant Opening Statement**
- **City Evidence and Witnesses**
  - Appellant may ask questions
- **Appellant Evidence and Witnesses**
  - City may ask questions
- **Questions from Committee**
  - typically after cross-examination, but may be at any time
  - to City's witnesses and City's Case Presenter
  - to Appellant's witnesses and Appellant
- **City Closing Statement**
- **Appellant Closing Statement**

*Hearings are informal but all persons providing evidence must be sworn-in or affirmed*



# BAT Hearing Decision-making

- The Hearing is complete after all evidence and submissions are heard
- The Tribunal adjourns and retires to make its decision
  - *in private, if necessary, with Tribunal External Counsel*
- Tribunal External Counsel prepares Notice of Decision based on Tribunal deliberation, for Member signature (*ink or digitally*)
- The Notice of Decision will be mailed to the Appellant and other interested parties generally within 30 days of the Hearing date
- The decision of the Tribunal is final and binding, but may be subject to judicial review in certain circumstances

# BAT Decision

- **Licensing Appeal**

- grant a licence, with or without conditions;
- refuse an application for a licence;
- refuse to reinstate a licence;
- revoke a licence;
- suspend a licence; or
- alter, cancel or impose a term or condition of a licence.

- **Property Standards Order Appeal**

- to confirm, modify or rescind the Order
- to extend the time for complying with the Order

if, in the Tribunal's opinion, the general intent and purpose of the Property Standards By-law is maintained

# Provincial Legislation

- *Dog Owners' Liability Act*
- *Municipal Conflict of Interest*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Statutory Powers Procedure Act*
- *Judicial Review Procedure Act*
- *Building Code Act*
- *Condominium Act*
- *Residential Tenancies Act*



# Roles - City Clerk's Office

**Tammi Jackson**

Legislative Coordinator

City Clerk's Office, Legislative Services  
**(Tribunal Coordinator)**

**Charlotte Gravlev**

Deputy Clerk

City Clerk's Office, Legislative Services

**Peter Fay**

City Clerk

City Clerk's Office, Legislative Services

# Roles - City Experts

**Mike Mulick**

Manager,  
Animal Services  
Legislative Services

**Amanda Barrett**

Supervisor,  
Animal Services  
Legislative Services  
(**Poundkeeper**)

**Kevin Linegarrrd**

Manager, Enforcement  
& Licencing  
Legislative Services  
(**Licence Issuer**)

**Peter Bryson**

Manager, Enforcement,  
Property Standards  
Legislative Services

**Janice Adshead**

Deputy Clerk,  
City Clerk's Office,  
Legislative Services  
(**Licence Issuer**)

# Roles - Tribunal External Legal Counsel

**Konstantine Stavrakos**  
O'Connor MacLeod Hanna LLP

# Roles – Tribunal Members

- Be familiar with the applicable by-laws
- Review agenda materials
- Attend Tribunal meetings
- Listen to the submissions
- Understand the evidence
- Ask questions for clarification
- Avoid emotional attachment
- Don't decide a case before hearing all the evidence
- Ensure all parties receive a fair hearing
- Reaching a decision on the Appeal



# Roles – Tribunal Members

## **Some things to consider:**

- Tribunal jurisdiction and avoid straying from it
- Hear both sides before deciding
- Chair's role to lead and ensure collegial and fair relationship among Tribunal members and parties
- Being respectful to others, brings respect to you
- Being fair, patient and reasonable to Appellant and parties

## **Pitfalls outside the hearing room:**

- Conversations with parties
- Conversations with friends
- Conversations with Members of Council
- Conversations with the Media

*Enjoy the experience and role*



# **Brampton Appeal Tribunal (BAT)**

## ***Orientation***

**Council Chambers  
City Hall**

**September 15, 2023**



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# Orientation Manual

**Brampton Appeal  
Tribunal  
(2022-2026)**



brampton.ca

**BRAMPTON**  
Flower City

Date: September 15, 2023

To: Brampton Appeal Tribunal

From: Charlotte Gravlev, Deputy City Clerk

Re: **General Information – Committee Appointment**

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Congratulations on your appointment as a member of the **Brampton Appeal Tribunal** for the term ending November 14, 2026, or until a successor is appointed.

The purpose of this memo is to provide you with additional details regarding your appointment.

### **Committee Meetings**

#### Attendance

- Attendance at meetings is important so that committee business is completed.
- If you are unable to attend, need to leave early or expect to arrive late, you are requested to notify Tammi Jackson, the Legislative Coordinator in the City Clerk's Office, as soon as you know your schedule. This allows staff to determine if quorum will be achieved and maintained, and provides the opportunity to contact the other committee members, if necessary, to confirm their attendance.
- If it is realized that the committee will not meet quorum prior to the meeting, the Chair will be advised and the meeting may be cancelled.
- If quorum is not achieved within ½ hour after the scheduled start time, the meeting will be deemed as "failed for quorum" and the names of members who are in attendance will be recorded and the meeting will not proceed.
- As outlined in Council's Procedure By-law 160-2004, as amended, if citizen members are absent for **three consecutive meetings, without cause, or approval from Council**, the member will be deemed to have resigned and the vacancy will be filled in accordance with the Citizen Appointment Procedures.

#### Meeting Procedures

- At the tribunal's first hearing on October 16, 2023, the Chair and Vice-Chair (or Co-Chairs) will be elected.
- The Legislative Coordinator is present at the meetings to record the proceedings and to assist the Chair in ensuring that procedures are followed properly.

All committee appointments are for the term ending November 14, 2026 or until successors are appointed. This means that this committee may continue with normal business after the next municipal election in the Fall of 2026 until the new Council appoints a new Brampton Appeal Tribunal.

Some meeting materials may be available in alternate formats. If you require such materials, please advise staff.

The purpose of this orientation binder is to hold important reference material as you begin your duties and throughout your term. Also, please be assured that City staff is available to assist you.

I wish you an enjoyable and fulfilling experience on the Brampton Appeal Tribunal. If you have any questions, please contact myself or Tammi Jackson, Legislative Coordinator, at (905) 874-3829.

Charlotte Gravlev  
Deputy City Clerk  
Telephone: (905) 874-2115 Fax: (905) 874-2119  
[charlotte.gravlev@brampton.ca](mailto:charlotte.gravlev@brampton.ca)

cc:

Peter Fay, City Clerk  
Tammi Jackson, Legislative Coordinator

# Brampton Appeal Tribunal

## Membership List

Baljinder Baring  
Sam Basra  
Parminder Grewal  
Pritpal Grewal  
Cynthia Kilfeather  
Sukhjot Naroo  
Harjeet Sahota  
Pathik Shukla  
Henry Verschuren

For the term ending November 14, 2026, or until successors are appointed.

## Staff Contact List

Name	Position	Telephone Number/Email
Peter Fay	City Clerk, City Clerk's Office	T: 905-874-2172 F: 905-874-2119 <a href="mailto:peter.fay@brampton.ca">peter.fay@brampton.ca</a>
Charlotte Gravlev	Deputy City Clerk City Clerk's Office	T: 905-874-2115 F: 905-874-2119 <a href="mailto:charlotte.gravlev@brampton.ca">charlotte.gravlev@brampton.ca</a>
Konstantine Starvakos	Tribunal Counsel, O'Connor MacLeod Hanna LLP 700 Kerr Street Oakville, ON L6K 3W5	T: 905-849-5016 F: 905-842-2460 <a href="mailto:stavrakos@omh.ca">stavrakos@omh.ca</a>
Tammi Jackson	Legislative Coordinator, City Clerk's Office	T: 905-874-3829 F: 905-874-2119 <a href="mailto:tammi.jackson@brampton.ca">tammi.jackson@brampton.ca</a>

### **Mailing Address**

Brampton City Hall  
Clerk's Office  
2 Wellington Street West  
Brampton, ON L6Y 4R2

**Date:** 2023-06-11

**Subject:** **Integration of the Brampton Appeal Tribunal and Property Standards Committee into a Single Administrative Tribunal**

**Contact:** Peter Fay, City Clerk, Legislative Services, peter.fay@brampton.ca

**Report Number:** Legislative Services-2023-297

**Recommendations:**

1. That the report from Peter Fay, City Clerk, Legislative Services, re. Integration of the Brampton Appeal Tribunal and Property Standards Committee into a Single Administrative Tribunal, to the City Council Meeting of September 13, 2023, be received; and
2. That Council approve amendments to the Brampton Appeal Tribunal By-Law 48-2008, Property Standards By-law 165-2022, Animal Control By-law 261-93, Dog By-law 250-2005, Business Licensing By-law 332-2013, Mobile Licensing By-law 67-2014, Adult Entertainment Establishment By-law 114-2017 and User-Fee By-law 380-2003, as attached as Appendix 1 to this report, to expand the duties and responsibilities of the Brampton Appeal Tribunal to include the hearing of appeals of property standards orders issued under Property Standards By-law 165-2022, and to implement other related amendments to various City By-Laws.

**Overview:**

- **Currently, the City operates both the Brampton Appeal Tribunal, which hears appeals from decisions issued under specified City by-laws, as well as a separate Property Standards Committee, which hears appeals of Property Standards Orders issued pursuant to the Property Standards By-law.**
- **Staff are proposing to expand the function of the Brampton Appeal Tribunal to include the hearing of appeals of Property Standards Orders, which is intended to eliminate the need to operate two separate citizen appointment committees and thereby promote greater efficiency of municipal operations.**
- **Council has appointed, this term, a total of 10 citizens to a combined administrative tribunal of the Brampton Appeal Tribunal and Property**

**Standards Committee, subject to a further report to Council to integrate the Tribunal and Committee into one decision-body, effective for the 2022-2026 term of Council.**

- **The report recommends the necessary amendments to City by-laws to integrate Tribunal and Committee.**

### **Background:**

The City operates both the Brampton Appeal Tribunal (BAT) and a separate Property Standards Committee (PSC). The BAT and the PSC are citizen-based adjudicative committees appointed by Council to sit for the duration of Council's term in office.

The BAT is currently established pursuant to the Brampton Appeal Tribunal By-Law 48-2008 to hear appeals from decisions made under the Business Licensing By-law, the Mobile Licensing By-law, and the Adult Entertainment Establishment By-law, including decisions relating to the issuance and revocation of licenses. The BAT also hears appeals from decisions of the Poundkeeper under the Dog By-Law and the Animal Control By-Law, including appeals of dangerous dog designations.

The PSC was established to hear appeals from Property Standards Orders issued pursuant to the Property Standards By-law 165-2022, in accordance with the *Building Code Act, SO 1992, c. 23*.

Last term of Council, five (5) members were appointed by Council to sit on the BAT. The BAT is scheduled to sit the second Monday of each month, subject to the existence of a pending appeal and the availability of its members. Five (5) members were also appointed to sit on the PSC. The PSC is scheduled to sit on the last Thursday of each month, subject to the existence of a pending appeal and the availability of its members. Hearings require a quorum to be present for each decision-body. During the last term, member resignations and attendance issues reduced the effective membership to sometimes make it difficult to schedule hearings and achieve quorum.

Table 1 shows the number of meetings held during the last four years. BAT and PSC meetings are reactive as appeals are filed with the City. The relatively low number of appeals considered by the BAT and PSC justify consideration for combining both into one decision-making tribunal.

Table 1 – Meeting Convening Rate  
Property Standards Committee and Brampton Appeal Tribunal

	<b>Property Standards Committee</b>			<b>Brampton Appeal Tribunal</b>		
Year	Meetings Held	Meetings Scheduled	Convened Meeting Rate	Meetings Held	Meetings Scheduled	Convened Meeting Rate
2019	4	12	33%	4	12	33%
2020	5	12	42%	5	12	42%
2021	0	12	0%	6	12	50%
2022	1	12	8%	5	12	42%
<b>Total</b>	<b>10</b>	<b>48</b>	<b>21%</b>	<b>20</b>	<b>48</b>	<b>42%</b>

In May 2023, Council appointed 10 citizens to a combined administrative tribunal of the Brampton Appeal Tribunal and Property Standards Committee, effective June 1, 2023, subject to a further report to Council to integrate the Tribunal and Committee into one decision-body, effective for the 2022-2026 term of Council ending November 14, 2026, or until a successor is appointed.

This report recommends amendments to the necessary by-laws to integrate the BAT and PSC into one decision-making tribunal.

### **Current Situation:**

The City Clerk's Office oversees the operation and scheduling of matters before the BAT and the PSC. Over the past years staff have experienced difficulty scheduling matters due a lack of quorum of members available for hearings in respect of both the BAT and the PSC. Also, the number of appeals considered by the respective decision-bodies no longer warrants separate and distinct committees.

As a result, Staff are proposing to resolve these concerns and improve the efficiency of these two citizen appointment adjudicative committees, by combining them into the BAT in accordance with the amendments to By-Law 48-2008 and other related municipal bylaws as set out in Appendix 1 (proposed by-law amendments) and Appendix 2 (red-line mark-up of proposed Brampton Appeal Tribunal By-law 48-2008) to this Report, and by enhancing the operations of the BAT in a number of key respects, including:

- authorizing the City Clerk to prescribe forms for use by the Brampton Appeal Tribunal;
- permitting the adjournment of appeals on the filing of written consent of all parties, thereby avoiding unnecessary attendance by Members to address adjournment requests made on consent;
- standardizing the fees applicable to appeals from decisions and orders under various City by-laws to \$200 per appeal, which is the current appeal fee charged for Animal Control By-law and Dog By-law appeals;
- standardizing the honorarium paid to members to \$100 per meeting day and \$125 for the Chair per meeting day, whereas currently BAT members receive \$75 per meeting day and PSC members receive \$50 per meeting day attended;
- implementing more realistic and effective decision issuance timelines for the tribunal;
- other amendments intended to meet the requirements of the *Building Code Act* relating to the establishment of a committee to hear appeals of Property Standards Orders.

A benchmarking review of other municipalities indicates that some other municipalities also operate one Tribunal that hear property standards appeal, as well as appeals

arising from other municipal by-laws, such as the City of Mississauga, City of Waterloo, the City of Ottawa, the City of Kingston, and the Town of Ajax.

### **Corporate Implications:**

#### Financial Implications:

There are no anticipated costs to the City arising from the implementation of the recommendations in this report. The combination of the BAT and PSC would result in a single Tribunal comprised of 10 members rather than two separate committees comprised of a five (5) members each. Although the amendments propose to standardize the honoraria paid at a rate slightly higher than the current rate, given the reduction in number of appeals processed and the slight increase proposed for appeal fees charged for certain appeals, it is anticipated that there will be little to no financial impact on the Corporation, which can be accommodated within the City Clerk's Office budget for Council and Committee operations. If additional costs are incurred through the implementation of the BAT and PSC, budget considerations will be included in future year budget submissions.

#### Other Implications:

nil

### **Strategic Focus Area:**

This report achieves the Strategic Focus Area of Government and Leadership by facilitating the establishment of one qualified citizen-based adjudicative tribunal to hear appeals from decisions and orders issued pursuant to the City's various by-laws and facilitates effective governance by enhancing the efficiency of municipal operations.

### **Conclusion:**

This report proposes to expand the function of the Brampton Appeal Tribunal to include the hearing of appeals of Property Standards Orders, which is intended to eliminate the need to operate a separate property standards committee and thereby promote greater efficiency of municipal operations, as well as introduce other amendments to improve the operations of the Brampton Appeal Tribunal.

Authored by:

Reviewed by:

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Peter Fay,  
City Clerk

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Sameer Akhtar,  
City Solicitor

Approved by:

Submitted by:

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Paul Morrison,  
Acting Commissioner, Legislative  
Services

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Marlon Kallideen,  
Chief Administrative Officer

**Attachments:**

APPENDIX 1 - By-Law to Amend the Brampton Appeal Tribunal By-Law 48-2008, Property Standards By-law 165-2022, Animal Control By-law 261-93, Dog By-law 250-2005, Business Licensing By-law 332-2013, Mobile Licensing By-law 67-2014, Adult Entertainment Establishment By-law 114-2017 and User-Fee By-law 380-2003.

APPENDIX 2 – Brampton Appeal Tribunal By-Law 48-2008, including proposed wording amendments.



THE CORPORATION OF THE CITY OF BRAMPTON

# BY-LAW

*Number* \_\_\_\_\_ - 2023

To Appendix 1 - Amendment to Brampton Appeal Tribunal By-law 48-2008.docx

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WHEREAS The Corporation of the City of Brampton enacted the Brampton Appeal Tribunal By-Law 48-2008 establishing an appeal body composed of citizens of Brampton (the “Tribunal”);

AND WHEREAS The Corporation of the City of Brampton established a Property Standards By-law 165-2022, as amended, pursuant to the provisions of the Building Code Act, 1992, S.O. 1992, c. 23 (the “Building Code Act”);

WHEREAS The Corporation of the City of Brampton considers it desirable to amend the Brampton Appeal Tribunal By-Law 48-2008, as amended, in order to harmonize the rules and procedures relating to appeals under various City by-laws, including appeals of orders issued under the Property Standards Maintenance By-Law 165-2022 pursuant to section 15.6 of the *Building Code Act*, in order to enhance efficient municipal operations.

AND WHEREAS The Corporation of the City of Brampton considers it desirable to impose common fees and charges in relation to appeals of matters within the jurisdiction of the Brampton Appeal Tribunal;

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

## AMENDMENTS TO BRAMPTON APPEAL TRIBUNAL BY-LAW 48-2008:

1. By-Law 48-2008, as amended, is hereby further amended by deleting the second preamble in the by-law and by inserting the following in the preamble:

**“AND WHEREAS** Section 23.1 and 23.2 of the *Municipal Act*, as amended, permits Council to delegate appeals under the Animal Control By-law 261-93, Dog By-law 250-2005, Business Licensing By-law 3322013, Mobile Licensing By-law 67-2014, and the Adult Entertainment Establishment By-law 114-2017 to an independent committee;

**AND WHEREAS** section 15.3 and 15.6 of the *Building Code Act*, 1992, S.O. 1992, c. 23 (the “*Building Code Act*”), as amended, permits Council to establish the Property Standards By-law 165-2022 and appoint a committee to hear appeals of orders issued in

respect of the property standards set out in the Property Standards By-law;”

2. By-Law 48-2008, as amended, is hereby further amended by deleting the definition of “appellant” in paragraph 1 and replacing it with the following:

“**Appellant**” means a person that has filed a Notice of Appeal requesting an Appeal, and (a) in the case of an Appeal of a Decision of the Licence Issuer, includes an applicant for a licence, a holder of a licence, a partner of the partnership applying for or holding the licence, an officer or director of the corporation applying for or holding the licence; (b) in the case of an Appeal of a Decision of the Poundkeeper regarding the designation of a dog, the owner of the dog or agent of the owner; and (c) in the case of an Appeal of a Property Standards Order, includes the owner or occupant of the property.”

3. By-Law 48-2008, as amended, is hereby further amended by adding the following definitions to paragraph 1 in alphabetic order:

“**Adult Entertainment Establishment By-law**” means the Adult Entertainment Establishment By-Law 11-2017, as amended.

“**Appeal**” means a request for hearing in respect of a Decision or Property Standards Order commenced by the filing of a Notice of Appeal.

“**Building Code Act**” means the Building Code Act, 1992, S.O 1992, c. 23”

“**Decision**” means the decision of a Licence Issuer or a decision of a Poundkeeper for which a right of appeal exists under the Mobile Licensing By-Law, Business Licensing By-Law, Adult Entertainment Establishment By-Law, Dog By-Law and the Animal Control By-Law;

“**Fee**” means the fees prescribed for an Appeal of a Decision or Property Standards Order under User Fee By-Law 380-2003, as amended.

“**Hearing**” means a hearing in any proceeding conducted pursuant to this By-Law;

“**Licence Issuer**” means the City Clerk, the Manager of Licensing or the Manager of Animal Services and includes their designates.

“**Property Standards By-law**” means Property Standards By-law 165-2022, as amended”

“**Property Standards Officer**” means an officer as defined and appointed in accordance with the Property Standards By-law”

**“Property Standards Order”** means a property standards order issued by a Property Standards Officer under Property Standards By-law 165-2022 in accordance with the Building Code Act.

**“Notice of Appeal”** means a written notice requesting a Hearing in respect of a Decision or Property Standards Order referred to in section 8 of this By-Law.

**“Poundkeeper”** means the person appointed as such by Council.

**“Tribunal Coordinator”** means the member of City staff who has been assigned to perform the administrative tasks required by the Tribunal, including maintaining the records of the Tribunal in accordance with section 15.6(7) of the *Building Code Act*.”

4. By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 3 and replacing with the following:

“3. The Tribunal shall be composed of not fewer than five (5) individuals who shall be appointed in accordance with the City’s Citizen Appointment Procedures, and

- (a) a Member shall be appointed for the term of Council
- (b) a Member shall be deemed to have resigned if the Member fails to attend three (3) or more Hearings.”

5. By-Law 48-2008, as amended, is hereby further amended by adding the following sentence to the end of paragraph 5 of By-law 48-2008:

“A majority of the Members shall constitute a quorum of the Tribunal for purposes of the Hearing of an Appeal.”

6. By-Law 48-2008, as amended, is hereby further amended by adding the following as paragraph 6:

**“TRIBUNAL CHAIR AND SECRETARY**

6. At its first meeting, the members of the Tribunal shall:

(a) elect a Chair from among the Members of the Tribunal to preside over the Hearings of the Tribunal, and when the Chair is absent the Members may appoint another Member as Acting Chair; and

(b) appoint a Tribunal Coordinator to maintain the records of the Tribunal in accordance with section 15.6(7) of the *Building Code Act*.”

7. By-Law 48-2008, as amended, is hereby further amended by adding the words “AND PRESCRIBED FORMS” to the title of the section before paragraph 6 and deleting paragraph 6 and adding the following as paragraph 7 and 8:

“7. The Tribunal may prescribe rules. Where no rules have been prescribed by the Tribunal, the Rules of Procedure set out in Schedule 1 shall apply.

8. The City Clerk may prescribe forms for use in connection with Appeals.”

8. By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 7 and replacing it with the following, and renumbering it as paragraph 9:

“9. The Tribunal shall hear Appeals from a:

(1) Decision of a Licence Issuer for which a right of appeal is set out in the Business Licensing By-law, the Mobile Licensing By-law, and the Adult Entertainment Establishment By-law;

(2) Decision of a Poundkeeper for which a right of appeal is set out in the Dog By-law;

(3) Decision of a Licence Issuer pertaining to pigeons, hens, or rabbits for which a right of appeal is set out in the Animal Control By-law; and

(4) Property Standards Order issued in respect of the property standards set out in the Property Standards By-law for which a right of appeal exists in accordance with the *Building Code Act*.”

9. By-Law 48-2008, as amended, is hereby further amended by adding the following words at the end of paragraph 9 and renumbering paragraphs 8 and 9 to be paragraphs 10 and 11:

“Nothing in this By-Law shall affect the right of a person under section 15.3(4) of the *Building Code Act* to appeal a Decision of the Tribunal rendered in respect of a matter appealed under section 9(4) of this By-Law.”

10. By-Law 48-2008, as amended, is hereby further amended by deleting paragraphs 10, 11 and 12 and the word “EXCEPTION” before those paragraphs and by adding the following as paragraph 12:

“12. The powers delegated to the Tribunal under this By-law may only be exercised by the Tribunal.”

11. By-Law 48-2008, as amended, is hereby further amended by renumbering paragraph 14.1 to be paragraph 15.

12. By-law 48-2008, as amended, is hereby further amended by adding the following after the renumbered paragraph 15:

**“PROPERTY STANDARDS APPEALS**

16. The powers of the Tribunal in respect of an Appeal of a Property Standards Order are those which are conferred upon a committee appointed in accordance with the *Building Code Act*.”

13. By-Law 48-2008, as amended, is hereby further amended by deleting the words “HEARING PROCEDURE” before paragraph 15 and replacing it

with the words “NOTICE OF APPEAL” and by deleting paragraphs 15 and 16 and replacing them with the following:

- “17. An Appeal is commenced by filing with or sending a written Notice of Appeal by mail or courier to the Tribunal Coordinator together with the Fee, within fourteen (14) days after the date the Appellant:  
(1) receives the Decision or Property Standards Order; or  
(2) is deemed to have received the Decision or Property Standards Order,  
whichever is earlier.
18. Upon receipt of a written Notice of Appeal and applicable Fee, the City Clerk shall schedule a Hearing a minimum of four (4) weeks from the date of receipt of the Notice of Appeal and shall give reasonable notice to the Appellant, the Manager of Prosecutions and such other persons as may be directed by the Tribunal.”
14. By-Law 48-2008, as amended, is hereby renumbering paragraphs 17, 18, 19 and 20 to be paragraphs 19, 20, 21, and 22, respectively.
15. By-Law 48-2008, as amended, is hereby further amended by deleting paragraphs 21 and 22 and replacing them with the following:
- “23. A person who has the right of Appeal under subsections 9(1), 9(2) or 9(3) may bring a motion before the Tribunal to extend the time for filing the Notice of Appeal, either before or after the fourteen (14) day appeal period under section 17.
24. The Tribunal may extend the time for filing of the Notice of Appeal under Section 23 if it is satisfied that there are apparent grounds for the Appeal and there are reasonable grounds for an extension.”
16. By-Law 48-2008, as amended, is hereby amended by renumbering paragraphs 23 and 24 to be paragraphs 25 and 26, respectively, and renumbering as necessary all paragraphs and paragraph references to establish a chronological order to the By-law paragraphs.
17. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by adding the words “the definitions set out in the By-law shall apply, as well as the following definitions,” after the words “In these Rules,” and by capitalizing the first letter of all defined terms and deleting the definitions of the words “applicant”, “Animal Control By-Law”, “Business Licensing By-Law”, “Dog By-Law”, “hearing”, “Licensing By-Law”, “member”, and “Mobile Licensing By-Law”.
18. Schedule 1 of By-Law 48-2008, as amended, is hereby further amended by deleting the words “Licensing By-Law, as amended, the” in the definition of “Licensee” and by adding at the end of the definition of “Licensee” the words “and Animal Control By-law (By-law 261-93).”
19. Schedule 1 of By-Law 48-2008, as amended, is hereby further amended by replacing the word “applicant” with the word “Appellant” throughout.

20. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by adding the words “in accordance with the *Statutory Powers Procedure Act*” at the end of paragraph 2(2).
21. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 5 and the words “TRIBUNAL CHAIR” before paragraph 5 and by renumbering paragraphs 3(1), 3(2), and 4 to be paragraphs 3, 4, and 5, respectively.
22. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by deleting the words “four (4)” in subparagraph 12(3) and replacing them with the words “five (5).”
23. Schedule 1 to By-Law 48-2008, as amended, is hereby amended by deleting paragraphs 13(1) and 13(2) and replacing with the following:

“(1) Subject to Rule 19, the filing of any document by any party to a Hearing (i.e. transmitting it to the City Clerk) may be effected by personal delivery, by ordinary or registered mail, by fax transmission, by courier, by email or otherwise as the Tribunal may order.

(2) A document that is more than twenty (20) pages may not be served by fax on other parties unless prior written consent from the intended recipient for this faxing is obtained.”
24. Schedule 1 to By-Law 48-2008, as amended, is hereby amended by deleting paragraph 14 and replacing with the following:

“14. All parties to a Hearing, particularly solicitors lawyers and legal representatives, shall bring to the Hearing a sufficient number of copies of documents for the Tribunal Members, the Tribunal Coordinator, counsel to the Tribunal and the other parties.”
25. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by deleting paragraphs 18 and 19 and replacing them with the following:

“18. In the following sections, the last day of the fourteen (14) day period after the receipt or deemed date of receipt of the Decision or Property Standards Order under section 17 of this By-Law is called the “Appeal Deadline”.

19. An Appeal is commenced by delivering or transmitting a written Notice of Appeal together with the Fee to the Tribunal Coordinator by:

(1) personally or by courier delivering it to a person in the City Clerk’s Office; or

(2) ordinary mail.

A Notice of Appeal is ineffectual to create a right to a Hearing unless it is received by the Tribunal Coordinator on or before the Appeal Deadline. A Notice of Appeal cannot be delivered by fax transmission or email.”

26. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by deleting the words “for the next available hearing date” in paragraph 26.

27. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by deleting the word “submitted” in the second sentence of paragraph 28 and replacing it with the word “scheduled”, and deleting the word “two” and replacing it with “a minimum of four (4)” and by adding the following subparagraph (7) and renumbering all subsequent subparagraphs:

“(7) in the case of Hearings relating to the Property Standards By-Law, the Property Standards Officer; and”

28. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 29 and replacing it with the following:

“29. An Appellant may withdraw an Appeal by filing, by means including but not limited to email, ordinary mail, courier or in-person, a written notice of withdrawal of Appeal with the City Clerk prior to the Hearing date. Upon receipt of a written notice of withdrawal of Appeal the Tribunal Coordinator shall issue a notice of cancellation of the Hearing and administrative dismissal of the Appeal to all persons who received notice of the Hearing.”

29. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by adding the following subparagraphs (6) and (7) of section 30 and renumbering the subparagraphs (1) through (9):

“(6) in the case of an Appeal of a Property Standards Order, a copy of the Property Standards Order;  
(7) the Notice of Appeal;”

30. Schedule 1 to By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 32 and replacing it with the following:

“32. Once a date has been set for a Hearing, it may not be: (i) adjourned or (ii) settled and/or withdrawn, with or without conditions, except on consent of all parties, made in writing and filed with the Tribunal Coordinator at least two (2) days prior to the Hearing (unless determined otherwise by the City Clerk) or by order of the Tribunal.”

31. Schedule 1 of By-law 48-2008, as amended, is hereby further amended by deleting the title “CONFLICT OF INTEREST” before paragraph 33 and deleting paragraph 33 and replacing them with the following:

**“CODE OF CONDUCT**

33. The Members of the Tribunal shall be subject to such Code of Conduct and other by-laws, policies and procedures as may be approved by Council.”

32. Schedule 1 of By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 37 and replacing it with the following:

“37. A summons shall be in the form prescribed by Reg. 116/95 of the *Statutory Powers Procedure Act*, as amended, and signed by the Chair.”

33. Schedule 1 of By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 38 and consecutively re-numbering all subsequent paragraphs.
34. Schedule 1 of By-Law 48-2008, as amended, is hereby further amended by deleting the word “receive” after paragraph 40 and replacing it with the words “be paid by the party summoning such witness” and adding the following to the end of the paragraph “The Tribunal Coordinator shall be responsible for processing witness fees and travel allowances, as required.”
35. Schedule 1 of By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 41 and replacing it with the following:

“40. The Hearing is held as follows:

(1) A majority of the appointed Members must be present to achieve quorum. In the following sections, the “panel” means those Members that are present to conduct the Hearing or procedure.

(2) If quorum is not achieved within thirty (30) minutes of the scheduled start time, all Hearings are rescheduled to the next standing date and notice shall be sent as if it were the first notice of the Hearing.

(3) When the Tribunal chair is unable to attend a Hearing, the panel may select amongst themselves the Member who will chair the Hearing (“the Hearing chair”).

(4) The Hearing chair will call the Hearing to order and may advise the Appellant of the Hearing procedure.

(5) The Tribunal Coordinator or any Member of the Tribunal will swear or affirm the witnesses.

(6) A member of the City Solicitor’s Office, or counsel appointed by the City Solicitor, who is not privy to the case of either party may be present as counsel to the Tribunal to assist and give legal advice to the Tribunal hearing the case. However, counsel to the Tribunal does not have power to decide the Appeal, which rests with the Tribunal.

(7) The Hearing process is informal, but the *Statutory Powers Procedure Act* applies.

(8) The Tribunal may decide which of the parties it wishes to hear from first, but it is customary that the City proceeds first.

(9) The City’s agent shall be called “City’s Case Presenter” and not “prosecutor”.

(10) The process for each witness to give testimony is: evidence in chief, cross-examination and reply, if any.

(11) Each Member of the Tribunal may ask questions of the witness at any time.

(12) The Tribunal may recall a witness for the purpose of clarifying a point that has arisen since the witness has concluded their main presentation.

(13) The parties have the right to make opening and closing statements. It is customary that the City proceeds first; however the Tribunal may rule otherwise.

(14) These Rules, except for Rule 41(1), are subject to change by the Tribunal, if the Tribunal finds that there is a fairer way of proceeding.”

36. Schedule 1 of By-Law 48-2008, as amended, is hereby further amended by adding the following as paragraph 41 before the heading “DECISION”:

- “41. Hearings of the Tribunal may be recorded and a copy of the recording shall be maintained by the Clerk for such period of time as accords with applicable City policy and procedure.”
37. Schedule 1 of By-Law 48-2008, as amended, is hereby further amended by deleting paragraph 42 and 43 and replacing with the following:
- “42. (1) The Tribunal may recess at any time during or at the conclusion of a Hearing to deliberate and may give an oral Decision or may reserve its Decision.
- (2) The Tribunal will attempt to issue a written Decision within 30 days after the Hearing is completed.
- (3) The counsel to the Tribunal will prepare the Notice of Decision and the Tribunal Coordinator shall ensure that at least the Chair, on behalf of the Tribunal, or a majority of the consenting Tribunal Members party to the Hearing, sign the Decision in ink or digitally.
43. Following an oral Decision or where the Tribunal has reserved its Decision, the Appellant shall thereafter be issued a Notice of Decision by email, courier, ordinary or registered mail.”
38. Schedule 1 of By-law 48-2008, as amended, is hereby further amended by deleting the words “28” in paragraph 44 (4) and replacing it with the words “24”.
39. Schedule 2 of By-law 48-2008, as amended, is hereby further amended by deleting the words “of \$75.00” and replacing it with the words “as follows:” and adding the following thereafter to Schedule 2:
- “Regular Members - \$100.00/meeting
- Chair or Acting Chair - \$125.00/meeting”
40. By-Law 48-2008, as amended, is further amended by capitalizing all defined terms referenced throughout the By-Law and Schedules to the By-Law, and renumbering as necessary all paragraphs and paragraph references to establish a chronological order to the Schedule paragraphs, and capitalizing each defined term throughout the By-law and Schedules, and replacing the word “license” with “licence” throughout the By-law and Schedules.

**AMENDMENTS TO THE PROPERTY STANDARDS BY-LAW 165-2002**

41. By-Law 165-2022 is hereby further amended by deleting the definition of “Committee” in paragraph 1.1 of that By-Law and replacing it with the following definition:
- ““Committee” means the property standards committee appointed in accordance with the *Building Code Act, 1992*, S.O. 1992, c. 23.”

42. By-Law 165-2022 is hereby further amended by deleting the title “Property Standards Committee” before paragraph 3 and deleting paragraph 3.1, and replacing them with the following:

“Committee

3.1 The Brampton Appeal Tribunal established pursuant to By-Law 48-2008 is hereby appointed to act as the Committee.”

43. By-Law 165-2022 is hereby further amended by deleting paragraph 3.2 of that By-Law and replacing it with the following:

“3.2. The Brampton Appeal Tribunal shall have and exercise the powers of the Committee set out in the Building Code Act.”

**AMENDMENTS TO THE ANIMAL CONTROL BY-LAW 261-93**

44. By-Law 261-93, as amended, is hereby further amended by deleting the words “in accordance with the procedures established by the Licensing By-Law 1-2002” in paragraph 14.1(2)(i) and replacing them with the words “in accordance with the procedures established by the Brampton Appeal Tribunal By-law 48-2008”.

**AMENDMENTS TO THE DOG LICENCE BY-LAW 250-2005**

45. By-Law 250-205, as amended, is hereby further amended by deleting the words “within fifteen (15) days” within paragraph 28 and replacing them with the words “within fourteen (14) days”.

**AMENDMENTS TO THE BUSINESS LICENSING BY-LAW 332-2013**

46. By-Law 332-2013, as amended, is hereby further amended by deleting the words “within 15 days” in paragraph 26(2)(d) of that By-Law and replacing them with the words “within 14 days”.
47. By-Law 332-2013, as amended, is hereby further amended by deleting the words “within 15 days” in paragraph 27(1) of that By-Law and replacing them with the words “within 14 days”.
48. By-Law 332-2013, as amended, is hereby further amended by deleting the words “by the 15th day” in paragraph 27(3) of that By-Law and replacing them with the words “by the 14th day”.

**AMENDMENTS TO THE MOBILE LICENSING BY-LAW 67-2014**

49. By-Law 67-2014, as amended, is hereby further amended by deleting the words “within 15 days” in paragraph 34(2)(d) of that By-Law and replacing them with the words “within 14 days”.

- 50. By-Law 67-2014, as amended, is hereby further amended by deleting the words “within 15 days” in paragraph 35(1) of that By-Law and replacing them with the words “within 14 days”.
- 51. By-Law 67-2014, as amended, is hereby further amended by deleting the words “by the 15th day” in paragraph 35(4) of that By-Law and replacing them with the words “by the 14th day”.

**AMENDMENTS TO THE ADULT ENTERTAINMENT ESTABLISHMENT BY-LAW 114-2017**

- 52. By-Law 114-2017, as amended, is hereby further amended by deleting the words “within 15 days” in paragraph 26(2)(d) of that By-Law and replacing them with the words “within 14 days”.
- 53. By-Law 114-2017, as amended, is hereby further amended by deleting the words “within 15 days” in paragraph 27(1) of that By-Law and replacing them with the words “within 14 days”.
- 54. By-Law 114-2017, as amended, is hereby further amended by deleting the words “by the 15th day” in paragraph 27(3) of that By-Law and replacing them with the words “by the 14th day”.

**AMENDMENTS TO THE USER-FEE BY-LAW 380-2003**

- 55. By-law 380-2003, as amended, is hereby further amended by increasing the following fees in Schedule D — City Clerk, effective August 1, 2023:

Goods and/or Services	Fee Unit	Tax Applicable	Current	Effective Date
Appeal of Decision of License Issuer				
Appeal of decision of License Issuer (to refuse, revoke, suspend, etc. business license)	Per Appeal	No	\$200.00	August 1, 2023
Appeal of Order to Comply with Minimum Maintenance By-law				
Appeal of Order to Comply with Property Standards By-law	Per Appeal	No	\$200.00	August 1, 2023

**TRANSITION PROVISIONS**

- 56. This By-law shall come into force and effect on September 15, 2023 and, for greater certainty, shall apply to any Appeal heard on and after September 15, 2023.
- 57. Any Appeal heard prior to September 15, 2023 shall continue to be determined in accordance with the provisions of the By-Law in effect as of September 15, 2023.

ENACTED and PASSED this 13<sup>th</sup> day of September, 2023.

Approved as to  
form.  
20 \_\_/month/day  
[insert name]

\_\_\_\_\_  
Patrick Brown, Mayor

Approved as to  
content.  
2023/09/07  
P. Fay

\_\_\_\_\_  
Peter Fay, City Clerk



**Office Consolidation  
Brampton Appeal Tribunal By-law 48-2008**

**A By-law to create the Brampton Appeal Tribunal  
and to establish its Rules of Procedure**

**(as amended by By-laws 78-2009, 340-2012, 332-2013, 67-2014, 114-2017)**

WHEREAS Council wishes to create the Brampton Appeal Tribunal, which is to be composed of citizens of Brampton;

AND WHEREAS Section 23.1 and 23.2 of the *Municipal Act*, as amended, permits Council to delegate appeals under the Animal Control By-law 261-93, Dog By-law 250-2005, Business Licensing By-law 332-2013, Mobile Licensing By-law 67-2014, and the Adult Entertainment Establishment By-law 114-2017 to an independent committee;

AND WHEREAS section 15.3 and 15.6 of the *Building Code Act*, 1992, S.O. 1992, c. 23 (the "*Building Code Act*"), as amended, permits Council to establish the Property Standards By-law 165-2022 and appoint a committee to hear appeals of orders issued in respect of the property standards set out in the Property Standards By-law;

~~AND WHEREAS Section 23.1 of the *Municipal Act*, as amended by the *Municipal Statute Law Amendment Act, 2006* (Bill 130), permits Council to delegate appeals under the Licensing By-law 1-2002 and Dog By-law 250-2005 to an independent Tribunal;~~

AND WHEREAS the creation of this Tribunal permits the City to separate its quasi-judicial functions from its legislative and executive functions;

NOW THEREFORE the Council of The Corporation of the City of Brampton ENACTS AS FOLLOWS:

**DEFINITIONS**

1. In this By-law:

"**Adult Entertainment Establishment By-law**" means the Adult Entertainment Establishment By-Law 11-2017, as amended.

~~"appellant" in the case of a license appeal, includes an applicant for a license, a holder of a license, a partner of the partnership applying for or holding the license, an officer or director of the corporation applying for or holding the license and in the case of a designation of a dog appeal, the owner of the dog or agent of the owner;~~

**“Animal Control By-law”** means Animal Control By-law 261-93, as amended; **(By-law 78-2009)**

**“Appeal”** means a request for Hearing in respect of a Decision or Property Standards Order commenced by the filing of a Notice of Appeal.

**“Appellant”** means a person that has filed a Notice of Appeal requesting an Appeal, and (a) in the case of an Appeal of a Decision of the Licence Issuer, includes an applicant for a licence, a holder of a licence, a partner of the partnership applying for or holding the licence, an officer or director of the corporation applying for or holding the licence; (b) in the case of an Appeal of a Decision of the Poundkeeper regarding the designation of a dog, the owner of the dog or agent of the owner; and (c) in the case of an Appeal of a Property Standards Order, includes the owner or occupant of the property.

**“Building Code Act”** means the Building Code Act, 1992, S.O 1992, c. 23”

**“Business Licensing By-law”** means Business Licensing By-law 332-2013 **(By-law 332-2013)**

**“City”** means ~~the~~ The Corporation of the City of Brampton;

**“Council”** means the Council of the Corporation of the City of Brampton;

**“Decision”** means the decision of a Licence Issuer or a decision of a Poundkeeper for which a right of appeal exists under the Mobile Licensing By-Law, Business Licensing By-Law, Adult Entertainment Establishment By-Law, Dog By-Law and the Animal Control By-Law;

**“Dog By-law”** means Dog By-law 250-2005, as amended;

**“Fee”** means the fees prescribed for an Appeal of a Decision or Property Standards Order under User Fee By-Law 380-2003, as amended.

**“Hearing”** means a hearing in any proceeding conducted pursuant to this By-Law;

**“Licensing By-law”** means Licensing By-law 1-2002, as amended;

**“Licence Issuer”** means the City Clerk, the Manager of Licensing or the Manager of Animal Services and includes his or her designates.

**“Member”** means a member of the Tribunal;

**“Mobile Licensing By-law”** means Mobile Licensing By-law 67-2014 **(By-law 67-2014)**

**“Notice of Appeal”** means a written notice requesting a Hearing in respect of a Decision or Property Standards Order referred to in section 8 of this By-Law.

**“Poundkeeper”** means the person appointed as such by Council;

**“Property Standards By-law”** means Property Standards By-law 165-2022, as amended”

**“Property Standards Officer”** means an officer as defined and appointed in accordance with the Property Standards By-law”

“Property Standards Order” means a Property Standards Order issued by a Property Standards Officer under Property Standards By-law 165-2022 in accordance with the Building Code Act.

“Tribunal” means the Brampton Appeal Tribunal.

“Tribunal Coordinator” means the member of City staff who has been assigned to perform the administrative tasks required by the Tribunal, including maintaining the records of the Tribunal in accordance with section 15.6(7) of the Building Code Act.

## **BRAMPTON APPEAL TRIBUNAL**

2. The Brampton Appeal Tribunal is established.
3. The Tribunal shall be composed of not fewer than ~~three (3)~~ five (5) individuals who shall be appointed in accordance with the City’s Citizen Appointment Procedures, and:
  - (a) a Member shall be appointed for the term of Council
  - (b) a Member shall be deemed to have resigned if the Member fails to attend three (3) or more Hearings.
4. Honoraria shall be paid to members of the Tribunal in accordance with Schedule 2 to this ~~B~~by-law.
5. The Tribunal shall meet once a month or as often as it decides is necessary for the expedient resolution of its case load. A majority of the Members shall constitute a quorum of the Tribunal for purposes of the Hearing of an Appeal.

## **TRIBUNAL CHAIR AND TRIBUNAL COORDINATOR**

6. At its first meeting, the Members of the Tribunal shall:
  - (a) elect a Chair from among the Members of the Tribunal to preside over the Hearings of the Tribunal, and when the Chair is absent the Members may appoint another Member as Acting Chair; and
  - (b) appoint a Tribunal Coordinator to maintain the records of the Tribunal in accordance with section 15.6(7) of the Building Code Act.

## **RULES OF PROCEDURE AND PRESCRIBED FORMS**

7. The Tribunal may prescribe rules. Where no rules have been prescribed by the Tribunal, the Rules of Procedure set out in Schedule 1 shall apply.
8. The City Clerk may prescribe forms for use in connection with Appeals.
- ~~6. The Rules of Procedure governing the Tribunal are set out in Schedule 1.~~

## **JURISDICTION**

- ~~7. The Tribunal shall hear:~~
  - ~~(1) appeals from the decision of the License Issuer. The types of decisions that carry a right of appeal to the Tribunal are set out in the Licensing By-law, the Business Licensing By-law, the Mobile Licensing By-law and the Adult Entertainment Establishment By-law. (By-laws 332-2013, 67-2014, By-law 114-2017)~~
  - ~~(2) appeals from decisions of the poundkeeper. The types of decisions that carry a right of appeal to the Tribunal are set out in the Dog By-law.~~

- ~~(3) — appeals from the decision of the License Issuer pertaining to pigeons and hens and rabbits. The types of decisions that carry a right of appeal to the Tribunal are set out in the Animal Control By-law. (By-laws 78-2009 and 340-2012)~~

9. The Tribunal shall hear Appeals from a:

- (1) Decision of a Licence Issuer for which a right of appeal is set out in the Business Licensing By-law, the Mobile Licensing By-law, and the Adult Entertainment Establishment By-law;  
(2) Decision of a Poundkeeper for which a right of appeal is set out in the Dog By-law;  
(3) Decision of a Licence Issuer pertaining to pigeons, hens, or rabbits for which a right of appeal is set out in the Animal Control By-law; and  
(4) Property Standards Order issued in respect of the property standards set out in the Property Standards By-law for which a right of appeal exists in accordance with the *Building Code Act*.

## HOW THE TRIBUNAL IS TO MAKE ITS DECISION

8. 10. The Tribunal shall make a Ddecision that furthers the public interest and is consistent with the purpose and intent of the relevant By-law.
9. 11. The Ddecision of the Tribunal is final and there is no right of further appeal to Council. Nothing in this By-Law shall affect the right of a person under section 15.3(4) of the Building Code Act to appeal a Decision of the Tribunal rendered in respect of a matter appealed under section 9(4) of this By-Law.

## EXCEPTION

- ~~10. — If a quorum of Tribunal members cannot be convened, nothing prevents Council from convening a Committee of Council to hear a specific appeal arising under Section 7.~~
- ~~11. — The Tribunal has no power to deal with a matter that has been referred to a Committee of Council convened under Section 10.~~
- ~~12. — A Committee of Council convened under Section 10 has all the powers with respect to that matter that the Tribunal would have under Section 7, and despite Section 252 of the *Municipal Act*, the Committee of Council may make a final decision, without being required to have its decision ratified by Council.~~
12. The powers delegated to the Tribunal under this By-law may only be exercised by the Tribunal.

## LICENSING BY-LAW APPEALS

- ~~13.~~ 13. After the Hhearing of an Aappeal from the Ddecision of the Licencse Issuer, the Tribunal may make any Ddecision the Licencse Issuer could have made, including any of the following, separately or in combination:
- (1) grant a licence, with or without conditions;
  - (2) refuse an application for a licencse;
  - (3) refuse to reinstate a licencse;
  - (4) revoke a licencse;
  - (5) suspend a licencse; or
  - (6) alter, cancel or impose a term or condition of a licencse.

## DOG BY-LAW APPEALS

~~14.~~ 14. After the Hearing of an Appeal from the Decision of the Poundkeeper, the Tribunal may make any Decision the Poundkeeper could have made, or direct that the owner do anything under that By-law, as the Tribunal considers proper and for such purpose may substitute its opinion for that of the Poundkeeper.

## ANIMAL CONTROL BY-LAW APPEALS (By-laws 78-2009, 340-2012)

~~14.115~~ After the Hearing of an Appeal from the Decision of the Licence Issuer pertaining to pigeons and hens and rabbits, the Tribunal may make any Decision the Licence Issuer could have made, including any of the following, separately or in combination:

- (1) grant a licence, with or without conditions;
- (2) refuse an application for a licence;
- (3) refuse to reinstate a licence;
- (4) revoke a licence;
- (5) suspend a licence; or
- (6) alter, cancel or impose a term or condition of a licence.

## PROPERTY STANDARDS APPEALS

16. The powers of the Tribunal in respect of an Appeal of a Property Standards Order are those which are conferred upon a committee appointed in accordance with the Building Code Act.

## HEARING PROCEDURE NOTICE OF APPEAL

~~15. An appeal is commenced by the filing of a written notice of appeal with the City Clerk, accompanied by the payment of the fee, within fifteen (15) days after the date the appellant:~~

- ~~(1) receives the decision; or~~
- ~~(2) is deemed to have received the decision,~~

~~whichever is earlier.~~

~~16. On receipt of a written request for a hearing from the appellant, the City Clerk shall schedule a hearing and shall give reasonable notice to the appellant, as set out in the Rules of Procedure.~~

17. An Appeal is commenced by filing with or sending a written Notice of Appeal by mail or courier to the Tribunal Coordinator together with the Fee, within fourteen (14) days after the date the Appellant:

- (1) receives the Decision or Property Standards Order; or
- (2) is deemed to have received the Decision or Property Standards Order,

whichever is earlier.

18. Upon receipt of a written Notice of Appeal and applicable Fee, the City Clerk shall schedule a Hearing a minimum of four (4) weeks from the date of receipt of the Notice of Appeal and shall give reasonable notice to the Appellant, the Manager of Prosecutions and such other persons as may be directed by the Tribunal.

~~17.~~ 19. A Decision by the Tribunal is a statutory power of Decision within the meaning of the *Statutory Powers Procedure Act* and that *Act*, except for Sections 17.1 (power to award costs), 18 (requirement to send copies of final Decision and order) and 19 (enforcement of order by filing with Superior Court of Justice), applies to the Tribunal and the Hearing conducted by it.

~~18.~~ 20. If the panel of the Tribunal requires, it may meet privately to inspect the property, to deliberate, or to write a Decision or order.

~~19.~~ 21. When an ~~A~~ppellant who has been given written notice of the ~~H~~earing does not attend at the appointed time and place, the Tribunal may proceed in his or her absence, and the ~~A~~ppellant shall not be entitled to any further notice of the ~~H~~earing.

~~20.~~ 22. Notice of the Tribunal's ~~D~~ecision shall be given to the parties present at the ~~H~~earing before the panel, and any other persons as the Tribunal may direct, and notice shall be given within ten (10) days after the date the Tribunal makes its written ~~D~~ecision.

## LATE APPEALS

~~21.~~ A person who has the right of appeal under Section 7 may bring a motion before the Tribunal to extend the time for filing the appeal, either before or after the fifteen (15) day period.

~~22.~~ The Tribunal may extend the time for filing the appeal if it is satisfied that there are apparent grounds for the appeal and that there are reasonable grounds for an extension.

23. A person who has the right of Appeal under subsections 9(1), 9(2) or 9(3) may bring a motion before the Tribunal to extend the time for filing the Notice of Appeal, either before or after the fourteen (14) day appeal period under section 17.

24. The Tribunal may extend the time for filing of the Notice of Appeal under Section 23 if it is satisfied that there are apparent grounds for the Appeal and there are reasonable grounds for an extension.

## NO LIABILITY

~~23.~~ 25. No ~~M~~ember of the Tribunal or Council, or any City employee is personally liable for anything done by it, or him or her, under authority of this by-law.

~~24.~~ 26. This by-law may be called the "Brampton Appeal Tribunal By-law".

READ a first, second and third time and PASSED in OPEN COUNCIL, this 27<sup>th</sup> day of February 2008.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by:  
Susan Fennell – Mayor  
Kathryn Zammit – Clerk

## Schedule 1 to By-law 48-2008

(Amended by By-laws 332-2013, 67-2014)

### RULES OF PROCEDURE

#### To Govern the Proceedings of the Brampton Appeal Tribunal

#### DEFINITIONS

1. In these Rules, the definitions set out in the By-law shall apply, as well as the following definitions, unless the context requires otherwise,
  - ~~“applicant” means a person applying for a license or a renewal of a license;~~
  - ~~“Animal Control By-law” means Animal Control By-law 261-93, as amended;~~
  - ~~“Business Licensing By-law” means Business Licensing By-law 332-2013~~
  - ~~“Dog By-law” means Dog By-law 250-2005, as amended;~~
  - “file” means to transmit a document to the City Clerk, except for a Notice of Appeal, which must be transmitted pursuant to Rule 19;
  - ~~“hearing” means a hearing in any proceeding;~~
  - “Tribunal Coordinator” means the member of City staff who has been assigned to perform the administrative tasks required by the Tribunal, including maintaining the records of the Tribunal in accordance with section 15.6(7) of the Building Code Act.  
~~means the member of City staff who has been assigned to perform the administrative tasks required by the Tribunal;~~
  - “licensee” means the holder of a license issued pursuant to the provisions of the Licensing By-law, as amended, the Business Licensing By-law (By-law 332-2013), the Mobile Licensing By-law (By-law 67-2014) and the Adult Entertainment Establishment By-law (By-law 114-2017) and Animal Control By-law (By-law 261-93).
  - ~~“Licensing By-law” means Licensing By-law 1-2002, as amended;~~
  - ~~“member” means an member of the Tribunal;~~
  - ~~“Mobile Licensing By-law” means Mobile Licensing By-law 67-2014 (By-law 67-2014)~~
  - “motion” means an application for a specific order or Decision of the Tribunal made in the course of a proceeding;
  - “proceeding” means a matter brought before the Tribunal under the provisions of the Brampton Appeal Tribunal By-law;
  - “Respondent” means the City person who has made the Decision that is the subject of the Appeal, which may be the appropriate License Issuer or Poundkeeper, as the case may be;
  - “Rules” mean the Rules of Procedure of the Brampton Appeal Tribunal and  
“Rule” refers to Sections of these Rules;
  - “Tribunal” means the Brampton Appeal Tribunal.

## INTERPRETATION

2. (1) These Rules shall receive such fair and liberal interpretation as will best ensure the most expeditious and just determination of every proceeding on its merits.
- (2) Where matters are not provided for in the Rules, the practice shall be determined by the panel of the Tribunal hearing the proceeding in accordance with the *Statutory Powers Procedure Act*.

## APPLICATION

3. ~~(4)~~ Hearings of the Tribunal are conducted under the authority of Brampton Appeal Tribunal By-law.
- ~~(2)~~ 4. These Rules apply to all proceedings of the Tribunal in the exercise of its statutory power of Decision, as defined in the *Statutory Powers Procedure Act*.

## SUBSTANTIAL COMPLIANCE

- ~~4.~~ 5. Substantial compliance with the Rules is sufficient, and it is not intended that a technical objection based on the Rules should defeat an otherwise just result.

## ~~TRIBUNAL CHAIR~~

- ~~5. At its first meeting, the members of the Tribunal shall decide who is to be the Tribunal chair. The Tribunal chair will preside over hearings of the Tribunal and give direction to staff respecting any of the Tribunal's administrative duties.~~

## PROCEDURAL ORDERS

- ~~6.4.~~ 6.4. (1) In any proceeding, the Tribunal may issue procedural orders to govern the conduct of the proceeding.
- (2) The Tribunal may, at any time during a proceeding amend any procedural order.
- (3) If circumstances of the proceedings so require, the Tribunal may vary or waive compliance with all or part of any Rule, at any time by making a procedural order.
- (4) A procedural order shall prevail over any provision of the Rules to the extent that the provision is inconsistent with the procedural order.
- (5) Subject to any procedural order issued by the Tribunal, the parties to a proceeding may, on consent, waive any of the provisions of the Rules.
- (6) A party seeking a waiver of any of the provisions of the Rules shall do so on a timely basis.

## FAILURE TO COMPLY

- ~~7.5.~~ 7.5. (1) Where a party to a proceeding has not complied in full with any Rule or procedural order, the Tribunal may,

- (a) adjourn the proceeding until it is satisfied that such Rule or order is complied with, or
  - (b) take any other step as it considers just and reasonable.
- (2) No proceeding is invalid by reason only of a defect or other irregularity.

## TIME

8-6. In the computation of time under the Rules or a procedural order, except where a contrary intention appears,

- (1) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;
- (2) where the time for doing an act under the Rules or under an order expires on a holiday, the act may be done on the next day that is not a holiday; and
- (3) service of a document made after 4:00 p.m. or at any time on a holiday shall be deemed to have been made on the next day that is not a holiday.

9-7. Where a time of day is mentioned in the Rules or in any document or order in a proceeding, the time referred to shall be the time observed locally.

10-8. The Tribunal may extend or abridge any time prescribed in the Rules or established by a procedural order during a proceeding, on such terms as are just.

11-9. Under these Rules, “holiday” means,

- (1) any Saturday or Sunday;
- (2) New Year’s Day;
- (3) Family Day;
- (4) Good Friday;
- (5) Easter Monday
- (6) Victoria Day;
- (7) Canada Day;
- (8) Civic Holiday;
- (9) Labour Day;
- (10) Thanksgiving Day;
- (11) Remembrance Day;
- (12) Christmas Day;
- (13) Boxing Day; and
- (14) any day on which the City’s offices are closed.

## SERVICE OF DOCUMENTS

12-10. (1) The Tribunal may require any party or the Tribunal Coordinator to cause the service of any document on any party in any of the following ways, or using any combination thereof:

- (a) by personal service by delivering the document to the person;
- (b) by regular or registered mail to the person’s last known address;
- (c) by courier to the person’s last known address;
- (d) by fax transmission at the person’s last known fax transmission number;
- (e) by e-mail at the person’s last known e-mail address; or
- (f) as directed by the Tribunal conducting the Hhearing.

(2) Documents transmitted by personal service or by courier are deemed to be served on the day that they are given to the recipient.

(3) If a document is sent by regular or registered mail, it is deemed to be served ~~four (4)~~five (5) days after mailing.

(4) If a document is sent by fax transmission or e-mail after 4:30 p.m., it is deemed served on the next day that is not a holiday.

- (5) The Tribunal may direct the Tribunal Coordinator or any other party to take steps to confirm that service has been effective.
- (6) The Rules regarding deeming of receipt date for fax transmission or email do not apply to the filing of the Notice of Appeal with the City Clerk because that document must be filed pursuant to Rule 19.

## FILING AND FAXING

- ~~13-11.~~ (1) Subject to Rule 19, the fFiling of any document by any party to a Hearing (i.e. transmitting it to the City Clerk) may be effected by personal delivery, by ordinary or registered mail, by fax transmission, by courier, by email or otherwise as the Tribunal may order.
- (2) A document that is more than twenty (20) pages may not be served by fax on other parties unless prior written consent from the intended recipient for this faxing is obtained.
- (3) Where a document is filed with the City Clerk, the date of the receipt stamp on the document shall be deemed to be the date of the filing, unless the Tribunal orders otherwise.
- (4) Where the Tribunal Coordinator has no record of the receipt of a document alleged to have been filed with the City Clerk, the document shall be deemed not to have been filed, unless the Tribunal orders otherwise.

## EXHIBITS

~~14-12.~~ All parties to a Hearing, particularly solicitors-lawyers and legal representativesagents, shall bring to the Hearing a sufficient number of copies of documents for the Tribunal Members, the Tribunal Coordinator, counsel to the Tribunal and the other parties.

~~15-13.~~ Photos shall be clear.

## FORMAT OF DOCUMENTATION

~~16-14.~~ Every written document in a proceeding shall be on 8 ½ by 11 inch paper and the text shall be printed, typed written or reproduced legibly with spaces between the lines, or in such alternate format as may be directed by the Tribunal in order to accommodate the needs of a party to the Hearing.

## CONTENT OF NOTICE OF APPEAL

~~17-15.~~ Where an applicantAppellant requests a Hearing before the Tribunal, the Notice of Appeal shall be in writing to the City Clerk and shall include:

- (1) the original signature of the Appellantapplicant, or representative;
- (2) the reasons in support of the Appeal;
- (3) the applicantAppellant's address, telephone number and, where available, fax number;
- (4) the name of the Respondent;
- (5) the name, address, and telephone number of any agent, representative, or lawyer representing the applicantAppellant;
- (6) whether special services or accommodation are required, including translation services or services for the visually or Hearing impaired; and

(7) the required ~~F~~fee.

## NOTICE OF APPEAL

~~18. In the following sections, the last day of the fifteen (15) day period after the deemed date of service of the decision of the License Issuer or poundkeeper is called the “appeal deadline”.~~

~~19. An appeal is commenced by the delivery or transmitting of a notice of appeal to the City Clerk by:~~

- ~~(1) personally delivering it to a person in the City Clerk’s Office;~~
- ~~(2) registered mail;~~
- ~~(3) ordinary mail; or~~
- ~~(4) courier.~~

~~A notice of appeal is ineffectual to create a right to a hearing unless it is received by the City Clerk on or before the appeal deadline. A notice of appeal cannot be delivered by fax transmission or email.~~

18. In the following sections, the last day of the fourteen (14) day period after the receipt or deemed date of receipt of the Decision or Property Standards Order under section 17 of this By-Law is called the “Appeal Deadline”.

19. An Appeal is commenced by delivering or transmitting a written Notice of Appeal together with the Fee to the Tribunal Coordinator by:

- (1) personally or by courier delivering it to a person in the City Clerk’s Office; or
- (2) ordinary mail.

A Notice of Appeal is ineffectual to create a right to a Hearing unless it is received by the Tribunal Coordinator on or before the Appeal Deadline. A Notice of Appeal cannot be delivered by fax transmission or email.

20-16. If a ~~N~~notice of ~~A~~appeal is received after the ~~A~~appeal deadline, the Tribunal Coordinator shall refuse the ~~N~~notice of ~~A~~appeal and advise the sender by registered mail that:

- (1) the ~~A~~appeal is denied based on the late filing; and
- (2) the ~~D~~decision under ~~A~~appeal is final and binding.

21-17. A person wishing to bring a motion to extend the time for filing an ~~A~~appeal shall make a written request (the “request”), supported by reasons, to the Tribunal Coordinator.

22-18. The Tribunal Coordinator may then schedule a time for the ~~H~~hearing of the motion and shall forward a copy of the request to the persons listed in Rule 28.

23-19. The person making the request has a right to attend the motion and further explain the particulars of the request to the Tribunal.

24-20. The Respondent and the Tribunal also have the right to ask questions of the person bringing the motion.

## DISCLOSURE

25-21. The Tribunal may, at any stage in a proceeding, make such order as it considers just and necessary for:

- (1) the exchange of documents;
- (2) the exchange of witness statements;

- (3) the provision of particulars; and
- (4) any other form of disclosure.

## PLANNING THE HEARING

~~26-22.~~ Upon receipt of a ~~N~~notice of ~~A~~appeal that is received on or before the ~~A~~appeal deadline, the City Clerk, through the Tribunal Coordinator, will process the ~~A~~appeal by scheduling a ~~H~~hearing ~~for the next available hearing date~~. If a party to the ~~H~~hearing advises Tribunal Coordinator of unavailability for that date, the Tribunal Coordinator, in consultation with the chair of the Tribunal, may set a later ~~H~~hearing date; however, in the event of repeated unavailability the Tribunal Coordinator may proceed to set a ~~H~~hearing date, despite the inconvenience to that party.

~~27-23.~~ The Tribunal Coordinator shall set the time and place of a ~~H~~hearing.

~~28-24.~~ The Tribunal will have a standard standing ~~H~~hearing date each month, on a basis to be determined by the Tribunal. If no ~~A~~appeals are ~~scheduled submitted~~ by 3:30 p.m. on the day that is ~~a minimum of two- four 4)~~ weeks prior to the standing ~~H~~hearing date, the meeting for that month is cancelled and notification via email or telephone is sent to the following:

**(By-law 78-2009)**

- (1) the Tribunal ~~M~~members;
- (2) the City Solicitor;
- (3) counsel to the Tribunal;
- (4) in the case of ~~H~~hearings under the Licensing By-law, the Business Licensing By-law **(By-law 332-2013)**, the Mobile Licensing By-law **(By-law 67-2014)**, the Adult Entertainment Establishment By-law **(By-law 114-2017)** and the appropriate Licen~~c~~se Issuer;
- (5) in the case of ~~H~~hearings under the Dog By-law, the ~~P~~poundkeeper;
- ~~(6)~~ in the case of ~~H~~hearings under the Animal Control By-law, the Licen~~c~~se Issuer, and
- ~~(6)(7)~~ in the case of Hearings relating to the Property Standards By-law, the Property Standards Officer; and
- ~~(7)(8)~~ the Manager of Prosecutions;

~~29. If the Tribunal Coordinator receives a withdrawal of appeal prior to the hearing date, notice of cancellation of the hearing shall be sent to all persons who received notice of the hearing.~~

~~29. An Appellant may withdraw an Appeal by filing, by means including but not limited to email, ordinary mail, courier or in-person, a written notice of withdrawal of Appeal with the City Clerk prior to the Hearing date. Upon receipt of a written notice of withdrawal of Appeal the Tribunal Coordinator shall issue a notice of cancellation of the Hearing and administrative dismissal of the Appeal to all persons who received notice of the Hearing.~~

~~30-25.~~ The Tribunal Coordinator shall prepare an agenda package for each ~~A~~appeal consisting of: **(By-laws 78-2009, 340-2012)**

- (1) the schedule of all ~~A~~appeals to be heard on that day;
- (2) the notice of each ~~H~~hearing;
- (3) in the case of a licensing ~~A~~appeal, the ~~D~~decision of the Licen~~c~~se Issuer;
- (4) in the case of a dog designation, the ~~D~~decision of the ~~P~~poundkeeper;
- ~~(5)~~ in the case of an ~~A~~appeal under the Animal Control By-law, the ~~D~~decision of the Licen~~c~~se Issuer;
- ~~(5)~~ (6) in the case of an Appeal of a Property Standards Order, a copy of the Property Standards Order;
- ~~(6)~~ (7) the Notice of Appealletter of appeal;

- (7) (8) any related information such as reports or correspondence, if any;  
(8) (9) an extract of the relevant portion of the by-law in question.

The agenda package is sent to all persons set out in Rule 28 and to the person who has filed the Notice of Appeal.

~~31-26.~~ On the day of the Hhearing the Tribunal Coordinator shall post the schedule of all Aappeals to be heard, in some visible place outside the Hhearing room.

~~32. Once a date has been set for a hearing, it may not be adjourned except by order of the Tribunal, except if an appeal is withdrawn as set out in Rule 29.~~

32. Once a date has been set for a Hearing, it may not be: (i) adjourned or (ii) settled and/or withdrawn with or without conditions, except on consent of all parties, made in writing and filed with the Tribunal Coordinator at least two (2) days prior to the Hearing (unless determined otherwise by the City Clerk) or by order of the Tribunal.

### **CONFLICT OF INTEREST**

~~33. The Tribunal is subject to the *Municipal Conflict of Interest Act*. Reference shall be made to that Act as to what constitutes an indirect pecuniary interest (Section 2 of the Act). The pecuniary interest, direct or indirect, of a parent or the spouse, same-sex partner or any child of the Tribunal member shall, if known to the member, be deemed to be also the pecuniary interest of the member.~~

### **CODE OF CONDUCT**

33. The Members of the Tribunal shall be subject to such Code of Conduct and other by-laws, policies and procedures as may be approved by Council.

## PRE-HEARING

~~34-27.~~ The Tribunal may, at the request of a party or on its own initiative, direct that a pre-hearing conference be held in any proceeding and that the parties participate in the conference.

~~35-28.~~ (1) The purpose of the pre-hearing conference will be to:

- (a) exchange information between the parties, including disclosure of particulars, physical or documentary evidence, lists of witnesses and witness statements;
  - (b) narrow or simplify any issues of law and fact;
  - (c) identify agreed upon facts, evidence or law;
  - (d) provide notice of any preliminary motions;
  - (e) establish dates by which any steps in the proceeding are to be started or completed;
  - (f) determine the estimated duration of the ~~H~~hearing;
  - (g) determine any other matter that may assist in the just and expeditious disposition of the proceeding; and
  - (h) mediate any or all of the outstanding issues in dispute.
- (2) A pre-hearing conference may be conducted in person, in writing, or by telephone conference call at the discretion of the Tribunal or as may be agreed upon by the parties.
- (3) The Tribunal chair may designate any person to preside at the pre-hearing conference.
- (4) Quorum for a pre-hearing conference may be reduced to one ~~M~~member of the Tribunal at the discretion of the Tribunal chair.
- (5) If a ~~M~~member of the Tribunal presides at the pre-hearing conference, ~~theyhe or she~~ shall not be a ~~M~~member of the panel making the final ~~D~~decision unless all parties consent in writing.
- (6) At the conclusion of the pre-hearing conference the parties or their representatives may sign a memorandum setting out the results of the pre-hearing conference to be given to the Tribunal to form the basis of a consent order.
- (7) No information about the pre-hearing conference shall be provided to the Tribunal making a ~~D~~decision on the merits except as set out in Rule 35(6).

## SUMMONSES

~~36-29.~~ The Tribunal may require any person, including a party, by summons to attend at the ~~H~~hearing to give evidence on oath or affirmation.

~~37. A summons shall be in the following form:~~

~~**Summons in form prescribed by Regulation 116/95 of the Statutory Powers Procedure Act**~~

~~Summons to a witness before the Brampton Appeal Tribunal~~

~~YOU ARE REQUIRED TO ATTEND TO GIVE EVIDENCE at the hearing of this proceeding on (day), (date), at (place), and to remain in attendance until your attendance is no longer required.~~

~~YOU ARE REQUIRED TO BRING WITH YOU and produce at the hearing the following documents and things: (Set out nature and date of each~~

~~document and give sufficient particulars to identify each document and thing.)~~

~~IF YOU FAIL TO ATTEND OR TO REMAIN IN ATTENDANCE AS THIS SUMMONS REQUIRES THE SUPERIOR COURT OF JUSTICE MAY ORDER THAT A WARRANT FOR YOUR ARREST BE ISSUED OR THAT YOU BE PUNISHED IN THE SAME WAY AS FOR CONTEMPT OF THAT COURT.~~

\_\_\_\_\_  
Date\_\_\_\_\_

\_\_\_\_\_  
Signed by Counsel to the Tribunal

~~NOTE: You are entitled to be paid the same fees or allowance for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice of Ontario.~~

~~37.~~ A summons shall be in the form prescribed by Reg. 116/95 of the Statutory Powers Procedure Act, as amended, and signed by the Chair.

~~38.~~ To obtain a summons, a party must satisfy counsel to the Tribunal that the evidence of the person to be summonsed is relevant to the issues in dispute at the hearing

~~39-38.~~ The summons shall be personally served by a provincial offences officer or any other person over the age of eighteen (18) years. Service shall be proved by a written affidavit.

~~40-39.~~ The person summonsed is entitled to ~~receive~~ be paid by the party summoning such witness the same fees and travel allowances as set out in Tariff A (Lawyers Fees and Disbursements) of the Rules of Civil Procedure. The Tribunal Coordinator shall be responsible for processing witness fees and travel allowances, as required.

## THE HEARING

~~41-40.~~ The ~~H~~hearing is held as follows:

- (1) A ~~majority of the appointed minimum of three (3) M~~members must be present to achieve quorum. In the following sections, the “panel” means those ~~M~~members that are present to conduct the ~~H~~hearing or procedure.
- (2) If quorum is not achieved within thirty (30) minutes of the scheduled start time, all ~~H~~hearings are rescheduled to the next standing date and notice shall be sent as if it were the first notice of the ~~H~~hearing.
- (3) When the Tribunal chair is unable to attend a ~~H~~hearing, the panel may select amongst themselves the ~~M~~member who will chair the ~~H~~hearing (“the ~~H~~hearing chair”).
- (4) The ~~hearing- Hearing~~ chair will call the ~~H~~hearing to order and may advise the ~~A~~ppellant of the ~~H~~hearing procedure.
- (5) The Tribunal Coordinator or any Member of the Tribunal will swear or affirm the witnesses.
- (6) A member of the City Solicitor’s Office, or counsel appointed by the City Solicitor, who is not privy to the case of either party may be present as

counsel to the Tribunal to assist and give legal advice to the Tribunal hearing the case. However, counsel to the Tribunal does not have power to decide the ~~A~~appeal, which rests with the Tribunal.

- (7) The ~~H~~hearing process is informal, but the *Statutory Powers Procedure Act* applies.
- (8) The Tribunal may decide which of the parties it wishes to hear from first, but it is customary that the City proceeds first.
- (9) The City's agent sh~~all~~~~ould~~ be called "City's Case Presenter" and not "prosecutor".
- (10) The process for each witness to give testimony is: evidence in chief, cross-examination and reply, if any.
- (11) Each ~~M~~member of the Tribunal may ask questions of the witness at any time.
- (12) The Tribunal may recall a witness for the purpose of clarifying a point that has arisen since the witness has concluded ~~his or her~~their main presentation.
- (13) The parties have the right to make opening and closing statements. It is customary that the City proceeds first; however the Tribunal may rule otherwise.
- (14) These Rules, except for Rule 41(1), are subject to change by the Tribunal, if the Tribunal finds that there is a fairer way of proceeding.

41. Hearings of the Tribunal may be recorded and a copy of the recording shall be maintained by the Clerk for such period of time as accords with applicable City policy and procedure.

## DECISION

~~42. The panel will attempt to make a written decision no later than fifteen (15) days after the hearing is completed.~~

~~43. The counsel to the Tribunal will prepare the Notice of Decision and the Tribunal Coordinator shall ensure that the members of the hearing Tribunal sign it.~~

42. (1) The Tribunal may recess at any time during or at the conclusion of a Hearing to deliberate and may give an oral Decision or may reserve its Decision.

(2) The Tribunal will attempt to issue a written Decision within 30 days after the Hearing is completed.

(3) The counsel to the Tribunal will prepare the Notice of Decision and the Tribunal Coordinator shall ensure that at least the Chair, on behalf of the Tribunal, or a majority of the consenting Tribunal Members party to the Hearing, sign the Decision in ink or digitally.

43. Following an oral Decision or where the Tribunal has reserved its Decision, the Appellant shall thereafter be issued a Notice of Decision by email, courier, ordinary or registered mail.

44. The Tribunal Coordinator will send a copy of the Notice of Decision to:

- (1) the ~~M~~members of the Tribunal;
- (2) the parties to the ~~H~~hearing;
- (3) any person that the Tribunal directs; and
- (4) City staff as listed in Rule ~~28~~24.

## **COSTS**

45. The Tribunal does not have the power to award costs of the proceedings to a party.

## **MINOR ERRORS**

46. The Tribunal may at any time and without prior notice to the parties, correct a typographical or any other minor error, clarify an ambiguity or misstatement or revise an incidental matter contained in a written ~~D~~ecision or order.

## Schedule 2 to By-law 48-2008

### Honoraria to Members of the Brampton Appeal Tribunal

Each ~~M~~member who participates in a meeting to hear ~~A~~appeals under this by-law shall be paid an honorarium as follows:

Regular Members - \$100.00/meeting

Chair or Acting Chair - \$125.00/meeting  
~~of \$75.00~~

# Brampton Appeal Tribunal Hearing Process

The hearing will be conducted according to the rules established by the **City's By-law 48-2008** (a copy may be found at the City of Brampton's website: [www.brampton.ca/en/City-Hall/Bylaws/Documents/appeal-tribunal.pdf](http://www.brampton.ca/en/City-Hall/Bylaws/Documents/appeal-tribunal.pdf)) and under the *Statutory Powers Procedure Act* (a copy may be found at the Government of Ontario's website: [www.e-laws.gov.on.ca/index.html](http://www.e-laws.gov.on.ca/index.html))

The rules of evidence of the Tribunal are informal; however, anyone giving evidence must first swear under oath or affirm to tell the truth.

**If you intend to submit photographs or any other documentation, Please provide a digital copy to the legislative Coordinator and ensure you bring seven (12) copies of the material to your hearing.**

The hearing includes the following individuals and roles:

Brampton Appeal ***Tribunal members*** – Ten (10) persons who hear the appeal evidence, and ask questions, to make a decision on the appeal. The Tribunal Chair leads the hearing to ensure order and a fair hearing for all involved.

***Appellant*** – a person, and/or their authorized representative, who has filed the appeal being considered before the Tribunal.

***Witness*** – a person, identified by either the Appellant or City's Case Presenter, giving evidence about the appeal. A Witness may include any resident and/or City staff person who has information to provide as evidence at the hearing.

City's ***Case Presenter*** – a person representing the City of Brampton, generally and presenting the City's evidence in support of the City's decision under appeal at the hearing.

***Clerk*** – a person from the City Clerk's Office supporting the Tribunal and hearing process, including swearing or affirming witnesses.

The hearing process will generally follow these steps:

1. The City's ***Case Presenter*** will bring its case, including presenting evidence through its ***Witnesses*** and documentation.
2. The ***Appellant*** will have an opportunity to ask questions of each of the City's ***Witnesses*** about the evidence provided, after which the City's Case Presenter may reply, if necessary.
3. The ***Tribunal members***, in a defined order, will then have an opportunity to ask questions of clarification of the ***Case Presenter*** and each ***Witness***.

4. Then, after the City finishes presenting its case, the **Appellant** will present its case, including presenting evidence through its **Witnesses** and documentation.
5. The City's **Case Presenter** will have an opportunity to ask questions of the **Appellant** and any **Witnesses** for the **Appellant** about the evidence provided, after which the **Appellant** may reply, if necessary.
6. The **Tribunal members**, in a defined order, will then have an opportunity to ask questions of clarification of the **Appellant** and its **Witnesses**.
7. The **Case Presenter** and the **Appellant** will then make closing submissions, in order to summarize their evidence, their position and the decision being asked of the Tribunal.

All questions to witnesses, whether from the Case Presenter, the Tribunal or you, must be related to matters that are relevant to the hearing. In addition, any person giving evidence may refuse to answer any question asked of him or her if the answer may tend to incriminate him or her or may tend to establish his or her liability in a civil proceeding.

- The Case Presenter and the Appellant (you) will then make closing submissions, which means you get to summarize your evidence, your position and the decision you are asking the Tribunal to make.

After hearing all of the evidence and submissions, the hearing is completed. The Tribunal will adjourn and retire to make its decision. The Tribunal Counsel will assist the Tribunal in writing its decision. The decision will be mailed to you and other interested parties generally within 30-35 days of the hearing's date. The decision of the Tribunal is final and binding, but may be subject to judicial review in certain circumstances.

If you have any questions, please contact the Legislative Coordinator at the City of Brampton Clerk's Office, as listed on your Hearing Notice.

<b>Procedure By-law - At a Glance</b> <b>For Council Committees and Citizen Advisory Committees</b>	
<b>Additions to an Agenda</b>	Additions to the agenda for a Committee meeting are permitted by a two-thirds majority vote.
<b>Amendments</b>	If an amendment is not contrary, it is voted on before the main motion. The last amendment made is voted on first.
<b>Attendance</b>	If any member of a Committee fails to attend three consecutive regular meetings of that Committee without authorization by Council resolution, that citizen's membership on the Committee is terminated and Council will appoint a new person to fill the vacancy.
<b>Call the Question</b>	The vote will be taken after any member who has not already spoken and wishes to, has spoken. If a member speaks to the motion, he/she may not then immediately call the question.
<b>Chair Not Present</b>	If the Committee Chair does not attend within 15 minutes of the meeting start time, the Co-Chair, Vice-Chair, or other member, will assume the Chair for the meeting, until the arrival of the Chair.
<b>Conflict of Interest</b>	A member is required to declare a conflict of interest prior to any consideration of the matter and to disclose the general nature of the conflict. The conflict must relate to a direct or indirect pecuniary interest, eg. positive or negative financial interest, affecting the member or the member's spouse, child or parent. The member shall not participate in the discussion, vote on any motion regarding the matter, or attempt in any way to influence the voting before, during or after the meeting. Please refer to the <i>Municipal Conflict of Interest Act</i> .
<b>Defer (to a Future Meeting)</b>	To postpone consideration of a matter to a future meeting, the vote on a deferral is taken immediately, that is, there is no discussion or debate on the motion to defer.
<b>Delegations</b>	A delegation is limited to speaking for a maximum of five minutes, unless an extension is agreed upon. If the subject of the delegation is not a matter on the agenda, it will be received without comment and referred to staff for a report, unless there is a majority vote to simply receive the delegation. Delegation requests are directed by the City Clerk's Office to the appropriate Committee.
<b>Interrupt a Speaker</b>	A member is prohibited from interrupting a speaker except on a point of order or point of privilege.
<b>Last Speaker to a Motion</b>	The mover has the right to be the last speaker unless the question is called and then those rules apply (see above).
<b>Minutes</b>	The minutes of each Committee meeting will be presented at the next regular meeting of the appropriate Standing Committee or Council for approval of the recommendations and receipt of the minutes. The Standing Committee or Council may debate and amend any matter contained within the Committee minutes.
<b>Order of Speakers</b>	The order of speakers is as announced by the Chair. Only a speaker may make a motion.
<b>Point of Order</b>	A point of order may be raised at any time, eg. for a breach of the rules.



# BRAMPTON

## Agenda

Brampton Appeal Tribunal

The Corporation of the City of Brampton

**Date:** Monday, September 18, 2023

**Time:** 9:00 a.m.

**Location:** Hybrid Meeting - Virtual Option & In-Person in Council Chambers – 4th Floor – City Hall

**Members:** Will Ramjass (Chair)  
Natalie Javed (Vice-Chair)  
Chris Banks  
Beryl Ford  
Sardara Singh Chera

For inquiries about this agenda, or to make arrangements for accessibility accommodations for persons attending (some advance notice may be required), please contact:  
Tammie Jackson, Legislative Coordinator, Telephone 905.874.3829  
[cityclerksoffice@brampton.ca](mailto:cityclerksoffice@brampton.ca)

Note: Meeting information is also available in alternate formats upon request.

1. Call to Order

2. Declarations of Interest under the Municipal Conflict of Interest Act

3. Hearings

3.1 Hearing # 1 - 9:00 a.m.

File: L11.11/2022

Property: Brampton, Ontario

Appellant:

Date of OTCs: November 22, 2022

Issued Under: By-law 104-96, as amended

Legal Description: PL 43M1986 LOT 314

3.2 Hearing # 2 - 10:00 a.m.

File #: L25.04/2022

Appellant: Chris and Allison Duncan

Address: Brampton, Ontario

Date of Incident: October 29, 2022

Date of Appeal: December 22, 2022

Issued Under: Dog License By-law 250-2005

4. Adjournment

**Next Scheduled Meeting:** Monday, September 25, 2023 at 9:00 a.m.



Office Address:  
8850 McLaughlin Road South, Unit 2  
Brampton, ON L6Y 5T1  
Tel: 905-458-3424  
Fax: 905-458-5224  
Fax: 905-458-3903

PROPERTY STANDARDS ORDER

By-law No. 165-2022, as amended  
Issued pursuant to section 15.2(2) & 15.8(1)  
of the *Building Code Act, 1992*, R.S.O. 1992, c.23

Legal Description:	Officer:  Kevin Locke	Telephone No.:  905-458-3312  Email:  Kevin.Locke@brampton.ca
Municipal Address:	Compliance Date:  Dec 16, 2022	
Owner:	<div>Issued To: <div>Owner<input checked="" type="checkbox"/></div><div>Tenant<input type="checkbox"/></div><div>Other<input type="checkbox"/></div><div>Delivery Type: <div>Registered Mail<input checked="" type="checkbox"/></div><div>Personal Service<input type="checkbox"/></div><div>Other<input type="checkbox"/></div><div>Date:  Oct 18, 2022</div></div></div>	

I, **Kevin Locke**, Property Standards Officer for the City of Brampton hereby give notice that the property identified above does not comply with the minimum standards prescribed in By-law No. 165-2022, as amended, the particulars of which are described in Schedule A attached to this Property Standards Order.

**YOU ARE HEREBY ORDERED** to carry out the repairs necessary to correct the defects as set out in Schedule A attached to this Order. This Order shall be complied with and the property brought into a condition of compliance with the prescribed standards or the site cleared of all buildings, structures, debris or refuse and left in a graded or levelled condition in accordance with any permits required by law **on or before the compliance date of Dec 16, 2022**

**WHERE** it has been determined that the necessary repairs or demolition have not been completed in accordance with this Order as confirmed or modified, in addition to any possible court action the City of Brampton may cause the property to be repaired or demolished and the costs of such actions may be registered as a lien on the land and shall be deemed to be municipal real property taxes and may be added by the Clerk of the municipality to the assessment roll and collected in the same manner and with the same priorities as municipal real property taxes.

Subsection 15.3(1) of the *Building Code Act, 1992* provides that:

"An owner or occupant who has been served with an order made under subsection 15.2(2) and who is not satisfied with the terms or conditions of the order may appeal to the committee by sending a notice of appeal by registered mail to the secretary of the committee within 14 days after being served with the order."

If you are not satisfied with the terms or conditions of this Order, you have the **right to appeal this Order** to the Property Standards Committee by sending a Notice of Appeal along with the applicable fee of \$125.00 to the Secretary of the Property Standards Committee (full address below) **by registered mail by no later than the final date for giving notice of appeal that is set out below.**

**FINAL DATE FOR GIVING NOTICE OF APPEAL: Nov 07, 2022.**

A Notice of Appeal shall contain:

- (a) A copy of the Property Standards Order;
- (b) A statement setting out the reasons for the appeal;
- (c) The name, telephone number, email address, and address for service of the Appellant or the Appellant's Representative if represented; and
- (d) A non-refundable appeal fee of \_\_\_\_\_ made payable to the City of Brampton.

Secretary Address:

Secretary of the Property Standards Committee  
City of Brampton  
Office of the City Clerk,  
2 Wellington Street West  
Brampton, ON L6Y 4R2

In the event that no appeal is taken within the prescribed time, this Order shall be deemed confirmed, final, and binding, requiring the property owner to comply with the terms within the time and the manner specified.

Oct 18, 2022

Date Order Issued



Kevin Locke  
Property Standards Officer

**Please note that this Order does not represent an exhaustive list of possible violations of other applicable statutes and by-laws.**

**You are responsible for ensuring compliance with the *Ontario Fire Code*, the *Ontario Building Code*, the *Planning Act* and other applicable statutes or regulations such as Zoning By-laws in relation to this property, whether any such requirements have been identified in this Order or not.**

**Court File No:**

**ONTARIO COURT OF JUSTICE**

**BETWEEN:**

**THE CORPORATION OF THE CITY OF BRAMPTON**

**Plaintiff**

**-AND-**

**Defendant**

**AFFIDAVIT OF SERVICE**

I, Shane Keyes , of the City of Brampton, Regional Municipality of Peel, in the province of Ontario, make oath and say:

THAT on the 18TH day of OCTOBER, 2022 I did mail the property owner with a copy of this Order by registered mail, to the owners last known address of:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
**At the City of Brampton**

\_\_\_\_\_  
Shane Keyes

Sworn by the said Shane Keyes  
before me, at Brampton, Ontario  
on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
A Commissioner, for taking affidavits, etc.

Signed:

Address: 5 Ray Lawson Boulevard  
2<sup>ND</sup> Floor  
Brampton, Ontario L6Y 5L7  
(905) 450-7211  
(905) 874-2699

TO: The Clerk of the Court

# SCHEDULE "A"

MUNICIPAL ADDRESS:

LEGAL DESCRIPTION:

NO	DEFECTS	LOCATION	NECESSARY REPAIR	BY-LAW SECTION
1	26.4 - Every Building shall be kept free from visible mould and, or mildew.	-	Conduct mould inspection, provide report post inspection and remedy mould issues if any	26.4
2	26.6 - All interior floors, ceilings, and walls shall be kept free from dampness caused by the entrance of moisture through an exterior wall, window, roof, Cellar, Basement, or Crawl Space.	-	Complete necessary repairs to prevent moisture from entering the unit	26.6
3	26.7 - All damages or defects within a Building or part thereof that may cause water damage or mould growth shall be repaired.	-	Repair all damages or defects that may lead to mould growth and water damage	26.7
4	40.3 - Where it appears that the structural integrity or condition of a building, structure, or part thereof may be adversely affected by damage or deterioration, the Officer may order that a structural engineering assessment and report be conducted and prepared by a professional engineer licensed in Ontario. The report shall include all deficiencies of structural concern; the contributory cause of the damage; the required repairs and plan for remediation; and the recommended timelines for repair. Upon receipt of the report, it shall be produced to the Officer forwith professional engineer licensed in Ontario. The report shall include all deficiencies of structural concern. (1) Where repairs are required, the Owner shall repair, or cause to be repaired, the building, structure, or part thereof, in accordance with the repair methods, and timelines described in the report. (2) Upon completion of the repairs, a verification report shall be prepared to confirm that the work proposed in the report has been completed wholly and that the building, structure, or part thereof is structurally adequate for its	-	Moisture has been penetrating the building envelope and entering multiple units since 2019 which may lead to loss of structural integrity. Provide structural engineering assessment and report be conducted and prepared by a professional engineer licensed in Ontario. The report shall include all deficiencies of structural concern; the contributory cause of the damage; the required Repairs and plan for remediation; and the recommended timelines for Repair. Upon receipt of the report, it shall be produced to the Officer forwith.	40.3

SCHEDULE "A"

	use. This report shall be provided to the Officer.			
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**Community Services**  
**Animal Services**

January 17, 2020

**COPY**

Dogs Name: "Krish"  
Microchip: None  
Sex: Male  
Breed: German Shepard  
Description: Tan and Black, 1 Year Old  
License: None  
Activity#: A19-211424

To Archana Sharma;

This letter is to inform you that Brampton Animal Services has completed an investigation of the incident that occurred on December 24, 2019 involving your dog "Krish". At approximately 10:00pm, a man was walking down Chinguacousy Road and passed by Bandera Crescent. "Krish" was in the backyard of [redacted] with his owner [redacted]. "Krish" escaped the yard, ran towards the man walking by and bit him on the left forearm. You and Yuvraj ran out and grabbed "Krish" and took the man to urgent care for treatment. [redacted] then took the man to urgent care for follow-up appointments for the next several days. Due to the nature of this incident, the City of Brampton Poundkeeper is satisfied that grounds exist to designate your dog, "Krish" as Potentially Dangerous Dog.

This designation is in effect as of January 17, 2020.

Following is the definition of a Potentially Dangerous Dog, as defined in By-law 250-2005.

**"Potentially dangerous dog"** means any individual dog that chases or approaches any person or domestic animal in a menacing fashion or apparent attitude of attack, including, but not limited to, behaviour such as growling or snarling;

After Animal Services receives a complaint of a potentially dangerous dog, the Poundkeeper will investigate, and upon being satisfied that grounds exist, may designate the dog as a potentially dangerous dog.

**You are required to follow the restrictions outlined in Attachment A to this letter.**

Under the *Statutory Powers Procedures Act*, you do have the **right to appeal this designation**. Should you wish to exercise that right, you would appear before a tribunal at a date to be arranged.

Under Section 25 of the subject by-law, you do have the right to appeal this designation to the Animal Control Tribunal.

Should you wish to exercise that right, you are required to send a letter:

- Requesting a hearing by the Brampton Appeal Tribunal
- Sent by **registered mail** or **delivered in person**
- To be received **no later than 15 days** from the day of designation
- Date to be received by: **February 7, 2020.**
  
- Addressed to: **The Secretary, Brampton Appeal Tribunal  
City Clerk's Office  
2 Wellington Street West  
Brampton, ON, L6Y 4R2**
  
- Identifying :
  - the person(s) named on this letter of designation
  - the address of the dog owner
  - the reason for appealing the Order
  
- \$200.00 appeal fee:
  - appended with the appeal letter
  - fee made payable to: **The Corporation of The City of Brampton**

Upon receipt of that appeal letter, an acknowledgement will be sent, and a notice of hearing will follow once a date is confirmed.

The hearing is conducted under the *Statutory Powers Procedure Act* to determine whether the dog is potentially dangerous and the Tribunal may:

- Confirm the designation, **or**
- Alter the designation, **or**
- Direct that the owner do anything under this by-law as the Tribunal considers proper, and for such purpose may substitute its opinion for that of the Poundkeeper.

The parties to the appeal are the Poundkeeper, the owner, and such other persons as the Tribunal may specify.

The decision of the Tribunal shall be final.

**Notwithstanding that an owner has appealed to the Tribunal, the designation of the Poundkeeper is effective until the appeal is disposed of.**

**If you are unable or unwilling to meet the requirements of the by-law, you are required to surrender such dog into the care and control of the Poundkeeper for humane euthanasia.**

Every person who contravenes any of the provisions of the by-law is guilty of an offence, and is liable, upon conviction, to a penalty of not more than five thousand dollars (\$5,000.00), exclusive of costs, in respect of each offence. In addition, or in substitution, the Poundkeeper may also charge the owner under the *Dog Owners' Liability Act*.

If you require further information regarding this designation, please call the Animal Services Division at 905-458-5800 between 9:00 a.m. and 5:00 p.m., Monday to Saturday.

Your immediate cooperation with this matter is appreciated.

Respectfully,



James LaFlamme  
Supervisor of Animal Services

Attachments:

- A. Restrictions
- B. Dog By-law 250-2005, as amended

## Attachment A

### **Under Dog By-law 250-2005, as amended, you are required to follow the following restrictions:**

No person under the age of eighteen years shall own a potentially dangerous dog. Where a dog that is designated as a potentially dangerous dog is owned by a person under the age of eighteen years at the time of designation, the parent or guardian of that person shall be deemed to be the owner.

No person shall transfer ownership of a potentially dangerous dog without first having obtained the consent of the pound keeper. The pound keeper will give consent unless he or she is satisfied that the transferee is unlikely to fulfill one or more of the conditions listed in By-law 250-2005 pertaining to potentially dangerous dogs or any requirement of the *Dog Owners' Liability Act* or regulations or orders thereto.

The transfer of ownership to a pound or a research facility registered under the *Animals for Research Act* does not require consent from the Pound keeper.

Your dog must be licensed by the City of Brampton by February 28<sup>th</sup> of each calendar year as a potentially dangerous dog. The annual fee is \$150.00. The license may only be purchased at the Animal Shelter at 475 Chrysler Drive or through an Animal Control Officer. The dog must at all times have a city issued potentially dangerous dog license affixed to its collar.

Your dog must be implanted with an identification microchip and have all information kept current.

Your dog must be sterilized before the dog reaches six months of age or within 30 days of being so designated. The owner shall provide proof of sterilization on demand of the Animal Control Officer. No person shall breed or permit to be bred a potentially dangerous dog.

Every owner of a potentially dangerous dog shall display, in a conspicuous place at the entrance to the owner's premises, a warning sign indicating the presence of a potentially dangerous dog that is supplied by the City of Brampton.

No person shall abandon a potentially dangerous dog other than to a pound operated by, or on behalf of, a municipality in Ontario, or to a registered research facility or supply facility under the *Animals for Research Act*.

No person shall allow a potentially dangerous dog in his or her possession to stray.

No person shall train a potentially dangerous dog for fighting.

**The dog shall be equipped with a muzzle and secured by a leash or enclosure in accordance with the following rules:**

The potentially dangerous dog shall be fitted with a collar or harness that is properly fitted to and placed on the dog.

The movement of the potentially dangerous dog shall be controlled by a person 18 years or older, by means of a leash attached to the collar or harness on the potentially dangerous dog.

The leash is not more than 1.8 metres (5 feet, 10.85 inches) in length and is attached to the collar or harness.

The collar or harness, the leash, and the attachment between the leash and the collar or harness are all strong enough to prevent the potentially dangerous dog from breaking any of them.

The mouth of the potentially dangerous dog is covered by a muzzle that is humane and that is strong enough and well-fitted enough to prevent the potentially dangerous dog from biting, without interfering with the breathing, panting, or vision of the potentially dangerous dog or with the dangerous dog's ability to drink.

Your dog is not to be left unattended, except where the dog is securely contained inside your home or within a yard of the property that is enclosed by a fence that is no less than two metres (6.5 feet) in height, is securely locked, and is constructed in a fashion so as to prevent the dog from escaping or breaking out from the property.

May 3, 2023

**Registered Mail**

**Sent via email:**

**Re: Property Standards Hearing**

**Our File: L11.11/2022**

---

Enclosed is the Decision of the Property Standards Committee resulting from the hearing held on April 27, 2023, regarding the Property Standards Order dated November 22, 2022.

Yours truly,

Tammi Jackson  
Legislative Coordinator  
City Clerk's Office  
Tel: 905.874.3829 / Fax: 905.874.2119  
[tammi.jackson@brampton.ca](mailto:tammi.jackson@brampton.ca)

/attach

cc: P. Morrison, Acting Chief Administrative Officer  
S. Akhtar, City Solicitor, Legal Services, Legislative Services  
P. Fay, City Clerk, Legislative Services  
C. Gravlev, Deputy City Clerk, Legislative Services  
C. Grant, Acting Deputy City Solicitor, Legal Services Legislative Services  
A. Stevenson, Acting Manager of Prosecutions, Legislative Services  
M. Wyner, Prosecutor, Corporate Services  
S. Keyes, Manager, Enforcement and Property Standards, Corporate Services  
P. Chudoba, Supervisor, By-law Enforcement, Corporate Services  
R. MacLeod, Supervisor, By-law Enforcement, Corporate Services  
V. Tatla, Property Standards Officer, Corporate Service

**In The Matter** of an appeal by \_\_\_\_\_,  
regarding the property \_\_\_\_\_ municipally known as \_\_\_\_\_ Brampton  
Ontario, issued under the Property Standards By-law 104-96, as amended.

The Property Standards Committee of the City of Brampton held a hearing on Thursday, April 27, 2023, in the Council Chambers, 4<sup>th</sup> Floor, 2 Wellington Street West, Brampton and electronically using the Webex meeting platform.

## **Decision**

That the hearing of the appeal by \_\_\_\_\_,  
against an Order of the Property Standards Officer dated November 22, 2022, regarding the  
\_\_\_\_\_ municipally known as \_\_\_\_\_ Drive Brampton Ontario, be denied  
and the Order of the Property Standards Officer (the "Order") be upheld for the following  
reasons:

1. the Committee is satisfied that the defects identified in the Order were established by the City as present and are contrary to s. 12.2(4) of Property Standards By-law 104-96;
2. the Appellant did not deny the defects were present;
3. the Committee is satisfied that the time set out in the Order to rectify the defects is appropriate; and
4. the Appellant acknowledged that the defects were being repaired and could be completed in the time set out in the Order for compliance.

**Dated at The Corporation of the City of Brampton on this 3<sup>rd</sup> day of May 2023.**

Tammi Jackson  
Legislative Coordinator  
City Clerk's Office  
City of Brampton  
2 Wellington Street West  
Brampton, ON L6Y 4R2  
[tammi.jackson@brampton.ca](mailto:tammi.jackson@brampton.ca)

**Note:** *The Corporation of the City of Brampton or any owner or occupant affected by a decision of the Property Standards Committee, may appeal to a Justice of the Superior Court by notifying the Clerk of the City of Brampton in writing, and by applying to the Superior Court of Justice for an appointment within fourteen (14) days after the sending of a copy of the Decision of the Property Standards Committee.*

SAMPLE

July 29, 2023

**Registered Mail**

Email:

**RE: Brampton Appeal Tribunal – Notice of Decision  
Potentially Dangerous Dog Incident – October 29, 2023  
(File L25.04/2022)**

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Please find enclosed the decision of the Brampton Appeal Tribunal resulting from the hearing held on April 17, 2023. Pursuant to Section 9 of the Brampton Appeal Tribunal By-law 48-2008, this decision of the Tribunal is final.

Yours truly,

*Tammi Jackson*

Tammi Jackson  
Legislative Coordinator  
City Clerk's Office  
P: (905) 874-3829  
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[tammi.jackson@brampton.ca](mailto:tammi.jackson@brampton.ca)

c.c. Mr. S. Akhtar City Solicitor  
Mr. P. Morrison, Acting Commissioner Legislative Services  
Mr. P. Fay, City Clerk, Legislative Services  
Ms. C. Gravlev, Deputy Clerk, Legislative Services  
Ms. A. Stevenson, Acting Manager of Prosecutions, Legislative Services  
Mr. M. Wyner, Prosecutor, Legislative Services  
Mr. M. Mulick, Manager, Animal Services, Legislative Services  
Ms. A. Barrett, Supervisor, Animal Services, Legislative Services  
Mr. K. Stravrakos, External Counsel, O'Connor MacLeod Hanna LLP.

**IN THE MATTER OF** an appeal under Section 28 of Dog By-law 250-2005, as amended,  
of the Corporation of the City of Brampton by \_\_\_\_\_ of the City of  
Brampton, Ontario.

## **NOTICE OF DECISION**

This is the decision of the Brampton Appeal Tribunal (the “Tribunal”) on the appeal of Chris and Allison (the “Appellants”) under Section 28 of the Dog By-Law 250-2005, as amended (the “Dog By-Law”) of the decision of the Poundkeeper to designate the Appellants’ dog “\_\_\_\_\_”, as a Potentially Dangerous Dogs.

For the following reasons, and pursuant to Section 14 of the Brampton Appeal Tribunal By-law 48-2008, as amended (the “Tribunal by-law”), and Section 16.1 of the *Statutory Powers Procedure Act*, R.S.O. 1990 c. S. 22, the Tribunal dismisses the appeal and upholds the Potentially Dangerous Dog Designation.

## **REASONS**

At the request of \_\_\_\_\_, pursuant to the Dog By-Law and the Tribunal By-Law, a hearing was held on April 17, 2023. The issue to be determined by the Tribunal was whether to uphold the decision of the Poundkeeper to designate \_\_\_\_\_ (a two year old German Sheppard as a Potentially Dangerous Dogs.

The designation is related to an incident in which Binx is alleged to have attacked another dog named “\_\_\_\_\_” near the Appellants’ property on October 29, 2022.

The City called two witnesses, Brad Gow, the owner of “\_\_\_\_\_” and Amanda Barrett, Supervisor of Animal Control.

\_\_\_\_\_ testified that he was in his rear yard at the time of the attack, and “Oliver” who was a puppy under 10 pounds in weight at the time, was leashed in his front yard, with his mother watching the dog. Mr. Gow’s mother came around back, screaming that Oliver was being attacked. When he came out front, the attack was over and Oliver inside the home, showing signs of trauma. There was blood everywhere. He was informed by his \_\_\_\_\_ that Oliver had been attacked by Binx.

This was not the first attack. Binx had attacked Oliver in October, 2022 and earlier in July. The last attack resulted in a punctured liver and internal damage. The latest attack resulted in multiple puncture wounds, which required veterinary treatment. Photographs of the wounds were provided. There were other attempted attacks as well, where Binx was unable to get at Oliver. Nearly \$12,000 in veterinary bill had been incurred to date, with the Appellants willingly paying the bills. Whenever Oliver walks by Binx’s home, Binx still barks aggressively at them. Mr. Gow did note there are lots of other dogs in the neighbourhood and Binx only seems to have an issue with Oliver.

The attack was reported to animal control. Ms. Barrett, who confirmed the identify of the dog as Binx. Both the neighbour and the Appellant provided witness statements that agreed on the key points: Binx escaped the Duncan's back yard ran over to Oliver who was on a leash on property, and without provocation seized Oliver in his mouth and shook him. Mr. Duncan's statement included a description of him straddling Binx and prying his jaws loose to free Oliver.

Ms. Barrett testified that based on the seriousness of the bites, they would rank number 4 on the Dunbar scale. The scale goes from 1-6, with 6 being bites that result in death. In her view based on his past behaviour and the seriousness of the attack, it was only a matter of time before Binx attacked again. He had shown that his bite inhibition was poor and displayed signs of aggressive behaviour. She noted that even though his owners had advised he had undergone training after the earlier incidents, he continued to attack. In her opinion Binx represents a danger to public safety.

The Appellant, testified that Binx was not normally aggressive and that he socialised well with other dogs. He had undergone training including with family members. She took full accountability but speculated that Binx may have attacked because Oliver barked and lunged at him previously. One of the family's concerns was regarding the restriction that a Potentially Dangerous Dog could only be walked by adults. They have a 12 year old son who is of adult size and strength, whom they would like to be allowed to walk Binx. In short, it was the Appellants' position that the attacks on Oliver were an aberration, that Binx could be controlled and he did not represent a danger to the public.

## **Disposition**

The Tribunal By-law sets out the Tribunal's power and jurisdiction. Section 14 of the Tribunal By-law provides the Tribunal with the authority to "make any decision the poundkeeper could have made". In other words, the Tribunal stands in the shoes of the Poundkeeper for the purposes of an appeal.

The Poundkeeper's authority to designate dogs as Dangerous or Potentially Dangerous is found in section 24 of the Dog By-Law:

After receiving a complaint of a potentially dangerous or dangerous dog, the poundkeeper may investigate and upon being satisfied that grounds exist, may designate the dog as a potentially dangerous or dangerous dog.

Section 1 of the Dog By-law defines a Potentially Dangerous Dog as:

[...] any individual dog that chases or approaches any person or domestic animal in a menacing fashion or apparent attitude of attack, including, but not limited to, behaviour such as growling or snarling.

Binx meets this definition. On multiple occasions he has attacked Oliver without provocation, causing serious injury. While at this time the attacks appear confined to one animal, it is not clear what triggers Binx or what other circumstances may trigger him

again. While this Tribunal has no doubt of the sincerity of Appellants, and their willingness to take responsibility for these attacks, given the severity and repeated nature of the attacks it is clear that Binx represents a danger to the public and requires the additional measures imposed on Potentially Dangerous Dogs to protect public safety.

The Tribunal hereby upholds the decision of the Poundkeeper and designates Binx as a Potentially Dangerous Dog. The Appellant will be required to abide by all the conditions set out in sections 32-41 of the Dog By-Law, excerpts of which are attached as Schedule "A" to this decision.

Dated this 29<sup>th</sup> day of July, 2023.

Original signed by:

\_\_\_\_\_  
Natalie Javed (Acting Chair)

Original signed by:

\_\_\_\_\_  
Beryl Ford

Original signed by:

\_\_\_\_\_  
Chris Banks

Original signed by:

\_\_\_\_\_  
Sardara Singh Chera

## **Schedule “A”**

### **Excerpts of *Dog By-Law 250-2005*, as amended**

#### **Excerpts of *Dog By-Law 250-2005*, as amended**

....

#### **RESTRICTIONS RELATING TO POTENTIALLY DANGEROUS DOGS**

32. No person under the age of eighteen years shall own a potentially dangerous dog. Where a dog that is designated as a potentially dangerous dog is owned by a person under the age of eighteen years at the time of designation, the parent or guardian of that person shall be deemed to be the owner.

33. (a) No person shall transfer ownership of a potentially dangerous dog without first having obtained the consent of the poundkeeper. The poundkeeper will give consent unless he or she is satisfied that the transferee is unlikely to fulfill one or more of the conditions listed under Section 34 of this By-law or any requirement of the *Dog Owners Liability Act* or regulations or orders thereto

(b) Section 33(a) does not apply to a transfer to a pound or a research facility registered under the *Animals for Research Act*.

34. Every owner of a potentially dangerous dog shall ensure that the dog is:

(a) licensed by the City of Brampton annually, with the fee paid in accordance with User Fee By-law 380-2003;

(b) implanted with an identification microchip;

(c) sterilized before the dog reaches six months of age or within 30 days of being so designated, or in the case of a pit bull, before October 29, 2005. The owner shall provide proof of sterilization on demand of the animal control officer;

(d) equipped with a muzzle and secured by a leash at all times in accordance with Section 34(g);

(e) Section 34(d) does not apply when the potentially dangerous dog is within enclosed property occupied by the owner of the potentially dangerous dog;

(f) When the potentially dangerous dog is within enclosed property occupied by a person who consents to the potentially dangerous dog being off leash or off muzzle, Section 34(d) does not apply to the extent of that consent;

(g) For the purposes of Subsection 34(d), a potentially dangerous dog shall be equipped with a muzzle and secured by a leash in accordance with the following rules:

1. The potentially dangerous dog shall be fitted with a collar or harness that is properly fitted to and placed on the dog.

2. The movement of the potentially dangerous dog shall be controlled by a person by means of a leash attached to the collar or harness on the potentially dangerous dog.

3. The leash is not more than 1.8 metres (5 feet, 10.85 inches) in length and is attached to the collar or harness.

4. The collar or harness, the leash, and the attachment between the leash and the collar or harness are all strong enough to prevent the potentially dangerous dog from breaking any of them.

5. The mouth of the potentially dangerous dog is covered by a muzzle that is humane and that is strong enough and well-fitted enough to prevent potentially dangerous dog from biting, without interfering with the breathing, panting or vision of the potentially dangerous dog or with the potentially dangerous dog's ability to drink.

35. After August 29, 2005, it is an offence for every owner of a potentially dangerous dog to fail to produce evidence to the poundkeeper or an animal control officer, when

requested to do so, that the potentially dangerous dog is microchipped in accordance with this by-law.

36. After October 29, 2005, it is an offence for every owner of a potentially dangerous dog to fail to produce evidence to the poundkeeper or an animal control officer, when requested to do so, that the potentially dangerous dog or pit bull is sterilized in accordance with this by-law.

37. Every owner of a potentially dangerous dog shall display, in a conspicuous place at the entrance to the owner's premises, a warning sign indicating the presence of a potentially dangerous dog.

38. No person shall breed or permit to be bred a potentially dangerous dog.

39. No person shall abandon a potentially dangerous dog other than to a pound operated by, or on behalf of a municipality in Ontario, or to a registered research facility or supply facility under the *Animals for Research Act*.

40. No person shall allow a potentially dangerous dog in his or her possession to stray.

41. No person shall train a potentially dangerous dog for fighting.

#### DANGEROUS DOGS

42. Sections 32 (adult owner), 33(a) (transfer without consent of the poundkeeper), 34(a) (licensing), 34(b) (microchip), 34(c) (sterilization), 34(d), 34(e) 34(f), 34(g) (muzzling and leash), 34(h) (fencing), 35 (proof of microchipping), 36 (proof of sterilization), 37 (signs), 38 (breeding), 39 (abandonment), 40 (allow to stray) and 41 (train for fighting) apply to dangerous dogs, with necessary wording changes. The following additional or more specific restrictions shall also apply:

- (a) In addition to the fencing requirements in Section 34(h), an owner of a dangerous dog shall only leave the dog unattended outside of the owner's home, when the dog is contained in a six-sided pen, which pen includes a top and bottom and is located at least two metres (6.5 feet) from any property line.

- (b) The warning sign required by Section 37 shall warn of a dangerous dog.
  - (c) The owner of a dangerous dog shall maintain liability insurance for any injuries to a person or domestic animal caused by the dog, in the minimum amount of \$25,000.00. The owner shall also produce proof of such insurance, to an animal control officer, when requested to do so.
43. Every owner of a dangerous dog who is unable or unwilling to meet the requirements of this by-law shall surrender such dog into the care and control of the poundkeeper for humane euthanasia.

SAMPLE

## Municipal Freedom of Information and Protection of Privacy Act

R.S.O. 1990, CHAPTER M.56

**Consolidation Period:** From April 19, 2021 to the [e-Laws currency date](#).

Last amendment: 2021, c. 4, Sched. 11, s. 25.

Legislative History: 1992, c. 32, s. 23; 1995, c. 1, s. 83; 1996, c. 1, Sched. K, s. 13-24; 1996, c. 2, s. 73; 1996, c. 32, s. 77; 1997, c. 25, Sched. E, s. 8; 2000, c. 26, Sched. J, s. 2; 2001, c. 28, s. 23; 2002, c. 2, s. 16; 2002, c. 2, s. 19 (8-11); 2002, c. 17, Sched. F, Table; 2002, c. 18, Sched. K, s. 14-21; 2004, c. 3, Sched. A, s. 91; 2005, c. 28, Sched. J; 2006, c. 19, Sched. N, s. 3; 2006, c. 21, Sched. C, s. 119; 2006, c. 32, Sched. C, s. 35; 2006, c. 34, Sched. C, s. 13-21; 2007, c. 13, s. 45; 2014, c. 13, Sched. 6, s. 3, 4; 2015, c. 20, Sched. 28; 2016, c. 5, Sched. 17; 2016, c. 23, s. 59; 2017, c. 2, Sched. 12, s. 6; 2017, c. 7, s. 4; 2017, c. 8, Sched. 20; 2018, c. 3, Sched. 5, s. 38 (see: 2019, c. 1, Sched. 3, s. 5); 2019, c. 1, Sched. 4, s. 36; 2019, c. 7, Sched. 41; 2021, c. 4, Sched. 11, s. 25.

### CONTENTS

- [1.](#) Purposes
- [2.](#) Interpretation
- [3.](#) Designation of head

#### PART I

#### **FREEDOM OF INFORMATION**

##### ACCESS TO RECORDS

- [4.](#) Right of access
- [4.1](#) Measures to ensure preservation of records
- [5.](#) Obligation to disclose

##### EXEMPTIONS

- [6.](#) Draft by-laws, etc.
- [7.](#) Advice or recommendations
- [8.](#) Law enforcement
- [8.1](#) Civil Remedies Act, 2001
- [8.2](#) Prohibiting Profiting from Recounting Crimes Act, 2002
- [9.](#) Relations with governments
- [9.1](#) Relations with Aboriginal communities
- [10.](#) Third party information
- [11.](#) Economic and other interests
- [12.](#) Solicitor-client privilege
- [13.](#) Danger to safety or health
- [14.](#) Personal privacy
- [15.](#) Information soon to be published
- [16.](#) Exemptions not to apply

##### ACCESS PROCEDURE

- [17.](#) Request
- [18.](#) Involvement of other institutions
- [19.](#) Notice by head
- [20.](#) Extension of time
- [20.1](#) Frivolous request
- [21.](#) Notice to affected person
- [22.](#) Contents of notice of refusal
- [23.](#) Copy of record

##### INFORMATION TO BE PUBLISHED OR AVAILABLE

- [24.](#) Publication of information re institutions
- [25.](#) Information available for inspection
- [26.](#) Annual report of head

#### PART II

#### **PROTECTION OF INDIVIDUAL PRIVACY**

##### COLLECTION AND RETENTION OF PERSONAL INFORMATION

<a href="#"><u>27.</u></a>	Application of Part
<a href="#"><u>28.</u></a>	Personal information
<a href="#"><u>29.</u></a>	Manner of collection
<a href="#"><u>30.</u></a>	Retention of personal information
	<a href="#"><u>USE AND DISCLOSURE OF PERSONAL INFORMATION</u></a>
<a href="#"><u>31.</u></a>	Use of personal information
<a href="#"><u>32.</u></a>	Where disclosure permitted
<a href="#"><u>33.</u></a>	Consistent purpose
	<a href="#"><u>PERSONAL INFORMATION BANKS</u></a>
<a href="#"><u>34.</u></a>	Personal information bank index
<a href="#"><u>35.</u></a>	Inconsistent use or disclosure
	<a href="#"><u>RIGHT OF INDIVIDUALS TO WHOM PERSONAL INFORMATION RELATES TO ACCESS AND CORRECTION</u></a>
<a href="#"><u>36.</u></a>	Rights of access and correction
<a href="#"><u>37.</u></a>	Access
<a href="#"><u>38.</u></a>	Exemptions
	<a href="#"><u>PART III</u></a>
	<a href="#"><u>APPEAL</u></a>
<a href="#"><u>39.</u></a>	Right to appeal
<a href="#"><u>40.</u></a>	Mediator to try to effect settlement
<a href="#"><u>41.</u></a>	Inquiry
<a href="#"><u>42.</u></a>	Burden of proof
<a href="#"><u>43.</u></a>	Order
<a href="#"><u>44.</u></a>	Delegation
	<a href="#"><u>PART IV</u></a>
	<a href="#"><u>GENERAL</u></a>
<a href="#"><u>45.</u></a>	Fees
<a href="#"><u>46.</u></a>	Powers and duties of Commissioner
<a href="#"><u>47.</u></a>	Regulations
<a href="#"><u>48.</u></a>	Offences
<a href="#"><u>49.</u></a>	Delegation, civil proceedings
<a href="#"><u>50.</u></a>	Informal access
<a href="#"><u>51.</u></a>	Information otherwise available
<a href="#"><u>52.</u></a>	Application of Act
<a href="#"><u>52.1</u></a>	Non-application re: Hydro One Inc.
<a href="#"><u>53.</u></a>	Other Acts
<a href="#"><u>54.</u></a>	Exercise of rights of deceased, etc., persons

## **Purposes**

**1** The purposes of this Act are,

- (a) to provide a right of access to information under the control of institutions in accordance with the principles that,
  - (i) information should be available to the public,
  - (ii) necessary exemptions from the right of access should be limited and specific, and
  - (iii) decisions on the disclosure of information should be reviewed independently of the institution controlling the information; and
- (b) to protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information. R.S.O. 1990, c. M.56, s. 1.

## **Interpretation**

**2** (1) In this Act,

“close relative” means a parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece, including by adoption; (“proche parent”)

“head”, in respect of an institution, means the individual or body determined to be head under section 3; (“personne responsable”)

“Information and Privacy Commissioner” and “Commissioner” mean the Commissioner appointed under subsection 4 (1) of the *Freedom of Information and Protection of Privacy Act*; (“commissaire à l’information et à la protection de la vie privée”, “commissaire”)

“institution” means,

- (a) a municipality,
- (b) a school board, municipal service board, city board, transit commission, public library board, board of health, police services board, conservation authority, district social services administration board, local services board, planning board, local roads board, police village or joint committee of management or joint board of management established under the *Municipal Act, 2001* or the *City of Toronto Act, 2006* or a predecessor of those Acts,

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) of the definition of “institution” in subsection 2 (1) of the Act is amended by striking out “police services board” and substituting “police service board”. (See: 2019, c. 1, Sched. 4, s. 36)**

- (c) any agency, board, commission, corporation or other body designated as an institution in the regulations; (“institution”)

“law enforcement” means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, or
- (c) the conduct of proceedings referred to in clause (b); (“exécution de la loi”)

“Minister” means the minister designated under section 3 of the *Freedom of Information and Protection of Privacy Act* as the responsible minister for the purposes of that Act; (“ministre”)

“personal information” means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except if they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual’s name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual; (“renseignements personnels”)

“personal information bank” means a collection of personal information that is organized and capable of being retrieved using an individual’s name or an identifying number or particular assigned to the individual; (“banque de renseignements personnels”)

“record” means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,

- (a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
- (b) subject to the regulations, any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution; (“document”)

“regulations” means the regulations made under this Act; (“règlements”)

“spouse” means,

- (a) a spouse as defined in section 1 of the *Family Law Act*, or

- (b) either of two persons who live together in a conjugal relationship outside marriage. (“conjoint”) R.S.O. 1990, c. M.56, s. 2 (1); 1997, c. 25, Sched. E, s. 8; 2000, c. 26, Sched. J, s. 2; 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. N, s. 3 (1); 2006, c. 32, Sched. C, s. 35; 2006, c. 34, Sched. C, s. 13 (1, 2); 2016, c. 23, s. 59; 2021, c. 4, Sched. 11, s. 25.

#### **Personal information**

(2) Personal information does not include information about an individual who has been dead for more than thirty years. R.S.O. 1990, c. M.56, s. 2 (2).

#### **Business identity information, etc.**

(2.1) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity. 2006, c. 34, Sched. C, s. 13 (3).

#### **Same**

(2.2) For greater certainty, subsection (2.1) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling. 2006, c. 34, Sched. C, s. 13 (3).

#### **Bodies considered part of municipality**

(3) Every agency, board, commission, corporation or other body not mentioned in clause (b) of the definition of “institution” in subsection (1) or designated under clause (c) of the definition of “institution” in subsection (1) is deemed to be a part of the municipality for the purposes of this Act if all of its members or officers are appointed or chosen by or under the authority of the council of the municipality. R.S.O. 1990, c. M.56, s. 2 (3); 2002, c. 17, Sched. F, Table.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 25, Sched. E, s. 8 - 01/07/1998

2000, c. 26, Sched. J, s. 2 - 06/12/2000

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 19, Sched. N, s. 3 (1) - 22/06/2006; 2006, c. 32, Sched. C, s. 35 - 01/01/2007; 2006, c. 34, Sched. C, s. 13 (1-3) - 01/04/2007

2016, c. 23, s. 59 - 01/01/2017

2018, c. 3, Sched. 5, s. 38 - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 36 - not in force

2021, c. 4, Sched. 11, s. 25 - 19/04/2021

#### **Designation of head**

**3** (1) The members of the council of a municipality may by by-law designate from among themselves an individual or a committee of the council to act as head of the municipality for the purposes of this Act. R.S.O. 1990, c. M.56, s. 3 (1); 2002, c. 17, Sched. F, Table.

#### **Idem**

(2) The members elected or appointed to the board, commission or other body that is an institution other than a municipality may designate in writing from among themselves an individual or a committee of the body to act as head of the institution for the purposes of this Act. R.S.O. 1990, c. M.56, s. 3 (2); 2002, c. 17, Sched. F, Table.

#### **If no designation**

(3) If no person is designated as head under this section, the head shall be,

- (a) the council, in the case of a municipality; and
- (b) the members elected or appointed to the board, commission or other body in the case of an institution other than a municipality. R.S.O. 1990, c. M.56, s. 3 (3); 2002, c. 17, Sched. F, Table.

#### **Section Amendments with date in force (d/m/y)**

2002, c. 17, Sched. F, Table - 01/01/2003

**PART I  
FREEDOM OF INFORMATION**

**ACCESS TO RECORDS**

**Right of access**

**4** (1) Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless,

- (a) the record or the part of the record falls within one of the exemptions under sections 6 to 15; or
- (b) the head is of the opinion on reasonable grounds that the request for access is frivolous or vexatious.

**Severability of record**

(2) If an institution receives a request for access to a record that contains information that falls within one of the exemptions under sections 6 to 15 and the head of the institution is not of the opinion that the request is frivolous or vexatious, the head shall disclose as much of the record as can reasonably be severed without disclosing the information that falls under one of the exemptions. 1996, c. 1, Sched. K, s. 13.

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 13 - 30/01/1996

**Measures to ensure preservation of records**

**4.1** Every head of an institution shall ensure that reasonable measures respecting the records in the custody or under the control of the institution are developed, documented and put into place to preserve the records in accordance with any recordkeeping or records retention requirements, rules or policies, whether established under an Act or otherwise, that apply to the institution. 2014, c. 13, Sched. 6, s. 3.

**Section Amendments with date in force (d/m/y)**

2014, c. 13, Sched. 6, s. 3 - 01/01/2016

**Obligation to disclose**

**5** (1) Despite any other provision of this Act, a head shall, as soon as practicable, disclose any record to the public or persons affected if the head has reasonable and probable grounds to believe that it is in the public interest to do so and that the record reveals a grave environmental, health or safety hazard to the public.

**Notice**

(2) Before disclosing a record under subsection (1), the head shall cause notice to be given to any person to whom the information in the record relates, if it is practicable to do so.

**Contents of notice**

(3) The notice shall contain,

- (a) a statement that the head intends to release a record or a part of a record that may affect the interests of the person;
- (b) a description of the contents of the record or part that relate to the person; and
- (c) a statement that if the person makes representations forthwith to the head as to why the record or part should not be disclosed, those representations will be considered by the head.

**Representations**

(4) A person who is given notice under subsection (2) may make representations forthwith to the head concerning why the record or part should not be disclosed. R.S.O. 1990, c. M.56, s. 5.

**EXEMPTIONS**

**Draft by-laws, etc.**

**6** (1) A head may refuse to disclose a record,

- (a) that contains a draft of a by-law or a draft of a private bill; or
- (b) that reveals the substance of deliberations of a meeting of a council, board, commission or other body or a committee of one of them if a statute authorizes holding that meeting in the absence of the public.

**Exception**

- (2) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record if,
- (a) in the case of a record under clause (1) (a), the draft has been considered in a meeting open to the public;
  - (b) in the case of a record under clause (1) (b), the subject-matter of the deliberations has been considered in a meeting open to the public; or
  - (c) the record is more than twenty years old. R.S.O. 1990, c. M.56, s. 6.

**Advice or recommendations**

7 (1) A head may refuse to disclose a record if the disclosure would reveal advice or recommendations of an officer or employee of an institution or a consultant retained by an institution.

**Exceptions**

- (2) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record that contains,
- (a) factual material;
  - (b) a statistical survey;
  - (c) a report by a valuator;
  - (d) an environmental impact statement or similar record;
  - (e) a report or study on the performance or efficiency of an institution;
  - (f) a feasibility study or other technical study, including a cost estimate, relating to a policy or project of an institution;
  - (g) a report containing the results of field research undertaken before the formulation of a policy proposal;
  - (h) a final plan or proposal to change a program of an institution, or for the establishment of a new program, including a budgetary estimate for the program;
  - (i) a report of a committee or similar body within an institution, which has been established for the purpose of preparing a report on a particular topic;
  - (j) a report of a body which is attached to an institution and which has been established for the purpose of undertaking inquiries and making reports or recommendations to the institution;
  - (k) the reasons for a final decision, order or ruling of an officer or an employee of the institution made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the institution.

**Idem**

- (3) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record if the record is more than twenty years old. R.S.O. 1990, c. M.56, s. 7.

**Law enforcement**

- 8 (1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,
- (a) interfere with a law enforcement matter;
  - (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
  - (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;
  - (d) disclose the identity of a confidential source of information in respect of a law enforcement matter, or disclose information furnished only by the confidential source;
  - (e) endanger the life or physical safety of a law enforcement officer or any other person;
  - (f) deprive a person of the right to a fair trial or impartial adjudication;
  - (g) interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons;
  - (h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;

- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
- (j) facilitate the escape from custody of a person who is under lawful detention;
- (k) jeopardize the security of a centre for lawful detention; or
- (l) facilitate the commission of an unlawful act or hamper the control of crime. R.S.O. 1990, c. M.56, s. 8 (1); 2002, c. 18, Sched. K, s. 14 (1); 2019, c. 7, Sched. 41, s. 1.

**Idem**

- (2) A head may refuse to disclose a record,
- (a) that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;
  - (b) that is a law enforcement record if the disclosure would constitute an offence under an Act of Parliament;
  - (c) that is a law enforcement record if the disclosure could reasonably be expected to expose the author of the record or any person who has been quoted or paraphrased in the record to civil liability; or
  - (d) that contains information about the history, supervision or release of a person under the control or supervision of a correctional authority. R.S.O. 1990, c. M.56, s. 8 (2); 2002, c. 18, Sched. K, s. 14 (2).

**Refusal to confirm or deny existence of record**

- (3) A head may refuse to confirm or deny the existence of a record to which subsection (1) or (2) applies. R.S.O. 1990, c. M.56, s. 8 (3).

**Exception**

- (4) Despite clause (2) (a), a head shall disclose a record that is a report prepared in the course of routine inspections by an agency that is authorized to enforce and regulate compliance with a particular statute of Ontario. R.S.O. 1990, c. M.56, s. 8 (4).

**Idem**

- (5) Subsections (1) and (2) do not apply to a record on the degree of success achieved in a law enforcement program including statistical analyses unless disclosure of such a record may prejudice, interfere with or adversely affect any of the matters referred to in those subsections. R.S.O. 1990, c. M.56, s. 8 (5).

**Section Amendments with date in force (d/m/y)**

2002, c. 18, Sched. K, s. 14 (1, 2) - 26/11/2002

2019, c. 7, Sched. 41, s. 1 - 17/03/2021

***Civil Remedies Act, 2001***

**8.1** A head may refuse to disclose a record and may refuse to confirm or deny the existence of a record if disclosure of the record could reasonably be expected to interfere with the ability of the Attorney General to determine whether a proceeding should be commenced under the *Civil Remedies Act, 2001*, conduct a proceeding under that Act or enforce an order made under that Act. 2001, c. 28, s. 23 (1); 2002, c. 18, Sched. K, s. 15; 2007, c. 13, s. 45 (1).

**Section Amendments with date in force (d/m/y)**

2001, c. 28, s. 23 (1) - 12/04/2002

2002, c. 18, Sched. K, s. 15 - 26/11/2002

2007, c. 13, s. 45 (1) - 04/06/2007

***Prohibiting Profiting from Recounting Crimes Act, 2002***

**8.2** A head may refuse to disclose a record and may refuse to confirm or deny the existence of a record if disclosure of the record could reasonably be expected to interfere with the ability of the Attorney General to determine whether a proceeding should be commenced under the *Prohibiting Profiting from Recounting Crimes Act, 2002*, conduct a proceeding under that Act or enforce an order made under that Act. 2002, c. 2, ss. 16 (1), 19 (8); 2002, c. 18, Sched. K, s. 16.

**Section Amendments with date in force (d/m/y)**

2002, c. 2, s. 16 (1) - 01/07/2003; 2002, c. 18, Sched. K, s. 16 - 26/11/2002

### **Relations with governments**

**9** (1) A head shall refuse to disclose a record if the disclosure could reasonably be expected to reveal information the institution has received in confidence from,

- (a) the Government of Canada;
- (b) the Government of Ontario or the government of a province or territory in Canada;
- (c) the government of a foreign country or state;
- (d) an agency of a government referred to in clause (a), (b) or (c); or
- (e) an international organization of states or a body of such an organization. R.S.O. 1990, c. M.56, s. 9 (1); 2002, c. 18, Sched. K, s. 17.

### **Idem**

(2) A head shall disclose a record to which subsection (1) applies if the government, agency or organization from which the information was received consents to the disclosure. R.S.O. 1990, c. M.56, s. 9 (2).

### **Section Amendments with date in force (d/m/y)**

2002, c. 18, Sched. K, s. 17 - 26/11/2002

### **Relations with Aboriginal communities**

**9.1** (1) A head may refuse to disclose a record where the disclosure could reasonably be expected to,

- (a) prejudice the conduct of relations between an Aboriginal community and the Government of Ontario or an institution; or
- (b) reveal information received in confidence from an Aboriginal community by an institution. 2017, c. 8, Sched. 20, s. 1.

### **Definitions**

(2) In this section,

“Aboriginal community” means,

- (a) a band within the meaning of the *Indian Act* (Canada),
- (b) an Aboriginal organization or community that is negotiating or has negotiated with the Government of Canada or the Government of Ontario on matters relating to,
  - (i) Aboriginal or treaty rights under section 35 of the *Constitution Act, 1982*, or
  - (ii) a treaty, land claim or self-government agreement, and
- (c) any other Aboriginal organization or community prescribed by the regulations; (“communauté autochtone”)

“institution” includes an institution as defined in section 2 of the *Freedom of Information and Protection of Privacy Act*. (“institution”) 2017, c. 8, Sched. 20, s. 1.

### **Section Amendments with date in force (d/m/y)**

2017, c. 8, Sched. 20, s. 1 - 09/03/2018

### **Third party information**

**10** (1) A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, if the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
- (d) reveal information supplied to or the report of a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute. R.S.O. 1990, c. M.56, s. 10 (1); 2002, c. 18, Sched. K, s. 18; 2017, c. 8, Sched. 20, s. 2.

### **Consent to disclosure**

(2) A head may disclose a record described in subsection (1) if the person to whom the information relates consents to the disclosure. R.S.O. 1990, c. M.56, s. 10 (2).

### **Section Amendments with date in force (d/m/y)**

2002, c. 18, Sched. K, s. 18 - 26/11/2002

2017, c. 8, Sched. 20, s. 2 - 17/05/2017

### **Economic and other interests**

**11** A head may refuse to disclose a record that contains,

- (a) trade secrets or financial, commercial, scientific or technical information that belongs to an institution and has monetary value or potential monetary value;
- (b) information obtained through research by an employee of an institution if the disclosure could reasonably be expected to deprive the employee of priority of publication;
- (c) information whose disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution;
- (d) information whose disclosure could reasonably be expected to be injurious to the financial interests of an institution;
- (e) positions, plans, procedures, criteria or instructions to be applied to any negotiations carried on or to be carried on by or on behalf of an institution;
- (f) plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public;
- (g) information including the proposed plans, policies or projects of an institution if the disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or undue financial benefit or loss to a person;
- (h) questions that are to be used in an examination or test for an educational purpose;
- (i) submissions in respect of a matter under the *Municipal Boundary Negotiations Act* commenced before its repeal by the *Municipal Act, 2001*, by a party municipality or other body before the matter is resolved. R.S.O. 1990, c. M.56, s. 11; 2002, c. 17, Sched. F, Table; 2002, c. 18, Sched. K, s. 19.

### **Section Amendments with date in force (d/m/y)**

2002, c. 17, Sched. F, Table - 01/01/2003; 2002, c. 18, Sched. K, s. 19 (1-4) - 26/11/2002

### **Solicitor-client privilege**

**12** A head may refuse to disclose a record that is subject to solicitor-client privilege or that was prepared by or for counsel employed or retained by an institution for use in giving legal advice or in contemplation of or for use in litigation. R.S.O. 1990, c. M.56, s. 12.

### **Danger to safety or health**

**13** A head may refuse to disclose a record whose disclosure could reasonably be expected to seriously threaten the safety or health of an individual. R.S.O. 1990, c. M.56, s. 13; 2002, c. 18, Sched. K, s. 20.

### **Section Amendments with date in force (d/m/y)**

2002, c. 18, Sched. K, s. 20 - 26/11/2002

### **Personal privacy**

**14** (1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
- (b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;

- (d) under an Act of Ontario or Canada that expressly authorizes the disclosure;
- (e) for a research purpose if,
  - (i) the disclosure is consistent with the conditions or reasonable expectations of disclosure under which the personal information was provided, collected or obtained,
  - (ii) the research purpose for which the disclosure is to be made cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
  - (iii) the person who is to receive the record has agreed to comply with the conditions relating to security and confidentiality prescribed by the regulations; or
- (f) if the disclosure does not constitute an unjustified invasion of personal privacy. R.S.O. 1990, c. M.56, s. 14 (1).

#### **Criteria re invasion of privacy**

- (2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
- (a) the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny;
  - (b) access to the personal information may promote public health and safety;
  - (c) access to the personal information will promote informed choice in the purchase of goods and services;
  - (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
  - (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
  - (f) the personal information is highly sensitive;
  - (g) the personal information is unlikely to be accurate or reliable;
  - (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
  - (i) the disclosure may unfairly damage the reputation of any person referred to in the record. R.S.O. 1990, c. M.56, s. 14 (2).

#### **Presumed invasion of privacy**

- (3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,
- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
  - (b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
  - (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
  - (d) relates to employment or educational history;
  - (e) was obtained on a tax return or gathered for the purpose of collecting a tax;
  - (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
  - (g) consists of personal recommendations or evaluations, character references or personnel evaluations; or
  - (h) indicates the individual's racial or ethnic origin, sexual orientation or religious or political beliefs or associations. R.S.O. 1990, c. M.56, s. 14 (3).

#### **Limitation**

- (4) Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,
- (a) discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution;
  - (b) discloses financial or other details of a contract for personal services between an individual and an institution; or

- (c) discloses personal information about a deceased individual to the spouse or a close relative of the deceased individual, and the head is satisfied that, in the circumstances, the disclosure is desirable for compassionate reasons. R.S.O. 1990, c. M.56, s. 14 (4); 2006, c. 19, Sched. N, s. 3 (2).

#### **Refusal to confirm or deny existence of record**

(5) A head may refuse to confirm or deny the existence of a record if disclosure of the record would constitute an unjustified invasion of personal privacy. R.S.O. 1990, c. M.56, s. 14 (5).

#### **Section Amendments with date in force (d/m/y)**

2006, c. 19, Sched. N, s. 3 (2) - 22/06/2006

#### **Information soon to be published**

**15** A head may refuse to disclose a record if,

- (a) the record or the information contained in the record has been published or is currently available to the public; or
- (b) the head believes on reasonable grounds that the record or the information contained in the record will be published by an institution within ninety days after the request is made or within such further period of time as may be necessary for printing or translating the material for the purpose of printing it. R.S.O. 1990, c. M.56, s. 15.

#### **Exemptions not to apply**

**16** An exemption from disclosure of a record under sections 7, 9, 9.1, 10, 11, 13 and 14 does not apply if a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption. R.S.O. 1990, c. M.56, s. 16; 2017, c. 8, Sched. 20, s. 3.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 8, Sched. 20, s. 3 - 09/03/2018

### **ACCESS PROCEDURE**

#### **Request**

**17** (1) A person seeking access to a record shall,

- (a) make a request in writing to the institution that the person believes has custody or control of the record, and specify that the request is being made under this Act;
- (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record; and
- (c) at the time of making the request, pay the fee prescribed by the regulations for that purpose. 1996, c. 1, Sched. K, s. 14; 2017, c. 2, Sched. 12, s. 6 (1).

#### **Frivolous request**

(1.1) If the head of the institution is of the opinion on reasonable grounds that the request is frivolous or vexatious, subsections (2) to (5) do not apply to the request. 1996, c. 1, Sched. K, s. 14; 2006, c. 34, Sched. C, s. 14 (1).

#### **Sufficiency of detail**

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1). R.S.O. 1990, c. M.56, s. 17 (2).

#### **Request for continuing access to record**

(3) The applicant may indicate in the request that it shall, if granted, continue to have effect for a specified period of up to two years. 2006, c. 34, Sched. C, s. 14 (2).

#### **Institution to provide schedule**

(4) When a request that is to continue to have effect is granted, the institution shall provide the applicant with,

- (a) a schedule showing dates in the specified period on which the request shall be deemed to have been received again, and explaining why those dates were chosen; and
- (b) a statement that the applicant may ask the Commissioner to review the schedule. 2006, c. 34, Sched. C, s. 14 (2).

**Act applies as if new requests were being made**

(5) This Act applies as if a new request were being made on each of the dates shown in the schedule. 2006, c. 34, Sched. C, s. 14 (2).

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 14 - 30/01/1996

2006, c. 34, Sched. C, s. 14 (1, 2) - 01/04/2007

2017, c. 2, Sched. 12, s. 6 (1) - 22/03/2017

**Involvement of other institutions**

**18** (1) In this section,

“institution” includes an institution as defined in section 2 of the *Freedom of Information and Protection of Privacy Act*.

**Request to be forwarded**

(2) The head of an institution that receives a request for access to a record that the institution does not have in its custody or under its control shall make reasonable inquiries to determine whether another institution has custody or control of the record, and, if the head determines that another institution has custody or control of the record, the head shall within fifteen days after the request is received,

- (a) forward the request to the other institution; and
- (b) give written notice to the person who made the request that it has been forwarded to the other institution.

**Transfer of request**

(3) If an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may transfer the request and, if necessary, the record to the other institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request.

**Greater interest**

(4) For the purpose of subsection (3), another institution has a greater interest in a record than the institution that receives the request for access if,

- (a) the record was originally produced in or for the other institution; or
- (b) in the case of a record not originally produced in or for an institution, the other institution was the first institution to receive the record or a copy of it.

**When transferred request deemed made**

(5) Where a request is forwarded or transferred under subsection (2) or (3), the request shall be deemed to have been made to the institution to which it is forwarded or transferred on the day the institution to which the request was originally made received it. R.S.O. 1990, c. M.56, s. 18.

**Notice by head**

**19** Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 18, the head of the institution to which it is forwarded or transferred, shall, subject to sections 20, 21 and 45, within thirty days after the request is received,

- (a) give written notice to the person who made the request as to whether or not access to the record or a part of it will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part, and if necessary for the purpose cause the record to be produced. R.S.O. 1990, c. M.56, s. 19; 1996, c. 1, Sched. K, s. 15.

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 15 - 30/01/1996

**Extension of time**

**20** (1) A head may extend the time limit set out in section 19 for a period of time that is reasonable in the circumstances, if,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit.

#### **Notice of extension**

(2) A head who extends the time limit under subsection (1) shall give the person who made the request written notice of the extension setting out,

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Commissioner to review the extension. R.S.O. 1990, c. M.56, s. 20.

#### **Frivolous request**

**20.1** (1) A head who refuses to give access to a record or a part of a record because the head is of the opinion that the request for access is frivolous or vexatious, shall state in the notice given under section 19,

- (a) that the request is refused because the head is of the opinion that the request is frivolous or vexatious;
- (b) the reasons for which the head is of the opinion that the request is frivolous or vexatious; and
- (c) that the person who made the request may appeal to the Commissioner under subsection 39 (1) for a review of the decision.

#### **Non-application**

(2) Sections 21 and 22 do not apply to a head who gives a notice for the purpose of subsection (1). 1996, c. 1, Sched. K, s. 16.

#### **Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 16 - 30/01/1996

#### **Notice to affected person**

**21** (1) A head shall give written notice in accordance with subsection (2) to the person to whom the information relates before granting a request for access to a record,

- (a) that the head has reason to believe might contain information referred to in subsection 10 (1) that affects the interest of a person other than the person requesting information; or
- (b) that is personal information that the head has reason to believe might constitute an unjustified invasion of personal privacy for the purposes of clause 14 (1) (f). R.S.O. 1990, c. M.56, s. 21 (1).

#### **Contents of notice**

(2) The notice shall contain,

- (a) a statement that the head intends to disclose a record or part of a record that may affect the interests of the person;
- (b) a description of the contents of the record or part that relate to the person; and
- (c) a statement that the person may subject to subsection (5.1), within twenty days after the notice is given, make representations to the head as to why the record or part should not be disclosed. R.S.O. 1990, c. M.56, s. 21 (2); 2016, c. 5, Sched. 17, s. 1 (1).

#### **Description**

(2.1) If the request covers more than one record, the description mentioned in clause (2) (b) may consist of a summary of the categories of the records requested if it provides sufficient detail to identify them. 1996, c. 1, Sched. K, s. 17.

#### **Time for notice**

(3) The notice referred to in subsection (1) shall be given within thirty days after the request for access is received or, if there has been an extension of a time limit under subsection 20 (1), within that extended time limit. R.S.O. 1990, c. M.56, s. 21 (3).

**Notice of delay**

(4) A head who gives notice to a person under subsection (1) shall also give the person who made the request written notice of delay, setting out,

- (a) that the disclosure of the record or part may affect the interests of another party;
- (b) that the other party is being given an opportunity to make representations concerning disclosure; and
- (c) that the head will, within 10 days after the expiry of the time period for making representations under subsection (5), decide whether or not to disclose the record. R.S.O. 1990, c. M.56, s. 21 (4); 2016, c. 5, Sched. 17, s. 1 (2).

**Representation re disclosure**

(5) Where a notice is given under subsection (1), the person to whom the information relates may subject to subsection (5.1), within twenty days after the notice is given, make representations to the head as to why the record or part should not be disclosed. R.S.O. 1990, c. M.56, s. 21 (5); 2016, c. 5, Sched. 17, s. 1 (3).

**Extension of time**

(5.1) If the time limit specified in subsection (5) presents a barrier, as defined in the *Accessibility for Ontarians with Disabilities Act, 2005*, to the person, the head may extend the time limit for a period of time that is reasonably required in the circumstances to accommodate the person for the purpose of making representations under that subsection. 2016, c. 5, Sched. 17, s. 1 (4).

**Representation in writing**

(6) Representations under subsection (5) shall be made in writing unless the head permits them to be made orally. R.S.O. 1990, c. M.56, s. 21 (6).

**Decision re disclosure**

(7) The head shall decide whether or not to disclose the record or part and give written notice of the decision to the person to whom the information relates and the person who made the request within 10 days after the expiry of the time period for making representations under subsection (5). 2016, c. 5, Sched. 17, s. 1 (5).

**Notice of head's decision to disclose**

(8) A head who decides to disclose a record or part under subsection (7) shall state in the notice that,

- (a) the person to whom the information relates may appeal the decision to the Commissioner within 30 days after the notice of decision is given, subject to subsection (8.1); and
- (b) the person who made the request will be given access to the record or part unless an appeal of the decision is commenced within the time period specified in clause (a). 2016, c. 5, Sched. 17, s. 1 (5).

**Extension of time**

(8.1) If the time limit specified in clause (8) (a) presents a barrier, as defined in the *Accessibility for Ontarians with Disabilities Act, 2005*, to the person, the head may extend the time limit for a period of time that is reasonably required in the circumstances to accommodate the person for the purpose of appealing the decision under that clause. 2016, c. 5, Sched. 17, s. 1 (5).

**Access to be given unless affected person appeals**

(9) A head who decides under subsection (7) to disclose the record or part shall give the person who made the request access to the record or part within thirty days after notice is given under subsection (7), unless the person to whom the information relates appeals the decision to the Commissioner in accordance with clause (8) (a). R.S.O. 1990, c. M.56, s. 21 (9); 2016, c. 5, Sched. 17, s. 1 (6).

**Personal information about deceased**

(10) In the case of a request by the spouse or a close relative of a deceased individual for disclosure of personal information about the deceased individual, the person making the request shall give the head all information that the person has regarding whether the deceased individual has a personal representative and how to contact the personal representative. 2006, c. 19, Sched. N, s. 3 (3).

**Deemed references**

(11) If, under subsection (10), the head is informed that the deceased individual has a personal representative and is given sufficient information as to how to contact the personal representative, and if the head has reason to believe that disclosure of personal information about the deceased individual might constitute an unjustified invasion of personal privacy unless, in the

circumstances, the disclosure is desirable for compassionate reasons, subsections (1) to (9) apply with the following modifications:

1. The expression “the person to whom the information relates” in subsections (1), (5), (7), (8) and (9) shall be deemed to be the expression “the personal representative”.
2. The expression “the person” in clauses (2) (a) and (b) shall be deemed to be the expression “the deceased individual” and the expression “the person” in clause (2) (c) shall be deemed to be the expression “the personal representative”. 2006, c. 19, Sched. N, s. 3 (3).

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 17 - 30/01/1996

2006, c. 19, Sched. N, s. 3 (3) - 22/06/2006

2016, c. 5, Sched. 17, s. 1 (1-6) - 19/04/2016

**Contents of notice of refusal**

**22** (1) Notice of refusal to give access to a record or part under section 19 shall set out,

- (a) where there is no such record,
  - (i) that there is no such record, and
  - (ii) that the person who made the request may appeal to the Commissioner the question of whether such a record exists; or
- (b) where there is such a record,
  - (i) the specific provision of this Act under which access is refused,
  - (ii) the reason the provision applies to the record,
  - (iii) the name and position of the person responsible for making the decision, and
  - (iv) that the person who made the request may appeal to the Commissioner for a review of the decision. R.S.O. 1990, c. M.56, s. 22 (1).

**Same**

(2) A head who refuses to confirm or deny the existence of a record as provided in subsection 8 (3) (law enforcement), section 8.1 (*Civil Remedies Act, 2001*), section 8.2 (*Prohibiting Profiting from Recounting Crimes Act, 2002*) or subsection 14 (5) (unjustified invasion of personal privacy), shall state in the notice given under section 19,

- (a) that the head refuses to confirm or deny the existence of the record;
- (b) the provision of this Act on which the refusal is based;
- (c) the name and office of the person responsible for making the decision; and
- (d) that the person who made the request may appeal to the Commissioner for a review of the decision. R.S.O. 1990, c. M.56, s. 22 (2); 2001, c. 28, s. 23 (2); 2002, c. 2, ss. 16 (2), 19 (9); 2007, c. 13, s. 45 (2).

**Idem**

(3) A head who refuses to disclose a record or part under subsection 21 (7) shall state in the notice given under subsection 21 (7),

- (a) the specific provision of this Act under which access is refused;
- (b) the reason the provision named in clause (a) applies to the record;
- (c) the name and office of the person responsible for making the decision to refuse access; and
- (d) that the person who made the request may appeal to the Commissioner for a review of the decision. R.S.O. 1990, c. M.56, s. 22 (3).

**Description**

(3.1) If a request for access covers more than one record, the statement in a notice under this section of a reason mentioned in subclause (1) (b) (ii) or clause (3) (b) may refer to a summary of the categories of the records requested if it provides sufficient detail to identify them. 1996, c. 1, Sched. K, s. 18.

**Deemed refusal**

(4) A head who fails to give the notice required under section 19 or subsection 21 (7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given. R.S.O. 1990, c. M.56, s. 22 (4).

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 18 - 30/01/1996

2001, c. 28, s. 23 (2) - 12/04/2002

2002, c. 2, s. 16 (2) - 01/07/2003; 2002, c. 2, s. 19 (9) - 01/07/2003

2007, c. 13, s. 45 (2) - 04/06/2007

**Copy of record**

**23** (1) Subject to subsection (2), a person who is given access to a record or a part of a record under this Act shall be given a copy of the record or part unless it would not be reasonably practicable to reproduce it by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part.

**Access to original record**

(2) If a person requests the opportunity to examine a record or part and it is reasonably practicable to give the person that opportunity, the head shall allow the person to examine the record or part.

**Copy of part**

(3) A person who examines a record or a part and wishes to have portions of it copied shall be given a copy of those portions unless it would not be reasonably practicable to reproduce them by reason of their length or nature. R.S.O. 1990, c. M.56, s. 23.

**INFORMATION TO BE PUBLISHED OR AVAILABLE****Publication of information re institutions**

**24** (1) The Minister shall cause to be published a compilation listing all institutions and, in respect of each institution, setting out,

- (a) where a request for a record should be made; and
- (b) the title of the head of the institution.

**Idem**

(2) The Minister shall cause the compilation to be published before the 1st day of January, 1992 and at least once every three years thereafter. R.S.O. 1990, c. M.56, s. 24.

**Information available for inspection**

**25** (1) A head shall cause to be made available for inspection and copying by the public information containing,

- (a) a description of the organization and responsibilities of the institution;
- (b) a list of the general classes or types of records in the custody or control of the institution;
- (c) the title, business telephone and business address of the head; and
- (d) the address to which a request under this Act should be made.

**Idem**

(2) The head shall ensure that the information made available is amended as required to ensure its accuracy. R.S.O. 1990, c. M.56, s. 25.

**Annual report of head**

**26** (1) A head shall make an annual report, in accordance with this section, to the Commissioner. 2006, c. 19, Sched. N, s. 3 (4).

**Contents of report**

(2) A report made under subsection (1) shall specify,

- (a) the number of requests under this Act or the *Personal Health Information Protection Act, 2004* for access to records made to the institution or to a health information custodian within the meaning of the *Personal Health Information Protection Act, 2004* that is acting as part of the institution;
- (b) the number of refusals by the head to disclose a record under this Act, the provisions of this Act under which disclosure was refused and the number of occasions on which each provision was invoked;
- (c) the number of refusals under the *Personal Health Information Protection Act, 2004* by a health information custodian, within the meaning of that Act, that is the institution or that is acting as part of the institution, of a request for access to a record, the provisions of that Act under which disclosure was refused and the number of occasions on which each provision was invoked;
- (d) the number of uses or purposes for which personal information is disclosed if the use or purpose is not included in the statements of uses and purposes set forth under clauses 34 (1) (d) and (e) of this Act or in any written public statement provided under subsection 16 (1) of the *Personal Health Information Protection Act, 2004* by the institution or a health information custodian within the meaning of the *Personal Health Information Protection Act, 2004* that is acting as part of the institution;
- (e) the amount of fees collected under section 45 of this Act by the institution and under subsection 54 (10) of the *Personal Health Information Protection Act, 2004* by the institution or a health information custodian within the meaning of the *Personal Health Information Protection Act, 2004* that is acting as part of the institution; and
- (f) any other information indicating an effort by the institution or by a health information custodian within the meaning of the *Personal Health Information Protection Act, 2004* that is acting as part of the institution to put into practice the purposes of this Act or the purposes of the *Personal Health Information Protection Act, 2004*. 2006, c. 19, Sched. N, s. 3 (4).

#### **Separate information**

- (3) The information required by each of clauses (2) (a), (d), (e) and (f) shall be provided separately for,
  - (a) each separate health information custodian that is the institution or that is acting as part of the institution; and
  - (b) the institution other than in its capacity as a health information custodian and other than in its capacity as an institution containing a health information custodian. 2006, c. 19, Sched. N, s. 3 (4).

#### **Same**

- (4) The information required by clause (2) (c) shall be provided separately for each separate health information custodian that is the institution or that is acting as part of the institution. 2006, c. 19, Sched. N, s. 3 (4).

#### **Section Amendments with date in force (d/m/y)**

2004, c. 3, Sched. A, s. 91 - 01/11/2004

2006, c. 19, Sched. N, s. 3 (4) - 22/06/2006

## **PART II PROTECTION OF INDIVIDUAL PRIVACY**

### **COLLECTION AND RETENTION OF PERSONAL INFORMATION**

#### **Application of Part**

**27** This Part does not apply to personal information that is maintained for the purpose of creating a record that is available to the general public. R.S.O. 1990, c. M.56, s. 27.

#### **Personal information**

**28 (1)** In this section and in section 29,

“personal information” includes information that is not recorded and that is otherwise defined as “personal information” under this Act.

#### **Collection of personal information**

(2) No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, used for the purposes of law enforcement or necessary to the proper administration of a lawfully authorized activity. R.S.O. 1990, c. M.56, s. 28.

### **Manner of collection**

**29** (1) An institution shall collect personal information only directly from the individual to whom the information relates unless,

- (a) the individual authorizes another manner of collection;
- (b) the personal information may be disclosed to the institution concerned under section 32 or under section 42 of the *Freedom of Information and Protection of Privacy Act*;
- (c) the Commissioner has authorized the manner of collection under clause 46 (c);
- (d) the information is in a report from a reporting agency in accordance with the *Consumer Reporting Act*;
- (e) the information is collected for the purpose of determining suitability for an honour or award to recognize outstanding achievement or distinguished service;
- (f) the information is collected for the purpose of the conduct of a proceeding or a possible proceeding before a court or judicial or quasi-judicial tribunal;
- (g) the information is collected for the purpose of law enforcement; or
- (h) another manner of collection is authorized by or under a statute. R.S.O. 1990, c. M.56, s. 29 (1).

### **Notice to individual**

(2) If personal information is collected on behalf of an institution, the head shall inform the individual to whom the information relates of,

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used; and
- (c) the title, business address and business telephone number of an officer or employee of the institution who can answer the individual's questions about the collection. R.S.O. 1990, c. M.56, s. 29 (2).

### **Exception**

(3) Subsection (2) does not apply if,

- (a) the head may refuse to disclose the personal information under subsection 8 (1) or (2) (law enforcement), section 8.1 (*Civil Remedies Act, 2001*) or section 8.2 (*Prohibiting Profiting from Recounting Crimes Act, 2002*);
- (b) the Minister waives the notice; or
- (c) the regulations provide that the notice is not required. R.S.O. 1990, c. M.56, s. 29 (3); 2001, c. 28, s. 23 (3); 2002, c. 2, ss. 16 (3), 19 (10); 2007, c. 13, s. 45 (3).

### **Section Amendments with date in force (d/m/y)**

2002, c. 2, s. 19 (10) - 01/07/2003

2007, c. 13, s. 45 (3) - 04/06/2007

### **Retention of personal information**

**30** (1) Personal information that has been used by an institution shall be retained after use by the institution for the period prescribed by regulation in order to ensure that the individual to whom it relates has a reasonable opportunity to obtain access to the personal information.

### **Standard of accuracy**

(2) The head of an institution shall take reasonable steps to ensure that personal information on the records of the institution is not used unless it is accurate and up to date.

### **Exception**

(3) Subsection (2) does not apply to personal information collected for law enforcement purposes.

### **Disposal of personal information**

(4) A head shall dispose of personal information under the control of the institution in accordance with the regulations. R.S.O. 1990, c. M.56, s. 30.

## USE AND DISCLOSURE OF PERSONAL INFORMATION

### Use of personal information

**31** An institution shall not use personal information in its custody or under its control except,

- (a) if the person to whom the information relates has identified that information in particular and consented to its use;
- (b) for the purpose for which it was obtained or compiled or for a consistent purpose; or
- (c) for a purpose for which the information may be disclosed to the institution under section 32 or under section 42 of the *Freedom of Information and Protection of Privacy Act*. R.S.O. 1990, c. M.56, s. 31.

### Where disclosure permitted

**32** An institution shall not disclose personal information in its custody or under its control except,

- (a) in accordance with Part I;
- (b) if the person to whom the information relates has identified that information in particular and consented to its disclosure;
- (c) for the purpose for which it was obtained or compiled or for a consistent purpose;
- (d) if the disclosure is made to an officer, employee, consultant or agent of the institution who needs the record in the performance of their duties and if the disclosure is necessary and proper in the discharge of the institution's functions;
- (e) where permitted or required by law or by a treaty, agreement or arrangement made under an Act or an Act of Canada;
- (f) if disclosure is by a law enforcement institution,
  - (i) to a law enforcement agency in a foreign country under an arrangement, a written agreement or treaty or legislative authority, or
  - (ii) to another law enforcement agency in Canada;
- (g) to an institution or a law enforcement agency in Canada if,
  - (i) the disclosure is to aid in an investigation undertaken by the institution or the agency with a view to a law enforcement proceeding, or
  - (ii) there is a reasonable basis to believe that an offence may have been committed and the disclosure is to enable the institution or the agency to determine whether to conduct such an investigation;
- (h) in compelling circumstances affecting the health or safety of an individual if upon disclosure notification is mailed to the last known address of the individual to whom the information relates;
- (i) in compassionate circumstances, to facilitate contact with the spouse, a close relative or a friend of an individual who is injured, ill or deceased;
- (j) to the Minister;
- (k) to the Information and Privacy Commissioner;
- (l) to the Government of Canada or the Government of Ontario in order to facilitate the auditing of shared cost programs. R.S.O. 1990, c. M.56, s. 32; 2006, c. 19, Sched. N, s. 3 (5); 2006, c. 34, Sched. C, s. 15; 2019, c. 7, Sched. 41, s. 2.

### Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. N, s. 3 (5) - 22/06/2006; 2006, c. 34, Sched. C, s. 15 - 01/04/2007

2019, c. 7, Sched. 41, s. 2 (1, 2) - 17/03/2021

### Consistent purpose

**33** The purpose of a use or disclosure of personal information that has been collected directly from the individual to whom the information relates is a consistent purpose under clauses 31 (b) and 32 (c) only if the individual might reasonably have expected such a use or disclosure. R.S.O. 1990, c. M.56, s. 33.

## PERSONAL INFORMATION BANKS

### **Personal information bank index**

**34** (1) A head shall make available for inspection by the public an index of all personal information banks in the custody or under the control of the institution setting forth, in respect of each personal information bank,

- (a) its name and location;
- (b) the legal authority for its establishment;
- (c) the types of personal information maintained in it;
- (d) how the personal information is used on a regular basis;
- (e) to whom the personal information is disclosed on a regular basis;
- (f) the categories of individuals about whom personal information is maintained; and
- (g) the policies and practices applicable to the retention and disposal of the personal information.

### **Ensure accuracy**

(2) The head shall ensure that the index is amended as required to ensure its accuracy. R.S.O. 1990, c. M.56, s. 34.

### **Inconsistent use or disclosure**

**35** (1) A head shall attach or link to personal information in a personal information bank,

- (a) a record of any use of that personal information for a purpose other than a purpose described in clause 34 (1) (d); and
- (b) a record of any disclosure of that personal information to a person other than a person described in clause 34 (1) (e).

### **Idem**

(2) A record of use or disclosure under subsection (1) forms part of the personal information to which it is attached or linked. R.S.O. 1990, c. M.56, s. 35.

## RIGHT OF INDIVIDUALS TO WHOM PERSONAL INFORMATION RELATES TO ACCESS AND CORRECTION

### **Rights of access and correction**

#### **Right of access to personal information**

**36** (1) Every individual has a right of access to,

- (a) any personal information about the individual contained in a personal information bank in the custody or under the control of an institution; and
- (b) any other personal information about the individual in the custody or under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

#### **Right of correction**

(2) Every individual who is given access under subsection (1) to personal information is entitled to,

- (a) request correction of the personal information if the individual believes there is an error or omission;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement. R.S.O. 1990, c. M.56, s. 36.

### **Access**

**37** (1) An individual seeking access to personal information about the individual shall,

- (a) make a request in writing to the institution that the individual believes has custody or control of the personal information, and specify that the request is being made under this Act;
- (b) identify the personal information bank or otherwise identify the location of the personal information; and

- (c) at the time of making the request, pay the fee prescribed by the regulations for that purpose. 2017, c. 2, Sched. 12, s. 6 (2).

#### **Access procedures**

(2) Subsections 4 (2), 17 (1.1) and (2) and sections 18, 19, 20, 20.1, 21, 22 and 23 apply with necessary modifications to a request made under subsection (1). 1996, c. 1, Sched. K, s. 19.

#### **Comprehensible form**

(3) If access to personal information is to be given, the head shall ensure that the personal information is provided to the individual in a comprehensible form and in a manner that indicates the general conditions under which the personal information is stored and used. R.S.O. 1990, c. M.56, s. 37 (3).

#### **Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 19 - 30/01/1996

2017, c. 2, Sched. 12, s. 6 (2) - 22/03/2017

#### **Exemptions**

**38** A head may refuse to disclose to the individual to whom the information relates personal information,

- (a) if section 6, 7, 8, 8.1, 8.2, 9, 9.1, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information;
- (b) if the disclosure would constitute an unjustified invasion of another individual's personal privacy;
- (c) that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for the awarding of contracts and other benefits by an institution if the disclosure would reveal the identity of a source who furnished information to the institution in circumstances where it may reasonably have been assumed that the identity of the source would be held in confidence;
- (c.1) if the information is supplied explicitly or implicitly in confidence and is evaluative or opinion material compiled solely for the purpose of determining suitability for an honour or award to recognize outstanding achievement or distinguished service;
- (d) that is medical information if the disclosure could reasonably be expected to prejudice the mental or physical health of the individual; or
- (e) that is a research or statistical record. R.S.O. 1990, c. M.56, s. 38; 2001, c. 28, s. 23 (4); 2002, c. 2, ss. 16 (4), 19 (11); 2002, c. 18, Sched. K, s. 21; 2005, c. 28, Sched. J, s. 1; 2017, c. 8, Sched. 20, s. 4.

#### **Section Amendments with date in force (d/m/y)**

2001, c. 28, s. 23 (4) - 12/04/2002

2002, c. 2, s. 16 (4) - 01/07/2003; 2002, c. 2, s. 19 (11) - 01/07/2003; 2002, c. 18, Sched. K, s. 21 - 26/11/2002

2005, c. 28, Sched. J, s. 1 - 10/06/2006

2017, c. 8, Sched. 20, s. 4 - 09/03/2018

### **PART III APPEAL**

#### **Right to appeal**

**39** (1) A person may appeal any decision of a head under this Act to the Commissioner if,

- (a) the person has made a request for access to a record under subsection 17 (1);
- (b) the person has made a request for access to personal information under subsection 37 (1);
- (c) the person has made a request for correction of personal information under subsection 36 (2); or
- (d) the person is given notice of a request under subsection 21 (1). R.S.O. 1990, c. M.56, s. 39 (1).

#### **Fee**

(1.1) A person who appeals under subsection (1) shall pay the fee prescribed by the regulations for that purpose. 1996, c. 1, Sched. K, s. 20.

### **Time for application**

(2) Subject to subsection (2.0.1), an appeal under subsection (1) shall be made within thirty days after the notice was given of the decision appealed from by filing with the Commissioner written notice of appeal. R.S.O. 1990, c. M.56, s. 39 (2); 2016, c. 5, Sched. 17, s. 2 (1).

### **Extension of time**

(2.0.1) If the time limit specified in subsection (2) presents a barrier, as defined in the Accessibility for Ontarians with Disabilities Act, 2005, to the person, the Commissioner may extend the time limit for a period of time that is reasonably required in the circumstances to accommodate the person for the purpose of making the appeal. 2016, c. 5, Sched. 17, s. 2 (2).

### **Immediate dismissal**

(2.1) The Commissioner may dismiss an appeal if the notice of appeal does not present a reasonable basis for concluding that the record or the personal information to which the notice relates exists. 1996, c. 1, Sched. K, s. 20.

### **Non-application**

(2.2) If the Commissioner dismisses an appeal under subsection (2.1), subsection (3) and sections 40 and 41 do not apply to the Commissioner. 1996, c. 1, Sched. K, s. 20.

### **Notice of application for appeal**

(3) Upon receiving a notice of appeal, the Commissioner shall inform the head of the institution concerned of the notice of appeal and may also inform any other institution or person with an interest in the appeal, including an institution within the meaning of the *Freedom of Information and Protection of Privacy Act*, of the notice of the appeal. 2006, c. 34, Sched. C, s. 16.

### **Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 20 - 30/01/1996

2006, c. 34, Sched. C, s. 16 - 01/04/2007

2016, c. 5, Sched. 17, s. 2 (1, 2) - 19/04/2016

### **Mediator to try to effect settlement**

**40** The Commissioner may authorize a mediator to investigate the circumstances of any appeal and to try to effect a settlement of the matter under appeal. R.S.O. 1990, c. M.56, s. 40.

### **Inquiry**

**41** (1) The Commissioner may conduct an inquiry to review the head's decision if,

- (a) the Commissioner has not authorized a mediator to conduct an investigation under section 40; or
- (b) the Commissioner has authorized a mediator to conduct an investigation under section 40 but no settlement has been effected. 1996, c. 1, Sched. K, s. 21.

### **Procedure**

(2) The *Statutory Powers Procedure Act* does not apply to an inquiry under subsection (1). R.S.O. 1990, c. M.56, s. 41 (2).

### **Inquiry in private**

(3) The inquiry may be conducted in private. R.S.O. 1990, c. M.56, s. 41 (3).

### **Powers of Commissioner**

(4) In an inquiry, the Commissioner may require to be produced to the Commissioner and may examine any record that is in the custody or under the control of an institution, despite Parts I and II of this Act or any other Act or privilege, and may enter and inspect any premises occupied by an institution for the purposes of the investigation. R.S.O. 1990, c. M.56, s. 41 (4).

### **Record not retained by Commissioner**

(5) The Commissioner shall not retain any information obtained from a record under subsection (4). R.S.O. 1990, c. M.56, s. 41 (5).

### **Examination on site**

(6) Despite subsection (4), a head may require that the examination of a record by the Commissioner be of the original at its site. R.S.O. 1990, c. M.56, s. 41 (6).

### **Notice of entry**

(7) Before entering any premises under subsection (4), the Commissioner shall notify the head of the institution occupying the premises of his or her purpose. R.S.O. 1990, c. M.56, s. 41 (7).

### **Examination under oath**

(8) The Commissioner may summon and examine on oath any person who, in the Commissioner's opinion, may have information relating to the inquiry and, for that purpose, the Commissioner may administer an oath. R.S.O. 1990, c. M.56, s. 41 (8).

### **Evidence privileged**

(9) Anything said or any information supplied or any document or thing produced by a person in the course of an inquiry by the Commissioner under this Act is privileged in the same manner as if the inquiry were a proceeding in a court. R.S.O. 1990, c. M.56, s. 41 (9).

### **Protection**

(10) Except on the trial of a person for perjury in respect of his or her sworn testimony, no statement made or answer given by that or any other person in the course of an inquiry by the Commissioner is admissible in evidence in any court or any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person. R.S.O. 1990, c. M.56, s. 41 (10).

### **Idem**

(11) A person giving a statement or answer in the course of an inquiry before the Commissioner shall be informed by the Commissioner of his or her right to object to answer any question under section 5 of the *Canada Evidence Act*. R.S.O. 1990, c. M.56, s. 41 (11).

### **Prosecution**

(12) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his or her compliance with a requirement of the Commissioner under this section. R.S.O. 1990, c. M.56, s. 41 (12).

### **Representations**

(13) The person who requested access to the record, the head of the institution concerned and any other institution or person informed of the notice of appeal under subsection 39 (3) shall be given an opportunity to make representations to the Commissioner, but no person is entitled to have access to or to comment on representations made to the Commissioner by any other person or to be present when such representations are made. 2006, c. 34, Sched. C, s. 17 (1).

### **Right to representation**

(14) Each of the following may be represented by a person authorized under the *Law Society Act* to represent them:

1. The person who requested access to the record.
2. The head of the institution concerned.
3. Any other institution or person informed of the notice of appeal under subsection 39 (3). 2006, c. 34, Sched. C, s. 17 (5).

### **Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 21 - 30/01/1996

2006, c. 21, Sched. C, s. 119 - 01/05/2007; 2006, c. 34, Sched. C, s. 17 (1, 2) - 01/04/2007; 2006, c. 34, Sched. C, s. 17 (5) - 01/05/2007

### **Burden of proof**

**42** If a head refuses access to a record or a part of a record, the burden of proof that the record or the part falls within one of the specified exemptions in this Act lies upon the head. R.S.O. 1990, c. M.56, s. 42.

### **Order**

**43** (1) After all of the evidence for an inquiry has been received, the Commissioner shall make an order disposing of the issues raised by the appeal.

### **Idem**

(2) If the Commissioner upholds a decision of a head that the head may refuse to disclose a record or a part of a record, the Commissioner shall not order the head to disclose the record or part. R.S.O. 1990, c. M.56, s. 43 (1, 2).

**Conditions**

(3) Subject to this Act, the Commissioner's order may contain any conditions the Commissioner considers appropriate. R.S.O. 1990, c. M.56, s. 43 (3); 1996, c. 1, Sched. K, s. 22.

**Notice of order**

(4) The Commissioner shall give the appellant and the persons who received notice of the appeal under subsection 39 (3) written notice of order. R.S.O. 1990, c. M.56, s. 43 (4).

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 22 - 30/01/1996

**Delegation**

**44** The Commissioner shall not delegate to a person other than an Assistant Commissioner his or her power to require a record referred to in section 8 to be produced and examined. R.S.O. 1990, c. M.56, s. 44.

**PART IV  
GENERAL****Fees**

**45** (1) A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record. 1996, c. 1, Sched. K, s. 23 (1).

(2) REPEALED: 1996, c. 1, Sched. K, s. 23 (1).

**Estimate of costs**

(3) The head of an institution shall, before giving access to a record, give the person requesting access a reasonable estimate of any amount that will be required to be paid under this Act that is over \$25. R.S.O. 1990, c. M.56, s. 45 (3).

**Waiver of payment**

(4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering,

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety; and
- (d) any other matter prescribed in the regulations. R.S.O. 1990, c. M.56, s. 45 (4); 1996, c. 1, Sched. K, s. 23 (2).

**Review**

(5) A person who is required to pay a fee under subsection (1) may ask the Commissioner to review the amount of the fee or the head's decision not to waive the fee. R.S.O. 1990, c. M.56, s. 45 (5); 1996, c. 1, Sched. K, s. 23 (3).

**Disposition of fees**

(6) The fees provided in this section shall be paid and distributed in the manner and at the times prescribed in the regulations. 1996, c. 1, Sched. K, s. 23 (4).

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 23 (1-4) - 30/01/1996

**Powers and duties of Commissioner**

**46** The Commissioner may,

- (a) offer comment on the privacy protection implications of proposed programs of institutions;
- (b) after hearing the head, order an institution to,
  - (i) cease a collection practice that contravenes this Act, and
  - (ii) destroy collections of personal information that contravene this Act;
- (c) in appropriate circumstances, authorize the collection of personal information otherwise than directly from the individual;
- (d) engage in or commission research into matters affecting the carrying out of the purposes of this Act;
- (e) conduct public education programs and provide information concerning this Act and the Commissioner's role and activities; and
- (f) receive representations from the public concerning the operation of this Act. R.S.O. 1990, c. M.56, s. 46.

### **Regulations**

**47 (1)** The Lieutenant Governor in Council may make regulations,

- (0.a) prescribing standards for determining what constitutes reasonable grounds for a head to conclude that a request for access to a record is frivolous or vexatious;
- (0.a.1) prescribing Aboriginal organizations and communities for the purposes of clause (c) of the definition of "Aboriginal community" in subsection 9.1 (2);
  - (a) respecting the procedures for access to original records under section 23;
- (a.1) requiring the head of an institution to assist persons with disabilities in making requests for access under subsection 17 (1) or 37 (1);
  - (b) prescribing the circumstances under which records capable of being produced from machine readable records are not included in the definition of "record" for the purposes of this Act;
  - (c) setting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information under the control of institutions;
- (c.1) providing for procedures to be followed by an institution if personal information is disclosed in contravention of this Act;
  - (d) setting standards for the accuracy and completeness of personal information that is under the control of an institution;
  - (e) prescribing time periods for the purposes of subsection 30 (1);
- (e.1) respecting the disposal of personal information under subsection 30 (4), including providing for different procedures for the disposal of personal information based on the sensitivity of the personal information;
  - (f) prescribing the amount, the manner of payment and the manner of allocation of fees described in clause 17 (1) (c) or 37 (1) (c), subsection 39 (1.1) or section 45 and the times at which they are required to be paid;
  - (g) prescribing matters to be considered in determining whether to waive all or part of the costs required under section 45;
  - (h) designating any agency, board, commission, corporation or other body as an institution;
  - (i) prescribing circumstances under which the notice under subsection 29 (2) is not required;
  - (j) prescribing conditions relating to the security and confidentiality of records used for a research purpose;
  - (k) prescribing forms and providing for their use;
  - (l) respecting any matter the Lieutenant Governor in Council considers necessary to carry out effectively the purposes of this Act. R.S.O. 1990, c. M.56, s. 47; 1996, c. 1, Sched. K, s. 24 (1, 2); 2006, c. 34, Sched. C, s. 18; 2017, c. 8, Sched. 20, s. 5.

### **Categories of fees**

(2) A regulation made under clause (1) (f) may prescribe a different amount, manner of payment, manner of allocation or time of payment of fees for different categories of records or persons requesting access to a record. 1996, c. 1, Sched. K, s. 24 (3).

### **Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. K, s. 24 (1-3) - 30/01/1996

2006, c. 34, Sched. C, s. 18 - 31/12/2016

2017, c. 8, Sched. 20, s. 5 - 09/03/2018

### **Offences**

**48** (1) No person shall,

- (a) wilfully disclose personal information in contravention of this Act;
- (b) wilfully maintain a personal information bank that contravenes this Act;
- (c) make a request under this Act for access to or correction of personal information under false pretences;
- (c.1) alter, conceal or destroy a record, or cause any other person to do so, with the intention of denying a right under this Act to access the record or the information contained in the record;
- (d) wilfully obstruct the Commissioner in the performance of his or her functions under this Act;
- (e) wilfully make a false statement to mislead or attempt to mislead the Commissioner in the performance of his or her functions under this Act; or
- (f) wilfully fail to comply with an order of the Commissioner. R.S.O. 1990, c. M.56, s. 48 (1); 2014, c. 13, Sched. 6, s. 4 (1).

### **Penalty**

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000. R.S.O. 1990, c. M.56, s. 48 (2).

### **Consent of Attorney General**

(3) A prosecution shall not be commenced under clause (1) (c.1), (d), (e) or (f) without the consent of the Attorney General. R.S.O. 1990, c. M.56, s. 48 (3); 2014, c. 13, Sched. 6, s. 4 (2).

### **Extended limitation for prosecution**

(4) A prosecution for an offence under clause (1) (c.1) shall not be commenced more than two years after the day evidence of the offence was discovered. 2014, c. 13, Sched. 6, s. 4 (3).

### **Protection of information**

(5) In a prosecution for an offence under this section, the court may take precautions to avoid the disclosure by the court or any person of any of the following information, including, where appropriate, conducting hearings or parts of hearings in private or sealing all or part of the court files:

1. Information that may be subject to an exemption from disclosure under sections 6 to 14.
2. Information to which this Act may not apply under section 52.
3. Information that may be subject to a confidentiality provision in any other Act. 2014, c. 13, Sched. 6, s. 4 (4).

### **Section Amendments with date in force (d/m/y)**

2014, c. 13, Sched. 6, s. 4 (1-4) - 01/01/2016

### **Delegation, civil proceedings**

#### **Delegation of head's powers**

**49** (1) A head may in writing delegate a power or duty granted or vested in the head to an officer or officers of the institution or another institution subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation. R.S.O. 1990, c. M.56, s. 49 (1); 2006, c. 34, Sched. C, s. 19.

#### **Protection from civil proceeding**

(2) No action or other proceeding lies against a head, or against a person acting on behalf or under the direction of the head, for damages resulting from the disclosure or non-disclosure in good faith of a record or any part of a record under this Act, or from the failure to give a notice required under this Act if reasonable care is taken to give the required notice. R.S.O. 1990, c. M.56, s. 49 (2).

### **Vicarious liability of institutions preserved**

(3) Subsection (2) does not relieve an institution from liability in respect of a tort committed by a head or a person mentioned in subsection (2) to which it would otherwise be subject and the institution is liable for any such tort in a like manner as if subsection (2) had not been enacted. R.S.O. 1990, c. M.56, s. 49 (3).

### **Section Amendments with date in force (d/m/y)**

2006, c. 34, Sched. C, s. 19 - 01/04/2007

### **Informal access**

#### **Oral requests**

**50** (1) If a head may give access to information under this Act, nothing in this Act prevents the head from giving access to that information in response to an oral request or in the absence of a request.

#### **Pre-existing access preserved**

(2) This Act shall not be applied to preclude access to information that is not personal information and to which access by the public was available by statute, custom or practice immediately before the 1st day of January, 1991. R.S.O. 1990, c. M.56, s. 50.

#### **Information otherwise available**

**51** (1) This Act does not impose any limitation on the information otherwise available by law to a party to litigation.

#### **Powers of courts and tribunals**

(2) This Act does not affect the power of a court or a tribunal to compel a witness to testify or compel the production of a document. R.S.O. 1990, c. M.56, s. 51.

#### **Application of Act**

**52** (1) This Act applies to any record in the custody or under the control of an institution regardless of whether it was recorded before or after the 1st day of January, 1991. R.S.O. 1990, c. M.56, s. 52 (12).

#### **Non-application of Act**

(2) This Act does not apply to records placed in the archives of an institution by or on behalf of a person or organization other than the institution. R.S.O. 1990, c. M.56, s. 52 (2).

#### **Same**

(2.1) This Act does not apply to a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed. 2006, c. 34, Sched. C, s. 20.

#### **Same**

(3) Subject to subsection (4), this Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:

1. Proceedings or anticipated proceedings before a court, tribunal or other entity relating to labour relations or to the employment of a person by the institution.
2. Negotiations or anticipated negotiations relating to labour relations or to the employment of a person by the institution between the institution and a person, bargaining agent or party to a proceeding or an anticipated proceeding.
3. Meetings, consultations, discussions or communications about labour relations or employment-related matters in which the institution has an interest. 1995, c. 1, s. 83.

#### **Exception**

(4) This Act applies to the following records:

1. An agreement between an institution and a trade union.
2. An agreement between an institution and one or more employees which ends a proceeding before a court, tribunal or other entity relating to labour relations or to employment-related matters.
3. An agreement between an institution and one or more employees resulting from negotiations about employment-related matters between the institution and the employee or employees.

4. An expense account submitted by an employee of an institution to that institution for the purpose of seeking reimbursement for expenses incurred by the employee in his or her employment. 1995, c. 1, s. 83.

#### **Non-application of Act**

- (5) This Act does not apply to identifying information in a record relating to medical assistance in dying. 2017, c. 7, s. 4.

#### **Interpretation**

- (6) In subsection (5),

“identifying information” means information,

- (a) that relates to medical assistance in dying, and
- (b) that identifies an individual or facility, or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual or facility; (“renseignements identificatoires”)

“medical assistance in dying” means medical assistance in dying within the meaning of section 241.1 of the *Criminal Code* (Canada). (“aide médicale à mourir”) 2017, c. 7, s. 4.

#### **Section Amendments with date in force (d/m/y)**

1995, c. 1, s. 83 - 10/11/1995

2006, c. 34, Sched. C, s. 20 - 01/04/2007

2017, c. 7, s. 4 - 10/05/2017

#### **Non-application re: Hydro One Inc.**

**52.1** (1) This Act does not apply to Hydro One Inc. and its subsidiaries on and after the date on which the *Building Ontario Up Act (Budget Measures), 2015* received Royal Assent. 2015, c. 20, Sched. 28, s. 1.

#### **Transition, Minister’s report**

- (2) The publication of information required by section 24 on or after the date described in subsection (1) must not include information about Hydro One Inc. and its subsidiaries. 2015, c. 20, Sched. 28, s. 1.

#### **Transition, request for continuing access**

- (3) If a person had made a request under subsection 17 (3) for continuing access to a record of Hydro One Inc. or a subsidiary before the date described in subsection (1), and if the specified period for which access is requested expires after April 23, 2015, the specified period is deemed to have expired on April 23, 2015. 2015, c. 20, Sched. 28, s. 1.

#### **Repeal**

**(4) Subsection (3) and this subsection are repealed on a day to be named by proclamation of the Lieutenant Governor. 2015, c. 20, Sched. 28, s. 1.**

#### **Transition**

- (5) Despite subsection (1), for a period of six months after the date described in that subsection,

- (a) the Commissioner may continue to exercise all of his or her powers under section 41 (inquiry) and clause 46 (b) (certain orders) in relation to Hydro One Inc. and its subsidiaries with respect to matters that occurred and records that were created before that date; and
- (b) Hydro One Inc. and its subsidiaries continue to have the duties of an institution under this Act in relation to the exercise of the Commissioner’s powers mentioned in clause (a). 2015, c. 20, Sched. 28, s. 1.

#### **Continuing authority to issue orders, etc.**

- (6) The powers and duties of the Commissioner to issue orders under section 41 and clause 46 (b) with respect to matters mentioned in subsection (5) continue for an additional six months after the expiry of the six-month period described in that subsection. 2015, c. 20, Sched. 28, s. 1.

#### **Orders binding**

- (7) An order issued within the time described in subsection (6) is binding on Hydro One Inc. or its subsidiaries, as the case may be. 2015, c. 20, Sched. 28, s. 1.

## **Repeal**

**(8) Subsections (5), (6) and (7) and this subsection are repealed on a day to be named by proclamation of the Lieutenant Governor. 2015, c. 20, Sched. 28, s. 1.**

### **Section Amendments with date in force (d/m/y)**

2015, c. 20, Sched. 28, s. 1 - 04/06/2015

## **Other Acts**

**53** (1) This Act prevails over a confidentiality provision in any other Act unless the other Act or this Act specifically provides otherwise. R.S.O. 1990, c. M.56, s. 53 (1).

## **Idem**

(2) The following confidentiality provisions prevail over this Act:

1. Subsection 88 (6) of the *Municipal Elections Act, 1996*.
2. Subsection 53 (1) of the *Assessment Act*. R.S.O. 1990, c. M.56, s. 53 (2); 1996, c. 32, s. 77.

### **Section Amendments with date in force (d/m/y)**

1996, c. 32, s. 77 - 19/12/1996

## **Exercise of rights of deceased, etc., persons**

**54** Any right or power conferred on an individual by this Act may be exercised,

- (a) if the individual is deceased, by the individual's personal representative if exercise of the right or power relates to the administration of the individual's estate;
- (b) by the individual's attorney under a continuing power of attorney, the individual's attorney under a power of attorney for personal care, the individual's guardian of the person, or the individual's guardian of property; and
- (c) if the individual is less than sixteen years of age, by a person who has lawful custody of the individual. R.S.O. 1990, c. M.56, s. 54; 1992, c. 32, s. 23; 1996, c. 2, s. 73.

### **Section Amendments with date in force (d/m/y)**

1992, c. 32, s. 23 - 03/04/1995

1996, c. 2, s. 73 - 29/03/1996

**55** REPEALED: 2006, c. 34, Sched. C, s. 21.

### **Section Amendments with date in force (d/m/y)**

2006, c. 34, Sched. C, s. 21 - 01/04/2007

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[Back to top](#)

<b>Point of Privilege</b>	A point of privilege may be raised at any time, eg. for a challenge to the Council's or member's integrity, statements naming a member, rights / privileges of Council, eg. incorrect minutes, conduct of staff/visitors, comfort of members, eg. noise, heat.
<b>Public Question Period</b>	A member of the public in attendance may ask a question regarding a matter on the agenda only. A maximum of 15 minutes is allowed for all public questions.
<b>* Quorum *</b>	A majority of Committee members is required to be present and seated in order to constitute a quorum, unless a Committee terms of reference specify different quorum provisions. If a quorum is not achieved within 30 minutes of the meeting start time, the Legislative Co-ordinator will record the name of the members present and the meeting will not be called to order. If quorum is lost during a meeting, the meeting is recessed and will reconvene when quorum is regained. If quorum is not regained within 30 minutes, the Legislative Co-ordinator will record in the minutes the names of those present and the meeting will end without formal adjournment. The items that were not considered will be placed on the agenda of the next meeting.
<b>Recorded Vote</b>	Any Committee member may request a recorded vote at a Committee meeting.
<b>Recount Vote</b>	A recount may be requested only immediately after the declaration of the vote by the Chair.
<b>Refer (to a Committee or Person Named in the Motion)</b>	A motion to refer will send or direct a matter to another Committee, staff or official named in the motion, for further work or consideration. This motion is debatable, but only the merits of the referral, not the subject. In order to continue to discuss the subject, the motion to refer must be defeated.
<b>Reopen the Question</b>	To discuss a matter already voted on at a meeting, a two-thirds majority is required to reopen the question. To discuss a matter from a previous meeting, a two-thirds majority is required by Council Resolution. If a motion to reopen is lost, it cannot be raised again during the current term of Council.
<b>Speaking – Number of Times a Member may Speak</b>	A Committee member may speak initially for five minutes. He/she may not speak again until everyone else who wants to, has spoken. A member may then speak a second time for five minutes. There is no restriction on the number of times a member may speak.

*The above are selected extracts from Procedure By-law 160-2004, as amended. For further information, please refer to the Procedure By-law and/or contact the City Clerk's Office.*

September 2023

## Statutory Powers Procedure Act

### R.S.O. 1990, CHAPTER S.22

**Consolidation Period:** From June 3, 2021 to the [e-Laws currency date](#).

Last amendment: 2021, c. 25, Sched. 27, s. 1-3.

Legislative History: 1993, c. 27, Sched.; 1994, c. 27, s. 56; 1997, c. 23, s. 13; 1999, c. 12, Sched. B, s. 16; 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. B, s. 21; 2006, c. 19, Sched. C, s. 1 (1, 2, 4); 2006, c. 21, Sched. C, s. 134; 2006, c. 21, Sched. F, s. 136 (1); 2009, c. 33, Sched. 6, s. 87; 2015, c. 23, s. 5; 2021, c. 4, Sched. 6, s. 91; 2021, c. 25, Sched. 27, s. 1-3.

### CONTENTS

<a href="#">1.</a>	Interpretation
<a href="#">2.</a>	Liberal construction of Act and rules
<a href="#">3.</a>	Application of Act
<a href="#">4.</a>	Waiver
<a href="#">4.1</a>	Disposition without hearing
<a href="#">4.2</a>	Panels, certain matters
<a href="#">4.2.1</a>	Panel of one, reduced panel
<a href="#">4.3</a>	Expiry of term
<a href="#">4.4</a>	Incapacity of member
<a href="#">4.5</a>	Decision not to process commencement of proceeding
<a href="#">4.6</a>	Dismissal of proceeding without hearing
<a href="#">4.7</a>	Classifying proceedings
<a href="#">4.8</a>	Alternative dispute resolution
<a href="#">4.9</a>	Mediators, etc.: not compellable, notes not evidence
<a href="#">5.</a>	Parties
<a href="#">5.1</a>	Written hearings
<a href="#">5.2</a>	Electronic hearings
<a href="#">5.2.1</a>	Different kinds of hearings in one proceeding
<a href="#">5.3</a>	Pre-hearing conferences
<a href="#">5.4</a>	Disclosure
<a href="#">6.</a>	Notice of hearing
<a href="#">7.</a>	Effect of non-attendance at hearing after due notice
<a href="#">8.</a>	Where character, etc., of a party is in issue
<a href="#">9.</a>	Hearings to be public; maintenance of order
<a href="#">9.1</a>	Proceedings involving similar questions
<a href="#">10.</a>	Right to representation
<a href="#">10.1</a>	Examination of witnesses
<a href="#">11.</a>	Rights of witnesses to representation
<a href="#">12.</a>	Summonses
<a href="#">13.</a>	Contempt proceedings
<a href="#">14.</a>	Protection for witnesses
<a href="#">15.</a>	Evidence
<a href="#">15.1</a>	Use of previously admitted evidence
<a href="#">15.2</a>	Witness panels
<a href="#">16.</a>	Notice of facts and opinions
<a href="#">16.1</a>	Interim decisions and orders
<a href="#">16.2</a>	Time frames
<a href="#">17.</a>	Decision; interest
<a href="#">17.1</a>	Costs
<a href="#">18.</a>	Notice of decision
<a href="#">19.</a>	Enforcement of orders
<a href="#">20.</a>	Record of proceeding
<a href="#">21.</a>	Adjournments

<a href="#"><u>21.1</u></a>	Correction of errors
<a href="#"><u>21.2</u></a>	Power to review
<a href="#"><u>22.</u></a>	Administration of oaths
<a href="#"><u>23.</u></a>	Powers re control of proceedings
<a href="#"><u>24.</u></a>	Notice, etc.
<a href="#"><u>25.</u></a>	Appeal operates as stay, exception
<a href="#"><u>25.0.1</u></a>	Control of process
<a href="#"><u>25.1</u></a>	Rules
<a href="#"><u>26.</u></a>	Regulations
<a href="#"><u>27.</u></a>	Rules, etc., available to public
<a href="#"><u>28.</u></a>	Substantial compliance
<a href="#"><u>29.</u></a>	Prohibition on photographs, recordings, dissemination
<a href="#"><u>32.</u></a>	Conflict

## Interpretation

1 (1) In this Act,

“electronic hearing” means a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another; (“audience électronique”)

“hearing” means a hearing in any proceeding; (“audience”)

“licence” includes any permit, certificate, approval, registration or similar form of permission required by law; (“autorisation”)

“municipality” has the same meaning as in the *Municipal Affairs Act*; (“municipalité”)

“oral hearing” means a hearing at which the parties or their representatives attend before the tribunal in person; (“audience orale”)

“proceeding” means a proceeding to which this Act applies; (“instance”)

“representative” means, in respect of a proceeding to which this Act applies, a person authorized under the *Law Society Act* to represent a person in that proceeding; (“représentant”)

“statutory power of decision” means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,

(a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or

(b) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is legally entitled thereto or not; (“compétence légale de décision”)

“tribunal” means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute; (“tribunal”)

“written hearing” means a hearing held by means of the exchange of documents, whether in written form or by electronic means. (“audience écrite”) R.S.O. 1990, c. S.22, s. 1 (1); 1994, c. 27, s. 56 (1-3); 2002, c. 17, Sched. F, Table; 2006, c. 21, Sched. C, s. 134 (1, 2).

## Meaning of “person” extended

(2) A municipality, an unincorporated association of employers, a trade union or council of trade unions who may be a party to a proceeding in the exercise of a statutory power of decision under the statute conferring the power shall be deemed to be a person for the purpose of any provision of this Act or of any rule made under this Act that applies to parties. R.S.O. 1990, c. S.22, s. 1 (2).

## Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (1-3) - 1/04/1995

2002, c. 17, Sched. F, Table - 1/01/2003

2006, c. 21, Sched. C, s. 134 (1, 2) - 1/05/2007

### **Liberal construction of Act and rules**

**2** This Act, and any rule made by a tribunal under subsection 17.1 (4) or section 25.1, shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits. 1999, c. 12, Sched. B, s. 16 (1); 2006, c. 19, Sched. B, s. 21 (1).

### **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (1) - 14/02/2000

2006, c. 19, Sched. B, s. 21 (1) - 22/06/2006

### **Application of Act**

**3** (1) Subject to subsection (2), this Act applies to a proceeding by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceeding an opportunity for a hearing before making a decision. R.S.O. 1990, c. S.22, s. 3 (1); 1994, c. 27, s. 56 (5).

### **Where Act does not apply**

(2) This Act does not apply to a proceeding,

- (a) before the Assembly or any committee of the Assembly;
- (b) in or before,
  - (i) the Court of Appeal,
  - (ii) the Superior Court of Justice,
  - (iii) the Ontario Court of Justice,
  - (iv) the Family Court of the Superior Court of Justice,
  - (v) the Small Claims Court, or
  - (vi) a justice of the peace;
- (c) to which the Rules of Civil Procedure apply;
- (d) before an arbitrator to which the *Arbitration Act, 1991* or the *Labour Relations Act, 1995* applies;
- (e) at a coroner's inquest;
- (f) of a commission appointed under the *Public Inquiries Act, 2009*;
- (g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he or she may have power to make; or
- (h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned. R.S.O. 1990, c. S.22, s. 3 (2); 1994, c. 27, s. 56 (6); 2006, c. 19, Sched. C, s. 1 (1, 2, 4); 2009, c. 33, Sched. 6, s. 87; 2021, c. 25, Sched. 27, s. 1.

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (5, 6) - 1/04/1995

2006, c. 19, Sched. C, s. 1 (1, 2, 4) - 22/06/2006

2009, c. 33, Sched. 6, s. 87 - 1/06/2011

2021, c. 25, Sched. 27, s. 1 - 03/06/2021

### **Waiver**

#### **Waiver of procedural requirement**

**4** (1) Any procedural requirement of this Act, or of another Act or a regulation that applies to a proceeding, may be waived with the consent of the parties and the tribunal. 1997, c. 23, s. 13 (1).

## **Same, rules**

(2) Any provision of a tribunal's rules made under section 25.1 may be waived in accordance with the rules. 1994, c. 27, s. 56 (7).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (7) - 1/04/1995; 1997, c. 23, s. 13 (1) - 28/11/1997

## **Disposition without hearing**

**4.1** If the parties consent, a proceeding may be disposed of by a decision of the tribunal given without a hearing, unless another Act or a regulation that applies to the proceeding provides otherwise. 1997, c. 23, s. 13 (2).

### **Section Amendments with date in force (d/m/y)**

1997, c. 23, s. 13 (2) - 28/11/1997

## **Panels, certain matters**

**4.2** (1) A procedural or interlocutory matter in a proceeding may be heard and determined by a panel consisting of one or more members of the tribunal, as assigned by the chair of the tribunal. 1994, c. 27, s. 56 (8).

## **Assignments**

(2) In assigning members of the tribunal to a panel, the chair shall take into consideration any requirement imposed by another Act or a regulation that applies to the proceeding that the tribunal be representative of specific interests. 1997, c. 23, s. 13 (3).

## **Decision of panel**

(3) The decision of a majority of the members of a panel, or their unanimous decision in the case of a two-member panel, is the tribunal's decision. 1994, c. 27, s. 56 (8).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (8) - 1/04/1995; 1997, c. 23, s. 13 (3) - 28/11/1997

## **Panel of one, reduced panel**

### **Panel of one**

**4.2.1** (1) The chair of a tribunal may decide that a proceeding be heard by a panel of one person and assign the person to hear the proceeding unless there is a statutory requirement in another Act that the proceeding be heard by a panel of more than one person.

## **Reduction in number of panel members**

(2) Where there is a statutory requirement in another Act that a proceeding be heard by a panel of a specified number of persons, the chair of the tribunal may assign to the panel one person or any lesser number of persons than the number specified in the other Act if all parties to the proceeding consent. 1999, c. 12, Sched. B, s. 16 (2).

### **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (2) - 14/02/2000

## **Expiry of term**

**4.3** If the term of office of a member of a tribunal who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose. 1997, c. 23, s. 13 (4).

### **Section Amendments with date in force (d/m/y)**

1997, c. 23, s. 13 (4) - 28/11/1997

## **Incapacity of member**

**4.4** (1) If a member of a tribunal who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining member or members may complete the hearing and give a decision. 1994, c. 27, s. 56 (9).

### **Other Acts and regulations**

(2) Subsection (1) does not apply if another Act or a regulation specifically deals with the issue of what takes place in the circumstances described in subsection (1). 1997, c. 23, s. 13 (5).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (9) - 1/04/1995; 1997, c. 23, s. 13 (5) - 28/11/1997

### **Decision not to process commencement of proceeding**

**4.5** (1) Subject to subsection (3), upon receiving documents relating to the commencement of a proceeding, a tribunal or its administrative staff may decide not to process the documents relating to the commencement of the proceeding if,

- (a) the documents are incomplete;
- (b) the documents are received after the time required for commencing the proceeding has elapsed;
- (c) the fee required for commencing the proceeding is not paid; or
- (d) there is some other technical defect in the commencement of the proceeding.

### **Notice**

(2) A tribunal or its administrative staff shall give the party who commences a proceeding notice of its decision under subsection (1) and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents.

### **Rules under s. 25.1**

(3) A tribunal or its administrative staff shall not make a decision under subsection (1) unless the tribunal has made rules under section 25.1 respecting the making of such decisions and those rules shall set out,

- (a) any of the grounds referred to in subsection (1) upon which the tribunal or its administrative staff may decide not to process the documents relating to the commencement of a proceeding; and
- (b) the requirements for the processing of the documents to be resumed.

### **Continuance of provisions in other statutes**

(4) Despite section 32, nothing in this section shall prevent a tribunal or its administrative staff from deciding not to process documents relating to the commencement of a proceeding on grounds that differ from those referred to in subsection (1) or without complying with subsection (2) or (3) if the tribunal or its staff does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

### **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

### **Dismissal of proceeding without hearing**

**4.6** (1) Subject to subsections (5) and (6), a tribunal may dismiss a proceeding without a hearing if,

- (a) the proceeding is frivolous, vexatious or is commenced in bad faith;
- (b) the proceeding relates to matters that are outside the jurisdiction of the tribunal; or
- (c) some aspect of the statutory requirements for bringing the proceeding has not been met.

### **Notice**

(2) Before dismissing a proceeding under this section, a tribunal shall give notice of its intention to dismiss the proceeding to,

- (a) all parties to the proceeding if the proceeding is being dismissed for reasons referred to in clause (1) (b); or
- (b) the party who commences the proceeding if the proceeding is being dismissed for any other reason.

### **Same**

(3) The notice of intention to dismiss a proceeding shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

**Right to make submissions**

(4) A party who receives a notice under subsection (2) may make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

**Dismissal**

(5) A tribunal shall not dismiss a proceeding under this section until it has given notice under subsection (2) and considered any submissions made under subsection (4).

**Rules**

(6) A tribunal shall not dismiss a proceeding under this section unless it has made rules under section 25.1 respecting the early dismissal of proceedings and those rules shall include,

- (a) any of the grounds referred to in subsection (1) upon which a proceeding may be dismissed;
- (b) the right of the parties who are entitled to receive notice under subsection (2) to make submissions with respect to the dismissal; and
- (c) the time within which the submissions must be made.

**Continuance of provisions in other statutes**

(7) Despite section 32, nothing in this section shall prevent a tribunal from dismissing a proceeding on grounds other than those referred to in subsection (1) or without complying with subsections (2) to (6) if the tribunal dismisses the proceeding in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

**Classifying proceedings**

**4.7** A tribunal may make rules under section 25.1 classifying the types of proceedings that come before it and setting guidelines as to the procedural steps or processes (such as preliminary motions, pre-hearing conferences, alternative dispute resolution mechanisms, expedited hearings) that apply to each type of proceeding and the circumstances in which other procedures may apply. 1999, c. 12, Sched. B, s. 16 (3).

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

**Alternative dispute resolution**

**4.8** (1) A tribunal may direct the parties to a proceeding to participate in an alternative dispute resolution mechanism for the purposes of resolving the proceeding or an issue arising in the proceeding if,

- (a) it has made rules under section 25.1 respecting the use of alternative dispute resolution mechanisms; and
- (b) all parties consent to participating in the alternative dispute resolution mechanism.

**Definition**

(2) In this section,

“alternative dispute resolution mechanism” includes mediation, conciliation, negotiation or any other means of facilitating the resolution of issues in dispute.

**Rules**

(3) A rule under section 25.1 respecting the use of alternative dispute resolution mechanisms shall include procedural guidelines to deal with the following:

1. The circumstances in which a settlement achieved by means of an alternative dispute resolution mechanism must be reviewed and approved by the tribunal.
2. Any requirement, statutory or otherwise, that there be an order by the tribunal.

**Mandatory alternative dispute resolution**

(4) A rule under subsection (3) may provide that participation in an alternative dispute resolution mechanism is mandatory or that it is mandatory in certain specified circumstances.

### **Person appointed to mediate, etc.**

(5) A rule under subsection (3) may provide that a person appointed to mediate, conciliate, negotiate or help resolve a matter by means of an alternative dispute resolution mechanism be a member of the tribunal or a person independent of the tribunal. However, a member of the tribunal who is so appointed with respect to a matter in a proceeding shall not subsequently hear the matter if it comes before the tribunal unless the parties consent.

### **Continuance of provisions in other statutes**

(6) Despite section 32, nothing in this section shall prevent a tribunal from directing parties to a proceeding to participate in an alternative dispute resolution mechanism even though the requirements of subsections (1) to (5) have not been met if the tribunal does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

### **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

### **Mediators, etc.: not compellable, notes not evidence**

#### **Mediators, etc., not compellable**

**4.9** (1) No person employed as a mediator, conciliator or negotiator or otherwise appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism shall be compelled to give testimony or produce documents in a proceeding before the tribunal or in a civil proceeding with respect to matters that come to his or her knowledge in the course of exercising his or her duties under this or any other Act.

#### **Evidence in civil proceedings**

(2) No notes or records kept by a mediator, conciliator or negotiator or by any other person appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism under this or any other Act are admissible in a civil proceeding. 1999, c. 12, Sched. B, s. 16 (3).

### **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

### **Parties**

**5.** The parties to a proceeding shall be the persons specified as parties by or under the statute under which the proceeding arises or, if not so specified, persons entitled by law to be parties to the proceeding. R.S.O. 1990, c. S.22, s. 5.

### **Written hearings**

**5.1** (1) A tribunal whose rules made under section 25.1 deal with written hearings may hold a written hearing in a proceeding. 1997, c. 23, s. 13 (6).

#### **Exception**

(2) The tribunal shall not hold a written hearing if a party satisfies the tribunal that there is good reason for not doing so.

#### **Same**

(2.1) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters. 1999, c. 12, Sched. B, s. 16 (4).

### **Documents**

(3) In a written hearing, all the parties are entitled to receive every document that the tribunal receives in the proceeding. 1994, c. 27, s. 56 (10).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (10) - 1/04/1995; 1997, c. 23, s. 13 (6) - 28/11/1997; 1999, c. 12, Sched. B, s. 16 (4) - 14/02/2000

### **Electronic hearings**

**5.2** (1) A tribunal whose rules made under section 25.1 deal with electronic hearings may hold an electronic hearing in a proceeding. 1997, c. 23, s. 13 (7).

#### **Exception**

(2) The tribunal shall not hold an electronic hearing if a party satisfies the tribunal that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

## **Same**

(3) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters.

## **Participants to be able to hear one another**

(4) In an electronic hearing, all the parties and the members of the tribunal participating in the hearing must be able to hear one another and any witnesses throughout the hearing. 1994, c. 27, s. 56 (10).

## **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (10) - 1/04/1995; 1997, c. 23, s. 13 (7) - 28/11/1997

## **Different kinds of hearings in one proceeding**

**5.2.1** A tribunal may, in a proceeding, hold any combination of written, electronic and oral hearings. 1997, c. 23, s. 13 (8).

## **Section Amendments with date in force (d/m/y)**

1997, c. 23, s. 13 (8) - 28/11/1997

## **Pre-hearing conferences**

**5.3** (1) If the tribunal's rules made under section 25.1 deal with pre-hearing conferences, the tribunal may direct the parties to participate in a pre-hearing conference to consider,

- (a) the settlement of any or all of the issues;
- (b) the simplification of the issues;
- (c) facts or evidence that may be agreed upon;
- (d) the dates by which any steps in the proceeding are to be taken or begun;
- (e) the estimated duration of the hearing; and
- (f) any other matter that may assist in the just and most expeditious disposition of the proceeding. 1994, c. 27, s. 56 (11); 1997, c. 23, s. 13 (9).

## **Other Acts and regulations**

(1.1) The tribunal's power to direct the parties to participate in a pre-hearing conference is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (10).

## **Who presides**

(2) The chair of the tribunal may designate a member of the tribunal or any other person to preside at the pre-hearing conference.

## **Orders**

(3) A member who presides at a pre-hearing conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding, including adding parties.

## **Disqualification**

(4) A member who presides at a pre-hearing conference at which the parties attempt to settle issues shall not preside at the hearing of the proceeding unless the parties consent. 1994, c. 27, s. 56 (11).

## **Application of s. 5.2**

(5) Section 5.2 applies to a pre-hearing conference, with necessary modifications. 1997, c. 23, s. 13 (10).

## **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (11) - 1/04/1995; 1997, c. 23, s. 13 (9, 10) - 28/11/1997

## **Disclosure**

**5.4** (1) If the tribunal's rules made under section 25.1 deal with disclosure, the tribunal may, at any stage of the proceeding before all hearings are complete, make orders for,

- (a) the exchange of documents;
- (b) the oral or written examination of a party;
- (c) the exchange of witness statements and reports of expert witnesses;

- (d) the provision of particulars;
- (e) any other form of disclosure. 1994, c. 27, s. 56 (12); 1997, c. 23, s. 13 (11).

#### **Other Acts and regulations**

(1.1) The tribunal's power to make orders for disclosure is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (12).

#### **Exception, privileged information**

(2) Subsection (1) does not authorize the making of an order requiring disclosure of privileged information. 1994, c. 27, s. 56 (12).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (12) - 1/04/1995; 1997, c. 23, s. 13 (11, 12) - 28/11/1997

#### **Notice of hearing**

**6** (1) The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. R.S.O. 1990, c. S.22, s. 6 (1).

#### **Statutory authority**

(2) A notice of a hearing shall include a reference to the statutory authority under which the hearing will be held.

#### **Oral hearing**

- (3) A notice of an oral hearing shall include,
  - (a) a statement of the time, place and purpose of the hearing; and
  - (b) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

#### **Written hearing**

- (4) A notice of a written hearing shall include,
  - (a) a statement of the date and purpose of the hearing, and details about the manner in which the hearing will be held;
  - (b) a statement that the hearing shall not be held as a written hearing if the party satisfies the tribunal that there is good reason for not holding a written hearing (in which case the tribunal is required to hold it as an electronic or oral hearing) and an indication of the procedure to be followed for that purpose;
  - (c) a statement that if the party notified neither acts under clause (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13); 1997, c. 23, s. 13 (13); 1999, c. 12, Sched. B, s. 16 (5).

#### **Electronic hearing**

- (5) A notice of an electronic hearing shall include,
  - (a) a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;
  - (b) a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;
  - (c) if clause (b) does not apply, a statement that the party notified may, by satisfying the tribunal that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the tribunal to hold the hearing as an oral hearing, and an indication of the procedure to be followed for that purpose; and
  - (d) a statement that if the party notified neither acts under clause (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (13) - 1/04/1995; 1997, c. 23, s. 13 (13) - 28/11/1997; 1999, c. 12, Sched. B, s. 16 (5) - 14/02/2000

### **Effect of non-attendance at hearing after due notice**

7 (1) Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. R.S.O. 1990, c. S.22, s. 7; 1994, c. 27, s. 56 (14).

### **Same, written hearings**

(2) Where notice of a written hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (4) (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding.

### **Same, electronic hearings**

(3) Where notice of an electronic hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (5) (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (15).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (14, 15) - 1/04/1995

### **Where character, etc., of a party is in issue**

8. Where the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto. R.S.O. 1990, c. S.22, s. 8.

### **Hearings to be public; maintenance of order**

#### **Hearings to be public, exceptions**

9 (1) An oral hearing shall be open to the public except where the tribunal is of the opinion that,

- (a) matters involving public security may be disclosed; or
- (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing in the absence of the public. R.S.O. 1990, c. S.22, s. 9 (1); 1994, c. 27, s. 56 (16).

### **Written hearings**

(1.1) In a written hearing, members of the public are entitled to reasonable access to the documents submitted, unless the tribunal is of the opinion that clause (1) (a) or (b) applies. 1994, c. 27, s. 56 (17).

### **Electronic hearings**

(1.2) An electronic hearing shall be open to the public unless the tribunal is of the opinion that,

- (a) it is not practical to hold the hearing in a manner that is open to the public; or
- (b) clause (1) (a) or (b) applies. 1997, c. 23, s. 13 (14).

### **Maintenance of order at hearings**

(2) A tribunal may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose. R.S.O. 1990, c. S.22, s. 9 (2); 1994, c. 27, s. 56 (18).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (16-18) - 1/04/1995; 1997, c. 23, s. 13 (14) - 28/11/1997

### **Proceedings involving similar questions**

9.1 (1) If two or more proceedings before a tribunal involve the same or similar questions of fact, law or policy, the tribunal may,

- (a) combine the proceedings or any part of them, with the consent of the parties;
- (b) hear the proceedings at the same time, with the consent of the parties;
- (c) hear the proceedings one immediately after the other; or
- (d) stay one or more of the proceedings until after the determination of another one of them.

#### **Exception**

(2) Subsection (1) does not apply to proceedings held under section 21 of the *Ontario Land Tribunal Act, 2021*. 1994, c. 27, s. 56 (19); 2021, c. 4, Sched. 6, s. 91.

#### **Same**

- (3) Clauses (1) (a) and (b) do not apply to a proceeding if,
- (a) any other Act or regulation that applies to the proceeding requires that it be heard in private;
  - (b) the tribunal is of the opinion that clause 9 (1) (a) or (b) applies to the proceeding. 1994, c. 27, s. 56 (19); 1997, c. 23, s. 13 (15).

#### **Conflict, consent requirements**

(4) The consent requirements of clauses (1) (a) and (b) do not apply if another Act or a regulation that applies to the proceedings allows the tribunal to combine them or hear them at the same time without the consent of the parties. 1997, c. 23, s. 13 (16).

#### **Use of same evidence**

(5) If the parties to the second-named proceeding consent, the tribunal may treat evidence that is admitted in a proceeding as if it were also admitted in another proceeding that is heard at the same time under clause (1) (b). 1994, c. 27, s. 56 (19).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (19) - 1/04/1995; 1997, c. 23, s. 13 (15, 16) - 28/11/1997

2021, c. 4, Sched. 6, s. 91 - 01/06/2021

#### **Right to representation**

**10** A party to a proceeding may be represented by a representative. 2006, c. 21, Sched. C, s. 134 (3).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (20) - 1/04/1995

2006, c. 21, Sched. C, s. 134 (3) - 1/05/2007

#### **Examination of witnesses**

**10.1** A party to a proceeding may, at an oral or electronic hearing,

- (a) call and examine witnesses and present evidence and submissions; and
- (b) conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (20).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (20) - 1/04/1995

#### **Rights of witnesses to representation**

**11** (1) A witness at an oral or electronic hearing is entitled to be advised by a representative as to his or her rights, but such representative may take no other part in the hearing without leave of the tribunal. 2006, c. 21, Sched. C, s. 134 (4).

#### **Idem**

(2) Where an oral hearing is closed to the public, the witness's representative is not entitled to be present except when that witness is giving evidence. R.S.O. 1990, c. S.22, s. 11 (2); 1994, c. 27, s. 56 (22); 2006, c. 21, Sched. C, s. 134 (5).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (21, 22) - 1/04/1995

2006, c. 21, Sched. C, s. 134 (4, 5) - 1/05/2007

### **Summonses**

**12** (1) A tribunal may require any person, including a party, by summons,

- (a) to give evidence on oath or affirmation at an oral or electronic hearing; and
- (b) to produce in evidence at an oral or electronic hearing documents and things specified by the tribunal,

relevant to the subject-matter of the proceeding and admissible at a hearing. R.S.O. 1990, c. S.22, s. 12 (1); 1994, c. 27, s. 56 (23).

### **Form and service of summons**

(2) A summons issued under subsection (1) shall be in the prescribed form (in English or French) and,

- (a) where the tribunal consists of one person, shall be signed by him or her;
- (b) where the tribunal consists of more than one person, shall be signed by the chair of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal. 1994, c. 27, s. 56 (24).

### **Same**

(3) The summons shall be served personally on the person summoned. 1994, c. 27, s. 56 (24).

### **Fees and allowances**

(3.1) The person summoned is entitled to receive the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice. 1994, c. 27, s. 56 (24); 2006, c. 19, Sched. C, s. 1 (1).

### **Bench warrant**

(4) A judge of the Superior Court of Justice may issue a warrant against a person if the judge is satisfied that,

- (a) a summons was served on the person under this section;
- (b) the person has failed to attend or to remain in attendance at the hearing (in the case of an oral hearing) or has failed otherwise to participate in the hearing (in the case of an electronic hearing) in accordance with the summons; and
- (c) the person's attendance or participation is material to the ends of justice. 1994, c. 27, s. 56 (25); 2006, c. 19, Sched. C, s. 1 (1).

### **Same**

(4.1) The warrant shall be in the prescribed form (in English or French), directed to any police officer, and shall require the person to be apprehended anywhere within Ontario, brought before the tribunal forthwith and,

- (a) detained in custody as the judge may order until the person's presence as a witness is no longer required; or
- (b) in the judge's discretion, released on a recognizance, with or without sureties, conditioned for attendance or participation to give evidence. 1994, c. 27, s. 56 (25).

### **Proof of service**

(5) Service of a summons may be proved by affidavit in an application to have a warrant issued under subsection (4). 1994, c. 27, s. 56 (26).

### **Certificate of facts**

(6) Where an application to have a warrant issued is made on behalf of a tribunal, the person constituting the tribunal or, if the tribunal consists of more than one person, the chair of the tribunal may certify to the judge the facts relied on to establish that the attendance or other participation of the person summoned is material to the ends of justice, and the judge may accept the certificate as proof of the facts. 1994, c. 27, s. 56 (26).

### **Same**

(7) Where the application is made by a party to the proceeding, the facts relied on to establish that the attendance or other participation of the person is material to the ends of justice may be proved by the party's affidavit. 1994, c. 27, s. 56 (26).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (23-26) - 1/04/1995

### **Contempt proceedings**

#### **13 (1)** Where any person without lawful excuse,

- (a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or
- (b) being in attendance as a witness at an oral hearing or otherwise participating as a witness at an electronic hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his or her power or control legally required by the tribunal to be produced by him or her or to answer any question to which the tribunal may legally require an answer; or
- (c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

the tribunal may, of its own motion or on the motion of a party to the proceeding, state a case to the Divisional Court setting out the facts and that court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court. R.S.O. 1990, c. S.22, s. 13; 1994, c. 27, s. 56 (27).

### **Same**

#### **(2)** Subsection (1) also applies to a person who,

- (a) having objected under clause 6 (4) (b) to a hearing being held as a written hearing, fails without lawful excuse to participate in the oral or electronic hearing of the matter; or
- (b) being a party, fails without lawful excuse to attend a pre-hearing conference when so directed by the tribunal. 1997, c. 23, s. 13 (17).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (27) - 1/04/1995; 1997, c. 23, s. 13 (17) - 28/11/1997

### **Protection for witnesses**

**14 (1)** A witness at an oral or electronic hearing shall be deemed to have objected to answer any question asked him or her upon the ground that the answer may tend to criminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence. R.S.O. 1990, c. S.22, s. 14 (1); 1994, c. 27, s. 56 (28); 2021, c. 25, Sched. 27, s. 2.

(2) REPEALED: 1994, c. 27, s. 56 (29).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (28, 29) - 1/04/1995

2021, c. 25, Sched. 27, s. 2 - 03/06/2021

### **Evidence**

#### **What is admissible in evidence at a hearing**

**15 (1)** Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

- (a) any oral testimony; and
- (b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

#### **What is inadmissible in evidence at a hearing**

(2) Nothing is admissible in evidence at a hearing,

- (a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or

(b) that is inadmissible by the statute under which the proceeding arises or any other statute.

#### **Conflicts**

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

#### **Copies**

(4) Where a tribunal is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.

#### **Photocopies**

(5) Where a document has been filed in evidence at a hearing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

#### **Certified copy admissible in evidence**

(6) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document. R.S.O. 1990, c. S.22, s. 15.

#### **Use of previously admitted evidence**

**15.1** (1) The tribunal may treat previously admitted evidence as if it had been admitted in a proceeding before the tribunal, if the parties to the proceeding consent. 1994, c. 27, s. 56 (30).

#### **Definition**

(2) In subsection (1),

“previously admitted evidence” means evidence that was admitted, before the hearing of the proceeding referred to in that subsection, in any other proceeding before a court or tribunal, whether in or outside Ontario.

#### **Additional power**

(3) This power conferred by this section is in addition to the tribunal’s power to admit evidence under section 15. 1997, c. 23, s. 13 (18).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (30) - 1/04/1995; 1997, c. 23, s. 13 (18) - 28/11/1997

#### **Witness panels**

**15.2** A tribunal may receive evidence from panels of witnesses composed of two or more persons, if the parties have first had an opportunity to make submissions in that regard. 1994, c. 27, s. 56 (31).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (31) - 1/04/1995

#### **Notice of facts and opinions**

**16** A tribunal may, in making its decision in any proceeding,

- (a) take notice of facts that may be judicially noticed; and
- (b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge. R.S.O. 1990, c. S.22, s. 16.

#### **Interim decisions and orders**

**16.1** (1) A tribunal may make interim decisions and orders.

#### **Conditions**

(2) A tribunal may impose conditions on an interim decision or order.

#### **Reasons**

(3) An interim decision or order need not be accompanied by reasons. 1994, c. 27, s. 56 (32).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (32) - 1/04/1995

**Time frames**

**16.2** A tribunal shall establish guidelines setting out the usual time frame for completing proceedings that come before the tribunal and for completing the procedural steps within those proceedings. 1999, c. 12, Sched. B, s. 16 (6).

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (6) - 14/02/2000

**Decision; interest****Decision**

**17** (1) A tribunal shall give its final decision and order, if any, in any proceeding in writing and shall give reasons in writing therefor if requested by a party. R.S.O. 1990, c. S.22, s. 17; 1993, c. 27, Sched.

**Interest**

(2) A tribunal that makes an order for the payment of money shall set out in the order the principal sum, and if interest is payable, the rate of interest and the date from which it is to be calculated. 1994, c. 27, s. 56 (33).

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991; 1994, c. 27, s. 56 (33) - 1/04/1995

**Costs**

**17.1** (1) Subject to subsection (2), a tribunal may, in the circumstances set out in rules made under subsection (4), order a party to pay all or part of another party's costs in a proceeding. 2006, c. 19, Sched. B, s. 21 (2).

**Exception**

(2) A tribunal shall not make an order to pay costs under this section unless,

- (a) the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or a party has acted in bad faith; and
- (b) the tribunal has made rules under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

**Amount of costs**

(3) The amount of the costs ordered under this section shall be determined in accordance with the rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

**Rules**

(4) A tribunal may make rules with respect to,

- (a) the ordering of costs;
- (b) the circumstances in which costs may be ordered; and
- (c) the amount of costs or the manner in which the amount of costs is to be determined. 2006, c. 19, Sched. B, s. 21 (2).

**Same**

(5) Subsections 25.1 (3), (4), (5) and (6) apply with respect to rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

**Continuance of provisions in other statutes**

(6) Despite section 32, nothing in this section shall prevent a tribunal from ordering a party to pay all or part of another party's costs in a proceeding in circumstances other than those set out in, and without complying with, subsections (1) to (3) if the tribunal makes the order in accordance with the provisions of an Act that are in force on February 14, 2000. 2006, c. 19, Sched. B, s. 21 (2).

**Submissions must be in writing**

(7) Despite sections 5.1, 5.2 and 5.2.1, submissions for a costs order, whether under subsection (1) or under an authority referred to in subsection (6), shall be made by way of written or electronic documents, unless a party satisfies the tribunal that to do so is likely to cause the party significant prejudice. 2015, c. 23, s. 5.

(8), (9) REPEALED: 2015, c. 23, s. 5.

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (7) - 14/02/2000

2006, c. 19, Sched. B, s. 21 (2) - 22/06/2006

2015, c. 23, s. 5 - 03/11/2015

**Notice of decision**

**18** (1) The tribunal shall send each party who participated in the proceeding, or the party's representative, a copy of its final decision or order, including the reasons if any have been given,

- (a) by regular lettermail;
- (b) by electronic transmission;
- (c) by telephone transmission of a facsimile; or
- (d) by some other method that allows proof of receipt, if the tribunal's rules made under section 25.1 deal with the matter. 1994, c. 27, s. 56 (34); 1997, c. 23, s. 13 (19); 2006, c. 21, Sched. C, s. 134 (6).

**Use of mail**

(2) If the copy is sent by regular lettermail, it shall be sent to the most recent addresses known to the tribunal and shall be deemed to be received by the party on the fifth day after the day it is mailed. 1994, c. 27, s. 56 (34).

**Use of electronic or telephone transmission**

(3) If the copy is sent by electronic transmission or by telephone transmission of a facsimile, it shall be deemed to be received on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday. 1994, c. 27, s. 56 (34).

**Use of other method**

(4) If the copy is sent by a method referred to in clause (1) (d), the tribunal's rules made under section 25.1 govern its deemed day of receipt. 1994, c. 27, s. 56 (34).

**Failure to receive copy**

(5) If a party that acts in good faith does not, through absence, accident, illness or other cause beyond the party's control, receive the copy until a later date than the deemed day of receipt, subsection (2), (3) or (4), as the case may be, does not apply. 1994, c. 27, s. 56 (34).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (34) - 1/04/1995; 1997, c. 23, s. 13 (19) - 28/11/1997

2006, c. 21, Sched. C, s. 134 (6) - 1/05/2007

**Enforcement of orders**

**19** (1) A certified copy of a tribunal's decision or order in a proceeding may be filed in the Superior Court of Justice by the tribunal or by a party and on filing shall be deemed to be an order of that court and is enforceable as such. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

**Notice of filing**

(2) A party who files an order under subsection (1) shall notify the tribunal within 10 days after the filing. 1994, c. 27, s. 56 (35).

**Order for payment of money**

(3) On receiving a certified copy of a tribunal's order for the payment of money, the sheriff shall enforce the order as if it were an execution issued by the Superior Court of Justice. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (35) - 1/04/1995

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

## **Record of proceeding**

**20** A tribunal shall compile a record of any proceeding in which a hearing has been held which shall include,

- (a) any application, complaint, reference or other document, if any, by which the proceeding was commenced;
- (b) the notice of any hearing;
- (c) any interlocutory orders made by the tribunal;
- (d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceeding;
- (e) the transcript, if any, of the oral evidence given at the hearing; and
- (f) the decision of the tribunal and the reasons therefor, where reasons have been given. R.S.O. 1990, c. S.22, s. 20.

## **Adjournments**

**21** A hearing may be adjourned from time to time by a tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held. R.S.O. 1990, c. S.22, s. 21.

## **Correction of errors**

**21.1** A tribunal may at any time correct a typographical error, error of calculation or similar error made in its decision or order. 1994, c. 27, s. 56 (36).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (36) - 1/04/1995

## **Power to review**

**21.2** (1) A tribunal may, if it considers it advisable and if its rules made under section 25.1 deal with the matter, review all or part of its own decision or order, and may confirm, vary, suspend or cancel the decision or order. 1997, c. 23, s. 13 (20).

## **Time for review**

(2) The review shall take place within a reasonable time after the decision or order is made.

## **Conflict**

(3) In the event of a conflict between this section and any other Act, the other Act prevails. 1994, c. 27, s. 56 (36).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (36) - 1/04/1995; 1997, c. 23, s. 13 (20) - 28/11/1997

## **Administration of oaths**

**22** A member of a tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings and the tribunal may require evidence before it to be given under oath or affirmation. R.S.O. 1990, c. S.22, s. 22.

## **Powers re control of proceedings**

### **Abuse of processes**

**23** (1) A tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes. R.S.O. 1990, c. S.22, s. 23 (1).

### **Limitation on examination**

(2) A tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (37).

### **Exclusion of representatives**

(3) A tribunal may exclude from a hearing anyone, other than a person licensed under the *Law Society Act*, appearing on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly to represent or to advise the party or witness, or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser. 2006, c. 21, Sched. C, s. 134 (7).

### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (37) - 1/04/1995

2006, c. 21, Sched. C, s. 134 (7) - 1/05/2007

**Notice, etc.**

**24** (1) Where a tribunal is of the opinion that because the parties to any proceeding before it are so numerous or for any other reason, it is impracticable,

- (a) to give notice of the hearing; or
- (b) to send its decision and the material mentioned in section 18,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

**Contents of notice**

(2) A notice of a decision given by a tribunal under clause (1) (b) shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained. R.S.O. 1990, c. S.22, s. 24.

**Appeal operates as stay, exception**

**25.** (1) An appeal from a decision of a tribunal to a court or other appellate body operates as a stay in the matter unless,

- (a) another Act or a regulation that applies to the proceeding expressly provides to the contrary; or
- (b) the tribunal or the court or other appellate body orders otherwise. 1997, c. 23, s. 13 (21).

**Idem**

(2) An application for judicial review under the *Judicial Review Procedure Act*, or the bringing of proceedings specified in subsection 2 (1) of that Act is not an appeal within the meaning of subsection (1). R.S.O. 1990, c. S.22, s. 25 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 23, s. 13 (21) - 28/11/1997

**Control of process**

**25.0.1** A tribunal has the power to determine its own procedures and practices and may for that purpose,

- (a) make orders with respect to the procedures and practices that apply in any particular proceeding; and
- (b) establish rules under section 25.1. 1999, c. 12, Sched. B, s. 16 (8).

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (8) - 14/02/2000

**Rules**

**25.1** (1) A tribunal may make rules governing the practice and procedure before it. 1994, c. 27, s. 56 (38).

**Application**

(2) The rules may be of general or particular application. 1994, c. 27, s. 56 (38).

**Consistency with Acts**

(3) The rules shall be consistent with this Act and with the other Acts to which they relate. 1994, c. 27, s. 56 (38).

**Public access**

(4) The tribunal shall make the rules available to the public in English and in French. 1994, c. 27, s. 56 (38).

**Legislation Act, 2006, Part III**

(5) Rules adopted under this section are not regulations as defined in Part III (Regulations) of the *Legislation Act, 2006*. 1994, c. 27, s. 56 (38); 2006, c. 21, Sched. F, s. 136 (1).

**Additional power**

(6) The power conferred by this section is in addition to any power to adopt rules that the tribunal may have under another Act. 1994, c. 27, s. 56 (38).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (38) - 1/04/1995

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

### **Regulations**

**26** The Lieutenant Governor in Council may make regulations prescribing forms for the purpose of section 12. 1994, c. 27, s. 56 (41).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (39, 41) - 1/04/1995

### **Rules, etc., available to public**

**27** A tribunal shall make any rules or guidelines established under this or any other Act available for examination by the public. 1999, c. 12, Sched. B, s. 16 (9).

#### **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (9) - 14/02/2000

### **Substantial compliance**

**28** Substantial compliance with requirements respecting the content of forms, notices or documents under this Act or any rule made under this or any other Act is sufficient. 1999, c. 12, Sched. B, s. 16 (9).

#### **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 16 (9) - 14/02/2000

### **Prohibition on photographs, recordings, dissemination**

**29** (1) No person shall,

- (a) take or attempt to take a photograph, audio or video recording or other record capable of producing or transmitting visual or aural representations by electronic means or otherwise,
  - (i) at a hearing,
  - (ii) of any person entering or leaving the room in which a hearing is to be or has been convened, or
  - (iii) of any person in the building in which a hearing is to be or has been convened if there is reasonable ground for believing that the person is there for the purpose of attending or leaving the hearing, other than in an area of the building designated by the tribunal for the purpose and with the person's consent;
- (b) publish, broadcast, reproduce or otherwise disseminate a photograph, recording or record taken in contravention of clause (a); or
- (c) broadcast, reproduce or otherwise disseminate an audio recording described in clause (2) (b). 2021, c. 25, Sched. 27, s. 3.

### **Non-application**

(2) Subsection (1) does not apply with respect to,

- (a) the unobtrusive making of notes or sketches of events at a hearing by a person;
- (b) the making of an audio recording at a hearing, unobtrusively and in a manner authorized by the tribunal, by a representative, a party acting on their own behalf or a journalist, for the sole purpose of supplementing or replacing notes; or
- (c) subject to the authorization of the tribunal, any act referred to in subsection (1),
  - (i) if it is required for the presentation of evidence, the making of a record or any other purpose of the hearing,
  - (ii) with the consent of the parties and witnesses, or
  - (iii) in connection with any ceremonial proceeding. 2021, c. 25, Sched. 27, s. 3.

### **Offence and penalty**

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. 2021, c. 25, Sched. 27, s. 3.

#### **Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (40) - 1/04/1995

2021, c. 25, Sched. 27, s. 3 - 03/06/2021

**30, 31** REPEALED: 1994, c. 27, s. 56 (40).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (40) - 1/04/1995

**Conflict**

**32** Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply despite anything in this Act, the provisions of this Act prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith. R.S.O. 1990, c. S.22, s. 32; 1994, c. 27, s. 56 (42).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (42) - 1/04/1995

**33, 34** REPEALED: 1994, c. 27, s. 56 (43).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (43) - 1/04/1995

FormS 1, 2 REPEALED: 1994, C. 27, S. 56 (44).

**Section Amendments with date in force (d/m/y)**

1994, c. 27, s. 56 (44) - 1/04/1995

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Français

Back to top

## Judicial Review Procedure Act

R.S.O. 1990, CHAPTER J.1

**Consolidation Period:** From July 8, 2020 to the [e-Laws currency date](#).

Last amendment: 2020, c. 11, Sched. 10.

Legislative History: 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. C, s. 1 (1); 2020, c. 11, Sched. 10.

### Definitions

**1** In this Act,

“application for judicial review” means an application under subsection 2 (1); (“requête en révision judiciaire”)

“court” means the Superior Court of Justice; (“Cour”)

“licence” includes any permit, certificate, approval, registration or similar form of permission required by law; (“autorisation”)

“municipality” has the same meaning as in the *Municipal Affairs Act*; (“municipalité”)

“party” includes a municipality, association of employers, a trade union or council of trade unions which may be a party to any of the proceedings mentioned in subsection 2 (1); (“partie”)

“statutory power” means a power or right conferred by or under a statute,

- (a) to make any regulation, rule, by-law or order, or to give any other direction having force as subordinate legislation,
- (b) to exercise a statutory power of decision,
- (c) to require any person or party to do or to refrain from doing any act or thing that, but for such requirement, such person or party would not be required by law to do or to refrain from doing,
- (d) to do any act or thing that would, but for such power or right, be a breach of the legal rights of any person or party; (“compétence légale”)

“statutory power of decision” means a power or right conferred by or under a statute to make a decision deciding or prescribing,

- (a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
- (b) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person or party is legally entitled thereto or not,

and includes the powers of an inferior court. (“compétence légale de décision”) R.S.O. 1990, c. J.1, s. 1; 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. C, s. 1 (1).

### Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

### Applications for judicial review

**2** (1) On an application by way of originating notice, which may be styled “Notice of Application for Judicial Review”, the court may, despite any right of appeal, by order grant any relief that the applicant would be entitled to in any one or more of the following:

1. Proceedings by way of application for an order in the nature of mandamus, prohibition or certiorari.
2. Proceedings by way of an action for a declaration or for an injunction, or both, in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power. R.S.O. 1990, c. J.1, s. 2 (1).

### **Error of law**

(2) The power of the court to set aside a decision for error of law on the face of the record on an application for an order in the nature of certiorari is extended so as to apply on an application for judicial review in relation to any decision made in the exercise of any statutory power of decision to the extent it is not limited or precluded by the Act conferring such power of decision. R.S.O. 1990, c. J.1, s. 2 (2).

### **Lack of evidence**

(3) Where the findings of fact of a tribunal made in the exercise of a statutory power of decision are required by any statute or law to be based exclusively on evidence admissible before it and on facts of which it may take notice and there is no such evidence and there are no such facts to support findings of fact made by the tribunal in making a decision in the exercise of such power, the court may set aside the decision on an application for judicial review. R.S.O. 1990, c. J.1, s. 2 (3).

### **Power to set aside**

(4) Where the applicant on an application for judicial review is entitled to a judgment declaring that a decision made in the exercise of a statutory power of decision is unauthorized or otherwise invalid, the court may, in the place of such declaration, set aside the decision. R.S.O. 1990, c. J.1, s. 2 (4).

### **Power to refuse relief**

(5) The court may refuse to grant any relief on an application for judicial review. 2020, c. 11, Sched. 10, s. 1.

(6) REPEALED: 2020, c. 11, Sched. 10, s. 1.

### **Section Amendments with date in force (d/m/y)**

2020, c. 11, Sched. 10, s. 1 - 08/07/2020

### **Defects in form, technical irregularities**

**3** On an application for judicial review in relation to a statutory power of decision, where the sole ground for relief established is a defect in form or a technical irregularity, if the court finds that no substantial wrong or miscarriage of justice has occurred, the court may refuse relief and, where the decision has already been made, may make an order validating the decision, despite such defect, to have effect from such time and on such terms as the court considers proper. R.S.O. 1990, c. J.1, s. 3.

### **Interim order**

**4** On an application for judicial review, the court may make such interim order as it considers proper pending the final determination of the application. R.S.O. 1990, c. J.1, s. 4.

### **Time for bringing application**

**5** (1) Unless another Act provides otherwise, an application for judicial review shall be made no later than 30 days after the date the decision or matter for which judicial review is being sought was made or occurred, subject to subsection (2). 2020, c. 11, Sched. 10, s. 2.

### **Extension**

(2) The court may, on such terms as it considers proper, extend the time for making an application for judicial review if it is satisfied that there are apparent grounds for relief and that no substantial prejudice or hardship will result to any person affected by reason of the delay. 2020, c. 11, Sched. 10, s. 2.

### **Same, other Acts**

(3) Subsection (2) applies with respect to any limitation of time for the bringing of an application for judicial review under any other Act, unless that Act expressly provides otherwise. 2020, c. 11, Sched. 10, s. 2.

### **Transition**

(4) Subsection (1) applies with respect to the judicial review of a decision that is made or of a matter that occurs on or after the day section 2 of Schedule 10 to the *Smarter and Stronger Justice Act, 2020* comes into force. 2020, c. 11, Sched. 10, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 11, Sched. 10, s. 2 - 08/07/2020

### **Application to Divisional Court**

**6** (1) Subject to subsection (2), an application for judicial review shall be made to the Divisional Court. R.S.O. 1990, c. J.1, s. 6 (1).

### **Application to judge of Superior Court of Justice**

(2) An application for judicial review may be made to the Superior Court of Justice with leave of a judge thereof, which may be granted at the hearing of the application, where it is made to appear to the judge that the case is one of urgency and that the delay required for an application to the Divisional Court is likely to involve a failure of justice. R.S.O. 1990, c. J.1, s. 6 (2); 2006, c. 19, Sched. C, s. 1 (1).

### **Transfer to Divisional Court**

(3) Where a judge refuses leave for an application under subsection (2), he or she may order that the application be transferred to the Divisional Court. R.S.O. 1990, c. J.1, s. 6 (3).

### **Appeal to Court of Appeal**

(4) An appeal lies to the Court of Appeal, with leave of the Court of Appeal, from a final order of the Superior Court of Justice disposing of an application for judicial review pursuant to leave granted under subsection (2). R.S.O. 1990, c. J.1, s. 6 (4); 2006, c. 19, Sched. C, s. 1 (1).

### **Section Amendments with date in force (d/m/y)**

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

### **Summary disposition of mandamus, etc.**

7 An application for an order in the nature of mandamus, prohibition or certiorari shall be deemed to be an application for judicial review and shall be made, treated and disposed of as if it were an application for judicial review. R.S.O. 1990, c. J.1, s. 7.

### **Summary disposition of actions**

8 Where an action for a declaration or injunction, or both, whether with or without a claim for other relief, is brought and the exercise, refusal to exercise or proposed or purported exercise of a statutory power is an issue in the action, a judge of the Superior Court of Justice may on the application of any party to the action, if he or she considers it appropriate, direct that the action be treated and disposed of summarily, in so far as it relates to the exercise, refusal to exercise or proposed or purported exercise of such power, as if it were an application for judicial review and may order that the hearing on such issue be transferred to the Divisional Court or may grant leave for it to be disposed of in accordance with subsection 6 (2). R.S.O. 1990, c. J.1, s. 8; 2006, c. 19, Sched. C, s. 1 (1).

### **Section Amendments with date in force (d/m/y)**

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

### **Sufficiency of application**

9 (1) It is sufficient in an application for judicial review if the applicant sets out in the notice of application the grounds on which the applicant is seeking relief and the nature of the relief. 2020, c. 11, Sched. 10, s. 3.

### **Exerciser of power may be a party**

(2) For the purposes of an application for judicial review in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power, the person who is authorized to exercise the power may be a party to the application. R.S.O. 1990, c. J.1, s. 9 (2).

### **Idem**

(3) For the purposes of subsection (2), any two or more persons who, acting together, may exercise a statutory power, whether styled a board or commission or by any other collective title, shall be deemed to be a person under such collective title. R.S.O. 1990, c. J.1, s. 9 (3).

### **Notice to Attorney General**

(4) Notice of an application for judicial review shall be served upon the Attorney General who is entitled as of right to be heard in person or by counsel on the application. R.S.O. 1990, c. J.1, s. 9 (4).

