



# MISSISSAUGA

## THE CORPORATION OF THE CITY OF MISSISSAUGA

### ADEQUATE TEMPERATURE BY-LAW 0110-2018

**WHEREAS** sections 8, 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, (the "*Municipal Act, 2001*") authorize a municipality to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 5, 6 and 8 of subsection 11(2) provide that a lower-tier municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

**AND WHEREAS** section 425 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under that Act is guilty of an offence;

**AND WHEREAS** section 436 of the *Municipal Act, 2001*, provides that a municipality may pass a by-law providing that the municipality may enter on lands at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of the municipality has been complied with;

**AND WHEREAS** sections 444 and 445 of the *Municipal Act, 2001*, provide that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity or to do work to correct the contravention;

**AND WHEREAS** Council of The Corporation of the City of Mississauga considers it desirable and necessary to regulate heating and cooling where air conditioning is provided in rented or leased dwellings;

**NOW THEREFORE** the Council of The Corporation of the City of Mississauga hereby **ENACTS** as follows:

#### **DEFINITIONS**

1. In this By-law:

**"adequate and suitable heat"** means air temperature in the dwelling unit of at least 20 degrees Celsius (20°C);

**"adequate and suitable cooling"** means air temperature in the dwelling unit that does not exceed 26 degrees Celsius (26°C)

**“business day”** means any day on which the City’s administrative offices are open for business;

**“City”** means The Corporation of the City of Mississauga;

**“Council”** means the Council of The Corporation of the City of Mississauga;

**“Director”** means the Director of the Enforcement Division for the City and includes their designate;

**“dwelling unit”** means one or more habitable rooms used or designed to be used for human habitation;

**“officer”** means a person appointed by the City or assigned by the Director to enforce this By-law;

**“landlord”** includes an owner and any person for the time being managing or receiving the rent of the dwelling unit, land or premises in connection with which the word is used, whether on the person’s own account or as agent or trustee of any other person;

**“person”** includes an individual, a corporation and its directors and officers, or partnership and their heirs, executors, assignees and administrators; and

**“tenant”** includes a person who is lessee, occupant, sub-tenant or sub-lessee.

#### **ADEQUATE AND SUITABLE HEAT AND COOLING**

2. (1) Every landlord of a rented or leased dwelling unit shall provide and maintain adequate and suitable heat in all areas of the dwelling unit.
- (2) Subsection 2(1) does not apply if:
  - (a) a landlord and tenant have expressly agreed that the rented or leased dwelling unit will not be heated by or at the expense of the landlord; or
  - (b) a tenant is able to directly regulate the temperature such that adequate and suitable heat can be provided and maintained and such regulation of the temperature by the tenant has been enabled, if necessary, by the landlord.
3. No rented or leased dwelling unit shall be equipped with portable heating equipment as the primary source of heat.
4. (1) Every landlord of a rented or leased dwelling unit shall maintain adequate and suitable cooling in all areas of the dwelling unit.
- (2) Subsection 4(1) does not apply if:
  - (a) the rented or leased dwelling unit is not equipped or furnished with an air conditioning system or unit;
  - (b) a landlord and tenant have expressly agreed that the rented or leased dwelling unit will not be air conditioned by or at the expense of the landlord; or

- (c) a tenant is able to directly regulate the temperature such that adequate and suitable cooling can be provided and maintained and such regulation of the temperature by the tenant has been enabled, if necessary, by the landlord.
5. For the purposes of determining compliance with subsections 2(1) or 4(1), the temperature shall be measured at 1.5 meters above floor level and 1 meter from exterior walls in all rooms intended for normal use by tenants.

## **ADMINISTRATION AND ENFORCEMENT**

### **Administration**

6. The Director is authorized to administer and enforce this By-law including but not limited to:
- (a) arranging for:
    - (i) the assistance or work of City staff, City agents or the assistance of police officers;
    - (ii) the making of orders or other requirements as authorized under this By-law;
    - (iii) the obtaining of court orders or warrants as may be required; or
    - (iv) the commencement of such actions on behalf of the City to recover costs or restrain contravention of this By-law as deemed necessary; or
  - (b) prescribing the format and content of any forms or other documents required under this By-law.
7. The Director and officers appointed to enforce this By-law shall have the authority to:
- (a) carry out inspections;
  - (b) make orders or other requirements as authorized under this By-law;
  - (c) give immediate effect to any order or other requirement made under this By-law.
8. The Director may assign duties or delegate tasks under this By-law to be carried out in the Director's absence or otherwise.

