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CHAPTER 354, APARTMENT BUILDINGS

CHAPTER 354

APARTMENT BUILDINGS

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**[History: Adopted by City of Toronto Council on April 28, 2017 by By-law 448-2017¹.
Amendments noted where applicable.]**

General References

**Building Code Act, 1992 – See S.O. 1992, c. 23.
City of Toronto Act, 2006 - See S.O. 2006, c. 11.**

ARTICLE 1
General

§ 354-1.1. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated:

APARTMENT BUILDING - A purpose-built rental building with three or more storeys and ten or more rental units but does not include a long-term care home, a licensed retirement home or a housing co-operative.

EXECUTIVE DIRECTOR - The Executive Director, Municipal Licensing and Standards or her or his designate.

MANDATORY WASTE DIVERSION REQUIREMENTS - Requirements to divert waste from landfill, as indicated in any applicable federal, provincial or municipal statute, by-law or regulation.

OPERATOR - The superintendent or property manager of an apartment building or property who may take on some of the roles relating to permitting occupancy but does not include an owner.

OWNER - The owner of an apartment building or property.

PROPERTY and REPAIR - The same meanings as in subsection 15.1(1) of the *Building Code Act, 1992*. These meanings are noted as follows, for reference purposes only, and are subject to Subsection C:

¹ Editor's Note: This By-law was passed under the authority of sections 7 and 8 of the *City of Toronto Act, 2006*. By-law 448-2017 shall come into force July 1, 2017.

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- (1) **PROPERTY** - 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.
- (2) **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.

RENTAL UNIT - Any living accommodation used or intended for use as rented residential premises.

STOREY - The portion of a building:

- (1) That is situated between the top of any floor and the top of the floor next above it; or
- (2) That is situated between the top of the floor and the ceiling above the floor, if there is no floor above it.

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:

- (1) an owner or co-owner of the property in which the rental unit is located; or
 - (2) a shareholder of a corporation that owns the property.
- B. A term not defined in Subsection A shall have the same meaning as the term in the *Building Code Act, 1992* or Chapter 629, Property Standards.
- C. In this chapter a reference to an Act, regulation or by-law is to that Act, regulation or by-law as it is amended or re-enacted from time to time.

ARTICLE 2
Registration

§ 354-2.1 Registration.

- A. No owner shall operate or allow the operation of an apartment building that is not registered in accordance with this section.

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- B. An owner shall submit a registration in a form and manner satisfactory to the Executive Director for each property every 12 months and shall pay the amount specified in Chapter 441, Fees and Charges².
- C. A registration for each property shall contain the following information:
- (1) The property owner(s) names and contact information;
 - (2) The property operator(s) names and contact information;
 - (3) Security features existing at the property including, but not limited to, locking systems, cameras and security services;
 - (4) Sub-metered electricity including name of local distribution company or provider servicing the building; and
 - (5) Any other information required by the Executive Director.
- D. Notwithstanding Subsection B, an owner must update a registration within 30 days of any change to the information required in accordance with Subsections C(1) and (2).
- E. False, inaccurate, misleading registration.
- (1) No owner shall provide inaccurate, misleading or otherwise incorrect information required in accordance with this section to the City.
 - (2) Where the Executive Director determines that the information provided in Subsection C is inaccurate, misleading or otherwise incorrect, the Executive Director shall notify the owner.
 - (3) If the owner fails to correct registration within 14 calendar days of receipt of the notice in Subsection E(2), the Executive Director shall remove the owner's registration from the registry without further notice to the owner.

ARTICLE 3
Owner and Operator Obligations

§ 354-3.1 Tenant service request process.

- A. An owner or operator shall have a process for receiving and tracking tenant service requests.
- B. The process required by Subsection A, shall at a minimum include the following:

² Editor's Note: Section 3 of By-law 448-2017, stated that the fees established shall not apply to the following social housing providers: Toronto Community Housing Corporation; a not-for-profit provider of assisted or social housing under a program administered by the City of Toronto; and a dedicated supportive housing provider funded by the Province of Ontario.