### **Section Amendments with date in force (d/m/y)**

2020, c. 11, Sched. 10, s. 3 - 08/07/2020

**Record to be filed in court**

**10** When notice of an application for judicial review of a decision made in the exercise or purported exercise of a statutory power of decision has been served on the person making the decision, such person shall forthwith file in the court for use on the application the record of the proceedings in which the decision was made. R.S.O. 1990, c. J.1, s. 10.

**References in other Acts, etc.**

**11** (1) Subject to subsection (2), where reference is made in any other Act or in any regulation, rule or by-law to any of the proceedings enumerated in subsection 2 (1), such reference shall be read and construed to include a reference to an application for judicial review. R.S.O. 1990, c. J.1, s. 11 (1).

**Proceedings under *Habeas Corpus Act***

(2) Nothing in this Act affects proceedings under the *Habeas Corpus Act* or the issue of a writ of certiorari thereunder or proceedings pursuant thereto, but an application for judicial review may be brought in aid of an application for a writ of *habeas corpus*. R.S.O. 1990, c. J.1, s. 11 (2).

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Français

[Back to top](#)



## Office Consolidation

### (Property Standards By-law 165-2022)

**To prescribe minimum standards for the maintenance and occupancy of properties in the City of Brampton and to repeal By-law 104-96**

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WHEREAS the Official Plan for the Corporation of the City of Brampton includes conditions of maintenance and occupancy of properties;

AND WHEREAS section 15.1 (3) of the [Building Code Act, 1992](#), provides that a by-law may be passed by the Council of a municipality prescribing the standards for the maintenance and occupancy of Property within the municipality provided the Official Plan for the municipality includes provisions relating to Property conditions;

AND WHEREAS section 15.1 (3) of the [Building Code Act, 1992](#), provides that a by-law may be passed requiring Property that does not conform with the standards to be repaired and maintained with the standards or cleared of all Buildings, structures, debris or Refuse and left in graded and leveled condition;

AND WHEREAS section 15.4.1 of the [Building Code Act, 1992](#), authorizes a municipality to establish a system of administrative penalties to assist the municipality in promoting compliance with a by-law under section 15.1 or Order under subsection 15.2 (2);

AND WHEREAS section 391 (1) of the [Municipal Act, 2001](#), authorizes a municipality to impose fees or charges for services and activities carried out under this By-law;

AND WHEREAS section 15.6 (1) of the [Building Code Act, 1992](#), requires that a by-law passed under Section 15.1(3) of the Act shall provide for the establishment of a Property Standards Committee;

AND WHEREAS Subsection 391(1) of the [Municipal Act, 2001](#), provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 434.1 of the [Municipal Act, 2001](#), considers it desirable to provide for a system of administrative penalties and fees as an additional means of encouraging compliance with this By-law; and

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

## INDEX

<b>PART I INTERPRETATION</b> .....	2	Handrails.....	16
1 Definitions .....	2	29 Interior Doors, Countertops, Cupboards .....	16
<b>PART II ADMINISTRATION</b> .....	6	30 Interior Walls and Ceilings .....	16
2 Application .....	6	31 Interior Floors .....	17
3 Property Standards Committee.....	6	32 Plumbing and Water Supply .....	17
<b>PART III ENFORCEMENT</b> .....	7	33 Bathrooms .....	17
4 General Provisions .....	7	34 Kitchens and Laundry .....	18
<b>PART IV GENERAL PROVISIONS</b> .....	8	35 Heating Systems.....	18
5 Duties .....	8	36 Elevating Devices .....	18
6 Manner of Making Repairs.....	8	37 Electrical Service .....	19
<b>PART V EXTERIOR MAINTENANCE STANDARDS - YARDS</b> .....	9	38 Interior Lighting .....	19
7 General Maintenance and Storage..	9	39 Ventilation .....	19
8 Garbage Disposal.....	9	40 Foundations, Structural Integrity, and Engineer Reports.....	20
9 Landscaping .....	10	41 Indoor Parking Facilities .....	20
10 Fences.....	10	<b>PART VIII VACANT LAND</b> .....	21
11 Structures, Buildings and Accessory Buildings .....	10	42 General Provisions .....	21
12 Driveways and Walkways .....	11	<b>PART IX DAMAGED AND VACANT BUILDINGS</b> .....	22
13 Vehicles and Equipment.....	11	43 General Provisions .....	22
14 Swimming Pools .....	11	<b>PART X HERITAGE BUILDINGS</b> .....	23
15 Sewage And Drainage.....	12	44 General Provisions .....	23
16 Graffiti.....	12	45 Vacant Heritage Property .....	23
17 Exterior Lighting.....	12	46 Heritage Attributes.....	25
18 Satellite Dishes, Antennae, and Exterior String Lighting .....	12	47 Alterations of Heritage Attributes ...	25
<b>PART VI EXTERIOR MAINTENANCE STANDARDS – BUILDINGS</b> .....	13	48 Repair or Replacement of Heritage Attributes.....	25
19 Roofs .....	13	49 Demolition .....	25
20 Exterior Walls .....	13	50 Conflict.....	26
21 Exterior Doors and Windows .....	13	<b>PART XI PENALTIES</b> .....	27
22 Exterior Stairs, Porches, Decks and Balconies .....	14	51 Fines .....	27
23 Exterior Guards and Handrails .....	14	52 Administrative Penalties .....	27
<b>PART VII INTERIOR MAINTENANCE AND OCCUPANCY STANDARDS</b> .....	15	53 Demolition or Repair by the City ...	27
24 Occupancy Standards .....	15	54 Repeal .....	27
25 Means of Egress and Exits .....	15		
26 Cleanliness and Mould .....	15		
27 Pest Prevention .....	16		

## PART I

### INTERPRETATION

#### 1 Definitions

- 1.1 For the purpose of this By-law, the following terms shall have the corresponding meaning:

**“Accessory Building”** means a subordinate Building on the same lot as the main Building and is used for a purpose that is incidental, subordinate, and devoted exclusively to the principal use of the Property, but which is not used for human habitation.

**“Basement”** means a storey or partial storey of a Building located below the first storey and is not a Crawl Space as defined in this By-law.

**“Building”** means any structure having a roof, supported by columns or walls and used for the shelter or accommodation of Persons, animals, goods, or materials.

**“Ceiling Height”** means the height of the ceiling, measured from the finished floor, and where there is no ceiling, it is the height measured to the lowest point of the exposed joist.

**“Cellar”** means any enclosed portion of a Building that has more than 50% of its height, from floor to ceiling, located below average finished grade.

**“City”** means the Corporation of the City of Brampton.

**“Clean Fill”** means material deposited or placed on lands and includes soil, stone, concrete, asphalt, sod or turf either singly or in combination.

**“Committee”** means the Property Standards Committee established under this by-law pursuant to the [Building Code Act](#).

**“Crawl Space”** means a space below the floor of the first storey of a Building that is not less in height than 30 centimetres (0.98 feet) from the underside of the floor joists to the surface below, and is not a Basement as defined herein.

**“Driveway”** means the hard and level surface (consisting of, but not limited to, asphalt, pavement, concrete, patterned concrete, compacted gravel or dirt, interlocking brick or paving stone) on Dwelling lots upon which Vehicles drive and park

**“Dwelling”** means a Building occupied or capable of being occupied as a home, residence, or sleeping place by one or more Persons.

**“Dwelling Unit”** means one or more habitable rooms designed or capable of being used together in a single and separate housekeeping unit, containing its own kitchen and sanitary facilities, with a private entrance from outside of the unit itself.

**“Good Repair”** shall mean a state or condition that is clean, safe, functional, and free from defects.

**“Hazard”** means a source of potential damage, harm, or adverse health effects on something or someone.

**“Heritage Attribute”** means, in relation to real Property, and the Buildings on real Property, an attribute of the Property, Building, or structure that contributes to its cultural heritage value or interest and that is defined or described:

- (1) in a by-law designating a Property passed under Section 29 of the [Ontario Heritage Act](#) and identified as a Heritage Attribute, value, reason for designation or otherwise; or

- (2) in a minister's Order made pursuant to Section 34.5, Part IV of the [Ontario Heritage Act](#) and identified as a Heritage Attribute, value, reason for designation or otherwise; or
- (3) in a by-law designating a heritage conservation district passed under Section 41, Part V of the [Ontario Heritage Act](#) and identified as a Heritage Attribute, value, reason for designation or otherwise; or
- (4) in the supporting documentation required for a by-law designating a heritage conservation district, including but not limited to a heritage conservation district plan, assessment or inventory, and identified as a Heritage Attribute, value, reason for designation or otherwise; or
- (5) the elements, features, or Building components including roofs, walls, floors, retaining walls, foundations, and independent interior structures and structural systems that hold up, support, or protect the Heritage Attributes and without which the Heritage Attributes may be at risk.

**"Heritage Property"** means real Property, including all Buildings and structures thereon:

- (1) that has been designated by the City of Brampton under Section 29 of the Ontario Heritage Act, or that has been designated by the Minister under Section 34.5 of the [Ontario Heritage Act](#), or
- (2) that is located within a heritage conservation district which has been designated by the City of Brampton or any of its former municipalities under Section 41 of the [Ontario Heritage Act](#),

**"House Trailer"** shall mean any Vehicle that is suitable for being attached to a Vehicle for the purpose of being drawn or propelled by the Vehicle, and capable of being used for the living, sleeping, or eating accommodation of Persons, notwithstanding that such Vehicle is immobile.

**"Inoperative (Vehicle)"** means any Vehicle which cannot be moved under its own power or cannot be operated lawfully on a public street or highway, due to removal of, damage to, or Inoperative condition of any part, or the lack of an engine, transmission, wheels, tires, doors, windshield or any other part necessary for such movement or lawful operation.

**"Means of Egress"** means a continuous path of travel provided for the escape of Persons from any point in a Building or contained open space to a separate Building, an open public thoroughfare, or an exterior open space protected from fire exposure from the Building and having access to an open public thoroughfare. Means of Egress includes access to exits.

**"Notice"** shall mean a Notice of violation issued in accordance with this by-law.

**"Nuisance"** means a condition that is injurious, offensive, objectionable, obnoxious or an annoyance by reason of the unsightly storage of goods, wares, merchandise, litter or other material.

**"Occupant"** means any Person or Persons over the age of 18 years in possession of the Property.

**"Officer"** means a Property standards Officer or another enforcement Officer duly appointed by Council to administer and enforce the provisions of this by-law.

**"Owner"** means

- (1) the registered Owner of a Property, including any heirs, assigns, Personal representatives and successors in title;
- (2) mortgagee in possession of the Property;

- (3) the Person for the time being managing or receiving the rent of the Property or premises in connection with which the word is used whether on their account or as agent or trustee of any other Person, or who would so receive the rent if such land and premises were let; or
- (4) a lessee or Occupant of the Property who, under the terms of a lease, is required to Repair and maintain the Property in accordance with the standards for maintenance and occupancy of Property.

**“Person”** shall mean and include any individual, firm, partnership, association, corporation, company, organization, heirs or legal representatives of the Person to whom the context can apply according to law.

**“Proper Receptacle”** means a garbage cart, recycling cart, or an organics cart supplied by the Region of Peel, or a similar container sold for the same purpose; or a Region approved Owner or occupier supplied Yard waste receptacle.

**“Property”** means a Building or structure or part of a Building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile Buildings, mobile structures, out Buildings, fences, and erections thereon whether heretofore or hereafter erected, and includes vacant Property, on which there are no structures of any kind.

**“Order”** means a property standards Order issued by an Officer under Section 15.1 of the [Building Code Act](#) that includes the particulars of the Repairs to be made.

**“Refuse”** means:

- (1) Debris, junk, or effluent associated with a house, household, or any industry, trade, or business;
- (2) Vehicle parts or accessories;
- (3) Furniture, appliances, machinery, barbeques or parts thereof;
- (4) Animal excrement; and
- (5) Without restricting the foregoing, any unused or unusable material that by reason of its state, condition or excessive accumulation appears cast aside, discarded or abandoned; or appears worthless, useless or of no particular value; or appears to be used up, expended or worn out in whole or in part.

**“Repair”** means the taking of any action, including the making of additions or alterations, which may be required to ensure that a Property conforms to the standards established in this by-law.

**“Sewage System”** means an approved sanitary Sewage System or an approved private sewage disposal system that complies with the applicable by-law.

**“Storm Sewer”** means a sewer for the collection and transmission of uncontaminated water and, or stormwater from land or a watercourse, or any combination thereof for which the Region of Peel is responsible.

**“Trailer”** means any Vehicle constructed for the purpose of being drawn or propelled by a Vehicle for the movement of goods or material.

**“Travel Trailer”** means a Trailer that is used or intended to be used for short-term or seasonal occupancy.

**“Truck Trailer”** means a non-automotive freight Vehicle to be drawn by a transport truck.

**“Unightly Condition”** means an unorganized, generally unattractive condition that lacks general maintenance and upkeep, or an excessive or unreasonable accumulation of items or materials.

**"Vacant Heritage Property"** shall include any Buildings and structures located on Property designated under Section 29 or 34.5 of the [Ontario Heritage Act](#), situated within a heritage conservation district designated under section 41 of the [Ontario Heritage Act](#), and either is or appears to an inspector to be vacant, partially vacant, or unoccupied for more than ninety (90) days.

**"Vacant Land"** means a Property with no Buildings or immovable improvements erected.

**"Vehicle"** includes a motor Vehicle, motorcycle, scooter, Trailer, boat, all-terrain Vehicle (ATV), motorized snow Vehicle, or any other mechanical power-driven equipment.

**"Walkway"** means any passage or path designed for walking, or providing access to a Building.

**"Yard"** means the land, other than publicly owned land, around and appurtenant to the whole or any part of a Building, and used, or capable of being used, in connection with the Building.

**PART II**  
**ADMINISTRATION**

**2 Application**

- 2.1 This By-law prescribes standards for the maintenance and occupancy of Property within the City of Brampton.
- 2.2 This By-law requires Property that does not conform to the prescribed standards be repaired and maintained or cleared of all Buildings, structures, debris or Refuse and left in graded and levelled condition.

**3 Property Standards Committee**

- 3.1 A Property Standards Committee shall be established and shall function as set out in Section 15.6 of the [\*Building Code Act\*](#), to hear and rule on appeals against an Order of a Property Standards Officer.
- (1) The Committee shall be composed of not less than three (3) residents of the City appointed by Council;
  - (2) The term of the appointment shall be for the term of Council;
  - (3) A member shall serve for the term for which the member is appointed or until a successor is appointed by City Council;
  - (4) In the event of a vacancy in the membership of the Committee, Council shall forthwith fill the vacancy;
  - (5) A member of Council or an employee of the City or a local board thereof is not eligible to be a member of the Committee, but a teacher employed by a board of education or school board is not deemed to be an "employee" for the purpose of this subsection; and,
  - (6) A member shall be deemed to have resigned if they fail to attend three (3) consecutive regular meetings.
- 3.2 On an appeal, the Committee has all the powers and functions of the Officer who made the Order and may do any of the following things if, in the Committee's opinion, doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement:
- (1) Confirm, modify, or rescind the Order to demolish or Repair; or
  - (2) Extend the time for complying with the Order.

## PART III

### ENFORCEMENT

#### 4 General Provisions

- 4.1 Council shall appoint Officers to carry out the administrative functions of this by-law, including the enforcement thereof.
- 4.2 An Officer may, upon producing proper identification, enter upon any Property at any reasonable time without a warrant for the purpose of inspecting the Property to determine:
- (1) whether the Property conforms to the standards prescribed in this by-law; or,
  - (2) whether an Order made under this by-law has been complied with.
- 4.3 An officer who finds that a property does not conform to any of the standards prescribed in a by-law passed under section 15.1 may make an Order:,
- (a) stating the municipal address or the legal description of the property;
  - (b) giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;
  - (c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the municipality may carry out the repair or clearance at the owner's expense; and
  - (d) indicating the final date for giving notice of appeal from the Order.
- 4.4 An Order may be registered in the proper land registry office and, upon such registration, any Person acquiring any interest in the land subsequent to the registration of the Order shall be deemed to have been served with the Order.
- 4.5 For the purposes of an inspection, an Officer may:
- (1) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the Property or any part thereof;
  - (2) inspect and remove documents or things relevant to the Property or part thereof for the purpose of making copies or extracts;
  - (3) require information from any Person concerning a matter related to a Property or part thereof;
  - (4) be accompanied by a Person who has special or expert knowledge in relation to a Property or part thereof;
  - (5) 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; and
  - (6) Order the Owner of the Property to take and supply at the Owner's expense such tests and samples as are specified in the Order.

## **PART IV**

### **GENERAL PROVISIONS**

#### **5 Duties**

- 5.1 Every Owner shall maintain their Property in accordance with the provisions of this By-law.
- 5.2 Every Person to whom an Order or Notice is issued under this by-law shall comply with such Order or Notice as required.
- 5.3 No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer or a Person authorized by a registered code agency in the exercise of a power or the performance of a duty under this By-law.
- 5.4 Where applicable, every Owner shall obtain a Building permit prior to making Repairs.

#### **6 Manner of Making Repairs**

- 6.1 All Repairs shall be made in a good and workmanlike manner, using only materials that are suitable for the purpose and free from defects. Without limiting the foregoing, this shall include:
  - (1) ensuring the component repaired can perform its intended function;
  - (2) finishing the Repair in a manner that is reasonably compatible in design colour with the adjoining finishing materials; and
  - (3) maintaining an aesthetically pleasing appearance that is consistent with the surrounding environment.

## **PART V**

### **EXTERIOR MAINTENANCE STANDARDS - YARDS**

#### **7 General Maintenance and Storage**

- 7.1 Every Yard shall be kept clean and free from:
- (1) Hazardous or potentially Hazardous objects, materials, or conditions;
  - (2) domestic animal excrement;
  - (3) Refuse, or organic waste not contained within a Proper Receptacle (except where compost heaps are permitted and reasonably maintained);
  - (4) neglected or derelict indoor and outdoor furniture, appliances, equipment, and Vehicle part(s);
  - (5) holes, ruts, depressions, and excavations that are potential health or safety Hazards;
  - (6) food, water, or other substance intended to attract wildlife (except where a container designed to be filled with birdseed is placed above the ground); and
  - (7) rodent and insect infestation(s).
- 7.2 No Person shall store actively used firewood, Building materials, garden equipment, landscape equipment, pool equipment, lawn furniture, barbeques, or other similar objects (domestic storage) unless it is:
- (1) stored in a rear Yard;
  - (2) stored in a neat and organized manner, not against a fence or Property line; and
  - (3) maintained to prevent excessive accumulation and potentially unsafe or Unsightly Conditions that are out of character with the surrounding environment.
- 7.3 No land shall be used for the parking, storing, or placing of any recreation Vehicle, boat, machinery, mechanical equipment, appliance, similar item, or part thereof, which is in an inoperable, discarded, dismantled, or disused condition.
- 7.4 No land shall be used for the parking, storing, or placing of construction equipment, backhoes, skid steers, excavators, dump trucks, tractors, farm tractors, and utility tractors, except where explicitly permitted in accordance with the Zoning By-law, or successor by-law.
- 7.5 No Trailer, Truck Trailer or House Trailer shall be stored in a Yard facing a street, except where explicitly permitted in accordance with the Zoning By-law, or successor by-law.

#### **8 Garbage Disposal**

- 8.1 Every Building and Dwelling Unit shall have Proper Receptacles to contain all garbage, rubbish, and trade waste.
- 8.2 All garbage, organics, and recyclable material shall be stored within a Proper Receptacle and maintained in a clean condition.
- 8.3 Every receptacle shall:
- (1) be maintained in a clean, sanitary and operable condition;
  - (2) be stored with the cover lid closed and secured;
  - (3) not be packed in a manner where the waste exceeds the height of the receptacle or prevents the cover lid from closing securely; and

- (4) not be stored in a Yard facing a street.
- 8.4 Despite subsection 8.3(4), Proper Receptacles may be stored in a Yard facing a street, in an Orderly manner adjacent to a Building, where:
  - (1) the subject Property does not have a side Yard with a width of 1.0 metres or more;
  - (2) the subject Property does not have rear Yard access that is wider than the width of the receptacle; and
  - (3) the subject Property does not have an Accessory Building, carport, garage; or
  - (4) if the subject Property has a single car garage, that is deemed a required parking space by the applicable zoning by-law; and
  - (5) the Officer believes there is no reasonable alternative.
- 8.5 Every commercial or industrial Building or plaza shall be provided with a vermin-proof waste bin for the disposal of garbage and trade waste; and stored in an approved, acceptable, and appropriate location.
- 8.6 Every commercial or industrial Building or plaza shall provide adequate garbage containers for the disposal of Refuse and litter by patrons and shall be maintained in a clean and safe condition.

## **9 Landscaping**

- 9.1 All dead, decayed, or damaged trees shall be removed and disposed of.
- 9.2 All hedges, shrubs, bushes, trees, and vegetation shall be maintained and trimmed so as to not be unsightly or unreasonably overgrown in a fashion that may affect safety, visibility, or passage of the general public.
- 9.3 When landscaping hedges, trees, fences, curbs, retaining walls, or similar structures are required by the City as a condition of development or redevelopment, such works shall be undertaken and maintained so as to ensure continuous compliance with the City requirements.
- 9.4 All Yards shall be cultivated or protected by a suitable ground cover that prevents the erosion of the soil and reduces water runoff.

## **10 Fences**

- 10.1 Every fence, retaining wall, and structure appurtenant to Property and the components thereof, shall be kept in Good Repair, free from Hazards and defects, and where required, protected by exterior grade paint, preservative, or other weather-resistant material.

## **11 Structures, Buildings and Accessory Buildings**

- 11.1 Every structure, carport, Building, and Accessory Building, other than a Dwelling shall:
  - (1) be free from Refuse and Hazards;
  - (2) be maintained in Good Repair;
  - (3) be constructed and maintained with suitable and uniform materials; and
  - (4) have exterior surfaces protected by exterior grade paint or other weather-resistant material.
- 11.2 Every dilapidated or collapsed structure, Building or Accessory Building shall be repaired or demolished with a permit where required.

## **12 Driveways and Walkways**

- 12.1 Every Driveway, laneway, and parking area shall be finished with asphalt, concrete, stone, or other compacted material that can sustain the weight of a Vehicle without cracking, sinking, or deteriorating.
- 12.2 Every step and hard surface intended for use as a Walkway, Driveway, parking area, laneway or any similar area shall be:
- (1) finished to provide a hard and level surface;
  - (2) free from potholes or unlevelled conditions that pose an actual or potential safety Hazard;
  - (3) adequately graded and drained to prevent excessive ponding of water; and
  - (4) kept free from fuel, oil, or other chemical substances which may directly or indirectly cause the discharge or deposit into or in any Storm Sewer; and
  - (5) adequately maintained and free from Hazards so as to afford safe passage under normal use and weather conditions.
- 12.3 Every Walkway and access route to a Building that is accessible by the general public shall be maintained so as to be kept free from ice and snow after a snowfall.

## **13 Vehicles and Equipment**

- 13.1 No Vehicle that is in a wrecked, discarded, dismantled, or Inoperative condition shall be parked, stored, or left in any Yard, including a Driveway.
- 13.2 No Vehicle that is un-plated shall be parked, stored, or left in any Yard, including a Driveway.
- 13.3 Vehicles that are required for farming purposes on agriculture zoned properties shall be parked and stored in an arrangement so as to prevent an unsafe or Unsightly Condition.
- 13.4 No Vehicle, Trailer, or related equipment shall be driven, parked, or stored on a surface other than a Driveway or designated parking area that has been constructed in accordance with the City's by-laws and shall not include a Walkway.
- 13.5 If damage to landscaping results from the driving or parking of a Vehicle on a non-permitted surface, the landscaping shall be repaired and protected using a suitable ground cover that prevents the erosion of the soil.

## **14 Swimming Pools**

- 14.1 All swimming pools and artificial ponds, and all components thereof shall be kept in Good Repair, clean, free from leaks, and free from potential health and safety Hazards, including the pool water therein.
- 14.2 All pool covers used to cover a swimming pool shall be appropriately secured, maintained in good condition, and regularly drained to prevent the accumulation of standing water.
- 14.3 Every pool that is disused or appears to be neglected, shall be:
- (1) fitted with a suitable cover in good condition so as to prevent a visual blight, the entrance of elements, and the infestation of pests or insects; and
  - (2) free from standing water; or
  - (3) properly filled with Clean Fill; and
  - (4) left in a graded condition.

## **15 Sewage And Drainage**

- 15.1 All sewage shall be discharged into an approved Sewage System that is in compliance with the applicable legislation.
- 15.2 No roof drainage shall be discharged, directed, or channeled onto Walkways, stairs, or adjacent lands.
- 15.3 No stormwater, sump discharge, swimming pool discharge, or water that has been artificially brought on the land shall be drained in a Yard to prevent excessive ponding or the entrance of water into a Basement, Cellar, or onto adjacent lands.
- 15.4 Every Yard shall be adequately graded and drained to prevent excessive ponding of surface water.

## **16 Graffiti**

- 16.1 Objectionable markings, graffiti, or other defacements on any exterior surface shall be removed.
- 16.2 Any surface that has had graffiti removed from its face shall be restored to its original condition and colour.

## **17 Exterior Lighting**

- 17.1 All residential exterior lighting shall be directed in a manner that will minimize the glare and undue intrusion of light onto adjacent or adjoining properties, Dwellings, and streets.
- 17.2 All lighting on commercial, industrial, agricultural and institutional properties shall conform to the approved site plan and shall not be directed towards lands zoned for residential use.
- 17.3 All outdoor artificial lighting and the connections thereto shall be maintained in Good Repair and free from defects and Hazards.

## **18 Satellite Dishes, Antennae, and Exterior String Lighting**

- 18.1 All Satellite dishes, television antennae, radio antennae, exterior string lighting, similar structures or parts thereof, shall be securely anchored, maintained in good repair, and in accordance with all applicable laws. All cables and wires shall be appropriately secured to the structure in a neat manner.

## **PART VI**

### **EXTERIOR MAINTENANCE STANDARDS – BUILDINGS**

#### **19 Roofs**

- 19.1 Every roof and all components thereof shall be kept in Good Repair and maintained in a watertight condition.
- 19.2 All shingles that are missing, unsecured, damaged, worn, curling or cupping shall be replaced with a product matching the material and colour of existing materials.
- 19.3 Every chimney, smokestack, vent stack, or similar structure shall be plumb, maintained in good repair and free from defects including, but not limited to:
- (1) loose and spalling bricks;
  - (2) defective mortar;
  - (3) loose and broken cappings, stanchions, braces, or attachments; and
  - (4) fire or accident Hazards.

#### **20 Exterior Walls**

- 20.1 Every exterior wall and all components thereof, including but not limited to the, eavestroughs, downpipes, soffits, fascias, coping, and flashing, shall be maintained in Good Repair.
- 20.2 Every exterior surface on a Building or appurtenance thereto shall be maintained in Good Repair, and be protected by a weather coating material such as exterior grade paint or other protective treatment.
- 20.3 Every canopy, marquee, sign, awning, stairway, fire escape, standpipe, exhaust duct, air conditioner, and similar overhang extension shall be:
- (1) maintained in Good Repair;
  - (2) securely and appropriately anchored; and
  - (3) protected against decay and rust by the periodic application of a weather coating material such as exterior grade paint or other protective treatment.
- 20.4 Every exterior sign that is in a state of disrepair, unused, not cared for, or discarded, shall be removed from the Property, or repaired if the use of such sign is permitted under the City By-laws.
- 20.5 Every air conditioner that is installed and operated directly over a public sidewalk, shall be equipped with proper devices for the prevention of condensation drainage upon the sidewalk.

#### **21 Exterior Doors and Windows**

- 21.1 Every window, exterior door, garage door, Basement Cellar hatchway, and all components thereof shall be maintained in Good Repair and free from defects, including, but not limited to:
- (1) damaged or defective door and window frames, shutters, screens, sashes, casings, weather stripping, and glass;
  - (2) damaged or defective door and window hardware;
  - (3) damaged or missing window screens; and
  - (4) damaged or missing locking hardware on exterior doors and windows.

## **22 Exterior Stairs, Porches, Decks and Balconies**

22.1 Every exterior landing, stair, porch, balcony, deck, ramp, loading dock, fire escape, or similar exterior structure and all components thereof, including the coverings, treads, risers, guards, and handrails shall be:

- (1) kept free from Refuse and Unsightly Conditions;
- (2) free from actual or potential safety and accident Hazards; and
- (3) maintained in Good Repair so as to be free from broken, defective, warped, loose, deteriorated, rotted, and worn components.

## **23 Exterior Guards and Handrails**

23.1 Every exterior guard and handrail shall be installed under permit where required and maintained in accordance with the *Ontario Building Code* so as to afford reasonable protection against injury to any Person in or on a Property.

## PART VII

### INTERIOR MAINTENANCE AND OCCUPANCY STANDARDS

#### 24 Occupancy Standards

- 24.1 No room or area shall be provided for sleeping purposes unless:
- (1) it has been constructed with a building permit and reviewed for sleeping purposes;
  - (2) is in conformance with the *Ontario Building Code* requirements for the construction of a bedroom; and,
  - (3) there is a minimum floor area of 7 square metres (6 square metres if the room contains built-in closets).
- 24.2 No room shall be converted to a bedroom without a building permit and be constructed in conformance with the *Ontario Building Code* requirements for a bedroom.
- 24.3 No Person shall permit a Person to occupy for sleeping purposes, any Cellar or space used as a lobby, hallway, closet, bathroom, laundry, stairway, kitchen, or any Accessory Building or shed, unless otherwise permitted.
- 24.4 No Person shall use or permit to be used a cooking appliance of any kind in any room used for sleeping purposes.
- 24.5 The Ceiling Height of rooms in a residential Dwelling Unit shall be:
- (1) 2.3 metres (7.6 feet) over at least fifty percent of the floor area or an average of 2.13 metres (7.0 feet) over all of the floor area; and
  - (2) 2.1 metres (6.4 feet) over at least seventy-five (75) percent of the floor area, with an average of 1.95 metres (6.4 feet) over all of the floor area in a second Dwelling Unit.

#### 25 Means of Egress and Exits

- 25.1 Every floor area intended for occupancy shall be provided with a direct Means of Egress in accordance with the Ontario Building Code.
- 25.2 All Means of Egress and exits shall be maintained in Good Repair and free from objects, obstructions, or conditions that restrict the accessibility of such Means of Egress and exits.
- 25.3 Every Dwelling Unit shall have separate access so as to provide a safe, continuous and unobstructed exit from the interior of the Building to the exterior at the street or grade level.

#### 26 Cleanliness and Mould

- 26.1 Every Dwelling Unit provided for residential accommodation shall be delivered in a clean and sanitary condition at the time of initial occupancy.
- 26.2 Every Occupant shall maintain the Property and the land in a clean, sanitary and safe condition and shall dispose of household garbage and Refuse on a regular basis, in accordance with City by-laws.
- 26.3 Every Building shall be kept free from Refuse, or any condition which constitutes an actual or potential fire, health, or safety Hazard.
- 26.4 Every Building shall be kept free from visible mould and, or mildew.
- 26.5 Every Occupant of a residential Property shall control and maintain the humidity, moisture, and condensation level indoors.

- 26.6 All interior floors, ceilings, and walls shall be kept free from dampness caused by the entrance of moisture through an exterior wall, window, roof, Cellar, Basement, or Crawl Space.
- 26.7 All damages or defects within a Building or part thereof that may cause water damage or mould growth shall be repaired.
- 26.8 Where there is extensive visible mould, an Officer may Order that a Building, structure or part thereof be examined by a professional engineer who is qualified to perform indoor residential environmental quality examinations in Ontario, and that a written report detailing the recommended remedial work to be provided to the Officer.
- (1) Where Repairs are required pursuant to a report prepared under section 26.8, the Owner shall Repair, or cause to be repaired, the Building in accordance with the report.
  - (2) Upon completion of the Repairs, the Owner shall provide the Officer with a verification report that the work described in the report has been completed wholly and in accordance with the generally accepted guidelines and protocols in the industry.

## **27 Pest Prevention**

- 27.1 Every Property shall be kept free from infestations by rodents, vermin, and insects.
- 27.2 Every Owner shall take the appropriate steps to remove an infestation using a licensed pest control agency, and shall install preventative pest control measures, in accordance with all relevant legislation.
- 27.3 Every opening that may permit the entry of rodents, vermin or insects shall be appropriately screened or sealed.
- 27.4 All remnants of an infestation including feces and carcasses shall be removed and disposed of, and the area cleaned thereafter.

## **28 Interior Stairs, Guards and Handrails**

- 28.1 Every interior stair, landing, or similar interior structure and components thereof including coverings, treads, risers, guards, and handrails shall be:
- (1) maintained in Good Repair so as to be free from broken, defective, warped, loose, deteriorated, rotted, and worn components; and,
  - (2) free from actual or potential safety or accident Hazards.
- 28.2 Every interior guard and handrail shall be installed and maintained in accordance with the *Ontario Building Code* so as to afford reasonable protection against injury to any Person in or on a Property.

## **29 Interior Doors, Countertops, Cupboards**

- 29.1 Every interior door, closet door, cupboard door, countertop, cupboard, vanity, shelf, and their appurtenances shall be maintained in Good Repair.

## **30 Interior Walls and Ceilings**

- 30.1 Every wall and ceiling shall be free from holes, cracks, loose coverings, or other defects.
- 30.2 Every Dwelling Unit that is separated vertically from another Dwelling Unit or a non-residential occupancy, the dividing walls shall comply with the *Ontario Building Code* and [Fire Code](#).
- 30.3 Every Dwelling Unit that is separated horizontally from another Dwelling Unit or a non-residential occupancy, there shall be a finished ceiling that separates these occupancies in accordance with the *Ontario Building Code* and [Fire Code](#).

## **31 Interior Floors**

- 31.1 Every floor shall be smooth and maintained so as to be free from all loose, warped, protruding, broken, or rotted boards that may create a Hazard or unsanitary condition.
- 31.2 Every floor covered with linoleum, tile, carpet, or some other covering that has become worn or torn so that it retains dirt shall be repaired or replaced.
- 31.3 Every Basement, Cellar or Crawl Space that is not served by a stairway may have a dirt floor provided it is covered with a moisture-proof covering.
- 31.4 Every Basement or Cellar which is served by a stairway, shall have a concrete floor with an unobstructed floor drain located at the lowest point of the floor and connected to an approved disposal or sewer system.
- 31.5 Every Basement or Cellar floor shall be free from cracks or breaks in the concrete that create a potentially Hazardous condition.

## **32 Plumbing and Water Supply**

- 32.1 Every Dwelling Unit shall contain plumbing fixtures consisting of at least:
  - (1) a water closet;
  - (2) a kitchen sink;
  - (3) a washbasin; and
  - (4) a bathtub or shower.
- 32.2 Every Dwelling shall be provided with an adequate supply of potable hot and cold running water.
- 32.3 All hot water shall be supplied at a minimum temperature of 49 degrees C (120 degrees F).
- 32.4 Every kitchen sink, washbasin, bathtub, and shower fixture shall be maintained in Good Repair.
- 32.5 No toilet, urinal, or bidet shall be located in a room that has not been reviewed for the use of a bathroom.
- 32.6 All plumbing, drain pipes, water pipes, and plumbing fixtures in every Dwelling and every connecting line to the Sewage System shall be maintained in Good Repair and working Order in accordance with the relevant legislation. All water pipes and appurtenances thereto shall be protected from freezing.

## **33 Bathrooms**

- 33.1 Every bathroom and facility shall be kept clean, sanitary, and in a safe condition.
- 33.2 Every bathroom or toilet enclosure shall be fully enclosed and have a door capable of being locked from the inside, and opened from the outside in an emergency.
- 33.3 Every bathroom shall be finished with a water-repellent floor covering.
- 33.4 Every wall and ceiling around a bathtub or shower shall be water-resistant.
- 33.5 Every wall and ceiling of a bathroom shall be maintained in Good Repair, free from peeling, cracked, or missing paint.
- 33.6 Every bathroom shall be provided with an opening or openings for natural ventilation to the outdoors and have a minimum aggregate unobstructed free flow area of 930 sq. cms. (1 sq. foot).

- 33.7 An opening for natural ventilation may be omitted from a bathroom where a mechanical ventilation system is provided and operates in good working Order, venting directly to the outdoors.

### **34 Kitchens and Laundry**

- 34.1 Every kitchen shall be provided with an approved, connected, and operating electrical or gas supply for cooking and refrigeration appliances.
- 34.2 Every kitchen appliance which is supplied, shall be maintained in Good Repair.
- 34.3 Every laundry appliance which is supplied, shall be maintained in Good Repair, and serviced by an approved, connected, and operating electrical or gas supply.
- 34.4 Laundry drying equipment shall have a dedicated exhaust duct discharging directly to the outdoors.
- 34.5 Laundry drying equipment exhaust ducts shall be maintained free from obstructions.

### **35 Heating Systems**

- 35.1 Every Dwelling shall be provided with a heating system capable of maintaining a room temperature of not less than 20 degrees C (68 degrees F) at 1.52 metres (5 feet) above floor level and 0.92 metres (3 feet) from exterior walls in all habitable rooms and bathrooms.
- 35.2 Every Dwelling shall be provided with an adequate and continuous supply of fuel and electricity at all times for the provided heating system.
- 35.3 Every heating system shall be maintained in good working condition, and free from defects.
- 35.4 Every fireplace and other solid fuel-burning appliance shall be connected to a chimney flue, smoke pipe, or gas vent and maintained in Good Repair so as to be free from leaks, defects, and obstructions.
- 35.5 Every chimney, smoke pipe, flue, and vent shall be maintained free from any defects so as to prevent gases from leaking into the Building or Property.
- 35.6 Every fuel-burning heating system shall be enclosed when combustible materials are stored in the Basement.
- 35.7 Every fuel-burning central heating system in a Means of Egress shall be located in a separate room having walls, ceiling, and doors with a fire-resistance rating of not less than one (1) hour.
- 35.8 No room heater shall be placed so as to cause a fire Hazard to walls, curtains, and furniture, or to impede the free movement of Persons within the room where the heater is located.
- 35.9 Auxiliary heaters shall not be used as a primary source of heat.

### **36 Elevating Devices**

- 36.1 Every elevator, escalator, incline lift, and other elevating devices shall be certified to be in Good Repair, and in compliance with the [Technical Standards and Safety Act, 2000, S.O. 2000, c. 16](#) as amended and any regulations made thereunder.
- 36.2 Every elevating device and all mechanical and electrical equipment including the lighting, fixtures, lamps, control buttons, floor indicators, ventilation fans, emergency communication systems, and any similar devices shall maintained in Good Repair.

## **37 Electrical Service**

- 37.1 Every Building wired for electricity shall be connected to an approved electrical supply system, in accordance with the *Ontario Electrical Safety Code*.
- 37.2 All wiring, fixtures, switches, receptacles, and connections to them shall be maintained in a safe, good working condition in compliance with the *Ontario Electrical Safety Code*, so as not to overload the designed size of the service or cause a fire or electrical shock Hazard.
- 37.3 No fuse or overload device shall exceed the capacity indicated on the fuse panel.
- 37.4 Every habitable room in a Dwelling Unit shall have at least one duplex electrical outlet in Good Repair:
- (1) for the first 11.15 sq. metres (120 sq. feet) or less of floor area; and
  - (2) for each additional 9.3 sq. metres (100 sq. feet) or less of floor area.
- 37.5 No Person shall cause or permit the use of an extension cord directly through a transom, doorway, wall, ceiling, floor, or beneath a floor covering.
- 37.6 Every intercom and security system and all components thereof shall be maintained in Good Repair.
- 37.7 Every Owner shall Repair, or cause to be repaired the electrical components in accordance with *Ontario Electrical Safety Code* and Electrical Safety Authority standards.

## **38 Interior Lighting**

- 38.1 Every room or area used or intended to be used for occupancy shall have artificial lighting as required by the *Ontario Building Code*.
- 38.2 All artificial lighting and the connections thereto shall be maintained in Good Repair.
- 38.3 Every habitable room in a Dwelling or Dwelling Unit, except a kitchen, shall contain a window or skylight that complies with the *Ontario Building Code*.
- 38.4 Every window, skylight, and electrical lighting fixture shall be maintained in Order to furnish illumination in all passageways and stairways provided for use in case of fire or another emergency as required by the *Ontario Building Code*.
- 38.5 Every public hallway and stairway in a multiple residential Dwelling shall be illuminated at all times so as to provide safe passage at a minimum average of 21.6 lux (2-foot candles) at floor level.

## **39 Ventilation**

- 39.1 Every Building shall be ventilated in accordance with the requirements of the *Ontario Building Code*.
- 39.2 All systems of mechanical ventilation or air conditioning shall be maintained in Good Repair.
- 39.3 Every aperture, window, skylight, or louvre used for ventilation, shall be maintained so as to be unobstructed, easily opened, kept opened, and closed.
- 39.4 Where mechanical ventilation is used, the ventilating duct shall be installed at the exterior wall, no closer than 1.83 metres (6 feet) from a window located on an adjacent Building.

## **40 Foundations, Structural Integrity, and Engineer Reports**

- 40.1 All foundation walls, columns, beams, and other structural members of a Building shall be maintained in Good Repair, in a safe and structurally sound condition, and capable of effectively supporting the designed loads imposed on them.
- 40.2 All Buildings, or any part thereof, shall be capable of sustaining its weight together with the loads that may be applied thereto by reason of its use and occupancy, natural causes such as snow, wind, and all other causes set out in the Ontario Building Code.
- 40.3 Where it appears that the structural integrity or condition of a Building, structure, or part thereof may be adversely affected by damage or deterioration, the Officer may Order that a structural engineering assessment and report be conducted and prepared by a professional engineer licensed in Ontario. The report shall include all deficiencies of structural concern; the contributory cause of the damage; the required Repairs and plan for remediation; and the recommended timelines for Repair. Upon receipt of the report, it shall be produced to the Officer forthwith.
- (1) Where Repairs are required, the Owner shall Repair, or cause to be repaired, the Building, structure, or part thereof, in accordance with the Repair methods, and timelines described in the report.
  - (2) Upon completion of the Repairs, a verification report shall be prepared to confirm that the work proposed in the report has been completed wholly and that the Building, structure, or part thereof is structurally adequate for its use. This report shall be provided to the Officer.

## **41 Indoor Parking Facilities**

- 41.1 Every parking facility shall be maintained in a clean and safe condition.
- 41.2 Lighting in parking facilities shall be considered to be adequate if the number and arrangement to light fixtures are such as to provide an average level of illumination of at least 54 lux (5-foot candles) at floor level over the entire floor area with a minimum level of 10 lux (1-foot candle) at any location on the floor.
- 41.3 Every lighting fixture in parking facilities shall be protected from accidental or malicious damage by the provision of wire screens or other suitable means.
- 41.4 Every wall, ceiling, and column of a parking facility shall be luminous white; suitable for application to the material of which the walls, ceilings, and columns are formed; be washable; and be washed or renewed as often as is necessary to maintain their original reflective value.
- 41.5 Every parking facility shall be ventilated in accordance with the requirements of the *Ontario Building Code*.
- 41.6 Where it appears that the structural integrity or condition of a parking garage or an appurtenance thereof may be adversely affected by damage or deterioration, the Officer may Order that a structural engineering assessment and report be conducted and prepared by a professional engineer licensed in Ontario. The report shall include all deficiencies of structural concern; the contributory cause of the damage; the required Repairs and plan for remediation; and the recommended timelines for Repair. Upon receipt of the report, it shall be produced to the Officer forthwith.
- (1) Where Repairs are required, the Owner shall Repair, or cause to be repaired, the parking garage or appurtenance, in accordance with the Repair methods, and timelines described in the report.
  - (2) Upon completion of the Repairs, a verification report shall be prepared to confirm that the work proposed in the report has been completed wholly and that the parking garage or appurtenance is structurally adequate for its use. This report shall be provided to the Officer.

**PART VIII**  
**VACANT LAND**

**42 General Provisions**

- 42.1 All Vacant Land shall conform to Part IV of this By-law except where such condition is explicitly permitted in accordance with the permitted land use in the Zoning By-law, or any successor by-law.
- 42.2 Where such outdoor storage is permitted, however, determined to be a Nuisance, such goods, materials, equipment, Vehicles, sea containers, truck boxes, storage bins, seasonal Vehicles, boats, recreational Vehicles, and similar items shall be effectively screened by a fence constructed in accordance with the City's By-laws, relieving an Unsightly Condition that is out of place and not in harmony with the surrounding area.
- 42.3 All Vacant Land shall be kept clean and free from objects or conditions that may create potential health, fire, or safety Hazard.
- 42.4 All vacant land shall be kept free from the storage of equipment, Trailers, Vehicles, or materials that are not actively engaged with the maintenance or development of the Property.
- 42.5 Except on land used for agricultural purposes, Vacant Land shall be graded, filled, or otherwise drained so as to prevent the ponding of stormwater.

## **PART IX**

### **DAMAGED AND VACANT BUILDINGS**

#### **43 General Provisions**

- 43.1 Every vacant, unoccupied or damaged Building and Accessory Building shall be protected against the risk of fire, accident, or other peril, by effectively securing the Building or Accessory Building to prevent the entrance of unauthorized Persons.
- 43.2 Where a Building is damaged by fire, storm, or other causes, immediate steps shall be taken to prevent danger to Persons, or to remove any conditions which might endanger Persons on or near the Property.
- 43.3 Where a Building is damaged by fire, storm, or other causes, immediate steps shall be taken to Repair or cause the Repair of the damaged Building components with the applicable Building permits.
- 43.4 Every Building which is damaged, shall be properly supported, secured, and barricaded until the necessary Repair or demolition can be carried out.
- 43.5 Where entry to a Building cannot be sufficiently prevented by the locking of doors, windows, and other openings, the entry shall be prevented as follows:
- (1) All windows, doors, and other openings that provide a means of entry shall be covered with weather-resistant plywood sheathing or an equivalent material that shall be securely fastened and tight-fitting;
  - (2) Coverings shall have a thickness of not less than 1.59 centimetres (5/8 inches) and shall be secured with nails or screws which are not less than 7.62 centimetres (3 inches) in length and which are spaced at intervals of not more than 5.08 centimetres (2 inches); and
  - (3) Coverings shall be painted or otherwise treated so that the colour is compatible with the exterior of the Building.

## PART X

### HERITAGE BUILDINGS

#### 44 General Provisions

- 44.1 In addition to the standards for the maintenance and security of Property set out in this by-law, the following minimum standards listed in Part X apply to the maintenance and security of all Buildings and structures on properties that are:
- (3) designated under Section 29 or 34.5 of the [Ontario Heritage Act](#); or
  - (4) situated within a heritage conservation district, designated under Section 41 of the [Ontario Heritage Act](#).

#### 45 Vacant Heritage Property

- 45.1 The Owner of a Vacant Heritage Property shall protect the Heritage Attributes of the Property against the risk of fire, storm, neglect, intentional damage, or damage by other causes by effectively preventing the entrance of the elements, unauthorized Persons, or the infestation of pests by boarding up and securing any openings to the Building of the Vacant Heritage Property. Securing heritage resources shall comply with the following requirements:
- (1) All boarding must be ½ inch S.P.F. exterior grade plywood (not particleboard, fiberboard, or other forms of board sheathing);
  - (2) Boarding must be cut to completely and securely fit within all exterior structural openings;
  - (3) All boarding shall be maintained in Good Repair;
  - (4) All boarding shall be installed from the exterior;
  - (5) All boarding shall be fastened using wood screws only. Screws must be at least #8 gauge, countersunk, and not less than 3 inches in length. Each screw shall be spaced not more than 3 inches on centre around the entire perimeter of each plywood board
  - (6) All boarding shall be fitted securely and in a watertight manner to fit within the side jambs, the head jamb, and the exterior bottom sill of the door or window opening so the exterior trim and cladding remains uncovered and undamaged by the boarding, and so as not to be easily detached by hand;
  - (7) All boarding used on windows and door openings shall be painted using exterior grade paint in a matt black;
  - (8) All other boarding shall be painted using exterior grade paint in a colour that blends with the exterior of the Building or structure;
  - (9) Interior doors, except those in fire separations, should be fixed ajar at least 4 inches to allow air to circulate throughout in Order to help prevent interior deterioration through excess humidity;
  - (10) Where a structural opening is irregular in shape or unusually large, alternate security measures shall be required to adequately secure these openings, such as steel mesh screening, grills, security bars, or cross-bracing over plywood;
  - (11) If the aforementioned measures prove insufficient to secure openings, additional augmentation measures shall be required, consisting of the installation of steel mesh enclosures or steel panels overall boarded ground floor openings; and

- (12) The exterior shall be maintained in Order to prevent moisture penetration and damage from the elements that may have an adverse impact on the Heritage Attributes.
- 45.2 The Owner of a Vacant Heritage Property shall ensure that all utilities serving the Building are properly disconnected, terminated, or capped unless such utilities are necessary for the safety and security of the Property, or unless such utilities are otherwise required by law to remain connected.
- 45.3 The Owner of a Vacant Heritage Property shall ensure that the following security measures are taken with respect to the Building or structure:
- (1) lock all doors and windows and ensure ongoing maintenance;
  - (2) close all Basement hatches, openings, Walkways, and windows;
  - (3) remove ladders, tools, equipment, and other materials that might be used to gain interior access;
  - (4) remove rubbish, garbage, parts of Vehicles and other equipment, discarded furniture, appliances, machinery, and debris from inside Buildings and structures and from around the Property;
  - (5) all floors above the first floor must be rendered inaccessible to entry by raising fire escapes and ladders to a height of at least four meters, and by removing or cladding towers that may be used to access the Vacant Heritage Property;
  - (6) significant trees, plantings, grass, lawns, flower beds, hedgerows, bushes, vines, and other vegetation on grounds surrounding vacant heritage Buildings, structures, and other resources shall be maintained and protected at all times in accordance with all relevant City by-laws;
  - (7) chain-off Driveways and all other direct means of vehicular access to the Property, while still permitting authorized vehicular and emergency vehicular access when necessary; chains should be no greater than 10mm (3/8 inch) in diameter and of a grade 30 or comparable;
  - (8) temporary metal security fencing may be required around the perimeter of a Vacant Heritage Property. The fence shall be 2 metres in height above grade, equipped with a horizontal top rail. The temporary fence shall be erected and securely anchored and maintained at all times with all gates locked with appropriate high-security padlocks. Barbed wire (minimum of two strands) shall be installed along the perimeter of each fence, projecting inward toward the area that is enclosed by the fence.
- 45.4 The Owner of a Vacant Heritage Property shall:
- (1) post "No Trespassing" signs on all exterior elevations, including all points of access to the Property, and on gates and Property fencing; and
  - (2) post a heritage Notice that complies with City planning application graphics and signage standards and states:

*HERITAGE NOTICE*

*The structure on this Property is a designated heritage resource protected under the [Ontario Heritage Act](#) and applicable municipal law.*

*Please help us conserve our heritage.*

*For more information contact City Heritage staff at 905-874-3825 or 905-874-3744.*

## **46 Heritage Attributes**

46.1 In addition to all of the requirements and minimum standards for the maintenance, and security of Property set out in this Part IX and elsewhere in this By-law, the Owner of a Heritage Property shall:

- (1) maintain, preserve and protect the Heritage Attributes to maintain the heritage character, visual and structural heritage integrity of the Building or structure; and
- (2) maintain the Property in a manner that will ensure the ongoing protection and preservation of the existing Heritage Attributes.

## **47 Alterations of Heritage Attributes**

47.1 Despite any other provisions of this by-law, in the case of Buildings and structures located on properties that have been designated under section 29, 34.5, or 41 of the [Ontario Heritage Act](#), no Owner shall alter the Property or permit the alteration of the Property if the alteration is likely to affect the Property's Heritage Attributes unless the Owner has acquired a heritage permit or other form of written consent from the City of Brampton.

47.2 Despite any other provisions of this by-law, in the case of Buildings and structures located on properties that have been designated under section 29, 34.5, or 41 of the [Ontario Heritage Act](#), no Owner shall alter the Property or permit the alteration of the Property if the alteration is likely to affect the Property's Heritage Attributes unless the Owner has acquired a heritage permit or other form of written consent from the City of Brampton.

## **48 Repair or Replacement of Heritage Attributes**

48.1 In Order to maintain, preserve and protect the Heritage Attributes of a Heritage Property, the Repair is always preferable to removal or replacement. the Heritage Attributes shall be repaired in a manner that:

- (1) minimizes damage to Heritage Attributes;
- (2) maintains the design, finishes, form, physical appearance, colour, texture, grain, and other distinctive features and qualities of the Heritage Attributes; and
- (3) is consistent with recognized conservation standards, best practices, and processes for the conservation of built heritage resources.

48.2 Despite any other provisions of this by-law, where it can be demonstrated that the Heritage Attributes of a Property cannot be repaired, the Heritage Attributes shall be replaced:

- (1) using the same types of materials, design, finishes, form, physical appearance, colour, texture, grain, and other distinctive features and qualities of the Heritage Attribute(s) being replaced; and
- (2) where the same types of materials as the original are no longer readily available, alternative or substitute materials and finishes that generally replicate the design, finishes, form, physical appearance, colour, texture, grain, and other distinctive features and qualities of the Heritage Attributes may be used.

## **49 Demolition**

49.1 Despite any other provision of this chapter, or the [Ontario Building Code Act](#), no Building or structure located on Property that has been designated under Section 29, 34.5, or 41 of the [Ontario Heritage Act](#) may be altered or cleared, including but not limited to removed, demolished or relocated except by the [Ontario Heritage Act](#).

- 49.2 Upon completion of demolitions and removals of structures, the affected site shall be cleared and cleaned of debris, graded, left free from holes or excavations, and provided and maintained with a suitable ground cover.

## **50 Conflict**

- 50.1 If there is a conflict between this Part IX and any other provision in this by-law or any other City by-laws, the provision that establishes the highest standard for the protection of Heritage Attributes shall prevail.

## **PART XI**

### **PENALTIES**

#### **51 Fines**

- 51.1 Every Owner who fails to comply with an Order that is final and binding is guilty of an offence and on conviction is liable to a fine of not more than \$50,000.00 for a first offence and a fine of not more than \$100,000.00 for any subsequent offence.
- 51.2 Despite 51.1, if a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$500,000 for a first offence and \$1,500,000 for any subsequent offence.

#### **52 Administrative Penalties**

- 52.1 An Officer may require a Person, subject to the conditions set out within the Administrative Penalties (Non-Parking) By-law 218-2019, as amended, or successor by-law, to pay an administrative penalty if the Officer is satisfied that the Person has failed to comply with:
- (1) a provision within this by-law; or
  - (2) an Order of an Officer as deemed confirmed or as confirmed or modified by the Committee or a judge.
- 52.2 Every Person who is served a penalty Notice pursuant to section 52.1 is liable to pay to the City of Brampton an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 218-2019, as amended.

#### **53 Demolition or Repair by the City**

- 53.1 Employees or agents of the City may enter the Property at any reasonable time without a warrant in Order to effect the Repairs or demolish a Building where an Order to do so made under this by-law has been confirmed and has not been complied with, or where an emergency Order has been issued and the danger has not been immediately terminated.

#### **54 Repeal**

- 54.1 By-law 104-96 as amended is hereby repealed.

ENACTED and PASSED this 10<sup>th</sup> day of August, 2022.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by:

Patrick Brown – Mayor

Peter Fay – City Clerk



## **Office Consolidation Animal Control By-Law 261-93**

**To prohibit and regulate the keeping of animals other than dogs  
and to repeal By-law 165-92  
(as amended by 50-97, 265-97, 37-98, 46-98, 51-2004, 149-2004,  
263-2004, 249-2005, 78-2009, 340-2012)**

The Council of The Corporation of the City of Brampton ENACTS AS FOLLOWS:

### **DEFINITIONS**

In this by-law:

1. “animal” means all live non-human species; and shall include birds, reptiles, fish, arachnids, and invertebrates, but shall not include a dog; **(263-2004)**

“animal control officer” means a person appointed as such by a by-law of the City or any other person directed by the Commissioner of Community Services to enforce this by-law and includes the poundkeeper; **(78-2009)**

“animal quarter” or “animal quarters” mean a place where animals are kept and includes a doghouse, hutch, pen, run, coop, pigeon coop or structure; **(78-2009)**

“dwelling unit” shall mean one or more habitable rooms designed or intended to be used together as a single and separate housekeeping unit by one person or jointly by two or more persons containing its own kitchen and sanitary facilities, with a private entrance from outside the unit itself;

“hen” means a female chicken; **(340-2012)**

“licence” means a pigeon owner’s licence or hen and rabbit owner’s licence; **(340-2012)**

“License Issuer” means the City Clerk and includes his or her designates; **(78-2009)**

“lot” means a lot in a registered plan of subdivision or a built-up urban area; **(78-2009)**

“owner” of an animal includes a person who possesses or harbours an animal, and the words “own” and “owned” have a corresponding meaning;

“poundkeeper” means the person appointed as such by Council. **(78-2009)**

“pigeon coop” means an accessory building or structure for the keeping of pigeons; **(78-2009)**

“pigeon owner” means a person who keeps pigeons; **(78-2009)**

“rabbit” means a domestic rabbit of either gender; **(340-2012)**

“Tribunal” means the Brampton Appeal Tribunal. **(78-2009)**

2. For the purposes of this by-law, an animal shall be deemed to be at large when found in any place other than the premises of the owner of the animal and not under the control of any person.

#### ADMINISTRATION AND ENFORCEMENT

3. This by-law shall be administered by the Commissioner of Community Services, and by such other persons as may be appointed to do so by resolution or by-law of Council **(149-2004)**.

- 3.1 (1) Council delegates to the Licence Issuer the power to issue, refuse to issue, renew, refuse to renew, cancel, revoke, or impose conditions on a Licence under this By-law. **(340-2012)**
- (2) Council is of the opinion that the delegation under subsection 3.1(1) is minor in nature. **(340-2012)**

4. Any animal trespassing or at large may be seized by any person, who shall deliver the animal to an animal control officer or the poundkeeper and the animal will then be impounded **(249-2005)**.

- 4.1 The poundkeeper may destroy, or cause, or permit to be destroyed, any animal that has been impounded in the pound where:

- (a) The person that owned the animal before it came into the possession of the poundkeeper has requested in writing that the animal be destroyed; or
- (b) An inspector under the *Animals for Research Act* or a veterinarian has ordered that the animal be destroyed under that Act;

- (c) During the redemption period, the animal is in the pound and, is ill or injured and in the poundkeeper's opinion incapable of being cured or healed as to live thereafter without suffering.
- 4.2
  - (a) Any person who adopts a cat from the City shall ensure that the cat is sterilized by a veterinarian of the owner's choice, within 42 days of adoption, or by the time the cat becomes six months of age, whichever occurs first.
  - (b) Where a veterinarian is of the opinion that the surgery is detrimental to the health of the cat, which opinion is provided in writing to Animal Services, the cat is exempt from sterilization.
  - (c) After sterilization, a rebate of \$40 will be provided to any person adopting a cat from the City, provided that proper documentation is furnished to the Animal Services Section, and within six months of sterilization.
- 5. An animal control officer may kill an animal where it is trespassing or at large and, in his opinion, should be destroyed because it is injured, or for other humane reasons, or for the reasons of safety to persons or other animals.

#### PROHIBITIONS AND REGULATIONS

- 6. No person, other than a veterinarian, shall keep or permit to be kept, on any land zoned residential, any animals listed in Schedule A.
- 7. No person, other than a veterinarian, shall keep or permit to be kept, in a dwelling unit, any of the animals listed in Schedule A.
- 8. Any person who owned a non-human primate on or before June 1, 1992, may continue to keep such animal until its death or demise, provided that the animal never exceeds an adult weight of 30 lbs.
- 9. Any person who owned a Vietnamese pot-bellied pig on or before June 1, 1992, may continue to keep such animal until its death or demise.
- 10. No person shall keep, or permit to be kept, more than six cats on the premises of or in a dwelling unit located on land zoned residential.
- 11. (1) Except as permitted by Sections 11(2), 14 and 14.1, no person shall keep, or permit to be kept, more than two: **(340-2012)**
  - pigeons,
  - rabbits,
  - domestic fowl, or

game fowl

on a lot.

- (2) The offspring of the animals permitted to be kept by section 11(1) may be kept on the same premises for up to three (3) months after their births.
12. Except as permitted by section 14, no person shall permit or allow any animal to trespass or to be at large.
13. No person shall keep, or permit to be kept, any rabbit, pigeon, game fowl, or domestic fowl, except in accordance with the following rules:
- (1) For dwelling units on a lot, each animal shall be kept in an animal quarter and not in the dwelling unit except for up to two (2) rabbits.
  - (2) Except for pigeon coops as provided for in section 14, each animal quarter shall be at least eight (8) metres (25 feet) from any dwelling, school, store or shop, and at least two (2) metres (six feet) from each boundary of the property on which it is located.
  - (3) Each animal quarter shall be constructed so as to prevent the escape of the animals kept therein.
  - (4) The appearance of each animal quarter shall be properly maintained, by regular painting, or shall be finished with permanent siding, and in all cases shall comply with the requirements of the Zoning By-law.
  - (5) All equipment and material shall be kept within a building or structure, or under cover.
  - (6) All equipment and materials shall be screened from the view of the general public, and, where it is necessary to do so, a hedge or other such vegetation shall be planted, or a solid fence erected, to act as a screen.
  - (7) All refuse resulting from the keeping of the animals shall be contained in air tight containers in such a manner as to prevent odours and shall be disposed of in a manner that will not create a public nuisance or health hazard.
  - (8) All food for the animals shall be kept in rodent proof containers.
  - (9) Deleted **(78-2009)**
  - (10) Deleted **(78-2009)**
  - (11) Deleted **(78-2009)**

14. In addition to other requirements of this by-law and the Zoning By-law, the following are the rules for pigeon owners:
- (1) No person shall keep more than two pigeons on a lot unless a license is obtained from the License Issuer.
  - (2) For the purposes of this section:
    - a) The licensing period shall be from May 1st of a calendar year to April 30th of the following calendar year, effective May 1, 2009.
    - b) The applicant shall complete a license application, file any information as may be required by the License Issuer and pay the required fee as set out in the User Fee By-law prior to a license being issued.
    - c) The coop shall be located, constructed and maintained in compliance with this by-law, the Zoning By-law and any other applicable legislation.
    - d) A license shall be issued to an owner whose application meets all the requirements of this By-law except if the License Issuer is of the opinion that:
      - i) the issuance or the holding of a license would be contrary to the public interest in respect of
        - (1) the health and safety of any person or animal; or
        - (2) a nuisance affecting any land or person in Brampton;
      - ii) any application or other document provided to the License Issuer by or on behalf of the applicant contains a false statement, or provides false information;
      - iii) the applicant does not meet all the requirements of this By-law or any other City By-law.
    - e) Where the License Issuer has refused to issue a license, the applicant may appeal to the Brampton Appeal Tribunal in accordance procedures established by Licensing By-law 1-2002
    - f) When it considers an appeal under this By-law, the Tribunal shall not make any decision or finding that impacts an application for a minor variance.
    - g) Any person holding a license under this section shall produce the license upon the request of the License Issuer or animal control officer.
  - (3) It is an offence to keep or permit to be kept three or more pigeons on a lot without a valid license and for the purposes of this by-law, the owner of the

lot shall be deemed to be the owner of a pigeon found in or returning to a pigeon coop on the lot.

- (4) Notwithstanding Sections 14(1) and 14(3), a veterinarian who is keeping pigeons for treatment or other purposes directly related to his or her practice of veterinary medicine is not subject to pigeon owner licensing requirements, maximum numbers of pigeons, flight restrictions or banding requirements.
- (5) A maximum of 60 pigeons may be kept on a lot during racing season, which is from April 1 to October 31.
- (6) At other times (non-racing season), the maximum allowed is 40 pigeons on a lot.
- (7) All pigeons must be banded with an identifying leg band issued by one of the following:  
  
Central Peel Racing Club  
Canadian Fancy Pigeon Association  
Canadian Racing Pigeon Union  
Canadian Union of Racing Clubs or  
Brampton and Peel County Poultry, Pigeon and Pet Stock Association.
- (8) All pigeons must be kept within the pigeon coop except during the permitted daily flight periods.
- (9) Each pigeon may be released for no more than two flights per day.
- (10) Only one-half of the number of pigeons kept on the lot may be released for flight at any one time.
- (11) Pigeons may be released for flight during the following day flight periods:
  - (a) from April 1 to September 30 in each calendar year, only before 7:30 a.m. and after 6:00 p.m.; and
  - (b) from October 1 to March 31 in each calendar year, only before 10:00 a.m. and after 3:00 p.m.
- (12) The release of pigeons for flights shall be under the supervision of the pigeon owner, or some other competent person.
- (13) Notwithstanding Sections 14(6), 14(7), 14(8) and 14(9), a pigeon in a race may be at flight up to one day beyond the expected duration of the race, if weather or other conditions beyond control of the owner have caused the pigeon to be overdue.

- (14) Every pigeon owner shall permit entry on the lot for the purpose of enforcing this or any other City by-law and it is an offence to obstruct any City employee in the execution of his or her duties under this by-law.

14.1 **(340-2012)**

In addition to other requirements of this by-law and the Zoning By-law, the following are the rules for persons wishing to own more than two hens or rabbits: **(340-2012)**

- (1) No person shall keep more than two hens or rabbits on a lot unless a licence is obtained from the Licence Issuer.
- (2) For the purposes of this section:
- a) The licensing period shall be for 12 months commencing on the day the licence is issued.
  - b) The applicant shall complete a licence application, file any information as may be required by the Licence Issuer and pay the required fee as set out in the User Fee By-law prior to a licence being issued.
  - c) The applicant shall provide notice to adjoining property owners that a licence for the keeping of hens and rabbits has been applied for. The notice shall include:
    - i) information regarding the numbers and types of animals to be kept; and
    - ii) information that the application may be objected to by sending an objection in writing to the Licence Issuer within 20 days of delivery of the notice.
  - d) notice under this section shall be deemed to be delivered:
    - i) in the case of mailed documents, four days following the mailing, as determined from the postmark,
    - ii) in the case of an emailed or faxed document, the day of emailing or faxing, unless the document is emailed or faxed after 4:30 p.m., in which case it will be deemed to have been delivered the following day,
    - iii) in the case of a document that is delivered in person, the date of delivery, provided the document is delivered before 4:30 p.m. If the document is delivered after 4:30 p.m., it will be deemed to have been delivered the following day.

- e) The applicant shall provide the Licence Issuer with proof of delivery of the notice to adjoining property owners, in the form of a copy of the notice and affidavit that the notice has been delivered.
  - f) A licence shall not be issued for owners to keep more than two hens or rabbits on a lot of less than one acre in size.
  - g) A licence shall be issued to an owner whose application meets all the requirements of this By-law except if the Licence Issuer is of the opinion that:
    - i) the issuance or the holding of a licence would be contrary to the public interest in respect of:
      - (1) the health and safety of any person or animal; or
      - (2) a nuisance affecting any land or person in Brampton;
    - ii) any application or other document provided to the Licence Issuer by or on behalf of the applicant contains a false statement, or provides false information;
    - iii) the applicant does not meet all the requirements of this By-law or any other City By-law.
  - h) In making a decision under subsection 14.1(2)(g)(i)(2), the Licence Issuer shall consider any objection received from an adjoining property owner regarding the proposed issuance of a licence for the keeping of hens and rabbits.
  - i) Where the Licence Issuer has refused to issue a licence, the applicant may appeal to the Brampton Appeal Tribunal in accordance procedures established by the Licensing By-law 1-2002.
  - j) When it considers an appeal under this By-law, the Tribunal shall not make any decision or finding that impacts an application for a minor variance.
  - k) Any person holding a licence under this section shall produce the licence upon the request of the Licence Issuer or animal control officer.
- (3) No person shall be licensed to keep more than ten hens or ten rabbits or a total of ten hens and rabbits in any combination.
  - (4) Notwithstanding Sections 14.1(1) and 14.1(3), a veterinarian who is keeping hens or rabbits for treatment or other purposes directly related to his or her

practice of veterinary medicine is not subject to licensing requirements or maximum numbers of hens and rabbits.

- (5) All hens and rabbits must be kept in an animal quarter located, constructed and maintained in compliance with Section 13 of this by-law, the Zoning By-law and any other applicable legislation.
  - (6) In addition to the requirements in Section 13, animal quarters must be located at least eight (8) metres (25 feet) from the rear lot line and at least eight (8) metres (25 feet) from any side lot line of the lot on which the animal quarter is located.
  - (7) Every owner of hens and rabbits shall permit entry on the lot for the purpose of enforcing this or any other City by-law and it is an offence to obstruct any City employee in the execution of his or her duties under this by-law.
15. A person who is a registered member in good standing of a club or organization named in Schedule C to this By-law may keep any number of rabbits, game fowl or domestic fowl, if the applicable requirements and restriction this by-law are complied with.
16. The owner of every cat which is over the age of eight (8) weeks shall have such cat identified by means of either a tag to be issued by the Corporation or a microchip implantation **(265-97)**;
17. (a) The owner of a cat to whom a tag has been issued must affix the tag to a collar and ensure that the collar is on the cat at all times **(50-97, 265-97)**.
- (b) The Owner of the cat with a microchip implantation shall ensure that the implantation is registered with the poundkeeper and that the information, including the name, address and phone number of the Owner is easily accessible **(50-97, 265-97)**;
18. Any person who contravenes any of the provisions 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 **(265-97)**.
19. By-law 165-92 is hereby repealed **(265-97)**.

Read a First, Second and Third Time and Passed in Open Council this 22nd day of November, 1993.

THE CORPORATION OF THE CITY OF BRAMPTON  
Original Signed by: Peter Robertson, Mayor  
Original Signed by: Leonard J. Mikulich, City Clerk

## **SCHEDULE A TO BY-LAW 261-93**

### **Animals Prohibited**

1. All Anseriformes (such as Ducks, Geese, Swans)
2. All Galliformes (such as Grouse, Pheasant, Turkeys)
3. All Sciuridae (such as Prairie dogs, Giant squirrels and Flying squirrels)
4. All Marsupials (such as Kangaroos and Opossums)
5. All Non-Human Primates (such as Gorillas and Monkeys)
6. All Felids except the Domestic Cat (such as Lions and Tigers)
7. All Canids except the Domestic Dog (such as Wolves and Hybrids)
8. All Viverrids (such as Mongooses, Civets and Genets)
9. All Mustelids except the Domestic Ferret (such as Skunks and Weasels)
10. All Ursids (Bears)
11. All Artiodactylus Ungulates (such as cattle, goats, sheep and pigs)
12. All Procyonids (such as Raccoons, Coatis and Cacomistles)
13. All Hyaenas
14. All Perissodactylus Ungulates (such as Horses and Zebra)
15. All Elephants
16. All Pinnipeds (such as Seals, Fur Seals and Walruses)
17. All Snakes of the families Pythonidae and Boidae
18. All Venomous Reptiles
19. All Ratite Birds (such as Ostriches, Rheas, Cassowaries)
20. All Edentates (such as Anteaters, Sloths and Armadillos)
21. All Bats
22. All Crocodilians (such as Alligators and Crocodiles)
23. All Arachnids (such as Scorpions and Tarantulas)

**SCHEDULE B TO BY-LAW 261-93  
(repealed by By-law 78-2009)**

**SCHEDULE C TO BY-LAW 261-93**

1. Ontario Poultry Confederation (Governed by the Ministry of Agriculture and Food)
2. Brampton and Peel County Poultry, Pigeon and Pet Stock Association

**SCHEDULE D TO BY-LAW 261-93  
(as amended by By-law 50-97, 265-97, deleted by By-law 51-2004)**



**Office Consolidation  
Dog By-law 250-2005**

**To create a system of different licenses for dogs depending on whether the dog has exhibited menacing behavior, to establish an Animal Control Tribunal of Council, to allow for new enforcement procedures created by *Public Safety Related to Dogs Statute Law Amendment Act, 2005* and to repeal former Dog By-law 7-92 (as amended by By-laws 309-2005, 352-2005, 171-2006, 314-2006, 47-2008)**

WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes the council of a lower-tier municipality to pass by-laws respecting animals;

AND WHEREAS Section 105 of the *Municipal Act* requires that Council afford dog owners hearings with respect to muzzle orders;

AND WHEREAS the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* will come into force on August 29, 2005;

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

**DEFINITIONS:**

1. In this by-law:

"Animal Control Officer" means a person appointed as such by a by-law of the City, or any other person directed by the Commissioner to enforce this by-law, and includes the poundkeeper; **(47-2008)**

"City" means the Corporation of the City of Brampton; **(47-2008)**

"Commissioner" means the Commissioner of Community Services or his or her designate; **(47-2008)**

"Dangerous dog" means any individual dog that:

- (a) has, in the absence of any mitigating factor, attacked, bitten, or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so;
- (b) has significantly injured a domestic animal; or
- (c) having been previously designated as a potentially dangerous dog, is kept or permitted to be kept in violation of the requirements for such dog;

"Dog" means a male or female dog; **(47-2008)**

"Guide Dog" means a dog trained and certified for a guide for the blind, hearing impaired, or other handicap, and used as such;

"Kennel" means **(309-2005, 47-2008)**:

- (a) a place where more than three dogs are kept for the purposes of show, training or breeding, or;
- (b) a place where more than three dogs are kept and cared for on behalf of the owners of the dogs;

"License Inspector" means any person appointed by Council as a municipal law enforcement officer; **(47-2008)**

"Mitigating factor" means a circumstance which excuses aggressive behaviour of a dog and, without limiting the generality of the foregoing, may include circumstances where:

- (a) the dog was, at the time of the aggressive behaviour, acting in defence to an attack by a person or domestic animal;
- (b) the dog was, at the time of the aggressive behaviour, acting in defence of its young or reacting to a person or domestic animal trespassing on the property of its owner; or
- (c) the dog was, at the time of the aggressive behaviour, being teased, provoked, or tormented;

"Muzzle" means a humane fastening or covering device of adequate strength over the mouth to prevent a dog from biting, yet still allows a dog to pant or drink (a basket type muzzle);

"Owner" of a dog includes a person who possesses or harbours a dog, and, where the owner is a minor, the person responsible for the custody of the minor, and "owns" and "owned" have a corresponding meaning;

"Pit Bull dog" includes:

- (a) a pit bull terrier;
- (b) a Staffordshire bull terrier,
- (c) an American Staffordshire bull terrier,
- (d) an American pit bull terrier,
- (e) a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to in any of clauses (a) to (d);

"Police Work Dog" means a dog trained to aid law enforcement officers and used by such officers in the execution of their duties; **(47-2008)**

"Potentially dangerous dog" means any individual dog that chases or approaches any person or domestic animal in a menacing fashion or apparent attitude of attack, including, but not limited to, behaviour such as growling or snarling;

"Pound" means such premises and facilities designated as a City Animal Shelter and Pound; **(47-2008)**

"Poundkeeper" means the person appointed as such by By-law of Council; **(47-2008)**

"Pure-bred" means: **(47-2008)**

- (a) registered or eligible for registration in the register of The Canadian Kennel Club, Incorporated or;
- (b) of a class designated as pure-bred in any regulations passed pursuant to provincial legislation;

"Restricted pit bull" means a pit bull owned by a resident of Ontario on August 29, 2005 or born between August 29, 2005 and November 29, 2005;

"Tag" means a metal tag indicating the year or number issued; **(47-2008)**

"Tribunal" means the Brampton Appeal Tribunal **(By-law 47-2008)**

2. This by-law shall be administered and enforced by the Commissioner of Community Services, and by such other persons appointed to do so by by-law.

## LICENSING

3.
  - (a) Every calendar year, an owner of a dog shall ensure that any dog owned by him or her is licensed by the City.
  - (b) The license shall be obtained before the 28th day of February of each calendar year, unless the dog came into the owner's possession or care after that date.
  - (c) Every owner of a dog that comes into his or her possession after February 28<sup>th</sup> shall immediately obtain a license for the dog.
  - (d)
    - (i) The owners of a guide dog or a police work dog shall ensure that these dogs are licensed, but no fee is imposable for such dogs.
    - (ii) The poundkeeper may require the owner of a dog to establish to his or her satisfaction that the dog is a guide dog or a police work dog.
4. In order to license a dog and obtain a tag, the owner of the dog must produce to the City satisfactory proof that the dog is currently inoculated against rabies.
5.
  - (a) On payment of the license fee for a dog, the owner shall be furnished with a dog tag and shall keep the tag securely fixed on the dog at all times, until the tag is replaced; except that the tag may be removed while the dog is being lawfully used for hunting deer in the bush.
  - (b) The license fee in respect of any dog shall be as set out in User Fee By-law 380-2003.
6.
  - (a) The tag that must be fixed on the dog pursuant to Subsection 5(a) shall be for the current calendar year.
  - (b) If a dog dies, is destroyed, or is transferred to another owner, its tag shall be returned to the City.
  - (c) No owner shall permit a dog to wear a tag other than the one issued for the dog.
  - (d) If a tag is lost, a replacement may be obtained if the owner pays again the fee set out in User Fee By-law 380-2003, and the City is satisfied that a proper tag for that dog has already been issued by the City for the current calendar year.

7.
  - (a) Before the 28th day of February of each year, the owner of any kennel shall pay the kennel license fee, as set out in User Fee By-law 380-2003.
  - (b) Where the owner of a kennel has complied with the requirements of paragraph (a) of this Section, the kennel owner is not required to obtain an individual license for each dog kept at the kennel.
  - (c) Kennels may only be licensed if they are located where kennels are permitted by the zoning by-law.

## KENNELS

8. Any person or persons who keep more than three dogs, which are aged over three months, at one location, must obtain a kennel license.
9. Every person who applies for a kennel license or operates boarding facilities for animals shall comply with the following requirements:
  - (a) The kennel building shall be in a separate building and shall not be attached to any building used or capable of being used for human habitation.
  - (b) The kennel building and its location shall conform to the zoning by-law and the Ontario Building Code and the building shall be maintained in damage-free condition.
  - (c) The kennel building shall have a floor of concrete or other impermeable material, and shall have a drain opening constructed as a plumbing fixture.
  - (d) The kennel floor shall be thoroughly cleaned daily, or more often if necessary.
  - (e) Any cage shall be adequately sized to allow the animal to extend its legs to their full extent, to stand, sit, turn around, or lie down in a fully extended position.
  - (f) Cages are to be constructed solely of metal, or wire, or partly of wire, and shall have metal or other impermeable bottoms, which shall be cleaned and washed daily, or more often, if necessary.
  - (g) The kennel building shall have:
    - (i) electric lighting;
    - (ii) windows which may be opened for proper ventilation;
    - (iii) a heating system sufficient to adequately heat the building;

- (iv) hot and cold running water; and
    - (v) a food preparation area.
  - (h) Where animals are permitted to use an outside area, there shall be constructed around such area, a solid board fence having a height of at least 1.3 metres (four feet), and the wall of an adjacent building may be included as part of such fenced-in area. A fenced-in area shall not be required where the outside area is more than 60.96 metres (200 feet) from all property lines.
  - (i) Where a clipping and grooming service is performed, it shall be carried out in the kennel building only.
10. Every person who holds a kennel license or operates boarding facilities for animals, shall comply with the following requirements:
- (a) The license shall be exposed at all times in a conspicuous place in the interior of the premises.
  - (b) The premises shall be maintained in a sanitary, well-ventilated, clean condition, and free from offensive odours.
  - (c) The animals shall be kept in sanitary, well bedded, well ventilated, naturally lighted, clean quarters and a healthful temperature shall be maintained at all times.
  - (d) The animals shall be adequately fed and watered and kept in a clean, healthy condition, free from vermin and disease.
11. Any person apparently in control of premises containing three or more dogs shall admit the License Inspector or any person designated by the License Inspector for the purpose of ascertaining if the premises are a kennel and the License Inspector's power of entry shall be exercised pursuant to Sections 428, 429, 430 and 431 of the *Municipal Act, 2001*. **(309-2005)**
12. If the kennel is found not to conform, to the requirements set out herein, the License Inspector may direct that the animals be seized and impounded and may revoke the license issued to the kennel.

#### NUMBER OF DOGS

13. (a) Subject to Subsection 13(b), no person may keep or permit to be kept at any one time, more than three dogs older than three months per dwelling unit or location.

- (b) Subsection 13(a) does not apply to the poundkeeper, or the owner of:
  - (i) a licensed kennel;
  - (ii) an animal hospital;
  - (iii) an animal hospital operated by a veterinary surgeon, or
  - (iv) a pet store;
  - (v) a registered research facility or supply facility under the *Animals for Research Act*; or
  - (vi) a pound.

## RUNNING AT LARGE

- 14.
  - (a) Every dog owner shall ensure that his or her dog does not run at large within the City of Brampton.
  - (b) A dog running at large may be seized by any person, who shall deliver the dog to an animal control officer.
  - (c) Any dog running at large may be seized and impounded, and may be sold or destroyed by the poundkeeper.
  - (d) For the purpose of this by-law, a dog shall be deemed to be running at large when found in any place other than the premises of the owner, and not under the control of any person.
  - (e) Subsection 14(a) does not apply to police work dogs, when these dogs are in the course of performing their duties.
- 15. The poundkeeper may destroy, or cause, or permit to be destroyed, any dog that has been impounded in the pound where:
  - (a) The person that owned the dog before it came into the possession of the poundkeeper has requested in writing that the dog be destroyed;
  - (b) An inspector under the *Animals for Research Act* or a veterinarian has ordered that the dog be destroyed under that Act;
  - (c) During the redemption period, the dog is in the pound and is ill or injured, and in the poundkeeper's opinion, is incapable of being cured or healed as to live thereafter without suffering.

## LEASHING

16. (a) Every owner of a dog shall keep the dog leashed and under the control of a person when the dog is on land in the City, other than the owner's property, unless prior consent is given by the person owning the land on which the dog is found.
- (b) This Section does not apply to guide dogs or police work dogs, when these dogs are in the course of performing their duties.
17. (a) In this section "owner" includes a person having temporary control over a dog.
- (b) In any off-leash area of each park listed in Subsection (c), the following provisions shall apply:
- i) Every owner shall clean up after his or her dog.
  - ii) No owner shall bring to the off-leash area any potentially dangerous dog, dangerous dog, pit bull, or any dog, which has a history of aggressive behaviour to other dogs or human beings.
  - iii) Each dog must be vaccinated.
  - iv) Every owner of a dog shall ensure the dog is wearing a collar and current City License at all times.
  - v) No puppy under four months of age is permitted.
  - vi) Each dog shall be spayed or neutered.
  - vii) No dog shall be left unattended.
  - viii) Each owner shall carry a leash for each dog at all times.
  - ix) There shall be a limit of 3 dogs per person per visit.
  - x) Children under ten years of age are prohibited.
  - xi) Each dog shall be leashed when it enters or leaves the park.
  - xii) Each owner assumes all risks by entering into the park.
- (c) Brampton off-leash parks
- White Spruce Park  
Chris Gibson Park.

## KEEPING OF DOGS

18. Any building, structure, pen or run used or intended to be used for the keeping of a dog shall be at least 2 metres (6.5 feet) from the boundary of the property upon which it is located.

## IMPOUNDMENT

19. The poundkeeper may release an impounded animal to the owner, if the owner has provided satisfactory identification and paid the fees as set out in User Fee By-law 380-2003, plus any damages, fines, expenses, veterinary care, and costs of any vaccination or immunization.
20. Any impounded animal not wearing a tag for the current year, may, at the discretion of the poundkeeper, be given an inoculation to provide temporary immunization against distemper or any other contagious or infectious disease.
21. In the case of inoculations under Section 20, the poundkeeper is authorized to charge impounding and other fees as set out in User Fee By-law 380-2003.

## STERILIZATION

22.
  - (a) Any person who adopts a dog from the City shall ensure that the dog is sterilized by a veterinarian of the owner's choice, within 42 days of adoption, or by the time the dog becomes six months of age, whichever occurs first.
  - (b) Where a veterinarian is of the opinion that the surgery is detrimental to the health of the dog, which opinion is provided in writing to Animal Services, the dog is exempt from sterilization.
  - (c) After sterilization, a rebate of \$50 will be provided to any person adopting a dog from the City, provided that proper documentation is furnished to the Animal Services Section within six months of sterilization.

## OWNERS TO TAKE PRECAUTIONS

23. The owner of a dog shall exercise reasonable precautions to prevent it from:
  - (a) biting or attacking a person or domestic animal; or
  - (b) behaving in a manner that poses a menace to the safety of persons or domestic animals.

## DESIGNATION AS POTENTIALLY DANGEROUS or DANGEROUS DOGS

24. After receiving a complaint of a potentially dangerous or dangerous dog, the poundkeeper may investigate, and upon being satisfied that grounds exist, may designate the dog as a potentially dangerous or dangerous dog. **(47-2008)**

25. A poundkeeper's designation shall be deemed to be received on the "receipt date" which is: **(47-2008)**
- a) in the case of mailed documents, four (4) days following the mailing, as determined from the postmark;
  - b) in the case of an emailed or faxed document, the day of emailing or faxing;
  - c) in the case of a document that is delivered in person, the date of delivery.
26. A designation is effective on the receipt date. **(47-2008)**
27. Where a notice is mailed, it is sufficient to use the address given by the addressee to the poundkeeper or the last known address of the owner. **(47-2008)**
28. Where the poundkeeper has designated a dog as potentially dangerous or dangerous dog, the owner may appeal to the Tribunal by filing written notice to the City Clerk, accompanied by the appeal fee as set out in the City's User Fee By-law 380-2003, within fifteen (15) days after the receipt date. **(47-2008)**
29. Notwithstanding that an owner has appealed to the Tribunal under Section 28, the designation is effective until the appeal is disposed of. **(47-2008)**
30. The parties to the appeal are the poundkeeper, the owner, and such other persons as the Tribunal may specify. **(47-2008)**
31. No member of the Tribunal, Council or any City employee is personally liable for anything done by it, or him or her under authority of this by-law. **(47-2008)**

#### **RESTRICTIONS RELATING TO POTENTIALLY DANGEROUS DOGS**

32. No person under the age of eighteen years shall own a potentially dangerous dog. Where a dog that is designated as a potentially dangerous dog is owned by a person under the age of eighteen years at the time of designation, the parent or guardian of that person shall be deemed to be the owner.
33. (a) No person shall transfer ownership of a potentially dangerous dog without first having obtained the consent of the poundkeeper. The poundkeeper will give consent unless he or she is satisfied that the transferee is unlikely to fulfill one or more of the conditions listed under Section 34 of this By-law or any requirement of the *Dog Owners Liability Act* or regulations or orders thereto.

- (b) Section 33(a) does not apply to a transfer to a pound or a research facility registered under the *Animals for Research Act*.
34. Every owner of a potentially dangerous dog shall ensure that the dog is:
- (a) licensed by the City of Brampton annually, with the fee paid in accordance with User Fee By-law 380-2003;
  - (b) implanted with an identification microchip;
  - (c) sterilized before the dog reaches six months of age or within 30 days of being so designated, or in the case of a pit bull, before October 29, 2005. The owner shall provide proof of sterilization on demand of the animal control officer;
  - (d) equipped with a muzzle and secured by a leash at all times in accordance with Section 34(g);
  - (e) Section 34(d) does not apply when the potentially dangerous dog is within enclosed property occupied by the owner of the potentially dangerous dog;
  - (f) When the potentially dangerous dog is within enclosed property occupied by a person who consents to the potentially dangerous dog being off leash or off muzzle, Section 34(d) does not apply to the extent of that consent;
  - (g) For the purposes of Subsection 34(d), a potentially dangerous dog shall be equipped with a muzzle and secured by a leash in accordance with the following rules:
    - 1. The potentially dangerous dog shall be fitted with a collar or harness that is properly fitted to and placed on the dog.
    - 2. The movement of the potentially dangerous dog shall be controlled by a person by means of a leash attached to the collar or harness on the potentially dangerous dog.
    - 3. The leash is not more than 1.8 metres (5 feet, 10.85 inches) in length and is attached to the collar or harness.
    - 4. The collar or harness, the leash, and the attachment between the leash and the collar or harness are all strong enough to prevent the potentially dangerous dog from breaking any of them.
    - 5. The mouth of the potentially dangerous dog is covered by a muzzle that is humane and that is strong enough and well-fitted enough to

prevent potentially dangerous dog from biting, without interfering with the breathing, panting or vision of the potentially dangerous dog or with the potentially dangerous dog's ability to drink.

- (h) Not left unattended, except where the dog is securely contained inside the owner's home or within a yard of the property that is enclosed by a fence that is no less than two metres (6.5 feet) in height, is securely locked, and is constructed in a fashion so as to prevent the dog from escaping or breaking out from the property.
- 35. After August 29, 2005, it is an offence for every owner of a potentially dangerous dog to fail to produce evidence to the poundkeeper or an animal control officer, when requested to do so, that the potentially dangerous dog is microchipped in accordance with this by-law.
- 36. After October 29, 2005, it is an offence for every owner of a potentially dangerous dog to fail to produce evidence to the poundkeeper or an animal control officer, when requested to do so, that the potentially dangerous dog or pit bull is sterilized in accordance with this by-law.
- 37. Every owner of a potentially dangerous dog shall display, in a conspicuous place at the entrance to the owner's premises, a warning sign indicating the presence of a potentially dangerous dog.
- 38. No person shall breed or permit to be bred a potentially dangerous dog.
- 39. No person shall abandon a potentially dangerous dog other than to a pound operated by, or on behalf of a municipality in Ontario, or to a registered research facility or supply facility under the *Animals for Research Act*.
- 40. No person shall allow a potentially dangerous dog in his or her possession to stray.
- 41. No person shall train a potentially dangerous dog for fighting.

#### DANGEROUS DOGS

- 42. Sections 32 (adult owner), 33(a) (transfer without consent of the poundkeeper), 34(a) (licensing), 34(b) (microchip), 34(c) (sterilization), 34(d), 34(e) 34(f), 34(g) (muzzling and leash), 34(h) (fencing), 35 (proof of microchipping), 36 (proof of sterilization), 37 (signs), 38 (breeding), 39 (abandonment), 40 (allow to stray) and 41 (train for fighting) apply to dangerous dogs, with necessary wording changes. The following additional or more specific restrictions shall also apply:

- (a) In addition to the fencing requirements in Section 34(h), an owner of a dangerous dog shall only leave the dog unattended outside of the owner's home, when the dog is contained in a six-sided pen, which pen includes a top and bottom and is located at least two metres (6.5 feet) from any property line.
  - (b) The warning sign required by Section 37 shall warn of a dangerous dog.
  - (c) The owner of a dangerous dog shall maintain liability insurance for any injuries to a person or domestic animal caused by the dog, in the minimum amount of \$25,000.00. The owner shall also produce proof of such insurance, to an animal control officer, when requested to do so.
43. Every owner of a dangerous dog who is unable or unwilling to meet the requirements of this by-law shall surrender such dog into the care and control of the poundkeeper for humane euthanasia.

#### PIT BULLS

44. No person shall own any pit bull born after November 29, 2005.
45. No person shall own any pit bull that was transferred to him or her, unless the transfer was in accordance with Section 33.
46. Sections 32 (adult owner), 33(transfer), 34(a) (licensing), 34(b) (microchip), 34(c) (sterilization), 34(d), 34(e) 34(f), 34(g) (muzzling and leash), 34 (h) (fencing), 35 (proof of microchipping), 36 (proof of sterilization), 38 (breeding), 39 (abandonment), 40 (allow to stray) and 41 (train for fighting) apply, with the necessary changes, to owners of pit bulls.

The requirements of Sections 34(d), 34(e) 34(f), 34(g) (muzzling and leash), 34 (h) (fencing), 35 (proof of microchipping), 36 (proof of sterilization) take effect on October 29, 2005.

The requirement of Section 34(a) (licensing) shall be interpreted to require an annual fee for any pit bull after August 15, 2005, except for pit bulls that were validly licensed with a lifetime license on August 15, 2005, and such license cannot be transferred in accordance with Subsection 6(b).

47. No person shall permit a pit bull to enter or remain in a designated off-leash area of a park in the presence of other dogs.
48. No person shall transfer ownership of a pit bull without first having obtained the consent of the poundkeeper.

49. Every owner of a pit bull who is unable or unwilling to meet the requirements of this by-law shall surrender such dog into the care and control of the poundkeeper for adoption or humane euthanasia.
50. When a pit bull has bitten or caused injury to a human or domestic animal, the owner shall surrender it to the poundkeeper. The poundkeeper may either:
- (a) humanely euthanize it, in the poundkeeper's sole discretion; or
  - (b) designate the dog as a dangerous dog.

In addition or in substitution, the poundkeeper may also charge the owner under the *Dog Owners' Liability Act* or this by-law.

#### EXCREMENT

51. (a) Every owner of a dog shall remove forthwith any excrement left by the dog on any property including highways.
- (b) Subsection 51(a) does not apply to persons reliant on a guide dog or persons in control of a police work dog, when such dog is in the actual execution of its duties.

#### PENALTY

52. Every person who contravenes any of the provisions of this by-law is guilty of an offence, and is liable, upon conviction, to a penalty of not more than five thousand (5,000.00), exclusive of costs, in respect of each offence.

#### REPEAL OF FORMER DOG BY-LAW

53. By-law 7-92, as amended, is repealed.

READ A FIRST, SECOND AND THIRD TIME and PASSED in OPEN COUNCIL this 15<sup>th</sup> day of August 2005.

Original signed by:  
SUSAN FENNELL, MAYOR  
LEONARD J. MIKULICH, CLERK

## Dog Owners' Liability Act

R.S.O. 1990, CHAPTER D.16

**Consolidation Period:** From January 1, 2020 to the [e-Laws currency date](#).

Last amendment: 2019, c. 13, s. 74.

Legislative History: 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1; 2006, c. 32, Sched. C, s. 13; 2018, c. 3, Sched. 5, s. 17 (see: 2019, c. 1, Sched. 3, s. 5); 2019, c. 1, Sched. 4, s. 15; 2019, c. 13, s. 74.

### CONTENTS

<a href="#">1.</a>	Definitions	<a href="#">INTERPRETATION</a>
<a href="#">2.</a>	Liability of owner	<a href="#">CIVIL LIABILITY</a>
<a href="#">3.</a>	Application of Occupiers' Liability Act	
<a href="#">4.</a>	Proceedings against owner of dog	<a href="#">PROCEEDINGS — PART IX OF THE PROVINCIAL OFFENCES ACT</a>
<a href="#">5.</a>	Order to prohibit dog ownership	
<a href="#">5.1</a>	Owner to prevent dog from attacking	<a href="#">PRECAUTIONS BY DOG OWNERS</a>
<a href="#">6.</a>	Pit bull ban	<a href="#">PIT BULLS — BAN AND RELATED CONTROLS</a>
<a href="#">7.</a>	Ownership of restricted pit bulls	
<a href="#">8.</a>	Ownership of pit bull other than restricted	
<a href="#">9.</a>	Transfer of pit bulls	
<a href="#">10.</a>	Importation of restricted pit bulls	
<a href="#">11.</a>	Municipal by-laws	
<a href="#">12.</a>	Peace officers	<a href="#">SEARCH AND SEIZURE</a>
<a href="#">13.</a>	Warrant to seize dog	
<a href="#">14.</a>	Exigent circumstances	
<a href="#">15.</a>	Seizure in public place	
<a href="#">16.</a>	Necessary force	
<a href="#">17.</a>	Delivery of seized dog to pound	
<a href="#">18.</a>	Offences	<a href="#">OFFENCES</a>
<a href="#">19.</a>	Identification of pit bull	
<a href="#">20.</a>	Regulations	<a href="#">REGULATIONS</a>

### INTERPRETATION

#### Definitions

**1 (1)** In this Act,

“owner”, when used in relation to a dog, includes a person who possesses or harbours the dog and, where the owner is a minor, the person responsible for the custody of the minor; (“propriétaire”)

“pit bull” includes,

- (a) a pit bull terrier,
- (b) a Staffordshire bull terrier,
- (c) an American Staffordshire terrier,
- (d) an American pit bull terrier,

- (e) a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to in any of clauses (a) to (d); (“pit-bull”)

“pound” has the same meaning as in the *Animals for Research Act*; (“fourrière”)

“regulation” means a regulation made under this Act. (“règlement”) R.S.O. 1990, c. D.16, s. 1; 2005, c. 2, s. 1 (2).

### **Same**

(2) In determining whether a dog is a pit bull within the meaning of this Act, a court may have regard to the breed standards established for Staffordshire Bull Terriers, American Staffordshire Terriers or American Pit Bull Terriers by the Canadian Kennel Club, the United Kennel Club, the American Kennel Club or the American Dog Breeders Association. 2005, c. 2, s. 1 (3).

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (2, 3) - 29/08/2005

## **CIVIL LIABILITY**

### **Liability of owner**

**2** (1) The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal. R.S.O. 1990, c. D.16, s. 2 (1).

### **Where more than one owner**

(2) Where there is more than one owner of a dog, they are jointly and severally liable under this section. R.S.O. 1990, c. D.16, s. 2 (2).

### **Extent of liability**

(3) The liability of the owner does not depend upon knowledge of the propensity of the dog or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages. R.S.O. 1990, c. D.16, s. 2 (3).

### **Contribution by person at fault**

(4) An owner who is liable to pay damages under this section is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person’s fault or negligence caused or contributed to the damages. R.S.O. 1990, c. D.16, s. 2 (4).

### **Application of *Occupiers’ Liability Act***

**3** (1) Where damage is caused by being bitten or attacked by a dog on the premises of the owner, the liability of the owner is determined under this Act and not under the *Occupiers’ Liability Act*. R.S.O. 1990, c. D.16, s. 3 (1).

### **Protection of persons or property**

(2) Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable under section 2 unless the keeping of the dog on the premises was unreasonable for the purpose of the protection of persons or property. R.S.O. 1990, c. D.16, s. 3 (2).

## **PROCEEDINGS — PART IX OF THE PROVINCIAL OFFENCES ACT**

### **Proceedings against owner of dog**

**4** (1) A proceeding may be commenced in the Ontario Court of Justice against an owner of a dog if it is alleged that,

- (a) the dog has bitten or attacked a person or domestic animal;
- (b) the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals; or
- (c) the owner did not exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal, or
  - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals. 2005, c. 2, s. 1 (6).

### **Same**

(1.1) A proceeding may be commenced in the Ontario Court of Justice against a person if it is alleged that the person contravened a provision of this Act or the regulations or a court order made under this Act. 2005, c. 2, s. 1 (6).

**Nature of proceeding**

(1.2) Part IX of the *Provincial Offences Act* applies to a proceeding under this section. 2005, c. 2, s. 1 (6).

**Standard of proof**

(1.3) Findings of fact in a proceeding under this section shall be made on the balance of probabilities. 2005, c. 2, s. 1 (6).

**Interim order**

(2) When a proceeding has been commenced under subsection (1) or (1.1), the Ontario Court of Justice may, pending a determination of whether an order should be made under subsection (3) or pending an appeal of such an order, make an interim order requiring the owner to take measures specified in the interim order for the more effective control of the dog. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (7).

**Final order**

(3) If, in a proceeding under subsection (1), the court finds that the dog has bitten or attacked a person or domestic animal or that the dog's behaviour is such that the dog is a menace to the safety of persons or domestic animals, and the court is satisfied that an order is necessary for the protection of the public, the court may order,

- (a) that the dog be destroyed in the manner specified in the order; or
- (b) that the owner of the dog take the measures specified in the order for the more effective control of the dog or for purposes of public safety. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (8, 9).

**Examples, measures for more effective control**

(4) Some examples of measures that may be ordered under subsection (2) or clause (3) (b) are:

1. Confining the dog to its owner's property.
2. Restraining the dog by means of a leash.
3. Restraining the dog by means of a muzzle.
4. Posting warning signs. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (10).

**Automatic restraint order**

(5) If a dog whose destruction has been ordered under clause (3) (a) is not taken into custody immediately, the owner shall restrain the dog by means of a leash and muzzle and such other means as the court may order until the dog is taken into custody. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (11).

**Considerations**

(6) Except as provided by subsections (8) and (9), in exercising its powers to make an order under subsection (3), the court may take into consideration the following circumstances:

1. The dog's past and present temperament and behaviour.
2. The seriousness of the injuries caused by the biting or attack.
3. Unusual contributing circumstances tending to justify the dog's action.
4. The improbability that a similar attack will be repeated.
5. The dog's physical potential for inflicting harm.
6. Precautions taken by the owner to preclude similar attacks in the future.
7. Any other circumstances that the court considers to be relevant. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (12).

**Sterilization requirement**

(7) The owner of a dog that is subject to an order under clause (3) (b) shall ensure that the dog is neutered or spayed, as the case may be, within 30 days of the making of the order or, if the court specifies a different time period, within the time period specified by the court. 2005, c. 2, s. 1 (13).

**Mandatory order under cl. (3) (a)**

(8) When, in a proceeding under this section, the court finds that the dog is a pit bull and has bitten or attacked a person or domestic animal, or has behaved in a manner that poses a menace to the safety of persons or domestic animals, the court shall make an order under clause (3) (a). 2005, c. 2, s. 1 (13).

## **Same**

(9) When, in a proceeding under this section, the court finds that the owner of a pit bull contravened a provision of this Act or the regulations relating to pit bulls or contravened a court order relating to one or more pit bulls, the court shall make an order under clause 3 (a). 2005, c. 2, s. 1 (13).

## **Onus of proof, pit bulls**

(10) If it is alleged in any proceeding under this section that a dog is a pit bull, the onus of proving that the dog is not a pit bull lies on the owner of the dog. 2005, c. 2, s. 1 (13).

## **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. A, s. 6 - 06/12/2000

2005, c. 2, s. 1 (6-13) - 29/08/2005

## **Order to prohibit dog ownership**

**5** When, in a proceeding under section 4, the court finds that the dog has bitten or attacked a person or domestic animal or that the dog's behaviour is such that the dog is a menace to the safety of persons or domestic animals, the court may make an order prohibiting the dog's owner from owning another dog during a specified period of time. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (14).

## **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. A, s. 6 - 06/12/2000

2005, c. 2, s. 1 (14) - 29/08/2005

## **PRECAUTIONS BY DOG OWNERS**

### **Owner to prevent dog from attacking**

**5.1** The owner of a dog shall exercise reasonable precautions to prevent it from,

- (a) biting or attacking a person or domestic animal; or
- (b) behaving in a manner that poses a menace to the safety of persons or domestic animals. 2005, c. 2, s. 1 (15).

## **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (15) - 29/08/2005

## **PIT BULLS — BAN AND RELATED CONTROLS**

### **Pit bull ban**

**6** Except as permitted by this Act or the regulations, no person shall,

- (a) own a pit bull;
- (b) breed a pit bull;
- (c) transfer a pit bull, whether by sale, gift or otherwise;
- (d) abandon a pit bull other than to a pound operated by or on behalf of a municipality, Ontario or a designated body;
- (e) allow a pit bull in his or her possession to stray;
- (f) import a pit bull into Ontario; or
- (g) train a pit bull for fighting. 2005, c. 2, s. 1 (16).

## **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. A, s. 6 - 06/12/2000

2005, c. 2, s. 1 (16) - 29/08/2005

### **Ownership of restricted pit bulls**

**7 (1)** For the purposes of this Act, a pit bull is a restricted pit bull if,

- (a) it is owned by a resident of Ontario on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force; or

- (b) it is born in Ontario before the end of the 90-day period beginning on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force. 2005, c. 2, s. 1 (16).

**Same**

- (2) Despite clause 6 (a), a person may own a pit bull if it is a restricted pit bull. 2005, c. 2, s. 1 (16).

**Controls on restricted pit bulls**

- (3) A person who owns a restricted pit bull shall ensure compliance with the requirements set out in this Act and the regulations that relate to restricted pit bulls, within such time frames as are provided for those requirements in this Act or the regulations. 2005, c. 2, s. 1 (16).

**Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. A, s. 6 - 06/12/2000

2005, c. 2, s. 1 (16) - 29/08/2005

**Ownership of pit bull other than restricted**

- 8** (1) Despite clause 6 (a), a pound may own a pit bull that is not a restricted pit bull for as long as is reasonably necessary to fulfil its obligations under the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

**Same**

- (2) Despite clause 6 (a), a research facility registered under the *Animals for Research Act* may own a pit bull that is not a restricted pit bull that is transferred to it under the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

**Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

**Transfer of pit bulls**

- 9** (1) Despite clause 6 (c) and subject to the regulations, an owner of a restricted pit bull may transfer that pit bull by gift or bequest. 2005, c. 2, s. 1 (16).

**Same**

- (2) No person who owned one or more pit bulls on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire a pit bull under subsection (1) after that day if the effect of the acquisition would be that the person owns more pit bulls after that day than on that day. 2005, c. 2, s. 1 (16).

**Same**

- (3) No person who did not own a pit bull on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire more than one pit bull under subsection (1) after that day. 2005, c. 2, s. 1 (16).

**Same**

- (4) The limits set out in subsections (2) and (3) do not apply to a pound operated by or on behalf of a municipality, Ontario or a designated body or to a research facility within the meaning of the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

**Same**

- (5) Despite clause 6 (c), a pit bull may be transferred by its owner to a pound operated by or on behalf of a municipality, Ontario or a designated body. 2005, c. 2, s. 1 (16).

**Same**

- (6) Despite clause 6 (c), a pit bull may be transferred in accordance with section 20 of the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

**Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

**Importation of restricted pit bulls**

- 10** (1) For the purposes of clause 6 (f), an individual who leaves Ontario with a restricted pit bull and returns to Ontario with that pit bull within three months is not importing that pit bull into Ontario. 2005, c. 2, s. 1 (16).

## **Same**

(2) For the purposes of clause 6 (f), an individual who owns a pit bull on the day referred to in clause 7 (1) (a) and is legally resident in Ontario on that day, but who is not present in Ontario on that day, is not importing a pit bull into Ontario if he or she returns to Ontario with that pit bull within three months of that day. 2005, c. 2, s. 1 (16).

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

## **Municipal by-laws**

**11** Despite section 14 of the *Municipal Act, 2001* and section 11 of the *City of Toronto Act, 2006*, if there is a conflict between a provision of this Act or of a regulation under this or any other Act relating to pit bulls and a provision of a by-law passed by a municipality relating to pit bulls, the provision that is the most restrictive in relation to controls or bans on pit bulls prevails. 2005, c. 2, s. 1 (16); 2006, c. 32, Sched. C, s. 13.

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

2006, c. 32, Sched. C, s. 13 - 01/01/2007

## **SEARCH AND SEIZURE**

## **Peace officers**

**12** For the purposes of this Act, the following persons are peace officers:

1. A police officer, including a police officer within the meaning of the *Police Services Act*, a special constable, a First Nations Constable and an auxiliary member of a police force.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, paragraph 1 of section 12 of the Act is repealed and the following substituted: (See: 2019, c. 1, Sched. 4, s. 15)

1. A police officer, including a police officer within the meaning of the *Community Safety and Policing Act, 2019*, a special constable, a First Nation Officer and an auxiliary member of a police service.
2. A municipal law enforcement officer.
3. REPEALED: 2019, c. 13, s. 74.
4. A public officer designated as a peace officer for the purposes of this Act. 2005, c. 2, s. 1 (16); 2019, c. 13, s. 74.

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

2018, c. 3, Sched. 5, s. 17 - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 15 - not in force; 2019, c. 13, s. 74 - 01/01/2020

## **Warrant to seize dog**

**13** (1) Subsection (2) applies where a justice of the peace is satisfied by information on oath or affirmation that there are reasonable grounds to believe that,

- (a) a dog is in any building, receptacle or place, including a dwelling house, other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act*; and
- (b) it is not desirable in the interests of public safety that the dog be in that location. 2005, c. 2, s. 1 (16).

## **Same**

(2) In the circumstances described in subsection (1), the justice of the peace may issue a warrant authorizing a peace officer named in the warrant to enter any building, receptacle or place, including a dwelling house, to search for and seize the dog and any muzzle, collar or other equipment for the dog. 2005, c. 2, s. 1 (16).

## **Same**

(3) Without limiting the generality of clause (1) (b), it is not desirable in the interests of public safety for a dog to be in a location other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act* if,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal, or
  - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or
- (f) there is reason to believe that the dog may cause harm to a person or domestic animal. 2005, c. 2, s. 1 (16).

**Same**

(4) A peace officer named in a warrant who is executing a warrant under this section may be accompanied by one or more veterinarians or animal control personnel as are reasonably required to give effect to the safe and humane seizure of the dog, whether the accompanying persons are named in the warrant or not. 2005, c. 2, s. 1 (16).

**Same**

(5) Every warrant issued under this section shall name a date on which it expires, which date shall be not later than 30 days after its issue. 2005, c. 2, s. 1 (16).

**Same**

(6) Every warrant shall be executed between 6 a.m. and 9 p.m., unless the justice by the warrant otherwise authorizes. 2005, c. 2, s. 1 (16).

**Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

**Exigent circumstances**

**14** (1) Where the circumstances in clauses 13 (1) (a) and (b) exist and it would be impracticable to obtain a warrant because of exigent circumstances, a peace officer may exercise any of the powers of a peace officer described in section 13. 2005, c. 2, s. 1 (16).

**Same**

(2) In this section, exigent circumstances include circumstances in which the peace officer has reasonable grounds to suspect that entry into any building, receptacle or place, including a dwelling house, is necessary to prevent imminent bodily harm or death to any person or domestic animal. 2005, c. 2, s. 1 (16).

**Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

**Seizure in public place**

**15** (1) A peace officer may seize a dog in a public place if the officer believes on reasonable grounds that,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal,
  - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or
- (f) there is reason to believe that the dog may cause harm to a person or domestic animal. 2005, c. 2, s. 1 (16).

### **Same**

(2) Subsection (1) shall not be interpreted to restrict seizure of a dog in a public place if the seizure is otherwise lawful. 2005, c. 2, s. 1 (16).

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

### **Necessary force**

**16** A peace officer may use as much force as is necessary to execute a warrant issued under section 13 or to exercise any authority given by section 14 or 15. 2005, c. 2, s. 1 (16).

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

### **Delivery of seized dog to pound**

**17** A peace officer who seizes a dog under section 13, 14 or 15 shall promptly deliver the seized dog to a pound operated by or on behalf of a municipality, Ontario or a designated body. 2005, c. 2, s. 1 (16).

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

## **OFFENCES**

### **Offences**

**18** (1) An individual who contravenes any provision of this Act or the regulations or who contravenes an order made under this Act or the regulations is guilty of an offence and liable, on conviction, to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or both. 2005, c. 2, s. 1 (16).

### **Same**

(2) A corporation that contravenes any provision of this Act or the regulations or that contravenes an order made under this Act or the regulations is guilty of an offence and liable, on conviction, to a fine of not more than \$60,000. 2005, c. 2, s. 1 (16).

### **Same**

(3) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation to the offence. 2005, c. 2, s. 1 (16).

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

### **Identification of pit bull**

**19** (1) A document purporting to be signed by a member of the College of Veterinarians of Ontario stating that a dog is a pit bull within the meaning of this Act is receivable in evidence in a prosecution for an offence under this Act as proof, in the absence of evidence to the contrary, that the dog is a pit bull for the purposes of this Act, without proof of the signature and without proof that the signatory is a member of the College. 2005, c. 2, s. 1 (16).

### **Immunity**

(2) No action or other proceeding may be instituted against a member of the College of Veterinarians of Ontario for providing, in good faith, a document described in subsection (1). 2005, c. 2, s. 1 (16).

### **Onus of proof**

(3) For greater certainty, this section does not remove the onus on the prosecution to prove its case beyond a reasonable doubt. 2005, c. 2, s. 1 (16).

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

## REGULATIONS

### **Regulations**

**20** (1) The Lieutenant Governor in Council may make regulations respecting the control of pit bulls. 2005, c. 2, s. 1 (16).

### **Same**

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) respecting leashing and muzzling of restricted pit bulls;
- (b) respecting the spaying or neutering of restricted pit bulls;
- (c) authorizing persons or other bodies specified in the regulations to pass and enforce by-laws governing pit bulls for the purposes of unorganized territory or specified parts of unorganized territory in the same ways that a municipality can pass and enforce by-laws governing pit bulls for the purposes of its geographic jurisdiction;
- (d) governing the presence in Ontario of pit bulls in connection with dog shows, including regulations providing for exemptions, subject to any restrictions specified in the regulations, from any provision of this Act or the regulations;
- (e) designating bodies referred to as designated in this Act;
- (f) designating public officers as peace officers for the purposes of this Act. 2005, c. 2, s. 1 (16).

### **Same**

(3) Regulations may be general or specific. 2005, c. 2, s. 1 (16).

### **Same**

(4) Without limiting the generality of subsection (3), a regulation may be made to apply or not to apply to a person or body specified in the regulation. 2005, c. 2, s. 1 (16).

### **Section Amendments with date in force (d/m/y)**

2005, c. 2, s. 1 (16) - 29/08/2005

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Français

[Back to top](#)

## Municipal Conflict of Interest Act

R.S.O. 1990, CHAPTER M.50

**Consolidation Period:** From November 23, 2022 to the [e-Laws currency date](#).

Last amendment: 2022, c. 18, Sched. 3.

Legislative History: 1994, c. 23, s. 2; 1996, c. 32, s. 76; 1997, c. 25, Sched. E, s. 7; 1997, c. 31, s. 156; 1999, c. 6, s. 41; 2002, c. 17, Sched. F, Table; 2005, c. 5, s. 45; 2006, c. 19, Sched. C, s. 1 (1); 2006, c. 32, Sched. C, s. 33; 2006, c. 32, Sched. D, s. 10; 2007, c. 7, Sched. 27; 2007, c. 8, s. 219; 2009, c. 33, Sched. 21, s. 7; 2016, c. 23, s. 58; 2017, c. 10, Sched. 3; 2018, c. 3, Sched. 5, s. 37 (see: 2019, c. 1, Sched. 3, s. 5); 2019, c. 1, Sched. 4, s. 35; 2021, c. 4, Sched. 11, s. 23; 2022, c. 18, Sched. 3.

### CONTENTS

<a href="#">1.</a>	Definitions	
<a href="#">1.1</a>	Principles	
<a href="#">2.</a>	Indirect pecuniary interest	
<a href="#">3.</a>	Interest of certain persons deemed that of member	
		<a href="#">EXCEPTIONS</a>
<a href="#">4.</a>	Where ss. 5, 5.2 and 5.3 do not apply	
		<a href="#">DUTY OF MEMBER</a>
<a href="#">5.</a>	When present at meeting at which matter considered	
<a href="#">5.1</a>	Written statement re disclosure	
<a href="#">5.2</a>	Influence	
<a href="#">5.3</a>	Head of council	
		<a href="#">RECORD OF DISCLOSURE</a>
<a href="#">6.</a>	Disclosure to be recorded in minutes	
		<a href="#">REGISTRY</a>
<a href="#">6.1</a>	Requirement to establish registry	
		<a href="#">REMEDY FOR LACK OF QUORUM</a>
<a href="#">7.</a>	Quorum deemed constituted	
		<a href="#">ACTION WHERE CONTRAVENTION ALLEGED</a>
<a href="#">8.</a>	Application	
<a href="#">9.</a>	Power of judge	
<a href="#">11.</a>	Appeal to Divisional Court	
<a href="#">12.</a>	Proceedings not invalidated but voidable	
<a href="#">13.</a>	Other proceedings prohibited	
		<a href="#">GENERAL</a>
<a href="#">14.</a>	Insurance	
<a href="#">15.</a>	Conflict with other Acts	

### Definitions

1 In this Act,

“child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family; (“enfant”)

“controlling interest” means the interest that a person has in a corporation when the person beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding; (“intérêts majoritaires”)

“council” means the council of a municipality; (“conseil”)

“elector” means,

(a) in respect of a municipality, or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and

(b) in respect of a school board, a person entitled to vote at the election of members of the school board; (“électeur”)

“interest in common with electors generally” means a pecuniary interest in common with the electors within the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part; (“intérêt commun à tous les électeurs”)

“judge” means a judge of the Superior Court of Justice; (“juge”)

“local board” means a school board, board of directors of a children’s aid society, committee of adjustment, conservation authority, court of revision, land division committee, municipal service board, public library board, board of management of an improvement area, board of health, police services board, planning board, district social services administration board, trustees of a police village, board of trustees of a police village, board or committee of management of a long-term care home, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act in respect of any of the affairs or purposes, including school purposes, of one or more municipalities or parts thereof, but does not include a committee of management of a community recreation centre appointed by a school board or a local roads board; (“conseil local”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “local board” in section 1 of the Act is amended by striking out “police services board” and substituting “police service board”. (See: 2019, c. 1, Sched. 4, s. 35)**

“meeting” includes any regular, special, committee or other meeting of a council or local board, as the case may be; (“réunion”)

“member” means a member of a council or of a local board; (“membre”)

“municipality” includes a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board or a local services board; (“municipalité”)

“parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family; (“parent”)

“school board” means a board as defined in subsection 1 (1) of the *Education Act*, and, where the context requires, includes an old board within the meaning of subsection 1 (1) of the *Education Act*; (“conseil scolaire”)

“senior officer” means the chair or any vice-chair of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office; (“dirigeant”)

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage. (“conjoint”) R.S.O. 1990, c. M.50, s. 1; 1997, c. 25, Sched. E, s. 7; 1997, c. 31, s. 156 (1); 1999, c. 6, s. 41 (1); 2002, c. 17, Sched. F, Table; 2005, c. 5, s. 45 (1, 2); 2006, c. 19, Sched. C, s. 1 (1); 2006, c. 32, Sched. D, s. 10; 2007, c. 8, s. 219; 2016, c. 23, s. 58; 2021, c. 4, Sched. 11, s. 23 (1-3).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 31, s. 156 (1) - 01/01/1998; 1999, c. 6, s. 41 (1) - 01/03/2000

2002, c. 17, Sched. F, Table - 01/01/2003

2005, c. 5, s. 45 (1, 2) - 13/06/2005

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006; 2006, c. 32, Sched. D, s. 10 - 01/01/2007

2007, c. 8, s. 219 - 01/07/2010

2016, c. 23, s. 58 - 01/01/2017

2018, c. 3, Sched. 5, s. 37 - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 35 - not in force

2021, c. 4, Sched. 11, s. 23 (1-3) - 19/04/2021

#### **Principles**

**1.1** The Province of Ontario endorses the following principles in relation to the duties of members of councils and of local boards under this Act:

1. The importance of integrity, independence and accountability in local government decision-making.
2. The importance of certainty in reconciling the public duties and pecuniary interests of members.
3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.
4. There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise. 2017, c. 10, Sched. 3, s. 1.

**Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 1 - 01/03/2019

**Indirect pecuniary interest**

**2** For the purposes of this Act, a member has an indirect pecuniary interest in any matter in which the council or local board, as the case may be, is concerned, if,

- (a) the member or his or her nominee,
  - (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,
  - (ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, or
  - (iii) is a member of a body,

that has a pecuniary interest in the matter; or

- (b) the member is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter. R.S.O. 1990, c. M.50, s. 2.

**Interest of certain persons deemed that of member**

**3** For the purposes of this Act, the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to be also the pecuniary interest of the member. R.S.O. 1990, c. M.50, s. 3; 1999, c. 6, s. 41 (2); 2005, c. 5, s. 45 (3); 2021, c. 4, Sched. 11, s. 23 (4).

**Section Amendments with date in force (d/m/y)**

1999, c. 6, s. 41 (2) - 01/03/2000

2005, c. 5, s. 45 (3) - 13/06/2005

2021, c. 4, Sched. 11, s. 23 (4) - 19/04/2021

**EXCEPTIONS**

**Where ss. 5, 5.2 and 5.3 do not apply**

**4** Sections 5, 5.2 and 5.3 do not apply to a pecuniary interest in any matter that a member may have,

- (a) as a user of any public utility service supplied to the member by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members;
- (b) by reason of the member being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;
- (c) by reason of the member purchasing or owning a debenture of the municipality or local board;
- (d) by reason of the member having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to the member in like manner as such a deposit is or may be returnable to all other electors;
- (e) by reason of having an interest in any property affected by a work under the *Drainage Act* or by a work under a regulation made under Part XII of the *Municipal Act, 2001* or Part IX of the *City of Toronto Act, 2006*, as the case may be, relating to local improvements;
- (f) by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*;

- (g) by reason of the member being eligible for election or appointment to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position;
- (h) by reason only of the member being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of the member being a member of a board, commission, or other body as an appointee of a council or local board;
- (i) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which the member may be entitled by reason of being a member or as a member of a volunteer fire brigade, as the case may be;
- (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally; or
- (k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member. R.S.O. 1990, c. M.50, s. 4; 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 33 (1); 2017, c. 10, Sched. 3, s. 2; 2022, c. 18, Sched. 3, s. 1.

**Section Amendments with date in force (d/m/y)**

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 33 (1) - 01/01/2007

2017, c. 10, Sched. 3, s. 2 - 01/03/2019

2022, c. 18, Sched. 3, s. 1 - 23/11/2022

**DUTY OF MEMBER**

**When present at meeting at which matter considered**

**5** (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

- (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

**Where member to leave closed meeting**

(2) Where the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall forthwith leave the meeting or the part of the meeting during which the matter is under consideration. R.S.O. 1990, c. M.50, s. 5 (2).

**Exception, consideration of penalty**

(2.1) The following rules apply if the matter under consideration at a meeting or a part of a meeting is to consider whether to suspend the remuneration paid to the member under subsection 223.4 (5) or (6) of the *Municipal Act, 2001* or under subsection 160 (5) or (6) of the *City of Toronto Act, 2006*:

1. Despite clauses (1) (b) and (c), the member may take part in the discussion of the matter, including making submissions to council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting. However, the member is not permitted to vote on any question in respect of the matter.
2. Despite subsection (2), in the case of a meeting that is not open to the public, the member may attend the meeting or part of the meeting during which the matter is under consideration. 2017, c. 10, Sched. 3, s. 3.

**When absent from meeting at which matter considered**

(3) Where the interest of a member has not been disclosed as required by subsection (1) by reason of the member's absence from the meeting referred to therein, the member shall disclose the interest and otherwise comply with subsection (1) at the first meeting of the council or local board, as the case may be, attended by the member after the meeting referred to in subsection (1). R.S.O. 1990, c. M.50, s. 5 (3).

**Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 3 - 01/03/2019

#### **Written statement re disclosure**

**5.1** At a meeting at which a member discloses an interest under section 5, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the clerk of the municipality or the secretary of the committee or local board, as the case may be. 2017, c. 10, Sched. 3, s. 4.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 4 - 01/03/2019

#### **Influence**

**5.2** (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.

#### **Exception**

(2) However, if a municipality delegates a power to suspend the remuneration paid to a member under subsection 223.4 (5) of the *Municipal Act, 2001* or subsection 160 (5) of the *City of Toronto Act, 2006* to a person or body, and the person or body is considering exercising that power with respect to a member, subsection (1) of this section does not prevent the member from attempting to influence any decision or recommendation of the person or body that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 4 - 01/03/2019

#### **Head of council**

**5.3** (1) Where a head of council of a municipality either on their own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter of the municipality and has a power or duty listed in subsection (2) with respect to the matter, the head of council,

- (a) shall, upon becoming aware of the interest in the matter, disclose the interest by filing a written statement of the interest and its general nature with the clerk of the municipality;
- (b) shall not use the power or exercise the duty with respect to the matter; and
- (c) shall not use their office in any way to attempt to influence any decision or recommendation of the municipality that results from consideration of the matter. 2022, c. 18, Sched. 3, s. 2.

#### **Same**

(2) For the purposes of subsection (1), the powers and duties are the powers and duties of a head of council in Part VI.1 of the *Municipal Act, 2001* and Part VI.1 of the *City of Toronto Act, 2006* but do not include the power to delegate in section 284.13 of the *Municipal Act, 2001* and section 226.11 of the *City of Toronto Act, 2006*. 2022, c. 18, Sched. 3, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2022, c. 18, Sched. 3, s. 2 - 23/11/2022

### **RECORD OF DISCLOSURE**

#### **Disclosure to be recorded in minutes**

**6** (1) Every declaration of interest and the general nature thereof made under section 5 shall, where the meeting is open to the public, be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the committee or local board, as the case may be. R.S.O. 1990, c. M.50, s. 6 (1).

#### **Idem**

(2) Every declaration of interest made under section 5, but not the general nature of that interest, shall, where the meeting is not open to the public, be recorded in the minutes of the next meeting that is open to the public. R.S.O. 1990, c. M.50, s. 6 (2).

## REGISTRY

### Requirement to establish registry

- 6.1** (1) Every municipality and local board shall establish and maintain a registry in which shall be kept,
- (a) a copy of each statement filed under section 5.1 or 5.3; and
  - (b) a copy of each declaration recorded under section 6. 2017, c. 10, Sched. 3, s. 5; 2022, c. 18, Sched. 3, s. 3.

### Access to registry

- (2) The registry shall be available for public inspection in the manner and during the time that the municipality or local board, as the case may be, may determine. 2017, c. 10, Sched. 3, s. 5.

### Section Amendments with date in force (d/m/y)

2017, c. 10, Sched. 3, s. 5 - 01/03/2019

2022, c. 18, Sched. 3, s. 3 - 23/11/2022

## REMEDY FOR LACK OF QUORUM

### Quorum deemed constituted

- 7** (1) Where the number of members who, by reason of the provisions of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, despite any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two. R.S.O. 1990, c. M.50, s. 7 (1).

### Application to judge

- (2) Where in the circumstances mentioned in subsection (1), the remaining number of members who are not disabled from participating in the meeting is less than two, the council or local board may apply to a judge without notice for an order authorizing the council or local board, as the case may be, to give consideration to, discuss and vote on the matter out of which the interest arises. R.S.O. 1990, c. M.50, s. 7 (2).

### Power of judge to declare s. 5, 5.1 or 5.2 not to apply

- (3) The judge may, on an application brought under subsection (2), by order, declare that section 5, 5.1 or 5.2 does not apply to the council or local board, as the case may be, in respect of the matter in relation to which the application is brought, and the council or local board thereupon may give consideration to, discuss and vote on the matter in the same manner as though none of the members had any interest therein, subject only to such conditions and directions as the judge may consider appropriate and so order. R.S.O. 1990, c. M.50, s. 7 (3); 2017, c. 10, Sched. 3, s. 6.

### Section Amendments with date in force (d/m/y)

2017, c. 10, Sched. 3, s. 6 - 01/03/2019

## ACTION WHERE CONTRAVENTION ALLEGED

### Application

- 8** (1) An elector, an Integrity Commissioner of a municipality or a person demonstrably acting in the public interest may apply to a judge for a determination of the question of whether,
- (a) a member has contravened section 5, 5.1, 5.2 or 5.3; or
  - (b) a former member contravened section 5, 5.1, 5.2 or 5.3 while he or she was a member. 2017, c. 10, Sched. 3, s. 7; 2022, c. 18, Sched. 3, s. 4.

### Six-week period

- (2) An application may only be made within six weeks after the applicant became aware of the alleged contravention. 2017, c. 10, Sched. 3, s. 7.

### Exception

- (3) Despite subsection (2), an application may be made more than six weeks after the applicant became aware of the alleged contravention if all of the following conditions are satisfied:
1. The applicant applied to an Integrity Commissioner for an inquiry under section 223.4.1 of the Municipal Act, 2001 or under section 160.1 of the City of Toronto Act, 2006 in accordance with those sections.

2. The Integrity Commissioner conducted an inquiry under section 223.4.1 of the *Municipal Act, 2001* or under section 160.1 of the *City of Toronto Act, 2006* and the Commissioner,
  - i. has advised the applicant under subsection 223.4.1 (16) of the *Municipal Act, 2001* or under subsection 160.1 (16) of the *City of Toronto Act, 2006* that the Commissioner will not be making an application to a judge,
  - ii. has not completed the inquiry within the time limit set out in subsection 223.4.1 (14) of the *Municipal Act, 2001* or subsection 160.1 (14) of the *City of Toronto Act, 2006*, or
  - iii. has terminated the inquiry under subsection 223.4.1 (12) of the *Municipal Act, 2001* or subsection 160.1 (12) of the *City of Toronto Act, 2006*.
3. The application under this section includes a copy of the applicant's statutory declaration made under subsection 223.4.1 (6) of the *Municipal Act, 2001* or under subsection 160.1 (6) of the *City of Toronto Act, 2006*.
4. The application under this section is made within six weeks after the earlier of the following,
  - i. the day the Commissioner advised the applicant under subsection 223.4.1 (16) of the *Municipal Act, 2001* or under subsection 160.1 (16) of the *City of Toronto Act, 2006* that the Commissioner will not be making an application to a judge,
  - ii. the last day on which the Commissioner is required under subsection 223.4.1 (14) of the *Municipal Act, 2001* or subsection 160.1 (14) of the *City of Toronto Act, 2006* to complete the inquiry referred to in paragraph 2 of this subsection, and
  - iii. the day the inquiry was terminated under subsection 223.4.1 (12) of the *Municipal Act, 2001* or subsection 160.1 (12) of the *City of Toronto Act, 2006*. 2017, c. 10, Sched. 3, s. 7.

#### **Same, application by Integrity Commissioner**

(4) Despite subsection (2), an application may be made more than six weeks after the applicant became aware of the alleged contravention if the applicant is an Integrity Commissioner and if the application relates to an inquiry conducted by the Commissioner under section 223.4.1 of the *Municipal Act, 2001* or under section 160.1 of the *City of Toronto Act, 2006*. 2017, c. 10, Sched. 3, s. 7.

#### **No application by Integrity Commissioner during regular election**

(5) No application shall be made by an Integrity Commissioner of a municipality during the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, and ending on voting day in a regular election, as set out in section 5 of that Act. 2017, c. 10, Sched. 3, s. 7.

#### **Limitation**

(6) Despite subsections (2), (3) and (4), no application shall be made after the sixth anniversary of the alleged contravention. 2017, c. 10, Sched. 3, s. 7.

#### **Contents of notice of application**

(7) The notice of application shall state the grounds for finding that the member or former member contravened section 5, 5.1, 5.2 or 5.3. 2017, c. 10, Sched. 3, s. 7; 2022, c. 18, Sched. 3, s. 4.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 7 - 01/03/2019

2022, c. 18, Sched. 3, s. 4 - 23/11/2022

#### **Power of judge**

**9** (1) If the judge determines that the member or former member contravened section 5, 5.1, 5.2 or 5.3, the judge may do any or all of the following:

1. Reprimand the member or former member.
2. Suspend the remuneration paid to the member for a period of up to 90 days.
3. Declare the member's seat vacant.
4. Disqualify the member or former member from being a member during a period of not more than seven years after the date of the order.

5. If the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, if the party's identity is not readily ascertainable, to the municipality or local board, as the case may be. 2017, c. 10, Sched. 3, s. 7; 2022, c. 18, Sched. 3, s. 4.

#### **Same**

(2) In exercising his or her discretion under subsection (1) the judge may consider, among other matters, whether the member or former member,

- (a) took reasonable measures to prevent the contravention;
- (b) disclosed the pecuniary interest and all relevant facts known to him or her to an Integrity Commissioner in a request for advice from the Commissioner under the *Municipal Act, 2001* or the *City of Toronto Act, 2006* and acted in accordance with the advice, if any, provided to the member by the Commissioner; or
- (c) committed the contravention through inadvertence or by reason of an error in judgment made in good faith. 2017, c. 10, Sched. 3, s. 7.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 7 - 01/03/2019

2022, c. 18, Sched. 3, s. 4 - 23/11/2022

**10** REPEALED: 2017, c. 10, Sched. 3, s. 7.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 31, s. 156 (2) - 01/01/1998

2017, c. 10, Sched. 3, s. 7 - 01/03/2019

#### **Appeal to Divisional Court**

**11** (1) An appeal lies from any order made under section 9 to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. M.50, s. 11 (1); 2017, c. 10, Sched. 3, s. 8.

#### **Judgment or new trial**

(2) The Divisional Court may give any judgment that ought to have been pronounced, in which case its decision is final, or the Divisional Court may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or another judge and, subject to any directions of the Divisional Court, the case shall be proceeded with as if there had been no appeal. R.S.O. 1990, c. M.50, s. 11 (2).

#### **Appeal from order or new trial**

(3) Where the case is remitted to a judge under subsection (2), an appeal lies from the order of the judge to the Divisional Court in accordance with the provisions of this section. R.S.O. 1990, c. M.50, s. 11 (3).

#### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 8 - 01/03/2019

#### **Proceedings not invalidated but voidable**

**12** (1) A member's failure to comply with section 5, 5.1, 5.2 or 5.3 does not invalidate any proceedings in respect of a matter referred to in those sections, but those proceedings are voidable in the circumstances described in subsection (2). 2017, c. 10, Sched. 3, s. 9; 2022, c. 18, Sched. 3, s. 4.

#### **Declaring proceedings void**

(2) Subject to subsection (3), if a member has failed to comply with section 5, 5.1, 5.2 or 5.3 in respect of a matter referred to in those sections, the municipality or local board, as the case may be, may declare the proceedings to be void before the second anniversary of the date of the passing of the by-law or resolution authorizing the matter. 2017, c. 10, Sched. 3, s. 9; 2022, c. 18, Sched. 3, s. 4.

#### **Exception**

(3) Subsection (2) does not apply if declaring the proceedings to be void would adversely affect the rights that any person who acted in good faith and without actual notice of the failure to comply with section 5, 5.1, 5.2 or 5.3 acquired under or by virtue of the proceedings. 2017, c. 10, Sched. 3, s. 9; 2022, c. 18, Sched. 3, s. 4.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 9 - 01/03/2019

2022, c. 18, Sched. 3, s. 4 - 23/11/2022

### **Other proceedings prohibited**

**13** (1) A proceeding that relates to a member's or former member's alleged conflict of interest and seeks a remedy described in subsection 9 (1) shall be brought only under this Act. 2017, c. 10, Sched. 3, s. 9.

### **Same**

(2) Subsection (1) does not affect the power of a municipality or a local board to reprimand a member or suspend a member's remuneration under subsection 223.4 (5) or (6) of the *Municipal Act, 2001* or under subsection 160 (5) or (6) of the *City of Toronto Act, 2006*. 2017, c. 10, Sched. 3, s. 9.

### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 3, s. 9 - 01/03/2019

## **GENERAL**

### **Insurance**

**14** (1) Despite section 279 of the *Municipal Act, 2001* or section 218 of the *City of Toronto Act, 2006*, as the case may be, the council of every municipality may at any time pass by-laws,

- (a) for contracting for insurance;
- (b) despite the *Insurance Act*, to enable the municipality to act as an insurer; and
- (c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

to protect a member of the council or of any local board thereof who has been found not to have contravened section 5, 5.1, 5.2 or 5.3 against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses. R.S.O. 1990, c. M.50, s. 14 (1); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 33 (2); 2017, c. 10, Sched. 3, s. 10 (1); 2022, c. 18, Sched. 3, s. 4.

### **Insurance Act does not apply**

(2) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of subsection (1). R.S.O. 1990, c. M.50, s. 14 (2).

### **Surplus funds**

(3) Despite section 387 of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in accordance with subsection 279 (2) of the *Municipal Act, 2001* or subsection 218 (3) of the *City of Toronto Act, 2006*, as the case may be. 2017, c. 10, Sched. 3, s. 10 (2).

### **Reserve funds**

(4) The money raised for a reserve fund of a municipal reciprocal exchange may be expended or pledged for, or applied to, a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 386 of the *Insurance Act* is complied with. R.S.O. 1990, c. M.50, s. 14 (4); 2009, c. 33, Sched. 21, s. 7.

### **Local boards**

(5) A local board has the same powers to provide insurance for or to make payments to or on behalf of its members as are conferred upon the council of a municipality under this section in respect of its members. R.S.O. 1990, c. M.50, s. 14 (5).

### **Former members**

(6) A by-law passed under this section may provide that it applies to a person who was a member at the time the circumstances giving rise to the proceeding occurred but who, prior to the judgment in the proceeding, has ceased to be a member. R.S.O. 1990, c. M.50, s. 14 (6).

### **Section Amendments with date in force (d/m/y)**

1996, c. 32, s. 76 (1) - 06/03/1997

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 33 (2, 3) - 01/01/2007

2007, c. 7, Sched. 27, s. 1 - 05/05/2008

2009, c. 33, Sched. 21, s. 7 - 15/12/2009

2017, c. 10, Sched. 3, s. 10 (1) - 01/03/2019; 2017, c. 10, Sched. 3, s. 10 (2) - 01/03/2018

2022, c. 18, Sched. 3, s. 4 - 23/11/2022

**Conflict with other Acts**

**15** In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails. R.S.O. 1990, c. M.50, s. 15.

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Français

[Back to top](#)



## OFFICE CONSOLIDATION

THE CORPORATION OF THE CITY OF BRAMPTON

# BY-LAW

***Number 165-2021***

**To license, regulate and govern Short-Term Rentals**

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**WHEREAS** Subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, ("*Municipal Act, 2001*") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

**AND WHEREAS** Section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under any Act;

**AND WHEREAS** Subsection 11(1) of the *Municipal Act, 2001* 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 *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); and in paragraph 8, Protection of persons and property, including consumer protection;

**AND WHEREAS** Subsection 11(3) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 11, Business Licensing;

**AND WHEREAS** Section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate legislative and quasi-judicial powers where the council of the municipality is of the opinion that the power being delegated is of a minor nature;

**AND WHEREAS** pursuant to the provisions of Part IV – Licences of the *Municipal Act, 2001*, a municipality may pass by-laws for licensing, regulating and governing any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality;

**AND WHEREAS** Subsection 151(1) of the *Municipal Act, 2001*, provides that a municipality may establish a system of licences with respect to a business and may prohibit the carrying on or engaging in the business without a licence, refusing, revoking or suspending a licence, imposing conditions on a licence,

regulating property used for a business that requires a licence and regulating persons carrying on a business that requires a licence;

**AND WHEREAS** Subsection 391(1) of the *Municipal Act, 2001*, provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;

**AND WHEREAS** Subsection 429(1) of the *Municipal Act, 2001*, provides that a municipality may establish a system of fines for a by-law passed under the Act;

**AND WHEREAS** Subsection 436(1) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

**AND WHEREAS** Section 444 of the *Municipal Act, 2001*, provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct the contravention;

**AND WHEREAS** The Council of the Corporation of the City of Brampton considers it desirable and necessary to license, regulate and govern the Short-Term Rental businesses listed within this By-law.

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

## **PART I – SHORT TITLE**

1. This By-law may be referred to as the “Short-Term Rental By-law”.

## **PART II – DEFINITIONS**

2. For the purposes of this By-law:

“Additional Fee” means a fee, in addition to the licence fee, imposed by the City on a business at any time during the term of the Licence for costs incurred by the City that are attributable to the activities of the business;

“Applicant” means a Person applying for a new Licence or renewing a Licence under this By-law;

“Application” means an application for a new Licence or a Licence renewal in the form provided by the Licence Issuer that must be accompanied by the appropriate documentation and fee;

“Bedroom” means a room provided for rent or hire, which is used or designed to be used as sleeping accommodations and may contain bathroom facilities;

“City” means The Corporation of the City of Brampton;

“Clerk” means the Clerk of the City or the Clerk’s duly appointed Deputy;

“Criminal Record” means a record of past crimes for which an individual has been convicted;

“Entire-Unit Rental” means a Short-Term Rental in which the Short-Term Rental Guest occupies an entire dwelling unit;

“Fire Chief” means the Chief of the Brampton Fire and Emergency Services or his or her designate;

“Inspector” means any one of the following:

- (a) Municipal Law Enforcement Officer;
- (b) Medical Officer of Health and/or Peel Region Health Inspector;
- (c) Fire Chief and/or Fire Inspector in the Brampton Fire and Emergency Services; or
- (d) Police Officer as defined in this By-law;

“Licence” means a Short-Term Rental Host Licence issued in accordance with this By-law;

“Licence Fee” means the fee set out in Schedule A that is required to be paid to the City for a new Licence or a Licence renewal;

“Licensee” means any Person holding a Licence under this By-law;

“Licence Issuer” means the person appointed under this By-law and includes his or her designate;

“Medical Officer of Health” means the Medical Officer of Health for The Regional Municipality of Peel and includes any Peel Region Health Inspector acting on his or her behalf;

“Peel Region Health Inspector” means a public health inspector employed by The Regional Municipality of Peel;

“Person” includes an individual person, corporation, partnership or limited partnership;

“Police Officer” means a police officer of the Peel Regional Police;

“Principal Residence” means a dwelling unit owned or rented by a Person, either alone or jointly with others, where the Person is ordinarily resident;

“Short-Term Rental” (STR) means all or part of a Principal Residence used to provide sleeping accommodations for any rental period that is less than twenty-eight (28) consecutive days in exchange for payment, but does not include bed and breakfast, hotels, motels, or hospital, or other short-term rentals where there is no payment;

“Short-Term Rental Guest” means a Person or Persons responsible for the rental of all or part of a Principal Residence by way of rental agreement or similar agreement;

“Short-Term Rental Host” means any individual Person who owns, operates or offers a Principal Residence for Short-Term Rental;

“Tribunal” means the Tribunal appointed by City Council to conduct hearings under the Brampton Appeal Tribunal By-law, No. 48-2008, as amended, or any successor by-law; and

“Zoning By-law” means the City’s Zoning By-law No. 270-2004, as amended, or any successor by-law.

### **PART III – LICENSING REQUIRED**

3. No Person shall carry on business as a Short-Term Rental Host unless that Person has obtained a Licence issued in accordance with the provisions of this By-law.
4. No Person shall,
  - (1) assign, modify, sell, or transfer, any Licence issued under this By-law;

- (2) act as an agent of any Person who advertises, operates or offers a Short-Term Rental without a Licence in accordance with this By-law;
- (3) carry on the business of Short-Term Rental for which a Licence is required under this By-law if the Licence has expired or been revoked, or while the Licence is under suspension;
- (4) provide false information or documents when applying for a Licence or Licence renewal, or when required to provide any information or documents related to any Short-Term Rental under this By-law; or
- (5) carry on the business of Short-Term Rental on a property if such use of the land, building or structure does not conform with all applicable federal and provincial legislation, or municipal by-laws.

#### **PART IV - LICENCE ISSUER**

- 5.
  - (1) The Clerk is appointed as the Licence Issuer for the purposes of this By-law.
  - (2) Council delegates to the Licence Issuer the power to issue or renew, refuse to issue or renew, to cancel, revoke or suspend, reinstate or impose conditions on a Licence under this By-law.
- 6. The Licence Issuer shall:
  - (1) receive and process all Applications for new Licences and for Licence renewal;
  - (2) issue a new Licence or renew a Licence when,
    - (a) an Application is made in accordance with the provisions of this By-law;
    - (b) the Application is complete;
    - (c) the applicable Licence Fee is paid; and
    - (d) the Application meets all of the requirements under this By-law, unless there are grounds to refuse to issue a new Licence or renew a Licence as set out in this By-law;
  - (3) impose terms and conditions on a new Licence or Licence renewal when the Licence Issuer is of the opinion that a term or condition of a Licence should be imposed under this By-law;
  - (4) maintain records showing all Applications received and Licences issued;
  - (5) enforce or cause to be enforced, the provisions of this By-law;
  - (6) prepare or cause to be prepared all notices, forms and any other document, including any amendments thereto, that are necessary for the administration of this By-law; and
  - (7) perform all the administrative functions that may be required by this By-law.

## PART V - APPLICATION FOR A LICENCE AND FOR A LICENCE RENEWAL

7. (1) In order to apply for a new Licence or a Licence renewal, the Applicant shall,
  - (a) complete and submit an Application in the form approved by the Licence Issuer;
  - (b) submit all documentation required under this By-law or requested by the Licence Issuer; and,
  - (c) submit the Licence Fee as set out in the Fee Schedule attached as Schedule A.
- (2) An Application for a new Licence or Licence renewal shall not be processed by the Licence Issuer until all of the requirements of Subsection (1) are met and any outstanding Licence Fee(s) and any outstanding Additional Fees have been paid.
8. (1) The Licence Issuer may require any one or more of the following as part of the Application:
  - (a) a statement from the Applicant as to whether charges against the Applicant are pending under any federal and provincial legislation and municipal by-laws, including but not limited to the Criminal Code of Canada, the *Controlled Drugs and Substances Act*, the *Building Code Act, 1992*, the *Fire Protection and Prevention Act, 1997*, the City's Zoning By-law, and this By-Law.
  - (b) confirmation that the use of the premises is permitted under the City's Zoning By-Law;
  - (c) a declaration from the Applicant that the residence complies with the Fire Code, O. Reg. 213/07, as amended, or any successor regulations and that the Applicant will continue to ensure compliance throughout the term of the licence; or,
  - (d) a letter of approval issued by the Medical Officer of Health.
- (2) Regardless of whether a Licence has been issued or renewed, the Licence Issuer may require that the Applicant file further information or provide further documentation in respect of a fact which the Applicant has already attested to or previously supplied documentation for.
9. (1) Where the Short-Term Rental Host is a corporation, the Application shall be accompanied by a copy of the incorporating documents, a copy of the last annual information filed and a copy of the business name registration, if applicable.
- (2) Where the Short-Term Rental Host is a registered partnership, the Application shall be accompanied by a copy of the registered declaration of partnership and a copy of the business name registration, if applicable.
- (3) Where the Short-Term Rental Host is a sole proprietor, the Application shall be accompanied by a copy of the business name registration.
- (4) Despite Subsection 9. (1) where a corporation applies for a Licence renewal and there has been no change in the officers or directors of the corporation, only a copy of the last annual information filed must be submitted by the owner of the property with the Application.

10. (1) Where an Application for a Licence or Licence renewal is withdrawn by the Applicant, the Licence Fee shall be refunded with the exception of \$50.00. Where the Licence has been issued no refund will be issued to the applicant.
- (2) Where an Application for a Licence or Licence renewal is refused 50% of the Licence Fee paid shall be refunded to the Applicant.
- (3) Any Licence Fee refund calculated pursuant to Subsections 10.(1) or 10.(2) shall be reduced by any Additional Fee amount, or part thereof, that is outstanding at the time of the refund.
11. Regardless of when an Application for a new Licence or Licence renewal is made, the Applicant is required to pay the full annual Licence Fee.
12. (1) Where a Licensee fails to renew the Licence by the renewal date, the Person shall, upon submitting an Application for renewal, be subject to a late renewal fee in accordance with Schedule A.
- (2) Where an Applicant applies for a Licence renewal and for a period of sixty (60) days after the Licence expiry date the Application is incomplete or any fee under this By-law is unpaid, the Licence Issuer may, in his or her sole discretion, deem the Application to be an Application for a new Licence.
- (3) Where a Licensee fails to renew the Licence within ninety (90) days of the specified renewal date, the Person shall no longer be entitled to renew the Licence and shall be required to apply for a new Licence under this By-law, subject to the payment of such fees as may be required.
13. (1) Where an Applicant has failed to provide any fee or document required under this By-law for the issuance of a new Licence or a Licence renewal, the Application shall be considered incomplete.
- (2) If the Application remains incomplete after thirty (30) days from the date the Application was submitted, the Licence Issuer may issue a notice of incomplete application and close the file.
- (3) Where an Application file is closed, the Applicant is required to pay the closed file fee to the City as set out in Schedule A.
- (4) Subject to the time limitation in Subsection 13.(2), the closed file fee in Subsection 13. (3) must be paid to the City before the Licence Issuer can reopen a closed Application file.
- (5) The issuance of a notice of incomplete application is not a statutory power of decision and is not subject to appeal to the Tribunal.

## **PART VI - APPLICATION FOR SHORT-TERM RENTAL HOST**

14. Notwithstanding the requirements set out in Sections 7, 8 and 9, every Application for a Licence or Licence renewal as a Short-Term Rental Host shall include:
  - (1) the address of the Short-Term Rental property, together with a declaration that the Short Term Rental is the Applicant's Principal Residence;
  - (2) a floorplan outlining what part(s) of the property will be used as Short-Term Rental, the square footage of the dwelling, and any such documentation required for determining occupancy limits in accordance with the City's Minimum Maintenance By-Law 104-96 enacted under s.15.1 of the *Building Code Act, 1992* that prescribes standards for the

maintenance and occupancy of property as amended, or any successor by-law;

- (3) documents required as evidence of property ownership; or if the Applicant is tenant of the property, then the written consent of the owner of the property on which the Short-Term Rental is located;
- (4) payment of all fees in accordance with this By-law;
- (5) proof of insurance, in the prescribed form as set out by the Licence Insurer, subject to Section 61 of this By-law;
- (6) a criminal record search conducted by the Police in whose jurisdiction the Applicant resides, or where the Applicant is a corporation or partnership then a criminal record search of all officers, directors or partners, confirming that there are no outstanding criminal charges or warrants pending before any courts, or any criminal record convictions within the last three (3) years;
- (7) a package, as prescribed by the Licence Issuer, which would be required to be provided to all renters of the Short-Term Rental containing:
  - (a) the name and telephone number of either the Short-Term Rental Host or an emergency contact person who will be available twenty-four (24) hours a day during the Short-Term Rental period;
  - (b) floor plan including the location of safety equipment within the property and all exits including emergency egress information for the property;
  - (c) police emergency and non-emergency contacts;
  - (d) health emergency contacts including the location and hours of the nearest emergency medical services;
  - (e) information relating to waste disposal and property maintenance, to ensure existing and continued compliance with all relevant municipal by-laws, including but not limited to, this By-law, the Zoning By-law and the City's Minimum Maintenance By-law;
  - (f) instructions for lawful parking on the property or in the area, as applicable;
  - (g) procedures for filing and responding to complaints;
  - (h) a schedule of fees associated with the Short-Term Rental, if applicable;
  - (i) the approved occupancy limit and fire safety plan of the Short-Term Rental property; and

- (8) a declaration that the Short-Term Rental Host:
  - (a) will comply with all provisions of this By-law; and
  - (b) certifies the accuracy, truthfulness, and completeness of the information submitted as part of their Licensing Application.

## **PART VII – GENERAL REQUIREMENTS**

- 15. For the purpose of this By-law, a Short-Term Rental Host shall be deemed to have only one Principal Residence at any time.
- 16. No more than three (3) Bedrooms are to be individually rented in the Principal Residence at any one time.
- 17. The maximum number of occupants in a dwelling unit shall not exceed one person for each fourteen (14) sq. metres (150 sq. ft.) of the total floor area of all habitable rooms. For the purposes of this section, a child under twelve years of age shall be counted as .5 persons.
- 18. No room shall be used for sleeping purposes unless it has:
  - (1) a minimum width of 1.83 metres (6 feet); and
  - (2) a floor area of at least 5.6 sq. metres (60 sq. feet).
- 19. A room used for sleeping purposes by two or more persons shall have a floor area of at least 3.7 sq. metres (40 sq. feet) for each person using the room.
- 20. The following are the rules governing the minimum ceiling height of rooms in a dwelling unit.
  - (1) Ceiling height has its normal meaning, but where there is no ceiling, the height is measured to the lowest point of the exposed joist.
  - (2) The ceiling height must be 2.3 metres (7.5 feet) over at least fifty percent of the floor area or an average of 2.13 metres (7.0 feet) over all of the floor area.
  - (3) Any part of the floor area having a ceiling height of less than 1.37 metres (4.5 feet) is not considered in computing the floor area in section 20(2).
- 21. No kitchen, bathroom or hallway shall be used for sleeping purposes.
- 22. No Short-Term Rental Host shall rent or advertise a property for a Short-Term Rental unless it is the Short-Term Rental Host's Principal Residence at that time.
- 23. No Short-Term Rental Host shall rent a property for a total of more than one hundred eighty (180) nights per calendar year.

## **PART VIII - CONDITIONS OF LICENCE**

- 24. The expiry date of Licences issued under this By-Law are set out in Schedule A of the By-Law.

## **PART IX - GROUNDS FOR REFUSAL TO ISSUE OR RENEW A LICENCE**

25. The Licence Issuer may refuse to issue or renew a Licence, if the Licence Issuer is of the opinion that any one or more of the following has occurred, or may occur:
- (1) the issuance of or the holding of a Licence or its renewal, would be contrary to the public interest in respect of:
    - (a) the health and safety of any person,
    - (b) a nuisance affecting any land or person in the City, or
    - (c) the protection of any consumer;
  - (2) there are reasonable grounds for belief that the Applicant has not carried on or will not carry on the Short-Term Rental business in accordance with this By-law or any other law or with integrity and honesty;
  - (3) the conduct of the Applicant or Licensee or other circumstances afford reasonable grounds for belief that carrying on the business has infringed, or would infringe, the rights of other members of the public;
  - (4) the Licence was issued on false, mistaken, or incorrect information;
  - (5) the business of the Applicant or Licensee is carried on or intended to be carried on in an area where it is prohibited;
  - (6) the business for which the Licence has been issued has not been carried on for a continuous period of sixty (60) days or more, except if the Licence Issuer has been informed that the licensed premises is undergoing renovations;
  - (7) the Applicant is indebted to the City in respect of fines, penalties, judgments, outstanding property taxes, or any other amounts owing, including an administrative penalty;
  - (8) the building, premises, place or part thereof in which the business is carried on does not comply with the provisions of this By-law, or with any other law, regulation or City By-law, including the Zoning By-law, the Building Code, O. Reg. 350/06, as amended and the Fire Code, O.Reg. 213/07, as amended or any successor regulations;
  - (9) the premises in which the business is carried on is in an unsafe or dangerous condition;
  - (10) there are reasonable grounds for belief that the carrying on of the business or occupation by the Applicant or Licensee has resulted or will result in a breach of this By-law or any other law;
  - (11) the Licence Fee payable has not been paid;

- (12) any Additional Fee imposed on an Applicant or Licensee remains unpaid after the due date as indicated in a notice of Additional Fee sent to the Applicant or Licensee; or
  - (13) the Applicant has received three (3) or more convictions under this By-law within one year.
26. Where the Applicant is a corporation or a partnership, the grounds for refusing registration or its renewal shall apply to any of the officers or directors of the corporation or partners in the partnership.
27. In addition to the grounds for refusing a Licence or its renewal, an Applicant shall not be entitled to hold a Licence, and the Licence Issuer shall refuse to issue or renew Licence where, in the twelve (12) month period from the date of the Application, the Applicant has:
- (1) applied for and been finally refused a Licence; or
  - (2) had her or his Licence finally revoked.
28. The Applicant for a Short-Term Rental Host's Licence or its renewal shall not be issued to an individual person who is younger than eighteen (18) years of age.
29. Any Licence issued will be automatically invalidated if the property ownership or principal residency changes.

## **PART X - GROUNDS FOR REVOKING OR SUSPENDING A LICENCE**

30. The Licence Issuer may revoke or suspend a Licence for any one or more of the grounds listed in Subsections 25 to 29.
31. Any Licence issued under this By-law may be cancelled at any time upon the written request of the Licensee.
32. If the Licence Issuer is satisfied that the continuation of a business of a Short-Term Rental poses immediate danger to the health or safety of any Person or property, the Licence Issuer may, without a hearing, suspend a Licence for a maximum period of fourteen (14) days and on such conditions as the Licence Issuer considers appropriate, and shall provide the Licence holder with written reasons for the suspension and allow the Licence holder an opportunity to respond before the Licence Issuer makes a decision to revoke or suspend a Licence pursuant to Subsections 25 to 29.
33. After a decision is made by the Licence Issuer to refuse, revoke, suspend, or cancel a Licence or Licence renewal, written notice of that decision shall be given within ten (10) days to the Applicant or Licence holder.
34. The written notice provided under Section 33 shall:
- (1) set out the grounds for that decision;
  - (2) give reasonable particulars of the grounds for the decision;
  - (3) be signed by the Licence Issuer; and
  - (4) state that the Applicant or Licensee is entitled to a hearing by the Tribunal if the Applicant or Licensee delivers to the Clerk within fifteen (15) days after the notice is served, a notice in writing requesting a hearing by the Tribunal accompanied by the appropriate appeal fee.

35. Any written notice given under this By-law shall be deemed to be received on the receipt date which is one of the following:
- (1) in the case of mailed documents, five (5) days following the mailing as determined from the post mark;
  - (2) the case of personal delivery, e-mail or faxed document, the date of delivery; and
  - (3) where more than one method of delivery is used, the operative receipt date for the calculation of the time for an appeal is the latest of the possible receipt dates.
36. Where any written notice is mailed under this By-law, it is sufficient to use the Applicant's or Licensee's last known business or residential address.

#### **PART XI – RETURN OF LICENCE**

37. Where a Licence has been revoked or suspended, and written notification is provided and deemed received, the Licensee shall immediately return the Licence to the Licence Issuer.
38. A Person whose Licence has been revoked or suspended shall not refuse to deliver the Licence to the Licence Issuer or Inspector in any way obstruct or prevent the Licence Issuer or Inspector from receiving or taking the Licence.
39. Where a Licence has been revoked or suspended, the Licence Issuer or Inspector may enter upon the business premises or the Person to whom the Licence was issued for the purpose of receiving, taking or removing the Licence.

#### **PART XII - APPEAL OF DECISION OF LICENCE ISSUER**

40. The Applicant or Licensee may appeal a decision of the Licence Issuer to refuse to issue or renew, revoke, suspend, or to impose any condition on a Licence, to the Tribunal by filing a written notice of appeal with the Clerk, with reasons in support of the appeal, accompanied by the appropriate appeal fee as set out in the City's User Fee By-law.
41. On receipt of a written request for an appeal from the Applicant or Licensee, the Clerk shall schedule a hearing of the Tribunal and shall give the Applicant or Licensee and the Licence Issuer reasonable written notice of the date, time and place of the hearing in accordance with the Brampton Appeal Tribunal By-law, No. 48-2008, as amended, or any successor by-law.
42. The decision of the Tribunal shall be final.
43. No member of the Tribunal, Council, or any employee for the City is personally liable for anything done under authority of this By-law.
44. Where the Tribunal has ordered that a Licence be granted, reinstated, a suspension to a Licence ended or a change to the condition(s) of a Licence, the Applicant or Licensee shall fulfill any outstanding requirements for the Licence under this By-law.
45. The filing of an appeal does not operate to suspend the decision of the Licence Issuer.
46. The decision of the Licence Issuer shall be final if the Clerk does not receive an appeal by the fifteenth day following the receipt of written notice of the Licence Issuer's decision.

47. The provisions of the Brampton Appeal Tribunal By-law, No. 48-2008, as amended, or any successor by-law, apply to any appeal that is made under this By-law.

### **PART XIII – SHORT-TERM RENTAL HOST RECORDS**

48. Every Short-Term Rental Host shall keep a record of each concluded Short-Term Rental transaction for six (6) years following the date of the last day of the rental period. The record retained shall include the following:
- (1) the number of nights the Short-Term Rental was rented;
  - (2) the nightly and total price charged for the Short-Term Rental;
  - (3) whether the Short-Term Rental was an Entire-Unit or Partial-Unit Rental; and
  - (4) any other information required by the Licence Issuer.
49. Every Short-Term Rental Host shall provide the information kept in its records to the Licence Issuer within thirty (30) days of being requested to do so.

### **PART XIV – GENERAL REQUIREMENTS OF LICENCES**

50. Every Licensee shall at all times:
- (1) comply with the provisions of this By-law, including any applicable Schedule;
  - (2) notify the Licence Issuer within seven (7) days of any changes related to any particulars required to be filed as part of the Application for a Licence or Licence renewal; and
  - (3) notify the Licence Issuer immediately of the nature and extent of any violation, where the Person registered or holding a permit ceases to comply with the requirements of this By-law.
51. Every Short-Term Rental Host holding a Licence under this By-law shall ensure that every document issued by the Short-Term Rental Host, such as invoice, contract, receipt, or similar document, contains the Short-Term Rental Host Licence number.
52. Every Short-Term Rental Host holding a Licence under this By-law shall include their Licence number in any advertisements soliciting Short-Term Rental Guests.
53. Every Short-Term Rental Host is liable for the conduct of each Short-Term Rental Guest and is responsible for ensuring that all Short-Term Rental Guests comply with all applicable laws, including municipal by-laws.
54. Any Licence issued under this By-law shall be posted on the property of the business of the Short-Term Rental, to which the Licence relates in a conspicuous place that is clearly visible to the renter(s).
55. Any Licence that is invalidated for any reasons pursuant to this By-law remains the property of the City and shall be returned to the Licence Issuer forthwith.
56. An Applicant or Licensee whose Licence has been refused or revoked, shall not be entitled to make a new Application for the same or similar type of Licence for a period of at least twelve (12) months from the date of the refusal or revocation.
57. The Licence Issuer shall reinstate any Licence that has been suspended upon satisfactory proof that the administrative requirements have been met.

58. Any Licence issued under this By-law may be cancelled at any time upon the written request of the Licensee.
59. A Person shall not enjoy a vested right in the continuation of a Licence and upon the issuance, renewal, transfer, cancellation or suspension thereof, the value of a Licence shall be the property of the City.
60. A Licensee carrying on business under this By-law shall not advertise, promote or carry on the business under any name other than the name endorsed upon the Licence, without the written approval of the Licence Issuer.

## **PART XV – INSURANCE**

61. (1) Every Person shall, before the issuance of a Licence to him or her, provide proof of Commercial General Liability insurance against all claims for personal injury including bodily injury resulting in death, and property damage with an inclusive limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence insuring him or her against liability imposed by law for any loss or damage resulting from the carrying on of the business to which the Licence relates.
- (2) Every Person who obtains a Licence shall ensure that the insurance policy in Subsection 61(1) is maintained in good standing while the Licence is valid and the business to which the Licence applies is in operation.
- (3) Every Person shall provide the Licence Issuer with at least ten (10) days' notice in writing, by regular mail, personal delivery, e-mail or fax delivery, of cancellation, expiration or variation in the amount or conditions of the policy required by Subsection 61(1).
- (4) A certificate of insurance issued in respect of the insurance policy in Subsection 61(1) shall be provided to the Licence Issuer, before the issuance of the Licence that it applies to, in the form of proof set out in Schedule B to this By-law.

## **PART XVI – INSPECTION**

62. (1) The Licence Issuer or Inspector, may enter on any land and building or structure thereon, at any reasonable time for the purpose of carrying out an inspection to determine whether any one or more of the following are being complied with:
- (a) the provisions of this By-law;
  - (b) an order made under this By-law;
  - (c) a condition of a Licence issued under this By-law; or
  - (d) an order made under section 431 of the *Municipal Act, 2001*.
- (2) For the purposes of an inspection under Subsection 62. (1) the person carrying out the inspection may do any one or more of the following:
- (a) require the production for inspection of any goods, articles, books, records and other documents of or relating to any trade, business or occupation licensed under this By-law.
  - (b) inspect and remove documents or things relevant to the inspection, including anything listed in Subsection 62. (2) (a), for the purpose of making copies or extracts.

- (c) require information from any Person concerning a matter related to the inspection.
  - (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.
- (3) No Person shall obstruct or hinder, or cause to be obstructed or hindered, an Inspector in the performance of their duties under this By-law.
- (4) Upon request of the Licence Issuer or Inspector, the Licensee shall produce the Licence and any other requested documents forthwith.

## **PART XVII – ORDER TO COMPLY**

63. (1) Where the Licence Issuer or Inspector believes that a contravention of this By-law has occurred they may issue:
- (a) an order to discontinue the contravening activity;
  - (b) an order to correct the contravention; or
  - (c) an order to discontinue the contravening activity and correct the contravention.
- (2) The orders contemplated in Subsection 63.(1) shall set out:
- (a) the name of the Person who is believed to have contravened this By-law and the municipal address or the legal description of the land to which the contravention or Licence applies;
  - (b) reasonable particulars of the contravention;
  - (c) the date by which there must be compliance with the order;
  - (d) if applicable, the work to be done and the date by which the work must be done; and
  - (e) if applicable, a statement that the City may have the work done at the expense of the owner of the property if the work is not done in compliance with the order.
- (3) An order issued under this By-law may be served personally or served by mail to the last known address of the Person and such other persons affected by it as determined by the Licence Issuer or Inspector and a copy of the order may be posted on any property to which the contravention or Licence applies.
- (4) If an order is served by registered mail, the service shall be deemed to have been made five (5) days after mailing.
- (5) Where service cannot be carried out in accordance with subsection 63.(3), the Inspector may place a placard containing the terms of the order in a conspicuous place on the property to which the contravention or Licence applies, and the placing of the placard shall be deemed to be sufficient service of the order on the Person or persons to whom the order is directed.
- (6) Every Person who fails to comply with an order made under this section is guilty of an offence.

## **PART XVIII – OFFENCES AND PENALTIES**

64. Every Person who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, 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 (the “*Provincial Offences Act*”) and the *Municipal Act, 2001*, S.O. 2001, c. 25.

65. In addition to Section 64, any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the fine provisions of the *Municipal Act, 2001*, to the following fines:
- (1) the minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000;
  - (2) 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 and the maximum fine shall be \$10,000, and the total of all daily fines for the offence is not limited to \$100,000;
  - (3) in the case of a multiple offence, for each offence included in the multiple offence the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
66. In addition to the fine provisions in Section 65, if a Person is convicted of an offence under this By-law, any economic advantage or gain obtained by the Person from operating a business without a Licence may be considered an aggravating factor for sentencing purposes which may attract a special fine, which shall be equal to or greater than the economic advantage or gain obtained by the Person from operating the business without a Licence.
67. The maximum amount for a special fine in Section 66 may exceed \$100,000.
68. If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order:
- (1) prohibiting the continuation or repetition of the offence by the Person convicted; and
  - (2) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
69. Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under Section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer’s delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than twenty-one (21) days after the date of the notice.
70. If any part of a fine for a contravention of this By-law remains unpaid after the final date specified in the notice provided under Section 69, the outstanding fine is deemed to be unpaid taxes pursuant to Section 351 of the *Municipal Act, 2001*.
71. Administrative Penalties (Non-Parking) By-law 218-2019, as amended, applies to this By-law. Every Person who contravenes a provision of this By-law designated in Schedule A of the Administrative Penalties (Non-Parking) By-law 218-2019, as amended, shall upon issuance of a Penalty Notice be and is liable to pay to the City of Brampton an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 218-2019, as amended.

## **PART XIX – TITLE, INTERPRETATION AND SEVERABILITY**

72. (1) Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this By-law. Where any word

appears in ordinary case, the commonly applied English language meaning is intended.

- (2) Wherever a word defined in this By-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.
  - (3) All words importing the singular shall include the plural, and words imparting the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.
73. In the event of a conflict between any of the general provisions of this By-law and any provisions set out in the Schedule attached to this By-law, the provisions of the Schedule shall prevail.
74. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

## **PART XX – DISCRIMINATION**

75. (1) No Person, in carrying out a business Licensed under this By-law, shall discriminate against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.
- (2) No Person, in carrying out a business Licensed under this By-law, shall with respect to any person being guided or assisted by a service animal:
- (a) refuse to service the person;
  - (b) refuse to permit the person to enter with the animal into or upon any place or premises to which the Licence relates; or,
  - (c) refuse to permit the person and such animal to remain in or upon such place or premises by reason only of the presence of such animal.

## **PART XXI – SCHEDULES AND APPENDICES**

76. (1) All Schedules attached to this By-law shall form part of this By-law.
- (2) The expiry dates of Licences issued under this By-law, except for those issued per day or per event, are set out in Schedule A to this By-law.

## **PART XXII – TRANSITIONAL PROVISIONS**

77. Any business operating a Short-Term Rental in the City must obtain a Licence issued under this By-law prior to September 30, 2021 and Licences shall renew September 30<sup>th</sup> annually.

## **PART XXIII – EFFECTIVE DATE**

78. This By-law comes into effect on July 8<sup>th</sup>, 2021.

**ENACTED AND PASSED THIS 7<sup>th</sup> DAY OF JULY, 2021.**

**THE CORPORATION OF THE CITY OF BRAMPTON**

Original Signed by:

Patrick Brown, Mayor  
Peter Fay, City Clerk

**SCHEDULE “A”**

**SHORT TERM RENTAL FEES**

Licence Type	Fee Type	Fee	Expiry
Short Term Rental Host	Application or Renewal Fee	\$150.00	September 30 <sup>th</sup> annually
Other Fees			
	Late Renewal Fee	\$50.00	
	Closed File Administration	\$50.00	

These rates shall automatically increase and be rounded up to the nearest dollar on the first day of January in each year by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for the Toronto Census Metropolitan Area, published by Statistics Canada, during the 12-month period ending on September 30 in the year immediately preceding the rate increase date.

**SCHEDULE “B”**  
**CERTIFICATE OF INSURANCE**



The Corporation of the City of Brampton  
*Certificate of Insurance*  
(STATIONARY BUSINESS LICENSING - VARIOUS)

City Clerk  
Licensing - Administration

*Proof of Insurance will be accepted on this form only (with no amendments)*  
**\*\*IF A FACSIMILE HAS BEEN TRANSMITTED, THE ORIGINAL CERTIFICATE MUST FOLLOW\*\***

LICENCE TYPE(check box)	<input type="checkbox"/>	All Businesses including Contractors (\$2M CGL required)
	<input type="checkbox"/>	Short Term Rentals(\$2M CGL required)
	<input type="checkbox"/>	Fireworks Sales* or Carnival (\$5M CGL required)

This is to certify that the policies of Insurance as described above have been issued by the undersigned to the insured named below and are in force at this time:

NAME OF INSURED	TELEPHONE NUMBER	AREA CODE (    )    -
ADDRESS OF INSURED	CITY	POSTAL CODE
ADDRESS OF EVENT	CITY	POSTAL CODE

TYPE OF INSURANCE	INSURER'S NAME	POLICY NUMBER (NOT binder)	EFFECTIVE (YR./MO./DAY)	EXPIRY DATE (YR./MO./DAY)	LIMITS OF LIABILITY
COMMERCIAL GENERAL LIABILITY					per occurrence
UMBRELLA / EXCESS					

Commercial General Liability - Occurrence Basis, Including Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Non-Owned Automobile Liability, Owner's and Contractor's Protective Coverage, Products - Completed Operations, Contingent Employers Liability, Cross Liability Clause and Severability of Interest Clause

If any of the above insurance policies are cancelled so as to reduce the coverage during the coverage period as stated above, so as to affect this certificate, 10 days' notice of cancellation for non-payment or 30 days' notice for cancellation of the policy will be given by the insurer to:

\*For the *Fireworks Licence* THE CORPORATION OF THE CITY OF BRAMPTON and THE REGIONAL MUNICIPALITY OF PEEL have been added as additional insureds, but only with respect to the liability arising out of the operations of the named Insured.

The Corporation of the City of Brampton  
Licensing Administration, 1<sup>st</sup> Floor  
2 Wellington Street West, Brampton, Ontario L6Y 4R2  
Tel: 905-874-2580 Fax: 905-874-2119 E-mail: [licensing@brampton.ca](mailto:licensing@brampton.ca)

This certificate is executed and issued to the aforesaid Corporation of the City of Brampton, the day and date herein written below:

NAME OF INSURANCE COMPANY OR BROKER(completing form)	Telephone Number (    )    -
ADDRESS	Fax Number (    )    -
NAME OF AUTHORIZED REPRESENTATIVE or OFFICIAL(please print)	SIGNATURE: _____ Date: (Year / Month / Day)

**\*\*\*THIS FORM MUST BE COMPLETED & SIGNED BY YOUR INSURER OR INSURANCE BROKER\*\*\***



THE CORPORATION OF THE CITY OF BRAMPTON

## Office Consolidation

### Adult Entertainment Establishment By-law 114-2017

To Provide for a System of Licensing of Adult Entertainment Establishments; to amend By-laws 42-2008 and 191-2011, and to Repeal By-law 1-2002

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**(Amended by By-laws 265-2017, 219-2019, 38-2020)**

#### RECITALS

Subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, ("*Municipal Act, 2001*") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

Section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under any Act;

Subsection 11(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

Subsection 11(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 6, Health, safety and well-being of persons, and in paragraph 8, Protection of persons and property, including consumer protection;

Subsection 11(3) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 11, Business Licensing;

Pursuant to the provisions of Part IV – Licences of the *Municipal Act, 2001*, a municipality may pass by-laws for licensing, regulating and governing any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality;

Subsection 151(1) of the *Municipal Act, 2001* provides that a municipality may provide for a system of licenses with respect to a business and may prohibit the carrying on or engaging in the business without a licence, refusing, revoking or suspending a licence, imposing conditions on a licence, regulating property used for a business that requires a licence and regulating persons carrying on a business that requires a licence, imposing special conditions on a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence and requiring a person to pay administrative penalties if the system of licenses has not been complied with.

Subsection 154(1) of the *Municipal Act, 2001* provides that a municipality may define the area of the municipality in which Adult Entertainment Establishments may or may not operate and limit the number of Adult Entertainment Establishments in any defined area in which they are permitted and prohibits any person carrying on or engaged in an Adult Entertainment Establishment Business for which a licence is required from permitting any person under the age of 18 years to enter or remain in the Adult Entertainment Establishment or any part thereof;

Section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate certain legislative and quasi-judicial powers where the council of the municipality is of the opinion that the power being delegated is of a minor nature;

Subsection 391(1) of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;

The Council of the City of Brampton considers it desirable and necessary to licence, regulate and govern Adult Entertainment Establishments listed within this By-law.

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

#### **PART I – TITLE, INTERPRETATION AND SEVERABILITY**

1. This By-law may be referred to as the “Adult Entertainment Establishment” By-law.
2.
  - (1) Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Part II of this By-law, and where any word appears in ordinary case, the commonly applied English language meaning is intended.
  - (2) Wherever a word defined in Part II of this By-law is used in the form of a noun, verb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case
  - (3) All words importing the singular shall include the plural and the words imparting the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law otherwise requires.
3. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with the terms to the fullest extent possible according to law.

#### **PART II – DEFINITIONS**

4. For the purposes of this By-law and the annexed schedules:

“Act” means the *Municipal Act, 2001*, c. 25, as amended;

“Additional Fee” means a fee, in addition to the licence fee imposed by the municipality on a business at any time during the term of the licence for costs incurred by the municipality attributable to the activities of that business;

“Adult Entertainment Business” means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, Services appealing to or Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations;

“Adult Entertainment Establishment” includes an Adult Entertainment Business, Body-rub Business, or Adult Merchandise Business which includes but is not limited to Adult Books and Adult Videos;

“Adult Merchandise Store” means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods designed to appeal to erotic or sexual appetites or inclinations;

“Adult Video” means any video or Digital Video Disc (DVD) or other electronic format, the context of which is designed or held out as designed to appeal to Erotic or Sexual Appetites or Inclinations, through the pictorial, photographic or other graphic depiction of subject-matter distinguished or characterized by the portrayal of one or more persons involved or engaging in specified sexual activities, or by an emphasis on the display of specified human body areas and, in the absence of evidence to the contrary, a video classified by the Ontario Film Review Board as “restricted” with the added information piece “adult sex film” shall be deemed to be an Adult Video, while a video without such classification and sticker shall be deemed not to be an Adult Video;

“Applicant” means a Person applying for a new Licence or renewing a Licence under this By-law;

“Application” means an Application for a new Licence or a Licence renewal in the form provided by the Licence Issuer which must be accompanied by the appropriate documentation and fee;

“Attendant” means any person who performs, offers, and solicits a Body-rub for gain or reward;

“Body-rub” means an activity where the primary function is the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, a person’s body or a part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario;

“Body-rub Business” means any premises or part thereof where a Body-rub is performed, offered or in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where Body-rubs are performed for medical or therapeutic reasons by persons otherwise duly qualified or registered so to do under the laws of the Province of Ontario;

“Book or Magazine Appealing to or designed to appeal to Sexual or Erotic Appetites or Inclinations” means any book or magazine of which a feature or characteristic is the portrayal or depiction, by means of photographs, drawings or otherwise of the Specified Body Area of any person or persons;

“By-law” means this by-law;

“City” means The Corporation of The City of Brampton or the territorial jurisdiction of the City of Brampton where the context requires;

“Clerk” means the Clerk of the City of Brampton or the Clerk’s duly appointed Deputy;

“Closed File Administration Fee” means the fee as set out in Appendix A that is required when an Application file is closed under this By-law;

“Corporation” means the Corporation of the City of Brampton;

“Council” means the Council of the City of Brampton;

“Criminal Record” means a record of previous conviction(s) under the Criminal Code of Canada;

“Entertainer” means a person who, in pursuance to a trade, business or occupation, provides Services designed to appeal to Erotic or Sexual Appetites or Inclinations at an Adult Entertainment Business;

“Erotic or Sexual Appetites or Inclinations” means the bent of mind, desire, inclination or preferences to satisfy a craving or desire pertaining to or related to sex;

“Fire Chief” means the Chief of the Brampton Fire and Emergency Services or his or her designate;

“Inspector” includes any one of the following:

- (a) Municipal Law Enforcement Officer
- (b) Peel Regional Health Inspector
- (c) Fire Inspector in the Brampton Fire and Emergency Services; or
- (d) Police as defined in this By-law.

“Late Renewal Fee” means the fees set out in Appendix “A” that are required for the late renewal of a Licence;

“Licence” means a licence issued under this By-law, or predecessor by-law;

“Licence Fee” means the fee set out in Appendix A to this by-law that is required to be paid to the City for a new Licence or a Licence renewal;

“Licence Issuer” means the person appointed under this By-law and includes his or her designate;

“Licensed Premises” means the Premises referred to in a Licence;

“Licensee” means any Person licensed under this By-law;

“Main Stage” means, in relation to an Adult Entertainment Business, the principal setting, scene or area on any floor in the premises upon which performances, services or an event or a series of events are presented, exclusive of patron seating areas;

“Medical Officer of Health” means the Medical Officer of Health for the Regional Municipality of Peel, duly appointed under the *Health Protection and Promotion Act*, RSO 1990, c.H.7, as amended and includes any Peel Region Health Inspector acting on behalf of the Medical Officer of Health;

“Municipal Law Enforcement Officer” means a person employed by the City and appointed as a Municipal Law Enforcement Officer by the City;

“Notice of Additional Fee” means a written notice from the Licence Issuer to a Licensee advising of the requirements to pay an Additional Fee;

“Operator” means a proprietor, or any other Person who alone or with others, operates, manages, supervises, runs or controls a business;

“Owner” means a Person who alone or with others, fits into any one or more of the following categories:

- (a) Is the owner of the business;
- (b) Has control over the business, or
- (c) Directs the operation of the business

“Peel Health Inspector” means a public health inspector employed by the Region of Peel;

“Permitted Area” means that area of the City which is zoned for industrial or commercial use and where the use of land as an Adult Entertainment Business has not been specifically prohibited;

“Person” includes an individual, corporation, partnership or limited partnership;

“Physical Contact” means to touch, sit or rest on, or contact with the breasts, buttocks, genital or pubic areas of an Entertainer or any other person;

“Police” means a police officer, constable or cadet of the Regional Municipality of Peel Police Service, Ontario Provincial Police Service and Royal Canadian Mounted Police Service;

“Premises” means land and includes the structures on the land such as buildings, fences and sheds;

“Services” includes Body-rubs, performances, dances, exhibitions and viewings;

“Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations” includes services of which a principal feature or characteristic is the nudity or partial nudity of any person, and services in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy”, or any other word or any picture, symbol or representation having like meaning or implications is used in any advertisements;

“Specified Body Areas” means, in the case of a female, her breasts and in the case of all persons, the pubic, perineal and perianal areas and buttocks;

“Threshold Policy” means a Policy intended to identify those applicants and licensees who have been convicted of offences which are incompatible with the type of business, based on health and safety and consumer protection;

“To Provide” means any one or more of the following: when used in relation to Services, includes to furnish, perform, solicit, or give such services and “providing” and “provision” have corresponding meanings; when used in relation to any Video or DVD or other electronic format, means to sell, offer to sell or display for sale by retail, or to rent, offer to rent or display for rental, whether or not the cost, fee or other consideration passes at the time of such rental or sale, or is effected through the cost of membership, subscription, admission or any other manner; when used in relation to any book or magazine, means to sell, offer to sell or display for sale by retail or otherwise, such book or magazine and “provider”, “providing” and “provision” shall have corresponding meanings;

“Tribunal” means the Brampton Appeal Tribunal appointed by Council to conduct hearings under the Brampton Appeal Tribunal By-law No. 48-2008, as amended, or any successor by-law;

“Zoning Approval” means that a Licence Application has been examined and approved by the City’s Zoning Services staff for compliance with the Zoning By-law;

“Zoning By-law” means the City’s Zoning By-law No. 270-2004, as amended, or any successor by-law.

**PART III – LICENSING REQUIRED**

5. (1) A Licence shall be taken out under this By-law by every Person who:
- (a) Owns or operates an Adult Entertainment Business;
  - (b) Owns or operates a Body-rub Business;
  - (c) Owns or operates an Adult Merchandise Business;
  - (d) Acts as an Attendant or Entertainer
- (2) Any Person who falls within subsections 5. (1)(a) through to and including (d) is engaged in a business for the purposes of this By-law.
- (3) The defined terms for the businesses listed within subsections 5. (1)(a) through to and including (d) are found in the schedules referred to in the subsections and are attached to this By-law.
- (4) No Person shall carry on, or engage in any of the businesses or professions that are listed in subsection 5. (1)(a) through to and including (d) unless the Person is licensed under this By-law.
- (5) No Person licensed under this By-law shall carry on the licensed business or profession in a name that is different from the name that is endorsed on the Licence, unless the Licence Issuer has provided his or her approval.
- (6) No Person shall publish or cause to be published any representation that the Person is licensed under this By-law if the Person is not so licensed.
- (7) No Person shall hold him or herself out to be licensed if he or she is not Licensed under this By-law.
- (8) For the purpose of this By-law, a business shall be deemed to be carried on within the City if any part of the business is carried on in the City, even if the business is being conducted from a location outside the City.
- (9) No Person shall provide false or misleading information or documents when applying for a Licence or Licence renewal or when required to provide any information or documents under this By-law.

**PART IV – REQUIREMENTS FOR LICENSEES**

6. Every Person licensed under this By-law shall be:

- (1) A Canadian citizen, a permanent resident of Canada or have a valid Employment authorization issued by the Government of Canada; and
- (2) At least 18 years of age.

**PART V – LICENCE ISSUER**

- 7.
  - (1) The City Clerk is appointed as the Licence Issuer for the purposes of this By-law;
  - (2) Council delegates to the Licence Issuer the power to issue, refuse to issue, renew, refuse to renew, cancel, revoke, suspend, reinstate and impose conditions on a Licence under this By-law.
  - (3) Council is of the opinion that the delegation under subsection 7. (2) is minor in nature
- 8. The Licence Issuer shall have authority to decide whether:
  - (1) A new Licence or a Licence renewal should be issued;
  - (2) An Application for a new Licence or renewal of a Licence should be refused; A reinstatement should not be made;
  - (3) A Licence should be revoked; A Licence should be suspended; or
  - (4) A term or condition on a new Licence or Licence renewal should be imposed.
- 9. The Licence Issuer shall:
  - (1) Receive and process all Applications for new Licenses and for the renewal of Licenses;
  - (2) Issue a new Licence or renew a Licence when:
    - (i) an Application is made in accordance with the provisions of this By-law;
    - (ii) the Application is complete;
    - (iii) the applicable fee is paid; and
    - (iv) the Application meets all of the requirements under this By-law;unless there are grounds to refuse to issue a new Licence or renew a Licence as set out under Section 23 of this By-law;
  - (3) Impose terms and conditions on a new Licence or Licence renewal when the Licence Issuer is of the opinion that a term or condition of a Licence should be imposed under this By-law;
  - (4) Maintain complete records showing all Applications received and Licences issued;
  - (5) Enforce the provisions of this By-law;
  - (6) Prepare all notices, forms and any other document, including any amendments thereto, that are necessary for the administration of this By-law;

- (7) Generally perform all the administrative functions that may be required by this By-law

**PART VI – APPLICATION FOR A LICENCE AND FOR A LICENCE RENEWAL**

- 10. (1) In order to apply for a new Licence or a Licence renewal, the Applicant Shall
  - (a) complete and submit an Application in the form approved by the Licence Issuer;
  - (b) submit all documentation required under this By-law or requested by the Licence Issuer; and
  - (c) submit the Licence Fee as set out in the Fee Schedule attached as Appendix A to this By-law
- (2) In the case of an Attendant or Entertainer Licence, in addition to 10. (1)(a)(b) and (c), the Applicant shall provide:
  - (a) a photograph taken by the Licence Issuer;
  - (b) proof of age in the form of at least two of the following valid original documents, one of which must contain a photo: birth certificate, Provincial Driver's Licence, current passport, and permanent residency card
- (3) Where an Attendant or Entertainer applies for a renewal of Licence, no proof of age is required.
- (4) No Corporation may hold an Attendant or Entertainer Licence.
- (5) An Application for a new Licence or Licence renewal shall not be processed by the City until all of the requirements of subsection (1) are met and any outstanding Licence Fee(s) and any outstanding Additional fees have been paid.
- 11. (1) The Licence Issuer may require any or more of the following as part of the Application:
  - (a) Proof of citizenship, immigration status or other employment authorization issued by the Government of Canada;
  - (b) Statement from the Applicant as to whether charges against the Applicant are pending under legislation including, but not limited to: the *Criminal Code (R.S.C., C-46)*, the *Controlled Drugs and Substances Act*, the *Provincial Offences Act*, the *Building Code Act 1992*, the *Fire Protection and Prevention Act, 1997*, the *Brampton Zoning By-law*, as amended, or this By-law and any anticipated court dates;
  - (c) A Criminal Record Search conducted by the Police Services where the Applicant resides or from an approved provider of criminal record checks in Canada.
  - (d) A Zoning Approval indicating that the use for the premises for which the Application has been made is permitted under the City's Zoning By-law as amended;
  - (e) A letter of approval issued by the Fire Chief indicating no apparent violations of applicable by-laws or other legislation;

- (f) A letter of approval issued by the Medical Officer of Health or Peel Health Inspector.
12. (1) Where the Applicant is a Corporation, the Application shall be accompanied by a copy of the incorporating documents and a copy of the business name registration;
- (2) Where the Applicant is a registered partnership, the Application shall be accompanied by a copy of the registered declaration of partnership and a copy of the business name registration;
- (3) Where the Applicant is a sole proprietor, the Application shall be accompanied by a copy of the business name registration;
- (4) A Licence issued to a partnership may be issued in the name of one partner;
13. (1) Despite Subsection 11. (1)(d), where an Application is made for the renewal of a Licence and where a Zoning Approval was received with the original Licence Application approving the use of the Premises, no new Zoning Approval is required.
- (2) Where an Application is made for a new Licence or Licence renewal and where a Zoning Approval has been issued based upon the use being allowed by a Committee of Adjustment decision, the Zoning Approval is subject to all conditions and restrictions imposed by the Committee of Adjustment on the use, and upon expiry of any time limit imposed on the use by the Committee of Adjustment, the Zoning Approval shall no longer be valid.
14. (1) Where an Application for a Licence or Licence renewal is withdrawn by the Applicant, the Licence Fee paid shall be refunded with the exception of 50%.
- (2) Where an Application for a Licence or Licence renewal is refused, 50% of the Licence Fee shall be refunded.
- (3) Any Licence Fee refund calculated pursuant to subsections 14. (1) or (2) shall be reduced by any Additional Fee amount, or part thereof that is outstanding at the time of the refund.
15. An Owner must obtain a separate Licence for every Premises where the Owner carries on a business for which a Licence is required under this By-law.
16. Regardless of when an Application for a new Licence or Licence renewal is made, the Applicant is required to pay the full annual Licence Fee.
17. (1) Where a Person who has a Licence fails to renew the Licence by the renewal date, the Person shall, upon submitting an Application for renewal, be subject to a Late Renewal Fee in accordance with the Fee Schedule attached as Appendix A to this By-law.
- (2) Where an Applicant applies for a Licence renewal and for a period of 60 days after the Licence expiry date the Application is incomplete or any fee under this By-law is unpaid, the Licence Issuer may, in his or her sole discretion, deem the Application to be an Application for a new Licence.
- (3) Where a Person holding a Licence fails to renew the Licence within 90 days of the specified renewal date, the Person shall no longer be entitled to renew the Licence under this By-law, subject to the payment of such fees as may be required.

18. Regardless of whether a Licence may have been issued or renewed, the Licence Issuer may require that the Applicant file further information or provide further documentation in respect of a fact which the Applicant has already attested to or previously supplied documentation for.
19. Any Person licensed by any regulatory body where that licence is a requirement for the issuance of a Licence under this By-law, shall immediately report to the Licence Issuer any suspension of the licence issued by the regulatory body.
20.
  - (1) Where an Applicant has failed to provide any fee or document required under this By-law or the issuance of a new Licence or a Licence renewal, the Application shall be considered incomplete.
  - (2) If the Application remains incomplete after 30 days from the date the Application was submitted, the Licence Issuer may issue a Notice of incomplete Application and close the file.
  - (3) Where an Application file is closed, the Applicant is required to pay the fee to the City as set out in Appendix A to this By-law.
  - (4) Subject to the time limitation in subsection 17. (3), the Closed File Fee in Subsection 20.(3) must be paid to the City before the Licence Issuer can reopen a Closed Application File.
  - (5) The issuance of a Notice of Incomplete Application is not a statutory power of decision and is not subject to appeal to the Tribunal.

#### **PART VII – ISSUANCE OF A LICENCE OR LICENCE RENEWAL**

21. When an Application for a Licence or Licence renewal is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, which include any requirements that may be requested by the Licence Issuer, a Licence shall be issued to the Applicant or Licensee.

#### **PART VIII – TERMS AND CONDITIONS**

22.
  - (1) Despite any other provision in this By-law, the Licence Issuer may impose terms and conditions on any Applicant or Licensee at issuance, renewal or any time during the Licence period, including special conditions as are necessary to give effect to this By-law.
  - (2) The Licence Issuer may impose conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a Licence.
  - (3) Despite any other provision in this By-law, the Licence issuer may impose Additional Fees on a Licensee by way of a Notice of Additional Fee at any time during the term of the Licence for any costs incurred by the City attributable to the activities of the Licensee.
  - (4) The Notice of Additional Fee shall be sent to the Licensee by personal delivery, e-mail or fax delivery, or by regular mail and the notice shall provide the Licensee with 60 days to pay the Additional Fee from the date of Notice.

**PART IX – GROUNDS FOR REFUSAL TO ISSUE OR RENEW A LICENCE**

23. Despite section 21, the Licence Issuer may refuse to issue a Licence or renew a Licence if the Licence Issuer has reasonable grounds to believe any one or more of the following:
- (1) The issuance of the holding of a Licence would be contrary to the public interest in respect of:
    - i. the health and safety of any person or any property;
    - ii. a nuisance affecting any land or person in the City, or
    - iii. the protection of any consumer.
  - (2) The conduct of the Applicant or Licensee afford reasonable grounds for belief that the carrying on of the business has infringed, or would infringe the rights of other members of the public.
  - (3) Any Application or other document provided to the Licence Issuer by or on behalf of the Applicant or Licensee contains a false statement or provides false information.
  - (4) The financial position of the Applicant or Licensee demonstrates that the business has not or will not be carried on in a financially responsible manner.
  - (5) The business of the Applicant or Licensee is carried on or intended to be carried on in an area where it is prohibited under the City's Zoning By-law;
  - (6) The business for which the Licence has been issued has not been carried on for a continuous period of 60 days or more.
  - (7) The Applicant or Licensee has failed to pay a fine or fines imposed by a Court for convictions for breach of this or any other City by-law.
  - (8) The Premises where the business is carried on does not comply with the provisions of this By-law or with any other law, regulation or City by-law, including the Zoning By-law, and the *Building Code*, O.Reg. 350/06 as amended and the *Fire Code*, O.Reg. 213/07, as amended or any successor regulations.
  - (9) The Premises in which the business is carried on is in an unsafe or dangerous condition.
  - (10) The conduct of the Applicant or Licensee affords reasonable grounds for belief that the Applicant or Licensee has not carried on or will not carry on his or her trade, business or occupation in accordance with law and with integrity and honesty.
  - (11) There are reasonable grounds for belief that the carrying on of the trade, business or occupation by the Applicant or Licensee has resulted or will result in a breach of this By-law or any other law.
  - (12) The fee payable for the Licence or Licence Application has not been paid.
  - (13) Any Additional Fee imposed on an applicant or Licensee remains unpaid after the due date as indicated in a Notice of Additional Fee sent to the Applicant or Licensee.

**PART X – GROUNDS FOR REVOKING OR SUSPENDING A LICENCE**

24. The Licence Issuer may revoke or suspend a Licence for any one or more of the grounds listed in subsection 23. (1) through to and including (13).
25. If the Licence Issuer is satisfied that the continuation of a business poses an immediate danger to the health or safety of any person or property, the Licence Issuer may, without a hearing, suspend a Licence, for the time and on such conditions as the Licence issuer considers appropriate, subject to the following:
- (1) Before suspending a Licence, the Licence Issuer shall, either orally or in writing, provide the Licensee with the reasons for the suspension and allow the Licensee with an opportunity to respond.
  - (2) The suspension shall not exceed 14 days.

**PART XI – WRITTEN NOTICE AND SERVICE**

26. (1) After a decision is made by the Licence Issuer to refuse, cancel, revoke or suspend a Licence, written notice of that decision shall be given forthwith to the Applicant or Licensee.
- (2) The written notice provided under subsection 26. (1) shall:
- (a) Set out the grounds for the decision.
  - (b) Give reasonable particulars of the grounds for the decision.
  - (c) Be signed by the Licence Issuer; and
  - (d) State that the Applicant or Licensee is entitled to a hearing by the Tribunal if the Applicant or Licensee delivers to the Clerk within 15 days after the notice is served, a notice in writing requesting a hearing by the Tribunal accompanied by the appropriate appeal fee.
- (3) Any written notice given under this By-law shall be deemed to be received on the receipt date which is one of the following:
- (a) In the case of mailed documents, 5 days following the mailing as determined from the post mark.
  - (b) In the case of personal delivery, e-mail or faxed document, the day of delivery.
  - (c) Where more than one method of delivery is used, the operative receipt date for the calculation of the time for an appeal is the latest of the possible receipt dates.

**PART XII – RIGHT TO APPEAL**

27. (1) The Applicant or Licensee may appeal the Licence Issuer's decision to cancel, revoke or suspend a Licence, or to impose any condition in a Licence to the Tribunal by filing a written notice of appeal with the City Clerk, with reasons in support of the appeal, to the Clerk, accompanied by the appropriate appeal fee as set out in the City's User Fee by-law within 15 days following the receipt date of the written notice of the Licence Issuer's decision.

- (2) On receipt of a written request for an appeal from the Applicant or Licensee, the Clerk shall schedule a hearing of the Tribunal and shall give the Applicant or Licensee and the Licence Issuer reasonable written notice of the date, time and place of the hearing in accordance with the Brampton Appeal Tribunal By-law No. 48-2008, as amended, or any successor by-law.
- (3) The decision of the Licence Issuer shall be final if the City Clerk does not receive an appeal by the 15<sup>th</sup> day following the receipt date of the written notice of the Licence Issuer's decision.
- (4) No member of the Tribunal, Council, or an employee of the City is personally liable for anything done under authority of this By-law.
- (5) Where the Tribunal has ordered that a Licence be granted, re-instated, a suspension to a Licence ended or a change to the condition(s) of a Licence, the Applicant or Licensee shall fulfill any outstanding requirements for the Licence under this By-law.
- (6) The provisions of Brampton Appeal Tribunal By-law No. 48-2008, as amended, or any successor by-law, apply to any appeal that is made under this section.

### **PART XIII – RETURN OF LICENCE**

28. (1) Where a Licence has been revoked or suspended, and written notification as set out in section 26 is received, the Person to whom the Licence was issued shall return the Licence to the Licence Issuer within 48 hours.
- (2) A Person whose Licence has been revoked or suspended shall not refuse to deliver the Licence to the Licence Issuer or in any way obstruct or prevent the Licence Issuer from receiving or taking the Licence.
- (3) Where a Licence has been revoked or suspended, the Licence Issuer may enter upon the business premises of the Person to whom the Licence was issued for the purpose of receiving, taking or removing the Licence pursuant to Section 436 of the Act.

### **PART XIV – CHANGE OF INFORMATION**

29. (1) A Licensee shall notify the Licence issuer within 7 days of any change of name, address or any other change to the information related to the Licence, and where the Licensee is a corporation, it shall notify the Licence Issuer of any change in the names and addresses of officers and directors, the location of the corporate head office and change of ownership of shares within 7 days of the change, and if necessary, the Licence shall be returned within 48 hours to the Licence Issuer for amendment.
- (2) A Licensee shall not alter, erase or modify or permit such alteration, erasure or modification of the Licensee's Licence or part thereof unless approved by the Licence Issuer.

### **PART XV – GENERAL PROVISIONS**

30. An Applicant or Licensee whose Licence has been refused or revoked, shall not be entitled to make a new Application for the same or similar type of Licence for a period of at least 12 months from the date of the refusal or revocation.

31. The Licence Issuer shall reinstate any Licence that has been suspended upon satisfactory proof that the provisions of the by-law have been met.
32. Any Licence issued under this By-law may be cancelled at any time upon the written request of the Licensee.
33. A Person shall not enjoy a vested right in the continuation of a Licence and upon the issuance, renewal, transfer, cancellation or suspension thereof, the value of a Licence shall be the property of the City.
34.
  - (1) Any Licence issued under this By-law shall be posted on the Premises to which the Licence relates, in a conspicuous place that is clearly visible to the public.
  - (2) Where the Licensee does not have a Licensed Premises, the Licensee shall carry the Licence with him or her at all times when engaged in the activity for which the Licence has been issued.
35. If and when an Owner sells, leases or otherwise disposes of his or her Adult Entertainment Establishment or the Premises or part thereof upon or in which an Adult Entertainment Establishment is operated, to any Person, his or her Licence in respect of such Adult Entertainment Establishment can be transferred to the new Owner, subject to the new Owner meeting all requirements of this By-law.
36. The City is exempt from the provisions of this By-law.

#### **PART XVI – INSURANCE**

37.
  - (1) Every Person shall, before the issuance of a Licence to him or her, provide proof of commercial general liability insurance policy satisfactory to the City, in the amount of at least \$2,000,000 exclusive of costs and interest, insuring him or her against liability imposed upon him or her by the law, in respect to any one claim, for any loss or damage resulting from the carrying on of the business to which the Licence relates. Perils will include bodily injury, death of one or more persons and loss or damage to property.
  - (2) Every Person who obtains a Licence shall ensure that the insurance policy in subsection 37. (1) is maintained in good standing while the Licence is valid and the business to which the Licence applies is in operation.
  - (3) Subsections 37. (1) and (2) do not apply to Operators, Attendants and Entertainers.
  - (4) The Licence Issuer shall be given at least 10 days' notice in writing, by regular mail, personal delivery, e-mail or fax delivery, of cancellation, expiration or variation in the amount or conditions of the policy required by subsection 37. (1).
  - (5) A certificate of insurance issued in respect of the insurance policy in subsection 37. (1) shall be provided to the Licence Issuer, before the issuance of the Licence that it applies to, in the form of proof set out in Appendix B to this By-law.

**PART XVII – INSPECTION**

38. (1) The Licence Issuer, Medical Officer of Health or Inspector, may enter on any land and building or structure thereon, for the purpose of carrying out an inspection to determine whether any one of more of the following are being complied with:
- (a) The provisions of this By-law.
  - (b) An order made under this By-law.
  - (c) A condition of a Licence issued under this By-law.
  - (d) An order made under section 431 of the *Municipal Act, 2001*.
- (2) For the purposes of an inspection under subsection 38. (1), the person carrying out the inspection may do any one or more of the following:
- (a) Require the production for inspection of any goods, articles, books, records and other documents relating to any business or occupation licensed under this By-law.
  - (b) Inspect and remove documents or things relevant to the inspection, including anything listed in subsection 38. (2) (a) for the purpose of making copies or extracts.
  - (c) Require information from any Person concerning a matter related to the inspection.
  - (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.
- (3) No person shall obstruct or hinder or cause to be obstructed or hindered the making of an inspection under subsection 38. (1).
- (4) Upon request of the Licence Issuer or Inspector, the Licensee shall produce the Licence and any other requested documents forthwith.

**PART XVIII – ORDER TO COMPLY**

39. (1) Where the Licence issuer or an Inspector believes that a contravention of this By-law has occurred, they may issue:
- (a) An order to discontinue the contravening activity;
  - (b) An order to correct the contravention; or
  - (c) An order to discontinue the contravening activity and correct the contravention.
- (2) The orders contemplated in subsection 39. (1) shall set out:
- (a) The name of the Person who is believed to have contravened this By-law and the municipal address or the legal description of the land to which the contravention of the Licence applies;
  - (b) Reasonable particulars of the contravention;
  - (c) The date by which there must be compliance with the order;

- (d) If applicable, the work to be done and the date by which the work must be done; and
    - (e) If applicable, a statement that the City may have the work done at the expense of the Owner if the work is not done in compliance with the order.
  - (3) An order issued under this By-law may be served personally or served by mail to the last known address of the Person and such other persons affected by it as determined by the Licence Issuer or Inspector and a copy of the order may be posted on any property to which the contravention of the Licence applies.
  - (4) If an order is served by registered mail, the service shall be deemed to have been made 5 days after mailing.
  - (5) Where service cannot be carried out in accordance with subsection 39. (3) the Licence Issuer or Inspector may place a placard containing the terms of the order in a conspicuous place on the property to which the contravention or Licence applies, and the placing of the placard shall be deemed to be sufficient service of the order on the Person or persons to whom the order is directed and in accordance with the Health Protection and Promotion Act, 1990, c.H.7 as applicable.
  - (6) Every Person who fails to comply with an order made under this section is guilty of an offence.
40. (1) Where a Person is ordered to correct a contravention of this By-law under subsection 39. (1), and fails to do so, the City may carry out any work required to correct the contravention.
- (2) The City may, at any reasonable time, enter onto the property to which the contravention or Licence applies in order to carry out any work under subsection 40. (1).
  - (3) The City may retain a contractor in order to carry out any work under subsection 40. (1).
  - (4) All expenses incurred by the City in carrying out any work contemplated by this section shall be considered a debt owed to the City by the Person who was ordered to correct the contravention and shall be paid to the City within 30 days of the billing date, and in the event of failure to pay the entire amount due within 30 days, the outstanding balance of the expenses owed may be added to the tax roll of the property to which the contravention or Licence applies and collect in the same manner as property taxes.

## **PART XIX – CONTRAVENTION AND PENALTIES**

41. (1) Every Person who contravenes any provision of this By-law, including an Order made under this By-law, 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 (the "*Provincial Offences Act*") and section 430 of the *Municipal Act, 2001*.
- (2) In addition to subsection 41. (1) any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the fine provisions of the Act, to the following fines:

- (a) The minimum fine for an offence is \$500 and the maximum fine for an offence is \$10,000.
  - (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 and 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, for each offence included in the multiple offence, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
  - (d) In addition to the fine provision in subsection 41. (2) (a) to (c), if a Person is convicted of an offence under this By-law, any economic advantage or gain obtained by the Person from operating a business without a Licence may be considered an aggravating factor for sentencing purposes which may attract a special fine, which shall be equal to or greater than the economic advantage or gain obtain by the Person from operating the business without a Licence.
  - (e) The maximum amount for a special fine in subsection 41. (2)(d) may exceed \$100,000.
- (3) If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order:
- (a) Prohibiting the continuation or repetition of the offence by the Person convicted; and
  - (b) Requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- (4) Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer's delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than 21 days after the date of the notice.
- (5) If any part of a fine or a contravention of this By-law remains unpaid after the final date specified in the notice provided under subsection 41. (4), the outstanding fine is deemed to be unpaid taxes pursuant to section 351 of the Act.
- (6) Administrative Penalties (Non-Parking) By-law 218-2019, as amended, applies to this By-law. Every Person who contravenes a provision of this By- law designated in Schedule A of the Administrative Penalties (Non-Parking) By-law 218-2019, shall upon issuance of a Penalty Notice be and is liable to pay to the City of Brampton an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 218-2019. **(By-law 219-2019)**

**PART XX – FEES**

42. The Licence Fees required under this By-law are set out in Appendix “A” attached to this By-law.

**PART XXI – DISCRIMINATION**

43. (1) No Person in carrying out a business licensed under this By-law, shall discriminate against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.
- (2) No Person, in carrying out a business licensed under this By-law, shall in respect to any person being guided or assisted by a service animal:
- (a) Refuse to service the person,
  - (b) Refuse to permit the person to enter with the animal into or upon any place or premises to which the Licence relates; or
  - (c) Refuse to permit the person and such animal to remain in or upon such place or premises by reason only of the presence of such animal.

**PART XXII – SCHEDULE AND APPENDICES**

44. (1) All Schedules and Appendices attached to this By-law shall form part of this By-law.
- (2) In the event of a conflict between any of the general provisions of this By-law and any provisions set out in the Schedules attached to this By-law, the provisions of the Schedules shall prevail.
- (3) The Licence Fees and Expiry dates of Licenses issued under this By-law are set out in Appendix “A” to this By-law.
- (4) The form of proof of insurance as required by Section 37. (1) of this By-law is set out in Appendix “B” to this By-law.
- (5) The Threshold Policy is set out in Appendix “C” to this By-law.

**PART XXIII – TRANSITIONAL PROVISIONS**

45. (1) If a Licence or Licence renewal has been issued for a business under the City’s Licensing By-law No. 1-2002, as amended, and the applicable Schedule for that Licence has been repealed and replaced under this By-law, the provisions of Licensing By-law No. 1-2002 and the schedule in effect at the time of the Licence issuance or Licence renewal continues to apply for the term of that Licence or Licence renewal.
- (2) The Schedules under this By-law apply to all Licence renewals made after this By-law comes into effect, even if the Licence which is the subject of a renewal was issued under Licensing By-law No. 1-2002, as amended, are repealed.

**PART XXIV – REPEAL AND EFFECTIVE DATE**

46. (1) Schedules S-13, S-14 and S-26 to Licensing By-law No. 1-2002, as amended, are repealed.
- (2) Licensing By-law 1-2002, as amended, is repealed.
- (3) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by adding “and the Adult Entertainment Establishment By-law” to the definition of “licensee” found in section 1 of Schedule 1 attached to the by-law.
- (4) The Brampton Appeal Tribunal By-law 42-2008, as amended, is further amended by adding “and the Adult Entertainment Establishment By-law” at the end of subsection 7.(1) of the by-law.
- (5) The Brampton Appeal Tribunal By-law 42-2008, as amended, is further amended by adding “and the Adult Entertainment Establishment By-law” Immediately after the words “the Mobile Licensing By-law” found in sub-Section 28(4) in Schedule 1 attached to the by-law.
- (6) The Delegation of Authority By-law 191-2011, as amended, is further amended by adding the words “and the Adult Entertainment Establishment By-law 114-2017” immediately after the words “and Mobile Licensing By-law 67-2014, as amended, found in subsection 13.1(i) in Schedule 1 attached to the By-law.
47. This By-law comes into force on the date of its passing by Council.

ENACTED and PASSED this 7<sup>th</sup> day of June, 2017.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by:

Linda Jeffrey – Mayor

Peter Fay – City Clerk

**SCHEDULE 1**

**RELATING TO ADULT ENTERTAINMENT BUSINESSES**

**DEFINITIONS**

1. In this Schedule:

- (1) “Entertainer” means someone who, in pursuance to a trade, business or occupation, provides Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations at an Adult Entertainment Business;
- (2) “Operator” includes a person who, alone or with others, operates, manages, supervises, runs or directs the trade, calling, business or occupation carried on as an Adult Entertainment Business;
- (3) “Owner” means a person who alone or with others, fits in any one or more of the following categories:
  - i. is the owner of the Adult Entertainment business
  - ii. has control of Adult Entertainment the business
  - iii. directs the operation of the Adult Entertainment business.
- (4) “Permitted Area” means that area of the City that is zoned for industrial or commercial use and where the use of land as an Adult Entertainment Business has not been specifically prohibited;
- (5) “Services” includes, performances, dances, exhibitions and viewings;
- (6) “Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations” means:
  - Services of which a principal feature or characteristic is the nudity or partial nudity of any person; and
  - Services in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy” or any other word or picture, symbol or representation having like meaning or implication, is used in any advertisement;
- (7) “To Provide” when used in relation to Services, includes to furnish, perform, solicit or give such services and “providing” and “provision” have corresponding meanings.

**LICENSING REQUIREMENTS OF OWNERS**

2. No Person shall operate an Adult Entertainment Business unless licensed under this By-law.
3. (1) No Licence will be issued or renewed under this By-law unless:
  - (a) The Adult Entertainment Business is located in a Permitted Area and is not located closer than 500 metres measured on a continuous path over the shortest distance from a dwelling unit or a residential zone; and
  - (b) The Owner is a holder of a Licence under the Liquor Licence Act, R.S.O. 1990, c. L.22, as amended;

- (2) The provisions of subsection 3. (1) (a) shall not apply so as to prevent the renewal of a Licence when, subsequent to the valid issuance of a Licence under this By-law, a dwelling unit has been located or a residential zone created within 500 metres of the Adult Entertainment Business for which the Licence was granted.
4. In addition to the General Licensing Provisions contained in this By-law, every Applicant for a new Adult Entertainment Business Owner's Licence and at the discretion of the Licence Issuer, for the renewal of a Licence shall submit:
  - (1) A Criminal Record Search dated within 30 days of the Application or Licence renewal, conducted by the Police Services in which the Applicant resides or from an approved provider of criminal record checks in Canada for the Owner where the Owner is an individual; for each partner where the Owner is a partnership, and for each director of the corporation where the Owner is a corporation and for each Operator;
  - (2) A floor plan of the Adult Entertainment Business in a fashion acceptable to the Licence Issuer, which clearly depicts where the Main Stage is in relation to all patron seating areas in the Adult Entertainment Business;
  - (3) Proof of property ownership satisfactory to the Licence Issuer and if not the registered owner of the property, shall submit a copy of the lease and any other document affecting the legal relationship between the Applicant and registered owner of the real property;
  - (4) For the purposes of sub section (4), "registered owner" means the owner as registered pursuant to the *Land Titles Act*, R.S.O. 1990, CHAPTER I.5 OR or the *Registry Act*, R.S.O. 1990, CHAPTER r.20 as the case may be;
  - (5) A separate Owner's Licence shall be taken out in respect of each Adult Entertainment Business.
5. Where an Owner does not personally operate the Adult Entertainment Business, every Person operating such Adult Entertainment Business shall obtain a Licence to do so, but nothing herein relieves such an Owner from the requirement that he or she obtain a Licence as Owner of such Adult Entertainment Business.
6. An Owner or Operator may, subject to the provisions of this By-law, if his or her Licence as an owner or Operator is so endorsed by the Licence Issuer, perform the Services of an Entertainer in the Adult Entertainment Business of which he or she is the Owner or Operator, and an Owner who operates his or her own Adult Entertainment Business shall notify the Licence Issuer of this fact at the time he or she obtains his or her Licence, and his or her Licence may be endorsed accordingly upon payment of the appropriate Licence fee, and he or she shall notify the Licence Issuer and have the said endorsement amended before engaging any Operator to operate his or her Adult Entertainment Business.

## **LICENSING REQUIREMENTS OF OPERATORS**

7. In addition to the general licensing provisions contained in this is By-law, every Applicant for a new Adult Entertainment Business Operator's Licence shall attend the Licence Issuer's Office in person and shall submit:
  - (1) A completed Application accompanied by the appropriate fee;
  - (2) A Criminal Record Search dated within 30 days of the Application or Licence renewal conducted by the Police Services where the Applicant resides or from an approved provider of criminal record checks in Canada;

- (3) Proof of status of Canadian Citizenship, immigration status or other valid work authorization;
  - (4) Each Operator shall, if performing as an Entertainer, be licensed as an Entertainer pursuant to the provisions of this By-law;
  - (5) No person under the age of 18 may be or act as an Operator of an Adult Entertainment Business or provide any services in an Adult Entertainment Business;
8. For greater certainty, a separate Operator's Licence is not required for each Adult Entertainment Business in which an Operator provides services.

#### **LICENSING REQUIREMENTS OF ENTERTAINERS**

9. Every Owner and/or Operator shall require an Entertainer to be licensed prior to performing in the Adult Entertainment Business.
10. Every Applicant for an Entertainer's Licence shall attend the Licence Issuer's Office in person and shall file:
- (1) A completed Application accompanied by the appropriate fee;
  - (2) A Criminal Record Search dated within 30 days of the Application or renewal, conducted by the Police Services in whose jurisdiction the Applicant resides or from an approved provider of criminal record checks in Canada;
  - (3) A copy of the photograph taken by the Licensing Staff;
  - (4) Proof of status of Canadian citizenship, immigration status or other valid work authorization;
  - (5) Proof of age in the form of at least 2 of the following valid original documents, one of which must contain a photo: birth certificate, Provincial Driver's Licence, current passport and permanent residency card;
  - (6) Where an Entertainer applies for a renewal of a Licence, no proof of age is required.
11. For greater certainty, a separate Entertainer's Licence is not required for each Adult Entertainment Business in which the Entertainer provides services.

#### **REGULATIONS CONCERNING OWNERS AND OPERATORS**

12. No Owner or Operator of an Adult Entertainment Business shall:
- (1) Permit any person other than a licensed Operator to operate such Adult Entertainment Business;
  - (2) Permit the provision of Services upon or at his or her Adult Entertainment Business by any person other than a licensed Entertainer or other person licensed or authorized by or under this By-law so to do;
  - (3) Permit any person other than an employee of such Owner or Operator or a person with whom the Owner or Operator has contracted to operate his or her Adult Entertainment Business or To Provide Services in his or her Adult Entertainment Business;

- (4) Construct or equip, or permit the construction or equipping of the Premises containing an Adult Entertainment Business in such a manner as to hinder or prevent the enforcement of this By-law;
- (5) Permit any individual under the age of 18 years to enter or remain in the Adult Entertainment Business;
- (6) Employ or otherwise use the services of individuals under the age of 18 years.
- (7) Permit any person to loiter, create a disturbance or cause undue noise while on the licensed premises;
- (8) Advertise or cause to be advertised an Adult Entertainment Business in any way or by any means, or publish anything, erect, post or maintain any sign, notice or any other publication or device relating to or drawing attention to an Adult Entertainment Business except as specifically permitted by this By-law;
- (9) Advertise an Adult Entertainment Business unless the sign:
  - i. Is erected only on the property where the Adult Entertainment Business is located;
  - ii. Contains only readable text which shall be free from any words or slang referring to any part of the human body or the word nude, naked, topless, bottomless, sexy or any other word or picture, symbol or representation having like meaning or implication, has no animation, flashing lights or is designed to revolve on an axis;
  - iii. For the purpose of this section, “animation” shall mean any motion of a display or part thereof, whether by mechanical action or the flashing on and off of its lights;
  - iv. Is in compliance with the City’s Sign By-law as amended.
- (10) Make or cause to be made a Main Stage or make or cause to be made any alterations to the composition, design or location of the Main Stage for the Adult Entertainment Business, without first receiving approval from the Licence Issuer for such renovations.

## **RECORDS**

- 13. Every Owner who operates his or her Adult Entertainment Business and every Operator shall keep proper records and books of account of all business transacted in, by or in respect of the business operated by him or her, which books shall give the amount of gross receipts for all Services provided in the said Adult Entertainment Business, including all receipts for admission fees and other charges and receipts in respect of entry to or Services provided; the name and licence number of every Entertainer providing Services, including the date of commencement and the date of termination of such Services in respect of such Adult Entertainment Business;
- 14. Every Owner to whom this section applies and every Operator shall keep such books and records as are required by this section for at least 1 year after the information required by this section is entered therein.

**REGULATIONS FOR OPERATION OF ADULT ENTERTAINMENT BUSINESSES**

15. Every Owner who operates and Adult Entertainment Business and every Operator of an Adult Entertainment Business shall comply with and ensure compliance with the following:

- (1) The Premises shall be provided with adequate light and ventilation;
- (2) The Premises and all fixtures and equipment, including all surfaces in contact with skin or body fluids, shall be frequently cleaned with a cleaning agent that disinfects but does not damage skin;
- (3) Containers shall be provided for proper disposal of sharp objects;
- (4) The Premises shall be equipped with an effective utility sink;
- (5) Adequate toilet and washroom accommodation shall be provided and there shall be separate such rooms for males and females;
- (6) Washrooms will be equipped with:
  - An adequate supply of toilet paper
  - An adequate supply of hot water
  - An adequate supply of liquid soap in a suitable container or dispenser;
  - Hot air dryers or individual clean towels for the use of each person using the washroom facilities
  - A suitable receptacle for used towels and waste materials;
- (7) The water serving all bathtubs, showers, if any, and hand basins used by patrons shall not have a temperature exceeding 49 degrees Celsius and shall be controlled by a device that regulates the temperature, and patrons shall not have access to this device;
- (8) A total volume of air change of 10 times per hour shall be provided for all tub, shower or bath rooms;
- (9) In all shower-bath rooms, if any, and in all sauna-bath rooms, if any:
  - A grab-bar or other convenient support shall be provided unless the walls of the tub or bath enclosure are 0.61 metres in height or higher;
  - The floors shall be disinfected at least once a week or more frequently as required to ensure cleanliness;
  - All surfaces and attached accessories of the bath or shower enclosure must be self-draining;
  - All showers must have removable, cleanable drain covers; and
  - Floor surfaces both within and outside the enclosure shall be of a nonslip type.
- (10) Common foot baths shall not be provided on the premises;
- (11) Duck-boards or cocoa matting shall not be used in the shower, bath, sauna or steam room and only liquid or powered soap shall be used in such rooms;
- (12) Storage facilities shall be provided that lock to secure the personal items of each Entertainer;
- (13) Refrigerator space and microwave shall be provided for Entertainers to prepare and eat snacks and lunch while working;

- (14) A first-aid kit equipped in accordance with the *Workplace Safety and Insurance Act* 1997, S.O 1997. c.16, shall be provided and maintained at all times;
  - (15) Patrons who harass, threaten or assault Entertainers shall be promptly evicted;
  - (16) Panic buttons shall be Installed in judicious locations, and monitored regularly;
  - (17) Physically isolated areas of the Premises shall be minimized;
  - (18) No Premises or part thereof used as an Adult Entertainment Business shall be used as a dwelling or for sleeping purposes.
  - (19) During the hours of business of the Adult Entertainment Business, or at any time when an Entertainer is in attendance at the Adult Entertainment Business, the Owner, Operator or Owner/Operator shall ensure that the door or doors or other principal means of access into the Adult Entertainment Business by the public are kept unlocked so that anyone may enter or exit the Adult Entertainment Business without hindrance or delay.
16. Every Entertainer shall label all personal items; refrain from sharing such items as razors and cosmetics; dispose of sharps, personal waste or garbage in designated containers; remain sober while working; work with other staff such as bouncers, to handle unruly patrons.
17. No Owner or Operator shall permit any Services to be given, performed, provided or received in any Adult Entertainment Business in breach of any of the regulations contained in this By-law.

#### **LIST OF SERVICES AND FEES**

18. Every Operator of an Adult Entertainment Business and every Owner who operates his or her own Adult Entertainment Business shall file with the Licence Issuer, a copy of a list of all Services provided at the said Adult Entertainment Business and a copy of the respective fees charged for services, including admission fees and any other payment charged in respect of entry to the Adult Entertainment Business and, if any charge is based on a computation of time, the hourly rate shall be shown on such lists.
19. No Operator, Owner or Entertainer shall charge, demand, ask for or require, or permit to be charged, demanded, asked for or required for any Services provided at an Adult Entertainment Business other than that set out in a list filed with the Licence Issuer or amendments thereto also filed with the Licence Issuer.
20. No Operator, Owner or Entertainer shall provide Services at or in respect of an Adult Entertainment Business other than those permitted by endorsements by the Licence Issuer on the Licence of the Owner as filed with the Licence Issuer or amendments thereto also as filed with the Licence Issuer.
21. Every Owner and Operator shall post a copy of the list of Services and fees referred to in this section in a conspicuous place in the interior of the Adult Entertainment Business owned or operated by him or her, plainly visible to any person upon entering the said Premises.

## **DRUGS AND ALCOHOL**

22. No Owner or Operator shall permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in any Adult Entertainment Business operated by him or her.
23. No Owner, Operator or Entertainer shall take, consume or have alcohol or a drug in his or her possession in an Adult Entertainment Business, nor shall the use of alcohol or a drug by him or her be apparent while he or she is in an Adult Entertainment Business.
24. For the purposes of this section, the word “drug” shall be deemed to exclude patent medicines and prescription drugs required for medicinal purposes.

## **APPEARANCE AND BEHAVIOUR OF OWNERS, OPERATORS AND ENTERTAINERS**

25. Every owner, Operator and Entertainer shall, while engaged in his or her respective trade, business or occupation in an Adult Entertainment Business, be neat and clean in his or her person and civil and well behaved to members of the public with whom he or she is dealing.

## **USE OF CAMERAS OR OTHER PHOTOGRAPHIC OR RECORDING DEVICES**

26. No Owner, Operator or Entertainer shall use or permit to be used any camera or other photographic or recording device in, upon or at an Adult Entertainment Business by any person other than the Police, By-law Enforcement Officer and Medical Officer of Health, with the exception of a camera at the entrance of the area for security purposes only.
27. No Owner or Operator licensed under this By-law shall:
- (1) Permit any Entertainer to touch, sit or rest on, or make any physical contact with the breasts, buttocks, genital or pubic areas of any other person;
  - (2) Permit any employee or patron to touch, sit or rest on, or make any physical contact with the breasts, buttocks, genital or pubic areas of any Entertainer;
  - (3) Permit any Entertainer to perform any Services in a location which is not clearly visible from the Main Stage and from a patron seating area for that particular floor of the Adult Entertainment Business, and which location is without obstruction by any person or anything, including but not limited to walls, curtains, glass, enclosures, structures, fog or inadequate lighting;
28. No Entertainer shall:
- (1) Permit any person to touch or make any physical contact with their breasts, buttocks, genital or pubic areas;
  - (2) Touch, sit or rest on, or make any physical contact with the breasts, buttocks, genital or pubic areas of any other person; or
  - (3) Perform any Services in a location which is not clearly visible from the Main Stage and from a patron seating area for that particular floor of the Adult Entertainment Business and which location is without obstruction by any person or anything, including but not limited to walls, curtains, glass, enclosures, structures, fog or inadequate lighting.

**CHANGE OF ADDRESS OF OWNER, OPERATOR OR ENTERTAINER**

29. Every Owner, Operator or Entertainer who changes his or her address shall, within 2 days after such change, attend at the office of the Licence Issuer and notify the Licence Issuer of such change of address and produce his or her Licence for the change to be entered thereon.

**NOTICES TO BE POSTED**

30. Every Owner or Operator shall post notices in a conspicuous location in all Entertainers' dressing or locker rooms and at all public entrances and exits in a format approved by the Licence Issuer that includes contact information for the following:

- (1) Municipal Licence Issuer;
- (2) Municipal Enforcement – Complaints and Information;
- (3) Peel Regional Police Services (Non-emergency line), and
- (4) Ontario Ministry of Labour, Health and Safety Centre.

**PROVISION OF SECURITY PERSONNEL**

31. Every Owner of an Adult Entertainment Business shall ensure that:

- (1) All security personnel are licensed under the *Private Security and Investigative Services Act 2005*, S.O 2005, c. 34 in the Province of Ontario;
- (2) All security personnel wear identification or clothing by which they can readily be identified as security personnel while on duty.

## **SCHEDULE 2**

### **RELATING TO BODY-RUB BUSINESSES**

#### **DEFINITIONS**

1. In this Schedule:

- (1) “Attendant” means any person who performs, offers, and solicits a Body-rub for gain or reward;
- (2) “Body-rub” includes the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person’s body or part thereof, but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario;
- (3) “Body-rub Business” is included in the definition of “Adult Entertainment Parlour” in the Municipal Act, 2001, and includes any premises or part thereof where a Body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation but does not include any premises or part thereof where the Body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario;
- (4) “Operator” means a proprietor, or any other Person who alone or with others, operates, manages, supervises, runs or controls a Body-rub Business;
- (5) “Owner” includes a person who, alone or with others, owns or controls the trade, calling, business or occupation carried on at a Body-rub Business or who directs the activities of an Operator and “Owner” includes a person who is the tenant or licensee in respect of the premises which are utilized as a Body-rub Business.
- (6) “Public Spa” means a hydro-massage pool, containing an artificial body of water that is intended primarily for therapeutic or recreational use, that is not drained, cleaned or refilled before use by each individual and that utilizes hydrojet circulation, air induction bubbles, current flow or a combination of them over the majority of the pool area, as defined in Ontario Regulation 428/05 under the *Health Protection and Promotion Act*, 1990, c.H.7.

#### **LICENSING REQUIREMENTS OF OWNERS**

2. In addition to the general licensing provisions contained in this By-law, every Applicant for a new Body-rub Business Owner’s or Operator’s Licence shall attend the Licence Issuer’s Office in person and shall submit:
  - (1) A Criminal Record Search dated within 30 days of the Application or Licence renewal, conducted by the Police Services where the Applicant resides or from an approved provider of criminal record checks in Canada, for the Owner where the Owner is an individual; for each partner where the Owner is a partnership, and for each director of the corporation where the Owner is a corporation;
  - (2) Proof of property ownership satisfactory to the Licence Issuer and if not the registered owner of the property, shall submit a copy of his/her lease and any other document affecting the legal relationship between the Applicant and the registered owner of the real property;

- (3) For the purposes of subsection (4), “registered owner” means the owner as registered pursuant to the *Land Titles Act*, R.S.O. 1990, CHAPTER L.5 or the *Registry Act*, R.S.O. 1990, CHAPTER R. 20 as the case may be;
- (4) Each Owner shall, if performing a Body-rub, be licensed as an Attendant pursuant to the provisions of this By-law;
- (5) A Separate Owner’s Licence shall be taken out in respect of each Body-rub Business.
- (6) No person under the age of 18 may be or act as an Owner of a Body-rub Business or provide any services in a Body-rub Business.
- (7) Where an Owner does not personally operate the Body-rub Business, every Person operating such Body-rub Business shall obtain a Licence to do so, but nothing herein relieves the Owner from the requirement that he or she obtain a Licence as owner of said Body-rub Business.

### **LICENSING REQUIREMENTS OF OPERATORS**

- 3. In addition to the general licensing provisions contained in this By-law, every Applicant for a new Body-rub Business Operator’s Licence shall attend the Licence Issuer’s Office in person and shall submit:
  - (1) A completed Application accompanied by the appropriate fee;
  - (2) A Criminal Record Search dated within 30 days of the Application or Licence renewal, conducted by the Police Services where the Applicant resides or from an approved provider of criminal record checks in Canada for Each Operator;
  - (3) Proof of status of Canadian Citizenship, immigration status or other valid work authorization;
  - (4) Each Operator shall, if performing a body-rub, be licensed as an Attendant pursuant to the provisions of this By-law;
  - (5) No person under the age of 18 may be or act as an Operator of a Body-rub Business or provide any services in a Body-rub Business.
- 4. For greater certainty, a separate Operator’s Licence is not required for each Body-rub Business in which the Operator works.

### **LICENSING REQUIREMENTS OF ATTENDANTS**

- 5. Every Applicant for a Body-rub Attendant’s Licence shall attend the Licence issuer’s Office in person and shall provide:
  - (1) A completed Application accompanied by the appropriate fee;
  - (2) A Criminal Record Search dated within 30 days of the Application or Licence renewal conducted by the Police Services where the Applicant resides or from an approved provider of criminal record checks in Canada;
  - (3) A photograph taken by the Licensing staff;
  - (4) Proof of status of Canadian Citizenship, immigration status or other valid work authorization;

- (5) Proof age in the form of at least 2 of the following valid original documents, one of which must contain a photo: birth certificate, Provincial Driver's Licence, current passport and permanent residency card.
  - (6) Where an Attendant applies for renewal of a Licence, no proof of age is required.
6. An Attendant shall not:
- (1) Provide Body-rubs at a Premises that is not licensed as a Body-rub Business under this By-law;
  - (2) Provide any Services in the Body-rub Business unless the licensed Owner or Operator is in attendance;
  - (3) Hold, receive or handle any cash or currency used or received in connection with the Body-rub Business or hold any customer's money or belongings, and every Owner or Operator shall, during business hours, provide a person for such purposes, which person shall not during the period in which he or she is employed, provide any Body-rubs.
7. Every Attendant shall carry his or her Licence at all times while working as an Attendant.
8. For greater certainty, a separate Attendant's Licence is not required for each Body-rub Business in which an Attendant provides services.

## **REGULATIONS CONCERNING OWNERS AND OPERATORS**

9. Every Owner and Operator shall:
- (1) Ensure that there is posted in a prominent location at the entrance to the Body-rub Business, a sign indicating that no person under the age of 18 years may enter or remain in the Body-rub Business;
  - (2) Ensure that no Body-rubs are provided at the Body-rub Business other than in accordance with the requirements of this By-law;
  - (3) Ensure that only the Services of a licensed Attendant are used;
  - (4) Ensure there is in attendance at the premises of a licensed Body-rub Business at all times, an Owner or Operator who does not provide Body-rubs;
  - (5) Enter into a written contract for Services between every Operator and every Attendant at a Body-rub Business and such contracts shall be made available to the Licence Issuer, Inspector or Police, upon request for inspection at any time during business hours of the Body-rub Business and during all times when Body-rubs are provided, and shall be retained by the Owner or Operator for a period of 6 months after the termination or completion of such contracts;
  - (6) Ensure that every Body-rub or other Service performed in a Body-rub Business shall be given an individual room or cubicle but no Owner or Operator shall cause or permit the door or other means of access to any room or cubicle where the Body-rubs are or may be provided to be equipped or constructed with a locking device of any kind, or with any other device or structure which could delay or hinder anyone from entering or obtaining access to such room or cubicle;

- (7) Ensure that each door to every room or cubicle where Body-rubs are or may be provided, has a window that is a minimum 4 cm by 4 cm at a height of 1.5 metres in the middle of the door and remains unobstructed at all times.

10. An Owner or Operator shall not:

- (1) Permit any individual under the age of 18 years to enter or remain in the Body-rub Business or any part thereof;
- (2) Employ or otherwise use the Services of individuals under the age of 18 years.

## **SERVICES PROVIDED**

11. Every Owner or Operator of a Body-rub Business shall:

- (1) File with the Licence Issuer, a copy of a list of all Services offered, performed or solicited in, upon or at the said Body-rub Business and of the respective fees charged for such Services and, if such charges are based on a computation of time, the hourly rate shall be shown on such list;
- (2) Not charge, demand, ask for or require, or permit to be charged, demanded, asked for or required for any Services offered, performed or solicited in, upon or at a Body-rub Business, any amount other than that set out in a list filed with the Licence issuer, or amendments thereto, also filed with the Licence issuer;
- (3) Not allow any person licensed as an Attendant to offer, perform or solicit a Body-rub in, upon, at or in respect of a Body-rub Business, or perform any Services thereon, other than Body-rubs and other Services permitted by endorsement by the Licence Issuer on the Licence of the Owner of the Body-rub Business, all as described on a list filed with the Licence Issuer or amendments thereto also filed with the Licence Issuer;
- (4) Post a copy of the list of Services and fees referred to in this section in a conspicuous place in the interior of the Body-rub Business owned or operated by him or her, plainly visible to any person upon entering the said Premises;
- (5) Provide in respect of the Body-rub Business, a Service by which any customer may deposit his or her valuables or other property for safekeeping and any customer who presents his or her property for safekeeping shall be given a receipt specifying the nature of the property so entrusted;
- (6) Take due care of all property delivered or entrusted to him or her for safekeeping and return it to its owner upon demand; and
- (7) Ensure that every Attendant immediately upon the termination of the Services of performing a Body-rub shall carefully search the Body-rub Business for any property lost or left therein, and all property or money left in the Body-rub Business shall be forthwith delivered over to the person owning same, or if the owner cannot at once be found, then to the nearest police station with all information in his or her possession regarding same.

## **RECORDS**

12. Every Owner or Operator of a Body-rub Business shall:

- (1) Keep proper records and books of account of all business transacted in, by or in respect of the Body-rub Business, which books shall give the amount of gross receipts for all Services performed or provided in the said Body-rub Business; the name and licence number of every Body-rub Attendant or other person performing the Services of the said Body-rub Business, including the date of commencement and the date of termination of such Services.
- (2) Every Owner to whom subsection (1) relates and every Operator shall keep such books and records as are required by that subsection for at least 1 year after the information required by that subsection is entered therein.
- (3) Upon payment, the customer shall be given a written receipt for the full amount paid;
- (4) Ensure that the receipt required by subsection (3) above, be provided to every customer of the Body-rub Business operated by him or her and shall retain and keep a copy of each such bill and receipt for at least 1 year after the Services referred to therein are performed.

### **REGULATIONS FOR OPERATION OF BODY-RUB BUSINESSES**

13. Every Owner who operates his or her own Body-rub Business and every Operator of a Body-rub Business shall, in the operation of the Body-rub Business, comply with, and ensure compliance with the following regulations:

- (1) The premises shall be provided with adequate lights and ventilation;
- (2) The premises and the fixtures and equipment therein shall be regularly washed and be kept in a sanitary condition;
- (3) The premises shall be equipped with an effective utility sink;
- (4) Adequate toilet and washroom accommodation shall be provided, and there shall be separate such rooms for males and females and no Body-rubs or other services may be provided in any washroom or in any room containing a toilet;
- (5) Washrooms shall be equipped with:
  - An adequate supply of toilet paper;
  - An adequate supply of hot and cold water;
  - An adequate supply of liquid soap in a suitable container or dispenser;
  - Hot air dryers or individual clean towels for the use of each person using the washing facilities;
  - A suitable receptacle for towels and waste materials.
- (6) Adequate shower-bath rooms shall be provided and in all sauna-bath rooms, if any:
  - (a) The floors shall be disinfected at least once a week or as frequently as required to ensure cleanliness, with a disinfecting solution approved by the Medical officer of Health;
  - (b) All surfaces and attached accessories of the bath or shower enclosure must be self-draining;

- (c) All showers must have removable, cleanable drain covers; and
  - (d) Floor surfaces both within and without the enclosures shall be of a non-slip type.
- (7) If bath tubs or whirlpool baths are provided on the premises, they must be drained, cleaned and refilled after each use and the following regulations shall apply:
- (a) A grab-bar or other convenient support shall be provided unless the walls of the tub or whirlpool bath enclosure are 0.61 metre in height or higher;
  - (b) The bottom of the tub or whirlpool bath enclosure shall be of a non-slip type; and
  - (c) The water serving all bathtubs, showers and hand basins used by patrons shall not have a temperature exceeding 40 degrees Celsius and shall be controlled by a device that regulates the temperature, and patrons shall not have access to this device.
  - (d) A total volume of air change of 10 times per hour shall be provided for all tub, shower or bath rooms.
- (8) Common foot baths shall not be provided on the premises;
- (9) Duck-boards or cocoa matting shall not be used in the shower, bath or steam room/sauna and only liquid or powdered soap shall be used in such rooms;
- (10) A notice shall be posted advising all patrons that a cleansing shower or bath must be taken by every person immediately prior to any Body-rub being performed on such person;
- (11) Every person, immediately after taking a shower/bath shall be provided with a fresh, clean, single use and disposable pair of slippers.
- (12) Every table, mat or other surface upon which persons lie or sit while being given or provided with a Body-rub thereon, shall be covered with a fresh, clean, individual paper or cloth sheet;
- (13) Every cloth sheet or towel shall, immediately after being used by any person, be deposited in a receptacle reserved for that purpose and shall not be utilized again for any purpose before being freshly laundered;
- (14) All massage or Body-rub appliances and any other article or device applied to a customer's body for or in connection with Body-rubs, shall be cleansed and disinfected after each individual use with a disinfecting solution satisfactory to the Medical Officer of Health, and no such appliance, article or device shall be used or available for use in a Body-rub Business unless it is so constructed as to be readily capable of being so cleansed or disinfected.
- (15) A first aid kit shall be provided and maintained at all times equipped in accordance with *the Workplace Safety and Insurance Act 1997*, SO 1997, c.16.
14. Public Spas must be in compliance within Ontario Regulation 428/05 under the *Health protection and Promotion Act, 1990*.

