

## **Review of Chapter 629 and Other Property Maintenance Regulations**

**Date:** May 16, 2022

**To:** Planning and Housing Committee

**From:** Executive Director, Municipal Licensing and Standards

**Wards:** All

### **SUMMARY**

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Toronto is a city with a diverse range of properties, from housing (for example, apartment buildings, multi-tenant houses, and individual residential units) to commercial and industrial facilities. To ensure Toronto's quality of life and economic competitiveness, it is critical that people live and work in safe and secure spaces.

Toronto Municipal Code Chapter 629, Property Standards (Chapter 629) sets the standards for maintenance of all properties in Toronto, and repair where it does not meet the standards. Chapter 629 is authorized by Ontario Building Code Act, 1992, and sets the minimum standards for such attributes as the condition of the exterior and interior, including dwelling units and common areas of buildings, the overall cleanliness of the property and the storage of waste. It applies to all residential and non-residential properties across the city. Chapter 629 has not been comprehensively reviewed since its enactment on January 1, 2001.

While Municipal Licensing and Standards (MLS) began reviewing the By-law in 2019, work paused as a result of the COVID-19 pandemic and the need to redirect resources to emergency response and recovery efforts. This work, which was completed before the pandemic, included extensive consultations and outreach through public opinion research, community pop-ups, and feedback from tenant and landlord associations, advocacy groups and housing interest groups. Staff have now continued this work and are reporting to Committee and City Council in two phases - the first of which is set out in this report.

This report responds to a number of directives from Council (including those related to vacant-derelict properties, dormant development sites, surveillance cameras, snow and ice removal, elevators, and nuisance lighting), and addresses technical and other amendments to modernize, simplify and clarify Chapter 629 and other property maintenance regulations.

To strengthen the enforcement of Chapter 629, it is recommended that an Article be added to the By-law that sets out Order, Remedial Action, Entry and Offence authorities in accordance with the Ontario Building Code Act, 1992. This includes establishing that non-compliance with a standard in Chapter 629 is an offence. It is also recommended that Council express its support for higher penalties when the City Solicitor applies for a set fine schedule with the Ontario Ministry of the Attorney General. The introduction of set fines (tickets) will be an additional enforcement tool for By-law Enforcement Officers (BEOs) that is timely, and that will not be subject to appeal at the Property Standards Appeal Committee (unlike orders to comply, which are currently the primary enforcement tool for Chapter 629). The set fine combined with the new proposed Article will strengthen enforcement with the aim of improving compliance.

To further improve the transparency of enforcement authorities it is recommended that a section be added to Chapter 632, Vacant and Hazardous Property, to clarify that the Executive Director, MLS or their designate can require an owner of a property to obtain, at their expense, a written report by a professional engineer licensed to practice in Ontario. These reports would review the conditions of a property and identify remedial actions required by the owner to bring the property in compliance with relevant legislation and municipal by-laws.

Vacant-derelict properties often present complex and wide-ranging challenges for the public which require cooperation among City divisions to address. MLS and its partners are expanding existing enforcement-related staff working groups to implement a timely and effective enforcement response to improve the City's ability to manage and respond to non-compliant vacant-derelict properties which pose nuisance and public safety issues. This work will result in the development of clear, fair and transparent criteria and procedures to establish a path forward for problem properties within the city.

It is also recommended that following the implementation of the Vacant Home Tax (VHT) and the collection of data related to the number and location of vacant residential properties, MLS introduces a strategy to identify, monitor and proactively inspect vacant properties that are derelict. However, in order for this proposed strategy to be effective, there is a need for dedicated and enhanced resources. This would ensure that the City is able to continue to respond on a complaint basis to general property standards issues, as well as conduct regular proactive investigations for vacant-derelict properties. Resourcing requirements will be explored as part of Phase II of the review, following the implementation of the VHT.

The report further identifies how the City is addressing sites where building construction has been stalled through the implementation of a strengthened permit revocation process, including proactive communication with permit holders, which will be in place by the end of 2022.

During the public engagement process, residents identified other property standards concerns, such as timely snow clearing on private property. Chapter 629 regulates snow and ice clearing on private property, and requires that steps, landings, walks, driveways, parking spaces, ramps and similar areas of a yard shall be cleared of snow and ice within 24 hours of a snowfall. However, a key challenge is that the current

primary enforcement tool is the issuance of an order to comply which permits a 14-day appeal period to the Property Standards Appeal Committee (PSAC).

It is recommended that the existing requirements for snow ice and removal for private property owners be moved from Chapter 629 to Chapter 719, Snow and Ice Removal, which currently sets out requirements for snow and ice clearing on sidewalks and from structures. Moving the private property snow and ice removal requirements into Chapter 719 enhances public transparency and clarity as all regulations related to snow clearance would be found in a single by-law. It also enables the City to introduce Part I offences ("set fines" or "tickets") with various amounts applicable to specific offences, which are not subject to the 14-day appeal period at PSAC.

As directed by Council, staff explored the feasibility of regulating or prohibiting surveillance cameras from recording video footage of any residential property beyond an individual's property. Staff recommend developing and publishing online guidance documents that may be referenced for best practices. When neighbour disputes arise, it is recommended that residents are referred to free, mediation services with the City's community partner, The Neighbourhood Group. While the City has the authority to restrict or prohibit surveillance cameras from recording beyond the property owned or occupied by an individual, the built form of Toronto would make it very challenging to restrict the camera's field of view, as properties are often very close together. Also, enforcing these regulations would be time and resource intensive, as BEOs would need to submit an application to a Justice of the Peace and obtain a search warrant to review the footage and determine whether the camera is in fact properly situated.

Staff have identified Right of Entry (ROE) as an area that could also benefit from the alternative dispute resolution process, such as mediation. Currently, the Right of Entry Article in Chapter 363, Building Construction and Demolition, establishes a process that allows the City to grant a property owner a permit to enter lands of a neighbouring property for the purpose of conducting work on their own property, even if the neighbouring property owner objects. A ROE permit is usually sought by an applicant when a neighbour does not consent through mutual agreement, and there is no easement agreement. Often the relationship between neighbours has broken down by the time an applicant requests a ROE permit and the City becomes involved in what would otherwise be a civil legal process. This creates a significant strain on city resources, as MLS supervisors and managers must review and issue permits, as well as determine security deposits and compliance.

Although ROE permits represent a small fraction of the population (an average of 6 permits per year), they require significant resources to manage. Therefore, it is recommended that the ROE Article in Chapter 363 be amended by removing the process for a permit and instead establishing conditions in the by-law to allow for entry onto a neighbour's property, when warranted. If disputes arise, residents may attend a free mediation service offered by the City's community partner, The Neighbourhood Group, or otherwise handle the dispute through the courts.

This report also provides updates and discussion related to directives from City Council, including related to standards for elevators and nuisance lighting. Elevators are generally regulated at the provincial level and it is recommended the Council request

the Government of Ontario to draft regulations that establishes standards and time requirements for elevator repairs. Issues related to nuisance lighting were explored during consultation and the drafting of this report. During consultation, there was limited public concern noted about the issue of nuisance lighting. Operational issues with the enforcement of a nuisance lighting provision were also raised, and staff do not recommend introducing any new measures related to the issue.

