

SUMMARY OF CITY OF HAMILTON BY-LAW NO. 07-170

BEING A BY-LAW TO LICENSE AND REGULATE VARIOUS BUSINESSES

SCHEDULE 20

“residential care facility” means a residential complex that is:

(a) occupied or intended to be occupied by four or more persons for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy;

“tenant of a facility” means a person, other than an operator or employee, who

(a) resides in a residential care facility, and to whom the operator provides care services;

(b) is ambulatory; and

(c) has decreased physical or mental functional ability; and the term “tenant” has a corresponding meaning; and

PART III: OPERATOR

GENERAL

12. The operator shall:

(a) ensure that the applicable provisions of this Schedule, including the Guidelines, are complied with;

(b) provide a certificate from the Electrical Safety Authority that the facility complies with the *Ontario Electrical Safety Code* as required by the Issuer of Licences;

(c) keep a copy of the single facility incident plan in the facility in a readily accessible location;

(d) ensure that there are no firearms and no prohibited or restricted weapons, as set out in federal statutes, regulations, Orders in Council or otherwise by the federal government, kept in the facility;

(e) ensure that access to a telephone is available at all times within the facility;

(i) for employees and volunteers; and

(ii) for tenants of the facility:

1. with its own, separate line;

2. in a private setting, not including a lobby, hallway or passageway; 3. where a tenant using the telephone cannot be easily overheard;

(f) post in a conspicuous place in the facility:

(i) the current licence for the facility;

(ii) a notice stating the name of the operator or an employee who is present at the facility and has the primary duty of supervising the tenants as required under paragraph 17(2)(b);

(iii) a notice stating the operator's name, address and telephone number, and the name, address and telephone number of the employee who has been designated under paragraph 17(2)(a);

(iv) a notice stating the operator is licensed by the City of Hamilton and that a complaint about the operation of the facility may be made by telephoning the City of Hamilton at 905-546-2063;

(v) rules for the conduct of employees and tenants of the facility;

(i) ensure that a policy of commercial general liability insurance, including coverage for bodily injury and property damage resulting from the operation of the facility, with an inclusive limit of at least one million dollars (\$1,000,000) per claim or occurrence, is in force at all times when one or more tenants is present in the facility.

17.(1) In this section "employee" means an employee who is eighteen years of age or older.

(2) The operator shall ensure:

(a) that one employee is designated as the individual responsible for the operation of the facility and can be contacted immediately at the telephone number posted for that employee under subsection 12(f) at any time when the operator cannot be contacted immediately at the telephone number posted for the operator under subsection 12(f);

(b) that at all times, the operator or an employee is present at the facility who has the primary duty of supervising the tenants and is able to carry out this duty without interference, including but not limited to any interference caused by other duties or by distractions; and

(c) the safety of the tenants while the tenants are at the facility.

General Health and Safety

31. The operator shall ensure that:

a. the facility is kept in a clean and sanitary condition, including but not limited to providing for professional pest control as needed;

(b) the facility is free from hazards to the safety of tenants of the facility, employees, volunteers or visitors;

(c) the facility is supplied with heat in accordance with City of Hamilton By-law 04-091 with respect to the supply of adequate and suitable heat for rental residential premises;

(d) all food storage, preparation and service areas meet the requirements of the Food Premises Regulation under the *Health Protection and Promotion Act*; and

(e) the facility meets all requirements of the Building Code under the *Building Code Act, 1992* and of the Fire Code under the *Fire Protection and Prevention Act, 1997*.

33.(1) Prior to admitting an individual as a tenant of a facility, the operator shall obtain an up-to-date assessment from a physician or other member of a regulated health profession employed by a referring agency designated in the Guidelines, which provides an opinion as to the level of care services the individual requires.