15. An Owner and/or Operator and/or Attendant shall not:

- (1) Perform or permit to be performed a Body-rub in any Body-rub Business by or upon any person whom he or she has reasonable cause to suspect has been exposed to or is suffering from any communicable disease, including any communicable skin disease;
- (2) Permit persons whom he or she has reasonable cause to suspect have been exposed to communicable diseases and persons who are suffering from such diseases to enter into the Body-rub Business operated by him or her;
- (3) Permit any person, except a person holding a valid Attendant's Licence to perform any Body-rubs at a Body-rub Business;
- (4) Use or permit any person to use a camera or other photographic or other electronic recording device, except where the use of the camera or other device is used by a public authority for the enforcement of the law or where the camera is located at the main entrance to the Body-rub Business and is used for security purposes only;
- (5) Permit any person to loiter, create a disturbance or cause undue noise while on the licensed premises;
- (6) Install or use any type of warning device or signaling system to alert staff or customers that the Licence Issuer, Inspector, By-law Enforcement Officer or Police are in attendance;
- (7) Construct or equip the premises of the Body-rub Business so as to hinder or prevent the enforcement of the By-law;
- (8) Advertise or cause or permit to be advertised a Body-rub Business in any way or by any means, or publish anything, erect, post or maintain any sign, notice or any other publication or device relating to or drawing attention to the Body-rub Business, except as specifically permitted under this By-law;
- (9) Offer or allow a Service designed to Appeal to Erotic or Sexual Appetites or Inclinations;
- (10) Permit any food or beverage to be prepared or consumed in the rooms, cubicles where Body-rubs are performed but shall be prepared or consumed in a room used exclusively for that purpose.

## **SIGNS AND ADVERTISING**

16. A Person shall not advertise a Body-rub Business by way of a sign unless the sign:

- (1) Is erected on the property where the Body-rub Business is located;
- (2) Contains only readable text which shall be free from any words or slang referring to any part of the human body or the word nude, naked, topless, bottomless, sexy or any other word or picture, symbol or representation having like meaning or implication; has no animation, flashing lights or is designed to revolve on an axis;
- (3) For the purpose of this section, "animation" shall mean any motion of a display or part thereof, whether by mechanical action or the flashing on and off of its lights;

- (4) Is in compliance with the City's Sign By-law as amended.

## **ALCOHOL AND DRUGS**

17. An Owner, Operator, Attendant or other person shall not:

- (1) Provide a Body-rub or any other Service or Services in a Body-rub Business to a person who is or who appears to be intoxicated by alcohol or a drug or to any person whose appearance or condition provides reasonable cause to believe that the provision of such services to such person may cause illness or injury to him or her;
- (2) Permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in any Body-rub Business operated by him or her;
- (3) Take, consume or have alcohol or a drug in his or her possession in a Body-rub Business, nor shall the use of alcohol or a drug by him or her be apparent while he or she is in a Body-rub Business;
- (4) For the purposes of this section, the word "drug" shall be deemed to exclude patent medicines and prescription drugs required for medicinal purposes.

## **APPEARANCE AND BEHAVIOUR OF OWNERS, OPERATORS AND ATTENDANTS**

18. Every Owner, Operator and Attendant shall, while engaged in his or her respective trade, business or occupation in a Body-rub Business, shall be neat and clean in his or her person and civil and well behaved to members of the public with whom he or she is dealing.

## **CHANGE OF ADDRESS OF OWNER, OPERATOR OR ATTENDANT**

19. Every Owner, Operator or Attendant who changes his or her address shall, within 2 days after such change, attend at the office of the Licence Issuer and notify the Licence Issuer of such change of address and produce his or her Licence for the change to be entered thereon.

## **INSPECTIONS**

20. Upon request made by the Licence Issuer, Inspector, or Police:

- (1) Every Owner, Operator, Attendant or employee of an Owner or Operator, shall provide his/her name and residential address;
- (2) Every Owner, Operator, agent or employee of an Owner or Operator shall produce the Owner's Licence;
- (3) Every Attendant shall produce his or her Licence.

21. The Licence Issuer, Inspector or Police, may enter and inspect all areas of a Body-rub Business at any time of the night or day for the purpose of carrying out the enforcement of this By-law.

## **LOCATION OF BODY-RUB BUSINESSES**

22. No Licence will be issued or renewed under this By-law unless the Body-rub Business is located in a permitted area of the City and is not located closer than

500 metres on a continuous path over the shortest distance from a dwelling unit or a residential zone.

23. A maximum of 8 Body-rub Businesses shall be licensed by the City.

24. Despite section 22 and 23, any Body-rub Business which had a current, valid Licence on June 2, 2003, will be permitted and such Licence will continue to be renewed if in compliance with all other applicable laws.

**SCHEDULE 3**

**RELATING TO ADULT MERCHANDISE BUSINESSES  
(Amended by By-law 265-2017)**

1. In this Schedule:

- (1) “Adult Merchandise Store” means any Premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods Designed to Appeal to Erotic or Sexual Appetites or Inclinations;
- (2) “Adult Video” means any Video, Digital Video Disc (DVD) or other electronic format, and films, the container of which is designed or held out as designed to appeal to erotic or sexual appetites or inclinations, through the pictorial, photographic or other graphic depiction of subject matter distinguished or characterized by the portrayal of one or more persons involved or engaged in specified sexual activities or by an emphasis on the display of specified human body areas; “Adult Video” also includes, in the absence of evidence to the contrary, a video classified by the Ontario Film Review Board as “restricted” and required to be characterized with the added information piece “adult sex film”.
- (3) “Class ‘A’ Adult Merchandise Store” means an Adult Merchandise Store in which the principal business carried on is the provision of Adult Merchandise;
  - (a) Despite the provisions of this by-law an Adult Merchandise Business Licence may be issued to the following locations, provided that the primary retail business is Adult Merchandise:
    - i. “Paradise Touch” located at 2200 Queen Street East, Unit 4
    - ii. “Love Shop” located at 267 Queen Street East
    - iii. “Cupid Boutique” located at 158 Kennedy Road South, Unit 7
- (4) “Class ‘B’ Adult Merchandise Store” means an Adult Merchandise Store in which the portion of the floor area devoted to the display of adult merchandise to the public is less than 10% of the total area devoted to the display of all merchandise within the business premises;
- (5) “Merchandise” includes, but is not limited to: magazines, books, pictures, slides, films, videos or Adult Videos or other electronic format, phonograph records, pre-recorded magnetic tapes, compact discs, digital video discs, novelties, devices or tools, the container or contents of which are designed or held out as Designed to Appeal to Erotic or Sexual Appetites or Inclinations, through the pictorial, photographic or other graphic depiction, or display of contents, of subject matter distinguished or characterized by the portrayal of one or more persons involved or engaging in specified sexual activities or by an emphasis on the display of specified human body areas.

**LICENSING REQUIREMENTS**

2. No Person shall operate an Adult Merchandise Store unless it is licensed under this By-law.
3. No Licence for a Class ‘A’ Adult Merchandise Store, will be issued or renewed under this By-law unless the Adult Merchandise Store is located in a permitted area and is not located closer than 500 metres measured on a continuous path over the shortest distance from a dwelling unit or a residential zone.

4. At the time of enactment of this By-law, the provisions of Section 3 do not apply to a Person who was carrying on the business of an Adult Merchandise Store on or before March 28, 1994.
5. The provisions of Section 3 shall not apply so as to prevent the renewal of a Licence when, subsequent to the valid issuance of a Licence under this By-law, a dwelling unit has been located or a residential zone created within 500 metres of the Adult Merchandise Store for which the Licence was granted.
6. In addition to the General Licensing provisions contained in this By-law, every Applicant for a new Adult Merchandise Store and at the discretion of the Licence Issuer, for the renewal of a Licence shall submit a Criminal Record Search dated within 30 days of the Application, conducted Police Services in which the Applicant resides or from an approved provider of criminal record checks in Canada, for the Owner where the Owner is an individual; for each partner where the Owner is a partnership, and for each director of the corporation where the Owner is a corporation.

## **GENERAL REQUIREMENTS**

7. Every Person who provides Adult Merchandise in a Class 'A' or 'B' Adult Merchandise Store shall:
  - (a) Ensure that no Adult Merchandise shall be displayed in such a manner so as to be visible from outside the store;
  - (b) Maintain on the premises, available for inspection by the Licence Issuer, Police or By-law Enforcement Officer, a current list of all Adult Merchandise, including Books and Videos;
  - (c) Ensure that any person working in the Adult Merchandise Section/Store is of the age of 18 years or older;
  - (d) Keep the premises in a clean and sanitary condition.

## **SIGNS**

8. No Person shall advertise an Adult Merchandise Store by way of a sign unless the sign:
  - (a) Is erected only on the property where the Adult Merchandise is being sold;
  - (b) Contains only readable text which shall be free from any words or slang referring to any part of the human body or the word nude, naked, topless, bottomless, sexy or any other word or picture, symbol or representation having like meaning or implication, has no animation, flashing lights or is designed to revolve on an axis;
  - (c) For the purpose of this section, "animation" shall mean any motion of a display or part thereof, whether by mechanical action or the flashing on and off of its lights;
  - (d) Is in compliance with the City's Sign By-law.

## **CLASS 'A'**

9. Every Person who provides Merchandise in a Class 'A' Adult Merchandise Store shall:

- (a) Ensure that no person under the age of 18 years is permitted to enter the premises;
- (b) Post and keep posted at every entrance to the premises, and in a prominent location inside such a store, signs sufficient to indicate clearly to any person approaching or entering the store, and to every person in the store, that no person under the age of 18 is permitted to enter the store or remain in such store or part thereof;
- (c) Ensure the exterior signs and advertisements relating to the Adult Merchandise Store and to the provision of Adult Videos shall be restricted to the words “Adult Merchandise” and “Adult Videos” and shall not include pictorial representation of specified body parts or specified sexual activities;
- (d) Ensure that the floor space on which Merchandise is provided shall have no area enclosed or partitioned by any wall extending from the floor to a height in excess of 1.8 metres from the floor. Any such room or space shall be open at all times to all persons attending the Adult Merchandise Store during its business hours.

**CLASS ‘B’**

- 10. Every Person who provides Merchandise in a Class ‘B’ Adult Merchandise Store shall ensure that no person under the age of 18 years is permitted within one metre of any Merchandise area in accordance with this By-law.
- 11. Every Person who provides Merchandise in a Class ‘B’ Adult Merchandise Store shall not permit any Merchandise to be displayed at a height of less than 1.5 metres above floor level, unless such Merchandise is in a part of the premises where the public is not permitted physical access and which is not visible to the public.
- 12. Every Person who provides Merchandise in a Class ‘B’ Adult Merchandise Store shall ensure that:
  - (a) No adult magazine, adult book, Adult Video, Adult Video container or any other printed material or visual image which reveals a specified body area or a specified sexual activity, or any other Merchandise referred to in section 1(5) is displayed outside of the designated adult area;
  - (b) No adult magazine, adult book, Adult Video, Adult Video container or any other printed material or visual image which reveals a specified body area or a specified sexual activity, or any other merchandise referred to in section 1(5) is displayed in such a way that it may be viewed from outside the designated adult area.
- 13. A business in which less than 10% of magazines displayed, that fall within the definition of Adult Merchandise, is not required to be licensed under this By-law.

**APPENDIX A**

**ADULT ENTERTAINMENT ESTABLISHMENTS**

**RELATING TO LICENCE FEES**

**(Amended by By-law 38-2020)**

<b>Type of Licence</b>	<b>New 2020 Licence Fee</b>	<b>*License Expiry Date</b>
Adult Entertainment Business	\$4,488.00	April 30
Adult Entertainment Operator	\$942.00	April 30
Entertainer	\$311.00	April 30
Adult Merchandise Businesses:		
Class A	\$673.00	April 30
Class B	\$214.00	April 30
Body-rub Business	\$9,025.00	April 30
Body-rub Business operator	\$923.00	April 30
Body-rub Attendant	\$311.00	April 30
<b>Other Fees</b>		
Closed File Administration	\$50.00	
Late Renewal	\$50.00	
Print Replacement Licence	\$10.00	

\* The new licence fee takes effect as of March 11, 2020; the identified expiry date column relates to the expiry of the annual licence.

APPENDIX B



The Corporation of the City of Brampton  
*Certificate of Insurance*

(LICENSING – ADULT ENTERTAINMENT LICENSING)

*Proof of Insurance will be accepted on this form only (with no amendments)*  
**\*\*IF A FACSIMILE HAS BEEN TRANSMITTED, THE ORIGINAL CERTIFICATE MUST FOLLOW\*\***

LICENCE TYPE(check box)	<input type="checkbox"/> Adult Entertainment Business (\$2M CGL required) <input type="checkbox"/> Body Rub Business (\$2M CGL required) <input type="checkbox"/> Adult Merchandise Business (\$2M CGL required)
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This is to certify that the policies of Insurance as described above have been issued by the undersigned to the insured named below and are in force at this time:

NAME OF INSURED	TELEPHONE NUMBER ( ) -
ADDRESS OF INSURED	CITY POSTAL CODE
ADDRESS OF EVENT	CITY POSTAL CODE

TYPE OF INSURANCE	INSURER'S NAME	POLICY NUMBER (NOT binder)	EFFECTIVE (YR./MO./DAY)	EXPIRY DATE (YR./MO./DAY)	LIMITS OF LIABILITY
COMMERCIAL GENERAL LIABILITY					\$2,000, 000
UMBRELLA / EXCESS					

Commercial General Liability - Occurrence Basis, Including Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Non-Owned Automobile Liability, Owner's and Contractor's Protective Coverage, Products - Completed Operations, Contingent Employers Liability, Cross Liability Clause and Severability of Interest Clause

If any of the above insurance policies are cancelled so as to reduce the coverage during the coverage period as stated above, so as to affect this certificate, 10 days' notice of cancellation for non-payment or 30 days' notice for cancellation of the policy will be given by the insurer to:

The Corporation of the City of Brampton  
Licensing Administration, 1<sup>st</sup> Floor  
2 Wellington Street West, Brampton, Ontario L6Y 4R2  
Tel: 905-874-2580 Fax: 905-874-2119 [E-mail: licensing@brampton.ca](mailto:licensing@brampton.ca)

This certificate is executed and issued to the aforesaid Corporation of the City of Brampton, the day and date herein written below:

NAME OF INSURANCE COMPANY OR BROKER(completing form)	Telephone Number ( ) -
ADDRESS	Fax Number ( ) -
NAME OF AUTHORIZED REPRESENTATIVE or OFFICIAL(please print)	SIGNATURE: Date: (Year / Month / Day)

**\*\*\*THIS FORM MUST BE COMPLETED & SIGNED BY YOUR INSURER OR INSURANCE BROKER\*\*\***

**APPENDIX C**

**Adult Entertainment Establishment Licensing By-law**

**THRESHOLD POLICY**

**POLICY STATEMENT:**

This policy deals with Applicants or Licensees who must submit a police check as part of their Licence Application. When a police check reveals a prior conviction for a serious offence, the Licence Issuer must conclude that it is not in the public interest for the person to be licensed and refuse or suspend the licence.

When a Licence is revoked, refused or suspended, the Licence Issuer will advise the Applicant or Licensee in writing, setting out the specific conviction that forms the basis of the decision and tell the Applicant or Licensee of the right to appeal to the Brampton Appeal Tribunal and the deadline for appealing. Any appeal letter must contain reasons in support and be accompanied by the appropriate fee as set out in the City's User Fee By-law. The Tribunal makes the final decision and there is no further right to appeal to City Council.

In the course of an Application, the Licence Issuer may also inquire into pending court cases and issue a conditional Licence to the date of the expected court date. Withholding the fact of a pending court date from the Licence Issuer is itself a ground for suspension of the Licence.

**SCOPE:**

The thresholds will apply to Licences issued by the City of Brampton pursuant to the following Schedules under the Adult Entertainment Establishment By-law:

- Schedule 1 Adult Entertainment Businesses
- Schedule 2 Body-rub Businesses
- Schedule 3 Adult Merchandise Businesses

- 1-     **A**     Despite an Application being complete and all fees paid, the Licence Issuer shall refuse to issue or renew a Licence and in the case of an existing Licence, the Licence Issuer shall suspend the Licence, if an applicant or Licensee has:
  - 1)     Any code 01 conviction
  - 2)     Any code 02 conviction within the last 10 years
  - 3)     Any code 03 conviction within the last 5 years
  - 4)     Two or more code 03 convictions within the last 10 years
  - 5)     Any code 04 convictions within the last 3 years
  - 6)     Two or more code 04 convictions within the last 5 years
  - 7)     Any code 05 or 07 conviction within the last year
  - 8)     Six or more by-law related convictions within the last year concerning the licensed business or individual, or any other of the individual's businesses that were licensed or were required to be licensed, or any other of the individual's prior businesses that were licensed or are required to be licensed
  - 9)     Four or more by-law related convictions within the 12 months immediately preceding the date of issuance; or
  - 10)    Overdue by-law fines, unless the applicant or licensee provides proof that such fines have been subsequently paid.
  
- 1-     **B**     The Licence Issuer shall issue, renew or reinstate a licence if, at the time of the application for a licence or licence renewal, the conviction or event has reached the age set out below:
  - 1)     The code 01 conviction is more than 10 years old

- 2) If the licence was not issued because of a single code 02 conviction, when that conviction becomes more than 5 years old
- 3) If the licence was not issued because of a single code 03 conviction, when that conviction becomes more than 5 years old
- 4) If the licence was not issued because of 2 or more code 03 convictions, when 2 of those convictions become more than 10 years old
- 5) If the licence was not issued because of a single code 04 conviction, when that conviction is more than 3 years old
- 6) If the licence was not issued because of 2 or more code 04 convictions, when these convictions are more than 5 years old
- 7) If the licence was not issued because of a single code 05 conviction , when that conviction is more than a year old
- 8) If the licence was not issued because of 3 or more code 08 convictions, when these convictions are more than 1 year old
- 9) If the licence was not issued because of 6 or more by-law related convictions when these convictions are more than a year old
- 10) If the licence was not issued because overdue by-law fines, when those fines have been paid.

The Licence Issuer may issue a warning letter to be placed in an applicant’s or Licensee’s file if, at the time of an application for a licence or renewal, the applicant has 4 or more by-law related convictions concerning the licensed business or individual, or any other of the individual’s businesses that are licensed or are required to be licensed, or any of the individual’s prior businesses that were licensed or required to be licensed, within the 12 months immediately preceding the date of issuance or renewal.

The warning letter must advise the applicant or licensee about the specific applicable threshold.

Related legislation may include, but is not limited to the City of Brampton Adult Entertainment Establishment By-law.

**OFFENCES AND CORRESPONDING CODES**

<b>Criminal Code Offence</b>	<b>Description</b>	<b>Code</b>
Sexual Offences (minors)	Interference, invitation, exploitation, procuring sexual activity (parent or guardian), permitting sexual activity (householder), corrupting children, luring a child, exposure, incest (with minor)	01
Terrorism	Providing, collecting property; using, possessing property; providing, making available property	02
Homicide	Homicide, manslaughter, infanticide, murder, attempt to commit, accessory	02
Major assault and sexual assault offences	Sexual assault with weapon, causing bodily harm, aggravated assault with weapon, causing bodily harm	02
Sexual offences (against person other than minor)	Exploitation of persons with a disability, incest, indecent act, sexual assault	03
Confinement	Kidnapping, hostage taking, abduction	03
Hate propaganda	Advocating genocide, public incitement of hatred	03
Robbery, extortion	All offences	03
Criminal organization	Participating in activities of	03
Criminal Negligence	Criminal negligence, causing death, causing bodily harm	04
Assault	Assault of a peace officer	04
Explosives	Using, possession	04
Noxious thing, poison	Administering to harm	04

Harassment, threats	Criminal harassment, uttering threats	04
Weapons	Possession, carrying, trafficking	04
Firearms	Using in commission of offence, careless use, pointing, possession, acquisition without certificate, causing bodily harm with intent (firearm, air gun or pistol)	04
Theft offences	All offences	04
Forgery offences	All offences	04
Traps	Setting	05
Break and enter	Break and enter	04
Crime-possession of property	Possession of property obtained by crime	04
Fraud	Fraud offences, falsifying documents	04
Arson	All offences	04
Counterfeit money	Uttering, advertising, dealing	04
Mischief	Mischief	04
Conspiracy	Conspiracy to commit an indictable offence	05
Prostitution	Offences related to	05
Bawdy houses	Keeping, transporting person to, procuring	05
Other	All other Criminal Code Convictions	07

Controlled Drugs and Substances Act Offences	Description	Code
Possession	Possession	05
Trafficking	Of Schedule I or II substance	03
	Of Schedule II substance	04
	Of Schedule IV substance	05
Importing, exporting	Of Schedule I or II substance	03
	Of Schedule II substance	04
	Of Schedule IV substance	05
Production	Of Schedule I or II substance (except marijuana)	03
	Of Marijuana	04
	Of Schedule III substance	04
	Of Schedule IV substance	05

By-law	Description	Code
	Discriminate against a member of the public	08
	Refuse to serve a person assisted or guided by a service animal; refuse to allow a person assisted or guided by a service animal to remain	08
	Refuse to serve a disabled person; refuse to permit a disabled person into or upon any place or premises or thing to which the licence applies; refuse to permit a disabled person to remain in or upon such place or premises by reason of the presence of such disability	08

ACCOUNTABILITY:

Licence Issuer

ADMINISTRATION:

Manager, Administrative Services and Elections  
City Clerk’s Office



## OFFICE CONSOLIDATION

### Mobile Licensing By-law 67-2014

To Provide for a system of Licensing for Mobile Businesses and  
to amend Licensing By-law 1-2002,  
Brampton Appeal Tribunal By-law 48-2008 and  
Delegation of Authority By-law 191-2011

**(Amended by By-laws 187-2014, 267-2014, 230-2016, 250-2016,  
251-2016, 264-2016, 269-2017, 270-2017, 134-2018, 154-2019,  
219-2019, 25-2021, 26-2021, 119-2021, 1-2022, 96-2022,  
245-2022)**

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#### **RECITALS**

Subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended, ("*Municipal Act, 2001*") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

Section 9 of the *Municipal Act, 2001*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under any Act;

Subsection 11(1) of the *Municipal Act, 2001*, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

Subsection 11(2) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); and in paragraph 8, Protection of persons and property;

Subsection 11(3) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws respecting: in paragraph 11, Business Licensing;

Section 23.2 of the *Municipal Act, 2001*, permits a municipality to delegate certain legislative and quasi-judicial powers where the council of the municipality is of the opinion that the power being delegated is of a minor nature;

Pursuant to the provisions of Part IV – Licenses of the *Municipal Act, 2001*, a municipality may pass by-laws for licensing, regulating and governing any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality;

Subsection 151(1) of the *Municipal Act, 2001*, provides that a municipality may provide for a system of licenses with respect to a business and may prohibit the carrying on or engaging in the business without a licence, refusing, revoking or suspending a licence, imposing conditions on a licence, regulating property used for a business that requires a licence and regulating persons carrying on a business that requires a licence;

Subsection 391(1) of the *Municipal Act, 2001*, provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;

The Council of the City of Brampton has adopted Licensing By-law 1-2002, as amended, which encompasses the licensing of both mobile and stationary businesses;

The Council of the City of Brampton considers it desirable to separate mobile business licensing and stationary business licensing into separate by-laws; and

The Council of the City of Brampton considers it desirable and necessary to license, regulate and govern the mobile businesses listed within this By-law.

**NOW THEREFORE** the Council of The Corporation of the City of Brampton ENACTS AS FOLLOWS:

## **PART I – TITLE, INTERPRETATION AND SEVERABILITY**

1. This By-law may be referred to as the “Mobile Licensing By-law”.
2. (1) Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
  - (2) Wherever a word defined in this by-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.
  - (3) All words importing the singular shall include the plural, and words imparting the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.
3. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

## **PART II – DEFINITIONS**

4. For the purposes of this By-law:

“Act” means the *Municipal Act 2001*, S.O. 2001, c.25, as amended;

“Additional Fee” means a fee, in addition to the Licence Fee, imposed by the City on a business at any time during the term of the Licence for costs incurred by the City that are attributable to the activities of the business;

“App” means a mobile application that can be downloaded onto or accessed on a mobile phone, tablet or other digital electronic device used in a Vehicle to calculate the Fare payable for transportation services and which performs one or more of the following functions:

- (a) Allows a person to identify the locations of available Vehicles and allows a Driver to identify the location of a person who is seeking the services of a Vehicle;

- (b) Allows a person to request a Vehicle via the mobile phone, tablet or other digital electronic device;
- (c) Allows a Driver to receive a request from a potential Passenger; or
- (d) Allows for the payment of transportation services through electronic means.

**(By-law 269-2017)**

“Applicant” means a Person applying for a new Licence or Licence renewal under this By-law;

“Application” means an Application for a Licence in the form provided by the Licence Issuer, and shall include an Application for a Licence renewal, accompanied by appropriate documentation and fee;

“By-law” means this By-law;

“Chief of Police” **Deleted (By-law 134-2018)**;

“City” means The Corporation of the City of Brampton or the land within the municipal boundaries of the City of Brampton, as the context requires;

“Clerk” means the Clerk of the City of Brampton or the Clerk’s duly appointed Deputy;

“Closed File Administrative Fee” means the fee as set out in Appendix A that is required when an Application file is closed under this By-law;

“Council” means the Council of The Corporation of the City of Brampton;

“Criminal Record” means a record of past crimes of which an individual has been convicted;

“Driver” means any Person who requires a Licence to drive a Motor Vehicle under this By-law and includes a Driving School Instructor;

“Inspector” means any one of the following:

- (a) Municipal Law Enforcement Officer;
- (b) Peel Regional Health Inspector,
- (c) Fire Inspector in the Brampton Fire and Emergency Services; or
- (d) Police, as defined in this By-law;

“Late Renewal Fee” means the fees set out in Appendix A that are required for the late renewal of a Licence;

“Licence” means the Licence issued under this By-law, or predecessor by-law;

“Licence Fee” means the fee set out in Appendix A that is required to be paid to the City for a new Licence or a Licence renewal;

“Licence Issuer” means the person appointed under this By-law and includes his or her delegate(s);

“Licensed Premises” means the premises referred to in a Licence;

“Licensee” means any Person licensed under this By-law;

“Manager, Licensing Enforcement” means the Manager, Licensing Enforcement for the City or his or her delegate;

“Medical Officer of Health” means the Medical Officer of Health for the Regional Municipality of Peel and includes any public health inspector acting as his or her designate;

“Mobile Licensing” means the licensing of Owners, Drivers and businesses relating to Vehicles in the City of Brampton;

“Motor Vehicle” includes an automobile or any other Vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways or other Motor Vehicles running only upon rails, or motorized snow Vehicles, traction engines, farm tractors, self-propelled implements of husbandry or road building machines with the meaning of the *Highway Traffic Act*;

“Municipal Law Enforcement Officer” means a person employed by the City and appointed as a Municipal Law Enforcement Officer by the City;

“Notice of Additional Fee” means a written notice from the Licence Issuer to a Licensee advising of the requirements to pay an Additional Fee;

“Owner” means a Person who, alone or with others, fits into any one or more of the following categories:

- (a) is the owner of the Vehicle or business;
- (b) has control over the Vehicle or business;
- (c) directs the operation of the Vehicle or business;

“Passenger” means any Person in a Motor Vehicle other than the Driver;

“Person” includes an individual, corporation, partnership or limited partnership;

“Plate” means a numbered plate issued to a Person pursuant to this By-law;

“Police” means a police officer employed by Peel Regional Police or the Ontario Provincial Police; **(By-law 134-2018)**

“Premises” means land and includes the structures on the land, such as fences, buildings and sheds;

“Safety Certificate” means a Certificate of Mechanical Fitness or a Commercial Vehicle Inspection Certificate as issued by the Ministry of Transportation for Ontario;

“Tribunal” means the Tribunal appointed by Council to conduct hearings under the Brampton Appeal Tribunal By-law, No. 48-2008, as amended, or any successor by-law;

“Vehicle” includes a Motor Vehicle, trailer, farm tractor, road building machine, motorized snow vehicle, bicycle, and any vehicle drawn, propelled or driven by any kind of power, including muscular power;

“Vehicle Owner” means a Person who is registered with the Register of Motor Vehicles for the Province of Ontario as the plate owner of the Vehicle;

“Zoning Approval” means a Licence Application that has been examined and approved by the City’s Zoning Services staff for compliance with the Zoning By-law; and

“Zoning By-law” means the City’s Zoning By-law No. 270-04, as amended, or any successor by-law.

### **PART III – LICENSING REQUIRED**

5. (1) A Licence shall be taken out under this By-law by every Person who:
- (a) runs, operates or carries on the business of a Driving School (Driving School Operator – Sch. 1);
  - (b) for compensation, teaches others to drive a Motor Vehicle (Driving School Instructor – Sch. 1);
  - (c) owns a Motor Vehicle used for Driving School instruction (Driving School Motor Vehicle Owner – Sch. 1);
  - (d) owns a Limousine (Limousine Owner – Sch. 2);
  - (e) drives a Limousine (Limousine Driver – Sch. 2);
  - (f) owns a Refreshment Vehicle (Refreshment Vehicle Owner – Sch. 3); **(By-law 187-2014)**
  - (g) drives a Refreshment Vehicle (Refreshment Vehicle Driver – Sch 3); **(By-law 187-2014)**
  - (h) owns a Taxicab (Taxicab Owner – Sch. 4);
  - (i) owns an Accessible Taxicab (Accessible Taxicab Owner – Sch. 4);
  - (j) drives a Taxicab or Accessible Taxicab (Taxicab Driver – Sch. 4);
  - (k) owns a Taxicab Brokerage (Taxicab Broker – Sch. 4).
  - (l) owns a Tow Truck (Tow Truck Owner – Sch. 5); **(By-laws 187-2014, 134-2018)**
  - (m) drives a Tow Truck (Tow Truck Driver – Sch. 5); or **(By-laws 187-2014, 134-2018)**
  - (n) runs, operates or carries on the business of a Personal Transportation Company (Personal Transportation Company – Sch.6). **(By-law 134-2018)**
- (2) Any Person who falls within subsections 5. (1) (a) through to and including (n) is engaged in a business for the purposes of this By-law. **(By-law 134-2018)**
- (3) The defined terms for the businesses listed within subsections 5. (1) (a) through to and including (n) are found in the schedules referred to in the subsections and are attached to this By-law. **(By-law 134-2018)**

- (4) No Person shall carry on or engage in any business listed in subsections 5. (1) (a) through to and including (n) unless the Person is licensed under this By-law. **(By-law 134-2018)**
- (5) No Person shall hold him or herself out to be licensed if he or she is not licensed under this By-law.
- (6) No Person shall publish or cause to be published any representation that the Person is licensed under this By-law if the Person is not so licensed.
- (7) No Person shall provide false or misleading information or documents when applying for a Licence or Licence renewal, or when required to provide any information or documents under this By-law.
- (8) For the purposes of this By-law, a business shall be deemed to be carried on within the City if any part of the business is carried on in the City, even if the business is being conducted from a location outside the City.

#### **PART IV – REQUIREMENTS FOR LICENSEES**

- 6. (1) Every Applicant shall be:
  - (a) at least 18 years of age; and
  - (b) a Canadian Citizen, a permanent resident of Canada or have a valid employment authorization issued by the Government of Canada.
- (2) Every Applicant for a Taxicab or Limousine Driver's Licence shall be able to communicate in English. **(By-law 264-2016)**

#### **PART V – LICENCE ISSUER**

- 7. (1) The Manager, Licensing Enforcement, or any successor position is appointed as the Licence Issuer for the purposes of this By-law.
- (2) Council delegates to the Licence Issuer, the power to issue, refuse to issue, renew, refuse to renew, cancel, revoke, suspend, reinstate or impose conditions on a Licence under this By-law.
- (3) Council is of the opinion that the delegation under subsection 7. (2) is minor in nature.
- 8. Where the Licence Issuer is of the opinion that:
  - (a) a new Licence or a Licence renewal should be issued;
  - (b) an Application for a Licence or a Licence renewal should be refused;
  - (c) a Licence should be cancelled;
  - (d) a Licence should be revoked;
  - (e) a Licence should be suspended;
  - (f) a Licence should be reinstated, or
  - (g) a term or condition of a Licence should be imposed;

he or she shall make that decision.

9. The Licence Issuer shall:

- (a) receive and process all Applications for Licences and Licence renewals;
- (b) issue a Licence or Licence renewal when:
  - (i) an Application is made in accordance with the provisions of this By-law;
  - (ii) the Application is complete;
  - (iii) the applicable Licence Fee is paid;
  - (iv) the Application meets all of the requirements under this By-law; and
  - (v) there are no grounds to refuse to issue a Licence or Licence renewal as set out in Section 31 of this By-law;
- (c) impose terms and conditions on a Licence when in the opinion of the Licence Issuer a term or condition of a Licence should be imposed under Section 30 of this By-law;
- (d) maintain complete records showing all Applications received and Licences issued;
- (e) prepare or cause to be prepared all notices, forms and any other document, including any amendments thereto, that are necessary for the administration of this By-law;
- (f) enforce or cause to be enforced the provisions of this By-law; and
- (g) generally perform all the administrative functions required to give effect to this By-law.

#### **PART VI – APPLICATION FOR A LICENCE AND FOR A LICENCE RENEWAL**

10.(1) In order to apply for a new Licence or a Licence renewal, the Applicant shall:

- (a) complete and submit an Application in the form approved by the Licence Issuer;
  - (b) submit any documentation required under this By-law or requested by the Licence Issuer;
  - (c) submit the appropriate Licence Fee as set out in Appendix A; and
  - (d) where applicable, submit proof of HST Registration.
- (2) An Application for a new Licence or for a Licence renewal shall not be processed by the City until all the requirements of subsection (1) are met and any outstanding Licence Fee(s) and any outstanding Additional Fees have been paid.

- (3) An application for licence renewal shall be submitted in accordance with the procedures established by the Licence Issuer. **(By-law 154-2019)**
11. The Licence Issuer may require any one or more of the following as part of the Application:
- (a) proof of citizenship, permanent resident status or other employment authorization issued by the Government of Canada;
  - (b) a statement from the Applicant as to whether charges against the Applicant are pending under the Criminal Code, the *Controlled Drugs and Substances Act*, the *Building Code Act 1992*, the *Fire Protection and Prevention Act, 1997*, the City's Zoning By-law, or any other law or City by-law;
  - (c) a Criminal Record Search conducted by the Police Service where the Applicant resides or from an approved provider of criminal record checks in Canada; and **(By-law 154-2019)**
  - (d) a Zoning Approval.
12. Every Applicant for a Driver's Licence shall:
- (a) attend personally before the Licence Issuer and submit to being photographed;
  - (b) at the same time the photograph is taken, deliver the completed Application in person to the License Issuer; and
  - (c) provide a statement of the driving record of the Applicant, from the Ministry of Transportation, dated no earlier than 30 days prior to the Application for a Driver's Licence.
13. No Person shall obtain or keep a Driver's Licence without holding a current, valid driver's licence issued under the *Highway Traffic Act*.
14. Every renewal of Driver's Licence may be valid for a period of two years when accompanied by the Licence Fee for the two year period.
- 14.1. Notwithstanding section 14, where an Applicant for a renewal of a Driver Licence has had no Criminal Record and a clean driving record for five (5) or more licence years the Driver's Licence may be valid for up to four (4) years when accompanied by the Licence Fee for the four-year period. **(By-law 119-2021)**
15. Every Application for an Owner's Licence shall include:
- (a) a valid Safety Certificate with respect to the Motor Vehicle;
  - (b) a valid alternate fuel certificate, if applicable;
  - (c) the certificate of insurance; and
  - (d) the Vehicle registration (ownership).
16. The Licence Issuer may in his or her discretion waive the requirement of a Safety Certificate under Section 15, provided that the Vehicle has 1000 km or fewer on the odometer and has been manufactured within the last 12 months.
17. If at any time, the photo identification required by this By-law does not represent a reasonable likeness of the Person licensed under this By-law because of physical changes, passage of time or poor quality

photography, the Person shall submit to being photographed by the License Issuer.

18. (1) Where the Owner is a corporation, the Application shall be accompanied by a copy of the incorporating documents, a copy of the last annual return filed and a copy of the business name registration.
  - (2) Where the Owner is a sole proprietor, the Application shall be accompanied by a copy of the business name registration.
  - (3) Where the Owner is a registered partnership, the Application shall be accompanied by a copy of the registered declaration of partnership and a copy of the business name registration.
  - (4) Despite subsection 18. (1) where a corporation applies for a renewal of a Licence and there has been no change in the officers or directors of the corporation, only a copy of the last annual return filed must be submitted by the Owner with the Application.
  - (5) A Licence issued to a partnership may be issued in the name of one partner.
19. (1) Despite, subsection 11. (d), where an Application is made for a Licence renewal and where a Zoning Approval was received with the original Licence Application approving the use of the Premises, a new Zoning Approval may not be required.
  - (2) Where an Application is made for a new Licence or Licence renewal and where a Zoning Approval has been issued based upon the use being allowed by a Committee of Adjustment decision, the Zoning Approval is subject to all conditions and restrictions imposed on the use by the Committee of Adjustment, including a time limit for the use and upon expiry of any time limit imposed on the use by the Committee of Adjustment, the Zoning Approval shall no longer be valid.
20. (1) Where an Application for a Licence or Licence renewal is withdrawn by the Applicant, the Licence Fee shall be refunded with the exception of \$50.00.
  - (2) Where an Application for a Licence or a Licence renewal is refused, 50% of the Licence Fee paid shall be refunded.
  - (3) Any Licence Fee refund calculated pursuant to subsections 20. (1) or (2) shall be reduced by any Additional Fee amount, or part thereof, that is outstanding at the time of the refund.
21. An Owner must obtain a separate Licence for every Premises or Vehicle where the Owner carries on business for which a Licence is required under this By-law.
22. (1) Where a Person who has a Licence fails to renew the Licence by the renewal date, the Person shall, upon submitting an Application for renewal, be subject to a Late Renewal Fee in accordance with Appendix A to this By-law.
  - (2) Where an Applicant applies for a Licence renewal and for a period of 60 days after the Licence expiry date the Application is incomplete or any fee under this By-law is unpaid, the Licence Issuer may, in his or her sole discretion, deem the Application to be an Application for a new Licence.

- (3) Where a Person holding a Licence fails to renew the Licence within 90 days of the specified renewal date, the Person shall no longer be entitled to renew the License and shall be required to apply for a new Licence under this By-law, subject to the payment of such fees as may be required.
23. Regardless of whether a Licence may have been issued or renewed, the Licence Issuer may require that the Applicant file further information or provide further documentation in respect of a fact which the Applicant has already attested to or previously supplied documentation for.
24. Any Person licensed by any regulatory body where that licence is a requirement for the issuance of a Licence under this By-law, shall immediately report to the Licence Issuer any suspension of the licence issued by the regulatory body.
25. (1) Where an Applicant has failed to provide any fee or document required under this By-law for the issuance or renewal of a Licence, the Application shall be considered incomplete.
- (2) If the Application remains incomplete after 30 days from the date the Application was submitted, the Licence Issuer may issue a Notice of Incomplete Application and close the file.
- (3) Where an Application file is closed, the Applicant is required to pay the Closed File Administrative Fee to the City in accordance with Appendix A.
- (4) The Closed File Administrative Fee in subsection 25. (3) must be paid before the Licence Issuer can reopen a closed Application file.
- (5) The issuance of a Notice of Incomplete Application is not a statutory power of decision and is not subject to appeal to the Tribunal.

## **PART VII – ISSUANCE OF A LICENCE OR LICENCE RENEWAL**

26. When an Application for a Licence or Licence renewal is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, which include any requirements that may be requested by the Licence Issuer, a Licence shall be issued to the Applicant.
27. Any Person applying for a Licence renewal may do so within 30 days before the expiry of the Licence.
28. Despite Section 27, the License Issuer may in his or her discretion accept Applications for a Licence renewal prior to 30 days before the expiry of the Licence.

## **PART VIII – LICENCE EXPIRY DATES**

29. Subject to Section 14 and Appendix B every Licence shall be valid for a period of one year, effective from the driver's date of birth except where:
- (a) the initial Licence issued is within 91 days prior to his or her birthday, such Licence shall be valid to the next following birthday;

- (b) the initial Licence issued is issued on a date greater than 91 days prior to his or her birthday, such Licence shall be valid until the next birthday; or
- (c) the Driver's birthday is February 29<sup>TH</sup>, the expiry date for such Driver' Licence shall be February 28<sup>th</sup> for licensing purposes only.

## **PART IX – TERMS AND CONDITIONS**

- 30. (1) Notwithstanding any other provision in this By-law, the Licence Issuer may impose terms and conditions on any Applicant or Licensee at issuance, renewal or any time during the Licence period, including special conditions as are necessary to give effect to this By-law.
- (2) The Licence Issuer may impose conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a Licence.
- (3) Notwithstanding any other provision in this By-law, the Licence Issuer may impose Additional Fees on a Licensee by way of Notice of Additional Fee at any time during the term of the Licence for any costs incurred by the City attributable to the activities of the Licensee.
- (4) The Notice of Additional Fee shall be sent to the Licensee by personal delivery, e-mail or fax delivery, or by regular mail and the notice shall provide the Licensee with 60 days to pay the Additional Fee from the date of the notice.

## **PART X – GROUNDS FOR REFUSAL TO ISSUE OR RENEW A LICENCE**

- 31. Notwithstanding Section 26, the Licence Issuer may refuse to issue a Licence or renew a Licence, if the Licence Issuer is of the opinion that any one or more of the following has or may occur, and in coming to this belief the Licence Issuer shall have regard to the policy set out in Appendix E:
  - (a) The issuance of or the holding of a Licence would be contrary to the public interest in respect of:
    - (i) the health and safety of any person
    - (ii) a nuisance affecting any land or person in the City or Canada, or
    - (iii) the protection of any consumer.
  - (b) The conduct of the Applicant or Licensee or other circumstances afford reasonable grounds for belief that the carrying on of the business has infringed, or would infringe, the rights of other members of the public.
  - (c) Any Application or other document provided to the Licence Issuer by or on behalf of the Applicant or Licensee contains a false statement or provides false information.
  - (d) The financial position of the Applicant or Licensee demonstrates that the business has not or will not be carried on in a financially responsible manner.
  - (e) The business of the Applicant or Licensee is carried on or intended to be carried on in an area where it is prohibited.

- (f) The Applicant or Licensee has failed to pay a fine or fines imposed by a Court for convictions for breach of this or any other City by-law.
- (g) The Premises, or part thereof in which the business is carried on does not comply with the provisions of this By-law or with any other law, regulation or City by-law, including the Zoning By-law, and the Building Code, O.Reg. 350/06 as amended and the Fire Code, O.Reg. 213/07 as amended or any successor regulations.
- (h) The conduct of the Applicant or Licensee affords reasonable grounds for belief that the Applicant or Licensee has not carried on or will not carry on his or her trade, business or occupation in accordance with law and with integrity and honesty.
- (i) There are reasonable grounds for belief that the carrying on of the business or occupation by the Applicant or Licensee has resulted or will result in a breach of this By-law or any other law.
- (j) The fee payable for the Licence has not been paid.
- (k) Any fee imposed on an Applicant or Licensee under this By-law remains unpaid.

#### **PART XI – GROUNDS FOR REVOKING OR SUSPENDING A LICENCE**

- 32. The Licence Issuer may revoke or suspend a Licence for any one or more of the grounds listed in subsections 31.
- 33. If the Licence Issuer is satisfied that the continuation of a business poses an immediate danger to the health or safety of any person or property, the Licence Issuer may, without a hearing, suspend a Licence, for the time and on such conditions as the Licence Issuer considers appropriate, subject to the following:
  - (a) before suspending the Licence, the Licence Issuer shall, either orally or in writing, provide the Licensee with the reasons for the suspension and allow the Licensee with an opportunity to respond; and
  - (b) the suspension shall not exceed 14 days

#### **PART XII – WRITTEN NOTICE AND SERVICE**

- 34. (1) After a decision is made by the Licence Issuer to refuse, cancel, revoke or suspend a Licence, written notice of that decision shall be given forthwith to the Applicant or Licensee.
- (2) The written notice provided under subsection 34. (1) shall:
  - (a) set out the grounds for the decision;
  - (b) give reasonable particulars of the grounds for the decision;
  - (c) be signed by the Licence Issuer; and
  - (d) state that the Applicant or Licensee is entitled to a hearing by the Tribunal if the Applicant or Licensee delivers to the Clerk within 15 days after the notice is served, a notice in writing

requesting a hearing by the Tribunal accompanied by the appropriate fee.

- (3) Any written notice given under this By-law shall be deemed to be received on the receipt date which is one of the following:
  - (a) in the case of mailed documents, 5 days following the mailing as determined from the post mark;
  - (b) in the case of personal delivery, e-mail or faxed document, the day of delivery; and
  - (c) where more than one method of delivery is used, the operative receipt date for the calculation of the time for an appeal is the latest of the possible receipt dates.
- (4) Where any written notice is mailed under this By-law, it is sufficient to use the Applicant's or Licensee's last known business or residential address.

### **PART XIII – RIGHT TO APPEAL**

35. (1) The Applicant or Licensee may appeal the Licence Issuer's decision to refuse, cancel, revoke, suspend, or to impose any condition on a Licence, to the Tribunal by filing a written notice of appeal with the Clerk, with reasons in support of the appeal, accompanied by the appropriate appeal fee as set out in the City's User Fee By-law within 15 days following the receipt of written notice of the Licence Issuer's decision.
- (2) On receipt of a written request for a hearing from the Applicant or Licensee, the Clerk shall schedule a hearing of the Tribunal and shall give the Applicant or Licensee and Licence Issuer reasonable written notice of the date, time and place of the hearing in accordance with the Brampton Appeal Tribunal By-law, No. 48-2008, as amended, or any successor by-law.
- (3) The filing of an appeal does not operate to suspend the Licence Issuer's decision.
- (4) The decision of the Licence Issuer shall be final if the Clerk does not receive an appeal by the 15<sup>th</sup> day following the receipt date of the written notice of the Licence Issuer's decision.
- (5) Where the Tribunal has ordered that a Licence be granted, re-instated, a suspension to a Licence ended or a change to the condition(s) of a Licence, the Applicant or Licensee shall fulfill any outstanding requirements for the Licence under this By-law.
- (6) The provisions of the Brampton Appeal Tribunal By-law, No.48-2008, as amended, or any successor by-law, apply to any appeal that is made under this section.

### **PART XIV – RETURN OF LICENCE**

36. (1) Where a Licence has been revoked or suspended, and written notification as set out in section 34 is provided and deemed received, the Applicant or Licensee shall return the Licence to the Licence Issuer forthwith.
- (2) A Person whose Licence has been revoked or suspended shall not refuse to deliver the Licence to the Licence Issuer or in any way

obstruct or prevent the Licence Issuer from receiving or taking the Licence.

- (3) Where a Licence has been revoked or suspended, the Licence Issuer may enter upon the business premises of the Licensee for the purpose of receiving, taking or removing the Licence.

#### **PART XV – CHANGE OF INFORMATION**

37. (1) A Licensee shall carry on business in the City in the name which is set out on the Licence and shall not carry on business in the City in any other name unless the Licensee has first notified the Licence Issuer and complied with the relevant provisions of this By-law.
- (2) A Licensee shall notify the Licence Issuer within 7 days of any change of name, address or any other change to the information related to the Licence, and where the Licensee is a corporation, it shall notify the Licence Issuer of any change in the names and addresses of officers and directors, the location of the corporate head office and change of ownership of shares within 7 days of the change, and if necessary, the Licence shall be returned immediately to the Licence Issuer for amendment.
- (3) A Licensee shall not alter, erase or modify or permit such alteration, erasure or modification of the Licensee's Licence or part thereof unless approved by the Licence Issuer.

#### **PART XVI – GENERAL PROVISIONS**

38. An Applicant or Licensee whose Licence has been refused or revoked, shall not be entitled to make a new Application for a similar type of Licence for a period of 12 months from the date of the refusal or revocation.
39. The Licence Issuer shall reinstate any Licence that has been suspended or revoked upon satisfactory proof that the administrative requirements under this By-law have been met.
40. Any Licence issued under this By-law may be cancelled at any time upon the written request of the Licensee.
41. A Person shall not enjoy a vested right in the continuance of a Licence and upon the issuance, renewal, transfer, cancellation or suspension thereof, the value of a Licence shall be the property of the City.
42. A Licensee shall not advertise, promote or carry on the business under any name other than the name endorsed upon the Licence, without the approval of the Licence Issuer.
43. (1) Any Licence issued under this By-law shall be posted on the premises, to which the Licence relates in a conspicuous place that is clearly visible to the public.
- (2) Where a Licensee does not have a licensed Premises, the Licensee shall carry the Licence with him or her at all times when engaged in the activity for which the Licence has been issued.
44. The Licence Issuer shall not accept any new Application for a Taxicab or Accessible Taxicab Owner's Plate, from any Person not on the Priority List, nor shall any new names be added to the Priority List, for an

additional period of five years commencing on November 9, 2014. **(By-law 267-2014)**

45. No member of the Tribunal, Council, or an employee of the City is personally liable for anything done under the authority of this By-law.
46. A Licensee shall not be permitted to transfer a Licence unless specifically allowed under a Schedule to this By-law.

#### **PART XVII – INSURANCE**

47. (1) Every Person shall, before the issuance of an Owner's Licence to him or her for a:

- (a) Driving School Motor Vehicle Owner (Schedule 1);
- (b) Limousine Owner (Schedule 2); or
- (c) Refreshment Vehicle Owner except for Class B, non motorized, and Class C, stationary in a permanent location (Schedule 3); **(By-law 187-2014)**
- (d) Taxicab Owner (Schedule 4);
- (e) Tow Truck Owner (Schedule 5); **(By-law 187-2014)**

provide proof of third party Motor Vehicle liability insurance for each Vehicle used in the business, to the amount of at least \$2,000,000, exclusive of costs and interest, per occurrence. Perils will include bodily injury, death of one or more Persons, and loss or damage to property.

- (2) The Licence Issuer shall be given at least 10 days' notice in writing, by regular mail, personal delivery, e-mail or fax delivery, of cancellation, expiration or variation in the amount or conditions of the policy.
- (3) In addition to the insurance requirements under subsection 47. (1), every Tow Truck Owner required to be licensed under Schedule 5 (Tow Trucks) shall provide:
  - (a) coverage of at least \$50,000.00 in respect of any one claim, exclusive of costs and interest, against liability for damage to, or theft of cargo or other goods of customers, subject to reasonable limitations; and
  - (b) coverage of a least \$100,000.00 in respect of any one claim, exclusive of costs and interest, against liability for damage to the Vehicles of customers while in the care, custody, and control of the Applicant. Perils shall include collision, upset, fire, lighting, theft, or attempted theft, malicious mischief, windstorm, hail, explosion, riot, civil commotion and rising water.  
**(By-law 187-2014)**
- (4) Every Person, required to be licensed as a Driving School Operator, Refreshment Vehicle Owner or a Taxicab Broker shall, before the issuance of a Licence to him or her, provide proof of commercial general liability insurance against all claims for personal injury including bodily injury resulting in death, and property damage with an inclusive limit of not less than Two Million (\$2,000,000.00) per occurrence insuring him or her against liability imposed by law for any loss or damage resulting from the carrying on of the business to which the Licence relates. **(By-law 187-2014)**

- (5) The certificate of insurance issued in respect of the insurance policy in subsections 47. (1) (2) (3) and (4) shall be provided to the Licence Issuer prior to the issuance of the Licence that it applies to in the form of proof set out in Appendix C to this By-law. **(By-law 187-2014)**

## **PART XVIII – INSPECTION**

48. Upon request of the Licence Issuer, Inspector, Medical Officer of Health or Fire Chief the Licensee shall produce the Licence and any other requested documents forthwith.
49. No Person who has or is required to have a Licence under this By-law, shall obstruct or hinder the making of an inspection by the License Issuer or Inspector, or cause or permit an inspection to be obstructed or hindered.
50. Where the Licence Issuer finds that any provision of this By-law is being contravened, a notice may be issued in writing directing compliance with the provision.
51. (1) The Licence Issuer or Inspector, may enter on any land and building, structure thereon or Vehicle at any reasonable time for the purpose of carrying out an inspection to determine whether any one or more of the following are being complied with:
- (a) the provisions of this By-law;
  - (b) an order made under this By-law;
  - (c) a condition of a Licence issued under this By-law; or
  - (d) an order made under section 431 of the *Municipal Act, 2001*.
- (2) For the purposes of an inspection under subsection 51. (1) the person carrying out the inspection may do any one or more of the following:
- (a) require the production for inspection of any goods, articles, books, records, other documents or Vehicles of or relating to any business or occupation licensed under this By-law;
  - (b) inspect and remove documents or things relevant to the inspection, including anything listed in subsection 51. (2) (a), for the purpose of making copies or extracts;
  - (c) require information from any Person concerning a matter related to the inspection; or
  - (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.
- (3) Where a Licence Issuer or Inspector has been or is likely to be prevented from carrying out an inspection pursuant to subsection 51. (1), the Licence Issuer or Inspector may apply for an order, under section 438 (2) of the Act, from a provincial judge or justice of the peace authorizing them to carry out an inspection for the purposes of subsections 51. (1) or (2).

## **PART XIX – ORDER TO COMPLY**

52. (1) Where the Licence Issuer or an Inspector believes that a contravention of this By-law has occurred, they may issue:
- (a) an order to discontinue the contravening activity;
  - (b) an order to correct the contravention; or
  - (c) an order to discontinue the contravening activity and correct the contravention.
- (2) The orders contemplated in subsection 52. (1) shall set out:
- (a) the name of the Person who is believed to have contravened this By-law and the municipal address or the legal description of the land to which the contravention or Licence applies;
  - (b) reasonable particulars of the contravention;
  - (c) the date by which there must be compliance with the order; and
  - (d) if applicable, the work to be done and the date by which the work must be done.
- (3) An order issued under this By-law may be served personally or served by mail to the last known address of the Person and such other persons affected by it as determined by the Licence Issuer or Inspector and a copy of the order may be posted on any property to which the contravention or Licence applies.
- (4) If an order is served by registered mail, the service shall be deemed to have been made 5 days after the mailing.
- (5) Where service cannot be carried out in accordance with subsection 52. (3), the Licence Issuer or Inspector may place a placard containing the terms of the order in a conspicuous place on the property to which the contravention or Licence applies, and the placing of the placard shall be deemed to be sufficient service of the order on the Person or persons to whom the order is directed.
- (6) Every Person who fails to comply with an order made under this section is guilty of an offence.

## **PART XX – PLATE REMOVAL**

53. Where the Licence Issuer, acting reasonably, has reason to believe that one or more of the sections listed in Appendix D is or has been contravened, he or she may physically remove the Plate from the Vehicle.
54. The Licence Issuer may retain the Plate until the contravention has been rectified to the satisfaction of the Licence Issuer.

## **PART XXI – CONTRAVENTION AND PENALTIES**

55. (1) Every Person who contravenes any provision of this By-Law, and every director or officer of a corporation who concurs in such contravention by the corporation, 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, and the *Municipal Act, 2001*, as both may be amended from time to time. **(By-law 134-2018)**

- (2) In addition to subsection 55. (1), any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the fine provisions of the *Municipal Act, 2001*, to the following fines:
  - (a) the minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000;
  - (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 and 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, for each offence included in the multiple offence, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000;
  - (d) in addition to the fine provisions in subsection 55. (2) (a) to (c), if a Person is convicted of an offence under this By-law, any economic advantage or gain obtained by the Person from operating a business without a Licence may be considered an aggravating factor for sentencing purposes which may attract a special fine, which shall be equal to or greater than the economic advantage or gain obtained by the Person from operating the business without a Licence; and
  - (e) the maximum amount for a special fine in subsection 55. (2)(d) may exceed \$100,000.
- (3) If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an order:
  - (a) prohibiting the continuation or repetition of the offence by the Person convicted; and
  - (b) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- (4) Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer's delegate may give the person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than 21 days after the date of the notice.
- (5) If any part of a fine for a contravention of this By-law remains unpaid after the final date specified in the notice given under subsection 55. (4), the outstanding fine is deemed to be unpaid taxes for the purposes of section 351 of the *Municipal Act, 2001*.
- (6) Administrative Penalties (Non-Parking) By-law 218-2019, as amended, applies to this By-law. Every Person who contravenes a provision of this By-law designated in Schedule A of the Administrative Penalties (Non-

Parking) By-law 218-2019, shall upon issuance of a Penalty Notice be and is liable to pay to the City of Brampton an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 218-2019. **(By-law 219-2019)**

## **PART XXII – FEES**

56. The Licence Fees required under this By-law are set out in Appendix A attached to this By-law.

## **PART XXIII – DISCRIMINATION**

57. (1) No Person, in carrying out a business licensed under this By-law shall discriminate against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.
- (2) No Person, in carrying out a business licensed under this By-law shall, with respect to any person being guided or assisted by a service animal:
- (a) refuse to service the person;
  - (b) refuse to permit the person to enter with the animal into or upon any place or premises to which the Licence relates; or
  - (c) refuse to permit the person and such animal to remain in or upon such place or premises by reason only of the presence of such animal.

## **PART XXIV – SCHEDULES AND APPENDIXES**

58. (1) All Schedules and Appendixes attached to this By-law shall form part of this By-law.
- (2) In the event of a conflict between any of the general provisions of this By-law and any provisions set out in the Schedules attached to this By-law, the provisions of the Schedules shall prevail.
- (3) The expiry dates of Licences issued under this By-law, except for those issued per day or per event, are set out in Appendix B to this By-law.

## **PART XXV – TRANSITION**

59. (1) Despite section 60, if a Licence or a Licence renewal has been issued for a business under the City's Licensing By-law, No. 1-2002, as amended, and the applicable by-law provisions and schedule for that Licence have been repealed under this By-law, the provisions of Licensing By-law No. 1-2002, as amended and the applicable appendices and schedule in effect at the time of the Licence issuance or Licence renewal continue to apply for the term of that Licence or Licence renewal.
- (2) This By-law, including all appendices and schedules under this By-law apply to all Licences and Licence renewals issued after this By-law comes into effect, even in the case of a Licence renewal that relates to a Licence issued under Licensing By-law No. 1-2002, as amended.

**PART XXVI – BY-LAW AMENDMENTS, REPEAL AND EFFECTIVE DATE**

60. (1) Licensing By-law 1-2002, as amended, is further amended by repealing subsections 2. (1), 2. (2), 2. (3), 2. (4) and 2. (5). **(By-law 187-2014)**
- (2) Licensing By-law 1-2002, as amended, is further amended by repealing Schedules M-1, M-2, M-3 M-4 and M-5. **(By-law 187-2014)**
61. (1) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by removing the word “and” before “the Business Licensing By-law ” and adding the words “and the Mobile Licensing By-law” after “the Business Licensing By-law” at the end of subsection 7. (1) of the by-law.
- (2) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by adding the following definition in alphabetical order in section 1 of the by-law and in section 1 of Schedule 1 that is attached to the by-law:
- “Mobile Licensing By-law” means Mobile Licensing By-law 67-2014;
- (3) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by removing the word “and” before “the Business Licensing By-law” and adding the words “and the Mobile Licensing By-law”, after “the Business Licensing By-law” to the definition of “licensee” found in section 1 in Schedule 1 attached to the by-law.
- (4) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by removing the word “and” before “the Business Licensing By-law” and adding the words “and the Mobile Licensing By-law”, after “the Business Licensing By-law” found in subsection 28(4) in Schedule 1 attached to the by-law.
62. The Delegation of Authority By-law 191-2011, as amended, is further amended by removing the word “and” before “the Business Licensing By-law 332-2013” and adding the words “and the Mobile Licensing By-law 67-2014” after the words “the Business Licensing By-law 332-2013”, found in subsection 13.1 (i) in Schedule 1 attached to the by-law.
63. This By-law comes into force and effect on the date of its passing by Council.

READ a FIRST, SECOND and THIRD TIME and PASSED in COUNCIL, this 26<sup>th</sup> day of March, 2014.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by:  
John Sprovieri – Acting Mayor  
Peter Fay – City Clerk

## **SCHEDULE 1 – Mobile Licensing By-Law**

### **Relating to Persons who carry on the Business of Teaching Persons to Operate Motor Vehicles, including Truck Driving Schools, and Driving School Instructors Employed in Such Business**

#### **PART I – DEFINITIONS**

1. For the purpose of this Schedule:

“Driving School” means any business or establishment which employs Instructors, to teach persons to operate Motor Vehicles;

“Driving School Instructor” or “Instructor” means a Person who for compensation teaches others to drive a Motor Vehicle as a Driving Instructor and is required to be licensed as such under this By-law and who is Employed by a Driving School Operator licensed under this By-law in the business of teaching persons to operate a Motor Vehicle;

“Driving School Motor Vehicle Owner” means the registered owner or lessee of a Motor Vehicle used for driving school instruction;

"Driving School Operator" or "Operator" means a Person who runs, operates or carries on the business of a Driving School;

"Employed" includes any business relationship between an Operator and Instructor, whether on a salary, hourly wage, commission or independent contract or other basis, and the terms "employee" and "employment" have a corresponding meaning; and

"Parkland" means any and all land owned by or made available by lease, agreement or otherwise to the City that:

- (a) has been or hereafter may be set apart, designated, dedicated or established by the City as public parkland, including the water areas and shoreline of such property, or
- (b) is maintained by the City as a boulevard, median, landscaped buffer area or walkway.

#### **PART II – REQUIREMENTS OF LICENSEES**

2. (1) Where an Applicant for an Operator's or Instructor's Licence is the Registered Owner or lessee of the Motor Vehicle to be used in the Driving School business, in addition to the general licensing provisions of this By-law, he or she shall file with the Licence Issuer a list of all Motor Vehicles to be used by him or her as an Operator or Instructor setting out the provincial plate number, year, make and model of the Motor Vehicle.
- (2) Any Person who is licensed as an Operator or Instructor and has filed the list required under subsection (1) shall notify the Licence Issuer within 72 hours of any change to the list.
- (3) Where the Applicant for an Operator's or Instructor's Licence is entitled to be licensed under this By-law, the Licence Issuer shall issue a Driving School Motor Vehicle Owner's Licence and a Plate for each Motor Vehicle set out on the list required under subsection (1) as long as all the provisions of this Schedule and By-law dealing with Motor Vehicles are met.

3. An Applicant for an Instructor's Licence and a Licensee applying for a Licence renewal shall:
- (a) produce a current valid Ontario driver instructor's licence and a current valid Ontario driver's licence both issued under the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended; and
  - (b) provide written notice of the name and address of the Operator for whom he or she will be instructing.

### **PART III – DRIVING INSTRUCTOR**

4. Every Instructor shall:
- (a) when giving instruction to any student driver place the Instructor's Licence with the photo ID card in the Motor Vehicle, in a location that is plainly visible to the student driver;
  - (b) when giving driving instruction, ensure that the Motor Vehicle is equipped with an extra rear view mirror for the use of the Instructor;
  - (c) when giving driving instruction, ensure that the Motor Vehicle is equipped with identical wheel coverings and or wheel design;
  - (d) while giving driving instructions ensure that the Motor Vehicle is equipped with extra braking equipment in good working condition placed in a position for ready use by the Instructor; and
  - (e) ensure that every student driver produces a current Ontario driver's licence or a current valid Ontario temporary driver's licence, or, in the case of a student driver who has not resided in Ontario for more than 30 days, a valid driver's licence in accordance with the laws of the province in which the driver was resident.
5. No Instructor shall give driving instructions:
- (a) unless a roof sign on the Motor Vehicle showing the business name of the Driving School as shown on its Licence is affixed to the roof of the Motor Vehicle or in a location approved by the Licence Issuer so that it is clearly visible at a distance of at least 15 metres (49.2 feet);
  - (b) unless the Plate is properly affixed to the exterior of the Motor Vehicle in a location approved by the Licence Issuer;
  - (c) if his or her ability to drive or instruct is impaired by alcoholic beverages, drugs or narcotics;
  - (d) to any G1 or equivalent licensed student who is not a client at the Ministry Approved Beginner Driver Education Course Provider Driving School where the Instructor is Employed;
  - (e) to any student driver whose driving ability appears to be affected by alcoholic beverages, drugs or narcotics;
  - (f) to a student driver on private property without the prior consent of the private property owner;

- (g) subject to 5(h), to any student driver when a Person other than:
  - (i) the Instructor;
  - (ii) the student driver; or
  - (iii) the Operator or an employee of the Operator;

is in the Motor Vehicle in which the instruction is being given;

- (h) subsection 5(g), does not prevent the giving of instruction where all the students are under the age of twenty-five years, and when the instruction is pursuant to a driving course accredited by the Province of Ontario;
- (i) in any Motor Vehicle unless the Motor Vehicle has been approved and licensed by the License Issuer; or
- (j) without a valid and current Ontario driving instructor's license issued pursuant to the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended.

#### **PART IV – DRIVING SCHOOL OPERATOR**

6. Every Driving School Operator shall:

- (a) only employ as an Instructor a Person licensed under this By-law;
- (b) before instruction is given, furnish each student with a written statement of all rates and charges for services provided by the school, which statement shall be in a form approved by the Licence Issuer, and shall commence with the words, "The following is a complete Schedule of rates and charges for all services provided by (name of Driving School) and no other rates or charges shall be demanded or received by the school or by any of its Instructors";
- (c) adhere to the rates and charges indicated in the published statement and give 15 days advance notice to the Licence Issuer of any new statement of rates and charges;
- (d) keep a permanent record of the name and address of each student, the date of the commencement of instruction, the date, time and name of the Instructor for each lesson and the number of the student's provincial driver's licence;
- (e) allow the Licence Issuer to have access to all premises, Motor Vehicles, equipment, books and records used in the business and submit any Motor Vehicle for inspection whenever required;
- (f) notify the Licence Issuer in writing of the name and address of each Driving School Instructor Employed by him or her and of the date of commencement of such employment, such notification to be given not later than 72 hours after the employment has commenced;
- (g) notify the Licence Issuer in writing of the name and address of each Driving School Instructor whose employment by him or her has terminated, and the date of the termination, and such

notification shall be given not later than 72 hours after the employment has terminated;

- (h) ensure that every registered owner or lessee of every Motor Vehicle to be used in the Driving School business is licensed under this By-law; and
  - (i) have printed or otherwise impressed on all business stationery, files, bills, statements and any written advertising materials his or her business name as licensed.
7. Where an Operator is also an Instructor he or she shall also be licensed as an Instructor under this By-law.

#### **PART V – DRIVING SCHOOL MOTOR VEHICLE OWNER**

8. Where the Applicant for a Driving School Motor Vehicle Owner's Licence is the Lessee of the Motor Vehicle the Applicant shall file a copy of the lease with the Licence Issuer.
9. Every Driving School Motor Vehicle Owner shall:
- (a) present the Motor Vehicle for inspection and approval by the Licence Issuer;
  - (b) advise the License Issuer forthwith when any licensed Motor Vehicle ceases to be used; and
  - (c) immediately return to the Licence Issuer all Plates in respect of Motor Vehicles that have ceased to be used in the business.

#### **PART VI – RESTRICTED AREAS**

10. (1) No Instructor shall:
- (a) give any driving instructions on any public road or highway in the areas hatched and marked "Restricted Area" in Appendix F; or
  - (b) use any part of Parkland for the purpose of instructing, teaching or coaching any person in the driving or operation of a motorized vehicle.
- (2) No Driving School Operator shall cause or permit any driving instruction to be given in any area described in subsections 10. (a) and (b).
- (3) Despite subsection 10(a), an Instructor may give instruction to a student who lives in the Restricted Area, provided that:
- (a) while in the Restricted Area the student carries with him or her proof of the student's residence and presents it on demand to any Inspector or the Police; and
  - (b) the Instructor ensures that the student proceeds to and from their residence using the most direct route to and from the closest area outside the Restricted Area.

## **SCHEDULE 2 – Mobile Licensing By-law**

### **Relating to Persons who carry on the Business of Owning and Operating Limousines, Limousine Drivers and Owners**

**(Amended by By-law 269-2017)**

#### **PART I – DEFINITIONS**

1. For the purposes of this Schedule:

“Limousine” means a Vehicle for hire for the transportation of passengers at a flat rate by agreement, and includes a luxury passenger vehicle, with four or more doors, which is not a station wagon, panel truck, bus or van, but does not include a Meter (as defined in the Taxi Cab Schedule 4); and

“Limousine Driver” means any person who drives a Limousine.

#### **PART II – REQUIREMENTS OF LICENSEES**

2. In addition to the general licensing provisions of this By-law, an Applicant for a Limousine Driver’s Licence shall produce a letter verifying employment from a Licensed Limousine Owner.
3. In addition to the general licensing provisions of this By-law, an Applicant for a Limousine Owner’s Licence shall:
- (a) be an Ontario or Canada corporation; and
  - (b) file documentation to demonstrate to the satisfaction of the Licence Issuer of potential and viable Limousine business for at least 35 hours per week in the City.

#### **PART III – LIMOUSINE DRIVER**

4. Every Limousine Driver shall:
- (a) be professionally attired;
  - (b) be civil and behave courteously, refraining from using profanity and offer to assist any Passenger when it is evident that the Passenger is a Person with a disability, elderly or in need of assistance;
  - (c) not smoke any cigar, cigarette, tobacco or any other substance in the Limousine;
  - (d) give a Passenger a receipt on an authorized form showing the Driver's name and Driver's Licence number and an identifying number for the Limousine when requested or whenever there is a dispute over the fare;
  - (e) have available at all times and produce on request of the Licence Issuer or Passenger a current Driver’s identification card with photograph, issued by the Licence Issuer;
  - (f) produce the Limousine rate sheet when requested by a Passenger;

- (g) keep at all times in the Limousine while under contract, a copy of the signed contract either in a paper or electronic format;
- (h) produce a copy of the contract when requested by the License Issuer;
- (i) be required to serve a pre-arranged Passenger in the City, except when the person:
  - (i) is intoxicated or disorderly;
  - (ii) is in possession of an animal other than a service animal;
  - (iii) is in the opinion of the Driver unable or unwilling to pay the Fare and has been unable or unwilling to satisfy the Driver that he or she has the funds to pay the Fare;
  - (iv) is a grossly unclean person; or
  - (v) refuses to wear a seat belt and either fails to produce a medical certificate exempting him or her from wearing a seat belt assembly, or fails to satisfy the Driver that his or her weight is under eighteen (18) kilograms (40 lbs);
- (j) ensure that all business conducted is through pre-arranged trips;
- (k) take due care of all property, delivered or entrusted to the Driver for conveyance, and immediately upon termination of any hiring engagement with a fare shall carefully search the Limousine for any property lost or left in the Limousine and, all property or money left in the Limousine shall be forthwith delivered over to the person owning the property or money and if the owner of the property or money cannot at once be found, the Driver shall deliver the property or money to the nearest police station with all the information in the Driver's possession regarding the property or money, and immediately notify the Plate Owner;
- (l) each day, before commencing the operation of the Limousine, examine the Limousine for mechanical defects or interior or exterior damage and report forthwith any defects found, to the Owner of the Limousine; and
- (m) each day, upon completion of the operation of the Limousine, report all defects and all accidents to the Owner.

5. No Limousine Driver shall:

- (a) solicit or accept Passengers without a pre-arranged contract for hire;
- (b) place in, hang on or attach to the Limousine any luggage or object, in a manner that might obstruct the Driver's view;
- (c) carry a greater number of passengers than is set out in the manufacturer's rating of seating capacity for such Limousine and a seat belt is available for each passenger;
- (d) take, consume or have in his possession any alcohol, drugs prohibited by law, prescription or non-prescription drugs or

intoxicant's which impair the Limousine Driver's ability to operate a Limousine;

- (e) be required to accept any order when the expenditure of money by the Limousine Driver is required on behalf of the Passenger;
- (f) recommend hotels, restaurants or other like facilities unless requested to do so by the Passenger;
- (g) recover or receive any fare or charge from any Passenger or Persons who had demanded his or her services, which is greater or less than the fare or charge filed with the Licence Issuer except for a tip, gratuity or credit card service charge;
- (h) make any charge for time lost through defects or inefficiency of the Limousine or the incompetence of the Limousine Driver;
- (i) hold him or herself out as being available for hire in any public place;
- (j) take on any additional Passengers after the Limousine has departed with one or more Passengers from any one starting point, except under the following circumstances:
  - (i) when done at the request of a Passenger already in the Limousine; or
  - (ii) in an emergency situation;
- (k) permit a Passenger to stand in the Limousine while the Limousine is in motion;
- (l) refuse to serve a Passenger with a service animal, except where:
  - (i) the Driver has an allergy, and has filed with the Licence Issuer a certificate from his doctor evidencing that due to the allergy the Driver is unable to provide service to a Passenger with a service animal; and
  - (ii) when the Driver is unable to service a Passenger for the reason set out in subsection 5(l)(i), the Driver shall make proper arrangements for service before proceeding to his or her next engagement;
- (m) speak in an obscene, foul, boisterous, racist, loud, threatening or abusive manner to any person while operating a Limousine;
- (n) except in an emergency, use a cell phone while the Limousine is engaged;
- (o) operate or permit to be operated as a Limousine, any Motor Vehicle which is not licensed pursuant to this By-law;
- (p) drive a Limousine which does not have an Owner's Plate affixed thereto;
- (q) operate a Limousine, unless such Motor Vehicle meets all the standards of this By-law; or

- (r) operate or permit to be operated as a Limousine any Motor Vehicle in respect of which the Licence Issuer has required an inspection be carried out, prior to such inspection being passed to the satisfaction of the Licence Issuer.

#### **PART IV – LIMOUSINE OWNER DUTIES**

6. Every Limousine Owner shall:

- (a) ensure that there is a signed contract for each passenger trip and the contract shall include:
  - (i) client identification;
  - (ii) Driver identification;
  - (iii) service rendered;
  - (iv) rate charged; and
  - (v) date and time of service;
- (b) keep at all times in the Limousine for which he or she is the Owner, the original, or a photo copy of the original, of each of the following documents:
  - (i) the current Motor Vehicle permit which is in good standing and was issued in the Owner's name by the Province of Ontario for the Motor Vehicle;
  - (ii) the certificate of liability insurance for the Motor Vehicle, in accordance with the By-law; and
  - (iii) the current Limousine Owner's Licence issued under this By-law;
- (c) when he or she disposes of, or ceases to use the Limousine for the purposes permitted under this By-law and he or she acquires another Limousine for the purposes permitted under this By-law, he or she shall ensure that the new Limousine is properly registered and licensed;
- (d) immediately remove from the Limousine being disposed of:
  - (i) all identifying decals and markings; and
  - (ii) all other items which make the Limousine appear to the public to be a Limousine;
- (e) maintain an up-to-date list of all Drivers operating Limousines for that Owner, which list shall show the name, address, telephone number and current Licence number of each Driver;
- (f) provide the Licence Issuer with a copy of the list referred to in subsection 6(e);
- (g) ensure that every person employed by that Owner as a Driver shall, during working hours, be properly attired in an appropriate uniform approved by the Licence Issuer;
- (h) affix the Owner's Plate on the Limousine in a location approved by the Licence Issuer;

- (i) file with the Licence Issuer annually, a copy of the rates to be charged for the use of the Limousine and give 15 days advance notice to the Licence Issuer of any new statement of rates and charges;
  - (j) abide by the rates filed with the Licence Issuer; and
  - (k) upon request of the Licence Issuer, provide access to any books of account, vouchers, correspondence or other business documents relevant to the business.
7. No Limousine Owner shall:
- (a) operate a Limousine or permit a Limousine to be operated under this By-law, with mechanical defects of which he is aware;
  - (b) operate a Limousine or permit a Limousine to be operated under this By-law, without the Limousine Owner's Plate or sticker for that Limousine attached thereto;
  - (c) operate a Limousine or permit a Limousine to be operated which is not licensed under this By-law;
  - (d) use any Plate or duplicate Plate other than the one issued under this By-law;
  - (e) equip a Limousine with a two-way radio, fare meter, or roof sign;
  - (f) display any advertising on the exterior of the Limousine, except the name of the Limousine company may be affixed to the rear of the Limousine or the rear window in lettering not exceeding two inches, in a manner approved by the Licence Issuer; **(By-law 269-2017)**
  - (g) charge, publish or advertise any fare different than those filed with the Licence Issuer; or **(By-law 269-2017)**
  - (h) Use an App that has not been approved by the Licence Issuer. **(By-law 269-2017)**

## **PART V – LIMOUSINE INSPECTION**

- 8. (1) The Licence Issuer may require at any time, that a Limousine Owner or Limousine Driver submit the Limousine for inspection at an appointed time and place.
- (2) No Limousine Driver or Limousine Owner shall refuse to submit the Limousine for inspection when required, or prevent or hinder the Licence Issuer from inspecting the Limousine, or entering any garage or other building for such purpose.

## **PART VI – LIMOUSINE STANDARDS**

- 9. Every Limousine Owner and Limousine Driver shall:
  - (a) ensure that the Limousine has useable trunk capacity so that the Limousine is capable of accommodating a wheel chair, walker or similar device;

- (b) only use a Limousine that is equipped with air-conditioning and heating in both the driver and passenger compartments;
- (c) only use a Limousine that is equipped with working seatbelts for each occupant of the Motor Vehicle;
- (d) maintain the interior of the Limousine in a clean and tidy condition, including maintaining the interior:
  - (i) free from all dust, dirt, grease, oil, adhesive resin and any other item that can be transferred onto the person, clothing or possessions of a Passenger;
  - (ii) free of all waste paper, cans, garbage or any other item not intrinsic to the operation of the Motor Vehicle;
  - (iii) free of noxious substances;
  - (iv) free of excess wear including tears and cigarette burns in the upholstery;
  - (v) in a dry condition;
  - (vi) in good repair;
  - (vii) with working seat belts;
  - (viii) with side windows designed to open and close;
  - (ix) with every seat securely mounted maintaining its position and adjustment; and
  - (x) with a working dome light;
- (e) maintain the exterior of the Limousine:
  - (i) free from all dust, dirt, grease, oil, adhesive resin and any other item that can be transferred on the Person, clothing or possessions of a Passenger, except water or snow;
  - (ii) in good repair;
  - (iii) free from exterior body damage;
  - (iv) with no missing or removed fender(s), grill or molding;
  - (v) with securely closing doors and trunk lid;
  - (vi) with all handles and catches in good repair;
  - (vii) properly painted or finished; and
  - (viii) with identical wheel coverings and or wheel design.

10. No Motor Vehicle shall be used or permitted to be used if it is older than 9 years. In determining the age of the Motor Vehicle, the model year shall be considered zero.

Example: in the year 2018, a Motor Vehicle with a model year of 2017 is 1 year old.

**(By-law 269-2017)**

## **SCHEDULE 3 – Mobile Licensing By-law**

### **Relating to Persons who carry on the Business of Owners and Operators of Vehicles from which Refreshments are Sold for Consumption by the Public**

**(Amended by By-law 187-2014)**

#### **PART I – DEFINITIONS**

1. For the purposes of this Schedule:

“Refreshment Vehicle Class A” means a Refreshment Vehicle from which the food or refreshments sold are prepared in a commissary or are prepared or apportioned at the Refreshment Vehicle, but which is not exclusively a vendor of factory pre-packaged frozen products;

“Refreshment Vehicle Class B” means a Refreshment Vehicle which is non-motorized and does not require a health certificate from the Region’s Medical Officer of Health because it is exclusively a vendor of factory pre-packaged frozen products;

“Refreshment Vehicle Class C” means a Refreshment Vehicle which is stationary in a permanent location and from which any food or refreshment sold is prepared or apportioned at the Vehicle;

“Refreshment Vehicle Class D” means a motorized Refreshment Vehicle which sells soft or hard ice cream prepared or apportioned at the Vehicle but which is not stationary in a permanent location;

“Refreshment Vehicle Driver” means any Person who drives or operates a Refreshment Vehicle Class A through to and including Class D;

“Refreshment Vehicle Owner” means any Person who is the owner of a Refreshment Vehicle and includes a Person who is leasing a Refreshment Vehicle; and

“Special Event” shall mean an event which is sponsored, authorized or conducted by the City of Brampton, or on behalf of the City of Brampton, or on behalf of a registered not-for-profit or registered charity or other community group with the approval of the City of Brampton.

#### **PART II – REQUIREMENTS FOR LICENSEES**

2. Every Applicant for a Refreshment Vehicle Owner’s Licence Class A, Class C or Class D shall produce from the Medical Officer of Health an approval for the Refreshment Vehicle to which the Licence is to be issued.
3. Every Owner and Driver of a Refreshment Vehicle shall comply with the provisions of this Schedule.
4. Every Owner and Driver of a Refreshment Vehicle shall submit the Refreshment Vehicle for inspection to an Inspector, as determined by the Licence Issuer, at a time and place requested by the Licence Issuer.

#### **PART III – DRIVERS**

5. Every Refreshment Vehicle Driver shall:
  - (a) produce his Licence and a copy of the Owner's Licence when requested to do so by the Licence Issuer, or Inspector; and

- (b) wear clean clothes, be clean and neat in appearance, and have clean hands.
- 6. No Refreshment Vehicle Driver shall:
  - (a) operate a Refreshment Vehicle that has not been issued a valid and current Owner's Licence under authority of this By-law;
  - (b) stop any Refreshment Vehicle to sell refreshments within 100 metres of the entrance or exit to any school grounds, public park, or intersection, or within 30 metres of any school ground, or public park;
  - (c) sell any alcohol or tobacco products from the Refreshment Vehicle; or
  - (d) stop any Refreshment Vehicle within 50 meters of a Fixed Food Premise, as defined in the Business Licensing By-law 332-2013 or its successor.

#### **PART IV – OWNERS**

- 7. Every Refreshment Vehicle Owner shall:
  - (a) take out a separate Licence for each Refreshment Vehicle owned, which is to be used in the City; and
  - (b) ensure that the Owner's Plate is properly affixed to the rear of the Refreshment Vehicle for which it is issued, or in another location, in a manner and position approved by the Licence Issuer.
- 8. No Refreshment Vehicle Owner shall permit an unlicensed Person to operate their Refreshment Vehicle.
- 9. All refreshments sold from a Refreshment Vehicle shall be clean, fresh and wholesome.
- 10. Every Refreshment Vehicle shall be equipped with either of the following containers that are to be used for the disposal of all refuse:
  - (a) a metal refuse container with a self-closing lid which shall be kept at all times in a clean and sanitary condition and emptied at least once daily; or
  - (b) a disposable litter container which shall be replaced daily.
- 11. Every Refreshment Vehicle and all parts and equipment for use in the dispensing of refreshments shall be kept in a clean and sanitary condition and in good repair.
- 12. No Person shall solicit business to a Refreshment Vehicle through the use of any noise-making device.

#### **PART V – CLASS A REFRESHMENT VEHICLES**

- 13. No Class A Refreshment Vehicle Driver shall:
  - (a) sell any refreshments unless they are prepared, assembled and wrapped in a commissary approved by the Medical Officer of Health or are prepared or apportioned at the Refreshment Vehicle;

- (b) stop the Vehicle on a highway to sell refreshments unless servicing a construction site or work crew, and in no case shall the duration of such a stop exceed 10 minutes; or
  - (c) sell refreshments on any property located within the area identified as the Brampton Downtown Development Corporation Area, as indicated on Appendix G, unless a written consent from the Brampton Downtown Development Corporation or its successor corporation is provided to the Licence Issuer.
- 14. Prior to the issuance of the Licence, every Applicant for a Class A Refreshment Vehicle Owner's License shall furnish to the Licence Issuer the source of the supply for the refreshments to be sold from the Vehicle.
- 15. Every Owner of a Class A Refreshment Vehicle shall:
  - (a) notify the Licence Issuer forthwith of any change in the source of the supply for the refreshments to be sold from the Vehicle; and
  - (b) equip the Vehicle with a device that issues an audible warning when the vehicle is placed in reverse gear.
- 16. No Person shall disconnect or disable the device required in Section 15(b).
- 17. No Person shall drive a Refreshment Vehicle that is not equipped with the device required in Section 15(b).
- 18. Every Owner and every Driver of a Class A Refreshment Vehicle shall:
  - (a) refrain from selling or permitting to be sold from the Vehicle any refreshments from a source of supply other than that specified by the Owner to the Licence Issuer;
  - (b) ensure that all condiments, shall be dispensed from containers approved by the Licence Issuer;
  - (c) ensure that only single-service disposable cups, plates, containers, forks, spoons and serviettes provided in dispensers approved by the Licence Issuer or individually wrapped shall be used in the sale of refreshments;
  - (d) ensure that all milk and any cold perishable foodstuffs sold from the Vehicle shall be kept in dry storage at a temperature no higher than 5 degrees Celsius and shall be sold only in individual, disposable containers;
  - (e) ensure that the Vehicle shall be equipped so as to maintain hot prepared foods at a temperature of not less than 66 degrees Celsius and such foods shall be kept so heated;
  - (f) ensure that that the Licensee's phone number is visibly displayed on both sides of the Refreshment Vehicle; and
  - (g) ensure that all sandwiches, cakes, doughnuts, hot dogs, hamburgers, pies, and other similar foods prepared at a commissary shall be wrapped and sold in individual servings, and the date of preparation or expiry shall be clearly and legibly marked as such on or affixed to the wrapper of all such foods.
- 19. Where following an inspection under section 4 an Inspector does not approve a Class A Refreshment Vehicle, the Owner shall remove and

return to the Licence Issuer the Owner's Plate and the Owner shall not operate the Vehicle until the Owner obtains and produces to the Licence Issuer the appropriate approval from the Inspector.

20. No Person shall obstruct an Inspector conducting an inspection, or withhold, destroy, conceal or refuse to furnish any information or thing required by the Inspector for the purpose of the inspection.
21. No Owner or Driver of a Class A Refreshment Vehicle shall permit or allow any Person other than a licensed Driver employed by the Owner to drive the Refreshment Vehicle.
22. Every Class A Refreshment Vehicle shall:
  - (a) be of sufficiently sound construction to provide reasonable protection against dust, dirt, flies, and other injurious matter or things;
  - (b) have a light coloured interior, and shall be repainted or refinished as often as the Licence Issuer may require; and
  - (c) have all surfaces covered with a suitable impervious material, free of holes, cracks or crevices, and the surface thereof shall be readily washable and shall be kept clean and in good condition.

#### **PART VI – CLASS B REFRESHMENT VEHICLES**

23. All Drivers of Class B Refreshment Vehicles shall observe and obey the rules of the road and ensure that their vehicles are operated in a safe manner.
24. No Drivers of a Class B Refreshment Vehicle shall:
  - (a) stop on a highway to sell refreshments unless servicing a construction site or work crew, and in no case shall the duration of such stop exceed 10 minutes; or
  - (b) operate in such a fashion which impedes the flow of vehicular traffic.
25. Every Owner of a Class B Refreshment Vehicle shall ensure that:
  - (a) the Driver of such Vehicle is physically capable of handling the same under all conditions;
  - (b) the registered business name of the Owner is displayed on both sides of the Refreshment Vehicle or on another location as approved in advance by the Licence Issuer in letters and numbers at least 18 centimetres in height and in a colour that contrasts with the background colour so as to be plainly visible in its entirety at all times;
  - (c) only single serving individually wrapped items are provided in dispensers approved by the Licence Issuer; and
  - (d) a temperature no higher than -15 degrees Celsius is maintained in the storage area.
26. No Owner of a Class B Refreshment Vehicle shall:
  - (a) operate or allow a Vehicle to be operated unless the body of the Vehicle is of sound construction so as to provide reasonable

protection against dust, dirt, insects and other injurious matters or things;

- (b) operate or allow the Vehicle to be operated unless the storage shelves are clean and covered with suitably hard material;
  - (c) operate or allow an individual to operate the Vehicle where the refreshments are thawed or partially thawed or with products which have been refrozen; or
  - (d) allow more than 1 individual at any one time, to operate the Vehicle.
27. Class B Refreshment Vehicles shall not operate before 8:00 AM or after 9:00 PM, unless authorized by the City.
28. Every Owner and Driver of a Class B Refreshment Vehicle shall submit the Vehicle for inspection at any time and at an appointed place when requested by the Licence Issuer.
29. Where following an inspection under section 4 an Inspector does not approve a Class B Refreshment Vehicle the Owner shall remove and return to the Licence Issuer the Owner's Plate and the Owner shall not operate the Vehicle until the Owner obtains and produces evidence to the Licence Issuer that approval by the Inspector has been given.
30. No Person shall obstruct an Inspector conducting an inspection, or withhold, destroy, conceal or refuse to furnish any information or thing required by the Inspector for the purpose of the inspection.

#### **PART VII – CLASS C REFRESHMENT VEHICLES**

31. No Refreshment Vehicle Driver of a Class C Refreshment Vehicle shall:
- (a) locate, or sell refreshments, on any property without the written permission of the property owner or occupant, clearly identifying the location and zoning of the property and confirmation from the occupant of the property that the licensee has full access to the washroom facilities; or
  - (b) sell refreshments on any property located within the area identified as the Brampton Downtown Development Corporation Area, as indicated on Appendix G, unless a written consent from the Brampton Downtown Development Corporation or its successor is provided to the Licence Issuer.
32. Every Owner of a Class C Refreshment Vehicle shall ensure that the registered business name of the Refreshment Vehicle Owner is displayed on both sides of the Refreshment Vehicle or on another location as approved in advance by the Licence Issuer in letters and numbers at least 18 centimetres in height and in a colour that contrasts with the background colour so as to be plainly visible in its entirety at all times.
33. Every Owner and every Driver of a Class C Refreshment Vehicle shall ensure that:
- (a) all condiments, shall be dispensed from containers approved by the Licence Issuer;
  - (b) only single-service disposable cups, plates, containers, forks, spoons and serviettes provided in dispensers approved by the

Licence Issuer or individually wrapped shall be used in the sale of refreshments;

- (c) all milk and any cold perishable foodstuffs sold from the Vehicle shall be kept in dry storage at a temperature no higher than 5 degrees Celsius and shall be sold only in individual, disposable containers;
  - (d) the Vehicle shall be equipped so as to maintain hot prepared foods at a temperature of not less than 66 degrees Celsius and such foods shall be kept so heated;
  - (e) no prepared foods other than those kept in unopened cans shall be sold more than 24 hours after their preparation; and
  - (f) when requested by the Licence Issuer, submit the Vehicle for inspection at any time and at an appointed place.
34. Where following an inspection under section 4 an Inspector does not approve a Class C Refreshment Vehicle the Owner shall remove and return to the Licence Issuer the Owner's Plate and the Owner shall not operate the Class C Refreshment Vehicle until the Owner obtains and produces evidence to the Licence Issuer that approval by the Inspector has been given.
35. No Person shall obstruct an Inspector conducting an inspection, or withhold, destroy, conceal or refuse to furnish any information or thing required by the Inspector for the purpose of the inspection.
36. Every Class C Refreshment Vehicle equipped with propane shall also be equipped with a fire extinguisher having a minimum 2A/10BC rating and shall be tagged confirming annual maintenance and required monthly checks.

#### **PART VIII – CLASS D REFRESHMENT VEHICLES**

37. Every Class D Refreshment Vehicle Driver shall:
- (a) keep the interior of the Vehicle clean, and in good repair;
  - (b) clean up any debris, refuse or garbage resulting from the operation of the Vehicle in the immediate vicinity of the serving location for the Vehicle;
  - (c) make a complete safety tour around the Vehicle and check the mirror system around the Vehicle before departing from any stop made for the purpose of selling articles for sale; and
  - (d) refuse to serve any customer standing on a Highway.
38. No Class D Refreshment Vehicle Driver shall:
- (a) stop on a highway to sell refreshments unless servicing a construction site or work crew, and in no case shall the duration of such stop exceed 10 minutes;
  - (b) stop to sell refreshments on any property zoned residential;
  - (c) operate a Vehicle on private property without written permission of the property Owner; or
  - (d) operate a Vehicle between the hours of 10:00 p.m. of one day and

10:00 a.m. of the next day unless authorized by the City.

39. Every Owner and Driver of a Class D Refreshment Vehicle shall ensure that:
- (a) the Vehicle has in a conspicuous place on the rear of the Vehicle in a contrasting colour on the Vehicle the words "Watch for Children". Such letters shall be no less than 15 cm in height;
  - (b) all condiments, are be dispensed from containers approved by the Licence Issuer;
  - (c) only single-service disposable cups, plates, containers, forks, spoons and serviettes provided in dispensers approved by the Licence Issuer or individually wrapped shall be used in the sale of refreshments;
  - (d) all milk and any cold perishable foodstuffs sold from the vehicle shall be kept in dry storage at a temperature no higher than 5 degrees Celsius and shall be sold only in individual, disposable containers;
  - (e) no prepared foods other than those kept in unopened cans shall be sold more than 24 hours after their preparation;
  - (f) two amber lights are attached at the top or near the highest point of the Vehicle and must be at least visible by a Person 1.52 metres in height at a distance of not more than 1.2 metres in front of or behind the Vehicle, and the Vehicle shall be equipped with a mechanical device causing such amber lights to flash alternately at all times when the Vehicle is stopped to sell articles for sale and such device shall be so operated at all such times;
  - (g) a cover is attached over each of its bumpers which shall be on a curve or angle to prevent a Person from standing, stepping on or hanging from the bumpers;
  - (h) the Vehicle is equipped with a "Mirror System" which makes it possible for the Driver to complete a 360 degree visual inspection of the area around the Vehicle;
  - (i) the body, doors and windows of the Vehicle are of sufficient sound construction to provide reasonable protection against dust, dirt, flies and other injurious matter or things;
  - (j) the Vehicle has a floor made of a suitable impervious material, free of holes, cracks or crevices, and the surface thereof shall be readily washable and shall be kept clean and in good condition;
  - (k) the Vehicle has storage shelves painted or consisting of a suitable impervious material;
  - (l) all parts and equipment are maintained in a clean and sanitary condition and in good repair;
  - (m) a storage area for hard ice cream and related products is maintained at a temperature no higher than -15 degrees Celsius and equipped with an accurate thermometer;
  - (n) hard ice cream and related products are maintained in a hard condition in the Vehicle at all times and no thawed, or partially

thawed products shall be refrozen, stored or sold from the Vehicle;  
and

- (o) there is adequate insulation to prevent fumes from the engine or engines from reaching the vending and dispensing section of the Vehicle.
40. Where following an inspection under section 4 an Inspector does not approve a Class D Refreshment Vehicle the Owner shall remove and return to the Licence Issuer the Owner's Plate and the Owner shall not operate Vehicle until the Owner obtains and produces evidence to the Licence Issuer that approval by the Inspector has been given.
41. No Person shall obstruct an Inspector conducting an inspection, or withhold, destroy, conceal or refuse to furnish any information or thing required by the Inspector for the purpose of the inspection.
42. No Class D Refreshment Vehicle Owner or Driver shall operate or permit the vehicle to be operated unless all of the following equipment is present on or in the Vehicle and is in a good state of repair:
- (a) a portable litter basket which shall be carried inside the Vehicle while in motion and shall be suspended from the outside of the Vehicle in such a position so as to be easily accessible by Persons making purchases while the Vehicle is stopped for the purpose of Selling Articles for Sale;
  - (b) two sinks of adequate size and non-corrodible material equipped with hot running water;
  - (c) a tank to receive sink wastes;
  - (d) a refrigerated cabinet for storage of ice cream mix and other milk products which cabinet shall be maintained at a temperature no higher than 5 degrees Celsius and shall be equipped with an accurate, indicating thermometer;
  - (e) storage for dry products, sundae toppings, and syrups, which storage shall be easily cleanable and where necessary of a type readily dismantled for cleaning;
  - (f) all dispensing equipment, whether for dry cones, single service be emptied and sterilized each night;
  - (g) mechanical air-conditioning in the vending and dispensing part of the Vehicle;
  - (h) screens or other devices to ensure adequate protection against flies and dust; and
  - (i) a diesel generator for the refrigeration system of the Vehicle.
43. Every Owner of a Class D Refreshment Vehicle shall equip the Vehicle with a device that issues an audible warning when the Vehicle is placed in reverse gear.
44. No person shall disconnect or disable the device required in Section 43.
45. No person shall drive a Class D Refreshment Vehicle that is not equipped with the device required in Section 43.

46. No Owner or Driver of a Class D Refreshment Vehicle shall permit or allow any Person other than a licensed Driver employed by the Owner to drive the Vehicle.
47. Notwithstanding any other provision in this By-law, a Class D Refreshment Vehicle may sell soft or hand ice cream in a public park subject to the following:
  - (a) that the Licensee has entered into a signed agreement with the City of Brampton;
  - (b) that the site specific location from which the Vehicle is permitted to sell be approved by the Chief Public Services Officer, or his or her delegate and form part of the agreement with the City of Brampton;
  - (c) that the hours of operation form part of the agreement with the City of Brampton; and
  - (d) no Driver shall sell or offer for sale refreshments in contravention of the signed agreement with the City of Brampton.

#### **PART IX – SPECIAL EVENT LICENCES**

48. Where a Refreshment Vehicle is required to be used at a Special Event, the Owner shall obtain a Special Event Licence.
49. The provisions of Section 48 do not apply to a Refreshment Vehicle Owner or Driver who hold a valid and current Refreshment Vehicle Owner or Driver Licence issued by the City.
- 50.(1) A Licence may be issued in conjunction with a Special Event; provided all relevant criteria of this By-law are met.
  - (2) An Applicant for a Licence issued in conjunction with a Special Event shall file with the License Issuer a letter from the Special Event Organizer confirming that the Refreshment Vehicle will operate in conjunction with the Special Event, and indicating where and when the Special Event will occur.
  - (3) A Licence issued in conjunction with a Special Event is valid only for the duration of the Special Event, and where the Special Event occurs periodically throughout the year, the Licence is valid only on those periodic occasions.
  - (4) Notwithstanding Subsections 6. (b), 31. (a) and (b) a person who holds a Licence with respect to a Special Event may sell refreshments on the property on which the Special Event occurs.

## **SCHEDULE 4 – Mobile Licensing By-law**

### **Relating to Persons who carry on the Business of Taxicab Owners and Drivers and Taxicab Brokers**

**(Amended by By-laws 251-2016, 269-2017, 154-2019, 96-2022)**

#### **PART I – DEFINITIONS**

1. For the purposes of this Schedule:

"Accessible Taxicab" means an Accessible Motor Vehicle that provides dedicated service for the transportation of disabled Passengers and/or goods for hire or reward;

"Accessible Taxicab Plate" means a metal number Plate issued to a Person licensed as a Plate Owner with respect to an Accessible Motor Vehicle;

"Accessible Motor Vehicle" means a Motor Vehicle originally constructed or subsequently modified to permit the loading, transportation and off-loading without Transfer of Persons confined to a wheelchair or other similar device used to assist the Disabled, and which Motor Vehicles comply with all relevant provincial legislation;

"Airport Permitted Taxicabs" means those Taxicabs operating under a concession agreement at Toronto Pearson International Airport;

"Conditional Licence Renewal – No Vehicle" means a licence issued in accordance with Part XXVIII of this By-law.

"Broker" means any Person who carries on the business of accepting calls and dispatching Taxicabs including those belonging to the Broker;

"Disabled" means a person who requires the use of an Accessible Taxicab or an Accessible Motor Vehicle that is licensed as a Taxicab for transportation;

"Dispatch" means the communication given in any manner of an order or information in any manner to a Driver;

"Dispatcher" any Person who is employed by a licensed Broker and Dispatches Taxicabs for a brokerage;

"Driver" means any person who drives an Accessible Taxicab or a Taxicab;

"Fare" means the amount displayed on the Taxicab Meter at the conclusion of a Trip, or the flat rate allowed pursuant to this By-law for the Trip, together with any additional charges allowed pursuant to this By-law;

"Lease" means any contract, agreement, understanding or other arrangement whereby a Plate Owner permits another Person to manage, operate, control, have custody of, or otherwise employ his or her Taxicab Plate, and "to Lease a Plate" includes the act of any Plate Owner entering into or becoming a party to such a contract, agreement, understanding or other arrangement. Without limiting the generality of this paragraph, Lease includes a power of attorney, management contract, "cash-in" agreement, and any other arrangement or agreement whereby any Person other than a Plate

Owner or designated custodian is allowed to exercise or does exercise any of the rights set out in this definition;

“Lessee” means, when used in reference to a Taxicab Plate or to a Lease of a Taxicab Plate, any Person who enters into or is a party to a Lease with a Taxicab Owner;

“Lessor” means, when used in reference to a Taxicab Plate or to the Lease of a Taxicab Plate, a Plate Owner who enters into or is a party to a Lease of his or her Taxicab Plate;

"Meter" means a measuring device used in a Taxicab to calculate the Fare payable for the Trip;

“Non-active Driver” – **Deleted (By-law 96-2022)**

“Office Manager” refers to any Person who is employed by a licensed Broker who operates, manages, runs or controls the Taxicab brokerage;

“Plate Owner” means the Owner of a Taxicab Plate or Accessible Taxicab Plate and includes any Lessee of that Plate;

"Priority List" means a list of Applicants for a Plate Owner's Licence which is maintained by the Licence Issuer;

“Spouse” – **Deleted (By-law 96-2022)**

"Tariff Card" means a card, issued by the City of Brampton showing the rates, as approved by Council;

"Taxicab" means a Motor Vehicle used for the transport of goods and/or Passengers for hire or reward with a minimum of 4 Passenger doors and includes an Accessible Motor Vehicle;

"Taxicab Stand" or “Stand” means an area designated by the property owner and approved by the Licence Issuer to be used by a Taxicab while waiting for or picking up goods or Passengers;

"Transfer" means an arrangement between a Plate Owner and another, whereby the Plate Owner permanently assigns all interest in the Plate to the other;

"Trip" means the distance and time travelled or the distance and time to be travelled, measured from the time and point at which the Passenger first enters the Taxicab to the point at which the Passenger finally leaves the Taxicab;

"Trip Record" means a daily written or electronic record of the details of each Trip; and

“Unlicensed Motor Vehicle” means a Motor Vehicle that is not licensed by the City of Brampton.

## **PART II – GENERAL**

2. (1) No corporation may be licensed as a Driver pursuant to this By-law.

(2) **Amended (By-law 269-2017) Deleted (By-law 96-2022)**

(3) **Deleted (By-law 251-2016)**

- (4) Deleted (By-law 251-2016)
  - (5) Deleted (By-law 251-2016)
  - (6) Deleted (By-law 96-2022)
  - (7) Deleted (By-law 96-2022)
  - (8) Deleted (By-law 96-2022)
  - (9) Deleted (By-law 96-2022)
  - (10) Deleted (By-law 96-2022)
3. A replacement Plate may be issued to replace a Plate if the Owner satisfactorily accounts for the circumstances of loss of the original Plate to the Licence Issuer and pays the cost of a replacement Plate.

### **PART III – SPECIAL REQUIREMENTS REGARDING ACCESSIBLE TAXICABS**

- 4. The total number of Accessible Taxicab Plates shall be limited to 12 unless otherwise determined by Council.
- 5. Every Accessible Taxicab shall be affiliated with a Taxicab Brokerage.
- 6. An Accessible Taxicab Plate may be Transferred in accordance with the provisions of Sections 28, 29, 30 and 31 of this Schedule, the provisions of which apply to such a Transfer.
- 7. Every Accessible Taxicab Driver, Owner and Lessee is subject to the provisions of this By-law and Schedule, unless these conflict with the specific provisions of the Accessible Taxicab sections, in which case the specific provisions of the Accessible Taxicab sections shall prevail.
  - 7.1 Every Driver of an Accessible Taxicab shall:
    - (a) Be a Driver;
    - (b) Submit proof of successful completion of a training program dealing with transportation of the disabled as approved by the Licence issuer; and
    - (c) Produce to the Licence Issuer his or her Taxicab Driver Licence for endorsement as a Licensed Accessible Taxicab Driver by the Licence Issuer.
- (By-law 269-2017)
- 8. Every Driver of an Accessible Taxicab shall securely fasten all wheelchairs so that they are prevented from moving when in motion.

### **PART IV – DRIVERS**

- 9. Every Driver shall:
  - (a) before operating a Taxicab or Accessible Taxicab examine the Motor Vehicle for mechanical defects, and interior and exterior damage to the Motor Vehicle, and report forthwith any defects found to the Owner of the Taxicab or Accessible Taxicab and the Broker;
  - (b) each day upon completion of the operation of a Taxicab or Accessible Taxicab, return the Motor Vehicle to the Driver's employer and examine the Motor Vehicle as provided above

and report all defects in the Motor Vehicle and all collisions to the Taxicab or Accessible Taxicab Owner and the Broker;

- (c) carry the Taxicab Drivers Licence issued under this By-law and the driver's licence issued under the *Highway Traffic Act R.S.O. 1990, c.H.8* as amended, with him at all times when operating a licensed Motor Vehicle;
  - (d) maintain good grooming, and proper hygiene;
  - (e) behave courteously;
  - (f) provide Passengers with a receipt showing the Driver's name, Licence number and an identifying number for the Taxicab or Accessible Taxicab whenever requested or whenever there is a dispute over the Fare;
  - (g) display the Driver's photograph card in the holder provided;
  - (h) take the shortest possible route to the destination desired by the Passenger, unless the Passenger designates otherwise;
  - (i) serve the first Person requiring the service of the Taxicab or Accessible Taxicab and take the Passenger to any place within the City of Brampton, at any time of the day or night;
  - (j) punctually keep all appointments, and shall not make any new appointment if a previous engagement would prevent the fulfilling of the new appointment;
  - (k) immediately engage the Meter when a Passenger first enters the Taxicab or Accessible Taxicab, which Meter shall remain engaged throughout the Trip except where the destination of a Trip extends beyond the boundaries of the City of Brampton, in which case the driver may offer a flat rate agreement before the Trip to the Passenger and where the Passenger and Driver agree the Meter must be engaged while the Taxicab or Accessible Taxicab is within the City of Brampton;
  - (l) at the conclusion of a Trip, charge only the Fare shown on the Meter, which shall be brought to the Passenger's attention when in the hold position, except that between the hours of 8:00 pm and 6:00 am the Driver may require a deposit not exceeding \$20.00 or the estimated cost of the Trip which-ever is less; and
  - (m) Subsections 9. (k) and 9. (l) do not apply to Airport Permitted Taxicabs when the Trip originates from the Arrivals areas of Toronto Pearson International Airport or is going to the Departure areas of Toronto Pearson International Airport. The Greater Toronto Airport Authority current flat rates shall apply.
10. When a Driver uses a Taxicab or Accessible Taxicab for transportation of Passengers or goods not for hire or reward, the Driver must:
- (a) remove the roof sign from the Taxicab or Accessible Taxicab; and
  - (b) put the Meter in a non-recording mode.

11. No Driver shall:
- (a) drive an Unlicensed Motor Vehicle;
  - (b) carry in the Taxicab or Accessible Taxicab a greater number of Passengers than set out in the manufacturers rating of seating for the Taxicab or Accessible Taxicab;
  - (c) drive a Taxicab or Accessible Taxicab with luggage or any object placed in, hung on, or attached to the Taxicab or Accessible Taxicab in such a manner as may obstruct the Driver's view of the highway;
  - (d) take, consume or have in his or her possession any alcohol, drugs or intoxicants while in charge of a Taxicab or Accessible Taxicab;
  - (e) take on any additional Passenger(s) except with permission of the Passenger(s) already in the Taxicab or Accessible Taxicab;
  - (f) induce any Person to engage the Taxicab or Accessible Taxicab by any misleading or deceiving statement or representation about the location or distance to any destination;
  - (g) publish or use any tariff other than the tariff which has been authorized by this By-law;
  - (h) recover or receive any Fare or charge from any Passenger or Person who has demanded their services which is greater or lesser than the Fare or charge authorized by this By-law except for a tip, gratuity or credit card service charge;
  - (i) recover or receive any Fare or charge from any Passenger who has not been shown the Tariff Card;
  - (j) make any charge under this By-law for time lost through defects or inefficiency of the Taxicab or Accessible Taxicab or the incompetence of the Driver;
  - (k) make any charge for the time elapsed due to early arrival of the Taxicab or Accessible Taxicab in response to a call to arrive at a fixed time;
  - (l) wash a Taxicab or Accessible Taxicab at a public place;
  - (m) make repairs to a Taxicab or Accessible Taxicab which is in a public place, unless such repairs are immediately necessary;
  - (n) be required to accept a Fare where a Person is disorderly, refuses to give his or her destination or refuses to pay any deposit as required by this bylaw;
  - (o) refuse to serve a Person with a service animal, except where:
    - (i) the Driver has an allergy, and has filed with the Licence Issuer a certificate from his doctor evidencing that due to the allergy the Driver is unable to provide service to a Passenger with a service animal; and
    - (ii) when the Driver is unable to service a Person for the reason set out in subsection 11(o)(i), the Driver shall

make proper arrangements for service before proceeding to his or her next engagement;

- (p) be required to accept an order from a Person who owes a previous Fare or service;
- (q) obstruct or interfere with the traffic pattern at a public place; or
- (r) smoke or permit anyone to smoke in the Taxicab or Accessible Taxicab.

#### **PART V – PLATE OWNERS**

12. Every Taxicab or Accessible Taxicab Owner shall:
- (a) employ or use only the services of licensed Drivers;
  - (b) submit the Taxicab or Accessible Taxicab for inspection and approval by the Licence Issuer when Transferring a current Plate to a new Motor Vehicle; and
  - (c) ensure that any Plate issued under this By-law is affixed to the Taxicab or Accessible Taxicab in a manner and location approved by the Licence Issuer;
13. No Taxicab or Accessible Taxicab Owner shall:
- (a) use a cancelled Plate; or
  - (b) operate a Taxicab or Accessible Taxicab without a Plate or with an illegible Plate.

#### **PART VI – DRIVERS AND PLATE OWNERS**

14. No Person shall operate or permit to be operated any Taxicab or Accessible Taxicab that is not in good mechanical condition.
15. Every Driver shall keep at all times the original or a photocopy of the current Plate Owner's Licence in the Taxicab or Accessible Taxicab to which it pertains.
16. No Person licensed to drive a Taxicab or Accessible Taxicab shall drive more than an average of 12 hours per day calculated over any 7 day period.
17. Any Person with a Taxicab Driver's Licence shall immediately report any suspension of his or her Ontario driver's licence to the Licence Issuer.
18. No Person shall be permitted to have exclusive rights to or enter into or become a party to any exclusive concession agreement for any Taxicab Stand in the City.

#### **PART VII – DESIGNATED AGENT/MANAGER**

19. (1) No Person shall act as an agent for a Plate Owner in respect of a Taxicab or Accessible Taxicab except as permitted by this section.

- (2) A Taxicab or Accessible Taxicab Owner may designate as an agent to operate the Plate on the Plate Owner's behalf, any Person who is a licensed Driver, Plate Owner or Broker.
- (3) A notice of designated agent shall include:
  - (a) the full name of the Taxicab or Accessible Taxicab Owner;
  - (b) the number of the Licence and Plate(s) for the Taxicab or Accessible Taxicab to which such designation relates;
  - (c) the term for which the Person designated therein is granted authority by the Plate Owner in respect of the Taxicab or Accessible Taxicab; and
  - (d) the terms of the agency agreement, including any consideration paid therefore.
- (4) If the authority of an agent designated under this section terminates before the end of the term set out in the notice of designated agent, the Taxicab or Accessible Taxicab Owner shall forthwith file a written notice thereof with the Licence Issuer, and for the purposes of this By-law, the obligations and requirements applicable to such authorized agent shall cease upon the filing of such notice.
- (5) The designation of an agent by a Taxicab or Accessible Taxicab Owner pursuant to this section shall not be deemed to be a Lease for the purposes of this By-law unless the agent operates the Taxicab or Accessible Taxicab, in which case the provisions of this By-law shall apply.

#### **PART VIII – LEASE OF PLATE**

- 20. Except as provided for in this Part, no Taxicab or Accessible Taxicab Owner shall Lease his or her Taxicab Plate.
- 21. Every Lessee must meet all requirements of this By-law pertaining to Plate Owners, and must provide the Licence Issuer with any documents required by this By-law.
- 22. A Plate Owner or his or her designated agent may Lease his or her Taxicab or Accessible Taxicab Plate, provided that:
  - (a) if the Lessee is a corporation all of the corporate requirements under this By-law are met;
  - (b) **Deleted (By-law 96-2022)**
  - (c) the Motor Vehicle to be Plated is submitted for inspection and meets the requirements of this By-law and the Plate issued to such Plate Owner, affixed to the Taxicab or Accessible Taxicab, is included in the subject-matter of the Lease, and remains affixed thereto throughout the term of the Lease;
  - (d) the Lease provides that it may be terminated by either party on giving the other party an agreed upon period of time in writing to the termination date;
  - (e) the Lease is reduced to writing and signed by the parties thereto; and

- (f) a written Lease is filed with the Licence Issuer on the first day upon which it comes into effect, or the day upon which the exercise of any rights or obligations pursuant thereto, takes place or becomes effective, whichever occurs first.
23. The written Lease may be in a form approved by Licence Issuer, or may be in any form agreed to by the parties thereto, provided that it complies with this By-law, and discloses and gives full particulars of:
- (a) the date of its execution;
  - (b) the names of the parties thereto; **(By-law 96-2022)**
  - (c) its effective date;
  - (d) its termination date;
  - (e) full particulars of the consideration given by each party to the Lease, including the amount of the leasing fee or rental and a breakdown of all other amounts to be paid by the Lessee to the Lessor arising out of the Lease, together with a list of all services, rights or other consideration given to the Lessee by the Lessor in return therefor; and
  - (f) full particulars as to the responsibility of the parties for the maintenance, repairs, gas and oil for the Taxicab or Accessible Taxicab, and any requirements as to where and how any such repairs or purchases are to be made and as to payment therefor.
24. Every Owner shall notify the Licence Issuer in writing of the expiration or other sooner termination of any Lease to which he or she is a party, or of any change in custody and control over his or her Plate, forthwith after the expiration or cancellation of the Lease, or the change, has occurred. Such notice shall include any notice of designation or new Lease entered into by the Plate Owner with respect to his or her Plate, and a statement as to the identity of the party having custody and control over the Plate at that time, and of any person managing or operating the Plate.

## **PART IX – BROKERS**

25. Every Broker shall:
- (a) maintain a permanent business office within the City of Brampton;
  - (b) require all Plate Owners, Lessees and Drivers who have entered into arrangements with the Broker for the provisions of brokerage services to use a design of roof sign approved by the Licence Issuer;
  - (c) provide the Licence Issuer with a list of all Plate Owners to whom the Broker Dispatches or with whom the Broker has entered into any arrangement for services. Such list shall include every Taxicab and Accessible Taxicab to whom the Broker Dispatches and shall identify all Motor Vehicle Plate numbers;
  - (d) notify the Licence Issuer, in writing, within 3 days of any additions to or deletions from the list provided above;

- (e) provide the Licence Issuer with the number of completed Dispatched Trips for the previous year by March 1<sup>st</sup> of the following year;
  - (f) **Deleted (By-law 154-2019)**
  - (g) not accept calls for, or in any way Dispatch or direct calls to Unlicensed Motor Vehicles;
  - (h) not accept calls for, or in any way Dispatch or direct calls to a Taxicab or Accessible Taxicabs where the activity would be an illegal or an unlawful act;
  - (i) supply the Licence Issuer with a copy of the Broker's Federal Radio License "call" sign and frequency number;
  - (j) inform customers of the approximate time of day where delay is anticipated before accepting the order;
  - (k) dispatch only to licensed Drivers;
  - (l) when Dispatching to Accessible Taxicabs, keep accurate records of the number of Trips each has made for Disabled and non-Disabled Passengers which shall be available for inspection by the Licence Issuer on a monthly basis;
  - (m) ensure that where one or more Accessible Taxicabs are affiliated with the Broker, there is a least one Accessible Taxicab available to service an order for a Disabled Passenger anytime day or night;
  - (n) where service requested is of a type which would require an Accessible Taxicab and the Broker is unable to provide such service, direct the Person requesting such service to a Broker that can provide such service;
  - (o) where the Broker provides Accessible Taxicabs and such service is requested by a Disabled Person, provide priority service for such request; and
  - (p) ensure prompt and courteous service to the public.
26. No Broker shall be compelled to accept an order from a Person who has not made payment for any previous Trip.

#### **PART X – PLATE OWNER OR LESSEE TERMINATION WITH BROKER**

27. Where a Plate Owner ceases to operate through a Broker, the Plate Owner shall forthwith:
- (a) remove from the Taxicab or Accessible Taxicab:
    - (i) the roof sign, telephone number;
    - (ii) colour scheme, any decals or other Broker markings; and
    - (iii) the radio frequency for the Broker they have ceased to operate through and they shall provide proof of this action to the Licence Issuer;

- (b) return all business cards and other equipment belonging to the Broker; and
- (c) erase any Brokerage data from any mobile data terminal (MDT) or return the MDT to the Brokerage.

## **PART XI – TRANSFER**

- 28. No Plate shall be Transferred except with the written consent of the Licence Issuer.
- 29. Every Owner who Transfers their Licence shall:
  - (a) complete and file a declaration, in the form provided by the Licence Issuer;
  - (b) provide to the Licence Issuer a fully executed copy of the complete Transfer agreement with respect to the Plate being Transferred; and
  - (c) return to the Licence Issuer the Owner's Licence and Plate which are being Transferred.
- 30. No Licence may be Transferred to any Person who does not meet all other relevant requirements of this By-law.
- 31. **Deleted (By-law 96-2022)**

## **PART XII – DISPOSAL OF TAXICAB OR ACCESSIBLE TAXICAB**

- 32. (1) Where the Plate Owner ceases to Operate a Taxicab or Accessible Taxicab, it must be converted to a Motor Vehicle without Taxicab or Accessible Taxicab identification by removing:
  - (a) the roof sign with indicator light;
  - (b) the Meter;
  - (c) all identifying decals or markings;
  - (d) fender numbers; and
  - (e) any other markings, which would identify the Motor Vehicle as a Taxicab or Accessible Taxicab.
- (2) Where a Motor Vehicle ceases to be operated as a Taxicab or Accessible Taxicab, the Plate Owner shall immediately notify the Licence Issuer.

## **PART XIII – TAXICAB STANDS**

- 33. Every Driver shall:
  - (a) enter only at the end of the line when entering a line of Taxicab or Accessible Taxicabs at a Stand;
  - (b) direct the Person to the first Taxicab or Accessible Taxicab in line if a Person enters a Taxicab or Accessible Taxicab which is not the first Taxicab or Accessible Taxicab in line at the Stand;

- (c) stay sufficiently close to the Taxicab or Accessible Taxicab in line at a Stand to have it under constant observation; and
  - (d) when next in line at a Stand, advance his or her Taxicab or Accessible Taxicab when a vacancy occurs at the Stand.
34. No Driver shall:
- (a) wash a Taxicab or Accessible Taxicab at a Stand;
  - (b) make repairs to a Taxicab or Accessible Taxicab, which is in line at a Stand, unless such repairs are immediately necessary;
  - (c) allow a Taxicab or Accessible Taxicab to push or bump any other Taxicab or Accessible Taxicab;
  - (d) Pick up any Passenger within 200 metres of a Stand when there is a Taxicab or Accessible Taxicab at the Stand, unless the Driver has previously arranged to pick up the Passenger at that location; or
  - (e) Obstruct or interfere with the traffic pattern at a Taxicab Stand.

**PART XIV – MOTOR VEHICLE MARKINGS, EQUIPMENT AND MAINTENANCE (Amended by By-law 230-2016)**

35. (1) Each of the following is mandatory equipment for any Taxicab or Accessible Taxicab:
- (a) if the Taxicab is not an Accessible Taxicab, a roof sign with indicator light in a mode of operation approved by the Licence Issuer;
  - (b) if the Driver of the Taxicab or Accessible Taxicab is affiliated with a Broker, the Broker's name on the roof sign;
  - (c) if the Driver of the Taxicab or Accessible Taxicab is not affiliated with a Broker, the roof sign must indicate that the Motor Vehicle is a Taxicab or Accessible Taxicab, and be approved by the Licence Issuer;
  - (d) the Plate number affixed to the front fenders as approved by the Licence Issuer. The numbers shall be six inches in height, either black or white in colour. **(By-law 154-2019)**
  - (e) a Meter;
  - (f) equipment to permit the Driver to accept major credit card or debit card payments;
  - (g) if the Taxicab or Accessible Taxicab is powered by propane or natural gas, a valid sticker or certificate affixed to the windshield and in plain view;
  - (h) no smoking signs;
  - (i) **Deleted (By-law 119-2021)**
  - (j) **Deleted (By-law 154-2019)**

- (k) 2 decals approved by the Licence Issuer stating that photographic images of Passengers in the Taxicab or Accessible Taxicab are being recorded;
  - (l) **Deleted (By-law 154-2019)**
  - (m) identical wheel coverings and or wheel design; and
  - (n) an operable air conditioning and heating system
- (2) It is an offence for any Driver to drive, or permit to be driven any Taxicab or Accessible Taxicab without the mandatory equipment set out in Section 35(1) or with equipment that is not in good working order.
- (3) Where the Licence Issuer believes a licensed Taxicab or Accessible Taxicab may be mechanically defective or unsafe, the Licence Issuer may require the Plate Owner or Driver to submit the Taxicab or Accessible Taxicab for inspection by the Licence Issuer, or for examination by a qualified mechanic, or the Licence Issuer may remove the Plate and require the Owner or Driver to submit the Motor Vehicle forthwith for examination by a mechanic.
- (4) If the Licence Issuer is not satisfied with an inspection, he or she may require the Taxicab or Accessible Taxicab to be re-examined by a mechanic of the Licence Issuer's choice.
- (5) No person shall drive or permit to be driven a Taxicab or Accessible Taxicab with after-market tint or window marking that is not approved by the Licence Issuer.
- (6) The licensed Taxicab or Accessible Taxicab must have useable trunk capacity such that the Motor Vehicle is capable of accommodating a wheelchair, walker or similar device used to aid the Disabled.
- (7) No Motor Vehicle shall be initially licensed under this By-law as a Taxicab or Accessible Taxicab unless the model year of the Motor Vehicle is not older than seven (7) model years. In determining the age of the Motor Vehicle, the model year shall be considered zero. **(By-law 119-2021)**  
 Example: in the year 2010, a Motor Vehicle with a model year of 2009 is 1 year old.  
**(By-law 269-2017)**
- (8) (i) A Plate Owner may apply for an extension of up to four (4) years on the model year for a Motor Vehicle licensed under this By-law as a Taxicab provided the appropriate fee is paid, the Taxicab meets all of the Motor Vehicle marking, equipment and maintenance provisions of this By-law, and the Motor Vehicle successfully completes all inspections as required by the Licence Issuer. **(By-laws 230-2016, 119-2021)**
- (ii) A Plate Owner may apply for an extension of up to 4 years on the model year for a Motor Vehicle licensed under this By-law as an Accessible Taxicab provided the appropriate fee is paid, the Accessible Taxicab meets all of the Motor Vehicle marking, equipment and maintenance provisions of this By-law, and the Motor Vehicle successfully completes all inspections as required by the Licence Issuer. **(By-law 230-2016)**
36. No Person who operates a Taxicab or Accessible Taxicab shall display any emblem, decal, advertisement or other markings on or in

the Taxicab or Accessible Taxicab which has not been approved as to form and location by the Licence Issuer.

#### **PART XV – TAXICAB METER**

37. (1) Following are the rules to be applied to the Meter referred to in subsection 35. (1)(e):
- (a) the Meter shall be submitted for testing, inspection and sealing as required by the Licence Issuer;
  - (b) **Deleted (By-law 154-2019)**
  - (c) the Meter shall be illuminated between sunset and sunrise;
  - (d) the Meter shall be in a raised position, in plain view of the Passengers, and approved by the Licence Issuer;
  - (e) the Meter shall be adjusted in accordance with the rates prescribed in Appendix H;
  - (f) the Meter shall be tested by running the Taxicab or Accessible Taxicab to which it is attached over a measured track or distance before being sealed, or by such mechanical means as the Licence Issuer may approve;
  - (g) **Deleted (By-law 154-2019)**
  - (h) the Meter shall be kept in good working condition at all times and not used when defective in any way;
  - (i) **Deleted (By-law 154-2019)**
  - (j) the Meter shall be of a make and model approved by the Licence Issuer; and
- (2) It is an offence to drive or permit a Taxicab or Accessible Taxicab to be driven for a Fare when any of the rules in section 37. (1) are not complied with.

#### **PART XVI – TARIFF CARD AND TRIP RECORDS**

38. (1) Every Plate Owner or Lessee shall obtain from the Licence Issuer a Tariff Card that shall be displayed in the Taxicab or Accessible Taxicab in a conspicuous place clearly visible to the Passenger(s).
- (2) Every Driver shall ensure the Tariff Card is displayed in the Taxicab or Accessible Taxicab in a conspicuous place clearly visible to the Passenger(s).
39. The Tariff will be reviewed each year and any changes to the Tariff will come into effect with the Owner's Licence renewal.
40. (1) Every Driver shall keep a Trip Record and such record shall be completed prior to the commencement of the next following Trip and shall include the following:
- (a) the Ontario Motor Vehicle permit number and the City of Brampton Taxicab or Accessible Taxicab number of the Motor Vehicle used;

- (b) the name and identification number of the Driver;
  - (c) the date, time and location of the beginning and end of each Trip; and
  - (d) the amount of the Fare collected for each Trip.
- (2) A Driver shall not obstruct traffic while writing up the Trip Record.
  - (3) Every Driver shall retain for a period of at least 3 years, all Trip Records and shall make these records available for inspection by the Licence Issuer.

## **PART XVII – MOTOR VEHICLE INSPECTIONS**

- 41. (1) No Plate Owner shall operate or permit to be operated any unlicensed Motor Vehicle.
- (2) If the Licence Issuer suspects that a Motor Vehicle is or may cause a danger to the health or safety of any Person or property, the Licence Issuer shall advise the Plate Owner or Driver in control of the Motor Vehicle and he or she shall immediately submit the Motor Vehicle for inspection to the Licence Issuer.
- (3) A Motor Vehicle that the Licence Issuer has requested be inspected or is submitted to the Licence Issuer under subsection 40. (2) shall not be operated or permitted to be operated until it has passed the inspection.
- (4) The Licence Issuer may immediately suspend the License of a Person who fails to comply with Sections 41. (1), 41. (2) or 41. (3).
- 42. (1) Every Person who Operates or permits to be Operated a Motor Vehicle licensed under this By-law shall submit the Motor Vehicle for inspection as directed by the Licence Issuer.
- (2) It is an offence for a Owner of a Motor Vehicle that is intended to be or is being used as a Taxicab or Accessible Taxicab to fail to submit such Motor Vehicle for inspection after being directed to do so by the Licence Issuer.
- 43. It is the responsibility of every Plate Owner and Driver of any Taxicab or Accessible Taxicab licensed under this By-law to ensure that the Taxicab or Accessible Taxicab is:
  - (a) clean;
  - (b) free of any mechanical defects;
  - (c) in good repair as to its interior and exterior portions; and
  - (d) free from exterior body damage and has a well maintained exterior paint finish and trim.

## **PART XVIII – PLACEMENT ON THE PRIORITY LIST**

- 44. The Licence Issuer shall not accept any new Application for a Taxicab or Accessible Taxicab Owner's Plate from any Person not on the Priority List, nor shall any new names be added to the Priority List, for an additional

period of five years commencing on November 9th, 2019. **(By-laws 267-2014, 154-2019)**

45. **Deleted (By-law 96-2022)**

46. Any Person who Transfers an Owner's Plate shall relinquish their present position on the Priority List and may reapply as a new Applicant.
47. A Dispatcher or Office Manager who wishes to be placed on the Priority List shall work a minimum of 24 hours per week for 40 weeks of the year during the 12 months immediately preceding the Dispatcher's or Office Manager's application for a Taxicab Plate.
48. For the purposes of this section, no corporation shall be allowed on the Priority List.

**PART XIX – STAYING ON THE PRIORITY LIST**

49. (1) In order to remain on the Priority List, a Person must pay the appropriate fee.
- (2) Any Person on the Priority List who fails to pay the appropriate annual fee shall be removed from the Priority List.”
- (By-law 96-2022)**

**PART XX – INSPECTION OF PRIORITY LIST**

50. The Priority List shall be available for inspection during business hours, at the office of the Licence Issuer.

**PART XXI – REVIEW OF THE PRIORITY LIST**

51. The Licence Issuer shall review the Priority List at regular intervals, a minimum of once per calendar year, to determine that the listed Persons are in compliance with the provisions of this Schedule and any Person whose name is on the list who fails to comply with the provisions for this Schedule, shall be notified by the Licence Issuer that his or her name is to be removed from the Priority List and such a Person may appeal this decision.

**PART XXII – INVESTIGATION OF COMPLAINTS**

52. Where a complaint is received from any source, at any time, related to the qualifications of a Person to be on or remain on the Priority List, the Licence Issuer shall:
- (a) note beside the name on the Priority List that an objection has been received; and
  - (b) investigate the reasons for the complaint, and based on the findings the Licence Issuer shall;
    - (i) if the findings of the investigation indicate non-compliance of the Priority List requirements, issue a notice to the Person on the Priority List named in the objection, his or her intentions to remove the name from the Priority List; or
    - (ii) if the findings of the investigation indicate compliance of the Priority List requirements, no further action shall be taken.

### **PART XXIII – REMOVAL FROM THE LIST**

53. A Person who has been notified that his or her name has been removed from the Priority List shall have 15 days from the date of such notification of removal, to file a written request to the Tribunal for an appeal hearing. Such appeal hearing shall be heard as soon as possible by the Tribunal and the provisions of this By-law relating to appeal hearing shall apply.

### **PART XXIV – ONUS OF PROOF**

54. Where the Person named in the notice fails to meet any of the requirements to remain on the Priority List the onus of proving compliance with the provisions of this Schedule before the Tribunal shall rest with the Person named in the notice.

### **PART XXV – ISSUANCE OF PLATE FROM PRIORITY LIST**

55. (1) Whenever a Plate is to be issued, it shall be issued to the Person whose name appears first chronologically on the Priority List and qualifies.
- (2) The formula for the issuance of Taxicab Owner's Licences (Plates) shall include four criteria, factors within each of those criteria and the weighting of the criteria as set out in Appendix I.
- (3) Subject to subsection 55(3.1), the formula for the issuance of Taxicab Owner's Licences (Plates) shall be applied on an annual basis with the issuance of additional Licences occurring in October, year over year. **(By-law 154-2019)**
- (3.1) Where the number of Taxicab Owner Licences with no vehicles registered in October exceeds the number of licences to be issued based on the plate issuance formula, there will be no issuance of additional Plates. **(By-law 154-2019)**
- (4) The statistical information related to the factors within the four criteria referred to in subsection 55. (2) shall be obtained from such sources as the Licence Issuer deems to be reliable so that valid comparisons can be made year over year.
- (5) Whenever the Licence Issuer intends to issue a Plate from the Priority List, he or she shall first publish notice of his or her intention to issue and shall publish the names of the Persons, shown to be entitled to the issuance of the Plate, according to the Priority List.
- (6) The notice referred to Subsection 55. (5) shall be published once, in a newspaper of general circulation in the City of Brampton.
- (7) Where a Plate is issued to an Applicant whose name is on the Priority List, the name of that Applicant shall be removed from the list by the Licence Issuer.

### **PART XXVI – OBJECTION**

56. (1) Any person objecting to the issuance of a Taxicab Plate, must file an objection within 10 days following the date of publication of the notice.
- (2) Objections will be heard by the Tribunal at the next meeting following the expiry of the time for objections.

- (3) The Person objecting to the issuance of the Licence shall be the appellant on the hearing, and shall have the onus of proof before the Tribunal.

## **PART XXVII – LICENCE BECOMES AN ASSET OF AN ESTATE**

57. The provisions of Section 29 of this Schedule do not apply where the Licence becomes the asset of the estate of a deceased Owner.
58. Where the Owner of a Taxicab or Accessible Taxicab Licence dies the Licence becomes an asset of the estate and may be held in the name of the estate for a period of one year from the transfer and if it is not disposed of in that period it may be revoked by the Licence Issuer.
59. **Deleted (By-law 96-2022)**
60. Where the Owner of a Taxicab or Accessible Taxicab Licence dies and where the Motor Vehicle Ownership is not solely in the Lessee's name, the following shall be filed with the Licence Issuer by the personal representative of the estate:
- (a) a copy of the death certificate;
  - (b) proof of insurance in the name of the estate; and
  - (c) proof of ownership in the name of the estate;
61. Where the Owner of a Taxicab or Accessible Taxicab Licence dies and where the Motor Vehicle ownership is solely in the Lessee's name, the following shall be filed with the Licence Issuer by the personal representative of the estate:
- (a) a copy of the death certificate; and
  - (b) proof of insurance in the name of the estate.
62. Where the Owner of a Taxicab or Accessible Taxicab Licence dies, the Licence may only be transferred or otherwise disposed of by the personal representative of the estate who shall confirm their status by filing with the Licence issuer either:
- (a) a Certificate of Appointment for Estate Trustee with a Will; or
  - (b) a Certificate of Appointment for Estate Trustee without a Will.

## **Part XXVIII – CONDITIONAL LICENCE RENEWAL – NO VEHICLE (By-law 154-2019)**

63. Every Applicant for a renewal of a Taxicab Owner or Accessible Taxicab Owner Licence who meets all the requirements of this By-law except having an approved vehicle capable of being registered to the Licence, may be issued a Conditional Licence – No Vehicle. **(By-laws 154-2019, 119-2021, 96-2022)**
- (1) Section 63 is subject for review if the practice in relation to the section is changed for the neighbouring Greater Toronto Area municipalities.” **(96-2022)**
64. An application for a Conditional Licence – No Vehicle shall be submitted to the Licence Issuer in accordance with the requirements set out in the By-law

and may be subject to any additional requirements as set by the License Issuer. **(By-law 154-2019)**

65. An Application for a Conditional Licence - No Vehicle shall be accompanied by the prescribed Conditional Licence – No Vehicle Renewal Fee. **(By-law 154-2019)**
66. Every Licensee of a Conditional Licence – No Vehicle issued in accordance with subsection 63 who subsequently registers an approved vehicle shall be issued a full Licence. **(By-law 154-2019)**
67. An application to register a vehicle to a Conditional Licence – No Vehicle shall be made to the Licence Issuer and shall be accompanied by a fee equal to the then applicable Taxicab or Accessible Taxicab Licence Renewal Fee minus the Conditional Licence Renewal Fee paid by the applicant. **(By-law 154-2019)**
68. **Amended (By-law 154-2019) Deleted (By-law 96-2022)**
69. No Person shall use or permit the use of a Conditional Licence – No Vehicle issued in accordance with this Part. **(By-law 154-2019)**

## **SCHEDULE 5 – Mobile Licensing By-law**

### **Relating to Persons who carry on the Business of Owners and Drivers of Tow Trucks**

**(By-law 187-2014)**

**(Amended by By-laws 250-2016, 1-2022, 245-2022)**

#### **PART I – DEFINITIONS**

1. For the purposes of this Schedule:

"Authorization to Tow a Vehicle Form" means a two (2) part form, containing such information as provided by the Licence Issuer, and supplied to a Driver by the City which must be completed and signed by the Tow Truck Driver and the Hirer prior to a tow commencing from a Collision Scene where such tow is requested by the Hirer and a copy of which is provided by the Tow Truck Driver to the Hirer;

"Collision" means where a Vehicle has been in a collision with another Vehicle(s) or struck an object or was struck by an object, or turned over, and in all cases did receive damage or was damaged, and or was disabled by fire;

"Dolly" means a four-wheeled carriage used in towing to support the trailing end of the towed Vehicle;

"Driver" means any person who drives a Tow Truck;

"Flat Bed" means a platform body with a winch for loading;

"Gross Vehicle Weight Rating (GVWR)" means the maximum total vehicle rated capacity, as rated by the chassis manufacturer specification stamp on the Vehicle;

"Hirer" means the registered owner of a Vehicle, to be towed or being towed, his or her agent or any Person lawfully in possession of the Vehicle to be towed or being towed;

"Municipal Boundary" means the boundary encompassing the City of Brampton;

"Owner" means the owner or lessee of a Tow Truck licensed pursuant to this Schedule;

"Tow Bar" means a device for positioning a towed Vehicle behind a towing vehicle;

"Tow Sling" means a device used for lifting and towing Vehicles with a partial load supported on rubber belts;

"Tow Truck" means a Motor Vehicle used for hire for towing or otherwise conveying in the City of Brampton area Vehicles whether or not any such towed or conveyed Vehicle is intact or in an in-operable condition;

"Underlift" means a device used for towing Vehicles by lifting one end of the towed Vehicle from under the axle or structural member of the towed Vehicle;

"Wheel Lift" means a device used for towing Vehicles by lifting one end of the towed Vehicle by the wheels;

“Wrecker Body” means a recognized manufacturer’s wrecker unit designed to be attached to the frame of a cab and chassis and used with an Underlift, Tow Bar or Tow Sling or Wheel Lift or Flat Bed carrier or other similar device and which is equipped and maintained in a manner to ensure the safe lifting and conveying of a Vehicle to be towed; and

“Work Order” includes any form, order, invoice, written authorization or any other document that when signed by a Hirer provides authorization to any Person, licensed Automobile Service Station, Vehicle Pound Facility or any other business or Person, to carry out any work to the Hirer’s Vehicle, which includes any repair or maintenance to the Vehicle.

2. No Licence is required where a Vehicle is towed from a point within the Municipality of the City of Brampton to a point beyond the Municipal Boundary with the prior consent of the Hirer.
3. No Person shall approach a Hirer or offer or make available for hire the services of the Driver or the Tow Truck of the Driver, unless permitted to do so in accordance with this By-law.
4. No corporation may be licensed as a Driver pursuant to this By-law.
5. Notwithstanding Section 2, no Person shall drive a Tow Truck unless they are licensed as a Driver under this By-law.
6. No Person shall be licensed under this By-law as a Driver unless they hold a current valid Class A, B, C, D, E, F or G drivers licence issued by the Province of Ontario which is in good standing according to the records of the Ministry of Transportation.
7. Where the Applicant for an Owners or Drivers Licence has any interest, either directly or indirectly, in any building, yard or place used for the storage or impounding of Vehicles or in any business or operation involving the storage or repair and servicing of Vehicles, full information as to the location and type of facilities in which such Applicant has an interest, and the nature and extent of the interest shall be disclosed to the Licence Issuer.

## **PART II – DRIVERS**

8. Every Driver shall:
  - (a) keep the interior of the Tow Truck in a clean, tidy and dry condition;
  - (b) keep with him or her at all times while operating a Tow Truck, the Driver's Licence issued under authority of this By-law;
  - (c) be properly dressed and well groomed;
  - (d) behave courteously;
  - (e) take due care of all Vehicles and property delivered to or entrusted to such Driver for towing;
  - (f) comply with all reasonable instructions of the Hirer;
  - (g) each shift before starting and after finishing the shift, examine the Tow Truck for mechanical defects, interior or exterior damage and report any defects immediately to the Owner;

- (h) report any incidents involving damage or injury during a trip immediately to the Tow Truck Owner;
- (i) comply with all applicable statutes, regulations and by-laws with respect to traffic and parking including but not limited to the *Highway Traffic Act* and the City's Traffic by-law No. 93-93, or any successor by-law;
- (j) keep at all times in their Tow Truck an original or copy of:
  - (i) the motor vehicle registration issued under the *Highway Traffic Act* and the current Ontario Ministry of Transportation passenger motor vehicle Permit;
  - (ii) the City of Brampton Owner's Licence; and
  - (iii) proof of the insurance required under this By-law;
- (k) prior to towing any Vehicle that has been involved in a Collision, ensure that an Authorization To Tow A Vehicle Form is completed in its entirety;
- (l) retain all Authorization to Tow a Vehicle Form for at least 6 months from the tow date indicated on the form and make them available for inspection upon request by the Licence Issuer or an Inspector;
- (m) where the Hirer refuses to sign the Authorization to Tow a Vehicle Form, the Driver must indicate such on the form and provide the Hirer with their copy and retain this form for at least 6 months from the tow date indicated on the Authorization to Tow a Vehicle Form and make it available for inspection upon request by a Police Officer, Licence Issuer or an Inspector;
- (n) only use or operate a Tow Truck that is equipped in accordance with the requirements of this By-law, and all such equipment shall be in good condition and fully operational;
- (o) before demanding payment for services, present to the Hirer an itemized bill for the services setting out the cost of all services and equipment provided or to be provided on the basis of the rate set out in the schedule of rates filed by the Owner with the Licence Issuer, or as set out in the Rate Section of this By-law;
- (p) wear high visibility florescent safety vest or clothing on the upper torso when working on a highway;
- (q) clean up and remove any debris, fragments of glass, Vehicle parts, or other materials (excluding loads dumped during Collisions) from any highway or roadway prior to towing any Vehicle from the scene;
- (r) tow a Vehicle by the most direct route reasonably possible in the circumstances, and in the most expeditious manner, unless otherwise directed by the Hirer; and
- (s) take the Vehicle to a Reporting Centre, City of Brampton licensed Automobile Service Station or Vehicle Pound Facility or a location of the Hirers choice, and when the preferred City of Brampton licensed Automobile Service Station or Vehicle Pound Facility is closed, the Tow Truck Driver must take the Vehicle to a City of Brampton licensed Vehicle Pound Facility, or a facility outside the City of Brampton that falls under Subsection 10 (f) and may only charge a re-tow fee of \$150.00. The per kilometer rate may only be

charged where the tow terminates outside of the boundaries of the City of Brampton. **(By-law 245-2022).**

9. No Driver shall:
- (a) drive a Tow Truck that is not licensed under authority of this By-law and Schedule;
  - (b) **Deleted (By-law 250-2016)**
  - (c) ask or seek out a Hirer or allow or direct an agent to ask or seek out a Hirer, at a Collision location or within 200 metres of a Collision location, where the actions of the Driver or agent constitutes a nuisance;
  - (d) commence to tow or otherwise convey or move any Vehicle, or hook, lift or connect the Vehicle to the Tow Truck, or perform any other services unless first requested so to do by a Hirer, or a police officer or any member of a municipal fire department, or any Person authorized by law to direct the removal of the Vehicle from private or public property;
  - (e) alter any information on the Authorization to Tow a Vehicle Form; or
  - (f) subject to Subsection 10 (f), tow or otherwise convey or move any Vehicle which is to be towed outside the Municipal Boundary unless requested by the Hirer or a peace officer or member of the municipal fire department.
- 9.1 Notwithstanding any other section of this By-law, there shall be no more Tow Trucks within two hundred (200) meters of any Collision or apparent Collision than the number of vehicles that require the services of a Tow Truck or unless the Driver has been summoned to the Collision location by the Hirer;
- (By-law 250-2016)**

### **PART III – OWNERS**

10. (1) Every Owner shall:
- (a) ensure that at all times when their Tow Truck is being used or is available for use it is free from mechanical defects;
  - (b) immediately return to the Licence Issuer the Licence issued to the Owner and the Plate for a Tow Truck if the Owner disposes of or is no longer operating or using that Tow Truck;
  - (c) provide and maintain on every Tow Truck owned or leased by such Owner, the equipment set out in Section 20 of this Schedule; **(By-law 250-2016)**
  - (d) ensure that the name under which the Owner's Licence has been issued is clearly indicated on both sides of the Tow Truck, in a location acceptable to the Licence Issuer, in letters and figures not less than 8 centimetres in height and of a contrasting color to the background where they are placed;
  - (e) file with the Licence Issuer a schedule of rates to be charged by the towing company for each of its services;

- (f) where the Owner is also the owner, or affiliated with the owner of land, a building or part thereof, located outside of the boundaries of the City of Brampton, and such land or building or part thereof is used for the storage of vehicles having been towed from the City of Brampton and where the Owner charges a fee for storage of the vehicle and such storage business is not regulated by the municipality in which it is located, the Owner shall only charge for services and at rates permitted to be charged as prescribed under the City of Brampton Business Licensing By-law Schedule 27 for those vehicles towed from the City of Brampton;
  - (g) in carrying out his or her business use only stationery, forms, bills, invoices, statements and any other printed or written advertising material including any published advertisement in a newspaper, periodical, directory or other publication, that has printed therein in clearly legible figures and letters his or her name and address of the business;
  - (h) retain for a period of 60 days copies of all advertising matter used by him or her and shall produce the same to the Licence Issuer if and when requested;
  - (i) only use the service of a licensed Driver under this By-law;
  - (j) have affixed to the Tow Truck in a location approved by the Licence Issuer the Owner's Plate issued for that Tow Truck;
  - (k) keep the exterior of their Tow Truck in a clean and tidy condition including but not limited to being free from body damage and having a well maintained paint finish.
- (2) Where the Applicant for an Owner's Licence has leased a Vehicle to be used as a Tow Truck from a dealership or leasing company, the Owner's Licence shall be issued in the Applicant lessee's name as it appears on the plate portion of the Ontario Motor Vehicle Registration provided that a copy of the lease has been filed with the Licence Issuer.
  - (3) Unless provided otherwise in this By-law a Person who is the Owner of more than one Tow Truck shall take out a separate Licence for each Vehicle owned by him or her which is to be used as a Tow Truck in the City.

11. No Owner shall:

- (a) attach an Owner's Plate to any Tow Truck other than the Tow Truck for which the Owner's Plate was issued; or
- (b) alter or amend the schedule of rates filed with the Licence Issuer until 30 days after having provided to the Licence Issuer written notice of the changes.

**PART IV – OWNERS AND DRIVERS**

12. Every Owner and Driver shall:

- (a) prior to towing or conveying any Vehicle provide a copy of his or her current schedule of rates to the Hirer;

- (b) before demanding payment for any services present to the Person for whom the services were performed a numbered bill itemizing the cost of all services and equipment;
- (c) keep a daily record of the work performed by the Tow Truck owned or driven by such Owner or Driver, either on a continuous log sheet or with consecutively numbered bills or invoices, showing, in every instance:
  - (i) the name of the Person for whom work was done;
  - (ii) a description and licence plate number of the Vehicle towed or conveyed;
  - (iii) the locations from where and to where the Vehicle was towed or conveyed; and
  - (iv) the rate charged and the total fee collected thereon; and

numbering corrected **(By-law 250-2016)**

- (d) maintain the log sheets, bills or invoices for a minimum of 1 year.

13. No Owner or Driver shall:

- (a) request payment for services rendered or to be rendered other than in accordance with the applicable schedule of rates filed with the Licence Issuer;
- (b) charge a Hirer for time lost through defects or inefficiency of the Tow Truck, or the incompetence of the Tow Truck Owner or Driver;
- (c) charge a Hirer for time lost due to a breakdown of the Tow Truck or its equipment;
- (d) demand, request, accept or receive, directly or indirectly, any charge, gift, payment, drop fee, thing or other consideration from any Person who owns or has an interest, directly or indirectly, in any City of Brampton licensed Automobile Service Station or Vehicle Pound Facility or any other yard, shop, building or place, used for the storage, repair or servicing of Vehicles in respect of or in consideration for the towing or conveying of a Vehicle to such building or place;
- (e) interfere with any contract for hiring of a Tow Truck where a Person has hired or has indicated his or her intention to hire a Tow Truck;
- (f) induce any Person to employ or hire a Tow Truck by making any false representation to any Person such as the location of or distance to any place or any other matter;
- (g) use or permit to be used a Tow Truck which has been found to be unsafe or defective after examination and inspection as required under this Bylaw;
- (h) at any time suggest or recommend a salvage yard, body shop or any other public garage, building or place located outside of the Municipal Boundary;
- (i) permit a Person to be a Passenger in a Tow Truck, except under the following circumstances:

- (i) the Passenger is the Hirer of the Tow Truck;
- (ii) the Passenger is either the spouse, son, daughter or parent or similar relation in law of the Driver and in such cases the Driver is not to solicit a tow, engage in any form of towing or have his or her Tow Truck within 200 metres (approximately 653 feet) of the scene of a Collision nor shall the Driver cause or permit his or her Passenger to solicit a tow or take any actions to engage in any form of towing while the Passenger is in the Tow Truck; or
- (iii) the Passenger is receiving instructions on Driver training and such Passenger shall not be:
  - 1. trained for more than one 30 day period commencing from the date the Application for a Driver's Licence was submitted to the Licensing Section;
  - 2. permitted more than one such 30 day training session regardless of the number of Applications for a Driver's Licence the Applicant may have made to the Licensing Section; or
  - 3. a nuisance, hindrance or create a disturbance while in the process of receiving such training;
- (j) keep any Work Orders in the Tow Truck;
- (k) provide any Work Orders to a Hirer; or
- (l) induce, pressure, suggest, recommend or in any way cause a Hirer to sign or agree to a Work Order or otherwise induce, pressure, suggest, recommend or in any way cause a Hirer to agree to any work to the Hirer's Vehicle, which work includes any repairs or maintenance or servicing of Vehicles, in respect of or in consideration for the towing or conveying of a Vehicle to such building or place.

## **PART V – RATES**

- 14. Where rates are to vary with the time of day or location served, or in accordance with some other factors, the formula for determining the rates Issuer.
- 15. The provisions of this Schedule do not prohibit an Owner from entering into a written agreement with any Person, group or company to provide towing services at rates lower than those shown in the schedule of rates filed, provided that a copy of such written contract or agreement is filed with the Licence Issuer at least 10 days before any services to which such contract or agreement applies are to be provided.
- 16. (1) Every Owner and Driver of a Tow Truck who tows or offers to tow a passenger Vehicle, light van or Truck from a Collision not exceeding 2,725 kgs. (6,000 lbs.) in towing weight, shall only charge or cause to be charged an all-inclusive flat rate towing fee of \$427\*, no more or no less, with no other additional service charges other than the applicable federal and provincial taxes. **(By-law 1-2022)**
  - \* fee adjusted for CPI effective January 1, 2023
- (2) Despite Section 16.(1), where the tow is to conclude outside the

boundaries of the City of Brampton, at the request of the hirer, the Driver may charge a per kilometer rate of \$3.50 per kilometer from the point where the tow begins to its conclusion except where the tow is to conclude at the Owner's vehicle storage facility located outside the Municipal Boundary. **(By-law 245-2022)**

- (3) The "all inclusive flat rate towing fee" referred to above, shall automatically increase and be rounded up to the nearest dollar on the first day of January in each year by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for The Toronto Census Metropolitan Area, published by Statistics Canada, during the 12-month period ending on September 30 in the year immediately preceding the rate increase date.

- 17. The schedule of rates filed with the City shall be based only on the factors set out in this Schedule.

#### **PART VI – TOW TRUCK EQUIPMENT AND VEHICLE REQUIREMENTS**

- 18. No Owner or Driver shall operate or permit to be operated a Tow Truck with a Gross Vehicle Weight Rating of less than 4,536 kg (10,000 lbs.).
- 19. No Owner or Driver shall operate or permit to be operated, a Tow Truck without a Wrecker Body.
- 20. Every Owner and Driver shall ensure that all Tow Trucks are equipped with the following:
  - (a) a winching or hoisting device of sufficient capacity to safely lift the Vehicle to be towed;
  - (b) a Wheel Lift or an Underlift equipped and maintained in a manner to ensure the safe lifting and conveying of a Vehicle to be towed;
  - (c) one device for securing the steering wheel of a Vehicle;
  - (d) at least two (2) 2.27 kg., chemical fire extinguisher having an effective total rating equivalent to at least "3A-40B, C", certified annually;
  - (e) at least 2 tow safety chains having a minimum length of 2.7 metres (8 feet) each with links of at least 21 mm steel;
  - (f) 4 safety pylons, at a minimum height of 28 cm (12 inches);
  - (g) a push broom;
  - (h) a square shovel;
  - (i) a garbage container of a minimum capacity of ten (10) litres (2.5 gallons);
  - (j) absorbent material capable of absorbing or removing any Vehicle fluid product from the road surfaces;
  - (k) a first aid kit;
  - (l) magnetic towing lights to be attached to the rear of the Vehicle or trailer being towed to provide illumination and signal braking;

- (m) an intermittent amber warning light system consisting of at least 1 light which would be clearly visible in all directions and affixed on the top of the Vehicle;
  - (n) a prybar at least 1.5 metres (5 feet) in length with a tapered end;
  - (o) 2 wheel blocks;
  - (p) flares or reflector kits;
  - (q) a wheel wrench or a device for loosening and tightening lug nuts on tires;
  - (r) a Dolly;
  - (s) a safety vest;
  - (t) a flashlight; and
  - (u) booster cables.
21. The items listed in Section 20(b) and 20(r) are not required on a Flat Bed Tow Truck and Section 20(r) is not required on a Tow Truck which tows transport trucks.

**(By-law 250-2016)**

## **PART VII – FACTORS FOR DETERMINING RATES**

22. With the exception of Collision towing, the following factors may be used in determining a schedule of rates for towing:
- (a) time and distance required to reach the location after being hired;
  - (b) time required to perform services;
  - (c) standby time after being hired;
  - (d) time and distance the Vehicle is towed or conveyed;
  - (e) weight and size of the Vehicle towed or conveyed; and
  - (f) additional services:
    - (i) changing more than one wheel;
    - (ii) disconnecting driveshaft;
    - (iii) moving Vehicle to towing position;
    - (iv) opening locked Vehicle without keys;
    - (v) provision and use of Dolly; and
    - (vi) other specified services.

## **SCHEDULE 6 – Mobile Licensing By-law**

### **Relating to Persons who carry on the Business of Owning and Operating a Personal Transportation Company**

**(By-law 134-2018)**

#### **PART I – DEFINITIONS**

1. In addition to the terms defined in Part II of this By-Law, for the purpose of this Schedule:

“Facilitate” includes, but is not limited to, advertising, offering, operating, receiving, relaying, authorizing, enabling, communicating or providing;

“Personal Transportation Company” means a Person that, in any manner, Facilitates Transportation Services using a Platform to connect a Passenger with a PTC Driver or a PTC Vehicle, and may also be referred to as a “PTC”;

“Personal Transportation Company Driver” means a Person registered or affiliated with a PTC that transports a Passenger using a PTC Platform and may also be referred to as a “PTC Driver”;

“Personal Transportation Company Identifier” means a sign, including a decal, displaying the logo or name of the PTC, in a form approved by the Licence Issuer and may also be referred to as a “PTC Identifier”;

“Personal Transportation Company Licence” means a Licence issued under this Schedule to a PTC and may also be referred to as a “PTC Licence”;

“Personal Transportation Company Vehicle” means a Motor Vehicle used by a PTC Driver to provide Transportation Services to a Passenger using the PTC Platform and may also be referred to as a “PTC Vehicle”;

“Platform” means any software, technology, or service, including a smartphone application

“Solicit” means to appeal for a Passenger by sound, words, signs, or gestures directed at any Person, but does not include communication over a PTC Platform;

“Street Hail” means to appeal for a ride by any Person using sounds, words, signs, or gestures directed at a PTC Driver, but does not include communication over a PTC Platform;

“Transportation Service” means a trip arranged through a Platform commencing when a Passenger enters the PTC Vehicle, continuing for the period that the PTC Vehicle is continuously occupied, and ending when all Passengers or goods exit the PTC Vehicle.

#### **PART II – APPLICATION OF SCHEDULE**

2. This Schedule does not apply to:
  - (1) taxicab services dispatched by a licensed taxicab broker and taxicab services provided by a licensed taxicab plate holder or a licensed taxicab driver under the authority of Schedule 4: Taxicabs of By-law 67-2014, as amended;
  - (2) limousine services provided by a limousine service provider under the authority of Schedule 2: Limousines of By-law 67-2014, as amended;

- (3) a Motor Vehicle used as part of a transit system offered by the City of Brampton or the Region of Peel such as the public transit services known as Züm/Brampton Transit and TransHelp;
- (4) a Person who Facilitates “carpooling” as defined by the *Public Vehicles Act*; or
- (5) an emergency Motor Vehicle including but not limited to ambulance, fire department, or police vehicle.

### **PART III – GENERAL PROHIBITIONS AND OBLIGATIONS**

In addition to any other provisions of this By-Law, for purposes of this Schedule:

- 3. No Person shall Facilitate Transportation Services unless authorized to do so by a Licence issued pursuant to this By-law.
- 4. No Person shall permit, accept, or condone Street Hails for a ride with a PTC Driver or in a PTC Vehicle, whether on the street or at a Taxi Stand or in any other manner at any other location.
- 5. No Person shall Solicit or condone the Solicitation of a Passenger by a PTC Driver or PTC Vehicle, whether on the street or at a Taxi Stand or in any other manner at any other location.
- 6. No Person shall Facilitate a Transportation Service that does not comply with this Schedule.
- 7. No Person shall obstruct the Licence Issuer’s use of the Platform to ensure compliance with this By-law, including, but not limited to the creation and use of accounts as either a Passenger or PTC Driver.
- 8. No Person shall permit a PTC Driver or a PTC Vehicle to provide Transportation Services if the PTC Driver does not have the insurance required under this Schedule.
- 9. No Person shall permit payment by cash for a Transportation Service.
- 10. No Person shall permit any Passenger to smoke in the PTC Vehicle while it is providing Transportation Services.
- 11. No PTC Driver or PTC Vehicle shall provide Transportation Services unless they hold a valid Identification Card issued by a PTC required under section 33 of this Schedule.
- 12. Every PTC and PTC Driver shall ensure that a valid Identification Card required under section 33 of this Schedule is:
  - (1) in the PTC Vehicle at all times when Transportation Services affiliated with the PTC are offered or provided; and
  - (2) is produced immediately upon demand of an Inspector.
- 13. Every PTC Driver shall produce on demand of the Licence Issuer or an Inspector, the following documents:
  - (1) the PTC Driver’s Identification Card, required under section 33 of this Schedule;
  - (2) proof of valid insurance that meets the requirements of this Schedule; and
  - (3) any other information pertaining to the PTC Driver or the operation of the PTC Vehicle as requested by the Inspector.

14. Every PTC shall where Transportation Service requested is a type which would require an accessible Motor Vehicle and the PTC is not able to provide such Transportation Service, direct the Person requesting such Transportation Service to a Person who can provide such Transportation Service.

#### **PART IV – REQUIREMENTS OF PTC LICENCE APPLICATION**

15. In addition to the general licensing provisions of this By-law, an Application for a new PTC Licence or a renewal of a PTC Licence shall be accompanied by:

- (1) if the Applicant is a corporation, proof that it is legally entitled to operate in Ontario, including but not limited to:
  - (a) a copy of the incorporating documents;
  - (b) a copy of the last initial notice/notice of change which has been filed with the appropriate government department;
  - (c) a Certificate of Status issued by the Ministry of Government and Consumer Services; or
  - (d) a certified copy of an annual return and a list of all shareholders of the corporation.
- (2) the address and contact information of the PTC's registered business address in the Province of Ontario, which is not a post office box, to which the City may send during business hours any notice or documentation or communication that may be required under this By-law and at which the Applicant or the Applicant's agent will accept receipt of such notice, documentation or communication together with the name, telephone, and email contact information for the person authorized to receive and respond on behalf of the PTC to any and all communications from the City relating to the PTC's licence or the PTC's conduct of the business;
- (3) a PTC Identifier for approval by the Licence Issuer;
- (4) adequate demonstration that there are data security measures in place to protect the personal data collected by the PTC relating to Passengers and Drivers, to the satisfaction of the Licence Issuer;
- (5) documentation demonstrating that the Platform used:
  - (a) at the time the Transportation Service is arranged, provides to the Passenger requesting the Transportation Service:
    - (i) the PTC name and contact information;
    - (ii) the first name and photograph of the PTC Driver;
    - (iii) a description of the make, model and licence plate of the PTC Vehicle;
    - (iv) the surcharge, if any;
    - (v) an estimate of the total cost; and
    - (vi) the current location of the PTC Vehicle;
  - (b) provides a link to rate or provide comment on the PTC Driver and PTC Vehicle.
  - (c) provides a process allowing the Passenger to accept or refuse the Transportation Service prior to it commencing and keeps a record of such acceptance or refusal;
  - (d) provides a secure payment mechanism;

- (e) provides a printed or electronic receipt to the Passenger at the end of the Transportation Service that includes the following information confirming:
    - (i) the fare rate and/or surcharges;
    - (ii) total amount paid;
    - (iii) date and time of pickup;
    - (iv) locations where the Passenger was picked up and dropped off; and
    - (v) the first name of the PTC Driver;
  - (f) incorporates a global positioning system (GPS) in which all Transportation Services are recorded; and
  - (g) is accessible for persons with disabilities;
- (6) a list of every affiliated PTC Driver and PTC Vehicle in a readily accessible format that includes:
- (i) the full name and address of every PTC Driver; and
  - (ii) the make, model and licence plate of every PTC Vehicle;
- (7) proof of the insurance required under this Schedule to the satisfaction of the Licence Issuer.
- (8) payment of the appropriate Licence Fee as set out in Appendix A of the By-Law; and
- (9) any other information required by the Licence Issuer.
16. Every PTC shall make available to the public on its Platform, and by any other means of its choice, the following information:
- (1) the insurance coverage required to be maintained by the PTC and by the PTC Drivers;
  - (2) the Transportation Services offered by PTC Drivers;
  - (3) the applicable screening process for PTC Drivers and PTC Vehicles;
  - (4) that PTC Drivers can only provide Transportation Services that are prearranged using the platform of the PTC and not accept Street Hails or pick up fares at taxi stands; and
  - (5) that PTC Drivers cannot accept cash payment for Transportation Services.

## **PART V – INSURANCE**

For purposes of this Schedule, the following insurance requirements shall apply:

- 17.(1) Every PTC shall provide proof of commercial general liability insurance against all claims for personal injury including bodily injury resulting in death, and property damage with an inclusive limit of not less than five million (\$5,000,000.00) per occurrence insuring him or her against liability imposed by law for any loss or damage resulting from the carrying on of the business to which the Licence relates.
- (2) The commercial general Liability policy in subsection 17(1) shall be in the name of the PTC and the City of Brampton shall be included as an additional insured.
- (3) Every PTC shall obtain and maintain on behalf of every PTC Driver, at all times during the provision of Transportation Services, Automobile Liability Insurance for owned, non-owned, or leased PTC Vehicles, with limits of not less than Two Million Dollars (\$2,000,000.00) exclusive of costs and interest, per occurrence for bodily injury, death, and loss or damage to property occurring while in the post-

acceptance period. The Automobile Liability Insurance shall include the IPCF 6TN *Permission to Carry Paying Passengers for a Transportation Network* endorsement or an equivalent endorsement acceptable to the Licence Issuer.

- (4) The insurance coverage required under subsection 17(1) and (3) shall include a provision that requires the Insurer to provide the City of Brampton with no less than 10 days prior written notice of any cancellation or variation to the policy.
18. The certificate of insurance issued in respect of the policy in Section 17(1) shall be provided to the Licence Issuer prior to the issuance of the Licence in the form of proof set out in Appendix C of the By-law.
19. Every PTC shall keep such records of the PTC Driver's insurance coverage for a period of 3 years after the PTC Driver ceases to be affiliated with the PTC.
20. Every PTC shall produce proof of any PTC Driver's insurance coverage to the Licence Issuer upon demand.
21. The Licence Issuer may suspend the PTC licence if the PTC fails to comply with this Part until such time as the PTC provides proof of insurance coverage to the satisfaction of the Licence Issuer.
22. The PTC shall provide the Licence Issuer with such information as the Licence Issuer shall require, from time to time upon demand, to demonstrate that this Part is being complied with.

## **PART VI – PTC REQUIREMENTS**

23. Every PTC shall ensure that the Licence Issuer's use of the Platform as either a Passenger or PTC Driver will not be obstructed.
24. Every PTC shall keep an up-to-date list of every registered or affiliated PTC Driver and PTC Vehicle in a readily accessible format that includes, but is not limited to:
  - (1) the full name and address of every PTC Driver; and
  - (2) the make, model and licence plate of every PTC Vehicle.
25. Every PTC shall ensure that, prior to commencing as a PTC Driver and at all times when providing Transportation Services, a registered or affiliated PTC Driver:
  - (1) is at least 18 years of age;
  - (2) has a valid G licence or higher;
  - (3) is able to communicate in English; and
  - (4) has been advised and consents in writing to the personal information being submitted to the Licence Issuer for the purpose of auditing compliance with this Schedule.
26. (1) Every PTC shall require a Criminal Record search and driving record abstract to be submitted by the PTC Driver prior to providing Transportation Services and annually thereafter, for as long as the PTC Driver is registered or affiliated with the PTC.
- (2) Every PTC shall obtain a Criminal Record search and a driving record abstract for each PTC Driver as follows:
  - (a) the driving record abstract should be no older than 30 days from the date the PTC Driver applied for affiliation with the PTC.
  - (b) the Criminal Record search must be conducted by a Police Service within the Province of Ontario and should be no older than 30 days from the date the driver applied for affiliation with the PTC.

- (3) Every PTC shall ensure that no PTC Driver exceeds the thresholds found in Appendix E- Threshold Policy of this By-law.
27. No PTC shall impose any mandatory arbitration clause on PTC Drivers or Passengers whose Transportation Services are Facilitated by the PTC.
28. No PTC shall require that the law of any jurisdiction other than Ontario be applied in relation to the use of the relevant PTC Platform in the City by PTC Drivers or Passengers.
29. No PTC shall permit a PTC Driver's access to the Platform immediately upon being notified by the Licence Issuer that a PTC Driver has acted in a manner that is adverse to the public interest, public safety or upon discovering that a PTC Driver is not insured under subsection 17(3) for so long as required by the Licence Issuer.
30. Every PTC shall provide the Licence Issuer with such information as he or she shall require to demonstrate that section 29 is being complied with.
31. Every PTC shall ensure that a PTC driver complies with Part XXIII, Discrimination subsections 57.(1) and (2) of the By-law.
32. Every PTC shall ensure that a PTC Vehicle meets the following requirements at all times when providing a Transportation Service:
- (1) the PTC Vehicle has a valid Motor Vehicle registration and ownership, prior to commencement of use as a PTC Vehicle, and then annually thereafter;
  - (2) the PTC Vehicle has a valid and current Ontario Ministry of Transportation Safety Standards Certificate, prior to commencement of use as a PTC Vehicle, and then annually thereafter;
  - (3) if the vehicle accumulates more than 50,000 km in any calendar year, an additional Ontario Ministry of Transportation Safety Standards Certificate must be obtained;
  - (4) the PTC Vehicle is no more than 7 years old, excluding the manufactured year;
  - (5) the PTC Vehicle has four (4) doors and a maximum seating capacity of seven (7) Passengers excluding the PTC Driver;
  - (6) the PTC Vehicle is clean and in good repair as to its exterior and interior; and
  - (7) the PTC Vehicle is equipped with:
    - (a) fully functioning air-conditioning and heating system; and
    - (b) fully functioning seatbelts that are plainly visible and accessible to Passengers.
  - (8) the PTC Identifier displayed in the location approved by the Licence Issuer.
33. Every PTC shall issue to every affiliated PTC Driver an Identification Card in written or accessible electronic form providing the following information:
- (1) the first and last name and photograph of the PTC Driver;
  - (2) the make, model and licence plate number of the PTC Vehicle(s) used by the PTC Driver

- (3) the name and contact information of the PTC; and
  - (4) the Insurance policy coverage for the PTC Vehicle.
34. Every PTC shall keep copies of the documents and information required under this Part for 3 years.
35. Every PTC shall make available to the Licence Issuer the records or information required in this Part within forty-eight (48) hours following a written demand by the Licence Issuer.
36. The Licence Issuer may refuse to grant or renew and may revoke or suspend a PTC Licence if the PTC fails to comply with any requirement of this Schedule or any provision of this By-Law.

## Appendix A – Mobile Licensing By-law Licence Fees

(Amended by By-laws 187-2014, 269-2017, 134-2018, 154-2019, 25-2021)

Effective January 1, 2023

MOBILE LICENCE FEES	YEARLY FEE	TWO YEAR FEE
<b>Schedule 1- Driving Schools:</b>		
Driving School Operator	\$176	
Driving School Instructor	\$110	\$220
Driving School Motor Vehicle Owner	\$195	
<b>Schedule 2 - Limousines:</b>		
Limousine Owner	\$306	
Limousine Driver	\$110	\$220
<b>Schedule 3 - Refreshment Vehicles:</b>		
Refreshment Vehicle Class A (Coffee Truck)	\$333	
Refreshment Vehicle Class B (Ice Cream Bike)	\$269	
Refreshment Vehicle Class C ( Hot Dog Cart/ Chip Truck)	\$269	
Refreshment Vehicle Class D (Ice Cream Truck)	\$333	
Refreshment Vehicle Driver Class A	\$110	\$220
Refreshment Vehicle Driver Class B	\$110	\$220
Refreshment Vehicle Driver Class C	\$110	\$220
Refreshment Vehicle Driver Class D	\$110	\$220
Special Event-Refreshment Vehicle (All Classes)	\$126 Per Event	
<b>Schedule 4 - Taxicabs:</b>		
Broker- New	\$702	
Broker- Renewal	\$551	
Taxicab/Accessible Taxicab Owner - New	\$4,362	
Taxicab/Accessible Taxicab Owner - Renewal	\$499	
Conditional Licence Renewal-No Vehicle	\$58	
Taxicab/Accessible Taxicab Owner - Transfer	\$416	
Taxicab/ Accessible Taxicab Owner -Transfer from an Owner to their Spouse	\$416	
Taxicab/ Accessible Taxicab Owner -Transfer from the registered Owner to a sibling child of the Owner	\$416	
Taxicab/ Accessible Taxicab Owner -Transfer to a corporation controlled by that Owner	\$416	
Taxicab Driver	\$110	\$220
<b>Schedule 5 - Tow Truck:</b>		
Tow Truck Owner	\$405	
Tow Truck Driver	\$110	\$220
<b>Schedule 6 – Personal Transportation Company:</b>		
Personal Transportation Company – New and Yearly Renewal	\$23,136	
Personal Transportation Company – Monthly paid on the 15 <sup>th</sup> of every month for every Transportation Service that took place the previous month.	\$0.30/Transportation Service originating in the City of Brampton.	
<b>All Schedules-ADDITIONAL FEES</b>	<b>Each Item</b>	
Replacement of Driver or Owner Licence	\$41	

Closed Application Fee	\$74
Late Renewal	\$63
Replacement of Plate	\$74
Vehicle Inspection Fee (Not applied to Taxicab/Accessible Taxicabs)	\$144
<b>Schedule 4 - Taxicabs - ADDITIONAL FEES:</b>	<b>Each Item</b>
Extension of Vehicle Model Year	\$144
Filing of Lease	\$74
Replacement of Driver's Photo I.D. Card	\$41
Replacement of Tariff card	\$41
Taxicab Priority List - Initial Application	\$144
Taxicab Priority List -Renewal	\$74

These rates shall automatically increase and be rounded up to the nearest dollar on the first day of January in each year by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for the Toronto Census Metropolitan Area, published by Statistics Canada, during the 12-month period ending on September 30 in the year immediately preceding the rate increase date.

## Appendix B – Mobile Licensing By-law Licence Expiry Date

(Amended by By-laws 187-2014, 134-2018, 26-2021)

	EXPIRY DATES		
MOBILE LICENSING EXPIRY DATES	2021	2022	2023
<b>Schedule 1- Driving Schools:</b>			
Driving School Operator	February 28	September 30	September 30
Driving School Instructor	Date of Birth	Date of Birth	Date of Birth
Driving School Motor Vehicle Owner	April 30	April 30	April 30
<b>Schedule 2 - Limousines:</b>			
Limousine Owner	September 30	September 30	September 30
Limousine Driver	Date of Birth	Date of Birth	Date of Birth
<b>Schedule 3 - Refreshment Vehicles:</b>			
Refreshment Vehicle Class A (Coffee Truck)	May 31	May 31	May 31
Refreshment Vehicle Class B (Ice Cream Bike)	May 31	May 31	May 31
Refreshment Vehicle Class C ( Hot Dog Cart/ Chip Truck)	May 31	May 31	May 31
Refreshment Vehicle Class D (Ice Cream Truck)	May 31	May 31	May 31
Refreshment Vehicle Driver Class A	Date of Birth	Date of Birth	Date of Birth
Refreshment Vehicle Driver Class B	May 31	May 31	May 31
Refreshment Vehicle Driver Class C	May 31	May 31	May 31
Refreshment Vehicle Driver Class D	May 31	May 31	May 31
Special Event	Last day of Special Event.	Last day of Special Event.	Last day of Special Event.
<b>Schedule 4 - Taxicabs:</b>			
Broker	February 28	February 28	February 28
Taxicab/Accessible Taxicab Owner		February 28	February 28
Taxicab Driver	Date of Birth	Date of Birth	Date of Birth
Taxicab Priority List	Date of Birth	Date of Birth	Date of Birth
<b>Schedule 5 - Tow Truck:</b>			
Tow Truck Owner	June 30	June 30	June 30
Tow Truck Driver	Date of Birth	Date of Birth	Date of Birth
<b>Schedule 6- Personal Transportation Companies:</b>			
Personal Transportation Company	1 year from the Issuance of the Licence	1 year from the Issuance of the Licence	1 year from the Issuance of the Licence

Appendix C  
(Amended by By-laws 187-2014, 134-2018)



The Corporation of the City of Brampton  
*Certificate of Insurance*  
(MOBILE)

Enforcement and  
Bylaw Services –  
Licensing

\*\*PROOF OF LIABILITY INSURANCE WILL BE ACCEPTED ON THIS FORM ONLY\*\*

LICENCE TYPE	Taxi Cab Brokerage Taxi Cab Operator		Limousine Personal Transportation Company	PLATE NO. :
Vehicle(s) Make	Year	Model	Serial Number	Owner

This is to certify that the policies of insurance as described below have been issued by the undersigned to the insured named below and are in force at this time.

NAME OF INSURED(LESSOR, if applicable)	TELEPHONE NUMBER	AREA CODE
	▷ (     ) -     -	
ADDRESS	CITY	POSTAL CODE

NAME OF INSURED(LESSEE, if applicable)	TELEPHONE NUMBER	AREA CODE
	▷ (     ) -     -	
ADDRESS	CITY	POSTAL CODE

TYPE OF INSURANCE	INSURER'S NAME	POLICY NUMBER	EFFECTIVE (YR./MO./DAY)	EXPIRY DATE (YR./MO./DAY)	LIMITS OF LIABILITY
COMMERCIAL GENERAL LIABILITY					
AUTO LIABILITY					
UMBRELLA					

This will confirm the above vehicle insurance, with an OPCF 6A Endorsement (*Taxi & Limousine Licence ONLY*) or an IPCF 6TN Endorsement (*Personal Transportation Company ONLY*) is in full force and effect as of this date and issued in compliance with The Corporation of the City of Brampton, Licensing By-Laws.

If any of the above insurance policies are cancelled or changed so as to reduce the coverage during the coverage period as stated above, so as to affect this certificate, 10 days' notice of cancellation for non-payment or 30 days' notice for cancellation of the policy will be given by the insurer to:

The Corporation of the City of Brampton - Licensing  
485 Chrysler Drive  
Brampton, Ontario L6S 6G3  
Phone: 905-458-3424 ext. 63225 Fax: 905-458-3903  
[enforcementclerks@brampton.ca](mailto:enforcementclerks@brampton.ca) .

NOTE: In the event of a change in vehicles, a Substitution Endorsement is to be filed with the Licensing Section.

This certificate is executed and issued to the aforesaid Corporation of the City of Brampton, the day and date herein written below:

DATE YR. MO. DAY ▷	NAME OF INSURANCE COMPANY (not broker)
NAME OF INSURANCE BROKER	AUTHORIZED REPRESENTATIVE OR OFFICIAL BY:

\*\*\* THIS FORM MUST BE COMPLETED & SIGNED BY YOUR INSURANCE BROKER \*\*\*

Appendix C  
(By-law 134-2018)



The Corporation of the City of Brampton  
*Certificate of Insurance*

Enforcement  
and  
Bylaw Services –  
Licensing

**\*\*PROOF OF LIABILITY INSURANCE WILL BE ACCEPTED ON THIS FORM ONLY\*\***

LICENCE TYPE	Driving School (DS) Tow Truck		Driving School Vehicle Refreshment Vehicle	PLATE NO. :
Vehicle(s) Make	Year	Model	Serial Number	Owner

This is to certify that the policies of insurance as described below have been issued by the undersigned to the insured named below and are in force at this time.

NAME OF INSURED(LESSOR, if applicable)		TELEPHONE NUMBER <span style="float:right">AREA CODE</span> ▷ (     ) -     -			
ADDRESS		CITY <span style="float:right">POSTAL CODE</span>			
NAME OF INSURED(LESSEE, if applicable)		TELEPHONE NUMBER <span style="float:right">AREA CODE</span> ▷ (     ) -     -			
ADDRESS		CITY <span style="float:right">POSTAL CODE</span>			
TYPE OF INSURANCE	INSURER'S NAME	POLICY NUMBER	EFFECTIVE (YR./MO./DAY)	EXPIRY DATE (YR./MO./DAY)	LIMITS OF LIABILITY
COMMERCIAL GENERAL LIABILITY					
AUTO LIABILITY					
UMBRELLA					
<u>FOR TOW TRUCK OPERATORS ONLY:</u>  <u>LIABILITY FOR DAMAGE TO TOWED VEHICLE</u>					<b>\$100,000</b>
<u>DAMAGE TO CARGO IN TOWED VEHICLE</u>					<b>\$ 50,000</b>

This will confirm the above vehicle insurance, with an OPCF 6D (**Driving School Vehicle**) is in full force and effect as of this date and issued in compliance with The Corporation of the City of Brampton, Licensing By-Laws.

If any of the above insurance policies are cancelled or changed so as to reduce the coverage during the coverage period as stated above, so as to affect this certificate, 10 days' notice of cancellation for non-payment or 30 days' notice for cancellation of the policy will be given by the insurer to:

**The Corporation of the City of Brampton - Licensing**  
**485 Chrysler Drive**  
**Brampton, Ontario L6S 6G3**  
**Phone: 905-458-3424 ext. 63225 Fax: 905-458-3903**  
[enforcementclerks@brampton.ca](mailto:enforcementclerks@brampton.ca) .

**NOTE: In the event of a change in vehicles, a Substitution Endorsement is to be filed with the Licensing Section.**

This certificate is executed and issued to the aforesaid Corporation of the City of Brampton, the day and date herein written below:

DATE YR. MO. DAY ▷	NAME OF INSURANCE COMPANY (not broker)	
NAME OF INSURANCE BROKER		AUTHORIZED REPRESENTATIVE OR OFFICIAL BY:

**\*\*\* THIS FORM MUST BE COMPLETED & SIGNED BY YOUR INSURANCE BROKER \*\*\***

## **Appendix D – Mobile Licensing By-law Plate Removal**

**(Amended by By-law 187-2014)**

### **Mobile Licensing By-law**

Section 5 (fail to obtain licence)  
Section 10-11, 15-18 (fail to supply proper information on application form)  
Section 24 (fail to report other Regulatory Body Licence suspension)  
Section 37 (fail to notify of change of information)  
Section 47 (insurance)

### **Schedule 1 to the By-law**

(Relating to persons who carry on the business of teaching persons to operate motor vehicles, including truck driving schools and driving instructors employed in such business)

Section 10 (Driving School Motor Vehicle Owner)

### **Schedule 2 to the By-law**

(Relating to limousines, limousine drivers and owners)

Section 6 (Owners duties)  
Section 7 (Owners prohibitions)  
Section 8 (no Limousine examination)  
Section 9 (Limousine standards)

### **Schedule 3 to the By-law**

(Relating to owners, operators and drivers of vehicles from which refreshments are sold for consumption by the public)

Section 2 (Fail to submit Health Approval)  
Section 8 (hire unlicensed driver)  
Section 9 (unwholesome food)  
Section 11 (unsanitary vehicle)  
Section 12 (solicit through the use of noise making device)  
Section 15-16 (audible warning device)  
Section 18 (food supply)  
Section 20 (obstruct inspection)  
Section 25 (food wrapping or temperature of food)  
Section 26 (unsound vehicle)  
Section 27 (operating times)  
Section 28-30 (vehicle inspection)  
Section 33 (condiment containers)  
Section 39 (vehicle requirements)  
Section 41 (obstruct inspection)  
Section 42 (vehicle condition)  
Section 43-45 (warning device)  
Section 46 (unlicensed driver)

#### **Schedule 4 to the By-law**

(Relating to taxicabs, brokers, owners and drivers)

Section 2 (being a licensed driver)  
Section 5 (affiliation with a brokerage)  
Section 7 (trip sheets)  
Section 13-14 (owners duties and prohibitions)  
Section 15 (mechanical condition)  
Section 17 (Drive more than 12 hours)  
Section 20, 22, 24 (lease of plate)  
Section 27 (leave broker)  
Section 32 (Cease to operate a vehicle)  
Section 36, 37 (vehicle equipment and markings)  
Section 38 (meter)  
Section 42-44 (vehicle inspection)

#### **Schedule 5 to the By-law**

(Relating to owners, operators and drivers of tow trucks)

Section 9-10 (owners duties and prohibitions)  
Section 12 (owner and driver prohibitions)  
Section 15 (rates)  
Section 17-20 (vehicle standards)

## **Appendix E – Mobile Licensing By-law THRESHOLD POLICY**

**(Amended by By-laws 250-2016, 134-2018)**

### **POLICY STATEMENT:**

This policy deals with Applicants or Licensees who must submit a Criminal Record or driver's abstract as part of their Licence Application. When a police check reveals a prior conviction for a serious offence, the Licence Issuer must conclude that it is not in the public interest for the person to be licensed and shall refuse or suspend the licence.

When a Licence is refused or suspended, the Licence Issuer will advise the Applicant or Licensee in writing, setting out the specific conviction that forms the basis of the decision, and tell the Applicant or Licensee of the right to appeal to the Brampton Appeal Tribunal and the deadline for appealing. Any appeal letter must contain reasons in support and be accompanied by the appropriate appeal fee as set out in the City's User Fee By-law. The Tribunal makes the final decision and there is no further right to appeal to City Council.

In the course of an application, the Licence Issuer may also inquire into pending court cases and issue a conditional Licence to the date of the expected court date. Withholding the fact of a pending court date from the Licence Issuer is itself a ground for suspension of the Licence.

In respect of Schedule 6 of this by-law, this Policy must be applied by a PTC to all Persons applying to access a PTC Platform as a PTC Driver. If the Person's documents do not meet the threshold set out in this policy, the PTC must conclude that it is not in the public interest for the person to be on the Platform.

### **SCOPE:**

The thresholds will apply to Licences issued by the City of Brampton pursuant to the following Schedules under Mobile Licensing By-law:

Schedule 1 Driving Schools	Schedule 4 Taxicabs
Schedule 2 Limousines	Schedule 5 Tow Trucks
Schedule 3 Refreshment Vehicles	Schedule 6 Personal Transportation Company

**1-A** Despite an application being complete and all fees paid the Licence Issuer shall refuse to issue or renew a Licence and in the case of an existing Licence, the Licence Issuer shall suspend the Licence, if an Applicant or Licensee has:

- (1) any code 01 conviction;
- (2) any code 02 conviction within the last ten years;
- (3) any code 03 conviction within the last five years;
- (4) two or more code 03 convictions within the last ten years;
- (5) any code 04 conviction within the last three years;
- (6) two or more code 04 convictions within the last five years;
- (7) any code 05 or 07 conviction within the last year;
- (8) any code 06 conviction within the last three years;

- (9) two or more code 6 convictions within the last five years;
- (10) three or more code 08 convictions within the last year;
- (11) nine or more demerit points, as defined in the *Highway Traffic Act*, on the driver's abstract provided to the Licensing Department;
- (12) six or more by-law related\* convictions within the last year concerning the licensed business or individual, or any other of the individual's businesses that are licensed or are required to be licensed, or any of the individual's prior businesses that were licensed or were required to be licensed; four or more by-law and related\* convictions within the twelve-months immediately preceding the date of issuance;
- (13) any code 09 event within the last year; or
- (14) overdue by-law fines or other monies owed to the City, unless the Applicant or Licensee provides proof that such fines have been subsequently paid.

**1-B** The Licence Issuer shall issue, renew or reinstate a Licence, if at the time of the Application for a Licence or Licence renewal, the conviction or event has reached the age set out below.

- (1) The code 02 conviction is more than ten years old;
- (2) If the Licence was not issued because of a single code 03 conviction, when that conviction becomes more than five years old,
- (3) If the Licence was not issued because of two or more code 03 convictions, when at least two of those convictions become more than ten years old;
- (4) If the Licence was not issued because of a single code 04 conviction, when that conviction is more than three years old;
- (5) If the Licence was not issued because of two or more code 04 convictions, when at least two of those convictions are more than five years old;
- (6) If the Licence was not issued because of a single code 05 or code 07 conviction, when that conviction is more than a year old;
- (7) If the Licence was not issued because of a single code 06 conviction, when that conviction is more than three years old;
- (8) If the Licence was not issued because of two or more code 06 convictions, when at least two of those convictions are more than five years old;
- (9) If the Licence was not issued because of a single code 07 conviction, when that conviction is more than one year old;
- (10) If the Licence was not issued because of nine (9) or more demerit points, as defined in the *Highway Traffic Act*, on the driver's abstract provided to the Licence Issuer; when the driver's abstract falls below nine (9) demerit points;
- (11) If the Licence was not issued because of three or more code 08 convictions, when three of those convictions are more than one year old;
- (12) If the Licence was not issued because of a code 09 event, when that code 09 event is more than a year old; and

(13) If the Licence was not issued because overdue by-law fines or other monies owed to the City, when those fines have been paid.

These thresholds shall be applied threshold for threshold. For example if the Applicant's or Licensee's Licence was not granted by reason of a recent code 02 conviction, the Licence shall be reinstated or issued when the code 02 conviction is more than 10 years old, provided there are no other applicable thresholds.

**1-C** The Licence Issuer may place conditions and issue a warning letter on a Licence if an investigation of a Licensee reveals circumstances that may in the future cause the Licensee to be in contravention of any of the thresholds listed.

**1-D** The Licence Issuer may issue a warning letter to be placed in an Applicant's or Licensee's file if, at the time of an Application for a Licence or renewal, the Applicant has four or more by-law and related\* convictions concerning the licensed business or individual, or any other of the individual's businesses that are licensed or are required to be licensed, or any of the individual's prior businesses that were licensed or required to be licensed, within the twelve months immediately preceding the date of issuance or renewal.

The warning letter must advise the Applicant or Licensee about the specific applicable threshold.

\* Related legislation may include, but is not limited to, City of Brampton Business Licensing By-law

<b>Criminal Code Offences</b>	<i>Description</i>	<b>Code</b>
Sexual Offences (minors)	Interference, invitation, exploitation, procuring sexual activity (parent or guardian), permitting sexual activity (householder) corrupting children, luring a child, exposure, incest (with minor)	01
Terrorism	Providing, collecting property; using, possessing property; providing, making available property	02
Homicide	Homicide, manslaughter, infanticide, murder, attempt to commit, accessory	02
Major assault and sexual assault offences	Sexual assault with weapon, causing bodily harm, aggravated, assault with weapon, causing bodily harm	02
Sexual offences (against person other than minor)	Exploitation of persons with a disability, incest, indecent act, sexual assault	03
Confinement	Kidnapping, hostage taking, abduction	03
Hate propaganda	Advocating genocide, public incitement of hatred	03
Robbery, extortion	All offences	03
Criminal organization	Participating in activities of	03

Criminal Negligence	Criminal negligence, causing death, causing bodily harm	04
Assault	Assault, of a peace officer	04
Noxious thing, poison	Administering to harm	04
Harassment, threats	Criminal harassment, uttering threats	04
Explosives	Using, possession	04
Weapons	Possession, carrying, trafficking	04
Firearms	Using in commission of offence, careless use, pointing, possession, acquisition without certificate, causing bodily harm with intent (firearm, air gun, or pistol)	04
Theft offences	All offences	04
Forgery offences	All offences	04
Traps	Setting	05
Break and enter	Break and enter	04
Crime-possession of property	Possession of property obtained by crime	04
Fraud	Fraud offences, falsifying documents	04
Arson	All offences	04
Counterfeit money	Uttering, advertising, dealing	04
Proceeds of crime	Laundering	04
Noxious thing, poison	Administering to annoy, to aggrieve	05
Mischief	Mischief	05
Conspiracy	Conspiracy to commit an indictable offence	05
Prostitution	Offences related to	05
Bawdy houses	Keeping, transporting person to, procuring	05
Operation of motor vehicle, vessels, or aircraft	Dangerous operation, failing to stop for police, failure to stop at scene of accident, operation while impaired, operation with more than 80 milligrams of alcohol in blood, driving while disqualified	06
Other	All other Criminal Code Convictions	07

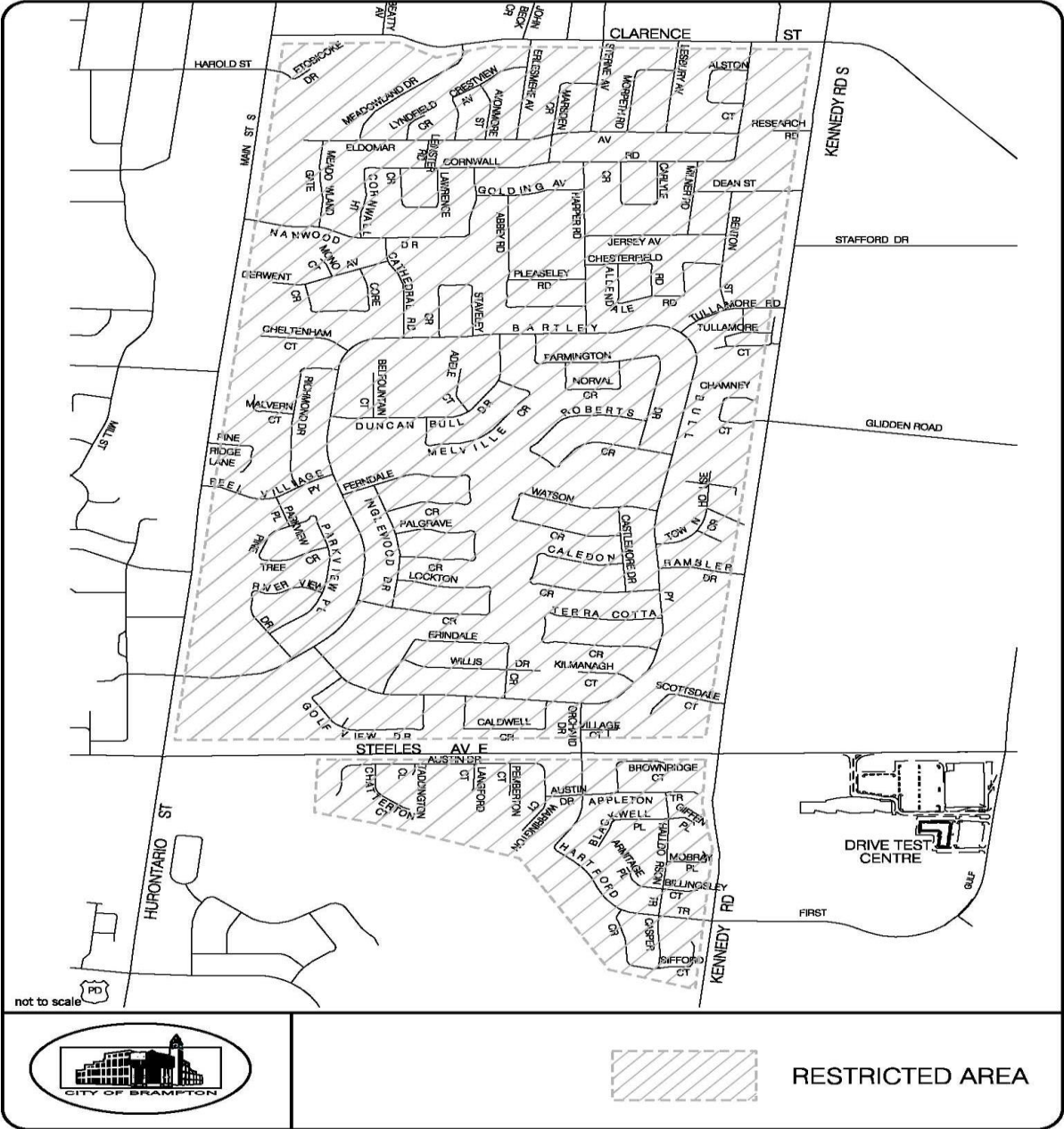
<b>Controlled Drugs and Substances Act Offences</b>	<i>Description</i>	<b>Code</b>
Possession	Possession	05
Trafficking	Of Schedule I or II substance Of Schedule III substance Of Schedule IV substance	03 04 05
Importing, exporting	Of Schedule I or II substance Of Schedule III substance Of Schedule IV substance	03 04 05

Production	Of Schedule I or II substance	03
	(except marijuana)	04
	Of Marijuana	04
	Of Schedule III substance	05
	Of Schedule IV substance	

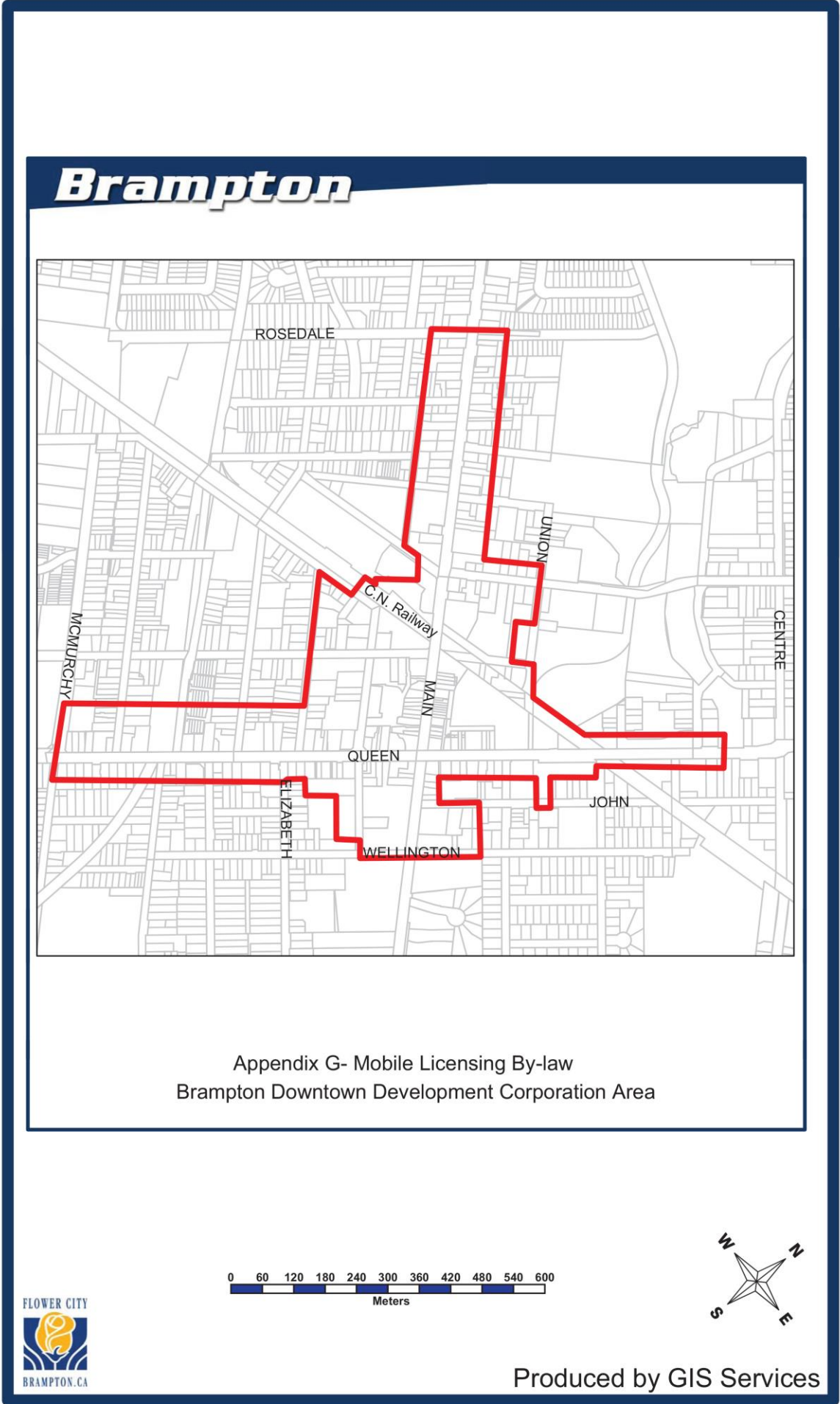
<b>Highway Traffic Act</b>	<i>Description</i>	<b>Code</b>
36	Driving while license suspended	07
43(1)	Driving while license suspended	06
Speeding	Exceeding speed by 50 km/hr	06
Careless	Careless driving	06
Fail to remain	Fail to remain at the scene of an accident	06
Fail to stop	Fail to stop when signaled or requested by a police officer	06
Racing	Racing	06
Fail to stop	Fail to stop for a school bus	06

<b>By-Law</b>	<i>Description</i>	<b>Code</b>
	Discriminate against a member of the public	08
	Refuse to serve a blind person guided by a dog	08
	Refuse to serve a physically challenged person	08
	Any instance of plate removal	09

Appendix F – Mobile Licensing By-law  
Driving Schools



**Appendix G**  
(Amended by By-law 187-2014)



**Appendix H – Mobile Licensing By-law  
Taxicab Tariff**

**(Amended by By-laws 269-2017, 154-2019)**

1. Meter Tariffs

(a) By distance:

-for the 1st 141 metres \$ 4.25

-for each additional 141 metres or part thereof \$ 0.25

(b) Waiting Time, while under engagement:

-for each 30 seconds \$ 0.25

2. Additional Charges

a. For passengers exceeding four or for special requests for Vans \$10.00\*

\* ***additional passenger surcharge does not apply to Personal Care Attendants for Disabled Passenger(s)***

b. For each odd item, parcel, or container over .085 cubic metres (3 cu. ft.) or over 27 kilograms (60lbs.) in weight not covered by this Fare, charges should be agreed upon between the driver and the passenger before commencement of the Trip.

## Appendix I – Mobile Licensing By-law

### Formula for the Issuance of Taxicab Owner's Licences (Plates) from the Priority List

(Amended by By-law 270-2017)

Criteria	Weighted Percentage
1. Number of Completed Trips	22.64%
2. Change in Business Industry	9.53%
3. Population Related Factors	58.32%
4. Information on Drivers/Operators	9.51%

Criteria/Factors	Year A	Year B	% Change
<b>Number of Completed Taxicab Trips</b>			
<b>Criteria 1 -% change</b>			
<b>Change in the Business Industry</b>			
# of hotel rooms			
# of licensed bingo events			
# of licensed banquet halls			
Office Space - Occupancy (sq ft)			
# of Theater Screens			
# of licensed Fixed Food Premises			
Retail Inventory (sq ft)			
Brampton Transit Ridership - annual			
GO Transit Ridership at Brampton Stations - annual			
# of Recreation Centres with public programming			
# of licensed Limousines			
# of doctors' offices within Brampton			
<b>Criteria 2 – Average % change</b>			

<b>Population Related Factor</b>			
Total Population			
Sectors:			
- Apartment/Townhouse Population			
- Social Assistance Caseload - monthly average			
- Senior Population (i.e. over age 65)			
- Brampton School Enrollment (excl. private schools) including Peel District and Dufferin Peel Catholic Boards, and Sheridan College			
Average of % change in Sectors			
<b>Criteria 3 – Average (of Total Population and Sectors)</b>			

<b>Information on Drivers/Operators</b>			
Average Total Income/Taxicab			
Average Operating Expenditure/Taxicab			
# of taxicab drivers licences			
Average Lease Price of Taxicab Owners Licence			
<b>Criteria 4 – Average % change</b>			

#### **Calculation**

Except as otherwise noted, the calculation shall be applied by applying the percentage change in the factor year over year.

To determine the number of additional Taxicab Owner's Licences (plates) to be issued, the Licence Issuer shall:

- Obtain statistical information for the each of the factors set out in the four criteria for:

- the year prior to the last time taxicab owner's licenses (plates) were issued (Year A), and
  - the year prior to the time that the calculation is being made (Year B)
- Calculate the percentage change for each of factors year over year
  - For Criteria 1, 2 and 4 - Calculate the average percentage change
  - For Criteria 3 – Calculate the average percentage change for the "Sectors", then calculate the average percentage change of the "Total Population" and the "Sectors"
  - Calculate the average percentage change for the averages of the four criteria
  - Calculate the "weighted percentage change" for each of the four criteria by multiplying the average percentage change for each by the weighted percentage
  - Calculate the net percentage change by averaging weighted percentages of the four criteria
  - Multiply the net percentage change by the total number of taxicab owner's licences at the time the formula is being applied

That resultant calculation identifies the number of additional Licences to be issued.  
 If the number is positive, that number of Licences shall be issued.  
 If the number is negative, no Licences shall be issued.



## OFFICE CONSOLIDATION

### Business Licensing By-law 332-2013

To Provide for a System of Licensing for Stationary Businesses  
and to amend Licensing By-law 1-2002, Fireworks By-law 147-  
2006, Brampton Appeal Tribunal By-law 48-2008 and Delegation  
of Authority By-law 191-2011

**(Amended by By-laws 187-2014, 316-2015, 199-2016, 265-2016, 270-2016,  
248-2017, 106-2019, 184-2019, 219-2019, 39-2020, 121-2020, 208-2020, 243-2020,  
2-2021, 21-2021, 57-2021, 245-2022, 19-2023, 112-2023)**

#### **RECITALS**

Subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (*"Municipal Act, 2001"*) provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

Section 9 of the *Municipal Act, 2001*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under any Act;

Subsection 11(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

Subsection 11(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property, including consumer protection;

Subsection 11(3) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 9, Animals, and in paragraph 11, Business Licensing;

Pursuant to the provisions of Part IV – Licences of the *Municipal Act, 2001*, a municipality may pass by-laws for licensing, regulating and governing any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality;

Subsection 151(1) of the *Municipal Act, 2001* provides that a municipality may provide for a system of licences with respect to a business and may prohibit the carrying on or engaging in the business without a licence, refusing, revoking or suspending a licence, imposing conditions on a licence, regulating property used for a business that requires a licence and regulating persons carrying on a business that requires a licence;

Section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate certain legislative and quasi-judicial powers where the council of the municipality is of the opinion that the power being delegated is of a minor nature;

Subsection 391(1) of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;

The Council of the City of Brampton considers it desirable and necessary to license, regulate and govern certain types of businesses for the purpose of health, safety and well being of persons, consumer protection and nuisance control to ensure that the business is conducted in a fashion and manner that will not adversely affect or could possibly adversely affect the health and safety of person(s) or result in illness, hazardous conditions, injury or loss;

The Council of the City of Brampton considers it desirable and necessary to license, regulate and govern certain types of businesses for the purpose of nuisance control to ensure that the facility is operated in a manner and location such that it will not adversely affect or become a nuisance to other persons or businesses;

The Council of the City of Brampton considers it desirable and necessary to license, regulate and govern certain types of businesses for the purpose of consumer protection for the prevention of unfair or potentially unfair business practices that could result in loss on the part of the consumer;

The Council of the City of Brampton considers it desirable and necessary to license, regulate and govern the businesses listed within this By-law.

**NOW THEREFORE** the Council of The Corporation of the City of Brampton ENACTS AS FOLLOWS:

## **PART I – TITLE, INTERPRETATION AND SEVERABILITY**

1. This By-law may be referred to as the “Business Licensing By-law”.
2. (1) Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Part II of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
  - (2) Wherever a word defined in Part II of this by-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.
  - (3) All words importing the singular shall include the plural, and words imparting the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.
3. If a court of competent jurisdiction declares any provision or part of a provision of this Bylaw to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

## **PART II – DEFINITIONS**

4. For the purposes of this By-law:

“Act” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

“Additional Fee” means a fee, in addition to the Licence fee, imposed by the City on a business at any time during the term of the Licence for costs incurred by the City that are attributable to the activities of the business;

“Applicant” means a Person applying for a new Licence or renewing a Licence under this By-law;

“Application” means an application for a new Licence or a Licence renewal in the form provided by the Licence Issuer which must be accompanied by the appropriate documentation and fee;

“By-law” means this by-law.

“City” means The Corporation of the City of Brampton or the land within the municipal boundaries of the City of Brampton, as the context requires;

“Clerk” means the Clerk of the City of Brampton or the Clerk’s duly appointed Deputy;

“Closed File Administration Fee” means the fee as set out in Appendix A that is required when an Application file is closed under this By-law;

“Council” means the Council of The Corporation of the City of Brampton;

“Criminal Record” means a record of past crimes for which an individual has been convicted;

“Fire Chief” means the Chief of the Brampton Fire and Emergency Services or his or her designate;

“Inspector” means any one of the following:

- (a) Municipal Law Enforcement Officer;
- (b) Peel Region Health Inspector;
- (c) Fire Inspector in the Brampton Fire and Emergency Services; or
- (d) Police as defined in this By-law;

“Late Renewal Fee” means the fees set out in Appendix A that are required for the late renewal of a Licence;

“Licence” means a licence issued under this By-law, or predecessor by-law.

“Licence Fee” means the fee set out in Appendix A that is required to be paid to the City for a new Licence or a Licence renewal;

“Licence Issuer” means the person appointed under this By-law and includes his or her designate;

“Licensed Premises” means the Premises referred to in a Licence;

“Licensee” means any Person licensed under this By-law;

“Medical Officer of Health” means the Medical Officer of Health for the Regional Municipality of Peel and includes any Peel Region Health Inspector acting on his or her behalf;

“Municipal Law Enforcement Officer” means a person employed by the City and appointed as a Municipal Law Enforcement Officer by the City;

“Notice of Additional Fee” means a written notice from the Licence Issuer to a Licensee advising of the requirements to pay an Additional Fee;

“Operator” means a proprietor or any other Person who alone or with others, operates, manages, supervises, runs or controls a business;

“Owner” means a Person who, alone or with others, fits into any one or more of the following categories:

- (a) is the owner of the business;
- (b) has control over the business; or
- (c) directs the operation of the business;

“Person” includes an individual, corporation, partnership or limited partnership;

“Premises” means land and includes the structures on the land, such as buildings, fences and sheds;

“Police” means a police officer, constable or cadet of the Regional Municipality of Peel Police Service;

“Peel Region Health Inspector” means a public health inspector employed by the Region of Peel;

“Tribunal” means the Brampton Appeal Tribunal appointed by Council to conduct hearings under the Brampton Appeal Tribunal By-law No. 48-2008, as amended, or any successor by-law;

“Zoning Approval” means that a Licence Application has been examined and approved by the City’s Zoning Services staff for compliance with the Zoning By-law;

“Zoning By-law” means the City’s Zoning By-law No. 270-2004, as amended, or any successor by-law.

### **PART III – LICENSING REQUIRED**

5. (1) A Licence shall be taken out under this By-law by every Person who:

- (a) owns or operates a Personal Service Facility (S-1)
- (b) owns or operates a Place of Amusement (S-2);
- (c) acts as an Auctioneer (S-3);
- (d) owns or operates an Automobile Service Station or Parking Lot (S-4);
- (e) owns or operates a Billiard Hall or Bowling Alley (S-5);
- (f) is engaged in the business of Building Renovator (S-6);
- (g) owns or operates a Carnival or Circus (S-7);

- (h) is engaged in the business of Drain Laying Contractor (S-8);
  - (i) is engaged in the business of Driveway Paving Contractor (S-9);
  - (j) is engaged in the business of Fence Installation Contractor (S-10);
  - (k) owns or operates a Fixed Food Premises (S-11);
  - (l) owns or operates a Flea Market (S-12);
  - (m) **Deleted pursuant to By-law 19-2023;**
  - (n) is engaged in the business of Heating, Air Conditioning and Ventilation Contractor (S-14);
  - (o) owns or operates a Horse Riding Establishment (S-15);
  - (p) owns or operates a Payday Loan Business (S-16); **(By-law 121-2020)**
  - (q) owns or operates a Lodging House (S-17);
  - (r) is engaged in the business of Pawnbroker (S-18);
  - (s) (letter reserved for future use)
  - (t) owns or operates a Pet Shop (S-20);
  - (u) owns or operates a Place of Public Assembly or Public Hall (S-21);
  - (v) is engaged in the business of Plumbing Contractor (S-22);
  - (w) is engaged in the business of Pool Installation Contractor (S-23);
  - (x) owns or operates a Salvage Shop or Salvage Yard (S-24);
  - (y) owns or operates a Second Hand Goods Shop (S-25);
  - (z) owns or operates a store where tobacco, cigars or cigarettes are sold by retail (S-26); or
  - (aa) owns or operates a Vehicle Pound Facility (S-27).
- (2) Any Person who falls within subsections 5. (1) (a) through to and including (aa) is engaged in a business for the purposes of this By-law.
  - (3) The defined terms for the businesses listed within subsections 5. (1) (a) through to and including (aa) are found in the schedules referred to in the subsections and are attached to this By-law.
  - (4) No Person shall carry on, or engage in any of the businesses that are listed in subsections 5. (1)(a) through to and including (aa) unless the Person is licensed under this By-law.
  - (5) No Person, licensed under this By-law, shall carry on the licensed business in a name that is different from the business name that is endorsed on the Licence, unless the Licence Issuer has provided his or her approval.
  - (6) No Person shall publish or cause to be published any representation that the Person is licensed under this By-law if the Person is not so licensed.
  - (7) No Person shall hold him or herself out to be licensed if he or she is not licensed under this By-law.

- (8) For the purpose of this By-law, a business shall be deemed to be carried on within the City if any part of the business is carried on in the City, even if the business is being conducted from a location outside the City.
- (9) No Person shall provide false or misleading information or documents when applying for a Licence or Licence renewal, or when required to provide any information or documents under this By-law.

#### **PART IV – REQUIREMENTS FOR LICENSEES**

- 6. Every Applicant and Person licensed under this By-law shall be:
  - (a) At least 18 years of age, and
  - (b) A Canadian citizen, a permanent resident of Canada or have a valid employment authorization issued by the Government of Canada.

#### **PART V – LICENCE ISSUER**

- 7. (1) The City Clerk is appointed as the Licence Issuer for the purposes of this By-law.
- (2) Council delegates to the Licence Issuer the power to issue, refuse to issue, renew, refuse to renew, cancel, revoke, suspend, reinstate and impose conditions on a Licence under this By-law.
- (3) Council is of the opinion that the delegation under subsection 7. (2) is minor in nature.
- 8. Where the Licence Issuer is of the opinion that,
  - (a) a new Licence or a Licence renewal should be issued;
  - (b) an Application for a new Licence or renewal of a Licence should be refused;
  - (c) a reinstatement should not be made;
  - (d) a Licence should be revoked;
  - (e) a Licence should be suspended; or
  - (f) a term or condition on a new Licence or Licence renewal should be imposed;he or she shall make that decision.
- 9. The Licence Issuer shall,
  - (a) receive and process all Applications for new Licences and for the renewal of Licences;
  - (b) issue a new Licence or renew a Licence when,
    - (i) an Application is made in accordance with the provisions of this By-law;
    - (ii) the Application is complete;

- (iii) the applicable Licence Fee is paid; and
- (iv) the Application meets all of the requirements under this By-law;  
unless there are grounds to refuse to issue a new Licence or renew a Licence as set out under section 23 of this By-law;
- (c) impose terms and conditions on a new Licence or Licence renewal when the Licence Issuer is of the opinion that a term or condition of a Licence should be imposed under this By-law;
- (d) maintain complete records showing all Applications received and Licences issued;
- (e) enforce or cause to be enforced the provisions of this By-law;
- (f) prepare or cause to be prepared all notices, forms and any other document, including any amendments thereto, that are necessary for the administration of this By-law; and
- (g) generally perform all the administrative functions that may be required by this By-law.

## **PART VI - APPLICATION FOR A LICENCE AND FOR A LICENCE RENEWAL**

10. (1) In order to apply for a new Licence or a Licence renewal, the Applicant shall,

- (a) complete and submit an Application in the form approved by the Licence Issuer;
- (b) submit all documentation required under this By-law or requested by the Licence Issuer; and
- (c) submit the Licence Fee as set out in the Fee Schedule attached as Appendix A.

(2) An Application for a new Licence or Licence renewal shall not be processed by the City until all of the requirements of subsection (1) are met and any outstanding Licence Fee(s) and any outstanding Additional Fees have been paid.

11. (1) The Licence Issuer may require any one or more of the following as part of the Application:

- (a) Proof of citizenship, permanent resident status or other employment authorization issued by the Government of Canada.
- (b) A statement from the Applicant as to whether charges against the Applicant are pending under the Criminal Code, the *Controlled Drugs and Substances Act*, the *Building Code Act 1992*, the *Fire Protection and Prevention Act, 1997*, the City's Zoning By-law or this By-law.
- (c) A Criminal Record Search conducted by the Police Services in whose jurisdiction the Applicant resides.
- (d) A Zoning Approval indicating that the use for the Premises for which the Application has been made is permitted under the City's Zoning By-law.

- (e) A letter of approval issued by the Fire Chief indicating no apparent violations of applicable by-laws or other legislation.
  - (f) A letter of approval issued by the Medical Officer of Health or Peel Regional Health Inspector.
12. (1) Where the Owner is a corporation, the Application shall be accompanied by a copy of the incorporating documents, a copy of the last annual information filed and a copy of the business name registration.
- (2) Where the Owner is a registered partnership, the Application shall be accompanied by a copy of the registered declaration of partnership and a copy of the business name registration.
- (3) Where the Owner is a sole proprietor, the Application shall be accompanied by a copy of the business name registration.
- (4) Despite subsection 12. (1) where a corporation applies for a renewal of a Licence and there has been no change in the officers or directors of the corporation, only a copy of the last annual information filed must be submitted by the Owner with the Application.
- (5) A Licence issued to a partnership may be issued in the name of one partner.
13. (1) Despite subsection 11. (1) (d), where an Application is made for a Licence renewal and where a Zoning Approval was received with the original Licence Application approving the use of the Premises, a new Zoning Approval may not be required.
- (2) Where an Application is made for a new Licence or Licence renewal and where a Zoning Approval has been issued based upon the use being allowed by a Committee of Adjustment decision, the Zoning Approval is subject to all conditions and restrictions imposed on the use by the Committee of Adjustment, including a time limit for the use, and upon expiry of any time limit imposed on the use by the Committee of Adjustment, the Zoning Approval shall no longer be valid.
14. (1) Where an Application for a Licence or Licence renewal is withdrawn by the Applicant, the Licence Fee shall be refunded with the exception of \$50.00.
- (2) Where an Application for a Licence or Licence renewal is refused 50% of the Licence Fee paid shall be refunded.
- (3) Any Licence Fee refund calculated pursuant to subsections 14. (1) or (2) shall be reduced by any Additional Fee amount, or part thereof, that is outstanding at the time of the refund.
15. An Owner must obtain a separate Licence for every Premises where the Owner carries on a business for which a Licence is required under this By-law.
16. Regardless of when an Application for a new Licence or Licence renewal is made, the Applicant is required to pay the full annual Licence Fee.
17. (1) Where a Person who has a Licence fails to renew the Licence by the renewal date, the Person shall, upon submitting an Application for renewal, be subject to a Late Renewal Fee in accordance with Appendix A.
- (2) Where an Applicant applies for a Licence renewal and for a period of 60 days after the Licence expiry date the Application is incomplete or any fee under this By-law is unpaid, the Licence Issuer may, in his or her sole discretion, deem the Application to be an Application for a new Licence.

- (3) Where a Person holding a Licence fails to renew the Licence within 90 days of the specified renewal date, the Person shall no longer be entitled to renew the Licence and shall be required to apply for a new Licence under this By-law, subject to the payment of such fees as may be required.
18. Regardless of whether a Licence may have been issued or renewed, the Licence Issuer may require that the Applicant file further information or provide further documentation in respect of a fact which the Applicant has already attested to or previously supplied documentation for.
19. Any Person licensed by any regulatory body where that licence is a requirement for the issuance of a Licence under this By-law, shall immediately report to the Licence Issuer any suspension of the licence issued by the regulatory body.
20. (1) Where an Applicant has failed to provide any fee or document required under this By-law for the issuance of a new Licence or a Licence renewal, the Application shall be considered incomplete.
- (2) If the Application remains incomplete after 30 days from the date the Application was submitted, the Licence Issuer may issue a Notice of Incomplete Application and close the file.
- (3) Where an Application file is closed, the Applicant is required to pay the Closed File Fee to the City as set out in Appendix A.
- (4) Subject to the time limitation in subsection 17. (3), the Closed File Fee in subsection 20. (3) must be paid to the City before the Licence Issuer can reopen a closed Application file.
- (5) The issuance of a Notice of Incomplete Application is not a statutory power of decision and is not subject to appeal to the Tribunal.

## **PART VII – ISSUANCE OF A LICENCE OR LICENCE RENEWAL**

21. When an Application for a Licence or Licence renewal is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, which include any requirements that may be requested by the Licence Issuer, a Licence shall be issued to the Applicant or Licensee.

## **PART VIII – TERMS AND CONDITIONS**

22. (1) Despite any other provision in this By-law, the Licence Issuer may impose terms and conditions on any Applicant or Licensee at issuance, renewal or any time during the Licence period, including special conditions as are necessary to give effect to this By-law.
- (2) The Licence Issuer may impose conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a Licence.
- (3) Despite any other provision in this By-law, the Licence Issuer may impose Additional Fees on a Licensee by way of a Notice of Additional Fee at any time during the term of the Licence for any costs incurred by the City attributable to the activities of the Licensee.
- (4) The Notice of Additional Fee shall be sent to the Licensee by personal delivery, e-mail or fax delivery, or by regular mail and the notice shall provide the Licensee with 60 days to pay the Additional Fee from the date of the notice.

## **PART IX - GROUNDS FOR REFUSAL TO ISSUE OR RENEW A LICENCE**

23. Despite section 21, the Licence Issuer may refuse to issue a Licence or renew a Licence, if the Licence Issuer has reasonable grounds to believe any one or more of the following:
- (a) The issuance or the holding of a Licence would be contrary to the public interest in respect of:
    - (i) the health and safety of any person,
    - (ii) a nuisance affecting any land or person in the City or Canada, or
    - (iii) the protection of any consumer.
  - (b) The conduct of the Applicant or Licensee or other circumstances afford reasonable grounds for belief that the carrying on of the business has infringed, or would infringe, the rights of other members of the public.
  - (c) Any Application or other document provided to the Licence Issuer by or on behalf of the Applicant or Licensee contains a false statement or provides false information.
  - (d) The financial position of the Applicant or Licensee demonstrates that the business has not or will not be carried on in a financially responsible manner.
  - (e) The business of the Applicant or Licensee is carried on or intended to be carried on in an area where it is prohibited.
  - (f) The business for which the Licence has been issued has not been carried on for a continuous period of 60 days or more, except if the Licence Issuer has been informed that the licensed premises is undergoing renovations.
  - (g) The Applicant or Licensee has failed to pay a fine or fines imposed by a Court for convictions for breach of this or any other City by-law.
  - (h) The building, premises, place or part thereof in which the business is carried on does not comply with the provisions of this By-law or with any other law, regulation or City by-law, including the Zoning By-law, and the Building Code, O.Reg. 350/06, as amended and the Fire Code, O.Reg. 213/07, as amended or any successor regulations.
  - (i) The Premises in which the business is carried on is in an unsafe or dangerous condition.
  - (j) The conduct of the Applicant or Licensee affords reasonable grounds for belief that the Applicant or Licensee has not carried on or will not carry on his or her trade, business or occupation in accordance with law and with integrity and honesty.
  - (k) There are reasonable grounds for belief that the carrying on of the trade, business or occupation by the Applicant or Licensee has resulted or will result in a breach of this By-law or any other law.
  - (l) Any fee payable by the Licensee pursuant to this By-law has not been paid. **(By-law 106-2019)**

- (m) Any Additional Fee imposed on an Applicant or Licensee remains unpaid after the due date as indicated in a Notice of Additional Fee sent to the Applicant or Licensee.
- (n) The Applicant or Licensee has failed to pay an administrative monetary penalty imposed by the City or a fine or fines imposed by a Court for convictions for breach of this or any other City by-law or provincial offence. **(By-law 106-2019)**
- (o) The Applicant or Licensee has failed to comply with any condition or direction of the Licence Issuer or Inspector or has failed to permit any investigation by the Licence Issuer or Inspector. **(By-law 106-2019)**
- (p) The Applicant or Licensee has failed to comply with the requirements set out in any of the Schedules referenced in subsections 5(1)(a) to and including 5(1)(aa) applicable to the Applicant or Licensee. **(By-law 106-2019)**

## **PART X – GROUNDS FOR REVOKING OR SUSPENDING A LICENCE**

- 24. The Licence Issuer may revoke or suspend a Licence for any one or more of the grounds listed in subsections 23. (a) through to and including (p). **(By-law 106-2019)**
- 25. If the Licence Issuer is satisfied that the continuation of a business poses an immediate danger to the health or safety of any person or property, the Licence Issuer may, without a hearing, suspend a Licence, for the time and on such conditions as the Licence Issuer considers appropriate, subject to the following:
  - (a) Before suspending the Licence, the Licence Issuer shall, either orally or in writing, provide the Licensee with the reasons for the suspension and allow the Licensee with an opportunity to respond.
  - (b) The suspension shall not exceed 14 days.

## **PART XI – WRITTEN NOTICE AND SERVICE**

- 26. (1) After a decision is made by the Licence Issuer to refuse, cancel, revoke or suspend a Licence, written notice of that decision shall be given forthwith to the Applicant or Licensee.
- (2) The written notice provided under subsection 26. (1) shall:
  - (a) set out the grounds for the decision;
  - (b) give reasonable particulars of the grounds for the decision;
  - (c) be signed by the Licence Issuer; and
  - (d) state that the Applicant or Licensee is entitled to a hearing by the Tribunal if the Applicant or Licensee delivers to the Clerk within 15 days after the notice is served, a notice in writing requesting a hearing by the Tribunal accompanied by the appropriate appeal fee.
- (3) Any written notice given under this By-law shall be deemed to be received on the receipt date which is one of the following:
  - (a) In the case of mailed documents, 5 days following the mailing as determined from the post mark.

- (b) In the case of personal delivery, e-mail or faxed document, the day of delivery.
  - (c) Where more than one method of delivery is used, the operative receipt date for the calculation of the time for an appeal is the latest of the possible receipt dates.
- (4) Where any written notice is mailed under this By-law, it is sufficient to use the Applicant's or Licensee's last known business or residential address.

## **PART XII – RIGHT TO APPEAL**

27. (1) The Applicant or Licensee may appeal the Licence Issuer's decision to refuse, cancel, revoke or suspend a Licence, or to impose any condition in a Licence to the Tribunal by filing a written notice of appeal with the City Clerk, with reasons in support of the appeal, to the Clerk, accompanied by the appropriate appeal fee as set out in the City's User Fee By-law within 15 days following the receipt date of the written notice of the Licence Issuer's decision.
- (2) On receipt of a written request for an appeal from the Applicant or Licensee, the Clerk shall schedule a hearing of the Tribunal and shall give the Applicant or Licensee and the Licence Issuer reasonable written notice of the date, time and place of the hearing in accordance with the Brampton Appeal Tribunal By-law, No. 48-2008, as amended, or any successor by-law.
- (3) The decision of the Licence Issuer shall be final if the City Clerk does not receive an appeal by the 15th day following the receipt date of the written notice of the Licence Issuer's decision,
- (4) No member of the Tribunal, Council, or an employee of the City is personally liable for anything done under authority of this By-law.
- (5) Where the Tribunal has ordered that a Licence be granted, re-instated, a suspension to a Licence ended or a change to the condition(s) of a Licence, the Applicant or Licensee shall fulfill any outstanding requirements for the Licence under this By-law.
- (6) The provisions of the Brampton Appeal Tribunal By-law No. 48-2008, as amended, or any successor by-law, apply to any appeal that is made under this section.

## **PART XIII – RETURN OF LICENCE**

28. (1) Where a Licence has been revoked or suspended, and written notification as set out in section 26 is deemed received, the Person to whom the Licence was issued shall return the Licence to the Licence Issuer forthwith.
- (2) A Person whose Licence has been revoked or suspended shall not refuse to deliver the Licence to the Licence Issuer or in any way obstruct or prevent the Licence Issuer from receiving or taking the Licence.
- (3) Where a Licence has been revoked or suspended, the Licence Issuer may enter upon the business premises of the Person to whom the Licence was issued for the purpose of receiving, taking or removing the Licence.

## **PART XIV – CHANGE OF INFORMATION**

29. (1) A Licensee shall carry on business in the City in the name which is set out on the Licence and shall not carry on business in the City in any other name unless the Licensee has first notified the Licence Issuer and complied with the relevant provisions of this By-law.
- (2) A Licensee shall notify the Licence Issuer within 7 days of any change of name, address or any other change to the information related to the Licence, and where the Licensee is a corporation, it shall notify the Licence Issuer of any change in the names and addresses of officers and directors, the location of the corporate head office and change of ownership of shares within 7 days of the change, and if necessary, the Licence shall be returned immediately to the Licence Issuer for amendment.
- (3) A Licensee shall not alter, erase or modify or permit such alteration, erasure or modification of the Licensee's Licence or part thereof unless approved by the Licence Issuer.

## **PART XV – GENERAL PROVISIONS**

30. An Applicant or Licensee whose Licence has been refused or revoked, shall not be entitled to make a new Application for the same or similar type of Licence for a period of at least 12 months from the date of the refusal or revocation.
31. The Licence Issuer shall reinstate any Licence that has been suspended upon satisfactory proof that the administrative requirements have been met.
32. Any Licence issued under this By-law may be cancelled at any time upon the written request of the Licensee.
33. A Person shall not enjoy a vested right in the continuance of a Licence and upon the issuance, renewal, transfer, cancellation or suspension thereof, the value of a Licence shall be the property of the City.
34. A Person licensed to carry on business under this By-law shall not advertise, promote or carry on the business under any name other than the name endorsed upon the Licence, without the approval of the Licence Issuer.
35. (1) Any Licence issued under this By-law shall be posted on the Premises to which the Licence relates, in a conspicuous place that is clearly visible to the public.
- (2) Where the Licensee does not have a Licensed Premises, the Licensee shall carry the Licence with him or her at all times when engaged in the activity for which the Licence has been issued.
36. The City is exempt from the provisions of this By-law.

## **PART XVI – INSURANCE**

37. (1) Every Person shall, before the issuance of a Licence to him or her, provide proof of Commercial General Liability insurance against all claims for personal injury including bodily injury resulting in death, and property damage with an inclusive limit of not less than Two Million (\$2,000,000.00) per occurrence insuring him or her against liability imposed by law for any loss or damage resulting from the carrying on of the business to which the Licence relates.

- (2) Every Person who obtains a Licence shall ensure that the insurance policy in subsection 37. (1) is maintained in good standing while the Licence is valid and the business to which the Licence applies is in operation.
- (3) The Licence Issuer shall be given at least 10 days notice in writing, by regular mail, personal delivery, e-mail or fax delivery, of cancellation, expiration or variation in the amount or conditions of the policy required by subsection 37 (1).
- (4) A certificate of insurance issued in respect of the insurance policy in subsection 37. (1) shall be provided to the Licence Issuer, before the issuance of the Licence that it applies to, in the form of proof set out in Appendix B to this By-law.

## **PART XVII – INSPECTION**

- 38. (1) The Licence Issuer, Medical Officer of Health, Fire Chief or Inspector, may enter on any land and building or structure thereon, at any reasonable time for the purpose of carrying out an inspection to determine whether any one or more of the following are being complied with:
  - (a) The provisions of this By-law.
  - (b) An order made under this By-law.
  - (c) A condition of a Licence issued under this By-law.
  - (d) An order made under section 431 of the *Municipal Act, 2001*.
- (2) For the purposes of an inspection under subsection 38. (1) the person carrying out the inspection may do any one or more of the following:
  - (a) Require the production for inspection of any goods, articles, books, records and other documents of or relating to any trade, business or occupation licensed under this By-law.
  - (b) Inspect and remove documents or things relevant to the inspection, including anything listed in subsection 38. (2) (a), for the purpose of making copies or extracts.
  - (c) Require information from any Person concerning a matter related to the inspection.
  - (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.
- (3) No Person shall obstruct or hinder or cause to be obstructed or hindered the making of an inspection under subsection 38. (1).
- (4) Upon request of the Licence Issuer, Medical Officer of Health, Fire Chief or Inspector, the Licensee shall produce the Licence and any other requested documents forthwith.

## **PART XVIII – ORDER TO COMPLY**

- 39. (1) Where the Licence Issuer or an Inspector believes that a contravention of this By-law has occurred they may issue:
  - (a) an order to discontinue the contravening activity;

- (b) an order to correct the contravention; or
- (c) an order to discontinue the contravening activity and correct the contravention.

(2) The orders contemplated in subsection 39.(1) shall set out:

- (a) the name of the Person who is believed to have contravened this By-law and the municipal address or the legal description of the land to which the contravention or Licence applies;
- (b) reasonable particulars of the contravention;
- (c) the date by which there must be compliance with the order;
- (d) if applicable, the work to be done and the date by which the work must be done; and
- (e) if applicable, a statement that the City may have the work done at the expense of the Owner if the work is not done in compliance with the order.

(3) An order issued under this By-law may be served personally or served by mail to the last known address of the Person and such other persons affected by it as determined by the Licence Issuer or Inspector and a copy of the order may be posted on any property to which the contravention or Licence applies.

(4) If an order is served by registered mail, the service shall be deemed to have been made 5 days after mailing.

(5) Where service cannot be carried out in accordance with subsection 39. (3), the Licence Issuer or Inspector may place a placard containing the terms of the order in a conspicuous place on the property to which the contravention or Licence applies, and the placing of the placard shall be deemed to be sufficient service of the order on the Person or persons to whom the order is directed.

(6) Every Person who fails to comply with an order made under this section is guilty of an offence.

40. (1) Where a Person is ordered to correct a contravention of this By-law under subsection 39. (1), and fails to do so, the City may carry out any work required to correct the contravention.

(2) The City may, at any reasonable time, enter onto the property to which the contravention or Licence applies in order to carry out any work under subsection 40. (1).

(3) The City may retain a contractor in order to carry out any work under subsection 40. (1).

(4) All expenses incurred by the City in carrying out any work contemplated by this section shall be considered a debt owed to the City by the Person who was ordered to correct the contravention and shall be paid to the City within 30 days of the billing date, and in the event of failure to pay the entire amount due within 30 days, the outstanding balance of the expenses owed may be added to the tax roll of the property to which the contravention or Licence applies and collected in the same manner as property taxes.

## **PART XIX – CONTRAVENTION AND PENALTIES**

41. (1) Every Person who contravenes any provision of this By-law, including an order made under this By-law, 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 (the “*Provincial Offences Act*”) and the *Municipal Act, 2001*.
- (2) In addition to subsection 41. (1), any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the fine provisions of the *Municipal Act, 2001*, to the following fines:
- (a) The minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000.
  - (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 and 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, for each offence included in the multiple offence the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
  - (d) In addition to the fine provisions in subsections 41. (2) (a) to (c), if a Person is convicted of an offence under this By-law, any economic advantage or gain obtained by the Person from operating a business without a Licence may be considered an aggravating factor for sentencing purposes which may attract a special fine, which shall be equal to or greater than the economic advantage or gain obtained by the Person from operating the business without a Licence.
  - (e) The maximum amount for a special fine in subsection 41. (2) (d) may exceed \$100,000.
- (3) If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order:
- (a) prohibiting the continuation or repetition of the offence by the Person convicted; and
  - (b) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- (4) Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer’s delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than 21 days after the date of the notice.
- (5) If any part of a fine for a contravention of this By-law remains unpaid after the final date specified in the notice provided under subsection 41 (4), the outstanding fine is deemed to be unpaid taxes pursuant to section 351 of the *Municipal Act, 2001*.
- (6) Administrative Penalties (Non-Parking) By-law 218-2019, as amended, applies to this By-law. Every Person who contravenes a provision of this By-law designated in Schedule A of the Administrative Penalties (Non-Parking) By-law 218-2019,

shall upon issuance of a Penalty Notice be and is liable to pay to the City of Brampton an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 218-2019. **(By-law 219-2019)**

## **PART XX – FEES**

42. (1) The Licence Fees required under this By-law are set out in Appendix A attached to this By-law.
- (2) The Licence Issuer may waive the payment of a Licence Fee required under this By-law where an Application is made by a charitable organization that is registered as such under the *Income Tax Act*, R.S.C. c.1, as amended.

## **PART XXI – DISCRIMINATION**

43. (1) No Person, in carrying out a business licensed under this By-law, shall discriminate against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.
- (2) No Person, in carrying out a business licensed under this By-law, shall with respect to any person being guided or assisted by a service animal:
- (a) refuse to service the person,
  - (b) refuse to permit the person to enter with the animal into or upon any place or premises to which the Licence relates; or
  - (c) refuse to permit the person and such animal to remain in or upon such place or premises by reason only of the presence of such animal.

## **PART XXII – SCHEDULES AND APPENDICES**

44. (1) All Schedules and Appendices attached to this By-law shall form part of this By-law.
- (2) In the event of a conflict between any of the general provisions of this By-law and any provisions set out in the Schedules attached to this By-law, the provisions of the Schedules shall prevail.
- (3) The expiry dates of Licences issued under this By-law, except for those issued per day or per event, are set out in Appendix A to this By-law.

## **PART XXIII – TRANSITIONAL PROVISIONS**

45. (1) If a Licence or a Licence renewal has been issued for a business under the City's Licensing By-law No. 1-2002, as amended, and the applicable schedule for that Licence has been repealed and replaced under this By-law, the provisions of Licensing By-law No.1-2002 and the schedule in effect at the time of the Licence issuance or License renewal continues to apply for the term of that Licence or Licence renewal.

- (2) The Schedules under this By-law apply to all Licence renewals made after this By-law comes into effect, even if the Licence which is the subject of a renewal was issued under Licensing By-law No. 1– 2002, as amended.

#### **PART XXIV – BY-LAW AMENDMENTS, REPEAL AND EFFECTIVE DATE**

46. (1) Schedules S-1; S-4 to S-12 inclusive; S-15 to S-18 inclusive, S-20, S-22, S-23, S-25, S-27 and S-28 to Licensing By-law 1-2002, as amended, are repealed.
- (2) Licensing By-law 1-2002, as amended, is further amended by deleting the following subsections from Section 2: 6 to 15 inclusive, 18 to 21 inclusive, 23, 25 to 27 inclusive, and 29 to 30 inclusive.
- (3) Licensing By-law 1-2002, as amended, is further amended by deleting reference to the following from Section 11: Schedule S-1, S-4, S-7, S-8, S-11, S-12, S-16, S-17, S-18, S-20 and S-22.
- (4) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by adding the following definition in alphabetical order in section 1 of the by-law and in section 1 of Schedule 1 that is attached to the by-law:
- “Business Licensing By-law” means Business Licensing By-law 332-2013;
- (5) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by adding “and the Business Licensing By-law” immediately after the words “Licensing By-law” to the definition of “licensee” found in section 1 in Schedule 1 attached to the by-law.
- (6) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by adding “and the Business Licensing By-law.” at the end of subsection 7. (1) of the by-law.
- (7) The Brampton Appeal Tribunal By-law 48-2008, as amended, is further amended by adding “and the Business Licensing By-law” immediately after the words “Licensing By-law” found in subsection 28(4) in Schedule 1 attached to the by-law.
- (8) **Deleted pursuant to By-law 19-2023.**
- (9) The Delegation of Authority By-law 191-2011, as amended, is further amended by adding the words “and the Business Licensing By-law 332-2013” immediately after the words “Licensing By-law 1-2002, as amended” found in subsection 13.1 (i) in Schedule 1 attached to the by-law.

47. This By-law is comes into effect on the date of its passing by Council.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL  
THIS 11th day of December, 2013.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by:  
Susan Fennell – Mayor  
Peter Fay – City Clerk

## SCHEDULE 1 TO BY-LAW # 332-2013

### RELATING TO PERSONAL SERVICE FACILITIES (Amended by By-law 184-2019)

#### Definitions

1. In this Schedule:

“Employee” **deleted pursuant to By-law 184-2019**

“Best Practices Document” means *Infection Prevention and Control Best Practices for Personal Services Settings* as current and any other applicable guidelines or standards established by the Province of Ontario or the Medical Officer of Health;

“Invasive Procedure” means a service that involves penetration of the skin, such as, but not limited to, tattooing, ear lobe piercing, body piercing, body modification, electrolysis and micropigmentation;

“Operator” **deleted pursuant to By-law 184-2019**

“Personal Service Facility” means a Premises where a Personal Service is provided to members of the public;

“Personal Services” **deleted pursuant to By-law 184-2019**

“Proof of Age Identification” **deleted pursuant to By-law 184-2019**

“Protective Eyewear” **deleted pursuant to By-law 184-2019**

“Sharps” **deleted pursuant to By-law 184-2019**

“Single Use” **deleted pursuant to By-law 184-2019**

“Tanning” means to provide for use an area where ultra-violet or other light sources are used to radiate the skin in an attempt to produce changes in skin pigmentation and also include the application or sale of artificial bronzing and tanning lotions designed to change skin tone or colour;

“Tanning Equipment” **deleted pursuant to By-law 184-2019**

#### Application

2. Every Application for a new or renewal of a Personal Service Facility Licence shall be accompanied by evidence of completion of a satisfactory health inspection, issued and signed by the Medical Officer of Health or authorized designate. **(By-law 184-2019)**
3. Every Person operating a Personal Service Facility shall obtain one or more class(es) of Licence described as follows:
  - (a) “Class A”, includes premises operated for the purpose of marking the skin with indelible pigment or other such substance so as to produce a permanent design or similar feature on the skin, as well as piercing of body parts;

- (b) “Class B” includes premises operated for the purpose of aesthetic, cosmetic or therapeutic treatment such as hairdressing and barber shops, nail salons, electrolysis and other aesthetic services;
- (c) “Class C” includes premises operated for the purpose of a Tanning salon.

