



REPORT FOR ACTION

Toronto's New Bylaw for Apartment Buildings

Date: February 24, 2017

To: Licensing and Standards Committee

From: Executive Director, Municipal Licensing & Standards

Wards: All

SUMMARY

At its meeting on December 13, 14 and 15, 2016, City Council approved, in principle, a new regulatory bylaw for apartment buildings. This report outlines the recommendations necessary to create the new apartment bylaw. The bylaw will impose standards for owners and operators of apartment buildings and is a component of a regulatory, audit and enforcement regime that aims to improve living conditions for tenants.

The proposed bylaw sets out management standards for apartment building owners and operators by requiring them to:

- Register annually with the City. Registration requires owners provide key information regarding their building and pay an annual fee.
- Have a process for receiving and tracking tenant service requests.
- Conduct regular inspections of the building for cleanliness and the presence of pests.
- Take action when pests are detected.
- Develop and maintain a number of operational plans related to cleaning, waste management and capital planning.
- Use licensed contractors for mechanical systems repairs.
- Have a notification board in a central location in the building to communicate key information to tenants.
- Retain records relating to the operations of the building.

Owners and operators that do not comply with this bylaw may face fines, including certain special fines. The bylaw will also make it an offence for any owner or operator to rent a unit to a new tenant if there are confirmed property standards orders related to the unit.

The report also proposes new and increased fees for audits and re-inspections in apartment buildings that form part of the cost recovery model approved in December 2016. The revenue from these fees, in addition to that of the registration fee, will cover 65% of the costs of enforcing City bylaws in apartment buildings. The remaining costs will be funded by tax revenues. Toronto Community Housing and other social housing providers will be exempt from these fees.

It is recommended that the bylaw come into effect July 1, 2017. The report identifies a schedule for communicating the impacts of the proposed bylaw, launching registration and reviewing the bylaw one year after implementation.

The proposed bylaw is one component of a number of additions and improvements to the way Municipal Licensing & Standards (ML&S) enforces bylaws in apartment buildings that were approved at the December meeting. The other approved changes include creating an online information portal on apartment buildings, adding funding for improved communication to owners, operators and tenants and strengthening the proactive approach to enforcement. The goals of these changes, along with the proposed bylaw, are to promote preventative maintenance, enhance tenant engagement and access to information, strengthen enforcement, and recover the costs of bylaw enforcement in apartment buildings. The approved changes were developed by ML&S based on research and public consultation completed between June and October 2016

Legal Services, Shelter Support and Housing Administration (SSHA), Toronto Fire Services, Solid Waste Management Services, Transportation Services, Office of Emergency Management, Toronto Public Health, and Tower and Neighbourhood Revitalization Unit in Social Development, Finance and Administration were consulted in preparation for this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing & Standards, recommends that:

New bylaw

1. City Council adopt a new Municipal Code Chapter called "Apartment Buildings" that is in accordance with the following recommendations and this report. Apartment buildings shall be defined as a residential property with three or more storeys and ten or more dwelling units available for rent. An apartment building shall not be a long-term care facility or a retirement home.

Registration

2. City Council direct that the owner shall register with the City every 12 months. Registering shall consist of paying an annual registration fee and providing the following information:
 - a. Name of building owner. Where there are multiple owners, each person must provide their name and address.
 - b. Contact information of building owner.
 - c. Name of building operator. Where there are multiple operators, each person must provide their name and address.
 - d. Contact information of building operator.
 - e. Any other information as required by the Executive Director, ML&S.
3. City Council direct that:
 - a. No owner shall operate an apartment building that is not registered.
 - b. No owner shall register information that is inaccurate, misleading or otherwise incorrect.

- c. Information listed in recommendation 2 a, b, c, and d shall be updated within 30 days of any change. All other information required by the Executive Director must be updated every 12 months upon registration.
- d. Where the Executive Director determines that registration information is inaccurate, misleading or otherwise incorrect, the Executive Director shall notify the owner.
- e. If the owner fails to correct registration within 14 calendar days of receipt of the notice the Executive Director shall remove the owner's registration from the registry without further notice to the owner.

Tenant service requests

4. City Council direct that the owner and operator shall develop a process for receiving and tracking tenant requests. The process shall include collecting the following information regarding the request and providing a copy of the information to the tenant:
 - a. Date and time of service request
 - b. Location of issue (including unit number, if applicable)
 - c. Nature of issue
 - d. Tenant name and contact information
 - e. Determination of urgent or non-urgent request
 - f. Response from owner or operator
5. City Council direct that the owner or operator shall be required to demonstrate compliance with the tenant service request process that is created.
6. City Council require owners or operators to respond to urgent requests within 24 hours and non-urgent requests within 7 days. Requests are urgent if they are related to the discontinuance of the following vital services: fuel, electricity, gas, heat, or hot or cold water.

Tenant notification

7. City Council direct that the owner or operator shall have a notification board in a central location and post the following information:
 - a. Information regarding planned or unplanned service disruptions, including disruption to heat, water, security, electricity, elevators (shall include nature of disruption, duration of disruption, units affected).
 - b. Information regarding major capital projects (shall include nature of project, duration of project, units affected).
 - c. Cleaning plan.
 - d. Emergency contact information as described in Municipal Code Chapter 629-5.1 B, C and D.
 - e. Information regarding the nearest cool location, including: (1) The location of an air-conditioned place in the building, if accessible to tenants; and (2) the name, address and map to location of a publicly accessible air-conditioned location.
 - f. All confirmed orders pursuant to Chapter 629, notices pursuant to pursuant to Chapter 485, Graffiti; and notices of non-compliance pursuant to Chapter 844, Waste, issued by ML&S that apply to common areas, if any.
 - g. Property standards appeals relating to common areas, if any.
 - h. Date of any ML&S audit, if any, upon receipt of notice from ML&S.
 - i. Any other documents as required by the Executive Director, ML&S.

