



SUBJECT: Vital Services By-law

TO: Planning and Development Committee

FROM: Planning and Building Department

Report Number: PB-16-17

Wards Affected: All

File Numbers: 110-04

Date to Committee: May 2, 2017

Date to Council: May 15, 2017

Recommendation:

Approve by-law XX-2017, attached as Appendix A to planning and building department report PB-16-17, being a by-law relating to the provision of vital services in residential tenancies within the City of Burlington.

Purpose:

An Engaging City

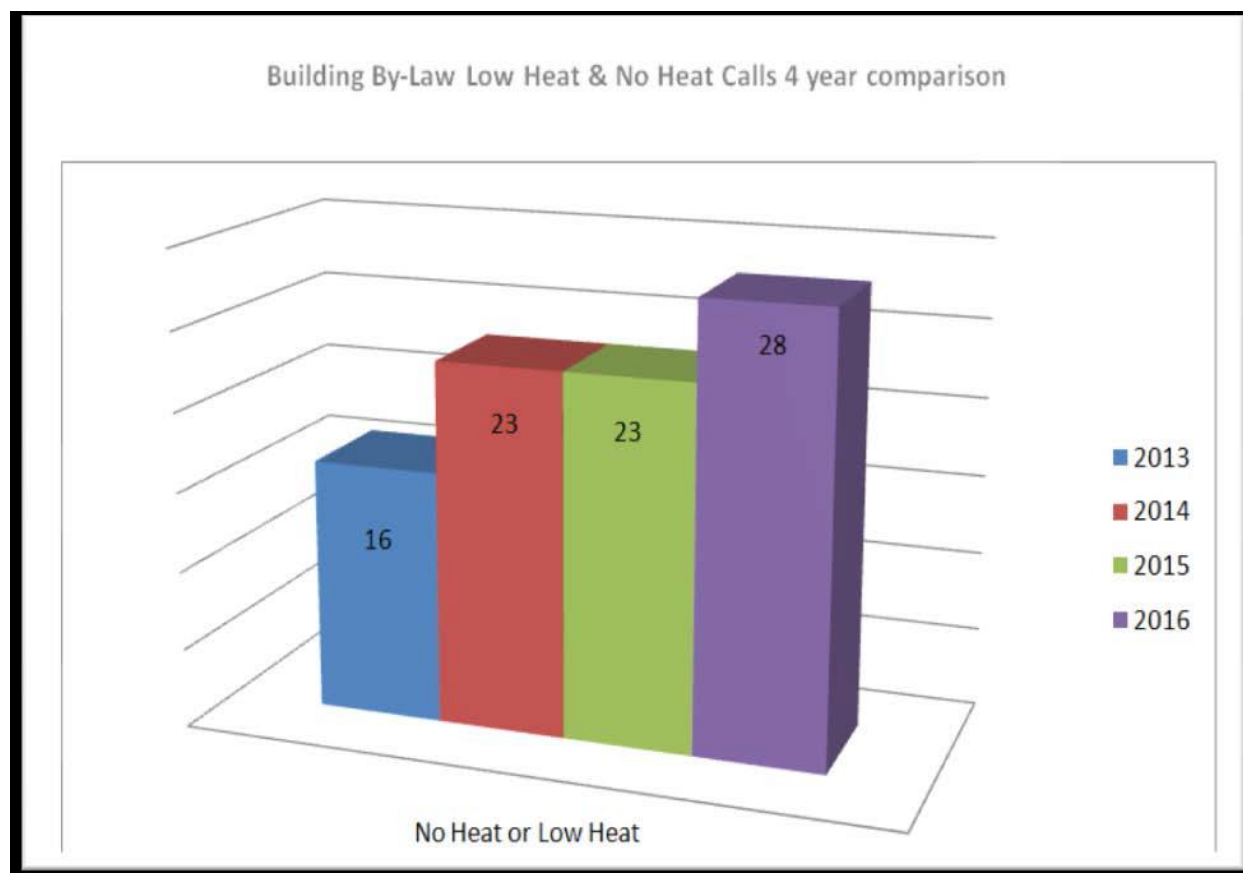
- Good Governance

Background and Discussion:

The City of Burlington has a Property Standards by-law 28-2009 that requires all properties across the city:

- to comply with minimum standards for maintenance and occupancy;
- provide property owners with a single set of standards to be applied consistently across the City of Burlington for use in the management of their buildings and property;
- provide tenants with increased safeguards for their safety and security.

The City often receives calls from the public related to property standards issues including concerns about low heat or no heat at all. The increase in low heat calls over the past 4 years gives a positive rationale for proceeding with the new by-law.



The provision of fuel, gas, hydro and hot and cold running water are identified in the Property Standards by-law as follows;

3.2.2 The following applies to residential rental buildings only;

Heat shall be provided and maintained at least 20 degrees Celsius between the 1st day of September in each year and the 31st day of May of the following year; including recreation rooms and laundry rooms but excluding locker rooms and garages.

3.4 Electrical Systems

All buildings, where required by the Ontario Building Code or the Ontario Electrical Safety Code, shall be connected to an electrical supply system and shall be wired to receive electricity.