This report was written in consultation with Legal Services, Toronto Building, Transportation Services, Technology Services, City Clerk's Office, Toronto Fire Services and Revenue Services.

## **RECOMMENDATIONS**

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The Executive Director, Municipal Licensing and Standards recommends that:

### **Policy Proposals**

1. City Council amend Toronto Municipal Code Chapter 629, Property Standards in accordance with Attachment 4, which:

- a. Adds an Article that sets out Order, Remedial Action, Entry and Offences including establishing that non-compliance with each standard in Chapter 629 is an offence.
- b. Adopts the technical amendments set out in Attachment 5: Proposed Technical Amendments to Chapter 629 that aim to update, modernize, clarify and improve operationalization of the By-law.
- c. Removes the requirements for gendered washroom signs in Section 629-37K, Schedule A-4 and A-5, and maintain the requirement that, where required, sanitary facilities must have a sign posted on the door or entrance that clearly indicates that it is a sanitary facility.

2. City Council amend Toronto Municipal Code Chapter 632, Vacant and Hazardous Properties to add a provision that authorizes the Executive Director, MLS or their designate, to request that an owner of a vacant or hazardous property obtain, at their expense, a written report by a professional engineer licensed to practice in Ontario. The report shall speak to relevant information and identify steps required to bring the property in compliance with applicable provincial legislation and municipal by-laws.

3. City Council amend Article 8 of Toronto Municipal Code Chapter 363, Building Construction and Demolition by removing the requirement for a Right of Entry permit and instead prescribing the conditions for entry onto a neighbour's property, as outlined in Attachment 6: Proposed Amendments to the Right of Entry Article in Chapter 363.

4. City Council amend City of Toronto Municipal Code Chapter 629, Property Standards, and City of Toronto Municipal Code Chapter 719, Snow and Ice Removal, generally as outlined in Attachment 7 to the report (May 16, 2022) from the Executive Director, Municipal Licensing and Standards, to move the snow and ice clearing provisions from Chapter 629 to Chapter 719.

5. City Council direct the Executive Director, Municipal Licensing and Standards to report back, following the implementation of the Vacant Home Tax's universal declaration system and compliance/audit database, on additional resources that may be required to support proactive and scheduled inspections of vacant-derelict properties.
6. City Council express its support for higher penalties when the City Solicitor applies for a set fine schedule for Toronto Municipal Code, Chapter 629, Property Standards.
7. City Council direct the Executive Director, Municipal Licensing and Standards to expand the established mediation referral program to include neighbourly disputes about surveillance cameras and Right of Entry.

### **Requests to the Province**

8. City Council request the Government of Ontario to use data collected about elevator outages to draft regulations that establish repair standards and time requirements for elevator repairs.

### **Transition**

9. City Council amend Toronto Municipal Code, Chapter 441, Fees and Charges, by deleting the Application fee and the Renewal fee for a Low-Impact and High-Impact Right of Entry permit.
10. City Council direct that the amendments to Toronto Municipal Code Chapters 629, and 719 come into immediately.
11. City Council direct that the amendments to Toronto Municipal Code Chapters 632, 441 and 363 come into force on March 1, 2023.
12. City Council authorize the City Solicitor to introduce the necessary bills to give effect to City Council's decision and City Council authorize the City Solicitor to make any necessary clarifications, refinements, minor modifications, technical amendments, or by-law amendments as may be identified by the City Solicitor, Executive Director, Municipal Licensing and Standards, and/or the General Manager, Transportation Services, in order to give effect to Parts 1 to 11, inclusive, above.
13. City Council authorize the City Solicitor to make application to the Regional Senior Judge of the Ontario Court of Justice for the establishment of set fines and/or revision to set fine order(s) under the Provincial Offences Act in order to give effect to Parts 1 to 11, inclusive, above, and that the City Solicitor, in consultation with the appropriate City staff, determine the amount of the set fine to be requested.

### **FINANCIAL IMPACT**

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The removal of the Right of Entry permitting process will result in an estimated revenue reduction of \$7,330 per year. This revenue reduction will be accommodated within the 2023 Approved Operating Budget for MLS.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

## **EQUITY STATEMENT**

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Access to good quality and safe housing is an important determinant of health and improves the social and economic status of an individual. The City recognizes the barriers presented by discrimination and the disadvantages faced by equity-deserving groups and vulnerable populations, including tenants of low-end market rental housing.

Current housing initiatives at all orders of government are endeavouring to adopt a human rights-based approach to the development of housing legislation, policy, and programs. In June 2019, the federal government enacted legislation which declares that it is the policy of the Government of Canada to recognize that the right to adequate housing is a fundamental human right affirmed in international law; to recognize that housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities; to support improved housing outcomes for the people of Canada. The legislation furthers the progressive realization of this right as recognized in the International Covenant on Economic, Social and Cultural Rights, to which Canada is a party.

At its meeting of December 17, 2019, City Council adopted the HousingTO 2020-2030 Action Plan, which updates the Toronto Housing Charter. Consistent with the federal legislation, the charter expresses that the City adopts a human rights-based approach to housing as defined in the federal legislation. Access to good quality, safe, affordable housing for households in need and improving housing stability for residents struggling to maintain their existing homes are also fundamental goals of the City's Official Plan.

The Property Standards By-law sets the minimum standards for all properties in Toronto. It is used to positively affect lower-income and vulnerable individuals and families by ensuring property owners comply with building maintenance standards, thereby improving living conditions. The recommendations in this report, if adopted, will clarify requirements, and further strengthen enforcement.

## **DECISION HISTORY**

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On November 5, 2020, the Infrastructure and Environment Committee requested the General Manager, Transportation Services and the Executive Director, Municipal Licensing and Standards to report on a strategy for enhanced enforcement of sidewalk clearing in front of offices, multi-unit residential towers, commercial and retail establishments and any other non-residential addresses that would be legally required to remove snow from fronting sidewalks, walkways or patios.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.IE17.7>

On February 12, 2020, the Planning and Housing Committee requested the Executive Director, Municipal Licensing and Standards to consult with the Fire Chief and General Manager, Toronto Fire Services, the Chief Planner and Executive Director, City

Planning, and the Chief Building Official and Executive Director, Toronto Building, to compile data and identify options to improve safety and security for vacant buildings, as well as mechanisms to require habitable buildings to be kept in use, prior to redevelopment, and report back, with recommendations as part of the review of property standards.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH13.10>

On January 29, 2020, City Council direct the Executive Director, Municipal Licensing and Standards to assess the feasibility of prohibiting or restricting surveillance cameras from recording video footage of any residential property beyond an individual's property, as part of the review of Chapter 629, Property Standards.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM14.4>