Pest management

8. City Council direct that the owner or operator shall inspect:
 - a. Indoor and outdoor common areas of the building at least once every 30 days for the presence of pests.
 - b. Any area within 72 hours of the receipt of any information indicating the presence of pests.
9. City Council direct that the owner or operator who is aware of the presence of pests shall take adequate measures to:
 - a. Prevent the spread of the pests into other portions of the property.
 - b. Eliminate or exterminate the pests in all areas where the presence of the pests is detected.
10. City Council direct that the owner or operator shall retain a pest management operator licensed by the Ministry of Environment to conduct all pest extermination activity.
11. City Council direct that no owner or operator shall take any action or fail to take any action which is likely to:
 - a. Cause the spread of the pests into other portions of the property; or
 - b. Prevent the control or extermination of the pests.
12. City Council direct that 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 or obstruct the extermination of the pests.
13. City Council direct that no person may rent a unit to a new tenant if the owner or operator is aware of the presence of pests in the unit.

Waste management plan and requirements

14. City Council direct that the owner or operator will have a waste management plan. A waste management plan shall include the following:
 - a. Information about how owners or operators will comply with the garbage and debris storage and disposal requirements outlined in Municipal Code Chapter 629.
 - b. Information about how owners or operators will comply with mandatory diversion requirements.
15. City Council direct that the owner or operator shall be required to demonstrate compliance with the waste management plan that is created.
16. City Council direct that the owner or operator take the following actions relating to waste diversion information:
 - a. Post waste diversion literature (items accepted, location of collection bins) in at least one common area.
 - b. Identify clearly with stickers or posters the correct place to deposit waste, recycling and, if applicable, organic materials.

Cleaning plan and requirements

17. City Council direct that the owner or operator shall inspect common areas of the building at least once every day for cleanliness.
18. City Council direct that the owner or operator shall have a cleaning plan. A cleaning plan consists of:
 - a. A list of all areas accessible to tenants and the public and the frequency with which these areas will be cleaned. This list shall include but not be limited to the following areas: garbage storage area; walls; floors; laundry room and equipment, if present.

- b. 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.
19. City Council direct that the owner or operator shall be required to demonstrate compliance with the cleaning plan that is created.

Licensed contractors for maintenance

20. City Council direct that the owners and operators must use a licensed or certified contractor where required by law for activities including but not limited to servicing heat, ventilation, air conditioning and plumbing systems.

State of good repair capital plan

21. City Council direct that the owner shall have a current state of good repair capital plan and shall make the plan available to ML&S upon request. A state of good repair capital plan consists of a list of the capital elements of the buildings and date upon which the element will be scheduled to be replaced or updated. Capital elements shall include but not be limited to: roof, elevators, façade, windows, mechanical systems, underground garage, interior flooring, interior wall finish, balcony guards, and handrails.
22. City Council direct that the owner or operator provide the state of good repair capital plan to tenants and prospective tenants upon request.

Record keeping

23. City Council direct that the owner or operator shall create records and retain the records sufficient to demonstrate compliance with this chapter for a period of no less than 24 months. The records shall include but will not be limited to the following:
- a. Information regarding tenant service request responses as outlined in recommendation 4.
 - b. Log of all scheduled or unscheduled cleaning activities that includes but is not limited to the nature of the activity and the date and location on which it occurred.
 - c. Log 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.
 - d. Log of all schedule or unscheduled pest inspections, including the date and location of all proactive and reactive pest inspections; the name of the pest management operator licensed by the Ministry of the Environment that conducts the inspection; the results of the inspection and the recommended treatment, if any.
 - e. Log of all pest treatment activities, including the date and location of treatment, the name of the pest management operator licensed by the Ministry of the Environment undertaking the treatment, the nature of the treatment.
 - f. Log of service and maintenance conducted on fuel burning appliances, heating systems, cooling systems, ventilation systems and plumbing systems, including but not limited to: date and nature of service and name of licensed contractor, if applicable.
24. City Council direct that owners or operators shall make the pest inspection and treatment records (as described in recommendation 23 d and e) that pertain to common areas available to tenants and prospective tenants upon request.
25. City Council direct that owners or operators shall post information on the notice board regarding any pest treatment activities, including the date of the treatment, the name of the

licensed pest management company undertaking the treatment, and the nature of the treatment. The notice shall not include the location of the treatment.

Renting a unit to a new tenant

26. City Council direct that no person may rent a unit to a new tenant if there is a confirmed property standards order pursuant to Municipal Code Chapter 629 related to the unit.

Enforcement authorities

27. The bylaw will include provisions to enable the City to conduct inspections, issue orders for compliance, take remedial action and take any other enforcement activities consistent with the authorities in the City of Toronto Act, 2006.

Audits and regular site visits

28. City Council direct that ML&S shall have the authority to conduct routine site visits and pre-audits of all buildings to determine whether the buildings are in compliance with this and all other City bylaws.

29. City Council direct that ML&S shall have the authority to audit buildings that require further investigation and re-inspect buildings to confirm that the owners or operators are complying with any issued orders.

Registration, audit and enforcement activity fees

30. City Council amend Chapter 441 to include the user fees for audits, re-inspections and registration as outlined in Attachment 1.

31. City Council direct that all fees in Attachment 1 shall be waived for social housing providers. Social housing providers are:

- a. Toronto Community Housing Corporation.
- b. A non-profit provider of assisted or social housing under a program administered by the City of Toronto.
- c. A dedicated supportive housing provider funded by the Province of Ontario.

Fines

32. City Council direct that anyone who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine of no more than \$100,000.

33. City Council establish a system of fines that include fines for continuing and multiple offences and special fines where it is determined that the conduct could have resulted in economic advantage or gain to the party found to have breached the bylaw.

34. City Council establish that directors or officers of a corporation knowingly concurring in the contravention of any offence under the bylaw by the corporation are guilty of an offence.