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- (1) A manner for collecting and retaining the date and time the service request was made;
- (2) A manner for collecting and retaining a description of the location of the issue(s) including a rental unit number, if applicable, and the nature of the service request as identified by the tenant;
- (3) A process for identifying when a service request is urgent;
- (4) A manner for collecting and retaining the name and contact information for the tenant making the request;
- (5) A manner for providing a copy of the information collected by the owner or operator in accordance with this section to the tenant making the service request, upon the request of the tenant making the service request; and
- (6) A manner for maintaining copies of all responses made by the owner or operator in relation to the request in accordance with Subsection C.

C. Response required.

- (1) An owner or operator in receipt of an urgent service request shall respond to the tenant making the request within 24 hours of the request being made.
- (2) An owner or operator in receipt of a service request that is not urgent shall respond to the tenant making the request within 7 days of the request being made.
- (3) For the purposes of this subsection, an urgent service request is any request related to:
 - (a) the discontinuance of the following vital services:
 - [1] fuel;
 - [2] electricity;
 - [3] gas;
 - [4] heat; and or
 - [5] hot or cold water; or
 - (b) the breach of:
 - [1] building security;

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[2] suite security; or

[3] building envelope.

- D. The owner and operator shall maintain any information and records necessary to demonstrate compliance with the tenant service request process required by Subsection A.

§ 354-3.2. Tenant notification procedures.

- A. An owner or operator shall erect or install a notification board in a central location within the apartment building.

- B. The following information shall be posted on the notification board:

- (1) planned or unplanned service disruptions, including disruption to heat, water, security, electricity and elevators and all information related to:
 - (a) the nature of disruption;
 - (b) duration of disruption; and
 - (c) rental units, if any, impacted by the disruption.
- (2) major capital projects and all information related to:
 - (a) the nature of the project;
 - (b) duration of the project; and
 - (c) rental units, if any, impacted by the project.
- (3) the cleaning plan required in accordance with this chapter.
- (4) emergency contact information, in accordance with § 629-5.1B, C and D of Chapter 629, Property Standards.
- (5) the location of an air-conditioned place in the building, if accessible to all tenants;
- (6) the name, address and map to the nearest location of a publicly accessible air-conditioned location;
- (7) any of the following orders or notices issued by the City that apply to a common area:
 - (a) an order issued in accordance with Chapter 629, Property Standards;

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- (b) a notice issued in accordance with Chapter 485, Graffiti; and
 - (c) a notice of non-compliance issued in accordance with Chapter 844, Waste Collection, Residential Properties.
- (8) notice of any appeal to an Order made under s. 15.2 of the *Building Code Act, 1992* in relation to a common area of an apartment building, including the time and dates of any scheduled appeals;
- (9) the date of a scheduled audit by the City's Municipal Licensing and Standards Division;
- (10) any pest treatment activities, including:
- (a) the date of the treatment;
 - (b) the name of the pest management operator or exterminator licensed by the Ministry of the Environment undertaking the treatment;
 - (c) the nature of the treatment; and
 - (d) such information shall not include the location of the treatment; and
- (11) any other information or document required by the Executive Director.

§ 354-3.3 Pest management.

- A. The owner or operator shall inspect the property for the presence of pests in accordance with the following schedule:
- (1) the common areas of the property at least once every 30 days;
 - (2) any area of the property within 72 hours of the receipt of any information indicating the presence of pests in that portion or portions of a property.
- B. The owner or operator who is aware of the presence of pests at the property shall take adequate measures to:
- (1) prevent the spread of the pests into other portions of the property;
 - (2) eliminate or exterminate the pests in all areas where the presence of the pests is detected.

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- C. The owner or operator shall retain a pest management operator or exterminator licensed by the Ministry of Environment to conduct all pest extermination activity.
- D. No owner or operator shall take any action or fail to take any action which is likely to:
 - (1) cause the spread of the pests into other portions of the property; or
 - (2) prevent the control or extermination of the pests.
- E. No person shall take any action or permit any person to take any action intended to obscure or hide the presence of pests in any portion of a property.
- F. No person shall obstruct the extermination of the pests.