## Exemptions

- 4. Any Person who provides medical or therapeutic treatment in their capacity as a duly authorized member of a College of Health profession as set out in schedule 1 of the regulated *Health Professionals Act*, 1991, S.O. 1991, c. 18 is exempt from all licencing requirements to own or operate a Personal Services Facility. **(By-law 184-2019)**

## Structural Requirements

- 5. **deleted pursuant to By-law 184-2019**
- 5. Every Person who operates a personal Service Facility shall comply with:
  - (a) This By-law;
  - (b) Any other law or by-law, including any Region of Peel By-laws;
  - (c) Any applicable Provincial guidelines or standards including the Best Practices Document; and
  - (d) The Federal Government Guidelines for Tanning Equipment Owners, Operators and Users published in 2017 and any amendments thereto.**(new Clause 5 pursuant to By-law 184-2019)**

## General Operational Requirements

- 6. **deleted pursuant to By-law 184-2019**
- 8. Every Person who operates a “Class B” Personal Service facility where Hairstyling services are provided shall not employ any person as a hairdresser or hairstylist, unless such person is the holder of a current certificate of qualification issued under the *Ontario College of Trades and Apprenticeship, 2009*, or successor legislation, or is registered with the Ontario College of Trades as an apprentice hairdresser or hairstylist. **(By-law 184-2019)**
- 9. Every Person who operates a “Class C” Personal Services Facility must comply with all applicable guidelines and regulations established by the Province of Ontario and the Region of Peel as well as other applicable laws as may be amended from time to time. **(By-law 184-2019)**

## Requirements for Invasive Services

- 7. **deleted pursuant to By-law 184-2019**
- 8. Every Licensee of a “Class A” Personal Service Facility shall:
  - (a) Maintain a record of all invasive procedures on site for a minimum of 2 years and on file for a minimum of 5 years and the record shall include:
    - (i) Name, address and telephone number of the client;
    - (ii) Name of service provider;
    - (iii) Date of procedure; and
    - (iv) Description of procedure;

- (b) Open the record in subsection 8. (a) to inspection, at all times during regular business hours to the Licence Issuer, Medical Officer of Health, Inspector or any person authorized by the Licence Issuer.
- 9. **deleted pursuant to By-law 184-2019 (see new Clause 9 above under General Operational Requirements)**
- 10. Despite the general provisions of this By-law, “Class A” establishments shall:
  - (a) Require proof of commercial general liability insurance, however, a professional liability exclusion clause shall be accepted; and
  - (b) Be required to display signage approved by the City, posted in a conspicuous location at the entrance to the establishment, clearly visible to the public at all times, advising potential clients of the high risk nature of the tattooing procedure and that the establishment does not have the requisite insurance should the client contract a blood borne illness as a result of the tattooing procedure.

### **Tanning Facilities**

- 11. **deleted pursuant to By-law 184-2019**
- 12. **deleted pursuant to By-law 184-2019**

## **SCHEDULE 2 TO BY-LAW # 332-2013**

### **RELATING TO**

### **PLACES OF AMUSEMENT**

1. In this Schedule:

“Amusement Arcade” means a Premises where three or more amusement machines are provided;

“Amusement Machine” means any mechanical or electronic machine or device intended as a game, entertainment or amusement, offered for use by the public by any Person, for profit or gain and shall include but is not limited to a computer, pinball machine, television, video game, shooting gallery or other similar machine or device;

“Place of Amusement” includes, but is not limited to:

- (i) an Amusement Arcade;
- (ii) a privately owned commercial skating facility;
- (iii) a privately owned commercial swimming pool;
- (iv) a privately owned commercial indoor childrens’ playground;
- (v) a paintball facility; or
- (vi) a Go Kart facility.

2. Every Owner and Operator of a Place of Amusement shall:

- (a) Obtain a separate Licence for each Place of Amusement that is under the same ownership;
- (b) File with the Licence Issuer a floor plan of the Premises, showing the location of all Amusement Machines;
- (c) Ensure the Premises meet all requirements of the Ontario Building Code and Fire Code;
- (d) Post in a conspicuous place in the Premises, a notice indicating that disorderly conduct, loitering and gambling are not permitted;
- (e) Keep the Premises in a clean and sanitary condition at all times;
- (f) Maintain sufficient space between rows of Amusement Machines as to permit unimpeded access by patrons at all times to any door or other exit;
- (g) Keep as an employee on the licensed Premises at all times, a person over the age of 18 years whose duties include the supervision, overseeing and maintenance of the orderly conduct of the patrons within the building or part thereof that contains the Amusement Machines;
- (h) Not permit on the licensed Premises any more Amusement Machines than the number for which the Licence was issued and no additional Amusement Machines shall be added to the premises after the Licence has been issued, unless the Licensee shall first submit an amended floor plan of the premises, and receive the approval of the Licence Issuer;
- (i) Provide adequate washroom facilities and where necessary change room facilities;

- (j) Obtain a Fixed Food Premises Licence under this By-law if food is being served on the Premises.
- 3. No Owner or Operator of an Amusement Arcade shall:
  - (a) Permit persons younger than the age of 14 years to use any Amusement Machine or to remain on the Premises unless accompanied by a parent or guardian, except on Monday to Friday between the hours of 4:00 p.m. to 9:00 p.m. and on Saturday and Sunday between the hours of 9:00 a.m. and 9:00 p.m; and
  - (b) Permit the sale or use of alcohol on the Premises, except where Amusement Machines are incidental to a business licensed pursuant to the Alcohol and Gaming Commission of Ontario.
- 4. Every owner and operator of a Place of Amusement shall, at all times during the hours of operation, permit the entry by and the inspection of the Place of Amusement by the Licence Issuer, Medical Officer of Health or an Inspector.

## **SCHEDULE 3 TO BY-LAW # 332-2013**

### **RELATING TO**

### **AUCTIONEERS**

1. In this Schedule:

“Auction” means a publicly held sale where goods are sold to the highest bidder;

“Auctioneer” means a Person who sells or offers for sale goods, wares, merchandise or effects or livestock by public auction.

2. A Person shall not carry on the business, trade or occupation of an Auctioneer without a Licence.

3. This Schedule does not apply to:

- (a) A sheriff or bailiff offering for sale goods or chattels seized on execution or distrained for rent;
- (b) An auction of unclaimed or surplus property held by or on behalf of Peel Police Services, the Region of Peel or the City of Brampton;
- (c) A municipal tax sale held pursuant to the *Municipal Act, 2001* or any successor legislation thereto;
- (d) Any person holding a licence under the *Livestock Community Sales Act*, R.S.O. 1990, c. L.22, as amended for the sale of pure-bred live stock;
- (e) A person conducting an auction on behalf of a service club or similar organization to raise money for charitable purposes; or
- (f) A person registered under the *Real Estate and Business Brokers Act*, 2002, S.O. 2002, c.30 who is selling real estate by public auction.

4. A completed Application for a Licence or at the discretion of the Licence Issuer for a Licence renewal shall be accompanied by a security clearance issued to the Applicant within the last 30 days by the Police Services in whose jurisdiction the Applicant resides.

5. A Licence shall not be issued if at any time within three years prior to the Application the Person has been convicted of any offence relating to fraudulent practices, stolen goods, theft or burglary under the *Criminal Code*, R.S.C. 1985, c. C-46.

6. Every Person licensed as an Auctioneer under this Schedule shall:

- (a) Prominently display his or her name and business address at the place of each Auction;
- (b) Include his or her name, and business address in all public advertisements of any nature;
- (c) Maintain and keep proper records showing:
  - (i) the names and addresses of the owners of the goods auctioned;
  - (ii) a description of the goods and the price at which they were sold;
  - (iii) the amount of any commission or fee;
  - (iv) the names and addresses of the purchasers; and

- (v) the date of payment and amounts paid to the owners for the goods sold, or the date of return of unsold goods to the owners;
  - (d) Inform the purchasers and sellers that their personal information set out in subsection 6. (c) is being collected and that the personal information will only be used if necessary for law enforcement purposes;
  - (e) Ensure that the records set out in subsection 6. (c) are maintained for a period of 2 years;
  - (f) Upon request by the Licence Issuer or anyone else charged with inspection or enforcement powers under this By-law, present the required records for inspection, and permit them to remove specific entries from the register required for use in any Court or other law enforcement proceedings.
7. No Person licensed as an Auctioneer under this Schedule shall:
- (a) Permit any disorder in the place of the Auction;
  - (b) Conduct or permit to be conducted any mock Auction;
  - (c) Knowingly make or permit to be made any misrepresentation as to the nature, content, quantity or value of any goods, wares, merchandise or effects which may be offered for sale by them;
  - (d) Give away articles or sell for nominal amounts for the purpose of stimulating bidding;
  - (e) Do any act that is calculated to or which may reasonably be expected to have the effect of confusing a purchaser as to the amount to be paid for any article or articles;
  - (f) Avail themselves of the services of, or act in concert with, persons known in the trade as “beaters”, “boosters”, or “shills” for the purpose of raising or stimulating bids;
  - (g) Sell or put up for sale by Auction, any goods, wares, merchandise or effects on a reserve-bid basis without first having announced clearly to those in attendance at the Auction the fact of such reserve bid;
  - (h) Give a false statement to the owner or to a purchaser as to a sale.

## **SCHEDULE 4 TO BY-LAW # 332-2013**

### **RELATING TO**

### **AUTOMOBILE SERVICE STATIONS AND PARKING LOTS**

**(Amended by By-laws 184-2019, 112-2023)**

1. In this Schedule:

“Automobile Service Station” means a building or structure or part thereof open to the public where Motor Vehicles are washed, serviced, repaired, fuelled, leased, sold or displayed and may include, but are not limited to a gas bar, car wash, automotive dealership, car rental establishment, body shop or general or specialty repair shop;

“Car Wash” means a building or structure used for the washing of Motor Vehicles;

“Motor Vehicle” means an automobile, truck, motorcycle and any other vehicle propelled or driven other than by muscular power but does not include a motorized snow vehicle or motor-assisted vehicle;

“Parking Lot” means any lot, building, structure or part thereof used for the temporary storage of more than 3 Motor Vehicles where consideration is paid for such storage but does not include parking facilities provided by landlords for tenants or by Condominium Corporations to unit owners or tenants.

2. No Person shall operate an Automobile Service Station or a Parking Lot unless the Person obtains the appropriate property class of Automobile Service Station Licence under this Schedule, the classes of which are described as follows:

(a) “Class A” includes any Premises where:

- (i) gasoline, oil or lubrication is dispensed;
- (ii) minor automotive parts, supplies and accessories are kept for sale; and
- (iii) minor repairs to Motor Vehicles may be performed;

(b) Class “B” includes any Premises used for the repair and servicing of Motor Vehicles;

(c) “Class C” includes any Premises used for carrying on the business of operating a Parking Lot;

(d) “Class D” includes any Premises used for carrying on the business of a Car Wash whether by mechanical means, non mechanical means or coin operated;

(e) “Class E” includes any Premises used for carrying on the business of renting, leasing, buying or selling of new or used Motor Vehicles;

(f) “Class F” includes any Premises used for carrying on the business of repairing, rebuilding or painting of the exterior portions of Motor Vehicles.

3. No Person operating a licensed Automobile Service Station facility shall:

- (a) Commence any work on a Motor Vehicle without first preparing a written and sequentially numbered work order, unless the owner of the Motor Vehicle waives the preparation of the order;

- (b) Use or permit any exterior portion of the property on which the Automobile Service Station is located to be used for storing Motor Vehicles, that are in a state of disrepair, for a period in excess of 30 days, unless he or she is required by law to retain the Motor Vehicle for a longer period of time; or
  - (c) Charge a hazardous waste fee that exceeds \$10.00 all inclusive, other than the applicable taxes.
  - (d) Permit excessive noise or other emissions in the operation or testing of a motor vehicle, contrary to any provincial legislation or regulation or the City's Public Nuisance By-law or other such City by-law or policy, as may be established and amended from time to time, between the hours of nine o'clock in the afternoon (9:00 pm) and seven o'clock in the forenoon (7:00 am) the next day, except until eight o'clock in the forenoon (8:00 am) on Saturdays, Sundays and Statutory Holidays commonly observed within the municipality; **(By-law 112-2023)**
  - (e) Modify any motor vehicle, including vehicle emission control systems, contrary to any provincial legislation or regulation or other such City by-law or policy, as may be established and amended from time to time; **(By-law 112-2023)**
  - (f) Repair, rebuild, modify or test out of doors any Motor Vehicle, motor boat, outboard motor or recreational vehicle within 150 m of a residential property between the hours of nine o'clock in the afternoon (9:00 pm) and seven o'clock in the forenoon (7:00 am) the next day, except until eight o'clock in the forenoon (8:00 am) on Saturdays, Sundays and Statutory Holidays commonly observed within the municipality; **(By-law 112-2023)**
4. Every Licensee under this Schedule:
- (a) May charge a parking fee if a vehicle is not picked up within 24 hours of being repaired, for every 24-hour period that the vehicle remains at the vehicle repair facility;
  - (b) Shall enter into a written agreement with the owner of the Motor Vehicle that clearly details all the fees and costs that the owner of the Motor Vehicle may be required to pay for the parking or storage of the Motor Vehicle;
  - (c) Shall accept cash, debit and credit methods of payment for fees and costs incurred by the vehicle owner.
- (By-law 184-2019)**
5. An Automobile Service Station shall not be issued a Licence under this By-law unless the Licence Issuer is satisfied that all other applicable laws and any other regulations have been complied with.
6. Every Licensee under this Schedule shall:
- (a) Not use an Automobile Service Station for the wrecking of Motor Vehicles;
  - (b) Conduct the repair of Motor Vehicles or any parts thereof, or exhibit for sale Motor Vehicle tires, tubes, tire accessories, electric light bulbs, spark plugs, batteries or other minor vehicle parts within an enclosed service building on the Licensed Premises;
  - (c) **deleted pursuant to By-law 184-2019**

**The following clauses have been renumbered from (d) to (m) to (c) to (l) pursuant to By-law 184-2019.**

- (c) Not store or park, or allow to be stored or parked on the Licensed Premises any trailer used for human habitation;
  - (d) Keep the premises and any sidewalk or street upon which the premises abut in a clean and neat condition, free from debris, snow, ice, dirt, rubbish or other substances that may be derived from the licensed premises or resulting from the use of the Licensed Premises;
  - (e) Not deposit any snow or ice on any public sidewalk or on any roadway that abut the Licensed Premises;
  - (f) Provide adequate storage facilities for all waste materials;
  - (g) Only run the engine of a Motor Vehicle during a repair within an enclosed building that has adequate ventilation to ensure the dilution or removal of any carbon monoxide fumes;
  - (h) Keep and maintain all washroom facilities in a clean and sanitary condition;
  - (i) Park all Motor Vehicles on the Licensed Premises in a neat and orderly manner;
  - (j) Be the holder of a valid Ontario driver's licence issued under the Highway Traffic Act, R.S.O. 1990, c.H.8, as amended, if he or she engages in driving, operating or moving Motor Vehicles parked or stored at or upon the Licensed Premises, and shall not employ any person or permit any employee to drive or operate any Motor Vehicle unless such person is the holder of such an Ontario driver's licence;  
**(By-law 184-2019 – revised wording and renumbered from 6. (k))**
  - (k) If the Licensed Premises is open to the public, display in a conspicuous place at or upon the Licensed Premises, the applicable rates or charges, including for the parking or storing of Motor Vehicles and the hours during which the Licensed Premises are open to the public; and
  - (l) Whenever any Motor Vehicle remains continuously without lawful excuse at or upon the Licensed Premises, forthwith, prior to removal, report to the Police the make and Provincial permit number or vehicle identification (VIN) of the Motor Vehicle.
7. Every Licensee shall comply with all relevant legislation pertaining to the storage and disposal of hazardous materials on the Licensed Premises.
8. Every Applicant for an Automobile Service Station Licence shall include in his or her Application, a site plan showing:
- (a) The location and dimension of the lands and buildings in respect of which he or she seeks a Licence; and
  - (b) The maximum number of Motor Vehicles proposed to be parked or stored at or upon the Licensed Premises at any one time.
9. Every Premises of a "Class B" Automobile Service Station, shall have at least one licensed mechanic on staff but this section does not apply to a "Class B" Automobile Service Station that only permits the Owners of Motor Vehicles to carry out the repairs and servicing. **(By-law 184-2019)**
10. Every Licensee of a "Class F" Automobile Service Station shall:
- (1) Have at least one licensed body person on staff; and
  - (2) Not charge an administrative fee that exceeds \$50.00 all inclusive, other than the applicable taxes.

**(By-law 184-2019)**

11. Every Licensee of a “Class C” Automobile Service Station shall:

- (a) Ensure that all driveways into and out of the parking lot, as well as the parking spaces in the parking lot are paved with asphalt, concrete or other similar substances;
- (b) Ensure that all parking spaces are clearly delineated by painted contrasting lines;
- (c) Ensure that all parking spaces are readily accessible at all times for the parking or removal of Motor Vehicles without the necessity of moving any other Motor Vehicle;
- (d) Display in a conspicuous place at or upon the Licensed Premises, a sign that states:
  - (i) In letters and figures of uniform size not less than 8 centimeters in height, the rates or charges for parking Motor Vehicles; and
  - (ii) In readily legible letters, the hours during which the Licensed Premises is open for business, together with the Licensee’s name, address and telephone number.

**The following clauses have been renumbered from (g) to (k) to (e) to (i) to address numerical inconsistencies pursuant to By-law 184-2019.**

- (e) Where any Motor Vehicle remains continuously and without lawful excuse at or upon the Licensed Premises for more than 24 hours, forthwith report to the nearest police station, the model and Provincial permit number of the Motor Vehicle;
- (f) Ensure that Motor Vehicles that are parked illegally are only removed from the Licensed Premises:
  - (i) where signage has been posted clearly notifying persons that illegally parked vehicles will be ticketed and towed at the owner’s expense; and
  - (ii) when a designated Municipal Law Enforcement Officer, not necessarily employed by the City, has issued a ticket or penalty notice for the violation;
- (g) Ensure that the signage in subsection 11. (f):
  - (i) provides the name and telephone number of the pound facility the Motor Vehicle will be taken to; and
  - (ii) is placed in a conspicuous location clearly visible to the patrons in all lighting levels;
- (h) Report to the police any Motor Vehicle which he or she may have reason to suspect is either stolen or abandoned;
- (i) At the time of receiving each Motor Vehicle for the purpose of parking on the Licensed Premises, give or cause to be given to the person from whom the Motor Vehicle is received, a numbered receipt bearing on the same side as the number:
  - i) A clear statement of the extent of the responsibility accepted by the Licensee in respect to loss of, or damage to the Motor Vehicle and contents thereof while parked, stored or otherwise

in the care and custody of the Licensee or any of the Licensee's employees; and

- ii) The Licensee's name, the location of the Licensed Premises and the business hours that are specified on the sign or signs as required by subsection 11. (d).

12. Every Licensee of a "Class D" Automobile Service Station shall:

- (a) Ensure that lighting fixtures used are of a type and are arranged so that they do not cause nuisance or distraction to passing traffic or adjoining properties;
- (b) Use signs that are clear and that do not distract or confuse motorists or pedestrians;
- (c) Identify all entrance and exit driveways so that they are clearly visible from the street;
- (d) Ensure that all Motor Vehicles awaiting the car wash are parked or remain standing on the licensed premises.

13. Every Licensee of a "Class B" and "Class F" Automobile Service Station shall, when a Motor Vehicle is left at the Licensed Premises for automotive service or body work:

- (a) Maintain a register in a form approved by the Licence Issuer in which shall be entered:
  - (i) Time and date of receipt of Motor Vehicle **(By-law 184-2019)**
  - (ii) A description of the Motor Vehicle, including make, model and year; and **(renumbered pursuant to By-law 184-2019)**
  - (iii) Name, address and telephone number of the Motor Vehicle owner. **(renumbered pursuant to By-law 184-2019)**
- (b) Retain the register in subsection 13. (a) for a period of 2 years;
- (c) Request that the Motor Vehicle ownership document be removed from the vehicle and deposited with the Licensee to be securely stored on the Licensed Premises, and the document shall be returned upon completion of the work;
- (d) Inform the person for whom the work is being done that personal information is being collected and that this information will only be used, if necessary, for law enforcement purposes;
- (e) Open the register to inspection, at all times during regular business hours, by the Licence Issuer, Police or any other person duly authorized by the Licence Issuer, and permit them to remove specific entries from the register required for use in any Court or other law enforcement proceedings.

14. No person licensed as a "Class E" Automobile Service Station shall commence any proceedings in relation to a rental vehicle until the customer is made fully aware of rates and charges prior to entering into a contract and every rental transaction shall be subject to a signed contract.

15. No Person licensed under this Schedule shall:

- (a) Park any Motor Vehicle on any highway adjacent to the Licensed Premises; or

- (b) Make any Motor Vehicle repairs unless licensed so to do under this Schedule and the vehicle owner has requested that the Motor Vehicle be repaired.
- 16. No Person licensed as a “Class B” and a “Class F” Automobile Service Station shall accept a work order for repairs to a Motor Vehicle that has been towed to their facility that:
  - (a) Is not signed by the hirer; or
  - (b) Is signed by the hirer and does not contain an itemized written estimate of the total cost of the work required to repair the Motor Vehicle from the Automobile Service Station to which the vehicle has been towed.

## **SCHEDULE 5 TO BY-LAW # 332-2013**

### **RELATING TO**

### **BILLIARD HALLS AND BOWLING ALLEYS**

1. For the purpose of this Schedule:

“Billiard Hall” means any Premises to which the public has access and that is equipped with more than two billiard, pool or bagatelle tables offered for use by the public for hire or gain;

“Bowling Alley” means any Premises to which the public has access and that is equipped with one or more bowling lanes offered for use by the public for hire or gain.
2. An Applicant for a Billiard Hall or Bowling Alley Licence or Licence renewal shall produce a letter of approval from the Medical Officer of Health indicating that the Premises to be licensed are in a sanitary condition and have the required bathrooms in accordance with the Ontario Building Code and other required facilities as determined by the Medical Officer of Health.
3. No Licensee shall:
  - (a) Permit any disorderly conduct to take place on the Licensed Premises;
  - (b) Permit any person to loiter, create a disturbance or cause undue noise in or about the Licensed Premises;
  - (c) Permit any gambling or wagering based on the outcome of play of any game of billiards or pool on or about the Licensed Premises; or
  - (d) Fail to ensure the protection of the public’s health and safety.
4. No Licensee shall permit the Licensed Premises to be open to the public unless a person over the age of 18 years is present to supervise the use of the Licensed Premises.
5. No Licensee shall permit persons younger than the age of 14 years to use any Billiard Tables or to remain on the Premises unless accompanied by a parent or guardian, except on Monday to Friday between the hours of 4:00 p.m. to 9:00 p.m. and on Saturday and Sunday between the hours of 9:00 a.m. and 9:00 p.m.

## **SCHEDULE 6 TO BY-LAW # 332-2013**

### **RELATING TO**

### **BUILDING RENOVATORS**

1. In this Schedule:

“Building Renovator” means a Person engaged in the business of altering, repairing or renovating buildings, structures, chimneys and includes any Person who solicits such work, but does not include a building contractor whose principal business is the construction of buildings and structures.
2. No Person shall be licensed as a Building Renovator unless he or she has a regular place of business and, if other than a corporation, is 18 years old.
3. Every Building Renovator licensed under this Schedule shall:
  - (a) Submit proof, to the satisfaction of the Licence Issuer, that all workers and employees are protected under the provisions of the *Workplace Safety and Insurance Act*, 1997, S.O. 1997, c.16, as amended;
  - (b) Display the Licensee’s name using letters with a minimum height of 10 centimetres on both sides of all vehicles owned, leased or used on a regular basis by the Licensee in the course of business;
  - (c) Have printed or otherwise impressed on all business stationery, forms, bills, statements and advertising materials, the Building Renovator’s name, address and telephone number; and
  - (d) Prepare a written contract which shall be signed by the Licensee and the Person for whom the work is being done before commencing any work and a copy of this contract shall be given to the Person for whom the work is being done and the contract shall contain:
    - (i) The name, address and telephone number of the Licensee and the name and address of the Person for whom the work is being done;
    - (ii) The address where the work is being done;
    - (iii) A description of the work being done, including materials and services being provided;
    - (iv) The itemized price for the materials and services to be supplied and a detailed statement of the terms of payment;
    - (v) Warrantees or guarantees, if any; and
    - (vi) The estimated date of completion.
4. No Building Renovator licensed under this Schedule shall:
  - (a) Perform work that is extra or additional to an existing contract unless and until the Licensee has entered into a second or additional contract;
  - (b) Permit the use of the Licensee’s name by any other Person, either directly or indirectly, for the purpose of obtaining a permit to do any renovating work; or
  - (c) Perform any work which requires a Licence or permit without such Licence or permit.

5. A Person licensed as a Building Renovator under this Schedule shall provide, on request from the person for whom the work was being done or from the Licence Issuer, a written itemized account of all work performed.
6. A Person licensed as a Building Renovator under this Schedule may carry on business under a trade name other than his or her own but shall not carry on business under more than one name, and only one Licence shall be issued.

## **SCHEDULE 7 TO BY-LAW # 332-2013**

### **RELATING TO**

### **CARNIVALS AND CIRCUSES**

1. In this Schedule:

“Carnival” means a travelling amusement show featuring exhibits, games and rides but which does not feature domestic or wild animals, and includes any similar travelling exhibition;

“Circus” means a travelling entertainment show consisting of, but not limited to, performances by acrobats, clowns and trained animals, and includes any similar travelling exhibition;

“Equipment” includes a tent, shelter, cage, pole, stand platform, seating accommodation, machinery, platform, apparatus, mechanical device, ride, or any other structure.
2. No Carnival or Circus shall be exhibited in the City of Brampton for a period of longer than 7 days.
3. Every Application for a Licence made under this Schedule shall be accompanied by:
  - (a) Written approval for the establishment of the Carnival or Circus from the owner of the lands being used;
  - (b) A map detailing the location of the Carnival or Circus on the property;
  - (c) A certificate of insurance as required by section 37 of this By-law that:
    - (i) is endorsed to include The Corporation of the City of Brampton as additional insured; and
    - (ii) provides commercial general liability coverage in the amount of \$5,000,000.00;
  - (d) Submit proof, to the satisfaction of the Licence Issuer that all workers and employees are protected under the provisions of the *Workplace Safety and Insurance Act*, 1997, S.O. 1997, c.16, as amended;
  - (e) An Emergency Plan in a form satisfactory to the Licence Issuer, Fire Chief and the Animal Services Section of the City.
4. No Equipment shall be erected until the Licensee has complied with Section 3. (d) of this Schedule.
5. Where the Carnival or Circus includes rides or like contrivances, the Licensee under this Schedule shall obtain:
  - (a) A valid and current licence to carry on business in Ontario issued by the Technical Standards & Safety Authority, or its successor; and
  - (b) A valid and current Ontario Amusement Device Permit issued by the Technical Standards & Safety Authority, or its successor, for each ride.
6. A Licensee under this Schedule shall not operate or allow to be operated, rides or like contrivances for use by the public in an improper or dangerous manner.

7. Every Licensee under this Schedule shall:
- (a) Keep order and, at the Licensee's own expense, shall keep sufficient number of employees or servants to maintain such order;
  - (b) Ensure that the care, feeding and housing of all the circus animals is done in compliance with the *Ontario Society for the Prevention of Cruelty to Animals Act*, R.S.O. 1990, c. O.36, as amended, and any regulations made under the Act, and with any other applicable laws or requirements; and
  - (c) Ensure compliance with all applicable requirements of the *Health Protection and Promotion Act*, R.S.O. 1990, c.H.7, as amended.
8. Despite any other provision of this By-law, an outdoor circus or carnival shall not operate between the hours of 11:00 p.m. and 7:00 a.m.

## **SCHEDULE 8 TO BY-LAW # 332-2013**

### **RELATING TO**

### **DRAIN CONTRACTORS**

1. In this Schedule:

“Drain Contractor” means a Person who carries on the business of laying, repairing and installing public or private drains and sewage disposal systems on the exterior of any building;
2. No Person shall be licensed as a Drain Contractor under this By-law unless the Person has a regular place of business and if the Person is an individual is at least 18 years old.
3. Every Drain Contractor licensed under this Schedule shall:
  - (a) If performing drainage system design work or installing septic tanks, submit the name and address of a qualified on-site sewage installer and the registration issued by the Province of Ontario indicating that the installer has the qualifications set out in the Ontario Building Code;
  - (b) Submit proof, to the satisfaction of the Licence Issuer, that all workers and employees are protected under the provisions of the *Workplace Safety and Insurance Act 1997*, S.O. 1997, c.16, as amended.
  - (c) Display the Licensee’s name using letters with a minimum height of 10 centimetres on both sides of all vehicles owned, leased or used on a regular basis by the Licensee in the course of business;
  - (d) Have printed or otherwise impressed on all business stationery, forms, bills, statements and advertising materials, the Licensee’s name, address and telephone number;
  - (e) Prepare a written contract which shall be signed by the Licensee and the Person for whom the work is being done before commencing any work and a copy of this contract shall be given to the Person for whom the work is being done and the contract shall contain:
    - (i) The name, address and telephone number of the Licensee and the name and address of the Person whom the work is being done;
    - (ii) The address where the work is being done;
    - (iii) A description of the work being done, including materials and services being provided;
    - (iv) The itemized price for the materials and services to be supplied and a detailed statement of the terms of payment;
    - (v) Warrantees and guarantees, if any; and
    - (vi) The estimated date of completion;
  - (f) Obtain all necessary Plumbing or Building Permits or any other permit required by law prior to the commencement of any work and, upon completion, shall procure a final inspection from the City.

4. No Person licensed as a Drain Contractor shall permit the use of the Licensee's name by any other Person, either directly or indirectly for the purpose of obtaining a permit to do any work as a Drain Contractor.
5. Despite the prohibitions set out in this By-law, a Person licensed as a Plumbing Contractor under this By-law, or an owner of land performing drain work on property on which that person resides or who is building a residence for his or her own use, is not required to be licensed under this Schedule.

## SCHEDULE 9 TO BY-LAW # 332-2013

### RELATING TO

### DRIVEWAY PAVING CONTRACTORS

(Amended by By-laws 106-2019, 2, 2021, 21-2021 57-2021)

1. In this Schedule:

“Contravention Administration Costs” means outstanding fees for Licences, penalties, administrative and enforcement costs, fees set out in the User Fee By-law, and related charges incurred by the Driveway Paving Contractor in the event that the contractor fails to comply with any applicable by-laws or statutory obligations.

“Driveway” means an area of hard and level surface (consisting of, but not limited to, asphalt, pavement, concrete, patterned concrete, compacted gravel and dirt, interlocking brick or paving stone), including a surfaced walkway and any hard and level surface that is capable of being parked or driven upon by part or the whole of a vehicle.

“Driveway Paving Contractor” means a Person engaged in the business of paving, repairing or sealing Driveways, lanes, roadways and parking areas situated on privately owned property which may include municipal boulevards adjacent to such private property.

“Driveway Paving Information Course” is an online course, which provides training related to the City’s zoning requirements pertaining to paving, repairing or sealing Driveways, lanes, roadways and parking areas situated on privately owned property which may include municipal boulevards adjacent to such private property. The Driveway Paving Information Course is current to the year of issue

“Paving Work” means any Paving Work on a Driveway, including installing, constructing, paving, resurfacing, sealing, repairing, expanding or altering a Driveway, lane, roadway or parking area.

2. Every Person licensed as a Driveway Paving Contractor under this By-law shall deposit a Letter of Credit or other security satisfactory to the Licence Issuer in the amount of \$5,000.00 that shall be valid for the term of the Licence. **(By-law 57-2021)**

- (a) This security shall be used for purposes as set out in the “Security Acknowledgement” which the Contractor shall enter into with and the City prior to licence issuance. Execution of the Security Acknowledgement is a condition of the licence issuance.
- (b) Any funds drawn upon the security for breach of the Acknowledgement must be replaced within 48 hours or the licence will be subject to revocation.
- (c) Should the security posted not be sufficient to cover the Contravention Administrative Costs in which the security was drawn upon, the City shall charge any additional costs related to the contravention under Section 22 of this By-law which shall be paid by the Driveway Paving Contractor.
- (d) The City shall maintain the security for up to 180 days after the licence expires or is cancelled to perform any required inspections on paving work completed to ensure compliance.

3. Notwithstanding Clause 2, any Driveway Paving Contractor whose sole business involves the application of a protective sealcoating to an existing paved driveway shall be exempt from depositing a \$5,000.00 security at the time of application **(By-law 57-2021)**

4. No Person shall be licensed as a Driveway Paving Contractor unless the Person has a regular place of business and, if the Person is an individual is at least 18 years old.
5. Every Driveway Paving Contractor licensed under this Schedule shall:
  - (a) Submit proof, to the satisfaction of the Licence Issuer, that all workers and employees are protected under the provisions of the *Workplace Safety and Insurance Act*, 1997, S.O. 1997, c.16, as amended;
  - (b) Display the Licensee's name using letters with a minimum height of 10 centimetres on both sides of all vehicles owned, leased or used on a regular basis by the Licensee in the course of business;
  - (c) Have printed or otherwise impressed on all business stationery, forms, bills, statements and advertising material, the Licensee's name, address and telephone number;
  - (d) Prepare a written contract which shall be signed by the Licensee and the person for whom the Paving Work is being done before commencing any work and a copy of this agreement shall be given to the Person for whom the work is being done and the agreement shall contain:
    - (i) The name, address and telephone number of the Licensee and the name and address of the Person for whom the Paving Work is being done;
    - (ii) The address where the Paving Work is being done;
    - (iii) A description of the materials and services supplied, including the depth of asphalt, concrete, gravel or other material to be applied (this description may be supplemented by a sketch);
    - (iv) The itemized price for the materials and services to be supplied a detailed statement of the terms of payment;
    - (v) Warranties or guarantees, if any; and
    - (vi) The estimated date of completion;
  - (e) Obtain all necessary permits required by law prior to the commencement of any Paving Work.
  - (f) Provide confirmation of completion by the Applicant, and any other required employees of the business, in the current calendar year, of the Driveway Paving Information Course from the City of Brampton.
6. No Person licensed as a Driveway Paving Contractor shall:
  - (a) Perform Paving Work that is extra or additional to an existing agreement unless the Licensee has entered into a second or additional contract with the Person for whom the work is being done;
  - (b) Permit the use of the Licensee's name by any other Person, either directly or indirectly, for the purpose of obtaining a permit to do any Driveway Paving Work; or
  - (c) Perform any Paving Work that requires a licence or permit without such licence or permit.

- (d) Perform any Paving Work that requires a permit unless the permit is displayed in view of the public in the area in which the Paving Work is being performed;
  - (e) Perform any Paving Work that is not in compliance with the City's Zoning By-Law 270-2004, as amended, or any other City by-law, unless a valid permission, supporting decision or approval required by law is obtained prior to the commencement of any Paving Work.
  - (f) Allow paving work to be completed without having, on site, either the contractor or an employee who has successfully completed the City of Brampton Driveway Paving Information course and test.
  - (g) Should a zoning violation be found in relation to the work performed by the contractor, the licence may be suspended until such time as the zoning infraction has been remedied by the Contractor at the Contractor's expense
7. Despite an Application being complete and all fees paid, the Licence Issuer shall refuse to issue or renew a Licence and in the case of an existing Licence, the Licence Issuer shall suspend the Licence, if an applicant or Licensee has six (6) or more by-law related convictions within the last twelve (12) months concerning the licensed business or individual, or any other of the individual's businesses that were licensed or were required to be licensed, or any other of the individual's prior businesses that were licensed or are required to be licensed.
  8. The Licence Issuer may issue a warning letter to be placed in an applicant's or Licensee's file if, at the time of an application for a licence or renewal, the applicant has four (4) or more by-law related convictions concerning the licensed business or individual, or any of the individual's prior businesses that were licensed or required to be licensed, within the last twelve (12) months immediately preceding the date of issuance or renewal. The warning letter must advise the applicant or licensee about the specific applicable threshold.
  9. A Person licensed under this Schedule may carry on business under a trade name other than his or her own but shall not carry on business under more than one name and only one Licence shall be issued.

## **SCHEDULE 10 TO BY-LAW # 332-2013**

### **RELATING TO**

### **FENCE INSTALLATION CONTRACTORS**

1. In this Schedule:  
  
“Fence Installation Contractor” means a Person engaged in the business of constructing fences.
2. No Person shall be licensed as a Fence Installation Contractor unless the Person has a regular place of business and, if the Person is an individual is 18 years old.
3. Every Fence Installation Contractor licensed under this Schedule shall:
  - (a) Submit proof, to the satisfaction of the Licence Issuer, that all workers and employees are protected under the provisions of the *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c.16, as amended;
  - (b) Display the Licensee’s name using letters with a minimum height of 10 centimetres on both sides of all vehicles owned, leased or used on a regular basis by the Licensee in the course of business;
  - (c) Ensure that all stationery, forms, bills, invoices, statements and any other printed or written advertising material used by the Fence Installation Contractor in the course of business, display in clearly legible letters and numbers, the business name, address and telephone number;
  - (d) Prepare a written contract which shall be signed by the Licensee and the Person or Persons, in the case of boundary fence cost sharing, for whom the work is being done before commencing any work and a copy of this contract shall be given to the Person or Persons for whom the work is being done and the contract shall contain:
    - (i) The name and address of the Licensee and the name and address of the Person or Persons for whom the work is being done;
    - (ii) The address where the work is being done;
    - (iii) A description of the materials and services to be supplied;
    - (iv) The itemized price for the materials and services to be supplied and a detailed statement of the terms of payment;
    - (v) Warranties or guarantees, if any; and
    - (vi) The estimated date of completion;
  - (e) Obtain all necessary permits required by law prior to the commencement of the work and, upon completion, shall procure a final inspection from the City.
4. No Licensee under this Schedule shall:
  - (a) Perform work that is extra or additional to an existing contract unless the Licensee has entered into a second or additional contract with the Person or Persons for whom the work is being done;

- (b) Permit the use of the Licensee's name by any other Person, either directly or indirectly, for the purpose of obtaining a permit to construct any fences; or
  - (c) Perform any work that requires a licence or permit without such licence or permit.
- 5. A Licensee under this Schedule may carry on business under a trade name or name other than his or her own but shall not carry on business under more than one name, and only one Licence shall be issued.

## **SCHEDULE 11 TO BY-LAW # 332-2013**

### **RELATING TO FIXED FOOD PREMISES**

1. In this Schedule:

“Fixed Food Premises” includes every Premises where food intended for human consumption is prepared, stored or offered for sale to the public, including food stores;

“Food Check Peel Sign” means a certificate in a form approved by the Medical Officer of Health which sets out the results of the most recent inspection conducted under Regulation 562-90 of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended, or any successor legislation, which states that the establishment was in compliance with the conditions required for safe handling of food at the time of the inspection (i.e. Red, Yellow, Green signs posted at Premises).

2. A Fixed Food Premises Licence is not required:

(a) Where the only food items offered for sale are non-hazardous, pre-packaged “snack/convenience” items such as chocolate bars, potato chips and canned or bottled beverages, considered “low risk” according to the Hazard Assessment Critical Control Point Protocol under the Food Safety Mandatory Program utilized by the Region of Peel Health Department; or

(b) Where the food Premises is a cafeteria that is operated directly by a Municipal, Provincial or Federal Government, University, College, Public School, Separate School or Boards of Education.

3. (1) Every Applicant for a new Fixed Food Premises Licence who meets all the requirements under this By-law shall be issued a conditional Fixed Food Premises Licence which is valid for 90 days or until such time as a Food Check Peel Sign is obtained or refused by the Medical Officer of Health.

(2) Every Licensee of a conditional Fixed Food Premises Licence who obtains a Food Check Peel Sign within 90 days shall be issued a Fixed Food Premises Licence.

(3) Every Licensee of a conditional Fixed Food Premises Licence who fails to obtain a Food Check Peel Sign within 90 days, subject to an extension of time by the Licence Issuer which is solely within his or her discretion, shall not be issued a Fixed Food Premises Licence and shall no longer be able to operate the Fixed Food Premises under the conditional Fixed Food Premises Licence.

4. Every Application for the renewal of a Fixed Food Premises Licence must be accompanied by a Food Check Peel Sign issued by the Medical Officer of Health or Peel Region Health Inspector within the preceding 12 month period.

5. A Licence issued under this By-law is permission to sell only from inside the location for which the Licence has been issued.

6. Every Person carrying on the business of a Fixed Food Premises shall be responsible for maintaining the Premises and property in a sanitary, clean and litter free condition, and shall provide covered litter containers in a number satisfactory to the Licence Issuer, and the containers shall be emptied of waste as often as necessary and must kept clean and odourless as set out in Ont. Reg. 562/90 Food Premises or any successor legislation.

7. Every Licensee under this Schedule shall:
  - (a) Permit a Peel Region Health Inspector to post a Food Check Peel Sign in a clearly visible and conspicuous location at all entrances by which customers may enter the Premises, and where a Premises does not have an entrance by which customers may enter the Premises, the Food Check Peel Sign shall be posted in a clearly visible and conspicuous location at the pick-up window or other location from which customers are served; and
  - (b) Permit a Peel Region Health Inspector, at any reasonable time, to remove a Food Check Peel Sign that has been posted in the establishment.
8. When a Food Check Peel Sign has been removed by a Peel Region Health Inspector under subsection 7.(b), the Person who carries on the business of a Fixed Food Premises shall not post a copy of a Food Check Peel Sign or any facsimile of it at any location on the Premises.
9. When a Food Check Peel Sign has been removed by a Peel Region Health Inspector, the food Premises shall remain closed to the public until such time as the food Premises is re-inspected and approved by the Peel Region Health Inspector.

## **SCHEDULE 12 TO BY-LAW # 332-2013**

### **RELATING TO**

### **FLEA MARKETS**

1. In this Schedule:

“Flea Market” means an area, whether enclosed by a building or not, in which individual Stalls are rented to vendors other than the Person who owns the Premises, for the purpose of individually exposing new or used goods and wares for sale and the period of rental is not continuous throughout the year;

“Owner of a Flea Market” includes any Person who operates a Flea market or manages the property at which the market is situated;

“Stall” shall include a table, booth, counter or other similar sales facility, whether within or outside of a building and whether the table, booth, counter or other similar sales facility is or is not readily identifiable as a separate selling unit, and whether or not the table, booth, counter or other similar sales facility has any degree of permanence which is, in fact, being used by an individual vendor within the market.

2. An Applicant for a Flea Market Licence shall:

- (a) agree to maintain a record of the vendors, their names, addresses and phone numbers, together with details as to the type of items to be sold and shall comply with the following requirements:
  - (i) Make all entries in the record at the time of rental or immediately thereafter;
  - (ii) Not knowingly make any false entries in the record;
  - (iii) Preserve all records for at least 2 years; and
  - (iv) Keep the record available for inspection at any reasonable time when requested by the Licence Issuer or Inspector;
- (b) file a floor plan showing where vendors will be located; and
- (c) submit a letter of approval issued by the Fire Chief.

3. Every Licensee under this Schedule shall:

- (a) Ensure orderly conduct is maintained on the Flea Market Premises;
- (b) Be responsible for the conduct of the vendors at the Flea Market;
- (c) Ensure that queues which form for the purpose of gaining entrance to the Premises do not obstruct sidewalks or highways;
- (d) Cooperate with the Licence Issuer to ensure that all required inspections, including building, fire and health inspections, are conducted as required; and
- (e) Provide trash receptacles in sufficient numbers and at suitable locations to keep up with the amount of trash generated by the event and empty the trash receptacles as often as required to prevent overflow.

4. The provisions of this Schedule do not apply to:
- (i) Farmers' Markets and events that are sponsored by, and benefit Farmers' Markets;
  - (ii) Public markets managed by the City;
  - (iii) Agricultural Fairs and events that are sponsored by and benefit Agricultural Fairs;
  - (iv) Coin and Stamp trade shows;
  - (v) Flea markets that primarily promote original arts and crafts creations;
  - (vi) Flea markets raising funds for a charitable organization or a not-for-profit organization as determined by the Licence Issuer provided that the organization has a Revenue Canada number and the profits go to the charitable or not-for-profit organization represented; and
  - (vii) An event that takes place indoors at a shopping mall.

**SCHEDULE 13 TO BY-LAW # 332-2013**

RELATING TO

VENDORS OF CONSUMER FIREWORKS

**(Amended by By-laws 199-2016, 265-2016)**

**Schedule deleted pursuant to By-law 19-2023**

## SCHEDULE 14 TO BY-LAW # 332-2013

### RELATING TO

### HEATING, AIR CONDITIONING AND VENTILATION CONTRACTORS

1. In this Schedule:

“Air Conditioning” means the simultaneous control of:

- (i) Temperature (heating or cooling air);
- (ii) Humidity (humidifying or dehumidifying air);
- (iii) Cleanliness (mechanical or electronic air cleaning); and
- (iv) Air Motion (the proper air distribution within a building with related fresh air for comfort conditions;

“Heating, Air Conditioning and Ventilating Contractor” means a Person engaged in the business of contracting for the installation, maintaining, repairing or replacing of warm air heating or cooling equipment or refrigeration or ventilation equipment and systems of any kind, excepting the installation of oil tanks and oil and gas burners;

“Heating, Air Conditioning, Ventilating and Refrigeration” means the layout, assembly, installation, repairs and manufacturing in the field, any cooling or refrigeration or heating/cooling combination system for residential, commercial, institutional or industrial purpose and includes the manufacturing, fabrication, assembly, installation or service of ferrous and non-ferrous sheet metal work, and further includes the installation of piping that conveys gas or the tubing of any air handling systems;

“Master Warm Air Heating, Air Conditioning and Ventilation Installer” means any Person who:

- (a) has been issued a Certificate of Qualification under the OCTAA as a Refrigeration and Air Conditioning Mechanic or Steam Fitter/Pipe Fitter; or
- (b) is qualified as a gas technician, oil burner mechanic or gas pipe fitter under the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16, as amended and the regulations thereunder;

“OCTAA” means the *Ontario College of Trades and Apprenticeship Act, 2009*, S.O. 2009, c.22, as amended and any regulations made thereunder.

2. The provision of this Schedule shall apply to all Persons engaging in any Heating, Air Conditioning, Refrigeration or Ventilation work as:

- (a) Heating, Air Conditioning and Ventilation Contractor;
- (b) Refrigeration and Air Conditioning Mechanic, a Steam Fitter/ Pipe Fitter or Sheet Metal Worker who hold a Certificate of Qualification under the OCTAA;
- (c) Gas technician, oil burner mechanic or gas pipe fitter qualified under the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16, as amended and the regulations thereunder.

3. Every Licensee under this Schedule shall observe and comply with and be governed by this Schedule and all the provisions of the OCTAA, the *Technical Standards and Safety Act, 2000*, and any other applicable provincial and federal legislation and any regulations made thereunder.

4. No Person shall carry on the business of a Heating, Air Conditioning and Ventilation Contractor without a Licence under this Schedule entitling him or her so to do and has a Master Warm Air Heating, Air Conditioning and Ventilation Installer in his or her employ.
5. When the Master Warm Air Heating, Air Conditioning and Ventilation Installer whose name appears on a Heating, Air Conditioning and Ventilation Contractor's Licence, is no longer regularly employed and in charge of the work, the Contractor shall, within 7 days notify the Licence Issuer in writing of the name and address of the Master who will henceforth be in charge, or with particulars of his or her arrangements pending the engaging of a Master to be in charge of the Contractor's work.
6. It shall be an offence for a Master Warm Air Heating, Air Conditioning and Ventilation Installer to be employed by more than one Heating, Air Conditioning and Ventilating Contractor for the same period of time.
7. The business name of the Licensee shall be displayed in any advertising for that trade.
8. Every Person licensed as a Heating, Air Conditioning and Ventilation Contractor shall:
  - (a) Submit proof to the satisfaction of the Licence Issuer, that all workers and employees are protected under the provisions of the *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c.16, as amended.
  - (b) Display the Licensee's name using letters with a minimum height of 10 centimetres on both sides of all vehicles owned, leased or used on a regular basis by the Licensee in the course of business.
  - (c) Have printed or otherwise impressed on all business stationery, forms, bill, statements and advertising materials, the licensee's name, address and telephone number;
  - (d) Prepare a written contract which shall be signed by the Licensee and the Person for whom the work is being done before commencing any work and a copy of this contract shall be given to the Person for whom the work is being done and the contract shall contain:
    - (i) The name, address and telephone number of the Licensee and the name and address of the person for whom the work is being done;
    - (ii) The address where the work is being done;
    - (iii) A description of the work being done, including materials and services being provided;
    - (iv) The itemized price for the materials and services to be supplied and a detailed statement of the terms of payment;
    - (v) Warrantees or guarantees, if any; and
    - (vi) The estimated date of completion;
  - (e) Obtain all necessary Permits required by-law prior to the commencement of any work and, upon completion, arrange for a final inspection.

9. The provisions of this Schedule shall not apply to the repair and maintenance of a heating, air conditioning or ventilation system and related equipment where the repair and maintenance is done by:
- (a) A Person who is the owner or tenant, where the equipment is contained within the premises occupied by the owner or tenant; or
  - (b) A Person who is a full time employee of a property owner or tenant and who is engaged by the property owner or tenant for maintenance of heating/cooling/ventilating equipment within the premises of the property owner or tenant.

## **SCHEDULE 15 TO BY-LAW # 332-2013**

### **RELATING TO**

### **HORSE RIDING ESTABLISHMENTS**

#### **Definitions**

1. In this Schedule:

"Assistant Instructor" means a person who:

- (a) Is at least 16 years old;
- (b) Has at least 3 consecutive years of experience riding or training horses in the immediate preceding 5 years; and
- (c) Is directly supervised by an Instructor;

"Assistant Trail Guide" means a person who:

- (a) Is at least 16 years old; and
- (b) Has at least 3 consecutive years of riding experience and working with horses at a horse riding establishment, where trail riding is provided, in the preceding 7 years;

"Drug" means a substance as listed in Schedules I, II, III, IV and V of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as may be amended from time to time;

"Horse" means any animal of the equine species;

"Horse Riding Establishment" means the carrying on of a business in the equine industry and is further divided into the following disciplines:

"Instructional Riding Establishment" means:

- (a) The carrying on of a business where horses are let out for hire and where instruction for payment is provided, either at a permanent or temporary location; or
- (b) The carrying on of a business where instruction is provided in Horse riding where the Horse is owned and boarded or part boarded or brought in by the day.

"Instructor" means a person who:

- (a) Is at least 18 years old and has had at least 5 consecutive years of experience in riding or training horses during the immediately preceding 7 years; or
- (b) Is at least 18 years old and has been certified by the Canadian Equestrian Federation, Ontario Equestrian Federation, Canadian Therapeutic Riding Association, Certified Horseman's Association or Institution or has been a member of the Canadian Equestrian Team.

"Trail Guide" means a person who is at least 18 years old and has at least 3 consecutive years of experience assisting or leading trail riders in the immediately preceding 5 years.

"Trail Riding Establishments" means the carrying on of a business where Horses are let out for hire for recreational riding for payment, either at a permanent or temporary location.

## **Regulations Applying to Both Instructional and Trail Riding**

2. No Licensee of a Horse Riding Establishment shall:
  - (a) Permit a person to mount, ride or remain on a Horse unless that person is at all times wearing a designated riding helmet that is properly fitted and fastened securely upon the rider's head by an attached harness;
  - (b) Permit a person to mount, ride or remain on a Horse unless that person is wearing properly fitting, hard and smooth soled footwear with a minimum half inch heel or proper riding footwear with a minimum half inch heel;
  - (c) Conduct trail riding with less than 1 Trail Guide for the first 6 persons and an Assistant Trail Guide for every additional group of 6 or less;
  - (d) Conduct trail riding unless a Trail Guide or Assistant Trail Guide is carrying, at all times, a two-way communication device where the signal will be received by another lead trail guide or Assistant Trail Guide who is not on the same trail ride;
  - (e) Permit more than one person to ride a Horse at the same time, except for disabled riders with special needs within a designated controlled environment;
  - (f) Rent a Horse unless that horse is known to be safe, sound and schooled for the purposes intended and appropriately suited to the rider's size and ability;
  - (g) Rent a lame, sick or blind Horse;
  - (h) Rent a Horse unless the horse is a minimum of 5 years of age and the horse has 1 year of schooling;
  - (i) Permit any person with less than 52 hours of riding experience to mount or dismount a Horse for the purpose of trail riding unless that horse is held at the bridle by an employee or volunteer of the person carrying on the business and who is supervised by a Trail Guide;
  - (j) Rent a Horse to a person who is taking, consuming, possessing or is, or appears to be, intoxicated by alcohol or a Drug on any premises used for the carrying on of the business of a horse riding establishment where trail riding is provided or
  - (k) In the performance of duties at a Horse Riding Establishment, take, consume, possess or be intoxicated by alcohol or a Drug.
3. Prior to beginning riding instruction or leading a trail ride, the Instructor or Assistant Instructor, Trail Guide or Assistant Trail Guide assigned, as the case may be, shall examine the condition and fit of all equipment to be used by each rider to ensure that it is clean, supple, well-fitting, secure and fully functional.
4. The Licensee of a Horse Riding Establishment shall:
  - (a) Ensure a qualified first aid provider with current certification in first aid and cardiopulmonary resuscitation is available whenever riding lessons or trail rides are being conducted;
  - (b) Maintain a fully stocked first aid kit on the premises;

- (c) Ensure that all the medical records of all Horses for hire are available on the Premises, including a pictorial description of the horse;
  - (d) Ensure that the Premises, or any portion of the Premises, ordinarily used for the riding of Horses is clear of all ground and overhanging obstructions; and
  - (e) Where any obstructions in subsection 4(d) cannot be cleared, the Licensee shall barrier these obstructions such that Horses and riders will not come into contact with them.
5. "Release and Acknowledgment" forms shall be signed by all participants. Those participants under the age of 18 must have such forms signed by a parent or legal guardian.
  6. Fire precautions and emergency evacuation procedures shall be posted and understood by staff in the event of an emergency.
  7. Hazardous material or equipment of any kind shall be stored out of reach of Horses, riders and the general public.
  8. A Licensee shall provide potable safe water to the users of a Horse Riding Establishment premises.
  9. Accident forms shall be available at the facility and shall be completed by the Instructor or Trail Guide and any witnesses immediately after an accident has occurred.
  10. Section 2(b) of this Schedule shall not apply where a rider has been provided with proper functioning and appropriately sized hooded stirrups, safety stirrups which are designed to prevent a rider's foot from passing through or becoming wedged in the stirrup or stirrups which are designed to break-away when a rider falls from the Horse.
  11. For the purposes of an inspection under Part XVII of the By-law, an Inspector shall include a City of Brampton Animal Control Officer.
  12. Every Horse Riding Establishment licensed under this By-law shall carry on the business in accordance with the provisions of the *Horse Riding Safety Act, 2001*, S.O. 2001, c.4, as amended.

### **Instructional Riding**

13. For the purpose of dressage or precision riding performed as part of a special event where ceremonial dress is worn by all riders, the requirements of Section 2(b) will not apply.
14. (1) No Person licensed under this Schedule where instructional riding is provided, shall instruct a person to ride a Horse unless:
  - (a) the Horse is at least 3 years of age;
  - (b) the Horse has 1 year of schooling; and
  - (c) Horses between 3 years of age and 6 years of age have proof of an annual dental inspection by an equine dentist or veterinarian;
- (2) Section 14(1) does not apply to a Horse owned by a person receiving instructions.
15. An Assistant Instructor shall be permitted to assist in the instruction of persons in the riding of horses at a Horse Riding Establishment.

16. The Licensee of a Horse Riding Establishment where instructional riding is provided shall erect on the Premises in a location clearly visible to all patrons, a sign to be created and erected at the expense of the Licensee, with lettering a minimum of a 1/2 inch in height in the form prescribed in Appendix 1 to this Schedule.

### **Trail Riding**

17. Despite any other provision in this Schedule, a Person who carries on the business of a Horse Riding Establishment where trail riding is provided, may rent to a person who is at least 6 years old, to lead line ride a Horse where the horse is led by a person on foot who is deemed capable by the Licensee, and where the person is under the age of 6 years, the lead line rider must be led by a person deemed capable by the Licensee and accompanied by another person.
18. Prior to conducting or leading a trail ride, the Trail Guide or Assistant Trail Guide assigned to the ride, as the case may be, shall provide basic information on the handling of a horse and the basics of riding a Horse to every person who is taking part in the trail ride.
19. The Licensee of a Horse Riding Establishment where trail riding is provided, shall erect on the Premises in a location clearly visible to all patrons, a sign to be created and erected at the expense of the Licensee, with letters a minimum of 1/2 inch in height in the form prescribed in Appendix 2 to this Schedule.
20. Every rider must have functional two-way communication with the stable through the use of walkie talkies or cell phones, or any other similar device that would allow for two-way communication with the stable.

## **APPENDIX 1 TO SCHEDULE 15 TO BY-LAW 332-2013**

### **SIGN TO BE POSTED ON LICENSED PREMISES OF A HORSE RIDING ESTABLISHMENT WHERE INSTRUCTIONAL RIDING IS PROVIDED**

The following regulations are set out in the City of Brampton Business Licensing By-law - Schedule 15 - Horse Riding Establishments. Patrons should be made aware that even with the requirement of safety equipment, horse riding has inherent risks that may result in serious injury or death.

- 1) Approved riding helmets to be worn by all persons under the age of 18 and strongly recommended for persons over the age of 18.
- 2) Hard and smooth soled shoes with a defined heel must be worn by all riders unless using hooded, safety or break-away stirrups.
- 3) Patrons must disclose any medical problem or condition that may cause risk during riding instructions, to the instructor.

## **APPENDIX 2 TO SCHEDULE 15 TO BY-LAW 332-2013**

### **SIGN TO BE POSTED ON LICENSED PREMISES OF A HORSE RIDING ESTABLISHMENT WHERE TRAIL RIDING IS PROVIDED**

The following regulations are set out in the City of Brampton Business Licensing By-law - Schedule 15 - Horse Riding Establishments. Patrons should be made aware that even with the requirement of safety equipment, horse riding has inherent risks that may result in serious injury or death.

- 1) Maximum 6 riders per leader.
- 2) Minimum age for trail riding is 10 years.
- 3) Lead line riding is permitted for children under the age of 10.
- 4) Approved riding helmets to be worn by all persons under the age of 18 and is strongly recommended for persons over the age of 18.
- 5) Hard and smooth soled shoes with a minimum half inch heel must be worn by all riders unless using hooded, safety or break-away stirrups.
- 6) Inexperienced riders must identify themselves to a trail guide.
- 7) Patrons must disclose any medical issue or condition that may cause risk during the trail ride, to the trail guide

## **SCHEDULE 16 TO BY-LAW # 332-2013**

### **RELATING TO**

### **PAYDAY LOAN BUSINESSES**

### **(By-law 121-2020)**

### **(Amended by By-law 243-2020)**

1. In addition to the definitions in section 4 of this By-law 332-2013 for the purpose of this Schedule the followings words have the following meaning:

“Cannabis Sales Retail Establishment” means a provincially regulated cannabis retail business that is licensed and authorized by the Alcohol and Gaming Commission of Ontario (AGCO).

“Gaming Establishment” means an establishment with a primary purpose of accommodating the wagering of money and includes, but is not limited to, casinos, off-track betting and bingo halls.

“Liquor Retail Establishment” means a provincially regulated liquor retail business including but not limited to LCBO’s, The Beer Stores and grocery retail stores that sell beer and wine.

“*Payday Loans Act, 2008*”, means the *Payday Loans Act, 2008*, S.O. 2008, C.O. as amended, and includes any Regulations passed under it.

“Payday Loan Business” means any Premises where payday loans as defined under the *Payday Loans Act, 2008* are offered or made or where assistance is offered in obtaining a payday loan as defined under the *Payday Loans Act, 2008*.

“Provincial Payday Loan Licence” means a lender or loan broker licence issued under the *Payday Loans Act, 2008*.

### **General Conditions**

2. No Person shall act as a lender or loan broker as defined under the *Payday Loans Act, 2008*, without a valid Provincial Payday Loan Licence and Licence issued under this Schedule.
3. No Person shall own or operate a Payday Loan Business without a valid Provincial Payday Loan Licence and Licence issued under this Schedule.

### **Application Requirements**

4. Before a Licence under this Schedule may be issued, every Applicant for such Licence shall submit the following for the approval of the Licence Issuer:
  - a) The name of the Owner;
  - b) The address of the proposed location where the Owner is seeking to operate a business for which a licence is being sought under this Schedule;
  - c) Proof that the Applicant has a current and valid Provincial Payday Loan Licence;
  - d) The credit counselling information that will be given in accordance with section 14 of this Schedule; and
  - e) Such other information as may be required by the Licence Issuer.

### **Location and Number of Licences Restricted**

5. No Licence shall be issued under this Schedule if the proposed location of the business is:
  - a) within 300 metres of another Payday Loan Business licensed under this Schedule or the *Payday Loans Act, 2008*;
  - b) within 500 metres of a Gaming Establishment;
  - c) within 500 metres of a Liquor Retail Establishment; or
  - d) within 500 metres of a Cannabis Sales Retail Establishment.
6. Subject to compliance with this By-law, a Licence issued under this Schedule permits the operation of a Payday Loan Business only at the location authorized by the Licence.
7. The total number of Licences which may be granted by the City under this Schedule shall be limited to 49 representing the total number of Provincial Payday Loan Licences issued to businesses operating within the City as of the date this Schedule comes into effect.
8. Despite Section 5 of this Schedule, any business operating in the City with an existing Provincial Payday Loan Licence on the date this Schedule comes into effect, as listed in Appendix 1 to this Schedule, may continue to operate in the same location provided that:
  - a) The Owner obtains a Licence issued under this Schedule by November 5, 2020;
  - b) The Business is operated continuously as a business licensed under the *Payday Loans Act, 2008*;
  - c) The Business is, at all times, operated in compliance with this By-law and all applicable municipal, provincial and federal laws; and
  - d) The Licence issued under this Schedule is renewed annually as required by this By-law.
9. Despite section 7 of this Schedule, no Licence shall be issued under this Schedule before November 6, 2020, except to a business described in section 8 of this Schedule.

### **Operator Requirements**

10. An Owner or Operator shall:
  - a) Inform the Licence Issuer immediately if the Licensee's Provincial Payday Loans Licence under the *Payday Loans Act, 2008* is suspended, ceases to be valid, is revoked or expires;
  - b) Operate only at the location authorized by a Licence issued under this Schedule; and
  - c) Cease operating at a location authorized by a Licence issued under this By-law if the Operator's Provincial Payday Loans Licence or Licence issued under this Schedule has been suspended, ceases to be valid, is revoked or expires.

### **Transfer or Change of Location**

11. A Licence issued under this Schedule may not be transferred to another Person.
12. Any change of location shall constitute a new Application for a Licence under this Schedule, and shall be subject to the provisions of this Schedule and sections 5 and 7 of this Schedule shall apply to the new Application.
13. A Payday Loan Business operating under a Licence issued under this Schedule shall not change its location, unless and until it first applies for and obtains a new Licence issued under this Schedule for the new location and pays any applicable Fees and Charges.

### **Borrower Protection**

14. Every business operating under a Licence issued under this Schedule shall:
  - a) Prominently display a poster in a location that is visible to a person immediately upon entering the premises that provides credit counselling agencies and contact information in the form and containing the content prescribed by the License Issuer; and
  - b) Ensure that each person who attends at the premises is given, immediately upon expressing an interest in a loan, credit counselling information that has been approved in advance by the License Issuer.
15. This Schedule shall come into force and effect on July 8, 2020.

**APPENDIX 1 TO SCHEDULE 16**  
**PRE-EXISTING PROVINCIAL LICENCES**  
**PAYDAY LOAN BUSINESSES**  
**(By-law 121-2020)**  
**(Amended by By-law 243-2020)**

The existing Payday Loan Businesses, that are licensed under the *Payday Loans Act, 2008* as of July 8, 2020, and have obtained a municipal business licence as of November 5, 2020 as per Clause 8 of this Schedule, are at the following locations:

**Ward 1**

367 Main Street North  
425 Main Street North  
244 Queen Street East  
212A Queen Street East  
372 Queen Street East  
320 Main Street North

**Ward 2**

164 Sandalwood Parkway East, Unit 221  
10015 Hurontario Street, Unit 3  
10906 Hurontario Street

**Ward 3**

279 Queen Street East, Unit 2  
83 Kennedy Road South, Unit 27  
149 Clarence Street, Unit C  
269 Queen Street, Unit 5  
1 Steeles Avenue East, Unit 3  
83 Kennedy Road South, Unit 13  
196 Main Street, Unit 2A  
85 Kennedy Road South, Unit 32  
263 Queen Street East, Unit 21  
400 Steeles Avenue East, Unit 6  
2-30 Rambler Drive, Unit 1  
495 Main Street South  
1 Kennedy Road  
267 Queen Street East, Unit C  
279 Queen Street East, Unit 3  
225 Queen Street E, Unit 2A

**Ward 4**

7900 Hurontario Street, Unit 13  
7700 Hurontario Street, Unit 108B  
17 Ray Lawson Boulevard, Unit 6  
7686 Hurontario Street

**Ward 5**

110 McLaughlin Road, Unit 1  
10 Gillingham Drive, Unit 103

**Ward 6**

20 Brisdale Drive

**Ward 7**

25 Peel Centre Drive

**Ward 8**

9025 Torbram Road, Unit 15  
15 Gateway Boulevard, Unit 104  
9899 Airport Road, Unit 2  
9185 Torbram Road, Unit 2  
2456 Queen Street East, Unit 1  
2880 Queen Street East, Unit 6  
1771 Queen Street East  
2200 Queen Street East, Unit 6  
2956 Queen Street East  
1785 Queen Street East

**Ward 10**

3955 Cottrelle Boulevard

## **SCHEDULE 17 TO BY-LAW # 332-2013**

### **RELATING TO**

### **LODGING HOUSES**

**(Amended by By-law 208-2020)**

1. In this Schedule:

“Lodging House” means a dwelling in which residential accommodation is provided, with or without meals, for hire or gain, to more than 4 lodgers, in which each lodger does not have access to all of the habitable areas of the building. **(By-law 208-2020)**

“Owner” means a Licensee under this Schedule, the registered owner of the property in which the Lodging House is located, and includes any person who operates or manages the Lodging House.

2. An Application for a Licence under this Schedule, and at the discretion of the Licence Issuer for the renewal of a Licence, shall be accompanied by:

- (a) An inspection report from the Electrical Safety Authority stating that the condition of the electrical wiring and electrical fixtures are satisfactory and setting out any recommendations in connection therewith;
- (b) Letters of approval issued by the Fire Chief and Property Standards Section of the City;
- (c) If the Lodging House is owned by a corporation, a copy of the incorporating documents and the names and addresses of all Directors and Officers;
- (d) A statutory declaration prepared for the Chief Building Official or designate, stating that the building or structure is in compliance with the requirements of the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, with respect to any new additions or alterations requiring a building permit;
- (e) A letter of approval issued by the Medical Officer of Health or Peel Region Health Inspector;
- (f) An inspection report from a qualified H.V.A.C. Inspector showing heating/cooling equipment and chimneys are safe and in good repair;
- (g) An up-to-date emergency plan approved by the Fire Chief;
- (h) A complete set of floor plans showing all rooms, stairways and exits, number of bathtubs, showers, wash basins, water closets and sinks in the building and the number of sleeping rooms available for lodgers;
- (i) Written confirmation of the maximum number of lodgers to be accommodated; and
- (j) The name and telephone number of any manager who resides on the premises or other emergency contact person.

3. Every Owner of a Lodging House shall ensure that:

- (a) All halls, stairways and means of entrance and egress is kept free from obstruction at all times;

- (b) Every smoke detector and smoke alarm is:
  - (i) Of the single station alarm type;
  - (ii) Equipped with visual indication and connected by the building's electrical supply without a disconnect wall switch or be independently (battery) powered and maintained in good working order, or electrically connected to other smoke alarms in accordance with Article 9.3.4.1 of the Ontario Fire Code; or
  - (iii) Installed in accordance with subsection 9.5.4 of the Ontario Fire Code where existing as a component of a fire alarm system.
- (c) If the building contains a fuel burning appliance:
  - (i) A carbon monoxide detector is installed on each floor and shall be equipped with an alarm that is audible within all rooms when the intervening doors are closed; and
  - (ii) All carbon monoxide detectors are maintained in good operating condition and in accordance with the manufacturer's instructions;
- (d) Where an electrically powered carbon monoxide detector is installed, each electronically powered carbon monoxide detector:
  - (i) Is equipped with visual indications that indicate it is in an operating condition; and
  - (ii) Has no power switch between the carbon monoxide detector and the power distribution panel;
- (e) Toilet and bathing facilities are provided as required under the Ontario Building Code, are maintained in a clean and sanitary manner to prevent and eliminate any health hazards, within at least one room with access provided by means of an entrance from a common hallway or corridor; said facilities containing at least one wash-basin, one water closet and one bathtub or shower for each 5 lodgers;
- (f) Where food is prepared or intended to be prepared, adequate facilities for the proper preparation and protection of food are provided that meet the requirements of Peel Health and O. Reg. 562/90 - Food Premises Regulation made under the *Health Protection and Promotion Act*, R.S.O. 1990, c.H.7;
- (g) A register is kept in the Lodging House detailing the name of every lodger who occupies the premises and shall ensure that the register, as well as the Lodging House premises are open to inspection at any reasonable time by the Licence Issuer or Inspector;
- (h) The Chief Building Official, License Issuer or Inspector is permitted to enter the premises at any reasonable time for the purpose of inspecting the premises and no person shall prevent or obstruct any such officials from entering the premises;
- (i) Each resident of the Lodging House is provided separate lockable mail box;
- (j) A secure area in the Lodging House is provided for the personal belongings of the resident, if requested; and
- (k) All necessary steps are taken to prevent and eliminate any effects of health hazards on occupants of the facility.

4. No Licensee shall:

- (a) Permit a person to occupy for sleeping purposes, any cellar or any space used as a lobby, hallway, closet, bathroom, laundry, stairway, kitchen or any accessory building or shed;
- (b) Permit a room to be used for sleeping purposes unless it contains a window or window opening directly to the outside air, having an area equal to or not less than 5% of the floor area of the room and having an unobstructed ventilation area (that may be opened) to the outdoors of 1.5 square feet per occupant unless such room is otherwise ventilated by mechanical means;
- (c) Permit any cooking appliance of any kind in any room used for sleeping purposes; and
- (d) Permit any heating appliances to be installed or maintained in any room used for sleeping purposes, other than those specifically designed and authorized by the regulations made under the *Building Code Act 1992*.

5. The requirement to obtain a Lodging House Licence does not apply to:

- (a) A student residence owned or operated by a university or college;
- (b) A dwelling unit within an apartment building;
- (c) Housing provided by a registered charity;
- (d) A group home;
- (e) A foster home;
- (f) A medical treatment facility;
- (g) A long term care home as defined under the *Long Term Care Home Act, 2007*; or
- (h) A retirement home as defined under the *Retirement Homes Act, 2010*.

## **SCHEDULE 18 TO BY-LAW # 332-2013**

### **RELATING TO**

### **PAWNBROKERS**

1. In this Schedule:  
  
“Pawnbroker” means a Person who exercises the trade of receiving or taking by way of pawn or pledge, any goods for the repayment of money lent thereon.
2. No Person shall by virtue of one Licence, carry on business as a Pawnbroker in more than one shop.
3. Where two or more Persons carry on business as Pawnbrokers in partnership in the same shop, only one Licence is necessary.
4. An Application for a Licence or at the discretion of the Licence Issuer for a Licence renewal shall be accompanied by a security clearance issued within the last 30 days by the Police Services in whose jurisdiction the Applicant resides.
5. A Licence shall not be issued if at any time within 3 years prior to the Application the Person has been convicted of any offence relating to fraudulent practices, stolen goods, theft or burglary under the *Criminal Code*, R.S.O. 1985, c. C-46.
6. Every Applicant for a Licence under this Schedule shall file with the Application, cash or letter of credit in the amount of \$2,000.00 which shall be held by the City of Brampton as a guarantee of the Applicant’s compliance with the Business Licensing By-law and the provisions of the *Pawnbrokers Act*, R.S.O. 1990, c. P.6, as amended.
7. Every Pawnbroker shall, before noon of every business day, make a report for Peel Police Services, such report shall contain in respect of every transaction made on the next preceding business day, all the information required under Section 9 of the *Pawnbrokers Act* to be entered into the Pawnbroker’s book.
8. Every police officer shall, at all times, be given access to and may inspect a pawnbroker’s books, papers and pledges and when so engaged may have with him or her such other Persons as he or she considers advisable.
9. Every Person licensed as a Pawnbroker under this By-law shall carry on the business in accordance with the provisions of the *Pawnbrokers Act*.
10. Every Person who acts as a lender in accordance with the *Payday Loans Act*, 2008, S.O. 2008, c.9, as amended, shall be in possession of a licence issued by the Registrar, under the *Payday Loans Act*, when applying for or renewing a Pawnbroker’s Licence.

## **SCHEDULE 19 TO BY-LAW # 332-2013**

(Number reserved for future use)

## **SCHEDULE 20 TO BY-LAW # 332-2013**

RELATING TO

PET SHOPS

**(Amended by By-law 270-2016)**

1. In this Schedule:  
  
“Animal” means all non-human species, and includes birds;  
  
“Pet Shop” means a building, structure or part thereof where Animals or birds for use as pets are sold or kept for sale.
2. A Pet Shop that includes for sale only live fish, is exempted from the requirement to obtain a Licence under this Schedule.
3. An Application for a Licence and at the discretion of the Licence Issuer for a Licence renewal shall be accompanied by a letter of approval from the Animal Services Section.

### **(Section 4 amended by By-law 270-2016)**

4. Every Person licensed under this Schedule shall:
  - (a) Obtain a separate Licence for each Pet Shop that is under the same ownership;
  - (b) Comply with the provisions of the *Ontario Society for the Prevention of Cruelty to Animals Act*, R.S.O. 1990, c.O.36, as amended;
  - (c) At all times maintain the premises in a sanitary, well-ventilated, clean condition;
  - (d) Ensure the facility or operation’s floor shall be thoroughly cleaned at least once every day or more often as may be necessary to keep the floor in a clean and sanitary condition;
  - (e) Keep all Animals in sanitary, well-bedded, well-lighted, clean quarters and kept at a temperature appropriate for the health requirements of the species of Animals housed therein;
  - (f) Locate all cages, tanks, containers or other enclosures in which Animals are housed in such a way as to provide maximum comfort to satisfy the known and established needs for the particular species so housed and shall be provided with safeguards to prevent extreme environmental changes;
  - (g) Prevent undue direct physical contact with the Animals by the general public;
  - (h) Where the quarters used for the housing of any Animal form part of or are physically attached to a building used for human habitation or to which the public has access, ensure that such quarters have a concrete or other impermeable floor with a drain opening hooked to a sanitary system, and such floor shall be thoroughly washed with water at least once each day, or more often than once if necessary in order to keep the floor clean;
  - (i) Ensure that every cage or other container used for the keeping or housing of any Animal:

- (i) is of adequate size to permit the Animal to stand normally to its full height, to turn around, and to lie down in a fully extended position; and
- (ii) has a floor of either solid or wire mesh construction or any combination thereof, provided that:
  - (1) all spaces in wire mesh shall be smaller than the pads of the foot of any Animal confined therein;
  - (2) any such wire mesh shall be of a thickness and design adequate to prevent injury to any such animal; and
  - (3) such floor shall be of sufficient strength to support the weight of any such Animal;
- (j) Equip all cages or containers with receptacles for food and for water, so mounted or situated that they cannot be easily overturned or contaminated;
- (k) Provide water to every Animal in sufficient quantity to maintain at all times a potable supply available to the Animal;
- (l) Provide food in accordance with the particular food requirements of each type or species of Animal;
- (m) Provide adequate light in the premises that is appropriate for the species kept there;
- (n) Provide a cage of a dimension to enable all birds to have sufficient perch space to permit full extension of their wings in every direction;
- (o) Ensure that all persons responsible for the care, feeding or cleaning of Animals are adequately instructed and supervised in the handling and care of all such Animals;
- (p) Ensure that any Animal showing signs of sickness or disease is examined and treated immediately by a veterinarian and that the Animal is kept in a quarantine area until a veterinarian certifies that the Animal is in good health;
- (q) Give to the purchaser on any sale or disposition of an Animal, a receipt showing the name and address of the vendor and the purchaser, the date of sale, the sale price, the breed or crossbreed, sex, age and description, including colour and placing of markings, if any, of the Animal;
- (r) Obtain dogs and cats for sale only from such organizations as municipal animal shelters, humane societies, and other animal shelters or rescue groups;
- (s) Publicly post on-premises and through electronic means where available, the source(s) of the dogs and cats being offered for sale by their establishment;
- (t) Keep and maintain in good condition a register, in which shall be entered:
  - (i) A record of each Animal purchased or otherwise obtained; each entry shall be made at the time each Animal comes into the Licensee's possession and shall include the date of purchase, a full description of the Animal, together with the name, address and telephone number of the Person from whom it was purchased or otherwise obtained;

- (ii) A record of each Animal sold and shall include the date of sale, a full description of the Animal, together with the name, address and telephone number of the Person to whom the Animal was sold;
    - (iii) Inform purchasers that their personal information is being collected and that this personal information will only be used, if necessary, for law enforcement purposes;
  - (u) Ensure that the register in subsection 4 (t) is open to inspection by the Licence Issuer and Inspector at any time during business hours and be made available to be removed at any time by the Licence Issuer, Inspector and Peel Police Services for use in any Court or law enforcement proceeding; and
  - (v) Ensure that while the register in subsection 4 (t) is removed, a record of entries continues to be made.
5. No Person licensed under this Schedule shall:
- (a) Sell any Animal prohibited by any by-law of the City and without limiting the effect of this subsection, shall not sell or permit the sale of any chick, duckling, live poultry or other livestock;
  - (b) Keep animals in crowded quarters or cages;
  - (c) Sell or display any diseased Animal;
  - (d) Sell, permit to be sold, offer for sale or give away, any dog or cat under the age of 8 weeks; or
  - (e) Confine or display incompatible Animals in the same cage.
6. No Licence shall be required for the following operations:
- (a) An animal shelter operated by or on behalf of a public authority;
  - (b) A veterinary hospital/clinic;
  - (c) A publicly funded educational institute; or
  - (d) Any facility in which Animals are placed for care pursuant to the *Animals for Research Act* R.S.O. 1990, c. A.22, as amended.
7. Where an Inspector properly inspecting a licensed premises determines that an Animal appears to require medical attention, the Inspector may order the Licensee to immediately take the Animal to a qualified veterinarian.
8. If grooming services are provided at the premises, a Pet Grooming Facility Licence is not required but the Licensee must comply with the provisions of the Pet Grooming Facility Licence Schedule.
9. Any of the following infections shall render an Animal unfit for sale or release:
- (a) infectious diseases such as distemper, hepatitis, rabies or other similar diseases;
  - (b) nutritional deficiencies, including rickets or emaciation;
  - (c) fractures or congenital abnormalities affecting the general health of the animal.

## **SCHEDULE 21 TO BY-LAW # 332-2013**

### **RELATING TO**

### **PLACES OF PUBLIC ASSEMBLY**

1. For the purpose of this Schedule:

“Place of Public Assembly” shall mean any place open to the public or particular members of the public, including but not limited to Public Halls, banquet halls, private clubs, driving ranges, golf courses, cinemas and theatres, but does not include a personal residence, place of worship and public educational facility;

“Public Hall” means a building or tent with a seating capacity for over 100 persons that is offered for use or used as a Place of Public Assembly, but does not include a theatre.
2. A Place of Public Assembly Licence may be issued for one or more of the following categories and the Licence issued pursuant to this Schedule is restricted to the categories identified on the Licence:
  - (a) “Class A” – Public Hall, Banquet Hall, Bingo Hall
  - (b) “Class B” - Golf Course, Driving Range, Mini Golf
  - (c) “Class C” - Cinema and Theatre
3. Every new Application for a “Class A” and “Class C” Licence or at the discretion of the Licence Issuer for a Licence renewal, shall be accompanied by:
  - (a) A letter of approval from the Fire Chief;
  - (b) A detailed plan of the premises for which the Place of Public Assembly Licence is sought depicting, at a minimum:
    - (i) the perimeter and total area of the premises;
    - (ii) the location and dimensions of exits;
    - (iii) a floor plan depicting dimensions, possible seating arrangements, tables, and bars proposed for the premises; and
    - (iv) the location of fire safety systems including fire alarms, emergency lighting, exit signs, sprinklers, standpipe systems and other similar fire safety systems.
4. No Licence fee shall be payable under this By-law for the operation of a Public Hall by any religious organization, where it does not receive any remuneration for the use of its Public Hall.
5. No Licence shall be required under this By-law for the operation of Public Halls by any Municipal, or the Provincial or Federal governments, University, College, Public School, Separate School or Boards of Education in respect of the use of their Public Halls.
6. No Licensee shall:
  - (a) Permit any disorderly conduct to take place on the licensed premises;
  - (b) Permit any person to loiter, create a disturbance or cause undue noise in or about the licensed premises;

- (c) Fail to ensure the protection of the public health and public safety on the licensed premises; or
  - (d) Permit the licensed premises to be open to the public unless a person over the age of 18 years is present to supervise the use of the licensed premises.
- 7. Every Person licensed under this Schedule shall provide public washroom facilities in accordance with the requirements of the Ontario Building Code.
- 8. Every Person licensed under this Schedule shall comply with all applicable requirements of the *Health Protection and Promotion Act*, R.S.O. 1990, c.H. 7. as amended.
- 9. Where the Applicant for a Licence under this Schedule is not the owner of the property, he or she shall produce a letter from the owner authorizing the use of the property as a Place of Public Assembly.

## **SCHEDULE 22 TO BY-LAW # 332-2013**

### **RELATING TO**

### **PLUMBING CONTRACTORS**

1. In this Schedule:

“Master Plumber” means a Person who:

- (i) Has been issued a Certificate of Qualification in the plumbing trade under the *Ontario College of Trades and Apprenticeship Act, 2009*, S.O. 2009, c.22, as amended and is aware of and knowledgeable in the general regulations under this act and operates in a manner pursuant to the requirements of the act and its Regulations and is skilled in the planning, superintending and installing, maintaining and repair of plumbing equipment and who is familiar with the laws, rules and regulations governing the same; and
- (ii) Has a regular place of business in Ontario, and who, himself or herself or by journeyman tradesmen under his or her supervision, performs the trade of plumber;

“Plumbing” includes any procedure, method, matter or thing described in the *Building Code Act, 1992*, S.O. 1992, c.23 as amended, and plumbing work has a corresponding meaning;

“Plumbing Contractor” means a Person engaged in the business of contracting with a member of the public or another contractor for the placing, installing, maintaining, repairing or replacing of any pipe, fixture or other device, equipment or facility of a plumbing system or in other plumbing work, and includes any Person who solicits for plumbing work, and who in any way advertises or holds himself or herself out to the public as doing or contracting to do plumbing work by him or herself or through another qualified person, or as being a plumbing contractor and who has a regular place of business in Ontario and includes an individual certified as a Master Plumber.

2. Every Person licensed as a Plumbing Contractor under this By-law shall:

- (a) Submit proof to the satisfaction of the Licence Issuer that all workers and employees are protected under the provisions of the *Workplace Safety and Insurance Act, 1997*. S.O. 1997. C.16. as amended;
- (b) Display the Licensee’s name using letters with a minimum height of 10 centimetres on both sides of all vehicles owned, leased or used on a regular basis by the Licensee in the course of business;
- (c) Have printed or otherwise impressed on all business stationery, forms, bills statements and advertising materials, the Licensee’s name, address and telephone number;
- (d) Prepare a written contract which shall be signed by the Licensee and the person for whom the work is being done before commencing any work and a copy of this contract shall be given to the person for whom the work is being done and the contract shall contain:
  - (i) The name, address and telephone number of the Licensee and the name and address of the person for whom the work is being done;
  - (ii) The address where the work is being done;

- (iii) A description of the work being done, including materials and services being provided;
    - (iv) The itemized price for the materials and services to be supplied and a detailed statement for the terms of payment;
    - (v) Warrantees and guarantees, if any; and
    - (vi) The estimated date of completion;
  - (e) Obtain all necessary Plumbing and Building Permits or any other permit required by law prior to the commencement of any work and, upon completion, shall procure a final inspection from the City;
  - (f) Be a Master Plumber or have a Master Plumber in his or her employ.
3. A Person licensed under this By-law as a Plumbing Contractor shall not:
- (a) Cause or permit an apprentice or helper or other unqualified person to perform any plumbing works or install any plumbing materials or appliances except as an assistant to and under the direct personal supervision of a licensed Master Plumber or a provincially certified journeyman plumber continuously employed on the same contract or job who is under the direct supervision of a Master Plumber;
  - (b) Permit the use of the Licensee's name by any other person, either directly or indirectly, for the purpose of obtaining a permit to do any plumbing work;
  - (c) Perform any work which requires a Licence or permit unless a Licence or permit is first obtained;
  - (d) Perform work that is extra or additional to an existing contract unless and until the Licensee has entered into a second or additional contract.
4. The provisions of this By-law shall not apply to the repair and maintenance of a plumbing system and related equipment where the repair and maintenance is done by:
- (a) A person who is an owner or tenant, where the equipment is contained within the premises occupied by the owner or tenant; or
  - (b) A person who is a full-time employee of a property owner or tenant who is engaged by the property owner or tenant for maintenance of plumbing equipment within the premises of the property owner or tenant.

## **SCHEDULE 23 TO BY-LAW # 332-2013**

### **RELATING TO**

### **POOL INSTALLATION CONTRACTORS**

1. In this Schedule:  
  
“Pool Installation Contractor” means a Person who carries on the business of installing residential swimming pools.
2. Every Person licensed as a Pool Installation Contractor under this By-law shall deposit a Letter of Credit or other security satisfactory to the Licence Issuer in the amount of \$10,000.00 that shall be valid for the term of the Licence.
3. No Person shall be licensed as a Pool Installation Contractor under this By-law unless he/she has a regular place of business and, if the person is an individual is at least 18 years old.
4. Every Pool Installation Contractor licensed under this By-law shall:
  - (a) Submit proof, to the satisfaction of the Licence Issuer, that all workers and employees are protected under the provisions of the *Workplace Safety and Insurance Act, 1997*. S.O.1997. c.16., as amended;
  - (b) Display the Licensee’s name using letters with a minimum height of 10 centimetres on both sides of all vehicles owned, leased or used on a regular basis by the Licensee in the course of business;
  - (c) Have printed or otherwise impressed on all business stationery, forms, bills, statements and advertising materials, the Licensee’s name, address and telephone number; and
  - (d) Prepare a written contract which shall be signed by the Licensee and the person for whom the work is being done before commencing any work and a copy of this contract shall be given to the person for whom the work is being done and the contract shall contain:
    - (i) The name, address and telephone number of the Licensee and the name and address of the person for whom the work is being done;
    - (ii) The address where the work is being done;
    - (iii) A description of the work being done, including materials and services being provided;
    - (iv) The itemized price for the materials and services to be supplied and a detailed statement of the terms of payment;
    - (v) Warrantees and guarantees, if any; and
    - (vi) The estimated date of completion;
  - (e) Obtain all necessary permits required by law prior to the commencement of any work and upon completion of any work shall obtain a final inspection from the City.
5. A Person licensed as a Pool Installation Contractor under this By-law shall not:

- (a) Permit the use of the Licensee's name by any other Person, either directly or indirectly, for the purpose of obtaining a permit to do any pool installation work;
  - (b) Perform work that is extra or additional to an existing contract unless and until the Licensee has entered into a second or additional contract.
- 6. A Person licensed as a Pool Installation Contractor may carry on business under a trade name or name other than his or her own but shall not carry on business under more than one name, and only one Licence shall be issued.

## **SCHEDULE 24 TO BY-LAW # 332-2013**

### **RELATING TO**

### **SALVAGE SHOPS AND SALVAGE YARDS**

1. In this Schedule:

“Salvage Yard” includes a building or place used as an automobile wrecking yard;

“Salvage Shop” includes a building or place used for the collection, purchase, keeping or selling of items such as bicycles, automobile tires, old metal, scrap material and appliances.
2. Every Application for a Salvage Yard or Salvage Shop Licence, or at the discretion of the Licence Issuer renewal of a Salvage Yard or Salvage Shop Licence under this By-law, shall be accompanied by a letter of approval from the Fire Chief.
3. An Application for a Licence, or at the discretion of the Licence Issuer for a Licence renewal, shall be accompanied by a security clearance issued to the Applicant within the last 30 days by the Police Services where the Applicant resides.
4. A Licence will not be issued if at any time within 3 years prior to the Application, the Person has been convicted of any offence relating to fraudulent practices, stolen goods, theft or burglary under the *Criminal Code*, RSO 1985, c. C-46, as amended.
5. Every Licensee under this Schedule shall:
  - (a) Carry on business within an enclosed building or within an area surrounded by a rigid fence which provides a complete visual barrier. The fence shall be a minimum height of 1.8 metres above grade and shall be constructed of either masonry, metal, wood or any combination thereof and if metal or wood, shall be painted a uniform colour;
  - (b) Provide stable surface treatment on all driveways and parking areas;
  - (c) Keep all buildings and fences in good repair;
  - (d) Maintain a register in a form approved by the Licence Issuer in which shall be entered:
    - (i) A description of all goods taken in exchange or otherwise obtained including make, serial number, model number marking and titles where applicable;
    - (ii) The purchase price of each item or a description of the item exchanged for it;
    - (iii) The date and time on which the goods were taken;
    - (iv) The name, address, telephone number and e-mail address of the person from whom the goods were obtained and if the goods were delivered or conveyed by a motor vehicle, the licence number of that motor vehicle; and
    - (v) The name of the employee who conducted the transaction;

- (e) Ensure the register is retained for a period of 2 years;
  - (f) Inform sellers that their personal information is being collected and that this personal information will only be used, if necessary, for law enforcement purposes;
  - (g) Notify the Police and the Licence Issuer forthwith of the particulars of any goods or articles of any kind which the Licensee has reasonable grounds to believe may have been stolen or unlawfully obtained;
  - (h) Forthwith on the demand of the Police, Municipal Law Enforcement Officer or the Licence Issuer:
    - (i) Identify themselves;
    - (ii) Open the register to inspection at all times during regular business hours by the Licence Issuer, Municipal Law Enforcement Officer and Police who may remove specific entries from the register for use in any Court or other law enforcement proceedings.
6. No Licensee shall directly or indirectly purchase from or take in exchange any goods:
- (a) From any person under the age of 18 years; or
  - (b) From any person who appears to be under the influence of alcohol or drugs.

## **SCHEDULE 25 TO BY-LAW # 332-2013**

### **RELATING TO**

### **SECOND HAND GOOD SHOPS**

1. In this Schedule:

“Exempt Organization” means a religious, philanthropic, patriotic, fraternal or charitable organization or society;

“Second Hand Goods” includes used clothing, household materials, precious metals, electronics, videos, digital video recordings, electronic games, sporting goods and jewellery.
2. No Licence shall be required under this By-law by a Person:
  - (a) Selling or dealing in Second-Hand Goods on behalf of an Exempt Organization where the entire proceeds of the sale are used to further the objectives of the foregoing organization or society;
  - (b) Selling or dealing in Second-Hand Goods that have been purchased from an Exempt Organization, where such Second-Hand Goods were originally donated to that Exempt Organization; and
  - (c) Dealing in goods which are recognized antiques or works of art.
3. An Application for a Licence, or at the discretion of the Licence Issuer for a Licence renewal, shall be accompanied by a clearance issued to the Applicant within the last 30 days by the Police Services where the Applicant resides.
4. A Licence shall not be issued if at any time within 3 years prior to the Application the person has been convicted of any offence relating to fraudulent practices, stolen goods, theft or burglary under the *Criminal Code*, RS. 1985, c.C-46, as amended.
5. No Licensee shall:
  - (a) Receive from any person or persons any article or goods which the licensee knows or has reasonable grounds to believe have been stolen or otherwise secured by the person in possession of same by means of a commission of an offence under the *Criminal Code*, RS. 1985, c. C-46, as amended;
  - (b) Purchase, take in exchange, or receive directly or indirectly, any goods, article or thing from any person who appears to be under the age of 18 years old;
  - (c) Purchase, take in exchange, or receive directly or indirectly, any goods, article or thing from any person who appears to be under the influence of drugs or alcohol;
  - (d) Alter, repair, dispose of or in any way part with, any goods or articles purchased or taken in exchange until after the expiration of 30 days and during these 30 days, the goods or articles obtained shall remain on the licensed premises and shall be kept in a location separate from goods previously purchased and shall be subject to inspection at any time during business hours by the Peel Regional Police; or
  - (e) Transact any business between the hours of 11:00 p.m. and 7:00 a.m.

6. Every Licensee shall:
- (a) Maintain a register in a form approved by the Licence Issuer in which shall be entered:
    - (i) A description of all goods taken in exchange or otherwise obtained, including, make, serial number, model number marking and titles where applicable;
    - (ii) The purchase price of each item or a description of the item exchanged for it;
    - (iii) The date and time on which the goods were taken;
    - (iv) The name, address, telephone number and e-mail address of the person from whom the goods were obtained and if the goods were delivered or conveyed by a motor vehicle, the licence number of that motor vehicle; and
    - (v) The name of the employee who conducted the transaction;
  - (b) Ensure the register is retained for a period of 2 years;
  - (c) Inform sellers that their personal information is being collected and that this personal information will only be used, if necessary, for law enforcement purposes;
  - (d) Notify Peel Regional Police of the name and description of any goods or articles of any kind which he or she has reasonable grounds to believe may have been stolen or unlawfully obtained;
  - (e) Open the register to inspection at all times during regular business hours by the Licence Issuer, Municipal Law Enforcement Officer and Police who may remove specific entries from the register for use in any Court or other law enforcement proceedings; and
  - (f) Obtain a separate licence in respect of each and every shop, store or other place used for the transaction of business or for taking in or storing of second-hand goods.
7. Every Licensee who acts as a lender in accordance with the *Payday Loans Act, 2006*, S.O. 2008, c.9, as amended, shall be in possession of a licence issued by the Registrar under the act, when applying for or renewing a Second Hand Goods Shop Licence.

## **SCHEDULE 26 TO BY-LAW # 332-2013**

### **RELATING TO**

### **TOBACCO RETAILERS**

1. In this Schedule:  
  
“Tobacco Shop” means any store or shop where tobacco, cigars or cigarettes are sold by retail.
2. Every Person licensed under this Schedule shall comply with the provisions of the *Smoke-Free Ontario Act*, S.O. 1994, c.10, as amended, the *Tobacco Act*, S.C. 1997, c.13, as amended, and the *Tobacco Tax Act*, R.S.O. 1990, c. T.10, as amended.
3. No Person shall sell or supply any tobacco product to any person who is less than 19 years old.
4. Every Person licensed under this Schedule shall maintain the premises in a clean condition, free from litter and must provide litter containers around the premises in size, number and location so that they adequately contain all refuse caused by the operation of the business.
5. Where an automatic prohibition order is issued by the Minister of Health for the sale of tobacco, the Licence issued by the City is automatically suspended for the period of time specified in the automatic prohibition order. There shall be no appeal under this By-law for a Licence suspended under this section.
6. Every applicant for a Tobacco Retailer's Licence or for the renewal of such Licence shall be in possession of a retail Dealer's Permit issued under the *Tobacco Tax Act*, R.S.O. 1990, c.T10, as amended, or as of June 30, 2010, held a valid Retail Sales Tax Vendor's Permit issued under the *Retail Sales Tax Act*, R.S.O. 1990, c. R. 31, as amended.

## **SCHEDULE 27 TO BY-LAW # 332-2013**

### **RELATING TO**

### **VEHICLE POUND FACILITIES**

**(Amended by By-laws 187-2014, 184-2019, 245-2022)**

**1. In this Schedule:**

“Motor Vehicle” means an automobile, truck, trailer, motorcycle and any other vehicle propelled or driven otherwise than by muscular power but does not include a motorized snow vehicle or motor-assisted vehicle;

“Storage Fee” means the fee for the storage of a Vehicle based upon a 24 hour period, or part thereof, from the time the Vehicle enters the Vehicle Pound Facility and shall be inclusive of all costs associated with the storage of the Vehicle, including but not limited to administration fees, environmental charges and insurance costs;

“Vehicle Pound Facility” means land, buildings, or structures or parts thereof, used for the temporary storage of Vehicles within a secure area that is fenced and gated or inside a building and where a storage fee is charged and may include property held under police or other government authority.

**2. Every Licensee under this Schedule shall:**

- (a) Before demanding payment for the storage of a Motor Vehicle, present the Motor Vehicle owner or his or her agent an invoice for the storage of the vehicle, such invoice to detail the time and day the Vehicle first entered the Vehicle Pound Facility and total cost for the storage of the Motor Vehicle;
- (b) Retain a copy of the invoice referred to in Section 2. (a) for a minimum of 2 years from the date the Motor Vehicle is removed from the Vehicle Pound Facility, and be subject to inspection by the Licence Issuer or Inspector who shall provide at least 3 business days’ notice of such inspection;
- (c) Comply with all the appropriate provisions of the *Repair and Storage Liens Act*, R.S.O. 1990, c.R.25 when disposing of an unclaimed vehicle;
- (d) Ensure that the Motor Vehicle owner or his or her agent shall be able to obtain the release of the vehicle at any time (24 hours a day, 7 days a week, 365 days a year), provided payment of the storage fee is made;
- (e) Maintain a sign at the Vehicle Pound Facility, visible from the entrance to the facility, detailing the daily hours of operation of the facility, the telephone number to use for after hours vehicle release service, the storage fee rates to be charged for the storage of the Motor Vehicles, City’s by-law number and telephone number for the City’s By-law Enforcement Division in case of disagreement over storage rates or service provided, and the Region of Peel telephone number for the reporting of a hazardous material spill;
- (f) Ensure that sufficient staff is available during normal business hours as well as after hours, 365 days a year in order to release a Vehicle;

- (g) Erect a fence to the satisfaction of the City and install a secure lock on the fence to protect the Motor Vehicles and Motor Vehicle contents stored in the facility, and ensure sufficient secured lighting is installed to illuminate the pound and perimeter fence;
  - (h) **deleted pursuant to By-law 184-2019**
  - (i) Keep the Vehicle Pound Facility and any sidewalk or street upon which the Premises abut, in a clean and neat condition, free from debris, snow, ice, dirt, rubbish or other foreign substances, including but not limited to tires and Vehicle parts derived from the licensed Premises or resulting from the use of the licensed Premises;
  - (j) Comply with all relevant legislation pertaining to the storage and disposal of hazardous materials on the Premises; and
  - (k) Ensure that where a daily storage fee is charged, it shall be based on each 24-hour period that the vehicle has been held in storage or any part thereof. Charges shall commence from the time the Motor Vehicle is placed in the Vehicle Pound Facility.
3. Every Licensee of a Vehicle Pound facility shall, when a Motor Vehicle is left at the Licensed Premises:
- (a) Maintain a register in the form approved by the License Issuer in which shall be entered:
    - i. Time and date of receipt of the Motor Vehicle;
    - ii. A description of the Motor Vehicle, including make, model and year; and
    - iii. Name, address and telephone number, email address of the Motor Vehicle Owner.
  - (b) Retain the register in subsection 3. (a) for a period of 2 years;
  - (c) Request that the Motor Vehicle ownership document be removed from the Vehicle and deposited with the Licensee to be securely stored on the Licensed premises, and the document shall be returned when the Motor Vehicle is released;
  - (d) Inform the Motor Vehicle Owner that personal information is being collected and that this information will only be used, if necessary, for law enforcement purposes; and
  - (e) Open the register to inspection, at all times during regular business hours, by the Licence Issuer, Police or any other person duly authorized by the Licence Issuer, and permit them to remove specific entries from the register required for use in any court or other law enforcement proceedings.

**(By-law 184-2019)**

**The following clauses have been renumbered from 3-5 to 4-6 pursuant to By-law 184-2019**

- 4. No Licensee shall:
  - (a) Permit the Premises to be used for the purpose of servicing or repairing Motor Vehicles; or
  - (b) Charge a storage fee for any period of time that the Motor Vehicle owner or his or her agent was unable to obtain the Motor Vehicle as a result of some fault on the part of the Vehicle Pound Facility or its staff.
- 5. Despite any other provisions, a Person operating a Vehicle Pound Facility shall only be allowed to charge or cause to be charged an all-inclusive storage fee of up to \$75.00 dollars per day with no other additional service charges and a onetime \$50.00 Administration Fee and a onetime \$10.00 Environmental Fee and the applicable taxes for the charges. **(By-laws 187-2014, 245-2022)**

6. This Schedule does not apply to the parking of a Vehicle awaiting repairs at any other Automobile Service Station/Public Garage facility.

# APPENDIX A TO BY-LAW # 332-2013

## FEES

(Amended by By-laws 316-2015, 248-2017, 39-2020, 121-2020)

Sched #	Type of Licence	*License Expiry Date	New 2020 Licence Fee
1	Personal Services Facility	May 31	\$ 217.00
2	Place of Amusement	Jan 31	\$ 272.00
3	Auctioneer	May 31	\$ 207.00
4	Automobile Service Station		
	Class A - Gasoline, Oil, Lubrication	Jan 31	\$ 243.00
	Class B - Repair and Servicing	Jan 31	\$ 243.00
	Class C - Parking Lot	Jan 31	\$ 243.00
	Class D - Car Wash	Jan 31	\$ 243.00
	Class E - Renting, Leasing, Buying, Selling	Jan 31	\$ 243.00
	Class F - Autobody Repair, Painting	Jan 31	\$ 243.00
5	Billiard Halls, Bowling Alleys	Jan 31	\$ 235.00
6	Building Renovator	Apr 30	\$ 221.00
7	Carnivals and Circuses	per event (up to 7 days)	\$ 248.00
8	Drain Laying Contractor	Apr 30	\$ 194.00
9	Driveway Paving Contractor	Apr 30	\$ 194.00
10	Fence Installation Contractor	Apr 30	\$ 194.00
11	Fixed Food Premises	Jan 31	\$ 209.00
12	Flea Markets	Apr 30	\$3,940.00
13	<b>Deleted pursuant to By-law 19-2023s</b>		
14	Heating, Ventilation and Air Conditioning Contractor	Apr 30	\$ 194.00
15	Horse Riding Establishment	May 31	\$ 163.00
16 (By-law 121-2020)	Payday Loan Businesses	May 31	\$1,200.00

## APPENDIX A-1

Office Consolidation – Business Licensing By-law 332-2013

<b>Sched #</b>	<b>Type of Licence</b>	<b>*License Expiry Date</b>	<b>New 2020 Licence Fee</b>
17	Lodging Houses	one year from issue date	\$ 407.00
18	Pawnbrokers	May 31	\$ 245.00
20	Pet Shops	May 31	\$ 239.00
21	Place of Public Assembly	Jan 31	\$ 280.00
22	Plumbing Contractor	Apr 30	\$ 212.00
23	Pool Installation Contractor	Apr 30	\$ 285.00
24	Salvage Yard	May 31	\$ 282.00
25	Second Hand Goods Shop	May 31	\$ 282.00
26	Tobacco Sales	Jan 31	\$ 321.00
27	Vehicle Pound Facilities	Jan 31	\$ 243.00
	<b>Other Fees</b>		
	Closed File Administration		\$ 50.00
	Late Renewal		\$ 50.00
	Print Replacement Licence		\$ 10.00

\* The new licence fee takes effect as of March 11, 2020; the identified expiry date column relates to the expiry of the annual licence.

## Building Code Act, 1992

### S.O. 1992, CHAPTER 23

**Consolidation Period:** From June 8, 2023 to the [e-Laws currency date](#).

Last amendment: 2023, c. 10, Sched. 1.

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#### CONTENTS

##### [INTERPRETATION](#)

- [1.](#) Definitions
- [1.1](#) Role of various persons

##### [ENFORCEMENT AUTHORITIES](#)

- [2.](#) Administration
- [3.](#) Enforcement by municipalities
- [3.1](#) Enforcement, boards of health
- [4.](#) Provincial enforcement
- [4.1](#) Enforcement by registered code agency appointed by a principal authority
- [4.2](#) Enforcement by registered code agency appointed by an applicant
- [5.](#) Agreements re enforcement
- [6.](#) Agreement re review of plans
- [6.1](#) Agreement re plumbing
- [6.2](#) Agreement re sewage systems
- [7.](#) By-laws, resolutions, regulations
- [7.1](#) Code of conduct

##### [CONSTRUCTION AND DEMOLITION](#)

- [8.](#) Building permits
- [10.](#) Change of use
- [10.1](#) Prohibition re sewage systems
- [10.2](#) Notice of readiness for inspection
- [11.](#) Occupancy or use after completion
- [12.](#) Inspection of buildings and building sites
- [13.](#) Order not to cover
- [14.](#) Stop work order

##### [PROPERTY STANDARDS](#)

- [15.1](#) Municipal property standards
- [15.2](#) Inspection of property without warrant
- [15.3](#) Appeal of order
- [15.4](#) Power of municipality if order not complied with
- [15.4.1](#) Administrative penalties
- [15.4.2](#) Debt
- [15.5](#) Certificate of compliance
- [15.6](#) Property standards committee
- [15.7](#) Emergency order re dangerous non-conformity with standards
- [15.8](#) Inspection powers of officer

##### [UNSAFE BUILDINGS](#)

- [15.9](#) Inspection of unsafe buildings
- [15.10](#) Emergency order where immediate danger

	<a href="#"><u>MAINTENANCE INSPECTION PROGRAMS</u></a>
<a href="#"><u>15.10.1</u></a>	Maintenance inspections
	<a href="#"><u>BUILDING CONDITION EVALUATION PROGRAMS</u></a>
<a href="#"><u>15.10.2</u></a>	Application
<a href="#"><u>15.10.3</u></a>	Inspection of buildings subject to program
<a href="#"><u>15.10.4</u></a>	Request for information re buildings subject to program
<a href="#"><u>15.10.5</u></a>	Complaints policy re program
<a href="#"><u>15.10.6</u></a>	Record of complaints re program
	<a href="#"><u>QUALIFICATIONS</u></a>
<a href="#"><u>15.11</u></a>	Qualifications for various positions
	<a href="#"><u>QUALIFICATIONS AND REGISTRATION</u></a>
<a href="#"><u>15.11</u></a>	Chief building official
<a href="#"><u>15.12</u></a>	Qualifications re sewage systems
<a href="#"><u>15.13</u></a>	Duty to have insurance
<a href="#"><u>15.13.1</u></a>	Administrative penalties re qualifications and registration
	<a href="#"><u>POWERS AND DUTIES OF REGISTERED CODE AGENCIES</u></a>
<a href="#"><u>15.14</u></a>	Notice to chief building official
<a href="#"><u>15.15</u></a>	Functions of registered code agencies
<a href="#"><u>15.16</u></a>	Scope of agency's powers
<a href="#"><u>15.17</u></a>	Persons acting on behalf of an agency
<a href="#"><u>15.18</u></a>	Duties re certificates and orders
<a href="#"><u>15.19</u></a>	Expiry of an agency's appointment
<a href="#"><u>15.20</u></a>	Termination of an agency's appointment
<a href="#"><u>15.21</u></a>	Order to suspend construction
<a href="#"><u>15.22</u></a>	Conflict between appointment and Act, etc.
	<a href="#"><u>GENERAL POWERS OF INSPECTION AND ENFORCEMENT</u></a>
<a href="#"><u>15.23</u></a>	Duty to carry identification
<a href="#"><u>16.</u></a>	Entry to dwellings
<a href="#"><u>17.1</u></a>	Recovery of expenditures for repairs, etc.
<a href="#"><u>18.</u></a>	Powers of inspector
<a href="#"><u>18.1</u></a>	Administrative penalties, imposed by inspector
<a href="#"><u>19.</u></a>	Obstruction of inspector, etc.
<a href="#"><u>20.</u></a>	Obstruction or removal of order
<a href="#"><u>21.</u></a>	Warrant for entry and search
	<a href="#"><u>DISPUTE RESOLUTION, REVIEWS AND APPEALS</u></a>
<a href="#"><u>22.</u></a>	Review of inspector's order
<a href="#"><u>23.</u></a>	Building Code Commission
<a href="#"><u>24.</u></a>	Dispute resolution
<a href="#"><u>25.</u></a>	Appeal to court
<a href="#"><u>26.</u></a>	Further appeal
<a href="#"><u>27.</u></a>	Service
	<a href="#"><u>AUTHORIZATIONS AND RULINGS</u></a>
<a href="#"><u>28.</u></a>	Building Materials Evaluation Commission
<a href="#"><u>28.1</u></a>	Binding interpretations by the Minister
<a href="#"><u>29.</u></a>	Rulings by Minister
<a href="#"><u>30.</u></a>	Inquiry
	<a href="#"><u>BUILDING SERVICES ADMINISTRATIVE AUTHORITY</u></a>
	<a href="#"><u>DELEGATION</u></a>
<a href="#"><u>30.1</u></a>	Delegation to designated administrative authority
<a href="#"><u>30.2</u></a>	Corporation
<a href="#"><u>30.3</u></a>	Administrative agreement
<a href="#"><u>30.4</u></a>	Policy directions
<a href="#"><u>30.5</u></a>	Compliance by administrative authority
<a href="#"><u>30.6</u></a>	Review
<a href="#"><u>30.7</u></a>	Conflict
<a href="#"><u>30.8</u></a>	Revocation of designation, restriction of delegation
<a href="#"><u>30.9</u></a>	Condition precedent for exercise of certain powers
	<a href="#"><u>ADMINISTRATIVE AUTHORITY</u></a>
<a href="#"><u>30.10</u></a>	Board of directors
<a href="#"><u>30.11</u></a>	Public access to corporate information
<a href="#"><u>30.12</u></a>	Employees
<a href="#"><u>30.13</u></a>	Not Crown agency

<a href="#">30.14</a>	No personal liability, employee of the Crown
<a href="#">30.15</a>	No Crown liability
<a href="#">30.16</a>	Indemnification of the Crown
<a href="#">30.17</a>	No personal liability, board members and others
<a href="#">30.18</a>	Not public money
<a href="#">30.19</a>	Audit
<a href="#">30.20</a>	Annual report
<a href="#">POWERS AND DUTIES OF ADMINISTRATIVE AUTHORITY</a>	
<a href="#">30.21</a>	Additional powers
<a href="#">30.22</a>	Change to objects or purposes
<a href="#">30.23</a>	Right to use French
<a href="#">30.24</a>	Consultations
<a href="#">30.25</a>	Advisory council, advisory process
<a href="#">30.26</a>	Duty to inform Minister
<a href="#">30.27</a>	Advice of administrative authority
<a href="#">30.28</a>	Form and fees
<a href="#">MISCELLANEOUS</a>	
<a href="#">30.29</a>	Administrator
<a href="#">30.30</a>	Status of board during administrator's tenure
<a href="#">30.31</a>	Chief building inspector, assistant chief building inspectors and inspectors
<a href="#">30.32</a>	Licensing registrar, assistant licensing registrars
<a href="#">30.33</a>	Director, assistant directors
<a href="#">30.34</a>	Who may be appointed
<a href="#">30.35</a>	Appointments in writing
<a href="#">30.36</a>	Status as officer
<a href="#">30.37</a>	Offences, administrative authority
<a href="#">30.38</a>	Regulations, administrative authority
<a href="#">GENERAL</a>	
<a href="#">31.</a>	Immunity from action
<a href="#">34.</a>	Regulations
<a href="#">35.</a>	Municipal by-laws
<a href="#">35.1</a>	Status of conservation authority regulations
<a href="#">36.</a>	Offences
<a href="#">37.</a>	Proof of directions, orders, etc.
<a href="#">38.</a>	Restraining order
<a href="#">38.1</a>	Suspension of licence

## INTERPRETATION

### Definitions

**1 (1)** In this Act,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definitions: (See: 2020, c. 16, Sched. 1, s. 1 (1))

“administrative agreement” means the agreement described in subsection 30.3 (1); (“accord d’application”)

“administrative authority” means the corporation designated by regulation under clause 30.1 (1) (a); (“organisme d’application”)

“building” means,

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto,
- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto,
- (c) plumbing not located in a structure,
- (c.1) a sewage system, or
- (d) structures designated in the building code; (“bâtiment”)

“building code” means regulations made under section 34; (“code du bâtiment”)

“building condition evaluation” means an evaluation conducted under a building condition evaluation program; (“évaluation de l’état du bâtiment”)

“building condition evaluation program” means a program established under subsection 34 (2.3); (“programme d’évaluation de l’état des bâtiments”)

“building owner” means, in respect of a building,

- (a) the registered owner of the land on which the building is located or, if the building is owned separately from the land on which the building is located, the owner of the building, unless the person is a person prescribed in the building code,
- (b) the person that is responsible for maintaining the building or part of the building subject to a building condition evaluation program, unless the person is a person prescribed in the building code, and
- (c) such other persons as may be prescribed; (“propriétaire du bâtiment”)

“change certificate” means a certificate prescribed under the building code or approved by the Minister as a change certificate; (“certificat de modification”)

“chief building official” means a chief building official appointed or constituted under section 3 or 4; (“chef du service du bâtiment”)

“code of conduct” means a code of conduct described in section 7.1; (“code de conduite”)

“construct” means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and “construction” has a corresponding meaning; (“construire”, “construction”, “travaux de construction”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2020, c. 16, Sched. 1, s. 1 (1))**

“delegated provisions” means the provisions of this Act and the regulations whose administration is delegated to the administrative authority under clause 30.1 (1) (b), subject to any restrictions imposed under subsection 30.1 (2); (“dispositions déléguées”)

“demolish” means to do anything in the removal of a building or any material part thereof and “demolition” has a corresponding meaning; (“démolir”, “démolition”, “travaux de démolition”)

“director” means the person appointed as director under section 2; (“directeur”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “director” in subsection 1 (1) of the Act is repealed. (See: 2020, c. 16, Sched. 1, s. 1 (2))**

“final certificate” means a certificate prescribed under the building code or approved by the Minister as a final certificate; (“certificat définitif”)

“inspector” means an inspector appointed under section 3, 3.1, 4, 6.1 or 6.2; (“inspecteur”)

“maintenance inspection” means an inspection conducted under a maintenance inspection program; (“inspection d’entretien”)

“maintenance inspection program” means a program established under clause 7 (1) (b.1) or subsection 34 (2.2); (“programme d’inspections d’entretien”)

“Minister” means the Minister of Municipal Affairs and Housing; (“ministre”)

“municipality” means a local municipality; (“municipalité”)

“officer” means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under section 15.1; (“agent”)

“planning board” means a planning board established under section 9 or 10 of the *Planning Act*; (“conseil d’aménagement”)

“plans review certificate” means a certificate prescribed under the building code or approved by the Minister as a plans review certificate; (“certificat d’examen des plans”)

“plumbing” means a drainage system, a venting system and a water system or parts thereof; (“installation de plomberie”)

“principal authority” means,

- (a) the Crown,

**Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “principal authority” in subsection 1 (1) of the Act is amended by adding the following clause: (See: 2020, c. 16, Sched. 1, s. 1 (3))**

- (a.1) the administrative authority,
- (b) the council of a municipality,
- (c) an upper-tier municipality that has entered into an agreement under subsection 3 (5), 6.1 (1) or 6.2 (1),
- (d) a board of health that has been prescribed for the purposes of subsection 3.1 (1) or has entered into an agreement under subsection 6.1 (2) or (3) or 6.2 (2),
- (e) a planning board that has been prescribed for the purposes of subsection 3.1 (1), or
- (f) a conservation authority that has been prescribed for the purposes of subsection 3.1 (1) or has entered into an agreement under subsection 6.2 (2); (“autorité principale”)

“registered code agency” means a person that has the qualifications and meets the requirements described in subsection 15.11 (4); (“organisme inscrit d’exécution du code”)

“regulations” means regulations made under this Act. (“règlements”) 1992, c. 23, s. 1 (1); 1997, c. 24, s. 224 (1, 2); 1997, c. 30, Sched. B, s. 1; 1999, c. 12, Sched. M, s. 1; 2002, c. 9, s. 2 (1-3); 2002, c. 17, Sched. C, s. 1 (1); 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. O, s. 1 (1); 2006, c. 21, Sched. F, s. 104 (1-3); 2006, c. 22, s. 112 (1); 2017, c. 34, Sched. 2, s. 1.

### **Interpretation**

(1.1) Except as provided in subsection (1.2), a reference to “this Act” in any provision of this Act shall be deemed to be a reference to this Act excluding sections 15.1 to 15.8. 1997, c. 24, s. 224 (3).

### **Same**

(1.2) A reference to “this Act” in subsection 1 (1) and sections 2, 16, 19, 20, 21, 27, 31, 36 and 37 includes a reference to sections 15.1 to 15.8. 1997, c. 24, s. 224 (3).

### **Chief building official**

(1.3) A reference to the “chief building official” in this Act, other than in subsections 1 (1), 3 (2), (3) and (6) and section 4, includes an inspector who has the same powers and duties as the chief building official,

- (a) in relation to sewage systems by virtue of subsections 3.1 (3) or 6.2 (4); and
- (b) in relation to plumbing by virtue of subsection 6.1 (5). 2002, c. 9, s. 2 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1.3) of the Act is repealed and the following substituted: (See: 2020, c. 16, Sched. 1, s. 1 (4))**

### **Chief building official**

(1.3) A reference to the “chief building official” in this Act, other than in subsection 1 (1) and sections 3 and 4, includes,

- (a) an inspector who has the same powers and duties as the chief building official,
  - (i) in relation to sewage systems by virtue of subsection 3.1 (3) or 6.2 (4), and
  - (ii) in relation to plumbing by virtue of subsection 6.1 (5); and
- (b) a chief building inspector and assistant chief building inspector appointed under subsection 30.31 (1). 2020, c. 16, Sched. 1, s. 1 (4).

### **Inspector**

(1.4) A reference to an “inspector” in this Act, other than in subsection 1 (1) and sections 3 and 4 includes an inspector appointed under section 30.31. 2020, c. 16, Sched. 1, s. 1 (4).

### **Director**

(1.5) A reference to the “director”,

- (a) in sections 2, 4, 15.14, 15.20, 28.1, 29, 31 and 34 and the regulations made under section 34 means the person appointed as director under subsection 2 (2); and
- (b) in sections 30.31, 30.32 and 30.33 and the regulations made under section 30.38 means the person appointed as director under subsection 30.33 (1). 2020, c. 16, Sched. 1, s. 1 (4).

## **Exclusion**

(2) This Act does not apply to structures used directly in the extraction of ore from a mine. 1992, c. 23, s. 1 (2).

## **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (1-3) - 17/06/1998; 1997, c. 30, Sched. B, s. 1 (1, 2) - 06/04/1998; 1999, c. 12, Sched. M, s. 1 - 22/12/1999

2002, c. 9, s. 1, 2 (1-4) - 01/07/2005; 2002, c. 17, Sched. C, s. 1 (1) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 19, Sched. O, s. 1 (1) - 22/06/2006; 2006, c. 21, Sched. F, s. 104 (1-3) - 25/07/2007; 2006, c. 22, s. 112 (1) - 03/07/2007

2017, c. 34, Sched. 2, s. 1 - 14/12/2017

2020, c. 16, Sched. 1, s. 1 (1-4) - not in force

## **Role of various persons**

**1.1** (1) It is the role of every person who causes a building to be constructed,

- (a) to cause the building to be constructed in accordance with this Act and the building code and with any permit issued under this Act for the building;
- (b) to ensure that construction does not proceed unless any permit required under this Act has been issued by the chief building official; and
- (c) to ensure that construction is carried out only by persons with the qualifications and insurance, if any, required by this Act and the building code. 2002, c. 9, s. 3.

## **Role of designers**

(2) It is the role of a designer,

- (a) if the designer's designs are to be submitted in support of an application for a permit under this Act, to provide designs which are in accordance with this Act and the building code and to provide documentation that is sufficiently detailed to permit the design to be assessed for compliance with this Act and the building code and to allow a builder to carry out the work in accordance with the design, this Act and the building code;
- (b) to perform the role described in clause (a) in respect of only those matters for which the designer has the qualifications, if any, required by this Act and the building code; and
- (c) if the building code requires that all or part of the design or construction of a building be under general review, to perform the general review in respect of only those matters for which the designer has the qualifications, if any, required by this Act and the building code. 2002, c. 9, s. 3.

## **Role of builders**

(3) It is the role of a builder,

- (a) to ensure that construction does not proceed unless any permit required under this Act has been issued by the chief building official;
- (b) to construct the building in accordance with the permit;
- (c) to use appropriate building techniques to achieve compliance with this Act and the building code; and
- (d) when site conditions affect compliance with the building code, to notify the designer and an inspector or the registered code agency, as appropriate. 2002, c. 9, s. 3.

## **Role of manufacturers, etc.**

(4) It is the role of manufacturers, suppliers and retailers of products that are intended for use in Ontario in the construction of a building for a purpose that is regulated by this Act or the building code to ensure that the products comply with the standards established under this Act and the building code. 2002, c. 9, s. 3.

## **Role of building owners**

(4.1) It is the role of a building owner,

- (a) to ensure that the building or part of the building is maintained, repaired and evaluated in accordance with this Act and the building code; and
- (b) to ensure documents, records and other information about the building are kept and provided in accordance with this Act and the building code. 2017, c. 34, Sched. 2, s. 2 (1).

### **Role of persons conducting building condition evaluations**

- (4.2) It is the role of a person who conducts a building condition evaluation,
- (a) to carry out the responsibilities of that person under a building condition evaluation program in accordance with this Act and the building code; and
  - (b) to perform the role described in clause (a) in respect of only those matters for which the person has the qualifications, if any, required by this Act and the building code. 2017, c. 34, Sched. 2, s. 2 (1).

### **Role of registered code agencies**

- (5) It is the role of a registered code agency,
- (a) to exercise powers and perform duties under this Act and the building code in connection with reviewing plans, issuing certificates, inspecting construction and performing other functions in accordance with this Act and the building code; and
  - (b) to carry out the duties of a registered code agency under this Act and the building code in respect of only those matters for which the registered code agency is qualified under this Act and the building code. 2002, c. 9, s. 3.

### **Role of chief building officials**

- (6) It is the role of a chief building official,
- (a) to establish operational policies for the enforcement of this Act and the building code within the applicable jurisdiction;
  - (b) to co-ordinate and oversee the enforcement of this Act and the building code within the applicable jurisdiction;
  - (c) to exercise powers and perform the other duties assigned to him or her under this Act and the building code; and
  - (d) to exercise powers and perform duties in an independent manner and in accordance with the standards established by the applicable code of conduct. 2002, c. 9, s. 3; 2017, c. 34, Sched. 2, s. 2 (2).

### **Role of inspectors**

- (7) It is the role of an inspector,
- (a) to exercise powers and perform duties under this Act and the building code in connection with reviewing plans, inspecting construction, conducting maintenance inspections and issuing orders in accordance with this Act and the building code;
  - (b) to exercise powers and perform duties in respect of only those matters for which he or she has the qualifications required by this Act and the building code; and
  - (c) to exercise powers and perform duties in an independent manner and in accordance with the standards established by the applicable code of conduct. 2002, c. 9, s. 3; 2006, c. 22, s. 112 (2); 2017, c. 34, Sched. 2, s. 2 (3).

### **Limitation**

- (8) Nothing in this section relieves any person from the duty to comply with any part of this Act or the building code or affects the rights or duties of a person not mentioned in this section in respect of the construction of a building. 2002, c. 9, s. 3; 2006, c. 19, Sched. O, s. 1 (2).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 3 - 01/07/2005

2006, c. 19, Sched. O, s. 1 (2) - 22/06/2006; 2006, c. 22, s. 112 (2) - 03/07/2007

2017, c. 34, Sched. 2, s. 2 (1-3) - 14/12/2017

## **ENFORCEMENT AUTHORITIES**

### **Administration**

- 2 (1) The Minister is responsible for the administration of this Act. 1992, c. 23, s. 2 (1).

### **Director**

- (2) There shall be a director of the Building and Development Branch of the Ministry of Municipal Affairs and Housing who is appointed by the Lieutenant Governor in Council for the purposes of this Act. 2002, c. 9, s. 5.

### **Acting director**

(3) The director may designate in writing a public servant employed under Part III of the *Public Service of Ontario Act, 2006* who works in the Ministry of Municipal Affairs and Housing to exercise the powers and perform the duties of the director in his or her absence or if he or she is unable to act. 2009, c. 33, Sched. 21, s. 2 (1).

### **Delegation**

(4) The director may delegate in writing any of his or her powers or duties to one or more public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry of Municipal Affairs and Housing, and may impose conditions or restrictions with respect to the delegation. 2009, c. 33, Sched. 21, s. 2 (1).

### **Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991; 1997, c. 24, s. 224 (4) - 17/06/1998

2002, c. 9, s. 4 - 01/07/2005; 2002, c. 9, s. 5 - 01/09/2003

2009, c. 33, Sched. 21, s. 2 (1) - 15/12/2009

### **Enforcement by municipalities**

**3** (1) The council of each municipality is responsible for the enforcement of this Act in the municipality, except where otherwise provided by this Act. 2002, c. 9, s. 6 (1).

### **Chief building official, inspectors**

(2) The council of each municipality shall appoint a chief building official and such inspectors as are necessary for the enforcement of this Act in the areas in which the municipality has jurisdiction. 1992, c. 23, s. 3 (2).

(2.1) REPEALED: 2002, c. 9, s. 6 (2).

### **Joint enforcement**

(3) The councils of two or more municipalities may enter into an agreement,

- (a) providing for the joint enforcement of this Act within their respective municipalities;
- (b) providing for the sharing of costs incurred in the enforcement of this Act within their respective municipalities; and
- (c) providing for the appointment of a chief building official and inspectors. 1992, c. 23, s. 3 (3).

### **Joint jurisdiction**

(4) If an agreement under subsection (3) is in effect, the municipalities have joint jurisdiction in the area comprising the municipalities. 1992, c. 23, s. 3 (4).

### **Enforcement by upper-tier**

(5) The council of an upper-tier municipality and of one or more municipalities in the upper-tier municipality may enter into an agreement for the enforcement by the upper-tier municipality of this Act in the municipalities and for charging the municipalities the whole or part of the cost. 2002, c. 17, Sched. F, Table.

### **Power of upper-tier**

(6) If an agreement under subsection (5) is in effect, the upper-tier municipality has jurisdiction for the enforcement of this Act in the municipalities that are parties to the agreement and shall appoint a chief building official and such inspectors as are necessary for that purpose. 2002, c. 17, Sched. F, Table.

(7) REPEALED: 2002, c. 17, Sched. F, Table.

### **Certificate**

(8) The clerk of the municipality or upper-tier municipality shall issue a certificate of appointment bearing the clerk's signature or a facsimile of it to the chief building official and each inspector appointed by the municipality or upper-tier municipality. 1992, c. 23, s. 3 (8); 2002, c. 17, Sched. F, Table.

### **Records**

(9) Every municipality and every upper-tier municipality that has jurisdiction for the enforcement of this Act shall retain such records as may be prescribed by regulation for the prescribed period of time. 2002, c. 9, s. 6 (3); 2002, c. 17, Sched. C, s. 2 (1).

### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 2 - 06/04/1998

2000, c. 5, s. 7 - 01/01/2001

2002, c. 9, s. 6 (1, 2) - 01/09/2003; 2002, c. 9, s. 6 (3) - 01/07/2005; 2002, c. 17, Sched. C, s. 2 (1) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

### **Enforcement, boards of health**

**3.1** (1) A board of health, a planning board or a conservation authority prescribed in the building code is responsible for the enforcement of the provisions of this Act and the building code related to sewage systems in the municipalities and territory without municipal organization prescribed in the building code. 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (1).

### **Inspectors**

(2) The board of health, planning board or conservation authority shall appoint such sewage system inspectors as are necessary for the enforcement of this Act in the areas in which the board of health, planning board or conservation authority has jurisdiction under subsection (1). 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (2).

### **Powers**

(3) A sewage system inspector appointed under this section in an area of jurisdiction or, if there is more than one inspector in the area of jurisdiction, the inspector designated by the board of health, planning board or conservation authority has the same powers and duties in relation to sewage systems as does the chief building official in respect of buildings. 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (3).

### **Jurisdiction**

(4) A board of health, planning board or conservation authority prescribed for the purposes of subsection (1) has jurisdiction for the enforcement of this Act in the prescribed municipalities and territory without municipal organization. 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (4).

### **Responsibility**

(5) If sewage system inspectors have been appointed under this section, the chief building official and inspectors appointed under section 3 or 4 shall not exercise their powers under this Act in respect of sewage systems. 1997, c. 30, Sched. B, s. 3.

### **Certificate**

(6) The medical officer of health or the secretary-treasurer of a planning board or conservation authority shall issue a certificate of appointment bearing his or her signature, or a facsimile of it, to each sewage system inspector appointed by the board of health, planning board or conservation authority. 1997, c. 30, Sched. B, s. 3; 1999, c. 12, Sched. M, s. 2 (5).

### **Records**

(7) Every board of health, planning board and conservation authority prescribed for the purposes of subsection (1) shall retain such records as may be prescribed by regulation for the prescribed period of time. 2002, c. 9, s. 7.

### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 3 - 06/04/1998; 1999, c. 12, Sched. M, s. 2 (1-5) - 22/12/1999

2002, c. 9, s. 7 - 01/07/2005

### **Provincial enforcement**

**4** (1) Subject to section 3.1, Ontario is responsible for the enforcement of this Act in a territory without municipal organization. 1992, c. 23, s. 4 (1); 1997, c. 30, Sched. B, s. 4.

### **Agreements**

(2) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act in the municipality by Ontario subject to such payment in respect of costs as is set out in the agreement. 1992, c. 23, s. 4 (2).

### **Idem**

(3) If an agreement under subsection (2) is in effect, Ontario has jurisdiction for the enforcement of this Act in the municipality. 1992, c. 23, s. 4 (3).

### **Inspectors**

(4) The Deputy Minister of Municipal Affairs and Housing shall appoint inspectors necessary for the enforcement of this Act in the areas in which Ontario has jurisdiction. 2023, c. 10, Sched. 1, s. 1.

**Chief building official**

(5) The director is the chief building official for the areas in which Ontario has jurisdiction. 1992, c. 23, s. 4 (5).

**Certificate**

(6) The Deputy Minister of Municipal Affairs and Housing shall issue a certificate of appointment bearing his or her signature or a facsimile of it to the director and each inspector appointed under subsection (4). 1992, c. 23, s. 4 (6); 1997, c. 24, s. 224 (5).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (5) - 17/06/1998; 1997, c. 30, Sched. B, s. 4 - 06/04/1998

2006, c. 35, Sched. C, s. 8 (1) - 20/08/2007

2023, c. 10, Sched. 1, s. 1 - 08/06/2023

**Enforcement by registered code agency appointed by a principal authority**

**4.1** (1) Subject to this Act and the building code, a principal authority may enter into agreements with registered code agencies authorizing the agency to perform the functions specified in the agreement in respect of the construction of any building or class of building specified in the agreement. 2002, c. 9, s. 8.

**Appointment**

(2) After entering into the agreement with the registered code agency, the principal authority may appoint the agency to perform specified functions in respect of the construction of a building or class of buildings. 2002, c. 9, s. 8.

**Delegation of power to appoint**

(3) The principal authority may delegate, in writing, to the chief building official the authority to make appointments described in subsection (2), and may impose conditions or restrictions with respect to the delegation. 2002, c. 9, s. 8; 2020, c. 18, Sched. 1, s. 1.

**Same**

(4) Unless otherwise provided in the building code, an appointment of a registered code agency may authorize the agency to perform all of the applicable functions described in section 15.15,

- (a) before a permit is issued under section 8;
- (b) after a permit is issued under section 8; or
- (c) both before and after a permit is issued under section 8. 2002, c. 9, s. 8.

**Conflicts**

(5) A registered code agency shall not accept an appointment in the circumstances set out in the building code or if it would have a conflict of interest as determined in accordance with the building code. 2002, c. 9, s. 8.

**Effect of appointment**

(6) A registered code agency shall perform the functions specified in the appointment for the construction of a specified building or class of buildings and subject to the restrictions set out in this Act and the building code, and shall do so in the manner and subject to the restrictions, if any, set out in the building code. 2002, c. 9, s. 8.

**Same**

(7) The duty of the registered code agency to perform those functions begins when the appointment is made and ends when the appointment expires as described in section 15.19 or is terminated in accordance with section 15.20. 2002, c. 9, s. 8.

**Notice to the director**

(8) A principal authority that appoints a registered code agency shall give the director such information as may be prescribed by regulation. 2002, c. 9, s. 8.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 8 - 01/07/2005

2020, c. 18, Sched. 1, s. 1 - 21/07/2020

### **Enforcement by registered code agency appointed by an applicant**

**4.2** (1) This section applies only if a principal authority authorizes it, by regulation, by-law or resolution, as the case may be, to apply within the jurisdiction of the principal authority. 2002, c. 9, s. 8.

#### **Appointment**

(2) Subject to this Act and the building code, a prescribed person who is entitled to apply for a permit under section 8 of this Act may appoint a registered code agency to perform all of the functions described in section 15.15 in respect of the construction of a building. 2002, c. 9, s. 8.

#### **Exception**

(3) Subsection (2) does not apply,

(a) if a registered code agency has been appointed by a principal authority to perform any function in respect of the construction; or

(b) if an inspector has begun to perform any function in respect of the construction. 2002, c. 9, s. 8.

#### **Manner of appointment**

(4) The appointment must be made in writing in the prescribed manner and is subject to the prescribed conditions and restrictions. 2002, c. 9, s. 8.

#### **Conflicts**

(5) A registered code agency shall not accept an appointment in the circumstances set out in the building code or if it would have a conflict of interest as determined in accordance with the building code. 2002, c. 9, s. 8.

#### **Effect of appointment**

(6) A registered code agency shall perform its functions for the specified building subject to the restrictions set out in this Act and the building code and shall do so in the manner and subject to the restrictions, if any, set out in the building code. 2002, c. 9, s. 8.

#### **Same**

(7) The duty of the registered code agency to perform those functions begins when the appointment is made and ends when the appointment expires as described in section 15.19 or is terminated in accordance with section 15.20. 2002, c. 9, s. 8.

#### **Replacement agency**

(8) A person who has appointed a registered code agency under subsection (2) in respect of the construction of a building cannot replace the agency after it has begun to perform any function in respect of the construction unless the appointment of that agency has expired as described in section 15.19 or has been terminated in accordance with section 15.20. 2002, c. 9, s. 8.

#### **Notice to director**

(9) The person who appoints a registered code agency under this section shall give the director such information as may be prescribed by regulation. 2002, c. 9, s. 8.

#### **Notice to chief building official**

(10) The person who appoints a registered code agency under this section shall give the chief building official such information as may be prescribed by regulation. 2002, c. 9, s. 8.

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 8 - 01/07/2005

#### **Agreements re enforcement**

**5** (1) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act by the municipality in such part of the territory without municipal organization and subject to such payment in respect of costs as is set out in the agreement. 1992, c. 23, s. 5 (1); 2017, c. 34, Sched. 2, s. 3.

#### **Area of municipal jurisdiction**

(2) The municipality has jurisdiction for the enforcement of this Act in the area designated in the agreement. 1992, c. 23, s. 5 (2).

## **Application**

(3) An agreement under this section may apply to the enforcement of all or any part of this Act or the building code. 1997, c. 30, Sched. B, s. 5.

### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 5 - 06/04/1998

2017, c. 34, Sched. 2, s. 3 - 14/12/2017

## **Agreement re review of plans**

**6** (1) Two or more principal authorities may enter into an agreement providing for,

- (a) the review by a principal authority for compliance with the building code of plans and specifications for the construction of a building within its area of jurisdiction;
- (b) an expedited review by another principal authority for compliance with the building code of plans and specifications for the construction of substantially similar buildings;
- (c) the allocation of responsibility for reviews for compliance with the building code of plans and specifications for the construction of buildings;
- (d) the resolution of disagreements about whether plans and specifications comply with the building code;
- (e) indemnification; and
- (f) such other matters as may be necessary to give effect to the agreement. 2002, c. 9, s. 9.

## **Delegation**

(2) A principal authority may delegate to the chief building official the authority to make such decisions under an agreement as may be necessary for its implementation. 2002, c. 9, s. 9.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 9 - 01/07/2005

## **Agreement re plumbing**

**6.1** (1) Despite any other provision of this Act, the council of an upper-tier municipality and of one or more municipalities in the upper-tier municipality may enter into an agreement for the enforcement by the upper-tier municipality of the provisions of this Act and the building code related to plumbing in the municipalities and for charging the municipalities the whole or part of the cost. 2002, c. 17, Sched. C, s. 3 (1).

## **Delegation to health unit**

(2) If an agreement under subsection (1) is in effect, the council of an upper-tier municipality may by agreement delegate its powers under subsection (1) to a board of health having jurisdiction in the municipalities that are parties to the agreement. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (2).

## **Delegation by municipality**

(3) A municipality that is not a party to an agreement under subsection (1) may enter into an agreement with the board of health having jurisdiction in the municipality for the enforcement of the provisions of this Act and the building code relating to plumbing. 2002, c. 9, s. 10.

## **Plumbing inspectors**

(4) The council of an upper-tier municipality or the board of health may appoint plumbing inspectors for the purpose of this section. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (3).

## **Powers**

(5) A plumbing inspector appointed under this section or, if there is more than one inspector in the area of jurisdiction, the senior plumbing inspector has the same powers and duties in relation to plumbing as does the chief building official in respect of buildings other than the issuance of conditional permits. 2002, c. 9, s. 10.

## **Responsibility**

(6) If plumbing inspectors have been appointed under this section, the chief building official and inspectors appointed under section 3 or 4 shall not exercise their powers under this Act in respect of plumbing. 2002, c. 9, s. 10.

## **Application**

(7) Subsections 3 (8) and (9) and section 7 apply with necessary modifications to the council of an upper-tier municipality or a board of health that has assumed responsibility for plumbing under this section. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (4).

## **Transition, plumbing**

(8) If, on July 1, 1993, an upper-tier municipality was carrying out plumbing inspections under the *Ontario Water Resources Act* in the municipalities that formed part of the upper-tier municipality, the upper-tier municipality shall enforce the provisions of this Act and the building code related to plumbing in all of the municipalities forming part of the upper-tier municipality until the council of the upper-tier municipality by by-law determines otherwise, whereupon section 3 applies. 2002, c. 17, Sched. C, s. 3 (5).

## **Same**

(9) Subsections (4) to (7) apply with necessary modifications to an upper-tier municipality that has assumed responsibility for plumbing under subsection (8). 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (6).

## **Interpretation**

(10) For the purpose of subsection (8), an upper-tier municipality that has been deemed to be a county by any general or special Act for the purposes of section 76 of the *Ontario Water Resources Act*, as it read on June 30, 1993, shall be deemed to be an upper-tier municipality that was carrying out plumbing inspections under the *Ontario Water Resources Act* in the municipalities that formed part of the upper-tier municipality for municipal purposes on July 1, 1993. 2002, c. 17, Sched. C, s. 3 (7).

## **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 10 - 01/07/2005; 2002, c. 17, Sched. C, s. 3 (1-7) - 01/07/2005

## **Agreement re sewage systems**

**6.2** (1) Despite any other provision of this Act, the council of an upper-tier municipality and of one or more municipalities in the upper-tier municipality may enter into an agreement for the enforcement by the upper-tier municipality of the provisions of this Act and the building code related to sewage systems in the municipalities and for charging the municipalities the whole or part of the cost. 2002, c. 17, Sched. C, s. 3 (8).

## **Delegation**

(2) A municipality that is not a party to an agreement under subsection (1) may enter into an agreement with a board of health or a conservation authority having jurisdiction in the municipality for the enforcement of the provisions of this Act and the building code related to sewage systems. 2002, c. 9, s. 10.

## **Inspectors**

(3) The council of an upper-tier municipality, board of health or conservation authority may appoint sewage system inspectors for the purposes of this section. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (9).

## **Powers**

(4) A sewage system inspector appointed under this section in an area of jurisdiction or, if there is more than one inspector in the area of jurisdiction, the inspector designated by the council of an upper-tier municipality, board of health or conservation authority has the same powers and duties in relation to sewage systems as does the chief building official in respect of buildings. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (10).

## **Responsibility**

(5) If sewage system inspectors have been appointed under this section, the chief building official and inspectors appointed under section 3 or 4 shall not exercise their powers under this Act in respect of sewage systems. 2002, c. 9, s. 10.

## **Application**

(6) Subsections 3 (8) and (9) and section 7 apply with necessary modifications to the council of an upper-tier municipality, board of health or conservation authority that has assumed responsibility for sewage systems under this section. 2002, c. 9, s. 10; 2002, c. 17, Sched. C, s. 3 (11).

## **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 10 - 01/07/2005; 2002, c. 17, Sched. C, s. 3 (8-11) - 01/07/2005

### **By-laws, resolutions, regulations**

7 (1) The council of a municipality or of an upper-tier municipality that has entered into an agreement under subsection 3 (5) or a board of health prescribed for the purposes of section 3.1 may pass by-laws, a planning board prescribed for the purposes of section 3.1 may pass resolutions and a conservation authority prescribed for the purposes of section 3.1 or the Minister may make regulations, applicable to the matters for which and in the area in which the municipality, upper-tier municipality, board of health, planning board, conservation authority or the Province of Ontario, respectively, has jurisdiction for the enforcement of this Act,

- (a) prescribing classes of permits under this Act, including permits in respect of any stage of construction or demolition;
- (b) providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed;
- (b.1) subject to the regulations made under subsection 34 (2.1), establishing and governing a program to enforce standards prescribed under clause 34 (2) (b), in addition to any programs established under subsection 34 (2.2);
- (b.2) subject to the regulations made under subsection 34 (2.2), governing a program established under subsection 34 (2.2);
- (c) requiring the payment of fees and prescribing the amounts of the fees,
  - (i) on application for and on issuance of permits,
  - (ii) for maintenance inspections,
  - (iii) for providing documentation, records or other information under section 15.10.4, and
  - (iv) for providing information under subsection 15.10.6 (2);
- (c.1) requiring the payment of interest and other penalties, including payment of collection costs, when fees are unpaid or are paid after the due date;
- (d) providing for refunds of fees under such circumstances as are prescribed;
- (e) requiring a person specified in the building code to give notice to the chief building official or an inspector or to a registered code agency if one is appointed, of any of the stages of construction specified in the building code, in addition to the stages of construction prescribed under subsection 10.2 (1) and prescribing the period of time after such notice is given during which an inspection may be carried out;
- (f) prescribing forms respecting permits and applications for permits and providing for their use;
- (g) enabling the chief building official to require that a set of plans of a building or any class of buildings as constructed be filed with the chief building official on completion of the construction under such conditions as may be prescribed in the building code;
- (h) providing for the transfer of permits when land changes ownership;
- (i) requiring the person to whom a permit is issued to erect and maintain fences to enclose the site of the construction or demolition within such areas of the municipality as may be prescribed;
- (j) prescribing the height and description of the fences required under clause (i). 1992, c. 23, s. 7; 1997, c. 30, Sched. B, s. 6; 1999, c. 12, Sched. M, s. 3; 2002, c. 9, s. 11 (1); 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. O, s. 1 (5); 2006, c. 22, s. 112 (3-5); 2017, c. 34, Sched. 2, s. 4 (1); 2020, c. 18, Sched. 1, s. 2.

### **Fees**

(2) The total amount of the fees authorized under clause (1) (c) must not exceed the anticipated reasonable costs of the principal authority to administer and enforce this Act in its area of jurisdiction. 2002, c. 9, s. 11 (2).

### **Reduction in fees**

(3) A regulation, by-law or resolution establishing fees under subclause (1) (c) (i) must provide for reduced fees to be payable in respect of the construction of a building for which a registered code agency is appointed under section 4.2. 2002, c. 9, s. 11 (2); 2017, c. 34, Sched. 2, s. 4 (2).

### **Report on fees**

(4) Every 12 months, each principal authority shall prepare a report that contains such information as may be prescribed about any fees authorized under clause (1) (c) and costs of the principal authority to administer and enforce this Act in its area of jurisdiction. 2002, c. 9, s. 11 (2).

## **Same**

(5) The principal authority shall make its report available to the public in the manner required by regulation. 2002, c. 9, s. 11 (2).

## **Change in fees**

(6) If a principal authority proposes to change any fee imposed under clause (1) (c), the principal authority shall,

- (a) give notice of the proposed changes in fees to such persons as may be prescribed; and
- (b) hold a public meeting concerning the proposed changes. 2002, c. 9, s. 11 (2); 2006, c. 22, s. 112 (6).

## **Same, notice**

(7) The notice of proposed changes in fees must contain the prescribed information, including information about the public meeting, and must be given in the prescribed manner. 2002, c. 9, s. 11 (2).

## **Same, public meeting**

(8) The public meeting concerning proposed changes in fees must be held within the period specified by regulation before the regulation, by-law or resolution to implement the proposed changes is made. 2002, c. 9, s. 11 (2).

## **Fees may be added to tax roll**

(8.1) Section 398 of the *Municipal Act, 2001* or section 264 of the *City of Toronto Act, 2006*, as the case may be, applies, with necessary modifications, to fees established by a municipality or local board under clause (1) (c) and, with the approval of the treasurer of a local municipality, to fees established under clause (1) (c) by a conservation authority whose area of jurisdiction includes any part of the local municipality. 2006, c. 22, s. 112 (7).

## **Forms**

(9) The power to prescribe forms under clause (1) (f) does not include the power to prescribe a form for a particular purpose where there is a form for that purpose prescribed in the building code or approved by the Minister. 2002, c. 9, s. 11 (2); 2006, c. 21, Sched. F, s. 104 (4).

## **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 6 - 06/04/1998; 1999, c. 12, Sched. M, s. 3 - 22/12/1999

2002, c. 9, s. 11 (1, 2) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 19, Sched. O, s. 1 (3) - 22/06/2006; 2006, c. 19, Sched. O, s. 1 (5) - 01/07/2006; 2006, c. 21, Sched. F, s. 104 (4) - 25/07/2007; 2006, c. 22, s. 112 (3-7) - 03/07/2007

2017, c. 34, Sched. 2, s. 4 (1, 2) - 14/12/2017

2020, c. 18, Sched. 1, s. 2 - 21/07/2020

## **Code of conduct**

**7.1** (1) A principal authority shall establish and enforce a code of conduct for the chief building official and inspectors. 2002, c. 9, s. 12.

## **Purposes**

(2) The following are the purposes of a code of conduct:

1. To promote appropriate standards of behaviour and enforcement actions by the chief building official and inspectors in the exercise of a power or the performance of a duty under this Act or the building code.
2. To prevent practices which may constitute an abuse of power, including unethical or illegal practices, by the chief building official and inspectors in the exercise of a power or the performance of a duty under this Act or the building code.
3. To promote appropriate standards of honesty and integrity in the exercise of a power or the performance of a duty under this Act or the building code by the chief building official and inspectors. 2002, c. 9, s. 12.

## **Contents**

(3) A code of conduct must provide for its enforcement and include policies or guidelines to be used when responding to allegations that the code has been breached and disciplinary actions that may be taken if the code is breached. 2002, c. 9, s. 12.

## **Public notice**

(4) The principal authority shall ensure that the code of conduct is brought to the attention of the public. 2002, c. 9, s. 12.

## **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. M, s. 4 - 22/12/1999

2002, c. 9, s. 12 - 01/07/2005

## **CONSTRUCTION AND DEMOLITION**

### **Building permits**

**8** (1) No person shall construct or demolish a building or cause a building to be constructed or demolished unless a permit has been issued therefor by the chief building official. 1992, c. 23, s. 8 (1); 1997, c. 30, Sched. B, s. 7 (1).

### **Application for permit**

(1.1) An application for a permit to construct or demolish a building may be made by a person specified by regulation and the prescribed form or the form approved by the Minister must be used and be accompanied by the documents and information specified by regulation. 2002, c. 9, s. 14 (1); 2006, c. 21, Sched. F, s. 104 (5).

### **Issuance of permits**

(2) The chief building official shall issue a permit referred to in subsection (1) unless,

- (a) the proposed building, construction or demolition will contravene this Act, the building code or any other applicable law;
- (b) the applicant is a builder or vendor as defined in subsection 1 (1) of the *New Home Construction Licensing Act, 2017* and is not licensed under that Act;
- (b.1) the *Architects Act* or the *Professional Engineers Act* requires that the proposed construction of the building be designed by an architect or a professional engineer or a combination of both and the proposed construction is not so designed;
- (c) a person who prepared drawings, plans, specifications or other documents or gave an opinion concerning the compliance of the proposed building or construction with the building code does not have the applicable qualifications, if any, set out in the building code or does not have the insurance, if any, required by the building code;
- (d) the plans review certificate, if any, required for the application does not contain the prescribed information;
- (e) the application for the permit is not complete; or
- (f) any fees due have not been paid. 2002, c. 9, s. 14 (2); 2014, c. 7, Sched. 3, s. 1; 2015, c. 28, Sched. 1, s. 147; 2017, c. 33, Sched. 1, s. 88 (1).

### **Restriction**

(2.1) If the application includes a plans review certificate that contains the prescribed information, the chief building official is not entitled to refuse to issue the permit on the grounds that the proposed construction of the building to which the certificate relates does not comply with the building code. 2002, c. 9, s. 14 (2).

### **Decision**

(2.2) If an application for a permit meets the requirements prescribed by regulation, the chief building official shall, unless the circumstances prescribed by regulation apply, decide within the period prescribed by regulation whether to issue the permit or to refuse to issue it. 2009, c. 33, Sched. 21, s. 2 (2).

### **Same, reasons for refusal**

(2.3) If the chief building official refuses to issue the permit, he or she shall inform the applicant of all of the reasons for the refusal of the permit and shall do so within the period prescribed by regulation. 2002, c. 9, s. 14 (2).

### **Conditional permit**

(3) Even though all requirements have not been met to obtain a permit under subsection (2), the chief building official may issue a conditional permit for any stage of construction if,

- (a) compliance with by-laws passed under sections 34 and 38 of the *Planning Act* and with such other applicable law as may be set out in the building code has been achieved in respect of the proposed building or construction;

- (b) the chief building official is of the opinion that unreasonable delays in the construction would occur if a conditional permit is not granted; and
- (c) the applicant and such other person as the chief building official determines agree in writing with the municipality, upper-tier municipality, board of health, planning board, conservation authority or the Crown in right of Ontario to,
  - (i) assume all risk in commencing the construction,
  - (ii) obtain all necessary approvals in the time set out in the agreement or, if none, as soon as practicable,
  - (iii) file plans and specifications of the complete building in the time set out in the agreement,
  - (iv) at the applicant's own expense, remove the building and restore the site in the manner specified in the agreement if approvals are not obtained or plans filed in the time set out in the agreement, and
  - (v) comply with such other conditions as the chief building official considers necessary, including the provision of security for compliance with subclause (iv). 1992, c. 23, s. 8 (3); 1997, c. 30, Sched. B, s. 7 (2); 1999, c. 12, Sched. M, s. 5 (1); 2002, c. 17, Sched. F, Table.

#### **Delegation re conditional permits**

(3.1) A principal authority may, in writing, delegate to the chief building official the power to enter into agreements described in clause (3) (c) and may impose conditions or restrictions with respect to the delegation. 2002, c. 9, s. 14 (3).

#### **Criteria**

(4) In considering whether a conditional permit should be granted, the chief building official shall, among other matters, have regard to the potential difficulty in restoring the site to its original state and use if required approvals are not obtained. 1992, c. 23, s. 8 (4).

#### **Registration**

(5) Any agreement entered into under clause (3) (c) may be registered against the land to which it applies and the municipality, upper-tier municipality, board of health, planning board, conservation authority or the Province of Ontario, as the case may be, is entitled to enforce its provisions against the registered owner and, subject to the *Registry Act* and the *Land Titles Act*, any person acquiring any interest in the land subsequent to the registration of the agreement. 1999, c. 12, Sched. M, s. 5 (2); 2002, c. 17, Sched. F, Table; 2017, c. 34, Sched. 2, s. 5.

#### **Enforcement of agreement**

(6) If the chief building official determines that a building has not been removed or a site restored as required by an agreement under clause (3) (c), the chief building official may cause the building to be removed and the site restored and for this purpose the chief building official, an inspector and their agents may enter upon the land and into the building governed by the agreement at any reasonable time without a warrant. 1992, c. 23, s. 8 (6).

#### **Lien**

(7) If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the removal of the building and restoration of the site under subsection (6) and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (1).

#### **Deemed taxes**

(8) If the building is in territory without municipal organization, the amount spent on the removal of the building and restoration of the site under subsection (6) is a debt owing to the Crown and may be collected under the *Provincial Land Tax Act, 2006* as if it was tax imposed under that Act. 1992, c. 23, s. 8 (8); 2006, c. 33, Sched. Z.3, s. 4 (1).

#### **Disclosure of prescribed information**

(8.1) The chief building official shall, within the period and in the manner prescribed by regulation, give to the corporation designated under section 2 of the *Ontario New Home Warranties Plan Act* the information prescribed by regulation relating to permits issued under this section and the applications for those permits. 2009, c. 33, Sched. 21, s. 2 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 8 (8.1) of the Act is amended by striking out “the corporation designated under section 2 of the *Ontario New Home Warranties Plan Act*” and substituting “the warranty authority within the meaning of the *Protection for Owners and Purchasers of New Homes Act, 2017*”. (See: 2017, c. 33, Sched. 2, s. 74)

#### **Referral of plans, etc.**

(9) Upon reasonable grounds, the chief building official or registered code agency may refer drawings, plans or specifications accompanying applications for permits or the reports arising out of the general review of the construction of a

building to the Association of Professional Engineers of Ontario or the Ontario Association of Architects for the purpose of determining if the *Professional Engineers Act* or the *Architects Act* is being contravened. 2002, c. 9, s. 14 (4).

#### **Same**

(9.1) At the request of the Association of Professional Engineers of Ontario or the Ontario Association of Architects, the chief building official shall refer documents and information described in subsection (9) to those associations for the purpose of determining if the *Professional Engineers Act* or the *Architects Act* is being contravened. 2002, c. 9, s. 14 (4).

#### **Revocation of permits**

(10) Subject to section 25, the chief building official may revoke a permit issued under this Act,

- (a) if it was issued on mistaken, false or incorrect information;
- (b) if, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief building official, been seriously commenced;
- (c) if the construction or demolition of the building is, in the opinion of the chief building official, substantially suspended or discontinued for a period of more than one year;
- (d) if it was issued in error;
- (e) if the holder requests in writing that it be revoked; or
- (f) if a term of the agreement under clause (3) (c) has not been complied with. 1992, c. 23, s. 8 (10).

#### **Prohibition**

(11) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with this Act and the building code. 1992, c. 23, s. 8 (11).

#### **Notice of change**

(12) No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying, filing details with and obtaining the authorization of the chief building official. 1992, c. 23, s. 8 (12).

#### **Prohibition**

(13) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes to them authorized by the chief building official. 1992, c. 23, s. 8 (13).

#### **Restriction**

(14) If a request for authorization referred to in subsection (12) or (13) is accompanied by a change certificate that contains the prescribed information, the chief building official is not entitled to refuse to authorize the change on the grounds that the construction of the building to which the certificate relates does not comply with the building code. 2002, c. 9, s. 14 (5).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (6) - 17/06/1998; 1997, c. 30, Sched. B, s. 7 (1, 2) - 06/04/1998; 1999, c. 12, Sched. M, s. 5 (1, 2) - 22/12/1999

2002, c. 9, s. 13, 14 (1-5) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 21, Sched. F, s. 104 (5) - 25/07/2007; 2006, c. 32, Sched. C, s. 3 (1) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 4 (1) - 01/01/2009

2009, c. 33, Sched. 21, s. 2 (2, 3) - 01/01/2011

2014, c. 7, Sched. 3, s. 1 - 24/07/2014

2015, c. 28, Sched. 1, s. 147 - 01/01/2018

2017, c. 33, Sched. 1, s. 88 (1) - 01/02/2021; 2017, c. 33, Sched. 1, s. 90 (1, 2) - no effect; 2017, c. 33, Sched. 2, s. 74 - not in force; 2017, c. 34, Sched. 2, s. 5 - 14/12/2017

**9 REPEALED:** 2009, c. 33, Sched. 21, s. 2 (4).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 8 - 06/04/1998

2002, c. 9, s. 15 - 01/07/2005

1992, c. 23, s. 9 (5) - no effect - see 2009, c. 33, Sched. 21, s. 2 (4) - 01/07/2010

2009, c. 33, Sched. 21, s. 2 (4) - 01/07/2010

### **Change of use**

**10** (1) Even though no construction is proposed, no person shall change the use of a building or part of a building or permit the use to be changed if the change would result in an increase in hazard, as determined in accordance with the building code, unless a permit has been issued by the chief building official. 2002, c. 9, s. 16.

### **Permit**

(2) The chief building official shall issue a permit under subsection (1), unless,

- (a) the building if used as proposed would result in a contravention of this Act or the building code or any other applicable law;
- (b) the application for it is incomplete; or
- (c) any fees due are unpaid. 1992, c. 23, s. 10 (2).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 16 - 01/09/2003

### **Prohibition re sewage systems**

**10.1** No person shall operate or maintain a sewage system or permit a sewage system to be operated or maintained except in accordance with this Act and the building code. 1997, c. 30, Sched. B, s. 9.

### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 9 - 06/04/1998

### **Notice of readiness for inspection**

**10.2** (1) At each stage of construction specified in the building code, the prescribed person shall notify the chief building official or the registered code agency, if any, that the construction is ready to be inspected. 2002, c. 9, s. 17.

### **Inspection**

(2) After the notice is received, an inspector or the registered code agency, as the case may be, shall carry out the inspection required by the building code within the prescribed period. 2002, c. 9, s. 17.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 17 - 01/07/2005

### **Occupancy or use after completion**

**11** (1) Except as authorized by the building code, a person shall not occupy or use a building or part of a building that is newly erected or installed or permit it to be occupied or used until the requirements set out in this section are met. 2002, c. 9, s. 18.

### **Notice of date of completion**

(2) Notice of the date of completion of the building or part must be given to the chief building official or the registered code agency, if any. 2002, c. 9, s. 18.

### **Final certificate**

(3) If a registered code agency has been appointed for the building or part of the building by a principal authority to perform the functions described in clause 4.1 (4) (b) or (c) or has been appointed under section 4.2, a final certificate that contains the prescribed information must be issued. 2002, c. 9, s. 18.

### **Inspection, etc.**

(4) If subsection (3) does not apply,

- (a) either the building or part must be inspected or 10 days must elapse after notice of the date of completion is served on the chief building official; and
- (b) any order made under section 12 must be complied with. 2002, c. 9, s. 18.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 18 - 01/07/2005

### **Inspection of buildings and building sites**

**12** (1) An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of inspecting the building or site to determine whether or not the following are being complied with:

1. This Act.
2. The building code.
3. An order made under this Act. 2017, c. 34, Sched. 2, s. 6 (1)

### **Order**

(2) An inspector who finds a contravention of this Act or the building code may make an order directing compliance with this Act or the building code and may require the order to be carried out immediately or within such time as is specified in the order. 1992, c. 23, s. 12 (2).

### **Service**

(3) The order shall be served on the person whom the inspector believes is contravening this Act or the building code. 1992, c. 23, s. 12 (3).

### **Form and contents**

(4) The prescribed form or the form approved by the Minister must be used for the order and it must contain sufficient information to specify the nature of the contravention and its location and the nature of the compliance that is required. 2002, c. 9, s. 19; 2006, c. 21, Sched. F, s. 104 (6).

### **Posting and making information available**

(5) A copy of an order made under subsection (2) may be,

- (a) posted on the site of the construction or demolition in a location visible to the public;
- (b) made available to the public by,
  - (i) posting the copy of the order on the website of the principal authority, or
  - (ii) allowing members of the public, during normal business hours, to inspect and copy the order at their own expense; and
- (c) registered in the proper land registry office. 2017, c. 34, Sched. 2, s. 6 (2).

### **Registration**

(6) If an order made under subsection (2) is registered in the proper land registry office, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served. 2017, c. 34, Sched. 2, s. 6 (2).

### **Discharge**

(7) When the requirements of an order described in subsection (6) have been satisfied, the chief building official shall register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 2017, c. 34, Sched. 2, s. 6 (2).

### **Same**

(8) In the case of an order that has been made available to the public in accordance with clause (5) (b), when the requirements of the order have been satisfied, an inspector shall indicate on the copy of the order, or by such other means as may be prescribed by regulation, that the requirements of the order have been satisfied. 2017, c. 34, Sched. 2, s. 6 (2).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 19 - 01/07/2005

2006, c. 21, Sched. F, s. 104 (6) - 25/07/2007

2017, c. 34, Sched. 2, s. 6 (1, 2) - 14/12/2017

### **Order not to cover**

**13** (1) An inspector may make an order prohibiting the covering or enclosing of any part of a building pending inspection. 1992, c. 23, s. 13 (1).

**Form of order**

(1.1) The prescribed form or the form approved by the Minister must be used for an order made under this section. 2002, c. 9, s. 20 (1); 2006, c. 21, Sched. F, s. 104 (7).

**Service**

(2) The order shall be served on the person to whom the permit is issued, if any, and on such other persons affected thereby as the inspector determines. 1992, c. 23, s. 13 (2).

**Posting and making information available**

(3) A copy of an order made under this section may be,

- (a) posted on the site of the construction or demolition in a location visible to the public;
- (b) made available to the public by,
  - (i) posting the copy of the order on the website of the principal authority, or
  - (ii) allowing members of the public, during normal business hours, to inspect and copy the order at their own expense; and
- (c) registered in the proper land registry office. 2017, c. 34, Sched. 2, s. 7.

**Registration**

(3.1) If an order made under this section is registered in the proper land registry office, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served. 2017, c. 34, Sched. 2, s. 7.

**Discharge**

(3.2) When the requirements of an order described in subsection (3.1) have been satisfied, the chief building official shall register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 2017, c. 34, Sched. 2, s. 7.

**Same**

(3.3) In the case of an order that has been made available to the public in accordance with clause (3) (b), when the requirements of the order have been satisfied, an inspector shall indicate on the copy of the order, or by such other means as may be prescribed by regulation, that the requirements of the order have been satisfied. 2017, c. 34, Sched. 2, s. 7.

**Inspection**

(4) An inspection shall be made within a reasonable time after the person to whom the order is made has given notice that the part of the building is ready for inspection. 1992, c. 23, s. 13 (4).

**Service**

(5) Section 27 does not apply to a notice under subsection (4). 1992, c. 23, s. 13 (5).

**Order to uncover**

(6) A chief building official or registered code agency who has reason to believe that part of a building that is covered or enclosed has not been constructed in compliance with this Act or the building code may order the persons responsible for the construction to uncover the part at their own expense for the purpose of an inspection if,

- (a) the part was covered or enclosed contrary to an order made under subsection (1);
- (b) a notice required to be given to the chief building official, registered code agency or inspector before the part was covered or enclosed under a by-law, resolution or regulation made under clause 7 (e) was not given, or a notice required under section 10.2 was not received;
- (c) in cases where a notice required under section 10.2 is received, the period prescribed under subsection 10.2 (2) did not elapse before the part was covered or enclosed;
- (d) in cases where a notice required by a by-law, resolution or regulation made under clause 7 (e) is given,
  - (i) the inspection period prescribed under clause 7 (e) did not elapse before the part was covered or enclosed, or
  - (ii) if an inspection period is not prescribed under clause 7 (e), a reasonable period of time after the notice was given did not elapse before the part was covered or enclosed; or

(e) the part has been constructed without a permit being issued. 2006, c. 19, Sched. O, s. 1 (6).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 20 (1, 2) - 01/07/2005; 2002, c. 9, s. 20 (3) - no effect - see 2006, c. 19, Sched. O, s. 2 - 22/06/2006

2006, c. 19, Sched. O, s. 1 (6) - 22/06/2006; 2006, c. 21, Sched. F, s. 104 (7) - 25/07/2007

2017, c. 34, Sched. 2, s. 7 - 14/12/2017

**Stop work order**

**14** (1) If an order made under section 12 or 13 is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the chief building official or registered code agency, as the case may be, may order that all or any part of the construction or demolition cease. 1992, c. 23, s. 14 (1); 2002, c. 9, s. 21 (1).

**Form of order**

(1.1) The prescribed form or the form approved by the Minister must be used for the order. 2002, c. 9, s. 21 (2); 2006, c. 21, Sched. F, s. 104 (8).

**Service**

(2) The order shall be served on such persons affected thereby as the chief building official or registered code agency determines and a copy shall be posted on the site of the construction or demolition in a location visible to the public. 1992, c. 23, s. 14 (2); 2002, c. 9, s. 21 (3); 2017, c. 34, Sched. 2, s. 8 (1).

**Timing**

(3) The order is effective from the time it is posted under subsection (2). 1992, c. 23, s. 14 (3).

**Making information available**

(3.1) A copy of an order made under subsection (1) may be,

(a) made available to the public by,

(i) posting the copy of the order on the website of the principal authority, or

(ii) allowing members of the public, during normal business hours, to inspect and copy the order at their own expense; and

(b) registered in the proper land registry office. 2017, c. 34, Sched. 2, s. 8 (2).

**Registration**

(3.2) If an order made under subsection (1) is registered in the proper land registry office, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served. 2017, c. 34, Sched. 2, s. 8 (2).

**Discharge**

(3.3) When the requirements of an order described in subsection (3.2) have been satisfied, the chief building official shall register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 2017, c. 34, Sched. 2, s. 8 (2).

**Same**

(3.4) In the case of an order that has been made available to the public in accordance with clause (3.1) (a), when the requirements of the order have been satisfied, an inspector shall indicate on the copy of the order, or by such other means as may be prescribed by regulation, that the requirements of the order have been satisfied. 2017, c. 34, Sched. 2, s. 8 (2).

**Effect of order**

(4) If an order to cease construction or demolition is made, no person shall perform any act in the construction or demolition of the building in respect of which the order is made other than work necessary to carry out the order made under section 12 or 13. 1992, c. 23, s. 14 (4).

**Referral to chief building official**

(5) When a registered code agency makes an order under this section, the agency shall refer the matter to the chief building official as soon as practicable. 2002, c. 9, s. 21 (4).

## **Same**

(6) The referral must be made in the prescribed manner. 2002, c. 9, s. 21 (4).

## **Effect of referral**

(7) After making the referral, the registered code agency shall take no further steps in respect of the matter to which the order refers and the principal authority that issued the permit is responsible for the enforcement of this Act in respect of the matter. 2002, c. 9, s. 21 (4).

## **Powers of chief building official**

(8) The chief building official may amend or rescind any order made by the registered code agency in respect of the matter. 2002, c. 9, s. 21 (4).

## **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 21 (1-4) - 01/07/2005

2006, c. 21, Sched. F, s. 104 (8) - 25/07/2007

2017, c. 34, Sched. 2, s. 8 (1, 2) - 14/12/2017

**15 REPEALED:** 2002, c. 9, s. 22.

## **Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991; 1997, c. 24, s. 224 (7) - 17/06/1998; 1997, c. 30, Sched. B, s. 10 (1, 2) - 06/04/1998; 1999, c. 12, Sched. M, s. 6 (1, 2) - 22/12/1999

2002, c. 9, s. 22 - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

## **PROPERTY STANDARDS**

### **Municipal property standards**

**15.1** (1) In sections 15.1 to 15.8 inclusive,

“committee” means a property standards committee established under section 15.6; (“comité”)

“occupant” means any person or persons over the age of 18 years in possession of the property; (“occupant”)

“owner” includes,

- (a) the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person’s own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let, and
- (b) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property; (“propriétaire”)

“property” means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property; (“bien”)

“repair” includes the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a property conforms with the standards established in a by-law passed under this section. (“réparation”) 1997, c. 24, s. 224 (8).

### **Adoption of policy**

(2) Where there is no official plan in effect in a municipality, the council of a municipality may, by by-law approved by the Minister, adopt a policy statement containing provisions relating to property conditions. 1997, c. 24, s. 224 (8).

### **Standards for maintenance and occupancy**

(3) The council of a municipality may pass a by-law to do the following things if an official plan that includes provisions relating to property conditions is in effect in the municipality or if the council of the municipality has adopted a policy statement as mentioned in subsection (2):

1. Prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform with the standards.

2. Requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition. 1997, c. 24, s. 224 (8).

#### **No distinction on the basis of relationship**

(4) The authority to pass a by-law under subsection (3) does not include the authority to pass a by-law that sets out requirements, standards or prohibitions that have the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a property, including the occupancy or use as a single housekeeping unit. 1997, c. 24, s. 224 (8).

#### **Provision of no effect**

(5) A provision in a by-law is of no effect to the extent that it contravenes the restrictions described in subsection (4). 1997, c. 24, s. 224 (8).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 9, s. 23 - 01/07/2005

#### **Inspection of property without warrant**

**15.2** (1) Where a by-law under section 15.1 is in effect, an officer may, upon producing proper identification, enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine,

- (a) whether the property conforms with the standards prescribed in the by-law; or
- (b) whether an order made under subsection (2) has been complied with. 1997, c. 24, s. 224 (8).

#### **Contents of order**

(2) An officer who finds that a property does not conform with any of the standards prescribed in a by-law passed under section 15.1 may make an order,

- (a) stating the municipal address or the legal description of the property;
- (b) giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;
- (c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the municipality may carry out the repair or clearance at the owner's expense; and
- (d) indicating the final date for giving notice of appeal from the order. 1997, c. 24, s. 224 (8).

#### **Service and posting of order**

(3) The order shall be served on the owner of the property and such other persons affected by it as the officer determines and a copy of the order may be posted on the property in a location visible to the public. 1997, c. 24, s. 224 (8); 2017, c. 34, Sched. 2, s. 9.

#### **Registration of order**

(4) The order may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served under subsection (3) and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 1997, c. 24, s. 224 (8).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2017, c. 34, Sched. 2, s. 9 - 14/12/2017

#### **Appeal of order**

**15.3** (1) An owner or occupant who has been served with an order made under subsection 15.2 (2) and who is not satisfied with the terms or conditions of the order may appeal to the committee by sending a notice of appeal by registered mail to the secretary of the committee within 14 days after being served with the order. 1997, c. 24, s. 224 (8).

### **Confirmation of order**

(2) An order that is not appealed within the time referred to in subsection (1) shall be deemed to be confirmed. 1997, c. 24, s. 224 (8).

### **Duty of committee**

(3) The committee shall hear the appeal. 2002, c. 9, s. 24.

### **Powers of committee**

(3.1) On an appeal, the committee has all the powers and functions of the officer who made the order and the committee may do any of the following things if, in the committee's opinion, doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement:

1. Confirm, modify or rescind the order to demolish or repair.
2. Extend the time for complying with the order. 2002, c. 9, s. 24.

### **Appeal to court**

(4) The municipality in which the property is situate or any owner or occupant or person affected by a decision under subsection (3.1) may appeal to the Superior Court of Justice by notifying the clerk of the municipality in writing and by applying to the court within 14 days after a copy of the decision is sent. 2002, c. 9, s. 24.

### **Appointment**

(5) The Superior Court of Justice shall appoint, in writing, a time and place for the hearing of the appeal and may direct in the appointment the manner in which and the persons upon whom the appointment is to be served. 2002, c. 9, s. 24.

### **Judge's powers**

(6) On the appeal, the judge has the same powers and functions as the committee. 1997, c. 24, s. 224 (8).

### **Effect of decisions**

(7) An order that is deemed to be confirmed under subsection (2) or that is confirmed or modified by the committee under subsection (3) or a judge under subsection (6), as the case may be, shall be final and binding upon the owner and occupant who shall carry out the repair or demolition within the time and in the manner specified in the order. 1997, c. 24, s. 224 (8).

### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 9, s. 24 - 01/09/2003

### **Power of municipality if order not complied with**

**15.4** (1) If an order of an officer under section 15.2 (2) is not complied with in accordance with the order as deemed confirmed or as confirmed or modified by the committee or a judge, the municipality may cause the property to be repaired or demolished accordingly. 1997, c. 24, s. 224 (8).

### **Warrantless entry**

(2) For the purpose of subsection (1), employees or agents of the municipality may enter the property at any reasonable time without a warrant in order to repair or demolish the property. 1997, c. 24, s. 224 (8).

### **No liability**

(3) Despite subsection 31 (2), a municipal corporation or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection (1). 1997, c. 24, s. 224 (8).

### **Lien**

(4) The municipality shall have a lien on the land for the amount spent on the repair or demolition under subsection (1) and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (2).

### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 17, Sched. F, Table - 01/01/2003

### **Administrative penalties**

**15.4.1** (1) A municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with,

- (a) a by-law of the municipality passed under section 15.1; or
- (b) an order of an officer under subsection 15.2 (2) as deemed confirmed or as confirmed or modified by the committee or a judge under section 15.3. 2017, c. 34, Sched. 2, s. 10.

### **Purpose of administrative penalties**

(2) The purpose of a system of administrative penalties established by a municipality under this section shall be to assist the municipality in promoting compliance with a by-law under section 15.1 or an order under subsection 15.2 (2). 2017, c. 34, Sched. 2, s. 10.

### **Monetary limit**

(3) The amount of an administrative penalty established by a municipality,

- (a) shall not be punitive in nature; and
- (b) shall not exceed the amount reasonably required to promote compliance with a by-law under section 15.1 or an order under subsection 15.2 (2). 2017, c. 34, Sched. 2, s. 10.

### **Effect on offences**

(4) If a person is required by a municipality to pay an administrative penalty under subsection (1) in respect of a contravention, the person shall not be charged with an offence in respect of the same contravention. 2017, c. 34, Sched. 2, s. 10.

### **Regulations**

(5) The Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable for the purposes of this section, including,

- (a) granting a municipality powers with respect to requiring that persons pay administrative penalties and with respect to other matters necessary for a system of administrative penalties;
- (b) imposing conditions and limitations on a municipality's powers with respect to administrative penalties. 2017, c. 34, Sched. 2, s. 10.

### **Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 2, s. 10 - 14/12/2017

### **Debt**

**15.4.2** (1) An administrative penalty imposed by a municipality on a person under section 15.4.1 constitutes a debt of the person to the municipality. 2017, c. 34, Sched. 2, s. 10.

### **Amount owing added to tax roll**

(2) If an administrative penalty imposed under section 15.4.1 is not paid within 15 days after the day that it becomes due and payable, the treasurer of the municipality may add the administrative penalty to the tax roll for any property in the municipality for which all of the registered owners are responsible for paying the administrative penalty, and collect it in the same manner as municipal taxes. 2017, c. 34, Sched. 2, s. 10.

### **Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 2, s. 10 - 14/12/2017

### **Certificate of compliance**

**15.5** (1) An officer who, after inspecting a property, is of the opinion that the property is in compliance with the standards established in a by-law passed under section 15.1 may issue a certificate of compliance to the owner. 1997, c. 24, s. 224 (8).

### **Request for certificate**

(2) An officer shall issue a certificate to an owner who requests one and who pays the fee set by the council of the municipality in which the property is located. 1997, c. 24, s. 224 (8).

**Fee for certificate**

(3) A council of a municipality may set a fee for the issuance of a certificate. 1997, c. 24, s. 224 (8).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

**Property standards committee**

**15.6** (1) A by-law passed under section 15.1 shall provide for the establishment of a committee composed of such persons, not fewer than three, as the council considers advisable to hold office for such term and on such conditions as the by-law may establish. 1997, c. 24, s. 224 (8).

**Filling of vacancies**

(2) The council of the municipality shall forthwith fill any vacancy that occurs in the membership of the committee. 1997, c. 24, s. 224 (8).

**Compensation**

(3) The members of the committee shall be paid such compensation as the council may provide. 1997, c. 24, s. 224 (8).

**Chair**

(4) The members shall elect a chair from among themselves; when the chair is absent through illness or otherwise, the committee may appoint another member as acting chair. 1997, c. 24, s. 224 (8).

**Quorum**

(5) A majority of the members constitutes a quorum for transacting the committee's business. 1997, c. 24, s. 224 (8).

**Secretary**

(6) The members shall provide for a secretary for the committee. 1997, c. 24, s. 224 (8).

**Duty of secretary**

(7) The secretary shall keep on file the records of all official business of the committee, including records of all applications and minutes of all decisions respecting those applications, and section 253 of the *Municipal Act, 2001* or section 199 of the *City of Toronto Act, 2006*, as the case may be, applies with necessary modifications to the minutes and records. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (3).

**Rules of procedure and oaths**

(8) The committee may, subject to subsection (9), adopt its own rules of procedure and any member may administer oaths. 1997, c. 24, s. 224 (8).

**Where committee required to give notice**

(9) The committee shall give notice or direct that notice be given of the hearing of an appeal to such persons as the committee considers advisable. 1997, c. 24, s. 224 (8).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 3 (3) - 01/01/2007

**Emergency order re dangerous non-conformity with standards**

**15.7** (1) If upon inspection of a property the officer is satisfied that there is non-conformity with the standards in a by-law passed under section 15.1 to such extent as to pose an immediate danger to the health or safety of any person, the officer may make an order containing particulars of the non-conformity and requiring remedial repairs or other work to be carried out immediately to terminate the danger. 1997, c. 24, s. 224 (8).

**Service**

(2) The order shall be served on the owner of the property and such other persons affected thereby as the officer determines and a copy shall be posted on the property. 1997, c. 24, s. 224 (8).

### **Emergency powers**

(3) After making an order under subsection (1), the officer may, either before or after the order is served, take any measures necessary to terminate the danger and, for this purpose, the municipality may, through its employees and agents, at any time enter upon the property in respect of which the order was made without a warrant. 1997, c. 24, s. 224 (8).

### **No liability**

(4) Despite subsection 31 (2), a municipal corporation or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection (3). 1997, c. 24, s. 224 (8).

### **Service**

(5) If the order was not served before measures were taken to terminate the danger, the officer shall serve copies of the order in accordance with subsection (2) as soon as practicable after the measures have been taken, and each copy of the order shall have attached to it a statement by the officer describing the measures taken by the municipality and providing details of the amount expended in taking the measures. 1997, c. 24, s. 224 (8).

### **Service of statement**

(6) If the order was served before the measures were taken, the officer shall serve a copy of the statement mentioned in subsection (5) in accordance with subsection (2) as soon as practicable after the measures have been taken. 1997, c. 24, s. 224 (8).

### **Application to court**

(7) As soon as practicable after the requirements of subsection (5) or (6) have been complied with, the officer shall apply to a judge of the Superior Court of Justice for an order confirming the order made under subsection (1) and the judge shall hold a hearing for that purpose. 1997, c. 24, s. 224 (8); 2002, c. 9, s. 25.

### **Powers of judge**

(8) The judge in disposing of an application under subsection (7) shall,

- (a) confirm, modify or rescind the order; and
- (b) determine whether the amount spent on measures to terminate the danger may be recovered in whole, in part or not at all. 1997, c. 24, s. 224 (8).

### **Order final**

(9) The disposition under subsection (8) is final. 1997, c. 24, s. 224 (8).

### **Lien**

(10) The amount determined by the judge to be recoverable shall be a lien on the land and shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (4).

### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2002, c. 9, s. 25 - 01/09/2003; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 3 (4) - 01/01/2007

### **Inspection powers of officer**

**15.8** (1) For the purposes of an inspection under section 15.2, an officer may,

- (a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the property or any part thereof;
- (b) inspect and remove documents or things relevant to the property or part thereof for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to a property or part thereof;
- (d) be accompanied by a person who has special or expert knowledge in relation to a property or part thereof;
- (e) 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; and

- (f) order the owner of the property to take and supply at the owner's expense such tests and samples as are specified in the order. 1997, c. 24, s. 224 (8).

#### **Samples**

- (2) A sample taken under clause (1) (e) shall be divided into two parts, and one part shall be delivered to the person from whom the sample is taken, if,
- (a) the person requests that the sample be divided at the time it is taken and provides the necessary facilities; and
  - (b) it is technically feasible to divide the sample. 2017, c. 34, Sched. 2, s. 11.

#### **Same**

- (3) If an officer takes a sample under clause (1) (e) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. 1997, c. 24, s. 224 (8).

#### **Receipt**

- (4) An officer shall provide a receipt for any document or thing removed under clause (1) (b) and shall promptly return them after the copies or extracts are made. 1997, c. 24, s. 224 (8).

#### **Evidence**

- (5) Copies of or extracts from documents and things removed under this section 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. 1997, c. 24, s. 224 (8).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (8) - 17/06/1998

2017, c. 34, Sched. 2, s. 11 - 14/12/2017

### **UNSAFE BUILDINGS**

#### **Inspection of unsafe buildings**

**15.9** (1) An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of inspecting a building to determine,

- (a) whether the building is unsafe; or
- (b) whether an order made under subsection (4) has been complied with. 2002, c. 9, s. 26.

#### **Interpretation**

- (2) A building is unsafe if the building is,
- (a) structurally inadequate or faulty for the purpose for which it is used; or
  - (b) in a condition that could be hazardous to the health or safety of persons in the normal use of the building, persons outside the building or persons whose access to the building has not been reasonably prevented. 2002, c. 9, s. 26.

#### **Sewage systems**

- (3) In addition to the criteria set out in subsection (2), a sewage system is unsafe if it is not maintained or operated in accordance with this Act and the building code. 2002, c. 9, s. 26.

#### **Order**

- (4) An inspector who finds that a building is unsafe may make an order setting out the reasons why the building is unsafe and the remedial steps necessary to render the building safe and may require the order to be carried out within the time specified in the order. 2002, c. 9, s. 26.

#### **Service and posting**

- (5) The order under subsection (4) shall be served on the registered owner and each person apparently in possession of the building and such other persons affected by the order as the chief building official determines and a copy of the order may be posted on the site of the building in a location visible to the public. 2017, c. 34, Sched. 2, s. 12 (1).

#### **Form of order**

- (5.1) The prescribed form or the form approved by the Minister must be used for an order made under this section. 2017, c. 34, Sched. 2, s. 12 (1).

### **Making information available**

(5.2) A copy of an order made under this section may be,

- (a) made available to the public by,
  - (i) posting the copy of the order on the website of the principal authority, or
  - (ii) allowing members of the public, during normal business hours, to inspect and copy the order at their own expense; and
- (b) registered in the proper land registry office. 2017, c. 34, Sched. 2, s. 12 (1).

### **Registration**

(5.3) If an order made under this section is registered in the proper land registry office, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served. 2017, c. 34, Sched. 2, s. 12 (1).

### **Discharge**

(5.4) When the requirements of an order described in subsection (5.2) have been satisfied, the chief building official shall register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 2017, c. 34, Sched. 2, s. 12 (1).

### **Same**

(5.5) In the case of an order that has been made available to the public in accordance with clause (5.2) (a), when the requirements of the order have been satisfied, an inspector shall indicate on the copy of the order, or by such other means as may be prescribed by regulation, that the requirements of the order have been satisfied. 2017, c. 34, Sched. 2, s. 12 (1).

### **Order respecting occupancy**

(6) If an order of an inspector under subsection (4) is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the chief building official,

- (a) may by order prohibit the use or occupancy of the building; and
- (b) may cause the building to be renovated, repaired or demolished to remove the unsafe condition or take such other action as he or she considers necessary for the protection of the public. 2002, c. 9, s. 26.

### **Power of entry**

(7) For the purpose of clause (6) (b), the chief building official, an inspector and their agents may enter upon land and into buildings at any reasonable time without a warrant. 2002, c. 9, s. 26.

### **Service**

(8) The order under clause (6) (a) shall be served on the registered owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy of the order shall be posted on the site of the building in a location visible to the public. 2002, c. 9, s. 26; 2017, c. 34, Sched. 2, s. 12 (2).

### **Timing**

(9) The order under clause (6) (a) is effective from the time it is posted. 2002, c. 9, s. 26.

### **Lien**

(10) If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the renovation, repair, demolition or other action under clause (6) (b) and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. C, s. 4 (1); 2006, c. 32, Sched. C, s. 3 (5).

### **Deemed taxes**

(11) If the building is in territory without municipal organization, the amount spent on the renovation, repair, demolition or other action under clause (6) (b) is a debt owing to the Crown and may be collected under the *Provincial Land Tax Act, 2006* as if it was tax imposed under that Act. 2002, c. 9, s. 26; 2006, c. 33, Sched. Z.3, s. 4 (2).

### **Where matters addressed under building condition evaluation programs**

(12) No order may be made under this section if an order may be made under subsection 15.10.3 (2) respecting the same building or part of a building and the same subject matter. 2017, c. 34, Sched. 2, s. 12 (3).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 26 - 01/07/2005; 2002, c. 17, Sched. C, s. 4 (1) - 01/07/2005

2006, c. 32, Sched. C, s. 3 (5) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 4 (2) - 01/01/2009

2017, c. 34, Sched. 2, s. 12 (1-3) - 14/12/2017

#### **Emergency order where immediate danger**

**15.10** (1) If upon inspection of a building an inspector is satisfied that the building poses an immediate danger to the health or safety of any person, the chief building official may make an order containing particulars of the dangerous conditions and requiring remedial repairs or other work to be carried out immediately to terminate the danger. 2002, c. 9, s. 26.

#### **Service**

(2) The order shall be served on the registered owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy shall be posted on the site of the building in a location visible to the public. 2002, c. 9, s. 26; 2017, c. 34, Sched. 2, s. 13 (1).

#### **Making information available**

(2.1) A copy of an order made under subsection (1) may be,

(a) made available to the public by,

(i) posting the copy of the order on the website of the principal authority, or

(ii) allowing members of the public, during normal business hours, to inspect and copy the order at their own expense; and

(b) registered in the proper land registry office. 2017, c. 34, Sched. 2, s. 13 (2).

#### **Registration**

(2.2) If an order made under subsection (1) is registered in the proper land registry office, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served. 2017, c. 34, Sched. 2, s. 13 (2).

#### **Discharge**

(2.3) When the requirements of an order described in subsection (2.2) have been satisfied, the chief building official shall register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 2017, c. 34, Sched. 2, s. 13 (2).

#### **Same**

(2.4) In the case of an order that has been made available to the public in accordance with clause (2.1) (a), when the requirements of the order have been satisfied, an inspector shall indicate on the copy of the order, or by such other means as may be prescribed by regulation, that the requirements of the order have been satisfied. 2017, c. 34, Sched. 2, s. 13 (2).

#### **Emergency powers**

(3) After making an order under subsection (1), the chief building official may, either before or after the order is served, take any measures necessary to terminate the danger and, for this purpose, the chief building official, an inspector and their agents may at any time enter upon the land and into the building in respect of which the order was made without a warrant. 2002, c. 9, s. 26.

#### **No liability**

(4) Despite subsection 31 (2), the Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority or a person acting on behalf of any of them is not liable to compensate the registered owner, occupant or any other person by reason of anything done by or on behalf of the chief building official or an inspector in the reasonable exercise of his or her powers under subsection (3). 2002, c. 9, s. 26; 2002, c. 17, Sched. C, s. 5 (1); 2017, c. 34, Sched. 2, s. 13 (3).

#### **Service**

(5) If the order was not served before measures were taken to terminate the danger, the chief building official shall serve copies of the order in accordance with subsection (2) as soon as practicable after the measures have been taken and each copy of the order shall have attached to it a statement by the chief building official describing the measures taken and providing details of the amount spent in taking the measures. 2002, c. 9, s. 26.

### **Service of statement**

(6) If the order was served before the measures were taken, the chief building official shall serve a copy of the statement mentioned in subsection (5) in accordance with subsection (2) as soon as practicable after the measures have been taken. 2002, c. 9, s. 26.

### **Application to court**

(7) As soon as practicable after subsections (5) and (6) have been complied with, the chief building official shall apply to the Superior Court of Justice for an order confirming the order made under subsection (1) and the court shall hold a hearing for that purpose. 2002, c. 9, s. 26.

### **Powers of court**

(8) In disposing of an application under subsection (7), the court shall,

- (a) confirm, modify or rescind the order; and
- (b) determine whether the amount spent on measures to terminate the danger may be recovered in whole, in part or not at all. 2002, c. 9, s. 26.

### **Order final**

(9) The disposition under subsection (8) is final. 2002, c. 9, s. 26.

### **Lien**

(10) If the building is in a municipality, the amount determined by the judge to be recoverable shall be a lien on the land and shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. C, s. 5 (2); 2006, c. 32, Sched. C, s. 3 (6).

### **Deemed taxes**

(11) If the building is in territory without municipal organization, the amount determined by the judge to be recoverable is a debt owing to the Crown and may be collected under the *Provincial Land Tax Act, 2006* as if it was tax imposed under that Act. 2002, c. 9, s. 26; 2006, c. 33, Sched. Z.3, s. 4 (3).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 26 - 01/07/2005; 2002, c. 17, Sched. C, s. 5 (1, 2) - 01/07/2005

2006, c. 32, Sched. C, s. 3 (6) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 4 (3) - 01/01/2009

2017, c. 34, Sched. 2, s. 13 (1-3) - 14/12/2017

## **MAINTENANCE INSPECTION PROGRAMS**

### **Maintenance inspections**

**15.10.1** (1) An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of conducting a maintenance inspection. 2006, c. 22, s. 112 (8).

### **Order**

(2) An inspector who finds a contravention of this Act or the building code may make an order directing compliance with this Act or the building code and may require the order to be carried out immediately or within such time as is specified in the order. 2006, c. 22, s. 112 (8).

### **Service**

(3) The order shall be served on the person whom the inspector believes is contravening this Act or the building code. 2006, c. 22, s. 112 (8).

### **Form and contents**

(4) The prescribed form or the form approved by the Minister must be used for the order and it must contain sufficient information to specify the nature of the contravention and its location and the nature of the compliance that is required. 2006, c. 22, s. 112 (8).

### **Posting**

(5) The inspector may post a copy of the order on the site of the maintenance inspection. 2006, c. 22, s. 112 (8).

**Making information available**

- (6) A copy of an order made under subsection (2) may be,
- (a) made available to the public by,
    - (i) posting the copy of the order on the website of the principal authority, or
    - (ii) allowing members of the public, during normal business hours, to inspect and copy the order at their own expense; and
  - (b) registered in the proper land registry office. 2017, c. 34, Sched. 2, s. 14.

**Registration**

(7) If an order made under subsection (2) is registered in the proper land registry office, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served. 2017, c. 34, Sched. 2, s. 14.

**Discharge**

(8) When the requirements of an order described in subsection (7) have been satisfied, the chief building official shall register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 2017, c. 34, Sched. 2, s. 14.

**Same**

(9) In the case of an order that has been made available to the public in accordance with clause (6) (a), when the requirements of the order have been satisfied, an inspector shall indicate on the copy of the order, or by such other means as may be prescribed by regulation, that the requirements of the order have been satisfied. 2017, c. 34, Sched. 2, s. 14.

**Section Amendments with date in force (d/m/y)**

2006, c. 22, s. 112 (8) - 03/07/2007

2017, c. 34, Sched. 2, s. 14 - 14/12/2017

**BUILDING CONDITION EVALUATION PROGRAMS****Application**

**15.10.2** (1) This section applies in respect of buildings and parts of buildings that are prescribed as subject to a building condition evaluation program under the regulations made under clause 34 (2.3) (a). 2017, c. 34, Sched. 2, s. 15.

**Maintenance of buildings**

(2) A building owner shall maintain and operate a building or part of a building to which this section applies in accordance with this Act and the building code. 2017, c. 34, Sched. 2, s. 15.

**Evaluation**

(3) A building owner shall ensure that a building or part of a building to which this section applies is evaluated in accordance with this Act and the building code. 2017, c. 34, Sched. 2, s. 15.

**Building information**

(4) The building owner shall, in accordance with this Act and the building code, keep all prescribed documentation, records or other information respecting the building or part of the building to which this section applies. 2017, c. 34, Sched. 2, s. 15.

**Same**

(5) The building owner shall, in accordance with this Act and the building code, provide a copy of the documentation, records or other information described in subsection (4) to the chief building official upon request and to such other persons as may be prescribed. 2017, c. 34, Sched. 2, s. 15.

**Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 2, s. 15 - 14/12/2017

**Inspection of buildings subject to program**

**15.10.3** (1) An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of,

- (a) inspecting a building or part of a building that is prescribed as subject to a building condition evaluation program;

- (b) determining whether an order made under subsection (2) or clause (8) (a) has been complied with; or
- (c) conducting a building condition evaluation or causing a building condition evaluation to be conducted where the building owner has failed to ensure that an evaluation was conducted in accordance with the regulations. 2017, c. 34, Sched. 2, s. 15.

#### **Order**

(2) An inspector who, upon entering upon land or into buildings under subsection (1), finds a contravention of this Act or the building code may make an order directing compliance with this Act or the building code and may require the order to be carried out within such time as is specified in the order. 2017, c. 34, Sched. 2, s. 15.

#### **Form and contents**

(3) The prescribed form or the form approved by the Minister must be used for the order and it must contain sufficient information to specify the nature of the contravention and its location and the nature of the compliance that is required. 2017, c. 34, Sched. 2, s. 15.

#### **Service, posting and making information available**

- (4) An order made under this section shall be,
  - (a) served on the registered owner and each person apparently in possession of the building and such other persons affected by the order as the chief building official determines;
  - (b) posted on the site of the building in a location visible to the public;
  - (c) made available to the public by,
    - (i) posting a copy of the order on the website of the principal authority, or
    - (ii) allowing members of the public, during normal business hours, to inspect and copy the order at their own expense; and
  - (d) registered in the proper land registry office. 2017, c. 34, Sched. 2, s. 15.

#### **Registration**

(5) If an order made under this section is registered in the proper land registry office, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served. 2017, c. 34, Sched. 2, s. 15.

#### **Discharge**

(6) When the requirements of an order described in subsection (5) have been satisfied, the chief building official shall register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. 2017, c. 34, Sched. 2, s. 15.

#### **Same**

(7) In the case of an order that has been made available to the public in accordance with clause (4) (c), when the requirements of the order have been satisfied, an inspector shall indicate on the copy of the order, or by such other means as may be prescribed by regulation, that the requirements of the order have been satisfied. 2017, c. 34, Sched. 2, s. 15.

#### **Order respecting occupancy**

- (8) If an order made under subsection (2) is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the chief building official,
  - (a) may by order prohibit the use or occupancy of the building; and
  - (b) may cause the building to be renovated, repaired or demolished to achieve compliance with this Act or the building code or take such other action as he or she considers necessary for the protection of the public. 2017, c. 34, Sched. 2, s. 15.

#### **Power of entry**

(9) For the purpose of clause (8) (b), the chief building official, an inspector and their agents may enter upon land and into buildings at any reasonable time without a warrant. 2017, c. 34, Sched. 2, s. 15.

#### **Timing**

(10) The order under clause (8) (a) is effective from the time it is posted. 2017, c. 34, Sched. 2, s. 15.

## **Lien**

(11) If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the renovation, repair, demolition or other action under clause (8) (b) and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2017, c. 34, Sched. 2, s. 15.

## **Deemed taxes**

(12) If the building is in territory without municipal organization, the amount spent on the renovation, repair, demolition or other action under clause (8) (b) is a debt owing to the Crown and may be collected under the *Provincial Land Tax Act, 2006* as if it was tax imposed under that Act. 2017, c. 34, Sched. 2, s. 15.

## **Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 2, s. 15 - 14/12/2017

## **Request for information re buildings subject to program**

**15.10.4** Upon receiving a request from a prescribed person, a principal authority shall, in accordance with this Act and the building code, provide prescribed documentation, records or other information respecting a building or part of a building prescribed as subject to a building condition evaluation program. 2017, c. 34, Sched. 2, s. 15.

## **Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 2, s. 15 - 14/12/2017

## **Complaints policy re program**

**15.10.5** (1) A principal authority shall adopt and maintain a written policy with respect to,

- (a) how a person may submit a complaint to the principal authority respecting,
  - (i) the maintenance, operation or evaluation of a building or part of a building prescribed as subject to a building condition evaluation program, and
  - (ii) such other matters as may be prescribed respecting a building or a part of building mentioned in subclause (i);
- (b) the circumstances and manner in which the principal authority will respond to a complaint described in clause (a); and
- (c) how the principal authority will record complaints and other information described in subsection 15.10.6 (1). 2017, c. 34, Sched. 2, s. 15.

## **Purposes**

(2) The following are the purposes of a complaints policy:

- 1. To inform persons about how information may be brought to the attention of a chief building official or inspector respecting a matter mentioned in clause (1) (a).
- 2. To clarify the types of circumstances in which the principal authority considers it appropriate to submit a complaint. 2017, c. 34, Sched. 2, s. 15.

## **Contents**

(3) A complaints policy shall include the prescribed provisions and provisions respecting the prescribed matters. 2017, c. 34, Sched. 2, s. 15.

## **Public notice**

(4) The principal authority shall bring the complaints policy to the attention of the public by,

- (a) posting a copy of the policy on the website of the principal authority; or
- (b) allowing members of the public, during normal business hours, to inspect and copy the policy at their own expense. 2017, c. 34, Sched. 2, s. 15.

## **Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 2, s. 15 - 14/12/2017

## **Record of complaints re program**

**15.10.6** (1) A principal authority shall, in accordance with this Act and the building code, maintain a record of,

- (a) complaints described in clause 15.10.5 (1) (a) that are submitted to the principal authority; and

- (b) any enforcement action taken in response to the complaint or, if no enforcement action is taken, the reasons for not taking action. 2017, c. 34, Sched. 2, s. 15.

#### **Information about complaints**

- (2) The principal authority shall provide prescribed information about complaints and enforcement described in subsection (1) in the circumstances and in the manner prescribed. 2017, c. 34, Sched. 2, s. 15.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 2, s. 15 - 14/12/2017

### **QUALIFICATIONS**

#### **Qualifications for various positions**

**15.11** (1) A person is not eligible to be appointed as a chief building official unless he or she has the qualifications set out in the building code for the position. 2002, c. 9, s. 27.

#### **Same**

- (2) Subsection (1) also applies to every inspector who has the same powers and duties as a chief building official in relation to sewage systems or to plumbing, to the extent of those powers and duties. 2002, c. 9, s. 27.

#### **Qualifications for inspectors**

- (3) A person is not eligible to be appointed as an inspector under this Act unless he or she has the qualifications set out in the building code for the position. 2002, c. 9, s. 27.

#### **Qualifications for registered code agencies**

- (4) A person is not eligible to be appointed as a registered code agency under this Act unless the person has the qualifications and meets the requirements set out in the building code. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (7).

#### **Qualifications for designers**

- (5) A person is not eligible to engage in any of the following activities unless he, she or it has the qualifications and meets the requirements set out in the building code to be a designer:

1. Prepare a design or give other information or opinion concerning whether a building or part of a building complies with the building code, if the design, information or opinion is to be submitted to a chief building official in connection with,
  - i. an application for a permit,
  - ii. a request for the authorization referred to in subsection 8 (12) or (13), or
  - iii. a report described in paragraph 2.
2. If a general review of the construction of a building or part of a building is required by the building code, prepare a written report based on the general review. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (7).

#### **Same**

- (6) In subsection (5),

“design” includes a plan, specification, sketch, drawing or graphic representation respecting the construction of a building. 2002, c. 9, s. 27.

#### **Persons conducting building condition evaluations**

- (6.1) A person is not eligible to conduct a building condition evaluation under this Act unless the person has the qualifications and meets the requirements set out in the building code. 2017, c. 34, Sched. 2, s. 16 (1).

#### **Prohibition**

- (7) No person shall represent, directly or indirectly, that he, she or it has the qualifications or meets the requirements established under this section if the person does not have those qualifications or does not meet those requirements. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (7).

#### **Non application**

- (8) Subsections (5) and (6.1) do not apply to a holder of any licence or certificate issued under the *Architects Act* or the *Professional Engineers Act*. 2014, c. 7, Sched. 3, s. 2; 2017, c. 34, Sched. 2, s. 16 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, the heading before section 15.11 and section 15.11 of the Act are repealed and the following substituted: (See: 2017, c. 34, Sched. 2, s. 16 (3))**

## QUALIFICATIONS AND REGISTRATION

### **Chief building official**

**15.11** (1) No person shall exercise the powers or perform the duties of a chief building official unless he or she has the qualifications set out in the building code for the position and is registered in accordance with the building code. 2017, c. 34, Sched. 2, s. 16 (3).

### **Same**

(2) Subsection (1) also applies to every inspector who has the same powers and duties as a chief building official in relation to sewage systems or to plumbing, to the extent of those powers and duties. 2017, c. 34, Sched. 2, s. 16 (3).

### **Inspectors**

(3) No person shall exercise the powers or perform the duties of an inspector under this Act unless he or she has the qualifications set out in the building code for the position and is registered in accordance with the building code. 2017, c. 34, Sched. 2, s. 16 (3).

### **Registered code agencies**

(4) No person shall exercise the powers or perform the duties of a registered code agency under this Act unless the person has the qualifications set out in the building code for the position and is registered in accordance with the building code. 2017, c. 34, Sched. 2, s. 16 (3).

### **Designers**

(5) No person shall engage in any of the following activities unless the person has the qualifications set out in the building code to be a designer and is registered in accordance with the building code:

1. Prepare a design or give other information or an opinion concerning whether a building or part of a building complies with the building code, if the design, information or opinion is to be submitted to a chief building official in connection with,
  - i. an application for a permit,
  - ii. a request for the authorization referred to in subsection 8 (12) or (13), or
  - iii. a report described in paragraph 2.
2. If a general review of the construction of a building or part of a building is required by the building code, prepare a written report based on the general review. 2017, c. 34, Sched. 2, s. 16 (3).

### **Same**

(6) In subsection (5),

“design” includes a plan, specification, sketch, drawing or graphic representation respecting the construction of a building. 2017, c. 34, Sched. 2, s. 16 (3).

### **Persons conducting building condition evaluations**

(7) No person shall conduct a building condition evaluation under this Act unless the person has the qualifications set out in the building code to conduct the evaluation and is registered in accordance with the building code. 2017, c. 34, Sched. 2, s. 16 (3).

### **Prohibition, false representation**

(8) No person shall represent, directly or indirectly, that the person has the qualifications or is registered as specified in this section if the person does not have those qualifications or is not registered as specified. 2017, c. 34, Sched. 2, s. 16 (3).

### **Non application**

(9) Subsections (5) and (7) do not apply to a holder of any licence or certificate issued under the *Architects Act* or the *Professional Engineers Act*. 2017, c. 34, Sched. 2, s. 16 (3).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 27 - 01/09/2003

2006, c. 19, Sched. O, s. 1 (7) - 22/06/2006

2014, c. 7, Sched. 3, s. 2 - 24/07/2014

2017, c. 34, Sched. 2, s. 16 (1, 2) - 14/12/2017; 2017, c. 34, Sched. 2, s. 16 (3) - not in force

### **Qualifications re sewage systems**

**15.12** (1) No person shall engage in the business of constructing on site, installing, repairing, servicing, cleaning or emptying sewage systems unless the person has the qualifications set out in the building code and is registered in accordance with the building code. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (8); 2017, c. 34, Sched. 2, s. 17 (1).

### **Prohibition**

(2) No person shall represent, directly or indirectly, that the person has the qualifications or is registered as specified in this section if the person does not have those qualifications or is not registered as specified. 2017, c. 34, Sched. 2, s. 17 (2).

### **Duty to notify the chief building official**

(3) If any part of the construction of a building will be undertaken by a person described in subsection (1) (a “specified person”), no person shall begin or continue the construction of a sewage system, or cause it to begin or continue, unless the person has given the chief building official the prescribed information about the specified person. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (8).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 27 - 01/09/2003

2006, c. 19, Sched. O, s. 1 (8) - 22/06/2006

2017, c. 34, Sched. 2, s. 17 (1, 2) - 14/12/2017

### **Duty to have insurance**

**15.13** (1) Every registered code agency, every person referred to in subsections 15.11 (5) and (6.1) and such other persons as may be specified in the building code who construct buildings are required to have the insurance coverage specified by the building code. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (9). 2017, c. 34, Sched. 2, s. 18 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 15.13 (1) of the Act is amended by striking out “subsections 15.11 (5) and (6.1)” and substituting “subsections 15.11 (5) and (7)”. (See: 2017, c. 34, Sched. 2, s. 18 (2))

### **Exception**

(2) Subsection (1) does not apply to a person who is a builder or vendor as defined in subsection 1 (1) of the *New Home Construction Licensing Act, 2017* in respect of the construction of a building. 2017, c. 33, Sched. 1, s. 88 (2).

### **Prohibition**

(3) No person shall represent, directly or indirectly, that he, she or it has the insurance coverage required by subsection (1) if the person does not have that insurance coverage. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (10).

### **Qualification or requirement**

(4) If the building code so provides, the insurance coverage constitutes a qualification or requirement for the purposes of a position referred to in section 15.11. 2002, c. 9, s. 27.

### **Duty to notify the chief building official**

(5) If any part of the construction of a building will be undertaken by a person who is required by subsection (1) to have insurance (a “specified person”), no person shall begin or continue the construction, or cause it to begin or continue, unless the person has given the chief building official the prescribed information about the specified person and the insurance coverage of the specified person. 2002, c. 9, s. 27; 2006, c. 19, Sched. O, s. 1 (10).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 27 - 01/09/2003

2006, c. 19, Sched. O, s. 1 (9, 10) - 22/06/2006

2017, c. 33, Sched. 1, s. 88 (2) - 01/02/2021; 2017, c. 34, Sched. 2, s. 18 (1) - 14/12/2017; 2017, c. 34, Sched. 2, s. 18 (2) - not in force

**Note:** On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2017, c. 34, Sched. 2, s. 19)

### **Administrative penalties re qualifications and registration**

**15.13.1** If a person designated under paragraph 36 of subsection 34 (1) is satisfied that a person is contravening or not complying with or has contravened or failed to comply with any of the following, the designated person may, by order, impose an administrative penalty on the person in accordance with this section and the building code:

1. Section 15.11, 15.12 or 15.13.
2. A provision of the building code, as may be prescribed, related to the qualifications and registration of persons described in sections 15.11 and 15.12 and the requirement in section 15.13 for insurance coverage.
3. A condition of a registration or an order, direction or other requirement made under this Act or an obligation assumed by way of undertaking. 2017, c. 34, Sched. 2, s. 19.

### **Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 2, s. 19 - not in force

### **POWERS AND DUTIES OF REGISTERED CODE AGENCIES**

#### **Notice to chief building official**

**15.14** (1) Every registered code agency shall give the chief building official such information as may be prescribed by regulation. 2002, c. 9, s. 28.

#### **Notice to the director**

(2) Every registered code agency shall give the director such information as may be prescribed by regulation. 2002, c. 9, s. 28.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

#### **Functions of registered code agencies**

**15.15** The following are the functions that a registered code agency may be appointed to perform in respect of the construction of a building:

1. Review designs and other materials to determine whether the proposed construction of a building complies with the building code.
2. Issue plans review certificates.
3. Issue change certificates.
4. Inspect the construction of a building for which a permit has been issued under this Act.
5. Issue final certificates.
6. Perform such other functions as may be authorized under this Act or in the building code. 2002, c. 9, s. 28.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

#### **Scope of agency's powers**

**15.16** (1) A registered code agency may exercise the powers and perform the duties specified in this Act and the building code in respect only of the functions and the building specified in a particular appointment. 2002, c. 9, s. 28.

#### **Confidentiality**

(2) A registered code agency shall not collect, use or disclose information except in accordance with the building code. 2002, c. 9, s. 28.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

#### **Persons acting on behalf of an agency**

**15.17** (1) A registered code agency may authorize, in writing, one or more prescribed persons to exercise powers and perform its functions under this Act, subject to such conditions as may be prescribed by regulation. 2002, c. 9, s. 28.

### **Certificate of authorization**

(2) The registered code agency shall issue a certificate of authorization containing the prescribed information to the authorized person. 2002, c. 9, s. 28.

### **Powers and duties of inspector**

(3) The authorized person may exercise the powers and perform the duties of an inspector under any of the following provisions, in respect of the construction of a building for which the agency is appointed under this Act:

1. Section 12 (inspection).
2. Section 13 (order not to cover).
3. Section 16 (entry to dwellings).
4. Section 18 (powers of inspector). 2002, c. 9, s. 28.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

### **Duties re certificates and orders**

**15.18** (1) When a registered code agency makes an order under this Act, the agency shall give a copy of the order within the period prescribed by regulation to the chief building official. 2002, c. 9, s. 28.

### **Certificates**

(2) A registered code agency shall issue such certificates and use such forms as may be required by the building code and shall include in them or provide such information as may be prescribed. 2002, c. 9, s. 28.

### **Same**

(3) A certificate issued under this Act by a registered code agency must be in the prescribed form or the form approved by the Minister. 2002, c. 9, s. 28; 2006, c. 21, Sched. F, s. 104 (9).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

2006, c. 21, Sched. F, s. 104 (9) - 25/07/2007

### **Expiry of an agency's appointment**

**15.19** (1) The appointment of a registered code agency expires when the agency has performed the functions for which it was appointed in respect of construction of the specified building. 2002, c. 9, s. 28.

### **Same, by virtue of circumstances**

(2) The appointment of a registered code agency that has not performed all of the functions for which it is appointed in respect of the construction expires if either of the following events occurs:

1. The chief building official refuses to issue a permit for construction of the specified building.
2. The permit for construction of the building is revoked. 2002, c. 9, s. 28.

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

### **Termination of an agency's appointment**

**15.20** (1) The appointment of a registered code agency shall not be terminated except in accordance with this section and the building code. 2002, c. 9, s. 28.

### **Same**

(2) The building code may specify that the consent of the director to the termination of an appointment is required. 2002, c. 9, s. 28.

### **Effect of termination, appointment by principal authority**

(3) If the registered code agency was appointed by a principal authority, upon the termination of the appointment the principal authority becomes responsible to ensure that the remaining functions of the agency are performed by the principal authority or another registered code agency. 2002, c. 9, s. 28.

**Same, appointment by applicant**

(4) If the registered code agency was appointed under section 4.2, upon the termination of the appointment the person who made the appointment becomes responsible to ensure that the remaining functions of the agency are performed by another registered code agency or, with the prior written agreement of the principal authority, by the principal authority or to ensure that work on the construction is halted. 2002, c. 9, s. 28.

**Powers of the director**

(5) When the appointment of a registered code agency is terminated, the director may give directions to anyone described in subsection (6) in order to facilitate the transfer of the agency's functions. 2002, c. 9, s. 28.

**Same**

(6) Directions may be given to the person who made the appointment that has been terminated, to the registered code agency whose appointment has been terminated and to a transferee registered code agency. 2002, c. 9, s. 28.

**Duties**

(7) The person to whom directions are given shall comply with them. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

**Order to suspend construction**

**15.21** (1) The chief building official may, by order, suspend all or part of the construction of the building to which the appointment of a registered code agency relates,

- (a) if the chief building official has reason to believe that the registered code agency has ceased to perform the functions specified in the appointment; and
- (b) if the appointment of the registered code agency has not expired or been terminated. 2002, c. 9, s. 28.

**Same**

(2) If the appointment of a registered code agency under section 4.2 is terminated, the chief building official shall, by order, suspend the construction of the applicable building until,

- (a) another registered code agency is appointed to perform the remaining functions of the original registered code agency; or
- (b) the principal authority agrees, in writing, to perform the remaining functions of the original registered code agency. 2002, c. 9, s. 28.

**Delegation**

(3) A principal authority may delegate to the chief building official the power to agree to perform the remaining functions of a registered code agency appointed under section 4.2 whose appointment is terminated and may impose conditions and restrictions on the delegation. 2002, c. 9, s. 28.

**Effect of order**

(4) If an order is issued under this section, no person shall perform any act in the construction of the building in respect of which the order is made, other than work necessary to secure the safety and security of the building and of the construction site. 2002, c. 9, s. 28.

**Procedural matters**

(5) Subsections 14 (2) and (3) apply with respect to an order under this section. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

**Conflict between appointment and Act, etc.**

**15.22** This Act and the building code prevail over the terms of an appointment of a registered code agency. 2002, c. 9, s. 28.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 28 - 01/07/2005

## GENERAL POWERS OF INSPECTION AND ENFORCEMENT

### Duty to carry identification

**15.23** The chief building official, inspectors and persons authorized by a registered code agency to exercise powers and perform functions on its behalf shall carry their certificate of appointment or authorization, as the case may be, when performing their duties and shall produce them for inspection upon request. 2002, c. 9, s. 29.

### Section Amendments with date in force (d/m/y)

2002, c. 9, s. 29 - 01/07/2005

### Entry to dwellings

**16** (1) Despite sections 8, 12, 15, 15.2, 15.4, 15.9, 15.10.1 and 15.10.3, an inspector or officer shall not enter or remain in any room or place actually being used as a dwelling unless,

- (a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and entry made only under the authority of a warrant issued under this Act;
- (a.1) a warrant issued under this Act is obtained;
- (b) the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health or safety of any person;
- (c) the entry is necessary to terminate a danger under subsection 15.7 (3) or 15.10 (3); or
- (d) the requirements of subsection (2) are met and the entry is necessary to remove a building or restore a site under subsection 8 (6), to remove an unsafe condition under clause 15.9 (6) (b) or to repair or demolish under subsection 15.4 (1). 1992, c. 23, s. 16 (1); 1997, c. 24, s. 224 (9, 10); 2002, c. 9, s. 30; 2006, c. 19, Sched. O, s. 1 (11); 2006, c. 22, s. 112 (9); 2017, c. 34, Sched. 2, s. 20.

### Notice

(2) Within a reasonable time before entering the room or place for a purpose described in clause (1) (d), the inspector or officer shall serve the occupier with notice of his or her intention to enter it. 1992, c. 23, s. 16 (2); 1997, c. 24, s. 224 (11).

### Section Amendments with date in force (d/m/y)

1997, c. 24, s. 224 (9-11) - 17/06/1998

2002, c. 9, s. 30 - 01/07/2005

2006, c. 19, Sched. O, s. 1 (11) - 22/06/2006; 2006, c. 22, s. 112 (9) - 03/07/2007

2017, c. 34, Sched. 2, s. 20 - 14/12/2017

**17** REPEALED: 2002, c. 9, s. 31 (2).

### Section Amendments with date in force (d/m/y)

1997, c. 24, s. 224 (12) - 17/06/1998; 1999, c. 12, Sched. M, s. 7 - 22/12/1999

2002, c. 9, s. 31 (1) - 01/09/2003; 2002, c. 9, s. 31 (2) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

### Recovery of expenditures for repairs, etc.

**17.1** (1) This section applies if money is spent by a board of health, planning board or conservation authority or, in the circumstances described in subsection (2), by the Crown or an upper-tier municipality or, in the circumstances described in subsection (4), by a municipality,

- (a) to carry out a removal and restoration under subsection 8 (6);
- (b) to carry out a renovation, repair, demolition or other action under clause 15.9 (6) (b) or 15.10.3 (8) (b); or
- (c) to perform remedial or other work under subsection 15.10 (1) where the amount spent is determined to be recoverable by a judge under subsection 15.10 (8). 1999, c. 12, Sched. M, s. 8; 2002, c. 9, s. 32 (1); 2002, c. 17, Sched. F, Table; 2017, c. 34, Sched. 2, s. 21 (1).

### In municipalities

(2) If the building in respect of which money was spent is in a municipality,

- (a) the upper-tier municipality, board of health, planning board, conservation authority or the Crown may instruct the municipality to recover the amount spent;
- (b) subsection 8 (7), 15.9 (10), 15.10 (10) or 15.10.3 (11), as the case may be, applies to the collection of the amount; and
- (c) the money collected, less the costs reasonably attributable to the collection, shall be paid by the municipality to the upper-tier municipality, board of health, planning board, conservation authority or the Crown. 1999, c. 12, Sched. M, s. 8; 2002, c. 9, s. 32 (2); 2002, c. 17, Sched. F, Table; 2017, c. 34, Sched. 2, s. 21 (2).

#### **Not interest of the Crown**

(3) Where the Crown instructs the municipality under clause (2) (a) to recover the amount spent, the lien referred to in subsection 8 (7), 15.9 (10), 15.10 (10) or 15.10.3 (11) is not an estate or interest of the Crown within the meaning of clause 379 (7) (b) of the *Municipal Act, 2001* or clause 350 (7) (b) of the *City of Toronto Act, 2006*, as the case may be. 1999, c. 12, Sched. M, s. 8; 2002, c. 9, s. 32 (3); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (7); 2017, c. 34, Sched. 2, s. 21 (3).

#### **In territory without municipal organization**

- (4) If the building in respect of which money was spent is located in territory without municipal organization,
  - (a) the municipality, board of health, planning board or conservation authority may give the Minister of Finance written notice of the amount that was spent, requesting the collection of the amount under the *Provincial Land Tax Act, 2006*;
  - (b) the amount may be collected under that Act as if it was tax imposed under it; and
  - (c) the Minister of Finance shall pay the amount collected under that Act, less the costs reasonably attributable to the collection, to the municipality, board of health, planning board or conservation authority. 2006, c. 33, Sched. Z.3, s. 4 (4).

#### **Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. M, s. 8 - 22/12/1999

2002, c. 9, s. 32 (1-4) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 3 (7) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 4 (4) - 01/01/2009

2017, c. 34, Sched. 2, s. 21 (1-3) - 14/12/2017

#### **Powers of inspector**

- 18** (1) For the purposes of an inspection under this Act, an inspector may,
- (a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the building or any part thereof;
  - (b) inspect and remove documents or things relevant to the building or part thereof for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to a building or part thereof;
  - (d) be accompanied by a person who has special or expert knowledge in relation to a building or part thereof;
  - (e) 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; and
  - (f) order any person to take and supply at that person's expense such tests and samples as are specified in the order. 1992, c. 23, s. 18 (1); 1997, c. 30, Sched. B, s. 11.

#### **Samples**

- (2) A sample taken under clause (1) (e) shall be divided into two parts, and one part shall be delivered to the person from whom the sample is taken, if,
  - (a) the person requests that the sample be divided at the time it is taken and provides the necessary facilities; and
  - (b) it is technically feasible to divide the sample. 2017, c. 34, Sched. 2, s. 22.

#### **Idem**

(3) If an inspector takes a sample under clause (1) (e) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. 1992, c. 23, s. 18 (3).

### **Receipt**

(4) An inspector shall provide a receipt for any document or thing removed under clause (1) (b) and shall promptly return them after the copies or extracts are made. 1992, c. 23, s. 18 (4).

### **Evidence**

(5) Copies of or extracts from documents and things removed under this section 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. 1992, c. 23, s. 18 (5).

### **Form of order**

(6) The prescribed form or the form approved by the Minister must be used for an order under subsection (1). 2002, c. 9, s. 33; 2006, c. 21, Sched. F, s. 104 (10).

### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 11 - 06/04/1998

2002, c. 9, s. 33 - 01/07/2005

2006, c. 21, Sched. F, s. 104 (10) - 25/07/2007

2017, c. 34, Sched. 2, s. 22 - 14/12/2017

**18.1** REPEALED: 2002, c. 9, s. 34.

**Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2017, c. 34, Sched. 2, s. 23)**

### **Administrative penalties, imposed by inspector**

**18.1** (1) If an inspector is satisfied that a person is contravening or not complying with or has contravened or failed to comply with any of the following, the inspector may, by order, impose an administrative penalty on the person in accordance with this section and the building code:

1. A provision of this Act as may be prescribed.
2. A provision of the building code as may be prescribed.
3. An order, direction or other requirement made under this Act as may be prescribed. 2017, c. 34, Sched. 2, s. 23.

### **Same**

(2) Subsection (1) does not apply in respect of a provision of this Act, a provision of the building code or an order, direction or other requirement described in section 15.13.1. 2017, c. 34, Sched. 2, s. 23.

### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 12 - 06/04/1998

2002, c. 9, s. 34 - 01/09/2003

2017, c. 34, Sched. 2, s. 23 - not in force

### **Obstruction of inspector, etc.**

**19** (1) No person shall hinder or obstruct, or attempt to hinder or obstruct, a chief building official, inspector, officer or a person authorized by a registered code agency in the exercise of a power or the performance of a duty under this Act. 1997, c. 24, s. 224 (13); 2002, c. 9, s. 35 (1).

### **Occupied dwellings**

(2) A refusal of consent to enter or remain in a place actually used as a dwelling is not hindering or obstructing within the meaning of subsection (1) unless the inspector, officer or authorized person is acting under a warrant issued under this Act or in the circumstances described in clause 16 (1) (b), (c) or (d). 1997, c. 24, s. 224 (13); 2002, c. 9, s. 35 (2).

### **Assistance**

(3) Every person shall assist any entry, inspection, examination, testing or inquiry by an inspector, chief building official, officer or a person authorized by a registered code agency in the exercise of a power or performance of a duty under this Act. 1997, c. 24, s. 224 (13); 2002, c. 9, s. 35 (3).

## **Same**

(4) No person shall neglect or refuse,

- (a) to produce any documents, drawings, specifications or things required under clause 15.8 (1) (a) or (e) by an officer or under clause 18 (1) (a) or (e) by an inspector or by a person authorized by a registered code agency; or
- (b) to provide any information required under clause 15.8 (1) (c) by an officer or under clause 18 (1) (c) by an inspector or by a person authorized by a registered code agency. 2002, c. 9, s. 35 (4).

## **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (13) - 17/06/1998; 1997, c. 30, Sched. B, s. 13 - 06/04/1998

2002, c. 9, s. 35 (1-4) - 01/07/2005

## **Obstruction or removal of order**

**20** No person shall obstruct the visibility of an order and no person shall remove a copy of an order posted under this Act unless authorized to do so by an inspector, officer or registered code agency. 1997, c. 24, s. 224 (14); 2002, c. 9, s. 36.

## **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (14) - 17/06/1998

2002, c. 9, s. 36 - 01/07/2005

## **Warrant for entry and search**

**21** (1) A provincial judge or justice of the peace may at any time issue a warrant in the prescribed form authorizing a person named in the warrant to enter and search a building, receptacle or place if the provincial judge or justice of the peace is satisfied by information on oath that there is reasonable ground to believe that,

- (a) an offence under this Act has been committed; and
- (b) the entry into and search of the building, receptacle or place will afford evidence relevant to the commission of the offence. 1992, c. 23, s. 21 (1).

## **Seizure**

(2) In a search warrant, the provincial judge or justice of the peace may authorize the person named in the warrant to seize anything that there is reasonable ground to believe will afford evidence relevant to the commission of the offence. 1992, c. 23, s. 21 (2).

## **Same**

(3) Anyone who seizes something under a search warrant shall,

- (a) give a receipt for the thing seized to the person from whom it was seized; and
- (b) bring the thing seized before the provincial judge or justice of the peace issuing the warrant or another provincial judge or justice to be dealt with according to law. 1992, c. 23, s. 21 (3).

## **Expiry of warrant**

(4) A search warrant shall state the date on which it expires, which date shall be not later than fifteen days after the warrant is issued. 1992, c. 23, s. 21 (4).

## **Time for execution**

(5) A search warrant may be executed only between 6 a.m. and 9 p.m. unless it provides otherwise. 1992, c. 23, s. 21 (5).

## **Application**

(6) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of any thing seized under this section. 1992, c. 23, s. 21 (6).

## **DISPUTE RESOLUTION, REVIEWS AND APPEALS**

## **Review of inspector's order**

**22** (1) The chief building official may review and amend or rescind an order made by an inspector. 1992, c. 23, s. 22 (1).

## **Powers**

(2) A chief building official may exercise any of the powers or perform any of the duties of an inspector. 1992, c. 23, s. 22 (2).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 37 - 01/07/2005

## **Building Code Commission**

**23** (1) The Building Code Commission is continued under the name Building Code Commission in English and Commission du code du bâtiment in French and shall be composed of those persons appointed by the Lieutenant Governor in Council. 1992, c. 23, s. 23 (1).

## **Chair**

(2) The Lieutenant Governor in Council may designate one of the members as chair and one or more of the members as vice-chair. 1992, c. 23, s. 23 (2).

## **Eligibility**

(3) A person is not eligible to be a member of the Commission if the person is,

- (a) a deputy minister of a ministry;
- (b) a public servant employed under Part III of the *Public Service of Ontario Act, 2006*;
- (c) an employee of a municipality; or
- (d) in a prescribed relationship to a registered code agency. 2006, c. 35, Sched. C, s. 8 (2).

## **Remuneration**

(4) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. 1992, c. 23, s. 23 (4).

## **Quorum**

(5) Three members of the Commission constitute a quorum. 1992, c. 23, s. 23 (5).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 38 - 01/07/2005

2006, c. 35, Sched. C, s. 8 (2) - 20/08/2007

## **Dispute resolution**

**24** (1) This section applies if there is a dispute,

- (a) between an applicant for a permit, a holder of a permit or a person to whom an order is given and the chief building official, a registered code agency or an inspector concerning the sufficiency of compliance with the technical requirements of the building code;
- (b) between an applicant for a permit and the chief building official concerning whether the official complied with subsection 8 (2.2) or (2.3); or
- (c) between a holder of a permit and the chief building official, a registered code agency or an inspector concerning whether the requirements of subsection 10.2 (2) have been met. 2002, c. 9, s. 39.

## **Application for dispute resolution**

(1.1) A party to the dispute may apply to the Building Code Commission to resolve the issue. 2002, c. 9, s. 39.

## **Hearing**

(2) The Building Code Commission shall hold a hearing to decide the dispute and shall give the parties to the dispute notice of the hearing. 2002, c. 9, s. 39.

## **Same**

(2.1) A hearing to decide a dispute described in clause (1) (b) or (c) must be held within the prescribed period. 2002, c. 9, s. 39.

### **Powers**

(3) The Building Code Commission shall, by order, determine a dispute described in clause (1) (a) and, for that purpose, may substitute its opinion for that of the chief building official, registered code agency or inspector. 2002, c. 9, s. 39.

### **Same**

(3.1) The Building Code Commission shall, by order, determine a dispute described in clause (1) (b) or (c) and, for that purpose, may require the chief building official, registered code agency or inspector, as the case may be, to comply with the applicable subsection of the Act. 2002, c. 9, s. 39.

### **Decision final**

(4) The decision of the Building Code Commission is final. 1992, c. 23, s. 24 (4).

### **Restrictions on members**

- (5) Members of the Building Code Commission holding a hearing shall not,
- (a) take part before the hearing in any investigation or consideration of the subject-matter of the hearing; or
  - (b) communicate directly or indirectly in relation to the subject-matter of the hearing with any person unless all parties are given notice and allowed to participate. 1992, c. 23, s. 24 (5).

### **Independent advice**

(6) Despite subsection (5), members of the Building Code Commission may seek independent legal or technical advice but the nature of the advice shall be made known to the parties in order that they may make submissions. 1992, c. 23, s. 24 (6).

### **Evidence**

(7) The findings of fact at a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1992, c. 23, s. 24 (7).

### **Restriction**

(8) Members of the Building Code Commission shall not participate in a decision of the Commission pursuant to a hearing unless they were present throughout the hearing. 1992, c. 23, s. 24 (8).

### **Idem**

(9) Except with the consent of the parties, no decision of the Building Code Commission shall be given unless all members present throughout the hearing participate in the decision. 1992, c. 23, s. 24 (9).

### **Release of evidence**

(10) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released by the Building Code Commission to that person within a reasonable time after the matter in issue has been finally determined. 1992, c. 23, s. 24 (10).

### **Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991

2002, c. 9, s. 39 - 01/07/2005

### **Appeal to court**

**25** (1) A person who considers himself aggrieved by an order or decision made by the chief building official, a registered code agency or an inspector under this Act (except a decision under subsection 8 (3) not to issue a conditional permit) may appeal the order or decision to the Superior Court of Justice within 20 days after the order or decision is made. 2002, c. 9, s. 40 (2).

### **Extension of time**

(2) A judge to whom an appeal is made may, upon such conditions as the judge considers appropriate, extend the time for making the appeal before or after the time set out in subsection (1), if the judge is satisfied that there is reasonable grounds for the appeal and for applying for the extension. 1992, c. 23, s. 25 (2).

### **Effect of appeal**

(3) If an appeal is made under this section in respect of a matter in which a question is pending before the Building Code Commission, the proceeding before the Commission is terminated. 1992, c. 23, s. 25 (3).

### **Powers of judge**

(4) On an appeal, a judge may affirm or rescind the order or decision and take any other action that the judge considers the chief building official, registered code agency or inspector ought to take in accordance with this Act and the regulations and, for those purposes, the judge may substitute his or her opinion for that of the official, agency or inspector. 2002, c. 9, s. 40 (3).

### **Reference to Commission**

(5) A judge may refer a question respecting the interpretation of the technical requirements of the building code or the sufficiency of compliance with the technical requirements of the building code to the Building Code Commission for a hearing and report to the judge. 1992, c. 23, s. 25 (5).

### **Procedure**

(6) The procedure on the reference shall be the same as on an application under section 24. 1992, c. 23, s. 25 (6).

### **Stay of order or decision**

(7) An appeal under subsection (1) does not stay the operation of the order or decision appealed from but a judge may, on such terms as are just, stay the operation of the order or decision until the disposition of the appeal. 2000, c. 26, Sched. K, s. 1.

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. K, s. 1 - 06/12/2000

2002, c. 9, s. 40 (1) - 01/09/2003; 2002, c. 9, s. 40 (2, 3) - 01/07/2005

### **Further appeal**

**26** (1) A party to the hearing before the Superior Court of Justice under section 25 may appeal from the decision to the Divisional Court. 1992, c. 23, s. 26 (1); 2002, c. 9, s. 41 (1).

### **Minister represented**

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. 1992, c. 23, s. 26 (2).

### **Powers of Divisional Court**

(3) An appeal under this section may be made on any question that is not a question of fact alone and the Divisional Court may,

- (a) confirm or alter the decision of the judge;
- (b) direct the chief building official, registered code agency or inspector to take any action that the official, agency or inspector is authorized to take under this Act;
- (c) refer the matter back to the judge for reconsideration; or
- (d) substitute its opinion for that of the chief building official, registered code agency, inspector or judge. 2002, c. 9, s. 41 (2).

### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 41 (1) - 01/09/2003; 2002, c. 9, s. 41 (2) - 01/07/2005

### **Service**

**27** (1) A notice or order required by this Act to be served may be served personally, by email to the last known email address of the person to whom service is required to be made or by registered mail sent to the last known address of the person to whom notice is to be given or to that person's agent for service. 1992, c. 23, s. 27 (1); 2019, c. 14, Sched. 14, s. 1 (1).

### **Idem**

(2) If a notice or order is served by registered mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom the notice or order is given or that person's agent for service establishes that, acting in good faith, through absence, accident, illness or other unintentional cause the notice was not received until a later date. 1992, c. 23, s. 27 (2); 1997, c. 24, s. 224 (15).

### **Same**

(3) If a notice or order is served by email, the service shall be deemed to have been made on the day of sending unless,

- (a) the document was sent after 5 p.m., in which case service shall be deemed to have been made on the following day; or
- (b) the person to whom the notice or order is given or that person's agent for service establishes that, acting in good faith, through absence, accident, illness or other unintentional cause, the notice was not received until a later date. 2019, c. 14, Sched. 14, s. 1 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (15) - 17/06/1998

2019, c. 14, Sched. 14, s. 1 (1, 2) - 10/12/2019

**AUTHORIZATIONS AND RULINGS**

**Building Materials Evaluation Commission**

**28** (1) The Building Materials Evaluation Commission is continued under the name Building Materials Evaluation Commission in English and Commission d'évaluation des matériaux de construction in French and shall be composed of those persons appointed by the Lieutenant Governor in Council. 1992, c. 23, s. 28 (1).

**Chair**

(2) The Lieutenant Governor in Council may designate one of the members as chair and one of the members as vice-chair. 1992, c. 23, s. 28 (2).

**Remuneration**

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. 1992, c. 23, s. 28 (3).

**Powers and duties**

(4) The Building Materials Evaluation Commission may,

- (a) conduct research on, and examine, construction materials, systems and building designs or cause such research to be conducted and examinations to be undertaken;
- (b) upon application therefor, authorize the use, subject to any conditions that may be set out, of any innovative material, system or building design in respect of any building or part thereof; and
- (c) make recommendations to the Minister respecting changes in this Act or the building code. 1992, c. 23, s. 28 (4); 2002, c. 9, s. 43.

**Innovative materials**

(5) The use of any innovative material, system or building design in the manner approved by the Commission shall be deemed not to be a contravention of the building code. 1992, c. 23, s. 28 (5).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 42 - 01/07/2005; 2002, c. 9, s. 43 - 01/09/2003

**Binding interpretations by the Minister**

**28.1** (1) The Minister may issue a written interpretation of any provision of the building code, and the Minister's interpretation is binding on any person exercising a power or performing a duty under this Act and on any person who is subject to this Act. 2002, c. 9, s. 44.

**Public notice**

(2) A statement setting out the Minister's interpretation of a provision of the building code shall be made available to the public in the prescribed manner. 2002, c. 9, s. 44.

**Legislation Act, 2006, Part III**

(3) The Minister's interpretation of a provision of the building code is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2002, c. 9, s. 44; 2006, c. 21, Sched. F, s. 136 (1).

**Delegation**

(4) The Minister may delegate his or her power under subsection (1) to the director. 2002, c. 9, s. 44.

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 44 - 01/07/2005

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

### **Rulings by Minister**

**29** (1) The Minister may, subject to such conditions as the Minister in his or her discretion considers appropriate, make rulings,

- (a) approving the use of innovative materials, systems or building designs evaluated by a materials evaluation body designated in the building code;
- (b) adopting an amendment to a code, formula, standard, guideline, protocol or procedure that has been adopted by reference in the building code; or
- (c) approving the use of alternative materials, systems and building designs which, in the opinion of the Minister, will achieve the level of performance required by the building code. 1997, c. 30, Sched. B, s. 14 (1); 1999, c. 12, Sched. M, s. 9 (1); 2002, c. 9, s. 45 (1).

### **Delegation**

(2) The Minister may by order delegate the power to make rulings to the director. 1992, c. 23, s. 29 (2).

### **Status**

(3) A ruling is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 1992, c. 23, s. 29 (3); 2006, c. 21, Sched. F, s. 136 (1).

### **Publication**

(4) Notice of a ruling shall be published at least once in *The Ontario Gazette* and made available, upon request, to members of the public. 1992, c. 23, s. 29 (4).

### **Application**

(5) A ruling of the Minister under clause (1) (a) or (c) entitles a person to use the approved material, system or building design in all of Ontario unless the ruling states otherwise. 1999, c. 12, Sched. M, s. 9 (2).

### **Approved materials**

(6) The use of an approved material, system or building design in the manner approved in a ruling under clause (1) (a) or (c) shall be deemed not to be a contravention of the building code. 1999, c. 12, Sched. M, s. 9 (2).

### **Conflicts**

(7) In the event of a conflict between an authorization of the Building Materials Evaluation Commission and a ruling of the Minister under clause (1) (a) or (c), the ruling prevails. 1992, c. 23, s. 29 (7); 1997, c. 30, Sched. B, s. 14 (4); 2002, c. 9, s. 45 (2).

### **Restriction**

(8) If a materials evaluation body designated in the building code has examined or has expressed its intention to examine an innovative material, system or building design, the Building Materials Evaluation Commission shall not exercise its power under subsection 28 (4) in respect of that material, system or building design. 1992, c. 23, s. 29 (8).

### **Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 14 (1-4) - 06/04/1998; 1999, c. 12, Sched. M, s. 9 (1, 2) - 22/12/1999

2002, c. 9, s. 45 (1, 2) - 01/07/2005

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

### **Inquiry**

**30** (1) If it appears to the Minister that there is or may be a failure in construction or demolition standards or in the enforcement of this Act or the building code, the Minister may designate a person to conduct an inquiry into the failure. 1992, c. 23, s. 30 (1).

### **Application of *Public Inquiries Act, 2009***

(2) Section 33 of the *Public Inquiries Act, 2009* applies to the inquiry. 2009, c. 33, Sched. 6, s. 43.

### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 6, s. 43 - 01/06/2011

**Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following sections: (See: 2020, c. 16, Sched. 1, s. 2)**

## BUILDING SERVICES ADMINISTRATIVE AUTHORITY

### DELEGATION

#### **Delegation to designated administrative authority**

**30.1** (1) If the requirements of section 30.2 and subsection 30.3 (1) are met, the Lieutenant Governor in Council may, by regulation,

- (a) designate a corporation as the administrative authority for the purposes of this Act; and
- (b) subject to subsection (3), delegate the administration of specified provisions of this Act and the regulations to the administrative authority. 2020, c. 16, Sched. 1, s. 2.