Implementation

35. City Council direct that the bylaw come into effect July 1, 2017.

36. City Council give Legal Services the authority to make stylistic and technical decisions in the drafting of this bylaw.

37. City Council direct the Executive Director, ML&S, to report back to the Licensing and Standards Committee after one year from the date of enactment of the new bylaw, with an update on the implementation and outcomes of the bylaw.

FINANCIAL IMPACT

There is no financial impact beyond what has already been approved in the 2017 operating budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on February 15, 2017, City Council adopted the ML&S 2017 operating budget, which included an annual operating budget for the apartment building program of \$5,181,500 to be funded 53% from a \$10.60 registration fee, 12% from audit and re-inspection fees and 35% from the tax base.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX22.2>

At its meeting of December 13, 14 and 15, 2016, City Council approved a new regulatory bylaw for rental apartment buildings and directed the Executive Director, ML&S, to report back to the March 6, 2017 meeting of Licensing and Standards Committee with the new regulatory bylaw. Council directed that the bylaw include requirements for owners or operators to register with the City, have a process for dealing with tenant service requests, have a number of operational plans, have a tenant notification board, and use licensed contractors for pest management and maintenance of mechanical systems. Council also approved an apartment building program budget of \$5,181,500 be funded 53% from a \$10.60 registration fee, 12% from enforcement action fees and 25% from the tax base, subject to approval from the Budget Committee.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS15.3>

At its meeting of June 7, 8, and 9, 2016, City Council directed the Executive Director, ML&S, to report to the Licensing and Standards Committee on an enhanced full cost recovery model for Multi-Residential Rental Apartment Building (MRAB) Audit and Enforcement Program with additional supports and other potential measures to support tenants.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS11.3>

At the same meeting, Council directed Executive Director, ML&S, to conduct public consultation on the proposed framework for a multi-residential rental property licence and report back in the fall of 2016 on a number of items including consultation findings, a draft bylaw, associated fee, budget and staffing model.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS11.4>

At its meeting of July 7, 8, and 9, 2015, City Council supported a cost recovery model for the MRAB program, which was to include an increased budget for stakeholder engagement, outreach and education.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS5.4>

COMMENTS

Current inspection and enforcement program in apartment buildings

Between 2008 and 2016, ML&S enforced compliance with City bylaws in apartment buildings through (1) inspections in response to tenant services requests made through 311 and (2) the Multi-Residential Apartment Building (MRAB) program which, focused on high-risk buildings. The cost of this activity was \$3.2 million in 2016 and to date has been funded by the tax base.

The MRAB program had two components: pre-audits and audits. During **pre-audits**, staff assess the risks of a building to determine if an audit is needed. Pre-audit assessments are initiated based on referrals from stakeholders and include background research and surface level observations of the building. During **audits**, staff do a comprehensive inspection of all common areas (i.e. laundry room, garage, mechanical room) and issue orders if bylaw violations are identified. A mobile administrative office is present during each audit for tenants to bring forward concerns about their units and commons areas.

New program for apartment buildings

In the December 2016, Council approved a number of changes to ML&S enforcement activity in apartment buildings, including the creation of a regulatory bylaw for apartment buildings. For the purposes of this and future reports, the existing enforcement in apartment buildings, the MRAB program and the changes approved in December 2016 will collectively be referred to as the Apartment Building Program.

The goals of the Apartment Building Program are to:

- Strengthen enforcement of city bylaws
- Enhance tenant engagement and access to information
- Promote preventative maintenance in apartment buildings to prevent the deterioration of standards
- Recover costs of program through user fees

The Program continues enforcing existing City bylaws by responding to resident service requests and conducting pre-audits and audit of buildings (work of the MRAB team) and includes the following improvements and additions, approved in December 2016:

- Adds 12 full-time equivalent (FTE) staff to the MRAB team, for a total of 36 FTE staff
- Adds a benchmarking initiative to establish a baseline assessment of the quality of Toronto's apartment buildings
- Adds regular site visits to all buildings every two to three years to ensure buildings are in compliance with City bylaws
- Improves the existing City website to provide tenants, landlords and the public with improved information about apartment buildings in Toronto (it will be called the online information portal)
- Adds dedicated funding to improve communications between the City, landlords and tenants

- Adds new and increased fees to audit and enforcement activities to recover program costs, in accordance with the City's user fee policy
- Adds a new regulatory bylaw for apartment buildings

The Program is displayed visually in figure 1.

