



**Committee of the Whole Report  
For the Meeting of November 23, 2017**

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**To:** Committee of the Whole **Date:** November 17, 2017  
**From:** Jonathan Tinney, Director, Sustainable Planning and Community Development  
**Subject:** **Market Rental Revitalization Study Project Update – Building Maintenance and Tenant Stability Measures**

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## **RECOMMENDATIONS**

That Council:

1. Receive this Market Rental Revitalization Study Project Update report for information
2. Direct staff to:
  - a. prepare a new Standards of Maintenance Bylaw and Tenant Relocation Policy based on the recommendations contained in this report;
  - b. seek feedback on the above at the Market Rental Revitalization Study focus group sessions and return to Council with final drafts for approval by Q1 2018
  - c. examine the City's authority to further improve tenant stability through other legislative mechanisms

## **EXECUTIVE SUMMARY**

The Market Rental Revitalization Study (MaRRS) is an examination of potential regulations, policy, and incentives to preserve and improve the existing stock of aging rental apartment buildings in the City of Victoria. One of the key objectives of the study is to fulfil an action in the Victoria Housing Strategy to protect existing rental stock by reviewing and updating the Property Maintenance Bylaw to improve tenant housing quality, and to examine the City's legislative authority for a municipal role in maintaining rental tenant stability. Following a substantial review of provincial tools and work in this area in other jurisdictions, staff recommend the best way to complete these actions is by developing a new standalone standards of maintenance bylaw and a new tenant relocation policy for use as a guidance tool in rezoning applications and general policy guidance for property owners pursuing redevelopment involving tenant displacement. Staff also recommend pursuing further legal analysis on solutions that may exist to supplement these actions under Victoria's regulatory powers in the Community Charter and other legislative documents. If Council approves of the approach recommended in this report, staff could seek feedback on the new bylaw and policy at MaRRS focus groups scheduled to take place in January 2018, and return with bylaws and policy ready for approval by Q1 2018.

## **PURPOSE**

The purpose of this report is to present Council with the first project update to the Market Rental Revitalization Study, including information, analysis and recommendations for a municipal role in maintaining residential building standards and rental tenant stability.



## **BACKGROUND**

The Market Rental Revitalization Study (MaRRS) was designed to achieve four supporting actions outlined in the Victoria Housing Strategy under the overarching action of "Protect existing rental stock." The study's role is to look at policies, regulations, and incentives to preserve Victoria's large stock of market rental housing developed between 1960 and 2000 that typically provides lower rental rates than newer purpose-built rentals, but may also be requiring significant upgrades for safety and liveability. Due to a confluence of factors such as a low rental vacancy rate, the cost of major capital repairs, lower rents, long-standing tenancies, and a rapid and marked increase in land values, tenants in these buildings are at risk of living in substandard housing conditions or losing their housing due to major repairs, redevelopment, or ownership changes.

This same stock of aging market rental housing has also been identified as being a major contributor to carbon emissions in the City, and with the assistance of a BC Hydro grant, MaRRS will also be examining how energy efficiency upgrades may be achieved in these buildings while still maintaining affordability. As well, earlier research commissioned by the City also identifies this stock as being particularly vulnerable to seismic impacts, and so MaRRS is thirdly looking at the feasibility of incorporating seismic upgrades in the regulations, policies, and incentives under consideration. A Request for Proposals was issued in summer 2017 to procure consultant support to complete this project; a consultant group consisting of RDH Consulting, the Community Social Planning Council and Skyline Engineering were the successful proponents.

Two of the four supporting action items in the Housing Strategy that fall under the MaRRS project are the subject of this project update: "Examine legislative authority for a municipal role in maintaining rental tenant stability", and "Review and update the Property Maintenance Bylaw to improve tenant housing quality." Updates with regard to energy efficiency and seismic upgrades will be forthcoming in future reports.

### **Existing Regulations and Policy Gaps**

In housing markets such as Victoria, where there is intense competition for rental units and therefore limited housing options available, tenants can be vulnerable to housing instability through substandard housing conditions or insecure tenancies. The Residential Tenancy Act (RTA) is provincial legislation that regulates residential tenancies in British Columbia. Under the Act, landlords are responsible for maintaining their rental units in a good state of repair. The Act also gives permission to landlords to issue a notice to end tenancy if work on the unit is required that necessitates the unit being vacant. However, there is some question as to whether the Act is sufficiently protecting tenancies in these instances. As a result, several municipalities in British Columbia have adopted supplementary policy and bylaws to improve tenant housing quality and housing stability beyond the measures identified in the RTA; the Victoria Housing Strategy identifies exploring whether the City of Victoria should follow suit as supporting action item.