On October 2, 2019, City Council directed the Executive Director, Municipal Licensing and Standards and the Chief Building Official and Executive Director, Toronto Building to report on a strategy to improve the regulation of property standards for dormant development sites, with consideration of requirements for restoration of the site following full or partial excavation, including timelines for completion and penalties for non-compliance; strong, enforceable regulations related to property standards and maintenance; regulations related to ensuring the ongoing safety and security of the site; requirements to restore the property to the pre-construction state, including removal of unfinished structures, unsightly construction hoarding, and debris; measures to compel builders to meet construction timelines and schedules, including but not limited to fines and revoking permits; and mechanisms to proactively monitor and investigate dormant construction sites.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM10.6>

On April 14, 2016, the Licensing and Standards Committee directed the Executive Director, Municipal Licensing and Standards, in consultation with the City Solicitor, to review the Right-of-Entry Article in Toronto Municipal Code, Chapter 363, Building Construction and Demolition and report back to Licensing and Standards Committee on its effectiveness, the cost of administration, and any concerns or improvements that should be made to this Article.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS10.5>

On June 25, 2015, the Licensing and Standards Committee directed the Executive Director, Municipal Licensing and Standards, in consultation with Legal Services, the Toronto Police Service and staff from relevant City divisions, to review the feasibility of recovering the City's costs in responding to vacant, derelict and abandoned property owners' noncompliance of City by-laws and report back to Licensing and Standards Committee as part of the review of vacant-derelict properties; and in consultation with staff from relevant City divisions, to review the feasibility of using a centralized database to track vacant, derelict and abandoned properties and report back to Licensing and Standards Committee as part of the review of vacant-derelict properties.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS5.7>

On January 21, 2015, the Licensing and Standards Committee directed the Executive Director, Municipal Licensing and Standards, in consultation with the City Solicitor and other relevant City divisions, to report on any by-law amendments required that would

increase the City of Toronto's authorities to mitigate the impact of vacant-derelict properties.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS1.4>

On June 10, 2014, City Council requested the Executive Director, Municipal Licensing and Standards, as part of the ongoing review of Chapter 629, Property Standards, to review the feasibility of establishing service standards for elevator repairs in buildings and housing that serve vulnerable people or people with disabilities.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM52.14>

On June 27, 2013, the Licensing and Standards Committee requested the Executive Director, Municipal Licensing and Standards, to report back on how the City of Toronto currently enforces Chapter 629-17A of the Municipal Code, including how this practice was adopted, options to revise Chapter 629-17A of the Municipal Code and any other City by-laws or policies as necessary to take into account the actual, lived experience of residents affected by nuisance lighting.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.LS22.4>

## COMMENTS

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### Background

Toronto Municipal Code Chapter 629, Property Standards sets minimum maintenance standards for all properties in Toronto. All property owners are required to repair and maintain their property, including owners of properties that are rented.

The City began reviewing Chapter 629 in 2019; however, work paused as a result of the COVID-19 pandemic and the need to redirect resources to emergency response and recovery efforts. The 2019 work included extensive consultations and outreach through public opinion research, community pop-ups, tenant and landlord associations, advocacy groups and housing interest groups. Staff are continuing this work and reporting to Committee and Council in two phases - the first of which is set out in this report.

#### *Phase I: Priority items and outstanding directives*

In the first phase of the review, staff have addressed:

- Priority directives from Council, including those related to vacant-derelict properties, dormant development sites, surveillance cameras, elevators and nuisance lighting;
- Immediate needs raised by internal and external stakeholders during consultation to ensure by-law compliance and address other property standards related issues; and
- Technical and other amendments to modernize, simplify and clarify the by-law language, and help set the stage for Phase II.

#### *Phase II: Alignment with City strategies and future-proofing*



In the second phase of the review, staff will address long-term directives and aim to align regulations with the City's strategic priorities. This includes:

- Directives related to reviewing and modernizing the Property Standards Appeal Committee (PSAC);
- Directives and action items related to corporate City strategies such as the Resilience Strategy, the Biodiversity Strategy and the Toronto Green Standard.

Phase II of the review is expected in 2024.

## Research and Consultation

Staff undertook extensive research and multiple rounds of public and stakeholder consultation to inform the first phase of the Property Standards By-law review. This section provides a high-level overview of research and data findings. Other findings will be described in the relevant sections and proposals that follow.

### *Complaints and Enforcement Data*

Property standards service requests are among the top service request categories for MLS. On average, MLS receives around 14,900 property standards related service requests each year. However, data from 2020 and 2021 is not representative as a result of the COVID-19 pandemic. For example, in 2020, responses to non-emergency service requests (complaints) were suspended, and at various times in 2020 and 2021, BEOs were redirected to enforce public health emergency orders. For these reasons, the years 2020 and 2021 include an asterisk. Table 1 provides an overview of total complaints received in the past 5 years.

**Table 1: Total property standards service requests by year, 2017-2021**

	2017	2018	2019	2020*	2021*
Total	13,608	14,214	17,762	11,616	17,477

Chapter 629 has a broad scope that covers many elements of property and building cleanliness and maintenance, for both internal and external areas. The most frequent complaints received are related to repairs required in dwelling units, infestations, general cleanliness, repairs required in common areas, and garbage storage. Table 2 provides an overview of total service requests received in the top 5 categories over the past 5 years.

**Table 2: Top property standards service requests, by year, 2017-2021**

Category	2017	2018	2019	2020*	2021*
Dwelling unit requires repair	2,141	2,392	2,211	1,483	2,141
Infestation*	-	-	1,677	1,090	1,654

<b>Category</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020*</b>	<b>2021*</b>
General Cleanliness	482	552	820	691	941
Common area requires repair	984	1021	977	548	918
Garbage Storage	618	636	687	317	651

\*Note that infestation was not tracked as a category until 2019.

BEOs utilize a progressive enforcement approach, focusing on voluntary compliance first, and escalating to other enforcement mechanisms as needed (a more detailed explanation of MLS' enforcement approach is set out below, under section 1 of the Policy Proposals). If non-compliance is found, BEOs may issue an order to comply. An order sets out the time for a property owner to rectify the condition of non-compliance, and is the primary enforcement tool for BEOs under Chapter 629. BEOs issue an average of 2,752 orders to comply each year. Table 3 provides an overview of the total orders issued by year over the past five years.

**Table 3: Total property standards orders issued, by year, 2017-2021**

	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020*</b>	<b>2021*</b>
Total	3,544	3,381	3,126	1,470	2,241

If compliance is not achieved by the date on the order, BEOs may issue a Part III summons, which compels a property owner or occupant to appear before a Justice of the Peace. If convicted at trial, the fine is determined by the Justice overseeing the case, up to a maximum of \$50,000 for a first offence for an individual, or \$500,000 for a first offence for a corporation. Table 4 provides an overview of charges issued for failing to comply with an order, by disposition.

**Table 4: Total charges issued for failing to comply with an order, by disposition\***

<b>Disposition</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Convicted	85	51	33	8	3
Suspended sentence	13	4	4	1	
Withdrawn	19	10	21	5	5
Dismissed/Closed/Other	3	2	1	1	0
Total	120	67	59	15	8

\*Note that this table only includes charges submitted to the courts, which may result in lower numbers for recent years.