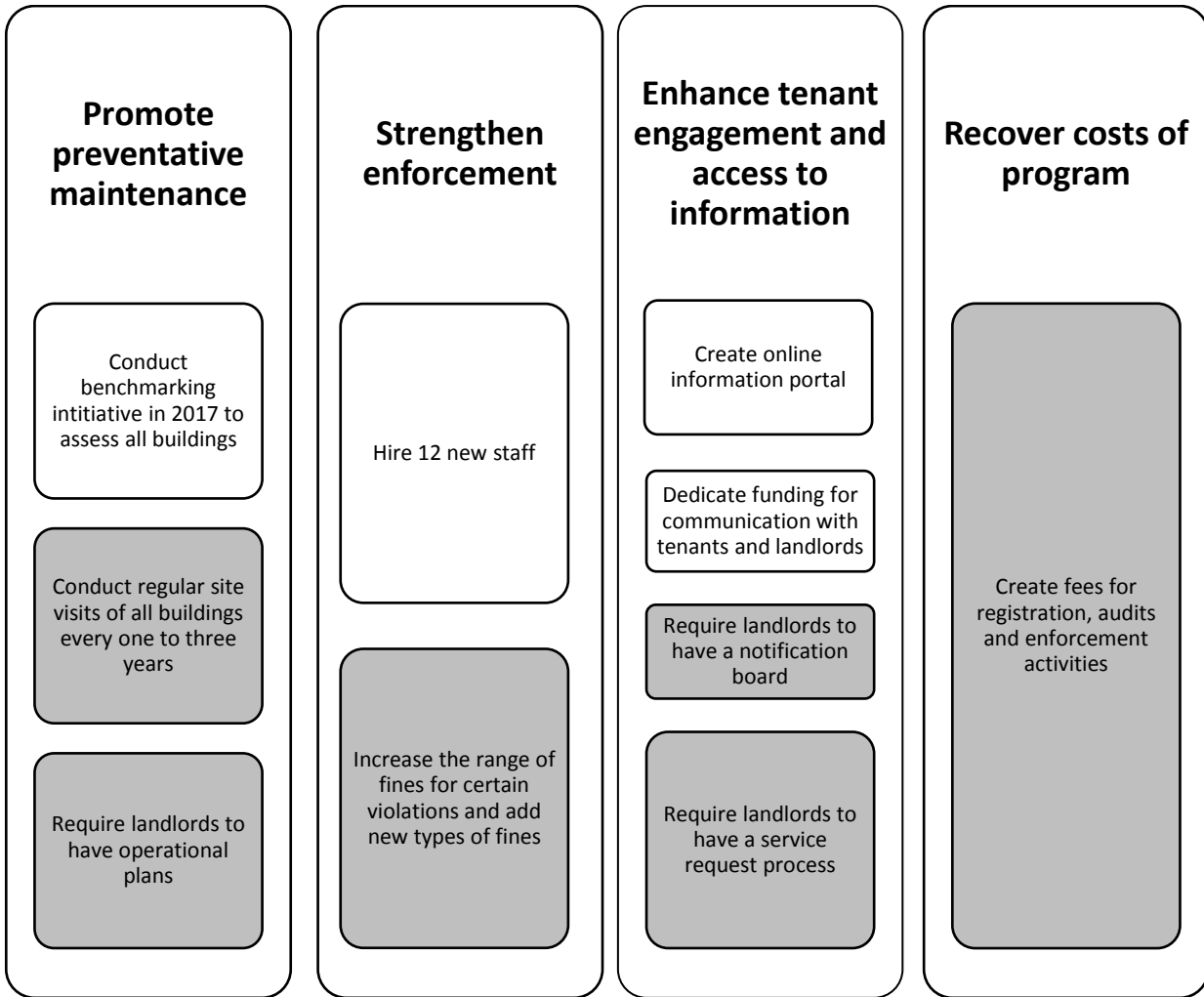


Figure 1: Components of new Apartment Building Program. Grey shaded boxes indicate components that are embedded in the apartment building bylaw.

The total annual cost of the new Apartment Building Program, as approved by City Council on February 15, 2017, is \$5.2 million and is funded 53% from a \$10.60 registration fee, 12% from audit and enforcement activity fees and 35% from the tax base.

Recommendations and rationale for new apartment building bylaw

Purpose of new bylaw

The aim of the proposed bylaw is to set management standards for apartment building owners and operators. The bylaw includes requirements relating to tenant communication, pest management, cleaning, preventative maintenance and capital planning. The bylaw requires landlords register and provide information to the City to improve access to information about apartment buildings to the public, tenants and policy makers. The bylaw also assigns user fees to the registration process, audits and re-inspections.

The bylaw adds to existing requirements for landlords set out in the Residential Tenancies Act (RTA) and Municipal Code Chapter 629, Property Standards. The RTA aims to create a rental housing system in Ontario that protects tenants, helps landlords and promotes investment in Ontario’s rental housing market. Municipal Code Chapter 629, also called the property standards bylaw, sets out quality standards for apartment buildings (and all other buildings).

The roles of the new bylaw and existing bylaws and legislation are summarized in table 2.

Table 2: Summary of major existing and proposed laws regarding apartment buildings in Toronto

Legislation	Jurisdiction	Purpose	Enabling legislation
Residential Tenancies Act	Provincial	Creates a rental housing system that protects tenants, helps landlords and promotes investment in Ontario’s rental housing market	Not applicable
Municipal Code Chapter 629: Property Standards	Municipal	Sets out quality standards for apartment buildings (and all other buildings)	Building Code Act
NEW Municipal Code Chapter: Apartment buildings	Municipal	Sets out management standards for apartment building landlord and requires registration	City of Toronto Act, 2006

The authority for the City to pass an apartment building bylaw is given by the City of Toronto Act, 2006, which provides the authority to enact bylaws to, amongst other things, address the protection of persons and property, health, safety and wellbeing of persons, and the economic, social and environmental well-being of the City.

Definition of apartment building, landlord and other key terms

For the purposes of the bylaw, an **apartment building** is any purpose-built rental building with three or more storeys and ten or more units. This includes private buildings, co-operatives, and social housing providers but excludes long-term care homes and retirement homes. In the bylaw, social housing providers are defined as:

- Toronto Community Housing Corporation
- A non-profit provider of assisted or social housing under a program administered by the City of Toronto
- A dedicated supportive housing provider funded by the Province of Ontario

Staff estimate that the program includes 3,478 apartment buildings with 352,447 units, of which 333 buildings are operated by Toronto Community Housing, 202 by social housing providers and 47 by supportive housing providers.

In the bylaw, staff recommend that an **owner** be defined as the person who owns the property, permits occupancy of a rental unit and manages or receives rent. An **operator** should be defined as the superintendent or property manager that may take on some of the roles relating to permitting occupancy but does not own the property. Staff recommend that the apartment building bylaw provide the authority to hold both owners and operators accountable for most recommendations. This will allow ML&S to use discretion to determine the appropriate party to be held accountable for violations. In each of the recommendations, staff specify whether the owner or both the owner and operator should be responsible for the requirement.

However, in the report staff use **landlord** to refer to both the owner and the operator of a building for simplicity's and readability's sake. In cases where only the owner and not the operator will be held accountable, staff use the term owner.

Any definitions required in the bylaw for terms that are not discussed in this report will be drafted based on existing definitions in the Building Code Act and Municipal Code Chapter 629, Property Standards.

