



Council Report

For the Meeting of November 5, 2020

To: Council **Date:** October 22, 2020
From: Karen Hoesé, Director of Sustainable Planning and Community Development
Subject: **Proposed Rental Property Standards of Maintenance Bylaw Update**

RECOMMENDATION

That Council:

1. Rescind third reading of the *Rental Property Standards of Maintenance Bylaw*, No. 20-091 (the "Bylaw");
2. Amend the Bylaw as follows:
 - a. in section 12, strike out subsection (5) and replace with the following:

“(5) All rooms containing sanitary facilities within a residential property shall:
(a) have a door that can be securely closed at any entrance, and
(b) be maintained in good order, free of mould and in a clean condition.”,
 - b. in section 13 (1), strike out “washer, dryer and double laundry sink”, and replace with “washer and dryer”, and
 - c. in section 13 (3), strike out “a double laundry sink and”.
3. Give third reading to the Bylaw as amended.

EXECUTIVE SUMMARY

This report brings forward public feedback received on the proposed *Rental Property Standards of Maintenance Bylaw* (Bylaw) and proposes amendments to the Bylaw based on the results of the feedback. Section 59 (2) of the *Community Charter* requires that before adopting a bylaw regulating business, Council give notice of its intention to do so and provide an opportunity for persons who consider they are affected by the Bylaw to make representations to Council. Several notifications were made to the public through newspaper advertisements, the City website and social media. Feedback was received by email and has been consolidated in Attachment B for Council's consideration. As a result of the public feedback, staff are recommending for Council's consideration that amendments are made with respect to two items in the Bylaw.

PURPOSE

The purpose of this report is to present Council with the results of the opportunity for public feedback on the Bylaw, and to bring forward proposed amendments to the Bylaw as a result of that feedback.

BACKGROUND

On September 17, 2020, Council passed the following motions in regard to the Bylaw and the implementation plan:

1. Direct staff to bring forward the *Rental Property Standards of Maintenance Bylaw* for consideration of introductory readings;
2. Approve written submissions from persons who consider they are affected by the proposed Bylaw as the public representations method under section 59 (2) of the *Community Charter*, and provide notice by way of newspaper, website, and social media advertising;
3. Provide early approval for the Tenant Ambassador to allow the position to start at the beginning of January 2021 to:
 - a. Precede the commencement date of the Bylaw (January 31, 2021)
 - b. Oversee the implementation and operation of the Bylaw;
4. Launch an eighteen-month feedback and monitoring period after the Bylaw comes into force to monitor the Bylaw's operation and to collect experiential input from the public;
5. Direct staff to return to Council in eighteen months following bylaw commencement to report on the Bylaw's effectiveness and determine if any updates are needed based on data and feedback.

Pursuant to sections 59 (2) and (3) of the *Community Charter*, persons who consider that they may be affected by the proposed Bylaw have been provided an opportunity to make representations to Council, through written submission between September 23, 2020 and October 7, 2020. Several notifications of the proposed Bylaw have been made to the public, including newspaper advertisements, the City website and social media. At Council direction, staff have consolidated and considered the feedback received (Attachment B) and have proposed the following changes to the Bylaw for Council's consideration in response to the feedback.

ISSUES & ANALYSIS

For Council's information, the Bylaw showing the proposed amendments in tracked changes is included as Attachment A.

I. Bylaw Content – Proposed Changes

Section 12 – Adding requirement that bathrooms have a door

At the Committee of the Whole meeting on September 10, 2020, a member of Council raised the concern that there may be rental units in Victoria where the bathroom does not have a door. The *BC Building Code* does not require that bathrooms have a door. Therefore, it is recommended that this requirement be added to the Bylaw in order to enhance the liveability of rental units.

Section 13 – Removing requirement for a double sink

The Bylaw requires that laundry facilities include double sinks, however, staff understand that this is not considered a necessary component of a modern laundry facility and that it may be challenging to include in all laundry rooms, for a variety of reasons including space limitations. Therefore, staff propose that this requirement be removed.

II. Additional Feedback – No Changes Proposed

Jurisdiction

Some feedback received raised concerns regarding the potential duplication of provincial legislation. As previously reported, the management of tenant-landlord relationships falls under provincial jurisdiction. While the Province has developed guidance on maintenance standards, such standards have not been established provincially. Instead, authority has been given to municipalities to adopt a maintenance bylaw, which can serve as a locally enforceable regulation.

On September 17, 2020, Council gave the Bylaw initial readings which, if adopted, will allow for the City to implement local standards, and to provide information and referral to tenants, but does not include municipal enforcement provisions. Instead, the Bylaw will allow the Residential Tenancy Branch (RTB) to enforce its *Residential Tenancy Act* (RTA) while maintaining the responsibilities of tenants and landlords as established by the RTA, as well as the process for resolving potential disputes.

Additional Feedback Received

While additional feedback was received, it is not recommended that further amendments to the Bylaw be made. Many of the questions and concerns received would require clarifications on interpretation or the scope of the *RPSOM Bylaw*, or are already covered by the draft *RPSOM Bylaw*, other City bylaws or provincial legislation. Table 1 below illustrates how many of the concerns received are relevant to existing legislation.