PART V: CARE SERVICES

37. The operator shall provide care services to each tenant in a facility in accordance with the Guidelines.

DRUGS

38. The operator shall ensure that all prescription drugs:

(a) are kept in one or more locked drug cabinets, unless the drug requires refrigeration, or must be kept with the tenant for immediate use; and

(b) are made available only:

(i) to those tenants for whom they have been prescribed, as directed by a physician;

(ii) in a unit-dose medication dispensing system as described in the Guidelines.

39. The operator shall allow self-medication by the tenants of a facility under specified conditions set out in the Guidelines.

40. If a tenant is prescribed a drug that is a controlled substance as defined in the Controlled Drugs and Substances Act (Canada) and the operator has not completed a medication course as described in the Guidelines within the preceding twelve months, then they shall complete such a medication course no more than thirty days after the drug has been prescribed.

NUTRITIONAL CARE

41. The operator shall ensure that the tenants of a facility are served daily sufficient food of good quality and adequate nutritional and caloric value as described in the Guidelines.

INFECTION CONTROL

42. The operator shall ensure that all requirements for the control of infectious diseases that are set forth in Guidelines are complied with, including recommendations for tuberculosis screening, immunization programs, reporting requirements, and outbreak control measures.

MEDICAL CARE

43.(1) Each tenant of a facility or their next-of-kin, or attorney for personal care, as the case may be, shall arrange for emergency medical care for the tenant, as required.

(2) Where the tenant, their next-of-kin, or attorney for personal care is unable to arrange for emergency medical care, or where such emergency medical care is unavailable, the operator shall arrange for emergency medical care for the tenant.

44. The operator shall allow a tenant's physician or a member of a regulated health professional who is providing care or treatment to a tenant to enter the facility at any reasonable time for the purpose of attending to the health of the tenant.

ADDITIONAL CARE

45.(1) Wherever the tenant's physician, the operator, the Medical Officer of Health, or a member of a regulated health profession who is employed by a referring agency designated in the Guidelines, determines that a tenant requires additional care services for their special needs and the tenant, their next-of-kin, or attorney for personal care has not arranged for such additional care, the operator shall ensure that such additional care is made available to the tenant while the tenant continues to reside in the facility.

(2) In ensuring that additional care services are provided under subsection (1), the operator shall:

(a) consult with the tenant, their next-of-kin, attorney for personal care and/or a community worker, and prepare a plan which shall include a description of the health issue and the services being provided to address that health issue and which may include additional care services, such as additional personal care services and/or rehabilitative services;

(b) ensure that additional personal care services are provided through a referral to a community care access centre or to a private community agency;

(c) where the tenant requires rehabilitative services, support the tenant's rehabilitative goals in the facility and in the community, which may include assisting tenant with meal preparation, laundry, household duties and self- medication.

49.(1) The operator shall maintain an up-to-date, alphabetical list of the tenants of a facility which includes the name, sex, date of birth, age and date of admission of each tenant.

(2) The operator shall maintain a separate file for each tenant, which contains the following information:

(a) sex, date of birth, age, date of admission and date of discharge or death;

(b) name, address and telephone number of next-of-kin;

(c) name and telephone number of the tenant's attorney for personal care, if any;

(d) the name and telephone number of the tenant's physicians;

(e) completed assessment;

(f) the name, address and telephone number of any community agency which is providing support to the tenant;

(g) tuberculin or chest x-ray testing results, and the dates thereof;

(h) a brief medical history of the tenant, in respect of the care services provided by the operator under the tenancy agreement (section 36) or any additional care services made available by the operator (subsection 45(1)), from the date of their admission, including medication information, laboratory results, physicians' orders and staff notes or other records necessary to determining the level of care services provided;

54.(1) The Medical Officer of Health, the General Manager of Planning and Economic Development, the Chief Fire Prevention Officer, the Chief of the City of Hamilton Police, the Issuer of Licences, or an Officer, at all reasonable times, may inspect any facility and the list of tenants required by subsection 49(1) where that subsection is applicable.