The City also has the authority to undertake remedial action (that is, hiring a contractor to rectify the issue and adding the costs of the work to the property tax roll of the property owner). Over the past five years, staff have pursued remedial action, on average, 75 times each year.

### *Public and Stakeholder Engagement*

In 2019, staff undertook a coordinated public and stakeholder engagement campaign that solicited feedback on various issues related to property standards and building maintenance by-laws. These efforts included:

- In-person public town halls and targeted stakeholder meetings;
- Five community-based events (i.e. neighbourhood festivals) across the city in Black Creek, Thorncliffe Park, Scarborough Centre, St. James Town, and Downtown;
- Review of 82 written submissions from residents and organizations;
- Public opinion research conducted by Ipsos Reid (see Attachment 3);
- Consultation with over 15 City divisions and agencies;
- Direct outreach to landlord and tenant associations, BIAs, Resident Associations, anti-poverty organizations, Indigenous organizations and community members, student associations, and residential and non-residential landlords, and builders;
- Information provided on the City's public consultation website, a dedicated review website, and 311 knowledge base; online event listings and social media outlets; and
- News release and MLS Monitor newsletter for City Council.

Given the length of time that had passed since the first round of engagement efforts, as a result of the COVID-19 pandemic, staff undertook a second round of engagement in 2021. The purpose of this second round of engagement was to reconnect with key stakeholders, to inform them of the revised scope/timelines of the review, provide information on what we heard in the first round of consultations, and gather specific feedback related to items addressed in Phase I of the review. These efforts included:

- Follow-up meetings with divisional and external partners;
- A public questionnaire available online for one month;
- A one-month engagement period in Fall 2021 where stakeholders and the public could provide written submissions; and
- Outreach and promotion through corporate webpages, mailing lists and social media to encourage input and submissions.

The most recent public questionnaire asked targeted questions about outstanding Council directives addressed in this report, as well as demographic questions. The questionnaire received 710 responses, with 619 reaching the end. Relevant findings from this questionnaire is presented in the respective sections that follow. Details about the questionnaire can be found in Attachment 2.

## Policy Proposals

This report responds, in sections 1 through 9 below, to outstanding City Council directives to several different issue areas:

1. Enforcement Tools/Introducing Set Fines
2. Vacant-Derelict Properties
3. Dormant Development Sites
4. Enhancing Interdivisional Responses
5. Snow and Ice Clearance
6. Right of Entry between Neighbours
7. Nuisance Lighting
8. Surveillance Cameras
9. Elevators

### 1. Enforcement Tools/Introducing Set Fines

Property standards service requests (complaints) are investigated by several different teams within MLS, depending on the property and issue. If a complainant lives in a purpose-built rental building that is three or more storeys and ten or more rental units (but is not a long-term care home, retirement home or housing co-operative), then the service request is investigated by BEOs in RentSafeTO. RentSafeTO is a registration, audit and enforcement program. While the registration and audit program is enabled by Toronto Municipal Code Chapter 354, Apartment Buildings, enforcement action is largely undertaken as a result of violations of Chapter 629.

If the property standards service request is related to a multi-tenant house, or the request is related to those who may be subject to increased vulnerability related to aging, chronic health challenges, diminished capacity, mental health issues, social isolation, and other factors, then the issue is investigated by BEOs within the Multi-Tenant Housing (MTH) Team, and Specialized Enforcement and Resolution Team (SERT).

Properties outside of the RentSafeTO program (for example, basement apartments, houses, townhouses, commercial or industrial facilities, etc.), or the MTH and SERT teams, are investigated, based on their location, by BEOs in a district office (either East, West, or South).

When the City receives a property standards service request, the request is assessed on a priority basis. Prioritization of service requests is intended to facilitate a more effective deployment of BEOs by assessing the urgency and health and safety risks. For example, service requests relating to inadequate heat in the winter, or vital service disruptions in apartment buildings, receive high priority treatment, while service requests that do not pose an immediate health and safety risks are assessed as less urgent. Different response strategies and/or investigation methods are assigned to each priority level.

If a service request requires in-person attendance by a BEO, an officer is sent to investigate. The BEO may send notice to the owner or occupant indicating a potential violation of Chapter 629 (or any other relevant Toronto Municipal Code Chapters), or

immediately issue an order to comply. Orders to comply set out the violations observed by a BEO, and state the expectations for repairs within a specified timeframe. It is estimated (based on data from 2017-2019) that approximately 20% of property standards service requests result in an order to comply. An owner or occupant who has been served with an order may appeal to the Property Standards Appeal Committee (PSAC) within 14 days after being served with the order. Approximately 2-3% of orders to comply are appealed to PSAC. PSAC is a local board of the City, consisting of 16 citizen members organized into four panels. Each panel consists of four members, and the term of office is four years (coincident with the term of Council). When reviewing appeals, a panel may:

- Confirm, modify or rescind the order to demolish or repair, or
- Confirm the order but extend the time for complying with the order.

Additional time to comply is granted by PSAC on approximately 60% of appeals, prolonging the number of days to complete the work required by the order and close the service request. Council has directed staff to review time extensions and deferrals at PSAC, which will be considered as part of Phase II of the review.

If an order to comply is not appealed or following an appeal that confirms or modifies the order, a BEO will re-inspect to determine compliance. The City may also issue a re-inspection fee as a means to recover the costs incurred by additional inspections. Alternatively, the City may undertake the necessary work to bring the property into compliance (that is, remedial action). The cost of this work is then recovered through the property tax roll.

The City may also lay a charge under the Provincial Offences Act (Part III - Summons) for failing to comply with an order. 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. 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. Currently, these fines and other enforcement tools are set out in the *Building Code Act, 1992* (BCA); this report recommends that a section setting out these fines be added to Chapter 629, for ease of reference and as the usual practice in by-laws. In addition, it recommends setting out, in an Article, the authorities that the City has under the BCA for Orders, Remedial Action, Entry and Offences and establishing that non-compliance with each standard in Chapter 629 is an offence.

Upon this addition to Chapter 629, the City Solicitor will apply for a set fine schedule (that is, apply to have Part I offences or "tickets" under the Provincial Offences Act) for Chapter 629. The City cannot independently establish a set fine schedule, or set the fine amounts for Part I offences. The City must send an application to the Ministry of the Attorney General, which reviews it and on finding the application satisfactory, forwards it to the Ontario Court of Justice's Regional Senior Justice for Toronto for approval. Staff will seek set fine amounts to align with recently amended set fine schedules, including higher amounts where non-compliance gives rise to a health or safety concern.

Set fines for Part I offences will provide BEOs with an additional enforcement tool; particularly for less serious offences (for example, general cleanliness/maintenance issues versus public safety concerns). They will also aid in shortening the completion timelines of some property standards service requests, as they are not subject to appeal at PSAC and may be laid immediately upon a BEO determining non-compliance.