§ 354-3.4. Waste management.

- A. An owner or operator shall have a waste management plan for the apartment building in accordance with this section.
- B. A waste management plan shall include the information on how the owner or operator intends to comply with:
 - (1) the garbage and debris storage and disposal requirements outlined in Chapter 629, Property Standards; and
 - (2) mandatory waste diversion requirements.
- C. The owner and operator shall maintain any information and records necessary to demonstrate compliance with the waste management plan required by Subsection A.
- D. An owner or operator shall take the following actions relating to waste diversion for the apartment building:
 - (1) post in at least one common area of the apartment building waste diversion literature that addresses, among other things, diversion items accepted and the location of collection bins for such diversion items.
 - (2) identify clearly with stickers or posters the correct place to deposit garbage, recycling and, if applicable, organic materials.

§ 354-3.5. Cleaning.

- A. An owner or operator shall inspect the common areas of an apartment building at least once every day for cleanliness.

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- B. An owner or operator shall have a cleaning plan for the property in accordance with this section.
- C. The cleaning plan required by Subsection B shall include the following information:
 - (1) A list of all common areas in the apartment building and a schedule for the frequency of the cleaning services for those common areas; and
 - (2) A process, including a timeline in hours, for the owner or operator to clean unexpected or emergency situations that would cause all or part of the common areas to be in a state of uncleanliness.
- D. The owner and operator shall maintain any information and records necessary to demonstrate compliance with the cleaning plan required by Subsection A

§ 354-3.6. Certified tradesperson; use of.

An owner or operator shall demonstrate that they have retained or used the services of a certified tradesperson where required by law for activities including but not limited to servicing heat, ventilation, air conditioning and plumbing systems.

§ 354-3.7. State of good repair capital plan.

- A. An owner or operator shall have, maintain and keep current a state of good repair capital plan.
- B. A state of good repair capital plan shall include a list of the capital elements of the apartment building(s) and a date upon which the element will be scheduled to be replaced or updated.
- C. For the purposes of Subsection B, a capital element shall include, but is not limited to, the roof, elevators, building façade, windows, mechanical systems, underground garage, interior flooring, interior wall finish, balcony guards and handrails.
- D. An owner or operator shall provide a copy of the state of good repair capital plan to any tenant or prospective tenant upon request.

ARTICLE 4
Record Keeping

§ 354-4.1. Record keeping obligations.

- A. An owner or operator shall create and retain records necessary to demonstrate compliance with this chapter.

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- B. The records required in accordance with Subsection A shall include, but are not limited to:
- (1) tenant service requests, set out in greater detail in § 354-3.1;
 - (2) logs of all scheduled or unscheduled cleaning activities including, but not limited to, the nature of the cleaning activity and the date and location on which it occurred;
 - (3) logs of all scheduled or unscheduled activities relating to the waste management plan including, but not limited to, the nature of the activity and the date and location on which it occurred;
 - (4) logs of all scheduled or unscheduled pest inspections, including:
 - (a) the date and location of all proactive and reactive pest inspections;
 - (b) the name of the pest management operator or exterminator licensed by the Ministry of the Environment retained to conduct inspections; and
 - (c) the results of the inspection, including the recommended treatment, if any;
 - (5) logs of all pest treatment activities, including:
 - (a) the date and location of treatment;
 - (b) the name of the pest management operator or exterminator licensed by the Ministry of the Environment undertaking the treatment; and
 - (c) the nature of the treatment;
 - (6) logs of service and maintenance conducted on fuel burning appliances, heating systems, cooling systems, ventilation systems and plumbing systems, including:
 - (a) the date and nature of service; and
 - (b) the name of certified tradesperson who carried out the service or maintenance, if applicable.
- C. All records created in accordance with this section shall be maintained in a secure and accessible manner for a period no less than 24 months from the date the record was created.
- D. An owner or operator shall provide the records required in accordance with § 354-4.1B(4) and (5) for any common area to any tenant or prospective tenant, upon request.

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ARTICLE 5
Audits and Inspections

§ 354-5.1. Audits and regular site visits.