### **Offences**

9. (1) Every person who contravenes any provision of this By-law, or a notice of violation or direction or order issued in accordance with this By-law, is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.

- (2) In addition to a fine or fines provided for in this section every person who gains an economic advantage from contravening this By-law, or a notice of violation or direction or order issued in accordance with this By-law, is liable to a special fine in an amount equal to the fair market value of the economic advantage obtained from the contravention.
  - (3) In addition to offences in subsections 9(1) and 9(2), every person is guilty of an offence under this By-law who:
    - (a) obstructs or attempts to obstruct any person exercising a power or performing a duty under this By-law;
    - (b) neglects or refuses to produce or provide any information or thing to any person acting pursuant to an order made under section 438 of the *Municipal Act, 2001*;
    - (c) knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this By-law.
  - (4) Where a corporation contravenes any of the provisions of this By-law, or a notice of violation or direction or order issued in accordance with this By-law, every director or officer who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of no more than \$100,000.
  - (5) Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence may exceed \$100,000.
10. Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.

### **Entry to inspect**

11. (1) In accordance with section 436 of the *Municipal Act, 2001*, an officer may enter upon land at any reasonable time for the purpose of carrying out inspections to determine whether the following are being complied with:
- (a) this By-law; or
  - (b) a notice of violation or direction or order issued in accordance with this By-law.
- (2) For the purposes of an inspection under subsection 11(1), an officer may:
- (a) require, for inspection, the production of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts of them;

- (c) require information from any person concerning a matter related to the inspection;
- (d) be accompanied by such person or persons as the officer determines is necessary if such person or persons possesses special or expert knowledge related to the purpose of the inspection; and
- (e) make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

**Orders to comply or notices of violation**

12. (1) An officer who finds a contravention of this By-law may make one or more orders or notices of violation requiring discontinuance of the contravening activity or to do work to correct the contravention under section 444 or 445 of the *Municipal Act, 2001*.
  - (2) An order or notice of violation may be of immediate effect should the Director determine that a delay would result in circumstances that endanger the health or safety of any person or similarly serious consequences.
  - (3) The order or notice of violation may be served personally on the person to whom it is directed or to an email address that person has provided to the City or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
  - (4) In addition to service given in accordance with subsection 12(3), an order made under subsection 12(1) may be served by placing a placard stating the terms of the order or notice of violation in a conspicuous place at the dwelling unit, on the premises or upon the land where the contravention occurred.
  - (5) If the delay necessary to serve an order or notice of violation under subsection 12(3) would result in circumstances that endanger the health or safety of any person or similarly serious consequences, the order or notice of violation may be served by a placard stating the terms of the order or notice of violation and placed in a conspicuous place upon land on or near the property.
13. If a person fails to comply with an order or a notice of violation to correct a contravention of this By-law, the Director or persons acting upon the Director's instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order or notice of violation at the person's expense.
  14. The City may recover the costs of doing a matter or thing under section 13 by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an annual interest rate of 15 per cent commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
  15. Where a time frame is set out in an order or other document for carrying out any action, an officer may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the officer.

## **MISCELLANEOUS**

16. Any section of this By-law, or any part thereof, that is found by a court of competent jurisdiction to be invalid shall be severable, and the remainder of the By-law shall continue to be valid.
17. In this By-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context so requires.

## **REPEAL AND ENACTMENT**

18. The Corporation of the City of Mississauga Adequate Heat By-law No. 0365-95 is repealed.
19. This By-law comes into force on the date of its passing.

## **SHORT TITLE**

20. This By-law may be referred to as the “Adequate Temperature By-law”.

**ENACTED AND PASSED this 6<sup>th</sup> day of June, 2018.**

**Signed by: John Kovac, Acting Mayor and Diana Rusnov, City Clerk**