### *Requesting a Report from an Engineer*

Reports from professional engineers are an option for enforcement staff when dealing with a property that may have multiple or complex issues. These reports must be produced by a licensed engineer qualified to practice in Ontario and identify issues with the property and steps that are required to remediate the property into compliance with applicable legislation and municipal by-laws, including Chapter 629 and Chapter 632. While staff already have the authority to require owners to produce these reports, it is not explicitly set out in Chapter 632. It is recommended that a provision be added to Chapter 632 about these engineer reports to improve clarity and transparency about this enforcement tool. These reports are generally used in more complex situations where BEOs want additional expertise to determine the steps required to remediate a building, and may identify if there are any structural or major public safety concerns, which require referral to Toronto Buildings. If a property owner were to fail to submit the report when requested, subsequent enforcement action may occur.

## **2. Vacant-Derelict Properties**

Despite a property becoming vacant, owners are required to maintain their property in accordance with the City's Property Standards By-law. These standards are predominantly outlined in Chapter 629, the Ontario Fire Code, and the Ontario Building Code:

- The **Ontario Fire Code** is a regulation made under the Fire Protection and Prevention Act, 1997 (FPPA). It sets out minimum requirements for fire safety within and around existing buildings. In Toronto, Toronto Fire Services (TFS) enforces the Ontario Fire Code (OFC) and has the authority to inspect land or premises to assess fire safety. If an inspector observes fire safety issues, the FPPA provides TFS with several enforcement options to ensure compliance with the OFC.
- The **Ontario Building Code** is a regulation made under the Ontario Building Code Act, 1992. It sets out the minimum safety and accessibility standards for buildings that are being constructed, renovated or undergoing a change of use. In Toronto, Toronto Building enforces the Ontario Building Code by setting fees for building permits, reviewing and issuing building permits, inspecting sites for compliance during construction, and issuing stop work and orders to comply.

MLS, Toronto Fire Services and Toronto Building work closely to ensure a coordinated enforcement approach is taken, particularly in relation to vacant-derelict properties.

Vacant properties that are left unattended for prolonged periods of time may fall into disrepair and become hazardous. These vacant-derelict properties pose dangers to the health and safety of any person, and may negatively impact neighbourhoods and

individuals by becoming dilapidated, causing hazards, becoming unsightly, becoming infested with pests, attracting trespassers, and/or affecting streetscapes and overall community standards. Between 2017 and 2021, MLS received approximately 2,690 complaints related to vacant-derelict properties (an average of 538 complaints each year). MLS uses considerable resources to respond to complaints related to vacant-derelict properties.

Once a property becomes vacant-derelict, it is also subject to regulations in Toronto Municipal Code, Chapter 632, Property, Vacant or Hazardous. Chapter 632, enforced by MLS, requires property owners protect the property against the risk of fire, accident or other danger by ensuring unauthorized people cannot enter. Typically, this is achieved through the locking of doors, and boarding of windows. In addition, if a property remains vacant for a period of 90 days or more, the owner must properly disconnect or otherwise secure all utilities serving the building to prevent accidental or malicious damage to the property or adjoining premises.

It's important to note that both Chapters 629 and 632 deal specifically with minimum maintenance standards, as there is no authority to require an owner to bring a vacant property to a habitable state.

### *Vacant Home Tax*

On December 15, 16 and 17, 2021, Council adopted the final tax design features for the Vacant Home Tax (VHT), and approved its implementation, effective as of the 2022 taxation year and collectible in 2023. MLS was consulted during the development of the final tax design features, and recommended that vacant-derelict residential properties be subject to the VHT. This is because the prime objective of the VHT is to reduce the prevalence of residential properties left vacant that might otherwise be used to increase housing availability and affordability. If the residential property is uninhabitable (i.e. it does not meet occupancy and/or safety standards) for a prolonged period of time, then the VHT is a tool (in addition to Chapter 632) that may encourage the property owner to undertake the steps necessary to make the property habitable for occupation, or if needed, to encourage the property owner to sell. This recommendation was included in the final tax design features of the VHT, and vacant-derelict residential properties are subject to the VHT.

To implement the VHT, a universal declaration system and compliance/audit database is being created within Revenue Services' Tax Management and Collection System (TMACS). The collection statement for this system and database and the property owner's consent statement will be designed broadly enough to allow the data collected to be used for law enforcement purposes, including compliance with Toronto Municipal Code Chapters.

### *Proposed Strategy to Manage Vacant-Derelict Properties*

Following the implementation of the VHT, and the collection of data related to the number and location of vacant residential properties, MLS proposes developing a strategy to more effectively manage enforcement related to vacant-derelict properties, based on best practices from other Canadian jurisdictions such as Calgary, Hamilton,

and Winnipeg. This strategy includes identifying and monitoring vacant-derelict properties, inspecting vacant-derelict properties on a proactively scheduled basis, and utilizing a progressive enforcement approach. Elements of the proposed strategy are outlined in greater detail below.

### *Identifying and Monitoring Vacant-Derelict Properties*

As directed by Council, staff explored ways to track the number of vacant-derelict properties in Toronto. In other jurisdictions, vacant-derelict properties are generally tracked using complaint data, by a mandatory vacant property registration list, or through a permitting program. For example, in Winnipeg, in addition to ensuring a vacant building is secure from unauthorized entry, property owners must obtain a "Boarded Building Permit." In Hamilton, vacant building owners are required to register buildings after 90 days of becoming vacant or within 30 days after notice from the City.

While MLS explored both Hamilton's and Winnipeg's tracking processes, as a result of the VHT (specifically, the universal declaration system and compliance/audit database), MLS will have access to a centralized database of vacant residential properties. Currently, MLS only becomes aware of issues related to vacant or vacant-derelict properties on a complaint basis. This new system and database creates an opportunity for MLS to potentially leverage the list of vacant residential properties for proactive investigations, and enforcement purposes. However, it will require additional resources, as noted below.

While the new system and database will not include commercial or industrial vacant properties, in consultation with Economic Development and Culture, it was determined that industrial vacancy rates are very low meaning there is high incentive for industrial property owners to keep their properties maintained and ready for occupancy, and commercial properties are generally also kept in a state of readiness for potential occupants. Additionally, the City provides financial incentive programs, such as the Commercial Space Rehabilitation Grant program, to encourage commercial property owners and tenants to improve their property. Therefore, in terms of community impact, vacant-derelict residential properties are of greater concern. Tracking of any vacant-derelict commercial or industrial properties can continue to be successfully conducted on a complaint-basis.

### *Inspecting Vacant-Derelict Properties on a Proactively Scheduled Basis*

Using the VHT central database, once a property is identified as vacant-derelict, it will be subject to a regular review process by MLS BEOs. As part of the review process, MLS would determine the status of the property, assess the overall condition of the property, review the efforts made to resolve the vacancy/dereliction, and utilize enforcement actions as needed. The frequency of proactive inspections will be determined at a later date, as the number of vacant-derelict properties is currently unknown. Based on the volume of vacant-derelict properties, MLS will determine if a minimum number of inspections is required, or based on risk (where the number of inspections are based on the risk category of the vacant-derelict property, with higher-risk properties assessed on a more frequent basis). Factors that may contribute to a higher risk category include concerns related to the structural adequacy of the building,



evidence of a fire hazard or fire damage, and/or a higher frequency of complaints. Therefore, it requires a referral to Toronto Fire Services or Toronto Building.