#### **Restrictions**

(2) A delegation described in clause (1) (b) may be restricted to specified aspects or purposes of the specified provisions. 2020, c. 16, Sched. 1, s. 2.

#### **Excepted provisions**

(3) Sections 23 to 26 and 30 to 36 shall not be delegated to the administrative authority. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Corporation**

**30.2** A corporation may be designated as the administrative authority only if it is a not-for-profit corporation without share capital and it is incorporated under the laws of Ontario. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Administrative agreement**

**30.3** (1) A regulation may be made under subsection 30.1 (1) only if the Minister and the corporation have entered into an administrative agreement with respect to the delegated provisions. 2020, c. 16, Sched. 1, s. 2.

#### **Contents**

(2) The administrative agreement shall include all matters that the Minister considers necessary for delegating the administration of the delegated provisions to the administrative authority, including, at a minimum,

- (a) requirements relating to the governance of the administrative authority;
- (b) requirements with which the administrative authority shall comply in connection with the administration of the delegated provisions, including a requirement that the administrative authority obtain adequate insurance against liability arising out of that administration; and
- (c) the financial terms of the delegation, including payments to the Crown, licence fees, royalties and reimbursements for transfer of assets. 2020, c. 16, Sched. 1, s. 2.

#### **Promoting public interest**

(3) The administrative agreement shall require the administrative authority to promote the protection of the public interest. 2020, c. 16, Sched. 1, s. 2.

#### **Amendment by Minister**

(4) Subject to section 30.9, the Minister may unilaterally amend the administrative agreement, after giving the administrative authority the notice that the Minister considers reasonable in the circumstances. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Policy directions**

**30.4** (1) Subject to section 30.9, the Minister may issue policy directions to the administrative authority relating to its administration of the delegated provisions after giving the administrative authority the notice that the Minister considers reasonable in the circumstances. 2020, c. 16, Sched. 1, s. 2.

### **Part of administrative agreement**

(2) The policy directions are deemed to form part of the administrative agreement. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Compliance by administrative authority**

**30.5** (1) The administrative authority shall,

- (a) administer the delegated provisions in accordance with this Act and the administrative agreement; and
- (b) comply with this Act, the regulations, other applicable law and the administrative agreement. 2020, c. 16, Sched. 1, s. 2.

### **Compliance with orders, directions**

(2) If the Minister issues a directive, order or policy direction, the administrative authority shall comply with the directive, order or direction. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Review**

**30.6** (1) The Minister may,

- (a) require that policy, legislative or regulatory reviews related to the delegated provisions and the administrative agreement be carried out,
  - (i) by or on behalf of the administrative authority, or
  - (ii) by a person or entity specified by the Minister; or
- (b) require that reviews of the administrative authority, of its operations, or of both, including, without limitation, performance, governance, accountability and financial reviews, be carried out,
  - (i) by or on behalf of the administrative authority, or
  - (ii) by a person or entity specified by the Minister. 2020, c. 16, Sched. 1, s. 2.

### **Access to records and information**

(2) If a review is carried out under subclause (1) (a) (ii) or (1) (b) (ii), the administrative authority shall give the person or entity specified by the Minister and the person or entity's employees or agents access to all records and other information required to conduct the review. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Conflict**

**30.7** In the event of conflict, sections 30.1 to 30.37 and the regulations made under section 30.38 prevail over,

- (a) the administrative agreement;
- (b) the administrative authority's constating documents, by-laws and resolutions; and
- (c) the *Corporations Act*, the *Corporations Information Act* or a regulation made under either of those Acts. 2020, c. 16, Sched. 1, s. 2.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 30.7 (c) of the Act is amended by striking out "*Corporations Act*" and substituting "*Not-for-Profit Corporations Act, 2010*". (See: 2020, c. 16, Sched. 1, s. 3)

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2, 3 - not in force

### **Revocation of designation, restriction of delegation**

#### **Public interest**

**30.8** (1) The Lieutenant Governor in Council may, by regulation, revoke the designation of the administrative authority made under clause 30.1 (1) (a) or restrict the delegation made under clause 30.1 (1) (b) if the Lieutenant Governor in Council considers it advisable to do so in the public interest. 2020, c. 16, Sched. 1, s. 2.

#### **Non-compliance**

(2) The Lieutenant Governor in Council may, by regulation, revoke the designation of the administrative authority made under clause 30.1 (1) (a) or restrict the delegation made under clause 30.1 (1) (b) if,

- (a) the administrative authority has failed to comply with this Act, the regulations, other applicable law or the administrative agreement;
- (b) the Minister has given the administrative authority an opportunity to remedy the default within the period that the Minister considered reasonable under the circumstances; and
- (c) the administrative authority has failed to remedy the default to the Minister's satisfaction within that period and the Minister has so advised the Lieutenant Governor in Council. 2020, c. 16, Sched. 1, s. 2.

#### **No restriction on subs. (1)**

(3) Nothing in subsection (2) restricts the ability of the Lieutenant Governor in Council to act under subsection (1). 2020, c. 16, Sched. 1, s. 2.

#### **On request**

(4) The Lieutenant Governor in Council may, by regulation, revoke the designation of the administrative authority and restrict the scope of the delegation on terms that the Lieutenant Governor in Council considers advisable in the public interest if the authority requests the revocation. 2020, c. 16, Sched. 1, s. 2.

#### **Transition**

(5) If the Lieutenant Governor in Council revokes the designation of the administrative authority or restricts the scope of the delegation under this section, the Lieutenant Governor in Council may, by regulation, provide for any transitional matter necessary for the effective implementation of the revocation or restriction. 2020, c. 16, Sched. 1, s. 2.

#### **No Crown liability**

(6) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of the revocation or restriction of the designation of the administrative authority or any regulation made under subsection (5). 2020, c. 16, Sched. 1, s. 2.

#### **No proceeding**

(7) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (6). 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Condition precedent for exercise of certain powers**

**30.9** The Minister may exercise a power under subsections 30.3 (4), 30.4 (1), 30.22 (1) and 30.29 (1) if the Minister is of the opinion that it is advisable to exercise the power in the public interest because at least one of the following conditions is satisfied:

1. The exercise of the power is necessary to prevent serious harm to the interests of,
  - i. the public,
  - ii. principal authorities, or
  - iii. chief building officials, inspectors, registered code agencies, designers or other persons referred to in sections 15.11 and 15.12.
2. An event of force majeure has occurred.

3. The administrative authority is insolvent.
4. The number of members of the board of directors of the administrative authority is insufficient for a quorum. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **ADMINISTRATIVE AUTHORITY**

#### **Board of directors**

##### **Criteria and rules**

**30.10** (1) The Minister may, by order,

- (a) establish competency criteria for members of the board of directors of the administrative authority; and
- (b) establish rules about the nomination of board members, the appointment or election process, the length of their terms and whether they may be reappointed or re-elected. 2020, c. 16, Sched. 1, s. 2.

##### **Eligibility for appointment, etc.**

(2) A person is qualified to be appointed or elected to the board of directors only if the person meets any competency criteria established under clause (1) (a). 2020, c. 16, Sched. 1, s. 2.

##### **Conflict**

(3) In the event of conflict, an order made under subsection (1) prevails over the administrative authority's constating documents, by-laws and resolutions. 2020, c. 16, Sched. 1, s. 2.

##### **Appointment by Minister**

(4) The Minister may appoint one or more board members for a term specified in the appointment, but the Minister cannot appoint sufficient members to form a majority of the board. 2020, c. 16, Sched. 1, s. 2.

##### **Composition**

(5) The board members appointed by the Minister may include representatives of the public, government organizations, principal authorities and such other interests as the Minister considers to be appropriate. 2020, c. 16, Sched. 1, s. 2.

##### **Change in number of directors**

(6) The Minister may increase or decrease the number of board members. 2020, c. 16, Sched. 1, s. 2.

##### **Appointment of chair**

(7) The Minister may appoint a chair of the board from among the board members. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Public access to corporate information**

**30.11** (1) The administrative authority shall,

- (a) make its corporate by-laws available for public inspection within the time specified in the administrative agreement or, if no time is specified in the agreement, within 10 days after the by-laws are passed by the board; and
- (b) make available to the public the information prescribed by regulation relating to the compensation of board members, officers and employees and relating to any other payments that the administrative authority makes or is required to make to them. 2020, c. 16, Sched. 1, s. 2.

##### **Compensation information, transition**

(2) For a board member or officer who is in office on the day this section comes into force, or an individual who is an employee on the day this section comes into force, the regulations may require the disclosure of information relating to compensation for a period that begins before that day. 2020, c. 16, Sched. 1, s. 2.

##### **Effect of compliance**

(3) The disclosure of information relating to compensation in accordance with this section, or in the reasonable belief that the disclosure is required by this section, shall not be deemed by any court or person,

- (a) to contravene any Act or regulation enacted or made before or after the coming into force of this section; or
- (b) to be in breach of or contrary to any agreement that purports to restrict or prohibit that action regardless of whether the agreement is made before or after the coming into force of this section. 2020, c. 16, Sched. 1, s. 2.

#### **Processes and procedures**

(4) The administrative authority shall follow the processes and procedures prescribed by regulation with respect to providing access to the public to records of the authority and with respect to managing personal information contained in those records. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Employees**

**30.12** (1) The administrative authority may, subject to the administrative agreement, employ or retain the services of any qualified person to carry out any of its powers or duties relating to the administration of the delegated provisions. 2020, c. 16, Sched. 1, s. 2.

#### **Not Crown employees**

(2) The following persons are not employees of the Crown and shall not hold themselves out as such:

1. Persons who are employed or whose services are retained under subsection (1).
2. Members, officers and agents of the administrative authority.
3. Members of the board of directors of the administrative authority, including those appointed by the Minister. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Not Crown agency**

**30.13** (1) Despite the *Crown Agency Act*, the administrative authority is not an agent of the Crown for any purpose and shall not hold itself out as such. 2020, c. 16, Sched. 1, s. 2.

#### **Same**

(2) The following persons are not agents of the Crown and shall not hold themselves out as such:

1. Persons who are employed or whose services are retained under subsection 30.12 (1).
2. Members, officers and agents of the administrative authority.
3. Members of the board of directors of the administrative authority, including those appointed by the Minister. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **No personal liability, employee of the Crown**

**30.14** (1) No action or other proceeding shall be instituted against a current or former employee of the Crown for,

- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a power or duty under sections 30.1 to 30.37 or the regulations made for the purposes of those sections; or
- (b) any neglect or default in the exercise or performance in good faith of such a power or duty. 2020, c. 16, Sched. 1, s. 2.

#### **Tort by employee of the Crown**

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **No Crown liability**

**30.15** (1) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of the administrative authority or its members, officers, directors, employees or agents if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a power or duty under this Act or the regulations. 2020, c. 16, Sched. 1, s. 2.

### **No proceeding against the Crown**

(2) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by any person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (1). 2020, c. 16, Sched. 1, s. 2.

### **Application**

(3) Without limiting the generality of subsection (2), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, and includes a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada. 2020, c. 16, Sched. 1, s. 2.

### **Revocation**

(4) Section 30.14 and subsections (1) to (4) of this section apply, with necessary modifications, in respect of a direct or indirect result of the revocation of a designation under section 30.1 or any regulation made under subsection 30.8 (5). 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Indemnification of the Crown**

**30.16** The administrative authority shall indemnify the Crown, in accordance with the administrative agreement, in respect of damages and costs incurred by the Crown for any act or omission of the administrative authority or its members, officers, directors, employees or agents in the exercise or performance or intended exercise or performance of their powers and duties under this Act, the regulations or the administrative agreement, or for any acts and omissions otherwise connected to sections 30.1 to 30.37, the regulations made for the purposes of those sections or the administrative agreement. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **No personal liability, board members and others**

**30.17** (1) No action or other proceeding shall be instituted against any of the following persons, or someone who was formerly such a person, for any act done in good faith in the exercise or performance or intended exercise or performance of a power or duty under this Act or the regulations, or any neglect or default in the exercise or performance in good faith of such a power or duty:

1. Members of the board of directors of the administrative authority.
2. Persons who perform functions under this Act or the regulations as employees, agents or officers of the administrative authority or as persons whose services it retains.
3. Members of committees of the administrative authority who perform functions under this Act or the regulations. 2020, c. 16, Sched. 1, s. 2.

### **Liability of administrative authority**

(2) Subsection (1) does not relieve the administrative authority of liability to which it would otherwise be subject in respect of the acts or omissions of a person referred to in subsection (1). 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Not public money**

**30.18** (1) The money the administrative authority collects in carrying out the administration of the delegated provisions is not public money within the meaning of the *Financial Administration Act*. 2020, c. 16, Sched. 1, s. 2.

### **Same**

(2) The administrative authority may use the money described in subsection (1) to carry out activities in accordance with its objects, subject to subsection 30.21 (2). 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Audit**

**30.19** (1) The Auditor General appointed under the *Auditor General Act* may conduct an audit of the administrative authority, other than an audit required under the *Corporations Act*. 2020, c. 16, Sched. 1, s. 2.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 30.19 (1) of the Act is amended by striking out “*Corporations Act*” and substituting “*Not-for-Profit Corporations Act, 2010*”. (See: 2020, c. 16, Sched. 1, s. 4)

### **Access to records and information**

(2) When the Auditor General conducts an audit under subsection (1), the administrative authority shall give the Auditor General and employees of the Auditor General access to all records and other information required to conduct the audit. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2, 4 - not in force

### **Annual report**

**30.20** (1) Each year and at any other time the Minister requires, the board of directors of the administrative authority shall report to the Minister on its activities and financial affairs as they relate to this Act and the administrative agreement. 2020, c. 16, Sched. 1, s. 2.

### **Form and contents**

(2) The report shall be in a form that is acceptable to the Minister and shall provide the information that the Minister requires. 2020, c. 16, Sched. 1, s. 2.

### **Disclosure by board**

(3) The board shall publish the report on the administrative authority’s website and by any other method within the period and in the manner the Minister requires. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

## **POWERS AND DUTIES OF ADMINISTRATIVE AUTHORITY**

### **Additional powers**

**30.21** (1) Subject to subsection (2), the administrative authority may carry out other activities in accordance with its objects or purposes, as set out in the authority’s letters patent. 2020, c. 16, Sched. 1, s. 2.

### **Commercial activity**

(2) The administrative authority shall not engage in commercial activity through an individual, corporation or entity that is related to the administrative authority, except as permitted by the regulations. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Change to objects or purposes**

**30.22** (1) Subject to section 30.9, the Minister may require that the administrative authority make a specified change to its objects or purposes. 2020, c. 16, Sched. 1, s. 2.

### **Same**

(2) No change shall be made to the administrative authority’s objects or purposes unless the Minister’s written approval is obtained in advance. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Right to use French**

**30.23** (1) A person has the right to communicate in French with, and to receive available services in French, from the administrative authority. 2020, c. 16, Sched. 1, s. 2.

#### **Board to ensure**

(2) The board of directors of the administrative authority shall take all reasonable measures and make all reasonable plans to ensure that persons may exercise the right to use French given by this section. 2020, c. 16, Sched. 1, s. 2.

#### **Limitation**

(3) The right to use French given by this section is subject to the limits that are reasonable in the circumstances. 2020, c. 16, Sched. 1, s. 2.

#### **Definition**

(4) In this section,

“service” means any service or procedure that is provided to the public by the administrative authority in administration of the delegated provisions and includes responding to inquiries from members of the public and any other communications for the purpose of providing the service or procedure. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Consultations**

**30.24** The Minister may require the administrative authority to do any of the following:

1. Conduct consultations with the public or persons or entities that have relevant experience or knowledge on any matter that the Minister specifies related to this Act or the building code.
2. Advise or report to the Minister on any matter related to,
  - i. an advisory council established under section 30.25,
  - ii. this Act or the building code, or
  - iii. the administrative authority’s objects or purposes as set out in the authority’s letters patent. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Advisory council, advisory process**

**30.25** The Minister may require the administrative authority to,

- (a) establish one or more advisory councils;
- (b) include as members of an advisory council representatives of principal authorities, professional engineers, architects and such other persons as the Minister considers appropriate; and
- (c) undertake an advisory process in which it ensures that the advisory council seeks advice from one or both of the public and persons with experience or knowledge relating to the delegated provisions. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Duty to inform Minister**

**30.26** The administrative authority shall promptly inform and advise the Minister with respect to,

- (a) any material fact that could affect the administrative authority’s ability to perform its duties under this Act or the regulations;
- (b) any urgent or critical matter that is likely to require action by the Minister to ensure that the administration of the delegated provisions is carried out properly; or

- (c) any failure in construction or demolition standards that could be hazardous to public health or safety, as may be specified in the administrative agreement. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

**Advice of administrative authority**

**30.27** The administrative authority shall advise or report to the Minister on any matter that the Minister refers to it and that relates to this Act or the administration of the delegated provisions. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

**Form and fees**

**30.28** (1) The administrative authority may,

- (a) establish forms related to the administration of the delegated provisions;
- (b) set and collect fees, costs or other charges related to the administration of the delegated provisions, in accordance with processes and criteria established by the administrative authority and approved by the Minister; and
- (c) make rules governing the payment of fees, costs and charges described in clause (b). 2020, c. 16, Sched. 1, s. 2.

**Setting fees**

(2) In setting the fees, costs and other charges described in clause (1) (b), the administrative authority may specify their amounts or the method for determining the amounts. 2020, c. 16, Sched. 1, s. 2.

**Fees for permits**

(3) Without limiting the generality of clause (1) (b), the administrative authority may set and collect fees, costs and other charges in respect of applications for permits in any area of the province even if the administrative authority is not the principal authority with respect to that area. 2020, c. 16, Sched. 1, s. 2.

**Agents**

(4) The administrative authority may require certain persons or entities to collect the fees, costs or other charges described in subsection (3) as agents for the administrative authority. 2020, c. 16, Sched. 1, s. 2.

**Publication of fee schedule**

(5) The administrative authority,

- (a) shall publish the fees, costs and charges, the processes and criteria and the rules on its website and in any other way described in the administrative agreement; and
- (b) may publish them in any other format the administrative authority considers advisable. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

**MISCELLANEOUS**

**Administrator**

**30.29** (1) Subject to section 30.9, the Minister may, by order, appoint an individual as an administrator of the administrative authority for the purposes of assuming control of it and responsibility for its activities. 2020, c. 16, Sched. 1, s. 2.

**Notice of appointment**

(2) The Minister shall give the administrative authority's board of directors the notice that the Minister considers reasonable in the circumstances before appointing the administrator. 2020, c. 16, Sched. 1, s. 2.

**Immediate appointment**

(3) Subsection (2) does not apply if there are not enough members on the board to form a quorum. 2020, c. 16, Sched. 1, s. 2.

**Term of appointment**

(4) The appointment of the administrator is valid until the Minister makes an order terminating it. 2020, c. 16, Sched. 1, s. 2.

**Powers and duties of administrator**

(5) Unless the order appointing the administrator provides otherwise, the administrator has the exclusive right to exercise all the powers and perform all the duties of the members of the board of directors, officers and members of the administrative authority. 2020, c. 16, Sched. 1, s. 2.

**Same**

(6) In the order appointing the administrator, the Minister may specify the administrator's powers and duties and the conditions governing them. 2020, c. 16, Sched. 1, s. 2.

**Right of access**

(7) The administrator has the same rights as the board in respect of the administrative authority's documents, records and information. 2020, c. 16, Sched. 1, s. 2.

**Report to Minister**

(8) The administrator shall report to the Minister as the Minister requires. 2020, c. 16, Sched. 1, s. 2.

**Minister's directions**

(9) The Minister may issue directions to the administrator with regard to any matter within the administrator's jurisdiction, and the administrator shall carry them out. 2020, c. 16, Sched. 1, s. 2.

**No personal liability**

- (10) No action or other proceeding shall be instituted against the administrator or a former administrator for,
- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a power or duty under sections 30.1 to 30.37 or the regulations made for the purposes of those sections; or
  - (b) any neglect or default in the exercise or performance in good faith of such a power or duty. 2020, c. 16, Sched. 1, s. 2.

**Crown liability**

(11) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (10) of this section does not relieve the Crown of liability to which it would otherwise be subject. 2020, c. 16, Sched. 1, s. 2.

**Liability of delegated administrative authority**

(12) Subsection (10) does not relieve the administrative authority of liability to which it would otherwise be subject. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

**Status of board during administrator's tenure**

**30.30** (1) On the appointment of an administrator under section 30.29, the members of the board of the administrative authority cease to hold office, unless the order provides otherwise. 2020, c. 16, Sched. 1, s. 2.

**Same**

(2) During the term of the administrator's appointment, the powers of any member of the board who continues to hold office are suspended, unless the order provides otherwise. 2020, c. 16, Sched. 1, s. 2.

**No personal liability**

(3) No action or other proceeding shall be instituted against a member or former member of the board for anything done by the administrator or the administrative authority after the member's removal under subsection (1) or while the member's powers are suspended under subsection (2). 2020, c. 16, Sched. 1, s. 2.

**Crown liability**

(4) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (3) of this section does not relieve the Crown of liability to which it would otherwise be subject. 2020, c. 16, Sched. 1, s. 2.

**Liability of administrative authority**

(5) Subsection (3) does not relieve the administrative authority of liability to which it would otherwise be subject. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Chief building inspector, assistant chief building inspectors and inspectors**

##### **Appointment**

**30.31** (1) If the administration of any provisions of this Act and the regulations, other than those relating to registration and qualification referred to in section 30.32, is delegated to the administrative authority, the board of directors of the authority shall appoint a chief building inspector and may appoint one or more assistant chief building inspectors and such inspectors as are necessary for the enforcement of this Act in the areas in which the administrative authority has jurisdiction. 2020, c. 16, Sched. 1, s. 2.

##### **Restrictions**

(2) A person appointed as the licensing registrar or an assistant licensing registrar under section 30.32 or as the director or an assistant director under section 30.33 shall not be appointed as the chief building inspector, an assistant chief building inspector or an inspector. 2020, c. 16, Sched. 1, s. 2.

##### **Certificate of appointment**

(3) The administrative authority shall issue to the chief building inspector and every assistant chief building inspector and inspector a certificate of appointment. 2020, c. 16, Sched. 1, s. 2.

##### **Powers and duties**

(4) The chief building inspector and every assistant chief building inspector and inspector shall exercise the powers and perform such duties as may be assigned by the administrative authority, this Act or the regulations. 2020, c. 16, Sched. 1, s. 2.

##### **Assistant chief building inspector to act as chief building inspector**

(5) Subject to subsection (6), an assistant chief building inspector shall act as the chief building inspector in the chief building inspector's absence. 2020, c. 16, Sched. 1, s. 2.

##### **Same, if more than one assistant chief building inspector**

(6) If more than one assistant chief building inspector is appointed, only one assistant chief building inspector may act at one time as the chief building inspector. 2020, c. 16, Sched. 1, s. 2.

##### **Limitation on authority**

(7) The administrative authority may, in the appointment of an assistant chief building inspector or an inspector, limit the authority of the assistant chief building inspector or the inspector in such manner as the authority considers necessary or advisable. 2020, c. 16, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

#### **Licensing registrar, assistant licensing registrars**

##### **Appointment**

**30.32** (1) If the administration of any of the following provisions is delegated to the administrative authority, the board of directors of the authority shall appoint a licensing registrar and may appoint one or more assistant licensing registrars for the purpose of those delegated provisions:

1. Section 15.11, 15.12 or 15.13.
2. A provision of the building code, as may be prescribed by regulation, related to the qualifications and registration of persons described in sections 15.11 and 15.12 and the requirement in section 15.13 for insurance coverage. 2020, c. 16, Sched. 1, s. 2.

##### **Restrictions**

(2) A person appointed as the chief building inspector, an assistant chief building inspector or inspector under section 30.31 or as the director or an assistant director under section 30.33 shall not be appointed as the licensing registrar or an assistant licensing registrar. 2020, c. 16, Sched. 1, s. 2.

##### **Powers and duties**

(3) The licensing registrar and every assistant licensing registrar shall exercise the powers and perform such duties as may be assigned by the administrative authority, this Act or the regulations. 2020, c. 16, Sched. 1, s. 2.

**Assistant licensing registrar to act as licensing registrar**

(4) Subject to subsection (5), an assistant licensing registrar shall act as the licensing registrar in the licensing registrar's absence. 2020, c. 16, Sched. 1, s. 2.

**Same, if more than one assistant licensing registrar**

(5) If more than one assistant licensing registrar is appointed, only one assistant licensing registrar may act at one time as the licensing registrar. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

**Director, assistant directors****Appointment**

**30.33** (1) If the administration of any provisions of this Act and the regulations is delegated to the administrative authority, the board of directors of the authority shall appoint a director and may appoint one or more assistant directors for the purpose of those delegated provisions. 2020, c. 16, Sched. 1, s. 2.

**Restrictions**

(2) A person appointed as the chief building inspector, an assistant chief building inspector or inspector under section 30.31 or as the licensing registrar or an assistant licensing registrar under section 30.32 shall not be appointed as the director or an assistant director. 2020, c. 16, Sched. 1, s. 2.

**Powers and duties**

(3) The director and every assistant director shall exercise the powers and perform such duties as may be assigned by the administrative authority, this Act or the regulations. 2020, c. 16, Sched. 1, s. 2.

**Assistant director to act as director**

(4) Subject to subsection (5), an assistant director shall act as the director in the director's absence. 2020, c. 16, Sched. 1, s. 2.

**Same, if more than one assistant director**

(5) If more than one assistant director is appointed, only one assistant director may act at one time as the director. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

**Who may be appointed**

**30.34** A person shall not be appointed under section 30.31, 30.32 or 30.33 unless the person is an employee of the administrative authority. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

**Appointments in writing**

**30.35** Appointments under sections 30.31, 30.32 and 30.33 shall be made in writing. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

**Status as officer**

**30.36** A person appointed under section 30.31, 30.32 or 30.33 is an officer of the administrative authority. 2020, c. 16, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Offences, administrative authority**

**30.37** (1) If the administrative authority contravenes this Act or the regulations, the authority is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues. 2020, c. 16, Sched. 1, s. 2.

### **Individuals**

(2) A member of the board of directors, officer, employee or agent of the administrative authority who contravenes this Act or the regulations is guilty of an offence. 2020, c. 16, Sched. 1, s. 2.

### **Parties to offences**

- (3) A member of the board of directors or officer of the administrative authority is guilty of an offence if he or she,
- (a) causes, authorizes, permits or participates in the commission by the administrative authority of an offence mentioned in subsection (1); or
  - (b) fails to take reasonable care to prevent the administrative authority from committing an offence mentioned in subsection (1). 2020, c. 16, Sched. 1, s. 2.

### **Penalty, individual**

(4) A person who is convicted of an offence under subsection (2) or (3) is liable to a fine of not more than \$25,000 for each day or part of a day on which the offence occurs or continues. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

### **Regulations, administrative authority**

**30.38** (1) The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers necessary or desirable for the administrative authority to administer the delegated provisions. 2020, c. 16, Sched. 1, s. 2.

### **Same**

- (2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
- (a) respecting anything that in sections 30.1 to 30.37 may or must be prescribed, done or provided for by regulation;
  - (b) requiring the administrative authority to collect and publish statistics on its activities and financial affairs in accordance with the requirements specified in the regulations;
  - (c) governing the disclosure of information for the purposes of clause 30.11 (1) (b) and subsection 30.11 (2);
  - (d) governing the processes and procedures for the purposes of subsection 30.11 (4);
  - (e) governing commercial activities referred to in subsection 30.21 (2) that the administrative authority may engage in through an individual, corporation or other entity, including respecting the manner in which an entity may or may not be related to the authority for the purposes of that subsection;
  - (f) providing for transitional matters arising from the enactment of Schedule 1 to the *Protecting Tenants and Strengthening Community Housing Act, 2020*. 2020, c. 16, Sched. 1, s. 2.

### **Limited application**

(3) Any regulation made under this section may be limited in its application territorially or to any class of activity, matter, person or thing. 2020, c. 16, Sched. 1, s. 2.

### **Same**

(4) A class under this Act may be defined with respect to any attribute, quality or characteristic and may be defined to consist of, include or exclude any specified member, whether or not with the same attributes, qualities or characteristics. 2020, c. 16, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 1, s. 2 - not in force

## GENERAL

### Immunity from action

**31** (1) No action or other proceeding for damages shall be instituted against the director, a member of the Building Code Commission or the Building Materials Evaluation Commission, or anyone acting under their authority, a person conducting an inquiry under section 30, a chief building official, an inspector or an officer for any act done in good faith in the execution or intended execution of any power or duty under this Act or the regulations or for any alleged neglect or default in the execution in good faith of that power or duty. 1992, c. 23, s. 31 (1); 1997, c. 24, s. 224 (16).

### Liability

(2) Subsection (1) does not relieve the Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority of liability in respect of a tort committed by their respective chief building official or inspectors to which they would otherwise be subject and the Crown, municipality or upper-tier municipality, board of health, planning board or conservation authority is liable for any such tort as if subsection (1) were not enacted. 2002, c. 17, Sched. F, Table.

### Immunity re registered code agencies

(3) The Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority is not liable for any harm or damage resulting from any act or omission by a registered code agency or by a person authorized by a registered code agency under subsection 15.17 (1) in the performance or intended performance of any function set out in section 15.15. 2002, c. 9, s. 47; 2002, c. 17, Sched. C, s. 6 (1).

### Same

(4) The Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority is not liable for any harm or damage resulting from any act or omission in the execution or intended execution of any power or duty under this Act or the regulations by their respective chief building official or inspectors if the act was done or omitted in reasonable reliance on a certificate issued or other information given under this Act by a registered code agency or by a person authorized by a registered code agency under subsection 15.17 (1). 2002, c. 9, s. 47; 2002, c. 17, Sched. C, s. 6 (2).

### Section Amendments with date in force (d/m/y)

1997, c. 24, s. 224 (16) - 17/06/1998; 1997, c. 30, Sched. B, s. 15 - 06/04/1998; 1999, c. 12, Sched. M, s. 10 - 22/12/1999  
2002, c. 9, s. 46, 47 - 01/07/2005; 2002, c. 17, Sched. C, s. 6 (1, 2) - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

**32** REPEALED: 2002, c. 9, s. 48.

### Section Amendments with date in force (d/m/y)

2002, c. 9, s. 48 - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

**32.1** REPEALED: 2002, c. 9, s. 49.

### Section Amendments with date in force (d/m/y)

1997, c. 30, Sched. B, s. 16 - 06/04/1998  
2002, c. 9, s. 49 - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

**33** REPEALED: 2002, c. 9, s. 50.

### Section Amendments with date in force (d/m/y)

2002, c. 9, s. 50 - 01/07/2005; 2002, c. 17, Sched. F, Table - 01/01/2003

### Regulations

**34** (0.1) The Minister may make such regulations as are desirable governing standards for the construction and demolition of buildings. 2020, c. 18, Sched. 1, s. 3 (1).

### Same

(1) Without limiting the generality of subsection (0.1), the Minister may make regulations,

1. designating structures that are to be defined as buildings under subsection 1 (1);

1.0.1 prescribing persons for the purposes of the definition of “building owner” in subsection 1 (1);

1.1 prescribing the functions for which a registered code agency may be appointed under subsection 4.1 (4);

1.2 prescribing the information that a principal authority is required to give to the director under subsection 4.1 (8);

- 1.3 prescribing the persons who may appoint a registered code agency under subsection 4.2 (2);
- 1.4 prescribing the manner in which the appointment of a registered code agency under section 4.2 may be made and prescribing conditions and restrictions with respect to each appointment;
- 1.5 prescribing the information that a person who appoints a registered code agency is required to give to the director under subsection 4.2 (9) or to the chief building official under subsection 4.2 (10);
2. prescribing the conditions under which “as constructed plans” may be required by a chief building official under clause 7 (g);
- 2.1 prescribing the information about the fees and costs to be included in a report under subsection 7 (4) and the manner in which the report is to be made available to the public;
- 2.2 prescribing the persons to whom notice of proposed changes in fees is to be given under subsection 7 (6), the information to be included in the notice and the manner in which the notice is to be given;
- 2.3 prescribing the period within which the public meeting referred to in subsection 7 (6) must be held;
- 2.4 prescribing the records to be maintained by a principal authority and the period for which the records must be retained;
3. governing the manner of construction and types and quality of materials used therein;
- 3.1 establishing objectives governing the standards for the construction and demolition of buildings;
- 3.2 prescribing the persons who may apply for a permit under section 8 and the information to be provided with an application for a permit under section 8;
- 3.3 prescribing the information that a plans review certificate must contain for the purposes of clause 8 (2) (d);
- 3.4 prescribing requirements and circumstances for the purposes of subsection 8 (2.2) and prescribing the period within which the chief building official is required to make a decision under subsection 8 (2.2) and the manner of determining when the period begins;
- 3.4.1 prescribing the period within which the chief building official is required to inform an applicant under subsection 8 (2.3) and the manner of determining when the period begins;
- 3.5 prescribing the information that a plans review certificate must contain under subsection 8 (2.1) and a change certificate must contain under subsection 8 (14);
4. setting out the applicable laws with which compliance must be achieved before a conditional permit may be issued under subsection 8 (3);
- 4.1 prescribing the information that a chief building official is required to give under subsection 8 (8.1) and prescribing the period within which and the manner in which the chief building official shall give the information;
5. governing the design of buildings and the use to which they may be put;
6. REPEALED: 2009, c. 33, Sched. 21, s. 2 (7).
7. setting out rules and policies to be observed in the interpretation of the building code by any person exercising a power or discretion conferred under the Act or the building code;
8. determining an increase in hazard for the purposes of section 10;
9. REPEALED: 2020, c. 18, Sched. 1, s. 3 (3).
- 9.1 requiring any part of the construction of a building described in clauses 11 (3) (a) and (b) of the *Architects Act* or subsection 12 (4) and clause 12 (5) (a) of the *Professional Engineers Act* to be designed by an architect or a professional engineer or a combination of both;
10. requiring any part of the design, construction or demolition of a building to be under the general review of an architect or a professional engineer or a combination of both and that copies of reports arising from the general review be provided to the chief building official or to a registered code agency;
11. designating organizations to test prefabricated building units to the standards prescribed by the building code and providing for the placing of their label on units that conform to the standards;
12. requiring the approval of an inspector or a registered code agency in respect of any method, matter or thing;

13. requiring the posting on buildings or sites of construction or demolition of such documents or information as is prescribed;
14. requiring such documents, information, records, drawings or specifications as are prescribed to be kept on the site of construction or demolition;
- 14.1 prescribing the records to be kept by any person and the returns of information and reports to be made by any person and providing for the inspection and examination of the records;
15. requiring notice to be given to the chief building official, an inspector or a registered code agency respecting any matter in the course of construction, including notice of readiness for inspection at the stages of construction of a building, and specifying the person required to give the notices;
- 15.1 prescribing the type and manner of inspections for the purposes of subsection 10.2 (2) (readiness for inspection) and prescribing the period within which the inspections must be carried out;
- 15.2 prescribing the information that must be given to the chief building official about a person who is required by subsection 15.12 (3) to have certain qualifications or to meet certain requirements or both;
- 15.3 prescribing the information that must be given to the chief building official under subsection 15.13 (5) about any person required to have insurance coverage and about the coverage;
- 15.4 prescribing the manner in which a referral to the chief building official under subsection 14 (5) must be made;
16. requiring notice to be given to the chief building official respecting the change in prescribed classes of use made of a building;
17. requiring the chief building official to transmit to the director such returns or reports as are prescribed;

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 17 of subsection 34 (1) of the Act is repealed and the following substituted: (See: 2020, c. 16, Sched. 1, s. 5)**

17. requiring the chief building official to prepare, keep and transmit to the director or administrative authority such documents, information, records, returns or reports as are prescribed;
- 17.1 prescribing documentation, records or other information for purposes of section 15.10.4, the manner in which the documentation, records or other information is to be provided and the persons to whom the documentation, records or other information is to be given;
- 17.2 prescribing matters for the purpose of subclause 15.10.5 (1) (a) (ii);
- 17.3 prescribing provisions and matters relating to policies described in subsection 15.10.5 (1);
- 17.4 governing the recording of complaints and enforcement action for the purpose of subsection 15.10.6 (1);
- 17.5 prescribing information about complaints and enforcement action to be provided under subsection 15.10.6 (2) and the circumstances and the manner in which the information is to be provided;
- 17.6 prescribing other means for indicating that the requirements of an order have been satisfied for the purpose of subsections 12 (8), 13 (3.3), 14 (3.4), 15.9 (5.5), 15.10 (2.4), 15.10.1 (9) and 15.10.3 (7);
18. prescribing conditions under which a building or any part of a building may be occupied, including requiring notice to be given to a chief building official or registered code agency and requiring permission to be received from the official or agency before the building or part may be occupied;
19. exempting any building or person or class thereof from compliance with all or any part of this Act and the regulations and prescribing conditions for the exemption;
20. prescribing the form of a warrant and the form in which the information upon oath will be taken under section 21;
21. requiring the alteration of any part of an existing building where construction in relation to the building affects that part;
22. requiring the payment of fees in respect of applications to the Building Materials Evaluation Commission and prescribing the amounts thereof;
- 22.1 prescribing the manner in which the Minister's written interpretations under section 28.1 are to be made available to the public;
23. designating materials evaluation bodies for the purposes of section 29;

24. establishing criteria to be followed by the Minister in respect of a ruling under section 29;
25. prescribing procedures of the Building Code Commission and the Building Materials Evaluation Commission;
26. prescribing the persons to whom notice shall be given of the issuance of a permit, the time for giving the notice and the class of buildings for which notice is required;
27. defining, for the purposes of this Act and the building code, any word or expression not defined in this Act, and in so doing may define a word or expression differently for different provisions;
28. prescribing forms and providing for their use or requiring that forms provided by the Minister or the director be used, and prescribing the information that must be contained in the forms;
29. prescribing boards of health, planning boards and conservation authorities that are responsible for the enforcement of the provisions of this Act related to sewage systems and the municipalities and territory without municipal organization in which they will have jurisdiction to carry out the enforcement;
30. permitting chief building officials or registered code agencies, subject to such conditions as are set out in the building code, to allow the use of materials, systems and building designs other than those prescribed in the building code with respect to the construction of buildings;
31. governing the location of sewage systems;
32. designating areas in which any class of sewage system may not be established;
33. prescribing qualifications for chief building officials, inspectors, registered code agencies, designers and other persons referred to in section 15.12 and related matters including,
  - i. requiring different qualifications for different classes of officials, inspectors, agencies, designers and other persons,
  - ii. requiring assessments or examinations in connection with obtaining or maintaining the required qualifications,
  - iii. establishing one or more registers identifying persons with qualifications and such other information as the regulation may require, and
  - iv. requiring fees to be paid in connection with the qualifications;

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 33 of subsection 34 (1) of the Act is repealed and the following substituted: (See: 2017, c. 34, Sched. 2, s. 24 (2))**

33. prescribing qualifications for chief building officials, inspectors, registered code agencies, designers and other persons referred to in sections 15.11 and 15.12 and related matters including,
  - i. requiring different qualifications for different classes of officials, inspectors, agencies, designers and other persons,
  - ii. requiring education, training, accreditation, continuing professional development, assessments or examinations in connection with obtaining or maintaining the required qualifications,
  - iii. establishing one or more registers identifying persons with qualifications and such other information as the regulation may require, and
  - iv. requiring fees to be paid in connection with the qualifications;
- 33.1 governing a continuing education and professional development program for chief building officials, inspectors, registered code agencies, designers and other persons referred to in sections 15.11 and 15.12, which may include establishing a process for conducting reviews;
34. establishing certification, registration or licensing schemes for chief building officials, inspectors, registered code agencies, designers and other persons referred to in sections 15.11 (qualifications) and 15.12 (qualifications re sewage systems) which may include provision for,
  - i. the eligibility or ineligibility of classes of persons to obtain certification, registration or a licence,
  - ii. categories or classes of certification, registration or licence,
  - iii. application for the issuance, amendment or renewal of a certificate, registration or a licence,
  - iv. the issuance, amendment or renewal of a certificate, registration or a licence or the refusal to do so,
  - v. suspension, revocation or cancellation of a certificate, registration or a licence,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subparagraph 34 v of subsection 34 (1) of the Act is amended by adding “disciplinary action that may be taken, including” at the beginning. (See: 2017, c. 34, Sched. 2, s. 24 (3))**

- vi. the imposition of conditions relating to a certificate, registration or licence, including conditions relating to the qualifications of directors, officers, partners, employees and others associated with the holder of the certificate, registration or licence, conditions relating to the manner in which specified persons carry out activities under this Act and the building code and conditions relating to insurance coverage, including the kinds and amounts of insurance and the circumstances in which a person will be considered to be covered by insurance,
  - vii. the establishment and maintenance of one or more registers containing information about the holders of certificates, registrations or licences and containing such information as may be given to the director under paragraph 35.1, and
  - viii. fees payable in connection with certification, registration or licensing;
35. prescribing an appeal to a prescribed tribunal from a refusal to issue or renew a certificate, registration or licence or a suspension, revocation or cancellation of a certificate, registration or licence, prescribing the circumstances in which the decision appealed from takes effect immediately despite the appeal, and prescribing the circumstances in which the tribunal may stay the decision pending the outcome of the appeal;
- 35.1 requiring the Ontario Association of Architects and the Association of Professional Engineers of Ontario to give the prescribed information to the director;
- 35.2 prescribing fees payable to the Crown by the Ontario Association of Architects and the Association of Professional Engineers of Ontario in connection with the registers referred to in paragraphs 33 and 34 and in respect of the development of training materials for a purpose described in paragraph 33 or 34;
- 35.3 prescribing the persons who are required under subsection 15.13 (1) to have insurance coverage and prescribing the kinds and amounts of insurance that are required and the circumstances in which the person will be considered to be covered by insurance;
- 35.4 prescribing additional functions that registered code agencies may perform;
- 35.5 prescribing the manner in which registered code agencies and persons authorized by them under subsection 15.17 (1) are required to perform any of their functions;
- 35.6 prescribing the manner in which a registered code agency is authorized to collect, use and disclose information;
- 35.7 prescribing circumstances in which a registered code agency may be appointed in respect of a building even though an inspector or another registered code agency has already carried out a function described in section 15.15;
- 35.8 prescribing circumstances in which a registered code agency cannot be appointed, including circumstances that would constitute a conflict of interest for a registered code agency;
- 35.9 prescribing the information that a registered code agency is required to give to the director or to the chief building official;
- 35.10 prescribing the classes of persons that may be authorized by a registered code agency under subsection 15.17 (1), the conditions to which the authorization may be subject and the information that must be included in a certificate of authorization;
- 35.11 prescribing certificates and the form of certificates referred to in subsection 15.18 (2), the information that the certificates are required to contain and the circumstances and manner in which registered code agencies are permitted to issue them;
- 35.12 prescribing the circumstances in which the appointment of a registered code agency may be terminated and the conditions that must be met before the termination of an appointment, including,
- i. requiring the consent of the director and authorizing the director to impose conditions and restrictions in connection with the consent, and
  - ii. authorizing an appeal to a person specified in the regulations from a decision of the director or conditions imposed by the director;
36. designating persons, specifying powers of a chief building official or inspector that those designated persons may exercise to enforce this Act and the building code in relation to the qualifications of persons described in sections 15.11 and 15.12 and the requirement in section 15.13 for insurance coverage, and establishing conditions for the exercise of the specified powers;

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 36 of subsection 34 (1) of the Act is amended by adding “and registration” after “qualifications”. (See: 2017, c. 34, Sched. 2, s. 24 (4))**

37. prescribing any transitional matters necessary for the regulation of sewage systems, including matters relating to,
  - i. licensing and certification and the qualifications of inspectors and persons described in subsection 15.12 (1),
  - ii. certificates of approval and orders issued under the *Environmental Protection Act*,
  - iii. enforcement issues,
  - iv. matters commenced under the *Environmental Protection Act*, including appeals,
  - v. records and documents to be kept or transferred and the payment of associated costs,
  - vi. certification of records and their use in courts,
  - vii. the continuation of matters commenced under the *Environmental Protection Act*, and
  - viii. the transfer of responsibilities involving any municipality or any board of health, conservation authority or planning board prescribed under section 3.1;
38. permitting the Building Code Commission to sit in one or more divisions simultaneously upon such conditions as may be prescribed in the regulation;
39. authorizing one member of the Building Code Commission, with the approval of the chair or vice-chair, to hear and determine any matter and deeming the member to constitute the commission for that purpose, under such conditions as may be prescribed in the regulation;
- 39.1 prescribing relationships for the purposes of clause 23 (3) (d) (eligibility to be a member of the Commission);
- 39.2 prescribing the period within which the Building Code Commission must hold a hearing in respect of a dispute described in clause 24 (1) (b) or (c);
- 39.3 providing for transitional provisions relating to the effect of a repeal or re-enactment of any provision of this Act;
- 39.4 prescribing provisions of the building code for the purposes of section 97.1 of the *Municipal Act, 2001* and section 108.1 of the *City of Toronto Act, 2006*;
- 39.5 prescribing conditions and limits for the purposes of section 97.1 of the *Municipal Act, 2001* and section 108.1 of the *City of Toronto Act, 2006*;
- 39.6 providing for the approval of an inspector who is the chief of the fire department of a municipality respecting fire safety matters and prescribing circumstances under which approval of the inspector may be required;
40. prescribing any matter referred to in this Act as prescribed. 1992, c. 23, s. 34 (1); 1997, c. 30, Sched. B, s. 17 (1-4); 1999, c. 12, Sched. M, s. 11; 2002, c. 9, s. 51 (1, 2, 4-14); 2006, c. 19, Sched. O, s. 1 (12-17); 2006, c. 35, Sched. C, s. 8 (3); 2009, c. 33, Sched. 21, s. 2 (5-7); 2014, c. 7, Sched. 3, s. 3; 2017, c. 10, Sched. 4, s. 1; 2017, c. 34, Sched. 2, s. 24 (1, 5); 2020, c. 18, Sched. 1, s. 3 (2, 3).

#### **Adoption by reference**

(1.1) The Minister may make regulations adopting by reference any of the following documents, in whole or in part, with such changes as the Minister considers necessary, and requiring compliance with any provision of a document so adopted:

1. The National Building Code of Canada 2015, the National Plumbing Code of Canada 2015, the National Energy Code of Canada for Buildings 2017, the National Farm Building Code of Canada 1995 or any subsequent versions of those codes.
2. A code, formula, standard, guideline, protocol or procedure that requires any part of the construction of a building to be designed by an architect or a professional engineer or a combination of both.
3. Any other code, formula, standard, guideline, protocol or procedure. 2020, c. 18, Sched. 1, s. 3 (4).

#### **Standards for existing buildings**

(2) The Minister may make regulations to establish standards that existing buildings must meet even though no construction is proposed, including regulations,

- (a) prescribing any or all of the matters set out in subsections (0.1) and (1) as applicable to existing buildings;
- (b) establishing standards for maintenance, retrofit, operation, occupancy and repair;

- (c) prescribing standards related to resource conservation and environmental protection; and
- (d) prescribing standards, methods and equipment for the inspection, cleaning, disinfecting and emptying of sewage systems. 1992, c. 23, s. 34 (2); 1997, c. 30, Sched. B, s. 17 (5); 2006, c. 22, s. 112 (10); 2020, c. 18, Sched. 1, s. 3 (5, 6).

#### **Discretionary maintenance inspection programs**

- (2.1) The Minister may make regulations governing programs established under clause 7 (1) (b.1), including regulations,
- (a) governing the classes of buildings and area affected by a program;
  - (b) governing the type and manner of inspections that are conducted under a program and the frequency of the inspections;
  - (c) authorizing the principal authority that establishes a program, as an alternative to conducting an inspection, to accept a certificate, in a form approved by the Minister, that is signed by a person who belongs to a class of persons specified by the regulations and that confirms that the person has conducted an inspection and is of the opinion that the building that was inspected complies with the standards prescribed under clause (2) (b) that are enforced by the program. 2006, c. 22, s. 112 (11); 2020, c. 18, Sched. 1, s. 3 (5).

#### **Sewage system maintenance inspection programs**

- (2.2) The Minister may make regulations establishing and governing programs to enforce standards prescribed under clause (2) (b) in relation to sewage systems, including regulations,
- (a) governing the classes of sewage systems affected by the program;
  - (b) requiring a principal authority that has jurisdiction in the area affected by the program to administer the program for that area and to conduct inspections under the program;
  - (c) governing the type and manner of inspections that are conducted under the program and the frequency of the inspections;
  - (d) authorizing the principal authority that administers the program, as an alternative to conducting an inspection, to accept a certificate, in a form approved by the Minister, that is signed by a person who belongs to a class of persons specified by the regulations and that confirms that the person has conducted an inspection and is of the opinion that the sewage system that was inspected complies with the standards prescribed under clause (2) (b) that are enforced by the program. 2006, c. 22, s. 112 (11); 2020, c. 18, Sched. 1, s. 3 (5).

#### **Building condition evaluation programs**

- (2.3) The Minister may make regulations establishing and governing programs to enforce standards prescribed under clause (2) (b) in relation to buildings other than sewage systems, including regulations,
- (a) governing the classes of buildings and area affected by or subject to the programs;
  - (b) requiring a principal authority that has jurisdiction in an area affected by a program to administer the program for that area;
  - (c) requiring building condition evaluations to be conducted by persons who belong to a specified class of persons, which may include a holder of any licence or certificate issued under the *Architects Act* or the *Professional Engineers Act* or a class of such holders;
  - (d) governing the type and manner of building condition evaluations that are conducted under a program, the frequency of the evaluations or the manner for determining when evaluations are required;
  - (e) authorizing a chief building official or inspector to require a building condition evaluation be conducted and governing the circumstances in which he or she may do so;
  - (f) requiring a person described in clause (c) who conducts a building condition evaluation to prepare a report in a form approved by the Minister, that is signed by that person and that contains and confirms the prescribed information;
  - (g) requiring a person described in clause (c) who prepares a report described in clause (f) to, in the prescribed circumstances and within the prescribed period, provide a copy of the report to the building owner, chief building official and other prescribed persons;
  - (h) requiring a person described in clause (c) to notify the building owner, chief building official and other prescribed persons within a prescribed period if the person is of the opinion the building is unsafe within the meaning of subsection 15.9 (2) or poses an immediate danger to the health or safety of persons;

- (i) requiring such documents, records or other information as may be prescribed to be kept as prescribed by any person and providing for their production to, or inspection and examination by, prescribed persons. 2017, c. 34, Sched. 2, s. 24 (6); 2020, c. 18, Sched. 1, s. 3 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 34 of the Act is amended by adding the following subsections: (See: 2017, c. 34, Sched. 2, s. 24 (7))**

#### **Administrative penalties**

(2.4) The Lieutenant Governor in Council may make regulations establishing and governing the administrative penalties that may be imposed under section 15.13.1 and 18.1 of this Act and all matters necessary and incidental to the administration of a system of administrative penalties under this Act. 2017, c. 34, Sched. 2, s. 24 (7).

#### **Same**

(2.5) Without limiting the generality of subsection (2.4), the Lieutenant Governor in Council may make regulations,

- (a) prescribing the amount of an administrative penalty or providing for the determination of the amount of the penalty by prescribing the method of calculating the amount and the criteria to be considered in determining the amount;
- (b) providing for different amounts to be paid, or different calculations or criteria to be used, depending on the circumstances that gave rise to the administrative penalty or the time at which the penalty is paid;
- (c) providing for the payment of lump sum amounts and of daily amounts, prescribing the circumstances in which either or both types of amounts may be required;
- (d) prescribing the maximum amount that a person may be required to pay, whether a lump sum amount or a daily amount, and, in the case of a daily amount, prescribing the maximum number of days for which a daily amount may be payable;
- (e) specifying types of contraventions or circumstances in respect of which an administrative penalty may not be ordered;
- (f) prescribing circumstances in which a person is not required to pay an administrative penalty ordered under this Act;
- (g) providing for the form and content of an order requiring payment of an administrative penalty and prescribing information to be included in the order;
- (h) providing for the payment of administrative penalties, prescribing the person or entity to which the penalty is to be paid and providing for the investment of money received from administrative penalties, including the establishment of a special fund, and the use of such money and interest earned thereon;
- (i) prescribing procedures relating to administrative penalties. 2017, c. 34, Sched. 2, s. 24 (7).

#### **Application**

(3) A regulation made under this section applies to buildings whether erected before or after the coming into force of this Act. 1992, c. 23, s. 34 (3).

#### **Limited application**

(4) Any regulation made under this section may be limited in its application territorially or to any class of activity, matter, person or thing. 1997, c. 30, Sched. B, s. 17 (6).

#### **Same**

(4.1) A class under this Act may be defined with respect to any attribute, quality or characteristic and may be defined to consist of, include or exclude any specified member whether or not with the same attributes, qualities or characteristics. 1997, c. 30, Sched. B, s. 17 (6).

#### **Retroactive**

(4.2) A regulation made under paragraph 37 of subsection (1) may be retroactive. 1997, c. 30, Sched. B, s. 17 (6).

#### **Purposes**

(5) The purposes of the regulations made under this section are,

- (a) to establish standards for public health and safety, fire protection, structural sufficiency, conservation, including, without limitation, energy and water conservation, and environmental integrity, and to establish barrier-free requirements, with respect to buildings; and
- (b) to establish processes for the enforcement of the standards and requirements. 2002, c. 9, s. 51 (15); 2009, c. 12, Sched. J, s. 1 (1).

(6), (7) REPEALED: 2019, c. 14, Sched. 14, s. 2.

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 17 (1-6) - 06/04/1998; 1999, c. 12, Sched. M, s. 11 - 22/12/1999

2002, c. 9, s. 51 (1, 2, 4, 5, 7, 8, 10) - 01/07/2005; 2002, c. 9, s. 51 (3) - no effect - see 2009, c. 33, Sched. 21, s. 3 - 01/07/2010; 2002, c. 9, s. 51 (6, 9, 11-15) - 01/09/2003

2006, c. 19, Sched. O, s. 1 (12-17) - 22/06/2006; 2006, c. 22, s. 112 (10, 11) - 03/07/2007; 2006, c. 35, Sched. C, s. 8 (3) - 20/08/2007

2009, c. 12, Sched. J, s. 1 (1, 2) - 14/05/2009; 2009, c. 33, Sched. 21, s. 2 (5, 6) - 01/01/2011; 2009, c. 33, Sched. 21, s. 2 (7) - 01/07/2010  
2010, c. 19, Sched. 2, s. 1 - 01/04/2011

2014, c. 7, Sched. 3, s. 3 - 24/07/2014

2017, c. 10, Sched. 4, s. 1 - 30/05/2017; 2017, c. 34, Sched. 2, s. 24 (1, 5, 6) - 14/12/2017; 2017, c. 34, Sched. 2, s. 24 (2-4, 7) - not in force  
2019, c. 14, Sched. 14, s. 2 - 10/12/2019

2020, c. 16, Sched. 1, s. 5 - not in force; 2020, c. 18, Sched. 1, s. 3 (1-6) - 21/07/2020

**34.1** REPEALED: 2019, c. 14, Sched. 14, s. 3.

**Section Amendments with date in force (d/m/y)**

2009, c. 12, Sched. J, s. 2 - 14/05/2009

2010, c. 19, Sched. 2, s. 2 (1, 2) - 01/04/2011

2019, c. 14, Sched. 14, s. 3 - 10/12/2019

**Municipal by-laws**

**35** (1) This Act and the building code supersede all municipal by-laws respecting the construction or demolition of buildings.  
1992, c. 23, s. 35 (1).

**Different treatments**

(2) In the event that this Act or the building code and a municipal by-law treat the same subject-matter in different ways in respect to standards for the use of a building described in section 10 or standards for the maintenance or operation of a sewage system, this Act or the building code prevails and the by-law is inoperative to the extent that it differs from this Act or the building code. 1992, c. 23, s. 35 (2); 1997, c. 30, Sched. B, s. 18 (1).

**Interpretation**

(3) For the purpose of this section, a municipal by-law includes a by-law of an upper-tier municipality and a local board as defined in the *Municipal Affairs Act*. 2002, c. 17, Sched. F, Table.

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 18 (1, 2) - 06/04/1998

2002, c. 17, Sched. F, Table - 01/01/2003

**Status of conservation authority regulations**

**35.1** A regulation made by a conservation authority under this Act is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2002, c. 9, s. 52; 2006, c. 21, Sched. F, s. 136 (1).

**Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 52 - 01/07/2005

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

**Offences**

**36** (1) A person is guilty of an offence if the person,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 36 (1) of the Act is amended by adding “other than the administrative authority” after “A person” in the portion before clause (a). (See: 2020, c. 16, Sched. 1, s. 6)

- (a) knowingly furnishes false information in any application under this Act, in any certificate required to be issued or in any statement or return required to be furnished under this Act or the regulations;

- (b) fails to comply with an order, direction or other requirement made under this Act; or
- (c) contravenes this Act, the regulations or a by-law passed under section 7. 1992, c. 23, s. 36 (1); 1997, c. 30, Sched. B, s. 19; 2002, c. 9, s. 53 (1); 2009, c. 33, Sched. 21, s. 2 (8).

#### **Idem**

(2) Every director or officer of a corporation who knowingly concurs in the furnishing of false information, the failure to comply or the contravention under subsection (1) is guilty of an offence. 1992, c. 23, s. 36 (2).

#### **Penalties**

(3) A person who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence. 2005, c. 33, s. 1.

#### **Corporations**

(4) If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$500,000 for a first offence and \$1,500,000 for a subsequent offence and not as provided in subsection (3). 2005, c. 33, s. 1; 2017, c. 34, Sched. 2, s. 25 (1).

#### **Subsequent offence**

(5) For the purposes of subsections (3) and (4), an offence is a subsequent offence if there has been a previous conviction under this Act. 1992, c. 23, s. 36 (5).

#### **Continuing offence**

(6) Every person who fails to comply with an order made by a chief building official under subsection 14 (1) or clause 15.9 (6) (a) or 15.10.3 (8) (a) is guilty of an offence and on conviction, in addition to the penalties mentioned in subsections (3) and (4), is liable to a fine of not more than \$10,000 per day for every day the offence continues after the time given for complying with the order has expired. 1992, c. 23, s. 36 (6); 2002, c. 9, s. 53 (2); 2017, c. 34, Sched. 2, s. 25 (2).

#### **Power to restrain**

(7) If this Act or the regulations are contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by this Act, the court in which the conviction is entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. 1992, c. 23, s. 36 (7).

#### **Limitation period**

(8) No proceeding under this section shall be commenced more than one year after the facts on which the proceeding is based first came to the knowledge of,

- (a) an officer, where the proceeding is in respect of the enforcement of by-laws passed under section 15.1; or
- (b) the chief building official, in any other case. 2009, c. 33, Sched. 21, s. 2 (9).

#### **Same**

(8.1) Subsection (8), as it read immediately before the day subsection 2 (9) of Schedule 21 to the *Good Government Act, 2009* comes into force, continues to apply where the subject-matter of the proceeding arose more than one year before that day. 2009, c. 33, Sched. 21, s. 2 (9).

#### **Proceeds of fines**

(9) If an offence under this section has been committed within a municipality, the proceeds of a fine imposed under this section shall be paid to the treasurer of that municipality, and section 2 of the *Administration of Justice Act* and section 4 of the *Fines and Forfeitures Act* do not apply in respect of the fine. 1992, c. 23, s. 36 (9).

#### **Same, sewage system offences**

(10) Despite subsection (9), if an offence under this section concerns the provisions of this Act and the building code related to sewage systems and if it is committed in a municipality or territory without municipal organization that is prescribed under subsection 3.1 (1), the proceeds of a fine imposed under this section shall be paid to the applicable board of health, planning board or conservation authority prescribed under subsection 3.1 (1), and section 2 of the *Administration of Justice Act* and section 4 of the *Fines and Forfeitures Act* do not apply in respect of the fine. 2002, c. 9, s. 53 (3).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (17) - no effect - see 2000, c. 26, Sched. K, s. 6 (34) - 06/12/2000; 1997, c. 30, Sched. B, s. 19 - 06/04/1998

2002, c. 9, s. 53 (1, 2) - 01/07/2005; 2002, c. 9, s. 53 (3) - 01/09/2003

2005, c. 33, s. 1 - 15/12/2005

2009, c. 33, Sched. 21, s. 2 (8, 9) - 01/07/2010

2017, c. 34, Sched. 2, s. 25 (1, 2) - 14/12/2017

2020, c. 16, Sched. 1, s. 6 - not in force

#### **Proof of directions, orders, etc.**

**37** (1) In any prosecution for an offence under this Act, a copy of a direction or order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is, in the absence of evidence to the contrary, proof of the direction or order without proof of the signature or authority. 1992, c. 23, s. 37 (1).

#### **Same**

(2) A statement as to any matter of record in an office of the chief building official or an officer purporting to be certified by the chief building official or the officer is, without proof of the office or signature of the chief building official or officer, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein in any civil proceeding or proceeding under the *Provincial Offences Act*. 1997, c. 24, s. 224 (18).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (18) - 17/06/1998

#### **Restraining order**

**38** (1) Where it appears to a chief building official that a person does not comply with this Act, the regulations or an order made under this Act, despite the imposition of any penalty in respect of the non-compliance and in addition to any other rights he or she may have, the chief building official may apply to the Superior Court of Justice for an order directing that person to comply with the provision. 1992, c. 23, s. 38 (1); 2002, c. 9, s. 54.

#### **Idem**

(2) Upon the application under subsection (1), the judge may make the order or such other order as the judge thinks fit. 1992, c. 23, s. 38 (2).

#### **Appeal**

(3) An appeal lies to the Divisional Court from an order made under subsection (1). 1992, c. 23, s. 38 (3).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 9, s. 54 - 01/09/2003

#### **Suspension of licence**

**38.1** (1) If a person is in default of payment of a fine imposed upon conviction for an offence under this Act or the regulations, on the application of a prescribed person, an order may be made under subsection 69 (2) of the *Provincial Offences Act* directing that one or more of the licences of the person who is in default be suspended and no licence be issued to that person until the fine is paid. 1997, c. 30, Sched. B, s. 20.

#### **Duty of prescribed person**

(2) A prescribed person shall,

- (a) on being informed of an order referred to in subsection (1), suspend the licence in accordance with the order; and
- (b) on being informed that the fine and any applicable prescribed administrative fee for the reinstatement of the licence are paid, reinstate the licence. 1997, c. 30, Sched. B, s. 20.

#### **No reinstatement**

(3) The prescribed person shall not reinstate a licence under clause (2) (b) if he or she is informed that,

- (a) there is another outstanding order referred to in subsection (1) directing that the licence be suspended; or
- (b) the licence is suspended under any other order or under another statute. 1997, c. 30, Sched. B, s. 20.

#### **Definition**

(4) In this section,

“licence” means a licence, certification or registration under the building code. 2002, c. 9, s. 55.

**Note:** Despite the repeal of the *Building Code Act* (R.S.O. 1990, c. B.13) by the Statutes of Ontario, 1992, chapter 23, subsection 42 (1),

- (a) a permit issued under subsection 5 (1) of that Act is continued as a permit issued under subsection 8 (1) of this Act;
- (b) an order made under that Act is continued as an order made under the corresponding provision of this Act;
- (c) an agreement under section 3 of that Act is continued as an agreement under section 3 of this Act.

See: 1992, c. 23, s. 42.

**Section Amendments with date in force (d/m/y)**

1997, c. 30, Sched. B, s. 20 - 06/04/1998

2002, c. 9, s. 55 - 01/09/2003

**39** OMITTED (AMENDS OR REPEALS OTHER ACTS). 1992, c. 23, s. 39.

**Section Amendments with date in force (d/m/y)**

1997, c. 24, s. 224 (19) - 17/06/1998

**40-42** OMITTED (AMENDS OR REPEALS OTHER ACTS). 1992, c. 23, ss. 40-42.

**43** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 1992, c. 23, s. 43.

**44** OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1992, c. 23, s. 44.

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Français

Back to top

## Condominium Act, 1998

### S.O. 1998, CHAPTER 19

**Consolidation Period:** From June 8, 2023 to the [e-Laws currency date](#).

Last amendment: 2023, c. 9, Sched. 7, s. 1-12.

Legislative History: 2000, c. 26, Sched. B, s. 7; 2001, c. 9, Sched. D, s. 3; 2002, c. 8, Sched. I, s. 7; 2002, c. 17, Sched. F, Table; 2004, c. 8, s. 46, 47 (1, 3); 2006, c. 17, s. 248; 2006, c. 32, Sched. C, s. 7; 2006, c. 34, s. 7; 2008, c. 7, Sched. A, s. 18; 2009, c. 33, Sched. 2, s. 17; 2009, c. 33, Sched. 6, s. 48; 2009, c. 33, Sched. 17, s. 4; 2009, c. 34, Sched. E; 2012, c. 8, Sched. 9 (But see 2015, c. 28, Sched. 1, s. 158 and Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*); 2015, c. 28, Sched. 1, s. 1-146 (But see 2015, c. 28, Sched. 2, s. 82, 2017, c. 20, Sched. 8, s. 147, 2017, c. 33, Sched. 2, s. 79 and 2020, c. 14, Sched. 1, s. 21); 2015, c. 28, Sched. 2, s. 80; 2017, c. 20, Sched. 8, s. 75; 2017, c. 20, Sched. 9, s. 5; 2017, c. 24, s. 74; 2017, c. 33, Sched. 2, s. 75; 2019, c. 7, Sched. 13; 2019, c. 7, Sched. 17, s. 54; 2019, c. 14, Sched. 14, s. 8 (But see 2021, c. 25, Sched. 26, s. 2); 2020, c. 7, Sched. 5 (But see 2023, c. 9, Sched. 7, s. 13); 2020, c. 14, Sched. 1; 2020, c. 36, Sched. 7, s. 301; 2023, c. 9, Sched. 7, s. 1-12.

## CONTENTS

### [PART I](#)

#### DEFINITIONS AND INTERPRETATION

#### [1.](#) Definitions and interpretation

### [PART I.1](#)

#### ADMINISTRATION OF THIS ACT

### [DELEGATION](#)

- [1.1](#) Designation of condominium authority
- [1.2](#) Administrative agreement
- [1.3](#) Policy directions
- [1.3.1](#) Consultation
- [1.4](#) Compliance by condominium authority
- [1.5](#) Review
- [1.6](#) Conflict
- [1.6.1](#) Minister's authority to appoint administrator
- [1.6.2](#) Status of board during administrator's tenure
- [1.7](#) Revocation of designation
- [1.8](#) Condition precedent for exercise of certain powers

### [CONDOMINIUM AUTHORITY](#)

- [1.9](#) Criteria and directives re board members
- [1.10](#) Board appointments
- [1.11](#) Change in number of directors
- [1.12](#) Appointment of chair
- [1.13](#) Public access to corporate by-laws
- [1.13.1](#) Public access to information
- [1.13.2](#) Disclosure of compensation and other payments
- [1.14](#) Employees
- [1.15](#) Not Crown agency
- [1.16](#) No personal liability, employee of the Crown
- [1.17](#) No Crown liability
- [1.18](#) Indemnification of the Crown
- [1.19](#) No personal liability, board members and others
- [1.20](#) Not public money
- [1.21](#) Audit
- [1.22](#) Annual report

### [POWERS AND DUTIES OF CONDOMINIUM AUTHORITY](#)

- [1.23](#) Additional powers
- [1.24](#) Change to objects or purposes
- [1.25](#) Right to use French

<a href="#">1.26</a>	Advisory councils, advisory process
<a href="#">1.27</a>	Duty to inform Minister
<a href="#">1.28</a>	Advice of condominium authority
<a href="#">1.29</a>	Forms and fees
<a href="#">1.30</a>	Assessments of corporations
<a href="#">1.30.1</a>	Publication of order

## **PART I.2**

### **CONDOMINIUM AUTHORITY TRIBUNAL**

#### **DEFINITIONS AND ADMINISTRATION**

<a href="#">1.31</a>	Definitions
<a href="#">1.32</a>	Establishment
<a href="#">1.33</a>	Chair, vice-chairs
<a href="#">1.34</a>	Termination of appointments

#### **PROCEEDINGS**

<a href="#">1.35</a>	Conflict
<a href="#">1.36</a>	Applications
<a href="#">1.37</a>	Combined applications
<a href="#">1.38</a>	Parties to a proceeding
<a href="#">1.39</a>	Right of affected persons
<a href="#">1.40</a>	Alternative dispute resolution
<a href="#">1.41</a>	Power to dismiss applications
<a href="#">1.42</a>	Jurisdiction
<a href="#">1.43</a>	Order during proceeding
<a href="#">1.44</a>	Orders at end of proceeding
<a href="#">1.45</a>	Payment under order for compensation, costs or a penalty
<a href="#">1.46</a>	Appeals
<a href="#">1.47</a>	Settlement
<a href="#">1.48</a>	Publication of orders

## **PART II**

### **REGISTRATION AND CREATION**

#### **CREATION**

<a href="#">2.</a>	Registration
<a href="#">3.</a>	Place of registration
<a href="#">4.</a>	Real property Acts
<a href="#">5.</a>	Corporation
<a href="#">6.</a>	Types of corporations

#### **DECLARATION AND DESCRIPTION**

<a href="#">7.</a>	Requirements for declaration
<a href="#">8.</a>	Requirements for description

#### **PLANNING ACT**

<a href="#">9.</a>	Subdivision control
--------------------	---------------------

## **PART II.1**

### **CONDOMINIUM RETURNS**

<a href="#">9.1</a>	Registrar
<a href="#">9.2</a>	Returns
<a href="#">9.3</a>	Notice of change
<a href="#">9.4</a>	No false or misleading statements
<a href="#">9.5</a>	No duty of Registrar
<a href="#">9.6</a>	Late filing fee
<a href="#">9.7</a>	Registrar's database
<a href="#">9.8</a>	Confidentiality
<a href="#">9.9</a>	Certificate of Registrar

## **PART III**

### **OWNERSHIP**

<a href="#">10.</a>	Type of property
<a href="#">11.</a>	Ownership of property
<a href="#">12.</a>	Easements
<a href="#">13.</a>	Effect on encumbrances
<a href="#">14.</a>	Discharge of encumbrance
<a href="#">15.</a>	Assessment

## **PART IV**

### **CORPORATION**

## GENERAL

<a href="#"><u>16.</u></a>	Seal
<a href="#"><u>17.</u></a>	Objects
<a href="#"><u>17.0.1</u></a>	Agreement for management services
<a href="#"><u>17.1</u></a>	Dealing with title to real property
<a href="#"><u>18.</u></a>	Assets
<a href="#"><u>19.</u></a>	Right of entry
<a href="#"><u>19.</u></a>	Right of entry
<a href="#"><u>20.</u></a>	Easements described in declaration or phase
<a href="#"><u>21.</u></a>	Easements and lease of common elements
<a href="#"><u>21.1</u></a>	Shared facilities agreement
<a href="#"><u>22.</u></a>	Telecommunications agreements
<a href="#"><u>23.</u></a>	Action by corporation
<a href="#"><u>23.1</u></a>	Restriction on ability to sue
<a href="#"><u>23.2</u></a>	Contracts valid
<a href="#"><u>24.</u></a>	Notices under the Expropriations Act
<a href="#"><u>25.</u></a>	Notices under the Planning Act
<a href="#"><u>26.</u></a>	Occupier's liability
<a href="#"><u>26.1</u></a>	No acquisition of units, etc.
<a href="#"><u>26.2</u></a>	Existing remedies
<a href="#"><u>26.3</u></a>	Information certificate to owners

## DIRECTORS AND OFFICERS

<a href="#"><u>27.</u></a>	Board of directors
<a href="#"><u>28.</u></a>	Election of directors
<a href="#"><u>29.</u></a>	Qualifications
<a href="#"><u>30.</u></a>	Consent
<a href="#"><u>31.</u></a>	Term
<a href="#"><u>32.</u></a>	Conduct of business
<a href="#"><u>33.</u></a>	Removal
<a href="#"><u>34.</u></a>	Vacancy
<a href="#"><u>35.</u></a>	Meetings of directors
<a href="#"><u>36.</u></a>	Officers
<a href="#"><u>37.</u></a>	Standard of care
<a href="#"><u>38.</u></a>	Indemnification
<a href="#"><u>39.</u></a>	Insurance
<a href="#"><u>39.1</u></a>	Procurement process, etc.
<a href="#"><u>40.</u></a>	Disclosure by director of interest
<a href="#"><u>41.</u></a>	Disclosure by officer of interest

## TRANSFER OF CONTROL BY DECLARANT

<a href="#"><u>42.</u></a>	First board of directors
<a href="#"><u>43.</u></a>	Turn-over meeting
<a href="#"><u>44.</u></a>	Performance audit

## OWNERS

<a href="#"><u>45.</u></a>	Meetings
<a href="#"><u>45.1</u></a>	Procedure for board calling a meeting
<a href="#"><u>46.</u></a>	Requisition for meeting
<a href="#"><u>46.</u></a>	Requisition for meeting
<a href="#"><u>46.1</u></a>	Record of owners and mortgagees
<a href="#"><u>47.</u></a>	Giving notice to owners
<a href="#"><u>48.</u></a>	Mortgagee's right to vote
<a href="#"><u>49.</u></a>	Loss of owner's right to vote
<a href="#"><u>50.</u></a>	Quorum
<a href="#"><u>51.</u></a>	Voting
<a href="#"><u>51.1</u></a>	Consents
<a href="#"><u>52.</u></a>	Method of voting
<a href="#"><u>53.</u></a>	Majority voting
<a href="#"><u>54.</u></a>	Service on owner or mortgagee
<a href="#"><u>54.</u></a>	Service on owner or mortgagee
<a href="#"><u>55.</u></a>	Records

## BY-LAWS AND RULES

<a href="#"><u>56.</u></a>	By-laws
<a href="#"><u>57.</u></a>	Occupancy standards by-law

<a href="#">58.</a>	Rules
<a href="#">59.</a>	Joint by-laws and rules

#### [AUDITORS AND FINANCIAL STATEMENTS](#)

<a href="#">60.</a>	Appointment of auditor
<a href="#">61.</a>	Qualifications
<a href="#">62.</a>	Remuneration
<a href="#">63.</a>	Removal
<a href="#">64.</a>	Resignation
<a href="#">65.</a>	Vacancy
<a href="#">66.</a>	Financial statements
<a href="#">67.</a>	Audit
<a href="#">68.</a>	Audit committee
<a href="#">69.</a>	Delivery of statements
<a href="#">70.</a>	Right to attend meeting
<a href="#">71.</a>	Amendment of statements

#### [PART IV.1](#)

#### **SPECIAL RULES DURING EMERGENCY**

<a href="#">71.0.1</a>	Interpretation
<a href="#">71.0.2</a>	Application of Schedule
<a href="#">71.0.3</a>	Regulations

#### [PART V](#)

#### **SALE AND LEASE OF UNITS**

##### [DISCLOSURE REQUIREMENTS](#)

<a href="#">71.1</a>	Condominium guide
<a href="#">72.</a>	Disclosure statement and guide
<a href="#">72.1</a>	Disclosure of budget
<a href="#">73.</a>	Rescission of agreement
<a href="#">74.</a>	Material changes in disclosure statement
<a href="#">75.</a>	Accountability for budget statement
<a href="#">76.</a>	Status certificate
<a href="#">77.</a>	Information on corporation

##### [SALE OF UNITS](#)

<a href="#">78.</a>	Implied covenants
<a href="#">79.</a>	Duty to register declaration and description
<a href="#">80.</a>	Interim occupancy
<a href="#">81.</a>	Money held in trust
<a href="#">82.</a>	Interest
<a href="#">82.1</a>	Corporation's sale of the property
<a href="#">82.2</a>	Right of dissenters

##### [LEASE OF UNITS](#)

<a href="#">83.</a>	Notification by owner
---------------------	-----------------------

#### [PART VI](#)

#### **OPERATION**

##### [ANNUAL BUDGET](#)

<a href="#">83.1</a>	Annual budget
----------------------	---------------

##### [COMMON EXPENSES](#)

<a href="#">84.</a>	Contribution of owners
<a href="#">85.</a>	Lien upon default
<a href="#">86.</a>	Priority of lien
<a href="#">87.</a>	Default with respect to leased unit
<a href="#">88.</a>	Mortgagee's rights

##### [REPAIR AND MAINTENANCE](#)

<a href="#">89.</a>	Repair after damage
<a href="#">89.</a>	Repair
<a href="#">90.</a>	Maintenance
<a href="#">90.</a>	Maintenance
<a href="#">91.</a>	Provisions of declaration
<a href="#">91.</a>	Alterations by declaration
<a href="#">92.</a>	Work done for owner
<a href="#">93.</a>	Reserve fund
<a href="#">94.</a>	Reserve fund study
<a href="#">95.</a>	Use of reserve fund

<a href="#">96.</a>	Warranties	
		<a href="#">CHANGES TO COMMON ELEMENTS AND ASSETS</a>
<a href="#">97.</a>	Changes made by corporation	
		<a href="#">MODIFICATIONS TO COMMON ELEMENTS AND ASSETS</a>
<a href="#">97.</a>	Modifications made by corporation	
<a href="#">98.</a>	Changes made by owners	
<a href="#">98.</a>	Modifications made by owners	
		<a href="#">INSURANCE</a>
<a href="#">99.</a>	Property insurance	
<a href="#">100.</a>	Proceeds	
<a href="#">101.</a>	Double coverage	
<a href="#">102.</a>	Other insurance	
<a href="#">103.</a>	Capacity to maintain insurance	
<a href="#">104.</a>	Disclosure by insurer	
<a href="#">105.</a>	Deductible	
<a href="#">105.</a>	Deductible	
<a href="#">105.1</a>	Information to owners	
<a href="#">106.</a>	Act prevails	
		<a href="#">AMENDMENTS TO THE DECLARATION AND DESCRIPTION</a>
<a href="#">107.</a>	Amendments with owners' consent	
<a href="#">108.</a>	Change of address for service	
<a href="#">109.</a>	Court order	
<a href="#">110.</a>	Order of Director of Titles	
		<a href="#">TERMINATION OF AGREEMENTS</a>
<a href="#">111.</a>	Management agreements	
<a href="#">112.</a>	Other agreements	
<a href="#">113.</a>	Mutual use agreements	
<a href="#">114.</a>	Insurance trust agreements	
<a href="#">114.</a>	Insurance trust agreements	
		<a href="#">MISCELLANEOUS</a>
<a href="#">115.</a>	Corporation's money	
<a href="#">116.</a>	Use by owners	
<a href="#">117.</a>	Prohibited conditions and activities	
<a href="#">118.</a>	Entry by canvassers	
<a href="#">119.</a>	Compliance with Act	
		<a href="#">PART VII</a>
		<b>AMALGAMATION</b>
<a href="#">120.</a>	Amalgamation	
<a href="#">121.</a>	Effect of registration	
		<a href="#">PART VIII</a>
		<b>TERMINATION</b>
<a href="#">122.</a>	Termination with consent	
<a href="#">123.</a>	Termination upon substantial damage	
<a href="#">124.</a>	Termination upon sale of property	
<a href="#">125.</a>	Right of dissenters	
<a href="#">126.</a>	Expropriation	
<a href="#">127.</a>	Effect of registration	
<a href="#">128.</a>	Termination by court	
<a href="#">129.</a>	Distribution of assets	
<a href="#">129.</a>	Distribution of assets	
		<a href="#">PART IX</a>
		<b>ENFORCEMENT</b>
<a href="#">130.</a>	Inspector	
<a href="#">131.</a>	Administrator	
<a href="#">132.</a>	Mediation and arbitration	
<a href="#">133.</a>	False, misleading statements	
<a href="#">134.</a>	Compliance order	
<a href="#">134.1</a>	Compliance order of Registrar	
<a href="#">134.2</a>	Service under s. 134.1	
<a href="#">135.</a>	Oppression remedy	
<a href="#">135.1</a>	Order for permanent removal of person	
<a href="#">135.2</a>	No termination of tenancy	

<a href="#">136.</a>	Other remedies
<a href="#">136.1</a>	Offences, condominium authority
<a href="#">136.2</a>	Offences, filings and assessments
<a href="#">137.</a>	Offences
<a href="#">137.</a>	Offences, general

## **PART X**

### **COMMON ELEMENTS CONDOMINIUM CORPORATIONS**

<a href="#">138.</a>	Creation
<a href="#">139.</a>	Owners' land
<a href="#">140.</a>	Contents of declaration
<a href="#">141.</a>	Contents of description
<a href="#">142.</a>	Subdivision control
<a href="#">143.</a>	Disclosure statement
<a href="#">143.</a>	Disclosure statement
<a href="#">144.</a>	Repair after damage and insurance

## **PART XI**

### **PHASED CONDOMINIUM CORPORATIONS**

<a href="#">145.</a>	Type of corporation
<a href="#">146.</a>	Creation of phase
<a href="#">147.</a>	Disclosure statement
<a href="#">148.</a>	Status certificate
<a href="#">149.</a>	Corporation's remedy
<a href="#">150.</a>	Remedy of purchasers
<a href="#">151.</a>	Easements
<a href="#">152.</a>	Turn-over obligations
<a href="#">153.</a>	Corporation's obligations for phase
<a href="#">154.</a>	Termination of agreements

## **PART XII**

### **VACANT LAND CONDOMINIUM CORPORATIONS**

<a href="#">155.</a>	Creation
<a href="#">156.</a>	Contents of declaration
<a href="#">157.</a>	Contents of description
<a href="#">158.</a>	Buildings on common elements
<a href="#">159.</a>	Status of buildings in corporation
<a href="#">160.</a>	By-laws
<a href="#">161.</a>	Disclosure statement
<a href="#">162.</a>	Repair and maintenance
<a href="#">163.</a>	Substantial damage

## **PART XIII**

### **LEASEHOLD CONDOMINIUM CORPORATIONS**

<a href="#">164.</a>	Creation
<a href="#">165.</a>	Leasehold interest of owners
<a href="#">166.</a>	Declaration
<a href="#">167.</a>	Description
<a href="#">168.</a>	Leasehold estate in property
<a href="#">169.</a>	Disclosure statement
<a href="#">169.</a>	Disclosure statement
<a href="#">170.</a>	Status certificate
<a href="#">171.</a>	Rent for property
<a href="#">172.</a>	Consent of lessor for termination
<a href="#">173.</a>	Termination by lessor
<a href="#">174.</a>	Expiration of leasehold interests
<a href="#">175.</a>	Effect of termination or expiration

## **PART XIV**

### **GENERAL**

<a href="#">176.</a>	Act prevails
<a href="#">176.1</a>	Fees
<a href="#">177.</a>	Regulations
<a href="#">178.</a>	Transition
<a href="#">179.</a>	Transition, turnover
<a href="#">180.</a>	Transition, disclosure
<a href="#">181.</a>	Transition, insurance

## **PART I DEFINITIONS AND INTERPRETATION**

### **Definitions and interpretation**

**1** (1) In this Act,

“administrative agreement” means the agreement described in subsection 1.2 (1); (“accord d’application”)

“annual general meeting” means a meeting of the owners of a corporation held in accordance with subsection 45 (2); (“assemblée générale annuelle”)

“approval authority” means the approval authority for the purposes of sections 51, 51.1 and 51.2 of the *Planning Act*; (“autorité approbatrice”)

“auditor” means a person licensed as a public accountant under the *Public Accounting Act, 2004* who is appointed as an auditor of a corporation under section 60; (“vérificateur”)

“board” means the board of directors of a corporation; (“conseil”)

“building” means a building included in a property; (“bâtiment”)

“by-law” means a by-law of a corporation; (“règlement administratif”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “by-law” in subsection 1 (1) of the Act is amended by adding “or a by-law made under subsection 21.1 (4)” at the end. (See: 2015, c. 28, Sched. 1, s. 1 (2))**

“claim” includes a right, title, interest, encumbrance or demand of any kind affecting land but does not include the interest of an owner in the owner’s unit or common interest; (“réclamation”)

“common elements” means all the property except the units; (“parties communes”)

“common elements condominium corporation” means a common elements condominium corporation described in subsection 138 (2); (“association condominiale de parties communes”)

“common expenses” means the expenses related to the performance of the objects and duties of a corporation and all expenses specified as common expenses in this Act, in the regulations or in a declaration; (“dépenses communes”)

“common interest” means the interest in the common elements appurtenant to,

- (a) a unit, in the case of all corporations except a common elements condominium corporation, or
- (b) an owner’s parcel of land to which the common interest is attached and which is described in the declaration, in the case of a common elements condominium corporation; (“intérêt commun”)

“common surplus” means the excess of all receipts of the corporation over the expenses of the corporation; (“excédent commun”)

“condominium authority” means the corporation that the Lieutenant Governor in Council has designated as such under clause 1.1 (1) (a); (“autorité du secteur des condominiums”, “autorité”)

“condominium guide” means a guide that is described in subsection 71.1 (1); (“guide sur les condominiums”)

“condominium management provider”, “condominium management services” and “condominium manager” have the same meaning as in the *Condominium Management Services Act, 2015*; (“fournisseur de services de gestion de condominiums”, “gestionnaire de condominiums”, “services de gestion de condominiums”)

“corporation” means, unless the context provides or requires otherwise, a corporation created or continued under this Act; (“association”)

“declarant” means a person who owns the freehold or leasehold estate in the land described in the description and who registers a declaration and description under this Act, and includes a successor or assignee of that person but does not include a purchaser in good faith of a unit who pays fair market value or a successor or assignee of the purchaser; (“déclarant”)

“declarant affiliate” means a body corporate with or without share capital, whether or not this Act applies to it, that is related to a declarant by reason of being deemed to be,

- (a) a subsidiary of the declarant under subsection 1 (2) of the *Business Corporations Act*,
- (b) a holding body of the declarant under subsection 1 (3) of the *Business Corporations Act*, or
- (c) affiliated with the declarant under subsection 1 (4) of the *Business Corporations Act*; (“membre du même groupe”)

“declaration” means a declaration registered under section 2 and all amendments to the declaration; (“déclaration”)

“deed” includes a transfer under the *Land Titles Act*; (“acte scellé”)

“delegated provisions”, when used in connection with the condominium authority, means the provisions of this Act and the regulations that the Lieutenant Governor in Council specifies under clause 1.1 (1) (b) and of which the administration is delegated to the condominium authority under subsection 1.1 (3); (“dispositions déléguées”)

“description” means a description registered under section 2 and all amendments to the description; (“description”)

“encumbrance” means a claim that secures the payment of money or the performance of any other obligation and includes a charge under the *Land Titles Act*, a mortgage and a lien; (“sûreté réelle”)

“freehold condominium corporation” means a corporation in which all the units and their appurtenant common interests are held in fee simple by the owners; (“association condominiale de propriété franche”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2017, c. 33, Sched. 2, s. 75 (1))**

“guarantee fund” has the same meaning as in subsection 2 (1) of the *Protection for Owners and Purchasers of New Homes Act, 2017*; (“fonds de garantie”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2015, c. 28, Sched. 1, s. 1 (9))**

“improvement” means, in relation to a unit,

- (a) any part of a unit, where the part does not constitute a standard unit or part of a standard unit, or
- (b) any repair or modification to a standard unit that is done using materials that are higher in quality, as determined in accordance with current construction standards; (“amélioration”)

“leasehold condominium corporation” means a corporation in which all the units and their appurtenant common interests are subject to leasehold interests held by the owners; (“association condominiale de propriété à bail”)

“lessor”, in relation to a leasehold condominium corporation, means the person who owns the freehold estate in the land described in the description; (“bailleur”)

“Minister”, in relation to a particular provision of this Act, means the Minister responsible for administration of the provision; (“ministre”)

“mortgage” includes a charge under the *Land Titles Act*, in which case “mortgagor” and “mortgagee” mean the chargor and the chargee under the charge; (“hypothèque”, “débiteur hypothécaire”, “créancier hypothécaire”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2015, c. 28, Sched. 1, s. 1 (11))**

“non-leased voting unit” means,

- (a) except in subsection 46 (2), a unit of an owner who is entitled to vote in respect of the unit at a meeting to elect or to remove a director, where the unit is used for residential purposes and the unit is not subject to a lease, as determined by the regulations, within the 60 day period before the time that the board gives a preliminary notice under subsection 45.1 (1) for the meeting, or
- (b) in subsection 46 (2), a unit of an owner who is entitled to vote in respect of the unit at a meeting to elect or to remove a director, where the unit is used for residential purposes and the unit is not subject to a lease, as determined by the regulations, within the 60 day period before the date that the board receives a requisition for a meeting under that subsection; (“partie privative non louée conférant le droit de vote”)

“owner” means,

- (a) in relation to a corporation other than a leasehold condominium corporation or a common elements condominium corporation, a person who is shown as the owner of a freehold interest in a unit and its appurtenant common interest,

according to the records of the land registry office in which the description of the corporation is registered, and includes a mortgagee in possession and a declarant with respect to any unit that the declarant has not transferred to another person,

- (b) in relation to a leasehold condominium corporation, a person who is shown as the owner of the entire leasehold interest in a unit and its appurtenant common interest, according to the records of the land registry office in which the description of the corporation is registered, and includes a mortgagee in possession and a declarant with respect to any unit in which the declarant has not transferred the leasehold interest to another person but does not include a tenant of the owner, or
- (c) in relation to a common elements condominium corporation, a person, including the declarant, who is shown as the owner of a common interest in the common elements and a freehold interest in the parcel of land to which the common interest is attached, as described in the declaration, according to the records of the land registry office in which the description of the corporation is registered; (“propriétaire”)

“phased condominium corporation” means a phased condominium corporation to which Part XI applies; (“association condominiale constituée par étape”)

“pre-existing elements” and “pre-existing elements fund study” have the same meaning as in subsection 17.1 (1) of the *Ontario New Home Warranties Plan Act*; (“éléments préexistants”, “étude du fonds des éléments préexistants”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, the definitions of “pre-existing elements” and “pre-existing elements fund study” in subsection 1 (1) of the Act are repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (2))**

“pre-existing elements” and “pre-existing elements fund study” have the meaning prescribed by the regulations made under the *Protection for Owners and Purchasers of New Homes Act, 2017*; (“éléments préexistants”, “étude du fonds des éléments préexistants”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“property” means the land, including the buildings on it, and interests appurtenant to the land, as the land and interests are described in the description and includes all land and interests appurtenant to land that are added to the common elements; (“propriété”)

“proposed property” means the property described in the declaration and description that are required to be registered to designate a proposed unit as a unit under this Act; (“propriété projetée”)

“proposed unit” means land described in an agreement of purchase and sale that provides for delivery to the purchaser of a deed in registerable form after a declaration and description have been registered in respect of the land; (“partie privative projetée”)

“purchaser of a unit”, in relation to a leasehold condominium corporation, means the purchaser of an owner’s interest in a unit and the appurtenant common interest; (“acquéreur d’une partie privative”)

“registered” means registered under the *Land Titles Act* or the *Registry Act* and “register” and “registration” have corresponding meanings; (“enregistré”, “enregistrer”, “enregistrement”)

“Registrar” means the Condominium Registrar appointed under subsection 9.1 (1); (“registreur”)

“regulations” means the regulations made under this Act; (“règlements”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2015, c. 28, Sched. 1, s. 1 (16))**

“repair” means to repair or replace after normal wear and tear, damage or failure; (“réparer”)

“reserve fund” means a reserve fund established under section 93; (“fonds de réserve”)

“reserve fund study” means a reserve fund study described in section 94; (“étude du fonds de réserve”)

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2015, c. 28, Sched. 1, s. 1 (16))**

“reserve fund study provider” means a person who meets all prescribed requirements for the purpose of conducting a reserve fund study; (“fournisseur d’étude de fonds de réserve”)

“residential condominium conversion project” has the same meaning as in subsection 17.1 (1) of the *Ontario New Home Warranties Plan Act*; (“projet de conversion en condominiums à usage d’habitation”)

**Note:** On a day to be named by proclamation of the Lieutenant Governor, the definition of “residential condominium conversion project” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (3))

“residential condominium conversion project” has the meaning prescribed by the regulations made under the *Protection for Owners and Purchasers of New Homes Act, 2017*; (“projet de conversion en condominiums à usage d’habitation”)

“rule” means a rule of a corporation; (“règle”)

**Note:** On a day to be named by proclamation of the Lieutenant Governor, the definition of “rule” in subsection 1 (1) of the Act is amended by adding “or a rule made under subsection 21.1 (4)” at the end. (See: 2015, c. 28, Sched. 1, s. 1 (18))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2015, c. 28, Sched. 1, s. 1 (19))

“standard unit” means, subject to the regulations, for the class of unit in a corporation to which the unit belongs,

- (a) the standard unit described in a by-law made under clause 56 (1) (h), if the corporation has passed a by-law under that clause, or
- (b) the standard unit that is prescribed, if the corporation has not passed a by-law under clause 56 (1) (h); (“partie privative normale”)

“status certificate” means a status certificate described in section 76; (“certificat d’information”)

**Note:** On October 1, 2023, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2023, c. 9, Sched. 7, s. 1)

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, an automated touch-tone telephone system, computer or computer networks; (“moyen de communication téléphonique ou électronique”)

“unit” means a part of the property designated as a unit by the description and includes the space enclosed by its boundaries and all of the land, structures and fixtures within this space in accordance with the declaration and description; (“partie privative”)

“vacant land condominium corporation” means a vacant land condominium corporation described in subsection 155 (2). (“association condominiale de terrain nu”) 1998, c. 19, s. 1 (1); 2002, c. 17, Sched. F, Table; 2004, c. 8, s. 46, 47 (3); 2015, c. 28, Sched. 1, s. 1 (1, 3-8, 10, 12-14, 15, 17); 2015, c. 28, Sched. 2, s. 80 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2017, c. 33, Sched. 2, s. 75 (4))

“warranty authority” has the same meaning as in subsection 2 (1) of the *Protection for Owners and Purchasers of New Homes Act, 2017*. (“organisme de garantie”)

## **Ownership of land**

(2) For the purposes of this Act, the ownership of land or of a leasehold interest in land includes the ownership of space or of a leasehold interest in space respectively. 1998, c. 19, s. 1 (2).

## **Proposed declarant**

(3) A reference to a declarant in this Act shall be deemed to include, where applicable, a person who proposes or intends to register a declaration and description. 1998, c. 19, s. 1 (3).

## **Section Amendments with date in force (d/m/y)**

2002, c. 17, Sched. F, Table - 01/01/2003

2004, c. 8, s. 46, 47 (3) - 01/11/2005

2012, c. 8, Sched. 9, s. 1 (1) - See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2022; 2012, c. 8, Sched. 9, s. 1 (2) - no effect - see 2015, c. 28, Sched. 1, s. 158 - 03/12/2015

2015, c. 28, Sched. 1, s. 1 (1, 4, 6, 8, 10, 14, 15) - 01/09/2017; 2015, c. 28, Sched. 1, s. 1 (2, 9, 11, 16, 18, 19) - not in force; 2015, c. 28, Sched. 1, s. 1 (3) - 01/05/2018; 2015, c. 28, Sched. 1, s. 1 (5) - 01/01/2021; 2015, c. 28, Sched. 1, s. 1 (7), (12) - 01/11/2017; 2015, c. 28, Sched. 1, s. 1 (13), (17) - 01/01/2018; 2015, c. 28, Sched. 2, s. 80 (1) - 01/11/2017

2017, c. 33, Sched. 2, s. 75 (1-4) - not in force; 2017, c. 33, Sched. 2, s. 79 (1-4) - no effect

2023, c. 9, Sched. 7, s. 1 - 01/10/2023

**PART I.1**  
**ADMINISTRATION OF THIS ACT**

**DELEGATION**

**Designation of condominium authority**

**1.1** (1) The Lieutenant Governor in Council may, by regulation,

- (a) designate a not-for-profit corporation without share capital incorporated under the laws of Ontario as the condominium authority for the purposes of this Act; and
- (b) subject to subsection (2), specify any provisions of this Act and the regulations, except for this Part and Parts I.2 and XIV, as the delegated provisions for the purposes of subsection (3). 2015, c. 28, Sched. 1, s. 2.

**Restriction**

(2) The specification of provisions as the delegated provisions that is made by a regulation made under clause (1) (b) may be restricted to specified aspects or purposes of the specified provisions. 2015, c. 28, Sched. 1, s. 2.

**Delegation of administration**

(3) If the Lieutenant Governor in Council designates a corporation as the condominium authority, the administration of the delegated provisions is delegated to the authority and the authority shall carry out the administration of the delegated provisions. 2015, c. 28, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

**Administrative agreement**

**1.2** (1) The Lieutenant Governor in Council shall not designate a corporation under clause 1.1 (1) (a) as the condominium authority until the Minister and the corporation have entered into an agreement to be known as the administrative agreement. 2015, c. 28, Sched. 1, s. 2.

**Contents**

(2) The administrative agreement shall include, at a minimum, terms related to the following matters with respect to the condominium authority:

- 1. The governance of the authority.
- 2. All matters that the Minister considers necessary for the authority to carry out the administration of the delegated provisions.
- 3. The maintenance by the authority of adequate insurance against liability arising out of the carrying out of its powers and duties under this Act or the regulations.
- 3.1 The financial terms of the delegation, including payments to the Crown, licence fees, royalties and reimbursements for transfer of assets.
- 4. Any other matter that the Minister considers necessary and that is related to the authority's powers and duties under this Act or the regulations. 2015, c. 28, Sched. 1, s. 2; 2020, c. 14, Sched. 1, s. 1.

**Amendment by Minister**

(3) Subject to section 1.8, the Minister may unilaterally amend the administrative agreement, after giving the condominium authority the notice that the Minister considers reasonable in the circumstances. 2015, c. 28, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 1 - 14/07/2020

**Policy directions**

**1.3** (1) Subject to section 1.8, the Minister may issue policy directions to the condominium authority related to its powers and duties under this Act or the regulations, after giving the authority the notice that the Minister considers reasonable in the circumstances. 2015, c. 28, Sched. 1, s. 2.

## **Part of the administrative agreement**

(2) The policy directions are deemed to form part of the administrative agreement. 2015, c. 28, Sched. 1, s. 2.

## **Compliance**

(3) The condominium authority shall comply with the policy directions and shall implement measures to do so. 2015, c. 28, Sched. 1, s. 2.

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

## **Consultation**

**1.3.1** The Minister may consult with the condominium authority about proposed legislative or policy changes that may affect the authority and its activities. 2020, c. 14, Sched. 1, s. 2.

## **Section Amendments with date in force (d/m/y)**

2020, c. 14, Sched. 1, s. 2 - 14/07/2020

## **Compliance by condominium authority**

**1.4** In carrying out its powers and duties under this Act or the regulations, the condominium authority shall comply with the administrative agreement, this Act, the regulations and other applicable law. 2015, c. 28, Sched. 1, s. 2.

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

## **Review**

**1.5** (1) The Minister may,

- (a) require that policy, legislative or regulatory reviews related to the powers and duties of the condominium authority under this Act, the regulations or the administrative agreement be carried out,
  - (i) by or on behalf of the authority, or
  - (ii) by a person or entity specified by the Minister; or
- (b) require that reviews of the condominium authority, of its operations, or of both, including, without limitation, performance, governance, accountability and financial reviews, be carried out,
  - (i) by or on behalf of the authority, or
  - (ii) by a person or entity specified by the Minister. 2015, c. 28, Sched. 1, s. 2.

## **Reviews, terms and conditions**

(1.1) The Minister may impose terms and conditions relating to any review the Minister requires under subsection (1). 2020, c. 14, Sched. 1, s. 3 (1).

## **Access to records**

(2) If a review is carried out by a person or entity specified by the Minister, the condominium authority shall give the person or entity specified by the Minister and the employees or agents of the person or entity access to all records and other information required to conduct the review. 2015, c. 28, Sched. 1, s. 2; 2020, c. 14, Sched. 1, s. 3 (2).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 3 (1, 2) - 14/07/2020

## **Conflict**

**1.6** The following rules apply respecting conflicts that may arise in applying this Part, Part I.2 and the regulations:

1. This Part, Part I.2, the regulations and the delegated provisions prevail over the administrative agreement and the condominium authority's constating documents, by-laws and resolutions.
2. An order made under subsection 1.6.1 (1), 1.9 (1), 1.10 (4) or 1.13.2 (1) or section 1.11 prevails over the administrative agreement and the condominium authority's constating documents, by-laws and resolutions.

3. This Part, Part I.2 and the regulations prevail over the *Corporations Information Act*. 2020, c. 14, Sched. 1, s. 4.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017; 2015, c. 28, Sched. 1, s. 3 - see 2017, c. 20, Sched. 8, s. 147 - no effect - see 2020, c. 14, Sched. 1, s. 4 - 14/07/2020

2020, c. 14, Sched. 1, s. 4 - 14/07/2020

**Minister's authority to appoint administrator**

**1.6.1** (1) Subject to section 1.8, the Minister may, by order, appoint an individual as an administrator of the condominium authority for the purposes of assuming control of it and responsibility for its activities. 2020, c. 14, Sched. 1, s. 4.

**Notice of appointment**

(2) The Minister shall give the condominium authority's board of directors the notice that the Minister considers reasonable in the circumstances before appointing the administrator. 2020, c. 14, Sched. 1, s. 4.

**Immediate appointment**

(3) Subsection (2) does not apply if there are not enough members on the board to form a quorum. 2020, c. 14, Sched. 1, s. 4.

**Term of appointment**

(4) The appointment of the administrator is valid until the Minister makes an order terminating it. 2020, c. 14, Sched. 1, s. 4.

**Powers and duties of administrator**

(5) Unless the order appointing the administrator provides otherwise, the administrator has the exclusive right to exercise all the powers and perform all the duties of the directors, officers and members of the condominium authority. 2020, c. 14, Sched. 1, s. 4.

**Same**

(6) In the order appointing the administrator, the Minister may specify the administrator's powers and duties and the conditions governing them. 2020, c. 14, Sched. 1, s. 4.

**Right of access**

(7) The administrator has the same rights as the board in respect of the condominium authority's documents, records and information. 2020, c. 14, Sched. 1, s. 4.

**Report to Minister**

(8) The administrator shall report to the Minister as the Minister requires. 2020, c. 14, Sched. 1, s. 4.

**Minister's directions**

(9) The Minister may issue directions to the administrator with regard to any matter within the administrator's jurisdiction, and the administrator shall carry them out. 2020, c. 14, Sched. 1, s. 4.

**No personal liability**

(10) No action or other proceeding shall be instituted against the administrator or a former administrator for,

- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations made under this Act, a Minister's order or the appointment under subsection (1), or,
- (b) any neglect or default in the exercise or performance in good faith of a duty or power described in clause (a). 2020, c. 14, Sched. 1, s. 4.

**Crown liability**

(11) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (10) of this section does not relieve the Crown of liability to which it would otherwise be subject. 2020, c. 14, Sched. 1, s. 4.

**Liability of condominium authority**

(12) Subsection (10) does not relieve the condominium authority of liability to which it would otherwise be subject. 2020, c. 14, Sched. 1, s. 4.

**Section Amendments with date in force (d/m/y)**

2020, c. 14, Sched. 1, s. 4 - 14/07/2020

### **Status of board during administrator's tenure**

**1.6.2** (1) On the appointment of an administrator under section 1.6.1, the members of the board of directors of the condominium authority cease to hold office, unless the order provides otherwise. 2020, c. 14, Sched. 1, s. 4.

### **Same**

(2) During the term of the administrator's appointment, the powers of any member of the board who continues to hold office are suspended, unless the order provides otherwise. 2020, c. 14, Sched. 1, s. 4.

### **No personal liability**

(3) No action or other proceeding shall be instituted against a member or former member of the board of the condominium authority for any act, neglect or default done by the administrator or the condominium authority after the member's removal under subsection (1) or while the member's powers are suspended under subsection (2). 2020, c. 14, Sched. 1, s. 4.

### **Crown liability**

(4) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (3) of this section does not relieve the Crown of liability to which it would otherwise be subject. 2020, c. 14, Sched. 1, s. 4.

### **Liability of condominium authority**

(5) Subsection (3) does not relieve the condominium authority of liability to which it would otherwise be subject. 2020, c. 14, Sched. 1, s. 4.

### **Section Amendments with date in force (d/m/y)**

2020, c. 14, Sched. 1, s. 4 - 14/07/2020

### **Revocation of designation**

**1.7** (1) The Lieutenant Governor in Council may, by regulation, revoke or restrict the scope of the designation of the condominium authority if the Lieutenant Governor in Council considers it advisable to do so in the public interest. 2015, c. 28, Sched. 1, s. 2; 2020, c. 14, Sched. 1, s. 5 (1).

### **Revocation for non-compliance**

(2) The Lieutenant Governor in Council may, by regulation, revoke or restrict the scope of the designation of the condominium authority if,

- (a) the authority has failed to comply with this Act, the regulations, other applicable law or the administrative agreement;
- (b) the Minister has allowed the authority the opportunity of remedying its default within a specified time period that the Minister considers reasonable in the circumstances; and
- (c) the authority has not remedied its default to the Minister's satisfaction within the specified time period mentioned in clause (b) and the Minister has so advised the Lieutenant Governor in Council. 2015, c. 28, Sched. 1, s. 2; 2020, c. 14, Sched. 1, s. 5 (2).

### **Same, no restriction on subs. (1)**

(3) Nothing in subsection (2) restricts the ability of the Lieutenant Governor in Council to act under subsection (1). 2015, c. 28, Sched. 1, s. 2.

### **Revocation on request**

(4) The Lieutenant Governor in Council may, by regulation, revoke or restrict the scope of the designation of the condominium authority on the terms that the Lieutenant Governor in Council considers advisable in the public interest if the authority requests the revocation or restriction. 2020, c. 14, Sched. 1, s. 5 (3).

### **Non-application of SPPA**

(5) The *Statutory Powers Procedure Act* does not apply to the exercise by the Lieutenant Governor in Council of a right under this section to revoke or restrict a designation. 2020, c. 14, Sched. 1, s. 5 (3).

### **Transition**

(6) If the Lieutenant Governor in Council revokes or restricts the designation of the condominium authority under this section, the Lieutenant Governor in Council may, by regulation, provide for any transitional matter necessary for the effective implementation of the revocation or restriction, including,

- (a) the transfer, without compensation, of any property, including assets, liabilities, rights, obligations, records, databases, bank accounts and money, that the condominium authority holds in respect of carrying out its activities under the Act, a regulation and the administrative agreement; and
- (b) the assignment, without compensation, of any contracts that the authority has entered into before the revocation. 2020, c. 14, Sched. 1, s. 5 (3).

#### **No Crown liability**

(7) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of the revocation or restriction of the designation of the condominium authority or any regulation made under subsection (6). 2020, c. 14, Sched. 1, s. 5 (3).

#### **No proceeding**

(8) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (7). 2020, c. 14, Sched. 1, s. 5 (3).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 5 (1-3) - 14/07/2020

#### **Condition precedent for exercise of certain powers**

**1.8** The Minister may exercise a power under subsection 1.2 (3), 1.3 (1), 1.6.1 (1) or 1.24 (1) only if the Minister is of the opinion that it is advisable to exercise the power in the public interest because at least one of the following conditions is satisfied:

1. The exercise of the power is necessary to prevent serious harm to the interests of the public, corporations, owners or purchasers, mortgagees or occupiers of units.
2. An event of force majeure has occurred.
3. The condominium authority is facing a risk of insolvency.
4. The number of members of the board of directors of the condominium authority is insufficient for a quorum. 2015, c. 28, Sched. 1, s. 2; 2020, c. 14, Sched. 1, s. 6.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 6 (1, 2) - 14/07/2020

### **CONDOMINIUM AUTHORITY**

#### **Criteria and directives re board members**

**1.9** (1) The Minister may, by order,

- (a) establish competency criteria for members of the board of directors of the condominium authority; and
- (b) make directives about the nomination of members, the appointment or election process, the length of their terms and whether they may be reappointed or re-elected. 2015, c. 28, Sched. 1, s. 2.

#### **Competency criteria**

(2) A person is qualified to be appointed or elected to the board of directors only if he or she meets any competency criteria established under clause (1) (a). 2015, c. 28, Sched. 1, s. 2.

(3) REPEALED: 2020, c. 14, Sched. 1, s. 7.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 7 - 14/07/2020

### **Board appointments**

**1.10** (1) The Minister may appoint at pleasure one or more members to the board of directors of the condominium authority for a term specified in the appointment. 2015, c. 28, Sched. 1, s. 2; 2020, c. 14, Sched. 1, s. 8 (1).

### **Majority**

(2) The number of members appointed by the Minister shall not form a majority of the board of directors. 2015, c. 28, Sched. 1, s. 2.

### **Composition**

(3) The members appointed by the Minister may include,

- (a) representatives of the public, consumer groups, government organizations, corporations, owners or those owners or occupiers who occupy units for residential purposes; and
- (b) representatives of other interests as the Minister determines. 2015, c. 28, Sched. 1, s. 2.

### **Percentages of board members**

(4) The Minister may, by order, provide that no more than a fixed percentage of members of the board of directors shall be drawn from among the persons or classes of persons specified in the order. 2020, c. 14, Sched. 1, s. 8 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 8 (1, 2) - 14/07/2020

### **Change in number of directors**

**1.11** The Minister may, by order, increase or decrease the number of members of the board of directors of the condominium authority. 2015, c. 28, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

### **Appointment of chair**

**1.12** The Minister may appoint a chair from among the members of the board of directors of the condominium authority. 2015, c. 28, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

### **Public access to corporate by-laws**

**1.13** The condominium authority shall make its corporate by-laws available on its website and by any other means that the condominium authority determines,

- (a) within the time and manner specified in the administrative agreement; or
- (b) within 10 days after the by-laws are made by the board of directors, if no time is specified in the administrative agreement. 2020, c. 14, Sched. 1, s. 9.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 9 - 14/07/2020

### **Public access to information**

**1.13.1** The condominium authority shall follow the prescribed processes and procedures, if any, with respect to providing access to the public to records of the authority and with respect to managing personal information contained in those records. 2020, c. 14, Sched. 1, s. 9.

### **Section Amendments with date in force (d/m/y)**

2020, c. 14, Sched. 1, s. 9 - 14/07/2020

### **Disclosure of compensation and other payments**

**1.13.2** (1) The Minister may, by order, require the condominium authority to make available to the public, on its website and by any other means that the condominium authority determines, any information specified by the Minister relating to,

- (a) the compensation that the condominium authority pays to members of its board of directors, its officers and its employees; and
- (b) any other payments that the condominium authority makes or is required to make to the persons mentioned in clause (a). 2020, c. 14, Sched. 1, s. 9.

### **Information for prior period**

(2) An order made under subsection (1) may require that the condominium authority make available to the public information referred to in that subsection with respect to a member of the board or one of its officers who was in office on the day this section came into force or an individual who was one of its employees on that day, where the information is for a period that began before that day. 2020, c. 14, Sched. 1, s. 9.

### **Effect of compliance**

(3) If the condominium authority makes information available to the public in accordance with an order made under subsection (1) or in the reasonable belief that action is required by the order, no court, person or other entity shall find that the condominium authority,

- (a) has contravened any Act enacted or regulation made before or after this section came into force; or
- (b) is in breach of or has contravened any agreement that purports to restrict or prohibit that action, regardless of whether the agreement is made before or after this section came into force. 2020, c. 14, Sched. 1, s. 9.

### **Definition**

(4) In this section,

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle the person to be paid, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments. 2020, c. 14, Sched. 1, s. 9.

### **Section Amendments with date in force (d/m/y)**

2020, c. 14, Sched. 1, s. 9 - 14/07/2020

### **Employees**

**1.14** (1) Subject to the administrative agreement, the condominium authority may employ or retain the services of any qualified person to carry out any of its powers and duties under this Act or the regulations. 2015, c. 28, Sched. 1, s. 2.

### **Not Crown employees**

(2) The following persons are not employees of the Crown and shall not hold themselves out as such:

1. Persons who are employed or whose services are retained under subsection (1).
2. Members, officers and agents of the condominium authority.
3. Members of the board of directors of the condominium authority, including those appointed by the Minister.
4. Members of the Condominium Authority Tribunal, if it has been established under Part I.2. 2015, c. 28, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

### **Not Crown agency**

**1.15** (1) Despite the *Crown Agency Act*, the condominium authority is not an agent of the Crown for any purpose and shall not hold itself out as such. 2015, c. 28, Sched. 1, s. 2.

### **Same**

(2) The following persons are not agents of the Crown and shall not hold themselves out as such:

1. Persons who are employed or whose services are retained by the condominium authority.
2. Members, officers and agents of the condominium authority.

3. Members of the board of directors of the condominium authority, including those appointed by the Minister.

4. Members of the Condominium Authority Tribunal, if it has been established under Part I.2. 2015, c. 28, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

**No personal liability, employee of the Crown**

**1.16** (1) No action or other proceeding shall be instituted against a current or former employee of the Crown for,

- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister's order; or
- (b) any neglect or default in the exercise or performance in good faith of a duty or power described in clause (a). 2020, c. 14, Sched. 1, s. 10.

**Tort by employee of the Crown**

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) of this section does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject. 2020, c. 14, Sched. 1, s. 10.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2019, c. 7, Sched. 17, s. 54 - 01/07/2019

2020, c. 14, Sched. 1, s. 10 - 14/07/2020

**No Crown liability**

**1.17** (1) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of a person who is not a minister of the Crown, a Crown employee or a Crown agent if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister's order. 2020, c. 14, Sched. 1, s. 10.

**No proceeding**

(2) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or loss based on or related to any cause of action described in subsection (1). 2020, c. 14, Sched. 1, s. 10.

**Application**

(3) Without limiting the generality of subsection (2), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, and includes a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada. 2020, c. 14, Sched. 1, s. 10.

**Same, revocation or restriction**

(4) Section 1.16 and subsections (1) to (3) of this section apply, with necessary modifications, in respect of a direct or indirect result of the revocation or restriction of a designation under section 1.7 or any regulation made under subsection 1.7 (6). 2020, c. 14, Sched. 1, s. 10.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 10 - 14/07/2020

**Indemnification of the Crown**

**1.18** The condominium authority shall indemnify the Crown, in accordance with the administrative agreement, in respect of damages and costs incurred by the Crown for any act or omission of the authority or its members, officers, directors, employees or agents in the exercise or performance or intended exercise or performance of their powers and duties under this Act, the regulations, a Minister's order or the administrative agreement, or for any act or omission otherwise connected to this Act, the regulations, a Minister's order or the administrative agreement. 2020, c. 14, Sched. 1, s. 11.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 11 - 01/07/2021

### **No personal liability, board members and others**

**1.19** (1) No action or other proceeding shall be instituted against a person mentioned in subsection (2), or someone who was formerly such a person, for an act done in good faith in the exercise or performance or intended exercise or performance of any of the person's powers or duties under this Act or the regulations or for any neglect or default in the exercise or performance in good faith of such a power or duty. 2020, c. 14, Sched. 1, s. 12.

#### **Same**

(2) Subsection (1) applies to,

- (a) the Registrar;
- (b) deputy Registrars appointed under subsection 9.1 (1);
- (c) members of the board of directors of the condominium authority;
- (d) persons who perform functions under this Act or the regulations as employees, agents or officers of the condominium authority or as persons whose services it retains;
- (e) members of committees of the condominium authority who perform functions under this Act or the regulations; and
- (f) members of the Condominium Authority Tribunal, if it has been established under Part I.2. 2020, c. 14, Sched. 1, s. 12.

### **Liability of condominium authority**

(3) Subsection (1) does not relieve the condominium authority of liability to which it would otherwise be subject in respect of the acts or omissions of a person mentioned in subsection (2). 2020, c. 14, Sched. 1, s. 12.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 12 - 14/07/2020

### **Not public money**

**1.20** (1) The money that the condominium authority collects in carrying out its powers and duties under this Act or the regulations is not public money within the meaning of the *Financial Administration Act*. 2015, c. 28, Sched. 1, s. 2.

#### **Same**

(2) The condominium authority may use the money described in subsection (1) to carry out activities in accordance with its objects, subject to subsection 1.23 (2) and any restrictions in this Part. 2015, c. 28, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

### **Audit**

**1.21** (1) The Auditor General appointed under the *Auditor General Act* may conduct an audit of the condominium authority, other than an audit required under the *Not-for-Profit Corporations Act, 2010*. 2015, c. 28, Sched. 1, s. 2, 3.

### **Access to records and information**

(2) If the Auditor General conducts an audit under subsection (1), the condominium authority shall give the Auditor General and employees of the Auditor General access to all records and other information required to conduct the audit. 2015, c. 28, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017; 2015, c. 28, Sched. 1, s. 3 - 19/10/2021

### **Annual report**

**1.22** (1) The board of directors of the condominium authority shall annually report to the Minister on its activities and financial affairs as they relate to this Act, the regulations and the administrative agreement. 2020, c. 14, Sched. 1, s. 13.

### **Form and contents**

(2) The report shall be in a form acceptable to the Minister and shall provide the information that the Minister requires. 2020, c. 14, Sched. 1, s. 13.

### **Disclosure by board**

(3) The board of the condominium authority shall publish the report on its website and by any other method within the period and in the manner the Minister requires. 2020, c. 14, Sched. 1, s. 13.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 13 - 14/07/2020

## **POWERS AND DUTIES OF CONDOMINIUM AUTHORITY**

### **Additional powers**

**1.23** (1) The condominium authority may carry out other activities in accordance with its objects or purposes, subject to subsection (2). 2015, c. 28, Sched. 1, s. 2.

### **Commercial activities**

(2) The condominium authority shall not engage in commercial activity through a person or entity that is related to the authority. 2015, c. 28, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

### **Change to objects or purposes**

**1.24** (1) Subject to section 1.8, the Minister may require that the condominium authority make a specified change to its objects or purposes. 2015, c. 28, Sched. 1, s. 2.

### **Minister's approval required**

(2) The condominium authority shall not make any changes to its objects or purposes unless the Minister's written approval is obtained in advance. 2015, c. 28, Sched. 1, s. 2.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

### **Right to use French**

**1.25** (1) A person has the right to communicate in French with, and to receive available services in French from, the condominium authority. 2015, c. 28, Sched. 1, s. 2.

### **Definition**

(2) In subsection (1),

“service” means any service or procedure that is provided to the public by the condominium authority in carrying out its powers and duties under this Act or the regulations and includes,

(a) responding to inquiries from members of the public, and

(b) any other communications for the purpose of providing the service or procedure. 2015, c. 28, Sched. 1, s. 2.

### **Board's duty**

(3) The board of directors of the condominium authority shall take all reasonable measures and make all reasonable plans to ensure that persons may exercise the right to use French given by this section. 2015, c. 28, Sched. 1, s. 2.

### **Limitation**

(4) The right to use French given by this section is subject to the limits that are reasonable in the circumstances and to any exemptions that may be provided for in the regulations. 2015, c. 28, Sched. 1, s. 2; 2020, c. 14, Sched. 1, s. 14.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 14 - 14/07/2020

#### **Advisory councils, advisory process**

**1.26** The Minister may require the condominium authority to,

- (a) establish one or more advisory councils;
- (b) include, as members of an advisory council, representatives of owners, representatives of occupiers of units, other representatives of the condominium sector and other persons as the Minister determines; or
- (c) undertake an advisory process in which it seeks advice from one or both of the public and persons with experience or knowledge relating to this Act. 2015, c. 28, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

#### **Duty to inform Minister**

**1.27** The condominium authority shall promptly inform and advise the Minister with respect to,

- (a) any material fact that could affect the authority's ability to perform its duties under this Act or the regulations; or
- (b) any urgent or critical matter that is likely to require action by the Minister to ensure that the administration of the delegated provisions is carried out properly. 2015, c. 28, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

#### **Advice of condominium authority**

**1.28** (1) The condominium authority shall advise or report to the Minister, within the time period that the Minister specifies, on any matter that the Minister refers to it and that relates to this Part, Part I.2 or the administration of the delegated provisions. 2020, c. 14, Sched. 1, s. 15.

#### **Same**

(2) The condominium authority may suggest to the Minister amendments to Ontario legislation that it considers would,

- (a) further the purpose of this Part or Part I.2 or the purpose of the delegated provisions; or
- (b) assist the authority in carrying out its powers and duties under this Act or the regulations. 2015, c. 28, Sched. 1, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

2020, c. 14, Sched. 1, s. 15 - 14/07/2020

#### **Forms and fees**

**1.29** (1) The condominium authority may,

- (a) establish forms related to the administration of the delegated provisions;
- (b) in accordance with processes and criteria established by the condominium authority and approved by the Minister, set and collect,
  - (i) fees, costs or other charges related to the administration of the delegated provisions, and
  - (ii) the fees that a party to a proceeding that is the subject of an application to the Condominium Authority Tribunal under Part I.2 is required to pay, if the Tribunal has been established under that Part; and
- (c) make directives governing the payment of the fees, costs and charges described in clause (b). 2015, c. 28, Sched. 1, s. 2.

#### **Setting fees**

(2) In setting the fees, costs and charges described in clause (1) (b), the condominium authority may specify their amounts or the method for determining the amounts. 2015, c. 28, Sched. 1, s. 2.

#### **Publication of fee schedule**

(3) The condominium authority,

- (a) shall publish the fees, costs and charges, the processes and criteria and the directives on its website and in any other way described in the administrative agreement; and
- (b) may publish them in any other format that the condominium authority considers advisable. 2015, c. 28, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 2 - 01/09/2017

**Assessments of corporations**

**1.30** (1) The condominium authority may assess corporations with respect to the expenses and expenditures that the authority has incurred and made related to executing its powers and duties under this Act or the regulations. 2015, c. 28, Sched. 1, s. 4.

**Process for setting assessment**

(2) In setting an assessment under subsection (1), the condominium authority shall take into account the fees that the authority has received, including fees from its other operations, and shall comply with the processes and criteria that the authority has established and the Minister has approved. 2015, c. 28, Sched. 1, s. 4.

**Same, discretion**

- (3) Subject to subsection (2), in setting an assessment under subsection (1), the condominium authority may,
  - (a) provide that the assessment does not apply to the classes of corporations that it specifies;
  - (b) set different amounts for the assessment based on the different classes of corporations that are subject to the assessment or the type and number of units in each corporation that is subject to the assessment;
  - (c) take into account any other consideration that the authority considers appropriate; or
  - (d) set times for payment of the assessment which may coincide with the time that each of the corporations that is subject to the assessment is required to file a return under Part II.1. 2015, c. 28, Sched. 1, s. 4.

**Publication of assessment schedule**

- (4) The condominium authority,
  - (a) shall publish the assessments, the processes and the criteria on its website and in any other way described in the administrative agreement; and
  - (b) may publish them in any other format that the condominium authority considers advisable. 2015, c. 28, Sched. 1, s. 4.

**Part of common expenses**

(5) If a corporation is subject to an assessment under subsection (1), the assessment shall form part of the common expenses of the corporation. 2015, c. 28, Sched. 1, s. 4.

**Remittance**

(6) A corporation that is assessed under subsection (1) shall pay the assessment to the condominium authority in the manner and at the time that the authority specifies. 2015, c. 28, Sched. 1, s. 4.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 4 - 01/09/2017

**Publication of order**

**1.30.1** The Minister shall publish any orders that the Minister makes under this Act on a website of the Government of Ontario. 2020, c. 14, Sched. 1, s. 16.

**Section Amendments with date in force (d/m/y)**

2020, c. 14, Sched. 1, s. 16 - 01/07/2021

**PART I.2**  
**CONDOMINIUM AUTHORITY TRIBUNAL**  
**DEFINITIONS AND ADMINISTRATION**

**Definitions**

**1.31** In this Part,

“application” means an application made to the Tribunal under subsection 1.36 (1), (2) or (3); (“requête”)

“Tribunal” means the Condominium Authority Tribunal established under subsection 1.32 (1). (“tribunal”) 2015, c. 28, Sched. 1, s. 5.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 5 - 01/09/2017

#### **Establishment**

**1.32** (1) If the Lieutenant Governor in Council has made a regulation to designate the condominium authority, the Condominium Authority Tribunal is established under that name in English and tribunal de l'autorité du secteur des condominiums in French. 2015, c. 28, Sched. 1, s. 5.

#### **Members**

(2) The condominium authority may appoint members to the Tribunal as part-time or full-time members for terms of up to four years or such other period that is prescribed. 2015, c. 28, Sched. 1, s. 5.

#### **Eligibility for appointment**

(3) A person is not eligible to be appointed to the Tribunal unless the person meets the prescribed requirements, but no person who is a member of the board of directors of the authority shall be appointed to the Tribunal. 2015, c. 28, Sched. 1, s. 5.

#### **Reappointment**

(4) A person appointed as a member of the Tribunal is eligible for reappointment if the person meets the eligibility requirements in subsection (3). 2015, c. 28, Sched. 1, s. 5.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 5 - 01/09/2017

#### **Chair, vice-chairs**

**1.33** (1) The condominium authority shall appoint a chair and at least one vice-chair of the Tribunal from among the members of the Tribunal. 2015, c. 28, Sched. 1, s. 5.

#### **Acting chair**

(2) If the chair is absent or otherwise unable to act or if the office is vacant, a vice-chair has all the powers and shall perform the duties of the chair. 2015, c. 28, Sched. 1, s. 5.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 5 - 01/09/2017

#### **Termination of appointments**

**1.34** The condominium authority may terminate the appointment of the chair, a vice-chair or a member for cause. 2015, c. 28, Sched. 1, s. 5.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 5 - 01/09/2017

### **PROCEEDINGS**

#### **Conflict**

**1.35** Despite section 32 of the *Statutory Powers Procedure Act*, this Act and the regulations prevail over the provisions of that Act with which they conflict. 2015, c. 28, Sched. 1, s. 6.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

#### **Applications**

**1.36** (1) Subject to subsection (4), a corporation may apply to the Tribunal for the resolution of a prescribed dispute with one or more of its owners or one or more occupiers or mortgagees of a unit. 2015, c. 28, Sched. 1, s. 6.

**Same, by owner or mortgagee**

(2) Subject to subsection (4), an owner or a mortgagee of a unit may apply to the Tribunal for the resolution of a prescribed dispute with the corporation, another owner or an occupier or a mortgagee of a unit. 2015, c. 28, Sched. 1, s. 6.

**Same, by purchaser**

(3) If the regulations so provide, a purchaser may apply to the Tribunal for the resolution of a dispute with the corporation regarding compliance with subsection 55 (3), but not any other dispute. 2015, c. 28, Sched. 1, s. 6.

**Exception**

(4) An application may not be made to the Tribunal under this section with respect to,

- (a) a dispute with respect to Part III, section 20, 26, 82.1, 82.2, 85 or 86, subsection 117 (1) or Part VII or VIII; or
- (b) a dispute involving the determination of title to any real property. 2015, c. 28, Sched. 1, s. 6.

**Form of application**

(5) An application shall be in the form approved by the Tribunal. 2015, c. 28, Sched. 1, s. 6.

**Time for application**

(6) Subject to any other provision of this Act, an application must be made within two years after the dispute to which the application relates arose. 2015, c. 28, Sched. 1, s. 6.

**Extension of time**

(7) If a person does not make an application within the deadline mentioned in subsection (6), the Tribunal may extend the deadline for a time of no more than one additional year if the Tribunal is satisfied that the delay in not applying was incurred in good faith and no substantial prejudice will result to any person affected by the delay. 2015, c. 28, Sched. 1, s. 6.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

**Combined applications**

**1.37** (1) Two or more persons who are each entitled to make an application may make the application jointly, subject to any provision in the rules of the Tribunal that authorizes the Tribunal to direct that one or more of the applications be considered in a separate proceeding. 2015, c. 28, Sched. 1, s. 6.

**Directed joinder**

(2) Despite the *Statutory Powers Procedure Act*, the Tribunal may direct that two or more applications be joined or heard together if the Tribunal believes it would be fair to determine the issues raised by them together. 2015, c. 28, Sched. 1, s. 6.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

**Parties to a proceeding**

**1.38** (1) The parties to a proceeding that is the subject of an application are the parties described in subsection 1.36 (1), (2) or (3), as the case may be, and any other person added as a party under subsection (3). 2015, c. 28, Sched. 1, s. 6.

**Rights of corporation**

(2) If a person or body makes an application under section 1.36 with respect to a unit in a corporation and, under subsection (1), the corporation is not a party to the proceeding that is the subject of the application, the applicant shall serve a copy of the application on the corporation in accordance with the rules of the Tribunal and the corporation is entitled to intervene in the proceeding. 2015, c. 28, Sched. 1, s. 6.

**Addition or removal of parties**

(3) The Tribunal may add or remove a person as a party if the Tribunal considers it appropriate. 2015, c. 28, Sched. 1, s. 6.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 -01/11/2017

### **Right of affected persons**

**1.39** (1) Subject to section 1.41, the Tribunal shall adopt the most expeditious method of determining the questions arising in a proceeding before it that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and to be heard on matters in the proceeding. 2015, c. 28, Sched. 1, s. 6.

### **Method of proceeding**

(2) Despite the *Statutory Powers Procedure Act*, any proceeding with respect to an application may be held orally or in writing, in person, by telephone, video conference or electronic mail, or through use of other electronic means in accordance with the rules of the Tribunal. 2015, c. 28, Sched. 1, s. 6.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

### **Alternative dispute resolution**

**1.40** (1) Despite section 4.8 of the *Statutory Powers Procedure Act*, the Tribunal may direct the parties to a proceeding to participate in an alternative dispute resolution mechanism for the purposes of resolving the proceeding or an issue arising in the proceeding. 2015, c. 28, Sched. 1, s. 6.

### **Definition**

(2) In this section,

“alternative dispute resolution mechanism” includes mediation, conciliation, negotiation or any other means of facilitating the resolution of issues in dispute. 2015, c. 28, Sched. 1, s. 6.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

### **Power to dismiss applications**

**1.41** (1) The Tribunal may refuse to allow a person to make an application or may dismiss an application without holding a hearing if the Tribunal is of the opinion that the subject matter of the application is frivolous or vexatious or that the application has not been initiated in good faith or discloses no reasonable cause of action. 2015, c. 28, Sched. 1, s. 6.

### **Same**

(2) The Tribunal may dismiss an application without holding a hearing if the Tribunal finds that the applicant has filed documents with the Tribunal that the applicant knew or ought to have known to have contained false or misleading information. 2015, c. 28, Sched. 1, s. 6.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

### **Jurisdiction**

**1.42** (1) Subject to subsection (2), the Tribunal has exclusive jurisdiction to exercise the powers conferred on it under this Act and to determine all questions of fact or law that arise in any proceeding before it. 2015, c. 28, Sched. 1, s. 6.

### **Exception**

(2) The Tribunal shall not inquire into or make a decision concerning the constitutional validity of a provision of an Act or a regulation. 2015, c. 28, Sched. 1, s. 6.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

### **Order during proceeding**

**1.43** On the request of a party to a proceeding before the Tribunal, the Tribunal may make an order for the detention, preservation or inspection of property and documents that are the subject of the application in the proceeding or as to which a question may arise in the proceeding, and may order a party to provide security in that connection. 2015, c. 28, Sched. 1, s. 6.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

### **Orders at end of proceeding**

**1.44** (1) Subject to subsection (4), in a proceeding before the Tribunal, the Tribunal may make any of the following orders:

1. An order directing one or more parties to the proceeding to comply with anything for which a person may make an application to the Tribunal.
2. An order prohibiting a party to the proceeding from taking a particular action or requiring a party to the proceeding to take a particular action.
3. An order directing a party to the proceeding to pay compensation for damages incurred by another party to the proceeding as a result of an act of non-compliance up to the greater of \$25,000 or the amount, if any, that is prescribed.
4. An order directing a party to the proceeding to pay the costs of another party to the proceeding.
5. An order directing a party to the proceeding to pay the costs of the Tribunal.
6. An order directing a corporation that is a party to a proceeding with respect to a dispute under subsection 55 (3) to pay a penalty that the Tribunal considers appropriate to the person entitled to examine or obtain copies under that subsection if the Tribunal considers that the corporation has without reasonable excuse refused to permit the person to examine or obtain copies under that subsection.
7. An order directing whatever other relief the Tribunal considers fair in the circumstances. 2015, c. 28, Sched. 1, s. 6.

### **Orders for costs**

(2) Despite section 17.1 of the *Statutory Powers Procedure Act*, an order for costs made under paragraph 4 or 5 of subsection (1) shall be determined in accordance with the rules of the Tribunal. 2015, c. 28, Sched. 1, s. 6.

### **Order for penalty**

(3) An order for a penalty made under paragraph 6 of subsection (1) shall be in an amount of not more than the lesser of \$5,000 and the prescribed amount, if any. 2015, c. 28, Sched. 1, s. 6.

### **No order for permanent removal of person**

(4) The Tribunal shall not make an order requiring a person to vacate a property permanently. 2015, c. 28, Sched. 1, s. 6.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

### **Payment under order for compensation, costs or a penalty**

**1.45** (1) The party against whom an order for compensation, costs or a penalty is made shall pay the amount of the order within 30 days, unless the order specifies another time limit. 2015, c. 28, Sched. 1, s. 6.

### **Adding to common expenses**

(2) If an order requires an owner to pay compensation or costs to a corporation, the corporation may add the amount of the order to the contribution to the common expenses payable for the owner's unit. 2015, c. 28, Sched. 1, s. 6.

### **Set-off against common expenses**

(3) If an order requires a corporation to pay compensation, costs or a penalty to an owner and the corporation does not pay the amount of the order within the time limit mentioned in subsection (1), the owner may set off the amount against the contribution to the common expenses payable for the owner's unit. 2015, c. 28, Sched. 1, s. 6.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

### **Appeals**

**1.46** (1) Subject to subsection (2), an order of the Tribunal in a proceeding is final and binding. 2015, c. 28, Sched. 1, s. 6.

### **Right to appeal**

(2) A party to a proceeding before the Tribunal may appeal the order to the Divisional Court on a question of law in accordance with the rules of court. 2015, c. 28, Sched. 1, s. 6.

### **Powers of court**

(3) On the appeal, the Divisional Court may affirm, reverse or vary the order of the Tribunal. 2015, c. 28, Sched. 1, s. 6.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

#### **Settlement**

**1.47** (1) If the parties to a proceeding that is the subject of an application agree to a settlement in writing and sign the settlement, the settlement is binding on the parties. 2015, c. 28, Sched. 1, s. 6.

#### **Consent order**

(2) The Tribunal may, on the joint motion of the parties to a settlement described in subsection (1), make an order requiring compliance with the settlement or any part of the settlement. 2015, c. 28, Sched. 1, s. 6.

#### **Application where contravention**

(3) A party to the settlement described in subsection (1) who believes that another party has contravened the settlement may make an application to the Tribunal for an order under subsection (6),

- (a) within six months after the contravention to which the application relates; or
- (b) after the expiry of the time limit described in clause (a) if the Tribunal is satisfied that the delay in applying was incurred in good faith and no substantial prejudice will result to any person affected by the delay. 2015, c. 28, Sched. 1, s. 6.

#### **Form of application**

(4) An application under subsection (3) shall be in the form that the Tribunal approves. 2015, c. 28, Sched. 1, s. 6.

#### **Parties**

(5) Subject to the rules of the Tribunal, the parties to the proceeding that is the subject of the application are the parties to the settlement and any other person that the Tribunal adds as a party. 2015, c. 28, Sched. 1, s. 6.

#### **Order**

(6) If, on an application under subsection (3), the Tribunal determines that a party has contravened the settlement, the Tribunal may make an order that it considers appropriate to remedy the contravention. 2015, c. 28, Sched. 1, s. 6.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

#### **Publication of orders**

**1.48** The Tribunal shall ensure that a copy of any order that it makes is made available to the public in the prescribed manner. 2015, c. 28, Sched. 1, s. 6.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 6 - 01/11/2017

## **PART II REGISTRATION AND CREATION**

### **CREATION**

#### **Registration**

**2** (1) Subject to the regulations and subsections (2) and (2.1), a declaration and description may be registered by or on behalf of the person who owns the freehold or leasehold estate in the land described in the description. 1998, c. 19, s. 2 (1); 2015, c. 28, Sched. 1, s. 7 (1).

#### **Restriction**

(2) A declaration and description for a freehold condominium corporation shall not be registered by or on behalf of a person who does not own the freehold estate in the land described in the description. 1998, c. 19, s. 2 (2).

#### **Same, residential condominium conversion project**

(2.1) A declaration and description that would create a corporation for a residential condominium conversion project shall not be registered unless the declaration contains confirmation from the Registrar, as defined in the *Ontario New Home Warranties Plan Act*, that,

- (a) the project, the units or proposed units of it and the common elements of it have been enrolled in the Plan, as defined in that Act, in accordance with the regulations made under that Act;
- (b) the builder, within the meaning of the *New Home Construction Licensing Act, 2017*, is licensed as a builder in respect of that project under that Act; and
- (c) the vendor, within the meaning of the *New Home Construction Licensing Act, 2017*, is licensed as a vendor in respect of that project under that Act. 2015, c. 28, Sched. 1, s. 7 (2); 2020, c. 14, Sched. 1, s. 17.

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 2 (2.1) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (5))**

#### **Same, residential condominium conversion project**

(2.1) A declaration and description that would create a corporation for a residential condominium conversion project shall not be registered unless the declaration contains confirmation from the registrar appointed under section 38 of the *Protection for Owners and Purchasers of New Homes Act, 2017* that,

- (a) the project, the units or proposed units of it, the common elements of it and the real property, if any, that is prescribed have been enrolled in the Plan, within the meaning of that Act, in accordance with the regulations made under that Act;
- (b) the builder, within the meaning of the *New Home Construction Licensing Act, 2017*, is licensed as a builder in respect of the project under that Act;
- (c) the vendor, within the meaning of the *New Home Construction Licensing Act, 2017*, is licensed as a vendor in respect of the project under that Act; and
- (d) all other conditions, if any, that are prescribed have been satisfied. 2017, c. 33, Sched. 2, s. 75 (5).

#### **Effect of registration**

- (3) Upon registration of a declaration and description,
  - (a) this Act governs the land and the interests appurtenant to the land, as the land and the interests are described in the description;
  - (b) the land described in the description is divided into units and common elements in accordance with the description; and
  - (c) a condominium corporation is created. 1998, c. 19, s. 2 (3).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 7 (1, 2) - 01/01/2018

2017, c. 33, Sched. 2, s. 75 (5) - not in force; 2017, c. 33, Sched. 2, s. 79 (5, 6) - no effect

2020, c. 14, Sched. 1, s. 17 - 01/02/2021

#### **Place of registration**

- 3 (1) The declaration and description shall be registered in,
  - (a) the land titles division of the land registry office within the boundaries of which division the land described in the description is situated, if the land registry office has a land titles division; or
  - (b) the registry division of the land registry office within the boundaries of which division the land described in the description is situated, if the land registry office does not have a land titles division. 1998, c. 19, s. 3 (1).

#### **Index**

- (2) A land registrar in whose office a declaration and description are registered shall keep an index of the corporations created by the registrations. 1998, c. 19, s. 3 (2).

#### **Same**

- (3) The index mentioned in subsection (2) shall be in the form approved by the Director of Titles appointed under section 9 of the *Land Titles Act* and shall be known in English as the Condominium Corporations Index and in French as Répertoire des associations condominiales. 1998, c. 19, s. 3 (3).

### **Condominium register**

(4) A land registrar in whose office a declaration and description are registered shall keep a register in the form approved by the Director of Titles to be known in English as the Condominium Register and in French as *Registre des condominiums*. 1998, c. 19, s. 3 (4).

### **Contents of condominium register**

(5) Declarations, descriptions, by-laws, notices of termination and other instruments respecting land governed by this Act shall be registered and recorded in the Condominium Register in accordance with the regulations and the instructions of the Director of Titles. 1998, c. 19, s. 3 (5); 2015, c. 28, Sched. 1, s. 146 (1).

### **Section Amendments with date in force (d/m/y)**

2012, c. 8, Sched. 9, s. 2 - See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2022

2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

### **Real property Acts**

4 (1) The *Land Titles Act* or the *Registry Act*, as the case may be, applies in respect of property governed by this Act but, if the provisions of either of those Acts conflict with the provisions of this Act, the provisions of this Act prevail. 1998, c. 19, s. 4 (1).

### **Rights of tenants**

(2) The registration of a declaration and description shall not terminate or otherwise affect the rights under the *Residential Tenancies Act, 2006* of a person who, at the time of the registration, is a tenant of the property or of a part of the property. 1998, c. 19, s. 4 (4); 2006, c. 17, s. 248 (1).

### **No termination of tenancy**

(3) The registration of a declaration and description does not constitute grounds for a landlord to give notice of termination under Part V of the *Residential Tenancies Act, 2006* to a tenant described in subsection (2). 1998, c. 19, s. 4 (4); 2006, c. 17, s. 248 (2).

(4) SPENT: 1998, c. 19, s. 4 (4).

### **Section Amendments with date in force (d/m/y)**

1998, c. 19, s. 4 (4) - 17/06/1998

2006, c. 17, s. 248 - 31/01/2007

### **Corporation**

5 (1) A corporation created or continued under this Act is a corporation without share capital whose members are the owners. 1998, c. 19, s. 5 (1).

### **Name**

(2) The land registrar shall assign a name to each corporation in accordance with the regulations. 1998, c. 19, s. 5 (2); 2015, c. 28, Sched. 1, s. 146 (2, 3).

**Note:** On the day section 3 of Schedule 9 to the *Strong Action for Ontario Act (Budget Measures), 2012* comes into force, subsection 5 (2) of the Act is amended by striking out “the regulations made under this Act” and substituting “the regulations”. (See: 2017, c. 20, Sched. 9, s. 5)

### **Other Act**

(3) The *Not-for-Profit Corporations Act, 2010* does not apply to the corporation. 1998, c. 19, s. 5 (3); 2017, c. 20, Sched. 8, s. 75.

### **Same**

(4) Subject to the regulations, the *Corporations Information Act* does not apply to the corporation. 2015, c. 28, Sched. 1, s. 8.

### **Section Amendments with date in force (d/m/y)**

2012, c. 8, Sched. 9, s. 3 - See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2022

2015, c. 28, Sched. 1, s. 8 - 01/11/2017; 2015, c. 28, Sched. 1, s. 146 (2, 3, 5) - 01/09/2017; 2015, c. 28, Sched. 1, s. 146 (5) - no effect - see 2015, c. 28, Sched. 1, s. 146 (4)

2017, c. 20, Sched. 8, s. 75 - 19/10/2021; 2017, c. 20, Sched. 9, s. 5 - not in force

## **Types of corporations**

6 (1) Corporations under this Act consist of the following types:

1. Freehold condominium corporations.
2. Leasehold condominium corporations. 1998, c. 19, s. 6 (1).

## **Types of freehold corporations**

(2) Freehold condominium corporations consist of the following types:

1. Common elements condominium corporations.
2. Phased condominium corporations.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, paragraph 2 of subsection 6 (2) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 9 (1))

3. Vacant land condominium corporations.
4. Standard condominium corporations that are not any of the corporations mentioned in paragraphs 1, 2 and 3. 1998, c. 19, s. 6 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, paragraph 4 of subsection 6 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 9 (2))

4. Standard condominium corporations that are not any of the corporations mentioned in paragraph 1 or 3.

## **Restriction on registration**

(3) A declaration and description shall not be registered unless the registration would create a freehold condominium corporation or a leasehold condominium corporation. 1998, c. 19, s. 6 (3).

## **Indication in declaration**

(4) The declaration shall state,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 6 (4) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 9 (3))

## **Indication in declaration**

(4) Subject to the regulations, the declaration shall state,

- (a) whether the corporation is a freehold condominium corporation or a leasehold condominium corporation; and
- (b) if the corporation is a freehold condominium corporation, the type of freehold condominium corporation that it is. 1998, c. 19, s. 6 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 6 (4) of the Act is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 9 (4))

- (c) whether the corporation is a phased condominium corporation.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 6 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 9 (5))

## **Phased condominium corporations**

(5) A phased condominium corporation is a freehold or a leasehold condominium corporation that is subject to Part XI. 2015, c. 28, Sched. 1, s. 9 (5).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 9 - not in force

## **DECLARATION AND DESCRIPTION**

## **Requirements for declaration**

7 (1) A declaration shall not be registered unless the declarant has executed it in the manner prescribed by the Act under which it is to be registered. 1998, c. 19, s. 7 (1).

## Contents

(2) A declaration shall contain,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 7 (2) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 10 (1))**

## Contents

(2) Subject to the regulations, a declaration shall contain,

- (a) a statement that this Act governs the land and interests appurtenant to the land, as the land and the interests are described in the description;
- (b) the consent of every person having a registered mortgage against the land or interests appurtenant to the land, as the land and the interests are described in the description;
- (c) a statement of the proportions, expressed in percentages, of the common interests appurtenant to the units;
- (d) a statement of the proportions, expressed in percentages allocated to the units, in which the owners are to contribute to the common expenses;

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 7 (2) of the Act is amended by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 10 (2))**

- (d.1) a statement of how the proportions mentioned in clauses (c) and (d) are determined;
- (e) an address for service, a municipal address for the corporation, if available, and the mailing address of the corporation if it differs from its address for service or municipal address;
- (f) a specification of all parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;
- (g) a statement of all conditions that the approval authority, in approving or exempting the description under section 9, requires the declaration to mention; and
- (h) all other material that the regulations require. 1998, c. 19, s. 7 (2); 2015, c. 28, Sched. 1, s. 10 (3), 146 (1).

## Consent

(3) A person shall not withhold the consent mentioned in clause (2) (b) by reason only of the failure of the declarant to enter into a specified number of agreements of purchase and sale for the sale of proposed units. 1998, c. 19, s. 7 (3).

## Additional contents

(4) In addition to the material mentioned in subsection (2) and in any other section in this Act, a declaration may contain,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 7 (4) of the Act is amended by adding “subject to the regulations” after “contain” in the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 10 (4))**

- (a) a statement specifying the common expenses of the corporation;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 7 (4) (a) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 10 (5))**

- (a) a statement specifying the common expenses of the corporation and the circumstances that may result in the addition of any amount to the contribution to the common expenses payable for the owner’s unit to indemnify or compensate the corporation for,
  - (i) an actual loss, as is prescribed, that the corporation has incurred in the performance of the corporation’s objects and duties, or
  - (ii) any other purpose, if any, that is prescribed;

- (b) conditions or restrictions with respect to the occupation and use of the units or common elements;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 7 (4) (b) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 10 (6))**

- (b) conditions or restrictions with respect to the occupation or use of the units, the common elements or the assets, if any, of the corporation;
- (c) conditions or restrictions with respect to gifts, leases and sales of the units and common interests;

- (d) a list of the responsibilities of the corporation consistent with its objects and duties; and
- (e) a description of the allocation of obligations to maintain the units and common elements and to repair them after damage, which allocation has been done in accordance with this Act. 1998, c. 19, s. 7 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 7 (4) of the Act is amended by striking out “and” at the end of clause (d) and by repealing clause (e) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 10 (7))**

- (e) a description of the allocation of obligations to maintain the units, the common elements or the assets, if any, of the corporation and to repair them, which allocation has been done in accordance with this Act; and
- (f) all other material that the regulations permit.

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 7 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 10 (8))**

#### **Determination re common expenses**

(4.1) The common expenses and the addition mentioned in clause (4) (a) shall be determined in accordance with the prescribed restrictions or requirements, if any. 2015, c. 28, Sched. 1, s. 10 (8).

#### **Inconsistent provisions**

(5) If any provision in a declaration is inconsistent with the provisions of this Act, the provisions of this Act prevail and the declaration shall be deemed to be amended accordingly. 1998, c. 19, s. 7 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 7 (5) of the Act is amended by adding “A declaration need not be reasonable but” at the beginning. (See: 2015, c. 28, Sched. 1, s. 10 (9))**

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 10 (1, 2, 4-9) - not in force; 2015, c. 28, Sched. 1, s. 10 (3) - 01/11/2017; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

#### **Requirements for description**

**8** (1) Subject to the regulations, a description shall contain,

- (a) a plan of survey showing the perimeter of the horizontal surface of the land and the perimeter of the buildings;
- (b) architectural plans of the buildings and, if there are any, structural plans of the buildings;
- (c) a specification of the boundaries of each unit by reference to the buildings or other monuments;
- (d) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and the buildings;
- (e) a certificate of an architect that all buildings have been constructed in accordance with the regulations and, if there are structural plans, a certificate of an engineer that all buildings have been constructed in accordance with the regulations;
- (f) a certificate signed by an Ontario land surveyor licensed under the *Surveyors Act* stating that the diagrams of the units are substantially accurate;
- (g) a description of all interests appurtenant to the land that are included in the property; and
- (h) all other material that the regulations require. 1998, c. 19, s. 8 (1); 2015, c. 28, Sched. 1, s. 146 (1).

#### **Preparation of documents**

(2) A survey, plan, specification, diagram, certificate or description mentioned in subsection (1) shall be prepared in accordance with the regulations. 1998, c. 19, s. 8 (2); 2015, c. 28, Sched. 1, s. 146 (1).

#### **Common elements, units in building**

(3) A description shall not be registered unless,

- (a) the property includes common elements; and
- (b) each unit for residential purposes includes one or more buildings or is included in a building. 1998, c. 19, s. 8 (3).

#### **Approval by examiner of surveys**

(4) The examiner of surveys appointed under the *Land Titles Act* may require a description or an amendment to a description to be submitted to the examiner of surveys for approval before it is registered. 1998, c. 19, s. 8 (4).

## **Same**

(5) The examiner of surveys shall approve the description or the amendment to the description if satisfied that the document submitted meets the requirements of this section and, if applicable, subsection 11 (6). 1998, c. 19, s. 8 (5); 2015, c. 28, Sched. 1, s. 11.

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 11 - 01/11/2017; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

## **PLANNING ACT**

### **Subdivision control**

**9** (1) Section 50 of the *Planning Act* does not apply in respect of,

- (a) dealings with whole units and common interests; or
- (b) easements transferred by or reserved to the corporation. 1998, c. 19, s. 9 (1).

### **Approvals of descriptions**

(2) Subject to this section, the provisions of sections 51, 51.1 and 51.2 of the *Planning Act* that apply to a plan of subdivision apply with necessary modifications to a description or an amendment to a description. 1998, c. 19, s. 9 (2).

### **Registration**

(3) A description or an amendment to a description shall not be registered unless,

- (a) the approval authority has approved it; or
- (b) the approval authority has exempted it from those provisions of sections 51 and 51.1 of the *Planning Act* that would normally apply to it under subsection (2) and it is accompanied by a certificate of exemption issued by the approval authority. 1998, c. 19, s. 9 (3).

### **Conversion of rented residential premises**

(4) If an applicant makes an application for approval in respect of a property that includes a building or related group of buildings containing one or more premises that is used as a rented residential premises or that has been used as a rented residential premises and is vacant, the approval authority may, after consulting with the council of the local municipality in which the property is located if the approval authority is not that municipality, require the applicant to have a person who holds a certificate of authorization within the meaning of the *Professional Engineers Act* or a certificate of practice within the meaning of the *Architects Act* or another qualified person inspect the property and report to the approval authority all matters that the approval authority considers may be of concern. 1998, c. 19, s. 9 (4).

### **Additional conditions**

(5) In addition to the conditions that it may impose under subsection 51 (25) of the *Planning Act*, the approval authority that receives an application described in subsection (4) may impose the conditions that it considers are reasonable in light of the report mentioned in subsection (4). 1998, c. 19, s. 9 (5).

### **Application for exemption**

(6) Before making an application under subsection 51 (16) of the *Planning Act*, the owner of a property or a person authorized in writing by the owner of the property may apply to the approval authority to have the description or any part of the description exempted from those provisions of sections 51 and 51.1 of the *Planning Act* that would normally apply to it under subsection (2). 1998, c. 19, s. 9 (6).

### **Individual exemption**

(7) The approval authority may grant an exemption if it believes the exemption is appropriate in the circumstances. 1998, c. 19, s. 9 (7).

### **Exemption made by Minister**

(8) If the Minister of Municipal Affairs and Housing is the approval authority, that Minister may by regulation provide that the provisions of sections 51 and 51.1 of the *Planning Act* that apply to a plan of subdivision do not apply to a class of description or an amendment to a class of description specified in the regulation. 1998, c. 19, s. 9 (8).

### **Effect of regulation**

(9) The regulation may be restricted to specified geographic areas of Ontario. 1998, c. 19, s. 9 (9).

### **Exemption made by municipality**

(10) If the Minister of Municipal Affairs and Housing is not the approval authority, the approval authority may by by-law provide that the provisions of sections 51 and 51.1 of the *Planning Act* that apply to a plan of subdivision do not apply to a class of description or an amendment to a class of description specified in the by-law. 1998, c. 19, s. 9 (10).

### **Effect of by-law**

(11) The by-law may be restricted to specified geographic areas within the geographic area of the authority. 1998, c. 19, s. 9 (11).

### **s. 52 of *Planning Act***

(12) Section 52 of the *Planning Act* applies in respect of a description of a vacant land condominium corporation but does not apply in respect of a description of any other corporation. 1998, c. 19, s. 9 (12).

## **PART II.1 CONDOMINIUM RETURNS**

### **Registrar**

**9.1** (1) The following person or body shall appoint a person to be known in English as the Condominium Registrar and in French as the registrateur du secteur des condominiums for the purposes of this Act and may appoint a maximum of two deputy Registrars:

1. The board of the condominium authority, if the authority is responsible for the administration of this Part.
2. The Minister, if there is no condominium authority that is responsible for the administration of this Part. 2015, c. 28, Sched. 1, s. 12.

### **Powers and duties of Registrar**

(2) The Registrar shall exercise the powers and perform the duties imposed on him or her under this Act. 2015, c. 28, Sched. 1, s. 12.

### **Same, deputy Registrar**

(3) A deputy Registrar shall perform the duties that the Registrar assigns and shall act as the Registrar in the Registrar's absence. 2015, c. 28, Sched. 1, s. 12.

### **If more than one deputy Registrar**

(4) If more than one deputy Registrar is appointed, only one deputy Registrar may act as the Registrar under subsection (3) at any one time. 2015, c. 28, Sched. 1, s. 12.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 12 - 01/01/2018

### **Returns**

**9.2** (1) Every corporation shall file with the Registrar the following returns by delivering them to the Registrar in the prescribed manner and within the prescribed time and by paying the applicable fee:

1. An initial return.
2. A turn-over return.
3. An annual return.
4. Other returns as prescribed. 2015, c. 28, Sched. 1, s. 12.

### **Contents**

(2) Each return shall set out the prescribed information as of the prescribed date. 2015, c. 28, Sched. 1, s. 12.

### **Verification**

(3) Each return shall be verified by the certificate of,

- (a) a director or officer of the corporation;
- (b) a condominium manager licensed under the *Condominium Management Services Act, 2015* who provides condominium management services to the corporation under that Act; or

- (c) any other individual having knowledge of the affairs of the corporation. 2015, c. 28, Sched. 1, s. 12; 2015, c. 28, Sched. 2, s. 80 (2).

#### **Form**

- (4) Each return shall be in a form that the Registrar approves. 2015, c. 28, Sched. 1, s. 12.

#### **Incomplete return**

- (5) The Registrar may accept a return from a corporation for filing even if the return does not comply with the information requirements of subsection (2), but the corporation shall not be considered to have complied with this section until it has satisfied all of the requirements of this section. 2015, c. 28, Sched. 1, s. 12.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 12 - 01/01/2018; 2015, c. 28, Sched. 2, s. 80 (2) - 01/01/2018

#### **Notice of change**

- 9.3** (1) Unless otherwise prescribed, every corporation shall file with the Registrar, within the prescribed time,

- (a) a notice of change for every change in the directors elected or appointed to the board; and
- (b) a notice of all additional information, if any, that is prescribed. 2015, c. 28, Sched. 1, s. 12.

#### **Exception**

- (2) It is not necessary to file a notice of change in respect of a director who is re-elected after an immediately preceding term of office. 2015, c. 28, Sched. 1, s. 12.

#### **Verification**

- (3) A notice required under subsection (1) shall be verified by the certificate of,

- (a) a director or officer of the corporation;
- (b) a condominium manager licensed under the *Condominium Management Services Act, 2015* who provides condominium management services to the corporation under that Act; or
- (c) any other individual having knowledge of the affairs of the corporation. 2015, c. 28, Sched. 1, s. 12; 2015, c. 28, Sched. 2, s. 80 (3).

#### **Form**

- (4) A notice required under subsection (1) shall be in a form that the Registrar approves. 2015, c. 28, Sched. 1, s. 12.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 12 - 01/01/2018; 2015, c. 28, Sched. 2, s. 80 (3) - 01/01/2018

#### **No false or misleading statements**

- 9.4** No person shall make a statement in any return or notice that a corporation is required to file with the Registrar if,

- (a) the statement is false or misleading with respect to any material fact; or
- (b) the statement omits to state any material fact, the omission of which makes the statement false or misleading. 2015, c. 28, Sched. 1, s. 12.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 12 - 01/01/2018

#### **No duty of Registrar**

- 9.5** The Registrar may accept the information contained in any return or notice filed under this Act without making any inquiry as to its completeness or accuracy. 2015, c. 28, Sched. 1, s. 12.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 12 - 01/01/2018

### **Late filing fee**

**9.6** A corporation that files a return or notice under this Part after the time set out in the regulations shall pay the late filing fee set by the Minister or, if the condominium authority is responsible for the administration of this Part, the condominium authority. 2015, c. 28, Sched. 1, s. 12.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 12 - 01/01/2018

### **Registrar's database**

**9.7** (1) The Registrar shall maintain, in accordance with the prescribed requirements, an electronic database of,

- (a) the information contained in every return and notice that the Registrar receives under this Part; and
- (b) any other information that relates to this Part and that is prescribed. 2015, c. 28, Sched. 1, s. 12.

### **Publication**

(2) The Registrar shall make available to the public, by electronic or other means and in accordance with the regulations, the information that is contained in the electronic database and that is prescribed. 2015, c. 28, Sched. 1, s. 12.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 12 - 01/01/2018

### **Confidentiality**

**9.8** A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Part or the regulations relating to this Part shall preserve secrecy with respect to the information and shall not communicate the information to any person except,

- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;
- (b) as authorized under the *Regulatory Modernization Act, 2007*;
- (c) to a prescribed entity or organization, if the purpose of the communication is consumer protection;
- (d) to a law enforcement agency;
- (e) to the counsel of the person communicating the information; or
- (f) with the consent of the person to whom the information relates. 2015, c. 28, Sched. 1, s. 12.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 12 - 01/01/2018

### **Certificate of Registrar**

**9.9** (1) The Registrar may issue a certificate certifying that,

- (a) any return or notice required to be filed under this Part has been so filed or has not been so filed;
- (b) a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Registrar as a director, officer, manager or attorney for service of the corporation named in the certificate; or
- (c) information set out in the certificate has been filed under this Part and is contained in the records of the Registrar. 2015, c. 28, Sched. 1, s. 12.

### **Form of certificate**

(2) The certificate shall be issued under the seal of the Registrar and shall be signed by the Registrar. 2015, c. 28, Sched. 1, s. 12.

### **Certificates as evidence**

(3) A certificate purporting to be under the seal of the Registrar and signed by the Registrar, or any certified copy, shall be received in evidence in any prosecution or other proceeding as proof, in the absence of evidence to the contrary, of the facts so certified without personal appearance to prove the seal, the signature or the official position of the person appearing to have signed the certificate. 2015, c. 28, Sched. 1, s. 12.

### **Section Amendments with date in force (d/m/y)**

### **PART III OWNERSHIP**

#### **Type of property**

**10** Units and common elements are real property for all purposes. 1998, c. 19, s. 10.

#### **Ownership of property**

**11** (1) Subject to this Act, the declaration, the by-laws and the rules, each owner is entitled to exclusive ownership and use of the owner's unit. 1998, c. 19, s. 11 (1); 2015, c. 28, Sched. 1, s. 13 (1).

#### **Same, common elements**

(2) The owners are tenants in common of the common elements and an undivided interest in the common elements is appurtenant to each owner's unit. 1998, c. 19, s. 11 (2).

#### **Common interests**

(3) The proportions of the common interests are those expressed in the declaration. 1998, c. 19, s. 11 (3).

#### **No separation**

(4) The ownership of a unit shall not be separated from the ownership of the common interest and an instrument that purports to separate the ownership of a unit from a common interest is void. 1998, c. 19, s. 11 (4).

#### **No division**

(5) Except as provided by this Act, the common elements shall not be partitioned or divided. 1998, c. 19, s. 11 (5).

#### **Distinction by regulations**

(6) Despite anything in the declaration, the description, a by-law, an agreement or an instrument, the regulations may specify,

- (a) what parts of a property or proposed property and what other real property or personal property in respect of a property, a proposed property or a corporation constitute a unit or an asset owned by a corporation or form part of the common elements; and
- (b) rules and procedures necessary to implement anything described in clause (a). 2015, c. 28, Sched. 1, s. 13 (2).

#### **Exception**

(7) A provision of a regulation mentioned in subsection (6) ceases to apply to a corporation if a board of the corporation described in subsection (8) so decides and if the corporation has met all other requirements of this Act. 2015, c. 28, Sched. 1, s. 13 (2).

#### **Board affected**

(8) A board of the corporation mentioned in subsection (7) is a new board elected at a turn-over meeting held under section 43 or a subsequent board, but does not include,

- (a) a new board elected pursuant to subsection 152 (6); or
- (b) a board if a majority of the directors on it are those who were elected at any time when the declarant or a declarant affiliate, individually or jointly, owned a majority of the units in the corporation. 2015, c. 28, Sched. 1, s. 13 (2).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 13 (1, 2) - 01/11/2017

#### **Easements**

**12** (1) The following easements are appurtenant to each unit and shall be for the benefit of the owner of the unit and the corporation:

- 1. An easement for the provision of a service through the common elements or any other unit.
- 2. An easement for support by all buildings and structures necessary for providing support to the unit.
- 3. If a building or a part of a building moves after registration of the declaration and description or after having been damaged and repaired but has not been restored to the position occupied at the time of registration of the declaration and description, an easement for exclusive use and occupation over the space of the other units and common elements

that would be space included in the unit if the boundaries of the unit were determined by the position of the buildings from time to time after registration of the description and not at the time of registration.

4. If a corporation is entitled to use a service or facility in common with another corporation, an easement for access to and for the installation and maintenance of the service or facility over the land of the other corporation, described in accordance with the regulations made under this Act. 1998, c. 19, s. 12 (1).

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 4 of subsection 12 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 14)**

4. An easement mentioned in subsection 21.1 (2) as determined in accordance with the regulations.

#### **Same, common elements**

(2) The following easements are appurtenant to the common elements:

1. An easement for the provision of a service through a unit or through a part of the common elements of which an owner has exclusive use.
2. An easement for support by all units necessary for providing support. 1998, c. 19, s. 12 (2).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 14 - not in force

#### **Effect on encumbrances**

**13** (1) Upon the registration of the declaration and description of a corporation that is not a common elements condominium corporation, an encumbrance against the common elements registered before the registration of the declaration and description is no longer enforceable against the common elements but is enforceable against all the units and common interests. 2017, c. 24, s. 74 (1).

#### **Same, common elements condominium corporation**

(2) Upon the registration of the declaration and description of a common elements condominium corporation, an encumbrance against the common elements registered before the registration of the declaration and description is no longer enforceable against the common elements but is enforceable against all the parcels of land mentioned in subsection 139 (1) and common interests. 2017, c. 24, s. 74 (1).

#### **Encumbrances on or after declaration**

(3) An encumbrance against the common elements on or after the registration of the declaration and description of a corporation is not enforceable against the common elements but is enforceable against all the units and common interests or, in the case of a common elements condominium corporation, against all of the parcels of land and common interests. 2017, c. 24, s. 74 (1).

#### **Section Amendments with date in force (d/m/y)**

2017, c. 24, s. 74 (1) - 01/07/2018

#### **Discharge of encumbrance**

**14** (1) If an encumbrance is, by virtue of subsection 13 (1) or (3), enforceable against all the units and common interests, an owner may discharge the portion of the encumbrance that is applicable to the owner's unit and common interest by paying to the encumbrancer the portion of the amount owing on account of principal and interest under the encumbrance that is attributable to the owner's common interest as specified in the declaration. 2017, c. 24, s. 74 (1).

#### **Same, common elements condominium corporation**

(2) If an encumbrance is, by virtue of subsection 13 (2) or (3), enforceable against all the parcels of land mentioned in subsection 139 (1) and common interests, an owner may discharge the portion of the encumbrance that is applicable to the owner's parcel of land and common interest by paying to the encumbrancer the portion of the amount owing on account of principal and interest under the encumbrance that is attributable to the owner's common interest as specified in the declaration. 2017, c. 24, s. 74 (1).

#### **Form**

(3) Upon payment of the portion of the encumbrance described in subsection (1) or (2), and upon demand, the encumbrancer shall give to the owner a discharge of the owner's unit or parcel of land, as the case may be, and common interest, in accordance with the requirements of the regulations. 2017, c. 24, s. 74.

### **Exception, construction lien**

(4) Subsections (1), (2) and (3) do not apply if the encumbrance is a lien under the *Construction Act*. 2017, c. 24, s. 74 (1).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

2017, c. 24, s. 74 (1, 2) - 01/07/2018

### **Assessment**

**15** (1) Each unit, together with its appurtenant common interest, constitutes a parcel for the purpose of municipal assessment and taxation. 1998, c. 19, s. 15 (1).

### **Common elements**

(2) Subject to subsection (3), the common elements of a corporation that is not a common elements condominium corporation do not constitute a parcel for the purpose of municipal assessment and taxation. 1998, c. 19, s. 15 (2).

### **Exception**

(3) A part of the common elements of a corporation that is not a common elements condominium corporation constitutes a separate parcel for the purpose of municipal assessment and taxation if it is leased for business purposes under section 21, the lessee carries on an undertaking for gain on it and it is in the commercial property class prescribed under the *Assessment Act*. 1998, c. 19, s. 15 (3).

### **Common elements condominium corporation**

(4) The common elements of a common elements condominium corporation constitute a parcel for the purpose of municipal assessment and taxation within each municipality in which the common elements or a part of them are located and the municipal taxes levied on the parcel or parcels shall form part of the common expenses of the corporation. 1998, c. 19, s. 15 (4).

## **PART IV CORPORATION**

### **GENERAL**

### **Seal**

**16** (1) The corporation shall have a seal that the board shall adopt and may change. 1998, c. 19, s. 16 (1).

### **Name**

(2) The name of the corporation shall appear in legible characters on the seal. 1998, c. 19, s. 16 (2).

### **Objects**

**17** (1) The objects of the corporation are to manage the property and the assets, if any, of the corporation on behalf of the owners. 1998, c. 19, s. 17 (1).

### **Duties**

(2) The corporation has a duty to control, manage and administer the common elements and the assets of the corporation. 1998, c. 19, s. 17 (2).

### **Ensuring compliance**

(3) The corporation has a duty to take all reasonable steps to ensure that the owners, the occupiers of units, the lessees of the common elements and the agents and employees of the corporation comply with this Act, the declaration, the by-laws and the rules. 1998, c. 19, s. 17 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 17 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 15)

### **Levies only for corporation's loss**

(4) Subject to the other provisions of this Act, the corporation shall not levy any penalty, fine or any other amount against an owner, an occupier of a unit in the corporation or any other prescribed person if it does not indemnify or compensate the corporation for an actual loss, as is prescribed, that the corporation has incurred in the performance of the corporation's objects and duties. 2015, c. 28, Sched. 1, s. 15.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 15 - not in force

#### **Agreement for management services**

**17.0.1** A corporation shall not enter into an agreement with a condominium management provider or a condominium manager to receive condominium management services unless the provider or manager, as the case may be, is licensed under the *Condominium Management Services Act, 2015*. 2015, c. 28, Sched. 2, s. 80 (4).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 2, s. 80 (4) - 01/02/2018

#### **Dealing with title to real property**

**17.1** Nothing in this Act confers on the corporation the power to grant, transfer, lease, release, dispose of or otherwise deal with the title to any real property that the corporation does not own or any interest in real property where the corporation does not own the interest, unless this Act specifically confers the power on the corporation. 2000, c. 26, Sched. B, s. 7 (1).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (1) - 5/05/2001

#### **Assets**

**18 (1)** The corporation may own, acquire, encumber and dispose of real and personal property only for purposes that are consistent with the objects and duties of the corporation. 1998, c. 19, s. 18 (1).

#### **Interests in real property**

(1.1) The assets of the corporation do not include any real property that the corporation does not own or any interest in real property where the corporation does not own the interest. 2000, c. 26, Sched. B, s. 7 (2).

#### **Interest in assets**

(2) The owners share the assets of the corporation in the same proportions as the proportions of their common interests in accordance with this Act, the declaration and the by-laws. 1998, c. 19, s. 18 (2).

#### **Validity of easement**

(3) A grant or transfer of an easement to the corporation is valid even though the corporation does not own land capable of being benefited by the easement. 1998, c. 19, s. 18 (3).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (2) - 5/05/2001

#### **Right of entry**

**19** On giving reasonable notice, the corporation or a person authorized by the corporation may enter a unit or a part of the common elements of which an owner has exclusive use at any reasonable time to perform the objects and duties of the corporation or to exercise the powers of the corporation. 1998, c. 19, s. 19.

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 19 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 16)**

#### **Right of entry**

**19 (1)** Subject to subsection (2), on giving reasonable notice to an owner, the corporation or a person authorized by the corporation may, at any reasonable time, enter a unit of the owner in the corporation or a part of the common elements of which the owner has exclusive use to perform the objects and duties of the corporation or to exercise the powers of the corporation. 2015, c. 28, Sched. 1, s. 16.

#### **Same, no notice**

(2) Subject to any conditions or restrictions in the regulations, the declaration or a by-law may permit the corporation or a person authorized by the corporation to enter the unit or part of the common elements of which the owner has exclusive use without prior notice to the owner in the event of an emergency or other event or circumstance as is prescribed. 2015, c. 28, Sched. 1, s. 16.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 16 - not in force

### **Easements described in declaration or phase**

**20** (1) An easement described in subsection (2) is created,

- (a) upon the registration of a declaration and description that creates a corporation, if the easement is described in the declaration and description; or
- (b) upon the registration of an amendment to a declaration and description that creates a phase within the meaning of Part XI in a phased condominium corporation, if the easement is described in the amendment. 1998, c. 19, s. 20 (1).

### **Application**

(2) Subsection (1) applies to an easement that,

- (a) imposes a benefit or a burden on land owned by the declarant other than the property; or
- (b) the approval authority requires as a condition of approving the declaration and description for the corporation. 1998, c. 19, s. 20 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 20 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 17 (1))

### **Application**

(2) Subsection (1) applies to,

- (a) an easement that provides a benefit to or imposes a burden on land owned by the declarant other than the property; or
- (b) an easement that,
  - (i) the approval authority requires as a condition of approving the declaration and description for the corporation, and
  - (ii) complies with the prescribed requirements if it provides a benefit to or imposes a burden on land that is not the property or land owned by the declarant. 2015, c. 28, Sched. 1, s. 17 (1).

### **Creation of easement**

(3) No deed or other document is required to be registered or delivered to the owner of the land benefited by an easement that is created under subsection (1) in order for the easement to be made effective. 1998, c. 19, s. 20 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 20 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 17 (1))

### **Creation of easement**

(3) No deed or other document is required to be registered or delivered in order for an easement that is created under subsection (1) to be effective. 2015, c. 28, Sched. 1, s. 17 (1).

### **Validity of easement**

(4) An easement that is created under subsection (1) is valid even though the declarant owns the land to be benefited or burdened by the easement in addition to owning the land relating to the easement that is described in the description. 1998, c. 19, s. 20 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 20 (4) of the Act is amended by striking out “even though” and substituting “even if”. (See: 2015, c. 28, Sched. 1, s. 17 (2))

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 17 - not in force

### **Easements and lease of common elements**

**21** (1) The corporation may by by-law,

- (a) lease a part of the common elements, except a part that the declaration specifies is to be used only by the owners of one or more designated units and not by all the owners;
- (b) grant or transfer an easement or licence through the common elements; or
- (c) release an easement that is part of the common elements. 1998, c. 19, s. 21 (1); 2000, c. 26, Sched. B, s. 7 (3).

### **Binding on all owners**

(2) A lease, grant, transfer or release mentioned in subsection (1), signed by the authorized officers of the corporation, affects the interest of every owner in the common elements as if the lease, grant, transfer or release had been executed by that owner. 1998, c. 19, s. 21 (2); 2000, c. 26, Sched. B, s. 7 (4).

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (3, 4) - 05/05/2001

**Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2015, c. 28, Sched. 1, s. 18)**

### **Shared facilities agreement**

**21.1** (1) Subject to the regulations, if any of the following persons or any combination of them share or are proposed to share in the provision, use, maintenance, repair, insurance, operation or administration of any land, any part of a property or proposed property, any assets of a corporation or any facilities or services, they shall enter into an agreement that meets the prescribed requirements and shall ensure that it is registered in accordance with the regulations:

1. Two or more corporations.
2. A corporation and any other person.
3. A corporation and one or more declarants.
4. A declarant and one or more corporations.
5. Two or more declarants.
6. A declarant and any other person. 2015, c. 28, Sched. 1, s. 18.

### **Covenants running with real property**

(2) Unless the regulations provide otherwise, any easement or covenant, whether positive or negative in nature, in an agreement mentioned in subsection (1) shall run with any real property that receives a benefit or is subject to a burden under the agreement. 2015, c. 28, Sched. 1, s. 18.

### **Enforcement**

(3) The following persons may enforce the easement or covenant against each other:

1. A party to the agreement.
2. The owner or any subsequent owner of the real property.
3. If the real property is property, to which the objects and duties of a corporation apply under section 17, then, subject to the regulations, the corporation and any of its successors and assigns. 2015, c. 28, Sched. 1, s. 18.

### **By-laws and rules**

(4) The parties to an agreement mentioned in subsection (1) may, in accordance with the regulations, make, amend or repeal joint by-laws or rules governing the provision, use, maintenance, repair, insurance, operation or administration of any land, any part of a property or proposed property, any assets of a corporation or any facilities or services that are subject to the agreement. 2015, c. 28, Sched. 1, s. 18.

### **Non-application**

(5) Sections 56 and 58 do not apply to any by-law or rule made under subsection (4). 2015, c. 28, Sched. 1, s. 18.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 18 - not in force

### **Telecommunications agreements**

**22** (1) In this section,

“telecommunications” means the emission, transmission or reception of any combination of signs, signals, writing, images, sound, data, alphanumeric characters or intelligence of any nature by wire, cable, radio or an optical, electromagnetic or any similar technical system; (“télécommunications”)

“telecommunications agreement” means an agreement for the provision of services or facilities related to telecommunications to, from or within the property of a corporation and includes a grant or transfer of an easement, lease or licence through the

property of a corporation for the purposes of telecommunications. (“convention concernant les télécommunications”) 1998, c. 19, s. 22 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, the definition of “telecommunications agreement” in subsection 22 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 19 (1))

“telecommunications agreement” means an agreement for the provision of services or facilities related to telecommunications to, from or within a property and includes a grant or transfer of an easement, lease or licence through the property for the purposes of telecommunications. (“convention concernant les télécommunications”)

#### **By-law not required**

- (2) Despite subsection 21 (1), a corporation may, by resolution of the board without a by-law,
- (a) make an agreement for a network upgrade to a telecommunications system that services the units of the corporation;
  - (b) make an agreement for a telecommunications system that is not connected to a telecommunications system that services the units of the corporation; or
  - (c) amend an agreement for a telecommunications system that services the units of the corporation to permit the other party to the agreement to supply and invoice part or all of the services directly to the unit owners. 1998, c. 19, s. 22 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clauses 22 (2) (a), (b) and (c) of the Act are amended by striking out “the units of the corporation” wherever that expression appears and substituting in each case “the units in the corporation”. (See: 2015, c. 28, Sched. 1, s. 19 (2))

#### **Notice required**

- (3) Subsections 97 (3), (4), (5) and (6) apply to an agreement described in subsection (2) as if it were a change in a service that a corporation provides to the owners. 1998, c. 19, s. 22 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 22 (3) of the Act is amended by striking out “97 (3), (4), (5) and (6)” and substituting “97 (6), (7), (8) and (9)”. (See: 2015, c. 28, Sched. 1, s. 19 (3))

#### **Charge to unit owners**

- (4) The cost of the services that are invoiced directly to the unit owners under clause (2) (c) shall not form part of the common expenses, despite anything in the declaration. 1998, c. 19, s. 22 (4).

#### **Telecommunications easement**

- (5) A corporation and a party, if any, that has entered into a telecommunications agreement with the corporation shall have a non-exclusive easement over the part of the property described in clause (b) for the purpose of installing and using a telecommunications system if,

- (a) the corporation was created on or after the day this section comes into force and includes one or more units for residential purposes;
- (b) part of the property is designed to control, facilitate or provide telecommunications to, from or within the property; and
- (c) the corporation does not have an easement over the property described in the description or a right to use the property that is adequate for,
  - (i) the telecommunications agreement that it has entered into with respect to the property, if it has entered into such an agreement, or
  - (ii) the telecommunications system that the corporation intends to install and use on the property, if it has not entered into a telecommunications agreement with respect to the property. 1998, c. 19, s. 22 (5).

#### **Duty to accommodate easement**

- (6) If a telecommunications system installed on the part of the property described in clause (5) (b) interferes with a telecommunications system that the corporation intends to have installed and to use on the property described in the description, the owner of the part of the property shall, upon 30 days written notice by the owner of the easement described in subsection (5), take all necessary steps that are reasonable to accommodate the intended telecommunications system. 1998, c. 19, s. 22 (6).

#### **Validity of easement**

- (7) The easement is valid even though the corporation and the party, if any, that has entered into a telecommunications agreement with the corporation own no land to be benefited by the easement. 1998, c. 19, s. 22 (7).

### **Easements non-exclusive**

(8) If the property of a corporation that includes one or more units for residential purposes is subject to an easement for the purposes of telecommunications and at least 10 years have passed since the later of the execution of the grant of the easement and the registration of the declaration and description, then, despite anything in the grant, the easement shall be deemed to be non-exclusive. 1998, c. 19, s. 22 (8).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 22 (8) of the Act is amended by striking out “If the property of a corporation that” at the beginning and substituting “If a property that”. (See: 2015, c. 28, Sched. 1, s. 19 (4))

### **Termination of agreements**

- (9) A corporation that includes one or more units for residential purposes may terminate a telecommunications agreement if,
- (a) at least 10 years have passed since the later of the execution of the agreement and the registration of the declaration and description;
  - (b) the board has, by resolution, approved the termination of the agreement;
  - (c) the owners of more than 50 per cent of the units at the time the board passes the resolution consent in writing to the termination of the agreement; and
  - (d) the corporation has given the person 120 days written notice of the termination. 1998, c. 19, s. 22 (9).

### **Loss of owner’s right to consent**

(9.1) An owner is not entitled to consent under clause (9) (c) if any contributions to the common expenses payable for the owner’s unit are in arrears for 30 days or more. 2015, c. 28, Sched. 1, s. 19 (5).

### **Payment of arrears**

(9.2) An owner who, under subsection (9.1), is not entitled to consent may consent after the corporation receives payment of the arrears with respect to the owner’s unit. 2015, c. 28, Sched. 1, s. 19 (5).

### **Exception**

- (10) Subsection (9) does not apply to a telecommunications agreement if,
- (a) the corporation entered into the agreement after a new board is elected at a turn-over meeting held under section 43;
  - (b) the agreement is non-exclusive; and
  - (c) the agreement makes allowance for the installation of alternate telecommunications systems. 1998, c. 19, s. 22 (10).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 22 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 19 (6))

### **No liability**

- (10.1) If, under subsection (9), a corporation terminates an agreement, the corporation and its directors, officers and owners are not liable for,
- (a) any obligations in respect of the termination, including obligations purporting to be incurred as cancellation charges, administration charges, accelerated payments or any other charges, penalties or fees;
  - (b) any monetary obligations under the agreement respecting any period after the termination takes effect, unless the regulations provide otherwise; or
  - (c) any other prescribed consequences. 2015, c. 28, Sched. 1, s. 19 (6).

### **Personal property**

(11) If, under subsection (9), a corporation terminates a telecommunications agreement, a party to the agreement may, on giving reasonable notice to the corporation, remove personal property that it owns and that is located on the property that was subject to the agreement within 30 days after the termination of the agreement. 1998, c. 19, s. 22 (11).

### **Duties on removal**

- (12) A party removing personal property under subsection (11) shall,
- (a) carry out the removal in a manner that facilitates the installation of other similar personal property for the purposes of telecommunications; and

- (b) reimburse the corporation for the damage, if any, that the removal causes to the property of the corporation. 1998, c. 19, s. 22 (12).

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 22 (12) (b) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 19 (7))**

- (b) reimburse the corporation for the damage, if any, that the removal causes to the property that was subject to the agreement.

### **Abandonment**

(13) A party to a telecommunications agreement that has the right to remove its personal property under subsection (11) shall be deemed to have abandoned the property if it does not remove the property within the time specified in that subsection. 1998, c. 19, s. 22 (13).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 19 (1-4, 6, 7) - not in force; 2015, c. 28, Sched. 1, s. 19 (5) - 01/11/2017

### **Action by corporation**

**23** (1) Subject to subsection (2), in addition to any other remedies that a corporation may have, a corporation may, on its own behalf and on behalf of an owner,

- (a) commence, maintain or settle an action for damages and costs in respect of any damage to common elements, the assets of the corporation or individual units; and
- (b) commence, maintain or settle an action with respect to a contract involving the common elements or a unit, even though the corporation was not a party to the contract in respect of which the action is brought. 1998, c. 19, s. 23 (1).

### **Notice to owners**

(2) Before commencing an action mentioned in subsection (1), the corporation shall give written notice of the general nature of the action to all persons whose names appear in the record of the corporation required by section 46.1 or are required by that section to appear in that record except if,

- (a) the action is to enforce a lien of the corporation under section 85 or to fulfil its duty under subsection 17 (3); or
- (b) the action is commenced in the Small Claims Court. 1998, c. 19, s. 23 (2); 2015, c. 28, Sched. 1, s. 20.

### **Costs**

(3) Unless the board determines otherwise, the legal and court costs in an action that the corporation commences or maintains in whole or in part on behalf of any owners in respect of their units shall be borne by those owners in the proportion in which their interests are affected. 1998, c. 19, s. 23 (3).

### **Judgment as asset**

(4) A judgment for payment in favour of the corporation in an action that the corporation commences or maintains on its own behalf is an asset of the corporation. 1998, c. 19, s. 23 (4).

### **Corporation may be sued**

(5) The corporation may, as representative of the owners of the units, be sued in respect of any matter relating to the common elements or assets of the corporation. 1998, c. 19, s. 23 (5).

### **Judgment against corporation**

(6) A judgment for the payment of money against the corporation is also a judgment against each owner at the time of judgment for a portion of the judgment determined by the proportions specified in the declaration for sharing the common interests. 1998, c. 19, s. 23 (6).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 20 - 01/11/2017

### **Restriction on ability to sue**

**23.1** (1) A corporation that has unpaid fees, costs, charges or assessments under Part I.1 or paragraph 5 of subsection 1.44 (1) is not capable of maintaining,

- (a) a proceeding before the Condominium Authority Tribunal if the condominium authority exists; or
- (b) a proceeding in a court in Ontario except with leave of the court. 2015, c. 28, Sched. 1, s. 21.

### **Leave of court**

(2) The court shall grant leave if the court is satisfied that,

- (a) the failure to pay the fees, costs, charges or assessments under Part I.1 or paragraph 5 of subsection 1.44 (1) was inadvertent;
- (b) there is no evidence that the public or the owners of the corporation have been deceived or misled; and
- (c) at the time of the application to the court, the corporation had no unpaid fees, costs, charges or assessments under Part I.1 or paragraph 5 of subsection 1.44 (1). 2015, c. 28, Sched. 1, s. 21.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 21 - 01/09/2017

### **Contracts valid**

**23.2** No contract is void or voidable by reason only that it was entered into by a corporation that has unpaid fees, costs, charges or assessments under Part I.1 or paragraph 5 of subsection 1.44 (1) at the time the contract was made. 2015, c. 28, Sched. 1, s. 21.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 21 - 01/09/2017

### **Notices under the *Expropriations Act***

**24** (1) For the purposes of the *Expropriations Act*, if the land to be expropriated is part of the common elements of a corporation and does not include any units, any document that an expropriating authority is required or entitled to serve on the owner of the land, including a notice, an appraisal report and an offer of compensation, is sufficiently served on the owners of the land if the expropriating authority serves the document,

- (a) on the corporation; and
- (b) if the land to be expropriated is part of the common elements that the declaration specifies are for the exclusive use of the owners of one or more of the units in the corporation, but not all the owners, on the owners of those units. 1998, c. 19, s. 24 (1); 2015, c. 28, Sched. 1, s. 22 (1).

### **Notice to owners**

(2) Within 15 days of being served with a document under subsection (1), the corporation shall notify all persons whose names appear in the record of the corporation required by section 46.1 or are required by that section to appear in that record that it has been served with a document for the purposes of the *Expropriations Act* and shall make a copy of the document available for examination by them. 1998, c. 19, s. 24 (2); 2015, c. 28, Sched. 1, s. 22 (2).

### **Corporation acting for owners**

(3) For the purposes of the *Expropriations Act*, all the rights under that Act of the owners of the land to be expropriated in respect of which a document has been served on the corporation under subsection (1) shall be transferred to and exercised by the corporation, subject to section 126. 1998, c. 19, s. 24 (3).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 22 (1, 2) - 01/11/2017

### **Notices under the *Planning Act***

**25** A corporation that is served with a notice under the *Planning Act* shall, within 15 days of being served, notify all persons whose names appear in the record of the corporation required by section 46.1 or are required by that section to appear in that record that it has been served with a notice under that Act and shall make a copy of the notice available for examination by them. 1998, c. 19, s. 25; 2015, c. 28, Sched. 1, s. 22 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 22 (2) - 01/11/2017

### **Occupier's liability**

**26** For the purposes of determining liability resulting from breach of the duties of an occupier of land, the corporation shall be deemed to be the occupier of the common elements and the owners shall be deemed not to be occupiers of the common elements. 1998, c. 19, s. 26.

**Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2015, c. 28, Sched. 1, s. 23)**

**No acquisition of units, etc.**

**26.1** (1) Despite anything in the declaration, a by-law, an agreement or an instrument, until a board of a corporation described in subsection (2) decides otherwise, the corporation shall not acquire an interest or a right in a unit, other real property or personal property except for no consideration, unless the regulations provide otherwise. 2015, c. 28, Sched. 1, s. 23.

**Board affected**

(2) A board of a corporation mentioned in subsection (1) is a new board elected at a turn-over meeting held under section 43 or a subsequent board, but does not include,

- (a) a new board elected pursuant to subsection 152 (6); or
- (b) a board if a majority of the directors on it are those who were elected at any time when the declarant or a declarant affiliate, individually or jointly, owned a majority of the units in the corporation. 2015, c. 28, Sched. 1, s. 23.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 23 - not in force

**Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2015, c. 28, Sched. 1, s. 24)**

**Existing remedies**

**26.2** (1) Unless the regulations provide otherwise, nothing in a declaration, a by-law, an agreement or an instrument affects any remedy that the corporation may have at law against a declarant or a declarant affiliate until a board of the corporation described in subsection (2) decides otherwise. 2015, c. 28, Sched. 1, s. 24.

**Board affected**

(2) A board of a corporation mentioned in subsection (1) is a new board elected at a turn-over meeting held under section 43 or a subsequent board, but does not include,

- (a) a new board elected pursuant to subsection 152 (6); or
- (b) a board if a majority of the directors on it are those who were elected at any time when the declarant or a declarant affiliate, individually or jointly, owned a majority of the units in the corporation. 2015, c. 28, Sched. 1, s. 24.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 24 - not in force

**Information certificate to owners**

**26.3** A corporation shall send to the owners,

- (a) at least once every three months or at such other time periods as are prescribed, a certificate that is prepared in accordance with the regulations and that contains the statements described in clauses 76 (1) (d), (e) and (h), the certificate or memorandum described in clause 76 (1) (p) and all other information relating to the corporation as is prescribed; and
- (b) at the prescribed times, a certificate that is prepared in accordance with the regulations and that includes all other prescribed information relating to the corporation. 2015, c. 28, Sched. 1, s. 25.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 25 - 01/11/2017

**DIRECTORS AND OFFICERS**

**Board of directors**

**27** (1) A board of directors shall manage the affairs of the corporation. 1998, c. 19, s. 27 (1).

**Number**

(2) Subject to subsection 42 (4), the board shall consist of at least three persons or such greater number as the by-laws may provide. 1998, c. 19, s. 27 (2).

### **Change in number**

(3) The corporation may by by-law increase or, subject to subsection (2), decrease the number of directors as set out in its by-laws. 1998, c. 19, s. 27 (3).

### **Election of directors**

**28** (1) Subject to subsection 42 (1), the owners shall elect the board of directors in accordance with this Act and the by-laws. 1998, c. 19, s. 28 (1).

### **Notice of candidates**

(2) The notice of a meeting to elect one or more directors shall include the name and address of each individual who, for the purpose of clause 45.1 (1) (a), has notified the board in writing and in accordance with the regulations, if any, of the intention to be a candidate in the election by the date specified in the preliminary notice that the board is required to send under subsection 45.1 (1). 2015, c. 28, Sched. 1, s. 26 (1).

### **Notice of owner-occupant position**

(3) If, under subsection 51 (6), one position on the board is reserved for voting by owners of owner-occupied units, the notice of meeting shall include,

- (a) a statement that one position on the board is reserved for voting by owners of owner-occupied units; and
- (b) a statement indicating which persons have notified the board in writing as of the day before the notice is sent that they intend to be candidates for the position on the board reserved for voting by owners of owner-occupied units. 1998, c. 19, s. 28 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 28 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 26 (2))

### **Notice of non-leased voting position**

(3) If, under subsection 51 (6), one position on the board is reserved for voting by owners of non-leased voting units, the notice of meeting shall include,

- (a) a statement that one position on the board is reserved for voting by owners of non-leased voting units; and
- (b) a statement indicating the name and address of each individual who, for the purpose of subclause 45.1 (1) (a.1) (iv), has notified the board in writing of an intention to be a candidate for the position on the board reserved for voting by owners of non-leased voting units. 2015, c. 28, Sched. 1, s. 26 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 26 (1) - 01/11/2017; 2015, c. 28, Sched. 1, s. 26 (2) - not in force

### **Qualifications**

**29** (1) No person shall be a director if,

- (a) the person is not an individual;
- (b) the person is under 18 years of age;
- (c) the person has the status of bankrupt;
- (d) the person has been found, under the *Substitute Decisions Act, 1992* or the *Mental Health Act*, to be incapable of managing property;
- (e) subject to the regulations, the person has been found to be incapable by any court in Canada or elsewhere; or
- (f) the person has not complied with the prescribed disclosure obligations within the prescribed time. 2015, c. 28, Sched. 1, s. 27.

### **Disqualification**

(2) A person immediately ceases to be a director if,

- (a) the person has the status of bankrupt;
- (b) the person has been found, under the *Substitute Decisions Act, 1992* or the *Mental Health Act*, to be incapable of managing property;
- (c) subject to the regulations, the person has been found to be incapable by any court in Canada or elsewhere;

- (d) a certificate of lien has been registered under subsection 85 (2) against a unit owned by the person and the person does not obtain a discharge of the lien under subsection 85 (7) within 90 days of the registration of the certificate of lien;
- (e) the person has not completed the prescribed training within the prescribed time; or
- (f) the person has not complied with the prescribed disclosure obligations within the prescribed time. 2015, c. 28, Sched. 1, s. 27.

**Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 2, s. 17 - 15/12/2009

2015, c. 28, Sched. 1, s. 27 - 01/11/2017

**Consent**

**30** (1) A person shall not be elected or appointed as a director unless the person consents. 1998, c. 19, s. 30 (1).

**Deemed consent**

(2) A person shall be deemed to consent if the person is present at the meeting when elected or appointed and does not refuse to act as a director. 1998, c. 19, s. 30 (2).

**Written consent**

(3) A person who is not present at the meeting may be elected or appointed if the person consents in writing to act as director before the meeting or within 10 days after the meeting. 1998, c. 19, s. 30 (3).

**Non-compliance**

(4) The election or appointment of a person as director contrary to this section is ineffective. 1998, c. 19, s. 30 (4).

**Term**

**31** (1) Except in the case of directors appointed to the first board of directors under subsection 42 (1), a director is elected for a term of three years or such lesser period as the by-laws may provide. 1998, c. 19, s. 31 (1).

**Same**

(2) Despite subsection (1), a director may continue to act until a successor is elected. 1998, c. 19, s. 31 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 31 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 28)**

**Same**

(2) Despite subsection (1), a director may continue to act until,

- (a) a successor is elected, if the director is not elected to a position described in subsection 51 (6); or
- (b) if the director is elected to a position described in subsection 51 (6), the earlier of,
  - (i) the time at which a successor is elected, and
  - (ii) the first annual general meeting following the expiration of the director's term. 2015, c. 28, Sched. 1, s. 28.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 28 - not in force

**Conduct of business**

**32** (1) Subject to subsection 42 (5), the board of a corporation shall not transact any business of the corporation except at a meeting of directors at which a quorum of the board is present. 1998, c. 19, s. 32 (1).

**Quorum**

(2) A quorum for the transaction of business is a majority of the number of persons of which the board consists in accordance with this Act, irrespective of any vacancy that arises in the board. 2015, c. 28, Sched. 1, s. 29.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 29 - 01/11/2017

## **Removal**

**33** (1) Subject to subsection 51 (8), a director, other than a director on the first board, may be removed before the expiration of the director's term of office by a vote of the owners at a meeting duly called for that purpose in accordance with section 46 where the owners of more than 50 per cent of all of the units in the corporation vote in favour of removal. 1998, c. 19, s. 33 (1); 2015, c. 28, Sched. 1, s. 30.

## **Replacement**

(2) In accordance with the by-laws dealing with the election of directors, the owners may, at the meeting, elect any person qualified to be a member of the board for the remainder of the term of a director who has been removed. 1998, c. 19, s. 33 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 30 - 01/11/2017

## **Vacancy**

**34** (1) If a vacancy arises in the board, the remaining directors may exercise all the powers of the board as long as a quorum of the board remains in office. 1998, c. 19, s. 34 (1).

### **Replacement made by board**

(2) If a vacancy arises in the board, including in a position described in subsection 51 (6), and if a quorum of the board remains in office, the majority of the remaining members of the board may appoint any person qualified to be a member of the board to fill the vacancy until the next annual general meeting. 1998, c. 19, s. 34 (2); 2015, c. 28, Sched. 1, s. 31 (1).

### **Replacement made by owners**

(3) Subject to subsection 51 (6), at the annual general meeting mentioned in subsection (2) the owners shall elect a person to fill the vacancy that arose under that subsection who shall hold office for the remainder of the term of the director whose position became vacant. 1998, c. 19, s. 34 (3).

### **Election when no quorum**

(4) If a vacancy arises in the board and there are not enough directors remaining in office to constitute a quorum, the remaining directors shall, within 30 days of losing the quorum, call and hold a meeting of owners to fill all vacancies in the board. 1998, c. 19, s. 34 (4).

### **Owner may call meeting**

(5) If the directors do not call and hold the meeting or if there are no directors then in office, an owner may call the meeting in accordance with the regulations. 1998, c. 19, s. 34 (5); 2015, c. 28, Sched. 1, s. 31 (2).

### **Reimbursement of cost**

(6) Upon request, the corporation shall reimburse an owner who calls a meeting under subsection (5) for the reasonable costs incurred in calling the meeting. 1998, c. 19, s. 34 (6).

## **Increase**

(7) Despite subsection (2), a vacancy resulting from an increase in the number of directors shall be filled only by election at a meeting of owners duly called for that purpose and the directors so elected shall not act until the by-law increasing the number of directors is registered under subsection 56 (9). 1998, c. 19, s. 34 (7).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 31 (1, 2) - 01/11/2017

## **Meetings of directors**

**35** (1) In addition to meetings of the directors required by the by-laws of the corporation, a quorum of the directors may, at any time, call a meeting for the transaction of any business. 1998, c. 19, s. 35 (1).

### **Notice**

(2) The person calling a meeting of directors shall give a written notice of the meeting to every director of the corporation,

- (a) at least 10 days before the day of the meeting, unless the by-laws specify otherwise; and
- (b) by delivering it to the director personally or by sending it by prepaid mail, courier delivery or electronic communication addressed to the director at the latest address as shown on the records of the corporation, unless the by-laws specify otherwise. 1998, c. 19, s. 35 (2).

### **Content of notice**

(3) The notice shall state the time and place of the meeting and the general nature of the business to be discussed at the meeting. 1998, c. 19, s. 35 (3).

**Note: On October 1, 2023, subsection 35 (3) of the Act is repealed and the following substituted: (See: 2023, c. 9, Sched. 7, s. 2 (1))**

### **Content of notice**

(3) The notice shall state the following:

1. The time of the meeting.
2. If the directors may attend the meeting in person, the place of the meeting.
3. If the directors may attend the meeting by telephonic or electronic means, instructions for attending and participating in the meeting by telephonic or electronic means that will be made available for the meeting, including, if applicable, instructions for voting by such means at the meeting.
4. The general nature of the business to be discussed at the meeting. 2023, c. 9, Sched. 7, s. 2 (1).

### **Waiver of notice**

(4) A director who attends a meeting shall be deemed to have waived the right to object to a failure to give the required notice unless the director expressly objects to the failure at the meeting. 1998, c. 19, s. 35 (4).

### **Teleconference**

(5) A meeting of the directors may be held, in accordance with the regulations, by teleconference or another form of communications system that is prescribed, if all directors of the corporation consent to the means used for holding the meeting. 2015, c. 28, Sched. 1, s. 32.

**Note: On October 1, 2023, subsection 35 (5) of the Act is repealed and the following substituted: (See: 2023, c. 9, Sched. 7, s. 2 (2))**

### **Meeting of directors by telephonic or electronic means**

(5) Subject to the by-laws and subsection (7), a meeting of directors may be held entirely by one or more telephonic or electronic means or by any combination of in-person attendance and by one or more telephonic or electronic means. 2023, c. 9, Sched. 7, s. 2 (2).

### **Same, by-laws**

(6) In addition to any other matters that the by-laws may provide for with respect to the holding of meetings of directors in accordance with subsection (5), the by-laws may,

- (a) limit the manner or manners by which a meeting of directors may be held in accordance with subsection (5); and
- (b) specify requirements that apply with respect to the holding of a meeting of directors in a manner described in subsection (5) or in such manner as described by the by-laws made under clause (a). 2023, c. 9, Sched. 7, s. 2 (2).

### **Same, ability to communicate**

(7) A meeting of directors held in any manner described in subsection (5) or in such manner as described by the by-laws made under subsection (6) must provide that all persons attending the meeting are able to communicate with each other simultaneously and instantaneously. 2023, c. 9, Sched. 7, s. 2 (2).

### **Same, persons deemed present at meeting**

(8) A person who, through telephonic or electronic means, attends a meeting of directors is deemed for the purposes of this Act to be present at the meeting. 2023, c. 9, Sched. 7, s. 2 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 32 - 01/11/2017

2023, c. 9, Sched. 7, s. 2 (1, 2) - 01/10/2023

### **Officers**

**36** (1) A corporation shall have a president and a secretary and all other officers that are provided for by by-law or by resolution of the directors. 1998, c. 19, s. 36 (1).

### **Election and appointment**

(2) Subject to the by-laws, the directors,

- (a) shall elect the president from among themselves;
- (b) shall appoint or elect the secretary; and
- (c) may appoint or elect one or more vice-presidents or other officers. 1998, c. 19, s. 36 (2).

#### **Holding several offices**

- (3) The same person may hold two or more offices of the corporation. 1998, c. 19, s. 36 (3).

#### **Standard of care**

- 37** (1) Every director and every officer of a corporation in exercising the powers and discharging the duties of office shall,
- (a) act honestly and in good faith; and
  - (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. 1998, c. 19, s. 37 (1).

#### **Validity of acts**

- (2) The acts of a director or officer are valid despite any defect that may afterwards be discovered in the person's election, appointment or qualifications. 1998, c. 19, s. 37 (2).

#### **Liability of directors**

- (3) A director shall not be found liable for a breach of a duty mentioned in subsection (1) if the breach arises as a result of the director's relying in good faith upon,
- (a) financial statements of the corporation that the auditor in a written report, an officer of the corporation or a condominium manager who provides condominium management services to the corporation under an agreement between the corporation and either the manager or a condominium management provider represents to the director as presenting fairly the financial position of the corporation in accordance with generally accepted accounting principles; or

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 37 (3) of the Act is amended by striking out "or" at the end of clause (a) and by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 33)

- (a.1) a report or opinion of a reserve fund study provider with respect to a reserve fund or a reserve fund study, as determined by the regulations, if any; or
- (b) a report or opinion of a lawyer, public accountant, engineer, appraiser or other person whose profession lends credibility to the report or opinion. 1998, c. 19, s. 37 (3); 2004, c. 8, s. 47 (1); 2015, c. 28, Sched. 2, s. 80 (5).

#### **Section Amendments with date in force (d/m/y)**

2004, c. 8, s. 47 (1) - 01/11/2005

2015, c. 28, Sched. 1, s. 33 - not in force; 2015, c. 28, Sched. 2, s. 80 (5) - 01/11/2017

#### **Indemnification**

**38** (1) Subject to subsection (2), the by-laws of a corporation may provide that every director and every officer of the corporation and the person's heirs, executors, administrators, estate trustees and other legal personal representatives may from time to time be indemnified and saved harmless by the corporation from and against,

- (a) any liability and all costs, charges and expenses that the director or officer sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against the person for or in respect of anything that the person has done, omitted to do or permitted in respect of the execution of the duties of office; and
- (b) all other costs, charges and expenses that the person sustains or incurs in respect of the affairs of the corporation. 1998, c. 19, s. 38 (1).

#### **Not for breach of duty**

- (2) No director or officer of a corporation shall be indemnified by the corporation in respect of any liability, costs, charges or expenses that the person sustains or incurs in or about an action, suit or other proceeding as a result of which the person is adjudged to be in breach of the duty to act honestly and in good faith. 1998, c. 19, s. 38 (2).

## **Insurance**

**39** If the insurance is reasonably available, a corporation shall purchase and maintain insurance for the benefit of a director or officer against the matters described in clauses 38 (1) (a) and (b) except insurance against a liability, cost, charge or expense of the director or officer incurred as a result of a breach of the duty to act honestly and in good faith. 1998, c. 19, s. 39.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2015, c. 28, Sched. 1, s. 34)

## **Procurement process, etc.**

**39.1** A corporation shall not enter into a prescribed contract or transaction unless the procurement process and other contracts or arrangements that the corporation entered into in relation to the contract or transaction meet the prescribed requirements. 2015, c. 28, Sched. 1, s. 34.

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 34 - not in force

## **Disclosure by director of interest**

**40** (1) A director of a corporation who has, directly or indirectly, an interest in a contract or transaction to which the corporation is a party or a proposed contract or transaction to which the corporation will be a party, shall disclose in writing to the corporation the nature and extent of the interest. 1998, c. 19, s. 40 (1).

## **Interest to be material**

(2) Subsection (1) does not apply to a contract or transaction or a proposed contract or transaction unless both it and the director's interest in it are material. 1998, c. 19, s. 40 (2).

## **Purchase of property**

(3) If the contract or transaction or the proposed contract or transaction to which subsection (1) applies involves the purchase or sale of real or personal property by the corporation that the seller acquired within five years before the date of the contract or transaction or the proposed contract or transaction, the director shall disclose the cost of the property to the seller, to the extent to which that information is within the director's knowledge or control. 1998, c. 19, s. 40 (3).

## **Time of disclosure**

(4) The disclosure required by this section shall be made,

- (a) at the meeting of the board at which the contract or transaction or the proposed contract or transaction is first considered;
- (b) if the director is not as of the date of the meeting mentioned in clause (a) interested in the contract or transaction or the proposed contract or transaction, at the next meeting of the directors held after the director becomes so interested;
- (c) if the director becomes interested in the contract or transaction after it is entered into, at the first meeting of the directors held after the director becomes so interested; or
- (d) if the contract or transaction or the proposed contract or transaction is one that in the ordinary course of the corporation's business would not require approval by the directors or owners, at the first meeting of the directors held after the director becomes aware of the contract or transaction or the proposed contract or transaction. 1998, c. 19, s. 40 (4).

## **Minutes**

(5) The board shall enter the disclosure made by a director under this section in the minutes of the meeting of the board at which the disclosure was made. 1998, c. 19, s. 40 (5).

## **Right to vote**

(6) The director shall not be present during the discussion at a meeting, vote or be counted in the quorum on a vote with respect to a contract or transaction or a proposed contract or transaction to which subsection (1) applies unless the director's interest in it,

- (a) is or would be limited solely to the insurance described in section 39 or remuneration as a director, officer or employee of the corporation; or
- (b) arises or would arise solely because the director is a director, officer or employee of the declarant, if the director has been appointed to the first board by the declarant under subsection 42 (1). 1998, c. 19, s. 40 (6).

**Effect of disclosure**

(7) A director who has complied with the requirements of this section and who was acting honestly and in good faith at the time the contract or transaction was entered into, is not, by reason only of holding the office of director, accountable to the corporation or to its owners for any profit or gain realized from the contract or transaction, and the contract or transaction is not voidable by reason only of the director's interest in it. 1998, c. 19, s. 40 (7).

**Confirmation by owners**

(8) Despite anything in this section, a director who has acted honestly and in good faith is not accountable to the corporation or to the owners for any profit or gain realized from the contract or transaction by reason only of holding the office of director, and the contract or transaction is not voidable by reason only of the director's interest in it if,

- (a) the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a meeting of owners duly called for that purpose; and
- (b) the nature and extent of the director's interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting. 1998, c. 19, s. 40 (8).

**Disclosure by officer of interest**

41 (1) An officer of a corporation who is not a director and who has, directly or indirectly, an interest in a contract or transaction to which the corporation is a party or a proposed contract or transaction to which the corporation will be a party, shall disclose in writing to the corporation the nature and extent of the interest. 1998, c. 19, s. 41 (1).

**Time of disclosure**

(2) An officer who is required to make a disclosure under subsection (1) shall make the disclosure at the first meeting of the board held after the officer becomes aware of the contract or transaction or the proposed contract or transaction. 1998, c. 19, s. 41 (2).

**Application of s. 40**

(3) Subsections 40 (2), (3), (5), (7) and (8) apply to an officer of a corporation who is not a director as if all references to a director in those subsections were references to an officer. 1998, c. 19, s. 41 (3).

**TRANSFER OF CONTROL BY DECLARANT****First board of directors**

42 (1) Within 10 days after the registration of the declaration and description, the declarant shall appoint the first board of a corporation. 1998, c. 19, s. 42 (1).

**Replacements**

(2) The declarant may revoke the appointment of a director to the first board and appoint another director to the first board who shall hold office until a new board is elected at a turn-over meeting held under section 43. 1998, c. 19, s. 42 (2).

**Term**

(3) The first board shall hold office until a new board is elected at a turn-over meeting held under section 43. 1998, c. 19, s. 42 (3).

**Number**

(4) The first board shall consist of three persons or such greater number as the declaration provides. 1998, c. 19, s. 42 (4).

**Conduct of business**

(5) A written resolution that is adopted by the first board before the owners elect a director to the first board under subsection (8) and that is signed by all the directors entitled to vote on the resolution at a meeting of the first board, is valid even though no meeting is held to vote on the resolution. 1998, c. 19, s. 42 (5).

**Owners' meeting**

(6) Subject to subsection (7), the first board shall call and hold a meeting of owners by the later of,

- (a) the 30th day after the day by which the declarant has transferred 20 per cent of the units in the corporation; and
- (b) the 90th day after the declarant transfers the first unit in the corporation. 1998, c. 19, s. 42 (6).

### **Exception**

(7) The first board is not required to call or hold the meeting mentioned in subsection (6) if, by the day set for the meeting, the declarant no longer owns a majority of the units and advises the first board in writing of that fact. 1998, c. 19, s. 42 (7).

### **Election of directors**

(8) At the meeting mentioned in subsection (6), the owners, other than the declarant, may elect two directors to the first board. 1998, c. 19, s. 42 (8).

### **Quorum**

(9) At the meeting mentioned in subsection (6), the quorum for the election of directors under subsection (8) is those owners who own 25 per cent of the units in the corporation not owned by the declarant. 1998, c. 19, s. 42 (9); 2015, c. 28, Sched. 1, s. 35.

### **Determination of quorum**

(10) To count towards the quorum, an owner must have been entitled to receive notice of the meeting, must be entitled to vote at a meeting and shall be present at the meeting or represented by proxy. 1998, c. 19, s. 42 (10).

### **Increased number**

(11) A director elected to the first board under subsection (8) shall hold office in addition to the directors appointed to the first board even if the addition of an elected director results in more directors on the board than the declaration allows. 1998, c. 19, s. 42 (11).

### **Transition**

(12) The owners other than the declarant shall not be entitled to elect a director under subsection (8) if the corporation's first board was appointed or elected on or before the day this section comes into force. 1998, c. 19, s. 42 (12).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 35 - 01/11/2017

### **Turn-over meeting**

**43** (1) The board elected or appointed at a time when the declarant owns a majority of the units shall, not more than 21 days after the declarant ceases to be the owner of the majority of the units, call a meeting of owners to elect a new board. 1998, c. 19, s. 43 (1); 2015, c. 28, Sched. 1, s. 36 (1).

### **Who may call meeting**

(2) If the board does not call the meeting within the required time, an owner or a mortgagee having the right to vote under section 48 may call the meeting. 1998, c. 19, s. 43 (2).

### **Time of meeting**

(3) The board shall hold the meeting within 21 days after it is called. 1998, c. 19, s. 43 (3).

### **Things to turn over**

(4) At the meeting, the declarant shall deliver to the board elected at the meeting,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 43 (4) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 36 (2))

### **Things to turn over**

(4) At the meeting, the declarant shall, in accordance with the regulations, if any, deliver to the board elected at the meeting,

- (a) the seal of the corporation;
- (b) the minute book for the corporation including a copy of the registered declaration, registered by-laws, current rules and minutes of owners' meetings and board meetings;
- (c) copies of all agreements entered into by the corporation or the declarant or the declarant's representatives on behalf of the corporation, including management contracts, deeds, leases, licences and easements;
- (d) copies of all policies of insurance and the related certificates or memoranda of insurance and all insurance trust agreements;
- (e) bills of sale or transfers for all items that are assets of the corporation but not part of the property;

- (f) the records maintained under subsection 46.1 (3) and subsection 83 (3); and
- (g) all records that it has related to the units or to employees of the corporation. 1998, c. 19, s. 43 (4); 2015, c. 28, Sched. 1, s. 36 (3).

**Same, after meeting**

- (5) The declarant shall deliver to the board within 30 days after the meeting,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 43 (5) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 36 (4))**

**Same, after meeting**

- (5) The declarant shall, in accordance with the regulations, if any, deliver to the board within 30 days after the meeting,
  - (a) the existing warranties and guarantees for all the equipment, fixtures and chattels included in the sale of either the units or common elements that are not protected by warranties and guarantees given directly to a unit purchaser;
  - (b) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;
  - (c) the as-built specifications, indicating all substantive changes, if any, from the original specifications;
  - (d) all existing plans for underground site services, site grading, drainage and landscaping, and television, radio or other communications services;
  - (e) all other existing plans and information not mentioned in clause (b), (c) or (d) that are relevant to the repair or maintenance of the property;
  - (f) if the property is subject to the *Ontario New Home Warranties Plan Act*,

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 43 (5) (f) of the Act is amended by striking out the portion before subclause (i) and substituting the following: (See: 2017, c. 33, Sched. 2, s. 75 (6))**

- (f) if the property is subject to the *Protection for Owners and Purchasers of New Homes Act, 2017*,
  - (i) proof, in the form, if any, prescribed by the Minister, that the units and common elements have been enrolled in the Plan within the meaning of that Act in accordance with the regulations made under that Act, and

**Note: On a day to be named by proclamation of the Lieutenant Governor, the French version of subclause 43 (5) (f) (i) of the Act is amended. (See: 2017, c. 33, Sched. 2, s. 75 (7))**

- (ii) a copy of all final reports on inspections that the Corporation within the meaning of that Act requires be carried out on the common elements;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 43 (5) (f) of the Act is amended by striking out “and” at the end of subclause (i) and by striking out subclause (ii) and substituting the following: (See: 2017, c. 33, Sched. 2, s. 75 (8))**

- (ii) a copy of all final reports on inspections that the warranty authority requires be carried out on the common elements, and
- (iii) all other material, if any, in respect of the property that is prescribed.

- (g) a table setting out the responsibilities for repair after damage and maintenance and indicating whether the corporation or the owners are responsible;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 43 (5) (g) of the Act is amended by striking out “after damage”. (See: 2015, c. 28, Sched. 1, s. 36 (6))**

- (h) a schedule setting out what constitutes a standard unit for each class of unit that the declarant specifies for the purpose of determining the responsibility for repairing improvements after damage and insuring them;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 43 (5) (h) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 36 (7))**

- (i) all financial records of the corporation and of the declarant relating to the operation of the corporation from the date of registration of the declaration and the description;
- (j) if the meeting is held after nine months following the registration of the declaration and description, the reserve fund study that is required within the year following the registration of the declaration and description;
- (k) all reserve fund studies that have been completed or are required to have been completed at the time the meeting is held, other than the reserve fund study that is required within the year following the registration of the declaration and description;

- (l) a copy of the most current disclosure statement delivered to a purchaser of a unit in the corporation under section 72 before the meeting; and
- (m) all other material that the regulations require to be given to the board. 1998, c. 19, s. 43 (5); 2015, c. 28, Sched. 1, s. 36 (5), 146 (1).

#### **Cost**

(6) The items mentioned in subsections (4) and (5) shall be prepared at the declarant's expense, except for the items mentioned in clauses (5) (j) and (k) which shall be prepared at the expense of the corporation. 1998, c. 19, s. 43 (6).

#### **Audited financial statements**

(7) The declarant shall deliver to the board within 60 days after the meeting audited financial statements of the corporation prepared by the auditor, on behalf of the owners and at the expense of the corporation, as of the last day of the month in which the meeting is held. 1998, c. 19, s. 43 (7).

#### **Application**

(8) The corporation may make an application to the Superior Court of Justice for an order under subsection (9). 1998, c. 19, s. 43 (8); 2000, c. 26, Sched. B, s. 7 (5).

#### **Court order**

- (9) The court, if satisfied that the declarant has, without reasonable excuse, failed to comply with subsection (4), (5) or (7),
  - (a) shall order that the declarant pay damages to the corporation for the loss it incurred as a result of the declarant's acts of non-compliance with subsection (4), (5) or (7), as the case may be;
  - (b) shall order that the declarant pay the corporation's costs of the application;
  - (c) may order the declarant to pay to the corporation an additional amount not to exceed \$10,000; and
  - (d) may order the declarant to comply with subsection (4), (5) or (7), as the case may be. 1998, c. 19, s. 43 (9).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (5) - 5/05/2001

2015, c. 28, Sched. 1, s. 36 (1, 3, 5) - 01/11/2017; 2015, c. 28, Sched. 1, s. 36 (2, 4, 6, 7) - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

2017, c. 33, Sched. 2, s. 75 (6-8) - not in force; 2017, c. 33, Sched. 2, s. 79 (7, 8) - no effect

#### **Performance audit**

**44** (1) If the property of the corporation includes one or more units for residential purposes or if the corporation is a common elements condominium corporation, the board shall retain a person who holds a certificate of authorization within the meaning of the *Professional Engineers Act* or a certificate of practice within the meaning of the *Architects Act* to conduct a performance audit of the common elements described in the description on behalf of the corporation. 1998, c. 19, s. 44 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 44 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 37 (1))

#### **Performance audit**

(1) If a property includes one or more units for residential purposes or if the corporation is a common elements condominium corporation, the board shall retain a person who holds a certificate of authorization within the meaning of the *Professional Engineers Act* or a certificate of practice within the meaning of the *Architects Act* to conduct a performance audit, on behalf of the corporation, of the common elements described in the description and, unless the regulations provide otherwise, any real property owned by the corporation. 2015, c. 28, Sched. 1, s. 37 (1).

#### **Time for audit**

(2) A performance audit shall be conducted no earlier than six months, and no later than 10 months, following the registration of the declaration and description. 1998, c. 19, s. 44 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 44 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 37 (1))

### Time for audit

(2) A performance audit shall be conducted before the first anniversary of the date of registration of the declaration and description for the corporation or such other time periods following the registration of the declaration and description that are prescribed. 2015, c. 28, Sched. 1, s. 37 (1).

### Cost

(3) The corporation shall pay the cost of the performance audit and it shall form part of the corporation's budget for the year following the registration of the declaration and description. 1998, c. 19, s. 44 (3).

### Purpose

(4) The person who conducts the performance audit shall determine whether there are any deficiencies in the performance of the common elements described in the description after construction has been completed on them that,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 44 (4) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 37 (2))**

### Purpose

(4) The person who conducts the performance audit shall assess, in the person's professional opinion, whether there are any deficiencies in the performance of the common elements described in the description and the real property that is the subject of the audit, after construction has been completed on them, that,

- (a) may give rise to a claim for payment out of the guarantee fund under section 14 of the *Ontario New Home Warranties Plan Act* to the corporation; or

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 44 (4) (a) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (9))**

- (a) may give rise to a claim for payment to the corporation out of the guarantee fund under the prescribed provisions of the *Protection for Owners and Purchasers of New Homes Act, 2017* or the regulations made under that Act; or
- (b) subject to the regulations made under this Act, would give rise to a claim described in clause (a) if the property of the corporation were subject to that Act. 1998, c. 19, s. 44 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 44 (4) (b) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 37 (3))**

- (b) subject to the regulations, would give rise to a claim described in clause (a) if the property were subject to the *Ontario New Home Warranties Plan Act*.

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 37 (3) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* is repealed. This amendment applies only if subsection 37 (3) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* does not come into force before the day subsection 75 (10) of Schedule 2 to the *Strengthening Protection for Ontario Consumers Act, 2017* comes into force. (See: 2017, c. 33, Sched. 2, s. 79 (9, 10))**

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 44 (4) (b) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (10))**

- (b) subject to the regulations, would give rise to a claim described in clause (a) if the property were subject to the *Protection for Owners and Purchasers of New Homes Act, 2017*.

### Duties

(5) In making the determination, the person who conducts the performance audit shall,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 44 (5) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 37 (4))**

### Duties

(5) In making the assessment, the person who conducts the performance audit shall,

- (a) inspect the major components of the buildings on the property which, subject to the regulations, include the foundation, parking garage, wall construction, air and vapour barriers, windows, doors, elevators, roofing, mechanical system, electrical system, fire protection system and all other components that are prescribed;
- (b) subject to the regulations, inspect the landscaped areas of the property;
- (c) review all final reports on inspections that the Corporation within the meaning of the *Ontario New Home Warranties Plan Act* requires be carried out on the common elements; and

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 44 (5) (c) of the Act is amended by adding “and the real property that is the subject of the audit” after “common elements”. (See: 2015, c. 28, Sched. 1, s. 37 (5))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 37 (5) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* is repealed. This amendment applies only if subsection 37 (5) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* does not come into force before the day subsection 75 (11) of Schedule 2 to the *Strengthening Protection for Ontario Consumers Act, 2017* comes into force. (See: 2017, c. 33, Sched. 2, s. 79 (11, 12))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 44 (5) (c) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (11))

- (c) review all final reports on inspections that the warranty authority requires be carried out on the common elements and the real property that is the subject of the audit; and
- (d) conduct a survey of the owners of the corporation as to what evidence, if any, they have seen of,
  - (i) damage to the units that may have been caused by defects in the common elements, and

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subclause 44 (5) (d) (i) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 37 (6))

- (i) damage to the units that may have been caused by defects in the common elements and the real property that is the subject of the audit,
- (ii) defects in the common elements that may cause damage to the units. 1998, c. 19, s. 44 (5); 2015, c. 28, Sched. 1, s. 146 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subclause 44 (5) (d) (ii) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 37 (6))

- (ii) defects in the common elements and the real property that is the subject of the audit, which defects may cause damage to the units, and
- (iii) defects in the common elements and the real property that is the subject of the audit, where those common elements and that real property are adjacent to the units, as determined by the regulations, if any.

### **Powers for audit**

- (6) The person who conducts a performance audit may, for the purpose of the audit,
  - (a) enter onto the property at any reasonable time either alone or accompanied with any expert that the person considers necessary for the audit;
  - (b) require any person to produce any drawings, specifications or information that may on reasonable grounds be relevant to the audit;
  - (c) make all examinations, tests or inquiries that may on reasonable grounds be relevant to the audit; and
  - (d) call upon any expert for the assistance that the person considers necessary in conducting the audit. 1998, c. 19, s. 44 (6).

### **No obstruction**

- (7) No person shall obstruct a person who is exercising powers under this section or provide false information or refuse to provide information to the person. 1998, c. 19, s. 44 (7).

### **Contents**

- (8) The person who conducts a performance audit shall prepare a written report that includes,
  - (a) a copy of the person’s certificate of authorization within the meaning of the *Professional Engineers Act* or certificate of practice within the meaning of the *Architects Act*, as the case may be;
  - (b) details of the inspection and findings made by the person in the course of conducting the audit;
  - (c) a statement that the person has reviewed all final reports described in clause (5) (c);
  - (d) a copy of the survey described in clause (5) (d) and a summary of the results of it;
  - (e) the determination that subsection (4) requires the person to make; and
  - (f) all other material that the regulations require. 1998, c. 19, s. 44 (8); 2015, c. 28, Sched. 1, s. 146 (1).

### Submission of report

(9) Before the end of the 11th month following the registration of the declaration and description, the person who conducts a performance audit shall,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 44 (9) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 37 (7))

### Submission of report

(9) Before the first anniversary of the date of registration of the declaration and description, or such other time periods following the registration of the declaration and description that are prescribed, the person who conducts a performance audit shall,

- (a) submit the report to the board; and
- (b) file the report with the Corporation within the meaning of the *Ontario New Home Warranties Plan Act* if the property is subject to that Act. 1998, c. 19, s. 44 (9).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 44 (9) (b) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (12))

- (b) file the report with the warranty authority if the property is subject to the *Protection for Owners and Purchasers of New Homes Act, 2017*.

### Claim under other Act

(10) The filing of the report with the Corporation within the meaning of the *Ontario New Home Warranties Plan Act* shall be deemed to constitute a notice of claim that the corporation gives to the Corporation within the meaning of that Act under the regulations made under that Act for the deficiencies disclosed in the report. 1998, c. 19, s. 44 (10).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 44 (10) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (13))

### Claim under other Act

(10) The filing of the report with the warranty authority shall be deemed to constitute a notice of claim that the corporation gives to the warranty authority under the regulations made under the *Protection for Owners and Purchasers of New Homes Act, 2017* for the deficiencies disclosed in the report. 2017, c. 33, Sched. 2, s. 75 (13).

### Section Amendments with date in force (d/m/y)

2015, c. 28, Sched. 1, s. 37 (1-7) - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

2017, c. 33, Sched. 2, s. 75 (9-13) - not in force; 2017, c. 33, Sched. 2, s. 79 (9-12) - not in force

### OWNERS

### Meetings

**45** (1) Subject to the other requirements of this Act, anything that this Act requires to be approved by a vote of any of the owners shall be approved only at a meeting of owners duly called for that purpose. 1998, c. 19, s. 45 (1).

### Annual general meeting

(2) The board shall hold a general meeting of owners not more than three months after the registration of the declaration and description and subsequently within six months of the end of each fiscal year of the corporation. 1998, c. 19, s. 45 (2).

### Matters for annual general meeting

(3) At an annual general meeting, an owner may raise for discussion any matter relevant to the affairs and business of the corporation. 1998, c. 19, s. 45 (3).

### Other meetings

(4) The board may at any time call a meeting of owners for the transaction of any business, and the notice of the meeting shall specify the nature of the business. 1998, c. 19, s. 45 (4).

### Material for meeting

(5) In addition to any matters and material that this Act requires be placed before a meeting of owners, the board shall place before such a meeting, in the prescribed manner, all other material, if any, that is prescribed. 2015, c. 28, Sched. 1, s. 38.

**Note:** On October 1, 2023, section 45 of the Act is amended by adding the following subsections: (See: 2023, c. 9, Sched. 7, s. 3)

**Meeting of owners by telephonic or electronic means**

(6) Subject to the by-laws and subsection (8), a meeting of owners may be held entirely by one or more telephonic or electronic means or by any combination of in-person attendance and by one or more telephonic or electronic means. 2023, c. 9, Sched. 7, s. 3.

**Same, by-laws**

(7) In addition to any other matters that the by-laws may provide for with respect to the holding of meetings of owners in accordance with subsection (6), the by-laws may,

- (a) limit the manner or manners by which a meeting of owners may be held in accordance with subsection (6); and
- (b) specify requirements that apply with respect to the holding of a meeting of owners in a manner described in subsection (6) or in such manner as described by the by-laws made under clause (a). 2023, c. 9, Sched. 7, s. 3.

**Same, reasonable participation**

(8) A meeting of owners held in any manner described in subsection (6) or in such manner as described by the by-laws made under subsection (7) must enable all persons entitled to attend the meeting to reasonably participate. 2023, c. 9, Sched. 7, s. 3.

**Same, persons deemed present at meeting**

(9) A person who, through telephonic or electronic means, casts a vote before or at a meeting of owners or attends such a meeting is deemed for the purposes of this Act to be present at the meeting. 2023, c. 9, Sched. 7, s. 3.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 38 - 01/11/2017

2023, c. 9, Sched. 7, s. 3 - 01/10/2023

**Procedure for board calling a meeting**

**45.1** (1) Before the board sends out a notice to call a meeting of owners, it shall send a preliminary notice to the owners that is prepared in accordance with the regulations and that contains,

- (a) if the meeting is to elect one or more directors, a request that each individual who intends to be a candidate for election to the board notify the board in writing, by a date that is specified in the notice and that is determined in accordance with the regulations, of the individual's intention, name and address;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 45.1 (1) (a) of the Act is amended by adding "subject to clause (a.1)" at the beginning. (See: 2015, c. 28, Sched. 1, s. 39 (2))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 45.1 (1) of the Act is amended by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 39 (3))

(a.1) if there is a vacancy in a position on the board described in subsection 51 (6) or if such a vacancy will arise by the time of the meeting under clause 31 (2) (b) or in the circumstances specified in the regulations, if any,

- (i) a copy of the text of the definition of "non-leased voting unit" in subsection 1 (1) and the text of subsections 51 (5) and (6),
- (ii) a statement of the date of the last day of the 15-day period mentioned in subsection 51 (5),
- (iii) a request for a statement, that complies with the regulations, if any, from each owner of a non-leased voting unit stating that the owner is the owner of a non-leased voting unit, and
- (iv) a request that each individual who intends to be a candidate, for the position on the board reserved for voting by owners of non-leased voting units, notify the board in writing, by a date that is specified in the notice and that is determined in accordance with the regulations, of the individual's intention, name and address;

(b) a request that any owner who wishes that the board include any material in the notice calling the meeting provide the material to the board by a date that is specified in the notice and that is determined in accordance with the regulations; and

(c) all other materials, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 39 (1).

**Material to include in notice of meeting**

(2) The board is not required to include in the notice calling a meeting of owners any material mentioned in clause (1) (b) or (c) unless the regulations provide otherwise. 2015, c. 28, Sched. 1, s. 39 (1).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 39 (1) - 01/11/2017; 2015, c. 28, Sched. 1, s. 39 (2, 3) - not in force

#### **Requisition for meeting**

**46** (1) A requisition for a meeting of owners may be made by those owners who at the time the board receives the requisition, own at least 15 per cent of the units, are listed in the record maintained by the corporation under subsection 47 (2) and are entitled to vote. 1998, c. 19, s. 46 (1).

**Note: If, on October 1, 2023, section 40 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* is not in force, subsection 46 (1) of the Act is amended by striking out “subsection 47 (2)” and substituting “section 46.1”. (See: 2023, c. 9, Sched. 7, s. 4)**

#### **Form of requisition**

(2) The requisition shall,

- (a) be in writing and be signed by the requisitionists;
- (b) state the nature of the business to be presented at the meeting; and
- (c) be delivered personally or by registered mail to the president or secretary of the board or deposited at the address for service of the corporation. 1998, c. 19, s. 46 (2).

#### **Same, removal of directors**

(3) If the nature of the business to be presented at the meeting includes the removal of one or more of the directors, the requisition shall state, for each director who is proposed to be removed, the name of the director, the reasons for the removal and whether the director occupies a position on the board that under subsection 51 (6) is reserved for voting by owners of owner-occupied units. 1998, c. 19, s. 46 (3).

#### **Duty of board**

(4) Upon receiving a requisition mentioned in subsection (1), the board shall,

- (a) if the requisitionists so request in the requisition or consent in writing, add the business to be presented at the meeting to the agenda of items for the next annual general meeting; or
- (b) otherwise call and hold a meeting of owners within 35 days. 1998, c. 19, s. 46 (4).

#### **Non-compliance**

(5) If the board does not comply with subsection (4), a requisitionist may call a meeting of owners which shall be held within 45 days of the day on which the meeting is called. 1998, c. 19, s. 46 (5).

#### **Reimbursement of cost**

(6) Upon request, the corporation shall reimburse a requisitionist who calls a meeting under subsection (5) for the reasonable costs incurred in calling the meeting. 1998, c. 19, s. 46 (6).

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 46 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 40)**

#### **Requisition for meeting**

**46** (1) Subject to subsection (2), a requisition for a meeting of owners can only be made by those owners who, at the time the board receives the requisition,

- (a) own at least 15 per cent of the units;
- (b) appear in the record of the corporation required by section 46.1 or are required by that section to appear in that record; and
- (c) have no contributions to the common expenses payable for their units that have been in arrears for 30 days or more. 2015, c. 28, Sched. 1, s. 40.

#### **Meeting re director in reserved position**

(2) If the nature of the business to be presented at a meeting of owners includes the removal or the election of a director who occupies a position on the board described in subsection 51 (6), a requisition made by owners for the meeting can only be made by those owners who, at the time the board receives the requisition,

- (a) own at least 15 per cent of the non-leased voting units in the corporation;

- (b) appear in the record of the corporation required by section 46.1 or are required by that section to appear in that record; and
- (c) have no contributions to the common expenses payable for their units that have been in arrears for 30 days or more. 2015, c. 28, Sched. 1, s. 40.

#### **Saving**

(3) If a requisition made under subsection (2) does not meet the requirements of that subsection but does meet the requirements of subsection (1), the meeting may proceed for the transaction of any business pursuant to subsection (1) but not for the removal or the election of a director as described in subsection (2). 2015, c. 28, Sched. 1, s. 40.

#### **Purpose of meeting**

(4) A requisition for a meeting of owners may be called for any of the following purposes:

- 1. An information meeting of owners being a meeting at which no vote shall be taken on any matter other than routine procedure.
- 2. The removal or the election of one or more of the directors.
- 3. Any other purpose for which this Act or the regulations permit the owners to requisition a meeting of owners. 2015, c. 28, Sched. 1, s. 40.

#### **Form of requisition**

(5) The requisition shall contain the prescribed information and shall be in the prescribed form. 2015, c. 28, Sched. 1, s. 40.

#### **Delivery of requisition**

(6) The requisition shall be delivered personally or by registered mail to the president or secretary of the board or deposited at the address for service of the corporation or as is otherwise prescribed. 2015, c. 28, Sched. 1, s. 40.

#### **Response of board**

- (7) Subject to subsection (8), upon receiving a requisition, the board shall, within 10 days or such other time period, if any, that is prescribed, respond to the requisitionists in writing, in accordance with subsection (9), stating that,
- (a) the board will call and hold a meeting of owners for the transaction of business in the requisition; or
  - (b) the board will not call and hold a meeting of owners for the transaction of business in the requisition and state why, according to the board, the requisition does not comply with any or all of subsections (1) to (6). 2015, c. 28, Sched. 1, s. 40.

#### **Withdrawal of requisition**

(8) The board is not required to respond to a requisition under subsection (7) if the requisitionists have withdrawn it in accordance with the regulations, if any. 2015, c. 28, Sched. 1, s. 40.

#### **Delivery of response**

(9) In responding under subsection (7), the board shall deliver its response to the requisitionists at their address for service given in the requisition or as is otherwise prescribed. 2015, c. 28, Sched. 1, s. 40.

#### **Default response**

(10) If the board does not respond to the requisitionists as required by subsection (7), the board shall be deemed to have responded to the requisitionists as described in clause (7) (a). 2015, c. 28, Sched. 1, s. 40.

#### **Calling meeting**

- (11) Subject to subsection (12), if the board responds or is deemed to have responded as described in clause (7) (a), the board shall,
- (a) if the requisitionists so request in the requisition or consent in writing, add the business to be presented at the meeting to the agenda of items for the next annual general meeting that, in accordance with this Act, is scheduled to be held, as determined by the board or as determined in the prescribed manner,
    - (i) at least 40 days after the end of the time period that the board has to respond to the requisitionists under subsection (7), in the case of a request,
    - (ii) at least 40 days after the consent is given, in the case of a consent; or

- (b) otherwise call and hold a meeting of owners within 40 days after the end of the time period that the board has to respond to the requisitionists under subsection (7). 2015, c. 28, Sched. 1, s. 40.

#### **Withdrawal of requisition**

(12) The board shall not do anything required by clause (11) (a) or (b) if the requisitionists withdraw the requisition in accordance with the regulations, if any, before the next annual general meeting described in that clause (a) or the meeting described in that clause (b), as the case may be, is held. 2015, c. 28, Sched. 1, s. 40.

#### **Revised requisition**

(13) If the board responds as described in clause (7) (b), the requisitionists may, within 10 days or such other time period, if any, that is prescribed, revise the requisition in accordance with the regulations and deliver or deposit it in accordance with subsection (6). 2015, c. 28, Sched. 1, s. 40.

#### **Procedure**

(14) Subsections (6) to (12) apply to a revised requisition as if it were a requisition mentioned in those subsections. 2015, c. 28, Sched. 1, s. 40.

#### **Abandonment**

(15) If the board responds to an original requisition or a revised requisition as described in clause (7) (b), the requisitionists shall be deemed to have abandoned the original requisition or the revised requisition, which shall then have no force and effect, unless,

- (a) they deliver or deposit a revised requisition in accordance with subsections (13) and (14); or
- (b) within 20 days or such other time period, if any, that is prescribed, they,
  - (i) apply, in accordance with Part I.2, to the Condominium Authority Tribunal established under that Part for resolution of the original requisition or the revised requisition as a matter in dispute, if the Tribunal has been established under that Part and the application may be made under that Part, or
  - (ii) apply to the Superior Court of Justice for resolution of the original requisition or the revised requisition, if the Condominium Authority Tribunal has not been established under Part I.2 or the application described in subclause (i) may not be made under that Part. 2015, c. 28, Sched. 1, s. 40.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 40 - not in force

2023, c. 9, Sched. 7, s. 4 - 01/10/2023

#### **Record of owners and mortgagees**

**46.1** (1) A corporation shall maintain the record required by subsection (3). 2015, c. 28, Sched. 1, s. 41.

#### **Notice of owner's name and unit**

(2) As soon as reasonably possible upon becoming an owner in a corporation and, in any event, no later than 30 days after becoming an owner in a corporation, the owner shall give notice to the corporation in writing, setting out the owner's name and, in accordance with the regulations, identifying the owner's unit. 2015, c. 28, Sched. 1, s. 41.

#### **Record of owners and mortgagees**

(3) A corporation shall maintain a record of,

- (a) the owner's name and the identification of the unit, if an owner, at any time, gives notice to the corporation in writing, setting out the owner's name and, in accordance with the regulations, identifying the owner's unit;
- (b) the owner's address for service if,
  - (i) an owner who has given the notice described in clause (a), notifies the corporation in writing, at any time, of the owner's name and address for service, including any change in the address for service, and
  - (ii) the owner's address for service is in Ontario;
- (c) the mortgagee's name, the identification of the unit and the mortgagee's address for service, if,
  - (i) a mortgagee, at any time, gives notice to the corporation in writing, setting out the mortgagee's name and, in accordance with the regulations, identifying the unit that is the subject of the mortgage,

- (ii) under the terms of the mortgage, the mortgagee has the right to vote at a meeting of owners in the place of the unit owner or to consent in writing in the place of the unit owner,
- (iii) the mortgagee notifies the corporation in writing of the right described in subclause (ii) and the mortgagee's address for service, including any change in the address for service, and
- (iv) the mortgagee's address for service is in Ontario;
- (d) if an owner described in clause (a) agrees to a method of electronic communication under clause 47 (4) (c) and communicates that agreement to the corporation in writing, the name of the owner and a statement of that method; and

**Note: On October 1, 2023, subsection 46.1 (3) of the Act is amended by adding "and" at the end of subclause (c) (iv) and by repealing clause (d) and substituting the following: (See: 2023, c. 9, Sched. 7, s. 5)**

- (d) any prescribed information.
- (e) if a mortgagee described in clause (c) agrees to a method of electronic communication under clause 47 (5) (c) and communicates that agreement to the corporation in writing, the name of the mortgagee and a statement of that method. 2015, c. 28, Sched. 1, s. 41.