BYLAW REQUIREMENTS

Register with the City

Owners will be required to register annually with the City. This entails providing key information regarding the building and paying an annual fee based on the number of units in the building. Owners will be able to register online or in person at one of the ML&S offices. The registration fee for 2017 is \$10.60 per unit and will be adjusted annually to account for inflation. The information required by the City will include the information listed in table 3.

Owners will be required to update key information (identified in table 3 in bold) within 30 days and other information annually upon registration. If any information is inaccurate and not corrected by the owner within 14 days of notice from the ML&S, the owner's registration will be considered void.

Information collected will be shared publicly on the City's website in an easily accessible format (similar to the child care locator map currently on the website) and through the open data process and in accordance with the Municipal Freedom of Information and Protection of Privacy Act.

Collecting this information and sharing it publicly will serve three purposes:

- Give tenants information about their current or prospective building's amenities and property standards history.
- Support ML&S's enforcement activities.
- Assist policy makers within and outside of the City in analyzing the rental housing stock in Toronto.

Table 3: Information required from owners during registration process

Registration requirement	Details
Building owner name and contact information	Where there are multiple, each person must provide their names and addresses. They may be held jointly and severally responsible for each other's actions regarding the building.
Property manager name and contact information	Where there are multiple, each person must provide their names and addresses. They may be held jointly and severally responsible for each other's actions regarding the building.
Year Built	
Materials used in construction	Primary materials used (wood, concrete, brick)
Availability of cooling common spaces, if any, where residents can cool down during summer heat	Indoor or outdoor, air-conditioned or not, and location in the building (lobby, common/party room, laundry room, other)
Accessibility features, if any	Wheelchair accessibility of common spaces and units
Smoking status of the building	In units, balconies and common spaces

Registration requirement	Details
Number of units and floors	
Details about heating and cooling systems	Fuel source, supply and distribution equipment, year installed
Available amenities, if any	Includes pool, gym, indoor and outdoor bicycle parking, onsite services
Laundry facilities	Hours of operation, number of machines
Elevators	Number of elevators, year installed, year of major alterations, licence number
Parking structures	Type of structure, number of spots, number of accessible spots
Waste management approach	Whether the following are separated from garbage: recyclable materials, organic materials, household hazardous waste, and electronics. Whether the waste service provider collects garbage and recycled materials separately or together.

Tenant Service Requests

Landlords will be required to develop and use a process for receiving and tracking tenant service requests. They will have to keep records of requests and their responses and retain these records for 24 months, and make them available to ML&S upon request.

The process for receiving and tracking tenant service requests will include the creation of records for service requests from tenants which include:

- Date and time of service request
- Location of issue (including unit number)
- Nature of issue
- Tenant name and contact information
- Determination of urgent or non-urgent request
- Response from landlord

Landlords will be required to respond to urgent requests within 24 hours and non-urgent requests within 7 days. Requests are urgent if they related to the discontinuance of the following vital services: fuel, electricity, gas, heat, or hot or cold water. This is in accordance with the definition of vital service in the Residential Tenancies Act.

This requirement is based on one of the most common problems described by tenants during the consultation process completed in fall 2016 (full details of which are summarized in the December 13, 14 and 15 report to Council): the lack of response tenants experience from some landlords regarding repair requests. The City will be able to review service request processes to ensure landlords are recording complaints accurately. The City will also be able to hold landlords accountable when they do not provide a response in a timely fashion. This aims to improve communication between landlords and tenants so that when tenants make a request they will know that the landlord received it.

Tenant notification

Another significant issue facing tenants is the lack of notification surrounding events and disruptions in their buildings. To address this, landlords will be required to have a board in a central common space to notify tenants of, at minimum, the following:

- Information regarding the disruption of vital services, whether planned or unplanned, including disruption to heat, water, security, electricity, elevators (including nature of disruption, duration of disruption, units affected).
- Information regarding major capital projects (including nature of project, duration of project, units affected).
- Cleaning plan.
- Any City orders and notices issued by ML&S related to Chapters 485 (Graffiti), 835 (Disruption of Vital Services) and 844 (Waste Collection) for work related to common areas.
- Information about any property standards appeals relating to property standards orders in common areas, including, but not limited to: order being appealed, date of appeal, and location of hearing.
- A sign with emergency contact information as prescribed by Municipal Code Chapter 629 sections 5.1 B, C and D, which require that:
 - "The sign indicate...the current name, address and telephone number of the owner, manager or other person responsible for the property and the name and telephone number of the authorized person to contact in the case of an emergency on a twenty-four-hour basis.
 - The telephone numbers listed on the sign be numbers that do not result in a charge back fee on the telephone bill for the telephone service used to call the listed telephone number.
 - If there is a change in the information displayed on the sign, it be revised to reflect the change within one week of the change."
- Location of indoor or outdoor cooling space (if available) and nearby a publicly accessible air-conditioned location as identified by Toronto Public Health on their website. Landlords can use the optional template in Attachment 2 provided by Toronto Public Health to display this information.
- Date of an ML&S audit, if any, upon receipt of notice from ML&S.
- Any other documents as required by the Executive Director, ML&S.

The requirement to include emergency contact information and the location of the nearest publicly accessible air-conditioned location will provide tenants with some additional information in the case of extreme heat or other emergencies.

Pest management

Tenants living in apartment buildings experience issues with pests and sometimes struggle to expel them. Consultation with the public and key stakeholders determined that some landlords do not take adequate and timely measures to eradicate pests. ML&S faces challenges in enforcing the Property Standards bylaw as it relates to pest control because it does not require proactive pest control and has limited requirements regarding pest infestation treatment. Public Health does not take action on cockroach and bedbug infestations as they are not considered health risks, though they do provide support to vulnerable persons with pest infestations. The result of the above is that it can be difficult for the City to address tenant concerns about pests.