## **ISSUES AND ANALYSIS**

### **Property Maintenance**

Victoria currently has a Property Maintenance Bylaw; however, its provisions are limited to external elements and the protection of neighbours and neighbourhood character (the stated purpose of the bylaw is to regulate, prohibit, and impose requirements in relation to refuse,



water accumulation, weeds, and graffiti or other 'unsightly conditions' on the property). There is no consideration in the current bylaw for the interior condition of a property or the health and safety of its occupants.

Through the Housing Strategy, Council has directed staff to prepare bylaw amendments to amend the Property Maintenance Bylaw to improve tenant housing quality. From the review of other jurisdictions' work in this area, as well as guidance provided by the province, a more common approach appears to be the establishment of a standalone standards of maintenance (SOM) bylaw that establishes standards for the interior of buildings including:

- impacts of leaks from plumbing or water ingress
- functioning heat and hot water
- pest control
- fire safety concerns such as alarm systems and means of egress
- integrity/functionality of housing elements such as doors, windows, sanitation facilities, electrical facilities, appliances, etc.

An overview of select cities' bylaws is contained in Attachment A – MaRRS Policy Research.

Because the current Property Maintenance Bylaw contains no provisions for the interior condition of a property or health and safety of occupants, and the province gives authority and guidance to municipalities to create SOM bylaws, staff recommend instead that Council consider creating a new standalone SOM bylaw for Victoria, rather than update the existing Property Maintenance Bylaw. In so doing, the City would have the ability to impose penalties on property owners who do not adhere to regulations and thus improve quality of housing for tenants. There would also likely be a positive impact on building upkeep and the retention of existing housing, as well as some mitigation around concerns of demolition by neglect. The Property Maintenance Bylaw could remain in effect so that the City could use both pieces of legislation to regulate the upkeep of residential property. (The City could also choose to repeal the Property Maintenance Bylaw with the implementation of a SOM bylaw in order to have only one municipal bylaw relating to property maintenance; however as the bylaws do not contain significant overlap in terms of general standards, this is not required or recommended.) It should be noted that a SOM bylaw would apply to all residential housing in the City, and not only rental properties.

#### *Content Considerations*

Based on the jurisdictional scan of typical components of a SOM bylaw as well as guidance provided by the Province, staff recommend Council consider the following for Victoria's SOM bylaw:

- Standards to regulate  
While some jurisdictions contain extensive lists of items subject to enforcement (see Attachment A), it is recommended that the City of Victoria keep its list minimal while still ensuring basic building standards are met in order to ensure maximum enforceability and in recognition of the City's available resources. Proceeding in this way also ensures that the intention of the implementation of this bylaw – to ensure housing habitability – is provided for without risking tenancies. Including more building-related concerns as some other municipalities do such as foundation issues, room sizes, ceiling heights, etc., would not only require additional staff resources to enforce (for example building inspection staff for technical building elements) but would also significantly increase the risk of housing loss should dwellings be found not to be in compliance, especially in instances of unauthorized suites, effectively defeating the purpose of establishing this bylaw. (Further consideration of unauthorized suites is noted below). The following



outlines the primary maintenance issues staff recommend including in the Victoria SOM bylaw:

Issue	Possible regulation
Impacts of leaks from plumbing or water ingress	All plumbing, including plumbing fixtures, drains, vents, water pipes, toilets and toilet tanks and connecting lines to the water and sewer system, shall be maintained in good working order and repair, free from leaks or other defects and protected from freezing.
Functioning heat and hot water	Every hand basin, bathtub, shower, and sink shall have an adequate supply of hot and cold running water and every toilet and toilet tank shall have an adequate supply of running water. Hot water shall be supplied at minimum temperature of 45C (113F) and a maximum of 60C (140F).
Pest Control	If pests have infested land, or any building or accessory building on it, the owner of the land must eliminate the infestation.
Fire safety concerns such as alarm systems and means of egress	Walls, floors and roof constructions, including fire protective closures, sprinkler systems, including fire alarm, and detection systems and other means of fire protection, shall be maintained so that they continue to provide the fire resistive properties and protection for which they were designed.
Integrity/functionality of housing elements such as doors, windows, sanitation facilities, electrical facilities, and appliances	Doors, windows, sanitation and electrical facilities and appliances identified in the Tenancy Agreement shall be maintained in good working order and repair

- Extending provisions to unauthorized suites

The province notes that the provision of an SOM bylaw would not need to imply that a rental unit has satisfied the requirements of other bylaws, and that the landlord could be required to maintain the unit to the state of repair identified in the bylaw without necessarily having to 'shut the unit down'. The importance of this is that like many other jurisdictions across BC, a significant number of rental units in the Victoria are unauthorized (illegal), and tenants could be concerned that reporting a complaint about maintenance issues in an unauthorized unit would put their housing at risk. In reality, while there would be no implied immunity from other bylaws or regulations, municipalities can ascertain compliance with one bylaw without proceeding with enforcement on the compliance of all bylaws.