- A. The Executive Director is authorized to conduct routine site visits and pre-audits of all apartment buildings to determine whether they are in compliance with this chapter and any other City by-law, enforced by the Executive Director, and the owner or operator shall pay any fees in accordance with Chapter 441, Fees and Charges³.
- B. The Executive Director is authorized to audit apartment buildings that require further investigation, to re-inspect apartment buildings to confirm that the owners or operators are complying with any issued orders and to take any other action necessary and authorized by law.

ARTICLE 6
Renting Units to New Tenants While Non-Compliant

§ 354-6.1. Prohibition on rental of vacant rental units.

- A. No person shall rent a rental unit to a new tenant if there is a confirmed property standards order issued in accordance with Chapter 629, Property Standards related to the rental unit.
- B. No person shall rent a rental unit to a new tenant if there is a discontinuance of fuel, electricity, gas, heat, or hot or cold water in the apartment building.
- C. No person shall rent a rental unit to a new tenant if the owner or operator is aware of the presence of pests in the rental unit.

ARTICLE 7
Offences, Entry to Inspect, Orders

§ 354-7.1. Offences.

- A. Every person who contravenes any provision of this chapter is guilty of an offence and on conviction is liable to a fine of no more than \$100,000.
- B. In addition to a fine or fines provided for in this section every person who gains an economic advantage or economic gain from contravening this chapter shall be liable to a special fine in an amount equal to the fair market value of the economic advantage or economic gain so obtained from the contravention.

³ Editor's Note: Section 3 of By-law 448-2017, stated that the fees established shall not apply to the following social housing providers: Toronto Community Housing Corporation; a not-for-profit provider of assisted or social housing under a program administered by the City of Toronto; and a dedicated supportive housing provider funded by the Province of Ontario.

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- C. In addition to offences referred to in Subsection A, every person is guilty of an offence under this chapter who:
- (1) Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this chapter;
 - (2) Neglects or refuses to produce or provide any information or thing to any person acting pursuant to an order made under section 378 of the *City of Toronto Act, 2006*;
 - (3) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this chapter.
- D. Where a corporation contravenes any of the provisions of this chapter, every director or officer who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of no more than \$100,000.
- E. Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence may exceed \$100,000.
- F. Where a corporation contravenes any of the provisions of this chapter, every director or officer who concurs in such contravention is guilty of an offence and, upon conviction, is liable to a fine not exceeding \$100,000.

§ 354-7.2. Entry to inspect.

- A. In accordance with section 376 of the *City of Toronto Act, 2006*, an officer may enter upon land within the City at any reasonable time for the purpose of carrying out inspections to determine whether the following are being complied with:
- (1) This chapter; or
 - (2) A notice or order issued in accordance with this chapter.
- B. For the purposes of an inspection under Subsection A, an officer may:
- (1) Require, for inspection, the production of documents or things relevant to the inspection;
 - (2) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts of them;
 - (3) Require information from any person concerning a matter related to the inspection;

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- (4) Be accompanied by such person or persons as the officer determines is necessary if such person or persons possesses special or expert knowledge related to the purpose of the inspection; and
- (5) Make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

§ 354-7.3. Orders to comply.

- A. An officer who finds a contravention of this article may make one or more orders requiring discontinuance of the contravening activity or to do work to correct the contravention under section 384 or 385 of the *City of Toronto Act, 2006*.
- B. The order may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
- C. If there is evidence that the occupant of the land is not the registered property owner, the notice shall be served on both the registered property owner and the occupant of the land.
- D. If the address of the owner is unknown or the City is unable to effect service on the owner or occupant under Subsection B, a placard stating the terms of the order and placed in a conspicuous place upon land on or near the property shall be deemed to be sufficient notice to the owner.
- E. If the delay necessary to give an order under the preceding subsections would result in an immediate danger to the health or safety of any person, the order may be served personally on the person to whom it is directed or by a placard stating the terms of the order and placed in a conspicuous place upon land on or near the property.

§ 354-7.4. Remedial action.

If a person fails to comply with an order to do work to correct a contravention of this article, the Executive Director, or persons acting upon his or her instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the person's expense.