Table 1: Additional Feedback Received

Bylaw Section	Concerns Received	Response
<i>Mould</i>	Concern that tenants may be responsible for mould.	The <i>RTA</i> establishes tenant and landlord responsibilities, which when needed specific scenarios can be considered through arbitration. As per <i>RTA</i> Section 32 (2): Tenants are responsible for maintaining reasonable health, cleanliness and sanitary standards throughout the residential unit and property.
	Concern that landlord responsibilities for addressing mould and assisting tenants in addressing mould should be increased.	The draft <i>RPSOM Bylaw</i> includes a provision for the landlord to address the mould in a timely manner. The RTB is responsible for enforcement of the Bylaw, and tenants may enter an arbitration process to consider specific scenarios and reimbursement of associated costs.

Bylaw Section	Concerns Received	Response
<i>Repairs</i>	Concern that tenants may not have the expertise to directly hire contractors to undertake repairs, and this may impact small landlords who carry out repairs on their own who are not certified.	The draft <i>RPSOM Bylaw</i> does not require tenants to directly hire contractors under the Bylaw. However, the <i>RTA</i> allows tenants to make requests for repairs in writing to the landlord. If there is no response after two attempts and a reasonable amount of time has passed, the tenant may arrange to have the repairs done at a reasonable cost. While the repairs are underway, a landlord may decide to take over the repairs and pay for work done up to that point; or allow the repairs to continue and reimburse the tenant for the full cost.
<i>Pest Control</i>	Concern that tenants may cause pest infestations or issues.	The <i>RTA</i> establishes tenant and landlord responsibilities, which when needed specific scenarios can be considered through arbitration. As per <i>RTA</i> Section 32 (2): Tenants are responsible for maintaining reasonable health, cleanliness and sanitary standards throughout the residential unit and property.
	During the September 10, 2020, Committee of the Whole meeting, Council asked whether bed bugs would be included under this section of the draft <i>RPSOM bylaw</i> .	Bed bugs are considered a pest and would be included in the draft <i>RPSOM Bylaw</i> .
<i>Utilities</i>	Concern regarding tenants failing to pay utilities. Proposal that the City notify the owner of unpaid utilities.	The owner is responsible for City utilities on their property. The tenant, property manager or the owner can receive the utility bill, but the owner is always responsible for any outstanding amounts. There are several options for owners to effectively manage utilities, including receiving the bill directly, contacting the City's Utilities to monitor outstanding amounts or requesting access to utility bills online using 'My City Online', with agreement from tenants. Additionally, the RTB has an established process for eviction should tenants fail to pay utilities or rent in full.
<i>Floors</i>	During the September 10, 2020, Committee of the Whole meeting, Council asked whether flooring is addressed by the draft <i>RPSOM Bylaw</i> or other legislation.	Section 22 of the Bylaw addresses flooring, and requires that floors are clean, smooth, level, safe and that there must be "smooth moisture resistant floor finishes" in bathrooms. In addition, the <i>Building Code</i> requires finished flooring.
<i>Snow and Ice Clearing</i>	Concern that landlords do not clear snow and ice.	Section 107 of the <i>Streets and Traffic Bylaw</i> regulates the clearing of snow and ice along the sidewalk by occupants and owners. The RTB has established policy guidelines which outlines the responsibilities of tenants and landlords for clearing snow and ice on residential properties.

NEXT STEPS

If the amended Bylaw is adopted by Council, it will take effect as of January 31, 2021. As per Council direction from September 17, 2020, staff will move forward with the tenant-centred enforcement approach with the support of the Tenant Ambassador; launch a monitoring and feedback period; and will report back on bylaw effectiveness at an eighteen-month review following bylaw commencement.

OPTIONS & IMPACTS

Option 1 (Recommended): Rescind third reading, amend the Bylaw as recommended, and give third reading to the amended Bylaw.

This option will ensure the *RPSOM Bylaw* achieves its intended purpose of establishing a minimum standard for residential rental buildings and its potential to improve living conditions for many Victoria residents.

Option 2 (Not Recommended): Adopt the Bylaw unamended.

This approach is not recommended because it includes outdated requirements and misses an opportunity to improve liveability for renters.

2019-2022 Strategic Plan

The recommendations in this report align with Strategic Objective Three: Affordable Housing, by supporting existing tenancies and improving the quality of rental housing stock in the City of Victoria through the implementation of the Market Rental Revitalization Study.

Impacts to Financial Plan

The option recommended in this report will not require additional resources.

Official Community Plan Consistency Statement

This initiative is consistent with several *Official Community Plan* (OCP) objectives and goals. Most broadly, the OCP states: “Housing is a basic human need. All people deserve access to housing that is safe, stable and affordable and that supports personal and public health.”

Specifically, the *RPSOM Bylaw* meets the following goals and objectives:

Section 13: Housing and Homelessness Goals

- 13 (a) - All residents have access to appropriate, secure, affordable housing.
- 13 (b) - A wide range of housing types, tenures and prices gives residents choices.

Section 13: Housing and Homelessness Objectives

- 13 (b) - That housing affordability is enabled for housing types across the housing spectrum, particularly for people in core housing need.
- 13 (c) - That the existing supply of rental housing is expanded through regeneration.

- 13 (d) - That a wide range of housing choice is available within neighbourhoods to support a diverse, inclusive and multigenerational community.

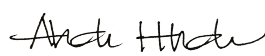
CONCLUSIONS

Amending the Bylaw as recommended will remove outdated standards and establish a higher minimum standard for rental housing in Victoria.

Respectfully submitted,



Hollie McKeil
Housing Planner
Community Planning Division



Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: October 28, 2020

List of Attachments

- A. Rental Property Standards of Maintenance Bylaw with Amendments
- B. Feedback