The proposed bylaw takes significant steps to address the above problems by requiring landlords do the following:

- Proactively inspect common areas for pests every 30 days
- Inspect for pests upon receipt of information regarding pests within 72 hours
- Inform tenants of all pest treatments in building via the notification board (location of treatment will not be posted to protect tenant privacy)
- Upon discovering the presence of pests, prevent and control the spread of the pests and exterminate them from the area using a pest management operator licensed by the Ministry of Environment
- Retain all logs of proactive pest inspections and records of all other pest treatment activity for 24 months and provide these records relating to common areas to tenants and prospective tenants

The bylaw will also make it an offence to hide the presence of pests or to rent a unit to a new tenant if the landlord is aware of or has received complaints about pests in the unit. For the purposes of the bylaw, pests will be defined based on Chapter 629, Property Standards, which describes them as "rodents, vermin, insects and other pests" (Chapter 629-9).

Waste management plan and requirements

Landlords will be required to develop and implement a waste management plan. The existing requirements in the Property Standards bylaw and provincial regulation address waste removal, adequate waste storage and waste diversion; this a reactive response that requires ML&S to wait until a building is not in compliance before taking action. The new requirement ensures landlords are proactively working to be in line with existing requirements.

A waste management plan will include the following:

- Information about how owners or operators will comply with the garbage and debris storage and disposal requirements outlined in Municipal Code Chapter 629.
- Information about how owners or operators will comply with mandatory diversion requirements.

Landlords will also be required to post information in common spaces and stickers on bins to inform tenants about waste diversion in the building. This requirement extends the current requirements for buildings that are City waste collection customers to all buildings in the program. This requirement is important because it will contribute to higher diversion rates in

apartment buildings. Tenant education has been found to be an industry best practice in increasing diversion rates and decreasing contamination.

Cleaning plan and requirements

Landlords will be required to develop and implement a cleaning plan and keep records of their cleaning activity. Similarly to the waste management plan, the existing requirements are to ensure buildings are clean and safe. The new requirement ensures landlords are proactively inspecting their properties and developing plans to clean them. Since the plan will be available on the tenant notification board, tenants will be able to access the plan and have more information about the way their building will be cleaned. Many responsible landlords already have substantive cleaning plans; this requirement will ensure that all landlords will be held to a more consistent standard when it comes to operating their building. ML&S will be able to take enforcement action if the landlord is not implementing their plan.

The cleaning plan is a list of all common areas in the building and the frequency with which these areas will be cleaned. This list includes the garbage storage area; walls; floors; and laundry room and equipment, if present. It also includes a process for cleaning unexpected or emergency situations that would cause a state of uncleanness. Landlords will be required to maintain records of cleaning activity and retain these records for 24 months.

Landlords will also be required to inspect common areas in the building daily for cleanliness.

Licensed contractors for maintenance

Tenants have expressed concerns that sometimes when repairs are made they are poorly done. The bylaw will address this by requiring that all repairs are carried out by licensed or certified contractors where required by provincial legislation. This means that heating, ventilation, air-conditioning, (HVAC) and plumbing systems be done by licensed or certified contractors. Fuel-burning appliances be repaired by contractors certified by the Technical Standards & Safety Authority (TSSA) and all remaining appliances be repaired by contractors certified by the Ontario College of Trades.

In addition, landlords will be required to maintain logbooks related to elevator and electrical maintenance and share with ML&S upon request. Staff will review the electrical and elevator log books and refer to other enforcement agencies (TSSA and the Electrical Safety Authority) if there is non-compliance. This will allow ML&S to contribute to ensuring buildings comply with applicable non-City regulations and increase collaboration between these enforcement agencies.

State of good repair capital plan

Owners will be required to develop and maintain a current state of good repair capital plan that consists of a list of the capital elements of the buildings and the frequency with which the elements will be replaced. Owners will be required to think proactively about maintaining and replacing key capital elements in their building and tenants will be able to access the plan and have more information about how the building is managed and when major capital projects will be undertaken. This is similar to the reserve fund study requirements in the Condominium Act.

It also provides tenants with information about potential plans and related costs that may impact their rents. The list of capital elements must include, but will not be limited to: roof, elevators, façade, windows, mechanical systems, underground garage, interior flooring, interior wall finish, balcony guards, and handrails.

Offence to rent vacant units

At its December 2016 meeting, Council directed that the apartment building bylaw include "an offence for renting out vacant units if the property owner is in breach of City bylaws, including a confirmed property standards order." This offence generally aligns with feedback received from tenants, landlords, members of the public, and ML&S staff during the 2016 consultation process, which was to pursue higher fines and penalties for landlords who do not comply with City bylaws. Stakeholders believe that the current fines are minimal and are considered the cost of doing business for some landlords.

The proposed bylaw will make it an offence for a landlord to rent out a unit to a new tenant (i.e. a vacant unit) if there are any outstanding confirmed orders pursuant to Chapter 629, Property Standards, regarding that particular unit. Staff recommend that the offence only be triggered by orders pursuant to Chapter 629, Property Standards, and no other City bylaws because Chapter 629 is the bylaw that most significantly impacts issues in units. Other bylaws relating to graffiti and illegal dumping are relevant to issues in common areas and not relevant to issues in units. Staff do not recommend creating an offence for a landlord to rent out a unit to a new tenant if there are outstanding orders or notices regarding other units or common areas in the building. The aim of the proposed requirement is to balance the goal to create an additional disincentive to noncompliance with City bylaws with the need landlords have to collect the rent required to properly maintain and operate the building.

If a landlord does rent a unit to a new tenant under the circumstances described above, ML&S can take enforcement action, including issuing a notice, a ticket or a court summons. Issuing a ticket or a court summons could result in a fine to the landlord.

Audits and regular site visits

As discussed in the December report, ML&S will be adding to the existing enforcement activities undertaken in apartment buildings. In 2017, staff will begin with a **benchmarking initiative** to evaluate the quality of every building in the City. The details of the benchmarking initiative are being developed by ML&S staff with the support of key staff across the City. The assessment done at each building will include verifying registration information and examining the building for violations of City bylaws and may include other assessments of quality. During the visit, landlords will be provided with information about the new bylaw and the Apartment Building Program.

