



**Memorandum**

**Corporate By-law Number BL 94/2022**

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**TO:** Office of the City Clerk **FILE:**

**FROM:** Doug Vincent  
Development & Emergency Services - Licensing & Enforcement

**DATE:** 08/16/2022

**SUBJECT:** BL 94/2022 – Minimum Heat By-law

**MEETING DATE:** City Council – 09/12/2022 (mm/dd/yyyy)

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**By-law Description:** A By-law to authorize the City of Thunder Bay to require Owners of Residential Rental Dwellings to ensure such dwellings are provided with Adequate and Suitable Heat in residential accommodations and to repeal By-law 210-1974.

**Authorization:** Report R 106/2022 (Development & Emergency Services/Licensing & Enforcement) Committee of the Whole - July 25, 2022 and Memorandum from Doug Vincent relative to Referral of Report R 106/2022 (Development & Emergency Services/Licensing & Enforcement) Committee of the Whole August 22, 2022

**By-law Explanation:** The purpose of this By-law is to regulate and ensure adequate heating of residential rental dwellings.

**Schedules and Attachments:**

**Amended/Repealed By-law Number(s):**



THE CORPORATION OF THE CITY OF THUNDER BAY  
BY-LAW NUMBER BL 94/2022

A By-law to authorize the City of Thunder Bay to require Owners of Residential Rental Dwellings to ensure such dwellings are provided with Adequate and Suitable Heat in residential accommodations and to repeal By-law 210-1974.

Recitals:

1. By-law 210-1974, a by-law requiring adequate heat in rented accommodations was enacted and passed on September 11, 1974.
2. The *Municipal Act*, 2001, S.O. 2001, c.25, s. 8, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;
3. The *Municipal Act*, 2001, S. O. 2001, c. 25, s. 9, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;
4. The *Municipal Act*, 2001, S. O. 2001 c. 25, s. 10 (2) (6), gives the municipality broad authority to pass by-laws respecting the health, safety, and well-being of persons;
5. It is deemed appropriate to repeal and replace By-law 210-1974.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

**1. SHORT TITLE**

That this By-law may be cited as the "Minimum Heat By-law".

**2 DEFINITIONS**

- a) "Adequate and Suitable Heat" means that the minimum temperature of the air in the dwelling unit shall be 21 degrees Celsius (21 C) when measured as prescribed.
- b) "City" means the Corporation of the City of Thunder Bay and, where the context allows, shall include its agents and employees.
- c) "Dwelling Unit" means one or more habitable rooms designed and intended for human habitation.

- d) “Order” means a Work Order under Section 6 of this By-law.
- e) “Officer” means a Municipal Law Enforcement Officer or Police Officer.
- f) “Owner” means any person, firm, or corporation having control over all or any portion of the property under consideration and includes registered Owner(s) of land, but does not include a Tenant.
- g) “Person” includes and Owner, Tenant and a Corporation.
- h) “Property Entry By-law” means City of Thunder Bay By-law No. 75-2011 and includes any amendment thereto or successor by-law that may be enacted.
- i) “Residential Tenancies Act” means the Residential Tenancies Act, 2006, S.O. 2006 c17, as amended and any regulations thereunder.
- j) “Tenant” includes a person as defined under the Residential Tenancies Act.

### **3. OWNER(S) RESPONSIBILITY**

- a) Every Owner of a Dwelling Unit which is rented or leased and which is to be heated by or at the expense of the Owner shall provide the dwelling unit with Adequate and Suitable Heat at the Owner’s expense.
- b) Every Owner of Dwelling Unit, that claims that the heating expense and/or control of is not Adequate and Suitable Heat under the control or the responsibility of the Owner, shall provide an Officer, on demand, sufficient proof that the Tenant is responsible for provision in relation to the Dwelling Unit for which an exemption to the requirement, is claimed.
- c) Every Owner of a Dwelling Unit that fails to produce the required proof of exemption, satisfactory to the Officer’s investigation and required in subsection 3(2) above, is deemed to be responsible to supply Adequate and Suitable Heat to that Dwelling Unit as set out in subsection 3(1) above.
- d) Every Owner of a Dwelling Unit that controls the distribution of Adequate and Suitable Heat by any means and from any location other than from within the Dwelling Unit, is deemed to be required to supply Adequate and Suitable Heat to the Dwelling Unit under subsection 3(1), regardless of any agreement to the contrary.
- e) Every Owner of a Dwelling Unit that controls the distribution of Adequate and Suitable Heat by any means and from any location, including from within the Dwelling Unit, where the Tenant is prevented or restricted from controlling the temperature of the Dwelling Unit, is deemed to be required to supply Adequate and Suitable Heat to the Dwelling Unit under subsection 3(1) regardless of any agreement to the contrary.

- f) Every Owner will ensure that Adequate and Suitable Heat shall be maintained in habitable space of the Dwelling Unit at a minimum temperature of no less than 21 degrees Celsius (21 C).
- g) Every Owner that is served with an Order pursuant to Section 6 of this By-law, shall comply with the Order.