**Note: On October 1, 2023, clause 46.1 (3) (e) is repealed. (See: 2023, c. 9, Sched. 7, s. 5)**

### **Duty to update record**

(4) A corporation that receives a notification or communication described in subsection (2) or (3) shall update its record to reflect the notification or communication as soon as reasonably possible after receipt or within such other period of time that the by-laws of the corporation provide. 2015, c. 28, Sched. 1, s. 41.

### **Use of record**

(5) A corporation shall use the record for the purposes of this Act, and no other purpose. 2015, c. 28, Sched. 1, s. 41.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 41 - 01/11/2017

2023, c. 9, Sched. 7, s. 5 - 01/10/2023

### **Giving notice to owners**

**47 (1)** Any notice that is required under this Act to be given to owners shall,

- (a) be in writing;
- (b) be given at least 15 days before the day of the meeting, if the notice is a notice of meeting of owners;
- (c) if the notice is a preliminary notice described in subsection 45.1 (1), be given at least 20 days before the subsequent notice of meeting of owners described in that subsection;
- (d) be given to the owners in accordance with subsection (4); and
- (e) if the notice is a notice of meeting of owners or a preliminary notice described in subsection 45.1 (1), be given to the mortgagees described in subsections (2) and (3) in accordance with subsection (5). 2015, c. 28, Sched. 1, s. 42.

### **Record date**

(2) In the case of a notice of meeting of owners, the owners and mortgagees whose names, 20 days before the day of the meeting, appeared in the record of the corporation required by section 46.1 or were required by that section to appear in that record shall be deemed to be the owners and mortgagees to whom the notice is required to be given under subsection (1). 2015, c. 28, Sched. 1, s. 42.

### **Same, other notice**

(3) In the case of a preliminary notice described in subsection 45.1 (1) or any other notice to owners that is not a notice of meeting of owners, the owners or mortgagees whose names, five days before the day the notice is given, appeared in the record of the corporation required by section 46.1 or were required by that section to appear in that record shall be deemed to be the owners and mortgagees to whom the notice is required to be given under subsection (1). 2015, c. 28, Sched. 1, s. 42.

### **Service on owner**

(4) A notice that is required to be given to an owner shall be,

- (a) delivered to the owner personally;

- (b) sent by prepaid mail addressed to the owner at the address for service that appears in the record of the corporation required by section 46.1 or that is required by that section to appear in that record;
- (c) sent by facsimile transmission, electronic mail or any other method of electronic communication if,
  - (i) the owner agrees, in accordance with subsection (6), that the party giving the notice may give the notice by that method, and
  - (ii) a statement of that method of giving notice appears in the record of the corporation required by section 46.1 or that is required by that section to appear in that record; or

**Note: On October 1, 2023, clause 47 (4) (c) of the Act is repealed and the following substituted: (See: 2023, c. 9, Sched. 7, s. 6 (1))**

- (c) subject to the regulations, sent to the owner's electronic communication address that appears in the record of the corporation required by section 46.1, or is required by that section to appear in that record, if,
  - (i) the by-laws made under subsection (6) do not prevent the giving of the notice by that method, and
  - (ii) any additional requirements set out in the by-laws or in the regulations for sending the notice by that method are satisfied; or
- (d) delivered at the owner's unit or at the mail box for the unit unless,
  - (i) the party giving the notice has, by the following time, received a written request from the owner that the notice not be given in this manner,
    - (A) in the case of a notice of meeting of owners, at least 20 days before the day of the meeting, or
    - (B) in the case of a preliminary notice described in subsection 45.1 (1) or any other notice to owners that is not a notice of meeting of owners, at least five days before the day the notice is given, and
  - (ii) the owner has given an address for service described in clause (b) that is not the address of the unit of the owner or the address for the mail box for the unit. 2015, c. 28, Sched. 1, s. 42.

#### **Service on mortgagee**

- (5) A notice that clause (1) (e) requires be given to a mortgagee shall be,
  - (a) delivered to the mortgagee personally;
  - (b) sent by prepaid mail addressed to the mortgagee at the address for service that appears in the record of the corporation required by section 46.1 or that is required by that section to appear in that record; or
  - (c) sent by facsimile transmission, electronic mail or any other method of electronic communication if,
    - (i) the mortgagee agrees, in accordance with subsection (6), that the party giving the notice may give the notice by that method, and
    - (ii) a statement of that method of giving notice appears in the record of the corporation required by section 46.1 or that is required by that section to appear in that record. 2015, c. 28, Sched. 1, s. 42.

**Note: On October 1, 2023, clause 47 (5) (c) of the Act is repealed and the following substituted: (See: 2023, c. 9, Sched. 7, s. 6 (2))**

- (c) subject to the regulations, sent to the mortgagee's electronic communication address that appears in the record of the corporation required by section 46.1, or is required by that section to appear in that record, if,
  - (i) the by-laws made under subsection (6) do not prevent the giving of the notice by that method, and
  - (ii) any additional requirements set out in the by-laws or in the regulations for sending the notice by that method are satisfied.

#### **Agreement to electronic delivery**

- (6) The agreement mentioned in clause (4) (c) or (5) (c) shall be,
  - (a) in writing and in the prescribed manner; or
  - (b) in a form, other than writing, if it is in accordance with the regulations, if any. 2015, c. 28, Sched. 1, s. 42.

**Note: On October 1, 2023, subsection 47 (6) of the Act is repealed the following substituted: (See: 2023, c. 9, Sched. 7, s. 6 (3))**

#### **By-laws**

- (6) The by-laws may specify,

- (a) circumstances in which clause (4) (c) or (5) (c) does not apply in respect of the corporation;
- (b) that all or certain types of notices may not be given by one or more methods of electronic communication; and
- (c) additional requirements that must be satisfied in order for a party to give a notice in accordance with clause (4) (c) or (5) (c). 2023, c. 9, Sched. 7, s. 6 (3).

#### **Content of notice of meeting**

(7) A notice of meeting of owners shall,

- (a) specify the place, the date and the hour of the meeting, as well as the nature of the business to be presented at the meeting; and

**Note: On October 1, 2023, the English version of clause 47 (7) (a) of the Act is amended by striking out “the hour” and substituting “the time”. (See: 2023, c. 9, Sched. 7, s. 6 (4))**

- (b) be accompanied by,
  - (i) a copy of all proposed changes to the declaration, by-laws, rules or agreements that are to be discussed at the meeting,
  - (ii) a copy of the requisition, if an owner has made a requisition under section 46, and
  - (iii) all other material, if any, that is prescribed and that is presented in the prescribed manner, in addition to any material that this Act requires. 2015, c. 28, Sched. 1, s. 42.

**Note: On October 1, 2023, section 47 of the Act is amended by adding the following subsection: (See: 2023, c. 9, Sched. 7, s. 6 (5))**

#### **When notice need not specify place of meeting**

(7.1) Despite clause (7) (a), a notice of meeting of owners need not specify a place of the meeting if the meeting is to be held entirely by one or more telephonic or electronic means. 2023, c. 9, Sched. 7, s. 6 (5).

#### **Matters at meeting**

(8) No vote shall be taken at a meeting of owners on any matter other than routine procedure unless that matter was clearly disclosed in the notice of the meeting. 2015, c. 28, Sched. 1, s. 42.

#### **Waiver of notice**

(9) An owner or mortgagee who attends a meeting or who is represented by proxy at a meeting shall be deemed to have waived the right to object to a failure to give the required notice, unless the person expressly objects to the failure at the meeting. 2015, c. 28, Sched. 1, s. 42.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 42 - 01/11/2017

2023, c. 9, Sched. 7, s. 6 (1-5) - 01/10/2023

#### **Mortgagee’s right to vote**

**48** (1) A mortgagee of a unit who is described in clause 46.1 (3) (c) has the right to vote at a meeting of owners in the place of the unit owner or to exercise the right, if any, of the unit owner to consent in writing if, at least four days before the date of the meeting,

- (a) the mortgagee’s name appears in the record required by section 46.1 or is required by that section to appear in that record; and
- (b) the mortgagee gives notice to the corporation and to the owner of the mortgagee’s intention to exercise the right. 2015, c. 28, Sched. 1, s. 43 (1).

#### **More than one mortgagee**

(2) If a unit is subject to more than one mortgage for which the mortgagee has the right to vote at a meeting of owners in the place of the owner or to consent in writing in the place of the owner, the mortgagee who has priority may exercise the right and in that case no other mortgagee may exercise the right. 1998, c. 19, s. 48 (2).

#### **Same**

(3) If a mortgagee who has priority fails to exercise the right, the mortgagee who is next in priority may exercise the right and in that case no other mortgagee may exercise the right. 1998, c. 19, s. 48 (3).

### **Voting or consent by owner**

- (4) If none of the mortgagees who have the right exercises the right, the owner has the right to,
- (a) vote at a meeting of owners subject to subsection 51 (1); or
  - (b) consent in writing if the owner is otherwise entitled to consent under this Act. 2015, c. 28, Sched. 1, s. 43 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 43 (1, 2) - 01/11/2017

### **Loss of owner's right to vote**

**49** (1) An owner is not entitled to vote at a meeting if any contributions payable in respect of the owner's unit have been in arrears for 30 days or more at the time of the meeting. 1998, c. 19, s. 49 (1).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 49 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 44 (1))**

### **Loss of owner's right to vote**

(1) An owner is not entitled to vote at a meeting if any contributions to the common expenses payable for the owner's unit have been in arrears for 30 days or more at the time of the meeting. 2015, c. 28, Sched. 1, s. 44 (1).

### **Payment of arrears**

(2) An owner who is not entitled to vote under subsection (1) may vote if the corporation receives payment of the arrears with respect to the owner's unit before the meeting is held. 1998, c. 19, s. 49 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 49 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 44 (1))**

### **Payment of arrears**

(2) An owner who, under subsection (1), is not entitled to vote may vote if the corporation receives payment of the arrears with respect to the owner's unit before the meeting is held. 2015, c. 28, Sched. 1, s. 44 (1).

### **Parking or storage unit**

(3) No owner shall vote in respect of a unit that is intended for parking or storage purposes or for the purpose of providing space for services or facilities or mechanical installations unless all the units in the corporation are used for one or more of those purposes. 1998, c. 19, s. 49 (3); 2015, c. 28, Sched. 1, s. 44 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 44 (1) - not in force; 2015, c. 28, Sched. 1, s. 44 (2) - 01/11/2017

### **Quorum**

**50** (1) A quorum for the transaction of business at a meeting of owners, other than a meeting of owners mentioned in subsection 42 (6), section 43 or subsection 45 (2) or such other meetings that are prescribed, is those owners who own 25 per cent of the units in the corporation. 2015, c. 28, Sched. 1, s. 45 (1).

### **Same, annual general meeting, etc.**

(1.1) A quorum for the transaction of business at a meeting of owners mentioned in section 43 or subsection 45 (2) or such other meetings that are prescribed is,

- (a) those owners who own 25 per cent of the units in the corporation, if it is the first attempt to hold the meeting;
- (b) those owners who own 25 per cent of the units in the corporation, if a quorum is not present at the first attempt to hold the meeting and it is the second attempt to hold the meeting; or
- (c) subject to subsection (1.2), those owners who own 15 per cent of the units in the corporation, if a quorum is not present at the second attempt to hold the meeting and it is the third or subsequent attempt to hold the meeting. 2015, c. 28, Sched. 1, s. 45 (1).

### **Higher quorum**

(1.2) A by-law registered in accordance with subsection 56 (9) after this subsection comes into force may provide that the quorum for the transaction of business at a meeting of owners, other than a meeting of owners that is mentioned in subsection 42 (6) or that is prescribed, is those owners who own 25 per cent of the units in the corporation, subject to subsection (2). 2015, c. 28, Sched. 1, s. 45 (1).

### **Restriction on voting**

(1.3) Despite subsection 47 (8), no vote shall be taken at a meeting of owners under clause (1.1) (b) or (c) on any matter other than routine procedure unless that matter was clearly disclosed in the notice of first attempt to hold the meeting under clause (1.1) (a). 2015, c. 28, Sched. 1, s. 45 (1).

### **Determination of quorum**

(2) To count towards the quorum, an owner must be entitled to vote at a meeting and shall be present at the meeting or represented by proxy. 1998, c. 19, s. 50 (2); 2015, c. 28, Sched. 1, s. 45 (2).

### **Where only one owner**

(3) If a corporation has only one owner, the owner present in person or by proxy constitutes a meeting. 1998, c. 19, s. 50 (3).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 45 (1, 2) - 01/11/2017

### **Voting**

**51** (1) For an owner to vote at a meeting of owners, the owner's name must appear in the record of the corporation required by section 46.1 or be required by that section to appear in that record and the owner must be entitled to vote at the meeting. 2015, c. 28, Sched. 1, s. 46 (1).

### **One vote per unit**

(2) All voting by owners shall be on the basis of one vote per unit. 1998, c. 19, s. 51 (2).

### **Joint owners**

(3) The majority of the owners of a unit may exercise the right to vote in respect of the unit but the vote shall not be counted if there are two or more owners of the unit and they are evenly divided on how to exercise the vote. 1998, c. 19, s. 51 (3).

### **Voting for directors**

(4) Subject to this section, on a vote to elect or to remove a member of the board all owners entitled to vote may vote for each member of the board. 1998, c. 19, s. 51 (4).

### **Definition**

(5) In subsections (6), (7) and (8),

“owner-occupied unit” means a unit of an owner who is entitled to vote in respect of the unit at a meeting to elect or to remove a director where the unit is used for residential purposes and the owner has not leased the unit within the 60 days before notice is given for the meeting, as shown by the record that the corporation is required to maintain under subsection 83 (3). 1998, c. 19, s. 51 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 51 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 46 (2))**

### **Request for election to reserved position**

(5) Within 15 days after the board gives a preliminary notice to which clause 45.1 (1) (a.1) applies, an owner of a non-leased voting unit may deliver to the board,

(a) the statement mentioned in subclause 45.1 (1) (a.1) (iii); and

(b) a request that complies with the regulations, if any, and that a person be elected, at the meeting of owners to which clause 45.1 (1) (a.1) applies, to a position on the board reserved for voting by owners of non-leased voting units. 2015, c. 28, Sched. 1, s. 46 (2).

### **Reserved position**

(6) If at least 15 per cent of the units of the corporation are owner-occupied units on or after the time at which the board is required to call a turn-over meeting under section 43, no persons other than the owners of owner-occupied units may elect a person to or remove a person from one of the positions on the board. 1998, c. 19, s. 51 (6).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 51 (6) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 46 (2))**

### **Reserved position**

(6) No persons other than the owners of non-leased voting units may elect a person to or remove a person from one of the positions on the board at a meeting of owners to which clause 45.1 (1) (a.1) applies if,

- (a) the board has received a request described in clause (5) (b) within the time period specified in subsection (5); and
- (b) on or after the time at which the board is required to call a turn-over meeting under section 43 and as at the last day of the 15-day period mentioned in subsection (5),
  - (i) there is at least one non-leased voting unit in the corporation, and
  - (ii) a minority of the units in the corporation are non-leased voting units. 2015, c. 28, Sched. 1, s. 46 (2).

### **Other positions**

(7) Nothing in subsection (6) affects the right of the owner of an owner-occupied unit to vote to elect or to remove any members of the board other than the member who occupies the position mentioned in that subsection. 1998, c. 19, s. 51 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 51 (7) of the Act is amended by striking out “an owner-occupied unit” and substituting “a non-leased voting unit”. (See: 2015, c. 28, Sched. 1, s. 46 (3))

### **Removal**

(8) A director elected under subsection (6) may be removed before the expiration of the director’s term of office by a vote of the owners at a meeting duly called for the purpose where the owners of more than 50 per cent of all of the owner-occupied units in the corporation vote in favour of removal. 1998, c. 19, s. 51 (8).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 51 (8) of the Act is amended by striking out “the owner-occupied units” and substituting “the non-leased voting units”. (See: 2015, c. 28, Sched. 1, s. 46 (4))

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 46 (1) - 01/11/2017; 2015, c. 28, Sched. 1, s. 46 (2-4) - not in force

### **Consents**

**51.1** (1) All consents by owners shall be on the basis of one consent per unit. 2015, c. 28, Sched. 1, s. 47.

### **Joint owners**

(2) The majority of the owners of a unit may exercise the right to consent in respect of the unit but the consent shall not be counted if there are two or more owners of the unit and they are evenly divided on the exercise of the right to consent. 2015, c. 28, Sched. 1, s. 47.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 47 - 01/11/2017

### **Method of voting**

**52** (1) Votes may be cast by,

- (a) a show of hands, personally or by proxy; or
- (b) a recorded vote that is,
  - (i) marked on a ballot cast personally or by a proxy,
  - (ii) marked on an instrument appointing a proxy, or
  - (iii) indicated by telephonic or electronic means, if the by-laws so permit. 2015, c. 28, Sched. 1, s. 48 (1).

**Note:** On October 1, 2023, clause 52 (1) (b) of the Act is amended by adding “or” at the end of subclause (i), by striking out “or” at the end of subclause (ii) and by repealing subclause (iii). (See: 2023, c. 9, Sched. 7, s. 7 (1))

### **Definition**

(1.1) In subsection (1),

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, fax, e-mail, automated touch-tone telephone system, computer or computer networks. 2015, c. 28, Sched. 1, s. 48 (1).

**Note:** On October 1, 2023, subsection 52 (1.1) of the Act is repealed and the following substituted: (See: 2023, c. 9, Sched. 7, s. 7 (2))

**Same**

(1.1) Subject to the by-laws, a vote by a show of hands or by a recorded vote may be conducted entirely by one or more telephonic or electronic means or by any combination of in-person voting and by one or more telephonic or electronic means. 2023, c. 9, Sched. 7, s. 7 (2).

**Same**

(1.1.1) In addition to any other matters that the by-laws may provide for with respect to holding a vote in accordance with subsection (1.1), the by-laws may,

- (a) limit the method or methods by which a vote may be conducted in accordance with subsection (1.1); and
- (b) specify requirements that apply with respect to the holding of a vote by a method described in subsection (1.1) or by such method as described by the by-laws made under clause (a). 2023, c. 9, Sched. 7, s. 7 (2).

**Proxy**

(1.2) A vote cast by proxy is subject to the instrument appointing the proxy. 2015, c. 28, Sched. 1, s. 48 (1).

**Request for recorded vote**

(2) At a meeting of owners, a person entitled to vote at the meeting may request that a recorded vote be held on any item scheduled for a vote either before or promptly after the vote. 1998, c. 19, s. 52 (2); 2015, c. 28, Sched. 1, s. 48 (2).

**Note:** On October 1, 2023, subsection 52 (2) of the Act is amended by adding “described in clause (1) (b)” after “that a recorded vote”. (See: 2023, c. 9, Sched. 7, s. 7 (3))

**Proxy**

(3) A proxy need not be an owner. 1998, c. 19, s. 52 (3).

**Appointment of proxy**

(4) An instrument appointing a proxy shall be in writing under the hand of the appointer or the appointer’s attorney, shall be for one or more particular meetings of owners, shall comply with the regulations and shall be in the prescribed form. 2015, c. 28, Sched. 1, s. 48 (3).

(5)-(7) REPEALED: 2015, c. 28, Sched. 1, s. 48 (3).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 48 (1, 3) - 01/11/2017; 2015, c. 28, Sched. 1, s. 48 (2) - 3/12/2015

2023, c. 9, Sched. 7, s. 7 (1-3) - 01/10/2023

**Majority voting**

**53** Unless otherwise provided in this Act, all questions proposed for the consideration of the owners at a meeting of owners shall be determined by a majority of the votes cast by owners at the meeting in accordance with subsection 52 (1). 2015, c. 28, Sched. 1, s. 49.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 49 - 01/11/2017

**Service on owner or mortgagee**

**54** Unless this Act indicates otherwise, anything required to be given to an owner or a mortgagee under this Act is sufficiently served if it is given in accordance with subsection 47 (4) or (5), as the case may be. 1998, c. 19, s. 54; 2015, c. 28, Sched. 1, s. 50.

**Note:** On October 1, 2023, section 54 of the Act is repealed and the following substituted: (See: 2023, c. 9, Sched. 7, s. 8)

**Service on owner or mortgagee**

**54** (1) Subject to subsection (2), a thing other than a notice required to be given to an owner or a mortgagee under this Act is sufficiently served if it is given in accordance with subsection 47 (4) or (5), as the case may be, as if references to “notice” in the applicable subsection were references to the thing to be given to the owner or mortgagee. 2023, c. 9, Sched. 7, s. 8.

**Exception**

(2) Except as provided in the regulations, subsection (1) does not apply with respect to the right to examine or obtain copies of records under subsection 55 (3). 2023, c. 9, Sched. 7, s. 8.

#### **Application of s. 47 (6)**

(3) Subsection 47 (6) applies, with necessary modifications, for the purposes of subsection (1) of this section. 2023, c. 9, Sched. 7, s. 8.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 50 - 01/11/2017

2023, c. 9, Sched. 7, s. 8 - 01/10/2023

#### **Records**

**55** (1) The corporation shall keep adequate records, including the following records:

1. The financial records of the corporation.
2. A minute book containing the minutes of owners' meetings and the minutes of board meetings.
3. A copy of the declaration, by-laws and rules.
- 3.1 The returns and notices that it has filed with the Registrar under Part II.1.
4. All lists, items, records and other documents mentioned in subsections 43 (4) and (5).
5. The report described in subsection 44 (8) that the corporation receives from the person who conducts a performance audit.
6. The records required under subsection 46.1 (3) and 83 (3).
7. A record of all reserve fund studies and all plans to increase the reserve fund under subsection 94 (8).
8. A copy of all agreements entered into by or on behalf of the corporation.
9. The report that the corporation receives from an inspector in accordance with subsection 130 (5).
10. All instruments appointing a proxy or ballots for a meeting of owners that are submitted at the meeting.

**Note: On October 1, 2023, paragraph 10 of subsection 55 (1) of the Act is repealed and the following substituted: (See: 2023, c. 9, Sched. 7, s. 9 (1))**

10. All ballots or instruments appointing a proxy for a meeting of owners that are submitted at the meeting or delivered to the corporation before the meeting, including, for clarity, any record of votes cast through telephonic or electronic means before or at the meeting.
11. All other records, if any, that are prescribed.
12. Any additional records specified in the by-laws of the corporation. 1998, c. 19, s. 55 (1); 2015, c. 28, Sched. 1, s. 51 (1-3).

#### **Period of retention**

(2) In addition to satisfying the requirements of any taxing authority in Ontario, the government of Canada or any other jurisdiction to which the corporation is subject, the corporation shall retain the records mentioned in subsection (1) for the following periods of time:

1. For all financial records of the corporation described in paragraph 1 of subsection (1), at least six years from the end of the last fiscal period to which they relate or such longer period that is prescribed.
2. For those records described in paragraphs 2 to 11 of subsection (1), the period of time that is prescribed.
3. For those records described in paragraph 12 of subsection (1), the period of time specified in the by-law.
4. For all other records, the period of time that is prescribed. 2015, c. 28, Sched. 1, s. 51 (4).

#### **Method of retention**

(2.1) Records may be kept in electronic or paper form in accordance with the prescribed requirements, if any. 2015, c. 28, Sched. 1, s. 51 (4).

#### **Providing records to provider or manager**

(2.2) If a corporation has entered into an agreement with a condominium management provider or a condominium manager to receive condominium management services, the corporation shall provide the provider or manager, as the case may be, with any of the corporation's records that the provider or manager reasonably requires and shall do so at the time and in the manner that is prescribed and in accordance with the prescribed requirements. 2015, c. 28, Sched. 2, s. 80 (8).

### **Examination of records**

(3) The corporation shall permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing, to examine or obtain copies of the records of the corporation in accordance with the regulations, except those records described in subsection (4). 2015, c. 28, Sched. 1, s. 51 (4).

### **Regulation power**

- (3.1) Without limiting the generality of subsection (3), a regulation described in that subsection may,
- (a) specify processes that a person entitled to examine or obtain copies of records under that subsection must follow to do so;
  - (b) specify processes that the corporation must follow to respond to requests for records;
  - (c) specify fees that a corporation may charge for payment by a person who makes a request to the corporation to examine or obtain copies of records under that subsection, where the fees are for costs relating to the examination or copying of the requested records; and
  - (d) prescribe forms for requests for records or responses to those requests. 2015, c. 28, Sched. 1, s. 51 (4).

### **Exception**

- (4) The right to examine or obtain copies of records under subsection (3) does not apply to,
- (a) records relating to employees of the corporation, except for contracts of employment between any of the employees and the corporation;
  - (b) records relating to actual or contemplated litigation, as determined by the regulations, or insurance investigations involving the corporation;

**Note: On October 1, 2023, the French version of clause 55 (4) (b) of the Act is amended. (See: 2023, c. 9, Sched. 7, s. 9 (2))**

- (c) subject to subsection (5), records relating to specific units or owners; or
- (d) any prescribed records. 1998, c. 19, s. 55 (4); 2015, c. 28, Sched. 1, s. 51 (5-7).

### **Same**

- (5) Clause (4) (c) does not prevent,
- (a) an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing from examining or obtaining copies of records under subsection (3) if the records relate to the unit of the owner, the unit being purchased or the unit that is subject to the mortgage, as the case may be;
  - (b) an owner of a unit or an agent of the owner duly authorized in writing from examining or obtaining copies of records under subsection (3) if the records relate to the owner; or
  - (c) an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing from examining or obtaining copies of the record that section 46.1 requires the corporation to maintain. 2015, c. 28, Sched. 1, s. 51 (8).

### **Waiver**

- (6) Despite subsections (3) and (4), a corporation may disclose a record described in clause (4) (b) but shall not disclose,
- (a) a record described in clause (4) (a);
  - (b) subject to subsection (5), a record described in clause (4) (c); or
  - (c) subject to the regulations, a record described in clause (4) (d). 2015, c. 28, Sched. 1, s. 51 (8).

### **Admissible evidence**

(7) A copy that a corporation has certified under its seal to be a true copy of a record is admissible in evidence and, in the absence of evidence to the contrary, is proof of the facts stated in it. 1998, c. 19, s. 55 (7).

### **Penalty for non-compliance**

(8) A corporation that without reasonable excuse does not permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing to examine or to obtain copies of records under this section shall pay a sum determined in accordance with the regulations to the owner, purchaser or mortgagee on receiving a written request for payment from that person. 2015, c. 28, Sched. 1, s. 51 (9).

### Recovery of sum

(9) The owner, purchaser or mortgagee may recover the sum from the corporation by an action in the Small Claims Court. 2015, c. 28, Sched. 1, s. 51 (9).

### Order for production of records

(10) If a corporation without reasonable excuse does not permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing to examine or to obtain copies of records under this section, the Small Claims Court may order the corporation to produce the records for examination. 2015, c. 28, Sched. 1, s. 51 (9).

### Non-application

(11) Subsections (8) to (10) do not apply to any matter in dispute for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal established under Part I.2. 2015, c. 28, Sched. 1, s. 51 (9).

### Section Amendments with date in force (d/m/y)

2015, c. 28, Sched. 1, s. 51 (1-9) - 01/11/2017; 2015, c. 28, Sched. 2, s. 80 (6, 7) - no effect - see: 2015, c. 28, Sched. 1, s. 51 (4) - 01/11/2017; 2015, c. 28, Sched. 2, s. 80 (8, 9) - 01/11/2017

2023, c. 9, Sched. 7, s. 9 (1, 2) - 01/10/2023

## BY-LAWS AND RULES

### By-laws

**56** (1) The board may, by resolution, make, amend or repeal by-laws under this section,

- (a) to govern the number, qualification, disqualification, nomination, election, resignation, removal, term of office and remuneration of the directors, subject to subsection (2);
- (b) to regulate board meetings, the form of board meetings and the quorum and functions of the board;
- (b.1) to establish a period of time within which a corporation shall update its record for the purposes of subsection 46.1 (4);
- (c) to provide that the quorum for the transaction of business at a meeting of owners, other than a meeting of owners that is mentioned in subsection 42 (6) or that is prescribed, is those owners who own 25 per cent of the units in the corporation, subject to subsection 50 (2);
- (c.1) to govern the methods permitted for holding a vote by a show of hands or for holding a recorded vote under clause 52 (1) (b) and the procedure for holding the vote, including permitting a recorded vote described in subclause 52 (1) (b) (i) or (ii) to be submitted to the corporation by mail;
- (d) to govern the appointment, remuneration, functions, duties, resignation and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;
- (e) subject to subsection (3), to authorize the borrowing of money to carry out the objects and duties of the corporation;
- (f) to authorize the corporation to object to assessments under the *Assessment Act* on behalf of owners if it gives notice of the objections to the owners, and to authorize the defraying of costs of objections out of the common expenses;
- (g) to govern the assessment and collection of contributions to the common expenses;
- (h) to establish what constitutes a standard unit for each class of unit specified in the by-law for the purpose of determining the responsibility for repairing improvements after damage and insuring them;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 56 (1) (h) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 52 (5))**

- (h) to establish what constitutes a standard unit for each class of unit specified in the by-law for the purpose of determining the responsibility for repairing or maintaining improvements made to units or insuring the units;
- (i) to extend the circumstances described in subsection 105 (2) under which an amount shall be added to the common expenses payable for an owner's unit for the purposes of subsection 105 (3);

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 56 (1) (i) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 52 (6))**

- (j) to govern the maintenance of the units and common elements;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 56 (1) (j) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 52 (7))**

- (j) to govern the maintenance or repair of the units, the common elements and the assets, if any, of the corporation;
- (k) to restrict the use and enjoyment that persons other than occupants of the units may make of the common elements and assets of the corporation, subject to any agreement made by the corporation with respect to the use and enjoyment of its common elements and assets that it shares with another person;
- (l) to govern the management of the property;

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 56 (1) of the Act is amended by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 52 (8))**

- (l.1) to govern any matter mentioned in subsection 21.1 (1), if the by-law is made in accordance with the regulations;
- (m) to govern the use and management of the assets of the corporation;
- (n) to specify duties of the corporation in addition to the duties set out in this Act and the declaration;
- (o) to establish the procedure with respect to the mediation of disputes or disagreements between the corporation and the owners for the purpose of section 125 or 132;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 56 (1) (o) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 52 (9))**

- (o) to modify the procedure set out in the regulations with respect to the mediation or arbitration of disputes or disagreements between,
  - (i) the corporation and the owners, as determined by the regulations, if any, for the purpose of section 82.2 or 125, or
  - (ii) a lessor and a leasehold condominium corporation for the purpose of subsections 168 (3) and (4);
- (p) to govern the conduct generally of the affairs of the corporation; or
- (q) for any other prescribed purpose. 1998, c. 19, s. 56 (1); 2015, c. 28, Sched. 1, s. 52 (1-4, 10).

#### **Remuneration of directors**

(2) A by-law relating to the remuneration of directors shall fix the remuneration and the period not exceeding three years for which it is to be paid. 1998, c. 19, s. 56 (2).

#### **Borrowing by-law**

(3) A corporation shall not borrow money for expenditures not listed in the budget for the current fiscal year unless it has passed a by-law under clause (1) (e) specifically to authorize the borrowing. 1998, c. 19, s. 56 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 56 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 52 (11))**

#### **Borrowing by-law**

(3) A corporation shall not borrow money unless it has passed a by-law under clause (1) (e) specifically to authorize the borrowing or unless the regulations provide otherwise. 2015, c. 28, Sched. 1, s. 52 (11).

#### **Assessment appeal**

(4) If the corporation has passed a by-law under clause (1) (f), the corporation shall have the capacity and authority to appeal under section 40 of the *Assessment Act* on behalf of owners but shall not be liable for an alteration in the assessment of a unit or for any other matter relating to the appeal, except for the costs of the appeal. 2008, c. 7, Sched. A, s. 18; 2015, c. 28, Sched. 1, s. 52 (12).

#### **Same**

(5) Despite a by-law made under clause (1) (f), on written notice to the board and to the Assessment Review Board given before the hearing of an appeal under section 40 of the *Assessment Act*, an owner may withdraw an appeal that the corporation has made on the owner's behalf. 2008, c. 7, Sched. A, s. 18.

#### **By-laws to be reasonable**

(6) The by-laws shall be reasonable and consistent with this Act and the declaration. 1998, c. 19, s. 56 (6).

#### **Same, proposed by-laws**

(7) By-laws proposed by the declarant before the registration of a declaration and description shall be reasonable and consistent with this Act and the proposed declaration. 1998, c. 19, s. 56 (7).

### **Inconsistent provisions**

(8) If any provision in a by-law or a proposed by-law is inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the by-law or proposed by-law, as the case may be, shall be deemed to be amended accordingly. 1998, c. 19, s. 56 (8).

### **Registration**

(9) For each by-law of a corporation, an officer of the corporation shall certify a copy of the by-law as a true copy and the corporation shall register the copy in,

- (a) the land titles division of the land registry office within the boundaries of which division the land described in the description is situated, if the land registry office has a land titles division; or
- (b) the registry division of the land registry office within the boundaries of which division the land described in the description is situated, if the land registry office does not have a land titles division. 1998, c. 19, s. 56 (9).

### **When by-law effective**

(10) A by-law is not effective until,

- (a) the owners of a majority of the units in the corporation, or such other number of owners that is prescribed, vote in favour of confirming it, with or without amendment; and
- (b) a copy of it is registered in accordance with subsection (9). 1998, c. 19, s. 56 (10); 2015, c. 28, Sched. 1, s. 52 (13).

### **Same, proposed by-law**

(11) Despite subsection (10), a by-law proposed by the declarant before the registration of the declaration and description shall be effective until it is replaced or confirmed by a by-law of the corporation that takes effect in accordance with subsection (10). 1998, c. 19, s. 56 (11).

### **Section Amendments with date in force (d/m/y)**

2008, c. 7, Sched. A, s. 18 - 14/05/2008

2015, c. 28, Sched. 1, s. 52 (1-4, 10, 12, 13) - 01/11/2017; 2015, c. 28, Sched. 1, s. 52 (5-9, 11) - not in force

### **Occupancy standards by-law**

**57** (1) Subject to section 56, the board may, by resolution, make, amend or repeal by-laws not contrary to this Act or the declaration that establish standards for the occupancy of units in the corporation for residential purposes. 1998, c. 19, s. 57 (1); 2015, c. 28, Sched. 1, s. 53 (1).

### **Standards**

(2) The standards shall be,

- (a) the occupancy standards contained in a by-law passed by the council of a municipality in which the land of the corporation is situated; or
- (b) subject to the regulations, standards that are not more restrictive than standards that are in accordance with the maximum occupancy for each unit based on the maximum occupancy for which the building in which the units are located is designed. 1998, c. 19, s. 57 (2); 2015, c. 28, Sched. 1, s. 146 (1).

### **Prohibition**

(3) A by-law passed under subsection (1) may prohibit persons from occupying units in the corporation that do not comply with the standards set out in the by-law. 1998, c. 19, s. 57 (3); 2015, c. 28, Sched. 1, s. 53 (1).

### **Assessments**

(4) If the corporation has passed a by-law under subsection (1) and a person contravenes the standards for the occupancy of a unit set out in the by-law, the board may, by resolution, levy against the unit,

- (a) an assessment for the amount that reasonably reflects the amount by which the contravention increases the cost of maintaining the common elements and repairing them after damage; and
- (b) an assessment for the amount that reasonably reflects the amount by which the contravention increases the cost of using the utilities that form part of the common expenses. 1998, c. 19, s. 57 (4); 2015, c. 28, Sched. 1, s. 53 (2).

### **Part of common expenses**

(5) The assessments mentioned in subsection (4) shall form part of the contribution to the common expenses payable for the unit. 1998, c. 19, s. 57 (5).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 53 (1, 2) - 01/11/2017; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

### **Rules**

**58** (1) The board may make, amend or repeal rules under this section respecting the use of the units, the common elements or the assets, if any, of the corporation to,

- (a) promote the safety, security or welfare of the owners and of the property and the assets, if any, of the corporation; or
- (b) prevent unreasonable interference with the use and enjoyment of the units, the common elements or the assets, if any, of the corporation. 2015, c. 28, Sched. 1, s. 54 (1).

### **Rules to be reasonable**

(2) The rules shall be reasonable and consistent with this Act, the declaration and the by-laws. 1998, c. 19, s. 58 (2).

### **Same, proposed rules**

(3) Rules proposed by the declarant before the registration of a declaration and description shall be reasonable and consistent with this Act, the proposed declaration and the proposed by-laws. 1998, c. 19, s. 58 (3).

### **Inconsistent provisions**

(4) If any provision in a rule or a proposed rule is inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the rule or proposed rule, as the case may be, shall be deemed to be amended accordingly. 1998, c. 19, s. 58 (4).

### **Amendment by owners**

(5) The owners may amend or repeal a rule at a meeting of owners duly called for that purpose. 1998, c. 19, s. 58 (5).

### **Notice of rule**

(6) Upon making, amending or repealing a rule, the board shall give a notice of it to the owners that includes,

- (a) a copy of the rule as made, amended or repealed, as the case may be;
- (b) a statement of the date that the board proposes that the rule will become effective;
- (c) a statement that the owners have the right to requisition a meeting under section 46 and the rule becomes effective at the time determined by subsections (7) and (8); and
- (d) a copy of the text of section 46 and this section. 1998, c. 19, s. 58 (6); 2015, c. 28, Sched. 1, s. 54 (2).

### **When rule effective**

(7) Subject to subsection (8), a rule is not effective until the following time:

1. If the board receives a requisition for a meeting of owners under section 46 within 30 days after the board has given notice of the rule to the owners, the earlier of,
  - i. the time at which a quorum is not present at the first attempt to hold the meeting, and
  - ii. the time at which a quorum is present at the first attempt to hold the meeting and the owners do not vote against the rule at the meeting.
2. If the board does not receive a requisition for a meeting of owners under section 46 within the 30 days after the board has given notice of the rule to the owners, the day after that 30th day. 2015, c. 28, Sched. 1, s. 54 (3).

### **Same**

(8) A rule or an amendment to a rule that has substantially the same purpose or effect as a rule that the owners have previously amended or repealed within the preceding two years is not effective until the owners approve it, with or without amendment, at a meeting duly called for that purpose. 1998, c. 19, s. 58 (8).

**Same, proposed rule**

(9) Despite subsection (7), a rule proposed by the declarant before the registration of the declaration and description shall be effective until it is replaced or confirmed by a rule of the corporation that takes effect in accordance with subsection (7). 1998, c. 19, s. 58 (9).

**Compliance**

(10) All persons bound by the rules shall comply with them and the rules may be enforced in the same manner as the by-laws. 1998, c. 19, s. 58 (10).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 54 (1-3) - 01/11/2017

**Joint by-laws and rules**

**59** (1) The boards of two or more corporations may make, amend or repeal joint by-laws or rules governing the use and maintenance of shared facilities and services. 1998, c. 19, s. 59 (1).

**Application to corporations**

(2) A joint by-law or rule is a by-law or rule, as the case may be, of each corporation. 1998, c. 19, s. 59 (2).

**When joint by-law effective**

(3) A joint by-law is not effective until,

- (a) the majority of the owners of the units of each corporation vote in favour of confirming it, with or without amendment; and
- (b) each corporation registers a copy of it in accordance with subsection 56 (9). 1998, c. 19, s. 59 (3).

**Joint meeting**

(4) The vote of the owners under clause (3) (a) may be at a joint meeting of the corporations duly called for that purpose. 1998, c. 19, s. 59 (4).

**Repeal of joint by-law**

(5) Once a joint by-law is effective, it is effective until the owners of a majority of the units of each corporation vote in favour of repealing it and a copy of the repealing by-law is registered in accordance with subsection 56 (9). 1998, c. 19, s. 59 (5).

**Amendment of joint rule**

(6) The owners of each corporation may amend or repeal a joint rule at a joint meeting of owners of the corporations or at a meeting of owners of each corporation if the meeting has been duly called for that purpose. 1998, c. 19, s. 59 (6).

**Notice of joint rule**

(7) Upon making, amending or repealing a joint rule, the board of each corporation shall give a notice of the joint rule to its owners that includes,

- (a) a copy of the rule as made, amended or repealed, as the case may be;
- (b) a statement of the date that the boards propose that the rule will become effective; and
- (c) a statement that the owners have the right to requisition a meeting under section 46 and the rule becomes effective at the time determined by subsections (8), (9) and (10). 1998, c. 19, s. 59 (7).

**When joint rule effective**

(8) Subject to subsection (10), if the board of any of the corporations receives a requisition for a meeting under section 46 within 30 days after it gives notice of the joint rule to its owners, the joint rule is not effective until the owners approve it at a joint meeting of owners of the corporations or at a meeting of owners of each corporation. 1998, c. 19, s. 59 (8).

**Same, no requisition**

(9) Subject to subsection (10), if the board of none of the corporations receives a requisition for a meeting under section 46 within 30 days after it gives notice of the joint rule to its owners, the joint rule is not effective until 30 days after the board of each corporation has given notice of the joint rule to its owners. 1998, c. 19, s. 59 (9).

### **Same, previous rule**

(10) A joint rule or an amendment to a joint rule that has substantially the same purpose or effect as a joint rule that the owners have previously amended or repealed within the preceding two years is not effective until the owners of each corporation approve it, with or without amendment, at a joint meeting of owners of the corporations or at a meeting of owners of each corporation duly called for that purpose. 1998, c. 19, s. 59 (10).

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 59 of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 55)**

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 55 - not in force

## **AUDITORS AND FINANCIAL STATEMENTS**

### **Appointment of auditor**

**60** (1) At their first meeting, the owners shall appoint one or more persons qualified to be auditors to hold office as auditors until the close of the next annual general meeting and, if the owners do not do so, the board shall make the necessary appointments as expeditiously as possible. 1998, c. 19, s. 60 (1).

### **Same, subsequent years**

(2) At each annual general meeting, the owners shall appoint one or more persons qualified to be auditors to hold office as auditors until the close of the next annual general meeting and, if the owners do not do so, the auditor in office continues in office until a successor is appointed. 1998, c. 19, s. 60 (2).

### **Appointment by court**

(3) If for any reason no auditor is appointed as required by this section, the Superior Court of Justice may, on the application of an owner,

- (a) appoint one or more persons qualified to be auditors to hold office as auditors until the close of the next annual general meeting;
- (b) fix the remuneration that the corporation shall pay for the services of the auditor who is appointed; and
- (c) fix the amount that the corporation shall pay to the owner for the cost of the application. 1998, c. 19, s. 60 (3); 2000, c. 26, Sched. B, s. 7 (5).

### **Notice of appointment**

(4) The corporation shall give notice in writing to an auditor of the appointment immediately after the appointment is made. 1998, c. 19, s. 60 (4).

### **Exception**

(5) The owners of a corporation shall not appoint auditors under subsection (2) at an annual general meeting if,

- (a) a turn-over meeting has been held under section 43;
- (b) the corporation consists of fewer than 25 units; and
- (c) as of the date of the meeting, all the owners consent in writing to dispense with the audit mentioned in subsection 67 (1) until the next annual general meeting. 1998, c. 19, s. 60 (5).

### **Loss of owner's right to consent**

(6) An owner is not entitled to consent under clause (5) (c) if any contributions to the common expenses payable for the owner's unit are in arrears for 30 days or more. 2015, c. 28, Sched. 1, s. 56.

### **Payment of arrears**

(7) An owner who, under subsection (6), is not entitled to consent may consent after the corporation receives payment of the arrears with respect to the owner's unit. 2015, c. 28, Sched. 1, s. 56.

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (5) - 5/05/2001

2015, c. 28, Sched. 1, s. 56 - 01/11/2017

## **Qualifications**

**61** No person shall act as auditor of a corporation if the person,

- (a) is a director, officer or employee of the corporation;
- (b) is a condominium manager who provides condominium management services to the corporation under an agreement between the corporation and either the manager or a condominium management provider;
- (c) has an interest in a contract to which the corporation is a party; or
- (d) is a partner, employer or employee of a person mentioned in clause (a) or (b). 1998, c. 19, s. 61; 2015, c. 28, Sched. 2, s. 80 (10).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 57 - no effect - see 2015, c. 28, Sched. 2, s. 82 (1, 2) - 01/11/2017; 2015, c. 28, Sched. 2, s. 80 (10), 82 (1, 2) - 01/11/2017

## **Remuneration**

**62** The remuneration of an auditor shall be fixed,

- (a) by the owners if the auditor is appointed by the owners; or
- (b) by the board if authorized by the owners to do so or if the auditor is appointed by the board. 1998, c. 19, s. 62.

## **Removal**

**63** (1) The owners may remove an auditor before the expiration of the auditor's term of office at a meeting duly called for that purpose. 1998, c. 19, s. 63 (1).

## **Replacement**

(2) If the owners remove an auditor under subsection (1), they shall, at the same meeting, appoint a person qualified to be an auditor to act as auditor for the remainder of the term of the auditor who was removed. 1998, c. 19, s. 63 (2).

(3) REPEALED: 2015, c. 28, Sched. 1, s. 58.

## **Notice to auditors**

(4) At least 30 days before giving the owners notice of a meeting for the purpose of removing an auditor, the person calling the meeting shall give to the auditor,

- (a) written notice of the intention to call the meeting, specifying the date on which the notice of the meeting is proposed to be mailed;
- (b) a statement of the name of the auditor who is proposed to be removed and the reasons for the removal; and
- (c) a copy of all material proposed to be sent to the owners in connection with the meeting. 1998, c. 19, s. 63 (4).

## **Right to make representations**

(5) An auditor may make written representations to the corporation concerning the proposed removal of the auditor or the appointment of another person to fill the office of auditor. 1998, c. 19, s. 63 (5).

## **Method**

(6) In order to make representations under subsection (5), an auditor shall send them to the person calling the meeting at least three days before the mailing of the notice of the meeting. 1998, c. 19, s. 63 (6).

## **Notice of meeting**

(7) The person calling the meeting shall, at the expense of the corporation, include in the notice of the meeting,

- (a) a statement of the name of the auditor who is proposed to be removed and the reasons for the removal; and
- (b) a copy of all representations received. 1998, c. 19, s. 63 (7).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 58 - 01/11/2017

## **Resignation**

**64** (1) A resignation of an auditor becomes effective at the time a written resignation is delivered to the corporation or at the time specified in the resignation, whichever is later. 1998, c. 19, s. 64 (1).

## **Representations**

(2) In a resignation, the auditor may make written representations to the corporation concerning the resignation and in that case the corporation shall attach a copy of the representations to the notice of the next meeting of owners. 1998, c. 19, s. 64 (2).

## **Vacancy**

**65** (1) If a vacancy arises in the office of auditor, the directors may appoint any person qualified to be an auditor to hold office as auditor to fill the vacancy. 1998, c. 19, s. 65 (1).

## **Term of replacement**

(2) An auditor appointed under subsection (1) shall hold office until the close of the next annual general meeting or until a successor is appointed, whichever is later. 1998, c. 19, s. 65 (2).

## **Financial statements**

**66** (1) A corporation shall have its financial statements prepared in the prescribed manner and in accordance with generally accepted accounting principles as are prescribed. 1998, c. 19, s. 66 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 66 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 59 (1))

## **Financial statements**

(1) A corporation shall have its financial statements prepared in the prescribed manner and in accordance with Canadian accounting standards for not-for-profit organizations as are prescribed. 2015, c. 28, Sched. 1, s. 59 (1).

## **Contents**

(2) The financial statements shall include,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 66 (2) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 59 (2))

## **Contents**

(2) Unless the regulations provide otherwise, the financial statements shall include,

- (a) a balance sheet;
- (b) a statement of general operations;
- (c) a statement of changes in financial position;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clauses 66 (2) (a), (b) and (c) of the Act are repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 59 (3))

- (a) the budget of the corporation for the fiscal year to which the financial statements apply;
- (b) a statement of financial position;
- (c) a statement of operations;
- (c.1) a statement of changes in net assets;
- (c.2) a statement of cash flows;
- (d) a statement of reserve fund operations;
- (e) prescribed information relating to the reserve fund study and the operation of the reserve fund;
- (f) an indication of the aggregate remuneration paid to the directors in that capacity and the aggregate remuneration paid to the officers in that capacity; and
- (g) the additional statements or information that the regulations require. 1998, c. 19, s. 66 (2); 2015, c. 28, Sched. 1, s. 146 (1).

### **Approval**

(3) The board shall approve the financial statements before placing them before an annual general meeting. 1998, c. 19, s. 66 (3).

### **Form of approval**

(4) The approval shall be evidenced by the signature at the bottom of the balance sheet by two of the directors duly authorized to sign. 1998, c. 19, s. 66 (4).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 59 - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

### **Audit**

**67** (1) The auditor shall, every year, make the examination that is necessary in order to make an annual report on the financial statements to the corporation on behalf of the owners. 1998, c. 19, s. 67 (1).

### **Right of access**

(2) The auditor has right of access at all times to all records, documents, accounts and vouchers of the corporation and is entitled to require from the directors, officers and employees of the corporation or from persons under contract to the corporation to manage the property or its assets the information and explanations that, in the auditor's opinion, are necessary in order to make the report. 1998, c. 19, s. 67 (2).

### **Standards**

(3) The auditor's report shall be prepared in the prescribed manner and in accordance with generally accepted auditing standards as are prescribed. 1998, c. 19, s. 67 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 67 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 60)**

### **Standards**

(3) The auditor's report shall be prepared in the prescribed manner and in accordance with Canadian auditing standards as are prescribed. 2015, c. 28, Sched. 1, s. 60.

### **Contents of report**

(4) The auditor shall include in the report the statements that the auditor considers necessary if the corporation's financial statements are not in accordance with the requirements of this Act and the regulations made under it. 1998, c. 19, s. 67 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 67 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 60)**

### **Contents of report**

(4) In the report the auditor shall,

- (a) state whether the statement of reserve fund operations and any other prescribed information that relates to the operation of the reserve fund and that is contained in the financial statements do not fairly present the information contained in the materials that the auditor has received under clause 94 (9) (b); and
- (b) include the other prescribed statements that the auditor considers necessary relating to the corporation's financial statements and the prescribed requirements of this Act and the regulations. 2015, c. 28, Sched. 1, s. 60.

### **Same, reserve fund study**

(5) The auditor shall state in the report whether the statement of reserve fund operations and any other prescribed information relating to the operation of the reserve fund and contained in the financial statements do not fairly present the information contained in the reserve fund studies that the auditor has received. 1998, c. 19, s. 67 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 67 (5) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 60)**

### **Presentation of report**

(6) The auditor shall present the auditor's report to the audit committee described in subsection 68 (1) or to the board if there is no audit committee. 1998, c. 19, s. 67 (6).

## **Immunity**

(7) Except with respect to the contents of the report, no action or other proceeding for damages shall be instituted against an auditor or a former auditor for any oral or written statement made in good faith in the execution or intended execution of the duty as auditor under this Act. 1998, c. 19, s. 67 (7).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 60 - not in force

## **Audit committee**

**68** (1) If the number of directors of the corporation is more than six, the directors may elect annually from among their number a committee to be known as the audit committee to hold office until the next annual general meeting. 1998, c. 19, s. 68 (1).

## **Members**

(2) The audit committee shall be composed of at least three directors and the majority of committee members shall not consist of officers or employees of the corporation. 1998, c. 19, s. 68 (2).

## **Review of statements**

(3) On receiving the financial statements, the auditor's report and an amended auditor's report, if any, the audit committee shall review them and submit them to the board. 1998, c. 19, s. 68 (3).

## **Auditor to appear**

(4) The auditor has the right to appear before and be heard at any meeting of the audit committee and shall appear before the committee when the committee so requires. 1998, c. 19, s. 68 (4).

## **Meeting at auditor's request**

(5) At the request of the auditor, the audit committee shall convene a meeting of the committee to consider all matters the auditor believes should be brought to the attention of the board or the committee members. 1998, c. 19, s. 68 (5).

## **Delivery of statements**

**69** (1) The board shall place before each annual general meeting,

- (a) the financial statements as approved by the board;
- (b) the auditor's report; and
- (c) all further information respecting the financial position of the corporation that the by-laws of the corporation require. 1998, c. 19, s. 69 (1).

## **Copy with notice of meeting**

(2) The corporation shall attach to the notice of the annual general meeting a copy of the financial statements and the auditor's report. 1998, c. 19, s. 69 (2).

## **Right to attend meeting**

**70** (1) The auditor is entitled to attend a meeting of owners and to be heard on any part of the business of the meeting that concerns the office of the auditor. 1998, c. 19, s. 70 (1).

## **Notice of meetings**

(2) The corporation shall give the auditor notice of all meetings of owners and all other communications relating to the meetings that the owners are entitled to receive. 1998, c. 19, s. 70 (2).

## **Attendance required**

(3) The corporation or an owner may require that an auditor or a former auditor attend a meeting of owners for the purpose of answering inquiries described in subsection (6) by giving written notice to the person whose attendance is required, at least five days before the meeting, that the person's presence is required. 1998, c. 19, s. 70 (3).

## **Notice to corporation**

(4) An owner who gives written notice to an auditor or former auditor under subsection (3) shall give a copy of the notice to the corporation. 1998, c. 19, s. 70 (4).

### **Remuneration for attendance**

(5) If an auditor or a former auditor is required to attend a meeting of owners, the corporation shall compensate the auditor or former auditor, as the case may be, for expenses and pay the reasonable remuneration that it deems appropriate. 1998, c. 19, s. 70 (5).

### **Duty to answer questions**

(6) At a meeting of owners, the auditor or former auditor, as the case may be, if present, shall answer inquiries concerning the basis upon which the person formed the opinion stated in the person's reports. 1998, c. 19, s. 70 (6).

### **Amendment of statements**

**71** (1) The board shall amend the corporation's financial statements if facts come to the attention of the directors or officers of a corporation after the annual general meeting and the facts require a material adjustment to the financial statements that were presented at the meeting. 1998, c. 19, s. 71 (1).

### **Copy of amended statements**

(2) Immediately after making an amendment, the corporation shall send to the auditor a statement of the facts that gave rise to the amendment and a copy of the amended financial statements. 1998, c. 19, s. 71 (2).

### **Amendment of auditor's report**

(3) On receiving the statements furnished under subsection (2), the auditor shall amend the auditor's report if the auditor is of the opinion that it is necessary and in that case shall present it to the audit committee or to the board if there is no audit committee. 1998, c. 19, s. 71 (3).

### **Delivery of amended report**

(4) The board shall mail or deliver a copy of the amended report to the owners. 1998, c. 19, s. 71 (4).

### **Same, by auditor**

(5) If the board does not mail or deliver a copy of the amended report to the owners within a reasonable time, the auditor shall mail or deliver a copy of the amended report to the owners and the corporation shall reimburse the auditor for the reasonable costs incurred in the mailing or the delivery. 1998, c. 19, s. 71 (5).

**Note: On October 1, 2023, Part IV.1 of the Act is repealed. (See: 2023, c. 9, Sched. 7, s. 10)**

## **PART IV.1 SPECIAL RULES DURING EMERGENCY**

### **Interpretation**

**71.0.1** In this Part and the Schedule to this Act, references to the "emergency" and "declared emergency" are references to the emergency declared pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act* and, for clarity, those references include any extension of the emergency under section 7.0.7 of that Act. 2020, c. 7, Sched. 5, s. 1.

### **Section Amendments with date in force (d/m/y)**

2020, c. 7, Sched. 5, s. 1 - 17/03/2020; 2020, c. 7, Sched. 5, s. 3 - no effect - see 2023, c. 9, Sched. 7, s. 13 - 08/06/2023

2023, c. 9, Sched. 7, s. 10 - 01/10/2023

### **Application of Schedule**

**71.0.2** (1) The sections of the Schedule to this Act apply during the temporary suspension period, as described in subsection (2) for each section. 2020, c. 7, Sched. 5, s. 1.

### **Temporary suspension period**

(2) The temporary suspension period, as referred to in each section of the Schedule to this Act, is the period of the emergency and a further period that ends on the 120th day after the day the declared emergency is terminated and, if the regulations so provide for the section, a further prescribed period of time immediately following the end of the 120-day period. 2020, c. 7, Sched. 5, s. 1.

### **Section Amendments with date in force (d/m/y)**

2020, c. 7, Sched. 5, s. 1 - 17/03/2020; 2020, c. 7, Sched. 5, s. 3 - no effect - see 2023, c. 9, Sched. 7, s. 13 - 08/06/2023

2023, c. 9, Sched. 7, s. 10 - 01/10/2023

## **Regulations**

**71.0.3** (1) The Lieutenant Governor in Council may make regulations prescribing further periods of time for the purposes of subsection 71.0.2 (2). 2020, c. 7, Sched. 5, s. 1.

## **Same**

(2) A regulation under subsection (1) may prescribe a different period of time for different sections of the Schedule to this Act and may provide for one or more extensions of a previously prescribed period. 2020, c. 7, Sched. 5, s. 1.

## **Section Amendments with date in force (d/m/y)**

2020, c. 7, Sched. 5, s. 1 - 17/03/2020; 2020, c. 7, Sched. 5, s. 3 - no effect - see 2023, c. 9, Sched. 7, s. 13 - 08/06/2023

2023, c. 9, Sched. 7, s. 10 - 01/10/2023

## **PART V SALE AND LEASE OF UNITS DISCLOSURE REQUIREMENTS**

### **Condominium guide**

**71.1** (1) The Minister shall ensure that one or more condominium guides are prepared, each of which shall set out, if the Minister considers appropriate,

- (a) information for purchasers of units or proposed units;
- (b) information about the rights and obligations of owners, occupiers of units and the board in a corporation; and
- (c) such other matters that the Minister considers appropriate. 2015, c. 28, Sched. 1, s. 61.

### **Different versions**

(2) A condominium guide may be prepared in different versions depending on the type of corporation, the persons or the circumstances to which it applies, all as the Minister may determine. 2015, c. 28, Sched. 1, s. 61.

### **Delegation to condominium authority**

(3) If the condominium authority exists, the Minister may require the authority to prepare any of the condominium guides, subject to the Minister's approval. 2015, c. 28, Sched. 1, s. 61.

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 61 - 01/01/2021

### **Disclosure statement and guide**

**72** (1) The declarant shall deliver to every person who purchases a unit or a proposed unit from the declarant or a person acting on behalf of or for the benefit of the declarant a copy of,

- (a) the current disclosure statement made by the declarant for the corporation of which the unit or proposed unit forms part; and
- (b) the applicable condominium guide under section 71.1. 2015, c. 28, Sched. 1, s. 62 (1).

### **Purchaser not bound**

(2) An agreement of purchase and sale of a unit or a proposed unit entered into by a declarant or a person acting on behalf of or for the benefit of the declarant is not binding on the purchaser until the declarant has delivered to the purchaser a copy of the current disclosure statement and the condominium guide in accordance with subsection (1). 2015, c. 28, Sched. 1, s. 62 (1).

### **Contents**

(3) A disclosure statement shall specify the date on which it is made and shall contain,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 62 (2))**

### **Contents**

(3) A disclosure statement shall be prepared in accordance with the regulations and shall contain,

- (a) a table of contents prepared in accordance with subsection (4) and located at the beginning of the disclosure statement;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 72 (3) (a) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 62 (3))**

- (a) a summary prepared in accordance with the prescribed requirements;
- (a.1) a statement specifying the date on which it is made;
- (b) a statement indicating,
  - (i) whether the corporation is a freehold condominium corporation or a leasehold condominium corporation, and
  - (ii) if the corporation is a freehold condominium corporation, the type of freehold condominium corporation that it is;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 72 (3) (b) of the Act is amended by striking out “and” at the end of subclause (i), by adding “and” at the end of subclause (ii) and by adding the following subclause: (See: 2015, c. 28, Sched. 1, s. 62 (4))**

- (iii) whether the corporation is a phased condominium corporation;
- (c) a statement of the name and municipal address of the declarant and the mailing address of the property or the proposed property and its municipal address if available;
- (d) a general description of the property or proposed property including the types and number of buildings, units and recreational and other amenities together with all conditions that apply to the provision of amenities;
- (e) if the declarant has made an application for approval described in subsection 9 (4), a summary of the reports, if any, that the approval authority has required be made under subsection 9 (4) and the agreements, if any, that the approval authority has imposed under subsection 9 (5) as a condition of approval;
- (f) a statement indicating whether the property or part of the property is or may be subject to the *Ontario New Home Warranties Plan Act* or whether the declarant has enrolled or intends to enrol the proposed units and common elements in the Plan within the meaning of that Act in accordance with the regulations made under that Act;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 72 (3) (f) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (14))**

- (f) a statement indicating whether the property or part of the property, and the real property, if any, that is prescribed are or may be subject to the *Protection for Owners and Purchasers of New Homes Act, 2017* or whether the declarant has enrolled or intends to enrol the proposed units, common elements and the real property, if any, that is prescribed, in the Plan, within the meaning of that Act, in accordance with the regulations made under that Act;
- (f.1) if the disclosure statement is for a unit or proposed unit in a residential condominium conversion project,
  - (i) a statement that the project is a residential condominium conversion project,
  - (ii) a list of the pre-existing elements as identified in the pre-existing elements fund study,
  - (iii) a copy of the pre-existing elements fund study,
  - (iv) a statement that subclause 13 (1) (a) (i) of the *Ontario New Home Warranties Plan Act* does not apply to the pre-existing elements,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subclause 72 (3) (f.1) (iv) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (15))**

- (iv) a statement that the prescribed provisions of the *Protection for Owners and Purchasers of New Homes Act, 2017* or the regulations made under that Act do not apply to the pre-existing elements,
- (v) a copy of the text of subclause 13 (1) (a) (i) and subsection 17.2 (1) of the *Ontario New Home Warranties Plan Act*, and

**Note: On a day to be named by proclamation of the Lieutenant Governor, subclause 72 (3) (f.1) (v) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (15))**

- (v) a copy of the text of the provisions mentioned in subclause (iv), and
- (vi) a statement that the Registrar, as defined in the *Ontario New Home Warranties Plan Act*, has confirmed that the conditions set out in subsection 17.2 (1) of the *Ontario New Home Warranties Plan Act* have been satisfied;

**Note: On a day to be named by proclamation of the Lieutenant Governor, subclause 72 (3) (f.1) (vi) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (15))**

(vi) a statement that the registrar appointed under section 38 of the *Protection for Owners and Purchasers of New Homes Act, 2017* has confirmed that the conditions set out in the prescribed provisions of that Act or the regulations made under that Act have been satisfied;

- (g) a statement whether a building on the property or a unit or a proposed unit has been converted from a previous use;
- (h) a statement whether one or more units or proposed units may be used for commercial or other purposes not ancillary to residential purposes;
- (i) a statement of the portion of units or proposed units which the declarant intends to market in blocks of units to investors;
- (j) a statement of the portion of units or proposed units, to the nearest anticipated 25 per cent, that the declarant intends to lease;
- (k) if construction of amenities is not completed, a schedule of the proposed commencement and completion dates;
- (l) a list of the amenities that the declarant proposes to provide to the purchaser during a period of interim occupancy of a proposed unit under section 80;
- (m) a copy of the existing or proposed declaration, by-laws, rules and insurance trust agreement, if any;
- (n) a brief description of the significant features of all agreements or proposed agreements mentioned in section 111, 112, 113 or 114 and of all agreements or proposed agreements between the corporation and another corporation;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 72 (3) (n) of the Act is amended by adding “21.1” after “section”. (See: 2015, c. 28, Sched. 1, s. 62 (6))

- (o) a statement of whether, to the knowledge of the declarant, the corporation intends to amalgamate with another corporation or whether the declarant intends to cause the corporation to amalgamate with another corporation within 60 days of the date of registration of the declaration and description for the corporation;
- (p) if an amalgamation is intended under clause (o), a copy of the proposed declaration, description, by-laws and rules for the amalgamated corporation, if available;
- (q) a copy of the budget statement described in subsection (6);

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 72 (3) (q) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 62 (7))

- (q) a copy of the budget statement described in subsection (6), unless the regulations provide otherwise;
- (q.1) a statement, prepared in accordance with the regulations, of the circumstances, as may be prescribed, that a declarant knows or ought to know may result in an increase in the common expenses mentioned in any part of subsection (6) after the one-year period immediately following the registration of the declaration and description;
- (q.2) a statement, prepared in accordance with the regulations, of the amount of any potential increase mentioned in clause (q.1) that is likely to take place as a result of any of the circumstances mentioned in that clause;
- (r) a copy of the budget of the corporation for the current fiscal year if more than one year has passed since the registration of the declaration and description for the corporation;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 72 (3) (r) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 62 (8))

- (r) if more than one year has passed since the registration of the declaration and description for the corporation, a copy of the budget of the corporation for the current fiscal year and a copy of all amendments, if any, made to that budget;
- (s) a statement setting out the fees or charges, if any, that the corporation is required to pay to the declarant or another person; and
- (t) all other material that the regulations require. 1998, c. 19, s. 72 (3); 2001, c. 9, Sched. D, s. 3 (1); 2015, c. 28, Sched. 1, s. 146 (1); 2015, c. 28, Sched. 1, s. 62 (5).

#### Table of contents

(4) The table of contents in the disclosure statement shall be in the prescribed form, shall indicate whether the declaration, by-laws, rules or the proposed declaration, by-laws or rules of the corporation or any other material in the disclosure statement deal with the following matters and, if so, shall indicate where the matters are dealt with:

1. A statement indicating,

- i. whether the corporation is a leasehold condominium corporation or a freehold condominium corporation, and
- ii. if the corporation is a freehold condominium corporation, the type of freehold condominium corporation that it is.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, paragraph 1 of subsection 72 (4) of the Act is amended by striking out “and” at the end of subparagraph i, by adding “and” at the end of subparagraph ii and by adding the following subparagraph: This amendment applies only if it comes into force before the day this subsection is repealed by S.O. 2015, chapter 28, Schedule 1, subsection 62 (11). (See: 2015, c. 28, Sched. 1, s. 62 (9), (10))

- iii. whether the corporation is a phased condominium corporation.

- 2. The property or part of the property is or may be subject to the *Ontario New Home Warranties Plan Act* or the proposed units and common elements are enrolled or are intended to be enrolled in the Plan within the meaning of that Act in accordance with the regulations made under that Act.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, paragraph 2 of subsection 72 (4) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (16))

- 2. The property or part of the property and the real property, if any, that is prescribed are or may be subject to the *Protection for Owners and Purchasers of New Homes Act, 2017* or the proposed units and common elements and the real property, if any, that is prescribed are enrolled or are intended to be enrolled in the Plan, within the meaning of that Act, in accordance with the regulations made under that Act.
- 3. A building on the property or a unit or a proposed unit has been converted from a previous use.
- 4. One or more units or proposed units may be used for commercial or other purposes not ancillary to residential purposes.
- 5. A provision exists with respect to pets on the property or the proposed property.
- 6. There exist restrictions or standards with respect to the occupancy or use of units or proposed units or the use of common elements or proposed common elements that are based on the nature or design of the facilities and services on the property or on other aspects of the buildings located on the property.
- 7. A statement of the portion of units or proposed units, to the nearest anticipated 25 per cent, that the declarant intends to lease.
- 8. A statement whether the proportion, expressed in percentages, of the common interest appurtenant to any unit or proposed unit differs in an amount of 10 per cent or more from that appurtenant to any other unit or proposed unit of the same type, size and design.
- 9. A statement whether the proportion, expressed in percentages, in which the owner of any unit or proposed unit is required to contribute to the common expenses differs in an amount of 10 per cent or more from that required of the owner of any other unit or proposed unit of the same type, size and design.
- 10. A statement whether any unit or proposed unit is exempt from a cost attributable to the rest of the units or proposed units.
- 11. Part or the whole of the common elements or the proposed common elements are subject to a lease or licence.
- 12. A statement whether parking is allowed in or on a unit, on the common elements or on a part of the common elements of which an owner has exclusive use and a statement of the restrictions on parking.
- 13. Any other statement specified in the regulations made under this Act. 1998, c. 19, s. 72 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (4) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 62 (11))

### **Copy of budget**

- (5) On the request of the declarant, the corporation shall, promptly and without charge, provide a copy of its budget for the current fiscal year to the declarant. 1998, c. 19, s. 72 (5).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 62 (12))

### **Copy of budget, etc.**

- (5) On the request of the declarant, the corporation shall, promptly and without charge, provide the declarant with a copy of its budget for the current fiscal year and a copy of all amendments, if any, made to that budget. 2015, c. 28, Sched. 1, s. 62 (12).

### **Budget statement**

(6) The budget statement is a statement for the one-year period immediately following the registration of the declaration and description and shall contain,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (6) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 62 (13))**

### **Budget statement**

(6) The budget statement is a statement for the one-year period immediately following the registration of the declaration and description, and it shall cover the corporation's general and reserve fund accounts, shall be prepared in accordance with the regulations and shall contain, subject to the regulations,

- (a) a statement of the common expenses of the corporation;
- (b) a statement of the proposed amount of each expense of the corporation, including the cost of the reserve fund study required for the year, the cost of the performance audit under section 44 and the cost of preparing audited financial statements if subsection 43 (7) requires the declarant to deliver them within one year following the registration of the declaration and description;
- (c) particulars of the type, frequency and level of the services to be provided;
- (d) a statement of the projected monthly common expense contribution for each type of unit;
- (e) a statement of the portion of the common expenses to be paid into a reserve fund;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 72 (6) (e) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 62 (14))**

- (e) a statement of the portion of the common expenses to be paid into a reserve fund, which shall be determined in accordance with the regulations;
- (f) a statement of the status of all pending lawsuits material to the property of which the declarant has actual knowledge and that may affect the property after the registration of a deed to the unit from the declarant to the purchaser;
- (g) a statement of the amounts of all current or expected fees, charges, rents or other revenue to be paid to or by the corporation or by any of the owners for the use of the common elements or other facilities related to the property, unless a turn over meeting has been held under section 43;
- (h) a statement of all services not included in the budget that the declarant provides, or expenses that the declarant pays and that might reasonably be expected to become, at any subsequent time, a common expense and the projected common expense contribution attributable to each of those services or expenses for each type of unit;
- (i) a statement of the projected amounts in all reserve funds at the end of the current fiscal year;

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (6) of the Act is amended by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 62 (15))**

- (i.1) a statement, prepared in accordance with the regulations, as to whether there will be any increase, as may be prescribed, in the amounts mentioned in this subsection and setting particulars of those increases;
- (j) a summary of the most recent reserve fund study, if any; and
- (k) all other material that the regulations require. 1998, c. 19, s. 72 (6); 2015, c. 28, Sched. 1, s. 146 (1).

### **Section Amendments with date in force (d/m/y)**

2001, c. 9, Sched. D, s. 3 (1) - 29/06/2001

2015, c. 28, Sched. 1, s. 62 (1) - 01/01/2021; 2015, c. 28, Sched. 1, s. 62 (2-4, 6-15) - not in force; 2015, c. 28, Sched. 1, s. 62 (5) - 01/01/2018; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

2017, c. 33, Sched. 2, s. 75 (14-16) - not in force; 2017, c. 33, Sched. 2, s. 79 (13, 14) - no effect

**Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2015, c. 28, Sched. 1, s. 63)**

### **Disclosure of budget**

**72.1** If a person enters into an agreement to purchase a unit or a proposed unit from a declarant or a person acting on behalf of or for the benefit of the declarant, the declarant shall deliver to the purchaser, no later than 10 days before delivering to the

purchaser a deed to the unit being purchased that is in registerable form, a copy of the budget mentioned in subsection 83.1 (3) for the corporation, unless the regulations provide otherwise. 2015, c. 28, Sched. 1, s. 63.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 63 - not in force

**Rescission of agreement**

**73** (1) A purchaser who receives a disclosure statement and the condominium guide under subsection 72 (1) may, in accordance with this section, rescind the agreement of purchase and sale before accepting a deed to the unit being purchased that is in registerable form. 1998, c. 19, s. 73 (1); 2015, c. 28, Sched. 1, s. 64 (1).

**Notice of rescission**

(2) To rescind an agreement of purchase and sale under this section, a purchaser or the purchaser's solicitor shall give a written notice of rescission to the declarant or to the declarant's solicitor who must receive the notice within 10 days of the latest of,

- (a) the date that the purchaser receives the disclosure statement;
- (b) the date that the purchaser receives a copy of the applicable condominium guide under section 71.1; and
- (c) the date that the purchaser receives a copy of the agreement of purchase and sale executed by the declarant and the purchaser. 1998, c. 19, s. 73 (2); 2015, c. 28, Sched. 1, s. 64 (2, 3).

**Refund upon rescission**

(3) If a declarant or the declarant's solicitor receives a notice of rescission from a purchaser under this section, the declarant shall promptly refund, without penalty or charge, to the purchaser, all money received from the purchaser under the agreement and credited towards the purchase price, together with interest on the money calculated at the prescribed rate from the date that the declarant received the money until the date the declarant refunds it. 1998, c. 19, s. 73 (3).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 64 (1-3) - 01/01/2021

**Material changes in disclosure statement**

**74** (1) Whenever there is a material change in the information contained or required to be contained in a disclosure statement delivered to a purchaser under subsection 72 (1) or a revised disclosure statement or a notice delivered to a purchaser under this section, the declarant shall deliver a revised disclosure statement or a notice to the purchaser. 1998, c. 19, s. 74 (1).

**Definition**

(2) In this section,

“material change” means a change or a series of changes that a reasonable purchaser, on an objective basis, would have regarded collectively as sufficiently important to the decision to purchase a unit or proposed unit in the corporation that it is likely that the purchaser would not have entered into an agreement of purchase and sale for the unit or the proposed unit or would have exercised the right to rescind such an agreement of purchase and sale under section 73, if the disclosure statement had contained the change or series of changes, but does not include,

- (a) a change in the contents of the budget of the corporation for the current fiscal year if more than one year has passed since the registration of the declaration and description for the corporation,
- (b) a substantial addition, alteration or improvement within the meaning of subsection 97 (6) that the corporation makes to the common elements after a turn-over meeting has been held under section 43,

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) of the definition of “material change” in subsection 74 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 65 (1))**

- (b) a substantial modification, within the meaning of subsection 97 (9), that is an addition, alteration or improvement that the corporation makes to the common elements after a turn-over meeting has been held under section 43,
- (c) a change in the portion of units or proposed units that the declarant intends to lease,
- (d) a change in the schedule of the proposed commencement and completion dates for the amenities of which construction had not been completed as of the date on which the disclosure statement was made, or

- (e) a change in the information contained in the statement described in subsection 161 (1) of the services provided by the municipality or the Minister of Municipal Affairs and Housing, as the case may be, as described in that subsection, if the unit or the proposed unit is in a vacant land condominium corporation. 1998, c. 19, s. 74 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “material change” in subsection 74 (2) of the Act is amended by striking out “or” at the end of clause (d) and by adding the following clauses: (See: 2015, c. 28, Sched. 1, s. 65 (2))**

- (f) except as is otherwise prescribed, an increase of less than 10 per cent in the common expenses mentioned in any part of subsection 72 (6), determined in accordance with the regulations,
- (g) except as is otherwise prescribed, an increase in the common expenses mentioned in any part of subsection 72 (6) if it is the result of the application, in the prescribed manner, of any prescribed taxes, levies or charges, or
- (h) anything that is prescribed.

#### **Contents of revised statement**

(3) The revised disclosure statement or notice required under subsection (1) shall clearly identify all changes that in the reasonable belief of the declarant may be material changes and summarize the particulars of them. 1998, c. 19, s. 74 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 74 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 65 (3))**

#### **Contents of revised statement**

(3) The revised disclosure statement or notice required under subsection (1) shall be prepared in accordance with the regulations, shall clearly identify all changes that, in the reasonable belief of the declarant, are or may be material changes and shall summarize the particulars of them in the prescribed manner. 2015, c. 28, Sched. 1, s. 65 (3).

#### **Time of delivery**

(4) The declarant shall deliver the revised disclosure statement or notice to the purchaser within a reasonable time after the material change mentioned in subsection (1) occurs and, in any event, no later than 10 days before delivering to the purchaser a deed to the unit being purchased that is in registerable form. 1998, c. 19, s. 74 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 74 (4) of the Act is amended by striking out “within a reasonable time” and substituting “as soon as reasonably possible”. (See: 2015, c. 28, Sched. 1, s. 65 (4))**

#### **Purchaser’s application to court**

(5) Within 10 days after receiving a revised disclosure statement or a notice under subsection (1), a purchaser may make an application to the Superior Court of Justice for a determination whether a change or a series of changes set out in the statement or notice is a material change. 1998, c. 19, s. 74 (5); 2000, c. 26, Sched. B, s. 7 (5).

#### **Rescission after material change**

(6) If a change or a series of changes set out in a revised disclosure statement or a notice delivered to a purchaser constitutes a material change or if a material change occurs that the declarant does not disclose in a revised disclosure statement or notice as required by subsection (1), the purchaser may, before accepting a deed to the unit being purchased that is in registerable form, rescind the agreement of purchase and sale within 10 days of the latest of,

- (a) the date on which the purchaser receives the revised disclosure statement or the notice, if the declarant delivered a revised disclosure statement or notice to the purchaser;
- (b) the date on which the purchaser becomes aware of a material change, if the declarant has not delivered a revised disclosure statement or notice to the purchaser as required by subsection (1) with respect to the change; and
- (c) the date on which the Superior Court of Justice makes a determination under subsection (5) or (8) that the change is material, if the purchaser or the declarant, as the case may be, has made an application for the determination. 1998, c. 19, s. 74 (6); 2000, c. 26, Sched. B, s. 7 (5).

#### **Notice of rescission**

(7) To rescind an agreement of purchase and sale under this section, a purchaser or the purchaser’s solicitor shall give a written notice of rescission to the declarant or to the declarant’s solicitor. 1998, c. 19, s. 74 (7).

#### **Declarant’s application to court**

(8) Within 10 days after receiving a notice of rescission, the declarant may make an application to the Superior Court of Justice for a determination whether the change or the series of changes on which the rescission is based constitutes a material

change, if the purchaser has not already made an application for the determination under subsection (5). 1998, c. 19, s. 74 (8); 2000, c. 26, Sched. B, s. 7 (5).

#### **Refund upon rescission**

(9) A declarant who receives a notice of rescission from a purchaser under this section shall refund, without penalty or charge, to the purchaser, all money received from the purchaser under the agreement and credited towards the purchase price, together with interest on the money calculated at the prescribed rate from the date that the declarant received the money until the date the declarant refunds it. 1998, c. 19, s. 74 (9).

#### **Time of refund**

(10) The declarant shall make the refund,

- (a) within 10 days after receiving a notice of rescission, if neither the purchaser nor the declarant has made an application for a determination described in subsection (5) or (8) respectively; or
- (b) within 10 days after the court makes a determination that the change is material, if the purchaser has made an application under subsection (5) or the declarant has made an application under subsection (8). 1998, c. 19, s. 74 (10).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 74 of the Act is amended by adding the following subsections: (See: 2015, c. 28, Sched. 1, s. 65 (5))

#### **Application**

(11) A person who is or was a purchaser may make an application to the Superior Court of Justice for an order under subsection (12). 2015, c. 28, Sched. 1, s. 65 (5).

#### **Court order**

(12) The court, if satisfied that the declarant has, without reasonable excuse, failed to comply with subsection (1), (3), (4), (9) or (10),

- (a) shall order that the declarant pay damages to the person for the loss that the person incurred as a result of the declarant's acts of non-compliance with subsection (1), (3), (4), (9) or (10), as the case may be;
- (b) shall order that the declarant pay the person's costs of the application;
- (c) may order the declarant to pay to the person an additional amount not to exceed \$10,000; and
- (d) may order the declarant to comply with subsection (1), (3), (4), (9) or (10), as the case may be. 2015, c. 28, Sched. 1, s. 65 (5).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (5) - 5/05/2001

2015, c. 28, Sched. 1, s. 65 - not in force

#### **Accountability for budget statement**

**75** (1) The declarant is accountable to the corporation under this section for the budget statement that covers the one-year period immediately following the registration of the declaration and description. 1998, c. 19, s. 75 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 75 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 66 (1))

#### **Declarant's accountability for first year**

(1) The declarant is accountable to the corporation under this section for,

- (a) the statement mentioned in clause 72 (6) (e) that is required to be contained in the budget statement described in subsection 72 (6); and
- (b) the portion of the budget of the corporation for its first fiscal year required by subsection 83.1 (3) that represents the one-year period immediately after the registration of the declaration and description and that is determined in accordance with the regulations. 2015, c. 28, Sched. 1, s. 66 (1)

#### **Reserve fund contributions**

(1.1) If the budget statement described in subsection 72 (6) does not comply with clause 72 (6) (e), the declarant shall pay to the corporation the amount required for compliance with that clause, as determined in accordance with the regulations. 2015, c. 28, Sched. 1, s. 66 (1).

### **Common expenses**

(2) The declarant shall pay to the corporation the amount by which the total actual amount of common expenses incurred for the period covered by the budget statement, except for those attributable to the termination of an agreement under section 111 or 112, exceeds the total budgeted amount. 1998, c. 19, s. 75 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 75 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 66 (1))**

### **Common expenses**

(2) The declarant shall pay to the corporation the amount by which the total actual amount of common expenses incurred for the one-year period mentioned in clause (1) (b), except for the following, exceeds the total budgeted amount for that period:

1. The expenses attributable to the termination of an agreement under section 111 or 112.
2. The amount, or any part of it, that the declarant is required to pay under subsection (1.1).
3. Any other prescribed amount. 2015, c. 28, Sched. 1, s. 66 (1).

### **Revenue**

(3) The declarant shall pay to the corporation the amount by which the total actual amount of fees, charges, rents and other revenue paid or to be paid to the corporation, during the period covered by the budget statement, for the use of any part of the common elements or assets or of any other facilities related to the property, is less than the total budgeted amount. 1998, c. 19, s. 75 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 75 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 66 (1))**

### **Revenue**

(3) The declarant shall pay to the corporation the amount by which the total actual amount of fees, charges, rents and other revenue paid or to be paid to the corporation, during the one-year period mentioned in clause (1) (b), for the use of any part of the common elements or assets or of any other facilities related to the property, is less than the total budgeted amount for that period. 2015, c. 28, Sched. 1, s. 66 (1).

### **Set-off**

(4) If the total actual amount of revenue described in subsection (3) exceeds the total budgeted amount, the declarant may deduct the excess from any amount payable under subsection (2). 1998, c. 19, s. 75 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 75 (4) of the Act is amended by striking out “subsection (2)” at the end and substituting “subsection (1.1) or (2)”. (See: 2015, c. 28, Sched. 1, s. 66 (2))**

### **Notice of payment**

(5) After receiving the audited financial statements for the period covered by the budget statement, the board shall compare the actual amount of common expenses and revenue described in subsections (2) and (3) for the period covered by the budget statement with the budgeted amounts and shall, within 30 days of receiving the audited financial statements, give written notice to the declarant of the amount that the declarant is required to pay to the corporation under this section. 1998, c. 19, s. 75 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 75 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 66 (3))**

### **Notice of payment**

- (5) After receiving the audited financial statements for the corporation’s first fiscal year, the board shall,
- (a) if it has not already done so, determine the amount, if any, that the declarant is required to pay to the corporation under subsection (1.1);
  - (b) compare the actual amount of common expenses and revenue described in subsections (2) and (3) for the one-year period mentioned in clause (1) (b) with the budgeted amounts for that period; and
  - (c) within 90 days of receiving the audited financial statements, give written notice to the declarant of the amount that the declarant is required to pay to the corporation under this section. 2015, c. 28, Sched. 1, s. 66 (3).

### **Time for payment**

(6) Within 30 days of receiving the notice, the declarant shall pay the corporation the amount that it is required to pay under this section. 1998, c. 19, s. 75 (6).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 66 - not in force

### **Status certificate**

**76 (1)** The corporation shall give to each person who so requests a status certificate with respect to a unit in the corporation, in the prescribed form, that specifies the date on which it was made and that contains,

- (a) a statement of the common expenses for the unit and the default, if any, in payment of the common expenses;
- (b) a statement of the increase, if any, in the common expenses for the unit that the board has declared since the date of the budget of the corporation for the current fiscal year and the reason for the increase;
- (c) a statement of the assessments, if any, that the board has levied against the unit since the date of the budget of the corporation for the current fiscal year to increase the contribution to the reserve fund and the reason for the assessments;
- (d) a statement of the address for service of the corporation;
- (e) a statement of the names and address for service of the directors and officers of the corporation;
- (f) a copy of the current declaration, by-laws and rules;
- (g) a copy of all applications made under section 109 to amend the declaration for which the court has not made an order;
- (h) a statement of all outstanding judgments against the corporation and the status of all legal actions to which the corporation is a party;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 76 (1) of the Act is amended by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 67 (2))

- (h.1) the financial implications, as may be prescribed, of the judgments and legal actions mentioned in clause (h);
- (i) a copy of the budget of the corporation for the current fiscal year, the last annual audited financial statements and the auditor's report on the statements;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 76 (1) (i) of the Act is amended by adding "all amendments, if any, to that budget" after "fiscal year". (See: 2015, c. 28, Sched. 1, s. 67 (3))

- (j) a list of all current agreements mentioned in section 111, 112 or 113 and all current agreements between the corporation and another corporation or between the corporation and the owner of the unit;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 76 (1) (j) of the Act is amended by striking out "section 111" and substituting "section 21.1, 111". (See: 2015, c. 28, Sched. 1, s. 67 (4))

- (k) a statement that the person requesting the status certificate has the rights described in subsections (7) and (8) with respect to the agreements mentioned in clause (j);
- (l) a statement whether the parties have complied with all current agreements mentioned in clause 98 (1) (b) with respect to the unit;
- (m) a statement with respect to,
  - (i) the most recent reserve fund study and updates to it,
  - (ii) the amount in the reserve fund no earlier than at the end of a month within 90 days of the date of the status certificate, and
  - (iii) current plans, if any, to increase the reserve fund under subsection 94 (8);
- (n) a statement of those additions, alterations or improvements to the common elements, those changes in the assets of the corporation and those changes in a service of the corporation that are substantial and that the board has proposed but has not implemented, together with a statement of the purpose of them;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 76 (1) (n) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 67 (5))

- (n) a statement of those modifications, within the meaning of subsection 97 (2), that are substantial within the meaning of subsection 97 (9) and that the board has proposed but has not implemented, together with a statement of the purpose of them;

- (o) a statement of the number of units for which the corporation has received notice under section 83 that the unit was leased during the fiscal year preceding the date of the status certificate;
- (p) a certificate or memorandum of insurance for each of the current insurance policies;
- (q) a statement of the amounts, if any, that this Act requires be added to the common expenses payable for the unit;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 76 (1) (q) of the Act is amended by adding “the contribution to” after “added to”. (See: 2015, c. 28, Sched. 1, s. 67 (6))

- (r) a statement whether the Superior Court of Justice has made an order appointing an inspector under section 130 or an administrator under section 131;
- (s) all other material that the regulations require. 1998, c. 19, s. 76 (1); 2000, c. 26, Sched. B, s. 7 (5); 2015, c. 28, Sched. 1, s. 67 (1), 146 (1).

#### **Fee for certificate**

(2) The corporation may charge the prescribed fee for providing the status certificate. 1998, c. 19, s. 76 (2).

#### **Time for giving certificate**

(3) The corporation shall give the status certificate within 10 days after receiving a request for it and payment of the fee charged by the corporation for it. 1998, c. 19, s. 76 (3).

#### **Omission of information**

(4) If a status certificate that a corporation has given under subsection (1) omits material information that it is required to contain, it shall be deemed to include a statement that there is no such information. 1998, c. 19, s. 76 (4).

#### **Default in giving certificate**

(5) A corporation that does not give a status certificate within the required time shall be deemed to have given a certificate on the day immediately after the required time has expired stating that,

- (a) there has been no default in the payment of common expenses for the unit;
- (b) the board has not declared any increase in the common expenses for the unit since the date of the budget of the corporation for the current fiscal year; and
- (c) the board has not levied any assessments against the unit since the date of the budget of the corporation for the current fiscal year to increase the contribution to the reserve fund. 1998, c. 19, s. 76 (5).

#### **Effect of certificate**

(6) The status certificate binds the corporation, as of the date it is given or deemed to have been given, with respect to the information that it contains or is deemed to contain, as against a purchaser or mortgagee of a unit who relies on the certificate. 1998, c. 19, s. 76 (6).

#### **Examination of agreements**

(7) Upon receiving a written request and reasonable notice, the corporation shall permit a person who has requested a status certificate and paid the fee charged by the corporation for the certificate, or an agent of the person duly authorized in writing, to examine the agreements mentioned in clause (1) (k) at a reasonable time and at a reasonable location. 1998, c. 19, s. 76 (7).

#### **Copies of agreements**

(8) The corporation shall, within a reasonable time, provide copies of the agreements to a person examining them, if the person so requests and pays a reasonable fee to compensate the corporation for the labour and copying charges. 1998, c. 19, s. 76 (8).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (5) - 5/05/2001

2015, c. 28, Sched. 1, s. 67 (1) - 01/11/2017; 2015, c. 28, Sched. 1, s. 67 (2-6) - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

#### **Information on corporation**

**77** On the request of any person, the corporation shall, without fee, provide the names and address for service of,

- (a) the directors and officers of the corporation;

- (b) the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services;
- (c) any other person responsible for the management of the property; and
- (d) the person to whom the corporation has delegated the responsibility for providing status certificates. 2015, c. 28, Sched. 2, s. 80 (11).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 68 - no effect - see 2015, c. 28, Sched. 2, s. 82 (3, 4) - 01/11/2017; 2015, c. 28, Sched. 2, s. 80 (11), 82 (3, 4) - 01/11/2017

**SALE OF UNITS**

**Implied covenants**

**78 (1)** Every agreement of purchase and sale of a proposed unit entered into by a declarant before the registration of the declaration and description that creates the unit shall be deemed to contain the following covenants by the declarant:

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 78 (1) of the Act is amended by striking out the portion before paragraph 1 and substituting the following: (See: 2015, c. 28, Sched. 1, s. 69 (1))

**Implied covenants**

(1) Every agreement of purchase and sale of a unit or proposed unit entered into by a declarant or a person acting on behalf of or for the benefit of the declarant shall be deemed to contain the following covenants by the declarant, which shall apply despite anything in the declaration, a by-law, an agreement or an instrument:

1. If the proposed unit is for residential purposes, a covenant to take all reasonable steps to sell the other residential units included in the property without delay, except for the units that the declarant intends to lease.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, paragraph 1 of subsection 78 (1) of the Act is amended by striking out “the proposed unit” and substituting “the unit or proposed unit”. (See: 2015, c. 28, Sched. 1, s. 69 (2))

2. A covenant to take all reasonable steps to deliver to the purchaser without delay a deed to the unit that is in registerable form.
3. A covenant to hold in trust for the corporation the money, if any, that the declarant collects from the purchaser on behalf of the corporation. 1998, c. 19, s. 78 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 78 of the Act is amended by adding the following subsections: (See: 2015, c. 28, Sched. 1, s. 69 (3))

**No acquisition of property, etc.**

(1.1) Every agreement of purchase and sale of a unit or a proposed unit entered into by a declarant or a person acting on behalf of or for the benefit of the declarant shall be deemed to contain the following covenants, which, subject to the regulations, shall apply despite anything in the declaration, a by-law, an agreement or an instrument:

1. The purchaser under the agreement of purchase and sale shall not acquire an interest or right in property described in subsection (1.2) if the property is intended for or is for the collective use or enjoyment of the owners in the corporation of which the unit or proposed unit forms part.
2. The declarant shall not charge and the purchaser under the agreement of purchase and sale shall not pay any amount that is or is intended to be a projected or actual contribution to the reserve fund of the corporation, unless otherwise permitted under this Act.
3. Subject to subsection 23 (6), the purchaser under the agreement of purchase and sale shall not directly or indirectly indemnify, reimburse, or otherwise compensate the declarant or a declarant affiliate for any remedies exercised by or on behalf of a corporation against the declarant or declarant affiliate. 2015, c. 28, Sched. 1, s. 69 (3).

**Same**

(1.2) The property mentioned in paragraph 1 of subsection (1.1) is any real or personal property, other than real or personal property owned by the corporation, as may be prescribed, or the common elements. 2015, c. 28, Sched. 1, s. 69 (3).

**Other agreement**

(1.3) Subject to the regulations, a provision of an agreement to which a purchaser is a party is void if it contravenes the covenant described in subsection (1.1). 2015, c. 28, Sched. 1, s. 69 (3).

### **No merger of covenants**

(2) The covenants shall be deemed not to merge by operation of law on delivery to the purchaser of a deed that is in registerable form. 1998, c. 19, s. 78 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 78 (2) of the Act is amended by adding “described in subsection (1) or (1.1)” after “covenants”. (See: 2015, c. 28, Sched. 1, s. 69 (4))

### **Compliance order**

(3) If the declarant breaches a covenant described in subsection (1), the purchaser under the agreement of purchase and sale may make an application for an order under section 134 and an order may be made under that section. 1998, c. 19, s. 78 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 78 (3) of the Act is amended by adding “or (1.1)” after “subsection (1)”. (See: 2015, c. 28, Sched. 1, s. 69 (5))

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 69 - not in force

### **Duty to register declaration and description**

**79** (1) A declarant who has entered into an agreement of purchase and sale of a proposed unit shall take all reasonable steps to complete the buildings required by the agreement subject to all prescribed requirements and to register, without delay, a declaration and description in respect of the property in which the proposed unit will be included. 1998, c. 19, s. 79 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 79 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 70)

### **Duty to register declaration and description**

(1) If a declarant or a person acting on behalf of or for the benefit of the declarant has entered into an agreement of purchase and sale of a proposed unit, the declarant shall take all reasonable steps to complete the buildings required by the agreement subject to all prescribed requirements and to register, without delay, a declaration and description in respect of the property in which the proposed unit will be included. 2015, c. 28, Sched. 1, s. 70.

### **No right to terminate**

(2) Despite any provision to the contrary in the agreement of purchase and sale, the declarant is not entitled to terminate an agreement of purchase and sale of a proposed unit by reason only of the failure to register the declaration and description within a period of time specified in the agreement, unless the purchaser consents to the termination in writing. 1998, c. 19, s. 79 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 79 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 70)

### **No right to terminate**

(2) Despite any provision to the contrary in the agreement of purchase and sale, the declarant or a person acting on behalf of or for the benefit of the declarant is not entitled to terminate an agreement of purchase and sale of a proposed unit by reason only of the failure to register the declaration and description within a period of time specified in the agreement, unless the purchaser consents to the termination in writing. 2015, c. 28, Sched. 1, s. 70.

### **Application to court**

(3) Despite subsection (2), if a declaration and description have not been registered, the declarant may, upon 15 days written notice to the purchasers of all proposed units in the property affected by the declaration and description, make an application to the Superior Court of Justice for an order terminating the agreements of purchase and sale of the purchasers. 1998, c. 19, s. 79 (3); 2000, c. 26, Sched. B, s. 7 (5).

### **Subsequent registration**

(4) The court may, in the order, provide that a declaration and description shall not be registered in respect of the property in which the proposed units will be included during a period specified in the order. 1998, c. 19, s. 79 (4).

### **Considerations**

(5) On an application for an order, the court shall consider whether,

- (a) the declarant has taken all reasonable steps to register a declaration and description;
- (b) a declaration and description can be registered within a reasonable period of time; and

- (c) the failure and inability to register a declaration and description is caused by circumstances beyond the control of the declarant. 1998, c. 19, s. 79 (5).

#### **Registration of order**

- (6) The order is ineffective until a certified copy of it is registered. 1998, c. 19, s. 79 (6).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (5) - 5/05/2001

2015, c. 28, Sched. 1, s. 70 - not in force

#### **Interim occupancy**

- 80** (1) An agreement of purchase and sale may permit or require interim occupancy of a proposed unit. 1998, c. 19, s. 80 (1).

#### **Definition**

- (2) In this section,

“interim occupancy” means the occupancy of a proposed unit before the purchaser receives a deed to the unit that is in registerable form. 1998, c. 19, s. 80 (2).

#### **Right to pay in full**

- (3) Despite any provision to the contrary in the agreement of purchase and sale, before the expiry of the time period mentioned in subsection 73 (2) for rescinding the agreement, a purchaser may elect to pay in full, on assuming interim occupancy of the proposed unit, the balance of the purchase price remaining after deducting the amounts paid under the agreement before assuming interim occupancy. 1998, c. 19, s. 80 (3).

#### **Occupancy fee**

- (4) If the purchaser assumes interim occupancy of a proposed unit or is required to do so under the agreement of purchase and sale, the declarant may charge the purchaser a monthly occupancy fee which shall not be greater than the total of the following amounts:

1. Where applicable, interest calculated on a monthly basis on the unpaid balance of the purchase price at the prescribed rate.
2. An amount reasonably estimated on a monthly basis for municipal taxes attributable to the unit.
3. The projected monthly common expense contribution for the unit. 1998, c. 19, s. 80 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 of subsection 80 (4) of the Act is amended by adding “subject to the regulations” at the end. (See: 2015, c. 28, Sched. 1, s. 71 (1))**

#### **Reserve fund contribution**

- (5) If the declarant charges the purchaser a monthly occupancy fee for interim occupancy of a proposed unit for residential purposes for longer than six months and the monthly occupancy fee includes a projected contribution to the reserve fund of the corporation, then, with respect to the occupancy fee for each month after the sixth month, the declarant shall hold in trust and remit to the corporation upon registering the declaration and description the portion of the monthly occupancy fee that represents the projected contribution to the reserve fund. 1998, c. 19, s. 80 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 80 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 71 (2))**

#### **Reserve fund contribution**

- (5) If the declarant charges the purchaser a monthly occupancy fee for interim occupancy of a proposed unit of a prescribed class for longer than six months or such other period that is prescribed and if the monthly occupancy fee includes a projected contribution to the reserve fund of the corporation, then, with respect to the occupancy fee for each month after the sixth month or such other period that is prescribed, the declarant shall hold in trust and remit to the corporation upon registering the declaration and description the portion of the monthly occupancy fee that represents the projected contribution to the reserve fund in accordance with the regulations, if any. 2015, c. 28, Sched. 1, s. 71 (2).

#### **Rights and duties of declarant**

- (6) If a purchaser assumes interim occupancy of a proposed unit, the declarant,
- (a) shall provide those services that the corporation will have a duty to provide to owners after the registration of the declaration and description that creates the unit;

- (b) shall repair and maintain the proposed property and the proposed unit in the same manner as the corporation will have a duty to repair after damage and maintain after the registration of the declaration and description that creates the unit;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 80 (6) (b) of the Act is amended by striking out “after damage”. (See: 2015, c. 28, Sched. 1, s. 71 (3))

- (c) has the same right of entry that the corporation will have after the registration of the declaration and description that creates the unit;
- (d) may withhold consent to an assignment of the right to occupy the proposed unit;
- (e) may charge a reasonable fee for consenting to an assignment of the right to occupy the proposed unit; and
- (f) shall, within 30 days of the registration of the declaration and description that creates the unit, notify the purchaser in writing of the date and instrument numbers of the registration, unless within that time the purchaser receives a deed to the unit that is in registerable form. 1998, c. 19, s. 80 (6).

#### **Application of *Residential Tenancies Act, 2006***

(7) The rights and duties described in subsection (6) apply despite any provision to the contrary in the *Residential Tenancies Act, 2006*. 1998, c. 19, s. 80 (11); 2006, c. 17, s. 248 (3).

#### **Refund of municipal taxes**

(8) The declarant shall, on delivering to the purchaser a deed that is in registerable form or as soon as is practicable after delivery, refund to the purchaser the portion of the monthly occupancy fee that the purchaser has paid on account of municipal taxes attributable to the proposed unit in excess of the amount actually assessed against the unit. 1998, c. 19, s. 80 (8).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 80 (8) of the Act is amended by striking out “as soon as is practicable” and substituting “as soon as is reasonably possible”. (See: 2015, c. 28, Sched. 1, s. 71 (4))

#### **Municipal taxes payable**

(9) If the portion of the monthly occupancy fee that the purchaser has paid on account of municipal taxes attributable to the proposed unit is insufficient to pay the amount actually assessed against the unit, the declarant may require the purchaser to pay the difference between the two amounts. 1998, c. 19, s. 80 (9).

#### **Non-application**

(10) Sections 149, 150, 151, 165, 166 and 167 and Part VII of the *Residential Tenancies Act, 2006* do not apply to interim occupancy and monthly occupancy fees charged under this section. 2000, c. 26, Sched. B, s. 7 (6); 2006, c. 17, s. 248 (4).

(11) SPENT: 1998, c. 19, s. 80 (11).

(12) SPENT: 1998, c. 19, s. 80 (12).

#### **Section Amendments with date in force (d/m/y)**

1998, c. 19, s. 80 (11), (12) - 17/06/1998

2000, c. 26, Sched. B, s. 7 (6) - 5/05/2001

2006, c. 17, s. 248 (3) - 31/01/2007

2015, c. 28, Sched. 1, s. 71 - not in force

#### **Money held in trust**

**81** (1) A declarant shall ensure that a trustee of a prescribed class or the declarant’s solicitor receives and holds in trust all money, together with interest earned on it, as soon as a person makes a payment,

- (a) with respect to reserving a right to enter into an agreement of purchase and sale for the purchase of a proposed unit;
- (b) on account of an agreement of purchase and sale of a proposed unit; or
- (c) on account of a sale of a proposed unit. 1998, c. 19, s. 81 (1).

#### **Exception**

(2) Subsection (1) does not apply to money received,

- (a) on account of the purchase of personal property included in the proposed unit that is not to be permanently affixed to the land; or

(b) as an occupancy fee under subsection 80 (4). 1998, c. 19, s. 81 (2).

#### **Reservation money**

(3) If a person has paid money to reserve a right to enter into an agreement of purchase and sale for the purchase of a proposed unit and subsequently enters into such an agreement with the declarant, the declarant shall, on entering into the agreement, credit the money received to the purchase price under the agreement, despite any provision of the agreement. 1998, c. 19, s. 81 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 81 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 72)**

#### **Reservation money**

(3) If a person has paid money to reserve a right to enter into an agreement of purchase and sale for the purchase of a proposed unit and subsequently enters into such an agreement with the declarant or a person acting on behalf of or for the benefit of the declarant, the declarant shall, in accordance with the regulations and within the prescribed period of time on entering into the agreement, credit the money received to the purchase price under the agreement, despite any provision of the agreement. 2015, c. 28, Sched. 1, s. 72.

#### **Trustee**

(4) Upon receiving money that is required to be held in trust under subsection (1), a trustee of a prescribed class shall hold the money in trust in a separate account in Ontario designated as a trust account at a bank listed in Schedule I or II to the *Bank Act* (Canada), a trust corporation, a loan corporation or a credit union. 1998, c. 19, s. 81 (4); 2002, c. 8, Sched. I, s. 7 (1).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 81 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 72)**

#### **Trustee**

(4) Upon receiving money that is required to be held in trust under subsection (1), a trustee of a prescribed class shall hold the money in trust in a separate account in Ontario designated as a trust account at,

- (a) a bank within the meaning of section 2 of the *Bank Act* (Canada);
- (b) a corporation registered under the *Loan and Trust Corporations Act*; or
- (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*. 2015, c. 28, Sched. 1, s. 72.

**Note: On the later of the day section 291 of Schedule 7 (*Credit Unions and Caisses Populaires Act, 2020*) to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force and the day section 72 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, clause 81 (4) (c) of the Act is amended by striking out “*Credit Unions and Caisses Populaires Act, 1994*” at the end and substituting “*Credit Unions and Caisses Populaires Act, 2020*”. (See: 2020, c. 36, Sched. 7, s. 301 (1))**

#### **Declarant’s solicitor**

(5) Upon receiving money that is required to be held in trust under subsection (1), the declarant’s solicitor shall hold the money in trust in a trust account in Ontario. 1998, c. 19, s. 81 (5).

#### **Evidence of compliance**

(6) Within 10 days of the payment of the money under subsection (1), the declarant shall provide to the person who paid the money written evidence, in the form prescribed by the Minister, of compliance with subsection (1) and one of subsections (4) and (5). 1998, c. 19, s. 81 (6).

#### **Duration of trust**

(7) Despite the registration of a declaration and description, the person who holds money in trust under subsection (1) shall hold it in trust until,

- (a) the person holding the money in trust disposes of it to the person entitled to it, where the disposal is done in accordance with this Act and an agreement that the person who paid the money has entered into with respect to the proposed unit; or
- (b) the declarant ensures that security of a prescribed class is provided for the money, except if the money has been received under clause (1) (a) and has not been credited to the purchase price under the agreement. 1998, c. 19, s. 81 (7).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 8, Sched. I, s. 7 (1) - 5/01/2005

2015, c. 28, Sched. 1, s. 72 - not in force

2020, c. 36, Sched. 7, s. 301 (1) - not in force

### **Interest**

**82 (1)** The declarant shall pay interest at the prescribed rate to the purchaser on all money that a person pays on account of the purchase price of a proposed unit or that the declarant credits to the purchase price of a proposed unit. 1998, c. 19, s. 82 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 82 (1) of the Act is amended by striking out “that the declarant” and substituting “that the declarant or a person acting on behalf of or for the benefit of the declarant”. (See: 2015, c. 28, Sched. 1, s. 73 (1))

### **Money released from trust**

(2) The interest is payable on the money even if, under clause 81 (7) (b), the declarant provides security of a prescribed class for the money. 1998, c. 19, s. 82 (2).

### **Calculation**

(3) The interest shall be calculated from the day the person pays the money received until the day the proposed unit is available for possession or occupancy in accordance with the purchaser’s agreement of purchase and sale with the declarant. 1998, c. 19, s. 82 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 82 (3) of the Act is amended by adding “or a person acting on behalf of or for the benefit of the declarant” at the end. (See: 2015, c. 28, Sched. 1, s. 73 (2))

### **Time of payment**

(4) The interest shall be paid to the purchaser by way of payment or set-off,

- (a) on the day the declarant delivers to the purchaser a deed to the proposed unit that is in registerable form, if the declarant so elects; or
- (b) on the day the proposed unit is available for possession or occupancy in accordance with the purchaser’s agreement of purchase and sale with the declarant, otherwise. 1998, c. 19, s. 82 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 82 (4) (b) of the Act is amended by striking out “otherwise” and substituting “or a person acting on behalf of or for the benefit of the declarant, otherwise”. (See: 2015, c. 28, Sched. 1, s. 73 (3))

### **Compound interest**

(5) A declarant who elects to pay the interest to the purchaser on the day of delivering to the purchaser a deed to the proposed unit that is in registerable form shall, on that day, pay interest to the purchaser at the prescribed rate on the interest that the declarant is required to pay under subsection (1). 1998, c. 19, s. 82 (5).

### **Calculation**

(6) The declarant shall pay the interest payable under subsection (5) from the day the proposed unit is available for possession or occupancy in accordance with the purchaser’s agreement of purchase and sale with the declarant until the day of payment. 1998, c. 19, s. 82 (6).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 82 (6) of the Act is amended by striking out “with the declarant” and substituting “with the declarant or a person acting on behalf of or for the benefit of the declarant”. (See: 2015, c. 28, Sched. 1, s. 73 (4))

### **Terminated agreements**

(7) If an agreement of purchase and sale provides that a purchaser is entitled to a return of money paid under the agreement upon termination of the agreement and the agreement is terminated, the declarant shall pay interest at the prescribed rate to the purchaser on the money returned. 1998, c. 19, s. 82 (7).

### **Excess interest**

(8) The declarant is entitled to the excess of all interest earned on money held in trust over the interest it is required to pay under this section. 1998, c. 19, s. 82 (8).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 73 - not in force

**Note:** On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following sections: (See: 2015, c. 28, Sched. 1, s. 74)

### **Corporation's sale of the property**

**82.1** (1) A corporation may sell the property if,

- (a) the owners of at least 80 per cent of the units, at the date of the vote, vote in favour of the sale;
- (b) at least 80 per cent of those persons who, at the date of the vote, have registered claims against the property that were created after the registration of the declaration and description that made this Act applicable to the units being sold, consent in writing to the sale; and
- (c) all other conditions, if any, that are prescribed have been satisfied. 2015, c. 28, Sched. 1, s. 74.

### **Conveyance**

(2) When a sale takes place, the board shall deliver to the purchaser the following documents signed by the authorized officers of the corporation: a deed and a certificate in the form prescribed by the Minister,

- (a) stating that the persons who, under subsection (1), are required to vote in favour of the sale or consent in writing to the sale have done so; and
- (b) containing all other statements and material, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 74.

### **Net proceeds**

(3) Subject to subsection (4), the owners at the time of the registration of the deed, as determined by the regulations, shall share the net proceeds of the sale in the same proportions as their common interests, subject to the conditions, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 74.

### **Same**

(4) The portion of the net proceeds of the sale that is attributable to a portion of the common elements that is for the use of the owners of certain designated units, where the owners are those at the time of the registration of the deed, as determined by the regulations, and not all the owners at that time, shall be divided among the owners of the designated units in the proportions in which their interests are affected, subject to the conditions, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 74.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 74 - not in force

### **Right of dissenters**

**82.2** (1) A corporation that has made a sale under section 82.1 and every owner in the corporation shall be deemed to have made an agreement in accordance with the prescribed requirements, if any, that an owner who has dissented on the vote authorizing the sale may, within 30 days of the vote, submit to mediation a dispute over the fair market value of the units that have been sold, determined as of the time of the sale. 2015, c. 28, Sched. 1, s. 74.

### **Application of s. 132**

(2) If an owner submits a dispute to mediation in accordance with the agreement mentioned in subsection (1), section 132 applies to the dispute with necessary modifications as if it were a disagreement under that section. 2015, c. 28, Sched. 1, s. 74.

### **Notice**

(3) An owner who submits a dispute to mediation in accordance with the agreement mentioned in subsection (1) shall give the corporation notice of intention in accordance with the prescribed requirements, if any, within 10 days after the vote authorizing the sale. 2015, c. 28, Sched. 1, s. 74.

### **Entitlement to amount**

(4) An owner who serves a notice of intention in accordance with subsection (3) is entitled to receive from the net proceeds of the sale the amount the owner would have received if the sale price had been the fair market value as determined by the arbitration. 2015, c. 28, Sched. 1, s. 74.

### **Deficiency**

(5) The corporation shall pay to each of the owners who served a notice of intention in accordance with subsection (3), the deficiency in the amount to which the owner is entitled if the net proceeds of the sale are inadequate to pay the amount, subject to the conditions, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 74.

**Liability**

(6) The owners, other than those who dissented on the vote authorizing the sale, are liable for the amount of the deficiency payments determined by the proportions of their common interests. 2015, c. 28, Sched. 1, s. 74.

**Common expenses of other owners**

(7) The corporation shall add the amount of the liability of each of the owners who voted in favour of the sale to the contribution to the common expenses payable for the unit of that owner. 2015, c. 28, Sched. 1, s. 74.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 74 - not in force

**LEASE OF UNITS****Notification by owner**

**83** (1) The owner of a unit who leases the unit or renews a lease of the unit shall, within 10 days of entering into the lease or the renewal, as the case may be,

- (a) notify the corporation that the unit is leased;
- (b) provide the corporation with the lessee's name, the owner's address and a copy of the lease or renewal or a summary of it in the form prescribed by the Minister; and
- (c) provide the lessee with a copy of the declaration, by-laws and rules of the corporation. 1998, c. 19, s. 83 (1); 2015, c. 28, Sched. 1, s. 75 (1).

**Termination of lease**

(2) If a lease of a unit is terminated and not renewed, the owner of the unit shall notify the corporation in writing within 10 days of the termination. 1998, c. 19, s. 83 (2); 2015, c. 28, Sched. 1, s. 75 (2).

**Record of notices**

(3) A corporation shall maintain a record of the notices that it receives under this section. 1998, c. 19, s. 83 (3).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 75 (1, 2) - 01/11/2017

**PART VI  
OPERATION**

**Note:** On a day to be named by proclamation of the Lieutenant Governor, Part VI of the Act is amended by adding the following section immediately before the heading "Common Expenses": (See: 2015, c. 28, Sched. 1, s. 76)

**ANNUAL BUDGET****Annual budget**

**83.1** (1) A corporation shall have a budget for each of its fiscal years that is prepared in accordance with this section. 2015, c. 28, Sched. 1, s. 76.

**Fiscal year**

(2) The fiscal year of a corporation shall end on,

- (a) in the case of the first fiscal year after the registration of the declaration and description, the last day of the month in which the first anniversary of that registration takes place or such other day as is prescribed; and
- (b) in the case of a fiscal year after the first fiscal year after the registration of the declaration and description,
  - (i) the day specified by a by-law of the corporation passed after a new board is elected at a turn-over meeting held under section 43,
  - (ii) the day specified by a resolution of the board, if there is no by-law as described in subclause (i), or
  - (iii) the next following anniversary of the end of the first fiscal year, if there is no by-law or resolution as described in subclauses (i) and (ii). 2015, c. 28, Sched. 1, s. 76.

**Budget for first fiscal year**

(3) Within the prescribed periods of time, the declarant shall ensure that the budget of the corporation for its first fiscal year is prepared in accordance with the regulations and shall deliver it to,

- (a) the first board mentioned in subsection 42 (1); or
- (b) the corporation, if the first board has not been appointed in accordance with subsection 42 (1). 2015, c. 28, Sched. 1, s. 76.

**Budget for subsequent years**

(4) At least 30 days before the start of each fiscal year of the corporation after its first fiscal year, the board shall prepare a budget for the ensuing fiscal year that covers the corporation's general and reserve fund accounts and that is prepared in accordance with the regulations. 2015, c. 28, Sched. 1, s. 76.

**Notice to owners**

(5) Within 15 days of preparing a budget described in subsection (4), the board shall provide a notice to the owners that is in the prescribed form, if any, containing a copy of the budget. 2015, c. 28, Sched. 1, s. 76.

**Implementation**

(6) The board shall not implement a budget of the corporation until it has provided the notice mentioned in subsection (5). 2015, c. 28, Sched. 1, s. 76.

**Amendment**

(7) Subject to subsection (9), the board may amend a budget of the corporation for any fiscal year at any time before the end of the fiscal year. 2015, c. 28, Sched. 1, s. 76.

**Notice to owners**

(8) Within 15 days of amending a budget of the corporation, the board shall provide a notice to the owners that is in the prescribed form, if any, containing a copy of the budget. 2015, c. 28, Sched. 1, s. 76.

**Implementation**

(9) The board shall not implement an amendment to a budget of the corporation until it has complied with subsection (8). 2015, c. 28, Sched. 1, s. 76.

**Notice of non-budgeted amounts**

(10) If the board proposes that the corporation incur a prescribed expense in a fiscal year that exceeds, in the manner determined by the regulations, the budgeted amount for the expense in the applicable budget or amendment to a budget for that fiscal year, the board shall provide the prescribed notice of the expense to the owners within the prescribed time and in accordance with the prescribed requirements. 2015, c. 28, Sched. 1, s. 76.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 76 - not in force

**COMMON EXPENSES****Contribution of owners**

**84** (1) Subject to the other provisions of this Act, the owners shall contribute to the common expenses in the proportions specified in the declaration. 1998, c. 19, s. 84 (1).

**Common surplus**

(2) A common surplus in a corporation shall be applied either against future common expenses or paid into the reserve fund, and except on termination, shall not be distributed to the owners or mortgagees of the units. 1998, c. 19, s. 84 (2).

**No avoidance**

(3) An owner is not exempt from the obligation to contribute to the common expenses even if,

- (a) the owner has waived or abandoned the right to use the common elements or part of them;
- (b) the owner is making a claim against the corporation; or
- (c) the declaration, by-laws or rules restrict the owner from using the common elements or part of them. 1998, c. 19, s. 84 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 84 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 77)**

#### **No avoidance**

(3) Subject to subsection (6), an owner is not exempt from the obligation to contribute to the common expenses payable for the owner's unit even if,

- (a) the owner has waived or abandoned the right to use,
  - (i) the common elements or the assets, if any, of the corporation, or part of them, or
  - (ii) any land, any part of a property or proposed property, any assets of a corporation or any facilities or services that are subject to an agreement mentioned in subsection 21.1 (1) or 113 (1);
- (b) the owner is making a claim against the corporation; or
- (c) the declaration, by-laws or rules restrict the owner from using, as the case may be,
  - (i) the common elements or the assets, if any, of the corporation, or part of them, or
  - (ii) any land, any part of a property or proposed property, any assets of a corporation or any facilities or services that are subject to an agreement mentioned in subsection 21.1 (1) or 113 (1). 2015, c. 28, Sched. 1, s. 77.

#### **Addition to contribution**

(4) If the corporation makes a prescribed addition to the amount of the contribution to the common expenses payable for an owner's unit, the corporation shall provide the prescribed notice to the owner within 15 days of making the addition. 2015, c. 28, Sched. 1, s. 77.

#### **Reaction of owner**

(5) Within 30 days of receiving the notice or within such other time period that is determined by the regulations, the owner shall,

- (a) pay the amount of the addition to the corporation in the prescribed manner;
- (b) if the owner transfers the unit within the 30 days or the other time period, as applicable,
  - (i) ensure that the amount of the addition is held in escrow, in accordance with the regulations, when the transaction for the transfer closes until it is to be paid to the person entitled to it, as determined in accordance with the regulations, and
  - (ii) give notice to the corporation, in accordance with the regulations and as soon as reasonably possible after the transfer, that the amount of the addition is being so held in escrow;
- (c) apply, in accordance with Part I.2, to the Condominium Authority Tribunal established under that Part for resolution of the requirement to pay the addition as a matter in dispute, if the Tribunal has been established under that Part and the application may be made under that Part; or
- (d) apply to the Superior Court of Justice for resolution of the requirement to pay the addition, if the Condominium Authority Tribunal has not been established under Part I.2 or the application described in clause (c) may not be made under that Part. 2015, c. 28, Sched. 1, s. 77.

#### **Exemption during dispute resolution**

(6) Subject to subsection (10), an owner who complies with clause (5) (c) or (d) is exempt from the obligation to contribute to the common expenses with respect to the amount of the addition, unless a settlement agreement or a final order of the Condominium Authority Tribunal or of a court provides otherwise, as is determined by the regulations, if any. 2015, c. 28, Sched. 1, s. 77.

#### **Addition owing**

(7) If an owner who, under subsection (6), is exempt from the obligation to contribute to the common expenses with respect to the amount of the addition ceases to be exempt from the obligation with respect to any part or all of the addition, the corporation shall send the owner a notice specifying a time by which the owner is required to pay, in accordance with the regulations, if any, the amount that ceases to be exempt from the obligation. 2015, c. 28, Sched. 1, s. 77.

#### **Notice of additions to contribution**

(8) Subject to any other provision of this Act or the regulations dealing with a notice of a contribution to the common expenses, if, pursuant to this Act or the regulations, an amount is added to the contribution to the common expenses payable

for an owner's unit, the corporation shall send the owner a notice specifying a time by which the owner is required to pay the amount in accordance with the regulations, if any. 2015, c. 28, Sched. 1, s. 77.

#### **Part of common expenses**

(9) An owner who does not comply with clause (5) (a), (c) or (d) shall be deemed to be in default in the obligation to contribute to the common expenses payable for the owner's unit with respect to the amount of the addition. 2015, c. 28, Sched. 1, s. 77.

#### **Same**

(10) An owner who does not comply with clause (5) (b) shall be deemed to have been in default, as of the date specified in subsection (11), in the obligation to contribute to the common expenses payable for the owner's unit with respect to the amount of the addition. 2015, c. 28, Sched. 1, s. 77.

#### **Date of default**

(11) The date of the default mentioned in subsection (10) shall be a date that is before the closing of the transaction for the transfer mentioned in clause (5) (b) and that is determined in accordance with the regulations. 2015, c. 28, Sched. 1, s. 77.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 77 - not in force

#### **Lien upon default**

**85** (1) If an owner defaults in the obligation to contribute to the common expenses payable for the owner's unit, the corporation has a lien against the owner's unit and its appurtenant common interest for the unpaid amount together with all interest owing and all reasonable legal costs and reasonable expenses incurred by the corporation in connection with the collection or attempted collection of the unpaid amount. 1998, c. 19, s. 85 (1); 2015, c. 28, Sched. 1, s. 78 (1).

#### **Expiration of lien**

(2) The lien expires three months after the default that gave rise to the lien occurred unless the corporation within that time registers a certificate of lien in a form prescribed by the Minister. 1998, c. 19, s. 85 (2).

#### **Certificate of lien**

(3) A certificate of lien when registered covers,

- (a) the amount owing under all of the corporation's liens against the owner's unit that have not expired at the time of registration of the certificate;
- (b) the amount by which the owner defaults in the obligation to contribute to the common expenses payable for the owner's unit after the registration of the certificate; and
- (c) all interest owing and all reasonable legal costs and reasonable expenses that the corporation incurs in connection with the collection or attempted collection of the amounts described in clauses (a) and (b), including the costs of preparing and registering the certificate of lien and a discharge of it. 1998, c. 19, s. 85 (3); 2015, c. 28, Sched. 1, s. 78 (1).

#### **Notice to owner**

(4) At least 10 days before the day a certificate of lien is registered, the corporation shall give written notice of the lien to the owner whose unit is affected by the lien. 1998, c. 19, s. 85 (4).

(5) REPEALED: 2015, c. 28, Sched. 1, s. 78 (2).

#### **Lien enforcement**

(6) The lien may be enforced in the same manner as a mortgage. 1998, c. 19, s. 85 (6).

#### **Discharge of lien**

(7) Upon payment of the amounts described in subsection (3), the corporation shall prepare and register a discharge of the certificate of lien in the form prescribed by the Minister and shall advise the owner in writing of the particulars of the registration. 1998, c. 19, s. 85 (7).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 78 (1, 2) - 01/11/2017

### **Priority of lien**

**86** (1) Subject to subsection (2), a lien mentioned in subsection 85 (1) has priority over every registered and unregistered encumbrance even though the encumbrance existed before the lien arose but does not have priority over,

- (a) a claim of the Crown other than by way of a mortgage;
- (b) a claim for taxes, charges, rates or assessments levied or recoverable under the *Municipal Act, 2001*, the *City of Toronto Act, 2006*, the *Education Act* or the *Local Roads Boards Act*; or
- (c) a lien or claim that is prescribed. 1998, c. 19, s. 86 (1); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 7; 2019, c. 14, Sched. 14, s. 8 and 2021, c. 25, Sched. 26, s. 2.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 86 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 79 (1))

### **Competing liens**

(1.1) If two or more corporations have a lien mentioned in subsection 85 (1) or 139 (5) against the same real property that is prescribed, priority between the liens shall be determined in accordance with the regulations. 2015, c. 28, Sched. 1, s. 79 (1).

### **Exception, non-residential lien**

(2) A lien in respect of a unit for non-residential purposes does not have priority under this section in respect of the amount by which the owner of the unit has defaulted in the obligation to contribute to the common expenses payable for the owner's unit before the coming into force of this section. 1998, c. 19, s. 86 (2); 2015, c. 28, Sched. 1, s. 79 (2).

### **Notice of lien**

(3) The corporation shall, on or before the day a certificate of lien is registered, give written notice of the lien to every encumbrancer whose encumbrance is registered against the title of the unit affected by the lien. 1998, c. 19, s. 86 (3).

### **Service of notice**

(4) The corporation shall give the notice by personal service or by sending it by registered prepaid mail addressed to the encumbrancer at the encumbrancer's last known address. 1998, c. 19, s. 86 (4).

### **Effect of no notice**

(5) Subject to subsection (6), the lien loses its priority over an encumbrance unless the corporation gives the required notice to the encumbrancer. 1998, c. 19, s. 86 (5).

### **Priority if notice late**

(6) If a corporation gives notice of a lien to an encumbrancer after the day the certificate of lien is registered, the lien shall have priority over the encumbrance to the extent of,

- (a) the arrears of contributions to the common expenses payable for the owner's unit that accrued during the three months before the day notice is given and that continue to accrue subsequent to that day; and
- (b) all interest owing on the arrears and all reasonable legal costs and reasonable expenses incurred by the corporation in connection with the collection or attempted collection of the arrears. 1998, c. 19, s. 86 (6); 2015, c. 28, Sched. 1, s. 79 (3).

### **Section Amendments with date in force (d/m/y)**

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 7 - 01/01/2007

2015, c. 28, Sched. 1, s. 79 (1) - not in force; 2015, c. 28, Sched. 1, s. 79 (2, 3) - 01/11/2017

2019, c. 14, Sched. 14, s. 8 - 01/01/2022

### **Default with respect to leased unit**

**87** (1) If an owner who has leased a unit defaults in the obligation to contribute to the common expenses payable for the owner's unit, the corporation may, by written notice to the lessee, require the lessee to pay to the corporation the lesser of the amount of the default and the amount of the rent due under the lease. 1998, c. 19, s. 87 (1); 2015, c. 28, Sched. 1, s. 80 (1).

### **Service on lessee**

(2) The corporation shall give the notice to the lessee by personal service or by sending it by prepaid mail addressed to the lessee at the address of the unit. 1998, c. 19, s. 87 (2).

**Notice to owner**

(3) If the corporation gives a notice to a lessee, it shall give a copy of the notice to the owner of the unit that the lessee has leased. 1998, c. 19, s. 87 (3).

(4) REPEALED: 2015, c. 28, Sched. 1, s. 80 (2).

**Rent paid to corporation**

(5) Upon receiving a notice under subsection (1), the lessee shall make the required payment to the corporation even if an encumbrancer of the unit has acquired the right of the lessor to receive rent under the lease. 1998, c. 19, s. 87 (5).

**No default in lease**

(6) The payment to the corporation shall constitute payment towards rent under the lease and the lessee shall not by reason only of the payment to the corporation be considered to be in default of an obligation in the lease. 1998, c. 19, s. 87 (6).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 80 (1, 2) - 01/11/2017

**Mortgagee's rights**

**88** (1) Every mortgage of a unit shall be deemed to contain a provision that,

- (a) the mortgagee has the right to collect the contribution to the common expenses payable for the unit and shall promptly pay the amount so collected to the corporation on behalf of the owner of the unit;
- (b) the owner's default in the obligation to contribute to the common expenses payable for the owner's unit constitutes default under the mortgage;
- (c) the mortgagee has the right to pay,
  - (i) the amounts of the contribution to the common expenses payable for the owner's unit that from time to time fall due and are unpaid in respect of the mortgaged premises,
  - (ii) all interest owing and all reasonable legal costs and reasonable expenses that the corporation incurs in connection with the collection or attempted collection of the amounts described in subclause (i), including, where applicable, the costs of preparing and registering a certificate of lien and a discharge of it;
- (d) payments made by the mortgagee under clause (c), together with interest and all reasonable costs, charges and expenses incurred in respect of the payments, are to be added to the debt secured by the mortgage and to be payable, with interest at the rate payable on the mortgage; and
- (e) if after demand the owner fails to fully reimburse the mortgagee, the mortgage immediately becomes due and payable at the option of the mortgagee. 1998, c. 19, s. 88 (1); 2015, c. 28, Sched. 1, s. 81 (1-3).

**Statement of common expenses**

(2) A corporation shall, on request and free of charge, provide to the mortgagee of a unit a written statement setting out the contribution to the common expenses payable for the owner's unit and, if there is a default in the payment of them, the amounts described in subsection 85 (3) in respect of the unit. 1998, c. 19, s. 88 (2); 2015, c. 28, Sched. 1, s. 81 (4).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 81 (1-4) - 01/11/2017

**REPAIR AND MAINTENANCE****Repair after damage**

**89** (1) Subject to sections 91 and 123, the corporation shall repair the units and common elements after damage. 1998, c. 19, s. 89 (1).

**Extent of obligation**

(2) The obligation to repair after damage includes the obligation to repair and replace after damage or failure but, subject to subsection (5), does not include the obligation to repair after damage improvements made to a unit. 1998, c. 19, s. 89 (2).

**Determination of improvements**

(3) For the purpose of this section, the question of what constitutes an improvement to a unit shall be determined by reference to a standard unit for the class of unit to which the unit belongs. 1998, c. 19, s. 89 (3).

### **Standard unit**

- (4) A standard unit for the class of unit to which the unit belongs shall be,
- (a) the standard unit described in a by-law made under clause 56 (1) (h), if the board has made a by-law under that clause;
  - (b) the standard unit described in the schedule mentioned in clause 43 (5) (h), if the board has not made a by-law under clause 56 (1) (h). 1998, c. 19, s. 89 (4).

### **Transition, existing corporations**

- (5) A corporation that was created before the day this section comes into force and that had the obligation of repairing after damage improvements made to a unit before the registration of the declaration and description shall continue to have the obligation unless it has, by by-law, established what constitutes a standard unit for the class of unit to which the unit belongs. 1998, c. 19, s. 89 (5).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 89 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 82)

### **Repair**

**89** (1) Subject to sections 91 and 123, the corporation shall repair the common elements and the assets, if any, of the corporation. 2015, c. 28, Sched. 1, s. 82.

### **Same, units**

- (2) Subject to sections 91 and 123, each owner shall repair the owner's unit. 2015, c. 28, Sched. 1, s. 82.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 82 - not in force

### **Maintenance**

**90** (1) Subject to section 91, the corporation shall maintain the common elements and each owner shall maintain the owner's unit. 1998, c. 19, s. 90 (1).

### **Normal repairs included**

- (2) The obligation to maintain includes the obligation to repair after normal wear and tear but does not include the obligation to repair after damage. 1998, c. 19, s. 90 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 90 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 82)

### **Maintenance**

**90** (1) Subject to section 91, the corporation shall maintain the common elements and the assets, if any, of the corporation and each owner shall maintain the owner's unit. 2015, c. 28, Sched. 1, s. 82.

### **Same, not repair**

- (2) The obligation to maintain does not include the obligation to repair. 2015, c. 28, Sched. 1, s. 82.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 82 - not in force

### **Provisions of declaration**

**91** The declaration may alter the obligation to maintain or to repair after damage as set out in this Act by providing that,

- (a) subject to section 123, each owner shall repair the owner's unit after damage;
- (b) the owners shall maintain the common elements or any part of them;
- (c) each owner shall maintain and repair after damage those parts of the common elements of which the owner has the exclusive use; and
- (d) the corporation shall maintain the units or any part of them. 1998, c. 19, s. 91.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 91 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 82)

### **Alterations by declaration**

**91** The declaration may alter the obligation to repair or to maintain as set out in this Act by providing that, subject to the regulations,

- (a) subject to section 123, the corporation shall repair the units or any part of them;
- (b) subject to section 123, the owners shall repair the common elements or any part of them;
- (c) the corporation shall maintain the units or any part of them;
- (d) the owners shall maintain the common elements or any part of them;
- (e) the corporation shall carry out an obligation to repair or to maintain on behalf of or for the benefit of an owner and may add the cost of the work to the contribution to the common expenses payable for the owner's unit;
- (f) the corporation shall be responsible for the costs to remove or restore parts of a unit or other real property or personal property of an owner in order to carry out an obligation of the corporation to repair or to maintain; and
- (g) the corporation or the owners shall have the other obligations or responsibilities to repair or to maintain that are prescribed. 2015, c. 28, Sched. 1, s. 82.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 82 - not in force

### **Work done for owner**

**92** (1) If the declaration provides that the owner has an obligation to repair after damage and the owner fails to carry out the obligation within a reasonable time after damage occurs, the corporation shall do the work necessary to carry out the obligation. 1998, c. 19, s. 92 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 92 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 83 (1))

### **Work done for owner**

(1) If an owner has an obligation under this Act to repair and fails to carry out the obligation within a reasonable time, the corporation shall do the work necessary to carry out the obligation unless the regulations provide otherwise. 2015, c. 28, Sched. 1, s. 83 (1).

### **Same, maintenance**

(2) If the declaration provides that the owner has an obligation to maintain the common elements or any part of them and the owner fails to carry out the obligation within a reasonable time, the corporation may do the work necessary to carry out the obligation. 1998, c. 19, s. 92 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 92 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 83 (1))

### **Same, maintenance**

(2) If an owner has an obligation under this Act to maintain the common elements or any part of them and the owner fails to carry out the obligation within a reasonable time, the corporation may do the work necessary to carry out the obligation. 2015, c. 28, Sched. 1, s. 83 (1).

### **Same, maintenance of units**

(3) If an owner has an obligation under this Act to maintain the owner's unit and fails to carry out the obligation within a reasonable time and if the failure presents a potential risk of damage to the property or the assets of the corporation or a potential risk of personal injury to persons on the property, the corporation may do the work necessary to carry out the obligation. 1998, c. 19, s. 92 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 92 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 83 (1))

### **Same, maintenance of units**

(3) If an owner has an obligation under this Act to maintain the owner's unit and fails to carry out the obligation within a reasonable time and if the circumstances set out in the regulations exist, the corporation may do the work necessary to carry out the obligation. 2015, c. 28, Sched. 1, s. 83 (1).

## **Cost**

(4) An owner shall be deemed to have consented to the work done by a corporation under this section and the cost of the work shall be added to the contribution to the common expenses payable for the owner's unit. 1998, c. 19, s. 92 (4); 2015, c. 28, Sched. 1, s. 83 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 83 (1) - not in force; 2015, c. 28, Sched. 1, s. 83 (2) - 01/11/2017

## **Reserve fund**

**93 (1)** The corporation shall establish and maintain one or more reserve funds. 1998, c. 19, s. 93 (1).

### **Purpose of fund**

(2) A reserve fund shall be used solely for the purpose of major repair and replacement of the common elements and assets of the corporation. 1998, c. 19, s. 93 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 93 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 84 (1))**

### **Purpose of fund**

(2) A reserve fund shall be used solely for,

- (a) the purpose of major repair of a unit, the common elements or assets, if any, of the corporation, if the corporation has the obligation to repair in that regard under this Act;
- (b) subject to the regulations, the purpose of complying, in accordance with the regulations, with the requirements imposed by any general or special Act or regulations or by-laws made under that Act; or
- (c) such other purposes, if any, that are prescribed, subject to the requirements, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 84 (1).

### **Definition**

(2.1) In subsection (2),

“major repair” means repair as determined in accordance with the regulations, if any. 2015, c. 28, Sched. 1, s. 84 (1).

### **Designation not required**

(3) A fund set up for the purpose mentioned in subsection (2) shall be deemed to be a reserve fund even though it may not be so designated. 1998, c. 19, s. 93 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 93 (3) of the Act is amended by striking out “the purpose” and substituting “any of the purposes”. (See: 2015, c. 28, Sched. 1, s. 84 (2))**

### **Contributions to fund**

(4) The corporation shall collect contributions to the reserve fund from the owners, as part of their contributions to the common expenses. 1998, c. 19, s. 93 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 93 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 84 (3))**

### **Contributions to fund**

(4) The corporation shall collect contributions to the reserve fund from the owners, as part of the contributions to the common expenses payable for their units, to ensure that the amount of money in the fund and the amount of contributions to the common expenses that the corporation collects are adequate, as determined by the regulations, for the purposes of the fund mentioned in subsection (2). 2015, c. 28, Sched. 1, s. 84 (3).

### **Amount of contributions**

(5) Unless the regulations made under this Act specify otherwise, until the corporation conducts a first reserve fund study and implements a proposed plan under section 94, the total amount of the contributions to the reserve fund shall be the greater of the amount specified in subsection (6) and 10 per cent of the budgeted amount required for contributions to the common expenses exclusive of the reserve fund. 1998, c. 19, s. 93 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 93 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 84 (3))**

### **Outside opinion**

(5) If the amount of money in a reserve fund is below the prescribed amount, the corporation shall, within the prescribed period of time, if any, obtain a written opinion, in accordance with the regulations, if any, from a reserve fund study provider with respect to the reserve fund and whether the provider recommends that the corporation obtain a reserve fund study before the time at which it is next required to obtain such a study. 2015, c. 28, Sched. 1, s. 84 (3).

### **Same, after first reserve fund study**

(6) The total amount of the contributions to the reserve fund after the time period specified in subsection (5) shall be the amount that is reasonably expected to provide sufficient funds for the major repair and replacement of the common elements and assets of the corporation, calculated on the basis of the expected repair and replacement costs and the life expectancy of the common elements and assets of the corporation. 1998, c. 19, s. 93 (6).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 93 (6) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 84 (3))

### **Income earned**

(7) Interest and other income earned from the investment of money in the reserve fund shall form part of the fund. 1998, c. 19, s. 93 (7).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 84 - not in force

### **Reserve fund study**

**94** (1) The corporation shall conduct periodic studies to determine whether the amount of money in the reserve fund and the amount of contributions collected by the corporation are adequate to provide for the expected costs of major repair and replacement of the common elements and assets of the corporation. 1998, c. 19, s. 94 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 94 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 85 (1))

### **Reserve fund study**

(1) The corporation shall obtain periodic studies, when required to do so, to determine whether the amount of money in the fund and the amount of contributions to the common expenses that the corporation collects are adequate, as determined by the regulations, for the purposes of the fund mentioned in subsection 93 (2). 2015, c. 28, Sched. 1, s. 85 (1).

### **Permissive studies**

(1.1) In addition to obtaining a reserve fund study when it is required to do so, the corporation may obtain a reserve fund study at other times to make the determination described in subsection (1). 2015, c. 28, Sched. 1, s. 85 (1).

### **Contents of study**

(2) A reserve fund study shall be of the prescribed class, shall include the material that is prescribed for its class and shall be performed in accordance with the standards that are prescribed for its class. 1998, c. 19, s. 94 (2).

### **Updates**

(3) For the purposes of this Act, an update to a reserve fund study shall constitute a class of reserve fund study. 1998, c. 19, s. 94 (3).

### **Time of study**

(4) A corporation created on or after the day this section comes into force shall conduct a reserve fund study within the year following the registration of the declaration and description and subsequently at the prescribed times. 1998, c. 19, s. 94 (4); 2001, c. 9, Sched. D, s. 3 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 94 (4) of the Act is amended by striking out “conduct” and substituting “obtain”. (See: 2015, c. 28, Sched. 1, s. 85 (2))

### **Same, existing corporations**

(5) A corporation created before the day this section comes into force shall conduct a reserve fund study at the prescribed times. 1998, c. 19, s. 94 (5).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 94 (5) of the Act is amended by striking out “conduct” and substituting “obtain”. (See: 2015, c. 28, Sched. 1, s. 85 (2))

### **Person conducting study**

(6) A reserve fund study shall be conducted by a person of a prescribed class who shall have no affiliation with the board or with the corporation that is contrary to the regulations made under this Act. 1998, c. 19, s. 94 (6).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 94 (6) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 85 (3))

### **Person conducting study**

(6) A reserve fund study shall be conducted by a reserve fund study provider. 2015, c. 28, Sched. 1, s. 85 (3).

### **Cost of study**

(7) The cost of conducting the study shall be a common expense which the board may charge to the reserve fund. 1998, c. 19, s. 94 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 94 (7) of the Act is amended by striking out “conducting” and substituting “obtaining”. (See: 2015, c. 28, Sched. 1, s. 85 (4))

### **Plan for future funding**

(8) Within 120 days of receiving a reserve fund study, the board shall review it and propose a plan for the future funding of the reserve fund that the board determines will ensure that, within a prescribed period of time and in accordance with the prescribed requirements, the fund will be adequate for the purpose for which it was established. 1998, c. 19, s. 94 (8).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 94 (8) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 85 (5))

### **Plan for funding**

(8) Within 120 days of receiving a reserve fund study, the board shall review it and propose a plan, in accordance with the regulations, if any, for the future funding of the reserve fund that the board determines will ensure that the amount of money in the fund will be adequate, as determined by the regulations, for the purposes of the fund mentioned in subsection 93 (2). 2015, c. 28, Sched. 1, s. 85 (5).

### **Copy of plan**

(9) Within 15 days of proposing a plan, the board shall,

- (a) send to the owners a notice containing a summary of the study, a summary of the proposed plan and a statement indicating the areas, if any, in which the proposed plan differs from the study; and
- (b) send to the auditor a copy of the study, a copy of the proposed plan and a copy of the notice sent to the owners under clause (a). 1998, c. 19, s. 94 (9).

### **Implementation of proposed plan**

(10) The board shall implement the proposed plan after the expiration of 30 days following the day on which the board complies with subsection (9). 1998, c. 19, s. 94 (10).

### **Section Amendments with date in force (d/m/y)**

2001, c. 9, Sched. D, s. 3 (2) - 29/06/2001

2015, c. 28, Sched. 1, s. 85 - not in force

### **Use of reserve fund**

**95** (1) No part of a reserve fund shall be used except for the purpose mentioned in subsection 93 (2). 1998, c. 19, s. 95 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 95 (1) of the Act is amended by striking out “the purpose” and substituting “the purposes”. (See: 2015, c. 28, Sched. 1, s. 86 (1))

### **Board’s use**

(2) The board does not require the consent of the owners to make an expenditure out of a reserve fund. 1998, c. 19, s. 95 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 95 (2) of the Act is amended by adding “Subject to the regulations” at the beginning. (See: 2015, c. 28, Sched. 1, s. 86 (2))

### **No distribution**

(3) The amount of a reserve fund shall constitute an asset of the corporation and shall not be distributed to the mortgagees of the units or, except on termination of the corporation, to the owners of the units. 1998, c. 19, s. 95 (3).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 86 - not in force

#### **Warranties**

**96** (1) All warranties given with respect to work and materials furnished for a unit shall be for the benefit of an owner. 1998, c. 19, s. 96 (1).

#### **Enforcement by corporation**

(2) The corporation may enforce the warranties mentioned in subsection (1) on behalf of an owner if the corporation does work on behalf of the owner under section 92. 1998, c. 19, s. 96 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 96 (2) of the Act is amended by striking out “section 92” at the end and substituting “section 91 or 92”. (See: 2015, c. 28, Sched. 1, s. 87 (1))

#### **Same, common elements**

(3) All warranties given with respect to work and materials furnished for the common elements shall be for the benefit of the corporation. 1998, c. 19, s. 96 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 96 (3) of the Act is amended by adding “or the assets, if any, of the corporation” after “common elements”. (See: 2015, c. 28, Sched. 1, s. 87 (2))

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 87 - not in force

### **CHANGES TO COMMON ELEMENTS AND ASSETS**

#### **Changes made by corporation**

**97** (1) If the corporation has an obligation to repair the units or common elements after damage or to maintain them and the corporation carries out the obligation using materials that are as reasonably close in quality to the original as is appropriate in accordance with current construction standards, the work shall be deemed not to be an addition, alteration or improvement to the common elements or a change in the assets of the corporation for the purpose of this section. 1998, c. 19, s. 97 (1).

#### **Changes made without notice**

(2) A corporation may, by resolution of the board and without notice to the owners, make an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners if,

- (a) it is necessary to make the addition, alteration, improvement or change to comply with an agreement mentioned in section 113 or the requirements imposed by any general or special Act or regulations or by-laws made under that Act;
- (b) in the opinion of the board, it is necessary to make the addition, alteration, improvement or change to ensure the safety or security of persons using the property or assets of the corporation or to prevent imminent damage to the property or assets; or
- (c) subject to the regulations made under this Act, the estimated cost, in any given month or other prescribed period, if any, of making the addition, alteration, improvement or change is no more than the greater of \$1,000 and 1 per cent of the annual budgeted common expenses for the current fiscal year. 1998, c. 19, s. 97 (2).

#### **Changes made on notice**

(3) A corporation may make an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners if,

- (a) the corporation has sent a notice to the owners that,
  - (i) describes the proposed addition, alteration, improvement or change,
  - (ii) contains a statement of the estimated cost of the proposed addition, alteration, improvement or change indicating the manner in which the corporation proposes to pay the cost,
  - (iii) specifies that the owners have the right, in accordance with section 46 and within 30 days of receiving the notice, to requisition a meeting of owners, and
  - (iv) contains a copy of section 46 and this section; and
- (b) one of the following conditions has been met:

1. The owners have not requisitioned a meeting in accordance with section 46 within 30 days of receiving a notice under clause (a).
2. The owners have requisitioned a meeting in accordance with section 46 within 30 days of receiving a notice under clause (a) but have not voted against the proposed addition, alteration, improvement or change at the meeting. 1998, c. 19, s. 97 (3).

#### **Approval of substantial change**

(4) Despite subsection (3), the corporation shall not make a substantial addition, alteration, improvement to the common elements, a substantial change in the assets of the corporation or a substantial change in a service that the corporation provides to the owners unless the owners who own at least  $66\frac{2}{3}$  per cent of the units of the corporation vote in favour of approving it. 1998, c. 19, s. 97 (4).

#### **Meeting**

(5) The vote shall be taken at a meeting duly called for the purpose of subsection (4). 1998, c. 19, s. 97 (5).

#### **Meaning of substantial change**

- (6) For the purposes of subsection (4), an addition, alteration, improvement or change is substantial if,
- (a) its estimated cost, based on its total cost, regardless of whether part of the cost is incurred before or after the current fiscal year, exceeds the lesser of,
    - (i) 10 per cent of the annual budgeted common expenses for the current fiscal year, and
    - (ii) the prescribed amount, if any; or
  - (b) the board elects to treat it as substantial. 1998, c. 19, s. 97 (6).

#### **Cost of changes**

(7) The cost of an addition, alteration, improvement or change that the corporation makes under this section shall form part of the common expenses. 1998, c. 19, s. 97 (7).

**Note: On a day to be named by proclamation of the Lieutenant Governor, the heading immediately before section 97 and section 97 of the Act are repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 88)**

### **MODIFICATIONS TO COMMON ELEMENTS AND ASSETS**

#### **Modifications made by corporation**

**97 (1)** No person shall make a modification except in accordance with this section or section 98. 2015, c. 28, Sched. 1, s. 88.

#### **Definitions**

(2) In this section,

“cost” means the cost as determined in accordance with the regulations, if any; (“coût”)

“modification” means, subject to subsection (3) and the regulations,

- (a) an addition, alteration or improvement to the common elements,
- (b) a change in the assets, if any, of the corporation,
- (c) a change in the services that the corporation provides to the owners, or
- (d) any combination or series of additions, alterations, improvements or changes described in clause (a), (b) or (c) that collectively relate to each other, as determined by the regulations. (“modification”) 2015, c. 28, Sched. 1, s. 88

#### **Interpretation, modification**

(3) Subject to sections 93, 94 and 95 and the regulations, if a corporation has an obligation to repair the units, the common elements or the assets, if any, of the corporation or to maintain them and if the corporation carries out the obligation using materials that are as reasonably close in quality to the original as is appropriate, as determined in accordance with current construction standards, the work shall be deemed not to be a modification. 2015, c. 28, Sched. 1, s. 88.

#### **Cost assessment**

(4) The board shall conduct an assessment of the cost to the corporation, in accordance with the regulations, of any modifications that a corporation proposes to make under clause (5) (c) or subsection (6) or (7). 2015, c. 28, Sched. 1, s. 88.

**Modifications made without notice**

- (5) A corporation may, without notice to the owners, make a modification if,
- (a) it is necessary to make the modification to comply with an agreement mentioned in section 21.1 or 113 or the requirements imposed by any general or special Act or regulations or by-laws made under that Act;
  - (b) in the opinion of the board, it is necessary to make the modification to ensure the safety or security of persons using the property or assets, if any, of the corporation or to prevent imminent damage to the property or assets;
  - (c) unless the regulations provide otherwise,
    - (i) the estimated cost, if any, to the corporation of making the modification, based on its total cost, regardless of whether part of the cost is incurred before or after the current fiscal year, is no more than the lesser of 3 per cent of the annual budgeted common expenses for the current fiscal year and \$30,000, and
    - (ii) the owners, on an objective basis, would not regard the modification as causing a material reduction or elimination of their use or enjoyment of the units that they own or the common elements or assets, if any, of the corporation, as determined by the regulations; or
  - (d) the modification is for any prescribed purposes, subject to the requirements, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 88.

**Modifications made on notice**

- (6) A corporation may make a modification to which subsection (5) does not apply if,
- (a) the corporation has sent a notice to the owners in accordance with the prescribed requirements, if any, that,
    - (i) describes the proposed modification,
    - (ii) contains,
      - (A) the prescribed statement, if the owners, on an objective basis, would regard the proposed modification as causing a material reduction or elimination of their use or enjoyment of the units that they own or the common elements or assets, if any, of the corporation, as determined by the regulations, or
      - (B) the prescribed statement of the estimated cost to the corporation of making the proposed modification, indicating the manner in which the corporation proposes to pay the cost,
    - (iii) specifies that the owners have the right, in accordance with section 46 and within 30 days of receiving the notice, to requisition a meeting of owners, and
    - (iv) contains a copy of the text of section 46 and this section; and
  - (b) the owners,
    - (i) have not requisitioned a meeting in accordance with section 46 within 30 days of receiving a notice under clause (a),
    - (ii) have requisitioned a meeting in accordance with section 46 within 30 days of receiving a notice under clause (a) but a quorum is not present at the first attempt to hold the meeting, or
    - (iii) have requisitioned a meeting in accordance with section 46 within 30 days of receiving a notice under clause (a), a quorum is present at the first attempt to hold the meeting and the owners have not voted against the proposed modification at the meeting. 2015, c. 28, Sched. 1, s. 88.

**Approval of substantial modification**

- (7) Despite subsection (6), a corporation shall not make a substantial modification unless the owners who own at least 66 ⅔ per cent of the units in the corporation vote in favour of approving it. 2015, c. 28, Sched. 1, s. 88.

**Meeting**

- (8) The vote shall be taken at a meeting duly called for the purpose of subsection (7). 2015, c. 28, Sched. 1, s. 88.

**Interpretation, substantial modification**

- (9) For the purposes of subsection (7), a modification is substantial if,
- (a) the estimated cost to the corporation of making the modification, based on its total cost, regardless of whether part of the cost is incurred before or after the current fiscal year, exceeds the lesser of,

- (i) 10 per cent of the annual budgeted common expenses for the current fiscal year, and
- (ii) the prescribed amount, if any; or

(b) the board elects to treat it as substantial. 2015, c. 28, Sched. 1, s. 88.

#### **Cost of modifications**

(10) The cost of a modification that the corporation makes under this section shall form part of the common expenses. 2015, c. 28, Sched. 1, s. 88.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 88 - not in force

#### **Changes made by owners**

**98** (1) An owner may make an addition, alteration or improvement to the common elements that is not contrary to this Act or the declaration if,

- (a) the board, by resolution, has approved the proposed addition, alteration or improvement;
- (b) the owner and the corporation have entered into an agreement that,
  - (i) allocates the cost of the proposed addition, alteration or improvement between the corporation and the owner,
  - (ii) sets out the respective duties and responsibilities, including the responsibilities for the cost of repair after damage, maintenance and insurance, of the corporation and the owner with respect to the proposed addition, alteration or improvement, and
  - (iii) sets out the other matters that the regulations made under this Act require;
- (c) subject to subsection (2), the requirements of section 97 have been met in cases where that section would apply if the proposed addition, alteration or improvement were done by the corporation; and
- (d) the corporation has included a copy of the agreement described in clause (b) in the notice that the corporation is required to send to the owners. 1998, c. 19, s. 98 (1).

#### **No notice or approval**

(2) Clauses (1) (c) and (d) do not apply if the proposed addition, alteration or improvement relates to a part of the common elements of which the owner has exclusive use and if the board is satisfied on the evidence that it may require that the proposed addition, alteration or improvement,

- (a) will not have an adverse effect on units owned by other owners;
- (b) will not give rise to any expense to the corporation;
- (c) will not detract from the appearance of buildings on the property;
- (d) will not affect the structural integrity of buildings on the property according to a certificate of an engineer, if the proposed addition, alteration or improvement involves a change to the structure of the buildings; and
- (e) will not contravene the declaration or any prescribed requirements. 1998, c. 19, s. 98 (2).

#### **When agreement effective**

(3) An agreement described in clause (1) (b) does not take effect until,

- (a) the conditions set out in clause (1) (a) and subsection (2) have been met or the conditions set out in clauses (1) (a), (c) and (d) have been met; and
- (b) the corporation has registered it against the title to the owner's unit. 1998, c. 19, s. 98 (3).

#### **Lien for default under agreement**

(4) The corporation may add the costs, charges, interest and expenses resulting from an owner's failure to comply with an agreement to the common expenses payable for the owner's unit and may specify a time for payment by the owner. 1998, c. 19, s. 98 (4).

#### **Agreement binds unit**

(5) An agreement binds the owner's unit and is enforceable against the owner's successors and assigns. 1998, c. 19, s. 98 (5).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 98 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 88)

#### **Modifications made by owners**

**98** (1) An owner may make a modification if,

- (a) the board, by resolution, has approved the proposed modification;
- (b) the owner and the corporation have entered into an agreement that,
  - (i) allocates the cost of the proposed modification between the corporation and the owner,
  - (ii) sets out the respective duties and responsibilities, including the responsibilities for the cost of repair, maintenance and insurance, of the corporation and the owner with respect to the proposed modification, and
  - (iii) sets out the other matters that the regulations require;
- (c) subject to subsection (3), the requirements of section 97 have been met in accordance with the regulations in the cases where the regulations specify that those requirements are to apply; and
- (d) the corporation has included a copy of the agreement described in clause (b) in a notice that the corporation is required to send to the owners, if the corporation is required to send that notice. 2015, c. 28, Sched. 1, s. 88.

#### **Definitions**

(2) In this section,

“cost” means the cost as determined in accordance with the regulations, if any; (“coût”)

“modification” means an addition, alteration or improvement to the common elements or the assets, if any, of the corporation that is not contrary to this Act, the declaration, the by-laws or the rules. (“modification”) 2015, c. 28, Sched. 1, s. 88.

#### **No notice or approval**

(3) Clauses (1) (c) and (d) do not apply if the proposed modification relates to a part of the common elements of which the owner has exclusive use and if the board is satisfied, on the evidence that it may require, that,

- (a) the other owners, on an objective basis, would not regard the proposed modification as causing a material reduction or elimination of their use or enjoyment of units that they own or the common elements or assets, if any, of the corporation, as determined by the regulations;
- (b) the proposed modification will not give rise to any expense to the corporation;
- (c) the proposed modification will not detract from the appearance of buildings on the property;
- (d) the proposed modification will not affect the structural integrity of buildings on the property according to a certificate of an engineer, if the proposed modification involves a change to the structure of the buildings; and
- (e) the proposed modification will not contravene the declaration, the by-laws, the rules or the prescribed requirements, if any. 2015, c. 28, Sched. 1, s. 88.

#### **When agreement effective**

(4) An agreement described in clause (1) (b) does not take effect until,

- (a) the conditions set out in clause (1) (a) and subsection (3) have been met or the conditions set out in clauses (1) (a), (c) and (d) have been met; and
- (b) the corporation has registered it against the title to the owner’s unit. 2015, c. 28, Sched. 1, s. 88.

#### **If default under agreement**

(5) The corporation may add the costs, charges, interest and expenses resulting from an owner’s failure to comply with the agreement to the contribution to the common expenses payable for the owner’s unit. 2015, c. 28, Sched. 1, s. 88.

#### **Agreement binds unit**

(6) The agreement binds the owner’s unit and any easement or covenant, whether positive or negative in nature, in the agreement shall run with the unit. 2015, c. 28, Sched. 1, s. 88.

#### **Enforcement**

(7) The following persons may enforce the easement or covenant against each other:

1. A party to the agreement.
2. The owner or any subsequent owner of the unit.
3. Subject to the regulations, the corporation and any of its successors and assigns. 2015, c. 28, Sched. 1, s. 88.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 88 - not in force

**INSURANCE**

**Property insurance**

**99** (1) The corporation shall obtain and maintain insurance, on its own behalf and on behalf of the owners, for damage to the units and common elements that is caused by major perils or the other perils that the declaration or the by-laws specify. 1998, c. 19, s. 99 (1).

**Definition**

(2) In subsection (1),

“major perils” means the perils of fire, lightning, smoke, windstorm, hail, explosion, water escape, strikes, riots or civil commotion, impact by aircraft or vehicles, vandalism or malicious acts. 1998, c. 19, s. 99 (2).

**Exclusion ineffective**

(3) An exclusion in the insurance required by this section is not effective with respect to damage resulting from faulty or improper material, workmanship or design that would be insured, but for the exclusion. 1998, c. 19, s. 99 (3).

**Improvements not included**

(4) The obligation to insure under subsection (1) does not include insurance for damage to improvements made to a unit. 1998, c. 19, s. 99 (4).

**Determination of improvements**

(5) For the purpose of this section, the question of what constitutes an improvement to a unit shall be determined by reference to a standard unit for the class of unit to which the unit belongs. 1998, c. 19, s. 99 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 99 (5) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 89)**

**Standard unit**

(6) A standard unit for the class of unit to which the unit belongs shall be,

- (a) the standard unit described in a by-law made under clause 56 (1) (h), if the board has made a by-law under that clause;
- (b) the standard unit described in the schedule mentioned in clause 43 (5) (h), if the board has not made a by-law under clause 56 (1) (h). 1998, c. 19, s. 99 (6).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 99 (6) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 89)**

**Amount of recovery**

(7) Subject to a reasonable deductible, the insurance required under this section shall cover the replacement cost of the property damaged by the perils to which the insurance applies. 1998, c. 19, s. 99 (7).

**Breach of policy**

(8) Despite anything in an insurance policy issued under this section, no act of any person shall be deemed to be a breach of the conditions of the policy if the act is prejudicial to the interests of the corporation or the owners. 1998, c. 19, s. 99 (8).

**Termination**

(9) An insurance policy issued under this section shall be deemed to include a clause that the insurer shall not terminate the insurance contract unless the insurer gives the corporation and the insurance trustee, if any, at least 60 days notice by registered mail. 1998, c. 19, s. 99 (9).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 89 - not in force

## **Proceeds**

**100** (1) Despite anything contained in an insurance trust agreement that the corporation has entered into with an insurance trustee, if the proceeds of an insurance policy issued under section 99 are less than 15 per cent of the replacement cost of the property covered by the policy, the insurer shall pay the proceeds to the corporation or the person whom the corporation specifies. 1998, c. 19, s. 100 (1).

## **Use of insurance proceeds**

(2) Upon the proceeds being available, the corporation shall promptly use them for the repair or replacement of the damaged units and common elements, unless the owners have voted to terminate because of substantial damage in accordance with section 123. 1998, c. 19, s. 100 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 100 (2) of the Act is amended by striking out “the repair or replacement of the damaged units” and substituting “the repair of the damage to the damaged units”. (See: 2015, c. 28, Sched. 1, s. 90)

## **Payment from Ontario New Home Warranties Plan**

(3) A corporation that receives a payment out of the guarantee fund under subsection 14 (3) or (4) of the *Ontario New Home Warranties Plan Act* for remedial work to the common elements shall promptly use the payment for the remedial work, unless,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 100 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2017, c. 33, Sched. 2, s. 75 (17))

## **Payment from Ontario New Home Warranties and Protection Plan**

(3) A corporation that receives a payment out of the guarantee fund under the prescribed provisions of the *Protection for Owners and Purchasers of New Homes Act, 2017* or the regulations made under that Act for remedial work to the common elements shall promptly use the payment for the remedial work, unless,

- (a) the owners have voted to terminate because of substantial damage in accordance with section 123; or
- (b) the corporation has already completed and paid for the remedial work. 1998, c. 19, s. 100 (3).

## **Limitation, mortgage**

(4) Despite any provision in a mortgage or subsection 6 (2) of the *Mortgages Act*, a mortgagee may not require that proceeds received under an insurance policy on the property or on a part of the property or a payment received out of the guarantee fund under subsection 14 (3) or (4) of the *Ontario New Home Warranties Plan Act* be applied towards the discharge of the mortgage; a requirement that contravenes this subsection is void. 1998, c. 19, s. 100 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 100 (4) of the Act is repealed and the following substituted: (See: 2017, c. 33, Sched. 2, s. 75 (18))

## **Limitation, mortgage**

(4) Despite any provision in a mortgage or subsection 6 (2) of the *Mortgages Act*, a mortgagee may not require that proceeds received under an insurance policy on the property or on a part of the property or a payment received out of the guarantee fund under the prescribed provisions of the *Protection for Owners and Purchasers of New Homes Act, 2017*, or the regulations made under that Act, be applied towards the discharge of the mortgage; a requirement that contravenes this subsection is void. 2017, c. 33, Sched. 2, s. 75 (18).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 90 - not in force

2017, c. 33, Sched. 2, s. 75 (17, 18) - not in force

## **Double coverage**

**101** (1) Insurance that a corporation obtains and maintains under section 99 shall be deemed not to be other insurance for the purpose of any prohibition of or condition against other insurance in a policy of an owner insuring against loss of or damage to the owner’s unit or the owner’s interest in the common elements and covering only to the extent that the insurance placed by the corporation is inapplicable, inadequate or ineffective. 1998, c. 19, s. 101 (1).

## **No reciprocal contribution**

(2) Despite section 150 of the *Insurance Act*, an insurance policy issued under section 99 and any other insurance policy, except another policy under section 99, are not liable to be brought into contribution with each other. 1998, c. 19, s. 101 (2).

## **Other insurance**

**102** The corporation shall obtain and maintain,

- (a) insurance against its liability resulting from a breach of duty as occupier of the common elements or land that the corporation holds as an asset; and
- (b) insurance against its liability arising from the ownership, use or operation, by or on its behalf, of boilers, machinery, pressure vessels and motor vehicles. 1998, c. 19, s. 102.

## **Capacity to maintain insurance**

**103** (1) Nothing in this Act shall be construed to restrict the capacity of a corporation, an owner or any other person to obtain and maintain insurance in respect of an insurable interest. 1998, c. 19, s. 103 (1).

## **Same**

(2) For the purposes of sections 99 and 102, the corporation shall be deemed to have an insurable interest in the units and common elements. 1998, c. 19, s. 103 (2).

## **Disclosure by insurer**

**104** An insurer under an insurance policy required by this Act shall provide the corporation with a certificate or memorandum of insurance declaring the coverage carried by the corporation on behalf of all owners. 1998, c. 19, s. 104.

## **Deductible**

**105** (1) Subject to subsection (2) and (3), if an insurance policy obtained by the corporation in accordance with this Act contains a deductible clause that limits the amount payable by the insurer, the portion of a loss that is excluded from coverage shall be a common expense. 1998, c. 19, s. 105 (1).

## **Owner's responsibility**

(2) If an owner, a lessee of an owner or a person residing in the owner's unit with the permission or knowledge of the owner through an act or omission causes damage to the owner's unit, the amount that is the lesser of the cost of repairing the damage and the deductible limit of the insurance policy obtained by the corporation shall be added to the common expenses payable for the owner's unit. 1998, c. 19, s. 105 (2).

## **Same, by-law**

(3) The corporation may pass a by-law to extend the circumstances in subsection (2) under which an amount shall be added to the common expenses payable for an owner's unit if the damage to the unit was not caused by an act or omission of the corporation or its directors, officers, agents or employees. 1998, c. 19, s. 105 (3).

## **Owner's insurable interest**

(4) The amount payable by an owner under this section or as a result of a by-law passed under this section constitutes an insurable interest of the owner. 1998, c. 19, s. 105 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 105 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 91)**

## **Deductible**

**105** (1) Subject to subsections (2), (3) and (4), if an insurance policy obtained and maintained by the corporation in accordance with this Act contains a deductible clause that limits the amount payable by the insurer, the portion of a loss that is excluded from coverage shall be a common expense. 2015, c. 28, Sched. 1, s. 91.

## **Owner's responsibility**

(2) Subject to subsection (4), if an owner, a lessee of an owner, a person residing in the owner's unit with the permission or knowledge of the owner, or any other person or thing that is prescribed, through an act or omission causes damage to a unit, the common elements or the assets, if any, of the corporation, subject to subsection (3), and if the corporation has obtained and maintained coverage for the damage under an insurance policy, the amount that is the lesser of the cost of repairing the damage and the deductible limit of the insurance policy shall be added to the contribution to the common expenses payable for the owner's unit. 2015, c. 28, Sched. 1, s. 91.

## **Exception**

(3) Subject to subsection (4), subsection (2) does not apply if the damage to a unit, the common elements or the assets, if any, of the corporation was caused by an act or omission of the corporation or its directors, officers, agents or employees. 2015, c. 28, Sched. 1, s. 91.

### **Alteration by declaration**

(4) After a new board of a corporation is elected at a turn-over meeting held under section 43, a declaration may alter the circumstances in subsection (2) under which an amount shall be added to the contribution to the common expenses payable for an owner's unit if,

- (a) the alteration is done in accordance with the restrictions or requirements, if any, that are prescribed; and
- (b) the corporation has met all other requirements of this Act. 2015, c. 28, Sched. 1, s. 91.

### **Owner's insurable interest**

(5) The amount payable by an owner under this section or as a result of a provision of a declaration that makes the alteration described in subsection (4) constitutes an insurable interest of the owner. 2015, c. 28, Sched. 1, s. 91.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 91 - not in force

### **Information to owners**

**105.1** Subject to the regulations, the board shall provide the owners, in accordance with the regulations, with a notice containing information relating to the insurance mentioned in each of sections 39, 99, 102 and 105 and the regulations, if any. 2015, c. 28, Sched. 1, s. 92.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 92 - 01/11/2017

### **Act prevails**

**106** If any provision of an insurance policy required by section 99 or 102 or any part of the *Insurance Act* conflicts with anything in this Act, the provisions of this Act apply. 1998, c. 19, s. 106.

## **AMENDMENTS TO THE DECLARATION AND DESCRIPTION**

### **Amendments with owners' consent**

**107** (1) The corporation shall not amend the declaration or the description except in accordance with this section. 1998, c. 19, s. 107 (1).

### **Conditions**

- (2) The corporation may amend the declaration or the description if,
- (a) the board, by resolution, has approved the proposed amendment;
  - (b) the declarant has consented to the proposed amendment in writing if,
    - (i) at the time the board approved the proposed amendment, the declarant had not transferred all of the units except for the part of the property described in subsection 22 (5), and
    - (ii) less than three years have elapsed from the later of the date of registration of the declaration and description and the date that the declarant first entered into an agreement of purchase and sale for a unit in the corporation;
  - (c) the board has held a meeting of owners in accordance with subsections (3) and (4);
  - (d) the owners of at least 90 per cent of the units at the time the board approved the proposed amendment have consented to it in writing, if it makes a change in a matter described in clause 7 (2) (c), (d) or (f) or 7 (4) (e);

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 107 (2) (d) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 93 (1))

- (d) the owners of at least 90 per cent of the units, or such other percentage that is prescribed, at the time the board approved the proposed amendment have consented to it in writing, if it makes a change in a matter described in clause 7 (2) (c), (d) or (f) or 7 (4) (e), subsection 105 (4) or a matter described in the regulations, if any;
- (e) the owners of at least 80 per cent of the units at the time the board approved the proposed amendment have consented to it in writing, in all cases apart from a case described in clause (d); and

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 107 (2) (e) of the Act is amended by adding "or such other percentage that is prescribed" after "80 per cent of the units". (See: 2015, c. 28, Sched. 1, s. 93 (2))

- (f) the corporation has, in accordance with subsection 47 (5), sent a notice of the proposed amendment to all mortgagees whose names, at the time the board approved the proposed amendment, appeared in the record of the corporation required by section 46.1 or were required by that section to have appeared in that record. 1998, c. 19, s. 107 (2); 2015, c. 28, Sched. 1, s. 93 (3).

#### **Meeting of owners**

- (3) The board shall call a meeting of owners for the purpose of considering the proposed amendment. 1998, c. 19, s. 107 (3).

#### **Notice of meeting**

- (4) The board shall give the owners a notice of the meeting which shall include a copy of the proposed amendment. 1998, c. 19, s. 107 (4).

#### **Loss of owner's right to consent**

- (4.1) An owner is not entitled to consent under this section if any contributions to the common expenses payable for the owner's unit are in arrears for 30 days or more. 2015, c. 28, Sched. 1, s. 93 (4).

#### **Payment of arrears**

- (4.2) An owner who, under subsection (4.1), is not entitled to consent may consent after the corporation receives payment of the arrears with respect to the owner's unit. 2015, c. 28, Sched. 1, s. 93 (4).

#### **Registration**

- (5) The corporation shall register a copy of an amendment made under this section but shall not register the copy until after the expiration of 30 days following the time at which it gave the notice described in clause (2) (f). 1998, c. 19, s. 107 (5).

#### **Form of registration**

- (6) The registered copy of the amendment shall include a certificate, in the form prescribed by the Minister, made by the officers authorized to act on behalf of the corporation that certifies that the amendment complies with the requirements of this section. 1998, c. 19, s. 107 (6).

#### **When amendment effective**

- (7) An amendment made under this section is ineffective until the copy of the amendment has been registered. 1998, c. 19, s. 107 (7).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 93 (1, 2) - not in force; 2015, c. 28, Sched. 1, s. 93 (3, 4) - 01/11/2017

#### **Change of address for service**

**108** Despite section 107, the board may change the address for service or the mailing address of the corporation by registering a notice of change of address in the form prescribed by the Minister. 1998, c. 19, s. 108; 2015, c. 28, Sched. 1, s. 94.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 94 - 01/11/2017

#### **Court order**

**109** (1) The corporation or an owner may make an application to the Superior Court of Justice for an order to amend the declaration or description. 1998, c. 19, s. 109 (1); 2000, c. 26, Sched. B, s. 7 (7).

#### **Notice of application**

- (2) The applicant shall give at least 15 days notice of an application to the corporation and to every owner and mortgagee whose name, on the 30th day before the application is made, appears in the record of the corporation required by section 46.1 or is required by that section to appear in that record, but the applicant is not required to give notice to the applicant. 2015, c. 28, Sched. 1, s. 95.

#### **Grounds for order**

- (3) The court may make an order to amend the declaration or description if satisfied that the amendment is necessary or desirable to correct an error or inconsistency that appears in the declaration or description or that arises out of the carrying out of the intent and purpose of the declaration or description. 1998, c. 19, s. 109 (3).

## Registration

(4) An amendment under this section is ineffective until a certified copy of the order has been registered. 1998, c. 19, s. 109 (4).

### Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. B, s. 7 (7) - 05/05/2001

2015, c. 28, Sched. 1, s. 95 - 01/11/2017

## Order of Director of Titles

**110** (1) The corporation or an interested person may apply to the Director of Titles appointed under section 9 of the *Land Titles Act* for an order to amend the declaration or description to correct an error or inconsistency that is apparent on the face of the declaration or description, as the case may be. 1998, c. 19, s. 110 (1).

### Notice of application

(2) The applicant shall give notice of the application in the form and manner that the Director of Titles directs to the corporation and to every owner and mortgagee whose name appears in the record of the corporation required by section 46.1 or is required by that section to appear in that record and whose interest would be affected by the amendment, but the applicant is not required to give notice to the applicant. 2015, c. 28, Sched. 1, s. 96.

### Grounds for order

(3) The Director of Titles shall make an order to amend the declaration or description if satisfied that the amendment will correct an error or inconsistency that is apparent on the face of the declaration or description, as the case may be. 1998, c. 19, s. 110 (3).

## Registration

(4) An amendment under this section is ineffective until a certified copy of the order has been registered. 1998, c. 19, s. 110 (4).

### Section Amendments with date in force (d/m/y)

2012, c. 8, Sched. 9, s. 4 - See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2022

2015, c. 28, Sched. 1, s. 96 - 01/11/2017

## TERMINATION OF AGREEMENTS

### Management agreements

**111** (1) Subject to subsection (2), a corporation may, by resolution of the board, terminate an agreement under which it receives condominium management services and that it has entered into with a person before the owners elected a new board at a meeting held in accordance with subsection 43 (1). 2015, c. 28, Sched. 2, s. 80 (12).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 111 (1) of the Act is amended by adding “and despite anything in the declaration, a by-law, an agreement or an instrument” after “subsection (2)”. (See: 2015, c. 28, Sched. 1, s. 97 (1))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 111 (1) of the Act is repealed and the following substituted: This amendment applies only if subsection 97 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force on or before the day subsection 80 (14) of Schedule 2 to the *Protecting Condominium Owners Act, 2015* comes into force. (See: 2015, c. 28, Sched. 2, s. 80 (14), (15))

### Management agreements

(1) Subject to subsection (2) and despite anything in the declaration, a by-law, an agreement or an instrument, a corporation may, by resolution of the board, terminate an agreement under which it receives condominium management services and that it has entered into with a person before the owners elected a new board at a meeting held in accordance with subsection 43 (1). 2015, c. 28, Sched. 2, s. 80 (14).

### Notice

(2) To terminate an agreement, the board shall give at least 60 days notice in writing of the date of termination to the person with whom the corporation entered into the agreement. 1998, c. 19, s. 111 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 111 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 97 (2))

### **No liability**

(3) If a corporation terminates an agreement under this section, the corporation and its directors, officers and owners are not liable for,

- (a) any obligations in respect of the termination, including obligations purporting to be incurred as cancellation charges, administration charges, accelerated payments or any other charges, penalties or fees;
- (b) any monetary obligations under the agreement respecting any period after the termination takes effect, unless the regulations provide otherwise; or
- (c) any other prescribed consequences. 2015, c. 28, Sched. 1, s. 97 (2).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 97 - not in force; 2015, c. 28, Sched. 2, s. 80 (12, 13) - 01/11/2017; 2015, c. 28, Sched. 2, s. 80 (14, 15) - not in force

### **Other agreements**

**112** (1) Subject to subsection (4), a corporation may, by resolution of the board within 12 months following the election of a new board at a meeting held in accordance with subsection 43 (1), terminate an agreement mentioned in subsection (2) that the corporation has entered into with a person other than another corporation before the election of the new board. 1998, c. 19, s. 112 (1).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 112 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 98 (1))**

### **Other agreements**

(1) Subject to subsection (4) and the regulations and despite anything in the declaration, a by-law, an agreement or an instrument, a corporation may, by resolution of the board within 12 months following the election of a new board at a meeting held in accordance with subsection 43 (1), terminate an agreement described in subsection (2) that the corporation has entered into with a person before the election of the new board, other than an agreement mentioned in section 21.1. 2015, c. 28, Sched. 1, s. 98 (1).

### **Application**

(2) Subsection (1) applies to the following agreements:

- 1. An agreement for the provision of goods or services on a continuing basis.
- 2. An agreement for the provision of facilities to the corporation on other than a non-profit basis.
- 3. A lease of all or part of the common elements for business purposes. 1998, c. 19, s. 112 (2).

### **Non-application**

(3) Subsection (1) does not apply to a telecommunications agreement within the meaning of section 22. 1998, c. 19, s. 112 (3).

### **Notice**

(4) To terminate an agreement, the board shall give at least 60 days notice in writing of the date of termination to the person with whom the corporation entered into the agreement. 1998, c. 19, s. 112 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 112 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 98 (2))**

### **No liability**

(4.1) If a corporation terminates an agreement under this section, the corporation and its directors, officers and owners are not liable for,

- (a) any obligations in respect of the termination, including obligations purporting to be incurred as cancellation charges, administration charges, accelerated payments or any other charges, penalties or fees;
- (b) any monetary obligations under the agreement respecting any period after the termination takes effect, unless the regulations provide otherwise; or
- (c) any other prescribed consequences. 2015, c. 28, Sched. 1, s. 98 (2).

### **Exception, easements**

(5) Nothing in this section permits the termination of an easement created by an instrument in writing except in accordance with the instrument. 1998, c. 19, s. 112 (5).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 98 - not in force

### **Mutual use agreements**

**113** (1) If a corporation and a person have entered into an agreement for the mutual use, provision or maintenance or the cost-sharing of facilities or services before the owners elected a new board at a meeting held in accordance with subsection 43 (1), any party to the agreement may, within 12 months following the election, make an application to the Superior Court of Justice for an order under subsection (3). 1998, c. 19, s. 113 (1); 2000, c. 26, Sched. B, s. 7 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 113 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 99)

### **Shared facilities agreements**

(1) If a corporation and a person have entered into an agreement to share in the provision, use, maintenance, repair, insurance, operation or administration of any land, any part of a property or proposed property, any assets of a corporation or any facilities or services before the owners elected a new board at a meeting held in accordance with subsection 43 (1), any party to the agreement may, within 12 months following the election, make an application to the Superior Court of Justice for an order under subsection (3), unless the regulations provide otherwise. 2015, c. 28, Sched. 1, s. 99.

### **Non-application**

(2) Subsection (1) does not apply to a telecommunications agreement within the meaning of section 22. 1998, c. 19, s. 113 (2).

### **Court order**

(3) The court may make an order amending or terminating the agreement or any of its provisions or may make any other order that the court deems necessary if it is satisfied that,

- (a) the disclosure statement did not clearly and adequately disclose the provisions of the agreement; and
- (b) the agreement or any of its provisions produces a result that is oppressive or unconscionably prejudicial to the corporation or any of the owners. 1998, c. 19, s. 113 (3).

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2015, c. 28, Sched. 1, s. 99 - not in force

### **Insurance trust agreements**

**114** Despite anything contained in an insurance trust agreement that a corporation has entered into with an insurance trustee and anything in the declaration, the corporation may terminate the agreement by giving at least 60 days notice in writing of the termination date to the trustee. 1998, c. 19, s. 114.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 114 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 100)

### **Insurance trust agreements**

**114** (1) Despite anything in the declaration, a by-law, an agreement or an instrument, a corporation may terminate an insurance trust agreement that the corporation has entered into with an insurance trustee by giving at least 60 days notice in writing of the termination date to the trustee. 2015, c. 28, Sched. 1, s. 100.

### **No liability**

(2) If a corporation terminates an agreement under this section, the corporation and its directors, officers and owners are not liable for,

- (a) any obligations in respect of the termination, including obligations purporting to be incurred as cancellation charges, administration charges, accelerated payments or any other charges, penalties or fees;
- (b) any monetary obligations under the agreement respecting any period after the termination takes effect, unless the regulations provide otherwise; or

(c) any other prescribed consequences. 2015, c. 28, Sched. 1, s. 100.

#### Section Amendments with date in force (d/m/y)

2015, c. 28, Sched. 1, s. 100 - not in force

### MISCELLANEOUS

#### Corporation's money

**115 (1)** A person who receives money on behalf of or for the benefit of the corporation, including money received from owners as contributions to the common expenses or the reserve fund, shall hold the money, together with interest and other proceeds earned from investing it, in trust for the performance by the corporation of its duties and obligations. 1998, c. 19, s. 115 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 115 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 101 (1))

#### Corporation's money

(1) A person who receives money on behalf of or for the benefit of the corporation, including money received from owners as contributions to the common expenses or the reserve fund, shall, in accordance with the regulations, hold the money, together with interest and other proceeds earned from investing it, in trust for the performance by the corporation of its duties and obligations. 2015, c. 28, Sched. 1, s. 101 (1).

#### Corporation's accounts

(2) A corporation shall maintain one or more accounts in its name designated as general accounts and one or more accounts in its name designated as reserve fund accounts. 1998, c. 19, s. 115 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 115 (2) of the Act is amended by adding "In accordance with the requirements, if any, that are prescribed" at the beginning. (See: 2015, c. 28, Sched. 1, s. 101 (2))

#### Location of accounts

(3) Each of the accounts shall be located in Ontario at a bank listed under Schedule I or II to the *Bank Act* (Canada), a trust corporation, a loan corporation or a credit union authorized by law to receive money on deposit. 1998, c. 19, s. 115 (3); 2002, c. 8, Sched. I, s. 7 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 115 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 101 (3))

#### Location of accounts

(3) Each of the accounts shall be located in Ontario or such other location that is prescribed in,

- (a) a bank within the meaning of section 2 of the *Bank Act* (Canada);
- (b) a corporation registered under the *Loan and Trust Corporations Act*; or
- (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*. 2015, c. 28, Sched. 1, s. 101 (3).

**Note:** On the later of the day section 291 of Schedule 7 (*Credit Unions and Caisses Populaires Act, 2020*) to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force and the day subsection 101 (3) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, clause 115 (3) (c) of the Act is amended by striking out "*Credit Unions and Caisses Populaires Act, 1994*" at the end and substituting "*Credit Unions and Caisses Populaires Act, 2020*". (See: 2020, c. 36, Sched. 7, s. 301 (2))

#### Deposit of money

(4) Subject to subsections (6) and (7), the person who receives money on behalf of or for the benefit of the corporation shall pay the money, together with interest and other proceeds earned from investing it, into,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 115 (4) of the Act is amended by adding "in accordance with the requirements, if any, that are prescribed" after "shall" in the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 101 (4))

- (a) a general account of the corporation, if the money was not received as contributions from owners to the reserve fund; or
- (b) a reserve fund account of the corporation, if the money was received as contributions from owners to the reserve fund. 1998, c. 19, s. 115 (4).

## Definition

(5) In subsections (6) and (7),

“eligible security” means a bond, debenture, guaranteed investment certificate, deposit receipt, deposit note, certificate of deposit, term deposit or other similar instrument that,

- (a) is issued or guaranteed by the government of Canada or the government of any province of Canada,
- (b) is issued by an institution located in Ontario insured by the Canada Deposit Insurance Corporation or the Financial Services Regulatory Authority of Ontario, or
- (c) is a security of a prescribed class. 1998, c. 19, s. 115 (5); 2009, c. 34, Sched. E, s. 1; 2019, c. 7, Sched. 13, s. 1.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, the definition of “eligible security” in subsection 115 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 101 (5))

“eligible security” means a bond, debenture, guaranteed investment certificate, deposit receipt, deposit note, certificate of deposit, term deposit or other instrument that is prescribed that,

- (a) is issued or guaranteed by the Government of Canada or the government of any province or territory of Canada,
- (b) is issued by an institution located in Ontario and is insured in accordance with the regulations by the Canada Deposit Insurance Corporation or the Financial Services Regulatory Authority of Ontario, or
- (c) is a security of a prescribed class.

## Investment

(6) The board may invest all or any part of the money in the corporation’s general accounts in eligible securities if,

- (a) they are convertible to cash within 90 days following a request by the board; and
- (b) they are,
  - (i) registered in the name of the corporation, or
  - (ii) held in a segregated account under the name of the corporation by a member of the Investment Dealers Association of Canada and insured by the Canadian Investor Protection Fund. 1998, c. 19, s. 115 (6).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subclause 115 (6) (b) (ii) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 101 (6))

- (ii) held in a segregated account under the name of the corporation by a member of the Investment Industry Regulatory Organization of Canada and covered by the Canadian Investor Protection Fund in accordance with the regulations, if any.

## Same, reserve fund accounts

(7) Subject to subsection (8), the board may invest all or any part of the money in the corporation’s reserve fund accounts in eligible securities if they are,

- (a) registered in the name of the corporation; or
- (b) held in a segregated account under the name of the corporation by a member of the Canadian Investment Dealers Association and insured by the Canadian Investor Protection Fund. 1998, c. 19, s. 115 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 115 (7) (b) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 101 (7))

- (b) held in a segregated account under the name of the corporation by a member of the Investment Industry Regulatory Organization of Canada and covered by the Canadian Investor Protection Fund in accordance with the regulations, if any.

## Investment plan

(8) Before investing any part of the money in the corporation’s reserve fund accounts, the board shall develop an investment plan based on the anticipated cash requirements of the reserve fund as set out in the most recent reserve fund study. 1998, c. 19, s. 115 (8).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 115 (8) of the Act is amended by adding “in accordance with the regulations” after “plan”. (See: 2015, c. 28, Sched. 1, s. 101 (8))

## **Records**

(9) A person who receives money under subsection (1) shall keep records relating to the receipt and disposition of all money under this section and shall, upon reasonable notice and at all reasonable times, make the records available for examination by the corporation, an owner or a mortgagee. 1998, c. 19, s. 115 (9).

### **Section Amendments with date in force (d/m/y)**

2002, c. 8, Sched. I, s. 7 (2) - 5/01/2005

2009, c. 34, Sched. E, s. 1 - 15/12/2009

2015, c. 28, Sched. 1, s. 101 - not in force

2019, c. 7, Sched. 13, s. 1 (1, 2) - 08/06/2019

2020, c. 36, Sched. 7, s. 301 (2) - not in force

## **Use by owners**

**116** An owner may make reasonable use of the common elements and the assets, if any, of the corporation, subject to this Act, the declaration, the by-laws and the rules. 2015, c. 28, Sched. 1, s. 102.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 102 - 01/01/2022

## **Prohibited conditions and activities**

**117** (1) No person shall, through an act or omission, cause a condition to exist or an activity to take place in a unit, the common elements or the assets, if any, of the corporation if the condition or the activity, as the case may be, is likely to damage the property or the assets or to cause an injury or an illness to an individual. 2015, c. 28, Sched. 1, s. 102.

## **Same**

(2) No person shall carry on an activity or permit an activity to be carried on in a unit, the common elements or the assets, if any, of the corporation if the activity results in the creation of or continuation of,

- (a) any unreasonable noise that is a nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation; or
- (b) any other prescribed nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation. 2015, c. 28, Sched. 1, s. 102.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 102 - 01/01/2022

## **Entry by canvassers**

**118** No corporation or employee or agent of a corporation shall restrict reasonable access to the property by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly or an office in a municipal government or school board if access is necessary for the purpose of canvassing or distributing election material. 1998, c. 19, s. 118.

## **Compliance with Act**

**119** (1) A corporation, the directors, officers and employees of a corporation, a declarant, the lessor of a leasehold condominium corporation, an owner, an occupier of a unit and a person having an encumbrance against a unit and its appurtenant common interest shall comply with this Act, the declaration, the by-laws and the rules. 1998, c. 19, s. 119 (1).

## **Responsibility for occupier**

(2) An owner shall take all reasonable steps to ensure that an occupier of the owner's unit and all invitees, agents and employees of the owner or occupier comply with this Act, the declaration, the by-laws and the rules. 1998, c. 19, s. 119 (2).

## **Enforcing compliance**

(3) A corporation, an owner and every person having a registered mortgage against a unit and its appurtenant common interest have the right to require that a person who is required to comply with this Act, the declaration, the by-laws and the rules shall do so. 2015, c. 28, Sched. 1, s. 103.

### **Proposed unit**

(4) Until the declarant registers a declaration and description and the by-laws and rules of the corporation come into force, an occupier of a proposed unit shall comply with this Act, the declaration and the by-laws and rules proposed by the declarant; the declarant shall take all reasonable steps to ensure that the occupier complies with this section. 1998, c. 19, s. 119 (4).

### **Right against occupier**

(5) Until the declarant registers a declaration and description and the by-laws and rules of the corporation come into force, an occupier of a proposed unit has the right to require the occupiers of the other units in the proposed corporation to comply with this Act, the declaration and the by-laws and rules proposed by the declarant. 1998, c. 19, s. 119 (5).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 103 - 01/11/2017

## **PART VII AMALGAMATION**

### **Amalgamation**

**120** (1) Subject to the regulations, two or more leasehold condominium corporations or two or more freehold condominium corporations of the same type may amalgamate by registering a declaration and description amalgamating the corporations if,

- (a) the board of each amalgamating corporation has held a meeting in accordance with subsections (2) and (3);
- (b) the owners of at least 90 per cent of the units of each corporation as of the date of that corporation's meeting have, within 90 days of the meeting, consented in writing to the registration of the declaration and description; and

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 120 (1) (b) of the Act is amended by striking out "within 90 days of the meeting" and substituting "within 120 days of the meeting or such other time that is prescribed". (See: 2015, c. 28, Sched. 1, s. 104 (1))

- (c) the corporations have complied with all prescribed requirements. 1998, c. 19, s. 120 (1); 2015, c. 28, Sched. 1, s. 146 (1).

### **Meeting of owners**

(2) The board of each amalgamating corporation shall call a meeting of owners for the purpose of considering a declaration and description amalgamating the corporations. 1998, c. 19, s. 120 (2).

### **Notice of meeting**

(3) The board shall give the owners a notice of the meeting which shall include,

- (a) a copy of the proposed declaration and description of the amalgamated corporation and a copy of the proposed budget for the corporation's first year of operation;
- (b) a copy of all proposed by-laws and rules of the amalgamated corporation;
- (c) a certificate as to the status for each amalgamating corporation in the form prescribed by the Minister;
- (d) for each amalgamating corporation, the auditor's report on the last annual financial statements of the corporation, if it is not included in the certificate mentioned in clause (c); and
- (e) all additional statements and information that the regulations require. 1998, c. 19, s. 120 (3); 2015, c. 28, Sched. 1, s. 146 (1).

### **Loss of owner's right to consent**

(3.1) An owner is not entitled to consent under clause (1) (b) if any contributions to the common expenses payable for the owner's unit are in arrears for 30 days or more during the 120 days or other time period mentioned in that clause. 2015, c. 28, Sched. 1, s. 104 (2).

### **Payment of arrears**

(3.2) An owner who, under subsection (3.1), is not entitled to consent may consent after the corporation receives payment of the arrears with respect to the owner's unit. 2015, c. 28, Sched. 1, s. 104 (2).

### **Signing of declaration**

(4) The declaration of an amalgamated corporation shall not be registered unless the officers of each amalgamating corporation who are duly authorized to sign on behalf of the corporation have signed the declaration. 1998, c. 19, s. 120 (4).

## **Part VIII not applicable**

(5) Part VIII does not apply to an amalgamation carried out under this section but does apply to an amalgamated corporation after the registration of its declaration and description. 1998, c. 19, s. 120 (5).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 104 (1) - not in force; 2015, c. 28, Sched. 1, s. 104 (2) - 01/11/2017; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

### **Effect of registration**

**121** (1) On registration of a declaration and description for an amalgamated corporation,

- (a) the amalgamating corporations are amalgamated and continue as one corporation;
- (b) the units and common interests of the amalgamating corporations are continued as units and common interests in the amalgamated corporation;
- (c) all encumbrances, easements and leases that affected the units or common elements of the amalgamating corporations are continued as encumbrances, easements and leases respectively that affect the units or common elements, as the case may be, of the amalgamated corporation;
- (d) all declarations, descriptions, by-laws and rules of the amalgamating corporations cease to apply;
- (e) the directors of the amalgamating corporations constitute the first directors of the amalgamated corporation;
- (f) the proposed by-laws and rules mentioned in clause 120 (3) (b) shall be the by-laws and rules respectively of the amalgamated corporation until the corporation amends or replaces them;
- (g) the amalgamated corporation possesses all the assets, rights and privileges and is subject to all liabilities, including civil, criminal and quasi-criminal, and all contracts, agreements, warranties and debts of each of the amalgamating corporations;
- (h) a conviction against, or ruling, order or judgment in favour of or against an amalgamating corporation may be enforced by or against the amalgamated corporation; and
- (i) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in all civil actions commenced by or against an amalgamating corporation before the amalgamation becomes effective. 1998, c. 19, s. 121 (1).

### **First auditors**

(2) Immediately following the registration of a declaration and description for an amalgamated corporation, the directors shall appoint one or more auditors who shall hold office until the close of the meeting of owners described in subsection (3). 1998, c. 19, s. 121 (2).

### **Subsequent directors**

(3) The first directors of an amalgamated corporation shall hold office until the owners elect their successors at a meeting which the first directors shall call and hold within 60 days following the registration of the declaration and description for the corporation. 1998, c. 19, s. 121 (3).

### **Subsequent auditors**

(4) At the meeting the owners shall, subject to section 60 with necessary modifications, appoint successors for the auditors mentioned in subsection (2). 1998, c. 19, s. 121 (4).

## **PART VIII TERMINATION**

### **Termination with consent**

**122** (1) A corporation shall register a notice terminating the government of the property by this Act if,

- (a) the owners of at least 80 per cent of the units, at the date of the vote, vote in favour of termination; and
- (b) at least 80 per cent of those persons who, at the date of the vote, have registered claims against the property, that were created after the registration of the declaration and description that made this Act applicable to the property, consent in writing to the termination. 1998, c. 19, s. 122 (1); 2015, c. 28, Sched. 1, s. 105 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 122 (1) of the Act is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 105 (2))

(c) all other conditions, if any, that are prescribed have been satisfied.

#### **Notice of termination**

(2) The notice of termination shall be in the form prescribed by the Minister, shall be signed by the authorized officers of the corporation and shall include a certificate stating that the persons described in clause (1) (b) have consented in writing to the termination. 1998, c. 19, s. 122 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 122 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 105 (3))

#### **Notice of termination**

(2) The notice of termination shall be in the form prescribed by the Minister, shall be signed by the authorized officers of the corporation and shall include,

- (a) a certificate stating that the persons described in clause (1) (b) have consented in writing to the termination; and
- (b) all other material, if any, that is prescribed. 2015, c. 28, Sched. 1, s. 105 (3).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 105 (1) - 01/11/2017; 2015, c. 28, Sched. 1, s. 105 (2, 3) - not in force

#### **Termination upon substantial damage**

**123** (1) The registration of a notice under subsection (7) terminates the government of the property by this Act. 1998, c. 19, s. 123 (1); 2015, c. 28, Sched. 1, s. 106 (1).

#### **Definition**

(2) In this section,

“substantial damage” means damage for which the cost of repair is estimated to equal or exceed 25 per cent of the replacement cost of all the buildings and structures located on the property. 1998, c. 19, s. 123 (2).

#### **Estimates of damage**

(3) If damage occurs to a building or a structure located on the property that, in the opinion of the board, may constitute substantial damage, the board shall have at least two persons, who shall have no affiliation with the board and who, in the opinion of the board, are qualified, make estimates of the damage within 30 days after the occurrence of the damage. 1998, c. 19, s. 123 (3).

#### **Determination by board**

(4) The board shall determine whether, based on the estimates, there has been substantial damage. 1998, c. 19, s. 123 (4).

#### **Notice of determination**

(5) If the board determines that there has been substantial damage, it shall give notice of its determination to the owners. 1998, c. 19, s. 123 (5).

#### **Contents of notice**

(6) The notice shall specify that,

- (a) the owners have the right, in accordance with section 46 and within 30 days of receiving the notice, to requisition a meeting of owners; and
- (b) the board is required to register a notice terminating the government of the property by this Act if the condition described in subsection (7) is met. 1998, c. 19, s. 123 (6).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 123 (6) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 106 (2))

#### **Contents of notice**

(6) The notice shall,

- (a) specify that,
  - (i) the owners have the right, in accordance with section 46 and within 30 days of receiving the notice, to requisition a meeting of owners, and

- (ii) the board is required to register a notice terminating the government of the property by this Act if the conditions described in subsection (7) are satisfied; and

(b) contain a copy of the text of section 46 and this section. 2015, c. 28, Sched. 1, s. 106 (2).

#### **Vote for termination**

(7) The board shall register a notice terminating the government of the property by this Act if the owners of at least 80 per cent of the units, at the date of the vote, vote in favour of termination. 1998, c. 19, s. 123 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 123 (7) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 106 (2))

#### **Vote for termination**

(7) The board shall register a notice terminating the government of the property by this Act if,

- (a) the owners have requisitioned a meeting in accordance with section 46 within 30 days of receiving a notice under subsection (5);
- (b) the owners of at least 80 per cent of the units, at the date of the vote, vote in favour of termination; and
- (c) all other conditions, if any, that are prescribed have been satisfied. 2015, c. 28, Sched. 1, s. 106 (2).

#### **Form of notice**

(8) The notice shall be in the form prescribed by the Minister and shall be signed by the authorized officers of the corporation. 1998, c. 19, s. 123 (8).

#### **Time of registration**

(9) The board shall register the notice within 30 days of a vote in favour of termination under subsection (7). 1998, c. 19, s. 123 (9).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 123 (9) of the Act is amended by adding “if any” after “subsection (7)”. (See: 2015, c. 28, Sched. 1, s. 106 (3))

#### **Repairs if no termination**

(10) If there is no vote in favour of termination under subsection (7), the corporation shall, within a reasonable time, repair the damage to the building or structure located on the property. 1998, c. 19, s. 123 (10).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 123 (10) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 106 (4))

#### **Repairs if no termination**

(10) If the conditions under subsection (7) have not been satisfied, the corporation shall, within a reasonable time, repair the damage to the building or structure located on the property. 2015, c. 28, Sched. 1, s. 106 (4).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 106 (1) - 01/11/2017; 2015, c. 28, Sched. 1, s. 106 (2)-(4) - not in force

#### **Termination upon sale of property**

**124** (1) If the corporation sells the property or a part of the common elements, this Act ceases to govern the property or the part of the common elements being sold. 2015, c. 28, Sched. 1, s. 107 (1).

#### **Authorization of sale**

(2) The corporation shall not sell the property or a part of the common elements unless,

- (a) the owners of at least 80 per cent of the units, at the date of the vote, vote in favour of the sale;
- (b) at least 80 per cent of those persons who, at the date of the vote, have registered claims against the property being sold, that were created after the registration of the declaration and description that made this Act applicable to the property being sold, consent in writing to the sale; and
- (c) if the sale is for only part of the common elements and includes common elements that are for the use of the owners of certain designated units and not all the owners, the owners of the designated units consent in writing to the sale. 1998, c. 19, s. 124 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 124 (2) of the Act is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 107 (2))

(d) all other conditions, if any, that are prescribed have been satisfied.

#### **Loss of owner's right to consent**

(2.1) An owner is not entitled to consent under clause (2) (c) if any contributions to the common expenses payable for the owner's unit are in arrears for 30 days or more. 2015, c. 28, Sched. 1, s. 107 (3).

#### **Payment of arrears**

(2.2) An owner who, under subsection (2.1), is not entitled to consent may consent after the corporation receives payment of the arrears with respect to the owner's unit. 2015, c. 28, Sched. 1, s. 107 (3).

#### **Conveyance**

(3) When a sale takes place, the board shall deliver to the purchaser the following documents signed by the authorized officers of the corporation: a deed and a certificate in the form prescribed by the Minister stating that the persons who, under subsection (2), are required to vote in favour of the sale or consent in writing to the sale have done so. 1998, c. 19, s. 124 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 124 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 107 (4))**

#### **Conveyance**

(3) When a sale takes place, the board shall deliver to the purchaser a deed and a certificate that,

- (a) are signed by the authorized officers of the corporation and are in the form prescribed by the Minister;
- (b) state that the persons who, under subsection (2), are required to vote in favour of the sale or consent in writing to the sale have done so; and
- (c) contain all other statements and material, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 107 (4).

#### **Proceeds**

(4) Subject to subsection (5), the owners at the time of the registration of the deed shall share the net proceeds of the sale in the same proportions as their common interests. 1998, c. 19, s. 124 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 124 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 107 (4))**

#### **Net proceeds**

(4) Subject to subsection (5) and section 125, the owners at the time of the registration of the deed, as determined by the regulations, shall share the net proceeds of the sale in the same proportions as their common interests, subject to the conditions, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 107 (4).

#### **Same**

(5) The portion of the proceeds of the sale that is attributable to a portion of the common elements that is for the use of the owners of certain designated units, and not all the owners, shall be divided among the owners of the designated units in the proportions in which their interests are affected. 1998, c. 19, s. 124 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 124 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 107 (4))**

#### **Same**

(5) The portion of the net proceeds of the sale that is attributable to a portion of the common elements that is for the use of the owners of certain designated units, where the owners are those at the time of the registration of the deed, as determined by the regulations, and not all the owners at that time, shall be divided among the owners of the designated units in the proportions in which their interests are affected, subject to the conditions, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 107 (4).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 107 (1, 3) - 01/11/2017; 2015, c. 28, Sched. 1, s. 107 (2, 4) - not in force

#### **Right of dissenters**

**125** (1) A corporation that has made a sale under section 124 and every owner in the corporation shall be deemed to have made an agreement that an owner who has dissented on the vote authorizing the sale may, within 30 days of the vote, submit to mediation a dispute over the fair market value of the property or the part of the common elements that has been sold, determined as of the time of the sale. 1998, c. 19, s. 125 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 125 (1) of the Act is amended by adding “in accordance with the prescribed requirements, if any” after “agreement”. (See: 2015, c. 28, Sched. 1, s. 108 (1))

### **Application of s. 132**

(2) If an owner submits a dispute to mediation in accordance with the agreement mentioned in subsection (1), section 132 applies to the dispute with necessary modifications as if it were a disagreement under that section. 1998, c. 19, s. 125 (2); 2015, c. 28, Sched. 1, s. 108 (2).

### **Notice**

(3) An owner who submits a dispute to mediation shall give the corporation notice of intention within 10 days after the vote authorizing the sale. 1998, c. 19, s. 125 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 125 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 108 (3))

### **Notice**

(3) An owner who submits a dispute to mediation in accordance with the agreement mentioned in subsection (1) shall give the corporation notice of intention in accordance with the prescribed requirements, if any, within 10 days after the vote authorizing the sale. 2015, c. 28, Sched. 1, s. 108 (3).

### **Entitlement to amount**

(4) An owner who serves a notice of intention is entitled to receive from the proceeds of the sale the amount the owner would have received if the sale price had been the fair market value as determined by the arbitration. 1998, c. 19, s. 125 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 125 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 108 (3))

### **Entitlement to amount**

(4) An owner who serves a notice of intention in accordance with subsection (3) is entitled, subject to the conditions, if any, that are prescribed, to receive from the net proceeds of the sale the amount the owner would have received if the sale price had been the fair market value as determined by the arbitration. 2015, c. 28, Sched. 1, s. 108 (3).

### **Deficiency**

(5) The corporation shall pay to each of the owners who served a notice of intention, the deficiency in the amount to which the owner is entitled if the proceeds of the sale are inadequate to pay the amount. 1998, c. 19, s. 125 (5).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 125 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 108 (3))

### **Deficiency**

(5) The corporation shall pay to each of the owners who served a notice of intention in accordance with subsection (3), the deficiency in the amount to which the owner is entitled if the net proceeds of the sale are inadequate to pay the amount, subject to the conditions, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 108 (3).

### **Liability**

(6) The owners other than those who dissented on the vote authorizing the sale are liable for the amount of the deficiency payments determined by the proportions of their common interests. 1998, c. 19, s. 125 (6).

### **Common expenses of other owners**

(7) The corporation shall add the amount of the liability of each of the owners who voted in favour of the sale to the common expenses appurtenant to the units of those owners and may specify a time for payment by each of those owners. 1998, c. 19, s. 125 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 125 (7) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 108 (4))

### **Common expenses of other owners**

(7) The corporation shall add the amount of the liability of each of the owners who voted in favour of the sale to the contribution to the common expenses payable for the unit of that owner. 2015, c. 28, Sched. 1, s. 108 (4).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 108 (1, 3, 4) - not in force; 2015, c. 28, Sched. 1, s. 108 (2) - 01/11/2017

## Expropriation

**126** (1) Upon expropriation of the property or a part of the common elements under the *Expropriations Act*, this Act ceases to govern the property or the part of the common elements, as the case may be. 1998, c. 19, s. 126 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 126 (1) of the Act is amended by adding “as determined in accordance with the regulations, if any” after “*Expropriations Act*”. (See: 2015, c. 28, Sched. 1, s. 109 (1))

## Proceeds

(2) Subject to subsection (3), if part of the common elements is expropriated under the *Expropriations Act*, the owners shall share the proceeds in the same proportions as their common interests. 1998, c. 19, s. 126 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 126 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 109 (2))

## Proceeds

(2) Subject to subsection (3), if part of the common elements is expropriated under the *Expropriations Act* in accordance with subsection (1), the owners, at the time determined by the regulations, shall share the proceeds in the same proportions as their common interests, subject to the conditions, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 109 (2).

## Same

(3) The portion of the proceeds received on expropriation under the *Expropriations Act* that is attributable to a portion of the common elements that is for the use of the owners of certain designated units, and not all the owners, shall be divided among the owners of the designated units in the proportions in which their interests are affected. 1998, c. 19, s. 126 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 126 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 109 (2))

## Same

(3) The portion of the proceeds received on expropriation under the *Expropriations Act* done in accordance with subsection (1) that is attributable to a portion of the common elements that is for the use of the owners of certain designated units, where the owners are those at the time determined by the regulations, and not all the owners at that time, shall be divided among the owners of the designated units in the proportions in which their interests are affected, subject to the conditions, if any, that are prescribed. 2015, c. 28, Sched. 1, s. 109 (2).

## Section Amendments with date in force (d/m/y)

2015, c. 28, Sched. 1, s. 109 - not in force

## Effect of registration

**127** (1) Upon registration of a notice of termination under section 122 or 123,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 127 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 110 (1))

## Effect of registration

(1) Upon registration of a notice of termination under section 122 or 123, then, subject to the regulations,

- (a) this Act ceases to govern the property;
- (b) the owners are tenants in common of the land and interests appurtenant to the land described in the description in the same proportions as their common interests;
- (c) claims against the land and the interests appurtenant to the land described in the description, that were created before the registration of the declaration and description that made this Act applicable to the land, are as effective as if the declaration and description had not been registered;
- (d) encumbrances against each unit and common interest, that were created after the registration of the declaration and description that made this Act applicable to the unit, are claims against the interests of the owner in the land and interests appurtenant to the land described in the description and have the same priority as they had before the registration of the notice of termination; and
- (e) all other claims against the property that were created after the registration of the declaration and description that made this Act applicable to the property are extinguished. 1998, c. 19, s. 127 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 127 (1) of the Act is amended by striking out “and” at the end of clause (d), by adding “and” at the end of clause (e) and by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 110 (2))

(f) the other consequences, if any, that are prescribed shall come into effect.

#### **Same, sale or expropriation**

(2) Upon the registration of a deed and a certificate under section 124 or upon expropriation under section 126,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 127 (2) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 28, Sched. 1, s. 110 (3))**

#### **Same, sale or expropriation**

(2) Upon the registration, in accordance with the regulations, of a deed and a certificate mentioned in subsection 124 (3) or upon expropriation under section 126, then, subject to the regulations,

- (a) this Act ceases to govern the property being sold or expropriated, as the case may be;
- (b) claims against the land and interests appurtenant to the land, that were created before the registration of the declaration and description that made this Act applicable to the land, are as effective as if the declaration and description had not been registered; and
- (c) claims against the property being sold or expropriated, as the case may be, that were created after the registration of the declaration and description that made this Act applicable to that property, are extinguished. 1998, c. 19, s. 127 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 127 (2) of the Act is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 110 (4))**

- (d) the other consequences, if any, that are prescribed shall come into effect.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 110 - not in force

#### **Termination by court**

**128** (1) A corporation, an owner, or a person having an encumbrance against a unit and common interest, may make an application to the Superior Court of Justice for an order terminating the government of the property by this Act. 1998, c. 19, s. 128 (1); 2000, c. 26, Sched. B, s. 7 (7); 2015, c. 28, Sched. 1, s. 111 (1).

#### **Grounds for order**

(2) The court may order that the government of the property by this Act be terminated if the court is of the opinion that the termination would be just and equitable, having regard to,

- (a) the scheme and intent of this Act;
- (b) the probability of unfairness to the owners if the court does not order termination;
- (c) the probability of confusion and uncertainty in the affairs of the corporation or of the owners if the court does not order termination; and
- (d) the best interests of the owners. 1998, c. 19, s. 128 (2); 2015, c. 28, Sched. 1, s. 111 (2).

#### **Contents of order**

(3) The court may include in the order all provisions that it considers appropriate in the circumstances. 1998, c. 19, s. 128 (3).

#### **Registration of order**

(4) If the court makes an order terminating the government of the property by this Act, the applicant shall register the order. 1998, c. 19, s. 128 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 128 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 111 (3))**

#### **Registration of order**

(4) If the court makes an order terminating the government of the property by this Act, the applicant shall register the order in accordance with the regulations, if any. 2015, c. 28, Sched. 1, s. 111 (3).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2015, c. 28, Sched. 1, s. 111 (1, 2) - 01/11/2017; 2015, c. 28, Sched. 1, s. 111 (3) - not in force

### **Distribution of assets**

**129** When the owners and the property cease to be governed by this Act,

- (a) the assets of the corporation shall be used to pay all claims for the payment of money against the corporation; and
- (b) the remainder of the assets of the corporation shall be distributed among the owners in the same proportions as the proportions of their common interests. 1998, c. 19, s. 129.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 129 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 112)

### **Distribution of assets**

**129** When the owners and the property cease to be governed by this Act, then, subject to the regulations,

- (a) the assets of the corporation, at the time determined by the regulations, shall be used to pay all claims for the payment of money against the corporation, at the time determined by the regulations;
- (b) the remainder of the assets of the corporation, at the time determined by the regulations, shall be distributed among the owners, at the time determined by the regulations, in the same proportions as the proportions of their common interests; and
- (c) the other consequences, if any, that are prescribed and that relate to the assets shall come into effect. 2015, c. 28, Sched. 1, s. 112.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 112 - not in force

## **PART IX ENFORCEMENT**

### **Inspector**

**130** (1) Upon application by the corporation, a lessor of a leasehold condominium corporation, an owner or a mortgagee of a unit, the Superior Court of Justice may make an order appointing an inspector to,

- (a) investigate the items that the declarant is required to give to the board under subsections 43 (4), (5) and (7);
- (b) investigate the corporation's records mentioned in subsection 55 (1);
- (c) investigate the affairs of a person mentioned in subsection 115 (1); or
- (d) conduct an audit of the accounts and records mentioned in section 43, 55 or 115. 1998, c. 19, s. 130 (1); 2000, c. 26, Sched. B, s. 7 (7).

### **Grounds for order**

(2) The court may make the order if it is satisfied that the application is made in good faith and that the order is in the best interests of the applicant. 1998, c. 19, s. 130 (2).

### **Application of *Public Inquiries Act, 2009***

(3) Those provisions of section 33 of the *Public Inquiries Act, 2009* that the order states apply to the inspector's investigation or audit. 2009, c. 33, Sched. 6, s. 48.

### **Contents of order**

(4) In the order, the court,

- (a) shall require the inspector to make a written report within a specified time to the applicant for the order and to the corporation on the activities that the order requires the inspector to perform; and
- (b) may make an order as to the costs of the investigation or audit or any other matter as it deems proper. 1998, c. 19, s. 130 (4).

### **Summary of report**

(5) The board shall send a summary of the report to the owners. 1998, c. 19, s. 130 (5).

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2009, c. 33, Sched. 6, s. 48 - 1/06/2011

### **Administrator**

**131** (1) Upon application by the corporation, a lessor of a leasehold condominium corporation, an owner or a mortgagee of a unit, the Superior Court of Justice may make an order appointing an administrator for a corporation under this Act if at least 120 days have passed since a turn-over meeting has been held under section 43. 1998, c. 19, s. 131 (1); 2000, c. 26, Sched. B, s. 7 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 131 (1) of the Act is amended by adding “subject to the regulations” after “if”. (See: 2015, c. 28, Sched. 1, s. 113)

### **Grounds for order**

(2) The court may make the order if the court is of the opinion that it would be just or convenient, having regard to the scheme and intent of this Act and the best interests of the owners. 1998, c. 19, s. 131 (2).

### **Contents of order**

(3) The order shall,

- (a) specify the powers of the administrator;
- (b) state which powers and duties, if any, of the board shall be transferred to the administrator; and
- (c) contain the directions and impose the terms that the court considers just. 1998, c. 19, s. 131 (3).

### **Application for direction**

(4) The administrator may apply to the court for the opinion, advice or direction of the court on any question regarding the management or administration of the corporation. 1998, c. 19, s. 131 (4).

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2015, c. 28, Sched. 1, s. 113 - not in force

### **Mediation and arbitration**

**132** (1) Every agreement mentioned in subsection (2) shall be deemed to contain a provision to submit a disagreement between the parties with respect to the agreement to,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (1) of the Act is amended by adding “Subject to subsection (4.1)” at the beginning and by adding “including any question of law or equity” after “with respect to the agreement” in the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 114 (1))

- (a) mediation by a person selected by the parties unless the parties have previously submitted the disagreement to mediation; and
- (b) unless a mediator has obtained a settlement between the parties with respect to the disagreement, arbitration under the *Arbitration Act, 1991*,
  - (i) 60 days after the parties submit the disagreement to mediation, if the parties have not selected a mediator under clause (a), or
  - (ii) 30 days after the mediator selected under clause (a) delivers a notice stating that the mediation has failed. 1998, c. 19, s. 132 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 114 (2))

### **Mediation and arbitration**

(1) Subject to subsection (6), every agreement mentioned in subsection (2) shall be deemed to contain a provision to submit a disagreement between the parties with respect to the agreement, including any question of law or equity, to mediation and arbitration. 2015, c. 28, Sched. 1, s. 114 (2).

### **Application**

(2) Subsection (1) applies to the following agreements:

- 1. An agreement between a declarant and a corporation.

2. An agreement between two or more corporations.
3. An agreement described in clause 98 (1) (b) between a corporation and an owner.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (2) of the Act is amended by adding the following paragraph: (See: 2015, c. 28, Sched. 1, s. 114 (3))

3.1 An agreement for sharing as described in section 21.1, if it is prescribed.

4. An agreement that the corporation has entered into with a condominium management provider or a condominium manager and under which the corporation receives condominium management services. 1998, c. 19, s. 132 (2); 2015, c. 28, Sched. 2, s. 80 (16).

#### **Disagreements on budget statement**

(3) The declarant and the board shall be deemed to have agreed in writing to submit a disagreement between the parties with respect to the budget statement described in subsection 72 (6) or the obligations of the declarant under section 75 to mediation and arbitration in accordance with clauses (1) (a) and (b) respectively. 1998, c. 19, s. 132 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (3) of the Act is amended by adding “including any question of law or equity” after “section 75”. (See: 2015, c. 28, Sched. 1, s. 114 (4))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 114 (7))

#### **Disagreement on shared facilities**

(3) Subject to the regulations, even if the persons mentioned in section 21.1 have not entered into an agreement described in that section, they shall be deemed to have agreed in writing to submit a disagreement between them with respect to the sharing described in that section, including a disagreement with respect to any question of law or equity, to mediation and arbitration. 2015, c. 28, Sched. 1, s. 114 (7).

#### **Disagreements between corporation and owners**

(4) Every declaration shall be deemed to contain a provision that the corporation and the owners agree to submit a disagreement between the parties with respect to the declaration, by-laws or rules to mediation and arbitration in accordance with clauses (1) (a) and (b) respectively. 1998, c. 19, s. 132 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (4) of the Act is amended by adding “Subject to subsection (4.1)” at the beginning and by adding “including a disagreement with respect to any question of law or equity” after “rules”. (See: 2015, c. 28, Sched. 1, s. 114 (5))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 114 (7))

#### **Disagreements on budget matters**

(4) The declarant and the board shall be deemed to have agreed in writing to submit a disagreement between the parties with respect to the budget statement described in subsection 72 (6), the budget mentioned in subsection 83.1 (3) or the obligations of the declarant under section 75, including any question of law or equity, to mediation and arbitration. 2015, c. 28, Sched. 1, s. 114 (7).

#### **Non-application**

(4.1) Subsections (1) and (4) do not apply to any matter in dispute for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal established under Part I.2 if the Tribunal has been established under that Part. 2020, c. 14, Sched. 1, s. 18 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (4.1) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 114 (7))

#### **Duty of mediator**

(5) A mediator appointed under clause (1) (a) shall confer with the parties and endeavour to obtain a settlement with respect to the disagreement submitted to mediation. 1998, c. 19, s. 132 (5).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 114 (7))

### **Disagreements between corporation and owners**

(5) Subject to subsection (6), every declaration shall be deemed to contain a provision that the corporation and the owners agree to submit a disagreement between the parties with respect to the declaration, by-laws or rules, including a disagreement with respect to any question of law or equity, to mediation and arbitration. 2015, c. 28, Sched. 1, s. 114 (7).

### **Fees and expenses**

(6) Each party shall pay the share of the mediator's fees and expenses that,

- (a) the settlement specifies, if a settlement is obtained; or
- (b) the mediator specifies in the notice stating that the mediation has failed, if the mediation fails. 1998, c. 19, s. 132 (6).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (6) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 114 (7))

### **Non-application**

(6) Subsections (1) and (5) do not apply to any matter in dispute for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal established under Part I.2 if the Tribunal has been established under that Part. 2015, c. 28, Sched. 1, s. 114 (7).

### **Record of settlement**

(7) Upon obtaining a settlement between the parties with respect to the disagreement submitted to mediation, the mediator shall make a written record of the settlement which shall form part of the agreement or matter that was the subject of the mediation. 1998, c. 19, s. 132 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 132 (7) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 114 (7))

### **Process**

(7) If parties to a disagreement are deemed, under this section, to submit the disagreement to one or both of mediation and arbitration or if a party who is entitled under this Act to submit a disagreement to mediation or arbitration submits the disagreement to mediation or arbitration, the mediation and arbitration shall be conducted in accordance with the process that is prescribed unless,

- (a) the parties agree in writing to a different process;
- (b) a by-law of the corporation made under clause 56 (1) (o) specifies a different process, if the disagreement is a disagreement described in that clause; or
- (c) a by-law of the corporation made under clause 56 (1) (q) specifies a different process, if the disagreement is a disagreement described in that by-law. 2015, c. 28, Sched. 1, s. 114 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 132 of the Act is amended by adding the following subsections: (See: 2020, c. 14, Sched. 1, s. 18 (2))

### **No order for permanent removal of person**

(8) If a disagreement is submitted to arbitration under this section, the arbitral tribunal shall not make an award requiring a person to vacate a property permanently. 2020, c. 14, Sched. 1, s. 18 (2).

### **Copy of arbitration award**

(9) If a matter is submitted to arbitration under this section, the arbitral tribunal that makes an award as part of the arbitration shall ensure that a copy of the award is delivered to the following person or body within the prescribed time period and in accordance with the regulations:

1. The board of the condominium authority, if the authority exists.
2. The Minister, if there is no condominium authority. 2020, c. 14, Sched. 1, s. 18 (2).

### **Same, copy for public**

(10) Upon receiving a copy described in subsection (9), the board of the condominium authority or the Minister, as the case may be, shall make it available to the public in the prescribed manner. 2020, c. 14, Sched. 1, s. 18 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 132 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 114 (8))

### **Payment of award on disagreements between corporation and owners**

(11) If a disagreement on a matter described in subsection (5) is submitted to arbitration under this section and an arbitral tribunal under the arbitration makes an order for compensation or costs, then, unless the corporation and the owner who is a party to the arbitration agree in writing otherwise,

- (a) the party against whom the tribunal makes the order shall pay the amount of the order within 30 days, unless the order specifies another time limit;
- (b) if the order requires the owner to pay compensation or costs to the corporation, the corporation may add the amount of the order to the contribution to the common expenses payable for the owner's unit; and
- (c) if the order requires the corporation to pay compensation or costs to the owner and the corporation does not pay the amount of the order within the time limit mentioned in clause (a), the owner may set off the amount against the contribution to the common expenses payable for the owner's unit. 2015, c. 28, Sched. 1, s. 114 (8).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 114 (1-5, 7, 8) - not in force; 2015, c. 28, Sched. 1, s. 114 (6) - no effect - see 2020, c. 14, Sched. 1, s. 21 (1) - 14/07/2020; 2015, c. 28, Sched. 2, s. 80 (16) - 01/11/2017

2020, c. 14, Sched. 1, s. 18 (1) - 01/10/2020; 2020, c. 14, Sched. 1, s. 18 (2) - not in force

### **False, misleading statements**

**133** (1) A declarant shall not, in a statement or information that the declarant is required to provide under this Act,

- (a) make a material statement or provide material information that is false, deceptive or misleading; or
- (b) omit a material statement or material information that the declarant is required to provide. 1998, c. 19, s. 133 (1).

### **Right to damages**

(2) A corporation or an owner may make an application to the Superior Court of Justice to recover damages from a declarant for any loss sustained as a result of relying on a statement or on information that the declarant is required to provide under this Act if the statement or information,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 133 (2) of the Act is amended by adding "Subject to subsection (3)" at the beginning. (See: 2015, c. 28, Sched. 1, s. 115 (1))

- (a) contains a material statement or material information that is false, deceptive or misleading; or
- (b) does not contain a material statement or material information that the declarant is required to provide. 1998, c. 19, s. 133 (2); 2000, c. 26, Sched. B, s. 7 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 133 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 115 (2))

### **Exception**

(3) A corporation or owner is not entitled to make an application under subsection (2) to recover damages for a loss if the corporation or owner, as the case may be, is entitled to make an application to recover damages for the loss under subsection 43 (8) or 74 (11). 2015, c. 28, Sched. 1, s. 115 (2).

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2015, c. 28, Sched. 1, s. 115 - not in force

### **Compliance order**

**134** (1) Subject to subsection (2), an owner, an occupier of a proposed unit, a corporation, a declarant, a lessor of a leasehold condominium corporation or a mortgagee of a unit may make an application to the Superior Court of Justice for an order enforcing compliance with any provision of this Act, the declaration, the by-laws, the rules or an agreement between two or more corporations for the mutual use, provision or maintenance or the cost-sharing of facilities or services of any of the parties to the agreement. 1998, c. 19, s. 134 (1); 2000, c. 26, Sched. B, s. 7 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 134 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 116 (1))

### **Compliance order**

(1) Subject to subsections (2), (2.1) and (2.4), an owner, an occupier of a proposed unit, a corporation, a declarant, a lessor of a leasehold condominium corporation or a mortgagee of a unit may make an application to the Superior Court of Justice for an order enforcing compliance with any provision of,

- (a) this Act, the declaration, the by-laws or the rules; or
- (b) an agreement that two or more corporations have entered into to share in the provision, use, maintenance, repair, insurance, operation or administration of any land, any part of a property or proposed property, any assets of a corporation or any facilities or services. 2015, c. 28, Sched. 1, s. 116 (1).

### **Pre-condition for application**

(2) If the mediation and arbitration processes described in section 132 are required, a person is not entitled to apply for an order under subsection (1) until the person has failed to obtain compliance through using those processes. 1998, c. 19, s. 134 (2); 2015, c. 28, Sched. 1, s. 116 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 134 of the Act is amended by adding the following subsections: (See: 2020, c. 14, Sched. 1, s. 19 (1))

#### **Notice to owner**

(2.1) Subject to subsections (2.2) and (2.3), a person is not entitled to apply for an order requiring an occupier of an owner's unit or any or all of the invitees, agents and employees of the owner or occupier to vacate a property permanently unless the applicant gives reasonable notice of the application to the owner. 2020, c. 14, Sched. 1, s. 19 (1).

#### **Service of notice**

(2.2) Despite subsection 47 (4), if the applicant is not the corporation, the applicant shall give the notice in the prescribed manner. 2020, c. 14, Sched. 1, s. 19 (1).

#### **Exception, no notice**

(2.3) An applicant is not required to give the notice described in subsection (2.1) in the event of the circumstances that are prescribed, which may include an emergency or other event. 2020, c. 14, Sched. 1, s. 19 (1).

#### **Non-application**

(2.4) This section does not apply to any matter in dispute for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal established under Part I.2, if the Tribunal has been established under that Part. 2020, c. 14, Sched. 1, s. 19 (2).

### **Contents of order**

(3) On an application, the court may, subject to subsection (4),

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 134 (3) of the Act is amended by striking out "subject to subsection (4)" in the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 116 (4))

- (a) grant the order applied for;
- (b) require the persons named in the order to pay,
  - (i) the damages incurred by the applicant as a result of the acts of non-compliance, and
  - (ii) the costs incurred by the applicant in obtaining the order; or
- (c) grant such other relief as is fair and equitable in the circumstances. 1998, c. 19, s. 134 (3).

### **Order terminating lease**

(4) The court shall not, under subsection (3), grant an order terminating a lease of a unit for residential purposes unless the court is satisfied that,

- (a) the lessee is in contravention of an order that has been made under subsection (3); or
- (b) the lessee has received a notice described in subsection 87 (1) and has not paid the amount required by that subsection. 1998, c. 19, s. 134 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 134 (4) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 116 (5))

### **Addition to common expenses**

(5) If a corporation obtains an award of damages or costs in an order made against an owner or occupier of a unit, the damages or costs, together with any additional actual costs to the corporation in obtaining the order, shall be added to the common expenses for the unit and the corporation may specify a time for payment by the owner of the unit. 1998, c. 19, s. 134 (5).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 134 (5) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 116 (5))

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2015, c. 28, Sched. 1, s. 116 (1, 4, 5) - not in force; 2015, c. 28, Sched. 1, s. 116 (3) - no effect - see 2020, c. 14, Sched. 1, s. 21 (2) - 14/07/2020; 2015, c. 28, Sched. 1, s. 116 (2) - 01/11/2017

2020, c. 14, Sched. 1, s. 19 (1) - not in force; 2020, c. 14, Sched. 1, s. 19 (2) - 01/10/2020

### **Compliance order of Registrar**

**134.1** (1) The Registrar may propose to make an order directing a person to comply with subsection 1.30 (6), any provision of Part II.1 or subsection 132 (9) if the Registrar believes on reasonable grounds that the person has contravened those provisions. 2015, c. 28, Sched. 1, s. 117.

### **Notice**

(2) If the Registrar proposes to make an order under subsection (1), the Registrar shall serve notice of the proposed order, together with written reasons, on the person. 2015, c. 28, Sched. 1, s. 117.

### **Right to hearing**

(3) The notice shall state that the person is entitled to a hearing by the Licence Appeal Tribunal if the person mails or delivers, within 15 days after the notice is served, a notice in writing requiring a hearing to the Registrar and the Tribunal. 2015, c. 28, Sched. 1, s. 117.

### **If no hearing**

(4) If the person does not require a hearing in accordance with subsection (3), the Registrar may make the order. 2015, c. 28, Sched. 1, s. 117.

### **Hearing**

(5) If the person requires a hearing in accordance with subsection (3), the Licence Appeal Tribunal shall hold the hearing and may order the Registrar to make the proposed order or to refrain from making the proposed order or may make an order of its own in substitution for that of the Registrar. 2015, c. 28, Sched. 1, s. 117.

### **Conditions**

(6) The Licence Appeal Tribunal may attach the conditions to its order that it considers proper. 2015, c. 28, Sched. 1, s. 117.

### **Parties**

(7) The Registrar and the person who has required the hearing and all other persons that the Licence Appeal Tribunal specifies are parties to proceedings before the Tribunal under this section. 2015, c. 28, Sched. 1, s. 117.

### **Decision final**

(8) A decision of the Licence Appeal Tribunal under subsection (5) is final and not subject to appeal to the Divisional Court. 2015, c. 28, Sched. 1, s. 117.

### **Notice to owners**

(9) If a compliance order is made against a corporation or a director or officer of a corporation under this section and there is no possibility of it being replaced under subsection (5), the corporation shall give notice of the order to the owners in the manner prescribed. 2015, c. 28, Sched. 1, s. 117.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 117 - 01/01/2018

### **Service under s. 134.1**

**134.2** (1) A notice or order required to be given or served by the Registrar under section 134.1 is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by registered mail; or
- (c) sent by another manner, if the Registrar can prove receipt of the notice or order. 2015, c. 28, Sched. 1, s. 117.

### **Deemed service**

(2) If service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice or order until a later date. 2015, c. 28, Sched. 1, s. 117.

### **Exception**

(3) Despite subsection (1), the Licence Appeal Tribunal may order any other method of service. 2015, c. 28, Sched. 1, s. 117.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 117 - 01/01/2018

### **Oppression remedy**

**135** (1) An owner, a corporation, a declarant or a mortgagee of a unit may make an application to the Superior Court of Justice for an order under this section. 1998, c. 19, s. 135 (1); 2000, c. 26, Sched. B, s. 7 (7).

### **Grounds for order**

(2) On an application, if the court determines that the conduct of an owner, a corporation, a declarant or a mortgagee of a unit is or threatens to be oppressive or unfairly prejudicial to the applicant or unfairly disregards the interests of the applicant, it may make an order to rectify the matter. 1998, c. 19, s. 135 (2).

### **Contents of order**

- (3) On an application, the judge may make any order the judge deems proper including,
- (a) an order prohibiting the conduct referred to in the application; and
  - (b) an order requiring the payment of compensation. 1998, c. 19, s. 135 (3).

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 05/05/2001

**Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following sections: (See: 2015, c. 28, Sched. 1, s. 118)**

### **Order for permanent removal of person**

**135.1** (1) Despite subsections 134 (3) and 135 (3), the court shall not, under either of those subsections, make an order that requires a person to vacate a property permanently unless the court is satisfied that,

- (a) the person is in contravention of subsection 117 (1) and poses a serious risk,
  - (i) to the health and safety of an individual, or
  - (ii) of damage to the property or the assets, if any, of the corporation;
- (b) in respect of an order under subsection 134 (3), on the basis of the person's acts of non-compliance,
  - (i) the person is unsuited for the communal occupation of the property or the communal use of the property, and
  - (ii) no other order will be adequate to enforce compliance; or
- (c) in respect of an order under subsection 135 (3), on the basis of the person's conduct,
  - (i) the person is unsuited for the communal occupation of the property or the communal use of the property, and
  - (ii) no other order will be adequate to prohibit the conduct. 2015, c. 28, Sched. 1, s. 118.

**Exception**

(2) A person is not entitled to apply for an order described in subsection (1) against a tenant of a unit if the person is a landlord, within the meaning of the *Residential Tenancies Act, 2006*, in respect of the unit. 2015, c. 28, Sched. 1, s. 118.

**Addition to common expenses**

(3) If a corporation obtains an award of damages, compensation or costs against an owner or occupier of a unit in an order made under subsection 134 (3) or 135 (3), the damages, compensation or costs, together with any additional actual costs to the corporation in obtaining the order, shall be added to the contribution to the common expenses payable for the unit. 2015, c. 28, Sched. 1, s. 118.

**Additional costs of owner**

(4) If an owner of a unit obtains an award of damages, compensation or costs against a corporation in an order made under subsection 134 (3) or 135 (3), the owner is entitled to recover from the corporation the amount of the award, together with any additional actual costs to the owner in obtaining the order. 2015, c. 28, Sched. 1, s. 118.

**Set-off against common expenses**

(5) If the corporation does not pay the amount an owner is entitled to under subsection (4) within the prescribed time, the owner may set off the amount against the contribution to the common expenses payable for the owner's unit. 2015, c. 28, Sched. 1, s. 118.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 118 - not in force

**No termination of tenancy**

**135.2** (1) Nothing in this Act permits the termination of a tenancy governed by subsection 37 (1) of the *Residential Tenancies Act, 2006*. 2015, c. 28, Sched. 1, s. 118.

**Same**

(2) An order described in subsection 135.1 (1) is not an order for the termination of a tenancy described in subsection (1). 2015, c. 28, Sched. 1, s. 118.

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 118 - not in force

**Other remedies**

**136** Unless this Act specifically provides the contrary, nothing in this Act restricts the remedies otherwise available to a person for the failure of another to perform a duty imposed by this Act. 1998, c. 19, s. 136.

**Offences, condominium authority**

**136.1** (1) If the condominium authority knowingly contravenes this Act or the regulations, the authority is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues. 2015, c. 28, Sched. 1, s. 119.

**Individuals**

(2) A director, officer, employee or agent of the condominium authority who knowingly contravenes this Act or the regulations is guilty of an offence. 2015, c. 28, Sched. 1, s. 119.

**Directors and officers**

- (3) A director or officer of the condominium authority is guilty of an offence if the person,
- (a) knowingly causes, authorizes, permits or participates in the commission by the authority of an offence mentioned in subsection (1); or
  - (b) fails to take reasonable care to prevent the authority from committing an offence mentioned in subsection (1). 2015, c. 28, Sched. 1, s. 119.

**Penalty**

(4) A person who is convicted of an offence under subsection (2) or (3) is liable to a fine of not more than \$25,000 for each day or part of a day on which the offence occurs or continues. 2015, c. 28, Sched. 1, s. 119.

**Section Amendments with date in force (d/m/y)**

### **Offences, filings and assessments**

**136.2** (1) A person is guilty of an offence if the person,

- (a) contravenes section 9.4, except if the person did not knowingly do so and, in the exercise of reasonable diligence, could not have known that the person was contravening that section; or
- (b) contravenes or fails to comply with subsection 1.30 (6) or any provision of Part II.1, other than section 9.4. 2015, c. 28, Sched. 1, s. 120.

### **Directors and officers**

(2) It is an offence for a director or officer of a corporation to fail to take reasonable care to prevent the corporation from committing an offence mentioned in subsection (1), whether or not the corporation has been prosecuted or convicted. 2015, c. 28, Sched. 1, s. 120.

### **Penalty**

(3) A person convicted of an offence under this section is liable to a fine of,

- (a) not more than \$50,000, if the person is a corporation; or
- (b) not more than \$25,000, if the person is not a corporation. 2015, c. 28, Sched. 1, s. 120.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 120 - 01/09/2017

### **Offences**

**137** (1) Every corporation under this Act or any other Act and every other person who knowingly contravenes subsection 43 (1), (3), (4), (5), (7), 55 (1) or 72 (1), section 81, subsection 115 (1), (2), (3), (4) or (9), section 118, subsection 133 (1), section 143, subsection 147 (1), (3), 152 (1), (2) or 161 (2) or section 169 is guilty of an offence and on conviction is liable to a fine of,

- (a) not more than \$100,000, if the person is a corporation within the meaning of this Act or any other Act; or
- (b) not more than \$25,000, if the person is not a corporation within the meaning of this Act or any other Act. 1998, c. 19, s. 137 (1).

### **Directors and officers**

(2) It is an offence for a director or officer of a corporation within the meaning of this Act or any other Act to knowingly cause, authorize, permit, participate in or acquiesce in the commission by the corporation of an offence mentioned in subsection (1). 1998, c. 19, s. 137 (2).

### **Limitation**

(3) No proceeding under this section shall be commenced after the second anniversary of the day on which the facts upon which the proceeding is based first came to the knowledge of the Director designated under the *Ministry of Consumer and Business Services Act*. 2006, c. 34, s. 7.

### **Compliance order**

(4) The court hearing the proceeding may make an order requiring a person convicted of an offence to comply with the provisions of the Act that the person has contravened, if the court has competent jurisdiction to make the order. 1998, c. 19, s. 137 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 137 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 121)

### **Offences, general**

**137** (1) A corporation under this Act or any other Act and any other person or entity that contravenes or fails to comply with subsection 43 (1), (3), (4), (5), (7), 55 (1) or 72 (1), section 72.1 or 81, subsection 115 (1), (2), (3), (4) or (9), section 118, subsection 133 (1), section 143, subsection 147 (1), (3), 152 (1), (2) or 161 (2), section 169 or a regulation made under paragraph 4.1 of subsection 177 (1) is guilty of an offence. 2015, c. 28, Sched. 1, s. 121.

### **Directors and officers**

(2) An officer or director of a corporation within the meaning of this Act or any other Act who fails to take reasonable care to prevent the corporation from committing an offence mentioned in subsection (1), is guilty of an offence, whether or not the corporation has been prosecuted or convicted. 2015, c. 28, Sched. 1, s. 121.

### **Other individuals**

(3) Any of the following individuals who act on behalf of an entity and who fail to take reasonable care to prevent the entity from committing an offence mentioned in subsection (1), are guilty of an offence, whether or not the entity has been prosecuted or convicted:

1. A partner or general manager and assistant general manager of an entity that is a partnership.
2. Any other individual designated for the purpose of this subsection by a by-law or resolution of any entity.
3. Any other individual who performs functions normally performed by an individual described in paragraph 2. 2015, c. 28, Sched. 1, s. 121.

### **Penalties**

(4) A person who is convicted of an offence under subsection (1), (2) or (3) is liable to,

- (a) a fine of not more than \$250,000, if the person is a corporation within the meaning of this Act or any other Act; or
- (b) a fine of not more than \$50,000 or to imprisonment for a term of not more than two years less a day, or both, if the person is an individual. 2015, c. 28, Sched. 1, s. 121.

### **Limitation**

(5) No proceeding under this section shall be commenced after the second anniversary of the day on which the facts upon which the proceeding is based first came to the knowledge of the Director designated under the *Ministry of Consumer and Business Services Act*. 2015, c. 28, Sched. 1, s. 121.

### **Compliance order**

(6) The court hearing the proceeding may make an order requiring a person convicted of an offence to comply with the provisions of this Act that the person has contravened, if the court has competent jurisdiction to make the order. 2015, c. 28, Sched. 1, s. 121.

### **Orders for compensation, restitution**

(7) If a corporation under this Act or any other Act or any other person is convicted of an offence under subsection (1) or (2), the court making the conviction may, in addition to any other penalty, order the person convicted to pay compensation or make restitution. 2015, c. 28, Sched. 1, s. 121.

### **Section Amendments with date in force (d/m/y)**

2006, c. 34, s. 7 - 20/12/2006

2015, c. 28, Sched. 1, s. 121 - not in force

## **PART X COMMON ELEMENTS CONDOMINIUM CORPORATIONS**

### **Creation**

**138** (1) Subject to the regulations, a declarant may register a declaration and description that create common elements but do not divide the land into units. 1998, c. 19, s. 138 (1); 2015, c. 28, Sched. 1, s. 146 (1).

### **Type**

(2) The type of corporation created by the registration of a declaration and description under subsection (1) shall be known as a common elements condominium corporation. 1998, c. 19, s. 138 (2).