- Enforcement

It is recommended that an SOM bylaw be used as a tool for complaints response only, rather than a basis for a proactive enforcement program. First, there is other legislation already in place that regulates these items, for example the Residential Tenancy, Fire Services, and Health Acts. Second, while the City currently does not have the resource capacity to proactively enforce these regulations, updating the bylaw and having it available for use by bylaw enforcement officers would create a useful tool for the City should tenants complain of health and safety concerns within residential properties. Regardless of the approach taken, there will be resource considerations, as the creation of new regulations, even if only enforced on a complaints basis, will mean an increased level of enforcement. Staff could report back on enforcement considerations when the new bylaw is presented.



## Tenant Protection and Relocation Policies

The renovation and redevelopment of properties frequently has the effect of displacing existing tenants. To address this, the Housing Strategy recommends examining the City's legislative authority for a municipal role in supporting rental tenant stability.

As outlined in Attachment A – MaRRS policy research, the Residential Tenancy Act may not provide adequate protection to tenants, such that redevelopment may lead to significant negative impacts as highlighted above. Several municipalities have therefore instituted local policies around tenant protections and tenant relocation in order to augment the protections offered by the RTA. A selection of tenant protection policies from other jurisdictions is also included in Attachment A.

Tenant protection measures tend to feature some common aspects such as:

- a prescribed amount of notice (time) given to tenants ahead of ending a tenancy
- a specific amount and type of compensation the landlord is to provide tenants (cash payout, free rent, covering moving expenses, etc.)
- the particulars of moving assistance the landlord is to provide to tenants (arranging for or covering moving expenses; locating alternative accommodations within specific guidelines; providing a coordinator or liaison to provide relocation assistance)
- the right of first refusal (the offer to return to the building once renovations or reconstruction is complete, sometimes with stipulations for the rent level to be paid)
- a template tenant relocation plan.

Despite the addition of policy in this area, the authority to enforce these measures is complex legislative terrain. The Local Government Act (LGA) and Community Charter contain legislative regulations that prohibit cities from creating special requirements to obtain building or development permits. Cities do have broader authority in the instance of rezoning applications, where Councils can consider public benefit as well as potential negative effects, however adherence to tenant protection policies and completion of tenant relocation plans cannot be requirements to obtaining rezoning approval, nor can they be expected to guarantee a Council's approval of these applications. A tenant relocation policy and plan should therefore be used for guidance in instances where redevelopment will impact existing tenancies.

Tenant protection policies outline basic minimum standards, however practice can often exceed what is outlined. According to City of Victoria planning staff as well as staff at several BC municipalities (City of North Vancouver, City of Burnaby, City of New Westminster),<sup>1</sup> in practice, developer applicants have often gone above and beyond the basic stated minimum guidelines set out in municipal policies and the RTA. Municipalities reported often seeing developers offer advanced notice to tenants and provide increased compensation, including going to lengths to assist tenants with suitable relocation. In the City of Victoria staff have received requests for policy guidance from applicants who are looking to relocate tenants where there is no requirement to do so. What can be determined from this is that despite the fact that there may be no legislative authority to enforce the adherence to tenant relocation policies, applicants often wish to voluntarily adhere to City policies, and as such, there appears to be good value in developing these types of policies. Therefore it is recommended that Council consider directing staff to develop a tenant relocation policy as a guidance document for applications and

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<sup>1</sup> Telephone interviews of planning staff conducted by study consultant



reference for developers, and that the plan should include a template tenant relocation plan for distribution to property owners involved in tenant relocations.

Staff recommend Council consider including the following in Victoria's tenant relocation policy:

Protection Measure	Current (basic RTA)	Protection Measure
<b>Notice to tenants</b>	Two months' notice to end tenancy, after issuance of appropriate permits	Encouraged to give advanced notice prior to issuance of appropriate permits; two months' notice when permit issued
<b>Compensation</b>	Equivalent of one months' rent	Two months' rent
<b>Moving assistance (costs)</b>	None	Assistance scheduling a moving truck / company
<b>Moving assistance (relocation assistance)</b>	None	Tenants can request moving assistance (by Tenant Relocation Coordinator provided by developer/ property owner), to assist with finding alternative housing options
<b>Right of first refusal</b>	None	First right of refusal offered, but no measures to limit the cost of purchase/rent of new unit

Policy research has shown that a selection of municipalities have enacted stricter protection measures, however it is not recommended that Victoria take this approach for several reasons.

First, this policy will only apply to redevelopment scenarios, and cannot legally be applied in the instances of renovations requiring only building permits (including building permits for demolitions). There is a risk that creating requirements for redevelopment that are too onerous may push applicants to renovate or demolish instead, where these rules would not apply, and tenants would be evicted with no additional protections, as only the RTA requirements would apply. Moving from redevelopment to renovation or demolition would also have the added negative effect of a loss of potential new rental housing supply.