#### **4. MEASURING ADEQUATE AND SUITABLE HEAT**

The temperature shall be measured and recorded by, or on behalf of, the Tenant using a thermometer as follows:

- a) In a habitable room within the Dwelling Unit;
- b) As close to the center of the room as possible; and
- c) As close to one point two metres (1.2 m) above the floor surface of the room;
- d) When window and external door openings are closed;
- e) Recorded in degrees Celsius (C).

#### **5. INSPECTION AND ENFORCEMENT POWERS**

- a) Every Officer shall be authorized to enforce the provisions of this By-law.
- b) Every Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether the provisions of this By-law are being complied with.
- c) Every Officer may require information from any person concerning a matter related to the inspection.
- d) Every Officer may, verbally and in writing, vary or extend any of the time frames for compliance in this By-law.
- e) Officers may also rely on the authorities, if required, of the City's Property Entry By-law and any other authorizing By-law or statute.

#### **6. WORK ORDER**

- a) Where the Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened this By-law to do work to correct the contravention.
- b) An Order under subsection 6(1) of this By-law shall set out:
  - i. reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - ii. the work or remedial action required to be done and the date by which the work or remedial action must be done.
- c) An Order under subsection 6(1) of this by-law may require work or remedial action to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.

- d) Any person who fails to comply with an Order issued under subsection 6(1) of this By-law, is guilty of an offence.

## **7. SERVICE OF NOTICES/ORDERS**

- a) An Order may be hand delivered to the Owner or sent via e-mail or text to an address/number supplied by the Owner and, in the case of e-mail or text service transmission of an Order, it must be acknowledged as being received to be deemed as being served with the Order;
- b) An Order may be delivered in person to an Owner or occupant at the address of the Owner or at the lands that are subject of the Order or left with an inmate therein at those locations that is over that apparent age of eighteen years; or
- c) An Order may be sent registered mail to the last known address supplied to the City's tax office and shall be deemed to be delivered on the fifth (5<sup>th</sup>) day after the date mailed; or
- d) An Order may be posted in a conspicuous place on the property or placed in any open mail receptacle in proximity to the main entrance and shall be deemed to be delivered on the seventh (7<sup>th</sup>) day after being affixed/deposited.

## **8. GENERAL PROVISIONS**

Space heaters shall not be used as a heat source for the purposes of obtaining compliance with the provisions of this By-law, except:

- a) On a temporary basis as is reasonably necessary while repairs or maintenance is actively being carried out; and
- b) Where solely powered by electricity.

## **9. REMEDIAL ACTION AND COSTS**

If a Person fails to do a matter or thing, including to comply with an Order issued under this By-law, as directed or required by this By-law, the City may, in default of it being done by the Person directed or required to do it, do the matter or thing, and:

- a) Where the City does undertake work to ensure that the minimum required heat in compliance with this By-law, the work will be completed at the expense of the Owner.
- b) If the Owner fails to pay the cost of work completed under this By-law within thirty (30) days of the work being completed, the amount shall be added to the tax roll of the subject property and collected in the same manner as property taxes.

## **10. OBSTRUCTION**

- a) No Person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law, including providing false or misleading information.

- b) A refusal of consent to enter or to remain in a room or place actually used as a dwelling does not constitute hindering or obstruction within the meaning of section 8(1) of this By-law, unless the Officer is acting under a warrant under section 439 of the *Municipal Act, 2001*, or in the circumstances described in sections 437(d) or (e) of the *Municipal Act, 2001*.

## **11. OFFENCE**

Every Person, including a corporation, who contravenes a provision of this By-law is guilty of an offence and upon conviction, is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended from time to time, or any successor thereof.

## **12. PENALTIES**

- a. Every Person who is convicted of an offence is liable to a minimum fine of three hundred dollars (\$300.00) and a maximum fine of five thousand dollars (\$5,000.00) for the first offence and a maximum fine of ten thousand dollars (\$10,000.00) per/day for any subsequent conviction under the By-law to the maximum prescribed in the *Municipal Act 2001*.
- b. In addition to the fine amounts set out in section 12(2), for each day or part of a day that an offence continues, the minimum fine for each offence shall be three hundred dollars (\$300) per day or part day for the first conviction, but the total of all daily fines shall not exceed five thousand dollars (\$5,000) for the first conviction where the convictions are registered to a person that is not a corporation.
- c. Where a corporation is convicted of a second and subsequent conviction, the minimum fine shall not be less than five thousand dollars (\$5,000) for each subsequent conviction to a maximum fine of one hundred thousand dollars (\$100,000).
- d. In addition to any monetary penalty any court of competent jurisdiction may, pursuant to section 431 of the *Municipal Act*, issue an order prohibiting the continuation or repetition of the offence by the person convicted.

## **13. COMPLIANCE WITH OTHER BY-LAWS**

Compliance with this by-law shall not relieve any person from compliance with any other City By-laws.

## **14. SEVERABILITY**

Each and every of the provisions of this By-law is severable and if any provision of this By-law should for any reason be declared invalid by any court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

**15. REPEAL**

By-law 210-1974, as amended and Chapter 831, titled Heat Rented Dwelling of the City of Thunder Bay Municipal Code are repealed.

**16. EFFECT**

This by-law shall come into force and effect on the date it is passed.

Enacted and passed this 12th day of September, A.D. 2022 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Bill Mauro

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Mayor

Krista Power

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City Clerk