In order for the proposed strategy to be effective, there is a need for dedicated and enhanced resources. This would ensure that the City is able to continue to respond on a reactive basis to general property standards service requests, as well as undertake a new initiative to conduct proactive investigations for vacant-derelict properties. Resourcing requirements will be explored and identified as part of Phase II of the review, following the implementation of the VHT.

### **3. Dormant Development Sites**

Sometimes the construction or demolition of a building does not proceed according to schedule for a prolonged period of time. These are often referred to as dormant development sites. Similar to vacant-derelict properties, dormant development sites may pose dangers to the health and safety of people, and may have a negative impact on neighbourhoods. Between 2017 and 2021, MLS responded to approximately 640 service requests related to dormant development sites, an average of 128 each year.

City Council has requested that the Executive Director, Municipal Licensing and Standards and the Chief Building Official and Executive Director, Toronto Building report on a strategy to improve the regulation of property standards for sites where construction and demolition has been stalled. Extended delays in construction work are often due to lack of finances, or other factors which are beyond the authority of the City to affect.

Where a building permit is issued, and construction work is stalled, Toronto Building, MLS and other divisions focus on working with the owner to secure site safety and ensure maintenance. Regulatory limitations prevent the City from compelling the owner to expedite, or finish construction within a prescribed time period. Without a court order, there is no authority to remove the construction.

Toronto Building has also recently undertaken measures to strengthen the ability of the City to address dormant construction sites. The Building Code Act provides authority for the Chief Building Official to revoke a permit where construction has not commenced within six months of permit issuance or has been substantially suspended for a period of one year. Amendments to Toronto Municipal Code Chapter 363, Building Construction and Demolition, which took effect in 2020, provide clarity for both permit holders and the City on the processes and procedures for revocation and ensures that the Chief Building Official's discretion is exercised reasonably. The implementation of the revocation process, including policies and procedures for Building Inspectors, clearly identify when and under what circumstances a revocation notice is issued and establishes a reasonable time period for the permit holder to respond to the Chief Building Official's intention to revoke the permit. Roll-out of the new process and communication to stakeholders will be complete by the end of 2022.

#### *Introduction of Set Fine Schedule*

The introduction of a set fine schedule for Chapter 629 is also expected to aid in the enforcement of maintenance issues related to dormant development sites, as Part I offences (tickets) are generally a quicker enforcement tool, and are not subject to appeal at PSAC (unlike orders to comply).

#### 4. Enhancing Interdivisional Responses

The delineation of responsibility when dealing with dormant development sites and vacant-derelict properties is often determined by the nature of the complaint and what is being investigated. For example, questions of structural integrity and/or issues where there may be an imminent and immediate threat to the health and safety of persons occupying the building, or persons outside the building, are investigated by a Toronto Building Inspector. However, issues of property maintenance and repair, including preventative measures to secure a building are dealt with by a MLS By-law Enforcement Officer (BEO). A further breakdown of roles and responsibilities between the two divisions is outlined in Table 6 below.

**Table 6: Roles and Responsibilities for MLS and Toronto Building**

	<b>Toronto Building</b>	<b>MLS</b>	<b>Property Owners</b>
Overview	Involvement generally pertains to new construction or renovation, or the imminent structural safety of a building or structure.	Involvement generally pertains to property maintenance issues on existing buildings and structures.	Required to build or renovate in accordance to the Ontario Building Code, and to maintain their properties in accordance with Toronto Municipal Code Chapters, such as the Property Standards By-law, and the Vacant or Hazardous Property By-law.
Regulatory Roles	Aims to ensure that properties are in compliance with the Ontario Building Code through the review of building permit applications, issuance of building permits, and mandatory inspections during construction.	Aims to ensure that properties are maintained in compliance with various Toronto Municipal Code Chapters (such as Chapters 629 and 632), through investigations, and as required, enforcement action.  MLS also administers the RentSafeTO program for apartment buildings.	

Overlapping Responsibilities	Share responsibility for responding to building/structure-related issues.	
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To further strengthen the oversight of vacant-derelict properties and dormant development sites, MLS and Toronto Building have been working together to identify areas for operational enhancements. This includes developing a referral process that enables both MLS and Toronto Building to address structural adequacy issues, as well as additional guidelines that MLS BEOs may consult when determining if an issue is related to structural inadequacy (that is, it may collapse and/or poses an immediate public safety threat). MLS and Toronto Building will continue to meet, on an ongoing basis, to review these processes and identify further areas of improvement. The ultimate goal of these operational enhancements is to further streamline the co-ordinated enforcement approach, and reduce, where feasible, the time it may take to review and/or respond to service requests.

*Vacant-Derelict Working Group*

Vacant-derelict properties often present complex and wide-ranging challenges for the public which require cooperation among City Divisions to address in an enforcement capacity. MLS and its partners are expanding existing enforcement-related staff working groups to implement a timely and effective enforcement response which will improve the City's ability to manage and respond to non-compliant vacant-derelict properties that pose nuisance and public safety issues. The first step in this work is to clarify roles and responsibilities of City Divisions involved in managing and investigating these problem properties. This will then inform the development of fair and transparent criteria, processes and procedures to establish a path forward for the management and progressive enforcement of problem properties.

**5. Snow Clearance**

Chapter 629 requires that steps, landings, walks, driveways, parking spaces, ramps and similar areas of a yard shall be cleared of snow and ice within 24 hours of a snowfall to provide safe access and egress for persons and vehicles. As directed by Council, staff considered a strategy for enhanced enforcement of sidewalk clearing in front of offices, multi-unit residential towers, commercial and retail establishments and any other non-residential addresses. Staff identified that a key challenge with enforcement of this provision is the use of orders to comply (the main enforcement tool of Chapter 629). The Building Code Act provides for a mandatory 14-day appeal period for any order issued under a property standards by-law. Therefore, although Chapter 629 requires that snow and ice be removed within 24 hours of a snow fall, no enforcement action can be taken until at least the 14-day appeal period has expired. The mandatory appeal period, along with the temporary nature of snow and ice, inhibits the ability of staff to take timely action with regards to obtaining compliance.

Sidewalks and pedestrian pathways on private property plays an important part of the pedestrian network in the city, and untimely snow removal can negatively affect pedestrians, particularly those with accessibility needs. Snow clearing on private property is a common concern for residents. When asked "are you concerned with

timely snow and ice removal on private property in Toronto, including multi-unit residential towers, and non-residential properties such as the front of offices, and commercial and retail establishments?" in the public questionnaire, 74% of respondents reported being concerned, 15% reported not being concerned, and 11% were neutral to the question. Between 2017 and 2021, MLS received 1,751 complaints related to snow and ice clearance on private property - an average of 350 complaints each year. However, given the enforcement challenges outlined above, only one order to comply was issued during the same time period.