After the benchmarking initiative, buildings in good condition will have periodic **site visits** (two to three years) to ensure standards do not deteriorate over time. Buildings identified as high risk in terms of health and safety will be prioritized for an **audit**. Any time an officer identifies a bylaw violation, they will provide a timeline within which the landlord must correct the deficiency. The officer will then **re-inspect** to ensure action was taken.

Registration, audit and enforcement activity fees

In December 13, 14 and 15, 2016, and February 15, 2017, City Council directed in that fees be added to the registration process and to audit and enforcement activities to recover 65% of the costs of administering the Apartment Building Program. Council approved a **registration fee** of \$10.60 per unit in 2017 but did not specify fee amounts for the audit or the re-inspection. Staff propose fees for the audit and re-inspection below.

Staff recommend an **audit fee** composed of two parts. There will be an administrative fee of \$1,800.00, which covers the cost of doing the administrative work associated with an audit and the cost of the pre-audit inspection. There will then be a fee for each hour spent at the building during the audit of \$108.80 per hour per inspector, with a minimum fee of \$108.80. There is no existing audit fee.

Staff recommend increasing the existing **re-inspection fee** to \$108.80 per inspector per hour and changing the way it is applied. The minimum fee will be \$108.80 per inspector. The existing re-inspection fee is \$56.41 per hour with a minimum fee of \$96.41 and is only charged when a landlord does not comply with an order or notice from ML&S. For any re-inspection that is the result of an order related to a 311 complaint, ML&S will continue to only charge the fee when a landlord does not comply with the order. However, for any re-inspection that is the result of an order related to an audit, the fee will be applied immediately, regardless of whether the landlord complies with the order. This change to re-inspection fees will only apply to apartment buildings in the scope of the Apartment Building Program.

The registration fee will recover 53% of the total program budget while the audit and re-inspection fees are estimated to collectively recover 12% of the total program budget based on historical performance.

These fees will be added to Municipal Code Chapter 441, Fees and Charges, and adjusted annually to account for inflation. The additions to Chapter 441 are listed in Attachment 1.

If any fees are paid late, late payment charges will be added at the rate of 1.25% on the first day of default, and every 30 days thereafter. If the fees are not paid within 90 days, they can be added to the tax roll for the building. These late fees are in accordance with sections 441-5 and 441-9 of Municipal Code Chapter 441, Fees and Charges.

The following landlords will be exempt from the fees proposed in attachment 1:

- Toronto Community Housing (estimated to be 333 buildings)
- Any social housing provider in which a minimum of 25% of the units are occupied by recipients of a City-administered housing benefit (estimated to be 202 buildings)
- Any supportive housing providers administered by the Province (estimated to be 47 buildings)

As described in the December report, these buildings should be excluded from fees because their purpose is to provide housing for vulnerable residents and have a limited ability to pay these fees. These non-profits do work that aligns with City of Toronto policy goals stated in the City of Toronto corporate actions 2013-2018 to develop policies that facilitate access to housing for people at all income levels.

The costs of administering the program and enforcing City bylaws in these housing providers will be funded by tax revenues.

Fines

Any requirements in the new bylaw that are not fulfilled by landlords can result in an offence and a fine. When an offence occurs, officers can lay a set fine ticket, which immediately lays of fine of between \$100 and \$1,000. Officers can also issue a court summons, which includes a date the recipient must appear in court before a justice of the peace. If convicted, a fine could be levied by the justice for up to \$100,000. In addition to these general fines, the bylaw will establish a number of other fines:

- *Continuing fines* for each day that the offence continues, maximum of \$10,000 per day.
- *Escalating fines* for second and subsequent convictions for the same offence, maximum of \$100,000.
- *Special fines* for an offence which are designed to eliminate or reduce any economic advantage or gain from contravening the bylaw, no maximum fine.

Unlike user fees, any fine is applicable to both private landlords and social housing providers.

The above recommendations mean that the regulatory bylaw will establish new offences for which negligent landlords can be charged and these offences will have higher maximum fines than the property standards bylaw. These changes would represent an increase in the potential charges and penalties. It should be noted that while the City can make recommendations about fine amounts, fine amounts are ultimately set through the provincial court system.

Results of stakeholder consultations from February 2017

In February 2017, ML&S met with tenant and landlord stakeholders to share some of the details of the new bylaw proposed by staff. The following tenant groups were invited to participate in the consultation: Federation of Metro Tenants' Associations, Advocacy Centre for Tenants Ontario, and Association of Community Organizations for Reform Now. The following landlord groups were invited to participate in the consultation: Greater Toronto Apartment Association, Federation of Rental-Housing Providers on Ontario. This section summarizes the concerns from both groups and the response from ML&S to these concerns.

Comments from tenant stakeholders

During discussions with tenant stakeholders, they raised a number of specific concerns about the new bylaw.

Regarding the tenant service request process, stakeholders thought landlords should have clear response timelines for both urgent and non-urgent requests and should provide a receipt of every request to avoid landlords claiming they had not received complaints. In discussions with tenants, staff proposed only having timelines for urgent requests (24 hours). In response, staff added a response timeline of seven days for non-urgent requests and confirmed that landlords must acknowledge the receipt of all requests to tenants.

Regarding the cleaning plan, stakeholders suggested the City include stricter requirements around cleaning plans and include requirements to accommodate tenants who have issues that might be impacted by cleaning (for example, chemical sensitivity). Staff recommend keeping the cleaning plan broad so that developing the plan is not overly burdensome and so that the requirement is flexible enough to apply to all buildings. In the year review of the bylaw, staff will review the plan requirements to determine whether further requirements should be added, including requirements regarding accommodate tenants with cleaning-related issues.