3.10 Hot and Cold Running Water

Every dwelling unit shall be connected to and supplied with hot and cold running water of adequate water pressure and the hot water shall be at least 43 degrees Celsius measured at the tap after the water runs for at least 30 seconds.

The Property Standards by-law, while an effective tool when property owners chose to cooperate, can also prevent the restoration of these vital services in a timely manner because of the mandatory appeal period.

Strategy/process

Heating in a rental unit is considered a vital service under the *Residential Tenancies Act* and every residential unit must have a heating system. The landlord is obligated to maintain and repair a heating system for every part of the building being used as a residence. The landlord cannot withhold a vital service, including heat during certain months, for any reason. It is illegal for a landlord to interfere with or cut off any "vital service". This includes hot or cold water, fuel, electricity, natural gas, and heat. The landlord is not allowed to do this even if a tenant owes rent or for any other reason. The landlord must also make sure the utility bills are paid so the services do not get shut off. But the landlord is not responsible if the energy account is in the tenant's name and it is cut off because the tenant didn't pay the bill.

The Residential Tenancies Act also allows a municipality to require vital service suppliers (Burlington Hydro, Union Gas and Region of Halton Water) to give notice to the municipality of an intended discontinuance of a vital service. When a notice from a supplier is received that the vital service will be discontinued on a specific date, the municipality may proceed to investigate the circumstances and determine if the landlord is failing to provide a vital service which he is obligated by rental agreement to provide for, so that arrangements can be made for its reinstatement following the discontinuance of the service.

Survey of Surrounding Jurisdictions

Staff surveyed surrounding municipalities regarding vital services by-laws. It was found that each by-law has provisions, which:

- Require every landlord to provide adequate and suitable vital services to each of the landlord's rental units.
- Prohibit a supplier from ceasing to provide the vital service until a notice has been given to the municipality.
- Require a supplier to promptly restore the vital service when directed to do so by an official named in the Vital Services By-law.

- Provides that a person, who contravenes or fails to comply with the by-law, is guilty of an offence.

On February 22, 2017, Bill 95 which amends the *Ontario Energy Board Act, 1998* received Royal Assent. This Bill gives the Ontario Energy Board the power to make rules to prohibit the disconnection of low volume (residential and small business) consumers during certain periods of the year. On February 23, 2017, the Ontario Energy Board issued a Decision and Order to the province's electricity distribution companies to amend their licences and comply with provincial legislation that prohibits electricity distributors from disconnecting residential customers for non-payment of the electricity during the winter months to April 30, 2017.

This recent OEB Decision and Order is limited to instances where disconnection is during the winter months and related to the non-payment of an electricity account. This Vital Services by-law is intended to protect tenants against a landlord who has initiated disconnection of a utility, for whatever reason and applies all year round.

Options considered

Under the existing Property Standards by-law, City by-law enforcement staff will continue to respond to lack of heat complaints but would be unable to require the restoration of service where the utility had discontinued the service for tenanted properties. In these circumstances staff would issue an Order to Comply to the property owner requiring that the property come into compliance with the by-law, within a minimum of fourteen (14) days.

Although there are enforcement provisions in the by-law which allows the City to lay charges, the landlord may also choose to appeal the Order, whereby the matter is then heard before the Property Standards Committee. That process can oftentimes be protracted and can result in the services not being restored in a reasonable time. Without the enactment of the Vital Services By-law, staff would not have the proper mechanism and authority to restore the Vital Service.

Financial Matters:

Not applicable.

Connections:

The City of Burlington Fire Prevention team has indicated they are in support of a vital services bylaw. It would prevent hazards which are usually associated with situations where no vital services are available such as;

- Fires
 - Non-functioning smoke detectors
 - Poor cooking practices
 - Candle use
 - Propane/gas/kerosene use
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Public Engagement Matters:

Upon the enactment of the Vital Services By-law, staff will communicate with the public and the various stakeholders through a variety of means. Media releases and other traditional and social media forums will be used to provide information to the public regarding the Vital Services By-law. Burlington Hydro, Union Gas and Halton Region Water have been made aware of the city's intention to implement a vital services by-law via phone calls and emails to the utilities and have provided their comments on the by-law. (Attached as Appendix "B"). Once approved, staff will work with the utilities to develop a process that will streamline notifications of the discontinuance of vital services to residential rental properties.

Conclusion:

The Residential Tenancies Act, authorizes Council to pass by-laws requiring landlords of buildings or parts of buildings used as residential dwellings, to provide an adequate supply of vital services being fuel, hydro, or hot or cold water to their buildings at all times, except in cases where tenants have expressly assumed this obligation in their rental agreement. The proposed Vital Services By-law XX-2017 will ensure that living standards are met and maintained to protect the public health and well-being of those members of the community living in rental dwellings.

Respectfully submitted,

Tracey Burrows, C.M.M.III, C.P.S.O., M.L.E.O. (c)

Manager of By-law Enforcement, Licensing and Animal Services

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Appendices:

- a. By-law XX-2017
- b. Email Notification to Utilities

Notifications:

Burlington Hydro

Union Gas

Halton Region Water

Report Approval:

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.