### **Requirements for registration**

(3) A declaration and description for a common elements condominium corporation shall not be registered unless the registration would create a freehold condominium corporation that is not a vacant land condominium corporation or, except as provided in the regulations made under this Act, a phased condominium corporation. 1998, c. 19, s. 138 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 138 (3) of the Act is amended by striking out “or, except as provided in the regulations made under this Act, a phased condominium corporation” at the end. (See: 2015, c. 28, Sched. 1, s. 122 (1))

## **Application**

(4) Subject to this Part and the regulations, Parts I to IX, XI and XIV apply with necessary modifications to a common elements condominium corporation, except that,

- (a) references to a unit or a proposed unit shall be deemed to be references to a common interest in the corporation or a proposed common interest in the corporation, respectively;
- (b) references to a mortgagee of a unit shall be deemed to be references to a mortgagee of a common interest appurtenant to an owner's parcel of land mentioned in subsection 139 (1); and
- (c) references to a common interest appurtenant to a unit shall be deemed to be references to a common interest appurtenant to an owner's parcel of land mentioned in subsection 139 (1). 1998, c. 19, s. 138 (4); 2015, c. 28, Sched. 1, s. 122 (2).

## **Other corporations**

(5) This Part does not apply to a corporation that is not a common elements condominium corporation. 1998, c. 19, s. 138 (5).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 122 (1) - not in force; 2015, c. 28, Sched. 1, s. 122 (2) - 01/11/2017; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

## **Owners' land**

**139** (1) A declaration for a common elements condominium corporation shall not be registered unless each of the owners of a common interest in the corporation,

- (a) also owns the freehold estate in a parcel of land,
  - (i) that is not included in the land described in the description,
  - (ii) that, subject to the regulations, is situated within the boundaries of the land titles and registry divisions of the land registry office in which the description of the corporation is registered, and
  - (iii) to which the *Land Titles Act* applies or for which a certificate of title has been registered under the *Certification of Titles Act* as that Act read immediately before subsection 2 (1) of Schedule 17 to the *Good Government Act, 2009* came into force; and
- (b) has signed a certificate in a form prescribed by the Minister stating the owner consents to the registration of the declaration and the notice described in subclause (2) (b) (i). 1998, c. 19, s. 139 (1); 2009, c. 33, Sched. 17, s. 4; 2015, c. 28, Sched. 1, s. 146 (1).

## **Non-severable from common interest**

(2) Upon the registration of a declaration and description for a common elements condominium corporation,

- (a) the common interest of an owner in the corporation attaches to the owner's parcel of land; and
- (b) the declarant shall register against each owner's parcel of land,
  - (i) a notice in the form prescribed by the Minister that sets out the information contained in clause (a), and
  - (ii) a copy of the certificate described in clause (1) (b). 1998, c. 19, s. 139 (2).

## **Division of parcel**

(3) Subject to the regulations, if an owner's parcel of land is divided into two or more new parcels, the owners of the new parcels are joint owners of the common interest attached to the original parcel. 1998, c. 19, s. 139 (3); 2015, c. 28, Sched. 1, s. 146 (1).

## **Common interest preserved**

(4) Despite any other Act, upon the sale of the parcel of land of an owner in a common elements condominium corporation or the enforcement of an encumbrance registered against the parcel, the common interest of the owner in the corporation is not terminated or severed from the parcel, but continues to be attached to the parcel. 1998, c. 19, s. 139 (4).

## **Lien**

(5) If an owner defaults in the obligation to contribute to the common expenses of a common elements condominium corporation, the corporation has a lien against the owner's parcel of land. 1998, c. 19, s. 139 (5).

## **Same**

(6) The lien is a lien for the purposes of sections 85 and 86. 1998, c. 19, s. 139 (6).

## **Priority of lien**

(7) Despite section 86, the lien does not have priority over an encumbrance registered against an owner's parcel of land before the common interest of the owner attached to it unless the encumbrancer agrees in writing otherwise. 1998, c. 19, s. 139 (7).

## **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 17, s. 4 - 15/12/2009

2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

## **Contents of declaration**

**140** In addition to the requirements of subsection 7 (2), a declaration for a common elements condominium corporation shall contain,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 140 of the Act is amended by adding "and subject to the regulations" after "subsection 7 (2)" in the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 123)

- (a) a statement that the common elements are intended for the use and enjoyment of the owners;
- (b) a legal description of the parcels of land mentioned in subsection 139 (1); and
- (c) all other material that the regulations require. 1998, c. 19, s. 140; 2015, c. 28, Sched. 1, s. 146 (1).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 123 - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

## **Contents of description**

**141** Clauses 8 (1) (c), (d), (f) and 8 (3) (b) do not apply to a description for a common elements condominium corporation. 1998, c. 19, s. 141.

## **Subdivision control**

**142** Section 50 of the *Planning Act* does not apply in respect of dealings with common interests in a common elements condominium corporation. 1998, c. 19, s. 142.

## **Disclosure statement**

**143** In addition to the requirements of subsection 72 (3), a disclosure statement for a common interest in a common elements condominium corporation shall contain,

- (a) a statement that the common interest attaches to the owner's parcel of land described in the declaration of the corporation and cannot be severed from the parcel upon the sale of the parcel or the enforcement of an encumbrance registered against the parcel; and
- (b) all other material that the regulations made under this Act require. 1998, c. 19, s. 143.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 143 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 124)

## **Disclosure statement**

**143** In addition to the requirements of subsection 72 (3), a disclosure statement for a common interest in a common elements condominium corporation shall contain a statement that the common interest attaches to the owner's parcel of land described in the declaration of the corporation and cannot be severed from the parcel upon the sale of the parcel or the enforcement of an encumbrance registered against the parcel. 2015, c. 28, Sched. 1, s. 124.

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 124 - not in force

## **Repair after damage and insurance**

**144** (1) Sections 89 and 90 and clauses 91 (a) and (d) do not apply to a common elements condominium corporation. 1998, c. 19, s. 144 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 144 (1) of the Act is amended by striking out “(d)” and substituting “(c)”. (See: 2015, c. 28, Sched. 1, s. 125 (1))

#### **Repair after damage and maintenance**

(2) Subject to clauses 91 (b) and (c) and section 123, the corporation shall repair and replace the common elements after damage or failure and shall maintain them. 1998, c. 19, s. 144 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 144 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 125 (2))

#### **Repair and maintenance**

(2) Subject to sections 91 and 123, the corporation shall repair the common elements and the assets, if any, of the corporation and shall maintain them. 2015, c. 28, Sched. 1, s. 125 (2).

#### **Insurance**

(3) References to a unit in sections 99 to 105 shall be deemed not to apply to a common elements condominium corporation. 1998, c. 19, s. 144 (3).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 125 - not in force

### **PART XI PHASED CONDOMINIUM CORPORATIONS**

#### **Type of corporation**

**145** (1) Subject to the regulations, the declarant may create additional units or common elements in a corporation in accordance with this Part after the registration of the declaration and description if,

(a) the corporation is a freehold condominium corporation;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 145 (1) (a) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 126 (1))

(b) except as provided in the regulations made under this Act, the corporation is not a vacant land condominium corporation or a common elements condominium corporation;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 145 (1) (b) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 126 (1))

(c) the declaration indicates that the corporation is a phased condominium corporation;

(d) the description contains a legal description of the land that will be the servient tenement within the meaning of section 151; and

(e) the board has been elected at a meeting of owners held at a time when the declarant did not own a majority of the units. 1998, c. 19, s. 145 (1); 2015, c. 28, Sched. 1, s. 146 (1).

#### **Type of corporation**

(2) A corporation that meets the criteria described in subsection (1) shall be known as a phased condominium corporation. 1998, c. 19, s. 145 (2).

#### **Definition**

(3) In this Part,

“phase” means the additional units and common elements in a phased condominium corporation that are created in accordance with this Part upon the registration of an amendment to both the declaration and description. 1998, c. 19, s. 145 (3).

#### **Application**

(4) Subject to this Part, Parts I to IX and XIV apply with necessary modifications to a phased condominium corporation. 1998, c. 19, s. 145 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 145 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 126 (2))

## **Application**

(4) Subject to this Part, the other Parts of this Act apply with necessary modifications to a phased condominium corporation unless those other Parts specifically provide that they do not apply to a particular type of phased condominium corporation. 2015, c. 28, Sched. 1, s. 126 (2).

## **Same**

(5) For the purposes of subsection (4), a reference to the registration of the declaration and description in section 13, subsection 14 (1), 22 (4), 56 (11), 58 (9), 78 (1), 80 (6), 122 (1) or (2), 124 (2) or (3), 127 (1) or (2) shall be deemed, if applicable, to be a reference to the registration of the amendments to the declaration and description required for creating a phase. 1998, c. 19, s. 145 (5).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 145 (5) of the Act is amended by adding “subsection 2 (2.1)” after “description in”. (See: 2015, c. 28, Sched. 1, s. 126 (3))

## **Other corporations**

(6) This Part does not apply to a corporation that is not a phased condominium corporation. 1998, c. 19, s. 145 (6).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 126 - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

## **Creation of phase**

**146** (1) A phase that contains units may be created only in the blocks of numbers of units, during the time periods and in accordance with the requirements that are prescribed. 1998, c. 19, s. 146 (1).

## **Phase containing common elements**

(2) A phase that contains common elements may be created only during the time periods and in accordance with the requirements that are prescribed. 1998, c. 19, s. 146 (2).

## **Method of creation**

(3) To create a phase, the declarant shall register an amendment to both the declaration and description. 1998, c. 19, s. 146 (3).

## **Amendment to declaration**

(4) The amendment to the declaration required for creating a phase shall include,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 146 (4) of the Act is amended by adding “Subject to the regulations” at the beginning of the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 127 (1))

- (a) the consent of every person having a registered mortgage against the land included in the phase or interests appurtenant to the land, as the land and the interests are described in the amendment to the description required for creating the phase;
- (b) a statement of the proportions, expressed in percentages, of the common interests appurtenant to the units in the corporation after the creation of the phase;
- (c) a statement of the proportions, expressed in percentages allocated to the units in the corporation, in which the owners after the creation of the phase are to contribute to the common expenses;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 146 (4) of the Act is amended by adding the following clause: (See: 2015, c. 28, Sched. 1, s. 127 (2))

- (c.1) a statement of how the proportions mentioned in clauses (b) and (c) are determined;
- (d) a specification of all parts of the common elements contained in the phase that are to be used by the owners of one or more designated units and not by all the owners;
- (e) a statement of all conditions that the approval authority, in approving or exempting under section 9 the amendment to the description required for creating the phase, requires the amendment to the declaration to mention; and
- (f) all other material that the regulations require. 1998, c. 19, s. 146 (4); 2015, c. 28, Sched. 1, s. 146 (1).

## **Amendment to description**

(5) The amendment to the description required for creating a phase shall include,

- (a) the material mentioned in subsection 8 (1) prepared with respect to the phase;

- (b) a legal description of the land that will be the servient tenement within the meaning of section 151; and
- (c) all other material that the regulations require. 1998, c. 19, s. 146 (5); 2015, c. 28, Sched. 1, s. 146 (1).

#### **Same**

- (6) Subsection 8 (2) and clause 8 (3) (b) apply with necessary modifications to the amendment. 1998, c. 19, s. 146 (6).

#### **Consent of owners not required**

- (7) Section 107 does not apply to amendments to the declaration that comply with subsection (4) or to amendments to the description that comply with subsections (5) and (6). 1998, c. 19, s. 146 (7).

#### **Completion of buildings**

- (8) The amendments to the declaration and description required for creating a phase shall not be registered unless all facilities and services have been installed or provided as the municipality in which the land of the corporation is situated, or the Minister of Municipal Affairs and Housing if the land is not situated in a municipality, determines are necessary to ensure the independent operation of the corporation if no subsequent phases are created. 1998, c. 19, s. 146 (8).

#### **Security**

- (9) Despite subsection (8), a declarant may register the amendments to the declaration and description required for creating a phase, even though certain facilities and services have not been installed or provided, if the municipality or the Minister of Municipal Affairs and Housing, as the case may be, agrees that the declarant provide to a specified person a bond or other security that is sufficient to ensure the installation or provision of the facilities and services. 1998, c. 19, s. 146 (9).

#### **Partial release**

- (10) The person holding the bond or other security may provide a partial release of it to the declarant with the consent of the municipality or the Minister of Municipal Affairs and Housing, as the case may be. 1998, c. 19, s. 146 (10).

#### **Full release**

- (11) The person holding the bond or other security shall not release it in full until,
  - (a) all the facilities and services covered by the bond, or other security have been installed or provided in accordance with the regulations; and
  - (b) the municipality or the Minister of Municipal Affairs and Housing, as the case may be, consents. 1998, c. 19, s. 146 (11); 2015, c. 28, Sched. 1, s. 146 (1).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 127 - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

#### **Disclosure statement**

**147** (1) In addition to the requirements of subsection 72 (3), a disclosure statement for a unit or a proposed unit in a phased condominium corporation shall contain,

- (a) a statement whether the declarant intends to create one or more phases after the creation of the unit or proposed unit;
- (b) a statement that the declarant is not required to create a phase after the creation of the unit or proposed unit;
- (c) a statement that sets out the projected year of registration of the amendments to the declaration and description required for creating each phase that the declarant intends to create after the creation of the unit or proposed unit;
- (d) a statement that sets out, for each phase that the declarant intends to create after the creation of the unit or proposed unit,
  - (i) the approximate number of the units included in the phase and a legal description of the land included in the phase,
  - (ii) the approximate location of the buildings and structures to be contained in the phase and a description of the facilities and services to be contained in the phase,
  - (iii) a statement of the proportions, expressed in percentages, of the common interests and common expenses attributable to the units after the creation of the phase,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subclause 147 (1) (d) (iii) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 128 (1))

- (iii) the statements described in clauses 146 (4) (b) and (c),

(iii.1) the statement described in clause 146 (4) (c.1),

(iv) a statement of the facilities and services that the owners will share after the creation of the phase, and

(v) a statement that there are no representations with respect to the quality of materials or appearance of buildings other than those specifically set out as representations in the disclosure statement; and

(e) all other material that the regulations made under this Act require. 1998, c. 19, s. 147 (1).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 147 (1) of the Act is amended by adding “and” at the end of clause (c), by striking out “and” at the end of subclause (d) (v) and by repealing clause (e). (See: 2015, c. 28, Sched. 1, s. 128 (2))**

#### **Not material changes**

(2) A change in the matters described in subclause (1) (d) (i) and a change in the matters described in subclause (1) (d) (iii) if it is the result only of a change in the number of units included in the phase shall be deemed not to be a material change within the meaning of section 74. 1998, c. 19, s. 147 (2).

#### **No merger of statements**

(3) The statements described in clause (1) (d) and made by a declarant in a disclosure statement with respect to a phase that is created after the creation of the unit or proposed unit to which the disclosure statement related are enforceable against the declarant and shall be deemed not to merge by operation of law when a deed that is in registerable form is delivered to the purchaser of the unit or proposed unit. 1998, c. 19, s. 147 (3).

#### **Obligations for phase**

(4) If a unit or proposed unit is part of a phase,

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 147 (4) of the Act is amended by adding “subject to the regulations” after “phase” in the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 128 (3))**

(a) a reference to the registration of the declaration and description in subsection 72 (3) or (6), 74 (2) or 75 (1) shall be deemed to be a reference to the registration of the amendments to the declaration and description required for creating the phase; and

(b) the reference in subsection 75 (2) to the termination of an agreement under section 111 or 112 shall be deemed to be a reference to the termination of an agreement under section 111 or 112 that affects the property contained in the phase. 1998, c. 19, s. 147 (4).

#### **Copy of disclosure statement**

(5) Within 15 days of registering the amendments to the declaration and description required for creating a phase, the declarant shall send to the corporation a copy of the most current disclosure statement delivered to the purchasers of units in the phase. 1998, c. 19, s. 147 (5).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 128 - not in force

#### **Status certificate**

**148** In addition to the requirements of subsection 76 (1), a status certificate for a unit in a phased condominium corporation shall contain a copy of the disclosure statement that the corporation has received from the declarant under subsection 147 (5) with respect to the phase that contains the unit unless the declarant,

(a) has completed all phases described in the disclosure statement; and

(b) no longer owns any of the units in the phases except for the part of the property designed to control, facilitate or provide telecommunications to, from or within the property. 1998, c. 19, s. 148.

#### **Corporation’s remedy**

**149** (1) The declarant shall not register the amendments to the declaration and description required for creating a phase until at least 60 days after delivering to the corporation,

(a) a copy of the disclosure statement delivered to a purchaser of a unit in the corporation most recently before the registration of the declaration and description;

(b) a copy of the proposed amendments to the declaration and description required for creating the phase; and

- (c) a statement specifying all differences between the proposed amendments to the declaration and description required for creating the phase and the following matters with respect to the phase that were described in the disclosure statement mentioned in clause (a):

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 149 (1) (c) of the Act is amended by striking out “a statement specifying” at the beginning of the portion before subclause 1 and substituting “a statement that is prepared in accordance with the regulations and that specifies”. (See: 2015, c. 28, Sched. 1, s. 129)

1. The matters described in subclauses 147 (1) (d) (ii) and (iv).
2. The matters described in subclause 147 (1) (d) (iii) if they differ from the proposed amendments to the declaration and description required for creating the phase for a reason other than a change in the number of units included in the phase. 1998, c. 19, s. 149 (1).

### **Application for injunction**

(2) Before the earlier of the registration date of the proposed amendments to the declaration and description required for creating a phase and 60 days after receiving the documents described in clauses (1) (a), (b) and (c), the corporation may make an application to the Superior Court of Justice for an injunction to prevent the registration if any of the differences described in clause (1) (c) are material and detrimentally affect the corporation or the use and enjoyment of the property by the owners. 1998, c. 19, s. 149 (2); 2000, c. 26, Sched. B, s. 7 (7).

### **Grounds for injunction**

(3) If the court is satisfied that the grounds for the application exist, it may grant the injunction or award damages to the corporation. 1998, c. 19, s. 149 (3).

### **Contents of order**

(4) The court may include in the order all provisions that it considers appropriate in the circumstances. 1998, c. 19, s. 149 (4).

### **Restriction on declarant**

(5) If the corporation makes an application for an injunction under subsection (2), the declarant is not entitled to register a declaration and description to create a corporation on the land to be included in the phase, instead of registering the amendments required for creating the phase, unless 120 days have passed after the court has made a final disposition of the application for the injunction. 1998, c. 19, s. 149 (5).

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2015, c. 28, Sched. 1, s. 129 - not in force

### **Remedy of purchasers**

**150 (1)** Within 15 days of registering the amendments to the declaration and description required for creating a phase, the declarant shall send a copy of the amendments to the corporation and the owners. 1998, c. 19, s. 150 (1).

### **Damages from declarant**

(2) A person who purchased a unit or proposed unit in the corporation before the registration of the amendments to the declaration and description required for creating a phase is entitled to recover damages from the declarant for a difference between the following matters disclosed in the disclosure statement delivered to the person and the registered amendments if the difference is material and detrimentally affects the use and enjoyment of the person's unit:

1. The matters described in subclauses 147 (1) (d) (ii) and (iv).
2. The matters described in subclause 147 (1) (d) (iii) if they differ from the registered amendments for a reason other than a change in the number of units included in the phase. 1998, c. 19, s. 150 (2).

### **Court order**

(3) Upon application by the person, the Superior Court of Justice may make an order requiring the declarant to pay to the person the damages to which the person is entitled under subsection (2). 1998, c. 19, s. 150 (3); 2000, c. 26, Sched. B, s. 7 (7).

### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

## Easements

**151** (1) Upon registration of a declaration and description for a phased condominium corporation or the amendments to the declaration and description required for creating a phase, the following easements are created, where necessary, for the benefit of the units and common elements:

1. An easement for the provision of services over the servient tenement.
2. An easement for support from the servient tenement.
3. An easement for access to and for the installation and maintenance of the services and facilities that the corporation is entitled to use over the servient tenement.
4. An easement for access to public roads over the servient tenement. 1998, c. 19, s. 151 (1).

## Definition

(2) In subsection (1),

“servient tenement” means the land owned by the declarant that is not included in the phase, including the buildings and structures on the land. 1998, c. 19, s. 151 (2).

## Turn-over obligations

**152** (1) In addition to the items mentioned in subsection 43 (4), the declarant shall give to the board at the first meeting held under section 43,

- (a) a copy of the statements described in subsection 147 (1); and
- (b) all other material that the regulations require. 1998, c. 19, s. 152 (1); 2015, c. 28, Sched. 1, s. 146 (1).

## Obligation upon creation of phase

(2) Upon the registration of the amendments to the declaration and description required for creating a phase, the declarant shall turn over to the board all materials mentioned in subsections (1) and 43 (4) and clauses 43 (5) (a) to (h) and (l) and (m) that relate to the phase and that the declarant has not previously turned over to the board. 1998, c. 19, s. 152 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 152 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 130)

## Obligation upon creation of phase

(2) Upon the registration of the amendments to the declaration and description required for creating a phase, the declarant shall turn over to the board the following materials that relate to the phase and that the declarant has not previously turned over to the board:

1. All materials mentioned in subsections (1) and 43 (4) and clauses 43 (5) (a) to (g) and (l) and (m).
2. Subject to the regulations, the materials mentioned in clause 43 (5) (h), as that clause read immediately before the day subsection 36 (7) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. 2015, c. 28, Sched. 1, s. 130.

## Non-application of s. 43

(3) Subsections 43 (4) and (5) do not apply to the declarant if the board is required to hold a meeting of owners under section 43 after the declarant has turned over to the board the materials mentioned in subsection (2). 1998, c. 19, s. 152 (3).

## Application

(4) The corporation may make an application to the Superior Court of Justice for an order under subsection (5). 1998, c. 19, s. 152 (4); 2000, c. 26, Sched. B, s. 7 (7).

## Court order

(5) If the court is satisfied that the declarant is required to comply with subsection (2) and has not done so without reasonable excuse, the court,

- (a) shall order that the declarant pay damages to the corporation for the loss it incurred as a result of the declarant’s acts of non-compliance with subsection (2);
- (b) shall order that the declarant pay the corporation’s costs of the application;
- (c) may order the declarant to pay to the corporation an additional amount not to exceed \$10,000; and

(d) may order the declarant to comply with subsection (2). 1998, c. 19, s. 152 (5).

#### **Election of directors**

(6) If, 30 days after the registration of the amendments to the declaration and description required for creating a phase, the declarant owns a majority of the units in the corporation, the board shall, at the request of the declarant, call a meeting of owners to elect a new board which shall hold office until a board is elected as required by subsection 43 (1). 1998, c. 19, s. 152 (6).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2015, c. 28, Sched. 1, s. 130 - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

#### **Corporation's obligations for phase**

**153** (1) If the declarant registers the amendments to the declaration and description required for creating a phase and the phase contains one or more units for residential purposes, the board shall have a performance audit of the common elements contained in the phase conducted on behalf of the corporation. 1998, c. 19, s. 153 (1).

#### **Application of s. 44**

(2) Section 44 applies to the performance audit, except that,

- (a) references in that section to the registration of the declaration and description shall be deemed to be references to the registration of the amendments; and
- (b) references in that section to the common elements shall be deemed to be references to the common elements contained in the phase. 1998, c. 19, s. 153 (2).

#### **Financial statements**

(3) Within 90 days of the registration of the amendments to the declaration and description required for creating a phase, the corporation shall have the financial statements required by subsection 66 (2) prepared and sections 66 to 71 apply to them. 1998, c. 19, s. 153 (3).

#### **Reserve fund study**

(4) Within the prescribed time following the registration of the amendments to the declaration and description required for creating a phase, the corporation shall conduct a reserve fund study in accordance with section 94 with respect to the phase. 1998, c. 19, s. 153 (4).

#### **Termination of agreements**

**154** (1) Subject to subsection (2), after the registration of the amendments to the declaration and description required for creating a phase, a corporation may, by resolution of the board, terminate an agreement under which it receives condominium management services in respect of the property contained in the phase and that the declarant entered into on behalf of the corporation before the registration of the amendments. 2015, c. 28, Sched. 2, s. 80 (17).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 154 (1) of the Act is amended by adding "and despite anything in the declaration, a by-law, an agreement or an instrument" after "subsection (2)". (See: 2015, c. 28, Sched. 1, s. 131 (1))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 154 (1) of the Act is repealed and the following substituted: This amendment applies only if subsection 131 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force on or before the day subsection 80 (19) of Schedule 2 to the *Protecting Condominium Owners Act, 2015* comes into force. (See: 2015, c. 28, Sched. 2, s. 80 (19), (20))

#### **Termination of agreements**

(1) Subject to subsection (2) and despite anything in the declaration, a by-law, an agreement or an instrument, after the registration of the amendments to the declaration and description required for creating a phase, a corporation may, by resolution of the board, terminate an agreement under which it receives condominium management services in respect of the property contained in the phase and that the declarant entered into on behalf of the corporation before the registration of the amendments. 2015, c. 28, Sched. 2, s. 80 (19).

#### **Notice**

(2) To terminate an agreement, the board shall give at least 60 days notice in writing of the date of termination to the person with whom the declarant entered into the agreement. 1998, c. 19, s. 154 (2).

### **Other agreements**

(3) Subject to subsection (4) and subsection 112 (5), within 12 months following the first election of the board under section 43 after the registration of the amendments to the declaration and description required for creating a phase, the corporation may, by resolution of the board, terminate an agreement described in subsection 112 (2), that the declarant has entered into on behalf of the corporation before the registration of the amendments and that affects the property contained in the phase. 1998, c. 19, s. 154 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 154 (3) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 131 (2))

### **Other agreements**

(3) Subject to subsection (4), subsection 112 (5) and the regulations and despite anything in the declaration, a by-law, an agreement or an instrument, within 12 months following the first election of the board under section 43 after the registration of the amendments to the declaration and description required for creating a phase, the corporation may, by resolution of the board, terminate an agreement described in subsection 112 (2) that the declarant has entered into on behalf of the corporation before the registration of the amendments and that affects the property contained in the phase, other than an agreement mentioned in section 21.1. 2015, c. 28, Sched. 1, s. 131 (2).

### **Notice**

(4) To terminate an agreement, the board shall give at least 60 days notice in writing of the date of termination to the person with whom the declarant entered into the agreement. 1998, c. 19, s. 154 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 154 (4) of the Act is amended by adding “under subsection (1) or (3)” after “To terminate an agreement”. (See: 2015, c. 28, Sched. 1, s. 131 (3))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 154 of the Act is amended by adding the following subsection: (See: 2015, c. 28, Sched. 1, s. 131 (4))

### **No liability**

(4.1) If a corporation terminates an agreement under subsection (1) or (3), the corporation and its directors, officers and owners are not liable for,

- (a) any obligations in respect of the termination, including obligations purporting to be incurred as cancellation charges, administration charges, accelerated payments or any other charges, penalties or fees;
- (b) any monetary obligations under the agreement respecting any period after the termination takes effect, unless the regulations provide otherwise; or
- (c) any other prescribed consequences. 2015, c. 28, Sched. 1, s. 131 (4).

### **Mutual use agreements**

(5) If a declarant on behalf of a corporation has entered into an agreement for the mutual use, provision or maintenance or the cost-sharing of facilities or services before the registration of the amendments to the declaration and description required for creating a phase, and the agreement affects the property contained in the phase, any party to the agreement may, within 12 months following the first election of the board under section 43 after the registration of the amendments, make an application to the Superior Court of Justice for an order under subsection (6). 1998, c. 19, s. 154 (5); 2000, c. 26, Sched. B, s. 7 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 154 (5) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 131 (5))

### **Shared facilities agreements**

(5) If a declarant on behalf of a corporation has entered into an agreement to share in the provision, use, maintenance, repair, insurance, operation or administration of any land, any part of a property or proposed property, any assets of a corporation or any facilities or services before the registration of the amendments to the declaration and description required for creating a phase and if the agreement affects the property contained in the phase, any party to the agreement may, within 12 months following the first election of the board under section 43 after the registration of the amendments, make an application to the Superior Court of Justice for an order under subsection (6) unless the regulations provide otherwise. 2015, c. 28, Sched. 1, s. 131 (5).

### **Court order**

(6) The court may make an order described in subsection 113 (3) if the requirements of that subsection are met. 1998, c. 19, s. 154 (6).

#### **Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

2015, c. 28, Sched. 1, s. 131 - not in force; 2015, c. 28, Sched. 2, s. 80 (17, 18) - 01/11/2017; 2015, c. 28, Sched. 2, s. 80 (19, 20) - not in force

## **PART XII VACANT LAND CONDOMINIUM CORPORATIONS**

### **Creation**

**155** (1) Subject to the regulations, a declarant may register a declaration and description that create a corporation in which, at the time of the registration,

- (a) one or more units are not part of a building or structure and do not include any part of a building or structure; and
- (b) none of the units are located above or below any other unit. 1998, c. 19, s. 155 (1); 2015, c. 28, Sched. 1, s. 146 (1).

### **Type of corporation**

(2) The type of corporation created by the registration of declaration and description under subsection (1) shall be known as a vacant land condominium corporation. 1998, c. 19, s. 155 (2).

### **Requirements for registration**

(3) A declaration and description for a vacant land condominium corporation shall not be registered unless the registration would create a freehold condominium corporation that is not a common elements condominium corporation or, except as provided in the regulations made under this Act, a phased condominium corporation. 1998, c. 19, s. 155 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 155 (3) of the Act is amended by striking out “or, except as provided in the regulations made under this Act, a phased condominium corporation” at the end. (See: 2015, c. 28, Sched. 1, s. 132 (1))

### **Application**

(4) Subject to this Part, Parts I to IX and XIV apply with necessary modifications to a vacant land condominium corporation. 1998, c. 19, s. 155 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 155 (4) of the Act is amended by adding “XI” after “IX”. (See: 2015, c. 28, Sched. 1, s. 132 (2))

### **Other corporations**

(5) This Part does not apply to a corporation that is not a vacant land condominium corporation. 1998, c. 19, s. 155 (5).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 132 - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

### **Contents of declaration**

**156** (1) If a unit in a vacant land condominium corporation is to include a building or structure constructed after the registration of the declaration and description, the declaration may contain restrictions with respect to,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 156 (1) of the Act is amended by adding “subject to the regulations” after “may” in the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 133)

- (a) the size, location, construction standards, quality of materials and appearance of the building or structure;
- (b) architectural standards and construction design standards of the building or structure;
- (c) the time of commencement and completion of construction of the building or structure; and
- (d) the minimum maintenance requirements for the building or structure. 1998, c. 19, s. 156 (1).

### **Permitted restrictions**

(2) A restriction contained in the declaration shall be consistent with the conditions imposed by the approval authority in approving or exempting the description under section 9. 1998, c. 19, s. 156 (2).

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 133 - not in force

### **Contents of description**

**157** (1) A description of a vacant land condominium corporation shall contain,

- (a) a plan of survey showing the perimeter of the horizontal surface of the land, the perimeter of the buildings and structures on the common elements and the boundaries of each unit;
- (b) subject to section 158, architectural plans of the buildings and structures included in the common elements and, if there are any, structural plans of them;
- (c) subject to section 158, a certificate of an architect that the buildings included in the common elements have been constructed in accordance with the regulations and, if there are structural plans, a certificate of an engineer that the buildings have been constructed in accordance with the regulations;
- (d) a description of all interests appurtenant to the land that are included in the property; and
- (e) all other material that the regulations require. 1998, c. 19, s. 157 (1); 2001, c. 9, Sched. D, s. 3 (3); 2015, c. 28, Sched. 1, s. 146 (1).

### **Application**

(2) Subsection 8 (1) and clause 8 (3) (b) do not apply to vacant land condominium corporations. 1998, c. 19, s. 157 (2).

### **Section Amendments with date in force (d/m/y)**

2001, c. 9, Sched. D, s. 3 (3) - 29/06/2001

2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

### **Buildings on common elements**

**158** (1) A declaration and description of a vacant land condominium corporation that show buildings, structures, facilities and services to be included in the common elements shall not be registered unless,

- (a) all buildings, structures, facilities and services shown in the declaration and description to be included in the common elements have been completed, installed and provided in accordance with the regulations; or
- (b) the declarant provides to a person or body, including an approval authority, specified by the municipality in which the land is situated, or the Minister of Municipal Affairs and Housing if the land is not situated in a municipality, a bond or other security that is acceptable to the municipality or the Minister, as the case may be, and that is sufficient to ensure that,
  - (i) the buildings and structures will be completed and installed in accordance with the regulations,
  - (ii) the facilities and services will be installed and provided, and
  - (iii) the items described in clauses 157 (1) (b) and (c) will be included in an amendment to the description. 1998, c. 19, s. 158 (1); 2015, c. 28, Sched. 1, s. 146 (1).

### **Partial release**

(2) The person holding the bond or other security may provide a partial release of it to the declarant with the consent of the municipality or the Minister of Municipal Affairs and Housing, as the case may be. 1998, c. 19, s. 158 (2).

### **Full release**

(3) The person holding the bond or other security shall not release it in full until,

- (a) all the buildings, structures, facilities and services to be included in the common elements have been completed and installed in accordance with the regulations; and
- (b) the declarant has registered an amendment to the description consisting of the items described in clauses 157 (1) (b), (c) and (e). 1998, c. 19, s. 158 (3); 2015, c. 28, Sched. 1, s. 146 (1).

### **Consent of owners not required**

(4) Section 107 does not apply to an amendment to the description if the amendment complies with clause (3) (b). 1998, c. 19, s. 158 (4).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

### **Status of buildings in corporation**

**159** (1) The buildings and structures located on a unit or on the common elements of a vacant land condominium corporation, whether or not the buildings and structures had been constructed at the time of the registration of the declaration and description, are real property and form part of the unit or common elements respectively. 1998, c. 19, s. 159 (1).

### **Insurance**

(2) The corporation is exempt from the obligation to obtain and maintain the insurance described in section 99 for buildings and structures located on a unit. 1998, c. 19, s. 159 (2).

### **Owner to insure**

(3) The owner of a unit shall obtain and maintain the insurance for damage to the unit that, but for subsection (2), the corporation would have had to obtain with respect to the unit. 1998, c. 19, s. 159 (3).

### **By-laws**

**160** In addition to the power to make, amend or repeal by-laws under subsection 56 (1), the board of a vacant land condominium corporation may, subject to section 56, make, amend or repeal by-laws, not contrary to the declaration, specifying minimum maintenance requirements for a unit or a building or structure located on a unit. 1998, c. 19, s. 160.

### **Disclosure statement**

**161** (1) Before delivering the first disclosure statement and the condominium guide as required by section 72, the declarant with respect to a unit or a proposed unit in a vacant land condominium corporation shall request from the municipality in which the land is situated or from the Minister of Municipal Affairs and Housing if the land is not situated in a municipality, a statement of the services provided by the municipality or the Minister, as the case may be, including the construction and maintenance of roads. 1998, c. 19, s. 161 (1); 2015, c. 28, Sched. 1, s. 134 (1).

### **Contents**

(2) In addition to the material required under subsection 72 (3), a disclosure statement relating to the purchase of a unit or a proposed unit in a vacant land condominium corporation shall include,

- (a) whatever statement that the declarant has received from the municipality or the Minister of Municipal Affairs and Housing, as the case may be, in response to a request; and
- (b) all other material that the regulations made under this Act require. 1998, c. 19, s. 161 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 161 (2) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 134 (2))**

### **Contents**

(2) In addition to the material required under subsection 72 (3), a disclosure statement relating to the purchase of a unit or a proposed unit in a vacant land condominium corporation shall include whatever statement that the declarant has received from the municipality or the Minister of Municipal Affairs and Housing, as the case may be, in response to a request. 2015, c. 28, Sched. 1, s. 134 (2).

### **If no statement received**

(3) If the declarant has not received any statement in response to a request within 30 days of making it, the disclosure statement shall contain a statement that the declarant has requested a statement under subsection (1) but has not received any statement in response to the request. 1998, c. 19, s. 161 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 161 (3) of the Act is amended by adding “that is prepared in accordance with the regulations and” after “contain a statement”. (See: 2015, c. 28, Sched. 1, s. 134 (3))**

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 134 (1) - 01/01/2021; 2015, c. 28, Sched. 1, s. 134 (2, 3) - not in force

### **Repair and maintenance**

**162** (1) Subject to the regulations, sections 89, 90, 91 and 92 do not apply to a vacant land condominium corporation. 1998, c. 19, s. 162 (1); 2015, c. 28, Sched. 1, s. 146 (1).

### **Extent of obligations**

(2) For the purpose of this section, the obligation to repair after damage includes the obligation to repair and replace after damage or failure and the obligation to maintain includes the obligation to repair after normal wear and tear but does not include the obligation to repair after damage. 1998, c. 19, s. 162 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 162 (2) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 135 (1))**

#### **Common elements**

(3) A vacant land condominium corporation shall maintain the common elements and repair them after damage. 1998, c. 19, s. 162 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 162 (3) of the Act is amended by striking out “after damage”. (See: 2015, c. 28, Sched. 1, s. 135 (2))**

#### **Units**

(4) The owner of a unit in a vacant land condominium corporation shall maintain the owner’s unit and repair it after damage. 1998, c. 19, s. 162 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 162 (4) of the Act is amended by striking out “after damage”. (See: 2015, c. 28, Sched. 1, s. 135 (2))**

#### **Work done for owner**

(5) If an owner of a unit in a vacant land condominium corporation fails to maintain the owner’s unit within a reasonable time or to repair it within a reasonable time after damage, the corporation may maintain or repair the unit, as the case may be. 1998, c. 19, s. 162 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 162 (5) of the Act is amended by striking out “after damage”. (See: 2015, c. 28, Sched. 1, s. 135 (2))**

#### **Cost**

(6) An owner shall be deemed to have consented to the repairs or maintenance carried out by the corporation and the cost of the work shall be added to the contribution to the common expenses payable for the owner’s unit. 1998, c. 19, s. 162 (6); 2015, c. 28, Sched. 1, s. 136.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 135 - not in force; 2015, c. 28, Sched. 1, s. 136 - 01/11/2017; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

#### **Substantial damage**

**163** (1) If the board of a vacant land condominium corporation determines under section 123 that substantial damage has occurred to a building located on a unit and the owners do not vote for termination under that section, the owner of the unit may elect,

- (a) not to repair the damage; or
- (b) to replace the building with a different building, subject to this Act, the declaration and the by-laws. 1998, c. 19, s. 163 (1).

#### **Owner’s duty**

(2) An owner of a unit who elects not to repair the damage shall, as closely as is reasonably possible, restore the land on which the building was located to the state that the land was in immediately before the construction of the building. 1998, c. 19, s. 163 (2).

#### **Restoration done by corporation**

(3) If the owner of the unit does not do the restoration within a reasonable time, the corporation may do it. 1998, c. 19, s. 163 (3).

#### **Cost**

(4) The owner shall be deemed to have consented to the restoration done by the corporation and the cost of the restoration shall be added to the contribution to the common expenses payable for the owner’s unit. 1998, c. 19, s. 163 (4); 2015, c. 28, Sched. 1, s. 136.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 136 - 01/11/2017

### **PART XIII**

#### **LEASEHOLD CONDOMINIUM CORPORATIONS**

##### **Creation**

**164** (1) Subject to the regulations, a declarant may register a declaration and description that divide the leasehold estate in the land described in the description into units and common elements. 1998, c. 19, s. 164 (1); 2015, c. 28, Sched. 1, s. 146 (1).

##### **Type**

(2) The type of corporation created by the registration of a declaration and description under subsection (1) shall be known as a leasehold condominium corporation. 1998, c. 19, s. 164 (2).

##### **Application**

(3) Subject to this Part, Parts I to IX and XIV apply with necessary modifications to a leasehold condominium corporation. 1998, c. 19, s. 164 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 164 (3) of the Act is amended by adding “XI” after “IX”. (See: 2015, c. 28, Sched. 1, s. 137)

##### **Other corporations**

(4) This Part does not apply to a corporation that is not a leasehold condominium corporation. 1998, c. 19, s. 164 (4).

##### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 137 - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

##### **Leasehold interest of owners**

**165** (1) Each leasehold interest in a unit in a leasehold condominium corporation and its appurtenant common interest is valid even if the lessor is the owner of the leasehold interest and in that case the legal title and the leasehold interest shall be deemed not to merge. 1998, c. 19, s. 165 (1).

##### **Same term**

(2) All leasehold interests in units in a leasehold condominium corporation and their appurtenant common interests shall be for the same term. 1998, c. 19, s. 165 (2).

##### **Term before renewal**

(3) The term of the leasehold interests before a renewal under section 174 shall be not less than 40 years less a day and not more than 99 years as specified in the declaration. 1998, c. 19, s. 165 (3).

##### **Lessor's consent not required**

(4) The owner of a unit in a leasehold condominium corporation may, without the consent of the lessor, transfer, mortgage, lease or otherwise deal with the leasehold interest in the unit. 1998, c. 19, s. 165 (4).

##### **Transfer of unit**

(5) The owner of a unit in a leasehold condominium corporation may not transfer less than the whole leasehold interest in the unit and its appurtenant common interest. 1998, c. 19, s. 165 (5).

##### **Form of transfer**

(6) A leasehold interest in a unit in a leasehold condominium corporation shall be transferred in accordance with section 105 of the *Land Titles Act*, even if the land included in a leasehold condominium corporation is situated within the boundaries of a registry division. 1998, c. 19, s. 165 (6).

##### **Application of *Residential Tenancies Act, 2006***

(7) The *Residential Tenancies Act, 2006* does not apply to the leasehold interest of an owner of a unit in a leasehold condominium corporation and its appurtenant common interest but does apply to a lease of an owner's leasehold interest in a unit. 1998, c. 19, s. 165 (8); 2006, c. 17, s. 248 (5).

(8) SPENT: 1998, c. 19, s. 165 (8).

##### **Section Amendments with date in force (d/m/y)**

1998, c. 19, s. 165 (8) - 17/06/1998

2006, c. 17, s. 248 (5) - 31/01/2007

## **Declaration**

**166** (1) A declaration for a leasehold condominium corporation shall not be registered unless it is executed by the lessor. 1998, c. 19, s. 166 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 166 (1) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 138 (1))

## **Declaration**

(1) A declaration for a leasehold condominium corporation and an amendment to a declaration for a leasehold condominium corporation to make the corporation a phased condominium corporation shall not be registered unless it is executed by the lessor. 2015, c. 28, Sched. 1, s. 138 (1).

## **Contents**

(2) In addition to the requirements of subsection 7 (2), a declaration for a leasehold condominium corporation shall contain,

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 166 (2) of the Act is amended by adding “and subject to the regulations” after “7 (2)” in the portion before clause (a). (See: 2015, c. 28, Sched. 1, s. 138 (2))

- (a) a statement of the term of the leasehold interests of the owners;
- (b) a schedule setting out the amount of rent for the property payable by the corporation on behalf of the owners to the lessor and the times at which the rent is payable for at least the first five years immediately following the registration of the declaration and description;
- (c) a formula to determine the amount of rent for the property payable by the corporation on behalf of the owners to the lessor and the times at which the rent is payable during the remainder of the term of the owners’ leasehold interests following the time for which the schedule described in clause (b) states the amount of rent payable;
- (d) a schedule of all provisions of the leasehold interests that affect the property, the corporation and the owners; and
- (e) all other material that the regulations require. 1998, c. 19, s. 166 (2); 2015, c. 28, Sched. 1, s. 146 (1).

## **Leasehold interests in property**

(3) Provisions of the leasehold interests in the property are not binding on the property, the corporation or the owners unless the declaration sets them out and states that they are binding. 1998, c. 19, s. 166 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 166 (3) of the Act is amended by adding “in accordance with the prescribed requirements” after “sets them out”. (See: 2015, c. 28, Sched. 1, s. 138 (3))

## **Amendment of declaration**

(4) An amendment to the declaration that affects the leasehold interests in the property is not effective unless the lessor has consented in writing to the amendment. 1998, c. 19, s. 166 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 166 (4) of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 138 (4))

## **Amendment to declaration**

(4) An amendment to the declaration that affects the leasehold interests in the property, other than an amendment to make the corporation a phased condominium corporation, is not effective unless the lessor has consented in writing to the amendment. 2015, c. 28, Sched. 1, s. 138 (4).

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 138 - not in force; 2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

## **Description**

**167** (1) In addition to the requirements of section 8, a description for a leasehold condominium corporation shall contain all other material that the regulations require. 1998, c. 19, s. 167 (1); 2015, c. 28, Sched. 1, s. 146 (1).

## **Registration**

(2) In addition to the requirements of section 8 and subject to the regulations, a description for a leasehold condominium corporation shall not be registered unless the buildings and improvements to the property form part of the property. 1998, c. 19, s. 167 (2); 2015, c. 28, Sched. 1, s. 146 (1).

### **Amendment to description**

(3) An amendment to the description that affects the leasehold interests in the property is not effective unless the lessor has consented in writing to the amendment. 1998, c. 19, s. 167 (3).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

### **Leasehold estate in property**

**168** (1) A leasehold condominium corporation shall, on behalf of the owners, exercise all rights and perform all obligations of the owners with respect to the leasehold estate in the property. 1998, c. 19, s. 168 (1).

### **Same**

(2) The owners shall not exercise the rights or perform the obligations mentioned in subsection (1). 1998, c. 19, s. 168 (2).

### **Mediation**

(3) The lessor and the corporation shall be deemed to have agreed that either party may submit to mediation a disagreement on the interpretation of the provisions of the leasehold interests in the property that bind the property. 1998, c. 19, s. 168 (3).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 168 (3) of the Act is amended by adding “including any question of law or equity” at the end. (See: 2015, c. 28, Sched. 1, s. 139)

### **Application of s. 132**

(4) If the lessor or the corporation submits a disagreement to mediation, section 132 applies to it. 1998, c. 19, s. 168 (4).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 139 - not in force

### **Disclosure statement**

**169** In addition to the matters mentioned in subsection 72 (3), a disclosure statement in the case of a leasehold condominium corporation shall include,

- (a) a statement by the declarant whether the provisions of the leasehold interests in the property are in good standing and have not been breached; and
- (b) all other material that the regulations made under this Act require. 1998, c. 19, s. 169.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 169 of the Act is repealed and the following substituted: (See: 2015, c. 28, Sched. 1, s. 140)

### **Disclosure statement**

**169** In addition to the matters mentioned in subsection 72 (3), a disclosure statement in the case of a leasehold condominium corporation shall include a statement by the declarant whether the provisions of the leasehold interests in the property are in good standing and have not been breached. 2015, c. 28, Sched. 1, s. 140.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 140 - not in force

### **Status certificate**

**170** In addition to the material mentioned in subsection 76 (1), a status certificate in the case of a leasehold condominium corporation shall include,

- (a) a statement by the corporation whether the provisions of the leasehold interests in the property are in good standing and have not been breached;
- (b) a statement by the corporation whether the lessor has applied for a termination order under section 173; and
- (c) all other material that the regulations require. 1998, c. 19, s. 170; 2015, c. 28, Sched. 1, s. 146 (1).

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 146 (1) - 01/09/2017

**Rent for property**

**171** (1) The rent for the property that a leasehold condominium corporation is required to pay to the lessor on behalf of the owners and all other amounts necessary to comply with the provisions of the leasehold interest affecting the property are a common expense. 1998, c. 19, s. 171 (1).

**Contribution to common expenses**

(2) The corporation shall collect from each owner, as part of the contribution to the common expenses payable for the owner's unit, a portion of the rent and the amounts described in subsection (1) based on the proportion in which the owner is to contribute to the common expenses and that is allocated to the owner's unit in the declaration. 2015, c. 28, Sched. 1, s. 141.

**Payment to lessor**

(3) The corporation shall remit to the lessor, from the contributions collected from the owners under subsection (2), the amounts to which the lessor is entitled under the provisions of the leasehold interest affecting the property. 1998, c. 19, s. 171 (3).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 141 - 01/11/2017

**Consent of lessor for termination**

**172** A leasehold condominium corporation shall not register a notice of termination under section 122 or 123 or sell the property or a part of the common elements under section 124 unless the lessor has consented to and executed the notice or the agreement of purchase and sale, as the case may be. 1998, c. 19, s. 172.

**Termination by lessor**

**173** (1) The lessor shall not terminate a leasehold interest in a unit in a leasehold condominium corporation unless the lessor has been granted an order terminating the leasehold interests in all of the units. 1998, c. 19, s. 173 (1).

**Application**

(2) The lessor may make an application to the Superior Court of Justice for an order terminating all of the leasehold interests, if a leasehold condominium corporation,

- (a) has failed to remit to the lessor the amounts to which the lessor is entitled under the provisions of the leasehold interest affecting the property; or
- (b) has failed to comply with a court order. 1998, c. 19, s. 173 (2); 2000, c. 26, Sched. B, s. 7 (7).

**Grounds for order**

(3) On an application, the court may make an order if it is satisfied that the order is just and equitable, having regard to the scheme and intent of this Act and the interests of all persons that would be affected by the order. 1998, c. 19, s. 173 (3).

**Contents of order**

(4) The order may provide that all of the leasehold interests are terminated subject to the conditions set out in the order or may contain any other provision that the court considers appropriate in the circumstances. 1998, c. 19, s. 173 (4).

**Registration of order**

(5) If the court makes an order terminating all of the leasehold interests, the lessor shall register the order. 1998, c. 19, s. 173 (5).

**Section Amendments with date in force (d/m/y)**

2000, c. 26, Sched. B, s. 7 (7) - 5/05/2001

**Expiration of leasehold interests**

**174** (1) At least five years before the end of the term of the leasehold interests in the units in a leasehold condominium corporation, the lessor shall give the corporation,

- (a) a written notice of intention to renew all the leasehold interests that sets out the provisions applicable to the renewal; or
- (b) a written notice of intention not to renew all the leasehold interests. 1998, c. 19, s. 174 (1).

**Term of renewal**

(2) A renewal of the leasehold interests shall be for at least 10 years or the greater term specified in the notice. 1998, c. 19, s. 174 (2).

**Notice to owners**

(3) Upon receiving the notice, the corporation shall send a copy of it to the owners. 1998, c. 19, s. 174 (3).

**Failure to give notice**

(4) If the lessor does not give the required notice, the lessor shall be deemed to have given the notice required to renew the leasehold interests for 10 years subject to the same provisions that govern the leasehold interests before the renewal and the corporation shall send a notice of that fact to the owners. 1998, c. 19, s. 174 (4).

**Owners' vote for termination**

(5) The leasehold interests shall be renewed for the term and subject to the provisions specified in the notice or the deemed notice, as the case may be, unless the owners who own at least 80 per cent of the units cast a vote against the renewal no later than one year after the notice or the deemed notice, as the case may be, was given to the corporation. 1998, c. 19, s. 174 (5).

**Notice of termination**

(6) The corporation shall give notice to the lessor if, under subsection (5), the owners vote against the renewal. 1998, c. 19, s. 174 (6).

**Registration of notice**

(7) The lessor shall prepare a notice in the form prescribed by the Minister stating whether the leasehold interests have been renewed or not and register the notice in,

- (a) the land titles division of the land registry office within the boundaries of which division the land described in the description is situated, if the land registry office has a land titles division; or
- (b) the registry division of the land registry office within the boundaries of which division the land described in the description is situated, if the land registry office does not have a land titles division. 1998, c. 19, s. 174 (7).

**New provisions upon renewal**

(8) If the leasehold interests are renewed subject to provisions that are different from those that applied before the renewal, the declaration shall be deemed to be amended to contain the provisions that apply upon the renewal and the corporation shall register a copy of the provisions as an amendment to the declaration. 1998, c. 19, s. 174 (8).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 174 (8) of the Act is amended by adding "in accordance with the regulations" at the end. (See: 2015, c. 28, Sched. 1, s. 142)

**Consent of owners not required**

(9) Section 107 does not apply to an amendment to the declaration if the amendment complies with subsection (8). 1998, c. 19, s. 174 (9).

**Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 142 - not in force

**Effect of termination or expiration**

**175** (1) In the case of a leasehold condominium corporation, upon the registration of a notice of termination under section 122 or 123, the registration of a deed to the property under section 124, expropriation under section 126, the registration of an order under section 128 or 173 (or such other date, if any, specified in the registered order) or the registration of a notice under section 174 that the leasehold interests in the units have not been renewed (or such other date, if any, specified in the registered notice),

- (a) this Act ceases to govern the property;
- (b) the leasehold interests in the units are terminated;
- (c) claims against the leasehold interests that do not secure the payment of money are extinguished, unless the lessor consented to their registration, in which case they are continued against the lessor's interest; and
- (d) claims against the leasehold interests that secure the payment of money are claims against the persons who were owners of the leasehold interests immediately before the termination of those interests, and not against the land. 1998, c. 19, s. 175 (1).

## **Same**

(2) Section 127 does not apply to a leasehold condominium corporation. 1998, c. 19, s. 175 (2).

## **Appointment of trustee**

(3) Despite section 129, before the time at which this Act ceases to govern the property, the corporation shall appoint a trustee to pay out the money remaining in the corporation's reserve fund in accordance with this section. 1998, c. 19, s. 175 (3).

## **Distribution of money**

(4) When this Act ceases to govern the property, the trustee shall pay out the money remaining in the reserve fund at that time in accordance with the following priorities:

1. To the lessor, the amount, if any, that is required to repair damage to the property that has not been repaired.
2. To each of the owners, a share of the balance in the same proportion as their common interests, subject to subsection (5). 1998, c. 19, s. 175 (4).

## **Payment of secured claims**

(5) Before paying out a share of money payable to an owner, the trustee shall deduct from the share the amount of claims against the owner that secure the payment of money and shall remit the deduction to the persons entitled to the claims. 1998, c. 19, s. 175 (5).

# **PART XIV GENERAL**

## **Act prevails**

**176** This Act applies despite any agreement to the contrary. 1998, c. 19, s. 176.

## **Fees**

**176.1** (1) The Minister may, by order, establish fees that are payable for filing returns and notices under Part II.1 or for obtaining search reports, copies of documents and information or other services under that Part. 2015, c. 28, Sched. 1, s. 143.

## **Orders are not regulations**

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made under subsection (1). 2015, c. 28, Sched. 1, s. 143.

## **Exception**

(3) Subsection (1) does not apply if the condominium authority is responsible for the administration of Part II.1. 2015, c. 28, Sched. 1, s. 143.

## **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 143 - 01/01/2018

## **Regulations**

**177** (1) The Lieutenant Governor in Council may make regulations,

- 0.1 requiring the condominium authority to collect and publish statistics on its activities and financial affairs in accordance with the requirements specified in the regulations;
- 0.1.1 exempting services from the application of section 1.25;
- 0.2 providing that sections 1.36 to 1.47 apply only in respect of a property located in the geographic area specified in the regulations;
  1. classifying corporations, properties or persons for the purposes of the regulations;
  2. specifying prohibitions, restrictions and other requirements that apply to the registration of a declaration and description in respect of any type of corporation;
- 2.1 governing the form and content of a declaration or a description;
- 2.2 specifying provisions that are deemed to be included in declarations and descriptions registered before May 5, 2001;

- 2.3 governing what constitutes and what does not constitute an inconsistent provision for the purposes of subsection 7 (5), 56 (8) or 58 (4);
- 3. specifying requirements for the construction of the buildings described in a description for the purpose of a certificate mentioned in clause 8 (1) (e) or 157 (1) (c);
- 3.1 for the purposes of clause 22 (2) (a), governing what constitutes a network upgrade or an agreement for a network upgrade;
- 3.2 governing what constitutes an interest or a right mentioned in subsection 26.1 (1) or 78 (1.1);
- 3.3 governing the training that a person must complete for the purposes of clause 29 (2) (e), including,
  - i. authorizing the board of the condominium authority or the Minister to designate training courses,
  - ii. authorizing the board of the condominium authority or the Minister to designate organizations that are authorized to provide the courses designated in subparagraph i, and
  - iii. requiring the condominium authority or the Minister to keep records relating to training;
- 4. specifying material to be included in a declaration, a description, a report of a performance audit mentioned in subsection 44 (8), a table of contents, a disclosure statement, a budget statement, a status certificate, an agreement described in clause 98 (1) (b) or a notice of meeting mentioned in subsection 120 (3);

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 4 of subsection 177 (1) of the Act is amended by striking out “a table of contents” and substituting “a summary”. (See: 2015, c. 28, Sched. 1, s. 144 (2))**

- 4.1 governing material that is to be made available on a website that a declarant or declarant affiliate maintains or makes use of in relation to a property or proposed property;
- 4.2 governing when a person shall be deemed to be acting on behalf of or for the benefit of a declarant in respect of the purchase of a unit or a proposed unit under this Act or shall be deemed not to be so acting;
- 5. specifying deficiencies for the purpose of a performance audit under section 44 and governing the obligations of the person who conducts the audit;
- 6. requiring corporations to keep books, accounts and records and governing the books, accounts and records that corporations are required to keep;
- 6.1 setting out provisions that are deemed to be included in the declaration, the by-laws or the rules unless they are amended or repealed in accordance with this Act;
- 6.2 restricting provisions of the declaration, the by-laws or the rules of a corporation that a board, other than a board of the corporation described in subsection 11 (8), may approve, make, amend or repeal and governing the remedies available to persons affected by non-compliance with a regulation made under this paragraph;
- 6.3 if a regulation made under paragraph 6.2 restricts a board of a corporation to which that paragraph applies from approving, making, amending or repealing a provision of the declaration, the by-laws or the rules of the corporation, governing the circumstances where a decision of a board of a corporation described in subsection 11 (8) to approve, make, amend or repeal such a provision is not valid and governing the remedies available to persons affected by that decision;

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 177 (1) of the Act is amended by adding the following paragraph: (See: 2015, c. 28, Sched. 1, s. 144 (4))**

- 6.4 governing the quorum required for the transaction of business at a meeting of owners to which clause 45.1 (1) (a.1) applies;

**Note: On October 1, 2023, subsection 177 (1) of the Act is amended by adding the following paragraph: (See: 2023, c. 9, Sched. 7, s. 11 (1))**

- 6.5 governing the giving of a notice under clause 47 (4) (c) or (5) (c), including limiting the types of notices that may be given by one or more methods of electronic communication described in those clauses;
- 7. governing the determination of occupancy standards under section 57;
- 8. specifying the form and content of financial statements and audit reports;
- 8.1 specifying the manner of requesting or delivering statements and other material mentioned in section 26.3, 51, 72, 72.1, 74, 76, 77, 81, 82, 83.1, 115, 143, 147, 149, 150, 152, 161 or 169, requiring the person to whom the statements and material are delivered to provide an acknowledgment of the delivery and governing the acknowledgement;

- 8.2 for the purposes of subsection 11 (7) and sections 26.1 and 26.2, governing the circumstances where the decision of a board of a corporation under those provisions is not valid and governing the remedies available to persons affected by that decision;
- 8.3 for the purposes of subsection 51 (3) or 51.1 (2), governing the circumstances when two or more owners of a unit are deemed to be evenly divided on how to exercise the right to vote or consent in respect of the unit under that subsection;
- 8.4 governing the remedies available to a person who is or was a purchaser under section 72.1 if a declarant does not comply with that section;
- 9. prescribing rates of interest payable under this Act, including rates of interest that shall be paid on money required to be held in trust under this Act;
- 10. governing funds intended for the payment of common expenses;
- 10.1 for the purposes of subsection 92 (1), (2) or (3), governing what constitutes work necessary to carry out the obligation mentioned in that subsection;
- 11. classifying reserve fund studies for the purposes of section 94;
- 12. governing the contents of any or all classes of reserve fund studies, the standards that shall be observed in conducting them and the times at which they shall be conducted;

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 12 of subsection 177 (1) of the Act is amended by striking out “conducted” at the end and substituting “obtained”. (See: 2015, c. 28, Sched. 1, s. 144 (7))**

- 13. prescribing the persons who may conduct any or all classes of reserve fund studies and specifying the qualifications of the persons and the affiliations for the purposes of subsection 94 (6) that disentitle the persons from conducting the reserve fund studies;

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 13 of subsection 177 (1) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 144 (8))**

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 177 (1) of the Act is amended by adding the following paragraph: (See: 2015, c. 28, Sched. 1, s. 144 (10))**

- 13. governing the manner in which the current fiscal year mentioned in clause 97 (5) (c) or 97 (9) (a) is to be determined;
- 14. governing the cost mentioned in clause 97 (2) (c);

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 14 of subsection 177 (1) of the Act is repealed. (See: 2015, c. 28, Sched. 1, s. 144 (9))**

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 177 (1) of the Act is amended by adding the following paragraph: (See: 2015, c. 28, Sched. 1, s. 144 (11))**

- 14. governing what constitutes a condition or activity mentioned in section 117;
- 15. specifying restrictions on the right of corporations to amalgamate under section 120 and requirements for corporations to fulfill in order to amalgamate;
- 15.1 specifying the qualifications that a person must have to be appointed as an administrator under section 131 and specifying the conditions or requirements that a person must fulfil to be so appointed;
- 15.2 for the purposes of sections 82.1, 82.2, 124 and 125, governing what constitutes the net proceeds of a sale mentioned in the applicable section;
- 15.3 requiring an applicant who makes an application under subsection 128 (1) to give notice of the application and governing the contents of the notice and the time required for giving it;
- 15.4 for the purposes of subsections 135.1 (3) and (4), governing what constitutes any additional actual costs that a corporation or an owner incurs in obtaining an order described in either of those subsections;
- 16. specifying restrictions on the right of a declarant to register a declaration and description to create a common elements condominium corporation, a vacant land condominium corporation or a leasehold condominium corporation and specifying requirements for the declarant to fulfill in order to make the registrations, including requirements for the purpose of section 157;
- 17. respecting the manner in which a common interest attaches to an owner’s parcel of land for the purpose of subsection 139 (3);

18. specifying restrictions on the right of a declarant to register an amendment to a declaration and description required for creating a phase in a phased condominium corporation and specifying requirements for the declarant to fulfill in order to make the registrations;
- 18.1 governing the manner in which section 75 applies to a phased condominium corporation;
19. governing the manner in which sections 89, 90, 91 and 92 apply to a vacant land condominium corporation;
- 19.1 for the purposes of subsection 162 (5), governing what constitutes work necessary to carry out the obligation mentioned in that subsection;
20. prescribing the amounts of fees that are payable or chargeable under this Act;
21. prescribing forms, other than forms mentioned in this Act as forms prescribed by the Minister, and providing for their use;
22. prescribing any matter mentioned in this Act as prescribed, other than forms mentioned in this Act as forms prescribed by the Minister;
23. respecting any matter that this Act mentions may be or shall be dealt with in the regulations;
24. exempting any class of corporations, properties or persons from any provision of this Act or the regulations;
- 24.1 defining any word or expression used in this Act that has not already been expressly defined in this Act;
25. respecting any matter necessary or advisable to carry out the intent and purpose of this Act;
26. providing for any transitional matter necessary for the effective implementation of this Act or the regulations. 1998, c. 19, s. 177 (1); 2015, c. 28, Sched. 1, s. 144 (1, 3, 5, 6, 12); 2020, c. 14, Sched. 1, s. 20.

#### **Minister's regulations**

(2) The Minister may make regulations,

1. respecting the registration and recording of declarations, descriptions, amendments to declarations or descriptions, by-laws, notices of termination and other instruments;
2. governing the method of describing land or any interest in land in instruments affecting a property or part of a property;
3. governing surveys, plans, specifications, certificates, descriptions and diagrams, and prescribing procedures for their registration and amendment;
4. prescribing the duties of officers appointed under the *Land Titles Act* or the *Registry Act* for the purpose of this Act;
5. requiring the payment of fees to officers appointed under the *Land Titles Act* or the *Registry Act* and prescribing the amounts of the fees;
6. respecting the names of corporations and requiring that the name of a corporation indicate whether the corporation is a freehold, leasehold, common elements, phased or vacant land condominium corporation;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, paragraph 6 of subsection 177 (2) of the Act is amended by striking out “phased”. (See: 2015, c. 28, Sched. 1, s. 144 (13))

7. governing the circumstances and the manner in which the *Corporations Information Act* is to apply to corporations, including the time at which that Act is to apply;
- 7.1 governing any return or notice required to be filed under Part II.1, including governing their form, the manner of accepting them, the determination and confirmation of the date of their receipt and their period of retention and destruction;
- 7.2 specifying alternative methods of filing returns and notices under Part II.1 and governing their filing by each method, including governing the manner of accepting them and the determination and confirmation of the date of their receipt;
8. requiring that a description in respect of any class of properties contain a survey of the properties showing the units and common elements, in lieu of or in addition to the requirements of section 8;
9. prescribing the material required to be contained in the certificate as to the status of an amalgamating corporation for the purpose of clause 120 (3) (c);
10. prescribing forms described in this Act as forms prescribed by the Minister and providing for their use. 1998, c. 19, s. 177 (2); 2015, c. 28, Sched. 1, s. 144 (14).

**Note: On October 1, 2023, subsection 177 (2) of the Act is amended by adding the following paragraph: (See: 2023, c. 9, Sched. 7, s. 11 (2))**

11. governing transitional matters as the Minister considers necessary or advisable to facilitate the implementation of amendments to this Act made by Schedule 7 to the *Less Red Tape, Stronger Economy Act, 2023*.

### **Application of regulations**

- (3) A provision of a regulation may be made to apply to,
- (a) all corporations or any class or type of corporations;
  - (b) all properties or any class of properties; or
  - (c) all persons or any class of persons. 1998, c. 19, s. 177 (3).

### **Incorporation by reference**

(4) A regulation made under subsection (1) that prescribes any of the following things may adopt by reference, with the changes, if any, that the Lieutenant Governor in Council considers advisable, any principle, standard, code or formula, as it reads at the time the regulation is made or as it is amended from time to time, whether before or after the time at which the regulation is made:

1. The manner in which financial statements of a corporation are to be prepared or generally accepted accounting principles for the purpose of those statements.
2. The manner in which the auditor's report described in subsection 67 (1) is to be prepared or generally accepted auditing standards for the purpose of that report. 2001, c. 9, Sched. D, s. 3 (4).

### **Section Amendments with date in force (d/m/y)**

2001, c. 9, Sched. D, s. 3 (4) - 29/06/2001

2012, c. 8, Sched. 9, s. 5 - See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2022

2015, c. 28, Sched. 1, s. 144 (1, 3, 6, 12, 14) - 01/09/2017; 2015, c. 28, Sched. 1, s. 144 (2, 4, 7-11, 13) - not in force; 2015, c. 28, Sched. 1, s. 144 (5) - 03/12/2015

2020, c. 14, Sched. 1, s. 20 - 14/07/2020

2023, c. 9, Sched. 7, s. 11 (1, 2) - 01/10/2023

### **Transition**

**178** (1) Corporations created under the *Condominium Act*, being chapter C.26 of the Revised Statutes of Ontario, 1990, are continued as corporations under this Act. 1998, c. 19, s. 178 (1).

### **Lien**

(2) A corporation's lien that was created under the *Condominium Act* for the default of an owner in the obligation to contribute to the common expenses payable for the owner's unit is continued as a lien under subsection 85 (1) of this Act. 1998, c. 19, s. 178 (2); 2015, c. 28, Sched. 1, s. 145.

### **Section Amendments with date in force (d/m/y)**

2015, c. 28, Sched. 1, s. 145 - 01/11/2017

### **Transition, turnover**

**179** (1) If the corporation was created under the *Condominium Act*, being chapter C.26 of the Revised Statutes of Ontario, 1990, section 43 does not apply and section 26 of that Act, as it existed immediately before the coming into force of section 184, continues to apply. 1998, c. 19, s. 179 (1).

### **Offences under former Act**

(2) Section 55 of the *Condominium Act*, as it existed immediately before the coming into force of section 184, continues to apply with respect to contraventions of subsection 26 (3) of that Act. 1998, c. 19, s. 179 (2).

### **Transition, disclosure**

**180** (1) If, on or before the day sections 44, 72 to 75 and 78 to 82 come into force, the declarant with respect to a corporation has entered into one or more agreements of purchase and sale for a unit or proposed unit in the corporation,

- (a) those sections do not apply; and

- (b) subject to subsection (2), sections 51 to 54 of the *Condominium Act*, being chapter C.26 of the Revised Statutes of Ontario, 1990, except for subsection 52 (5) of that Act, as those sections existed immediately before the coming into force of section 184, continue to apply. 1998, c. 19, s. 180 (1).

#### **Not a material amendment**

(2) For the purposes of subsection 52 (2) of the *Condominium Act*, being chapter C.26 of the Revised Statutes of Ontario, 1990, a change to the information required to be contained in a disclosure statement that arises only as a result of the coming into force of this Act does not constitute a material amendment to the disclosure statement. 1998, c. 19, s. 180 (2).

#### **Offences under former Act**

(3) Section 55 of the *Condominium Act*, as it existed immediately before the coming into force of section 184, continues to apply with respect to contraventions of subsection 52 (5), (6), or 53 (1) of that Act. 1998, c. 19, s. 180 (3).

#### **Transition, insurance**

**181** (1) If, at the time section 99 comes into force, the corporation has entered into an insurance policy under section 27 of the *Condominium Act*, being chapter C.26 of the Revised Statutes of Ontario, 1990, that has not expired, section 99 does not apply and section 27 of that Act, as it existed immediately before the coming into force of section 184, continues to apply. 1998, c. 19, s. 181 (1).

#### **Renewals**

(2) Despite subsection (1), section 99 applies if the corporation renews an insurance policy described in that subsection after section 99 comes into force. 1998, c. 19, s. 181 (2).

#### **Transition, termination of agreements**

**182** If the corporation has entered into an agreement described in sections 111 and 112 before those sections come into force, those sections do not apply and section 39 of the *Condominium Act*, being chapter C.26 of the Revised Statutes of Ontario, 1990, as that section existed immediately before the coming into force of section 184, continues to apply. 1998, c. 19, s. 182.

#### **Transition, regulations**

**183** Despite section 184, the Lieutenant Governor in Council may by regulation revoke regulations made under section 59 of the *Condominium Act*, being chapter C.26 of the Revised Statutes of Ontario, 1990, as that section read immediately before section 184 comes into force, if the Minister makes a regulation under subsection 177 (2) that is inconsistent with those regulations. 1998, c. 19, s. 183.

**184-186** OMITTED (AMENDS OR REPEALS OTHER ACTS). 1998, c. 19, ss. 184-186.

**187** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 1998, c. 19, s. 187.

**188** OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1998, c. 19, s. 188.

**Note:** On October 1, 2023, the Schedule to the Act is repealed. (See: 2023, c. 9, Sched. 7, s. 12)

### **SCHEDULE**

#### **MEETINGS OF DIRECTORS**

**1 The operation of subsection 35 (2) of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:**

##### **Notice**

(2) The person calling a meeting of directors shall give a written notice of the meeting to every director of the corporation in the following manner:

1. The notice shall be given at least 10 days before the day of the meeting, unless the by-laws specify otherwise.
2. The notice shall be given to the director by one of the following means,
  - i. delivering the notice personally, unless the by-laws specify otherwise,
  - ii. sending the notice by prepaid mail or courier delivery addressed to the director at the latest address as shown on the records of the corporation, unless the by-laws specify otherwise,
  - iii. sending the notice by electronic communication addressed to the director at the latest address as shown on the records of the corporation, whether or not the by-laws specify otherwise.

**2 The operation of subsection 35 (5) of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:**

**Teleconference**

(5) A meeting of the directors may be held, in accordance with the regulations, by teleconference or another form of communications system that is prescribed.

**TIME EXTENSION FOR ANNUAL GENERAL MEETINGS**

**3 The operation of subsection 45 (2) of the Act is temporarily suspended and the following replacement provisions are in effect during the temporary suspension period only:**

**Annual general meeting**

(2) The board shall hold a general meeting of owners not more than three months after the registration of the declaration and description and subsequently within six months of the end of each fiscal year of the corporation.

**Annual general meetings, time extension**

(2.1) Despite subsection (2), if the last day on which a meeting is required to be held under subsection (2) is a day that falls within the period of the declared emergency, the last day on which the meeting is instead required to be held is no later than the 90th day after the day the emergency is terminated.

**Same**

(2.2) Despite subsection (2), if the last day on which a meeting is required to be held under subsection (2) is a day that falls within the 30-day period that begins on the day after the day the emergency is terminated, the last day on which the meeting is instead required to be held is no later than the 120th day after the day the emergency is terminated.

**CHANGE IN DATE, TIME OR PLACE OF MEETING OF OWNERS**

**4 The operation of subsection 47 (1) of the Act is temporarily suspended and the following replacement provisions are in effect during the temporary suspension period only:**

**Giving notice to owners**

- (1) Any notice that is required under this Act to be given to owners shall,
  - (a) be in writing;
  - (b) be given at least 15 days before the day of the meeting, if the notice is a notice of meeting of owners;
  - (c) if the notice is a preliminary notice described in subsection 45.1 (1), be given at least 20 days before the subsequent notice of meeting of owners described in that subsection;
  - (d) be given to the owners in accordance with subsection (4); and
  - (e) if the notice is a notice of meeting of owners or a preliminary notice described in subsection 45.1 (1), be given to the mortgagees described in subsections (2) and (3) in accordance with subsection (5).

**Changes re meeting after notice given**

(1.1) If a notice of meeting of owners mentioned in clause (1) (b) has been given in respect of a meeting to be held on a day that falls within the period of the declared emergency and, after the notice is given, the date, time or place of the meeting is changed in order to hold the meeting by telephonic or electronic means, another notice of meeting is not required to be given but the persons entitled to receive the notice must be informed of the change in a manner and within a time that is reasonable in the circumstances.

**MEETING OF OWNERS BY ELECTRONIC MEANS**

**5 The operation of subsection 50 (2) of the Act is temporarily suspended and the following replacement provisions are in effect during the temporary suspension period only:**

**Determination of quorum**

(2) To count towards the quorum, an owner must be entitled to vote at a meeting and shall be present at the meeting or represented by proxy.

**Meeting of owners by electronic means**

(2.1) Despite any by-law, a meeting of owners may be held by telephonic or electronic means, as defined in subsection 52 (1.1), and an owner or a mortgagee who, personally or by proxy, through those means, votes at the meeting or establishes a

communications link to the meeting shall be deemed, for the purposes of this Act, to be present at the meeting or represented by proxy, as the case may be.

#### VOTING BY ELECTRONIC MEANS

**6 The operation of subsection 52 (1) of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:**

##### **Method of voting**

- (1) Votes may be cast by,
  - (a) a show of hands, personally or by proxy; or
  - (b) a recorded vote that is,
    - (i) marked on a ballot cast personally or by a proxy,
    - (ii) marked on an instrument appointing a proxy, or
    - (iii) indicated by telephonic or electronic means, whether or not the by-laws so permit.

#### SERVICE BY ELECTRONIC MEANS

**7 The operation of section 54 of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:**

##### **Service**

**54** (1) Unless this Act indicates otherwise, anything required to be given to an owner or a mortgagee under this Act is sufficiently served if it is given in accordance with subsection 47 (4) or (5), as the case may be.

##### **Service re meetings**

(2) Despite any provision of this Act or the regulations and despite the declaration or by-laws of a corporation, anything required by this Act or the regulations to be given to an owner or a mortgagee in respect of any meeting under this Act is sufficiently served if it is given by electronic means.

##### **Same**

(3) For greater certainty, subsection (2) applies even if an owner has not entered an agreement described in clause 47 (4) (c) and even if a mortgagee has not entered an agreement described in clause 47 (5) (c).

##### **Matters and material**

(4) Despite any provision of this Act or the regulations and despite the declaration or by-laws of a corporation, any matters or material required or permitted to be placed before a meeting of owners may be placed by electronic means.

##### **Forms**

(5) For greater certainty, if a form has been specified under this Act as the form in which a document or information shall be given, the document or information shall be given in that form with any modifications necessary to reflect changes to this Act set out in the Schedule to this Act.

##### **Definition**

(6) In this section,

“electronic means” means any means that uses any electronic or other technological means to transmit information or data, including fax, e-mail, computer or computer networks.

2020, c. 7, Sched. 5, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 7, Sched. 5, s. 2 - 17/03/2020; 2020, c. 7, Sched. 5, s. 3 - no effect - see 2023, c. 9, Sched. 7, s. 13 - 08/06/2023

2023, c. 9, Sched. 7, s. 12 - 01/10/2023

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Français

[Back to top](#)

## Residential Tenancies Act, 2006

### S.O. 2006, CHAPTER 17

**Consolidation Period:** From June 8, 2023 to the [e-Laws currency date](#).

Last amendment: 2023, c. 10, Sched. 7.

Legislative History: 2006, c. 17, s. 261; 2006, c. 32, Sched. C, s. 56; 2006, c. 32, Sched. E, s. 7; 2006, c. 35, Sched. C, s. 118; 2007, c. 8, s. 226; 2007, c. 13, s. 48; 2008, c. 14, s. 58; 2009, c. 33, Sched. 8, s. 15; 2009, c. 33, Sched. 18, s. 30; 2009, c. 33, Sched. 21, s. 11; 2010, c. 8, s. 39; 2011, c. 6, Sched. 1, s. 188; 2011, c. 6, Sched. 3; 2012, c. 6; 2013, c. 3, s. 20-56; 2015, c. 38, Sched. 7, s. 60; 2016, c. 2, Sched. 6; 2016, c. 23, s. 66; 2016, c. 25, Sched. 5; 2017, c. 13; 2017, c. 14, Sched. 4, s. 33; 2017, c. 25, Sched. 9, s. 116 (see 2023, c. 4, Sched. 1, s. 67); 2017, c. 34, Sched. 46, s. 50; 2018, c. 6, Sched. 3, s. 12; 2018, c. 17, Sched. 36; 2019, c. 7, Sched. 17, s. 153; 2020, c. 1, s. 36; 2020, c. 16, Sched. 3, s. 12; 2020, c. 16, Sched. 4; 2020, c. 23, Sched. 7; 2021, c. 4, Sched. 11, s. 31; 2021, c. 39, Sched. 2, s. 24; 2023, c. 10, Sched. 7.

### CONTENTS

#### **PART I** **INTRODUCTION**

- [1.](#) Purposes of Act
- [2.](#) Interpretation
- [3.](#) Application of Act
- [4.](#) Provisions conflicting with Act void
- [5.](#) Exemptions from Act
- [5.1](#) Other exemption from Act
- [5.2](#) Other exemption from Act, site for land lease home
- [6.](#) Other exemptions
- [6.1](#) Exemptions from rules relating to rent
- [7.](#) Exemptions related to social, etc., housing
- [8.](#) Rent geared-to-income
- [9.](#) Application to determine issues

#### **PART II** **TENANCY AGREEMENTS**

- [10.](#) Selecting prospective tenants
- [11.](#) Information to be provided by landlord
- [12.](#) Tenancy agreement
- [12.1](#) Tenancy agreement in respect of tenancy of a prescribed class
- [13.](#) Commencement of tenancy
- [14.](#) “No pet” provisions void
- [15.](#) Acceleration clause void
- [16.](#) Minimize losses
- [17.](#) Covenants interdependent
- [18.](#) Covenants running with land
- [19.](#) Frustrated contracts

#### **PART III** **RESPONSIBILITIES OF LANDLORDS**

- [20.](#) Landlord’s responsibility to repair
- [21.](#) Landlord’s responsibility re services
- [22.](#) Landlord not to interfere with reasonable enjoyment
- [23.](#) Landlord not to harass, etc.
- [24.](#) Changing locks
- [25.](#) Privacy
- [26.](#) Entry without notice
- [27.](#) Entry with notice
- [28.](#) Entry by canvassers
- [29.](#) Tenant applications
- [30.](#) Order, repair, comply with standards
- [31.](#) Other orders re s. 29
- [32.](#) Eviction with termination order

#### **PART IV**

## RESPONSIBILITIES OF TENANTS

- [33.](#) Tenant's responsibility for cleanliness
- [34.](#) Tenant's responsibility for repair of damage
- [35.](#) Changing locks
- [36.](#) Tenant not to harass, etc.
- [36.1](#) Air conditioning

## PART V

### SECURITY OF TENURE AND TERMINATION OF TENANCIES

#### SECURITY OF TENURE

- [37.](#) Termination only in accordance with Act
- [38.](#) Deemed renewal where no notice
- [39.](#) Restriction on recovery of possession
- [40.](#) Distress abolished
- [41.](#) Disposal of abandoned property if unit vacated
- [42.](#) Disposal of property, unit abandoned

#### NOTICE OF TERMINATION – GENERAL

- [43.](#) Notice of termination
- [44.](#) Period of notice
- [45.](#) Effect of payment
- [46.](#) Where notice void

#### NOTICE BY TENANT

- [47.](#) 1

#### NOTICE BY TENANT BEFORE END OF YEARLY PERIOD OR FIXED TERM OF TENANCY REFERRED TO IN SUBS. 12.1 (1)

- [47.0.1](#) Notice to terminate before end of period or term, tenancy referred to in subs. 12.1 (1)

#### NOTICE BY TENANT BEFORE END OF PERIOD OR TERM, TENANT OR CHILD DEEMED TO HAVE EXPERIENCED VIOLENCE OR ANOTHER FORM OF ABUSE

- [47.1](#) Notice to terminate tenancy, before end of period or term
- [47.2](#) Notice to terminate interest in joint tenancy
- [47.3](#) Tenant or child deemed to have experienced violence or another form of abuse
- [47.4](#) Confidentiality

#### NOTICE BY LANDLORD AT END OF PERIOD OR TERM

- [48.](#) Notice, landlord personally, etc., requires unit
- [48.1](#) Compensation, notice under s. 48
- [49.](#) Notice, purchaser personally requires unit
- [49.1](#) Compensation, notice under s. 49 (1) or (2)
- [50.](#) Notice, demolition, conversion or repairs
- [51.](#) Conversion to condominium, security of tenure
- [52.](#) Compensation, demolition or conversion
- [53.](#) Tenant's right of first refusal, repair or renovation
- [54.](#) Tenant's right to compensation, repair or renovation
- [55.](#) Tenant's right to compensation, severance
- [55.1](#) Compensation under ss. 48.1, 49.1, 52, 54 or 55
- [56.](#) Security of tenure, severance, subdivision
- [57.](#) Former tenant's application where notice given in bad faith
- [57.1](#) Former tenant's application, failure to afford tenant right of first refusal
- [58.](#) Notice at end of term or period, additional grounds

#### NOTICE BY LANDLORD BEFORE END OF PERIOD OR TERM

- [59.](#) Non-payment of rent
- [60.](#) Termination for cause, misrepresentation of income
- [61.](#) Termination for cause, illegal act
- [62.](#) Termination for cause, damage
- [63.](#) Termination for cause, damage, shorter notice period
- [64.](#) Termination for cause, reasonable enjoyment
- [65.](#) Termination for cause, reasonable enjoyment of landlord in small building
- [66.](#) Termination for cause, act impairs safety
- [67.](#) Termination for cause, too many persons
- [68.](#) Notice of termination, further contravention

#### APPLICATION BY LANDLORD – AFTER NOTICE OF TERMINATION

- [69.](#) Application by landlord
- [70.](#) No application during remedy period
- [71.](#) Immediate application
- [71.1](#) Application based on certain notice
- [72.](#) Landlord or purchaser personally requires premises
- [73.](#) Demolition, conversion, repairs
- [73.1](#) Compensation under s. 48.1, 49.1, 52, 54 or 55
- [74.](#) Non-payment of rent

<a href="#"><u>75.</u></a>	Illegal act
<a href="#"><u>76.</u></a>	Application based on animals
	<a href="#"><u>APPLICATION BY LANDLORD – NO NOTICE OF TERMINATION</u></a>
<a href="#"><u>77.</u></a>	Agreement to terminate, tenant’s notice
<a href="#"><u>78.</u></a>	Application based on previous order, mediated settlement
<a href="#"><u>79.</u></a>	Abandonment of rental unit
	<a href="#"><u>EVICTON ORDERS</u></a>
<a href="#"><u>80.</u></a>	Effective date of order
<a href="#"><u>81.</u></a>	Expiry date of order
<a href="#"><u>82.</u></a>	Tenant issues
<a href="#"><u>83.</u></a>	Power of Board, eviction
<a href="#"><u>84.</u></a>	Expedited eviction order
<a href="#"><u>85.</u></a>	Effect of eviction order
	<a href="#"><u>COMPENSATION FOR LANDLORD</u></a>
<a href="#"><u>86.</u></a>	Compensation, unit not vacated
<a href="#"><u>87.</u></a>	Applications
<a href="#"><u>88.</u></a>	Arrears of rent when tenant abandons or vacates without notice
<a href="#"><u>88.1</u></a>	Application for compensation for interference with reasonable enjoyment, etc.
<a href="#"><u>88.2</u></a>	Application for compensation for failure to pay utility costs
<a href="#"><u>89.</u></a>	Application for compensation for damage
<a href="#"><u>90.</u></a>	Compensation, misrepresentation of income
	<a href="#"><u>DEATH OF TENANT</u></a>
<a href="#"><u>91.</u></a>	Death of tenant
<a href="#"><u>92.</u></a>	Landlord may dispose of property
	<a href="#"><u>SUPERINTENDENT’S PREMISES</u></a>
<a href="#"><u>93.</u></a>	Termination of tenancy
<a href="#"><u>94.</u></a>	Application to Board
	<a href="#"><u>PART V.1</u></a>
	<b>TERMINATION OF OCCUPANCY — NON-PROFIT HOUSING CO-OPERATIVES</b>
	<a href="#"><u>INTERPRETATION</u></a>
<a href="#"><u>94.1</u></a>	Interpretation
	<a href="#"><u>NOTICE OF TERMINATION OF OCCUPANCY BY CO-OPERATIVE</u></a>
<a href="#"><u>94.2</u></a>	Notice of termination of occupancy
<a href="#"><u>94.3</u></a>	Form, contents of notice of termination
<a href="#"><u>94.4</u></a>	Termination date and other requirements in notice
<a href="#"><u>94.5</u></a>	Where notice void
<a href="#"><u>94.6</u></a>	Effect of payment
	<a href="#"><u>APPLICATION BY CO-OPERATIVE — AFTER NOTICE OF TERMINATION</u></a>
<a href="#"><u>94.7</u></a>	Application to Board, after notice is given to member
<a href="#"><u>94.8</u></a>	Immediate application
<a href="#"><u>94.9</u></a>	No jurisdiction re Co-operative Corporations Act
	<a href="#"><u>APPLICATION BY CO-OPERATIVE — NO NOTICE OF TERMINATION</u></a>
<a href="#"><u>94.10</u></a>	Application to Board, without notice, based on member’s withdrawal, consent or notice
<a href="#"><u>94.11</u></a>	Application to Board, without notice, based on previous order, mediated settlement
	<a href="#"><u>REFUSAL TO GRANT OR POSTPONEMENT OF TERMINATION OF OCCUPANCY AND EVICTION ORDERS</u></a>
<a href="#"><u>94.12</u></a>	Power of Board to refuse order
	<a href="#"><u>COMPENSATION FOR CO-OPERATIVE</u></a>
<a href="#"><u>94.13</u></a>	Compensation, member unit not vacated
<a href="#"><u>94.14</u></a>	Application for arrears, compensation
<a href="#"><u>94.15</u></a>	Compensation for damage
	<a href="#"><u>BOARD PROCEEDINGS</u></a>
<a href="#"><u>94.16</u></a>	Application of ss. 74 to 90
	<a href="#"><u>OFFENCES</u></a>
<a href="#"><u>94.17</u></a>	Offences
	<a href="#"><u>PART VI</u></a>
	<b>ASSIGNMENT, SUBLETTING AND UNAUTHORIZED OCCUPANCY</b>
<a href="#"><u>95.</u></a>	Assignment of tenancy
<a href="#"><u>96.</u></a>	Tenant’s notice to terminate, refusal of assignment
<a href="#"><u>97.</u></a>	Subletting rental unit
<a href="#"><u>98.</u></a>	Tenant application
<a href="#"><u>99.</u></a>	Tenant’s notice, application re subtenant
<a href="#"><u>100.</u></a>	Unauthorized occupancy
<a href="#"><u>101.</u></a>	Overholding subtenant
<a href="#"><u>102.</u></a>	Compensation, overholding subtenant
<a href="#"><u>103.</u></a>	Compensation, unauthorized occupant
<a href="#"><u>104.</u></a>	Miscellaneous new tenancy agreements

**PART VII**  
**RULES RELATING TO RENT**  
**GENERAL RULES**

- [105.](#) Security deposits, limitation  
[106.](#) Rent deposit may be required  
[107.](#) Rent deposit, prospective tenant  
[108.](#) Post-dated cheques, etc.  
[109.](#) Receipt for payment

**GENERAL RULES GOVERNING AMOUNT OF RENT**

- [110.](#) Landlord's duty, rent increases  
[111.](#) Landlord not to charge more than lawful rent  
[112.](#) Lawful rent when this section comes into force  
[113.](#) Lawful rent for new tenant  
[114.](#) Notice to new tenant, order under par. 6, 7 or 8 of s. 30 (1) in effect  
[115.](#) Application by new tenant

**NOTICE OF RENT INCREASE**

- [116.](#) Notice of rent increase required  
[117.](#) Compliance by landlord, no notice required  
[118.](#) Deemed acceptance where no notice of termination

**12-MONTH RULE**

- [119.](#) 12-month rule

**GUIDELINE**

- [120.](#) Guideline increase  
[120.1](#) Application of guideline to previously exempt units

**AGREEMENTS TO INCREASE OR DECREASE RENT**

- [121.](#) Agreement  
[122.](#) Tenant application  
[123.](#) Additional services, etc.  
[124.](#) Coerced agreement void  
[125.](#) Decrease in services, etc.

**LANDLORD APPLICATION FOR RENT INCREASE**

- [126.](#) Application for above guideline increase  
[127.](#) Two ordered increases

**REDUCTIONS OF RENT**

- [128.](#) Utilities  
[129.](#) Capital expenditures  
[130.](#) Reduction in services  
[131.](#) Municipal taxes  
[132.](#) Application for variation  
[133.](#) Application, reduction in municipal taxes

**ILLEGAL ADDITIONAL CHARGES**

- [134.](#) Additional charges prohibited

**MONEY COLLECTED ILLEGALLY**

- [135.](#) Money collected illegally  
[135.1](#) Rent increase deemed not void  
[136.](#) Rent deemed lawful

**PART VII.1**  
**RENT FREEZE, 2021**

- [136.1](#) Rent freeze period

**PART VIII**  
**SUITE METERS AND APPORTIONMENT OF UTILITY COSTS**

- [137.](#) Suite meters  
[138.](#) Apportionment of utility costs

**PART IX**  
**CARE HOMES**

**RESPONSIBILITIES OF LANDLORDS AND TENANTS**

- [139.](#) Agreement required  
[140.](#) Information to tenant  
[141.](#) Tenancy agreement: consultation, cancellation  
[142.](#) Entry to check condition of tenant  
[143.](#) Assignment, subletting in care homes  
[144.](#) Notice of termination  
[145.](#) Termination, care homes  
[146.](#) Notice of termination, demolition, conversion or repairs  
[147.](#) External care providers

**TRANSFERRING TENANCY**

<a href="#">148.</a>	Transferring tenancy	<a href="#">RULES RELATED TO RENT AND OTHER CHARGES</a>
<a href="#">149.</a>	Rent in care home	
<a href="#">150.</a>	Notice of increased charges	
<a href="#">151.</a>	Certain charges permitted	

## **PART X**

### **MOBILE HOME PARKS AND LAND LEASE COMMUNITIES**

#### **GENERAL**

<a href="#">152.</a>	Application	
<a href="#">153.</a>	Interpretation	<a href="#">RESPONSIBILITIES OF LANDLORDS AND TENANTS</a>
<a href="#">154.</a>	Park rules	
<a href="#">155.</a>	Information about property assessment	
<a href="#">156.</a>	Tenant's right to sell, etc.	
<a href="#">157.</a>	Landlord's right of first refusal	
<a href="#">158.</a>	Advertising a sale	
<a href="#">159.</a>	Assignment	
<a href="#">160.</a>	Restraint of trade prohibited	
<a href="#">161.</a>	Responsibility of landlord	<a href="#">TERMINATION OF TENANCIES</a>

<a href="#">162.</a>	Mobile home abandoned	
<a href="#">163.</a>	Death of mobile home owner	
<a href="#">164.</a>	Termination under s. 50	<a href="#">RULES RELATED TO RENT AND OTHER CHARGES</a>
<a href="#">165.</a>	Assignment of existing tenancy agreement	
<a href="#">165.1</a>	Exclusion from rent	
<a href="#">166.</a>	Entrance and exit fees limited	
<a href="#">167.</a>	Increased capital expenditures	

## **PART XI**

### **THE LANDLORD AND TENANT BOARD**

<a href="#">168.</a>	Board
<a href="#">169.</a>	Composition
<a href="#">170.</a>	Chair and vice-chair
<a href="#">171.</a>	Quorum
<a href="#">172.</a>	Conflict of interest
<a href="#">173.</a>	Expiry of term
<a href="#">174.</a>	Power to determine law and fact
<a href="#">175.</a>	Members, mediators not compellable
<a href="#">176.</a>	Rules and Guidelines Committee
<a href="#">177.</a>	Information on rights and obligations
<a href="#">178.</a>	Employees
<a href="#">179.</a>	Professional assistance
<a href="#">180.</a>	Reports
<a href="#">181.</a>	Board may set, charge fees
<a href="#">181.1</a>	Fee waiver or deferral for low-income individuals
<a href="#">182.</a>	Fee refunded, review
<a href="#">182.1</a>	Money appropriated by Legislature
<a href="#">182.2</a>	Status of money paid to Board
<a href="#">182.3</a>	Delegation of powers

## **PART XII**

### **BOARD PROCEEDINGS**

<a href="#">182.4</a>	Definitions
<a href="#">183.</a>	Expeditious procedures
<a href="#">184.</a>	SPPA applies
<a href="#">185.</a>	Form of application
<a href="#">186.</a>	Combining applications
<a href="#">187.</a>	Parties
<a href="#">188.</a>	Notice by Board
<a href="#">189.</a>	Notice from applicant
<a href="#">189.0.1</a>	Application under s. 87, 88.1, 88.2 or 89
<a href="#">189.1</a>	Application under s. 226
<a href="#">190.</a>	Board may extend, shorten time
<a href="#">191.</a>	How notice or document given
<a href="#">192.</a>	How notice or document given to Board
<a href="#">192.1</a>	Alternatives to affidavits
<a href="#">193.</a>	Time

<a href="#"><u>194.</u></a>	Mediation or other dispute resolution process
<a href="#"><u>195.</u></a>	Money paid to Board
<a href="#"><u>196.</u></a>	Board may refuse to proceed if money owing
<a href="#"><u>197.</u></a>	Where Board may dismiss
<a href="#"><u>198.</u></a>	Joinder and severance of applications
<a href="#"><u>199.</u></a>	Application severed
<a href="#"><u>200.</u></a>	Amendment and withdrawal of applications
<a href="#"><u>201.</u></a>	Other powers of Board
<a href="#"><u>202.</u></a>	Findings of Board
<a href="#"><u>203.</u></a>	Determinations related to housing assistance
<a href="#"><u>203.1</u></a>	Determinations related to non-profit housing co-operative housing charges
<a href="#"><u>204.</u></a>	Conditions in order
<a href="#"><u>205.</u></a>	Order payment
<a href="#"><u>206.</u></a>	Agreement to settle matter
<a href="#"><u>206.1</u></a>	Hearing officers
<a href="#"><u>207.</u></a>	Monetary jurisdiction; deduction of rent; interest
<a href="#"><u>208.</u></a>	Notice of decision
<a href="#"><u>209.</u></a>	Order final, binding
<a href="#"><u>210.</u></a>	Appeal rights
<a href="#"><u>211.</u></a>	Board may appeal Court decision
<a href="#"><u>212.</u></a>	Substantial compliance sufficient
<a href="#"><u>213.</u></a>	Electronic documents
<a href="#"><u>214.</u></a>	Contingency fees, limitation

#### **MUNICIPAL VITAL SERVICES BY-LAWS**

<a href="#"><u>215.</u></a>	Definition
<a href="#"><u>216.</u></a>	By-laws respecting vital services
<a href="#"><u>217.</u></a>	Notice by supplier
<a href="#"><u>218.</u></a>	Inspection
<a href="#"><u>219.</u></a>	Services by municipality
<a href="#"><u>220.</u></a>	Appeal
<a href="#"><u>221.</u></a>	Payments transferred
<a href="#"><u>222.</u></a>	Use of money
<a href="#"><u>223.</u></a>	Immunity

#### **PART XIV** **MAINTENANCE STANDARDS**

<a href="#"><u>224.</u></a>	Application of prescribed standards
<a href="#"><u>224.1</u></a>	Local municipality to receive complaints
<a href="#"><u>225.</u></a>	Inspector's work order
<a href="#"><u>226.</u></a>	Review of work order
<a href="#"><u>226.1</u></a>	Inspectors
<a href="#"><u>226.2</u></a>	Duties of local municipality
<a href="#"><u>226.3</u></a>	Protection from personal liability
<a href="#"><u>226.4</u></a>	Transition, complaints received before commencement date

#### **PART XV** **ADMINISTRATION AND ENFORCEMENT**

<a href="#"><u>227.</u></a>	Duties of Minister
<a href="#"><u>228.</u></a>	Delegation
<a href="#"><u>229.</u></a>	Investigators
<a href="#"><u>230.</u></a>	Inspections by municipal inspectors
<a href="#"><u>231.</u></a>	Warrant
<a href="#"><u>231.1</u></a>	Production order
<a href="#"><u>232.</u></a>	Protection from personal liability

#### **PART XVI** **OFFENCES**

<a href="#"><u>233.</u></a>	Offences requiring knowledge
<a href="#"><u>234.</u></a>	Other offences
<a href="#"><u>235.</u></a>	Harassment, interference with reasonable enjoyment
<a href="#"><u>236.</u></a>	Attempts
<a href="#"><u>237.</u></a>	Directors and officers
<a href="#"><u>238.</u></a>	Penalties
<a href="#"><u>239.</u></a>	Limitation
<a href="#"><u>240.</u></a>	Evidence

#### **PART XVII** **REGULATIONS**

<a href="#"><u>241.</u></a>	Regulations
-----------------------------	-------------

<a href="#">241.1</a>	Regulations made by Minister
<a href="#">241.2</a>	Transition regulations, Rental Fairness Act, 2017
<a href="#">241.3</a>	Transition regulations, Protecting Tenants and Strengthening Community Housing Act, 2020
<a href="#">241.4</a>	Transition regulations, Helping Tenants and Small Businesses Act, 2020

## **PART XVIII** **TRANSITION**

<a href="#">242.</a>	Applications made under Tenant Protection Act, 1997
<a href="#">243.</a>	Proceedings before other bodies under earlier legislation
<a href="#">244.</a>	Orders, etc., under former Act
<a href="#">245.</a>	Information from former Rent Registry
<a href="#">246.</a>	Use of certain forms

## **PART I** **INTRODUCTION**

### **Purposes of Act**

**1** The purposes of this Act are to provide protection for residential tenants from unlawful rent increases and unlawful evictions, to establish a framework for the regulation of residential rents, to balance the rights and responsibilities of residential landlords and tenants and to provide for the adjudication of disputes and for other processes to informally resolve disputes. 2006, c. 17, s. 1.

### **Exception, Part V.1**

(2) Subsection (1) does not apply to Part V.1. The purpose of Part V.1 is to provide protection to members of non-profit housing co-operatives from unlawful evictions under this Act and to allow non-profit housing co-operatives and their members access to the framework established under this Act for the adjudication of disputes related to the termination of occupancy in a member unit of a non-profit housing co-operative. 2013, c. 3, s. 20.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 20 - 01/06/2014

### **Interpretation**

**2** (1) In this Act,

“Board” means the Landlord and Tenant Board; (“Commission”)

“care home” means a residential complex that is occupied or intended to be occupied by persons for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy; (“maison de soins”)

“care services” means, subject to the regulations, health care services, rehabilitative or therapeutic services or services that provide assistance with the activities of daily living; (“services en matière de soins”)

“guideline”, when used with respect to the charging of rent, means the guideline determined under section 120; (“taux légal”)

“land lease community” means the land on which one or more occupied land lease homes are situate and includes the rental units and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord; (“zone résidentielle à baux fonciers”)

“land lease home” means a dwelling, other than a mobile home, that is a permanent structure where the owner of the dwelling leases the land used or intended for use as the site for the dwelling; (“maison à bail foncier”)

“landlord” includes,

- (a) the owner of a rental unit or any other person who permits occupancy of a rental unit, other than a tenant who occupies a rental unit in a residential complex and who permits another person to also occupy the unit or any part of the unit,
- (b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a), and
- (c) 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; (“locateur”)

“member unit” has the same meaning as in the *Co-operative Corporations Act*; (“logement réservé aux membres”)

“Minister” means the Minister of Municipal Affairs and Housing or such other member of the Executive Council to whom responsibility for the administration of this Act, or any Part or provision of this Act, may be assigned or transferred under the *Executive Council Act*; (“ministre”)

“Ministry” means the ministry of the Minister; (“ministère”)

“mobile home” means a dwelling that is designed to be made mobile and that is being used as a permanent residence; (“maison mobile”)

“mobile home park” means the land on which one or more occupied mobile homes are located and includes the rental units and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord; (“parc de maisons mobiles”)

“municipal taxes and charges” means taxes charged to a landlord by a municipality and charges levied on a landlord by a municipality and includes taxes levied on a landlord’s property under Division B of Part IX of the *Education Act* and taxes levied on a landlord’s property in unorganized territory, but “municipal taxes and charges” does not include,

- (a) charges for inspections done by a municipality on a residential complex related to an alleged breach of a health, safety, housing or maintenance standard,
- (b) charges for emergency repairs carried out by a municipality on a residential complex,
- (c) charges for work in the nature of a capital expenditure carried out by a municipality,
- (d) charges for work, services or non-emergency repairs performed by a municipality in relation to a landlord’s non-compliance with a by-law,
- (e) penalties, interest, late payment fees or fines,
- (f) any amount spent by a municipality under subsection 219 (1) or any administrative fee applied to that amount under subsection 219 (2), or
- (g) any other prescribed charges; (“redevances et impôts municipaux”)

“non-profit housing co-operative” means a non-profit housing co-operative under the *Co-operative Corporations Act*, and “co-operative” has the same meaning; (“coopérative de logement sans but lucratif”, “coopérative”)

“person”, or any expression referring to a person, means an individual, sole proprietorship, partnership, limited partnership, trust or body corporate, or an individual in his or her capacity as a trustee, executor, administrator or other legal representative; (“personne”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations made under this Act; (“règlements”)

“rent” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord’s agent for the right to occupy a rental unit and for any services and facilities and any privilege, accommodation or thing that the landlord provides for the tenant in respect of the occupancy of the rental unit, whether or not a separate charge is made for services and facilities or for the privilege, accommodation or thing, but “rent” does not include,

- (a) an amount paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord with respect to a mobile home or a land lease home owned by a tenant, or
- (b) an amount that a landlord charges a tenant of a rental unit in a care home for care services or meals; (“loyer”)

“rental unit” means any living accommodation used or intended for use as rented residential premises, and “rental unit” includes,

- (a) a site for a mobile home or site on which there is a land lease home used or intended for use as rented residential premises, and
- (b) a room in a boarding house, rooming house or lodging house and a unit in a care home; (“logement locatif”)

“residential complex”, except in Part V.1, means,

- (a) a building or related group of buildings in which one or more rental units are located,
- (b) a mobile home park or land lease community,
- (c) a site that is a rental unit,
- (d) a care home, and,

includes all common areas and services and facilities available for the use of its residents; (“ensemble d’habitation”)

“residential unit” means any living accommodation used or intended for use as residential premises, and “residential unit” includes,

- (a) a site for a mobile home or on which there is a land lease home used or intended for use as a residential premises, and
- (b) a room in a boarding house, rooming house or lodging house and a unit in a care home; (“habitation”)

“Rules” means the rules of practice and procedure made by the Board under section 176 of this Act and section 25.1 of the *Statutory Powers Procedure Act*; (“règles”)

“services and facilities” includes,

- (a) furniture, appliances and furnishings,
- (b) parking and related facilities,
- (c) laundry facilities,
- (d) elevator facilities,
- (e) common recreational facilities,
- (f) garbage facilities and related services,
- (g) cleaning and maintenance services,
- (h) storage facilities,
- (i) intercom systems,
- (j) cable television facilities,
- (k) heating facilities and services,
- (l) air-conditioning facilities,
- (m) utilities and related services, and
- (n) security services and facilities; (“services et installations”)

“spouse” means a person,

- (a) to whom the person is married, or
- (b) with whom the person is living in a conjugal relationship outside marriage, if the two persons,
  - (i) have cohabited for at least one year,
  - (ii) are together the parents of a child, or
  - (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act*; (“conjoint”)

“subtenant” means the person to whom a tenant gives the right under section 97 to occupy a rental unit; (“sous-locataire”)

“superintendent’s premises” means a rental unit used by a person employed as a janitor, manager, security guard or superintendent and located in the residential complex with respect to which the person is so employed; (“logement de concierge”)

“tenancy agreement” means a written, oral or implied agreement between a tenant and a landlord for occupancy of a rental unit and includes a licence to occupy a rental unit; (“convention de location”)

“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,

- (a) a co-owner of the residential complex in which the rental unit is located, or
- (b) a shareholder of a corporation that owns the residential complex; (“locataire”)

“utilities” means heat, electricity and water; (“services d’utilité publique”)

“vital service” means hot or cold water, fuel, electricity, gas or, during the part of each year prescribed by the regulations, heat. (“service essentiel”) 2006, c. 17, s. 2 (1); 2013, c. 3, s. 21.

### **Interpretation, sublet**

(2) For the purposes of this Act, a reference to subletting a rental unit refers to the situation in which,

- (a) the tenant vacates the rental unit;
- (b) the tenant gives one or more other persons the right to occupy the rental unit for a term ending on a specified date before the end of the tenant’s term or period; and
- (c) the tenant has the right to resume occupancy of the rental unit after that specified date. 2006, c. 17, s. 2 (2).

### **Interpretation, abandoned**

(3) For the purposes of this Act, a tenant has not abandoned a rental unit if the tenant is not in arrears of rent. 2006, c. 17, s. 2 (3).

### **Rental unit, clarification**

(4) A rented site for a mobile home or a land lease home is a rental unit for the purposes of this Act even if the mobile home or the land lease home on the site is owned by the tenant of the site. 2006, c. 17, s. 2 (4).

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 21 - 01/06/2014

### **Application of Act**

**3** (1) This Act, except Part V.1, applies with respect to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary. 2013, c. 3, s. 22 (1).

### **Conflicts, non-profit housing co-operatives**

(1.1) In interpreting a provision of this Act with respect to a member unit of a non-profit housing co-operative, if a provision in Part V.1 conflicts with a provision in another Part of this Act, the provision in Part V.1 applies. 2013, c. 3, s. 22 (2).

### **Conflicts, care homes**

(2) In interpreting a provision of this Act with regard to a care home, if a provision in Part IX conflicts with a provision in another Part of this Act, the provision in Part IX applies. 2006, c. 17, s. 3 (2).

### **Conflicts, mobile home parks and land lease communities**

(3) In interpreting a provision of this Act with regard to a mobile home park or a land lease community, if a provision in Part X conflicts with a provision in another Part of this Act, the provision in Part X applies. 2006, c. 17, s. 3 (3).

### **Conflict with other Acts**

(4) If a provision of this Act conflicts with a provision of another Act, other than the *Human Rights Code*, the provision of this Act applies. 2006, c. 17, s. 3 (4).

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 22 - 01/06/2014

### **Provisions conflicting with Act void**

**4** (1) Subject to subsection 12.1 (11) and section 194, a provision in a tenancy agreement that is inconsistent with this Act or the regulations is void. 2006, c. 17, s. 4; 2017, c. 13, s. 1.

### **Same, Part V.1**

(2) Subject to section 194, in any proceeding under Part V.1, a provision in an occupancy agreement in respect of a member unit or a provision in a by-law of a non-profit housing co-operative that is inconsistent with Part V.1, or with a provision in another Part of this Act that applies to non-profit housing co-operatives and member units, does not apply, and the provision in this Act applies. 2013, c. 3, s. 23.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 23 - 01/06/2014

2017, c. 13, s. 1 - 30/05/2017

### **Exemptions from Act**

**5** This Act does not apply with respect to,

- (a) living accommodation intended to be provided to the travelling or vacationing public or occupied for a seasonal or temporary period in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast vacation establishment or vacation home;
- (b) living accommodation whose occupancy is conditional upon the occupant continuing to be employed on a farm, whether or not the accommodation is located on that farm;
- (c) living accommodation that is a member unit of a non-profit housing co-operative, except for Part V.1, and except for those provisions in other Parts that are needed to give effect to Part V.1;
- (d) living accommodation occupied by a person for penal or correctional purposes;
- (e) living accommodation that is subject to the *Public Hospitals Act*, the *Private Hospitals Act*, the *Fixing Long-Term Care Act, 2021*, the *Ministry of Correctional Services Act* or the *Child, Youth and Family Services Act, 2017*;

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause 5 (e) of the Act is amended by striking out “Ministry of Correctional Services Act” and substituting “Correctional Services and Reintegration Act, 2018”. (See: 2018, c. 6, Sched. 3, s. 12)**

- (f) short-term living accommodation provided as emergency shelter;
- (g) living accommodation provided by an educational institution to its students or staff where,
  - (i) the living accommodation is provided primarily to persons under the age of majority, or all major questions related to the living accommodation are decided after consultation with a council or association representing the residents, and
  - (ii) the living accommodation does not have its own self-contained bathroom and kitchen facilities or is not intended for year-round occupancy by full-time students or staff and members of their households;
- (h) living accommodation located in a building or project used in whole or in part for non-residential purposes if the occupancy of the living accommodation is conditional upon the occupant continuing to be an employee of or perform services related to a business or enterprise carried out in the building or project;
- (i) living accommodation whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner’s spouse, child or parent or the spouse’s child or parent, and where the owner, spouse, child or parent lives in the building in which the living accommodation is located;
- (j) premises occupied for business or agricultural purposes with living accommodation attached if the occupancy for both purposes is under a single lease and the same person occupies the premises and the living accommodation;
- (k) living accommodation occupied by a person for the purpose of receiving rehabilitative or therapeutic services agreed upon by the person and the provider of the living accommodation, where,
  - (i) the parties have agreed that,
    - (A) the period of occupancy will be of a specified duration, or
    - (B) the occupancy will terminate when the objectives of the services have been met or will not be met, and
  - (ii) the living accommodation is intended to be provided for no more than a one-year period;
- (l) living accommodation in a care home occupied by a person for the purpose of receiving short-term respite care;
- (m) living accommodation in a residential complex in which the Crown in right of Ontario has an interest if,
  - (i) the living accommodation or residential complex was forfeited to the Crown in right of Ontario under any Ontario statute or the *Criminal Code* (Canada),
  - (ii) possession of the living accommodation or residential complex has been or may be taken in the name of the Crown in right of Ontario under the *Escheats Act, 2015*, or
  - (iii) the living accommodation or residential complex is forfeited corporate property to which the *Forfeited Corporate Property Act, 2015* applies; and
- (n) any other prescribed class of accommodation. 2006, c. 17, s. 5; 2007, c. 8, s. 226; 2007, c. 13, s. 48; 2008, c. 14, s. 58 (2, 4); 2009, c. 33, Sched. 18, s. 30; 2013, c. 3, s. 24; 2015, c. 38, Sched. 7, s. 60; 2017, c. 14, Sched. 4, s. 33; 2021, c. 4, Sched. 11, s. 31 (2); 2021, c. 39, Sched. 2, s. 24.

#### **Section Amendments with date in force (d/m/y)**

2007, c. 8, s. 226 - 01/07/2010; 2007, c. 13, s. 48 - 4/06/2007

2008, c. 14, s. 58 - 01/01/2011

2009, c. 33, Sched. 18, s. 30 - 15/12/2009

2013, c. 3, s. 24 - 01/06/2014

2015, c. 38, Sched. 7, s. 60 - 10/12/2016

2017, c. 14, Sched. 4, s. 33 - 30/04/2018; 2017, c. 25, Sched. 9, s. 116 - no effect - see 2023, c. 4, Sched. 1, s. 67 - 18/05/2023

2018, c. 6, Sched. 3, s. 12 - not in force

2021, c. 4, Sched. 11, s. 31 (2) - 19/04/2021; 2021, c. 39, Sched. 2, s. 24 - 11/04/2022

#### **Other exemption from Act**

**5.1** (1) This Act does not apply with respect to living accommodation provided to a person as part of a program described in subsection (2) if the person and the provider of the living accommodation have entered into a written agreement that complies with subsection (3). 2017, c. 13, s. 2.

### **Program requirements**

(2) A program referred to in subsection (1) is a program that meets all of the following requirements:

1. The program consists of the provision of living accommodation and accompanying services where,
  - i. the living accommodation is intended to be provided for no more than a four-year period, and
  - ii. the accompanying services include one or more of the following services, regardless of where and by whom the services are provided:
    - A. rehabilitative services,
    - B. therapeutic services,
    - C. services intended to support employment, or
    - D. services intended to support life skills development.
2. The program is intended to support the occupant of the living accommodation in subsequently obtaining and maintaining more permanent living accommodation.
3. All or part of the program is,
  - i. provided by, or funded under an agreement with,
    - A. the Crown in right of Canada or in right of Ontario,
    - B. an agency of the Crown in right of Canada or in right of Ontario,
    - C. a municipality, or
    - D. a service manager as defined in the *Housing Services Act, 2011*, or
  - ii. provided or funded by a registered charity within the meaning of the *Income Tax Act* (Canada). 2017, c. 13, s. 2.

### **Agreement between the provider and the occupant of the living accommodation**

(3) The agreement between the provider of the living accommodation and an occupant of the living accommodation must meet all of the following requirements:

1. The agreement must state that the provider of the living accommodation intends that the living accommodation be exempt from this Act and must also state that the occupant may apply to the Board under section 9 of this Act for a determination of whether this Act applies with respect to the living accommodation.
2. The agreement must set out the following:
  - i. the legal name and address of the provider of the living accommodation,
  - ii. the maximum period of the occupant's occupancy of the living accommodation,
  - iii. the circumstances under which and the process by which the occupant's occupancy of the living accommodation may be terminated by the provider of the living accommodation,
  - iv. the occupant's rights and responsibilities in respect of the occupant's occupancy of the living accommodation,
  - v. the rules that apply to the occupant's occupancy of the living accommodation,
  - vi. the amount of any consideration required to be paid by the occupant for the right to occupy the living accommodation, and
  - vii. the amount of any other charges to be paid by the occupant in conjunction with the living accommodation.
3. The agreement must set out a process to address disputes between the occupant and the provider of the living accommodation which must,
  - i. include a reasonable method by which either party may initiate the process,
  - ii. provide for the involvement of an individual not otherwise involved in the dispute, to assist the parties in resolving the dispute, and
  - iii. meet such other requirements as may be prescribed.
4. Unless the information is set out in a separate agreement under subsection (4), the agreement must set out the following information in respect of the program under which the living accommodation is provided to the occupant:
  - i. the occupant's rights and responsibilities in respect of the occupant's participation in the program, other than the rights and responsibilities described in subparagraph 2 iv,

- ii. the rules that apply to the occupant's participation in the program, other than the rules described in subparagraph 2 v,
- iii. the amount of any charges to be paid by the occupant in conjunction with the program, other than the charges referred to in subparagraphs 2 vi and vii,
- iv. the policy of the provider of the living accommodation or the administrator of the program, as applicable, with respect to securing alternate living accommodation for an occupant whose participation in the program or whose occupancy of the living accommodation is terminated, and
- v. the policy of the provider of the living accommodation or the administrator of the program, as applicable, with respect to readmission into the program.

5. The agreement must meet such other requirements as may be prescribed. 2017, c. 13, s. 2.

#### **Requirements in subpars. 4 i to v of subs. (3)**

(4) Where the provider of the living accommodation and the administrator of the program under which the living accommodation is provided to the occupant are not the same person or entity, any information required by subparagraph 4 i, ii, iii, iv or v of subsection (3) may be set out in the agreement in respect of the occupant's participation in the program entered into between the occupant and the administrator of the program, if the agreement,

- (a) sets out the legal name and address of the administrator of the program; and
- (b) meets such other requirements as may be prescribed. 2017, c. 13, s. 2.

#### **No limitation**

(5) Nothing in this section limits the availability of other exemptions under this Act. 2017, c. 13, s. 2.

#### **Existing tenancy**

(6) For greater certainty, nothing in this section exempts living accommodation that is subject to a tenancy to which this Act applies, unless the tenancy has first been terminated in accordance with this Act. 2017, c. 13, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 2 - 01/01/2018

#### **Other exemption from Act, site for land lease home**

**5.2** (1) This Act does not apply with respect to a rental unit that is a site on which a land lease home is located, if all of the following requirements are met:

- 1. The rental unit is owned by an employer and is provided to an employee, or to an employee and the employee's spouse, in connection with the employee's employment.
- 2. The rental unit is subject to a tenancy in respect of which a tenancy agreement is first entered into on or after the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent between,
  - i. the employer, as landlord, and the employee, as tenant, or
  - ii. the employer, as landlord, and the employee and the employee's spouse, as joint tenants. 2020, c. 16, Sched. 4, s. 1.

#### **Application of exemption**

(2) The exemption under subsection (1) applies with respect to a rental unit until the tenancy is terminated. 2020, c. 16, Sched. 4, s. 1.

#### **Same**

(3) Subsection (2) applies with respect to a rental unit even if,

- (a) the employee ceases to be employed before the tenancy is terminated; or
- (b) the employee dies before the tenancy is terminated, provided the employee's spouse is a tenant of the rental unit. 2020, c. 16, Sched. 4, s. 1.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 1 - 21/07/2020

#### **Other exemptions**

#### **Homes for special care, developmental services**

**6** (1) Paragraphs 6, 7 and 8 of subsection 30 (1) and sections 48.1, 49.1, 51, 52, 54, 55, 56, 104, 111 to 115, 117, 119 to 134, 136, 140 and 149 to 167 do not apply with respect to,

- (a) accommodation that is subject to the *Homes for Special Care Act*; or
- (b) accommodation that is a supported group living residence or an intensive support residence under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*. 2006, c. 17, s. 6 (1); 2008, c. 14, s. 58 (5); 2009, c. 33, Sched. 8, s. 15; 2017, c. 13, s. 3 (1); 2020, c. 16, Sched. 4, s. 2.

(2) REPEALED: 2017, c. 13, s. 3 (2).

**Section Amendments with date in force (d/m/y)**

2008, c. 14, s. 58 (5) - 01/01/2011

2009, c. 33, Sched. 8, s. 15 - 01/01/2011

2017, c. 13, s. 3 (1) - 01/09/2017; 2017, c. 13, s. 3 (2) - 30/05/2017

2020, c. 16, Sched. 4, s. 2 - 21/07/2020

**Exemptions from rules relating to rent**

**6.1** (1) In this section,

“addition” means, with respect to a mobile home park or land lease community, an expansion beyond the boundaries of the mobile home park or land lease community; (“rajout”)

“commencement date” means the day section 1 of Schedule 36 to the *Restoring Trust, Transparency and Accountability Act, 2018* comes into force. (“date d’entrée en vigueur”) 2018, c. 17, Sched. 36, s. 1.

**Buildings, etc., not occupied on or before November 15, 2018**

(2) Sections 120, 121, 122, 126, 127, 129, 131, 132, 133, 165 and 167 do not apply on and after the commencement date with respect to a rental unit if the requirements set out in one of the following paragraphs are met:

1. The rental unit is located in a building, mobile home park or land lease community and no part of the building, mobile home park or land lease community was occupied for residential purposes on or before November 15, 2018.
2. The rental unit is entirely located in an addition to a building, mobile home park or land lease community and no part of the addition was occupied for residential purposes on or before November 15, 2018. 2018, c. 17, Sched. 36, s. 1.

**Rental units in detached houses, semi-detached houses or row houses**

(3) Sections 120, 121, 122, 126, 127, 129, 131, 132 and 133 do not apply on and after the commencement date with respect to a rental unit if all of the following requirements are met:

1. The rental unit is located in a detached house, semi-detached house or row house which, on or at any time before November 15, 2018, contained not more than two residential units.
2. The rental unit is a residential unit that meets all of the following requirements:
  - i. The unit has its own bathroom and kitchen facilities.
  - ii. The unit has one or more exterior or interior entrances.
  - iii. At each entrance, the unit has a door which is equipped so that it can be secured from the inside of the unit.
  - iv. At least one door described in subparagraph iii is capable of being locked from the outside of the unit.
3. The rental unit became a residential unit described in paragraph 2 after November 15, 2018.
4. One or both of the following circumstances apply:
  - i. At the time the rental unit was first occupied as a residential unit described in paragraph 2, the owner or one of the owners, as applicable, lived in another residential unit in the detached house, semi-detached house or row house.
  - ii. The rental unit is located in a part of the detached house, semi-detached house or row house which was unfinished space immediately before the rental unit became a residential unit described in paragraph 2. 2018, c. 17, Sched. 36, s. 1.

**Non-application of exemption under subs. (2) or (3)**

(4) Subject to subsection (5), the exemption under subsection (2) or (3) does not apply with respect to a rental unit that is subject to a tenancy in respect of which a tenancy agreement was entered into on or before November 15, 2018. 2018, c. 17, Sched. 36, s. 1.

#### **Application of subs. (4)**

(5) Subsection (4) applies only with respect to the tenancy described in that subsection and does not apply with respect to any subsequent tenancy. 2018, c. 17, Sched. 36, s. 1.

#### **Burden of proof**

(6) For greater certainty, in an application to the Board in which the application of subsection (2) or (3) is at issue, the onus is on the landlord to prove that the subsection applies. 2018, c. 17, Sched. 36, s. 1.

#### **Transition rules**

(7) The following rules apply on and after the commencement date with respect to a rental unit, if subsection (2) or (3) applies to the rental unit and the unit is subject to a tenancy in respect of which a tenancy agreement was entered into before that date but after November 15, 2018:

1. Despite subsections (2) and (3), sections 121 and 122 continue to apply with respect to an agreement that was entered into between the landlord and the tenant of the rental unit under section 121 before the commencement date.
2. Despite subsections (2) and (3), section 132 continues to apply with respect to an application that was made by the landlord or the tenant of the rental unit under that section before the commencement date and was not finally determined before that date.
3. Despite subsections (2) and (3), section 133 continues to apply with respect to an application that was made by the tenant of the rental unit under that section before the commencement date and was not finally determined before that date.
4. Despite subsection (2), section 165 continues to apply with respect to an assignment of the rental unit for which the landlord granted consent under section 95 before the commencement date or which was authorized by the Board under section 98 before that date. 2018, c. 17, Sched. 36, s. 1.

#### **Section Amendments with date in force (d/m/y)**

2018, c. 17, Sched. 36, s. 1 - 06/12/2018

#### **Exemptions related to social, etc., housing**

7 (1) Paragraphs 6, 7 and 8 of subsection 30 (1), sections 48.1, 49.1, 51, 52, 54, 55, 56 and 95 to 99, subsection 100 (2) and sections 101, 102, 104, 111 to 115, 117, 120, 121, 122, 126 to 133, 140, 143, 149, 150, 151, 159, 165 and 167 do not apply with respect to a rental unit described below:

1. A rental unit located in a residential complex owned, operated or administered by or on behalf of the Government of Canada or an agency of the Government of Canada.
2. A rental unit in a designated housing project as defined in the *Housing Services Act, 2011* that is owned, operated or managed by a service manager or local housing corporation as defined in that Act.
3. A rental unit located in a non-profit housing project or other residential complex, if the non-profit housing project or other residential complex was developed or acquired under a prescribed federal, provincial or municipal program and continues to operate under,
  - i. Part VII of the *Housing Services Act, 2011*,
  - ii. a pre-reform operating agreement as defined in the *Housing Services Act, 2011*, or
  - iii. an agreement made between a housing provider, as defined in the *Housing Services Act, 2011*, and one or more of,
    - A. a municipality,
    - B. an agency of a municipality,
    - C. a non-profit corporation controlled by a municipality, if an object of the non-profit corporation is the provision of housing,
    - D. a local housing corporation as defined in the *Housing Services Act, 2011*, or
    - E. a service manager as defined in the *Housing Services Act, 2011*.
4. A rental unit that is a non-member unit of a non-profit housing co-operative.
5. A rental unit provided by an educational institution to a student or member of its staff and that is not exempt from this Act under clause 5 (g).

6. A rental unit located in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis. 2006, c. 17, s. 7 (1); 2006, c. 32, Sched. E, s. 7 (4); 2011, c. 6, Sched. 1, s. 188 (1); 2017, c. 13, s. 4; 2020, c. 16, Sched. 3, s. 12 (1); 2020, c. 16, Sched. 4, s. 3 (1).

#### **Exemption re 12-month rule**

(2) Section 119 does not apply with respect to,

- (a) a rental unit described in paragraph 1, 2, 3 or 4 of subsection (1) if the tenant occupying the rental unit pays rent in an amount geared-to-income due to public funding; or
- (b) a rental unit described in paragraph 5 or 6 of subsection (1). 2006, c. 17, s. 7 (2).

#### **Exemption re notice of rent increase**

(3) Sections 116 and 118 do not apply with respect to increases in rent for a rental unit due to increases in the tenant's income if the rental unit is as described in paragraph 1, 2, 3 or 4 of subsection (1) and the tenant pays rent in an amount geared-to-income due to public funding. 2006, c. 17, s. 7 (3).

#### **Exception, subs. (1), par. 1**

(4) Despite subsection (1), the provisions of this Act set out in that subsection apply with respect to a rental unit described in paragraph 1 of that subsection if the tenant occupying the rental unit pays rent to a landlord other than the Government of Canada or an agency of the Government of Canada. 2020, c. 16, Sched. 3, s. 12 (2).

#### **Same, subs. (1), par. 2**

(5) Despite subsection (1), the provisions of this Act set out in that subsection apply with respect to a rental unit described in paragraph 2 of that subsection if the tenant occupying the rental unit pays rent to a landlord other than a service manager or local housing corporation as defined in the *Housing Services Act, 2011* or an agency of either of them. 2006, c. 17, s. 7 (5); 2011, c. 6, Sched. 1, s. 188 (2); 2020, c. 16, Sched. 4, s. 3 (2).

#### **Same, subs. (1), par. 5**

(6) Despite subsection (1), the provisions of this Act set out in that subsection apply with respect to a rent increase for rental units described in paragraph 5 of that subsection if there is a council or association representing the residents of those rental units and there has not been consultation with the council or association respecting the increase. 2006, c. 17, s. 7 (6).

#### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. E, s. 7 (4, 5) - 31/01/2007

2011, c. 6, Sched. 1, s. 188 (1, 2) - 01/01/2012

2017, c. 13, s. 4 - 01/09/2017

2020, c. 16, Sched. 3, s. 12 (1, 2) - 31/03/2021; 2020, c. 16, Sched. 4, s. 3 (1) - 21/07/2020; 2020, c. 16, Sched. 4, s. 3 (2) - 01/09/2021

#### **Rent geared-to-income**

**8** (1) If a tenant pays rent for a rental unit in an amount geared-to-income due to public funding and the rental unit is not a rental unit described in paragraph 1, 2, 3 or 4 of subsection 7 (1), paragraph 6 of subsection 30 (1) and Part VII do not apply to an increase in the amount geared-to-income paid by the tenant. 2006, c. 17, s. 8 (1).

#### **Same, assignment, subletting**

(2) Sections 95 to 99, subsection 100 (2), sections 101 and 102, subsection 104 (3) and section 143 do not apply to a tenant described in subsection (1). 2006, c. 17, s. 8 (2).

#### **Application to determine issues**

**9** (1) A landlord or a tenant may apply to the Board for an order determining,

- (a) whether this Act or any provision of it applies to a particular rental unit or residential complex;
- (b) any other prescribed matter. 2006, c. 17, s. 9 (1).

#### **Order**

(2) On the application, the Board shall make findings on the issue as prescribed and shall make the appropriate order. 2006, c. 17, s. 9 (2).

## **PART II TENANCY AGREEMENTS**

### **Selecting prospective tenants**

**10** In selecting prospective tenants, landlords may use, in the manner prescribed in the regulations made under the *Human Rights Code*, income information, credit checks, credit references, rental history, guarantees, or other similar business practices as prescribed in those regulations. 2006, c. 17, s. 10.

### **Information to be provided by landlord**

**11** (1) If a tenancy agreement is entered into, the landlord shall provide to the tenant information relating to the rights and responsibilities of landlords and tenants, the role of the Board and how to contact the Board. 2006, c. 17, s. 11 (1).

### **Form**

(2) The information shall be provided to the tenant on or before the date the tenancy begins in a form approved by the Board. 2006, c. 17, s. 11 (2).

### **Non-application**

- (3) This section does not apply with respect to a tenancy if,
- (a) the tenancy begins on or after the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent; and
  - (b) section 12.1 applies with respect to the tenancy agreement entered into in respect of the tenancy. 2020, c. 16, Sched. 4, s. 4.

### **Transition, subs. (3)**

(4) Subsection (3) applies with respect to a tenancy agreement referred to in that subsection even if the agreement was entered into before the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent. 2020, c. 16, Sched. 4, s. 4.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 4 - 21/07/2020

### **Tenancy agreement**

#### **Name and address in written agreement**

**12** (1) Every written tenancy agreement entered into on or after June 17, 1998 shall set out the legal name and address of the landlord to be used for the purpose of giving notices or other documents under this Act. 2006, c. 17, s. 12 (1).

#### **Copy of tenancy agreement**

(2) If a tenancy agreement entered into on or after June 17, 1998 is in writing, the landlord shall give a copy of the agreement, signed by the landlord and the tenant, to the tenant within 21 days after the tenant signs it and gives it to the landlord. 2006, c. 17, s. 12 (2).

#### **Notice if agreement not in writing**

(3) If a tenancy agreement entered into on or after June 17, 1998 is not in writing, the landlord shall, within 21 days after the tenancy begins, give to the tenant written notice of the legal name and address of the landlord to be used for giving notices and other documents under this Act. 2006, c. 17, s. 12 (3).

#### **Failure to comply**

- (4) Until a landlord has complied with subsections (1) and (2), or with subsection (3), as the case may be,
- (a) the tenant's obligation to pay rent is suspended; and
  - (b) the landlord shall not require the tenant to pay rent. 2006, c. 17, s. 12 (4).

#### **After compliance**

(5) After the landlord has complied with subsections (1) and (2), or with subsection (3), as the case may be, the landlord may require the tenant to pay any rent withheld by the tenant under subsection (4). 2006, c. 17, s. 12 (5).

### **Tenancy agreement in respect of tenancy of a prescribed class**

**12.1** (1) Every tenancy agreement that is entered into in respect of a tenancy of a prescribed class on or after the date prescribed for that class of tenancies shall comply with the following requirements:

1. The tenancy agreement shall be in the form prescribed for that class of tenancies.
2. The tenancy agreement shall comply with the requirements prescribed for that class of tenancies. 2017, c. 13, s. 5.

**Time of signature**

(2) Every tenancy agreement referred to in subsection (1) shall be signed by the landlord and the tenant on or before the day the tenant is entitled to occupy the rental unit under the tenancy agreement. 2017, c. 13, s. 5.

**Non-application**

(3) This section does not apply with respect to a tenancy agreement entered into in respect of a tenancy of a prescribed class referred to in subsection (1), if the tenancy agreement is entered into before the applicable prescribed date referred to in that subsection, and even if the tenancy agreement is renewed or deemed to be renewed under section 38 on or after that date. 2017, c. 13, s. 5.

**Application of subs. (5) to (10)**

(4) Subsections (5) to (10) apply with respect to a tenancy agreement referred to in subsection (1) that does not comply with that subsection. 2017, c. 13, s. 5.

**Demand for proposed tenancy agreement that complies with subs. (1)**

(5) The tenant of a rental unit who is a party to a tenancy agreement described in subsection (4) may, once during the tenancy, demand in writing that the landlord provide to the tenant, for the tenant's signature, a proposed tenancy agreement that,

- (a) complies with subsection (1);
- (b) is for the occupancy of the same rental unit; and
- (c) is signed by the landlord. 2017, c. 13, s. 5.

**Withholding of rent payments**

(6) If at least 21 days have elapsed since the day the tenant made the demand and the landlord has not complied with the demand, the tenant may, subject to subsections (7) and (8), withhold rent payments that become due after the expiry of that 21-day period. 2017, c. 13, s. 5.

**Same**

(7) The maximum total amount of rent payments that a tenant may withhold under subsection (6) is an amount equal to one month's rent. 2017, c. 13, s. 5.

**Same**

(8) The tenant may not withhold rent payments under subsection (6) on or after the day the landlord complies with the demand. 2017, c. 13, s. 5.

**Requirement to pay withheld rent payments**

(9) The landlord may require the tenant to pay to the landlord any rent payment withheld under subsection (6) only if the landlord complies with the tenant's demand for a proposed tenancy agreement no later than 30 days after the date of the first rent payment withheld under that subsection. 2017, c. 13, s. 5.

**Same**

(10) The landlord may require the tenant to pay withheld rent payments under subsection (9) even if the tenant does not enter into the proposed tenancy agreement provided to the tenant by the landlord. 2017, c. 13, s. 5.

**Tenancy agreement not void**

(11) For greater certainty, a tenancy agreement is not void, voidable or unenforceable solely by reason of not complying with subsection (1) or (2). 2017, c. 13, s. 5.

**Operation of s. 12 not affected**

(12) For greater certainty, nothing in this section affects the operation of section 12. 2017, c. 13, s. 5.

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 5 - 30/05/2017

**Commencement of tenancy**

**13** (1) The term or period of a tenancy begins on the day the tenant is entitled to occupy the rental unit under the tenancy agreement. 2006, c. 17, s. 13 (1).

**Actual entry not required**

(2) A tenancy agreement takes effect when the tenant is entitled to occupy the rental unit, whether or not the tenant actually occupies it. 2006, c. 17, s. 13 (2).

### **“No pet” provisions void**

**14** A provision in a tenancy agreement prohibiting the presence of animals in or about the residential complex is void. 2006, c. 17, s. 14.

### **Acceleration clause void**

**15** A provision in a tenancy agreement providing that all or part of the remaining rent for a term or period of a tenancy or a specific sum becomes due upon a default of the tenant in paying rent due or in carrying out an obligation is void. 2006, c. 17, s. 15.

### **Minimize losses**

**16** When a landlord or a tenant becomes liable to pay any amount as a result of a breach of a tenancy agreement, the person entitled to claim the amount has a duty to take reasonable steps to minimize the person’s losses. 2006, c. 17, s. 16.

### **Covenants interdependent**

**17** Except as otherwise provided in this Act, the common law rules respecting the effect of a serious, substantial or fundamental breach of a material covenant by one party to a contract on the obligation to perform of the other party apply with respect to tenancy agreements. 2006, c. 17, s. 17.

### **Covenants running with land**

**18** Covenants concerning things related to a rental unit or the residential complex in which it is located run with the land, whether or not the things are in existence at the time the covenants are made. 2006, c. 17, s. 18.

### **Frustrated contracts**

**19** The doctrine of frustration of contract and the *Frustrated Contracts Act* apply with respect to tenancy agreements. 2006, c. 17, s. 19.

## **PART III RESPONSIBILITIES OF LANDLORDS**

### **Landlord’s responsibility to repair**

**20** (1) A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards. 2006, c. 17, s. 20 (1).

#### **Same**

(2) Subsection (1) applies even if the tenant was aware of a state of non-repair or a contravention of a standard before entering into the tenancy agreement. 2006, c. 17, s. 20 (2).

### **Landlord’s responsibility re services**

**21** (1) A landlord shall not at any time during a tenant’s occupancy of a rental unit and before the day on which an order evicting the tenant is executed, withhold the reasonable supply of any vital service, care service or food that it is the landlord’s obligation to supply under the tenancy agreement or deliberately interfere with the reasonable supply of any vital service, care service or food. 2006, c. 17, s. 21 (1).

#### **Non-payment**

(2) For the purposes of subsection (1), a landlord shall be deemed to have withheld the reasonable supply of a vital service, care service or food if the landlord is obligated to pay another person for the vital service, care service or food, the landlord fails to pay the required amount and, as a result of the non-payment, the other person withholds the reasonable supply of the vital service, care service or food. 2006, c. 17, s. 21 (2).

### **Landlord not to interfere with reasonable enjoyment**

**22** A landlord shall not at any time during a tenant’s occupancy of a rental unit and before the day on which an order evicting the tenant is executed substantially interfere with the reasonable enjoyment of the rental unit or the residential complex in which it is located for all usual purposes by a tenant or members of his or her household. 2006, c. 17, s. 22.

#### **Landlord not to harass, etc.**

**23** A landlord shall not harass, obstruct, coerce, threaten or interfere with a tenant. 2006, c. 17, s. 23.

### **Changing locks**

**24** A landlord shall not alter the locking system on a door giving entry to a rental unit or residential complex or cause the locking system to be altered during the tenant’s occupancy of the rental unit without giving the tenant replacement keys. 2006, c. 17, s. 24.

## **Privacy**

**25** A landlord may enter a rental unit only in accordance with section 26 or 27. 2006, c. 17, s. 25.

## **Entry without notice**

### **Entry without notice, emergency, consent**

- 26** (1) A landlord may enter a rental unit at any time without written notice,
- (a) in cases of emergency; or
  - (b) if the tenant consents to the entry at the time of entry. 2006, c. 17, s. 26 (1).

### **Same, housekeeping**

- (2) A landlord may enter a rental unit without written notice to clean it if the tenancy agreement requires the landlord to clean the rental unit at regular intervals and,
- (a) the landlord enters the unit at the times specified in the tenancy agreement; or
  - (b) if no times are specified, the landlord enters the unit between the hours of 8 a.m. and 8 p.m. 2006, c. 17, s. 26 (2).

### **Entry to show rental unit to prospective tenants**

- (3) A landlord may enter the rental unit without written notice to show the unit to prospective tenants if,
- (a) the landlord and tenant have agreed that the tenancy will be terminated or one of them has given notice of termination to the other;
  - (b) the landlord enters the unit between the hours of 8 a.m. and 8 p.m.; and
  - (c) before entering, the landlord informs or makes a reasonable effort to inform the tenant of the intention to do so. 2006, c. 17, s. 26 (3).

## **Entry with notice**

**27** (1) A landlord may enter a rental unit in accordance with written notice given to the tenant at least 24 hours before the time of entry under the following circumstances:

1. To carry out a repair or replacement or do work in the rental unit.
2. To allow a potential mortgagee or insurer of the residential complex to view the rental unit.
3. To allow a person who holds a certificate of authorization within the meaning of the *Professional Engineers Act* or a certificate of practice within the meaning of the *Architects Act* or another qualified person to make a physical inspection of the rental unit to satisfy a requirement imposed under subsection 9 (4) of the *Condominium Act, 1998*.
4. To carry out an inspection of the rental unit, if,
  - i. the inspection is for the purpose of determining whether or not the rental unit is in a good state of repair and fit for habitation and complies with health, safety, housing and maintenance standards, consistent with the landlord's obligations under subsection 20 (1) or section 161, and
  - ii. it is reasonable to carry out the inspection.
5. For any other reasonable reason for entry specified in the tenancy agreement. 2006, c. 17, s. 27 (1).

## **Same**

(2) A landlord or, with the written authorization of a landlord, a broker or salesperson registered under the *Real Estate and Business Brokers Act, 2002*, may enter a rental unit in accordance with written notice given to the tenant at least 24 hours before the time of entry to allow a potential purchaser to view the rental unit. 2006, c. 17, s. 27 (2).

**Note:** On December 1, 2023, the day named by proclamation of the Lieutenant Governor, subsection 27 (2) of the Act is amended by striking out "*Real Estate and Business Brokers Act, 2002*" and substituting "*Trust in Real Estate Services Act, 2002*". (See: 2020, c. 1, s. 36)

## **Contents of notice**

(3) The written notice under subsection (1) or (2) shall specify the reason for entry, the day of entry and a time of entry between the hours of 8 a.m. and 8 p.m. 2006, c. 17, s. 27 (3).

## **Section Amendments with date in force (d/m/y)**

2020, c. 1, s. 36 - 01/12/2023

### **Entry by canvassers**

**28** No landlord shall restrict reasonable access to a residential complex by candidates for election to any office at the federal, provincial or municipal level, or their authorized representatives, if they are seeking access for the purpose of canvassing or distributing election material. 2006, c. 17, s. 28.

### **Tenant applications**

**29** (1) A tenant or former tenant of a rental unit may apply to the Board for any of the following orders:

1. An order determining that the landlord has breached an obligation under subsection 20 (1) or section 161.
2. An order determining that the landlord, superintendent or agent of the landlord has withheld the reasonable supply of any vital service, care service or food that it is the landlord's obligation to supply under the tenancy agreement or deliberately interfered with the reasonable supply of any vital service, care service or food.
3. An order determining that the landlord, superintendent or agent of the landlord has substantially interfered with the reasonable enjoyment of the rental unit or residential complex for all usual purposes by the tenant or a member of his or her household.
4. An order determining that the landlord, superintendent or agent of the landlord has harassed, obstructed, coerced, threatened or interfered with the tenant during the tenant's occupancy of the rental unit.
5. An order determining that the landlord, superintendent or agent of the landlord has altered the locking system on a door giving entry to the rental unit or the residential complex or caused the locking system to be altered during the tenant's occupancy of the rental unit without giving the tenant replacement keys.
6. An order determining that the landlord, superintendent or agent of the landlord has illegally entered the rental unit. 2006, c. 17, s. 29 (1).

### **Time limitation**

(2) No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred. 2006, c. 17, s. 29 (2).

### **Order, repair, comply with standards**

**30** (1) If the Board determines in an application under paragraph 1 of subsection 29 (1) that a landlord has breached an obligation under subsection 20 (1) or section 161, the Board may do one or more of the following:

1. Terminate the tenancy.
2. Order an abatement of rent.
3. Authorize a repair or replacement that has been or is to be made, or work that has been or is to be done, and order its cost to be paid by the landlord to the tenant.
4. Order the landlord to do specified repairs or replacements or other work within a specified time.
5. Order the landlord to pay a specified sum to the tenant for,
  - i. the reasonable costs that the tenant has incurred or will incur in repairing or, where repairing is not reasonable, replacing property of the tenant that was damaged, destroyed or disposed of as a result of the landlord's breach, and
  - ii. other reasonable out-of-pocket expenses that the tenant has incurred or will incur as a result of the landlord's breach.
6. Prohibit the landlord from charging a new tenant under a new tenancy agreement an amount of rent in excess of the last lawful rent charged to the former tenant of the rental unit, until the landlord has,
  - i. completed the items in work orders for which the compliance period has expired and which were found by the Board to be related to a serious breach of a health, safety, housing or maintenance standard, and
  - ii. completed the specified repairs or replacements or other work ordered under paragraph 4 found by the Board to be related to a serious breach of the landlord's obligations under subsection 20 (1) or section 161.
7. Prohibit the landlord from giving a notice of a rent increase for the rental unit until the landlord has,
  - i. completed the items in work orders for which the compliance period has expired and which were found by the Board to be related to a serious breach of a health, safety, housing or maintenance standard, and
  - ii. completed the specified repairs or replacements or other work ordered under paragraph 4 found by the Board to be related to a serious breach of the landlord's obligations under subsection 20 (1) or section 161.

8. Prohibit the landlord from taking any rent increase for which notice has been given if the increase has not been taken before the date an order under this section is issued until the landlord has,
  - i. completed the items in work orders for which the compliance period has expired and which were found by the Board to be related to a serious breach of a health, safety, housing or maintenance standard, and
  - ii. completed the specified repairs or replacements or other work ordered under paragraph 4 found by the Board to be related to a serious breach of the landlord's obligations under subsection 20 (1) or section 161.
9. Make any other order that it considers appropriate. 2006, c. 17, s. 30 (1).

#### **Advance notice of breaches**

(2) In determining the remedy under this section, the Board shall consider whether the tenant or former tenant advised the landlord of the alleged breaches before applying to the Board. 2006, c. 17, s. 30 (2).

#### **Other orders re s. 29**

**31** (1) If the Board determines that a landlord, a superintendent or an agent of a landlord has done one or more of the activities set out in paragraphs 2 to 6 of subsection 29 (1), the Board may,

- (a) order that the landlord, superintendent or agent may not engage in any further activities listed in those paragraphs against any of the tenants in the residential complex;
- (b) order that the landlord, superintendent or agent pay a specified sum to the tenant for,
  - (i) the reasonable costs that the tenant has incurred or will incur in repairing or, where repairing is not reasonable, replacing property of the tenant that was damaged, destroyed or disposed of as a result of the landlord, superintendent or agent having engaged in one or more of the activities listed in those paragraphs, and
  - (ii) other reasonable out-of-pocket expenses that the tenant has incurred or will incur as a result of the landlord, superintendent or agent having engaged in one or more of the activities listed in those paragraphs;
- (c) order an abatement of rent;
- (d) order that the landlord pay to the Board an administrative fine not exceeding the greater of \$10,000 and the monetary jurisdiction of the Small Claims Court;
- (e) order that the tenancy be terminated;
- (f) make any other order that it considers appropriate. 2006, c. 17, s. 31 (1).

#### **Same**

(2) If in an application under any of paragraphs 2 to 6 of subsection 29 (1) it is determined that the tenant was induced by the conduct of the landlord, the superintendent or an agent of the landlord to vacate the rental unit, the Board may, in addition to the remedies set out in subsection (1), order that the landlord pay a specified sum to the tenant for,

- (a) all or any portion of any increased rent which the tenant has incurred or will incur for a one-year period after the tenant has left the rental unit; and
- (b) reasonable out-of-pocket moving, storage and other like expenses which the tenant has incurred or will incur. 2006, c. 17, s. 31 (2).

#### **Order, s. 29 (1), par. 5**

(3) If the Board determines, in an application under paragraph 5 of subsection 29 (1), that the landlord, superintendent or agent of the landlord has altered the locking system on a door giving entry to the rental unit or the residential complex, or caused the locking system to be altered, during the tenant's occupancy of the rental unit without giving the tenant replacement keys, and if the Board is satisfied that the rental unit is vacant, the Board may, in addition to the remedies set out in subsections (1) and (2), order that the landlord allow the tenant to recover possession of the rental unit and that the landlord refrain from renting the unit to anyone else. 2006, c. 17, s. 31 (3).

#### **Effect of order allowing tenant possession**

(4) An order under subsection (3) shall have the same effect, and shall be enforced in the same manner, as a writ of possession. 2006, c. 17, s. 31 (4).

#### **Expiry of order allowing tenant possession**

- (5) An order under subsection (3) expires,
  - (a) at the end of the 15th day after the day it is issued if it is not filed within those 15 days with the sheriff who has territorial jurisdiction where the rental unit is located; or
  - (b) at the end of the 45th day after the day it is issued if it is filed in the manner described in clause (a). 2006, c. 17, s. 31 (5).

### **Eviction with termination order**

**32** If the Board makes an order terminating a tenancy under paragraph 1 of subsection 30 (1) or clause 31 (1) (e), the Board may order that the tenant be evicted, effective not earlier than the termination date specified in the order. 2006, c. 17, s. 32.

## **PART IV RESPONSIBILITIES OF TENANTS**

### **Tenant's responsibility for cleanliness**

**33** The tenant is responsible for ordinary cleanliness of the rental unit, except to the extent that the tenancy agreement requires the landlord to clean it. 2006, c. 17, s. 33.

### **Tenant's responsibility for repair of damage**

**34** The tenant is responsible for the repair of undue damage to the rental unit or residential complex caused by the wilful or negligent conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant. 2006, c. 17, s. 34.

### **Changing locks**

**35** (1) A tenant shall not alter the locking system on a door giving entry to a rental unit or residential complex or cause the locking system to be altered during the tenant's occupancy of the rental unit without the consent of the landlord. 2006, c. 17, s. 35 (1).

### **Landlord application**

(2) If a tenant alters a locking system, contrary to subsection (1), the landlord may apply to the Board for an order determining that the tenant has altered the locking system on a door giving entry to the rental unit or the residential complex or caused the locking system to be altered during the tenant's occupancy of the rental unit without the consent of the landlord. 2006, c. 17, s. 35 (2).

### **Order**

(3) If the Board in an application under subsection (2) determines that a tenant has altered the locking system or caused it to be altered, the Board may order that the tenant provide the landlord with keys or pay the landlord the reasonable out-of-pocket expenses necessary to change the locking system. 2006, c. 17, s. 35 (3).

### **Tenant not to harass, etc.**

**36** A tenant shall not harass, obstruct, coerce, threaten or interfere with a landlord. 2006, c. 17, s. 36.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, Part IV of the Act is amended by adding the following section: (See: 2023, c. 10, Sched. 7, s. 1)

### **Air conditioning**

**36.1** (1) A tenant may install and use a window or portable air conditioner in a rental unit for which the landlord does not supply air conditioning, unless prohibited from doing so by the landlord under subsection (2), and subject to the conditions set out in subsection (3). 2023, c. 10, Sched. 7, s. 1.

### **Exception**

(2) The landlord may, in the prescribed circumstances, prohibit a tenant from installing an air conditioner. 2023, c. 10, Sched. 7, s. 1.

### **Conditions**

(3) The installation and use of a window or portable air conditioner under subsection (1) is subject to the following conditions:

1. Before installing the air conditioner, the tenant must notify the landlord in writing.
2. If subsection (5) may apply in the circumstances, the notice must include any information available to the tenant about the energy efficiency of the air conditioner, and information about the tenant's anticipated usage of the air conditioner.
3. The tenant shall ensure that the air conditioner, including its installation and operation, does not damage the rental unit or residential complex.
4. The air conditioner must be installed safely and securely.
5. The installation of the air conditioner is not prohibited by any applicable municipal property standards by-law or other applicable law, and the air conditioner is installed and maintained in accordance with any applicable laws.
6. Any other prescribed conditions. 2023, c. 10, Sched. 7, s. 1.

**Reasonable inspection**

(4) For greater certainty, a reasonable inspection by a landlord for the purpose of determining compliance with paragraph 3, 4 or 5 of subsection (3) is a circumstance for which a landlord may enter a rental unit under paragraph 4 of subsection 27 (1) of the Act. 2023, c. 10, Sched. 7, s. 1.

**Rent increase**

(5) If, on or after the day section 1 of Schedule 7 to the *Helping Homebuyers, Protecting Tenants Act, 2023* comes into force, a tenant installs and uses a window or portable air conditioner in a rental unit to which the landlord is obligated under the tenancy agreement to supply electricity, the landlord may increase the rent charged to the tenant. 2023, c. 10, Sched. 7, s. 1.

**Exception**

(6) Subsection (5) does not apply if the tenancy agreement expressly provides that the tenant may install a window or portable air conditioner without any increase of rent. 2023, c. 10, Sched. 7, s. 1.

**Maximum**

(7) An increase under subsection (5) shall not exceed the actual cost to the landlord of the electricity supplied for the operation of the air conditioner or, where the actual cost cannot be established, a reasonable estimate based on the information provided by the tenant under paragraph 2 of subsection (3). 2023, c. 10, Sched. 7, s. 1.

**Rent decrease, removal**

(8) If a tenant who is subject to a rent increase under subsection (5) removes the air conditioner, the landlord shall decrease the rent charged to the tenant by the amount of the increase. 2023, c. 10, Sched. 7, s. 1.

**Rent decrease, seasonal use**

(9) If a tenant who is subject to a rent increase under subsection (5) seasonally ceases to use the air conditioner, the landlord shall decrease the rent charged to the tenant by the amount of the increase. 2023, c. 10, Sched. 7, s. 1.

**Same, resumption of use**

(10) If the tenant seasonally resumes using the air conditioner, the landlord may increase the rent charged to the tenant, and subsections (7) to (9) apply with necessary modifications with respect to the rent increase. 2023, c. 10, Sched. 7, s. 1.

**Application**

(11) Sections 110, 116, 119 and 120 and any order under paragraph 6 of subsection 30 (1) do not apply with respect to a rent increase under this section. 2023, c. 10, Sched. 7, s. 1.

**Application to existing air conditioners**

(12) Subsection (3), other than paragraphs 1 and 2, applies with necessary modifications with respect to a window or portable air conditioner installed by a tenant in a rental unit before the day section 1 of Schedule 7 to the *Helping Homebuyers, Protecting Tenants Act, 2023* comes into force, subject to subsection (13). 2023, c. 10, Sched. 7, s. 1.

**Non-application**

(13) This section does not apply with respect to rental units in a mobile home park or land lease community. 2023, c. 10, Sched. 7, s. 1.

**Section Amendments with date in force (d/m/y)**

2023, c. 10, Sched. 7, s. 1- not in force

**PART V  
SECURITY OF TENURE AND TERMINATION OF TENANCIES**

**SECURITY OF TENURE**

**Termination only in accordance with Act**

**37 (1)** A tenancy may be terminated only in accordance with this Act. 2006, c. 17, s. 37 (1).

**Termination by notice**

(2) If a notice of termination is given in accordance with this Act and the tenant vacates the rental unit in accordance with the notice, the tenancy is terminated on the termination date set out in the notice. 2006, c. 17, s. 37 (2).

**Termination by agreement**

(3) A notice of termination need not be given if a landlord and a tenant have agreed to terminate a tenancy. 2006, c. 17, s. 37 (3).

**When notice void**

- (4) A tenant's notice to terminate a tenancy is void if it is given,
- (a) at the time the tenancy agreement is entered into; or
  - (b) as a condition of entering into the tenancy agreement. 2006, c. 17, s. 37 (4).

**When agreement void**

- (5) An agreement between a landlord and tenant to terminate a tenancy is void if it is entered into,
- (a) at the time the tenancy agreement is entered into; or
  - (b) as a condition of entering into the tenancy agreement. 2006, c. 17, s. 37 (5).

**Application of subss. (4) and (5)**

- (6) Subsections (4) and (5) do not apply to rental units occupied by students of one or more post-secondary educational institutions,
- (a) in a residential complex owned, operated or administered by or on behalf of the post-secondary educational institutions; or
  - (b) in a residential complex where a non-profit housing co-operative provides housing units primarily for post-secondary students. 2013, c. 3, s. 25.

**Same**

- (7) Subsections (4) and (5) do not apply to rental units in a residential complex with respect to which the landlord has entered into an agreement with one or more post-secondary educational institutions providing,
- (a) that the landlord, as of the date the agreement is entered into and for the duration of the agreement, rents the rental units which are the subject of the agreement only to students of the institution or institutions;
  - (b) that the landlord will comply with the maintenance standards set out in the agreement with respect to the rental units which are the subject of the agreement; and
  - (c) that the landlord will not charge a new tenant of a rental unit which is a subject of the agreement a rent which is greater than the lawful rent being charged to the former tenant plus the guideline. 2006, c. 17, s. 37 (7).

**Same**

- (8) The maintenance standards set out in the agreement and referred to in clause (7) (b) shall not provide for a lower maintenance standard than that required by law. 2006, c. 17, s. 37 (8).

**Same**

- (9) If the landlord breaches any of clauses (7) (a), (b) and (c), the agreement referred to in subsection (7) is terminated and the exemption provided by subsection (7) no longer applies. 2006, c. 17, s. 37 (9).

**Same**

- (10) The landlord shall be deemed to have not breached the condition in clause (7) (a) if,
- (a) upon a tenant ceasing to be a student of a post-secondary educational institution that is a party to the agreement with the landlord, the landlord takes action to terminate the tenancy in accordance with an agreement with the tenant to terminate the tenancy or a notice of termination given by the tenant; or
  - (b) a tenant sublets the rental unit to a person who is not a student of a post-secondary educational institution that is a party to the agreement with the landlord. 2006, c. 17, s. 37 (10).

**Same**

- (11) Either party to an agreement referred to in subsection (7) may terminate the agreement on at least 90 days written notice to the other party and, upon the termination of the agreement, the exemption provided by subsection (7) no longer applies. 2006, c. 17, s. 37 (11).

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 25 - 01/06/2014

**Deemed renewal where no notice**

- 38** (1) If a tenancy agreement for a fixed term ends and has not been renewed or terminated, the landlord and tenant shall be deemed to have renewed it as a monthly tenancy agreement containing the same terms and conditions that are in the expired tenancy agreement and subject to any increases in rent charged in accordance with this Act. 2006, c. 17, s. 38 (1).

**Same**

(2) If the period of a daily, weekly or monthly tenancy ends and the tenancy has not been renewed or terminated, the landlord and tenant shall be deemed to have renewed it for another day, week or month, as the case may be, with the same terms and conditions that are in the expired tenancy agreement and subject to any increases in rent charged in accordance with this Act. 2006, c. 17, s. 38 (2).

**Same**

(3) If the period of a periodic tenancy ends, the tenancy has not been renewed or terminated and subsection (2) does not apply, the landlord and tenant shall be deemed to have renewed it as a monthly tenancy, with the same terms and conditions that are in the expired tenancy agreement and subject to any increases in rent charged in accordance with this Act. 2006, c. 17, s. 38 (3).

**Restriction on recovery of possession**

**39** A landlord shall not recover possession of a rental unit subject to a tenancy unless,

- (a) the tenant has vacated or abandoned the unit; or
- (b) an order of the Board evicting the tenant has authorized the possession. 2006, c. 17, s. 39.

**Distress abolished**

**40** No landlord shall, without legal process, seize a tenant's property for default in the payment of rent or for the breach of any other obligation of the tenant. 2006, c. 17, s. 40.

**Disposal of abandoned property if unit vacated**

**41** (1) A landlord may sell, retain for the landlord's own use or otherwise dispose of property in a rental unit or the residential complex if the rental unit has been vacated in accordance with,

- (a) a notice of termination of the landlord or the tenant;
- (b) an agreement between the landlord and the tenant to terminate the tenancy;
- (c) subsection 93 (2); or
- (d) an order of the Board terminating the tenancy or evicting the tenant. 2006, c. 17, s. 41 (1).

**Where eviction order enforced**

(2) Despite subsection (1), where an order is made to evict a tenant, the landlord shall not sell, retain or otherwise dispose of the tenant's property before 72 hours have elapsed after the enforcement of the eviction order. 2006, c. 17, s. 41 (2).

**Same**

(3) A landlord shall make an evicted tenant's property available to be retrieved at a location close to the rental unit during the prescribed hours within the 72 hours after the enforcement of an eviction order. 2006, c. 17, s. 41 (3).

**Liability of landlord**

(4) A landlord is not liable to any person for selling, retaining or otherwise disposing of a tenant's property in accordance with this section. 2006, c. 17, s. 41 (4).

**Agreement**

(5) A landlord and a tenant may agree to terms other than those set out in this section with regard to the disposal of the tenant's property. 2006, c. 17, s. 41 (5).

**Enforcement of landlord obligations**

(6) If, on application by a former tenant, the Board determines that a landlord has breached an obligation under subsection (2) or (3), the Board may do one or more of the following:

1. Order that the landlord not breach the obligation again.
2. Order that the landlord return to the former tenant property of the former tenant that is in the possession or control of the landlord.
3. Order that the landlord pay a specified sum to the former tenant for,
  - i. the reasonable costs that the former tenant has incurred or will incur in repairing or, where repairing is not reasonable, replacing property of the former tenant that was damaged, destroyed or disposed of as a result of the landlord's breach, and
  - ii. other reasonable out-of-pocket expenses that the former tenant has incurred or will incur as a result of the landlord's breach.

4. Order that the landlord pay to the Board an administrative fine not exceeding the greater of \$10,000 and the monetary jurisdiction of the Small Claims Court.
5. Make any other order that it considers appropriate. 2006, c. 17, s. 41 (6).

#### **Disposal of property, unit abandoned**

**42** (1) A landlord may dispose of property in a rental unit that a tenant has abandoned and property of persons occupying the rental unit that is in the residential complex in which the rental unit is located in accordance with subsections (2) and (3) if,

- (a) the landlord obtains an order terminating the tenancy under section 79; or
- (b) the landlord gives notice to the tenant of the rental unit and to the Board of the landlord's intention to dispose of the property. 2006, c. 17, s. 42 (1).

#### **Same**

(2) If the tenant has abandoned the rental unit, the landlord may dispose of any unsafe or unhygienic items immediately. 2006, c. 17, s. 42 (2).

#### **Same**

(3) The landlord may sell, retain for the landlord's own use or otherwise dispose of any other items if 30 days have passed after obtaining the order referred to in clause (1) (a) or giving the notice referred to in clause (1) (b) to the tenant and the Board. 2006, c. 17, s. 42 (3).

#### **Tenant's claim to property**

(4) If, before the 30 days have passed, the tenant notifies the landlord that he or she intends to remove property referred to in subsection (3), the tenant may remove the property within that 30-day period. 2006, c. 17, s. 42 (4).

#### **Same**

(5) If the tenant notifies the landlord in accordance with subsection (4) that he or she intends to remove the property, the landlord shall make the property available to the tenant at a reasonable time and at a location close to the rental unit. 2006, c. 17, s. 42 (5).

#### **Same**

(6) The landlord may require the tenant to pay the landlord for arrears of rent and any reasonable out-of-pocket expenses incurred by the landlord in moving, storing or securing the tenant's property before allowing the tenant to remove the property. 2006, c. 17, s. 42 (6).

#### **Same**

(7) If, within six months after the date the notice referred to in clause (1) (b) is given to the tenant and the Board or the order terminating the tenancy is issued, the tenant claims any of his or her property that the landlord has sold, the landlord shall pay to the tenant the amount by which the proceeds of sale exceed the sum of,

- (a) the landlord's reasonable out-of-pocket expenses for moving, storing, securing or selling the property; and
- (b) any arrears of rent. 2006, c. 17, s. 42 (7).

#### **No liability**

(8) Subject to subsections (5) and (7), a landlord is not liable to any person for selling, retaining or otherwise disposing of the property of a tenant in accordance with this section. 2006, c. 17, s. 42 (8).

### **NOTICE OF TERMINATION – GENERAL**

#### **Notice of termination**

**43** (1) Where this Act permits a landlord or tenant to give a notice of termination, the notice shall be in a form approved by the Board and shall,

- (a) identify the rental unit for which the notice is given;
- (b) state the date on which the tenancy is to terminate; and
- (c) be signed by the person giving the notice, or the person's agent. 2006, c. 17, s. 43 (1).

#### **Same**

(2) If the notice is given by a landlord, it shall also set out the reasons and details respecting the termination and inform the tenant that,

- (a) if the tenant vacates the rental unit in accordance with the notice, the tenancy terminates on the date set out in clause (1) (b);

- (b) if the tenant does not vacate the rental unit, the landlord may apply to the Board for an order terminating the tenancy and evicting the tenant; and
- (c) if the landlord applies for an order, the tenant is entitled to dispute the application. 2006, c. 17, s. 43 (2).

#### **Period of notice**

##### **Period of notice, daily or weekly tenancy**

**44** (1) A notice under section 47, 58 or 144 to terminate a daily or weekly tenancy shall be given at least 28 days before the date the termination is specified to be effective and that date shall be on the last day of a rental period. 2006, c. 17, s. 44 (1).

##### **Period of notice, monthly tenancy**

(2) A notice under section 47, 58 or 144 to terminate a monthly tenancy shall be given at least 60 days before the date the termination is specified to be effective and that date shall be on the last day of a rental period. 2006, c. 17, s. 44 (2).

##### **Period of notice, yearly tenancy**

(3) A notice under section 47, 58 or 144 to terminate a yearly tenancy shall be given at least 60 days before the date the termination is specified to be effective and that date shall be on the last day of a yearly period on which the tenancy is based. 2006, c. 17, s. 44 (3).

##### **Period of notice, tenancy for fixed term**

(4) A notice under section 47, 58 or 144 to terminate a tenancy for a fixed term shall be given at least 60 days before the expiration date specified in the tenancy agreement, to be effective on that expiration date. 2006, c. 17, s. 44 (4).

##### **Period of notice, February notices**

(5) A tenant who gives notice under subsection (2), (3) or (4) which specifies that the termination is to be effective on the last day of February or the last day of March in any year shall be deemed to have given at least 60 days notice of termination if the notice is given not later than January 1 of that year in respect of a termination which is to be effective on the last day of February, or February 1 of that year in respect of a termination which is to be effective on the last day of March. 2006, c. 17, s. 44 (5).

#### **Effect of payment**

**45** Unless a landlord and tenant agree otherwise, the landlord does not waive a notice of termination, reinstate a tenancy or create a new tenancy,

- (a) by giving the tenant a notice of rent increase; or
- (b) by accepting arrears of rent or compensation for the use or occupation of a rental unit after,
  - (i) the landlord or the tenant gives a notice of termination of the tenancy,
  - (ii) the landlord and the tenant enter into an agreement to terminate the tenancy, or
  - (iii) the Board makes an eviction order or an order terminating the tenancy. 2006, c. 17, s. 45.

#### **Where notice void**

**46** (1) A notice of termination becomes void 30 days after the termination date specified in the notice unless,

- (a) the tenant vacates the rental unit before that time; or
- (b) the landlord applies for an order terminating the tenancy and evicting the tenant before that time. 2006, c. 17, s. 46 (1).

#### **Exception**

(2) Subsection (1) does not apply with respect to a notice based on a tenant's failure to pay rent. 2006, c. 17, s. 46 (2).

#### **NOTICE BY TENANT**

##### **Tenant's notice to terminate, end of period or term**

**47** A tenant may terminate a tenancy at the end of a period of the tenancy or at the end of the term of a tenancy for a fixed term by giving notice of termination to the landlord in accordance with section 44. 2006, c. 17, s. 47.

NOTICE BY TENANT BEFORE END OF YEARLY PERIOD OR FIXED TERM OF TENANCY REFERRED TO IN SUBS. 12.1 (1)

##### **Notice to terminate before end of period or term, tenancy referred to in subs. 12.1 (1)**

**47.0.1** (1) Despite subsections 44 (3) and (4) and section 47, a tenant may terminate a tenancy referred to in subsection 12.1 (1) that is a yearly tenancy or a tenancy for a fixed term by giving notice of termination to the landlord in accordance with this section if,

- (a) the tenant has made a demand for a proposed tenancy agreement under subsection 12.1 (5) in respect of the tenancy; and
- (b) either one of the following applies,
  - (i) at least 21 days have elapsed since the day the tenant made the demand and the landlord has not complied with the demand, or
  - (ii) the landlord has complied with the demand and the tenant has not entered into the proposed tenancy agreement provided to the tenant by the landlord. 2017, c. 13, s. 6.

#### **Limitation**

(2) A tenant may give a notice under subsection (1) no later than 30 days after the day the landlord has provided the proposed tenancy agreement to the tenant. 2017, c. 13, s. 6.

#### **Period of notice**

(3) A notice under subsection (1) to terminate a yearly tenancy or a tenancy for a fixed term shall be given at least 60 days before the date the termination is specified to be effective and that date shall be on the last day of a rental period of the tenancy. 2017, c. 13, s. 6.

#### **Form of notice**

(4) A notice under subsection (1) shall comply with subsection 43 (1). 2017, c. 13, s. 6.

#### **Application of subs. 44 (5)**

(5) Subsection 44 (5) applies with necessary modifications with respect to a notice given under subsection (1). 2017, c. 13, s. 6.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 6 - 30/05/2017

#### **NOTICE BY TENANT BEFORE END OF PERIOD OR TERM, TENANT OR CHILD DEEMED TO HAVE EXPERIENCED VIOLENCE OR ANOTHER FORM OF ABUSE**

#### **Notice to terminate tenancy, before end of period or term**

**47.1** (1) Despite subsections 44 (2) to (4) and section 47, a tenant may terminate a monthly or yearly tenancy or a tenancy for a fixed term by giving notice of termination to the landlord in accordance with this section if,

- (a) the tenant is deemed under subsection 47.3 (1) to have experienced violence or another form of abuse; or
- (b) a child residing with the tenant is deemed under subsection 47.3 (1) to have experienced violence or another form of abuse. 2016, c. 2, Sched. 6, s. 1.

#### **Same, joint tenants**

- (2) A joint tenant who meets the requirement in clause (1) (a) or (b) may,
  - (a) give a notice of termination of the tenancy under subsection (1), provided the notice is given jointly with all the other joint tenants; or
  - (b) give a notice of termination of his or her interest in the tenancy under subsection 47.2 (1). 2016, c. 2, Sched. 6, s. 1.

#### **Period of notice**

(3) A notice under subsection (1) shall be given at least 28 days before the date the termination is specified to be effective. 2016, c. 2, Sched. 6, s. 1.

#### **Form and contents of notice**

- (4) A notice under subsection (1) shall,
  - (a) comply with subsection 43 (1); and
  - (b) be accompanied by,
    - (i) a copy of an order described in clause 47.3 (1) (a), (b) or (c) and issued not more than 90 days before the date the notice is given, or
    - (ii) a statement referred to in clause 47.3 (1) (d), (e) or (f). 2016, c. 2, Sched. 6, s. 1.

**Entry to show unit to prospective tenants under s. 26 (3)**

(5) The landlord to whom a notice is given with respect to a rental unit under subsection (1) may enter the unit in accordance with subsection 26 (3) only after the tenant or all the joint tenants, as applicable, have vacated the unit in accordance with the notice and, for that purpose, clause 26 (3) (c) does not apply. 2016, c. 2, Sched. 6, s. 1.

**Section Amendments with date in force (d/m/y)**

2016, c. 2, Sched. 6, s. 1 - 08/09/2016

**Notice to terminate interest in joint tenancy**

**47.2** (1) A joint tenant may terminate his or her interest in a monthly or yearly tenancy or in a tenancy for a fixed term by giving notice of termination to the landlord in accordance with this section if,

- (a) the tenant is deemed under subsection 47.3 (1) to have experienced violence or another form of abuse; or
- (b) a child residing with the tenant is deemed under subsection 47.3 (1) to have experienced violence or another form of abuse. 2016, c. 2, Sched. 6, s. 1.

**Notice given by some of the joint tenants**

(2) A joint tenant who meets the requirement in clause (1) (a) or (b) may give a notice under subsection (1),

- (a) either solely; or
- (b) jointly with some but not all of the other joint tenants. 2016, c. 2, Sched. 6, s. 1.

**Period of notice**

(3) A notice under subsection (1) shall be given at least 28 days before the date the termination is specified to be effective. 2016, c. 2, Sched. 6, s. 1.

**Form and contents of notice**

(4) A notice under subsection (1) shall,

- (a) be in a form approved by the Board;
- (b) identify the rental unit for which the notice is given;
- (c) state the date on which the interest in the tenancy is to terminate;
- (d) be signed by the tenant or tenants giving the notice, or their agent; and
- (e) be accompanied by,
  - (i) a copy of an order described in clause 47.3 (1) (a), (b) or (c) and issued not more than 90 days before the date the notice is given, or
  - (ii) a statement referred to in clause 47.3 (1) (d), (e) or (f). 2016, c. 2, Sched. 6, s. 1.

**Where notice void**

(5) A notice given under subsection (1) becomes void with respect to a tenant who gave the notice, if the tenant does not vacate the rental unit on or before the termination date set out in the notice. 2016, c. 2, Sched. 6, s. 1.

**Tenant vacating unit in accordance with notice**

(6) A tenant who gave notice under subsection (1) and vacates the rental unit on or before the termination date set out in the notice ceases to be a tenant and a party to the tenancy agreement on the termination date, but this subsection does not affect any right or liability of the tenant arising from any breach of obligations that relates to the period before the termination. 2016, c. 2, Sched. 6, s. 1.

**Not a notice of termination of tenancy**

(7) For greater certainty, a notice under subsection (1) is not a notice of termination of the tenancy for the purposes of this Act, including without limiting the generality of the foregoing, for the purposes of subsections 37 (2) and (3), subsection 46 (1) and clause 77 (1) (b). 2016, c. 2, Sched. 6, s. 1.

**Rent deposit**

(8) Any rent deposit paid to the landlord or a former landlord in respect of the tenancy shall enure to the benefit of the tenant or tenants who did not give the notice under subsection (1) and any tenant in respect of whom the notice becomes void under subsection (5). 2016, c. 2, Sched. 6, s. 1.

### **Notice of termination of yearly tenancy or tenancy for fixed term**

(9) Despite subsections 44 (3) and (4) and section 47, after a joint tenant has ceased to be a tenant and a party to the tenancy agreement in accordance with subsection (6), any tenant referred to in subsection (8) may terminate a yearly tenancy or a tenancy for a fixed term by giving notice of termination to the landlord in accordance with the following:

1. The notice shall be given at least 60 days before the date the termination is specified to be effective.
2. If there is more than one tenant, notice shall be given jointly by all of them.
3. The notice shall comply with subsection 43 (1). 2016, c. 2, Sched. 6, s. 1.

### **Application of s. 44 (5)**

(10) Subsection 44 (5) applies with necessary modifications with respect to a notice given under subsection (9). 2016, c. 2, Sched. 6, s. 1.

### **Section Amendments with date in force (d/m/y)**

2016, c. 2, Sched. 6, s. 1 - 08/09/2016

### **Tenant or child deemed to have experienced violence or another form of abuse**

**47.3** (1) For the purposes of sections 47.1 and 47.2, a tenant of a rental unit or a child residing with the tenant is deemed to have experienced violence or another form of abuse if,

- (a) an order has been made under subsection 810 (3) of the *Criminal Code* (Canada) against a person mentioned in subsection (4) and the order includes one or more conditions described in subsection 810 (3.2) of that Act relating to the tenant, the child or the rental unit;
- (b) an order has been made under section 46 of the *Family Law Act* against a person mentioned in subsection 46 (2) of that Act and the order includes one or more provisions described in subsection 46 (3) of that Act relating to the tenant, the child or the rental unit;
- (c) an order has been made under section 35 of the *Children's Law Reform Act* against a person mentioned in subsection (4) and the order includes one or more provisions described in subsection 35 (2) of that Act relating to the tenant, the child or the rental unit;
- (d) the tenant alleges that any of the following acts or omissions has been committed by a person mentioned in subsection (4) against the tenant or the child and the allegation is made in a statement that complies with the requirements in subsection (5):
  - (i) an intentional or reckless act or omission that caused bodily harm to the tenant or the child or damage to property,
  - (ii) an act or omission or threatened act or omission that caused the tenant or the child to fear for his or her own safety or the child's safety,
  - (iii) forced confinement of the tenant or the child, without lawful authority, or
  - (iv) a series of acts which collectively caused the tenant or the child to fear for his or her own safety or the child's safety, including following, contacting, communicating with, observing or recording the tenant or the child;
- (e) the tenant alleges that sexual violence has been committed against the tenant or the child and the allegation is made in a statement that complies with the requirements in subsection (5); or
- (f) the tenant alleges that an act or omission prescribed for the purposes of this clause has been committed against the tenant or the child and the allegation is made in a statement that complies with the requirements in subsection (5). 2016, c. 2, Sched. 6, s. 1.

### **Definition**

(2) In this section,

"sexual violence" means any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation. 2016, c. 2, Sched. 6, s. 1.

### **Non-application of subs. (1)**

(3) Subsection (1) does not apply with respect to,

- (a) an order described in clause (1) (b) that was made against the tenant; or
- (b) sexual violence or an act or omission referred to in clause (1) (f) that is alleged to have been committed by the tenant. 2016, c. 2, Sched. 6, s. 1.

### **Persons against whom order or allegation made**

(4) The person against whom an order described in clause (1) (a) or (c) was made and the person who is alleged to have committed an act or omission described in clause (1) (d) must be,

- (a) a spouse or former spouse of the tenant;
- (b) a person other than a spouse or former spouse of the tenant, who is living with the tenant in a conjugal relationship outside marriage, or who has lived with the tenant in a conjugal relationship outside marriage for any period of time, whether or not they are living in a conjugal relationship at the time the tenant gives a notice under subsection 47.1 (1) or 47.2 (1);
- (c) a person who is or was in a dating relationship with the tenant; or
- (d) a person who resides in the rental unit and who is related, including through marriage, to the tenant or to a child who resides with the tenant. 2016, c. 2, Sched. 6, s. 1; 2016, c. 23, s. 66.

### **Statement by tenant**

(5) A statement referred to in clause (1) (d), (e) or (f) shall comply with the following requirements:

- 1. The statement shall be in a form approved by the Board.
- 2. The statement shall identify the rental unit to which it relates.
- 3. The statement shall include an allegation that one or more of the following has occurred:
  - i. an act or omission described in clause (1) (d) has been committed against the tenant or a child residing with the tenant by a person mentioned in subsection (4),
  - ii. sexual violence, as defined in subsection (2), has been committed against the tenant or a child residing with the tenant, or
  - iii. an act or omission prescribed for the purposes of clause (1) (f) has been committed against the tenant or a child residing with the tenant.
- 4. The statement need not,
  - i. describe the circumstances of the sexual violence or of the act or omission,
  - ii. specify whether the occurrence is an occurrence of an act or omission referred to in subparagraph 3 i or iii or an occurrence of sexual violence referred to in subparagraph 3 ii,
  - iii. identify the person who is alleged to have committed the sexual violence or the act or omission, either by name or by the person's relationship to the tenant or the child residing with the tenant, or
  - iv. specify whether the sexual violence or the act or omission is alleged to have been committed against the tenant or a child residing with the tenant.
- 5. The statement shall include an assertion that, as a result of the sexual violence or the act or omission committed against the tenant or the child, the tenant believes that he or she or the child may be at risk of harm or injury, if he or she or the child continues to reside in the rental unit.
- 6. The statement shall be signed by the tenant. 2016, c. 2, Sched. 6, s. 1.

### **Board proceedings**

(6) In any proceeding under this Act where one of the issues to be determined by the Board is whether a person is deemed under subsection (1) to have experienced violence or another form of abuse, the Board may inquire into and make a determination as to whether the documentation accompanying the notice is genuine and is a copy of an order described in clause (1) (a), (b) or (c) or is a statement referred to in clause (1) (d), (e) or (f), but the Board may not inquire into or make any determination as to the truth of or the belief in the truth of any allegation or assertion referred to in paragraph 3 or 5 of subsection (5). 2016, c. 2, Sched. 6, s. 1.

### **Section Amendments with date in force (d/m/y)**

2016, c. 2, Sched. 6, s. 1 - 08/09/2016; 2016, c. 23, s. 66 - 01/01/2017

### **Confidentiality**

**47.4** (1) A landlord to whom a notice is given under subsection 47.1 (1) or 47.2 (1) shall keep confidential and shall not, except as provided in subsections (2) to (5), disclose to any person or entity the fact that the notice has been given, the notice or accompanying documentation or any information included in the notice or accompanying documentation. 2016, c. 2, Sched. 6, s. 1.

### **Disclosure by landlord**

(2) Subsection (1) does not prevent the landlord to whom a notice is given under subsection 47.1 (1) or 47.2 (1) from disclosing the fact that the notice has been given, the notice or accompanying documentation or any information included in the notice or accompanying documentation,

- (a) to an employee in the Ministry, an investigator appointed under section 229 or any other representative of the Ministry, in connection with the investigation or prosecution of an alleged offence under this Act;
- (b) to a law enforcement agency, but only upon request made by the law enforcement agency in connection with an investigation;
- (c) to a person who is authorized under the *Law Society Act* to practise law or provide legal services in Ontario and who provides services to the landlord;
- (d) to the Board, an employee in the Board or an official of the Board, for the purposes of any proceeding under this Act where one of the issues to be determined by the Board is whether notice was properly given under subsection 47.1 (1) or 47.2 (1);
- (e) with the consent of the tenant who gave the notice and who meets the requirement in clause 47.1 (1) (a) or (b) or 47.2 (1) (a) or (b);
- (f) to the extent that the information is available to the public; or
- (g) as otherwise required by law. 2016, c. 2, Sched. 6, s. 1.

### **Disclosure to remaining joint tenants**

(3) Subsection (1) does not prevent the landlord to whom a notice is given with respect to a rental unit under subsection 47.2 (1) from disclosing the following information to any tenant referred to in subsection 47.2 (8) after the termination date specified in the notice and after the joint tenant or tenants have vacated the rental unit in accordance with the notice:

- (a) the fact that a notice was given under subsection 47.2 (1); and
- (b) the termination date specified in the notice. 2016, c. 2, Sched. 6, s. 1.

### **Advertising unit for rent**

(4) Subsection (1) does not prevent the landlord to whom a notice is given with respect to a rental unit under subsection 47.1 (1) from advertising the rental unit for rent,

- (a) during the notice period, but only if the rental unit is not mentioned in the advertisement and cannot otherwise be identified from the advertisement;
- (b) after the tenant or all the joint tenants, as applicable, have vacated the rental unit in accordance with the notice; or
- (c) if the tenant or joint tenants, as applicable, do not vacate the rental unit in accordance with the notice, after the tenancy has otherwise been terminated. 2016, c. 2, Sched. 6, s. 1.

### **Disclosure to superintendent, property manager, etc.**

(5) Subsection (1) does not prevent the landlord to whom a notice is given with respect to a rental unit under subsection 47.1 (1) or 47.2 (1) from disclosing the fact that the notice has been given, the notice or accompanying documentation or any information included in the notice or accompanying documentation to a superintendent, property manager or any other person who acts on behalf of the landlord with respect to the rental unit, if the person needs to know that fact or requires the notice or accompanying documentation or the information for the purposes of performing the person's duties on behalf of the landlord with respect to the rental unit. 2016, c. 2, Sched. 6, s. 1.

### **Confidentiality, superintendent, property manager, etc.**

(6) Subsections (1) to (4) apply with necessary modifications to a person to whom a landlord discloses, as provided in subsection (5), the fact that notice has been given with respect to a rental unit under subsection 47.1 (1) or 47.2 (1), the notice or accompanying documentation or any information included in the notice or accompanying documentation. 2016, c. 2, Sched. 6, s. 1.

### **Section Amendments with date in force (d/m/y)**

2016, c. 2, Sched. 6, s. 1 - 08/09/2016

### **NOTICE BY LANDLORD AT END OF PERIOD OR TERM**

#### **Notice, landlord personally, etc., requires unit**

**48** (1) A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by,

- (a) the landlord;

- (b) the landlord's spouse;
- (c) a child or parent of the landlord or the landlord's spouse; or
- (d) a person who provides or will provide care services to the landlord, the landlord's spouse, or a child or parent of the landlord or the landlord's spouse, if the person receiving the care services resides or will reside in the building, related group of buildings, mobile home park or land lease community in which the rental unit is located. 2006, c. 17, s. 48 (1); 2017, c. 13, s. 7 (1); 2021, c. 4, Sched. 11, s. 31 (1).

**Same**

(2) The date for termination specified in the notice shall be at least 60 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term. 2006, c. 17, s. 48 (2).

**Earlier termination by tenant**

(3) A tenant who receives notice of termination under subsection (1) may, at any time before the date specified in the notice, terminate the tenancy, effective on a specified date earlier than the date set out in the landlord's notice. 2006, c. 17, s. 48 (3).

**Same**

(4) The date for termination specified in the tenant's notice shall be at least 10 days after the date the tenant's notice is given. 2006, c. 17, s. 48 (4).

**Application**

- (5) This section does not authorize a landlord to give a notice of termination of a tenancy with respect to a rental unit unless,
- (a) the rental unit is owned in whole or in part by an individual; and
  - (b) the landlord is an individual. 2017, c. 13, s. 7 (2).

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 7 (1, 2) - 01/09/2017

2021, c. 4, Sched. 11, s. 31 (1) - 19/04/2021

**Compensation, notice under s. 48**

**48.1** A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy under section 48. 2017, c. 13, s. 8.

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 8 - 01/09/2017

**Notice, purchaser personally requires unit**

**49** (1) A landlord of a residential complex that contains no more than three residential units who has entered into an agreement of purchase and sale of the residential complex may, on behalf of the purchaser, give the tenant of a unit in the residential complex a notice terminating the tenancy, if the purchaser in good faith requires possession of the residential complex or the unit for the purpose of residential occupation by,

- (a) the purchaser;
- (b) the purchaser's spouse;
- (c) a child or parent of the purchaser or the purchaser's spouse; or
- (d) a person who provides or will provide care services to the purchaser, the purchaser's spouse, or a child or parent of the purchaser or the purchaser's spouse, if the person receiving the care services resides or will reside in the building, related group of buildings, mobile home park or land lease community in which the rental unit is located. 2006, c. 17, s. 49 (1); 2021, c. 4, Sched. 11, s. 31 (1).

**Same, condominium**

(2) If a landlord who is an owner as defined in clause (a) or (b) of the definition of "owner" in subsection 1 (1) of the *Condominium Act, 1998* owns a unit, as defined in subsection 1 (1) of that Act, that is a rental unit and has entered into an agreement of purchase and sale of the unit, the landlord may, on behalf of the purchaser, give the tenant of the unit a notice terminating the tenancy, if the purchaser in good faith requires possession of the unit for the purpose of residential occupation by,

- (a) the purchaser;
- (b) the purchaser's spouse;

- (c) a child or parent of the purchaser or the purchaser's spouse; or
- (d) a person who provides or will provide care services to the purchaser, the purchaser's spouse, or a child or parent of the purchaser or the purchaser's spouse, if the person receiving the care services resides or will reside in the building, related group of buildings, mobile home park or land lease community in which the rental unit is located. 2006, c. 17, s. 49 (2); 2021, c. 4, Sched. 11, s. 31 (1).

#### **Period of notice**

(3) The date for termination specified in a notice given under subsection (1) or (2) shall be at least 60 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term. 2006, c. 17, s. 49 (3).

#### **Earlier termination by tenant**

(4) A tenant who receives notice of termination under subsection (1) or (2) may, at any time before the date specified in the notice, terminate the tenancy, effective on a specified date earlier than the date set out in the landlord's notice. 2006, c. 17, s. 49 (4).

#### **Same**

(5) The date for termination specified in the tenant's notice shall be at least 10 days after the date the tenant's notice is given. 2006, c. 17, s. 49 (5).

#### **Section Amendments with date in force (d/m/y)**

2021, c. 4, Sched. 11, s. 31 (1) - 19/04/2021

#### **Compensation, notice under s. 49 (1) or (2)**

**49.1** (1) A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if,

- (a) the landlord gives the tenant a notice of termination of the tenancy on behalf of a purchaser under subsection 49 (1) or (2); and
- (b) the notice of termination is given on or after the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent. 2020, c. 16, Sched. 4, s. 5.

#### **Obligation under subs. (1)**

(2) Despite section 18, the obligation to compensate the tenant under subsection (1) remains an obligation of the landlord who gives the notice of termination of the tenancy on behalf of the purchaser and does not become an obligation of the purchaser. 2020, c. 16, Sched. 4, s. 5.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 5 - 21/07/2020

#### **Notice, demolition, conversion or repairs**

**50** (1) A landlord may give notice of termination of a tenancy if the landlord requires possession of the rental unit in order to,

- (a) demolish it;
- (b) convert it to use for a purpose other than residential premises; or
- (c) do repairs or renovations to it that are so extensive that they require a building permit and vacant possession of the rental unit. 2006, c. 17, s. 50 (1).

#### **Same**

(2) The date for termination specified in the notice shall be at least 120 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term. 2006, c. 17, s. 50 (2).

#### **Same**

(3) A notice under clause (1) (c) shall inform the tenant that if he or she wishes to exercise the right of first refusal under section 53 to occupy the premises after the repairs or renovations, he or she must give the landlord notice of that fact in accordance with subsection 53 (2) before vacating the rental unit. 2006, c. 17, s. 50 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 50 (3) of the Act is repealed and the following substituted: (See: 2023, c. 10, Sched. 7, s. 2)**

#### **Notice requirements, repairs or renovations**

(3) A notice under clause (1) (c) shall,

- (a) inform the tenant that if the tenant wishes to exercise the right of first refusal under section 53 to occupy the premises after the repairs or renovations, the tenant must give the landlord notice of that fact in accordance with subsection 53 (2) before vacating the rental unit; and
- (b) in the case of a notice under clause (1) (c) given on or after the day section 2 of Schedule 7 to the *Helping Homebuyers, Protecting Tenants Act, 2023* comes into force, be accompanied by a report prepared by a person who has the prescribed qualifications and that,
  - (i) states that the repairs or renovations are so extensive that they require vacant possession of the rental unit; and
  - (ii) meets any other prescribed requirements. 2023, c. 10, Sched. 7, s. 2.

#### **Same, report**

(3.1) For greater certainty, a failure to meet the requirements of clause (3) (b) with respect to a notice renders the notice void. 2023, c. 10, Sched. 7, s. 2.

#### **Earlier termination by tenant**

(4) A tenant who receives notice of termination under subsection (1) may, at any time before the date specified in the notice, terminate the tenancy, effective on a specified date earlier than the date set out in the landlord's notice. 2006, c. 17, s. 50 (4).

#### **Same**

(5) The date for termination specified in the tenant's notice shall be at least 10 days after the date the tenant's notice is given. 2006, c. 17, s. 50 (5).

#### **Section Amendments with date in force (d/m/y)**

2023, c. 10, Sched. 7, s. 2 - not in force

#### **Conversion to condominium, security of tenure**

**51** (1) If a part or all of a residential complex becomes subject to a registered declaration and description under the *Condominium Act, 1998* or a predecessor of that Act on or after June 17, 1998, a landlord may not give a notice under section 48 or 49 to a person who was a tenant of a rental unit when it became subject to the registered declaration and description. 2006, c. 17, s. 51 (1).

#### **Proposed units, security of tenure**

(2) If a landlord has entered into an agreement of purchase and sale of a rental unit that is a proposed unit under the *Condominium Act, 1998* or a predecessor of that Act, a landlord may not give a notice under section 48 or 49 to the tenant of the rental unit who was the tenant on the date the agreement of purchase and sale was entered into. 2006, c. 17, s. 51 (2).

#### **Non-application**

(3) Subsections (1) and (2) do not apply with respect to a residential complex if no rental unit in the complex was rented before July 10, 1986 and all or part of the complex becomes subject to a registered declaration and description under the *Condominium Act, 1998* or a predecessor of that Act before the day that is two years after the day on which the first rental unit in the complex was first rented. 2006, c. 17, s. 51 (3).

#### **Assignee of tenant not included**

(4) Despite subsection 95 (8), a reference to a tenant in subsection (1), (2) or (5) does not include a person to whom the tenant subsequently assigns the rental unit. 2006, c. 17, s. 51 (4).

#### **Conversion to condominium, right of first refusal**

(5) If a landlord receives an acceptable offer to purchase a condominium unit converted from rented residential premises and still occupied by a tenant who was a tenant on the date of the registration referred to in subsection (1) or an acceptable offer to purchase a rental unit intended to be converted to a condominium unit, the tenant has a right of first refusal to purchase the unit at the price and subject to the terms and conditions in the offer. 2006, c. 17, s. 51 (5).

#### **Same**

(6) The landlord shall give the tenant at least 72 hours notice of the offer to purchase the unit before accepting the offer. 2006, c. 17, s. 51 (6).

#### **Exception**

(7) Subsection (5) does not apply when,

- (a) the offer to purchase is an offer to purchase more than one unit; or
- (b) the unit has been previously purchased since that registration, but not together with any other units. 2006, c. 17, s. 51 (7).

### **Compensation, demolition or conversion**

**52** (1) A landlord shall compensate a tenant in an amount equal to three months rent or offer the tenant another rental unit acceptable to the tenant if,

- (a) the tenant receives notice of termination of the tenancy for the purposes of demolition or conversion to non-residential use;
- (b) the residential complex in which the rental unit is located contains at least five residential units; and
- (c) in the case of a demolition, it was not ordered to be carried out under the authority of any other Act. 2006, c. 17, s. 52.

### **Same, fewer than five residential units**

(2) A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if,

- (a) the tenant receives notice of termination of the tenancy for the purposes of demolition or conversion to non-residential use;
- (b) the notice of termination is given on or after the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent;
- (c) the residential complex in which the rental unit is located contains fewer than five residential units; and
- (d) in the case of a demolition, it was not ordered to be carried out under the authority of any other Act. 2020, c. 16, Sched. 4, s. 6.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 6 - 21/07/2020

### **Tenant's right of first refusal, repair or renovation**

**53** (1) A tenant who receives notice of termination of a tenancy for the purpose of repairs or renovations may, in accordance with this section, have a right of first refusal to occupy the rental unit as a tenant when the repairs or renovations are completed. 2006, c. 17, s. 53 (1).

### **Written notice**

(2) A tenant who wishes to have a right of first refusal shall give the landlord notice in writing before vacating the rental unit. 2006, c. 17, s. 53 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 53 of the Act is amended by adding the following subsections: (See: 2023, c. 10, Sched. 7, s. 3)

### **Requirements for landlord to notify**

(2.1) In the case of notice given by a tenant on or after the day section 3 of Schedule 7 to the *Helping Homebuyers, Protecting Tenants Act, 2023* comes into force, the following requirements apply:

- 1. The landlord shall, without delay after receiving the tenant's notice, notify the tenant in writing of the estimated date by which the rental unit is expected to be ready for occupancy following the repairs or renovations.
- 2. The landlord shall, without delay after becoming aware of any change in a previously-estimated date by which the rental unit is expected to be ready for occupancy following the repairs or renovations, notify the tenant in writing of the new estimated date.
- 3. The landlord shall, without delay after the rental unit is ready for occupancy, notify the tenant in writing. 2023, c. 10, Sched. 7, s. 3.

### **Time for tenant to reoccupy rental unit**

(2.2) If a rental unit in respect of which the tenant has a right of first refusal becomes ready for occupancy on or after the day section 3 of Schedule 7 to the *Helping Homebuyers, Protecting Tenants Act, 2023* comes into force, the landlord shall give the tenant at least 60 days after the day the rental unit is ready for occupancy to exercise the right of first refusal to occupy the unit. 2023, c. 10, Sched. 7, s. 3.

### **Rent to be charged**

(3) A tenant who exercises a right of first refusal may reoccupy the rental unit at a rent that is no more than what the landlord could have lawfully charged if there had been no interruption in the tenant's tenancy. 2006, c. 17, s. 53 (3).

### **Change of address**

(4) It is a condition of the tenant's right of first refusal that the tenant inform the landlord in writing of any change of address. 2006, c. 17, s. 53 (4).

#### **Section Amendments with date in force (d/m/y)**

2023, c. 10, Sched. 7, s. 3 - not in force

#### **Tenant's right to compensation, repair or renovation**

**54** (1) A landlord shall compensate a tenant who receives notice of termination of a tenancy under section 50 for the purpose of repairs or renovations in an amount equal to three months rent or shall offer the tenant another rental unit acceptable to the tenant if,

- (a) the tenant does not give the landlord notice under subsection 53 (2) with respect to the rental unit;
- (b) the residential complex in which the rental unit is located contains at least five residential units; and
- (c) the repair or renovation was not ordered to be carried out under the authority of this or any other Act. 2006, c. 17, s. 54 (1).

#### **Same**

(2) A landlord shall compensate a tenant who receives notice of termination of a tenancy under section 50 for the purpose of repairs or renovations in an amount equal to the rent for the lesser of three months and the period the unit is under repair or renovation if,

- (a) the tenant gives the landlord notice under subsection 53 (2) with respect to the rental unit;
- (b) the residential complex in which the rental unit is located contains at least five residential units; and
- (c) the repair or renovation was not ordered to be carried out under the authority of this or any other Act. 2006, c. 17, s. 54 (2).

#### **Same, fewer than five residential units**

(3) A landlord shall compensate a tenant who receives notice of termination of a tenancy under section 50 for the purpose of repairs or renovations in an amount equal to one month's rent or shall offer the tenant another rental unit acceptable to the tenant if,

- (a) the tenant does not give the landlord notice under subsection 53 (2) with respect to the rental unit;
- (b) the notice of termination is given on or after the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent and section 55 does not apply;
- (c) the residential complex in which the rental unit is located contains fewer than five residential units; and
- (d) the repair or renovation was not ordered to be carried out under the authority of this or any other Act. 2020, c. 16, Sched. 4, s. 7.

#### **Same**

(4) A landlord shall compensate a tenant who receives notice of termination of a tenancy under section 50 for the purpose of repairs or renovations in an amount equal to the rent for the lesser of one month and the period the unit is under repair or renovation if,

- (a) the tenant gives the landlord notice under subsection 53 (2) with respect to the rental unit;
- (b) the notice of termination is given on or after the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent and section 55 does not apply;
- (c) the residential complex in which the rental unit is located contains fewer than five residential units; and
- (d) the repair or renovation was not ordered to be carried out under the authority of this or any other Act. 2020, c. 16, Sched. 4, s. 7.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 7 - 21/07/2020

#### **Tenant's right to compensation, severance**

**55** A landlord of a residential complex that is created as a result of a severance shall compensate a tenant of a rental unit in that complex in an amount equal to three months rent or offer the tenant another rental unit acceptable to the tenant if,

- (a) before the severance, the residential complex from which the new residential complex was created had at least five residential units;
- (b) the new residential complex has fewer than five residential units; and
- (c) the landlord gives the tenant a notice of termination under section 50 less than two years after the date of the severance. 2006, c. 17, s. 55.

### **Compensation under ss. 48.1, 49.1, 52, 54 or 55**

**55.1** If the landlord is required to compensate a tenant under section 48.1, 49.1, 52, 54 or 55, the landlord shall compensate the tenant no later than on the termination date specified in the notice of termination of the tenancy given by the landlord under section 48, 49 or 50. 2017, c. 13, s. 9; 2020, c. 16, Sched. 4, s. 8.

### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 9 - 01/09/2017

2020, c. 16, Sched. 4, s. 8 - 21/07/2020

### **Security of tenure, severance, subdivision**

**56** Where a rental unit becomes separately conveyable property due to a consent under section 53 of the *Planning Act* or a plan of subdivision under section 51 of that Act, a landlord may not give a notice under section 48 or 49 to a person who was a tenant of the rental unit at the time of the consent or approval. 2006, c. 17, s. 56.

### **Former tenant's application where notice given in bad faith**

**57** (1) The Board may make an order described in subsection (3) if, on application by a former tenant of a rental unit, the Board determines that,

- (a) the landlord gave a notice of termination under section 48 in bad faith, the former tenant vacated the rental unit as a result of the notice or as a result of an application to or order made by the Board based on the notice, and no person referred to in clause 48 (1) (a), (b), (c) or (d) occupied the rental unit within a reasonable time after the former tenant vacated the rental unit;
- (b) the landlord gave a notice of termination under section 49 in bad faith, the former tenant vacated the rental unit as a result of the notice or as a result of an application to or order made by the Board based on the notice, and no person referred to in clause 49 (1) (a), (b), (c) or (d) or 49 (2) (a), (b), (c) or (d) occupied the rental unit within a reasonable time after the former tenant vacated the rental unit; or
- (c) the landlord gave a notice of termination under section 50 in bad faith, the former tenant vacated the rental unit as a result of the notice or as a result of an application to or order made by the Board based on the notice, and the landlord did not demolish, convert or repair or renovate the rental unit within a reasonable time after the former tenant vacated the rental unit. 2006, c. 17, s. 57 (1).

### **Time limitation**

(2) No application may be made under subsection (1) more than one year after the former tenant vacated the rental unit. 2006, c. 17, s. 57 (2).

### **Orders**

(3) The orders referred to in subsection (1) are the following:

1. An order that the landlord pay a specified sum to the former tenant for all or any portion of any increased rent that the former tenant has incurred or will incur for a one-year period after vacating the rental unit.
- 1.1 An order that the landlord pay a specified sum to the former tenant as general compensation in an amount not exceeding the equivalent of 12 months of the last rent charged to the former tenant. An order under this paragraph may be made regardless of whether the former tenant has incurred any actual expenses or whether an order is made under paragraph 2.
- 1.2 An order that the landlord pay a specified sum to the former tenant for reasonable out-of-pocket moving, storage and other like expenses that the former tenant has incurred or will incur.
2. An order for an abatement of rent.
3. An order that the landlord pay to the Board an administrative fine not exceeding the greater of \$10,000 and the monetary jurisdiction of the Small Claims Court.
4. Any other order that the Board considers appropriate. 2006, c. 17, s. 57 (3); 2020, c. 16, Sched. 4, s. 9 (1).

### **Previous determination of good faith**

(4) In an application under subsection (1), the Board may find that the landlord gave a notice of termination in bad faith despite a previous finding by the Board to the contrary. 2006, c. 17, s. 57 (4).

### **Presumption, notice under s. 48**

(5) For the purposes of an application under clause (1) (a), it is presumed, unless the contrary is proven on a balance of probabilities, that a landlord gave a notice of termination under section 48 in bad faith, if at any time during the period described in subsection (6) the landlord,

- (a) advertises the rental unit for rent;
- (b) enters into a tenancy agreement in respect of the rental unit with someone other than the former tenant;
- (c) advertises the rental unit, or the building that contains the rental unit, for sale;
- (d) demolishes the rental unit or the building containing the rental unit; or
- (e) takes any step to convert the rental unit, or the building containing the rental unit, to use for a purpose other than residential premises. 2017, c. 13, s. 10.

#### **Same**

- (6) The period referred to in subsection (5) is the period that,
  - (a) begins on the day the landlord gives the notice of termination under section 48; and
  - (b) ends one year after the former tenant vacates the rental unit. 2017, c. 13, s. 10.

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 57 of the Act is amended by adding the following subsection:**  
(See: 2023, c. 10, Sched. 7, s. 4 (1))

#### **Presumption, prescribed period of time**

(6.1) For the purposes of an application under clause (1) (a), if no person referred to in clause 48 (1) (a), (b), (c) or (d) occupied the rental unit within the prescribed period of time after the former tenant vacated the rental unit, it is presumed, unless the contrary is proven on a balance of probabilities, that,

- (a) the landlord gave the notice of termination under section 48 in bad faith; and
- (b) the rental unit was not occupied within a reasonable time after the former tenant vacated the rental unit. 2023, c. 10, Sched. 7, s. 4 (1).

#### **Application of subs. (5) and (6)**

(7) Subsections (5) and (6) apply with respect to an application under clause (1) (a) if the application is made on or after the day section 10 of the *Rental Fairness Act, 2017* comes into force and is based on a notice of termination given under section 48 on or after that day. 2017, c. 13, s. 10.

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 57 (7) of the Act is repealed and the following substituted:**  
(See: 2023, c. 10, Sched. 7, s. 4 (2))

#### **Application of subs. (6.1)**

(7) Subsection (6.1) applies with respect to an application under clause (1) (a) if the application is made on or after the day subsection 4 (1) of Schedule 7 to the *Helping Homebuyers, Protecting Tenants Act, 2023* comes into force. 2023, c. 10, Sched. 7, s. 4 (2).

#### **Transition**

(8) This section, as it read immediately before subsection 9 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, continues to apply with respect to an application under subsection (1) that is made before that day and has not been finally determined before that day, even if the hearing of the application is on or after that day. 2020, c. 16, Sched. 4, s. 9 (2).

#### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 10 - 01/09/2017

2020, c. 16, Sched. 4, s. 9 (1, 2) - 01/09/2021

2023, c. 10, Sched. 7, s. 4 (1, 2) - not in force

#### **Former tenant's application, failure to afford tenant right of first refusal**

**57.1** (1) The Board may make an order described in subsection 57 (3) if, on application by a former tenant of a rental unit, the Board determines that the landlord was required to afford the former tenant a right of first refusal under section 53 and failed to do so. 2017, c. 13, s. 11.

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 57.1 of the Act is amended by adding the following subsection:**  
(See: 2023, c. 10, Sched. 7, s. 5 (1))

#### **Deemed failure**

(1.1) A landlord who fails to comply with the requirements of subsection 53 (2.1) or (2.2) is deemed, for the purposes of subsection (1) only, to have failed to afford a former tenant a right of first refusal. 2023, c. 10, Sched. 7, s. 5 (1).

### **Time limitation**

(2) No application may be made under subsection (1) more than two years after the former tenant vacated the rental unit. 2017, c. 13, s. 11; 2020, c. 16, Sched. 4, s. 10 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 57.1 (2) of the Act is repealed and the following substituted: (See: 2023, c. 10, Sched. 7, s. 5 (2))

### **Time limitation**

(2) No application may be made under subsection (1) after the later of the following days:

1. The second anniversary of the day the former tenant vacated the rental unit.
2. The day that is six months after the day the repairs or renovations are completed. 2023, c. 10, Sched. 7, s. 5 (2).

### **Transition, application pending**

(2.1) An application that was made under subsection (1) before the day subsection 10 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force and was not finally determined before that day is deemed to comply with subsection (2), as it reads on that day, if the application was made more than one year, but not more than two years, after the former tenant vacated the rental unit. 2020, c. 16, Sched. 4, s. 10 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 57.1 (2.1) of the Act is repealed. (See: 2023, c. 10, Sched. 7, s. 5 (2))

### **Transition, previous application dismissed**

(2.2) If a previous application made by the former tenant was dismissed before the day subsection 10 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force for failure to comply with subsection (2), as it read before that day, the former tenant may make another application under subsection (1) more than one year, but not more than two years, after the former tenant vacated the rental unit. 2020, c. 16, Sched. 4, s. 10 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 57.1 (2.2) of the Act is repealed. (See: 2023, c. 10, Sched. 7, s. 5 (2))

### **Transition**

(3) An application may be made under subsection (1) regardless of whether the alleged failure to afford a right of first refusal on which it is based occurred before, on or after the day section 11 of the *Rental Fairness Act, 2017* comes into force. 2017, c. 13, s. 11.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 57.1 (3) of the Act is repealed and the following substituted: (See: 2023, c. 10, Sched. 7, s. 5 (2))

### **Transition, ongoing applications**

(3) Subsection (2), as it reads on the day subsection 5 (2) of Schedule 7 to the *Helping Homebuyers, Protecting Tenants Act, 2023* comes into force, applies with respect to applications made but not finally determined before that day. 2023, c. 10, Sched. 7, s. 5 (2).

### **Transition, dismissed applications**

(4) A former tenant whose application was dismissed before the day subsection 5 (2) of Schedule 7 to the *Helping Homebuyers, Protecting Tenants Act, 2023* came into force for a failure to comply with subsection (2) of this section may, subject to subsection (2) as it reads on that day, make a fresh application. 2023, c. 10, Sched. 7, s. 5 (2).

### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 11 - 01/01/2018

2020, c. 16, Sched. 4, s. 10 (1, 2) - 01/09/2021

2023, c. 10, Sched. 7, s. 5 (2) - not in force

### **Notice at end of term or period, additional grounds**

**58** (1) A landlord may give a tenant notice of termination of their tenancy on any of the following grounds:

1. The tenant has persistently failed to pay rent on the date it becomes due and payable.
2. The rental unit that is the subject of the tenancy agreement is a rental unit described in paragraph 1, 2, 3 or 4 of subsection 7 (1) and the tenant has ceased to meet the qualifications required for occupancy of the rental unit.
3. The tenant was an employee of an employer who provided the tenant with the rental unit during the tenant's employment and the employment has terminated.

4. The tenancy arose by virtue of or collateral to an agreement of purchase and sale of a proposed unit within the meaning of the *Condominium Act, 1998* in good faith and the agreement of purchase and sale has been terminated. 2006, c. 17, s. 58 (1).

#### **Period of notice**

(2) The date for termination specified in the notice shall be at least the number of days after the date the notice is given that is set out in section 44 and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term. 2006, c. 17, s. 58 (2).

#### **Rent-geared-to-income assistance**

(3) For greater certainty, paragraph 2 of subsection (1) does not authorize a landlord to give a tenant notice of termination of the tenancy on the ground that the tenant has ceased to be eligible for, or has failed to take any step necessary to maintain eligibility for, rent-geared-to-income assistance as defined in section 38 of the *Housing Services Act, 2011*. 2016, c. 25, Sched. 5, s. 1.

#### **Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 1 - 08/12/2016

#### **NOTICE BY LANDLORD BEFORE END OF PERIOD OR TERM**

#### **Non-payment of rent**

**59** (1) If a tenant fails to pay rent lawfully owing under a tenancy agreement, the landlord may give the tenant notice of termination of the tenancy effective not earlier than,

- (a) the 7th day after the notice is given, in the case of a daily or weekly tenancy; and
- (b) the 14th day after the notice is given, in all other cases. 2006, c. 17, s. 59 (1).

#### **Contents of notice**

(2) The notice of termination shall set out the amount of rent due and shall specify that the tenant may avoid the termination of the tenancy by paying, on or before the termination date specified in the notice, the rent due as set out in the notice and any additional rent that has become due under the tenancy agreement as at the date of payment by the tenant. 2006, c. 17, s. 59 (2).

#### **Notice void if rent paid**

(3) The notice of termination is void if, before the day the landlord applies to the Board for an order terminating the tenancy and evicting the tenant based on the notice, the tenant pays,

- (a) the rent that is in arrears under the tenancy agreement; and
- (b) the additional rent that would have been due under the tenancy agreement as at the date of payment by the tenant had notice of termination not been given. 2006, c. 17, s. 59 (3).

#### **Termination for cause, misrepresentation of income**

**60** (1) A landlord may give a tenant notice of termination of the tenancy if the rental unit is a rental unit described in paragraph 1, 2, 3 or 4 of subsection 7 (1) and the tenant has knowingly and materially misrepresented his or her income or that of other members of his or her household. 2006, c. 17, s. 60 (1); 2013, c. 3, s. 26.

#### **Notice**

(2) A notice of termination under this section shall set out the grounds for termination and shall provide a termination date not earlier than the 20th day after the notice is given. 2006, c. 17, s. 60 (2).

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 26 - 01/06/2014

#### **Termination for cause, illegal act**

**61** (1) A landlord may give a tenant notice of termination of the tenancy if the tenant or another occupant of the rental unit commits an illegal act or carries on an illegal trade, business or occupation or permits a person to do so in the rental unit or the residential complex. 2006, c. 17, s. 61 (1).

#### **Notice**

(2) A notice of termination under this section shall set out the grounds for termination and shall provide a termination date not earlier than,

- (a) the 10th day after the notice is given, in the case of a notice grounded on an illegal act, trade, business or occupation involving,

- (i) the production of an illegal drug,
  - (ii) the trafficking in an illegal drug, or
  - (iii) the possession of an illegal drug for the purposes of trafficking; or
- (b) the 20th day after the notice is given, in all other cases. 2006, c. 17, s. 61 (2).

#### **Definitions**

(3) In this section,

“illegal drug” means a controlled substance or precursor as those terms are defined in the *Controlled Drugs and Substances Act* (Canada); (“drogue illicite”)

“possession” has the same meaning as in the *Controlled Drugs and Substances Act* (Canada); (“possession”)

“production” means, with respect to an illegal drug, to produce the drug within the meaning of the *Controlled Drugs and Substances Act* (Canada); (“production”)

“trafficking” means, with respect to an illegal drug, to traffic in the drug within the meaning of the *Controlled Drugs and Substances Act* (Canada). (“trafic”) 2006, c. 17, s. 61 (3).

#### **Termination for cause, damage**

**62** (1) A landlord may give a tenant notice of termination of the tenancy if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex. 2006, c. 17, s. 62 (1).

#### **Notice**

(2) A notice of termination under this section shall,

- (a) provide a termination date not earlier than the 20th day after the notice is given;
- (b) set out the grounds for termination; and
- (c) require the tenant, within seven days,
  - (i) to repair the damaged property or pay to the landlord the reasonable costs of repairing the damaged property, or
  - (ii) to replace the damaged property or pay to the landlord the reasonable costs of replacing the damaged property, if it is not reasonable to repair the damaged property. 2006, c. 17, s. 62 (2).

#### **Notice void if tenant complies**

(3) The notice of termination under this section is void if the tenant, within seven days after receiving the notice, complies with the requirement referred to in clause (2) (c) or makes arrangements satisfactory to the landlord to comply with that requirement. 2006, c. 17, s. 62 (3).

#### **Termination for cause, damage, shorter notice period**

**63** (1) Despite section 62, a landlord may give a tenant notice of termination of the tenancy that provides a termination date not earlier than the 10th day after the notice is given if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex,

- (a) wilfully causes undue damage to the rental unit or the residential complex; or
- (b) uses the rental unit or the residential complex in a manner that is inconsistent with use as residential premises and that causes or can reasonably be expected to cause damage that is significantly greater than the damage that is required in order to give a notice of termination under clause (a) or subsection 62 (1). 2006, c. 17, s. 63 (1).

#### **Notice**

(2) A notice of termination under this section shall set out the grounds for termination. 2006, c. 17, s. 63 (2).

#### **Non-application of s. 62 (2) and (3)**

(3) Subsections 62 (2) and (3) do not apply to a notice given under this section. 2006, c. 17, s. 63 (3).

#### **Termination for cause, reasonable enjoyment**

**64** (1) A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant. 2006, c. 17, s. 64 (1).

### **Notice**

(2) A notice of termination under subsection (1) shall,

- (a) provide a termination date not earlier than the 20th day after the notice is given;
- (b) set out the grounds for termination; and
- (c) require the tenant, within seven days, to stop the conduct or activity or correct the omission set out in the notice. 2006, c. 17, s. 64 (2).

### **Notice void if tenant complies**

(3) The notice of termination under subsection (1) is void if the tenant, within seven days after receiving the notice, stops the conduct or activity or corrects the omission. 2006, c. 17, s. 64 (3).

### **Termination for cause, reasonable enjoyment of landlord in small building**

**65** (1) Despite section 64, a landlord who resides in a building containing not more than three residential units may give a tenant of a rental unit in the building notice of termination of the tenancy that provides a termination date not earlier than the 10th day after the notice is given if the conduct of the tenant, another occupant of the rental unit or a person permitted in the building by the tenant is such that it substantially interferes with the reasonable enjoyment of the building for all usual purposes by the landlord or substantially interferes with another lawful right, privilege or interest of the landlord. 2006, c. 17, s. 65 (1).

### **Notice**

(2) A notice of termination under this section shall set out the grounds for termination. 2006, c. 17, s. 65 (2).

### **Non-application of s. 64 (2) and (3)**

(3) Subsections 64 (2) and (3) do not apply to a notice given under this section. 2006, c. 17, s. 65 (3).

### **Termination for cause, act impairs safety**

**66** (1) A landlord may give a tenant notice of termination of the tenancy if,

- (a) an act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and
- (b) the act or omission occurs in the residential complex. 2006, c. 17, s. 66 (1).

### **Same**

(2) A notice of termination under this section shall provide a termination date not earlier than the 10th day after the notice is given and shall set out the grounds for termination. 2006, c. 17, s. 66 (2).

### **Termination for cause, too many persons**

**67** (1) A landlord may give a tenant notice of termination of the tenancy if the number of persons occupying the rental unit on a continuing basis results in a contravention of health, safety or housing standards required by law. 2006, c. 17, s. 67 (1).

### **Notice**

(2) A notice of termination under this section shall,

- (a) provide a termination date not earlier than the 20th day after the notice is given;
- (b) set out the details of the grounds for termination; and
- (c) require the tenant, within seven days, to reduce the number of persons occupying the rental unit to comply with health, safety or housing standards required by law. 2006, c. 17, s. 67 (2).

### **Notice void if tenant complies**

(3) The notice of termination under this section is void if the tenant, within seven days after receiving the notice, sufficiently reduces the number of persons occupying the rental unit. 2006, c. 17, s. 67 (3).

### **Notice of termination, further contravention**

**68** (1) A landlord may give a tenant notice of termination of the tenancy if,

- (a) a notice of termination was given to the tenant under section 62, 64 or 67; and
- (b) more than seven days but less than six months after the notice mentioned in clause (a) was given to the tenant, an activity takes place, conduct occurs or a situation arises that constitutes grounds for a notice of termination under section 60, 61, 62, 64 or 67, other than an activity, conduct or a situation that is described in subsection 61 (1) and that involves an illegal act, trade, business or occupation described in clause 61 (2) (a). 2006, c. 17, s. 68 (1); 2017, c. 13, s. 12.

**Same**

(2) The notice under this section shall set out the date it is to be effective and that date shall not be earlier than the 14th day after the notice is given. 2006, c. 17, s. 68 (2).

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 12 (1, 2) - 01/01/2018

APPLICATION BY LANDLORD – AFTER NOTICE OF TERMINATION

**Application by landlord**

**69** (1) A landlord may apply to the Board for an order terminating a tenancy and evicting the tenant if the landlord has given notice to terminate the tenancy under this Act or the *Tenant Protection Act, 1997*. 2006, c. 17, s. 69 (1).

**Same**

(2) An application under subsection (1) may not be made later than 30 days after the termination date specified in the notice. 2006, c. 17, s. 69 (2).

**Exception**

(3) Subsection (2) does not apply with respect to an application based on the tenant's failure to pay rent. 2006, c. 17, s. 69 (3).

**No application during remedy period**

**70** A landlord may not apply to the Board for an order terminating a tenancy and evicting the tenant based on a notice of termination under section 62, 64 or 67 before the seven-day remedy period specified in the notice expires. 2006, c. 17, s. 70.

**Immediate application**

**71** Subject to section 70 and subsection 74 (1), a landlord who has served a notice of termination may apply immediately to the Board under section 69 for an order terminating the tenancy and evicting the tenant. 2006, c. 17, s. 71.

**Application based on certain notice**

**Affidavit under s. 72 (1)**

**71.1** (1) A landlord who, on or after the day subsection 11 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, files an application under section 69 based on a notice of termination given under section 48 or 49 shall file the affidavit required under subsection 72 (1) at the same time as the application is filed. 2020, c. 16, Sched. 4, s. 11 (1).

**Non-compliance with subs. (1)**

(2) The Board shall refuse to accept the application for filing if the landlord has not complied with subsection (1). 2020, c. 16, Sched. 4, s. 11 (1).

**Previous use of notices under s. 48, 49 or 50**

(3) A landlord who, on or after the day subsection 11 (2) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, files an application under section 69 based on a notice of termination given under section 48, 49 or 50 shall, in the application,

- (a) indicate whether or not the landlord has, within two years prior to filing the application, given any other notice under section 48, 49 or 50 in respect of the same or a different rental unit; and
- (b) set out, with respect to each previous notice described in clause (a),
  - (i) the date the notice was given,
  - (ii) the address of the rental unit in respect of which the notice was given,
  - (iii) the identity of the intended occupant in respect of whom the notice was given if the notice was given under section 48 or 49, and
  - (iv) such other information as may be required by the Rules. 2020, c. 16, Sched. 4, s. 11 (2).

**Non-compliance with subs. (3)**

(4) The Board shall refuse to accept the application for filing if the landlord has not complied with subsection (3). 2020, c. 16, Sched. 4, s. 11 (2).

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 11 (1, 2) - 01/09/2021

### **Landlord or purchaser personally requires premises**

**72 (1)** The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on,

- (a) a notice of termination given under section 48 on or after the day section 13 of the *Rental Fairness Act, 2017* comes into force, unless the landlord has filed with the Board an affidavit sworn by the person who personally requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use for a period of at least one year; or

**Note:** On a day to be named by proclamation of the Lieutenant Governor, clause 72 (1) (a) of the Act is amended by striking out “on or after the day section 13 of the *Rental Fairness Act, 2017* comes into force”. (See: 2023, c. 10, Sched. 7, s. 6 (1))

- (b) a notice of termination under section 49, unless the landlord has filed with the Board an affidavit sworn by the person who personally requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use. 2017, c. 13, s. 13.

### **Same**

(1.1) The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on a notice of termination given under section 48 before the day section 13 of the *Rental Fairness Act, 2017* comes into force, unless the landlord has filed with the Board an affidavit sworn by the person who personally requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use. 2017, c. 13, s. 13.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (1.1) of the Act is repealed. (See: 2023, c. 10, Sched. 7, s. 6 (2))

### **Same**

(2) The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on a notice of termination under section 48 or 49 where the landlord’s claim is based on a tenancy agreement or occupancy agreement that purports to entitle the landlord to reside in the rental unit unless,

- (a) the application is brought in respect of premises situate in a building containing not more than four residential units; or
- (b) one or more of the following people has previously been a genuine occupant of the premises:
  - (i) the landlord,
  - (ii) the landlord’s spouse,
  - (iii) a child or parent of the landlord or the landlord’s spouse, or
  - (iv) a person who provided care services to the landlord, the landlord’s spouse, or a child or parent of the landlord or the landlord’s spouse. 2006, c. 17, s. 72 (2); 2021, c. 4, Sched. 11, s. 31 (1).

### **Determination of good faith**

(3) In determining the good faith of the landlord or the purchaser, as applicable, in an application described in subsection (1), (1.1) or (2), the Board may consider any evidence the Board considers relevant that relates to the landlord’s or purchaser’s previous use of notices of termination under section 48, 49 or 50 in respect of the same or a different rental unit. 2020, c. 16, Sched. 4, s. 12.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (3) of the Act is amended by striking out “subsection (1), (1.1) or (2)” and substituting “subsection (1) or (2)”. (See: 2023, c. 10, Sched. 7, s. 6 (3))

### **Application of subs. (3)**

(4) Subsection (3) applies with respect to any application described in subsection (1), (1.1) or (2) that,

- (a) is made on or after the day section 12 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force; or
- (b) was made before that day and was not finally determined before that day. 2020, c. 16, Sched. 4, s. 12.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (4) of the Act is amended by striking out “subsection (1), (1.1) or (2)” and substituting “subsection (1) or (2)”. (See: 2023, c. 10, Sched. 7, s. 6 (3))

### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 13 - 01/09/2017

2020, c. 16, Sched. 4, s. 12 - 01/09/2021

2021, c. 4, Sched. 11, s. 31 (1) - 19/04/2021

2023, c. 10, Sched. 7, s. 6 (1-3) - not in force

### **Demolition, conversion, repairs**

**73** (1) The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on a notice of termination under section 50 unless it is satisfied that,

- (a) the landlord intends in good faith to carry out the activity on which the notice of termination was based; and
- (b) the landlord has,
  - (i) obtained all necessary permits or other authority that may be required to carry out the activity on which the notice of termination was based, or
  - (ii) has taken all reasonable steps to obtain all necessary permits or other authority that may be required to carry out the activity on which the notice of termination was based, if it is not possible to obtain the permits or other authority until the rental unit is vacant. 2006, c. 17, s. 73.

### **Determination of good faith**

(2) In determining the good faith of the landlord in an application described in subsection (1), the Board may consider any evidence the Board considers relevant that relates to the landlord's previous use of notices of termination under section 48, 49 or 50 in respect of the same or a different rental unit. 2020, c. 16, Sched. 4, s. 13.

### **Application of subs. (2)**

(3) Subsection (2) applies with respect to any application described in subsection (1) that,

- (a) is made on or after the day section 13 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force; or
- (b) was made before that day and was not finally determined before that day. 2020, c. 16, Sched. 4, s. 13.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 73 of the Act is amended by adding the following subsection: (See: 2023, c. 10, Sched. 7, s. 7)

### **Report re repairs, renovations**

(4) In determining an application with respect to a notice of termination given under clause 50 (1) (c), the Board shall consider but is not bound by a report referred to in clause 50 (3) (b) stating that the repairs or renovations are so extensive that they require vacant possession of the rental unit. 2023, c. 10, Sched. 7, s. 7.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 13 - 01/09/2021

2023, c. 10, Sched. 7, s. 7 - not in force

### **Compensation under s. 48.1, 49.1, 52, 54 or 55**

**73.1** (1) If the landlord compensated the tenant under section 48.1, 49.1, 52, 54 or 55, as the case may be, in connection with a notice of termination under section 48, 49 or 50 and the Board refuses to grant an application under section 69 for an order terminating the tenancy and evicting the tenant based on the notice, the Board may order that the tenant pay back the compensation to the landlord. 2017, c. 13, s. 14; 2020, c. 16, Sched. 4, s. 14.

### **Transition**

(2) The Board may make an order under subsection (1) on an application described in that subsection even if the application was made before the day section 14 of the *Rental Fairness Act, 2017* comes into force. 2017, c. 13, s. 14.

### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 14 - 01/09/2017

2020, c. 16, Sched. 4, s. 14 - 21/07/2020

### **Non-payment of rent**

**74** (1) A landlord may not apply to the Board under section 69 for an order terminating a tenancy and evicting the tenant based on a notice of termination under section 59 before the day following the termination date specified in the notice. 2006, c. 17, s. 74 (1).

### **Discontinuance of application**

(2) An application by a landlord under section 69 for an order terminating a tenancy and evicting the tenant based on a notice of termination under section 59 shall be discontinued if, before the Board issues the eviction order, the Board is satisfied that the tenant has paid to the landlord or to the Board,

- (a) the amount of rent that is in arrears under the tenancy agreement;

- (b) the amount of additional rent that would have been due under the tenancy agreement as at the date of payment by the tenant had notice of termination not been given; and
- (c) the landlord's application fee. 2006, c. 17, s. 74 (2).

#### **Order of Board**

(3) An order of the Board terminating a tenancy and evicting the tenant in an application under section 69 based on a notice of termination under section 59 shall,

- (a) specify the following amounts:
  - (i) the amount of rent that is in arrears under the tenancy agreement,
  - (ii) the daily amount of compensation that must be paid under section 86, and
  - (iii) any costs ordered by the Board;
- (b) inform the tenant and the landlord that the order will become void if, before the order becomes enforceable, the tenant pays to the landlord or to the Board the amount required under subsection (4) and specify that amount; and
- (c) if the tenant has previously made a motion under subsection (11) during the period of the tenant's tenancy agreement with the landlord, inform the tenant and the landlord that the tenant is not entitled to make another motion under that subsection during the period of the agreement. 2006, c. 17, s. 74 (3).

#### **Payment before order becomes enforceable**

(4) An eviction order referred to in subsection (3) is void if the tenant pays to the landlord or to the Board, before the order becomes enforceable,

- (a) the amount of rent that is in arrears under the tenancy agreement;
- (b) the amount of additional rent that would have been due under the tenancy agreement as at the date of payment by the tenant had notice of termination not been given;
- (c) the amount of NSF cheque charges charged by financial institutions to the landlord in respect of cheques tendered to the landlord by or on behalf of the tenant, as allowed by the Board in an application by the landlord under section 87;
- (d) the amount of administration charges payable by the tenant for the NSF cheques, as allowed by the Board in an application by the landlord under section 87; and
- (e) the costs ordered by the Board. 2006, c. 17, s. 74 (4).

#### **Notice of void order**

(5) If, before the eviction order becomes enforceable, the tenant pays the amount specified in the order under clause (3) (b) to the Board, an employee in the Board shall issue a notice to the tenant and the landlord acknowledging that the eviction order is void under subsection (4). 2006, c. 17, s. 74 (5); 2013, c. 3, s. 27 (1).

#### **Determination that full amount paid before order becomes enforceable**

(6) If, before the eviction order becomes enforceable, the tenant pays the amount due under subsection (4) either in whole to the landlord or in part to the landlord and in part to the Board, the tenant may make a motion to the Board, without notice to the landlord, for an order determining that the tenant has paid the full amount due under subsection (4) and confirming that the eviction order is void under subsection (4). 2006, c. 17, s. 74 (6).

#### **Evidence**

(7) A tenant who makes a motion under subsection (6) shall provide the Board with an affidavit setting out the details of any payments made to the landlord and with any supporting documents the tenant may have. 2006, c. 17, s. 74 (7).

#### **No hearing**

(8) The Board shall make an order under subsection (6) without holding a hearing. 2006, c. 17, s. 74 (8).

#### **Motion by landlord**

(9) Within 10 days after an order is issued under subsection (6), the landlord may, on notice to the tenant, make a motion to the Board to have the order set aside. 2006, c. 17, s. 74 (9).

#### **Order of Board**

(10) On a motion under subsection (9), the Board shall hold a hearing and shall,

- (a) if satisfied that the tenant paid the full amount due under subsection (4) before the eviction order became enforceable, refuse to set aside the order made under subsection (6);

- (b) if satisfied that the tenant did not pay the full amount due under subsection (4) before the eviction order became enforceable but that the tenant has since paid the full amount, refuse to set aside the order made under subsection (6); or
- (c) in any other case, set aside the order made under subsection (6) and confirm that the eviction order is not void under subsection (4). 2006, c. 17, s. 74 (10).

#### **Payment after order becomes enforceable**

(11) A tenant may make a motion to the Board, on notice to the landlord, to set aside an eviction order referred to in subsection (3) if, after the order becomes enforceable but before it is executed, the tenant pays an amount to the landlord or to the Board and files an affidavit sworn by the tenant stating that the amount, together with any amounts previously paid to the landlord or to the Board, is at least the sum of the following amounts:

1. The amount of rent that is in arrears under the tenancy agreement.
2. The amount of additional rent that would have been due under the tenancy agreement as at the date of payment by the tenant had notice of termination not been given.
3. The amount of NSF cheque charges charged by financial institutions to the landlord in respect of cheques tendered to the landlord by or on behalf of the tenant, as allowed by the Board in an application by the landlord under section 87.
4. The amount of administration charges payable by the tenant for the NSF cheques, as allowed by the Board in an application by the landlord under section 87.
5. The costs ordered by the Board. 2006, c. 17, s. 74 (11); 2009, c. 33, Sched. 21, s. 11 (1).

#### **Refusal to accept motion**

(11.1) The Board shall refuse to accept for filing a motion under subsection (11), if the tenant has not complied with all the requirements of that subsection. 2017, c. 13, s. 15 (1).

#### **Exception**

(12) Subsection (11) does not apply if the tenant has previously made a motion under that subsection during the period of the tenant's tenancy agreement with the landlord. 2006, c. 17, s. 74 (12).

#### **Motion under subs. (11) stays eviction order**

(13) An order under subsection (3) is stayed when a motion under subsection (11) is accepted for filing by the Board and shall not be enforced under this Act or as an order of the Superior Court of Justice during the stay. 2006, c. 17, s. 74 (13); 2017, c. 13, s. 15 (2).

#### **Application of subs. (13)**

(13.1) For greater certainty, subsection (13) applies only if the affidavit filed by the tenant in support of the motion under subsection (11) complies with all the requirements of that subsection. 2017, c. 13, s. 15 (3).

#### **Order of Board**

- (14) Subject to subsection (15), if a tenant makes a motion under subsection (11), the Board shall, after a hearing,
- (a) make an order declaring the order under subsection (3) to be void, if the tenant has paid the amounts set out in subsection (11); or
  - (b) make an order lifting the stay of the order under subsection (3), if the tenant has not paid the amounts set out in subsection (11). 2006, c. 17, s. 74 (14).

#### **Enforcement costs**

(15) If, on a motion under subsection (11), the Board determines that the landlord has paid any non-refundable amount under the *Administration of Justice Act* for the purpose of enforcing the order under subsection (3), the Board shall specify that amount in the order made under clause (14) (a) and shall provide in the order that it is not effective unless,

- (a) the tenant pays the specified amount into the Board by a date specified in the order; and
- (b) an employee in the Board issues a notice under subsection (16). 2006, c. 17, s. 74 (15); 2013, c. 3, s. 27 (2).

#### **Notice of payment**

(16) If subsection (15) applies to an order made under clause (14) (a) and the tenant pays the amount specified in the order into the Board by the date specified in the order, an employee in the Board shall issue a notice to the tenant and the landlord acknowledging that the eviction order is void. 2006, c. 17, s. 74 (16); 2013, c. 3, s. 27 (3).

### **Failure to pay**

(17) If subsection (15) applies to an order made under clause (14) (a) and the tenant does not pay the amount specified in the order into the Board by the date specified in the order, the stay of the order under subsection (3) ceases to apply and the order may be enforced. 2006, c. 17, s. 74 (17).

### **Order for payment**

(18) If the Board makes an order under clause (14) (b), the Board may make an order that the tenant pay to the landlord any non-refundable amount paid by the landlord under the *Administration of Justice Act* for the purpose of enforcing the order under subsection (3). 2006, c. 17, s. 74 (18).

### **Transition, motions under subs. (11)**

(19) This section, as it reads immediately before the day the *Rental Fairness Act, 2017* receives Royal Assent, continues to apply with respect to motions under subsection (11) that are received by the Board before that day. 2017, c. 13, s. 15 (4).

### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 21, s. 11 (1) - 15/12/2009

2013, c. 3, s. 27 - 01/06/2014

2017, c. 13, s. 15 (1-4) - 30/05/2017

### **Illegal act**

**75** The Board may issue an order terminating a tenancy and evicting a tenant in an application under section 69 based on a notice of termination under section 61 whether or not the tenant or other person has been convicted of an offence relating to an illegal act, trade, business or occupation. 2006, c. 17, s. 75; 2013, c. 3, s. 28.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 28 - 01/06/2014

### **Application based on animals**

**76** (1) If an application based on a notice of termination under section 64, 65 or 66 is grounded on the presence, control or behaviour of an animal in or about the residential complex, the Board shall not make an order terminating the tenancy and evicting the tenant without being satisfied that the tenant is keeping an animal and that,

- (a) subject to subsection (2), the past behaviour of an animal of that species has substantially interfered with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or other tenants;
- (b) subject to subsection (3), the presence of an animal of that species has caused the landlord or another tenant to suffer a serious allergic reaction; or
- (c) the presence of an animal of that species or breed is inherently dangerous to the safety of the landlord or the other tenants. 2006, c. 17, s. 76 (1).

### **Same**

(2) The Board shall not make an order terminating the tenancy and evicting the tenant relying on clause (1) (a) if it is satisfied that the animal kept by the tenant did not cause or contribute to the substantial interference. 2006, c. 17, s. 76 (2).

### **Same**

(3) The Board shall not make an order terminating the tenancy and evicting the tenant relying on clause (1) (b) if it is satisfied that the animal kept by the tenant did not cause or contribute to the allergic reaction. 2006, c. 17, s. 76 (3).

## **APPLICATION BY LANDLORD – NO NOTICE OF TERMINATION**

### **Agreement to terminate, tenant's notice**

**77** (1) A landlord may, without notice to the tenant, apply to the Board for an order terminating a tenancy and evicting the tenant if,

- (a) the landlord and tenant have entered into an agreement to terminate the tenancy; or
- (b) the tenant has given the landlord notice of termination of the tenancy. 2006, c. 17, s. 77 (1).

### **Same**

(2) The landlord shall include with the application an affidavit verifying the agreement or notice of termination, as the case may be. 2006, c. 17, s. 77 (2).

**Same**

(3) An application under subsection (1) shall not be made later than 30 days after the termination date specified in the agreement or notice. 2006, c. 17, s. 77 (3).

**Order**

(4) On receipt of the application, the Board may make an order terminating the tenancy and evicting the tenant. 2006, c. 17, s. 77 (4).

**Same**

(5) An order under subsection (4) shall be effective not earlier than,

- (a) the date specified in the agreement, in the case of an application under clause (1) (a); or
- (b) the termination date set out in the notice, in the case of an application under clause (1) (b). 2006, c. 17, s. 77 (5).

**Motion to set aside order**

(6) The respondent may make a motion to the Board, on notice to the applicant, to have the order under subsection (4) set aside within 10 days after the order is issued. 2006, c. 17, s. 77 (6).

**Motion stays order**

(7) An order under subsection (4) is stayed when a motion to have the order set aside is received by the Board and shall not be enforced under this Act or as an order of the Superior Court of Justice during the stay. 2006, c. 17, s. 77 (7).

**Order of Board**

(8) If the respondent makes a motion under subsection (6), the Board shall, after a hearing,

- (a) make an order setting aside the order under subsection (4), if,
  - (i) the landlord and tenant did not enter into an agreement to terminate the tenancy, and
  - (ii) the tenant did not give the landlord notice of termination of the tenancy;
- (b) make an order setting aside the order under subsection (4), if the Board is satisfied, having regard to all the circumstances, that it would not be unfair to do so; or
- (c) make an order lifting the stay of the order under subsection (4), effective immediately or on a future date specified in the order. 2006, c. 17, s. 77 (8).

**Application based on previous order, mediated settlement**

**78** (1) A landlord may, without notice to the tenant, apply to the Board for an order terminating a tenancy or evicting the tenant if the following criteria are satisfied:

1. The landlord previously applied to the Board for an order terminating the tenancy or evicting the tenant.
2. A settlement agreed to under section 194 or order made with respect to the previous application,
  - i. imposed conditions on the tenant that, if not met by the tenant, would give rise to the same grounds for terminating the tenancy as were claimed in the previous application, and
  - ii. provided that the landlord could apply under this section if the tenant did not meet one or more of the conditions described in subparagraph i.
3. The tenant has not met one or more of the conditions described in subparagraph 2 i. 2006, c. 17, s. 78 (1); 2020, c. 16, Sched. 4, s. 15 (1).

**Same**

(2) The landlord shall include with the application a copy of the settlement or order and an affidavit setting out what conditions of the settlement or order have not been met and how they have not been met. 2006, c. 17, s. 78 (2).

**Order for payment**

(3) In an application under subsection (1), the landlord may also request that the Board make an order for payment under subsection (7) if the following criteria are satisfied:

1. The landlord applied for an order for the payment of arrears of rent or compensation for the repair or replacement of damaged property when the landlord made the previous application described in paragraph 1 of subsection (1).
2. A settlement agreed to under section 194 or order made with respect to the previous application requires the tenant to pay rent or some or all of the arrears of rent or compensation for the repair or replacement of damaged property. 2006, c. 17, s. 78 (3); 2017, c. 13, s. 16 (1); 2020, c. 16, Sched. 4, s. 15 (2).