Stakeholders also thought the bylaw should have stronger requirements around pest management, such as requiring landlords develop a pest management plan and posting information about pest infestations in common areas. Staff did update the bylaw to require information be posted on the notification board regarding pest treatment. However, given the higher standards imposed on landlords regarding pest management in the bylaw, staff do not recommend also requiring landlords to prepare a pest management plan.

Finally, stakeholders provided comments about the Apartment Building Program more broadly. They requested information on the status of the outstanding directives from the City Council meeting in December 2016. Staff have provided the status of these directives in this report. They also recommended that any stakeholder engagement with tenants as proposed in the December report include in-person communication and not be limited to advertisements and handouts. Staff have not yet developed the stakeholder engagement plan and will take this concern into account during planning.

Comments from landlord stakeholders

Landlord stakeholders raised a number of specific concerns about the new bylaw. Stakeholders were concerned about the burden the registration process would pose to owners and privacy issues relating to the information collected. Staff commit to reviewing all information collected to ensure it has a municipal purpose and is appropriate to share according to Municipal Freedom of Information and Protection of Privacy Act. Staff also commit to developing a registration process that is online and user-friendly.

Stakeholders requested that ML&S make as much information as possible available regarding how buildings are selected for audits and to develop an appeal process for the audit. Staff commit to making the selection criteria available to landlords directly and to the public on the ML&S website. Given the commitment to transparency about audits, staff do not recommend an appeal process. Landlords do have an appeal process for property standards issues.

Stakeholders also expressed concern about the offence for landlords to rent a vacant unit if there are outstanding orders in the unit. They think that if an order is issued and the landlord complies within the timeframe given by ML&S, the landlord should not be prevented from renting out the unit while they are remedying the violation. Staff understand this concern but recommend the above offence to deter landlords from being in violation of the property standards bylaw.

Finally, stakeholders were interested in having buildings part of the Certified Rental Building Program (CRBP) excluded from all, or some of, the requirements or fees in the new Apartment Building bylaw because they think the CRBP holds buildings to a higher standard. Staff do not

recommend any such exclusions at this time. However, staff commit to doing an analysis on this issues in the one year review of the bylaw that will be conducted during the third and fourth quarters of 2018.

Other outstanding directives

At its meeting in December 2016, City Council directed ML&S to take eight actions related to the Apartment Building Program. This report addresses three of the directives, which were to report to Licensing and Standards Committee in March 2017 with a new regulatory bylaw (directive 1), fund the Apartment Building Program using a new cost recovery model (directive 2) and include in the new bylaw an offence for renting out a vacant unit if the landlord is violating City bylaws (directive 6). Staff recommend that during the fourth quarter of 2017, ML&S report to Tenant Issues Committee and Licensing and Standards Committee on the status of outstanding directives.

The outstanding directives from the December 2016 meeting are outlined below:

- **Directive 3a:** Report on the proposed Administrative Penalty Bylaw, and increased set fines which would apply to violations under the Apartment Building Bylaw (Deadline in directive: October 2017.)
- **Directive 3b:** Report on the proposed policies and operating procedures, organizational changes and financing requirements to enhance the capacity of Municipal Licensing and Standards to undertake remedial action. (Deadline in directive: October 2017.)
- **Directive 4:** Request the Province on Ontario to introduce regulations that would exempt the registration fee from eligibility for an Above Guideline Increase and amend the Building Code Act or other necessary legislation to authorize the City of Toronto to establish a system of Administrative Monetary Penalties for property standards violations. (Deadline in directive: none.)
- **Directive 5:** Establish guidelines for when the Property Standards Committee can grant time extensions on work orders and to limit those criteria to situations that are only extraordinary circumstances. (Deadline in directive: none.)
- **Directive 7:** Develop standard operating procedure service standards for 2018, subject to annual review, for Municipal Standards Officers which provide targeted timelines by violation category to bring landlords into compliance with City by-laws from the date an order is issued, and make the standards available to the public on the City website. (Deadline in directive: Q4 2017.)
- **Directive 8:** Explore the feasibility of a rating system similar to the City's "Dinesafe" program that requires landlords to post a colour-coded sign that displays the City's rating in a prominent, publicly identifiable location, along with posting the same information on the City's website. (Deadline in directive: Q4 2017.)

Implementation of bylaw

The proposed bylaw will come into effect July 1, 2017. In 2017, landlords will have until October 1 to register with the City. In future, each landlord must register annually before July 1, 2017.

The requirements in the bylaw will be communicated to landlords before July 1, 2017, so that they are aware of how the new bylaw will impact them and can take any actions necessary to comply.

After the bylaw comes into effect, ML&S will begin a benchmarking initiative. While in the December report, staff recommended the benchmarking initiative in the first quarter of 2017, staff now recommend a July 1 start date. This later start date will mean that during each visit, staff can assess whether the building is in compliance with the proposed bylaw in addition to existing bylaws. This start date will allow staff to develop communication materials about the new bylaw that can be distributed with each visit. This will ensure ML&S maximizes the effectiveness of the benchmarking initiative.

One year after the bylaw comes into effect, ML&S will review the bylaw to determine if any changes are needed and share the results of the implementation process.

The implementation schedule is summarized in table 4.

Table 4: Proposed implementation schedule for key components of the Apartment Building Program

Action	Schedule
Proposed bylaw approved by City Council	March 2017
Communication to landlords about bylaw	March to July 2017
Bylaw comes into effect	July 1, 2017
Launch of online registration and information portal	July 1, 2017
2017 Registration period	July 1 to October 1, 2017
Benchmarking initiative	Q3 and Q4 2017
Report back to Tenant Issues Committee and Licensing and Standards Committee on outstanding directives from December 2016 Council	Q4 2017

Action	Schedule
Report back to Licensing and Standards Committee on review of bylaw and implementation outcomes	Q3 and Q4 2018

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ATTACHMENTS

Attachment 1: Additions to Municipal Code Chapter 441 related to fees for apartment building owners and operators
 Attachment 2: Optional template for displaying information about cooling spaces