As such, in consultation with Transportation Services, this report recommends moving the existing requirements for private property owners to clear ice and snow from Chapter 629 into to Chapter 719, Snow and Ice Clearing. Chapter 719 regulates snow clearance on sidewalks and from buildings, and is enforced by Transportation Services. This includes the responsibilities of property owners to clear public property that is adjacent to their own. MLS would continue to enforce private property regulations, and Transportation Services would continue to enforce regulations on the public right of way.

Transitioning these requirements from Chapter 629 into Chapter 719 enhances public transparency, as all regulations related to snow and ice clearance would be in the same by-law. MLS will also introduce Part I offences ("set fines" or "tickets") with appropriate amounts for non-compliance with the snow-clearing requirements, which may be used to achieve quicker compliance.

## **6. Right to Enter Neighbour's Property for Repairs**

Where houses are built close to a shared property line, the owner or occupant of a property may need to pass through or temporarily occupy a portion of a neighbouring property to make repairs or alterations to their own property. When these situations arise, it is necessary for the property owner to gain permission from their neighbour to enter the adjoining land. Without this permission, the property owner could be subject to allegations of trespass. Permission may be granted through mutual agreement, an easement on title or court order, or a permit may be obtained through MLS if certain conditions are met. While regulations for Right of Entry (ROE) permits are set out in Article 8 of Toronto Municipal Code, Chapter 363, Building Construction and Demolition, MLS BEOs review, and issue permits, as well as determine security deposits and compliance. During the engagement process, BEOs identified a number of concerns with this process, as set out below.

A ROE permit is usually sought by an applicant when a neighbour does not consent through mutual agreement, and there is no easement agreement. Often the relationship between neighbours has broken down by the time an applicant requests a ROE permit and the City becomes involved in what would otherwise be a civil legal process.

Administering a permit process in this environment is very resource intensive: staff effort and attention is required throughout the life of the permit, and sometimes more than one year after completion of the work.

- *The Permits Require Significant City Resources:* Administering the ROE permit process consumes a significant amount of MLS staff resources; particularly, supervisory and management resources, and when escalated, senior management. For example, staff must assess a suitable security deposit amount, which requires considering the value of all property that is exposed to risk of damage as a result of the proposed work. Should damage then occur, staff must assess whether or not there is a direct causal relationship between the work carried out on the adjoining land and the damage that has occurred. These are both challenging assessments that can take significant effort.

In addition, support is often required from Legal Services throughout the permit process, as the neighbours' adversarial relationship carries over into their dealings with the City. This can include litigation involving the City.

- *The Permits are Issued to a Small Fraction of the Population:* Although the ROE permit process requires significant City resources, it is used by a very small fraction of the population (37 permits issued in the past 5 years). These resources could be better used on matters that have a greater positive community impact.

Municipalities in Ontario are not obligated to enact by-laws for right of entry. Mississauga, Vaughan, and Brampton, for example, do not have by-laws as ROE is viewed as a private matter between the affected neighbours. While staff considered proposing the repeal of the ROE Article in Chapter 363, it was determined that some guidance may be beneficial to residents. Therefore, it's recommended that the ROE Article in Chapter 363 be amended by removing the requirement for a permit and instead prescribing the conditions for entry onto a neighbour's property.

Under this approach, all property owners and occupants in the City would be authorized to enter adjoining lands to make repairs provided that they comply with certain conditions. Other municipalities in Ontario that have a similar approach to this include Hamilton, Markham and London. In addition, where there are concerns related to gaining access to adjoining land, it's proposed that neighbours be referred to an alternative dispute resolution process. MLS has implemented a mediation referral program with The Neighbourhood Group Community Services (TNG). This program enables BEOs to refer residents to community-based mediation services as a tool to manage certain types of by-law service requests.

## **7. Nuisance Lighting**

Chapter 629 requires property owners to "buffer" light that may create a nuisance to other properties in the neighbourhood. For example, a barrier or deflector to prevent lighting and vehicle headlights from shining directly into a building unit. This is intended to minimize the effect of the nuisance, and prevent lighting from shining directly into a dwelling unit. The original intent of these by-law requirements was to address direct lighting, such as vehicular lighting. However, concerns around ambient lighting may be increasing as a result of growing density and use of LED lights, particularly in the downtown core.

Between 2017 and 2021, the City received 1,694 complaints (an average of 339 complaints each year) related to nuisance lighting and issued 5 orders to comply. As a result of growing concerns related to ambient lighting, staff were directed to report back on how the buffering provisions in Chapter 629 are currently enforced, including how this practice was adopted, options to revise it, and any other by-laws or policies that may be necessary to reduce the effect of ambient/nuisance lighting on residents.

During the engagement period, staff found that nuisance lighting is not a significant concern for residents. In public opinion research conducted in 2019, when asked "to what extent are any of the following a problem in your neighbourhood?" only 9% of respondents felt that "Intrusive lighting from non-residential property" was a big problem; 19% felt that it's only a little bit of a problem; and 65% felt that it's not a problem at all. There was also no statistically significant difference between renters and homeowners. Similarly, for "Intrusive lighting from residential property" 8% of respondents feel that it's a big problem; 20% feel that it's a little bit of a problem; and 68% not at all.

In the public questionnaire conducted in 2021, when asked "have light sources such as lights from vehicles, decorative building lighting, security lighting or construction lighting been an issue in your home?" 44% of respondents reported that they felt this was an issue; 47% felt that it was not an issue; and 8% reported feeling neutral.

Staff also conducted a jurisdictional scan to determine whether this is addressed in in key comparator jurisdictions (such as Chicago, Boston, Portland, Seattle and New York), there is no mention of nuisance lighting in property standards codes/by-laws.

With respect to municipal by-laws or policies that enforce nuisance lighting, the most notable by-law (aside from Chapter 629), is Chapter 694, Signs, General. Chapter 694 is enforced by a specialized team in Toronto Building, restricts illumination of signs during certain times (that is 9pm-7am for R and RA sign districts), and requires that signs not be up-lit, do not project onto adjacent premises in certain districts, and not exceed specific light levels (measured in nits).

In consultation with Toronto Building, it was determined that nuisance lighting should be measured in nits, rather than lux. Nits is measured at the light source, whereas lux is the amount of light falling on floor/walls surrounding. Therefore, lux is easy to measure in closed environment (for example, hallways), but not in a broader urban environment (where ambient/nuisance lighting generally originates from). In order to introduce more prescriptive measures, such as maximum light levels in residential settings, extensive resources would be required, as MLS would need to determine a specific nits level. This would require a consultant, new training and measuring devices and additional BEOs.

Due to the lack of public concern in the public opinion research, and generally low volume of complaints (in comparison to other high volume complaint categories in MLS that require specialized resources, such as noise), staff do not recommend introducing more prescriptive measures at this time. In consultation with BEOs, it was determined that the current enforcement approach for nuisance lighting - that is, trying to obtain voluntary compliance, and seeking alternative solutions - is working. If more prescriptive measures are directed by Council, then additional funding would be required.

## 8. Surveillance Cameras

As directed by Council, staff assessed the feasibility of prohibiting or restricting surveillance cameras from recording video footage of any residential property beyond an individual's property, as part of the review of Chapter 629.