**Affidavit**

(4) If the landlord makes a request under subsection (3), the affidavit included with the application under subsection (2) must also provide the following information:

1. If the settlement or order requires the tenant to pay some or all of the arrears of rent, the amount of any additional arrears of rent arising after the date of the settlement or order.
2. The amount of NSF cheque charges, if any, claimed by the landlord that were charged by financial institutions after the date of the settlement or order in respect of cheques tendered to the landlord by or on behalf of the tenant, to the extent the landlord has not been reimbursed for the charges.
3. The amount of NSF administration charges, if any, claimed by the landlord in respect of NSF cheques tendered by or on behalf of the tenant after the date of the settlement or order, to the extent the landlord has not been reimbursed for the charges.
4. If a settlement was agreed to under section 194 with respect to the previous application,
  - i. the amount of compensation for damage payable to the landlord under the terms of the settlement,
  - ii. the amount of arrears of rent payable to the landlord under the terms of the settlement,
  - iii. the amount of NSF cheque charges payable to the landlord under the terms of the settlement,
  - iv. the amount of NSF administration charges payable to the landlord under the terms of the settlement, and
  - v. the amount that the terms of the settlement required the tenant to pay to the landlord as reimbursement for the fee paid by the landlord for the application referred to in paragraph 1 of subsection (1).
5. The amount of any rent deposit, the date it was given and the last period for which interest was paid on the rent deposit.
6. The amount and date of each payment made under the terms of the settlement or order and what the payment was for. 2006, c. 17, s. 78 (4); 2017, c. 13, s. 16 (2-4); 2020, c. 16, Sched. 4, s. 15 (3).

**Time for application**

(5) An application under this section shall not be made later than 30 days after a failure of the tenant to meet a condition described in subparagraph 2 i of subsection (1). 2006, c. 17, s. 78 (5).

**Order terminating tenancy**

(6) If the Board finds that the landlord is entitled to an order under subsection (1), the Board may make an order terminating the tenancy and evicting the tenant. 2006, c. 17, s. 78 (6).

**Order for arrears**

(7) If an order is made under subsection (6) and the landlord makes a request under subsection (3), the Board may order the payment of the following amounts:

1. The amount of any compensation payable under section 86.
2. If the settlement or order referred to in paragraph 2 of subsection (3) requires the tenant to pay some or all of the arrears of rent, the amount of arrears of rent that arose after the date of the settlement or order.
3. Such amount as the Board may allow in respect of NSF cheque charges claimed by the landlord that were charged by financial institutions, after the date of the settlement or order referred to in paragraph 2 of subsection (3), in respect of cheques tendered by or on behalf of the tenant and for which the landlord has not been reimbursed.
4. Such amount as the Board may allow in respect of NSF administration charges claimed by the landlord that were incurred after the date of the settlement or order referred to in paragraph 2 of subsection (3) in respect of NSF cheques tendered by or on behalf of the tenant and for which the landlord has not been reimbursed, not exceeding the amount per cheque that is prescribed as a specified amount exempt from the operation of section 134.
5. If a settlement was agreed to under section 194 with respect to the previous application,
  - i. the amount of arrears of rent payable under the terms of the settlement that has not been paid,
  - i.1 the amount of compensation for damage payable under the terms of the settlement that has not been paid,
  - ii. the amount payable under the terms of the settlement in respect of NSF cheque charges that were charged by financial institutions in respect of cheques tendered by or on behalf of the tenant and for which the landlord has not been reimbursed,

- iii. the amount payable under the terms of the settlement in respect of NSF administration charges for which the landlord has not been reimbursed, not exceeding the amount per cheque that is prescribed as a specified amount exempt from the operation of section 134, and
- iv. the amount payable under the terms of the settlement as reimbursement for the fee paid by the landlord for the previous application, to the extent that the amount payable did not exceed that fee and to the extent that the amount payable has not been paid. 2006, c. 17, s. 78 (7); 2017, c. 13, s. 16 (5, 6); 2020, c. 16, Sched. 4, s. 15 (4).

### **Cancellation of previous order**

(7.1) If the Board makes an order under subsection (6), the Board may,

- (a) cancel a previous order referred to in paragraph 2 of subsection (3); and
- (b) order the payment of any amount payable under the cancelled order that has not been paid. 2017, c. 13, s. 16 (7).

### **Credit for rent deposit**

(8) In determining the amount payable by the tenant to the landlord, the Board shall ensure that the tenant is credited with the amount of any rent deposit and interest on the deposit that would be owing to the tenant on the termination of the tenancy. 2006, c. 17, s. 78 (8).

### **Motion to set aside orders**

(9) The respondent may make a motion to the Board, on notice to the applicant, to have an order under subsection (6), and any order made under subsection (7) or (7.1), set aside within 10 days after the order made under subsection (6) is issued. 2006, c. 17, s. 78 (9); 2017, c. 13, s. 16 (8).

### **Motion stays orders**

(10) When a motion under subsection (9) is received by the Board, an order under subsection (6), and any order made under subsection (7) or (7.1), are stayed and shall not be enforced under this Act or as an order of the Superior Court of Justice during the stay. 2017, c. 13, s. 16 (9).

### **Order of Board**

(11) If the respondent makes a motion under subsection (9), the Board shall, after a hearing,

- (a) make an order setting aside the order under subsection (6), and any order made under subsection (7) or (7.1), if any of the criteria set out in subsection (1) are not satisfied;
- (b) make an order setting aside the order under subsection (6), and any order made under subsection (7) or (7.1), if the Board is satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order under subsection (6); or
- (c) make an order lifting the stay of the order under subsection (6), and any order made under subsection (7) or (7.1), effective immediately or on a future date specified in the order. 2006, c. 17, s. 78 (11); 2017, c. 13, s. 16 (10).

### **Same**

(12) In an order under clause (11) (b), the Board may amend a settlement agreed to under section 194 or an order made with respect to the previous application if it considers it appropriate to do so. 2009, c. 33, Sched. 21, s. 11 (2); 2020, c. 16, Sched. 4, s. 15 (5).

### **Transition**

(13) This section, as it reads immediately before the day subsection 16 (11) of the *Rental Fairness Act, 2017* comes into force, continues to apply if the previous application referred to in paragraph 1 of subsection (1) is made before that day, regardless of whether the resulting settlement or order is mediated or made before, on or after that day. 2017, c. 13, s. 16 (11).

### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 21, s. 11 (2) - 15/12/2009

2017, c. 13, s. 16 (1-11) - 01/01/2018

2020, c. 16, Sched. 4, s. 15 (1-5) - 21/07/2020

### **Abandonment of rental unit**

**79** If a landlord believes that a tenant has abandoned a rental unit, the landlord may apply to the Board for an order terminating the tenancy. 2006, c. 17, s. 79.

## EVICTIION ORDERS

### Effective date of order

**80** (1) If a notice of termination of a tenancy has been given and the landlord has subsequently applied to the Board for an order evicting the tenant, the order of the Board evicting the tenant may not be effective earlier than the date of termination set out in the notice. 2006, c. 17, s. 80 (1).

### Exception, notice under s. 63 or 66

(2) Despite subsection (1), an order evicting a tenant may provide that it is effective on a date specified in the order that is earlier than the date of termination set out in the notice of termination if,

- (a) the order is made on an application under section 69 based on a notice of termination under clause 63 (1) (a) and the Board determines that the damage caused was significantly greater than the damage that was required by that clause in order to give the notice of termination; or
- (b) the order is made on an application under section 69 based on a notice of termination under clause 63 (1) (b) or subsection 66 (1). 2006, c. 17, s. 80 (2).

### Expiry date of order

**81** An order of the Board evicting a person from a rental unit expires six months after the day on which the order takes effect if it is not filed within those six months with the sheriff who has territorial jurisdiction where the rental unit is located. 2006, c. 17, s. 81.

### Tenant issues

**82** (1) At a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant,

- (a) complies with the requirements set out in subsection (2); or
- (b) provides an explanation satisfactory to the Board explaining why the tenant could not comply with the requirements set out in subsection (2). 2020, c. 16, Sched. 4, s. 16.

### Requirements to be met by tenant

(2) The requirements referred to in subsection (1) are the following:

- 1. The tenant shall give advance notice to the landlord of the tenant's intent to raise the issue at the hearing.
- 2. The notice shall be given within the time set out in the Rules.
- 3. The notice shall be given in writing and shall comply with the Rules. 2020, c. 16, Sched. 4, s. 16.

### Orders

(3) If a tenant raises an issue under subsection (1), the Board may make any order in respect of the issue that it could have made had the tenant made an application under this Act. 2020, c. 16, Sched. 4, s. 16.

### Transition

(4) This section, as it reads on the day section 16 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, applies to any hearing held after that day that relates to an application that was filed before that day. 2020, c. 16, Sched. 4, s. 16.

### Section Amendments with date in force (d/m/y)

2020, c. 16, Sched. 4, s. 16 - 21/07/2020

### Power of Board, eviction

**83** (1) Upon an application for an order evicting a tenant, the Board may, despite any other provision of this Act or the tenancy agreement,

- (a) refuse to grant the application unless satisfied, having regard to all the circumstances, that it would be unfair to refuse; or
- (b) order that the enforcement of the eviction order be postponed for a period of time. 2006, c. 17, s. 83 (1).

### Mandatory review

(2) If a hearing is held, the Board shall not grant the application unless it has reviewed the circumstances and considered whether or not it should exercise its powers under subsection (1). 2006, c. 17, s. 83 (2).

### **Circumstances where refusal required**

- (3) Without restricting the generality of subsection (1), the Board shall refuse to grant the application where satisfied that,
- (a) the landlord is in serious breach of the landlord's responsibilities under this Act or of any material covenant in the tenancy agreement;
  - (b) the reason for the application being brought is that the tenant has complained to a governmental authority of the landlord's violation of a law dealing with health, safety, housing or maintenance standards;
  - (c) the reason for the application being brought is that the tenant has attempted to secure or enforce his or her legal rights;
  - (d) the reason for the application being brought is that the tenant is a member of a tenants' association or is attempting to organize such an association; or
  - (e) the reason for the application being brought is that the rental unit is occupied by children and the occupation by the children does not constitute overcrowding. 2006, c. 17, s. 83 (3).

### **No eviction before compensation, residential occupation, demolition, etc.**

(4) The Board shall not issue an eviction order in a proceeding regarding termination of a tenancy for the purposes of residential occupation, demolition, conversion to non-residential rental use, renovations or repairs until the landlord has complied with section 48.1, 49.1, 52, 54 or 55, as the case may be. 2017, c. 13, s. 17; 2020, c. 16, Sched. 4, s. 17 (1).

### **No eviction before compensation, repair or renovation**

(5) If a tenant has given a landlord notice under subsection 53 (2) and subsection 54 (2) or (4) applies, the Board shall not issue an eviction order in a proceeding regarding termination of the tenancy until the landlord has compensated the tenant in accordance with subsection 54 (2) or (4), as applicable. 2006, c. 17, s. 83 (5); 2020, c. 16, Sched. 4, s. 17 (2).

### **Refusal for certain arrears of rent**

(6) Without restricting the generality of subsections (1) and (2), if a hearing is held in respect of an application under section 69 for an order evicting a tenant based on arrears of rent arising in whole or in part during the period beginning on March 17, 2020 and ending on the prescribed date, in determining whether to exercise its powers under subsection (1) the Board shall consider whether the landlord has attempted to negotiate an agreement with the tenant including terms of payment for the tenant's arrears. 2020, c. 16, Sched. 4, s. 17 (3).

### **Application of subs. (6)**

- (7) Subsection (6) applies with respect to any application described in that subsection that,
- (a) is made on or after the day subsection 17 (3) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force; or
  - (b) was made before that day and was not finally determined before that day. 2020, c. 16, Sched. 4, s. 17 (3).

### **Same**

(8) For greater certainty, subsection (6) applies whether or not a date has been prescribed for the purposes of that subsection. 2020, c. 16, Sched. 4, s. 17 (3).

### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 17 - 01/09/2017

2020, c. 16, Sched. 4, s. 17 (1-3) - 21/07/2020

### **Expedited eviction order**

**84** Subject to clause 83 (1) (b), the Board shall, in an order made under section 69 based on a notice given under subsection 61 (1) that involves an illegal act, trade, business or occupation described in clause 61 (2) (a) or based on a notice given under section 63, 65 or 66, request that the sheriff expedite the enforcement of the order. 2006, c. 17, s. 84.

### **Effect of eviction order**

**85** An order evicting a person shall have the same effect, and shall be enforced in the same manner, as a writ of possession. 2006, c. 17, s. 85.

## **COMPENSATION FOR LANDLORD**

### **Compensation, unit not vacated**

**86** A landlord is entitled to compensation for the use and occupation of a rental unit by a tenant who does not vacate the unit after his or her tenancy is terminated by order, notice or agreement. 2006, c. 17, s. 86.

## **Applications**

### **Application for arrears of rent**

**87 (1)** A landlord may apply to the Board for an order requiring a tenant or former tenant to pay arrears of rent if,

- (a) the tenant or former tenant did not pay rent lawfully required under the tenancy agreement; and
- (b) in the case of a tenant or former tenant no longer in possession of the rental unit, the tenant or former tenant ceased to be in possession on or after the day subsection 18 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force. 2020, c. 16, Sched. 4, s. 18 (1).

### **Application under subs. (1)**

(1.1) An application under subsection (1) may be made,

- (a) while the tenant is in possession of the rental unit; or
- (b) no later than one year after the tenant or former tenant ceased to be in possession of the rental unit. 2020, c. 16, Sched. 4, s. 18 (1).

## **Tenant issues**

(2) Section 82 applies, with necessary modifications, to an application under subsection (1). 2006, c. 17, s. 87 (2).

### **Application for compensation for use and occupation of unit**

(3) A landlord may apply to the Board for an order requiring a tenant or former tenant to pay compensation for the use and occupation of the rental unit after a notice of termination or an agreement to terminate the tenancy has taken effect if,

- (a) the tenant or former tenant is or was in possession of the rental unit after the termination of the tenancy; and
- (b) in the case of a tenant or former tenant no longer in possession of the rental unit, the tenant or former tenant ceased to be in possession on or after the day subsection 18 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force. 2020, c. 16, Sched. 4, s. 18 (1).

### **Application under subs. (3)**

(3.1) An application under subsection (3) may be made,

- (a) while the tenant or former tenant is in possession of the rental unit; or
- (b) no later than one year after the tenant or former tenant ceased to be in possession of the rental unit. 2020, c. 16, Sched. 4, s. 18 (1).

## **Amount of arrears of rent or compensation**

(4) In determining the amount of arrears of rent, compensation or both owing by a tenant in an order for termination of a tenancy and the payment of arrears of rent, compensation or both, the Board shall subtract from the amount owing the amount of any rent deposit or interest on a rent deposit that would be owing to the tenant on termination. 2006, c. 17, s. 87 (4); 2020, c. 16, Sched. 4, s. 18 (2).

## **NSF cheque charges**

(5) On an application by a landlord under this section, the Board may include the following amounts in determining the total amount owing to a landlord by a tenant or former tenant in respect of a rental unit:

1. The amount of NSF cheque charges claimed by the landlord and charged by financial institutions in respect of cheques tendered to the landlord by or on behalf of the tenant or former tenant, to the extent the landlord has not been reimbursed for the charges.
2. The amount of unpaid administration charges in respect of the NSF cheques, if claimed by the landlord, that do not exceed the amount per cheque that is prescribed as a specified payment exempt from the operation of section 134. 2006, c. 17, s. 87 (5); 2020, c. 16, Sched. 4, s. 18 (3).

## **Application**

(6) This section applies with respect to,

- (a) arrears of rent described in subsection (1), even if the arrears accrued before the day subsection 18 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force;
- (b) the use and occupation of the rental unit described in subsection (3), even if the use and occupation occurred before that day; and
- (c) charges described in subsection (5), even if the charges were incurred before that day. 2020, c. 16, Sched. 4, s. 18 (4).

### **Transition, court proceedings not affected**

(7) Despite subsection 168 (2), the re-enactment of subsections (1) and (3) by subsection 18 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* does not affect any court proceeding for an order for the payment of arrears of rent or compensation for the use and occupation of the rental unit, or for the payment of both, that is commenced before the day that subsection comes into force and has not been finally determined before that day. 2020, c. 16, Sched. 4, s. 18 (4).

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 18 (1-4) - 01/09/2021

### **Arrears of rent when tenant abandons or vacates without notice**

**88** (1) If a tenant abandons or vacates a rental unit without giving notice of termination in accordance with this Act and no agreement to terminate has been made or the landlord has not given notice to terminate the tenancy, a determination of the amount of arrears of rent owing by the tenant shall be made in accordance with the following rules:

1. If the tenant vacated the rental unit after giving notice that was not in accordance with this Act, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in the notice, had the notice been given in accordance with section 47, 96 or 145, as the case may be.
2. If the tenant abandoned or vacated the rental unit without giving any notice, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in a notice of termination had the tenant, on the date that the landlord knew or ought to have known that the tenant had abandoned or vacated the rental unit, given notice of termination in accordance with section 47, 96 or 145, as the case may be. 2006, c. 17, s. 88 (1).

### **Where landlord has given notice under s. 48, 49 or 50**

(2) If a notice of termination has been given by the landlord under section 48, 49 or 50 and the tenant vacates the rental unit before the termination date set out in the notice without giving a notice of earlier termination or after giving a notice of earlier termination that is not in accordance with subsection 48 (3), 49 (4) or 50 (4), as the case may be, a determination of the amount of arrears of rent owing by the tenant shall be made as if arrears of rent are owing for the period that ends on the earlier of the following dates:

1. The date that is 10 days after,
  - i. the date the tenant gave notice of earlier termination, if the tenant vacated the rental unit after giving a notice of earlier termination that was not in accordance with subsection 48 (3), 49 (4) or 50 (4), as the case may be, or
  - ii. the date the landlord knew or ought to have known that the tenant had vacated the rental unit, if the tenant vacated the rental unit without giving a notice of earlier termination.
2. The termination date set out in the landlord's notice of termination. 2006, c. 17, s. 88 (2).

### **New tenancy**

(3) Despite subsections (1) and (2), if the landlord enters into a new tenancy agreement with a new tenant with respect to the rental unit, the tenant who abandoned or vacated the rental unit is not liable to pay an amount of arrears of rent that exceeds the lesser of the following amounts:

1. The amount of arrears of rent determined under subsection (1) or (2).
2. The amount of arrears of rent owing for the period that ends on the date the new tenant is entitled to occupy the rental unit. 2006, c. 17, s. 88 (3).

### **Minimization of losses**

(4) In determining the amount of arrears of rent owing under subsections (1), (2) and (3), consideration shall be given to whether or not the landlord has taken reasonable steps to minimize losses in accordance with section 16. 2006, c. 17, s. 88 (4).

### **Application for compensation for interference with reasonable enjoyment, etc.**

**88.1** (1) A landlord may apply to the Board for an order requiring a tenant or former tenant to pay costs described in subsection (4) if,

- (a) while the tenant or former tenant is or was in possession of the rental unit, the conduct of the tenant or former tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant or former tenant is or was such that it substantially interferes or interfered with,
  - (i) the reasonable enjoyment of the residential complex for all usual purposes by the landlord, or
  - (ii) another lawful right, privilege or interest of the landlord; and

- (b) in the case of a tenant or former tenant no longer in possession of the rental unit, the tenant or former tenant ceased to be in possession on or after the day section 19 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force. 2020, c. 16, Sched. 4, s. 19.

**Application under subs. (1)**

- (2) An application under subsection (1) may be made,
  - (a) while the tenant is in possession of the rental unit; or
  - (b) no later than one year after the tenant or former tenant ceased to be in possession of the rental unit. 2020, c. 16, Sched. 4, s. 19.

**Same**

- (3) If the Board makes an order requiring payment under subsection (1) and for the termination of the tenancy, the Board shall set off against the amount required to be paid by the tenant the amount of any rent deposit or interest on a rent deposit that would be owing to the tenant on termination. 2020, c. 16, Sched. 4, s. 19.

**Compensation for interference with reasonable enjoyment, etc.**

- (4) The costs referred to in subsection (1) are reasonable out-of-pocket expenses that the landlord has incurred or will incur as a result of an interference described in clause (1) (a) and do not include costs that the landlord may recover in an application under section 88.2 or 89. 2020, c. 16, Sched. 4, s. 19.

**Application**

- (5) This section applies with respect to,
  - (a) an interference described in clause (1) (a), even if the interference occurred before the day section 19 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force; and
  - (b) out-of-pocket expenses described in subsection (4), even if the expenses were incurred before that day. 2020, c. 16, Sched. 4, s. 19.

**Transition, court proceedings not affected**

- (6) Despite subsection 168 (2), the enactment of this section by section 19 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* does not affect any court proceeding for an order for the payment of compensation for an interference described in clause (1) (a) that is commenced before the day that section comes into force and has not been finally determined before that day. 2020, c. 16, Sched. 4, s. 19.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 19 - 01/09/2021

**Application for compensation for failure to pay utility costs**

**88.2** (1) A landlord may apply to the Board for an order requiring a tenant or former tenant to pay costs described in subsection (4) if,

- (a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant failed to pay utility costs that they were required to pay under the terms of the tenancy agreement; and
- (b) in the case of a tenant or former tenant no longer in possession of the rental unit, the tenant or former tenant ceased to be in possession on or after the day section 20 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force. 2020, c. 16, Sched. 4, s. 20.

**Application under subs. (1)**

- (2) An application under subsection (1) may be made,
  - (a) while the tenant is in possession of the rental unit; or
  - (b) no later than one year after the tenant or former tenant ceased to be in possession of the rental unit. 2020, c. 16, Sched. 4, s. 20.

**Same**

- (3) If the Board makes an order requiring payment under subsection (1) and for the termination of the tenancy, the Board shall set off against the amount required to be paid by the tenant the amount of any rent deposit or interest on a rent deposit that would be owing to the tenant on termination. 2020, c. 16, Sched. 4, s. 20.

**Compensation for failure to pay utility costs**

- (4) The costs referred to in subsection (1) are reasonable out-of-pocket expenses that the landlord has incurred or will incur as a result of a tenant's or former tenant's failure to pay utility costs that they were required to pay under the terms of the tenancy agreement. 2020, c. 16, Sched. 4, s. 20.

## **Application**

(5) This section applies with respect to,

- (a) a failure described in clause (1) (a), even if the failure occurred before the day section 20 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force; and
- (b) out-of-pocket expenses described in subsection (4), even if the expenses were incurred before that day. 2020, c. 16, Sched. 4, s. 20.

## **Transition, court proceedings not affected**

(6) Despite subsection 168 (2), the enactment of this section by section 20 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* does not affect any court proceeding for an order for the payment of compensation for a tenant's or former tenant's failure to pay utility costs that is commenced before the day that section comes into force and has not been finally determined before that day. 2020, c. 16, Sched. 4, s. 20.

## **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 20 - 01/09/2021

## **Application for compensation for damage**

**89** (1) A landlord may apply to the Board for an order requiring a tenant or former tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property if,

- (a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant or former tenant wilfully or negligently causes or caused undue damage to the rental unit or the residential complex; and
- (b) in the case of a tenant or former tenant no longer in possession of the rental unit, the tenant or former tenant ceased to be in possession on or after the day subsection 21 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force. 2020, c. 16, Sched. 4, s. 21 (1).

## **Application under subs. (1)**

(1.1) An application under subsection (1) may be made,

- (a) while the tenant is in possession of the rental unit; or
- (b) no later than one year after the tenant or former tenant ceased to be in possession of the rental unit. 2020, c. 16, Sched. 4, s. 21 (1).

## **Same**

(2) If the Board makes an order requiring payment under subsection (1) and for the termination of the tenancy, the Board shall set off against the amount required to be paid by the tenant the amount of any rent deposit or interest on a rent deposit that would be owing to the tenant on termination. 2006, c. 17, s. 89 (2); 2020, c. 16, Sched. 4, s. 21 (2).

## **Application**

(3) This section applies with respect to,

- (a) damage described in clause (1) (a), even if the damage occurred before the day subsection 21 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force; and
- (b) costs described in subsection (1), even if the costs were incurred before that day. 2020, c. 16, Sched. 4, s. 21 (3).

## **Transition, court proceedings not affected**

(4) Despite subsection 168 (2), the re-enactment of subsection (1) by subsection 21 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* does not affect any court proceeding for an order for the payment of compensation for damage to the rental unit or the residential complex that is commenced before the day that subsection comes into force and has not been finally determined before that day. 2020, c. 16, Sched. 4, s. 21 (3).

## **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 29 - 01/06/2014

2020, c. 16, Sched. 4, s. 21 (1-3) - 01/09/2021

## **Compensation, misrepresentation of income**

**90** If a landlord has a right to give a notice of termination under section 60, the landlord may apply to the Board for an order for the payment of money the tenant would have been required to pay if the tenant had not misrepresented his or her income

or that of other members of his or her household, so long as the application is made while the tenant is in possession of the rental unit. 2006, c. 17, s. 90; 2013, c. 3, s. 30.

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 30 - 01/06/2014

**DEATH OF TENANT**

**Death of tenant**

**91** (1) If a tenant of a rental unit dies and there are no other tenants of the rental unit, the tenancy shall be deemed to be terminated 30 days after the death of the tenant. 2006, c. 17, s. 91 (1).

**Reasonable access**

(2) The landlord shall, until the tenancy is terminated under subsection (1),

- (a) preserve any property of a tenant who has died that is in the rental unit or the residential complex other than property that is unsafe or unhygienic; and
- (b) afford the executor or administrator of the tenant's estate, or if there is no executor or administrator, a member of the tenant's family reasonable access to the rental unit and the residential complex for the purpose of removing the tenant's property. 2006, c. 17, s. 91 (2).

**Landlord may dispose of property**

**92** (1) The landlord may sell, retain for the landlord's own use or otherwise dispose of property of a tenant who has died that is in a rental unit and in the residential complex in which the rental unit is located,

- (a) if the property is unsafe or unhygienic, immediately; and
- (b) otherwise, after the tenancy is terminated under section 91. 2006, c. 17, s. 92 (1).

**Same**

(2) Subject to subsections (3) and (4), a landlord is not liable to any person for selling, retaining or otherwise disposing of the property of a tenant in accordance with subsection (1). 2006, c. 17, s. 92 (2).

**Same**

(3) If, within six months after the tenant's death, the executor or administrator of the estate of the tenant or, if there is no executor or administrator, a member of the tenant's family claims any property of the tenant that the landlord has sold, the landlord shall pay to the estate the amount by which the proceeds of sale exceed the sum of,

- (a) the landlord's reasonable out-of-pocket expenses for moving, storing, securing or selling the property; and
- (b) any arrears of rent. 2006, c. 17, s. 92 (3).

**Same**

(4) If, within the six-month period after the tenant's death, the executor or administrator of the estate of the tenant or, if there is no executor or administrator, a member of the tenant's family claims any property of the tenant that the landlord has retained for the landlord's own use, the landlord shall return the property to the tenant's estate. 2006, c. 17, s. 92 (4).

**Agreement**

(5) A landlord and the executor or administrator of a deceased tenant's estate may agree to terms other than those set out in this section with regard to the termination of the tenancy and disposal of the tenant's property. 2006, c. 17, s. 92 (5).

**SUPERINTENDENT'S PREMISES**

**Termination of tenancy**

**93** (1) If a landlord has entered into a tenancy agreement with respect to a superintendent's premises, unless otherwise agreed, the tenancy terminates on the day on which the employment of the tenant is terminated. 2006, c. 17, s. 93 (1).

**Same**

(2) A tenant shall vacate a superintendent's premises within one week after his or her tenancy is terminated. 2006, c. 17, s. 93 (2).

**No rent charged for week**

(3) A landlord shall not charge a tenant rent or compensation or receive rent or compensation from a tenant with respect to the one-week period mentioned in subsection (2). 2006, c. 17, s. 93 (3).

## **Application to Board**

**94** The landlord may apply to the Board for an order terminating the tenancy of a tenant of superintendent's premises and evicting the tenant if the tenant does not vacate the rental unit within one week of the termination of his or her employment. 2006, c. 17, s. 94.

## **PART V.1 TERMINATION OF OCCUPANCY — NON-PROFIT HOUSING CO-OPERATIVES**

### **INTERPRETATION**

#### **Interpretation**

##### **Definitions**

**94.1** (1) In this Part,

“housing charges” has the same meaning as in the *Co-operative Corporations Act*; (“frais de logement”)

“member”, except in the phrase, “members of his or her household”, means a member as defined in the *Co-operative Corporations Act* or a person whose membership and occupancy rights in a co-operative have terminated or expired in accordance with that Act; (“membre”)

“regular monthly housing charges” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a member to a co-operative or the co-operative's agent for the right to occupy a member unit and for any services and facilities and any privilege, accommodation or thing that the co-operative provides for the member in respect of the occupancy of the member unit, whether or not a separate charge is made for services and facilities or for the privilege, accommodation or thing, but does not include one-time, occasional or irregular charges, deposits, penalties or fines; (“frais de logement mensuels ordinaires”)

“residential complex” means a building or related group of buildings in which one or more member units are located and includes all common areas and services and facilities available for the use of its residents. (“ensemble d'habitation”) 2013, c. 3, s. 31.

#### **Non-profit housing co-operative and member not a landlord-tenant relationship**

(2) Nothing in this Part, and nothing elsewhere in this Act, shall be construed as altering the relationship between a non-profit housing co-operative and a member and, in particular, the relationship shall not be construed as being one of a landlord and tenant. 2013, c. 3, s. 31.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

### **NOTICE OF TERMINATION OF OCCUPANCY BY CO-OPERATIVE**

#### **Notice of termination of occupancy**

**94.2** (1) After terminating a member's membership and occupancy rights in a non-profit housing co-operative under section 171.8 of the *Co-operative Corporations Act*, the co-operative may give the member notice of termination of the member's occupancy of a member unit under this Act in any of the following circumstances:

1. The member has persistently failed to pay the regular monthly housing charges on the date they became due and payable.
2. The member unit is in a residential complex described in paragraph 1, 2 or 3 of subsection 7 (1) and the member has ceased to meet the qualifications required for occupancy of the member unit.
3. The member fails to pay the regular monthly housing charges lawfully owing with respect to the member unit.
4. The member unit is in a residential complex described in paragraph 1, 2 or 3 of subsection 7 (1) and the member has knowingly and materially misrepresented his or her income or that of other members of his or her household.
5. The member or another occupant of the member unit commits an illegal act or carries on an illegal trade, business or occupation or permits a person to do so in the member unit or the residential complex.
6. The member, another occupant of the member unit or a person whom the member permits in the member unit or the residential complex wilfully or negligently causes undue damage to the member unit or the residential complex.
7. The member, another occupant of the member unit or a person whom the member permits in the member unit or the residential complex,
  - i. wilfully causes undue damage to the member unit or the residential complex, or

- ii. uses the member unit or the residential complex in a manner that is inconsistent with use as residential premises and that causes or can reasonably be expected to cause damage that is significantly greater than the damage that is required in order to give a notice of termination under subparagraph i or paragraph 6.
- 8. The conduct of the member, another occupant of the member unit or a person permitted in the residential complex by the member is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the co-operative or another member of the co-operative or occupant of the residential complex or substantially interferes with another lawful right, privilege or interest of the co-operative or another such member or occupant.
- 9. An act or omission of the member, another occupant of the member unit or a person permitted in the residential complex by the member seriously impairs or has seriously impaired the safety of any person and the act or omission occurs in the residential complex.
- 10. The number of persons occupying the member unit on a continuing basis results in a contravention of health, safety or housing standards required by law.
- 11. A notice of termination was given to the member for a circumstance described in paragraph 6, 8 or 10 and more than seven days but less than six months after the notice was given, an activity takes place, conduct occurs or a situation arises that constitutes the same circumstance under which the previous notice of termination was given. 2013, c. 3, s. 31; 2017, c. 13, s. 18.

#### **Deemed termination of membership and occupancy rights**

(2) Despite subsections 171.8 (1) and 171.12.1 (2) of the *Co-operative Corporations Act*, where the circumstance described in paragraph 11 of subsection (1) exists, the member's membership and occupancy rights are deemed to have been terminated for the purpose of giving a notice of termination of the member's occupancy of a member unit under this section. 2013, c. 3, s. 31.

#### **Rent-geared-to-income assistance**

(3) For greater certainty, paragraph 2 of subsection (1) does not authorize a non-profit housing co-operative to give a member notice of termination of the member's occupancy of a member unit on the ground that the member has ceased to be eligible for, or has failed to take any step necessary to maintain eligibility for, rent-geared-to-income assistance as defined in section 38 of the *Housing Services Act, 2011*. 2016, c. 25, Sched. 5, s. 2.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

2016, c. 25, Sched. 5, s. 2 - 08/12/2016

2017, c. 13, s. 18 - 01/01/2018

#### **Form, contents of notice of termination**

**94.3** (1) A notice of termination under section 94.2 shall be in a form approved by the Board and shall,

- (a) identify the member unit for which the notice is given;
- (b) state the date on which the occupancy is to terminate; and
- (c) be signed by a director of the co-operative giving the notice, a person authorized to act for the co-operative or the co-operative's agent. 2013, c. 3, s. 31.

#### **Same**

- (2) The notice shall also set out the reasons for and details respecting the termination and inform the member that,
  - (a) if the member vacates the member unit in accordance with the notice, the occupancy terminates on the date set out in clause (1) (b);
  - (b) if the member does not vacate the member unit, the co-operative may apply to the Board for an order terminating the occupancy of the member unit and evicting the member; and
  - (c) if the co-operative applies for an order, the member is entitled to dispute the application. 2013, c. 3, s. 31.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

**Termination date and other requirements in notice****Persistent non-payment or ceasing to meet qualifications**

94.4 (1) In a circumstance described in paragraph 1 or 2 of subsection 94.2 (1), the notice of termination shall provide a termination date not earlier than the 60th day after the notice is given and the termination date shall be on the last day of a period of occupancy. 2013, c. 3, s. 31.

**Non-payment of regular monthly housing charges**

- (2) In a circumstance described in paragraph 3 of subsection 94.2 (1), the notice of termination shall,
- (a) provide a termination date not earlier than the 14th day after the notice is given;
  - (b) set out the amount of the regular monthly housing charges that is due; and
  - (c) specify that the member may avoid the termination of the occupancy by paying, on or before the termination date specified in the notice, the amount as set out in the notice and any additional regular monthly housing charges that have become due as at the date of payment by the member. 2013, c. 3, s. 31.

**Misrepresentation of income**

(3) In a circumstance described in paragraph 4 of subsection 94.2 (1), the notice of termination shall provide a termination date not earlier than the 20th day after the notice is given. 2013, c. 3, s. 31.

**Illegal act, etc.**

- (4) In a circumstance described in paragraph 5 of subsection 94.2 (1), the notice of termination shall provide a termination date not earlier than,
- (a) the 10th day after the notice is given, in the case of a notice grounded on an illegal act, trade, business or occupation involving,
    - (i) the production of an illegal drug,
    - (ii) the trafficking in an illegal drug, or
    - (iii) the possession of an illegal drug for the purposes of trafficking; or
  - (b) the 20th day after the notice is given, in all other cases. 2013, c. 3, s. 31.

**Damage**

- (5) In a circumstance described in paragraph 6 of subsection 94.2 (1), the notice of termination shall,
- (a) provide a termination date not earlier than the 20th day after the notice is given; and
  - (b) require the member, within seven days,
    - (i) to repair the damaged property or pay to the co-operative the reasonable costs of repairing the damaged property, or
    - (ii) to replace the damaged property or pay to the co-operative the reasonable costs of replacing the damaged property, if it is not reasonable to repair the damaged property. 2013, c. 3, s. 31.

**Damage, shorter notice period**

(6) Despite subsection (5), in a circumstance described in paragraph 7 of subsection 94.2 (1), the notice of termination may provide a termination date not earlier than the 10th day after the notice is given and clause (5) (b) and subsection 94.5 (3) do not apply to this notice. 2013, c. 3, s. 31.

**Interfering with reasonable enjoyment**

- (7) A notice of termination for a circumstance described in paragraph 8 of subsection 94.2 (1) shall,
- (a) provide a termination date not earlier than the 20th day after the notice is given; and
  - (b) require the member, within seven days, to stop the conduct or activity or correct the omission set out in the notice. 2013, c. 3, s. 31.

**Impairing safety**

(8) In a circumstance described in paragraph 9 of subsection 94.2 (1), the notice of termination shall provide a termination date not earlier than the 10th day after the notice is given. 2013, c. 3, s. 31.

**Too many occupants**

- (9) In a circumstance described in paragraph 10 of subsection 94.2 (1), the notice of termination shall,
- (a) provide a termination date not earlier than the 20th day after the notice is given; and

- (b) require the member, within seven days, to reduce the number of persons occupying the member unit to comply with health, safety or housing standards required by law. 2013, c. 3, s. 31.

#### **Further contravention**

(10) In a circumstance described in paragraph 11 of subsection 94.2 (1), the notice of termination shall provide a termination date not earlier than the 14th day after the notice is given. 2013, c. 3, s. 31.

#### **Definitions**

(11) In subsection (4),

“illegal drug” means a controlled substance or precursor as those terms are defined in the *Controlled Drugs and Substances Act* (Canada); (“drogue illicite”)

“possession” has the same meaning as in the *Controlled Drugs and Substances Act* (Canada); (“possession”)

“production” means, with respect to an illegal drug, to produce the drug within the meaning of the *Controlled Drugs and Substances Act* (Canada); (“production”)

“trafficking” means, with respect to an illegal drug, to traffic in the drug within the meaning of the *Controlled Drugs and Substances Act* (Canada). (“trafic”) 2013, c. 3, s. 31.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

#### **Where notice void**

**94.5** (1) A notice of termination under subsection 94.2 (1), other than a notice of termination for a circumstance described in paragraph 3 of that subsection, becomes void 30 days after the termination date specified in the notice unless,

- (a) the member vacates the member unit before that time; or
- (b) the co-operative applies for an order terminating the occupancy of the member unit and evicting the member before that time. 2013, c. 3, s. 31.

#### **Same, if member pays regular monthly housing charges**

(2) The notice of termination for a circumstance described in paragraph 3 of subsection 94.2 (1) is void if, before the day the co-operative applies to the Board for an order terminating the occupancy of the member unit and evicting the member based on the notice, the member pays,

- (a) the regular monthly housing charges that are in arrears; and
- (b) the additional regular monthly housing charges that would have been due as at the date of payment by the member had notice of termination not been given. 2013, c. 3, s. 31.

#### **Same, if member repairs, replaces or pays for damaged property**

(3) The notice of termination for a circumstance described in paragraph 6 of subsection 94.2 (1) is void if the member, within seven days after receiving the notice, complies with the requirement referred to in clause 94.4 (5) (b) or makes arrangements satisfactory to the co-operative to comply with that requirement. 2013, c. 3, s. 31.

#### **Same, if member stops conduct, etc.**

(4) The notice of termination for a circumstance described in paragraph 8 of subsection 94.2 (1) is void if the member, within seven days after receiving the notice, stops the conduct or activity or corrects the omission. 2013, c. 3, s. 31.

#### **Same, if member reduces number of persons in member unit**

(5) The notice of termination for a circumstance described in paragraph 10 of subsection 94.2 (1) is void if the member, within seven days after receiving the notice, sufficiently reduces the number of persons occupying the member unit. 2013, c. 3, s. 31.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

#### **Effect of payment**

**94.6** Unless a non-profit housing co-operative and member agree otherwise, the co-operative does not waive a notice of termination or reinstate a member’s membership and occupancy rights by accepting arrears of the regular monthly housing charges or compensation for the use or occupation of a member unit after,

- (a) the co-operative gives a notice of termination of the occupancy under section 94.2; or
- (b) the Board makes an order terminating the member’s occupancy and evicting the member. 2013, c. 3, s. 31.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

#### **APPLICATION BY CO-OPERATIVE — AFTER NOTICE OF TERMINATION**

##### **Application to Board, after notice is given to member**

**94.7** (1) If a non-profit housing co-operative gives a member notice of termination of occupancy of the member unit under section 94.2, the co-operative may apply to the Board for an order terminating the member's occupancy of the member unit and evicting the member. 2013, c. 3, s. 31.

##### **Same**

(2) An application under subsection (1) may not be made later than 30 days after the termination date specified in the notice, except where the application is based on a notice of termination for a circumstance described in paragraph 3 of subsection 94.2 (1). 2013, c. 3, s. 31.

##### **No application during remedy period**

(3) A co-operative may not apply to the Board for an order terminating the occupancy of a member unit and evicting the member based on a notice of termination for a circumstance described in paragraph 6, 8 or 10 of subsection 94.2 (1) before the seven-day remedy period specified in the notice expires. 2013, c. 3, s. 31.

##### **When application can be made for non-payment of housing charges**

(4) A co-operative may not apply to the Board for an order terminating an occupancy and evicting the member based on a notice of termination for a circumstance described in paragraph 3 of subsection 94.2 (1) before the day following the termination date specified in the notice. 2013, c. 3, s. 31.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

##### **Immediate application**

**94.8** Subject to subsections 94.7 (3) and (4), a co-operative that has given a member a notice of termination under section 94.2 may apply immediately to the Board under section 94.7 for an order terminating the occupancy of the member unit and evicting the member. 2013, c. 3, s. 31.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

##### **No jurisdiction re *Co-operative Corporations Act***

**94.9** In an application to the Board made under section 94.7 or 94.8, the Board shall not inquire into or make any determination as to whether the member's membership and occupancy rights were properly terminated under section 171.8 of the *Co-operative Corporations Act*. 2013, c. 3, s. 31.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

#### **APPLICATION BY CO-OPERATIVE — NO NOTICE OF TERMINATION**

##### **Application to Board, without notice, based on member's withdrawal, consent or notice**

**94.10** (1) A co-operative may, without notice to the member, apply to the Board for an order terminating the member's occupancy of a member unit and evicting the member in any of the following circumstances:

1. The member gave written notice of his or her intention to terminate his or her membership and occupancy rights under section 171.8.1 of the *Co-operative Corporations Act* and the member has not withdrawn the notice under that section.
2. The member has consented in writing to the expiry of his or her membership and occupancy rights under subsection 171.9 (1) of the *Co-operative Corporations Act*.
3. The member has not given a written notice under paragraph 1 of subsection 171.9 (3) of the *Co-operative Corporations Act* that he or she wishes to continue his or her membership and occupancy rights.
4. The member gave notice to terminate his or her membership and occupancy rights under section 171.9.1 of the *Co-operative Corporations Act*. 2013, c. 3, s. 31.

##### **Affidavit**

(2) The co-operative shall include with the application an affidavit verifying,

- (a) the member's notice of intention to terminate his or her membership and occupancy rights under section 171.8.1 of the *Co-operative Corporations Act* and his or her failure to withdraw the notice under that section;
- (b) the member's consent in writing to the expiry of his or her membership and occupancy rights under subsection 171.9 (1) of the *Co-operative Corporations Act* or his or her failure to give a written notice under paragraph 1 of subsection 171.9 (3) of that Act that he or she wishes to continue his or her membership and occupancy rights; or
- (c) the member's notice to terminate his or her membership and occupancy rights under section 171.9.1 of the *Co-operative Corporations Act*. 2013, c. 3, s. 31.

**Same**

(3) An application under subsection (1) shall not be made later than 30 days after the date on which the membership and occupancy rights terminated or expired under section 171.8.1, 171.9 or 171.9.1 of the *Co-operative Corporations Act*, as the case may be. 2013, c. 3, s. 31.

**Order**

(4) On receipt of the application, the Board may make an order terminating the member's occupancy of the member unit and evicting the member. 2013, c. 3, s. 31.

**Same**

- (5) An order under subsection (4) is not effective before the later of,
  - (a) the date on which the co-operative applied to the Board under subsection (1); and
  - (b) the date on which the membership and occupancy rights terminated or expired under section 171.8.1, 171.9 or 171.9.1 of the *Co-operative Corporations Act*, as the case may be. 2013, c. 3, s. 31.

**Motion to set aside order**

(6) The member may make a motion to the Board, on notice to the co-operative, to have the order under subsection (4) set aside within 10 days after the order is issued. 2013, c. 3, s. 31.

**Motion stays order**

(7) An order under subsection (4) is stayed when a motion to have the order set aside is received by the Board and shall not be enforced under this Act or as an order of the Superior Court of Justice during the stay. 2013, c. 3, s. 31.

**Order of Board**

- (8) If the member makes a motion under subsection (6), the Board shall, after a hearing,
  - (a) make an order setting aside the order under subsection (4), if,
    - (i) the member did not give written notice of his or her intention to terminate his or her membership and occupancy rights under section 171.8.1 of the *Co-operative Corporations Act* or the member withdrew the notice of intention to terminate with the consent of the board of directors,
    - (ii) the member did not consent in writing to the expiry of his or her membership and occupancy rights under subsection 171.9 (1) of the *Co-operative Corporations Act*,
    - (iii) the member gave a written notice under subsection 171.9 (3) of the *Co-operative Corporations Act* that he or she wishes to continue his or her membership and occupancy rights, or
    - (iv) the member did not give notice to terminate his or her membership and occupancy rights under section 171.9.1 of the *Co-operative Corporations Act*;
  - (b) make an order setting aside the order under subsection (4), if the Board is satisfied, having regard to all the circumstances, that it would not be unfair to do so; or
  - (c) make an order lifting the stay of the order under subsection (4), effective immediately or on a future date specified in the order. 2013, c. 3, s. 31.

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

**Application to Board, without notice, based on previous order, mediated settlement**

**94.11** (1) A non-profit housing co-operative may, without notice to the member, apply to the Board for an order terminating a member's occupancy of a member unit and evicting the member if the following criteria are satisfied:

- 1. The co-operative previously applied to the Board for an order terminating the member's occupancy of the member unit and evicting the member.
- 2. A settlement agreed to under section 194 or an order made with respect to the previous application,

- i. imposed conditions on the member that, if not met by the member, would give rise to the same grounds for terminating the member's occupancy of the member unit as were claimed in the previous application, and
  - ii. provided that the co-operative could apply under this section if the member did not meet one or more of the conditions described in subparagraph i.
3. The member has not met one or more of the conditions described in subparagraph 2 i. 2013, c. 3, s. 31; 2020, c. 16, Sched. 4, s. 22.

#### **Deemed termination of membership and occupancy rights**

(2) Despite subsections 171.8 (1) and 171.12.1 (2) of the *Co-operative Corporations Act*, where the criteria described in subsection (1) are satisfied, the member's membership and occupancy rights under that Act are deemed to have been terminated for the purpose of this section. 2013, c. 3, s. 31.

#### **Application of s. 78 (2) to (12)**

(3) Subsections 78 (2) to (12) apply with necessary modifications to an application under subsection (1), and for that purpose,

- (a) "tenant" shall be read as "member";
- (b) "landlord" shall be read as "non-profit housing co-operative";
- (c) "rental unit" shall be read as "member unit";
- (d) "tenancy" shall be read as "occupancy";
- (e) "rent",
  - (i) in paragraphs 1 and 2 of subsection 78 (3) and in paragraph 1 of subsection 78 (4) shall be read as "the regular monthly housing charges",
  - (ii) in subparagraph 4 ii of subsection 78 (4) and in subparagraph 5 i of subsection 78 (7) shall be read as "the regular monthly housing charges and other housing charges, other than any refundable amounts";
- (f) subsection 78 (4) shall be read as including the following paragraph:
 

3.1 If the settlement or order requires the member to pay some or all of the arrears of the regular monthly housing charges, the amount of any additional other housing charges, other than any refundable amounts, arising after the date of the settlement or order;
- (g) paragraph 5 of subsection 78 (4) shall be read as follows:
 

5. The amount of any damage deposit and other refundable amounts;
- (h) "section 86" in paragraph 1 of subsection 78 (7) shall be read as "section 94.13";
- (h.1) paragraph 2 of subsection 78 (7) shall be read as follows:
 

2. If the settlement or order requires the member to pay some or all of the arrears of the regular monthly housing charges, the amount of arrears of the regular monthly housing charges and other housing charges, other than any refundable amounts, that arose after the date of the settlement or order;
- (i) paragraph 4 and subparagraph 5 iii of subsection 78 (7) shall be read without "not exceeding the amount per cheque that is prescribed as a specified amount exempt from the operation of section 134" at the end;
- (j) "rent deposit and interest on the deposit that would be owing to the tenant on the termination of the tenancy" in subsection 78 (8) shall be read as "damage deposit and other refundable amounts owing to the member on the termination of the member's occupancy of the member unit"; and
- (k) the words and expressions that are the modifications in clauses (a) to (j) shall have the meanings given to them in this Part. 2013, c. 3, s. 31; 2017, c. 13, s. 19 (1-3).

#### **Transition**

(4) This section, as it reads immediately before the day subsection 19 (4) of the *Rental Fairness Act, 2017* comes into force, continues to apply if the previous application referred to in paragraph 1 of subsection (1) is made before that day, regardless of whether the resulting settlement or order is mediated or made before, on or after that day. 2017, c. 13, s. 19 (4).

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

2017, c. 13, s. 19 (1-4) - 01/01/2018

2020, c. 16, Sched. 4, s. 22 - 21/07/2020

## REFUSAL TO GRANT OR POSTPONEMENT OF TERMINATION OF OCCUPANCY AND EVICTION ORDERS

### Power of Board to refuse order

**94.12** (1) Upon an application under section 94.7, 94.8, 94.10 or 94.11 for an order terminating a member's occupancy of a member unit and evicting a member, the Board may, despite any other provision of this Act, the *Co-operative Corporations Act*, the by-laws of the co-operative or the occupancy agreement,

- (a) refuse to grant the application unless satisfied, having regard to all the circumstances, that it would be unfair to refuse; or
- (b) order that the enforcement of the order be postponed for a period of time. 2013, c. 3, s. 31.

### Mandatory review

(2) If a hearing is held, the Board shall not grant the application unless it has reviewed the circumstances and considered whether or not it should exercise its powers under subsection (1). 2013, c. 3, s. 31.

### Circumstances where refusal required

(3) Without restricting the generality of subsection (1), the Board shall refuse to grant the application where satisfied that,

- (a) the reason for the application being brought is that the member has attempted to secure or enforce his or her legal rights;
- (b) the reason for the application being brought is that the member belongs to or participates in a members' association or is attempting to organize such an association; or
- (c) the reason for the application being brought is that the member unit is occupied by children and the occupation by the children does not constitute overcrowding. 2013, c. 3, s. 31.

### Section Amendments with date in force (d/m/y)

2013, c. 3, s. 31 - 01/06/2014

## COMPENSATION FOR CO-OPERATIVE

### Compensation, member unit not vacated

**94.13** A non-profit housing co-operative is entitled to compensation for the use and occupation of a member unit by a member who does not vacate the member unit after his or her membership and occupancy rights are terminated or expire under the *Co-operative Corporations Act*. 2013, c. 3, s. 31.

### Section Amendments with date in force (d/m/y)

2013, c. 3, s. 31 - 01/06/2014

### Application for arrears, compensation

#### Arrears

**94.14** (1) If a non-profit housing co-operative makes an application under section 94.7 based on a notice of termination for a circumstance described in paragraph 3 of subsection 94.2 (1), the co-operative may at the same time also apply to the Board for an order for the payment of arrears of the regular monthly housing charges if,

- (a) the member has not paid the regular monthly housing charges lawfully owing by the member; and
- (b) the member is in possession of the member unit. 2013, c. 3, s. 31.

#### Compensation, overholding member

(2) If a non-profit housing co-operative makes an application under section 94.7, 94.8, 94.10 or 94.11, and the member is in possession of the member unit after the member's membership and occupancy rights have terminated or expired under the *Co-operative Corporations Act*, the co-operative may at the same time also apply to the Board for an order for the payment of compensation for the use and occupation of the member unit after that termination or expiry. 2013, c. 3, s. 31.

### Amount of arrears of regular monthly housing charges or compensation

(3) In determining the amount of arrears of the regular monthly housing charges, compensation or both owing in an order for termination of a member's occupancy of a member unit and the payment of arrears of regular monthly housing charges, compensation or both, the Board shall subtract from the amount owing the amount of any damage deposit and other refundable amounts that would be owing to the member on termination. 2013, c. 3, s. 31.

### NSF cheque and other charges

(4) On an application by a co-operative under subsection (1), the Board may include the following amounts in determining the total amount owing to the co-operative by a member in respect of a member unit:

1. The amount of NSF cheque charges claimed by the co-operative and charged by financial institutions in respect of cheques tendered to the co-operative by or on behalf of the member, to the extent the co-operative has not been reimbursed for the charges.
2. The amount of unpaid administration charges in respect of the NSF cheques, if claimed by the co-operative.
3. The amount of other unpaid housing charges, other than any refundable amounts, lawfully owing by the member. 2013, c. 3, s. 31.

**Same**

(5) On an application by a co-operative under subsection (2), the Board may include the following amounts in determining the total amount owing to the co-operative by a member in respect of a member unit:

1. The amount of NSF cheque charges claimed by the co-operative and charged by financial institutions in respect of cheques tendered to the co-operative by or on behalf of the member, to the extent the co-operative has not been reimbursed for the charges.
2. The amount of unpaid administration charges in respect of the NSF cheques, if claimed by the co-operative. 2013, c. 3, s. 31.

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

**Compensation for damage**

**94.15** (1) If a non-profit housing co-operative makes an application under section 94.7 or 94.8 based on a notice of termination for a circumstance described in paragraph 6 or 7 of subsection 94.2 (1), the co-operative may at the same time also apply to the Board for an order requiring the member to pay reasonable costs that the co-operative has incurred or will incur for the repair or, where repairing is not reasonable, the replacement of damaged property, if the member is in possession of the member unit and if the member, another occupant of the member unit or a person whom the member permitted in the residential complex,

- (a) wilfully or negligently caused undue damage to the member unit or the residential complex where the notice of termination is based on a circumstance described in paragraph 6 of subsection 94.2 (1); or
- (b) wilfully caused undue damage to the member unit or the residential complex where the notice of termination is based on a circumstance described in paragraph 7 of subsection 94.2 (1). 2013, c. 3, s. 31.

**Same**

(2) If the Board makes an order requiring payment under subsection (1) and for the termination of the member's occupancy of the member unit and the eviction of the member, the Board shall set off against the amount required to be paid the amount of any damage deposit and other refundable amounts that would be owing to the member on termination. 2013, c. 3, s. 31.

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

**BOARD PROCEEDINGS**

**Application of ss. 74 to 90**

**94.16** (1) Subsections 74 (2) to (19) and sections 75, 76, 79 to 81, 84, 85 and 90 apply with necessary modifications to an application to and an order by the Board under this Part and for that purpose,

- (a) "tenant" shall be read as "member";
- (b) "landlord" shall be read as "non-profit housing co-operative";
- (c) "rental unit" shall be read as "member unit";
- (d) "residential complex" shall be read as it is defined in this Part;
- (e) "tenancy" shall be read as "occupancy" and "a tenancy" shall be read as "an occupancy";
- (f) "rent" shall be read as "the regular monthly housing charges";
- (g) "during the period of the tenant's tenancy agreement with the landlord" shall be read as "during the period of the member's membership in the co-operative" and "during the period of the agreement" shall be read as "during that period". 2013, c. 3, s. 31; 2017, c. 13, s. 20.

**Same**

(2) In addition to the necessary modifications in subsection (1),

- (a) subsection 74 (4) shall be read as if “and” at the end of clause (d) were struck out, and with the following additional clause:
  - (d.1) the amount of unpaid housing charges, other than any refundable amounts, payable by the member as allowed by the Board in an application by the co-operative under section 94.14; and
- (b) subsection 74 (11) shall be read as including the following paragraph:
  - 4.1 The amount of unpaid housing charges, other than any refundable amounts, payable by the member as allowed by the Board in an application by the co-operative under section 94.14.
- (c) a reference in subsection 76 (1) to the landlord or other tenants shall be read as referring to the co-operative or other members or occupants;
- (d) section 90 shall be read as follows:

**Compensation, misrepresentation of income**

**90.** If a co-operative has given a notice of termination under paragraph 4 of subsection 94.2 (1), the co-operative may, at the same time as it makes an application to the Board to terminate the occupancy of the member unit and evict the member, also apply to the Board for an order for the payment of money the member would have been required to pay if the member had not misrepresented his or her income or that of other members of his or her family, so long as the application is made while the member is in possession of the member unit.

- (e) a reference to section 69, 78, 83, 86 or 87 shall be read as referring, respectively, to section 94.7, 94.11, 94.12, 94.13 or 94.14;
- (f) a reference to a notice of termination under section 59, 60 or 61, clause 61 (2) (a), section 62, clause 63 (1) (a) or (b) or section 64, 66 or 67 shall be read as referring to a notice of termination for a circumstance described in paragraph 3, 4 or 5 of subsection 94.2 (1), clause 94.4 (4) (a), or paragraph 6, subparagraph 7 i or ii or paragraph 8, 9 or 10 of subsection 94.2 (1), respectively; and
- (g) the words and expressions that are the modifications in subsection (1) and in clauses (a) to (f) shall have the meanings given to them in this Part. 2013, c. 3, s. 31.

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 31 - 01/06/2014

2017, c. 13, s. 20 - 30/05/2017

**OFFENCES**

**Offences**

**Offences requiring knowledge**

**94.17 (1)** A person is guilty of an offence if the person knowingly,

- (a) harasses, hinders, obstructs or interferes with a member in the exercise of,
  - (i) securing a right or seeking relief under this Act in respect of a matter governed by this Part,
  - (ii) participating in a proceeding under this Act in respect of a matter governed by this Part, or
  - (iii) belonging to or participating in a members’ association or attempting to organize a members’ association;
- (b) harasses, hinders, obstructs or interferes with a non-profit housing co-operative in the exercise of,
  - (i) securing a right or seeking relief under this Act in respect of a matter governed by this Part, or
  - (ii) participating in a proceeding under this Act in respect of a matter governed by this Part; or
- (c) obtains possession of a member unit improperly by giving a notice under this Act to terminate in bad faith. 2013, c. 3, s. 31.

**Other offences**

(2) A person is guilty of an offence if the person recovers possession of a member unit in a manner not authorized or permitted under this Act or the *Co-operative Corporations Act*. 2013, c. 3, s. 31.

**Attempts**

(3) Any person who knowingly attempts to commit any offence referred to in subsection (1) or (2) is guilty of an offence. 2013, c. 3, s. 31.

**Section Amendments with date in force (d/m/y)**

**PART VI**  
**ASSIGNMENT, SUBLETTING AND UNAUTHORIZED OCCUPANCY**

**Assignment of tenancy**

**95** (1) Subject to subsections (2), (3) and (6), and with the consent of the landlord, a tenant may assign a rental unit to another person. 2006, c. 17, s. 95 (1).

**Landlord's options, general request**

- (2) If a tenant asks a landlord to consent to an assignment of a rental unit, the landlord may,
- (a) consent to the assignment of the rental unit; or
  - (b) refuse consent to the assignment of the rental unit. 2006, c. 17, s. 95 (2).

**Landlord's options, specific request**

- (3) If a tenant asks a landlord to consent to the assignment of the rental unit to a potential assignee, the landlord may,
- (a) consent to the assignment of the rental unit to the potential assignee;
  - (b) refuse consent to the assignment of the rental unit to the potential assignee; or
  - (c) refuse consent to the assignment of the rental unit. 2006, c. 17, s. 95 (3).

**Refusal or non-response**

- (4) A tenant may give the landlord a notice of termination under section 96 within 30 days after the date a request is made if,
- (a) the tenant asks the landlord to consent to an assignment of the rental unit and the landlord refuses consent;
  - (b) the tenant asks the landlord to consent to an assignment of the rental unit and the landlord does not respond within seven days after the request is made;
  - (c) the tenant asks the landlord to consent to an assignment of the rental unit to a potential assignee and the landlord refuses consent to the assignment under clause (3) (c); or
  - (d) the tenant asks the landlord to consent to an assignment of the rental unit to a potential assignee and the landlord does not respond within seven days after the request is made. 2006, c. 17, s. 95 (4).

**Same**

(5) A landlord shall not arbitrarily or unreasonably refuse consent to an assignment of a rental unit to a potential assignee under clause (3) (b). 2006, c. 17, s. 95 (5).

**Same**

(6) Subject to subsection (5), a landlord who has given consent to an assignment of a rental unit under clause (2) (a) may subsequently refuse consent to an assignment of the rental unit to a potential assignee under clause (3) (b). 2006, c. 17, s. 95 (6).

**Charges**

(7) A landlord may charge a tenant only for the landlord's reasonable out-of-pocket expenses incurred in giving consent to an assignment to a potential assignee. 2006, c. 17, s. 95 (7).

**Consequences of assignment**

- (8) If a tenant has assigned a rental unit to another person, the tenancy agreement continues to apply on the same terms and conditions and,
- (a) the assignee is liable to the landlord for any breach of the tenant's obligations and may enforce against the landlord any of the landlord's obligations under the tenancy agreement or this Act, if the breach or obligation relates to the period after the assignment, whether or not the breach or obligation also related to a period before the assignment;
  - (b) the former tenant is liable to the landlord for any breach of the tenant's obligations and may enforce against the landlord any of the landlord's obligations under the tenancy agreement or this Act, if the breach or obligation relates to the period before the assignment;
  - (c) if the former tenant has started a proceeding under this Act before the assignment and the benefits or obligations of the new tenant may be affected, the new tenant may join in or continue the proceeding. 2006, c. 17, s. 95 (8).

**Application of section**

(9) This section applies with respect to all tenants, regardless of whether their tenancies are periodic, fixed, contractual or statutory, but does not apply with respect to a tenant of superintendent's premises. 2006, c. 17, s. 95 (9).

**Tenant's notice to terminate, refusal of assignment**

**96** (1) A tenant may give notice of termination of a tenancy if the circumstances set out in subsection 95 (4) apply. 2006, c. 17, s. 96 (1).

**Same**

(2) The date for termination specified in the notice shall be at least a number of days after the date of the notice that is the lesser of the notice period otherwise required under this Act and 30 days. 2006, c. 17, s. 96 (2).

**Subletting rental unit**

**97** (1) A tenant may sublet a rental unit to another person with the consent of the landlord. 2006, c. 17, s. 97 (1).

**Same**

(2) A landlord shall not arbitrarily or unreasonably withhold consent to the sublet of a rental unit to a potential subtenant. 2006, c. 17, s. 97 (2).

**Charges**

(3) A landlord may charge a tenant only for the landlord's reasonable out-of-pocket expenses incurred in giving consent to a subletting. 2006, c. 17, s. 97 (3).

**Consequences of subletting**

(4) If a tenant has sublet a rental unit to another person,

- (a) the tenant remains entitled to the benefits, and is liable to the landlord for the breaches, of the tenant's obligations under the tenancy agreement or this Act during the subtenancy; and
- (b) the subtenant is entitled to the benefits, and is liable to the tenant for the breaches, of the subtenant's obligations under the subletting agreement or this Act during the subtenancy. 2006, c. 17, s. 97 (4).

**Overholding subtenant**

(5) A subtenant has no right to occupy the rental unit after the end of the subtenancy. 2006, c. 17, s. 97 (5).

**Application of section**

(6) This section applies with respect to all tenants, regardless of whether their tenancies are periodic, fixed, contractual or statutory, but does not apply with respect to a tenant of superintendent's premises. 2006, c. 17, s. 97 (6).

**Tenant application**

**98** (1) A tenant or former tenant of a rental unit may apply to the Board for an order determining that the landlord has arbitrarily or unreasonably withheld consent to the assignment or sublet of a rental unit to a potential assignee or subtenant. 2006, c. 17, s. 98 (1).

**Time limitation**

(2) No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred. 2006, c. 17, s. 98 (2).

**Order re assignment, sublet**

(3) If the Board determines that a landlord has unlawfully withheld consent to an assignment or sublet in an application under subsection (1), the Board may do one or more of the following:

1. Order that the assignment or sublet is authorized.
2. Where appropriate, by order authorize another assignment or sublet proposed by the tenant.
3. Order that the tenancy be terminated.
4. Order an abatement of the tenant's or former tenant's rent. 2006, c. 17, s. 98 (3).

**Same**

(4) The Board may establish terms and conditions of the assignment or sublet. 2006, c. 17, s. 98 (4).

**Same**

(5) If an order is made under paragraph 1 or 2 of subsection (3), the assignment or sublet shall have the same legal effect as if the landlord had consented to it. 2006, c. 17, s. 98 (5).

**Eviction with termination order**

(6) If an order is made terminating a tenancy under paragraph 3 of subsection (3), the Board may order that the tenant be evicted, effective not earlier than the termination date specified in the order. 2006, c. 17, s. 98 (6).

### **Tenant's notice, application re subtenant**

**99** The following provisions apply, with necessary modifications, with respect to a tenant who has sublet a rental unit, as if the tenant were the landlord and the subtenant were the tenant:

1. Sections 59 to 69, 87, 89 and 148.
2. The provisions of this Act that relate to applications to the Board under sections 69, 87, 89 and 148. 2006, c. 17, s. 99.

### **Unauthorized occupancy**

**100** (1) If a tenant transfers the occupancy of a rental unit to a person in a manner other than by an assignment authorized under section 95 or a subletting authorized under section 97, the landlord may apply to the Board for an order terminating the tenancy and evicting the tenant and the person to whom occupancy of the rental unit was transferred. 2006, c. 17, s. 100 (1).

### **Time limitation**

(2) An application under subsection (1) must be made no later than 60 days after the landlord discovers the unauthorized occupancy. 2006, c. 17, s. 100 (2).

### **Compensation**

(3) A landlord who makes an application under subsection (1) may also apply to the Board for an order for the payment of compensation by the unauthorized occupant for the use and occupation of the rental unit, if the unauthorized occupant is in possession of the rental unit at the time the application is made. 2006, c. 17, s. 100 (3).

### **Application of s. 87 (5)**

(4) Subsection 87 (5) applies, with necessary modifications, to an application under subsection (3). 2006, c. 17, s. 100 (4).

### **Overholding subtenant**

**101** (1) If a subtenant continues to occupy a rental unit after the end of the subtenancy, the landlord or the tenant may apply to the Board for an order evicting the subtenant. 2006, c. 17, s. 101 (1).

### **Time limitation**

(2) An application under this section must be made within 60 days after the end of the subtenancy. 2006, c. 17, s. 101 (2).

### **Compensation, overholding subtenant**

**102** A tenant may apply to the Board for an order for compensation for use and occupation by an overholding subtenant after the end of the subtenancy if the overholding subtenant is in possession of the rental unit at the time of the application. 2006, c. 17, s. 102.

### **Compensation, unauthorized occupant**

**103** (1) A landlord is entitled to compensation for the use and occupation of a rental unit by an unauthorized occupant of the unit. 2006, c. 17, s. 103 (1).

### **Effect of payment**

(2) A landlord does not create a tenancy with an unauthorized occupant of a rental unit by accepting compensation for the use and occupation of the rental unit, unless the landlord and unauthorized occupant agree otherwise. 2006, c. 17, s. 103 (2).

### **Miscellaneous new tenancy agreements**

#### **Assignment without consent**

**104** (1) If a person occupies a rental unit as a result of an assignment of the unit without the consent of the landlord, the landlord may negotiate a new tenancy agreement with the person. 2006, c. 17, s. 104 (1).

#### **Overholding subtenant**

(2) If a subtenant continues to occupy a rental unit after the end of the subtenancy and the tenant has abandoned the rental unit, the landlord may negotiate a new tenancy agreement with the subtenant. 2006, c. 17, s. 104 (2).

#### **Lawful rent**

(3) Sections 113 and 114 apply to tenancy agreements entered into under subsection (1) or (2) if they are entered into no later than 60 days after the landlord discovers the unauthorized occupancy. 2006, c. 17, s. 104 (3).

#### **Deemed assignment**

(4) A person's occupation of a rental unit shall be deemed to be an assignment of the rental unit with the consent of the landlord as of the date the unauthorized occupancy began if,

- (a) a tenancy agreement is not entered into under subsection (1) or (2) within the period set out in subsection (3);

- (b) the landlord does not apply to the Board under section 100 for an order evicting the person within 60 days of the landlord discovering the unauthorized occupancy; and
- (c) neither the landlord nor the tenant applies to the Board under section 101 within 60 days after the end of the subtenancy for an order evicting the subtenant. 2006, c. 17, s. 104 (4).

## **PART VII RULES RELATING TO RENT**

### **GENERAL RULES**

#### **Security deposits, limitation**

**105** (1) The only security deposit that a landlord may collect is a rent deposit collected in accordance with section 106. 2006, c. 17, s. 105 (1).

#### **Definition**

(2) In this section and in section 106,

“security deposit” means money, property or a right paid or given by, or on behalf of, a tenant of a rental unit to a landlord or to anyone on the landlord’s behalf to be held by or for the account of the landlord as security for the performance of an obligation or the payment of a liability of the tenant or to be returned to the tenant upon the happening of a condition. 2006, c. 17, s. 105 (2).

#### **Rent deposit may be required**

**106** (1) A landlord may require a tenant to pay a rent deposit with respect to a tenancy if the landlord does so on or before entering into the tenancy agreement. 2006, c. 17, s. 106 (1).

#### **Amount of rent deposit**

(2) The amount of a rent deposit shall not be more than the lesser of the amount of rent for one rent period and the amount of rent for one month. 2006, c. 17, s. 106 (2).

#### **Same**

(3) If the lawful rent increases after a tenant has paid a rent deposit, the landlord may require the tenant to pay an additional amount to increase the rent deposit up to the amount permitted by subsection (2). 2006, c. 17, s. 106 (3); 2013, c. 3, s. 32 (1).

#### **Qualification**

(4) A new landlord of a rental unit or a person who is deemed to be a landlord under subsection 47 (1) of the *Mortgages Act* shall not require a tenant to pay a rent deposit if the tenant has already paid a rent deposit to the prior landlord of the rental unit. 2006, c. 17, s. 106 (4).

#### **Exception**

(5) Despite subsection (4), if a person becomes a new landlord in a sale from a person deemed to be a landlord under subsection 47 (1) of the *Mortgages Act*, the new landlord may require the tenant to pay a rent deposit in an amount equal to the amount with respect to the former rent deposit that the tenant received from the proceeds of sale. 2006, c. 17, s. 106 (5); 2013, c. 3, s. 32 (2).

#### **Interest**

(6) A landlord of a rental unit shall pay interest to the tenant annually on the amount of the rent deposit at a rate equal to the guideline determined under section 120 that is in effect at the time payment becomes due. 2006, c. 17, s. 106 (6).

#### **Deduction applied to rent deposit**

(7) The landlord may deduct from the amount payable under subsection (6) the amount, if any, by which the maximum amount of the rent deposit permitted under subsection (2) exceeds the amount of the rent deposit paid by the tenant and the deducted amount shall be deemed to form part of the rent deposit paid by the tenant. 2006, c. 17, s. 106 (7).

#### **Transition**

(8) Despite subsection (6), the first interest payment that becomes due under subsection (6) after the day this subsection comes into force shall be adjusted so that,

- (a) the interest payable in respect of the period ending before the day this subsection comes into force is based on the annual rate of 6 per cent; and
- (b) the interest payable in respect of the period commencing on or after the day this subsection comes into force shall be based on the rate determined under subsection (6). 2006, c. 17, s. 106 (8).

### **Deduction of interest from rent**

(9) Where the landlord has failed to make the payment required by subsection (6) when it comes due, the tenant may deduct the amount of the payment from a subsequent rent payment. 2006, c. 17, s. 106 (9).

### **Rent deposit applied to last rent**

(10) A landlord shall apply a rent deposit that a tenant has paid to the landlord or to a former landlord in payment of the rent for the last rent period before the tenancy terminates. 2006, c. 17, s. 106 (10).

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 32 - 01/06/2014

### **Rent deposit, prospective tenant**

**107** (1) A landlord shall repay the amount received as a rent deposit in respect of a rental unit if vacant possession of the rental unit is not given to the prospective tenant. 2006, c. 17, s. 107 (1).

### **Exception**

(2) Despite subsection (1), if the prospective tenant, before he or she would otherwise obtain vacant possession of the rental unit, agrees to rent a different rental unit from the landlord,

- (a) the landlord may apply the amount received as a rent deposit in respect of the other rental unit; and
- (b) the landlord shall repay only the excess, if any, by which the amount received exceeds the amount of the rent deposit the landlord is entitled to receive under section 106 in respect of the other rental unit. 2006, c. 17, s. 107 (2).

### **Post-dated cheques, etc.**

**108** Neither a landlord nor a tenancy agreement shall require a tenant or prospective tenant to,

- (a) provide post-dated cheques or other negotiable instruments for payment of rent; or
- (b) permit automatic debiting of the tenant's or prospective tenant's account at a financial institution, automatic charging of a credit card or any other form of automatic payment for the payment of rent. 2006, c. 17, s. 108; 2009, c. 33, Sched. 21, s. 11 (3, 4).

### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 21, s. 11 (3, 4) - 15/12/2009

### **Receipt for payment**

**109** (1) A landlord shall provide free of charge to a tenant or former tenant, on request, a receipt for the payment of any rent, rent deposit, arrears of rent or any other amount paid to the landlord. 2006, c. 17, s. 109 (1).

### **Former tenant**

(2) Subsection (1) applies to a request by a former tenant only if the request is made within 12 months after the tenancy terminated. 2006, c. 17, s. 109 (2).

## **GENERAL RULES GOVERNING AMOUNT OF RENT**

### **Landlord's duty, rent increases**

**110** No landlord shall increase the rent charged to a tenant for a rental unit, except in accordance with this Part. 2006, c. 17, s. 110.

### **Landlord not to charge more than lawful rent**

**111** (1) No landlord shall charge rent for a rental unit in an amount that is greater than the lawful rent permitted under this Part. 2006, c. 17, s. 111 (1).

### **Lawful rent where prompt payment discount**

(2) The lawful rent is not affected by a discount in rent at the beginning of, or during, a tenancy of up to 2 per cent of the rent that could otherwise be lawfully charged for a rental period if the discount is provided for paying rent on or before the date it is due and the discount meets the prescribed conditions. 2009, c. 33, Sched. 21, s. 11 (5).

### **Lawful rent where another discount**

(2.1) The lawful rent is not affected if one of the following discounts is provided:

1. A discount in rent at the beginning of, or during, a tenancy that consists of up to three months rent in any 12-month period if the discount is provided in the form of rent-free periods and meets the prescribed conditions.
2. A prescribed discount. 2009, c. 33, Sched. 21, s. 11 (5).

### **Lawful rent where both discounts provided**

(2.2) For greater certainty, the lawful rent is not affected if discounts described in subsections (2) and (2.1) are both provided. 2009, c. 33, Sched. 21, s. 11 (5).

### **Same**

(3) Subject to subsections (2) and (2.1), where a landlord offers a discount in rent at the beginning of, or during, a tenancy, the lawful rent shall be calculated in accordance with the prescribed rules. 2006, c. 17, s. 111 (3); 2009, c. 33, Sched. 21, s. 11 (6).

### **Lawful rent where higher rent for first rental period**

(4) Where the rent a landlord charges for the first rental period of a tenancy is greater than the rent the landlord charges for subsequent rental periods, the lawful rent shall be calculated in accordance with the prescribed rules. 2006, c. 17, s. 111 (4).

### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 21, s. 11 (5, 6) - 01/07/2010

### **Lawful rent when this section comes into force**

**112** Unless otherwise prescribed, the lawful rent charged to a tenant for a rental unit for which there is a tenancy agreement in effect on the day this section comes into force shall be the rent that was charged on the day before this section came into force or, if that amount was not lawfully charged under the *Tenant Protection Act, 1997*, the amount that it was lawful to charge on that day. 2006, c. 17, s. 112.

### **Lawful rent for new tenant**

**113** Subject to section 111, the lawful rent for the first rental period for a new tenant under a new tenancy agreement is the rent first charged to the tenant. 2006, c. 17, s. 113.

### **Notice to new tenant, order under par. 6, 7 or 8 of s. 30 (1) in effect**

**114** (1) If an order made under paragraph 6, 7 or 8 of subsection 30 (1) is in effect in respect of a rental unit when a new tenancy agreement relating to the rental unit is entered into, the landlord shall, before entering into the new tenancy agreement, give to the new tenant written notice about the lawful rent for the rental unit in accordance with subsection (3). 2006, c. 17, s. 114 (1).

### **Same**

(2) If an order made under paragraph 6, 7 or 8 of subsection 30 (1) takes effect in respect of a rental unit after a new tenancy agreement relating to the rental unit is entered into but before the tenancy agreement takes effect, the landlord shall, before the tenancy agreement takes effect, give to the new tenant written notice about the lawful rent for the rental unit in accordance with subsection (3). 2006, c. 17, s. 114 (2).

### **Contents of notice**

- (3) A notice given under subsection (1) or (2) shall be in the form approved by the Board and shall set out,
- (a) information about the order made under paragraph 6, 7 or 8 of subsection 30 (1);
  - (b) the amount of rent that the landlord may lawfully charge the new tenant until the prohibition in the order made under paragraph 6, 7 or 8 of subsection 30 (1) ends;
  - (c) the amount of rent that the landlord may lawfully charge the new tenant after the prohibition in the order made under paragraph 6, 7 or 8 of subsection 30 (1) ends;
  - (d) information about the last lawful rent charged to the former tenant; and
  - (e) such other information as is prescribed. 2006, c. 17, s. 114 (3).

### **Order takes effect after tenancy agreement**

(4) If an order made under paragraph 6, 7 or 8 of subsection 30 (1) takes effect in respect of a rental unit after a new tenancy agreement relating to the rental unit takes effect, the landlord shall promptly give to the new tenant written notice about the lawful rent for the rental unit in accordance with subsection (5), unless the order was made on the application of the new tenant. 2006, c. 17, s. 114 (4).

### **Contents of notice**

- (5) A notice given under subsection (4) shall be in the form approved by the Board and shall set out,
- (a) information about the order made under paragraph 6, 7 or 8 of subsection 30 (1); and
  - (b) such other information as is prescribed. 2006, c. 17, s. 114 (5).

### **Application by new tenant**

**115** (1) A new tenant who was entitled to notice under section 114 may apply to the Board for an order,

- (a) determining the amount of rent that the new tenant may lawfully be charged until the prohibition in the order made under paragraph 6, 7 or 8 of subsection 30 (1) ends;
- (b) determining the amount of rent that the new tenant may lawfully be charged after the prohibition in the order made under paragraph 6, 7 or 8 of subsection 30 (1) ends; and
- (c) requiring the landlord to rebate to the new tenant any rent paid by the new tenant in excess of the rent that the tenant may lawfully be charged. 2006, c. 17, s. 115 (1).

### **Time for application**

(2) No order shall be made under subsection (1) unless the application is made not later than one year after the new tenancy agreement takes effect. 2006, c. 17, s. 115 (2).

### **Failure to comply with s. 114**

(3) If, in an application under subsection (1), the Board finds that the landlord has not complied with section 114, the Board may order the landlord to pay to the Board an administrative fine not exceeding the greater of \$10,000 and the monetary jurisdiction of the Small Claims Court. 2006, c. 17, s. 115 (3).

### **Information to be filed**

(4) If an application is made under subsection (1), the landlord shall file with the Board information as prescribed within the time prescribed. 2006, c. 17, s. 115 (4).

### **Application of s. 135**

(5) Section 135 does not apply to a new tenant with respect to rent paid by the new tenant in excess of the rent that the tenant could lawfully be charged if an application could have been made under subsection (1) for an order requiring the rebate of the excess. 2006, c. 17, s. 115 (5).

## **NOTICE OF RENT INCREASE**

### **Notice of rent increase required**

**116** (1) A landlord shall not increase the rent charged to a tenant for a rental unit without first giving the tenant at least 90 days written notice of the landlord's intention to do so. 2006, c. 17, s. 116 (1).

### **Same**

(2) Subsection (1) applies even if the rent charged is increased in accordance with an order under section 126. 2006, c. 17, s. 116 (2).

### **Contents of notice**

(3) The notice shall be in a form approved by the Board and shall set out the landlord's intention to increase the rent and the amount of the new rent. 2006, c. 17, s. 116 (3).

### **Increase void without notice**

(4) An increase in rent is void if the landlord has not given the notice required by this section, and the landlord must give a new notice before the landlord can take the increase. 2006, c. 17, s. 116 (4).

### **Compliance by landlord, no notice required**

**117** (1) Despite section 116 but subject to subsections (3) and (4), if an order was issued under paragraph 6 of subsection 30 (1) and a new tenancy agreement was entered into while the order remained in effect, no notice of rent increase is required for the landlord to charge an amount that the landlord would have been entitled to charge in the absence of the order. 2006, c. 17, s. 117 (1).

### **Same**

(2) Despite section 116 but subject to subsections (3) and (4), if an order was issued under paragraph 8 of subsection 30 (1), no notice of rent increase is required for the landlord to take a rent increase that the landlord would have been entitled to take in the absence of the order. 2006, c. 17, s. 117 (2).

### **Limitation**

(3) Subsections (1) and (2) apply only where the landlord,

- (a) has completed the items in work orders for which the compliance period has expired and which were found by the Board to be related to a serious breach of a health, safety, housing or maintenance standard; and

- (b) has completed the specified repairs or replacements or other work ordered under paragraph 4 of subsection 30 (1) found by the Board to be related to a serious breach of the landlord's obligations under subsection 20 (1) or section 161. 2006, c. 17, s. 117 (3).

#### **Effective date**

(4) The authority under subsection (1) or (2) to take an increase or charge an amount without a notice of rent increase is effective on the first day of the rental period following the date that the landlord completed,

- (a) the items in work orders for which the compliance period has expired and which were found by the Board to be related to a serious breach of a health, safety, housing or maintenance standard; and
- (b) the specified repairs or replacements or other work ordered under paragraph 4 of subsection 30 (1) found by the Board to be related to a serious breach of the landlord's obligations under subsection 20 (1) or section 161. 2006, c. 17, s. 117 (4).

#### **Date of annual increase**

(5) In determining the effective date of the next lawful rent increase under section 119,

- (a) an amount charged under subsection (1) shall be deemed to have been charged at the time the landlord would have been entitled to charge it if the order under paragraph 6 of subsection 30 (1) had not been issued; and
- (b) an increase taken under subsection (2) shall be deemed to have been taken at the time the landlord would have been entitled to take it if the order under paragraph 8 of subsection 30 (1) had not been issued. 2006, c. 17, s. 117 (5).

#### **Deemed acceptance where no notice of termination**

**118** A tenant who does not give a landlord notice of termination of a tenancy under section 47 after receiving notice of an intended rent increase under section 116 shall be deemed to have accepted whatever rent increase would be allowed under this Act after the landlord and the tenant have exercised their rights under this Act. 2006, c. 17, s. 118.

### **12-MONTH RULE**

#### **12-month rule**

**119** (1) A landlord who is lawfully entitled to increase the rent charged to a tenant for a rental unit may do so only if at least 12 months have elapsed,

- (a) since the day of the last rent increase for that tenant in that rental unit, if there has been a previous increase; or
- (b) since the day the rental unit was first rented to that tenant, if clause (a) does not apply. 2006, c. 17, s. 119 (1).

#### **Exception**

(2) An increase in rent under section 123 shall be deemed not to be an increase in rent for the purposes of this section. 2006, c. 17, s. 119 (2).

### **GUIDELINE**

#### **Guideline increase**

**120** (1) No landlord may increase the rent charged to a tenant, or to an assignee under section 95, during the term of their tenancy by more than the guideline, except in accordance with section 126 or 127 or an agreement under section 121 or 123. 2006, c. 17, s. 120 (1).

#### **Guideline**

(2) The Minister shall determine the guideline in effect for each calendar year as follows:

1. Subject to the limitation set out in paragraph 2, the guideline for a calendar year is the percentage change from year to year in the Consumer Price Index for Ontario for prices of goods and services as reported monthly by Statistics Canada, averaged over the 12-month period that ends at the end of May of the previous calendar year, rounded to the first decimal point.
2. The guideline for a calendar year shall be not more than 2.5 per cent. 2012, c. 6, s. 1.

#### **Publication of guideline**

(3) The Minister shall have the guideline for each calendar year published in *The Ontario Gazette* not later than August 31 of the preceding year. 2012, c. 6, s. 1.

#### **Guideline for 2021**

(3.1) The guideline for the calendar year 2021 is zero per cent, despite subsection (2) and despite the guideline published under subsection (3) in *The Ontario Gazette* for 2021. 2020, c. 23, Sched. 7, s. 1.

### **Same**

(3.2) The Minister is not required to have the guideline for the calendar year 2021, as set out in subsection (3.1), published in *The Ontario Gazette*. 2020, c. 23, Sched. 7, s. 1.

### **Transition**

(4) The guideline for the calendar year in which the commencement date occurs is the guideline established for that year under this section as it read immediately before the commencement date. 2012, c. 6, s. 1.

### **Same**

(5) If the commencement date occurs on or after September 1 in a calendar year, the guideline for the following calendar year is the guideline established for that year under this section as it read immediately before the commencement date. 2012, c. 6, s. 1.

### **Review by Minister**

(6) The Minister shall initiate a review of the operation of this section within four years after the commencement date and thereafter within four years after the end of the previous review. 2012, c. 6, s. 1.

### **Definition**

(7) In subsections (4), (5) and (6),

“commencement date” means the day section 1 of the *Residential Tenancies Amendment Act (Rent Increase Guideline)*, 2012 comes into force. 2012, c. 6, s. 1.

### **Section Amendments with date in force (d/m/y)**

2012, c. 6, s. 1 - 19/06/2012

2020, c. 23, Sched. 7, s. 1 - 01/10/2020

### **Application of guideline to previously exempt units**

**120.1** (1) This section applies to every rental unit that,

- (a) immediately before the exemption repeal date, was exempt from section 120 under subsection 6 (2), as that section read immediately before that date; and
- (b) on and after the exemption repeal date, is not exempt from section 120 under any provision of this Act or under the regulations. 2017, c. 13, s. 21.

### **Definitions**

(2) In this section,

“exemption repeal date” means the date subsection 3 (2) of the *Rental Fairness Act, 2017* (which repeals subsection 6 (2) of this Act) comes into force; (“date d’abrogation de l’exclusion”)

“previously exempt rental unit” means a rental unit described in subsection (1). (“logement locatif antérieurement exclu”) 2017, c. 13, s. 21.

### **Transition rules**

(3) One of the following sets of rules applies where the landlord of a previously exempt rental unit has given the tenant notice of a rent increase before the exemption repeal date and the amount of the rent increase provided for under the notice is more than the guideline:

1. If the notice of rent increase is given before April 20, 2017, the following rules apply:
  - i. Despite the repeal of subsection 6 (2), as it read immediately before the exemption repeal date, by subsection 3 (2) of the *Rental Fairness Act, 2017*, the previously exempt rental unit continues to be exempt from the application of section 120 of this Act for the purpose of that rent increase.
  - ii. The amount of the new rent shall be the amount set out in the notice.
2. If the notice of rent increase is given on or after April 20, 2017 and the new rent takes effect before the exemption repeal date, then, despite the rent increase having taken effect, the following rules apply:
  - i. The amount of new rent charged to the tenant for the rental unit after the exemption repeal date shall be decreased to an amount equal to the sum of,
    - A. the amount of rent that was charged to the tenant before the rent increase took effect, and
    - B. a rent increase equal to the guideline increase.

- ii. The amount of new rent paid before the exemption repeal date that is in excess of the amount that would have been paid if the rent increase had been equal to the guideline increase for the calendar year, together with any related amount collected under subsection 106 (3), is a debt owed by the landlord to the tenant and shall be refunded to the tenant by the landlord within 60 days after the exemption repeal date.
  - iii. If the landlord fails to refund the amount owing under subparagraph ii within 60 days after the exemption repeal date, the tenant may deduct the amount from a subsequent rent payment.
3. If the notice of rent increase is given on or after April 20, 2017 and the rent increase takes effect on or after the exemption repeal date, the following rules apply:
- i. The rent increase shall take effect on the date set out in the notice, subject to subparagraph ii.
  - ii. The amount of the new rent shall not be the amount set out in the notice but shall be equal to the sum of,
    - A. the amount of rent that was charged to the tenant before the rent increase took effect, and
    - B. a rent increase equal to the guideline increase. 2017, c. 13, s. 21.

#### **Same**

(4) For greater certainty, nothing in subsection (3) validates a notice of rent increase that did not comply with section 116 at the time the notice was given. 2017, c. 13, s. 21.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 21 - 30/05/2017

### **AGREEMENTS TO INCREASE OR DECREASE RENT**

#### **Agreement**

- 121 (1)** A landlord and a tenant may agree to increase the rent charged to the tenant for a rental unit above the guideline if,
- (a) the landlord has carried out or undertakes to carry out a specified capital expenditure in exchange for the rent increase; or
  - (b) the landlord has provided or undertakes to provide a new or additional service in exchange for the rent increase. 2006, c. 17, s. 121 (1).

#### **Form**

(2) An agreement under subsection (1) shall be in the form approved by the Board and shall set out the new rent, the tenant's right under subsection (4) to cancel the agreement and the date the agreement is to take effect. 2006, c. 17, s. 121 (2).

#### **Maximum increase**

(3) A landlord shall not increase rent charged under this section by more than the guideline plus 3 per cent of the previous lawful rent charged. 2006, c. 17, s. 121 (3).

#### **Right to cancel**

(4) A tenant who enters into an agreement under this section may cancel the agreement by giving written notice to the landlord within five days after signing it. 2006, c. 17, s. 121 (4).

#### **Agreement in force**

(5) An agreement under this section may come into force no earlier than six days after it has been signed. 2006, c. 17, s. 121 (5).

#### **Notice of rent increase not required**

(6) Section 116 does not apply with respect to a rent increase under this section. 2006, c. 17, s. 121 (6).

#### **When prior notice void**

(7) Despite any deemed acceptance of a rent increase under section 118, if a landlord and tenant enter into an agreement under this section, a notice of rent increase given by the landlord to the tenant before the agreement was entered into becomes void when the agreement takes effect, if the notice of rent increase is to take effect on or after the day the agreed to increase is to take effect. 2006, c. 17, s. 121 (7).

#### **Tenant application**

**122 (1)** A tenant or former tenant may apply to the Board for relief if the landlord and the tenant or former tenant agreed to an increase in rent under section 121 and,

- (a) the landlord has failed in whole or in part to carry out an undertaking under the agreement;
- (b) the agreement was based on work that the landlord claimed to have done but did not do; or

- (c) the agreement was based on services that the landlord claimed to have provided but did not do so. 2006, c. 17, s. 122 (1).

#### **Time limitation**

- (2) No application may be made under this section more than two years after the rent increase becomes effective. 2006, c. 17, s. 122 (2).

#### **Order**

- (3) In an application under this section, the Board may find that some or all of the rent increase above the guideline is invalid from the day on which it took effect and may order the rebate of any money consequently owing to the tenant or former tenant. 2006, c. 17, s. 122 (3).

#### **Additional services, etc.**

**123 (1)** A landlord may increase the rent charged to a tenant for a rental unit as prescribed at any time if the landlord and the tenant agree that the landlord will add any of the following with respect to the tenant's occupancy of the rental unit:

1. A parking space.
2. A prescribed service, facility, privilege, accommodation or thing. 2006, c. 17, s. 123 (1).

#### **Application**

- (2) Subsection (1) applies despite sections 116 and 119 and despite any order under paragraph 6 of subsection 30 (1). 2006, c. 17, s. 123 (2).

#### **Coerced agreement void**

**124** An agreement under section 121 or 123 is void if it has been entered into as a result of coercion or as a result of a false, incomplete or misleading representation by the landlord or an agent of the landlord. 2006, c. 17, s. 124.

#### **Decrease in services, etc.**

**125** A landlord shall decrease the rent charged to a tenant for a rental unit as prescribed if the landlord and the tenant agree that the landlord will cease to provide anything referred to in subsection 123 (1) with respect to the tenant's occupancy of the rental unit. 2006, c. 17, s. 125.

### **LANDLORD APPLICATION FOR RENT INCREASE**

#### **Application for above guideline increase**

**126 (1)** A landlord may apply to the Board for an order permitting the rent charged to be increased by more than the guideline for any or all of the rental units in a residential complex in any or all of the following cases:

1. An extraordinary increase in the cost for municipal taxes and charges for the residential complex or any building in which the rental units are located.
2. Eligible capital expenditures incurred respecting the residential complex or one or more of the rental units in it.
3. Operating costs related to security services provided in respect of the residential complex or any building in which the rental units are located by persons not employed by the landlord. 2006, c. 17, s. 126 (1); 2017, c. 13, s. 22 (1).

#### **Interpretation**

- (2) In this section,

“extraordinary increase” means extraordinary increase as defined by or determined in accordance with the regulations. 2006, c. 17, s. 126 (2).

#### **When application made**

- (3) An application under this section shall be made at least 90 days before the effective date of the first intended rent increase referred to in the application. 2006, c. 17, s. 126 (3).

#### **Summary of work yet to be completed relating to elevators**

- (3.1) The landlord shall include with an application under this section a summary of each of the following, if applicable:

1. Any item in a work order that relates to one or more elevators in the residential complex and that has not yet been completed, regardless of whether or not the compliance period has expired.
2. Any item in an order made under section 21 of the *Technical Standards and Safety Act, 2000* that relates to one or more elevators in the residential complex and that has not yet been completed, regardless of whether or not the compliance period has expired and regardless of whether the order was made against the landlord or another person or entity.

3. Any specified repairs or replacements or other work ordered by the Board under paragraph 4 of subsection 30 (1) that relates to one or more elevators in the residential complex and that has not yet been completed, regardless of whether or not the compliance period has expired. 2017, c. 13, s. 22 (2).

#### **Same**

(3.2) A summary referred to in subsection (3.1) shall include the following information:

1. A description of the work that was ordered to be carried out.
2. The person or entity who was ordered to carry out the work and the time for compliance specified in the order.
3. The person or entity who made the order and the date the order was made.
4. Such additional information as may be prescribed. 2017, c. 13, s. 22 (2).

#### **Information for tenants**

(4) If an application is made under this section that includes a claim for capital expenditures, the landlord shall make information that accompanies the application under subsection 185 (1) available to the tenants of the residential complex in accordance with the prescribed rules. 2006, c. 17, s. 126 (4).

#### **Rent chargeable before order**

(5) If an application is made under this section and the landlord has given a notice of rent increase as required, until an order authorizing the rent increase for the rental unit takes effect, the landlord shall not require the tenant to pay a rent that exceeds the lesser of,

- (a) the new rent specified in the notice; and
- (b) the greatest amount that the landlord could charge without applying for a rent increase. 2006, c. 17, s. 126 (5).

#### **Tenant may pay full amount**

(6) Despite subsection (5), the tenant may choose to pay the amount set out in the notice of rent increase pending the outcome of the landlord's application and, if the tenant does so, the landlord shall owe to the tenant any amount paid by the tenant exceeding the amount allowed by the order of the Board. 2006, c. 17, s. 126 (6).

#### **Eligible capital expenditures**

(7) Subject to subsections (8) and (9) and except under the prescribed circumstances, a capital expenditure is an eligible capital expenditure for the purposes of this section if,

- (a) it is necessary to protect or restore the physical integrity of the residential complex or part of it;
- (b) it is necessary to comply with subsection 20 (1) or clauses 161 (a) to (e);
- (c) it is necessary to maintain the provision of a plumbing, heating, mechanical, electrical, ventilation or air conditioning system;
- (d) it provides access for persons with disabilities;
- (e) it promotes energy or water conservation; or
- (f) it maintains or improves the security of the residential complex or part of it. 2006, c. 17, s. 126 (7); 2017, c. 13, s. 22 (3).

#### **Exception**

(8) A capital expenditure to replace a system or thing is not an eligible capital expenditure for the purposes of this section if the system or thing that was replaced did not require major repair or replacement, unless the replacement of the system or thing promotes,

- (a) access for persons with disabilities;
- (b) energy or water conservation; or
- (c) security of the residential complex or part of it. 2006, c. 17, s. 126 (8).

#### **Same**

(9) A capital expenditure is not an eligible capital expenditure with respect to a rental unit for the purposes of this section if a new tenant entered into a new tenancy agreement in respect of the rental unit and the new tenancy agreement took effect after the capital expenditure was completed. 2006, c. 17, s. 126 (9).

## **Order**

(10) Subject to subsections (11) to (13), in an application under this section, the Board shall make findings in accordance with the prescribed rules with respect to all of the grounds of the application and, if it is satisfied that an order permitting the rent charged to be increased by more than the guideline is justified, shall make an order,

- (a) specifying the percentage by which the rent charged may be increased in addition to the guideline; and
- (b) subject to the prescribed rules, specifying a 12-month period during which an increase permitted by clause (a) may take effect. 2006, c. 17, s. 126 (10).

## **Limitation**

(11) If the Board is satisfied that an order permitting the rent charged to be increased by more than the guideline is justified and that the percentage increase justified, in whole or in part, by operating costs related to security services and by eligible capital expenditures is more than 3 per cent,

- (a) the percentage specified under clause (10) (a) that is attributable to those costs and expenditures shall not be more than 3 per cent; and
- (b) the order made under subsection (10) shall, in accordance with the prescribed rules, specify a percentage by which the rent charged may be increased in addition to the guideline in each of the two 12-month periods following the period specified under clause (10) (b), but that percentage in each of those periods shall not be more than 3 per cent. 2006, c. 17, s. 126 (11).

## **Application of subs. (13), serious breach**

(12) Subsection (13) applies to a rental unit if the Board finds that,

- (a) the landlord,
  - (i) has not completed items in work orders for which the compliance period has expired and which are found by the Board to be related to a serious breach of a health, safety, housing or maintenance standard,
  - (ii) has not completed specified repairs or replacements or other work ordered by the Board under paragraph 4 of subsection 30 (1) for which the compliance period has expired and which are found by the Board to be related to a serious breach of the landlord's obligations under subsection 20 (1) or section 161, or
  - (iii) is in serious breach of the landlord's obligations under subsection 20 (1) or section 161; and
- (b) the rental unit is affected by,
  - (i) one or more items referred to in subclause (a) (i) that have not been completed,
  - (ii) one or more repairs or replacements or other work referred to in subclause (a) (ii) that has not been completed, or
  - (iii) a serious breach referred to in subclause (a) (iii). 2006, c. 17, s. 126 (12); 2017, c. 13, s. 22 (4).

## **Application of subs. (13), non-completion of work relating to elevators**

(12.1) Subsection (13) applies to a rental unit in a residential complex if the Board finds that,

- (a) the landlord has not completed items in work orders for which the compliance period has expired and which relate to one or more elevators in the residential complex;
- (b) the landlord or another person or entity, as applicable, has not completed items in orders made under the section 21 of the *Technical Standards and Safety Act, 2000* for which the compliance period has expired and which relate to one or more elevators in the residential complex; or
- (c) the landlord has not completed specified repairs or replacements or other work ordered by the Board under paragraph 4 of subsection 30 (1) for which the compliance period has expired and which relates to one or more elevators in the residential complex. 2017, c. 13, s. 22 (5).

## **Same**

(13) If this subsection applies to a rental unit, the Board shall,

- (a) dismiss the application with respect to the rental unit; or
- (b) provide, in any order made under subsection (10), that the rent charged for the rental unit shall not be increased pursuant to the order until the Board is satisfied, on a motion made by the landlord within the time period specified by the Board, on notice to the tenant of the rental unit, that,
  - (i) all items referred to in subclause (12) (a) (i) that affect the rental unit have been completed, if a finding was made under that subclause,

- (ii) all repairs, replacements and other work referred to in subclause (12) (a) (ii) that affect the rental unit have been completed, if a finding was made under that subclause,
- (iii) the serious breach referred to in subclause (12) (a) (iii) no longer affects the rental unit, if a finding was made under that subclause,
- (iv) all items referred to in clause (12.1) (a) have been completed, if a finding was made under that clause,
- (v) all items referred to in clause (12.1) (b) have been completed, if a finding was made under that clause, and
- (vi) all repairs, replacements and other work referred to in clause (12.1) (c) have been completed, if a finding was made under that clause. 2006, c. 17, s. 126 (13); 2017, c. 13, s. 22 (6).

#### **Order not to apply to new tenant**

(14) An order of the Board under subsection (10) with respect to a rental unit ceases to be of any effect on and after the day a new tenant enters into a new tenancy agreement with the landlord in respect of that rental unit if that agreement takes effect on or after the day that is 90 days before the first effective date of a rent increase in the order. 2006, c. 17, s. 126 (14).

#### **Non-application**

(15) Subsections (3.1), (3.2) and (12.1) and subclauses 126 (13) (b) (iv), (v) and (vi) do not apply with respect to an application under this section if the application was made before the day subsection 22 (7) of the *Rental Fairness Act, 2017* comes into force. 2017, c. 13, s. 22 (7).

#### **Transition, utilities**

(16) This section and any related regulations, as they read immediately before the day subsection 22 (1) of the *Rental Fairness Act, 2017* comes into force, continue to apply with respect to applications for an above-guideline rent increase due in whole or in part to an extraordinary increase in the cost for utilities that are made before that day and have not been finally determined before that day. 2017, c. 13, s. 22 (8).

#### **Definition**

(17) In this section,

“elevator” means an elevator intended for use by tenants. 2017, c. 13, s. 22 (9).

#### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 22 (1-9) - 01/01/2018

#### **Two ordered increases**

**127** Despite clause 126 (11) (b), if an order is made under subsection 126 (10) with respect to a rental unit and a landlord has not yet taken all the increases in rent for the rental unit permissible under a previous order pursuant to clause 126 (11) (b), the landlord may increase the rent for the rental unit in accordance with the prescribed rules. 2006, c. 17, s. 127.

### **REDUCTIONS OF RENT**

#### **Utilities**

**128** (1) This section applies with respect to an order issued under subsection 126 (10), on an application made under subsection 126 (1) before the day subsection 22 (1) of the *Rental Fairness Act, 2017* comes into force, permitting an increase in rent that is due in whole or in part to an extraordinary increase in the cost for utilities. 2017, c. 13, s. 23 (1).

#### **Information for tenant**

(2) If a landlord increases the rent charged to a tenant for a rental unit pursuant to an order described in subsection (1), the landlord shall, in accordance with the prescribed rules, provide that tenant with information on the total cost of utilities for the residential complex. 2006, c. 17, s. 128 (2).

#### **Rent reduction**

(3) If a landlord increases the rent charged to a tenant for a rental unit pursuant to an order described in subsection (1) and the cost of utilities for the residential complex decreases by more than the prescribed percentage in the prescribed period, the landlord shall reduce the rent charged to that tenant in accordance with the prescribed rules. 2006, c. 17, s. 128 (3).

#### **Application**

(4) This section ceases to apply to a tenant of a rental unit in respect of a utility if the landlord ceases to provide the utility to the rental unit in accordance with this Act or an agreement between the landlord and that tenant. 2006, c. 17, s. 128 (4).

#### **Transition, subs. (1)**

(5) Subsection (1), as it reads immediately before the day subsection 23 (1) of the *Rental Fairness Act, 2017* comes into force, continues to apply with respect to applications for an above-guideline rent increase due in whole or in part to an

extraordinary increase in the cost for utilities that are made before the day subsection 22 (1) of that Act comes into force and have not been finally determined before the day subsection 23 (1) of that Act comes into force. 2017, c. 13, s. 23 (2).

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 23 (1, 2) - 01/01/2018

**Capital expenditures**

**129** If the Board issues an order under subsection 126 (10) permitting an increase in rent that is due in whole or in part to eligible capital expenditures,

- (a) the Board shall specify in the order the percentage increase that is attributable to the eligible capital expenditures;
- (b) the Board shall specify in the order a date, determined in accordance with the prescribed rules, for the purpose of clause (c); and
- (c) the order shall require that,
  - (i) if the rent charged to a tenant for a rental unit is increased pursuant to the order by the maximum percentage permitted by the order and the tenant continues to occupy the rental unit on the date specified under clause (b), the landlord shall, on that date, reduce the rent charged to that tenant by the percentage specified under clause (a); and
  - (ii) if the rent charged to a tenant for a rental unit is increased pursuant to the order by less than the maximum percentage permitted by the order and the tenant continues to occupy the rental unit on the date specified under clause (b), the landlord shall, on that date, reduce the rent charged to that tenant by a percentage determined in accordance with the prescribed rules that is equal to or lower than the percentage specified under clause (a). 2006, c. 17, s. 129.

**Reduction in services**

**130** (1) A tenant of a rental unit may apply to the Board for an order for a reduction of the rent charged for the rental unit due to a reduction or discontinuance in services or facilities provided in respect of the rental unit or the residential complex. 2006, c. 17, s. 130 (1).

**Same, former tenant**

(2) A former tenant of a rental unit may apply under this section as a tenant of the rental unit if the person was affected by the discontinuance or reduction of the services or facilities while the person was a tenant of the rental unit. 2006, c. 17, s. 130 (2).

**Order re lawful rent**

- (3) The Board shall make findings in accordance with the prescribed rules and may order,
  - (a) that the rent charged be reduced by a specified amount;
  - (b) that there be a rebate to the tenant of any rent found to have been unlawfully collected by the landlord;
  - (c) that the rent charged be reduced by a specified amount for a specified period if there has been a temporary reduction in a service. 2006, c. 17, s. 130 (3).

**Same**

(4) An order under this section reducing rent takes effect on the day that the discontinuance or reduction first occurred. 2006, c. 17, s. 130 (4).

**Same, time limitation**

(5) No application may be made under this section more than one year after a reduction or discontinuance in a service or facility. 2006, c. 17, s. 130 (5).

**Municipal taxes**

**131** (1) If the municipal property tax for a residential complex is reduced by more than the prescribed percentage, the lawful rent for each of the rental units in the complex is reduced in accordance with the prescribed rules. 2006, c. 17, s. 131 (1).

**Effective date**

(2) The rent reduction shall take effect on the date determined by the prescribed rules, whether or not notice has been given under subsection (3). 2006, c. 17, s. 131 (2).

**Notice**

(3) If, for a residential complex with at least the prescribed number of rental units, the rents that the tenants are required to pay are reduced under subsection (1), the local municipality in which the residential complex is located shall, within the

prescribed period and by the prescribed method of service, notify the landlord and all of the tenants of the residential complex of that fact. 2006, c. 17, s. 131 (3).

**Same**

- (4) The notice shall be in writing in a form approved by the Board and shall,
- (a) inform the tenants that their rent is reduced;
  - (b) set out the percentage by which their rent is reduced and the date the reduction takes effect;
  - (c) inform the tenants that if the rent is not reduced in accordance with the notice they may apply to the Board under section 135 for the return of money illegally collected; and
  - (d) advise the landlord and the tenants of their right to apply for an order under section 132. 2006, c. 17, s. 131 (4).

**Same**

- (5) A local municipality that gives a notice under this section shall, on request, give a copy to the Board or to the Ministry. 2006, c. 17, s. 131 (5).

**Application for variation**

**132 (1)** A landlord or a tenant may apply to the Board under the prescribed circumstances for an order varying the amount by which the rent charged is to be reduced under section 131. 2006, c. 17, s. 132 (1).

**Same**

- (2) An application under subsection (1) must be made within the prescribed time. 2006, c. 17, s. 132 (2).

**Determination and order**

- (3) The Board shall determine an application under this section in accordance with the prescribed rules and shall issue an order setting out the percentage of the rent reduction. 2006, c. 17, s. 132 (3).

**Same**

- (4) An order under this section shall take effect on the effective date determined under subsection 131 (2). 2006, c. 17, s. 132 (4).

**Application, reduction in municipal taxes**

**133 (1)** A tenant of a rental unit may apply to the Board for an order for a reduction of the rent charged for the rental unit due to a reduction in the municipal taxes and charges for the residential complex. 2006, c. 17, s. 133 (1).

**Order**

- (2) The Board shall make findings in accordance with the prescribed rules and may order that the rent charged for the rental unit be reduced. 2006, c. 17, s. 133 (2).

**Effective date**

- (3) An order under this section takes effect on a date determined in accordance with the prescribed rules. 2006, c. 17, s. 133 (3).

**ILLEGAL ADDITIONAL CHARGES**

**Additional charges prohibited**

**134 (1)** Unless otherwise prescribed, no landlord shall, directly or indirectly, with respect to any rental unit,

- (a) collect or require or attempt to collect or require from a tenant, prospective tenant or former tenant of the rental unit a fee, premium, commission, bonus, penalty, key deposit or other like amount of money whether or not the money is refundable;
- (b) require or attempt to require a tenant or prospective tenant to pay any consideration for goods or services as a condition for granting the tenancy or continuing to permit occupancy of a rental unit if that consideration is in addition to the rent the tenant is lawfully required to pay to the landlord; or
- (c) rent any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent the landlord may lawfully charge for the rental unit. 2006, c. 17, s. 134 (1); 2017, c. 13, s. 24 (1).

**Same**

(1.1) No landlord shall, directly or indirectly, with respect to any rental unit, collect or require or attempt to collect or require from a former tenant of the rental unit any amount of money purporting to be rent in respect of,

- (a) any period after the tenancy has terminated and the tenant has vacated the rental unit; or

- (b) any period after the tenant's interest in the tenancy has terminated and the tenant has vacated the rental unit. 2017, c. 13, s. 24 (2).

**Same**

(2) No superintendent, property manager or other person who acts on behalf of a landlord with respect to a rental unit shall, directly or indirectly, with or without the authority of the landlord, do any of the things prohibited under clause (1) (a), (b) or (c) or subsection (1.1) with respect to that rental unit. 2006, c. 17, s. 134 (2); 2017, c. 13, s. 24 (3).

**Same**

- (3) Unless otherwise prescribed, no tenant and no person acting on behalf of the tenant shall, directly or indirectly,
- (a) sublet a rental unit for a rent that is payable by one or more subtenants and that is greater than the rent that is lawfully charged by the landlord for the rental unit;
  - (b) collect or require or attempt to collect or require from any person any fee, premium, commission, bonus, penalty, key deposit or other like amount of money, for subletting a rental unit, for surrendering occupancy of a rental unit or for otherwise parting with possession of a rental unit; or
  - (c) require or attempt to require a person to pay any consideration for goods or services as a condition for the subletting, assignment or surrender of occupancy or possession in addition to the rent the person is lawfully required to pay to the tenant or landlord. 2006, c. 17, s. 134 (3).

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 24 (1) - 01/01/2018; 2017, c. 13, s. 24 (2, 3) - 30/05/2017

**MONEY COLLECTED ILLEGALLY**

**Money collected illegally**

**135** (1) A tenant or former tenant of a rental unit may apply to the Board for an order that the landlord, superintendent or agent of the landlord pay to the tenant any money the person collected or retained in contravention of this Act or the *Tenant Protection Act, 1997*. 2006, c. 17, s. 135 (1).

**Failure to compensate under s. 48.1, 49.1, 52, 54 or 55**

(1.1) Without limiting the generality of subsection (1), a landlord is deemed to have retained money in contravention of this Act, if the landlord is required to compensate a tenant under section 48.1, 49.1, 52, 54 or 55 and fails to compensate the tenant as required. 2017, c. 13, s. 25; 2020, c. 16, Sched. 4, s. 23.

**Prospective tenants**

(2) A prospective tenant may apply to the Board for an order under subsection (1). 2006, c. 17, s. 135 (2).

**Subtenants**

(3) A subtenant may apply to the Board for an order under subsection (1) as if the subtenant were the tenant and the tenant were the landlord. 2006, c. 17, s. 135 (3).

**Time limitation**

(4) No order shall be made under this section with respect to an application filed more than one year after the person collected or retained money in contravention of this Act or the *Tenant Protection Act, 1997*. 2006, c. 17, s. 135 (4).

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 25 - 01/09/2017

2020, c. 16, Sched. 4, s. 23 - 21/07/2020

**Rent increase deemed not void**

**135.1** (1) An increase in rent that would otherwise be void under subsection 116 (4) is deemed not to be void if the tenant has paid the increased rent in respect of each rental period for at least 12 consecutive months. 2020, c. 16, Sched. 4, s. 24.

**Non-application**

(2) Subsection (1) does not apply with respect to an increase in rent if the tenant has, within one year after the date the increase was first charged, made an application in which the validity of the rent increase is in issue. 2020, c. 16, Sched. 4, s. 24.

**Deemed compliance with s. 116**

(3) For greater certainty, if subsection (1) applies with respect to an increase in rent, section 116 is deemed to have been complied with. 2020, c. 16, Sched. 4, s. 24.

### **Application of s. 136**

(4) For greater certainty, nothing in this section limits the application of section 136. 2020, c. 16, Sched. 4, s. 24.

### **Transition**

(5) This section applies with respect to an increase in rent even if it was first charged before the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent, provided the validity of the rent increase was not finally determined by the Board before that day. 2020, c. 16, Sched. 4, s. 24.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 24 - 21/07/2020

### **Rent deemed lawful**

**136** (1) Rent charged one or more years earlier shall be deemed to be lawful rent unless an application has been made within one year after the date that amount was first charged and the lawfulness of the rent charged is in issue in the application. 2006, c. 17, s. 136 (1).

### **Increase deemed lawful**

(2) An increase in rent shall be deemed to be lawful unless an application has been made within one year after the date the increase was first charged and the lawfulness of the rent increase is in issue in the application. 2006, c. 17, s. 136 (2).

### **s. 122 prevails**

(3) Nothing in this section shall be interpreted to deprive a tenant of the right to apply for and get relief in an application under section 122 within the time period set out in that section. 2006, c. 17, s. 136 (3).

## **PART VII.1 RENT FREEZE, 2021**

### **Rent freeze period**

#### **Definition**

**136.1** (1) In this section,

“rent freeze period” means the period that begins on January 1, 2021 and ends on December 31, 2021. 2020, c. 23, Sched. 7, s. 2.

### **Non-application, certain rent increases**

(2) This section does not apply with respect to,

- (a) accommodation described in clause 6 (1) (a) or (b);
- (b) an increase in rent for a rental unit taken in accordance with an agreement under section 121 or 123;
- (c) an increase in rent for a rental unit permitted under subsection 126 (10) or section 127 for,
  - (i) an extraordinary increase in the cost for municipal taxes and charges as described in paragraph 1 of subsection 126 (1), if the increase in rent is permitted by an order of the Board that was issued before the day the *Helping Tenants and Small Businesses Act, 2020* receives Royal Assent,
  - (ii) eligible capital expenditures as described in paragraph 2 of subsection 126 (1), or
  - (iii) operating costs related to security services as described in paragraph 3 of subsection 126 (1); or
- (d) an increase in rent payable by an assignee under a tenancy agreement for a site for a mobile home or a site on which there is a land lease home in accordance with section 165. 2020, c. 23, Sched. 7, s. 2.

### **No rent increase during rent freeze period**

(3) No landlord shall increase the rent charged to a tenant during the rent freeze period, even if notice of the increase was given before the day the *Helping Tenants and Small Businesses Act, 2020* receives Royal Assent. 2020, c. 23, Sched. 7, s. 2.

### **Clarification, notice during rent freeze period**

(4) For greater certainty, nothing in subsection (3) prohibits a landlord from giving a notice during the rent freeze period of a rent increase that takes effect after the rent freeze period. 2020, c. 23, Sched. 7, s. 2.

### **Conflict, *Housing Services Act, 2011*, rent geared to income**

(5) For greater certainty, in the event of a conflict between this section and a regulation made under section 50 of the *Housing Services Act, 2011*, this section prevails. 2020, c. 23, Sched. 7, s. 2.

### **Section Amendments with date in force (d/m/y)**

## **PART VIII SUITE METERS AND APPORTIONMENT OF UTILITY COSTS**

### **Suite meters**

**137** (1) In this section,

“meter” has the same meaning as in Part III of the *Energy Consumer Protection Act, 2010*; (“compteur”)

“suite meter” has the same meaning as in Part III of the *Energy Consumer Protection Act, 2010*; (“compteur individuel”)

“suite meter provider” has the same meaning as in Part III of the *Energy Consumer Protection Act, 2010*. (“fournisseur de compteurs individuels”) 2010, c. 8, s. 39 (1).

### **Interruption in supply**

(2) A landlord who has the obligation under a tenancy agreement to supply electricity may interrupt the supply of electricity to a rental unit when a suite meter is installed if,

- (a) the suite meter is installed by a suite meter provider;
- (b) the supply of electricity is interrupted only for the minimum length of time necessary to install the suite meter; and
- (c) the landlord provides adequate notice to the tenant in accordance with the prescribed rules. 2010, c. 8, s. 39 (1).

### **Termination of obligation to supply electricity**

(3) Subject to subsections (4) and (5), if a meter or a suite meter is installed in respect of a rental unit, a landlord who has the obligation under a tenancy agreement to supply electricity to the rental unit may terminate that obligation by,

- (a) obtaining the written consent of the tenant in the form approved by the Board;
- (b) providing adequate notice of the termination of the obligation to the tenant in accordance with the prescribed rules; and
- (c) reducing the rent, in the prescribed circumstances and in accordance with the prescribed rules, by an amount that accounts for the cost of electricity consumption and related costs. 2010, c. 8, s. 39 (1).

### **Information for tenants**

(4) A landlord shall not terminate an obligation to supply electricity under subsection (3) unless, before obtaining the written consent of the tenant, the landlord has provided the tenant with the prescribed information. 2010, c. 8, s. 39 (1).

### **Limitation**

(5) Where the primary source of heat in the unit is generated by means of electricity, a landlord may terminate an obligation to supply electricity under subsection (3) in the prescribed circumstances, solely if the landlord meets the prescribed conditions. 2010, c. 8, s. 39 (1).

### **Revising agreements**

(6) The tenant may, within the prescribed time and in the prescribed circumstances, request that the landlord adjust the rent reduction provided under subsection (3) based on the prescribed rules and the landlord shall adjust the rent and provide a rebate based on the prescribed rules. 2010, c. 8, s. 39 (1).

(7), (8) REPEALED: 2020, c. 16, Sched. 4, s. 25 (1).

### **Electricity conservation and efficiency obligations**

(9) If a suite meter is installed in respect of a rental unit and the obligation of the landlord to supply electricity has been terminated, the landlord shall, in accordance with the prescribed rules,

- (a) ensure that any appliances provided for the rental unit by the landlord satisfy the prescribed requirements relating to electricity conservation and efficiency;
- (b) ensure that other aspects of the rental unit satisfy the prescribed requirements relating to electricity conservation and efficiency; and
- (c) ensure that other prescribed requirements relating to electricity conservation and efficiency are complied with. 2010, c. 8, s. 39 (1).

### **Same, other prescribed circumstances**

(10) If a meter or a suite meter is installed in respect of a rental unit, a landlord shall comply with the electricity conservation and efficiency obligations referred to in subsection (9) in such other circumstances as are prescribed. 2010, c. 8, s. 39 (1).

### **Tenant's application**

(11) A tenant or a former tenant of a rental unit may apply to the Board in the prescribed circumstances for an order determining whether the landlord has breached an obligation under this section. 2010, c. 8, s. 39 (1).

### **Order, general**

(12) If the Board determines in an application under subsection (11) that a landlord has breached an obligation under subsection (2), (6), (9) or (10), the Board may do one or more of the following:

1. Order an abatement of rent.
2. Authorize a repair or replacement that has been or is to be made, or work that has been or is to be done, and order its cost to be paid by the landlord to the tenant.
3. Order the landlord to do specified repairs or replacements or other work within a specified time.
4. Order that the rent charged be reduced by a specified amount and order the appropriate rebate.
5. Make any other order that it considers appropriate. 2010, c. 8, s. 39 (1); 2020, c. 16, Sched. 4, s. 25 (2).

### **Order, breach of subs. (3), (4) or (5)**

(13) If the Board determines in an application under subsection (11) that a landlord has breached an obligation under subsection (3), (4) or (5), the Board may, in addition to the remedies set out in subsection (12), do one or more of the following:

1. Terminate the tenancy.
2. Order that the landlord assume the obligation to supply electricity to the rental unit and set the new rent that can be charged. 2010, c. 8, s. 39 (1).

### **Eviction with termination order**

(14) If the Board makes an order terminating a tenancy under paragraph 1 of subsection (13), the Board may order that the tenant be evicted, effective not earlier than the termination date specified in the order. 2010, c. 8, s. 39 (1).

### **Determination re capital expenditures**

(15) Except under the prescribed circumstances, for the purpose of section 126, a capital expenditure is not an eligible capital expenditure if,

- (a) a meter or a suite meter was installed in respect of a residential complex before the capital expenditure was made;
- (b) the capital expenditure failed to promote the conservation of electricity or the more efficient use of electricity; and
- (c) the purpose for which the capital expenditure was made could reasonably have been achieved by making a capital expenditure that promoted the conservation of electricity or the more efficient use of electricity. 2010, c. 8, s. 39 (1).

### **Charges, fees and security deposits**

(16) Where a meter or suite meter is installed in respect of a rental unit and the tenant is responsible for the payment for the supply of electricity, sections 134 and 135 have no application to charges, fees or security deposits that are required to be paid for the supply of electricity and any amount paid for the supply of electricity shall not be considered to be an amount of consideration or a service that falls within the definition of "rent" in subsection 2 (1). 2010, c. 8, s. 39 (1).

### **Interference with a vital service, reasonable enjoyment**

(17) Where a meter or a suite meter is installed in respect of a rental unit and the tenant is responsible for the payment for the supply of electricity and a landlord, landlord's agent or a suite meter provider is attempting to enforce the rights or obligations afforded them under this section or under section 31 of the *Electricity Act, 1998*, electricity is deemed not to be a vital service within the meaning of section 21 and any interference with the supply of electricity is deemed not to be an interference with the tenant's reasonable enjoyment within the meaning of sections 22 and 235. 2010, c. 8, s. 39 (1).

### **Lease provisions void**

(18) A provision in a tenancy agreement which purports to provide that a tenant has consented or will consent to the termination of the obligation of the landlord to supply electricity to the rental unit on a future date or otherwise purports to provide terms which are inconsistent with the provisions contained in this section is void. 2010, c. 8, s. 39 (1).

### **Transition, *Protecting Tenants and Strengthening Community Housing Act, 2020***

(19) This section and any related regulations, as they read immediately before the day the *Protecting Tenants and Strengthening Community Housing Act, 2020* receives Royal Assent, continue to apply with respect to tenancy agreements that were entered into before that day. 2020, c. 16, Sched. 4, s. 25 (3).

### **Section Amendments with date in force (d/m/y)**

2010, c. 8, s. 39 (1) - 01/01/2011

2020, c. 16, Sched. 4, s. 25 (1-3) - 21/07/2020

### **Apportionment of utility costs**

**138** (1) A landlord of a building containing not more than six rental units who supplies a utility to each of the rental units in the building may, with the written consent of the tenant, charge the tenant a portion of the cost of the utility in accordance with the prescribed rules if,

- (a) the landlord provides adequate notice to the tenant in accordance with the prescribed rules; and
- (b) the rent for the rental unit is reduced in accordance with the prescribed rules. 2010, c. 8, s. 39 (1).

### **Not a service**

(2) If a landlord charges a tenant a portion of the cost of a utility in accordance with subsection (1), the utility shall not be considered a service that falls within the definition of “rent” in subsection 2 (1). 2010, c. 8, s. 39 (1).

### **Termination of tenancy prohibited**

(3) If a landlord charges a tenant a portion of the cost of a utility in accordance with subsection (1), the landlord shall not serve a notice of termination under section 59 or make an application to the Board for an order under section 69 or 87 if the notice or application is based on the tenant’s failure to pay the utility charge. 2010, c. 8, s. 39 (1).

### **Information for prospective tenants**

(4) If a landlord charges tenants a portion of the cost of a utility, the landlord shall, before entering into a tenancy agreement with a prospective tenant, provide the prospective tenant with the following information:

1. The portion of the cost of the utility that is applicable to the rental unit that would be occupied by the prospective tenant, expressed as a percentage of the total cost of the utility.
2. The total cost of the utility for the building for the prescribed period for which the landlord has information on the cost of the utility.
3. If any part of the building was vacant during any part of the period to which the information referred to in paragraph 2 applies, a statement of which part of the building was vacant and of the period that it was vacant.
4. Such other information as is prescribed. 2010, c. 8, s. 39 (1).

### **Utility conservation and efficiency obligations**

(5) If a landlord charges a tenant a portion of the cost of a utility, the landlord shall, in accordance with the prescribed rules,

- (a) ensure that any appliances provided by the landlord satisfy the prescribed requirements relating to conservation and efficient use of the utility;
- (b) ensure that other aspects of the rental unit satisfy the prescribed requirements relating to conservation and efficient use of the utility; and
- (c) ensure that other prescribed requirements relating to conservation and efficient use of the utility are complied with. 2010, c. 8, s. 39 (1).

### **Tenant’s application**

(6) A tenant or a former tenant of a rental unit may apply to the Board in the prescribed circumstances for an order determining whether the landlord has breached an obligation under this section. 2010, c. 8, s. 39 (1).

### **Order, general**

(7) If the Board determines in an application under subsection (6) that a landlord has breached an obligation under subsection (4) or (5), the Board may do one or more of the following:

1. Order an abatement of rent.
2. Authorize a repair or replacement that has been or is to be made, or work that has been or is to be done, and order its cost to be paid by the landlord to the tenant.
3. Order the landlord to do specified repairs or replacements or other work within a specified time.
4. Order that the rent charged be reduced by a specified amount and order the appropriate rebate.
5. Make any other order that it considers appropriate. 2010, c. 8, s. 39 (1).

### **Order, breach of subs. (1)**

(8) If the Board determines in an application under subsection (6) that a landlord has breached an obligation under subsection (1), the Board may, in addition to the remedies set out in subsection (7), do one or more of the following:

1. Terminate the tenancy.
2. Order that the landlord assume the obligation to supply the utility to the rental unit and set the new rent that can be charged. 2010, c. 8, s. 39 (1).

#### **Eviction with termination order**

(9) If the Board makes an order terminating a tenancy under paragraph 1 of subsection (8), the Board may order that the tenant be evicted, effective not earlier than the termination date specified in the order. 2010, c. 8, s. 39 (1).

#### **Determination re capital expenditures**

- (10) For the purpose of section 126, a capital expenditure is not an eligible capital expenditure if,
- (a) the landlord charged tenants a portion of the cost of a utility before the capital expenditure was made;
  - (b) the capital expenditure failed to promote the conservation or more efficient use of the utility; and
  - (c) the purpose for which the capital expenditure was made could reasonably have been achieved by making a capital expenditure that promoted the conservation or more efficient use of the utility. 2010, c. 8, s. 39 (1).

#### **Section Amendments with date in force (d/m/y)**

2010, c. 8, s. 39 (1) - 01/01/2011

## **PART IX CARE HOMES**

### **RESPONSIBILITIES OF LANDLORDS AND TENANTS**

#### **Agreement required**

**139** (1) There shall be a written tenancy agreement relating to the tenancy of every tenant in a care home. 2006, c. 17, s. 139 (1).

#### **Contents of agreement**

(2) The agreement shall set out what has been agreed to with respect to care services and meals and the charges for them. 2006, c. 17, s. 139 (2).

#### **Compliance**

(3) If, on application by a tenant, the Board determines that subsection (1) or (2) has not been complied with, the Board may make an order for an abatement of rent. 2006, c. 17, s. 139 (3).

#### **Information to tenant**

**140** (1) Before entering into a tenancy agreement with a new tenant in a care home, the landlord shall give to the new tenant an information package containing the prescribed information. 2006, c. 17, s. 140 (1).

#### **Effect of non-compliance**

(2) The landlord shall not give a notice of rent increase or a notice of increase of a charge for providing a care service or meals until after giving the required information package to the tenant. 2006, c. 17, s. 140 (2).

#### **Tenancy agreement: consultation, cancellation**

##### **Tenancy agreement: right to consult**

**141** (1) Every tenancy agreement relating to the tenancy of a tenant in a care home shall contain a statement that the tenant has the right to consult a third party with respect to the agreement and to cancel the agreement within five days after the agreement has been entered into. 2006, c. 17, s. 141 (1).

##### **Cancellation**

(2) The tenant may cancel the tenancy agreement by written notice to the landlord within five days after entering into it. 2006, c. 17, s. 141 (2).

##### **Entry to check condition of tenant**

**142** (1) Despite section 25, a landlord may enter a rental unit in a care home at regular intervals to check the condition of a tenant in accordance with the tenancy agreement if the agreement requires the landlord to do so. 2006, c. 17, s. 142 (1).

##### **Right to revoke provision**

(2) A tenant whose tenancy agreement contains a provision requiring the landlord to regularly check the condition of the tenant may unilaterally revoke that provision by written notice to the landlord. 2006, c. 17, s. 142 (2).

### **Assignment, subletting in care homes**

**143** A landlord may withhold consent to an assignment or subletting of a rental unit in a care home if the effect of the assignment or subletting would be to admit a person to the care home contrary to the admission requirements or guidelines set by the landlord. 2006, c. 17, s. 143.

### **Notice of termination**

**144** (1) A landlord may, by notice, terminate the tenancy of a tenant in a care home if,

- (a) the rental unit was occupied solely for the purpose of receiving rehabilitative or therapeutic services agreed upon by the tenant and the landlord;
- (b) no other tenant of the care home occupying a rental unit solely for the purpose of receiving rehabilitative or therapeutic services is permitted to live there for longer than the prescribed period; and
- (c) the period of tenancy agreed to has expired. 2006, c. 17, s. 144 (1).

### **Period of notice**

(2) The date for termination specified in the notice shall be at least the number of days after the date the notice is given that is set out in section 44 and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term. 2006, c. 17, s. 144 (2).

### **Termination, care homes**

**145** (1) Despite section 44, a tenant of a care home may terminate a tenancy at any time by giving at least 30 days notice of termination to the landlord. 2006, c. 17, s. 145 (1).

### **Care services and meals**

(2) A tenant who terminates a tenancy under subsection (1) may require the landlord to stop the provision of care services and meals before the date the tenancy terminates by giving at least 10 days notice to the landlord. 2006, c. 17, s. 145 (2).

### **Same**

(3) The tenant has no obligation to pay for care services and meals that would otherwise have been provided under the tenancy agreement after the date the landlord is required to stop the provision of care services and meals under subsection (2). 2006, c. 17, s. 145 (3).

### **Same**

(4) The estate of a tenant has no obligation to pay for care services and meals that would otherwise have been provided under the tenancy agreement more than 10 days after the death of the tenant. 2006, c. 17, s. 145 (4).

### **Notice of termination, demolition, conversion or repairs**

**146** (1) A landlord who gives a tenant of a care home a notice of termination under section 50 shall make reasonable efforts to find appropriate alternate accommodation for the tenant. 2006, c. 17, s. 146 (1).

### **Same**

(2) Sections 52 and 54 do not apply with respect to a tenant of a care home who receives a notice of termination under section 50 and chooses to take alternate accommodation found by the landlord for the tenant under subsection (1). 2006, c. 17, s. 146 (2); 2009, c. 33, Sched. 21, s. 11 (7).

### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 21, s. 11 (7) - 15/12/2009

### **External care providers**

**147** A landlord shall not,

- (a) do anything to prevent a tenant of a care home from obtaining care services from a person of the tenant's choice that are in addition to care services provided under the tenancy agreement; or
- (b) interfere with the provision of care services to a tenant of a care home, by a person of the tenant's choice, that are in addition to care services provided under the tenancy agreement. 2006, c. 17, s. 147.

## **TRANSFERRING TENANCY**

### **Transferring tenancy**

#### **Application**

**148** (1) A landlord may apply to the Board for an order transferring a tenant out of a care home and evicting the tenant if,

- (a) the tenant no longer requires the level of care provided by the landlord; or

(b) the tenant requires a level of care that the landlord is not able to provide. 2006, c. 17, s. 148 (1).

#### **Order**

(2) The Board may issue an order under clause (1) (b) only if it is satisfied that,

(a) appropriate alternate accommodation is available for the tenant; and

(b) the level of care that the landlord is able to provide when combined with the community based services provided to the tenant in the care home cannot meet the tenant's care needs. 2006, c. 17, s. 148 (2).

#### **Mandatory mediation**

(3) If a dispute arises, the dispute shall be sent to mediation before the Board makes an order. 2006, c. 17, s. 148 (3).

#### **Same**

(4) If the landlord fails to participate in the mediation, the Board may dismiss the landlord's application. 2006, c. 17, s. 148 (4).

### **RULES RELATED TO RENT AND OTHER CHARGES**

#### **Rent in care home**

**149** If there is more than one tenancy agreement for a rental unit in a care home, the provisions of Part VII apply with respect to each tenancy agreement as if it were an agreement for a separate rental unit. 2006, c. 17, s. 149; 2017, c. 13, s. 26.

#### **Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 26 - 30/05/2017

#### **Notice of increased charges**

**150** (1) A landlord shall not increase a charge for providing a care service or meals to a tenant of a rental unit in a care home without first giving the tenant at least 90 days notice of the landlord's intention to do so. 2006, c. 17, s. 150 (1).

#### **Contents of notice**

(2) The notice shall be in writing in the form approved by the Board and shall set out the landlord's intention to increase the charge and the new charges for care services and meals. 2006, c. 17, s. 150 (2).

#### **Effect of non-compliance**

(3) An increase in a charge for a care service or meals is void if the landlord has not given the notice required by this section, and the landlord must give a new notice before the landlord can take the increase. 2006, c. 17, s. 150 (3).

#### **Certain charges permitted**

**151** (1) Nothing in subsection 134 (1) limits the right of a landlord to charge a tenant of a rental unit in a care home for providing care services or meals to the tenant so long as the landlord has complied with the requirements of sections 140 and 150. 2006, c. 17, s. 151 (1).

#### **Same**

(2) Nothing in subsection 134 (3) limits the right of a tenant or a person acting on behalf of a tenant to charge a subtenant of a rental unit in a care home for providing care services or meals to the subtenant. 2006, c. 17, s. 151 (2).

### **PART X**

### **MOBILE HOME PARKS AND LAND LEASE COMMUNITIES**

#### **GENERAL**

#### **Application**

**152** (1) This Part applies with respect to tenancies in mobile home parks. 2006, c. 17, s. 152 (1).

#### **Same; land lease communities**

(2) This Part applies with necessary modifications with respect to tenancies in land lease communities, as if the tenancies were in mobile home parks. 2006, c. 17, s. 152 (2).

#### **Interpretation**

**153** A reference in this Part to a tenant's mobile home shall be interpreted to be a reference to a mobile home owned by the tenant and situated within a mobile home park of the landlord with whom the tenant has a tenancy agreement. 2006, c. 17, s. 153.

## RESPONSIBILITIES OF LANDLORDS AND TENANTS

### **Park rules**

**154** (1) If a landlord establishes rules for a mobile home park,

- (a) the landlord shall provide a written copy of the rules to each tenant; and
- (b) the landlord shall inform each tenant in writing of any change to the rules. 2006, c. 17, s. 154 (1).

### **Failure to comply**

(2) Until a landlord has complied with clause (1) (a) or (b), as the case may be,

- (a) the tenant's obligation to pay rent is suspended; and
- (b) the landlord shall not require the tenant to pay rent. 2006, c. 17, s. 154 (2).

### **After compliance**

(3) After the landlord has complied with clause (1) (a) or (b), as the case may be, the landlord may require the tenant to pay any rent withheld by the tenant under subsection (2). 2006, c. 17, s. 154 (3).

### **Information about property assessment**

**155** (1) If a tenant is obligated to pay a landlord an amount to reimburse the landlord for property taxes paid by the landlord with respect to a mobile home owned by the tenant and the landlord obtains information from the Municipal Property Assessment Corporation with respect to the value of the mobile home for assessment purposes, the landlord shall promptly provide the tenant with a copy of that information. 2006, c. 17, s. 155 (1).

### **Suspension of tenant's obligation to pay**

(2) A tenant's obligation to pay the landlord an amount to reimburse the landlord for property taxes paid by the landlord with respect to a mobile home owned by the tenant is suspended, and the landlord shall not require the tenant to pay that amount, if,

- (a) the landlord has failed to comply with subsection (1) with respect to the most recent information obtained by the landlord from the Municipal Property Assessment Corporation; or
- (b) the landlord has not, in the previous 12 months, obtained written information from the Municipal Property Assessment Corporation with respect to the value of the mobile home for assessment purposes. 2006, c. 17, s. 155 (2).

### **Exception**

(3) Clause (2) (b) does not apply if the landlord has made reasonable efforts in the previous 12 months to obtain written information from the Municipal Property Assessment Corporation with respect to the value of the mobile home for assessment purposes but has been unable to obtain the information. 2006, c. 17, s. 155 (3).

### **After compliance**

(4) The landlord may require the tenant to pay any amount withheld by the tenant under subsection (2) after,

- (a) complying with subsection (1), if clause (2) (a) applied; or
- (b) obtaining written information from the Municipal Property Assessment Corporation with respect to the value of the mobile home for assessment purposes and complying with subsection (1), if clause (2) (b) applied. 2006, c. 17, s. 155 (4).

### **Tenant's right to sell, etc.**

**156** (1) A tenant has the right to sell or lease his or her mobile home without the landlord's consent. 2006, c. 17, s. 156 (1).

### **Landlord as agent**

(2) A landlord may act as the agent of a tenant in negotiations to sell or lease a mobile home only in accordance with a written agency contract entered into for the purpose of beginning those negotiations. 2006, c. 17, s. 156 (2).

### **Same**

(3) A provision in a tenancy agreement requiring a tenant who owns a mobile home to use the landlord as an agent for the sale of the mobile home is void. 2006, c. 17, s. 156 (3).

### **Landlord's right of first refusal**

**157** (1) This section applies if a tenancy agreement with respect to a mobile home contains a provision prohibiting the tenant from selling the mobile home without first offering to sell it to the landlord. 2006, c. 17, s. 157 (1).

### **Same**

(2) If a tenant receives an acceptable offer to purchase a mobile home, the landlord has a right of first refusal to purchase the mobile home at the price and subject to the terms and conditions in the offer. 2006, c. 17, s. 157 (2).

### **Same**

(3) A tenant shall give a landlord at least 72 hours notice of a person's offer to purchase a mobile home before accepting the person's offer. 2006, c. 17, s. 157 (3).

### **Landlord's purchase at reduced price**

(4) If a provision described in subsection (1) permits a landlord to purchase a mobile home at a price that is less than the one contained in a prospective purchaser's offer to purchase, the landlord may exercise the option to purchase the mobile home, but the provision is void with respect to the landlord's right to purchase the mobile home at the lesser price. 2006, c. 17, s. 157 (4).

### **Advertising a sale**

#### **For sale signs**

**158** (1) A landlord shall not prevent a tenant who owns a mobile home from placing in a window of the mobile home a sign that the home is for sale, unless the landlord does so in accordance with subsection (2). 2006, c. 17, s. 158 (1).

#### **Alternative method of advertising a sale**

(2) A landlord may prevent a tenant who owns a mobile home from placing a for sale sign in a window of a mobile home if all of the following conditions are met:

1. The prohibition applies to all tenants in the mobile home park.
2. The landlord provides a bulletin board for the purpose of placing for sale advertisements.
3. The bulletin board is provided to all tenants in the mobile home park free of charge.
4. The bulletin board is placed in a prominent place and is accessible to the public at all reasonable times. 2006, c. 17, s. 158 (2).

### **Assignment**

**159** (1) If a tenant has sold or entered into an agreement to sell the tenant's mobile home and the tenant asks the landlord to consent to the assignment of the site for the mobile home to the purchaser of the mobile home,

- (a) clause 95 (3) (c) does not apply; and
- (b) the landlord may not refuse consent to the assignment unless, on application under subsection (2), the Board determines that the landlord's grounds for refusing consent are reasonable. 2006, c. 17, s. 159 (1).

### **Time for application**

(2) The landlord may apply to the Board, within 15 days after the tenant asks the landlord to consent to the assignment, for a determination of whether the landlord's grounds for refusing consent are reasonable. 2006, c. 17, s. 159 (2).

### **Contents of application**

(3) The landlord shall set out in the application the landlord's grounds for refusing consent. 2006, c. 17, s. 159 (3).

### **Deemed consent**

(4) If the landlord does not apply to the Board in accordance with subsections (2) and (3), or the Board determines that the landlord's grounds for refusing consent are not reasonable, the landlord shall be deemed to have consented to the assignment. 2006, c. 17, s. 159 (4).

### **Restraint of trade prohibited**

**160** (1) A landlord shall not restrict the right of a tenant to purchase goods or services from the person of his or her choice, except as provided in subsection (2). 2006, c. 17, s. 160 (1).

### **Standards**

(2) A landlord may set reasonable standards for mobile home equipment. 2006, c. 17, s. 160 (2).

### **Responsibility of landlord**

**161** In addition to a landlord's obligations under section 20, a landlord is responsible for,

- (a) removing or disposing of garbage or ensuring the availability of a means for removing or disposing of garbage in the mobile home park at reasonable intervals;
- (b) maintaining mobile home park roads in a good state of repair;

- (c) removing snow from mobile home park roads;
- (d) maintaining the water supply, sewage disposal, fuel, drainage and electrical systems in the mobile home park in a good state of repair;
- (e) maintaining the mobile home park grounds and all buildings, structures, enclosures and equipment intended for the common use of tenants in a good state of repair; and
- (f) repairing damage to a tenant's property, if the damage is caused by the wilful or negligent conduct of the landlord. 2006, c. 17, s. 161.

## TERMINATION OF TENANCIES

### **Mobile home abandoned**

**162** (1) This section applies if,

- (a) the tenant has vacated the mobile home in accordance with,
  - (i) a notice of termination of the landlord or the tenant,
  - (ii) an agreement between the landlord and tenant to terminate the tenancy, or
  - (iii) an order of the Board terminating the tenancy or evicting the tenant; or
- (b) the landlord has applied for an order under section 79 and the Board has made an order terminating the tenancy. 2006, c. 17, s. 162 (1).

### **Notice to tenant**

- (2) The landlord shall not dispose of a mobile home without first notifying the tenant of the landlord's intention to do so,
  - (a) by registered mail, sent to the tenant's last known mailing address; and
  - (b) by causing a notice to be published in a newspaper having general circulation in the locality in which the mobile home park is located. 2006, c. 17, s. 162 (2).

### **Landlord may dispose of mobile home**

(3) The landlord may sell, retain for the landlord's own use or dispose of a mobile home in the circumstances described in subsection (1) beginning 60 days after the notices referred to in subsection (2) have been given if the tenant has not made a claim with respect to the landlord's intended disposal. 2006, c. 17, s. 162 (3).

### **Same**

- (4) If, within six months after the day the notices have been given under subsection (2), the tenant makes a claim for a mobile home which the landlord has already sold, the landlord shall pay to the tenant the amount by which the proceeds of sale exceed the sum of,
  - (a) the landlord's reasonable out-of-pocket expenses incurred with respect to the mobile home; and
  - (b) any arrears of rent of the tenant. 2006, c. 17, s. 162 (4).

### **Same**

(5) If, within six months after the day the notices have been given under subsection (2), the tenant makes a claim for a mobile home which the landlord has retained for the landlord's own use, the landlord shall return the mobile home to the tenant. 2006, c. 17, s. 162 (5).

### **Same**

(6) Before returning a mobile home to a tenant who claims it within the 60 days referred to in subsection (3) or the six months referred to in subsection (5), the landlord may require the tenant to pay the landlord for arrears of rent and any reasonable expenses incurred by the landlord with respect to the mobile home. 2006, c. 17, s. 162 (6).

### **No liability**

(7) Subject to subsection (4) or (5), a landlord is not liable to any person for selling, retaining or otherwise disposing of a tenant's mobile home in accordance with this section. 2006, c. 17, s. 162 (7).

### **Death of mobile home owner**

**163** Sections 91 and 92 do not apply if the tenant owns the mobile home. 2006, c. 17, s. 163.

### **Termination under s. 50**

**164** (1) If a notice of termination is given under section 50 with respect to a tenancy agreement between the landlord and a tenant who owns a mobile home, the date for termination specified in the notice shall, despite subsection 50 (2), be at least

one year after the date the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term. 2006, c. 17, s. 164 (1).

#### **Same**

(2) If a notice of termination is given under section 50 with respect to a tenancy agreement between the landlord and a tenant who owns a mobile home and the tenant is entitled to compensation under section 52, 54 or 55, the amount of the compensation shall, despite those sections, be equal to the lesser of the following amounts:

1. One year's rent.
2. \$3,000 or the prescribed amount, whichever is greater. 2006, c. 17, s. 164 (2).

### **RULES RELATED TO RENT AND OTHER CHARGES**

#### **Assignment of existing tenancy agreement**

**165** Despite subsection 95 (8), if a tenancy agreement for a site for a mobile home is assigned and the assignee purchases or enters into an agreement to purchase the former tenant's mobile home, the landlord may increase the rent payable by the assignee under the tenancy agreement by not more than the prescribed amount. 2006, c. 17, s. 165.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2020, c. 16, Sched. 4, s. 26)

#### **Exclusion from rent**

**165.1** (1) This section applies with respect to an amount that a landlord charges a tenant under the terms of a written agreement for any prescribed services and facilities or any prescribed privilege, accommodation or thing that the landlord provides for the tenant in respect of the occupancy of the site for a mobile home. 2020, c. 16, Sched. 4, s. 26.

#### **Not within the definition of "rent"**

- (2) On and after the applicable prescribed date and if the prescribed circumstances apply,
- (a) the prescribed services and facilities or the prescribed privilege, accommodation or thing shall not be considered to be services and facilities or a privilege, accommodation or thing that fall within the definition of "rent" in subsection 2 (1); and
  - (b) the amount charged by the landlord for the prescribed services and facilities or the prescribed privilege, accommodation or thing shall not be included in the rent charged to the tenant. 2020, c. 16, Sched. 4, s. 26.

#### **Reduction of rent**

(3) If the rent charged to a tenant immediately before the applicable date referred to in subsection (2) includes an amount to which that subsection applies, the landlord shall reduce the rent charged to the tenant in accordance with the prescribed rules. 2020, c. 16, Sched. 4, s. 26.

#### **Application**

(4) For greater certainty, this section applies with respect to an agreement referred to in subsection (1) whether the agreement is a tenancy agreement or any other agreement entered into between a landlord and a tenant. 2020, c. 16, Sched. 4, s. 26.

#### **Same**

(5) For greater certainty, this section applies with respect to an agreement referred to in subsection (1) even if the agreement was entered into before the day section 26 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act*, 2020 comes into force. 2020, c. 16, Sched. 4, s. 26.

#### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 26 - not in force

#### **Entrance and exit fees limited**

**166** A landlord shall not charge for any of the following matters, except to the extent of the landlord's reasonable out-of-pocket expenses incurred with regard to those matters:

1. The entry of a mobile home into a mobile home park.
2. The exit of a mobile home from a mobile home park.
3. The installation of a mobile home in a mobile home park.
4. The removal of a mobile home from a mobile home park.
5. The testing of water or sewage in a mobile home park. 2006, c. 17, s. 166.

### **Increased capital expenditures**

**167** (1) If the Board finds that a capital expenditure is for infrastructure work required to be carried out by the Government of Canada or Ontario or a municipality or an agency of any of them, despite subsection 126 (11), the Board may determine the number of years over which the rent increase justified by that capital expenditure may be taken. 2006, c. 17, s. 167 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 167 (1) of the Act is repealed and the following substituted: (See: 2020, c. 16, Sched. 4, s. 27)

### **Increased capital expenditures**

(1) If, on an application made under section 126 on or after the day section 27 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, the Board finds that a capital expenditure is for infrastructure work, the Board may, despite subsection 126 (11) but in accordance with the prescribed rules,

- (a) determine the number of years over which the rent increase justified by the capital expenditure may be taken; and
- (b) determine the percentage increase justified by the capital expenditure that may be taken in each year described in clause (a). 2020, c. 16, Sched. 4, s. 27.

### **Same**

(1.1) For greater certainty, the number of years determined under clause (1) (a) may be less than, equal to or greater than three. 2020, c. 16, Sched. 4, s. 27.

### **Same**

(1.2) For greater certainty, the percentage increase determined under clause (1) (b) may be less than, equal to or greater than 3 per cent in any given year and need not be the same for each year. 2020, c. 16, Sched. 4, s. 27.

### **Definition**

(2) In this section,

“infrastructure work” means work with respect to roads, water supply, fuel, sewage disposal, drainage, electrical systems and other prescribed services and things provided to the mobile home park. 2006, c. 17, s. 167 (2).

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 27 - not in force

## **PART XI THE LANDLORD AND TENANT BOARD**

### **Board**

**168** (1) The Ontario Rental Housing Tribunal is continued under the name Landlord and Tenant Board in English and Commission de la location immobilière in French. 2006, c. 17, s. 168 (1).

### **Board’s jurisdiction**

(2) The Board has exclusive jurisdiction to determine all applications under this Act and with respect to all matters in which jurisdiction is conferred on it by this Act. 2006, c. 17, s. 168 (2).

### **Composition**

**169** (1) The members of the Board shall be appointed by the Lieutenant Governor in Council. 2006, c. 17, s. 169 (1).

### **Remuneration and expenses**

(2) The members of the Board who are not public servants employed under Part III of the *Public Service of Ontario Act, 2006* shall be paid the remuneration fixed by the Lieutenant Governor in Council and the reasonable expenses incurred in the course of their duties under this Act, as determined by the Minister. 2006, c. 17, s. 169 (2); 2006, c. 35, Sched. C, s. 118 (1).

### **Public servant members**

(3) Members of the Board may be persons who are employed under Part III of the *Public Service of Ontario Act, 2006*. 2006, c. 17, s. 169 (3); 2006, c. 35, Sched. C, s. 118 (2).

### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 118 - 20/08/2007

### **Chair and vice-chair**

**170** (1) The Lieutenant Governor in Council shall appoint one member of the Board as Chair and one or more members as vice-chairs. 2006, c. 17, s. 170 (1).

### **Same**

(2) The Chair may designate a vice-chair who shall exercise the powers and perform the duties of the Chair when the Chair is absent or unable to act. 2006, c. 17, s. 170 (2).

### **Chair, chief executive officer**

(3) The Chair shall be the chief executive officer of the Board. 2006, c. 17, s. 170 (3).

### **Quorum**

171 One member of the Board is sufficient to conduct a proceeding under this Act. 2006, c. 17, s. 171.

### **Conflict of interest**

172 The members of the Board shall file with the Board a written declaration of any interests they have in residential rental property or in a non-profit housing co-operative, and shall be required to comply with any conflict of interest guidelines or rules of conduct established by the Chair. 2013, c. 3, s. 33.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 33 - 01/06/2014

### **Expiry of term**

173 Despite section 4.3 of the *Statutory Powers Procedure Act*, if the term of office of a member of the Board who has participated in a hearing expires before a decision is given, the term shall be deemed to continue for four weeks, but only for the purpose of participating in the decision and for no other purpose. 2006, c. 17, s. 173.

### **Power to determine law and fact**

174 The Board has authority to hear and determine all questions of law and fact with respect to all matters within its jurisdiction under this Act. 2006, c. 17, s. 174.

### **Members, mediators not compellable**

175 No member of the Board or person employed as a mediator by the Board shall be compelled to give testimony or produce documents in a civil proceeding with respect to matters that come to his or her knowledge in the course of exercising his or her duties under this Act. 2006, c. 17, s. 175.

### **Rules and Guidelines Committee**

176 (1) The Chair of the Board shall establish a Rules and Guidelines Committee to be composed of the Chair, as Chair of the Committee, and any other members of the Board the Chair may from time to time appoint to the Committee. 2006, c. 17, s. 176 (1).

### **Committee shall adopt rules**

(2) The Committee shall adopt rules of practice and procedure governing the practice and procedure before the Board under the authority of this section and section 25.1 of the *Statutory Powers Procedure Act*. 2006, c. 17, s. 176 (2).

### **Committee may adopt guidelines**

(3) The Committee may adopt non-binding guidelines to assist members in interpreting and applying this Act and the regulations made under it. 2006, c. 17, s. 176 (3).

### **Means of adoption**

(4) The Committee shall adopt the rules and guidelines by simple majority, subject to the right of the Chair to veto the adoption of any rule or guideline. 2006, c. 17, s. 176 (4).

### **Make public**

(5) The Board shall make its rules, guidelines and approved forms available to the public. 2006, c. 17, s. 176 (5).

### **Information on rights and obligations**

177 (1) The Board shall provide information to landlords, tenants, non-profit housing co-operatives and members of non-profit housing co-operatives about their rights and obligations under this Act. 2013, c. 3, s. 34.

### **Definition**

(2) In subsection (1),

“member” has the same meaning as in Part V.1. 2013, c. 3, s. 34.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 34 - 01/06/2014

## **Employees**

**178** Such employees as are considered necessary for the proper conduct of the affairs of the Board may be appointed under Part III of the *Public Service of Ontario Act, 2006*. 2013, c. 3, s. 35.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 35 - 01/06/2014

## **Professional assistance**

**179** The Minister may engage persons other than members of or employees in the Board to provide professional, technical, administrative or other assistance to the Board and may establish the duties and terms of engagement and provide for the payment of the remuneration and expenses of those persons. 2013, c. 3, s. 35.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 35 - 01/06/2014

## **Reports**

**180** The Minister may require the Board to provide reports to the Minister in addition to the annual report required by the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*. 2017, c. 34, Sched. 46, s. 50.

### **Section Amendments with date in force (d/m/y)**

2017, c. 34, Sched. 46, s. 50 - 01/01/2018

## **Board may set, charge fees**

**181** (1) The Board, subject to the approval of the Minister, may set and charge fees,

- (a) for making an application under this Act or requesting a review of an order under section 21.2 of the *Statutory Powers Procedure Act*;
- (b) for furnishing copies of forms, notices or documents filed with or issued by the Board or otherwise in the possession of the Board; or
- (c) for other services provided by the Board. 2006, c. 17, s. 181 (1).

## **Same**

(2) The Board may treat different kinds of applications differently in setting fees and may base fees on the number of residential units affected by an application. 2006, c. 17, s. 181 (2).

## **Make fees public**

(3) The Board shall ensure that its fee structure is available to the public. 2006, c. 17, s. 181 (3).

## **Fee waiver or deferral for low-income individuals**

**181.1** (1) The Board may, in accordance with the Rules, waive or defer all or part of a fee charged under section 181. 2013, c. 3, s. 36.

## **Purpose**

(2) The purpose of subsection (1) is to authorize the Board to waive or defer fees charged under section 181 for low-income individuals in appropriate circumstances. 2013, c. 3, s. 36.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 36 - 01/06/2014

## **Fee refunded, review**

**182** A fee paid for requesting a review of an order under section 21.2 of the *Statutory Powers Procedure Act* may be refunded if, on considering the request, the Board varies, suspends or cancels the original order. 2013, c. 3, s. 37.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 37 - 01/06/2014

## **Money appropriated by Legislature**

**182.1** The money required for the purposes of the Board shall be paid out of the money appropriated for that purpose by the Legislature. 2013, c. 3, s. 38.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 38 - 01/06/2014

## **Status of money paid to Board**

### **Revenues paid into CRF**

**182.2** (1) The revenues of the Board, other than money that is paid to the Board in trust under this Act, shall be paid into the Consolidated Revenue Fund. 2013, c. 3, s. 38.

### **Trust money to Board paid to Minister**

(2) Despite Part I of the *Financial Administration Act*,

- (a) the Board shall pay to the Minister money paid to the Board in trust under this Act; and
- (b) the Minister may maintain in his or her name one or more accounts with an entity referred to in subsection 2 (2) of the *Financial Administration Act*, and place the money paid to the Minister under clause (a) into any of those accounts, subject to the same trusts on which the money was paid to the Board. 2013, c. 3, s. 38.

### **Payment out of money held in trust**

(3) Where money has been paid to the Board in trust and no provision is made for paying it out elsewhere in this Act, it shall be paid out to the person entitled to receive it, together with interest at the prescribed rate. 2013, c. 3, s. 38.

### **Surplus interest**

(4) Interest earned on money paid to the Board in trust that exceeds the interest earned at the prescribed rate vests in the Crown and shall be deposited in the Consolidated Revenue Fund. 2013, c. 3, s. 38.

### **No liability re interest above prescribed rate**

(5) No claim shall be made for or on account of interest earned on money paid to the Board in trust under this Act that exceeds the interest earned on that money at the prescribed rate. 2013, c. 3, s. 38.

### **Definition**

(6) In this section,

“money paid to the Board in trust” does not include fines, fees or costs paid to the Board. 2013, c. 3, s. 38.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 38 - 01/06/2014

### **Delegation of powers**

**182.3** (1) Any power conferred on the Minister under section 179 or 182.2 may be delegated by the Minister to the Chair or to a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and, when purporting to exercise a delegated power, the delegate shall be presumed conclusively to act in accordance with the delegation. 2013, c. 3, s. 38.

### **Subject to conditions, etc.**

(2) A delegation under subsection (1) shall be in writing and may be subject to such limitations, conditions and requirements as are set out in it. 2013, c. 3, s. 38.

### **Subdelegation**

(3) In a delegation under subsection (1), the Minister may authorize a person to whom a power is delegated to delegate to others the exercise of the delegated power, subject to such limitations, conditions and requirements as the person may impose. 2013, c. 3, s. 38.

### **Deeds and contracts**

(4) Despite section 6 of the *Executive Council Act*, a deed or contract signed by a person empowered to do so under a delegation or subdelegation made under this section has the same effect as if signed by the Minister. 2013, c. 3, s. 38.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 38 - 01/06/2014

## **PART XII BOARD PROCEEDINGS**

### **Definitions**

**182.4** In this Part, “housing charges”, “member” and “regular monthly housing charges” have the same meanings as in Part V.1. 2013, c. 3, s. 39.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 39 - 01/06/2014

### **Expeditious procedures**

**183** The Board shall adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter. 2006, c. 17, s. 183.

### **SPPA applies**

**184** (1) The *Statutory Powers Procedure Act* applies with respect to all proceedings before the Board. 2006, c. 17, s. 184 (1).

### **Exception**

(2) Subsection 5.1 (2) of the *Statutory Powers Procedure Act* does not apply with respect to an application under section 132 or 133 or an application solely under paragraph 1 of subsection 126 (1). 2006, c. 17, s. 184 (2).

### **Exception**

(3) Subsection 5.1 (3) of the *Statutory Powers Procedure Act* does not apply to an application under section 126, 132 or 133. 2006, c. 17, s. 184 (3).

### **Form of application**

**185** (1) An application shall be filed with the Board in the form approved by the Board, shall be accompanied by the prescribed information and shall be signed by the applicant. 2006, c. 17, s. 185 (1).

### **Application filed by representative**

(2) An applicant may give written authorization to sign an application to a person representing the applicant under the authority of the *Law Society Act* and, if the applicant does so, the Board may require such representative to file a copy of the authorization. 2006, c. 17, s. 261 (3).

### **Section Amendments with date in force (d/m/y)**

2006, c. 17, s. 261 (3) - 01/05/2007

### **Combining applications**

**186** (1) A tenant may combine several applications into one application. 2006, c. 17, s. 186 (1).

### **Same**

(2) Two or more tenants of a residential complex may together file an application that may be filed by a tenant if each tenant applying in the application signs it. 2006, c. 17, s. 186 (2).

### **Same**

(3) A landlord or a non-profit housing co-operative may combine several applications relating to a given tenant or member into one application, but a landlord may not combine an application for a rent increase with any other application. 2013, c. 3, s. 40.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 40 - 01/06/2014

### **Parties**

**187** (1) The parties to an application are the landlord, or the non-profit housing co-operative, and any tenants, or members of the non-profit housing co-operative, or other persons directly affected by the application. 2013, c. 3, s. 41.

### **Add or remove parties**

(2) The Board may add or remove parties as the Board considers appropriate. 2013, c. 3, s. 41.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 41 - 01/06/2014

### **Notice by Board**

**188** (1) The Board shall do the following with respect to an application made to the Board:

1. Give the parties other than the applicant a copy of the application within the time set out in the Rules.
2. In such circumstances as may be prescribed, give the prescribed parties such documents or information as may be prescribed. 2011, c. 6, Sched. 3, s. 1.

### **Exception**

(2) This section does not apply with respect to an application that can be made without notice. 2011, c. 6, Sched. 3, s. 1.

**Section Amendments with date in force (d/m/y)**

2011, c. 6, Sched. 3, s. 1 - 01/07/2015

**Notice from applicant**

**189** (1) Instead of doing what would otherwise be required under paragraph 1 of subsection 188 (1), the Board may, in the circumstances set out in the Rules, order the applicant to give a copy of the application to the other parties. 2011, c. 6, Sched. 3, s. 1.

**Same**

(2) Despite the *Statutory Powers Procedure Act*, the Board may, in the circumstances set out in the Rules, order the applicant to give a copy of any notice of hearing issued by the Board to the other parties. 2011, c. 6, Sched. 3, s. 1.

**Certificate of service**

(3) Where an order is made under subsection (1) or (2), the applicant shall, in the circumstances set out in the Rules, file with the Board a certificate of service in the form approved by the Board. 2011, c. 6, Sched. 3, s. 1.

**Section Amendments with date in force (d/m/y)**

2011, c. 6, Sched. 3, s. 1 - 01/07/2015

**Application under s. 87, 88.1, 88.2 or 89**

**189.0.1** (1) This section applies with respect to an application under subsection 87 (1) or (3), 88.1 (1), 88.2 (1) or 89 (1) if, at the time the application is made, the tenant or former tenant who is a party to the application is no longer in possession of the rental unit. 2020, c. 16, Sched. 4, s. 28.

**Notice from applicant**

(2) The applicant shall, within the time set out in the Rules, give the tenant or former tenant,

- (a) a copy of the application; and
- (b) a copy of any notice of hearing issued by the Board in respect of the application. 2020, c. 16, Sched. 4, s. 28.

**Certificate of service**

(3) The applicant shall, in the circumstances set out in the Rules, file with the Board a certificate of service on the tenant or former tenant in the form approved by the Board. 2020, c. 16, Sched. 4, s. 28.

**Application**

(4) If this section applies with respect to an application,

- (a) paragraph 1 of subsection 188 (1) and section 189 do not apply with respect to the tenant or former tenant; and
- (b) clause (2) (b) applies despite the *Statutory Powers Procedure Act*. 2020, c. 16, Sched. 4, s. 28.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 28 - 01/09/2021

**Application under s. 226**

**189.1** (1) For an application to the Board under section 226 for the review of a work order issued by an inspector appointed by a local municipality, the applicant shall, within the time set out in the Rules, give the local municipality,

- (a) a copy of the application; and
- (b) a copy of any notice of hearing issued by the Board in respect of the application. 2016, c. 25, Sched. 5, s. 3.

**Certificate of service**

(2) The applicant shall, in the circumstances set out in the Rules, file with the Board a certificate of service on the local municipality in the form approved by the Board. 2016, c. 25, Sched. 5, s. 3.

**Application**

(3) If the local municipality is a party to the application,

- (a) paragraph 1 of subsection 188 (1) and section 189 do not apply with respect to the local municipality; and
- (b) clause (1) (b) applies despite the *Statutory Powers Procedure Act*. 2016, c. 25, Sched. 5, s. 3.

**Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 3 - 01/07/2018

**Board may extend, shorten time**

**190** (1) The Board may extend or shorten the time requirements related to making an application under section 126, subsection 159 (2) or section 226 in accordance with the Rules. 2006, c. 17, s. 190 (1).

**Same**

(2) The Board may extend or shorten the time requirements with respect to any matter in its proceedings, other than the prescribed time requirements, in accordance with the Rules. 2006, c. 17, s. 190 (2).

**How notice or document given**

**191** (1) A notice or document is sufficiently given to a person other than the Board,

- (a) by handing it to the person;
- (b) if the person is a landlord, by handing it to an employee of the landlord exercising authority in respect of the residential complex to which the notice or document relates;
- (c) if the person is a tenant, subtenant or occupant, by handing it to an apparently adult person in the rental unit;
- (d) by leaving it in the mail box where mail is ordinarily delivered to the person;
- (e) if there is no mail box, by leaving it at the place where mail is ordinarily delivered to the person;
- (f) by sending it by mail to the last known address where the person resides or carries on business; or
- (g) by any other means allowed in the Rules. 2006, c. 17, s. 191 (1).

**Same, tenant or former tenant no longer in possession**

(1.0.1) Despite subsection (1), a notice or document is sufficiently given to a tenant or former tenant who is no longer in possession of a rental unit,

- (a) by handing it to the tenant or former tenant;
- (b) by sending it by mail to the address where the tenant or former tenant resides;
- (c) by handing it to an apparently adult person where the tenant or former tenant resides; or
- (d) by any other means allowed in the Rules. 2020, c. 16, Sched. 4, s. 29.

**Same, Part V.1**

(1.1) Despite subsection (1), for the purposes of Part V.1, a notice or document is sufficiently given to a person other than the Board,

- (a) by handing it to the person;
- (b) by handing it to an apparently adult person in the member unit;
- (c) by leaving it in the mail box where mail is ordinarily delivered to the person;
- (d) if there is no mail box, by sliding it under the door of the member unit or through a mail slot in the door or leaving it at the place where mail is ordinarily delivered to the person;
- (e) by sending it by mail to the last known address where the person resides or carries on business;
- (f) if the person is a non-profit housing co-operative,
  - (i) by delivering it personally or sending it by mail to,
    - (A) the head office of the co-operative as shown on the records of the Ministry of Finance, or
    - (B) the co-operative's business office, or
  - (ii) by handing it to a manager or co-ordinator of the co-operative exercising authority in respect of the residential complex, as defined in Part V.1, to which the notice or document relates; or
- (g) by any other means allowed in the Rules. 2013, c. 3, s. 42.

**When notice deemed valid**

(2) A notice or document that is not given in accordance with this section shall be deemed to have been validly given if it is proven that its contents actually came to the attention of the person for whom it was intended within the required time period. 2006, c. 17, s. 191 (2).

**Mail**

(3) A notice or document given by mail shall be deemed to have been given on the fifth day after mailing. 2006, c. 17, s. 191 (3).

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 42 - 01/06/2014

2020, c. 16, Sched. 4, s. 29 - 01/09/2021

**How notice or document given to Board**

**192** (1) A notice or document is sufficiently given to the Board,

- (a) by hand delivering it to the Board at the appropriate office as set out in the Rules;
- (b) by sending it by mail to the appropriate office as set out in the Rules; or
- (c) by any other means allowed in the Rules. 2006, c. 17, s. 192 (1).

**Same**

(2) A notice or document given to the Board by mail shall be deemed to have been given on the earlier of the fifth day after mailing and the day on which the notice or the document was actually received. 2006, c. 17, s. 192 (2).

**Alternatives to affidavits**

**192.1** Where a provision of this Act requires an affidavit from a person with respect to a specified statement or specified information, the Rules may,

- (a) authorize the use of another document, which may be unsworn, from that person with respect to that specified statement or specified information; and
- (b) require that the document may be used only if it is provided to the Board in accordance with the Rules. 2017, c. 13, s. 27.

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 27 - 30/05/2017

**Time**

**193** Time shall be computed in accordance with the Rules. 2006, c. 17, s. 193.

**Mediation or other dispute resolution process**

**194** (1) The Board may attempt to settle through mediation or another dispute resolution process any matter that is the subject of an application or agreed upon by the parties. 2020, c. 16, Sched. 4, s. 30 (1).

**Settlement may override Act**

(2) Despite subsection 3 (1) and subject to subsection (3), a settlement agreed to under this section may contain provisions that contravene any provision under this Act. 2006, c. 17, s. 194 (2); 2020, c. 16, Sched. 4, s. 30 (2).

**Restriction**

(3) The largest rent increase that can be agreed to under this section for a rental unit that is not a mobile home or a land lease home or a site for either is equal to the sum of the guideline and 3 per cent of the previous year's lawful rent. 2006, c. 17, s. 194 (3); 2020, c. 16, Sched. 4, s. 30 (3).

**Settlement**

(4) If some or all of the issues with respect to an application are settled under this section, the Board shall dispose of the application in accordance with the Rules. 2020, c. 16, Sched. 4, s. 30 (4).

**Hearing**

(5) If there is no settlement, the Board shall hold a hearing. 2006, c. 17, s. 194 (5); 2020, c. 16, Sched. 4, s. 30 (5).

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 30 (1-5) - 21/07/2020

**Money paid to Board**

**195** (1) Where the Board considers it appropriate to do so, the Board may, subject to the regulations,

- (a) require a respondent to pay a specified sum into the Board within a specified time; or
- (b) permit a tenant who is making an application for an order under paragraph 1 of subsection 29 (1) to pay all or part of the rent for the tenant's rental unit into the Board. 2006, c. 17, s. 195 (1).

### **Rules re money paid**

(2) The Board may establish procedures in the Rules for the payment of money into and out of the Board. 2006, c. 17, s. 195 (2).

### **No payment after final order**

(3) The Board shall not, under subsection (1), authorize or require payments into the Board after the Board has made its final order in the application. 2006, c. 17, s. 195 (3).

### **Effect of failure to pay under cl. (1) (a)**

(4) If a respondent is required to pay a specified sum into the Board within a specified time under clause (1) (a) and fails to do so, the Board may refuse to consider the evidence and submissions of the respondent. 2006, c. 17, s. 195 (4).

### **Effect of payment under cl. (1) (b)**

(5) Payment by a tenant under clause (1) (b) shall be deemed not to constitute a default in the payment of rent due under a tenancy agreement or a default in the tenant's obligations for the purposes of this Act. 2006, c. 17, s. 195 (5).

### **Board may refuse to proceed if money owing**

**196** (1) Upon receiving information that an applicant owes money to the Board as a result of having failed to pay any fine, fee or costs,

- (a) if the information is received on or before the day the applicant submits an application, an employee in the Board shall, in such circumstances as may be specified in the Rules, refuse to allow the application to be filed;
- (b) if the information is received after the application has been filed but before a hearing is held, the Board shall stay the proceeding until the fee, fine or costs have been paid and may discontinue the application in such circumstances as may be specified in the Rules;
- (c) if the information is received after a hearing with respect to the application has begun, the Board shall not issue an order until the fine, fee or costs have been paid and may discontinue the application in such circumstances as may be specified in the Rules. 2006, c. 17, s. 196 (1); 2013, c. 3, s. 43 (1).

### **Definition**

(2) In subsection (1),

“fine, fee or costs” does not include money that is paid in trust to the Board pursuant to an order of the Board and that may be paid out to any party when the application is disposed of. 2013, c. 3, s. 43 (2).

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 43 - 01/06/2014

### **Where Board may dismiss**

**197** (1) The Board may dismiss an application without holding a hearing or refuse to allow an application to be filed if, in the opinion of the Board, the matter is frivolous or vexatious, has not been initiated in good faith or discloses no reasonable cause of action. 2006, c. 17, s. 197 (1).

### **Same**

(2) The Board may dismiss a proceeding without holding a hearing if the Board finds that the applicant filed documents that the applicant knew or ought to have known contained false or misleading information. 2006, c. 17, s. 197 (2).

### **Joinder and severance of applications**

#### **Applications joined**

**198** (1) Despite the *Statutory Powers Procedure Act*, the Board may direct that two or more applications be joined or heard together if the Board believes it would be fair to determine the issues raised by them together. 2006, c. 17, s. 198 (1).

#### **Applications severed**

(2) The Board may order that applications that have been joined be severed or that applications that have been ordered to be heard together be heard separately. 2006, c. 17, s. 198 (2).

#### **Application severed**

**199** The Board may order that an application be severed and each severed part dealt with as though it were a separate application under this Act if,

- (a) two or more applications are combined under section 186 in the application;
- (b) the application is made by more than one tenant under subsection 186 (2); or

- (c) the Board believes it would be appropriate to deal separately with different matters included in the application. 2006, c. 17, s. 199.

#### **Amendment and withdrawal of applications**

##### **Amend application**

**200** (1) An applicant may amend an application to the Board in accordance with the Rules. 2006, c. 17, s. 200 (1).

##### **Withdraw application**

(2) Subject to subsection (3), an applicant may withdraw an application at any time before the hearing begins. 2006, c. 17, s. 200 (2).

##### **Same, harassment**

(3) An applicant may withdraw an application under paragraph 4 of subsection 29 (1) only with the consent of the Board. 2006, c. 17, s. 200 (3).

##### **Same**

(4) An applicant may withdraw an application after the hearing begins with the consent of the Board. 2006, c. 17, s. 200 (4).

##### **Other powers of Board**

**201** (1) The Board may, before, during or after a hearing,

- (a) conduct any inquiry it considers necessary or authorize an employee in the Board to do so;
- (b) request an employee in the Board to conduct any inspection it considers necessary;
- (c) question any person, by telephone or otherwise, concerning the dispute or authorize an employee in the Board to do so;
- (d) permit or direct a party to file additional evidence with the Board which the Board considers necessary to make its decision;
- (e) view premises that are the subject of the hearing; or
- (f) on its own motion and on notice to the parties, amend an application if the Board considers it appropriate to do so and if amending the application would not be unfair to any party. 2006, c. 17, s. 201 (1); 2013, c. 3, s. 44; 2016, c. 25, Sched. 5, s. 4.

##### **Same**

(2) In making its determination, the Board may consider any relevant information obtained by the Board in addition to the evidence given at the hearing, provided that it first informs the parties of the additional information and gives them an opportunity to explain or refute it. 2006, c. 17, s. 201 (2).

##### **Same**

(3) If a party fails to comply with a direction under clause (1) (d), the Board may,

- (a) refuse to consider the party's submissions and evidence respecting the matter regarding which there was a failure to comply; or
- (b) if the party who has failed to comply is the applicant, dismiss all or part of the application. 2006, c. 17, s. 201 (3).

##### **Parties may view premises with Board**

(4) If the Board intends to view premises under clause (1) (e), the Board shall give the parties an opportunity to view the premises with the Board. 2006, c. 17, s. 201 (4).

##### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 44 - 01/06/2014

2016, c. 25, Sched. 5, s. 4 - 01/07/2018

##### **Findings of Board**

**202** (1) In making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so,

- (a) may disregard the outward form of a transaction or the separate corporate existence of participants; and
- (b) may have regard to the pattern of activities relating to the residential complex or the rental unit. 2006, c. 17, s. 202.

##### **Exception**

(2) Subsection (1) does not apply to an application made under Part V.1. 2013, c. 3, s. 45.

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 45 - 01/06/2014

**Determinations related to housing assistance**

**203** The Board shall not make determinations or review decisions concerning,

- (a) eligibility for rent-geared-to-income assistance as defined in section 38 of the *Housing Services Act, 2011* or the amount of geared-to-income rent payable under that Act; or
- (b) eligibility for, or the amount of, any prescribed form of housing assistance. 2006, c. 17, s. 203; 2011, c. 6, Sched. 1, s. 188 (3).

**Section Amendments with date in force (d/m/y)**

2011, c. 6, Sched. 1, s. 188 (3) - 01/01/2012

**Determinations related to non-profit housing co-operative housing charges**

**203.1** The Board shall not make determinations or review decisions in respect of non-profit housing co-operatives concerning,

- (a) housing charges that have been established by a resolution of the members of a non-profit housing co-operative or, where authorized by the by-laws of the co-operative, by the board of directors of the co-operative;
- (b) eligibility for, or the amount of, any subsidy established for the regular monthly housing charges; or
- (c) eligibility for, or the amount of, any subsidy awarded to a member. 2013, c. 3, s. 46.

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 46 - 01/06/2014

**Conditions in order**

**204** (1) The Board may include in an order whatever conditions it considers fair in the circumstances. 2006, c. 17, s. 204 (1).

**Order re costs**

(2) The Board may order a party to an application to pay the costs of another party. 2006, c. 17, s. 204 (2).

**Same**

(3) The Board may order that its costs of a proceeding be paid by a party or the party's paid representative. 2006, c. 17, s. 204 (3); 2006, c. 17, s. 261 (4).

**Same**

(4) The amount of an order for costs shall be determined in accordance with the Rules. 2006, c. 17, s. 204 (4).

**Same**

(5) Subsections (2) to (4) apply despite section 17.1 of the *Statutory Powers Procedure Act*. 2006, c. 17, s. 204 (5).

**Section Amendments with date in force (d/m/y)**

2006, c. 17, s. 261 (4) - 01/05/2007

**Order payment**

**205** (1) The Board may include in an order one of the following provisions:

- 1. "The landlord or the tenant shall pay to the other any sum of money that is owed as a result of this order."
- 2. "The non-profit housing co-operative or the member shall pay to the other any sum of money that is owed as a result of this order." 2013, c. 3, s. 47.

**Payment of order by instalments**

(2) If the Board makes an order for a rent increase above the guideline and the order is made three months or more after the first effective date of a rent increase in the order, the Board may provide in the order that if a tenant owes any sum of money to the landlord as a result of the order, the tenant may pay the landlord the amount owing in monthly instalments. 2006, c. 17, s. 205 (2).

**Same**

(3) If an order made under subsection (2) permits a tenant to pay the amount owing by instalments, the tenant may do so even if the tenancy is terminated. 2006, c. 17, s. 205 (3).

## **Same**

(4) An order providing for monthly instalments shall not provide for more than 12 monthly instalments. 2006, c. 17, s. 205 (4).

## **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 47 - 01/06/2014

## **Agreement to settle matter**

**206 (1)** Where a landlord has made an application under section 69 for an order terminating a tenancy and evicting the tenant based on a notice of termination under section 59 or an application for payment of arrears of rent, or both, the Board may make an order including terms of payment without holding a hearing if,

- (a) the parties have reached a written agreement resolving the subject-matter of the application;

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 206 (1) of the Act is amended by adding the following clause: (See: 2023, c. 10, Sched. 7, s. 8)**

- (a.1) the agreement is in the form approved by the Board;

- (b) the agreement has been signed by all parties; and

- (c) the agreement is filed with the Board before the hearing has commenced. 2006, c. 17, s. 206 (1).

## **Contents of order**

(2) In an order under subsection (1), the Board may, based on the agreement reached by the parties, order,

- (a) payment of any arrears and NSF cheque charges or related administration charges that are owing;

- (b) payment of the fee paid by the landlord for the application to the Board; and

- (c) payment of any rent that becomes due during the period in which the arrears are required to be paid. 2006, c. 17, s. 206 (2).

## **Restriction**

(3) In an order under subsection (1) issued on or after the day subsection 31 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, the Board shall not order that the tenancy be terminated. 2020, c. 16, Sched. 4, s. 31 (1).

## **Application under s. 78**

(3.1) In an order under subsection (1) issued on or after the day subsection 31 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, the Board may include a provision allowing a landlord to make an application under section 78 if the tenant fails to comply with one or more of the terms of the order. 2020, c. 16, Sched. 4, s. 31 (1).

## **Request by landlord**

(4) A landlord may file a request to reopen the application if the tenant fails to comply with the terms of the order and shall, in the request, indicate which terms were not complied with and the manner in which the tenant failed to meet the terms of the order. 2006, c. 17, s. 206 (4).

## **Request by landlord or tenant**

(5) A landlord or tenant may file a request to reopen the application within 30 days after the order was made on the basis that the other party coerced them or deliberately made false or misleading representations which had a material effect on the agreement and the order issued under subsection (1). 2006, c. 17, s. 206 (5).

## **Request under subs. (4) or (5)**

(5.1) A landlord may file a request to reopen the application under subsection (4) or (5) even if the order includes a provision described in subsection (3.1). 2020, c. 16, Sched. 4, s. 31 (2).

## **Timing**

(6) A request under subsection (4) shall not be made later than 30 days after a failure of the tenant to meet a term of the order. 2006, c. 17, s. 206 (6).

## **Copy of request, notice of hearing**

(7) The party filing the request must give the other parties to the application a copy of the request to reopen the application and the notice of hearing within the time set out in the Rules. 2006, c. 17, s. 206 (7).

### **Condition**

(8) If a request to reopen is made under subsection (4), the Board shall not proceed to hear the merits of the application unless the Board is satisfied that the tenant failed to comply with a term of the order. 2006, c. 17, s. 206 (8).

### **Same**

(9) If a request to reopen is made under subsection (5), the Board shall not proceed to hear the merits of the application unless the Board is satisfied that there was coercion or deliberate false or misleading representations which had a material effect on the agreement and the order issued under subsection (1). 2006, c. 17, s. 206 (9).

### **Application to non-profit housing co-operatives**

(10) Where a non-profit housing co-operative has made an application under section 94.7 for an order terminating the occupancy of a member unit and evicting the member based on a notice of termination under paragraph 3 of subsection 94.2 (1) or has made that application and has also applied at the same time for payment of arrears of regular monthly housing charges, the Board may make an order including terms of payment without holding a hearing if,

- (a) the parties have reached a written agreement resolving the subject matter of the application;
- (b) the agreement has been signed by all parties; and
- (c) the agreement is filed with the Board before the hearing has commenced. 2013, c. 3, s. 48.

### **Same**

(11) Subsections (2) to (9) apply with necessary modifications to an application under subsection (10) and for that purpose,

- (a) “tenant” shall be read as “member”;
- (b) “landlord” shall be read as “non-profit housing co-operative”;
- (c) “tenancy” shall be read as “occupancy” and “a tenancy” shall be read as “an occupancy”;
- (d) “rent” shall be read as “the regular monthly housing charges”; and
- (e) “section 78” shall be read as “section 94.11”. 2013, c. 3, s. 48.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 48 - 01/06/2014

2020, c. 16, Sched. 4, s. 31 (1, 2) - 21/07/2020

2023, c. 10, Sched. 7, s. 8 - not in force

### **Hearing officers**

**206.1** (1) The Board may designate one or more employees in the Board as hearing officers for the purposes of this section to exercise the powers and duties of the Board as its delegate. 2011, c. 6, Sched. 3, s. 2; 2013, c. 3, s. 49.

### **Powers of hearing officer**

(2) Subject to any restrictions in the regulations, a hearing officer may do the following with respect to an application described in subsection (3):

- 1. Hold a hearing.
- 2. Make an order that the Board could make, including an order made other than in connection with a hearing. 2011, c. 6, Sched. 3, s. 2.

### **Applications**

(3) The applications with respect to which subsection (2) applies are the following:

- 1. An application for which the respondent does not appear at the time scheduled for the hearing.
- 2. An application specified in the Rules. 2011, c. 6, Sched. 3, s. 2.

### **Order of Board**

(4) An order made by a hearing officer under paragraph 2 of subsection (2) is an order of the Board for the purposes of this Act. 2011, c. 6, Sched. 3, s. 2.

### **Section Amendments with date in force (d/m/y)**

2011, c. 6, Sched. 3, s. 2 - 4/05/2011

2013, c. 3, s. 49 - 01/06/2014

## **Monetary jurisdiction; deduction of rent; interest**

### **Monetary jurisdiction of Board**

**207** (1) The Board may, where it otherwise has the jurisdiction, order the payment to any given person of an amount of money up to the greater of \$10,000 and the monetary jurisdiction of the Small Claims Court. 2006, c. 17, s. 207 (1).

#### **Same**

(2) A person entitled to apply under this Act but whose claim exceeds the Board's monetary jurisdiction may commence a proceeding in any court of competent jurisdiction for an order requiring the payment of that sum and, if such a proceeding is commenced, the court may exercise any powers that the Board could have exercised if the proceeding had been before the Board and within its monetary jurisdiction. 2006, c. 17, s. 207 (2).

#### **Same**

(3) If a party makes a claim in an application for payment of a sum equal to or less than the Board's monetary jurisdiction, all rights of the party in excess of the Board's monetary jurisdiction are extinguished once the Board issues its order. 2006, c. 17, s. 207 (3).

### **Minimum amount**

(4) The Board shall not make an order for the payment of an amount of money if the amount is less than the prescribed amount. 2006, c. 17, s. 207 (4).

### **Order may provide deduction from rent or regular monthly housing charges**

(5) If a landlord or non-profit housing co-operative is ordered to pay a sum of money to a person who is a tenant of the landlord or a member of the co-operative at the time of the order, the order may provide that if the landlord or co-operative fails to pay the amount owing, the tenant or member may recover that amount plus interest by deducting a specified sum from the tenant's rent or the member's regular monthly housing charges paid to the landlord or co-operative for a specified number of rental periods or, in the case of a member, months. 2013, c. 3, s. 50 (1).

#### **Same**

(6) Nothing in subsection (5) limits the right of the tenant or member to collect at any time the full amount owing or any balance outstanding under the order. 2013, c. 3, s. 50 (1).

### **Post-judgment interest**

(7) The Board may set a date on which payment of money ordered by the Board must be made and interest shall accrue on money owing only after that date at the post-judgment interest rate under section 127 of the *Courts of Justice Act*. 2006, c. 17, s. 207 (7).

### **Definition — "member"**

(8) In subsections (5) and (6),

"member" means a member as defined in the *Co-operative Corporations Act*. 2013, c. 3, s. 50 (2).

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 50 - 01/06/2014

### **Notice of decision**

**208** (1) The Board shall send each party who participated in the proceeding, or the person who represented the party, a copy of its order, including the reasons if any have been given, in accordance with section 191. 2006, c. 17, s. 208 (1); 2006, c. 17, s. 261 (5).

#### **Same**

(2) Section 18 of the *Statutory Powers Procedure Act* does not apply to proceedings under this Act. 2006, c. 17, s. 208 (2).

### **Section Amendments with date in force (d/m/y)**

2006, c. 17, s. 261 (5) - 01/05/2007

### **Order final, binding**

**209** (1) Except where this Act provides otherwise, and subject to section 21.2 of the *Statutory Powers Procedure Act*, an order of the Board is final and binding. 2006, c. 17, s. 209 (1).

### **Power to review**

(2) Without limiting the generality of section 21.2 of the *Statutory Powers Procedure Act*, the Board's power to review a decision or order under that section may be exercised if a party to a proceeding was not reasonably able to participate in the proceeding. 2006, c. 17, s. 209 (2).

**Appeal rights**

**210** (1) Any person affected by an order of the Board may appeal the order to the Divisional Court within 30 days after being given the order, but only on a question of law. 2006, c. 17, s. 210 (1).

**Board to receive notice**

(2) A person appealing an order under this section shall give to the Board any documents relating to the appeal. 2006, c. 17, s. 210 (2).

**Board may be heard by counsel**

(3) The Board is entitled to be heard by counsel or otherwise upon the argument on any issue in an appeal. 2006, c. 17, s. 210 (3).

**Powers of Court**

(4) If an appeal is brought under this section, the Divisional Court shall hear and determine the appeal and may,

(a) affirm, rescind, amend or replace the decision or order; or

(b) remit the matter to the Board with the opinion of the Divisional Court. 2006, c. 17, s. 210 (4).

**Same**

(5) The Divisional Court may also make any other order in relation to the matter that it considers proper and may make any order with respect to costs that it considers proper. 2006, c. 17, s. 210 (5).

**Board may appeal Court decision**

**211** The Board is entitled to appeal a decision of the Divisional Court on an appeal of a Board order as if the Board were a party to the appeal. 2006, c. 17, s. 211.

**Substantial compliance sufficient**

**212** Substantial compliance with this Act respecting the contents of forms, notices or documents is sufficient. 2006, c. 17, s. 212.

**Electronic documents**

**213** Any document referred to in this Act and specified in the regulations or in the Rules may be created, signed, filed, provided, issued, sent, received, stored, transferred, retained or otherwise dealt with electronically if it is done in accordance with the regulations or the Rules. 2006, c. 17, s. 213.

**Contingency fees, limitation**

**214** (1) No agent who represents a landlord, tenant, non-profit housing co-operative or member of a non-profit housing co-operative in a proceeding under this Act or who assists a landlord, tenant, non-profit housing co-operative or member of a non-profit housing co-operative in a matter arising under this Act shall charge or take a fee based on a proportion of any amount which has been or may be recovered, gained or saved, in whole or in part, through the efforts of the agent, where the proportion exceeds the prescribed amount. 2013, c. 3, s. 51.

**Same**

(2) An agreement that provides for a fee prohibited by subsection (1) is void. 2006, c. 17, s. 214 (2).

**Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 51 - 01/06/2014

**MUNICIPAL VITAL SERVICES BY-LAWS****Definition**

**215** In this Part,

“vital services by-law” means a by-law passed under section 216. 2006, c. 17, s. 215.

**By-laws respecting vital services**

**216** (1) The council of a local municipality may pass by-laws,

(a) requiring every landlord to provide adequate and suitable vital services to each of the landlord’s rental units;

(b) prohibiting a supplier from ceasing to provide the vital service until a notice has been given under subsection 217 (1);

(c) requiring a supplier to promptly restore the vital service when directed to do so by an official named in the by-law;

- (d) prohibiting a person from hindering, obstructing or interfering with or attempting to hinder, obstruct or interfere with the official or person referred to in subsection 218 (1) in the exercise of a power or performance of a duty under this section or sections 217 to 223;
- (e) providing that a person who contravenes or fails to comply with a vital services by-law is guilty of an offence for each day or part of a day on which the offence occurs or continues;
- (f) providing that 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;
- (g) authorizing an official named in the by-law to enter into agreements on behalf of the local municipality with suppliers of vital services to ensure that adequate and suitable vital services are provided for rental units. 2006, c. 17, s. 216 (1).

#### **Exception**

(2) A vital services by-law does not apply to a landlord with respect to a rental unit to the extent that the tenant has expressly agreed to obtain and maintain the vital services. 2006, c. 17, s. 216 (2).

#### **Contents of vital services by-law**

- (3) A vital services by-law may,
- (a) classify buildings or parts of buildings for the purposes of the by-law and designate the classes to which it applies;
  - (b) designate areas of the local municipality in which the by-law applies;
  - (c) establish standards for the provision of adequate and suitable vital services;
  - (d) prohibit a landlord from ceasing to provide a vital service for a rental unit except when necessary to alter or repair the rental unit and only for the minimum period necessary to effect the alteration or repair;
  - (e) provide that a landlord shall be deemed to have caused the cessation 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. 2006, c. 17, s. 216 (3).

#### **Notice by supplier**

**217** (1) A supplier shall give notice of an intended discontinuance of a vital service only if the vital service is to be discontinued for the rental unit because the landlord has breached a contract with the supplier for the supply of the vital service. 2006, c. 17, s. 217 (1).

#### **Same**

(2) The notice shall be given in writing to the clerk of the local municipality at least 30 days before the supplier ceases to provide the vital service. 2006, c. 17, s. 217 (2).

#### **Inspection**

**218** (1) An official named in a vital services by-law or a person acting under his or her instructions may, at all reasonable times, enter and inspect a building or part of a building with respect to which the by-law applies for the purpose of determining compliance with the by-law or a direction given under subsection 221 (1). 2006, c. 17, s. 218 (1).

#### **Same**

- (2) Despite subsection (1), the official or person shall not enter a rental unit,
- (a) unless he or she has obtained the consent of the occupier of the rental 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 section 231. 2006, c. 17, s. 218 (2).

#### **Services by municipality**

**219** (1) If a landlord does not provide a vital service for a rental unit in accordance with a vital services by-law, the local municipality may arrange for the service to be provided. 2006, c. 17, s. 219 (1).

#### **Lien**

(2) The amount spent by the local municipality under subsection (1) plus an administrative fee of 10 per cent of that amount shall, on registration of a notice of lien in the appropriate land registry office, be a lien in favour of the local municipality against the property at which the vital service is provided. 2006, c. 17, s. 219 (2).

#### **No special lien**

(3) Subsection 349 (3) of the Municipal Act, 2001 and subsection 314 (3) of the City of Toronto Act, 2006 do not apply with respect to the amount spent and the fee, and no special lien is created under either subsection. 2006, c. 32, Sched. C, s. 56 (4).

### **Certificate**

(4) The certificate of the clerk of the local municipality as to the amount spent is proof, in the absence of evidence to the contrary, of the amount. 2006, c. 17, s. 219 (4).

### **Interim certificate**

(5) Before issuing a certificate referred to in subsection (4), the clerk shall send an interim certificate by registered mail to the registered owner of the property that is subject to the lien and to all mortgagees or other encumbrancers registered on title. 2006, c. 17, s. 219 (5).

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. C, s. 56 (4) - 31/01/2007

### **Appeal**

**220** An affected owner, mortgagee or other encumbrancer may, within 15 days after the interim certificate is mailed, appeal the amount shown on it to the council of the local municipality. 2006, c. 17, s. 220.

### **Payments transferred**

**221** (1) If the local municipality has arranged for a vital service to be provided to a rental unit, an official named in the vital services by-law may direct a tenant to pay any or all of the rent for the rental unit to the local municipality. 2006, c. 17, s. 221 (1).

### **Effect of payment**

(2) Payment by a tenant under subsection (1) shall be deemed not to constitute a default in the payment of rent due under a tenancy agreement or a default in the tenant's obligations for the purposes of this Act. 2006, c. 17, s. 221 (2).

### **Use of money**

**222** (1) The local municipality shall apply the rent received from a tenant to reduce the amount that it spent to provide the vital service and the related administrative fee. 2006, c. 17, s. 222 (1).

### **Accounting and payment of balance**

(2) The local municipality shall provide the person otherwise entitled to receive the rent with an accounting of the rents received for each individual rental unit and shall pay to that person any amount remaining after the rent is applied in accordance with subsection (1). 2006, c. 17, s. 222 (2).

### **Immunity**

**223** (1) 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 a local municipality for any act done in good faith in the performance or intended performance of a duty or authority under any of sections 215 to 222 or under a by-law passed under section 216 or for any alleged neglect or default in the performance in good faith of the duty or authority. 2006, c. 17, s. 223 (1).

### **Same**

(2) Subsection (1) does not relieve a local municipality of liability to which it would otherwise be subject. 2006, c. 17, s. 223 (2).

## **PART XIV MAINTENANCE STANDARDS**

### **Application of prescribed standards**

#### **Local municipalities**

**224** (1) The prescribed maintenance standards apply to a residential complex located in a local municipality and the rental units located in the residential complex if,

- (a) there is no municipal property standards by-law that applies to the residential complex; or
- (b) there is a municipal property standards by-law that applies to the residential complex and the prescribed circumstances apply. 2016, c. 25, Sched. 5, s. 5.

#### **Unorganized territory**

(2) The prescribed maintenance standards apply to a residential complex located in unorganized territory and the rental units located in the residential complex, but only for the purposes of a landlord's obligations under subsection 20 (1) with respect to maintenance standards. 2016, c. 25, Sched. 5, s. 5.

### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 21, s. 11 (8) - 15/12/2009

2016, c. 25, Sched. 5, s. 5 - 01/07/2018

### **Local municipality to receive complaints**

**224.1** (1) If the prescribed maintenance standards apply to a residential complex located in a local municipality, the local municipality in which the residential complex is located shall receive any written complaint from a current tenant of a rental unit located in the residential complex respecting the standard of maintenance that prevails with respect to the rental unit or the residential complex. 2016, c. 25, Sched. 5, s. 5.

### **Complaints to be investigated**

(2) Upon receiving a complaint under this section, the local municipality shall cause an inspector to make whatever inspection the local municipality considers necessary to determine whether the landlord has complied with the prescribed maintenance standards. 2016, c. 25, Sched. 5, s. 5.

### **Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 5 - 01/07/2018

### **Inspector's work order**

**225** (1) If an inspector is satisfied that the landlord of a residential complex has not complied with a prescribed maintenance standard that applies to the residential complex, the inspector may make and give to the landlord a work order requiring the landlord to comply with the prescribed maintenance standard. 2006, c. 17, s. 225 (1).

### **Same**

(2) The inspector shall set out in the order,

- (a) the municipal address or legal description of the residential complex;
- (b) reasonable particulars of the work to be performed;
- (c) the period within which there must be compliance with the terms of the work order; and
- (d) the time limit for applying under section 226 to the Board for a review of the work order. 2006, c. 17, s. 225 (2).

### **Review of work order**

**226** (1) If a landlord who has received an inspector's work order is not satisfied with its terms, the landlord may, within 20 days after the day the order is issued, apply to the Board for a review of the work order. 2006, c. 17, s. 226 (1).

### **Order**

(2) On an application under subsection (1), the Board may, by order,

- (a) confirm or vary the inspector's work order;
- (b) rescind the work order, if it finds that the landlord has complied with it; or
- (c) quash the work order. 2006, c. 17, s. 226 (2).

### **Inspectors**

**226.1** A local municipality may appoint inspectors for the purposes of sections 224.1 and 225. 2016, c. 25, Sched. 5, s. 6.

### **Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 6 - 01/07/2018

### **Duties of local municipality**

**226.2** A local municipality shall,

- (a) monitor compliance with the prescribed maintenance standards as they apply to residential complexes located in the local municipality;
- (b) investigate an alleged offence,
  - (i) under clause 234 (t) that is a failure to comply with a work order issued by an inspector appointed by the local municipality,
  - (ii) under clause 234 (u) that is the obstruction of, or interference with, an inspector appointed by the local municipality who is exercising a power of entry under section 230 or 231, and
  - (iii) under clause 234 (v) that is the furnishing of false or misleading information in any material provided to an inspector appointed by the local municipality; and
- (c) where the circumstances warrant, commence or cause to be commenced proceedings with respect to an alleged offence described in clause (b). 2016, c. 25, Sched. 5, s. 6.

**Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 6 - 01/07/2018

**Protection from personal liability**

**226.3** (1) No proceeding for damages shall be commenced against an inspector appointed by a local municipality under section 226.1 or an employee or agent of a local municipality for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Part or section 230 or 231 or for any neglect or default in the performance or exercise in good faith of such a duty or power. 2016, c. 25, Sched. 5, s. 6.

**Liability of local municipality**

(2) Subsection (1) does not relieve a local municipality of any liability to which it would otherwise be subject. 2016, c. 25, Sched. 5, s. 6.

**Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 6 - 01/07/2018

**Transition, complaints received before commencement date**

**226.4** (1) Sections 224 to 226, 227, 229 and 230, and paragraph 74 of subsection 241 (1), as they read immediately before the commencement date, and the regulations made under paragraph 74, as they read immediately before that date, continue to apply for the following purposes with respect to a complaint that was received by the Minister under section 224 before that date:

1. Investigating the complaint and issuing a work order with respect to it.
2. Ensuring compliance with a work order issued with respect to the complaint before, on or after the commencement date.
3. Making, continuing or finally disposing of an application under section 226 for the review of a work order issued with respect to the complaint before, on or after the commencement date.
4. Charging a municipality for the cost associated with an inspection related to the complaint and, if applicable, issuing a notice of payment due and filing the notice in the Superior Court of Justice.
5. Investigating, and commencing or causing to be commenced proceedings with respect to, an alleged offence under clause 234 (t), (u) or (v) that occurred before, on or after the commencement date, other than an offence described in clause 226.2 (b). 2016, c. 25, Sched. 5, s. 6.

**Definition**

(2) In this section,

“commencement date” means the day section 5 of Schedule 5 to the *Promoting Affordable Housing Act, 2016* comes into force. 2016, c. 25, Sched. 5, s. 6.

**Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 6 - 01/07/2018

## **PART XV ADMINISTRATION AND ENFORCEMENT**

**Duties of Minister**

**227** Except for section 224 and except as otherwise provided in sections 224.1 and 226.2, the Minister shall,

- (a) monitor compliance with this Act;
- (b) investigate cases of alleged failure to comply with this Act; and
- (c) where the circumstances warrant, commence or cause to be commenced proceedings with respect to alleged failures to comply with this Act. 2006, c. 17, s. 227; 2016, c. 25, Sched. 5, s. 7.

**Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 7 - 01/07/2018

**Delegation**

**228** The Minister may in writing delegate to any person any power or duty vested in the Minister under this Act, subject to the conditions set out in the delegation. 2006, c. 17, s. 228.

## **Investigators**

**229** The Minister may appoint investigators for the purpose of investigating alleged offences under this Act, other than alleged offences described in clause 226.2 (b). 2016, c. 25, Sched. 5, s. 8.

### **Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 8 - 01/07/2018

## **Inspections by municipal inspectors**

**230** (1) Subject to subsection (6), an inspector appointed by a local municipality under section 226.1 may, at all reasonable times and upon producing proper identification, enter any property for the purpose of carrying out his or her duty under Part XIV and may,

- (a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the inspection;
- (b) inspect and remove documents or things 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;
- (d) be accompanied by a person who has special or expert knowledge in relation to the subject-matter of the inspection;
- (e) 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; and
- (f) order the landlord to take and supply at the landlord's expense such tests and samples as are specified in the order. 2006, c. 17, s. 230 (1); 2016, c. 25, Sched. 5, s. 9.

## **Samples**

(2) The inspector shall divide the sample taken under clause (1) (e) into two parts and deliver one part 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. 2006, c. 17, s. 230 (2).

## **Same**

(3) If an inspector takes a sample under clause (1) (e) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. 2006, c. 17, s. 230 (3).

## **Receipt**

(4) An inspector shall provide a receipt for any documents or things removed under clause (1) (b) and shall promptly return them after the copies or extracts are made. 2006, c. 17, s. 230 (4).

## **Evidence**

(5) Copies of or extracts from documents and things removed under this section 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. 2006, c. 17, s. 230 (5).

## **Where warrant required**

(6) Except under the authority of a warrant issued under section 231, an inspector shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a warrant. 2006, c. 17, s. 230 (6).

## **Not applicable to non-profit housing co-operatives**

(7) This section does not authorize an inspection in respect of the rights and duties of non-profit housing co-operatives or members of non-profit housing co-operatives. 2013, c. 3, s. 52.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 52 - 01/06/2014

2016, c. 25, Sched. 5, s. 9 - 01/07/2018

## **Warrant**

**231** (1) A provincial judge or justice of the peace may at any time issue a warrant authorizing a person named in the warrant to enter and search a building, receptacle or place if the provincial judge or justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that an offence has been committed under this Act and the entry and search will afford evidence relevant to the commission of the offence. 2006, c. 17, s. 231 (1).

### **Seizure**

(2) In a warrant, the provincial judge or justice of the peace may authorize the person named in the warrant to seize anything that, based on reasonable grounds, will afford evidence relevant to the commission of the offence. 2006, c. 17, s. 231 (2).

### **Receipt and removal**

(3) Anyone who seizes something under a warrant shall,

- (a) give a receipt for the thing seized to the person from whom it was seized; and
- (b) bring the thing seized before the provincial judge or justice of the peace issuing the warrant or another provincial judge or justice to be dealt with according to law. 2006, c. 17, s. 231 (3).

### **Expiry**

(4) A warrant shall name the date upon which it expires, which shall be not later than 15 days after the warrant is issued. 2006, c. 17, s. 231 (4).

### **Time of execution**

(5) A warrant shall be executed between 6 a.m. and 9 p.m. unless it provides otherwise. 2006, c. 17, s. 231 (5).

### **Other matters**

(6) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications with respect to any thing seized under this section. 2006, c. 17, s. 231 (6).

### **Production order**

**231.1** (1) A provincial judge or justice of the peace may at any time issue a production order in the prescribed form to a person, other than a person under investigation for an offence, requiring the person to,

- (a) produce documents or copies of documents, certified by affidavit to be true copies, or produce data; or
- (b) prepare a document based on documents or data already in existence and produce it. 2020, c. 16, Sched. 4, s. 32.

### **Contents of order**

(2) A production order shall stipulate when, where and how the documents or data are to be produced and to whom they are to be produced. 2020, c. 16, Sched. 4, s. 32.

### **Grounds**

(3) A provincial judge or justice of the peace may make a production order if the provincial judge or justice is satisfied by information given under oath or affirmation that there are reasonable grounds to believe that,

- (a) an offence under this Act has been or is being committed;
- (b) the document or data will provide evidence respecting the offence or suspected offence; and
- (c) the person who is subject to the order has possession or control of the document or data. 2020, c. 16, Sched. 4, s. 32.

### **Conditions**

(4) A production order may contain such conditions as the provincial judge or justice of the peace considers advisable. 2020, c. 16, Sched. 4, s. 32.

### **Evidence**

(5) A copy of a document produced under this section, on proof by affidavit that it is a true copy, is admissible in evidence in any prosecution of a person for an offence under this Act and has the same probative force as the original document would have if it had been proved in the ordinary way. 2020, c. 16, Sched. 4, s. 32.

### **No return of copies**

(6) Copies of documents produced under this section are not required to be returned to the person who provided them. 2020, c. 16, Sched. 4, s. 32.

### **Compliance required**

(7) A person to whom a production order is directed shall comply with the order according to its terms. 2020, c. 16, Sched. 4, s. 32.

### **Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 32 - 01/01/2022

### **Protection from personal liability**

**232** (1) No proceeding for damages shall be commenced against an investigator or inspector appointed by the Minister, against a member of the Board or against a public servant employed under Part III of the *Public Service of Ontario Act, 2006* for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or for any neglect or default in the performance or exercise in good faith of such a duty or power. 2013, c. 3, s. 53; 2016, c. 25, Sched. 5, s. 10.

### **Crown liability**

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of any liability to which it would otherwise be subject. 2006, c. 17, s. 232 (2); 2019, c. 7, Sched. 17, s. 153.

### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 53 - 01/06/2014

2016, c. 25, Sched. 5, s. 10 - 01/07/2018

2019, c. 7, Sched. 17, s. 153 - 01/07/2019

## **PART XVI OFFENCES**

### **Offences requiring knowledge**

**233** A person is guilty of an offence if the person knowingly,

- (a) withholds the reasonable supply of a vital service, care service or food or interferes with the supply in contravention of section 21;
- (b) alters or causes to be altered the locking system on any door giving entry to a rental unit or the residential complex in a manner that contravenes section 24 or 35;
- (c) restricts reasonable access to the residential complex by political candidates or their authorized representatives in contravention of section 28;
- (d) seizes any property of the tenant in contravention of section 40;
- (d.1) provides false or misleading information in connection with the giving of a notice under subsection 47.1 (1) or 47.2 (1);
- (e) fails to afford a tenant a right of first refusal in contravention of section 51 or 53;
- (f) recovers possession of a rental unit without complying with the requirements of section 48.1, 49.1, 52, 54 or 55;
- (g) coerces a tenant to sign an agreement referred to in section 121;
- (h) harasses, hinders, obstructs or interferes with a tenant in the exercise of,
  - (i) securing a right or seeking relief under this Act or in a court,
  - (ii) participating in a proceeding under this Act, or
  - (iii) participating in a tenants' association or attempting to organize a tenants' association;
- (i) harasses, coerces, threatens or interferes with a tenant in such a manner that the tenant is induced to vacate the rental unit;
- (j) harasses, hinders, obstructs or interferes with a landlord in the exercise of,
  - (i) securing a right or seeking relief under this Act or in a court, or
  - (ii) participating in a proceeding under this Act;
- (k) obtains possession of a rental unit improperly by giving a notice to terminate in bad faith; or
- (l) coerces a tenant of a mobile home park or land lease community to enter into an agency agreement for the sale or lease of their mobile home or land lease home or requires an agency agreement as a condition of entering into a tenancy agreement. 2006, c. 17, s. 233; 2016, c. 2, Sched. 6, s. 2; 2017, c. 13, s. 28; 2020, c. 16, Sched. 4, s. 33.

### **Section Amendments with date in force (d/m/y)**

2016, c. 2, Sched. 6, s. 2 - 08/09/2016

2017, c. 13, s. 28 - 01/09/2017

2020, c. 16, Sched. 4, s. 33 - 21/07/2020

## Other offences

**234** A person is guilty of an offence if the person,

- (a) enters a rental unit where such entry is not permitted by section 26, 27 or 142 or enters without first complying with the requirements of section 26, 27 or 142;
- (b) fails to make an evicted tenant's property available for retrieval in accordance with subsection 41 (3);
- (b.1) contravenes subsection 47.4 (1);
- (c) gives a notice to terminate a tenancy under section 48 or 49 in contravention of section 51;
- (d) requires or receives a security deposit from a tenant contrary to section 105;
- (e) fails to pay to the tenant annually interest on the rent deposit held in respect of their tenancy in accordance with section 106;
- (f) fails to apply the rent deposit held in respect of a tenancy to the rent for the last month of the tenancy in contravention of subsection 106 (10);
- (g) fails to repay an amount received as a rent deposit as required by subsection 107 (1) or (2);
- (h) fails to provide a tenant or former tenant with a receipt in accordance with section 109;
- (i) fails to provide the notice in the form required under section 114 or gives false information in the notice;
- (j) requires a tenant to pay rent proposed in an application in contravention of subsection 126 (5);
- (k) fails to provide information on the total cost of utilities in accordance with subsection 128 (2);
- (l) charges or collects amounts from a tenant, a prospective tenant, a former tenant, a subtenant, a potential subtenant, an assignee or a potential assignee in contravention of section 134;
- (l.1) terminates the obligation to supply electricity without the tenant's consent in contravention of subsection 137 (3);
- (l.2) charges a tenant a portion of the cost of the utility without the consent of the tenant in contravention of subsection 138 (1);
- (m) gives a notice of rent increase or a notice of increase of a charge in a care home without first giving an information package contrary to section 140;
- (n) does anything to prevent a tenant of a care home from obtaining care services from a person of the tenant's choice contrary to clause 147 (a);
- (o) interferes with the provision of care services to a tenant of a care home contrary to clause 147 (b);
- (p) increases a charge for providing a care service or meals to a tenant in a care home in contravention of section 150;
- (q) interferes with a tenant's right under section 156 to sell or lease his or her mobile home;
- (r) restricts the right of a tenant of a mobile home park or land lease community to purchase goods or services from the person of his or her choice in contravention of section 160;
- (s) charges an illegal contingency fee in contravention of subsection 214 (1);
- (t) fails to comply with any or all of the items contained in a work order issued under section 225;
- (t.1) fails to comply with a production order issued under section 231.1;
- (u) obstructs or interferes with an inspector exercising a power of entry under section 230 or 231 or with an investigator exercising a power of entry under section 231;
- (v) furnishes false or misleading information in any material filed in any proceeding under this Act or provided to the Board, an employee in the Board, an official of the Board, an inspector, an investigator, the Minister or a designate of the Minister;
- (w) unlawfully recovers possession of a rental unit;
- (x) charges rent in an amount greater than permitted under this Act; or
- (y) contravenes an order of the Board that,
  - (i) orders a landlord to do specified repairs or replacements or other work within a specified time,
  - (ii) orders that a landlord, a superintendent or an agent of a landlord may not engage in any further activities listed in paragraphs 2 to 6 of subsection 29 (1) against any of the tenants in a residential complex, or

- (iii) orders a landlord not to breach an obligation under subsection 41 (2) or (3) again. 2006, c. 17, s. 234; 2009, c. 33, Sched. 21, s. 11 (9); 2010, c. 8, s. 39 (2); 2013, c. 3, s. 54; 2016, c. 2, Sched. 6, s. 3; 2017, c. 13, s. 29; 2020, c. 16, Sched. 4, s. 34.

**Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 21, s. 11 (9) - 15/12/2009

2010, c. 8, s. 39 (2) - 01/01/2011

2013, c. 3, s. 54 - 01/06/2014

2016, c. 2, Sched. 6, s. 3 - 08/09/2016

2017, c. 13, s. 29 - 30/05/2017

2020, c. 16, Sched. 4, s. 34 - 01/01/2022

**Harassment, interference with reasonable enjoyment**

**235** (1) Any landlord or superintendent, agent or employee of the landlord who knowingly harasses a tenant or interferes with a tenant's reasonable enjoyment of a rental unit or the residential complex in which it is located is guilty of an offence. 2006, c. 17, s. 235 (1).

**Exception**

(2) For the purposes of subsection (1), the carrying out of repairs, maintenance and capital improvements does not constitute harassment or interference with a tenant's reasonable enjoyment of a rental unit or the residential complex in which it is located unless it is reasonable to believe,

- (a) that the date or time when the work is done or the manner in which it is carried out is intended to harass the tenant or interfere with the tenant's reasonable enjoyment; or
- (b) that the repairs, maintenance or capital improvements were carried out without reasonable regard for the tenant's right to reasonable enjoyment. 2006, c. 17, s. 235 (2).

**Attempts**

**236** Any person who knowingly attempts to commit any offence referred to in section 233, 234 or 235 is guilty of an offence. 2006, c. 17, s. 236.

**Directors and officers**

**237** Every director or officer of a corporation who knowingly concurs in an offence under this Act is guilty of an offence. 2006, c. 17, s. 237.

**Penalties**

**238** (1) A person, other than a corporation, who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$50,000. 2006, c. 17, s. 238 (1); 2020, c. 16, Sched. 4, s. 35 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 238 (1) of the Act is amended by striking out "\$50,000" and substituting "\$100,000". (See: 2023, c. 10, Sched. 7, s. 9 (1))

**Same**

(2) A corporation that is guilty of an offence under this Act is liable on conviction to a fine of not more than \$250,000. 2006, c. 17, s. 238 (2); 2020, c. 16, Sched. 4, s. 35 (2).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 238 (2) of the Act is amended by striking out "\$250,000" and substituting "\$500,000". (See: 2023, c. 10, Sched. 7, s. 9 (2))

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 35 (1, 2) - 21/07/2020

2023, c. 10, Sched. 7, s. 9 (1, 2) - not in force

**Limitation**

**239** (1) No proceeding shall be commenced respecting an offence under clause 234 (v) other than an offence described in subsection (1.1) more than two years after the date on which the facts giving rise to the offence came to the attention of the Minister. 2006, c. 17, s. 239 (1); 2016, c. 25, Sched. 5, s. 11 (1).

**Same**

(1.1) No proceeding shall be commenced respecting an offence under clause 234 (v) that is the furnishing of false or misleading information in any material provided to an inspector appointed by a local municipality under section 226.1, more

than two years after the date on which the facts giving rise to the offence came to the attention of the local municipality. 2016, c. 25, Sched. 5, s. 11 (2).

#### **Same**

(1.2) No proceeding shall be commenced respecting an offence under clause 234 (1) more than two years after the date on which the facts giving rise to the offence came to the attention of the Minister. 2020, c. 16, Sched. 4, s. 36.

#### **Same**

(2) No proceeding shall be commenced respecting any other offence under this Act more than two years after the date on which the offence was, or is alleged to have been, committed. 2006, c. 17, s. 239 (2).

#### **Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 5, s. 11 (1, 2) - 01/07/2018

2020, c. 16, Sched. 4, s. 36 - 21/07/2020

#### **Evidence**

##### **Proof of filed documents**

**240** (1) The production by a person prosecuting a person for an offence under this Act of a certificate, statement or document that appears to have been filed with or delivered to the Board by or on behalf of the person charged with the offence shall be received as evidence that the certificate, statement or document was so filed or delivered. 2006, c. 17, s. 240 (1).

##### **Proof of making**

(2) The production by a person prosecuting a person for an offence under this Act of a certificate, statement or document that appears to have been made or signed by the person charged with the offence or on the person's behalf shall be received as evidence that the certificate, statement or document was so made or signed. 2006, c. 17, s. 240 (2).

##### **Proof of making, Board or Minister**

(3) The production by a person prosecuting a person for an offence under this Act of any order, certificate, statement or document, or of any record within the meaning of section 20 of the *Statutory Powers Procedure Act*, that appears to have been made, signed or issued by the Board, the Minister, an employee in the Board, an employee in the Ministry or an inspector appointed under section 226.1, shall be received as evidence that the order, certificate, statement, document or record was so made, signed or issued. 2006, c. 17, s. 240 (3); 2013, c. 3, s. 55; 2016, c. 25, Sched. 5, s. 12.

##### **True copies**

(4) Subsections (1) to (3) apply, with necessary modifications, to any extract or copy of a certificate, statement, document, order or record referred to in those subsections, if the extract or copy is certified as a true extract or copy by the person who made the extract or copy. 2006, c. 17, s. 240 (4).

##### **Printout of electronic version**

(5) Subsections (1) to (3) apply, with necessary modifications, to any printout of the electronic version of a certificate, statement, document, order or record referred to in those subsections that is stored or maintained by the Board in an electronic format, if the printout is certified as a true copy of the electronic version by the person who made the printout. 2020, c. 16, Sched. 4, s. 37.

#### **Section Amendments with date in force (d/m/y)**

2013, c. 3, s. 55 - 01/06/2014

2016, c. 25, Sched. 5, s. 12 - 01/07/2018

2020, c. 16, Sched. 4, s. 37 - 21/07/2020

## **PART XVII REGULATIONS**

### **Regulations**

**241** (1) The Lieutenant Governor in Council may make regulations,

1. prescribing circumstances under which one or more rental units that form part of a residential complex, rather than the entire residential complex, are care homes for the purposes of the definition of "care home" in subsection 2 (1);
2. prescribing services that are to be included or not included in the definition of "care services" in subsection 2 (1);
3. prescribing charges not to be included in the definition of "municipal taxes and charges" in subsection 2 (1);
4. prescribing persons that are to be included or are not to be included in the definition of "tenant" in subsection 2 (1) and exempting any such persons from any provision of this Act specified in the regulation;

5. prescribing, for the purposes of the definition of “vital service” in subsection 2 (1), the part of each year during which heat is a vital service;
6. prescribing classes of accommodation for the purposes of clause 5 (n);
- 6.1 prescribing requirements that a dispute resolution process must meet for the purposes of subparagraph 3 iii of subsection 5.1 (3);
- 6.2 prescribing requirements that an agreement must meet for the purposes of paragraph 5 of subsection 5.1 (3) or clause 5.1 (4) (b);
7. prescribing federal, provincial or municipal programs for the purpose of paragraph 3 of subsection 7 (1);
8. providing that specified provisions of this Act apply with respect to any specified housing project, housing program, rental unit, residential complex, member unit of a non-profit housing co-operative or other residential accommodation or any class of them;
9. exempting any housing project, housing program, rental unit, residential complex as defined under Part I or V.1, member unit of a non-profit housing co-operative or other residential accommodation or any class of them from any provision of this Act;
10. prescribing grounds of an application for the purposes of clause 9 (1) (b);
11. respecting the rules for making findings for the purposes of subsection 9 (2);
12. prescribing for the purposes of section 22, paragraph 3 of subsection 29 (1) and subsection 31 (1),
  - i. standards and criteria to be applied by the Board in determining if a landlord, superintendent or agent of a landlord has substantially interfered with the reasonable enjoyment of a rental unit or residential complex in carrying out maintenance, repairs or capital improvements to the unit or complex, and
  - ii. criteria to be applied by the Board in determining whether to order an abatement of rent under subsection 31 (1) when a landlord, superintendent or agent of a landlord is found to have substantially interfered with the reasonable enjoyment of a rental unit or residential complex in carrying out maintenance, repairs or capital improvements to the unit or complex and rules for calculating the amount of the abatement;

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 241 (1) of the Act is amended by adding the following paragraph: (See: 2023, c. 10, Sched. 7, s. 10)**

- 12.1 for the purposes of section 36.1,
  - i. prescribing circumstances for the purposes of subsection 36.1 (2), and
  - ii. governing the installation, use and maintenance of window or portable air conditioners for the purposes of subsection section 36.1, including prescribing additional conditions for the purposes of subsection 36.1 (3);
13. prescribing the hours during which a landlord is required to make an evicted tenant’s property available to be retrieved under subsection 41 (3);
- 13.0.1 prescribing acts or omissions for the purposes of clause 47.3 (1) (f), and for greater certainty,
  - i. an act or omission that causes emotional or financial harm or the fear of such harm to a person or another person may be prescribed even if it does not cause bodily harm to a person or does not cause a person to fear for his or her own safety or someone else’s safety,
  - ii. an act or omission may be prescribed with or without a reference to the person who commits the act or omission, and
  - iii. a prescribed act or omission may include a threat or an attempt to commit the act or omission;
- 13.1 prescribing persons that are to be included or are not to be included in the definition of “member” in section 94.1 and exempting any such persons from any provision of this Act specified in the regulation;
14. prescribing conditions applicable to discounts referred to in subsection 111 (2) or paragraph 1 of subsection 111 (2.1);
15. prescribing discounts for the purpose of paragraph 2 of subsection 111 (2.1);
16. prescribing rules for the purpose of subsection 111 (3) for calculating the lawful rent which may be charged where a landlord provides a tenant with a discount in rent at the beginning of, or during, a tenancy, and prescribing different rules for different types of discounts;
17. prescribing rules for the purpose of subsection 111 (4) for the calculation of lawful rent where the rent a landlord charges for the first rental period of a tenancy is greater than the rent the landlord charges for any subsequent rental period;

18. prescribing the circumstances under which lawful rent for the purposes of section 112 will be other than that provided for in section 112 and providing the lawful rent under those circumstances;
19. prescribing information to be included in a notice under clause 114 (3) (e);
20. prescribing information to be filed and the time in which it is to be filed for the purposes of subsection 115 (4);
21. respecting rules for increasing or decreasing rent charged for the purposes of sections 123 and 125;
22. prescribing services, facilities, privileges, accommodations and things for the purposes of paragraph 2 of subsection 123 (1);
23. defining or describing the method for determining what constitutes “extraordinary increase” for the purpose of section 126;
- 23.1 prescribing information to be included in a summary for the purposes of paragraph 4 of subsection 126 (3.2);
24. prescribing rules governing making information available under subsection 126 (4);
- 24.1 prescribing circumstances under which a capital expenditure is not an eligible capital expenditure under subsection 126 (7);
25. prescribing the rules for making findings for the purposes of subsection 126 (10);
26. prescribing rules governing the time period to be specified in an order under clause 126 (10) (b);
27. prescribing rules for the purpose of clause 126 (11) (b);
28. prescribing rules for the purposes of section 127;
29. prescribing rules for the purposes of subsection 128 (2);
30. prescribing a percentage, a period and rules for the purposes of subsection 128 (3);
31. prescribing rules governing the determination of the date to be specified in an order under clause 129 (b);
32. prescribing rules governing the determination of the percentage by which rent is required to be reduced under subclause 129 (c) (ii);
33. prescribing the rules for making findings for the purposes of subsection 130 (3);
34. prescribing percentages and rules for the purposes of subsection 131 (1);
35. prescribing rules for the purposes of subsection 131 (2);
36. prescribing a number of rental units, a period and methods of service for the purposes of subsection 131 (3);
37. prescribing circumstances for the purposes of subsection 132 (1);
38. prescribing a period of time for the purposes of subsection 132 (2);
39. prescribing rules for the purposes of subsection 132 (3);
40. prescribing the rules for making findings for the purposes of subsection 133 (2) and for determining the effective date for an order under subsection 133 (3);
41. exempting specified payments from the operation of subsection 134 (1) or (3);
42. prescribing rules governing the provision of notice for the purposes of clause 137 (2) (c);
43. prescribing rules governing the provision of a notice for the purposes of clause 137 (3) (b);
44. prescribing the circumstances and the rules governing the reduction of rent for the purposes of clause 137 (3) (c);
45. prescribing the information to be provided to the tenant for the purposes of subsection 137 (4);
- 45.1 prescribing the circumstances and conditions to be met for the purposes of subsection 137 (5);
- 45.2 prescribing the time, the circumstances and the rules for the purposes of subsection 137 (6);
- 45.3-47 REPEALED: 2020, c. 16, Sched. 4, s. 38 (1).
48. prescribing the rules and the requirements for the purposes of clauses 137 (9) (a), (b) and (c);
- 48.1 prescribing other circumstances for the purposes of subsection 137 (10);
49. prescribing circumstances in which a tenant may apply to the Board under subsection 137 (11);
- 49.1 prescribing the circumstances under which subsection 137 (15) would not apply;

- 50. prescribing rules governing charging tenants a portion of the cost of a utility for the purposes of subsection 138 (1);
- 51. prescribing rules governing the provision of a notice for the purposes of clause 138 (1) (a);
- 52. prescribing rules governing the reduction of rent for the purposes of clause 138 (1) (b);
- 52.1 prescribing a period for the purposes of paragraph 2 of subsection 138 (4);
- 53. prescribing information to be provided to a prospective tenant for the purposes of paragraph 4 of subsection 138 (4);
- 54. prescribing the rules and the requirements for the purposes of clauses 138 (5) (a), (b) and (c);
- 55. prescribing circumstances in which a tenant may apply to the Board under subsection 138 (6);
- 56. prescribing the information that shall be contained in an information package for the purposes of section 140;
- 57. prescribing a period for the purpose of clause 144 (1) (b);
- 58. prescribing an amount for the purposes of paragraph 2 of subsection 164 (2);
- 59. prescribing an amount for the purposes of section 165;

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 241 (1) of the Act is amended by adding the following paragraphs: (See: 2020, c. 16, Sched. 4, s. 38 (2))**

- 59.1 prescribing services and facilities and privileges, accommodations and things for the purposes of subsection 165.1 (1);
- 59.2 for each of the prescribed services and facilities and prescribed privileges, accommodations and things, prescribing the applicable date and the circumstances governing the application of subsection 165.1 (2);
- 59.3 prescribing the rules governing the reduction of rent for the purposes of subsection 165.1 (3);
- 60. prescribing services and things for the purposes of section 167;

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 60 of subsection 241 (1) of the Act is repealed and the following substituted: (See: 2020, c. 16, Sched. 4, s. 38 (3))**

- 60. prescribing rules governing the determination of the number of years under clause 167 (1) (a);
- 61. prescribing rules governing the determination of the percentage increase under clause 167 (1) (b);
- 61.1 prescribing services and things for the purposes of subsection 167 (2);
- 61. REPEALED: 2013, c. 3, s. 56 (4).
- 62. prescribing information to be filed with an application to the Board for the purposes of subsection 185 (1);
- 63. for the purposes of paragraph 2 of subsection 188 (1), prescribing circumstances, parties, documents and information;
- 64. REPEALED: 2011, c. 6, Sched. 3, s. 3 (1).
- 65. prescribing time requirements that cannot be extended or shortened for the purposes of subsection 190 (2);
- 66. restricting the circumstances in which the Board may, under section 195, require a person to make a payment into the Board;
- 67. fixing the rate of interest to be paid on money paid to the Board in trust;
- 68. prescribing forms of housing assistance for the purposes of clause 203 (b);
- 68.1 prescribing restrictions for the purposes of subsection 206.1 (2);
- 69. prescribing an amount for the purposes of subsection 207 (4);
- 70. governing electronic documents for the purposes of section 213, including specifying the types of documents that may be dealt with electronically for the purposes of that section, regulating the use of electronic signatures in such documents and providing for the creating, filing, providing, issuing, sending, receiving, storing, transferring and retaining of such documents;
- 71. prescribing an amount for the purposes of subsection 214 (1);
- 72. prescribing maintenance standards for the purposes of section 224;
- 73. prescribing circumstances for the purposes of clause 224 (1) (b);
- 74. REPEALED: 2016, c. 25, Sched. 5, s. 13.
- 75. making a regulation made under paragraph 25, 26, 66 or 67 applicable, with necessary modifications, to an application to which subsection 242 (6) or (7) applies, and providing that the regulation applies despite any regulations made under the *Tenant Protection Act, 1997*;

76. defining “serious” as it is used in any provision of this Act and defining it differently for different provisions;
77. defining any word or expression used in this Act that has not already been expressly defined in this Act;
78. prescribing any matter required or permitted by this Act to be prescribed. 2006, c. 17, s. 241 (1); 2009, c. 33, Sched. 21, s. 11 (10); 2010, c. 8, s. 39 (3); 2011, c. 6, Sched. 3, s. 3; 2013, c. 3, s. 56; 2016, c. 2, Sched. 6, s. 4; 2016, c. 25, Sched. 5, s. 13; 2017, c. 13, s. 30 (1-4); 2020, c. 16, Sched. 4, s. 38 (1).

#### **Same**

(2) A regulation made under subsection (1) may be general or particular in its application. 2006, c. 17, s. 241 (2).

#### **Regulation under subs. (1), par. 24.1**

(3) A regulation made under paragraph 24.1 of subsection (1) may apply with respect to a capital expenditure incurred before the day the regulation comes into force. 2017, c. 13, s. 30 (5).

#### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 21, s. 11 (10) - 01/07/2010

2010, c. 8, s. 39 (3) - 01/01/2011

2011, c. 6, Sched. 3, s. 3 (1) - 1/07/2015; 2011, c. 6, Sched. 3, s. 3 (2) - 04/05/2011

2013, c. 3, s. 56 - 01/06/2014

2016, c. 2, Sched. 6, s. 4 - 08/09/2016; 2016, c. 25, Sched. 5, s. 13 - 01/07/2018

2017, c. 13, s. 30 (1-3, 5) - 01/01/2018; 2017, c. 13, s. 30 (4) - 30/05/2017

2020, c. 16, Sched. 4, s. 38 (1) - 21/07/2020; 2020, c. 16, Sched. 4, s. 38 (2, 3) - not in force

2023, c. 10, Sched. 7, s. 10 - not in force

#### **Regulations made by Minister**

**241.1** (1) The Minister may make regulations,

1. prescribing classes of tenancies for the purposes of subsection 12.1 (1);
2. with respect to each prescribed class of tenancies, prescribing,
  - i. a date for that class for the purposes of subsection 12.1 (1),
  - ii. the form of a tenancy agreement for that class for the purposes of paragraph 1 of subsection 12.1 (1);
3. with respect to each prescribed class of tenancies, prescribing the requirements for a tenancy agreement for that class for the purposes of paragraph 2 of subsection 12.1 (1), including,
  - i. providing that a tenancy agreement for that class may include additional terms but only if those terms are not inconsistent with the mandatory terms set out in the form of tenancy agreement prescribed for that class,
  - ii. providing that any additional term included in a tenancy agreement for that class that is inconsistent with the mandatory terms set out in the form of tenancy agreement prescribed for that class is void;

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 241.1 (1) of the Act is amended by adding the following paragraph: (See: 2023, c. 10, Sched. 7, s. 11 (1))

- 3.1 prescribing qualifications and requirements for the purposes of clause 50 (3) (b);

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 241.1 (1) of the Act is amended by adding the following paragraph: (See: 2023, c. 10, Sched. 7, s. 11 (2))

- 3.2 prescribing a period of time for the purposes of subsection 57 (6.1), including prescribing different periods of time that apply in different circumstances;
4. prescribing the form of a production order for the purposes of subsection 231.1 (1). 2017, c. 13, s. 31; 2020, c. 16, Sched. 4, s. 39 (1).

#### **Regulation under par. 2 ii of subs. (1)**

(2) A regulation made under subparagraph 2 ii of subsection (1) may, with respect to a prescribed class of tenancies,

- (a) prescribe different forms of tenancy agreement depending on whether the tenancy agreements for that class are entered into before a date specified in the regulation or are entered into on or after that date; and
- (b) provide that for tenancy agreements that are entered into during a transition period specified in the regulation, either one of the forms described in clause (a) may be used for the purposes of compliance with paragraph 1 of subsection 12.1 (1). 2020, c. 16, Sched. 4, s. 39 (2).

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 31 - 30/05/2017

2020, c. 16, Sched. 4, s. 39 (1) - 01/01/2022; 2020, c. 16, Sched. 4, s. 39 (2) - 21/07/2020

2023, c. 10, Sched. 7, s. 11 (1, 2) - not in force

**Transition regulations, *Rental Fairness Act, 2017***

**241.2** (1) The Lieutenant Governor in Council may make regulations governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or advisable to deal with issues arising out of the amendments to this Act made by the *Rental Fairness Act, 2017*. 2017, c. 13, s. 32.

**Same**

(2) A regulation made under subsection (1),

- (a) may provide that, despite the coming into force of a provision of this Act, as enacted by the *Rental Fairness Act, 2017*, the provision does not take effect in all or part of the province until the date specified in the regulations;
- (b) may provide that a provision of this Act, as it reads immediately before the commencement date of its amendment, repeal or re-enactment by the *Rental Fairness Act, 2017*, continues to apply for a specified period of time and with necessary modifications, to specified things or in specified circumstances;
- (c) may govern the application of provisions of this Act to proceedings before a court or the Board in which a claim is made relating to amendments to this Act made by the *Rental Fairness Act, 2017* and which were commenced before the commencement date of the amendment. 2017, c. 13, s. 32.

**Section Amendments with date in force (d/m/y)**

2017, c. 13, s. 32 - 30/05/2017

**Transition regulations, *Protecting Tenants and Strengthening Community Housing Act, 2020***

**241.3** (1) The Lieutenant Governor in Council may make regulations governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or advisable to deal with issues arising out of the amendments to this Act made by Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020*. 2020, c. 16, Sched. 4, s. 40.

**Same**

(2) A regulation made under subsection (1),

- (a) may provide that, despite the coming into force of a provision of this Act, as enacted by Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020*, the provision does not take effect in all or part of the province until the date specified in the regulations;
- (b) may provide that a provision of this Act, as it reads immediately before the commencement date of its amendment, repeal or re-enactment by Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020*, continues to apply for a specified period of time and with necessary modifications, to specified things or in specified circumstances;
- (c) may govern the application of provisions of this Act to proceedings before a court or the Board in which a claim is made relating to amendments to this Act made by Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* and which were commenced before the commencement date of the amendment. 2020, c. 16, Sched. 4, s. 40.

**Section Amendments with date in force (d/m/y)**

2020, c. 16, Sched. 4, s. 40 - 21/07/2020

**Transition regulations, *Helping Tenants and Small Businesses Act, 2020***

**241.4** (1) The Lieutenant Governor in Council may make regulations governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or advisable to deal with issues arising out of the amendments to this Act made by Schedule 7 to the *Helping Tenants and Small Businesses Act, 2020*. 2020, c. 23, Sched. 7, s. 3.

**Same**

(2) A regulation made under subsection (1) may govern the application of provisions of this Act to proceedings before a court or the Board in which a claim is made relating to amendments to this Act made by Schedule 7 to the *Helping Tenants and Small Businesses Act, 2020* and which were commenced before the commencement date of the amendment. 2020, c. 23, Sched. 7, s. 3.

**Section Amendments with date in force (d/m/y)**

[2020, c. 23, Sched. 7, s. 3](#) - 01/10/2020

## **PART XVIII TRANSITION**

### **Applications made under *Tenant Protection Act, 1997***

**242** (1) Despite the repeal of the *Tenant Protection Act, 1997* but subject to the other provisions of this section, that Act shall be deemed to be continued in force for the purpose only of continuing and finally disposing of applications that were made under that Act before that Act was repealed, including any appeals, motions or other steps in those applications. 2006, c. 17, s. 242 (1).

### **Default orders**

(2) Sections 177 and 192 of the *Tenant Protection Act, 1997* do not apply to an application referred to in subsection 192 (1) of that Act unless, before that Act was repealed, an order was made with respect to the application without holding a hearing. 2006, c. 17, s. 242 (2).

### **Powers on eviction applications**

(3) Section 83 of this Act applies, with necessary modifications, and section 84 of the *Tenant Protection Act, 1997* does not apply, to an application made under the *Tenant Protection Act, 1997* before that Act was repealed for an order evicting a tenant, unless the final order in the application was made before that Act was repealed. 2006, c. 17, s. 242 (3).

### **Eviction orders for arrears of rent**

(4) If, pursuant to subsection (1), subsections 72 (4) to (10) of the *Tenant Protection Act, 1997* apply to an eviction order, subsections 74 (11) to (18) of this Act also apply, with necessary modifications, to the eviction order. 2006, c. 17, s. 242 (4).

### **Eviction and other orders for arrears of rent**

(5) Section 82 of this Act applies, with necessary modifications, to an application by a landlord under section 69 of the *Tenant Protection Act, 1997* for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 61 of that Act, and to an application by a landlord under subsection 86 (1) of that Act, unless the final order in the application was made before that Act was repealed. 2006, c. 17, s. 242 (5).

### **Breach of landlord's responsibility to repair**

(6) Section 195 of this Act applies, with necessary modifications, and section 182 of the *Tenant Protection Act, 1997* does not apply, to an application made under subsection 32 (1) of that Act before it was repealed for an order determining that a landlord breached the obligations under subsection 24 (1) or 110 (1) of that Act, unless a final order was made under subsection 34 (1) or 110 (3) of that Act before it was repealed. 2006, c. 17, s. 242 (6).

### **Application for above guideline increase**

(7) Subsections 126 (12) and (13) of this Act apply, with necessary modifications, to an application made under section 138 of the *Tenant Protection Act, 1997*, unless a final order was made under subsection 138 (6) or (10) of that Act before it was repealed. 2006, c. 17, s. 242 (7).

### **Proceedings before other bodies under earlier legislation**

**243** Section 223 of the *Tenant Protection Act, 1997* continues to apply, despite the repeal of that Act. 2006, c. 17, s. 243.

### **Orders, etc., under former Act**

**244** Subject to section 242, a reference in this Act to an order, application, notice, by-law or other thing made, given, passed or otherwise done under a provision of this Act includes a reference to an order, application, notice, by-law or thing made, given, passed or done under the corresponding provision of the *Tenant Protection Act, 1997*. 2006, c. 17, s. 244.

### **Information from former Rent Registry**

**245** (1) The Board shall provide any information it received under subsection 157 (3) of the *Tenant Protection Act, 1997* to members of the public on request. 2006, c. 17, s. 245 (1).

### **Application**

(2) Subsection (1) does not apply after the first anniversary of the date this section comes into force. 2006, c. 17, s. 245 (2).

### **Use of certain forms**

**246** Despite the repeal of the *Tenant Protection Act, 1997*, the form of a notice of rent increase, notice of increased charges in a care home or notice of termination that could have been used under that Act may be used for the corresponding purpose under this Act any time within two months after this section comes into force. 2006, c. 17, s. 246.

**247-260** OMITTED (AMENDS OR REPEALS OTHER ACTS). 2006, c. 17, s. 247-260.

**261** OMITTED (PROVIDES FOR AMENDMENTS TO PROVISIONS OF THIS ACT). 2006, c. 17, s. 261.

**262** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2006, c. 17, s. 262.

**263** OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2006, c. 17, s. 263.

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[Back to top](#)