Next, a stated outcome of the MaRRS project is to create incentives to upgrade existing rental housing stock. The intention of the incentives is to encourage the revitalization of existing rental housing without negatively impacting tenancies (by avoiding evictions and preserving affordability). Tenant protections will therefore be increased when applicants have support from the City to upgrade housing while preserving tenancies.

Regardless of the approach taken, careful legal analysis of the final policy will be required to ensure the City acts within its authority in these matters; additionally, the tenant protection plan will be dependent on the options selected by Council, and therefore, staff require Council's decision on these recommendations before proceeding with this work.

### **Other Potential Tenant Protection Mechanisms**

Beyond an update to the Property Maintenance Bylaw and development of a tenant protection policy, there may be other mechanisms that could improve housing security for residential tenancies through the City's municipal authority in legislation such as the Community Charter, which gives municipalities the authority to enact regulations around building, land, and businesses. It may be possible for the City of Victoria to develop additional regulations that



landlords must adhere to when operating residential rental housing under these two categories. For example, landlords of multi-unit buildings are required to obtain a business licence and adhere to the regulations in the Business Regulation Bylaw when operating residential tenancies. It may be possible to develop business regulations that specifically consider tenant protections in the event of renovations or the termination of tenancies. This is a unique approach that has not been widely observed in other jurisdictions; therefore, careful legal analysis would be required to determine whether this is a feasible option. Council could consider directing staff to report back in a closed council meeting with options and recommendations on this approach for consideration.

### **Consultation and Feedback**

It is recommended that Council consider directing staff to seek feedback on a proposed SOM bylaw and tenant relocation policy before implementation. Staff will be conducting focus groups consisting of key housing stakeholders (landlords, property managers, developers, and tenants) as part of the MaRRS project in January 2018 and could request these groups provide feedback on the proposed new regulations and policy ahead of adoption. Staff could then return to Council with a draft SOM bylaw and tenant relocation policy informed by this feedback by Q1 2018.

### **OPTIONS AND IMPACTS**

**Option 1 (recommended):** Approve the recommendations put forth in this report by directing staff to:

- a. prepare a new Standards of Maintenance Bylaw and Tenant Relocation Policy based on the recommendations contained in this report;
- b. seek feedback on the above at the Market Rental Revitalization Study focus group sessions scheduled for January 2018 and return to Council with final drafts for approval by Q1 2018
- c. examine the City's authority to further improve tenant stability through other legislative mechanisms

**Option 2:** Council could chose to modify any of the recommendations in this report, for example adding additional standards to the SOM bylaw, repealing the Property Maintenance Bylaw, or approving stricter measures to be included in a tenant relocation policy. However any modifications to the recommendations could negatively impact the intention of these changes, and would also delay the expediency with which staff could implement new regulations.

#### *Accessibility Impact Statement*

There are no impacts on accessibility associated with the recommendations contained in this report.

#### *2015 - 2018 Strategic Plan*

The Victoria Housing Strategy and its associated work and resources is in direct alignment with Strategic Objective 6: "Make Victoria More Affordable". Staff's recommendation to explore unique options for tenant protection also fall under Strategic Objective 1: "Innovate and Lead".

#### *Impacts to Financial Plan*

The creation of a new SOM bylaw has enforcement considerations that may require additional resources; these will be dependent on the standards included and level of enforcement Council chooses to employ, and can be detailed when staff returns with a draft bylaw for adoption

following the collection of stakeholder feedback. The creation of a tenant relocation policy meanwhile is not anticipated to have any negative financial impacts.


*Official Community Plan Consistency Statement*

The MaRRS project supports OCP policies related to Section 13: Housing and Homelessness, including objectives 13(b): That housing affordability is enabled for housing types across the housing spectrum...and 13(c): That the existing supply of rental housing is expanded through regeneration.

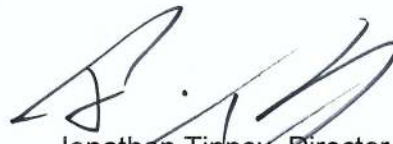
**CONCLUSIONS**

The City has several options to choose from when considering tenant stability measures. After extensive analysis of policy work in this area by other jurisdictions, guidance from the Province, and consideration of the City's legislative authority to enact policy in this area, staff recommend developing a new SOM bylaw and tenant relocation policy as the best options for improving tenant stability in Victoria. It is further recommend that Council consider directing staff to seek feedback on these new documents through the upcoming MaRRS focus groups scheduled for January 2018, and return to Council with a bylaw and policy ready for approval by Q1 2018.

Respectfully submitted,



Lindsay Milburn, Senior Planner  
Housing Policy



Jonathan Tinney, Director  
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager:



Date: Nov 20, 2017

**List of Attachments:**

- Attachment A: MaRRS Policy Research