Currently, there are no regulations that address the use of surveillance cameras on private residential property. Existing privacy legislation and guidance at the federal and provincial levels speak to surveillance in public spaces and use of information by public institutions. For example, the Privacy Act (Canada) applies to government institutions holding information, and the Personal Information Protection and Electronic Documents Act (Canada) applies to how private sector commercial organizations collect and use information. As such, the use of surveillance cameras on private residential property is generally permitted, although certain organizations that act as housing providers may be subject to privacy legislation. Voyeurism (that is, video recording for sexual purposes in a location where privacy is expected, such as in a change room or washroom) is prohibited and is considered a criminal offence under the Criminal Code.

Surveillance cameras, if regulated by municipalities, are generally dealt with under fortification by-laws. These by-laws regulate or prohibit excessive fortification of land, including buildings. Several Ontario jurisdictions have by-laws that prohibit “excessive protective elements” including surveillance cameras on private property. This includes Hamilton, London, Brampton, Oshawa, Uxbridge and Burlington – many of these by-laws were introduced around the same time (2002-2005). At that time, the impetus for these by-laws was to ensure access to property in the event of an emergency or criminal activity, rather than protecting privacy of neighbouring residents. For example, there were concerns that surveillance cameras were being used to monitor who was attending a property and to deny access, either at a gate and/or at a door.

While the municipal regulation of surveillance cameras is legally possible, staff have concerns regarding enforceability and practicality; particularly, the ability of the City to restrict or prohibit surveillance cameras from recording beyond the property owned or occupied. Because of the built form of Toronto, (that is, properties are built close together), it may be challenging to restrict video footage to one's own property. Moreover, enforcing these regulations sufficiently would require obtaining video footage to determine the field of view of the camera; therefore, an application for a search warrant would need to be submitted, and then approved by a Justice of the Peace. While this is possible, it is generally a time and resource intensive regulatory approach and may be considered overly burdensome, due to low volume of complaints and the growing popularity of surveillance cameras such as doorbell cameras.

During the engagement process, staff found that this is not a significant issue for residents across the City. In a public questionnaire, residents were divided when asked "are you concerned with the use of surveillance cameras on neighbouring private properties, which may be recording beyond that property?" This division of opinion may reflect the fact that some residents prefer to use surveillance cameras for security purposes (for example, to deter theft of deliveries), while others may prefer greater privacy.

Staff do not recommend introducing regulations to govern the use of surveillance cameras on residential property. Instead, to support residents that may have concerns with surveillance cameras, staff propose developing and publishing online guidance documents (see Attachment 1 for draft guidelines). This document gives consideration to what constitutes a camera, best practices such as taking best efforts to ensure cameras do not capture footage beyond the property of the land owned, leased or rented by the occupant. To aid residents when there are neighbour disputes related to privacy, staff propose extending the existing mediation services with The Neighbourhood Group to include referrals for surveillance cameras issues.

## **9. Elevators**

As part of the review of Chapter 629, Council requested staff review the feasibility of establishing service standards for elevator repairs in buildings and housing that serve vulnerable people or people with disabilities.

Currently, Chapter 629 requires that elevators be maintained in clean condition and good working order, with all parts operational and in good repair. Between 2017 and 2021, MLS responded to a total of 1,544 complaints related to elevator cleanliness and maintenance - an average of about 308 each year. In this same time period, 106 orders to comply were issued. While elevator safety and availability continue to be an issue for residents and stakeholders, particularly under the RentSafeTO program (as it is a category under the building evaluation score), this issue falls under provincial jurisdiction and complaints are referred accordingly.

Elevating devices are regulated by provincial legislation and enforced by the Technical Standards and Safety Authority (TSSA). TSSA is an administrative authority of the Government of Ontario, and has the authority to register, license and inspect the manufacturing, installation, maintenance and operation of the devices, certify technicians who work in the industry, shut down unsafe devices, and prosecute companies that do not comply with safety regulations.

In 2017, the provincial government commissioned an independent of the TSSA study (known as the "Cunningham Report") that resulted in 19 recommendations, related to elevator availability, such as measures to address a shortage of technicians, a public database for elevator downtimes and reliability, and a recommendation to formulate rules for allowable elevator downtime. A report from Ontario's Auditor General in 2018 also highlighted concerns with the TSSA and elevator safety and availability issues in Ontario. This includes a lack of enforcement powers to address consistent compliance issues amongst the 4 companies that comprise the largest market share of the elevator maintenance industry, as well as renewing licences despite having shut down devices for safety reasons.

In response to recommendations in the Cunningham report, the provincial government introduced the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, which mandated regulators to create penalties and deadlines for elevator downtime, among other improvements in elevator infrastructure.



The province has moved forward with specific elements of the Act, including administrative penalties for the TSSA to impose for non-compliance, and requirements for owners of elevators in residential buildings to report data on elevator outages greater than 48 hours to TSSA (who will in turn publish the data online). The legislation also provides authority to draft regulations for the standards and timelines of elevator repairs. These authorities come into force on July 1, 2022. This report recommends that City Council request the province to use the data about elevator outages to draft regulations to establish technical service standards and time requirements for elevator repairs.

## **Technical Amendments**

During the review of Chapter 629, staff identified several technical amendments to update, modernize, clarify and improve operationalization of Chapter 629. The recommended technical amendments, including their rationales, are noted in Attachments 4 and 5.

## **Next Steps**

It is recommended that the proposed changes to Chapter 629 come into effect immediately, while the proposed changes to Chapter 363 about Right of Entry and Chapter 632 about the engineer's report comes into effect on March 1, 2023. The changes to Chapter 363 and 632 provide sufficient time for staff to update administrative processes, develop communications and training materials. Several back-end technology improvements will require additional time, and are being considered as part of the 2023 MLS work plan, including leveraging the VHT universal declaration system and compliance/audit database. Staff will collaborate across relevant City divisions to develop a detailed implementation schedule. It will include components related to technology, administration, communications, compliance, and enforcement.

Staff will also continue to work on Phase II of the review of Chapter 629. Phase II aims to align the by-law with existing City of Toronto strategies, and "future-proof" the by-law. More specifically, Phase II will address directives related to reviewing and modernizing the Property Standards Appeal Committee (PSAC), as well as directives and action items related to the Resilience Strategy, the Biodiversity Strategy and the Toronto Green Standard. A report is expected in the first half of the next Council term.

## **CONTACT**

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## **SIGNATURE**

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Carleton Grant  
Executive Director, Municipal Licensing and Standards

## **ATTACHMENTS**

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Attachment 1: The Good Neighbour Guide for Use of Surveillance Cameras on Private Residential Property

Attachment 2: Public Questionnaire Results (2021)

Attachment 3: Public Opinion Research (2019)

Attachment 4: Draft Amendments to Chapter 629

Attachment 5: Proposed Technical Amendments to Chapter 629

Attachment 6: Proposed Amendments to the Right of Entry Article in Chapter 363

Attachment 7: Proposed Amendments to Chapter 629 and Chapter 719 related to Snow and Ice Removal