

Rental Housing

Demolition or Conversion Guidelines

A user guide to understanding By-law 2023-102 to regulate the demolition and conversion of residential rental properties in the Town of Oakville.

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Table of Contents

Introduction 2

- Purpose
- Authority
- Background
- Objective

When does the by-law apply? 5

Application Process 6

Evaluation of Application 8

- Process for conversion
- Process for demolition
- Notice and Communication
- Conditions
- Tenant Assistant Package

Transition 14

Definitions 15

Introduction

On July 10, 2023, Town Council passed By-law 2023-102, known as the Town of Oakville Rental Housing Protection By-law, under Section 99.1 of the *Municipal Act*. The purpose of this by-law is to manage the impact of redevelopment on the existing rental housing inventory in Oakville.

These guidelines have been developed to assist landlords, tenants, and the development community in understanding the process for demolition or conversion of existing residential rental units on a property. This document should be reviewed when completing the Declaration of Use and Screening Form, and the Demolition or Conversion Applications, as part of the Pre-consultation or Building Permit application processes.

The intent of By-law 2023-102 is to:

1. Preserve the existing rental housing supply;
2. Preserve the *affordable rental* housing supply;
3. Increase *purpose-built rental* housing;
4. Improve the existing rental housing stock;
5. Obtain an enhanced *Tenant Assistant Package* beyond the requirements of the Residential Tenancies Act 2006 as amended for existing tenants; and
6. Formalize a consistent process in processing such applications which achieves an appropriate *Tenant Assistant Package* in the particular circumstances of an application by way of issuance of a Section 99.1 Permit with conditions, which conditions are secured by an executed registered agreement binding on the existing owner and future owners of the subject site.

Purpose

These Guidelines for Rental Housing Demolition or Conversion (Guidelines) provide an overview of the Town's processing of applications for the demolition or conversion of a residential rental property, either independent of, or in conjunction, with a development application under the *Planning Act*. They support the administration of the Rental Housing Protection By-law 2023-102 (as amended), approved and in effect on July 10, 2023.

Authority

The By-law was approved under the authority of Section 99.1 of the Municipal Act, 2001 which allows municipalities to regulate the demolition and conversion of residential rental properties containing six or more dwelling units. Applications to demolish or convert more than six dwelling units will require a Section 99.1 Permit. In most cases, a Section 99.1 Permit will require Council approval. By-law 2023-102 is consistent with the Town's Livable Oakville Official Plan Policy 11.1.2, which seeks a balance in housing tenure and discourage conversions of existing rental accommodation to condominium or other forms of ownership.

Background

Purpose-built rental housing is an important part of the Town's housing supply. The loss of *affordable rental* housing for low and middle income households, or less than 1.8 times the *average market rent* has become a growing concern in recent years. As the town continues to experience growth, there is an ongoing need to protect rental housing to ensure that diverse housing options remain in Oakville.

According to the Canadian Mortgage and Housing Corporation (CMHC), there are 5,140 residential units in the primary rental market, as of October 2023. This includes bachelor, one-bedroom, two-bedroom, and three-bedroom or greater units.

Objectives

The availability of rental housing typically provides stable housing options for low and middle income households when home ownership is not financially feasible or where rental tenure is preferred. The for-market or luxury rental housing also provides opportunities for alternative housing tenure options for higher income households. The objectives of the Rental Housing Protection By-law are to:

- Protect the existing supply of *purpose-built rental* units so there is no net loss of rental units;
- Be flexible in the application of the By-law so as not to stagnate the rental market; and,
- Support the revitalization of areas in the Town where appropriate.

These Guidelines provide a range of options for applicants to meet the objective of “no net loss” of rental units and *affordable rental* units as a result of a redevelopment proposal by demolition or conversion.

When does the By-law apply?

The Declaration of Use and Screening Form is required for all proposals that concern either the demolition or conversion of rental dwelling units. The completion of the Screening Form identifies that proposals to demolish or convert to condominium tenure or a mixed-use building containing six or more dwelling units are subject to the By-law 2023-102. This includes *purpose-built rental* apartments or townhouses.

The By-law does not apply to a Residential Rental Property that:

1. Contains less than six Dwelling Units; or
2. Is a condominium governed by the *Condominium Act*, 1998; or
3. Is organized as a Life Lease Project; or
4. Is described in section 5 (Exemptions from Act) of the *Residential Tenancies Act*, 2006 other than subsection 5(c) (a member unit of a non-profit housing co-operative); or
5. Is described in Section 7 (Exemptions related to social housing) of the *Residential Tenancies Act*, 2006

Application Process & Information Required

An application to demolish or convert residential rental properties where there are six or more dwelling units, will trigger the need for a municipal review.

The application form can be found on the [Town's website under Planning and Development](#).

Demolition and conversion applications are evaluated on a case-by-case basis. As outlined under section 7 of the By-law, applications for the demolition or conversion of rental units shall include the following information:

1. Description of the proposed Demolition or Conversion;
2. The number of existing Dwelling Units;
3. The number of existing and proposed Rental Units by unit type, including number of bedrooms, unit gross floor area, unit locations, unit amenities, and unit rents;
4. The rents roll(s) including utilities for the Residential Rental Property, categorized by unit type;
5. A list containing the names and mailing addresses of the tenants of the Residential Rental Property;
6. Identification of any *Related Applications*;
7. A proposal for the replacement or retention of the Rental Units proposed for Demolition or Conversion;
8. A proposal for the replacement or retention of the *affordable Rental Units* proposed for Demolition or Conversion;

9. A proposal for tenant engagement by the owner or applicant, including consultation, education and assistance with finding alternative accommodation on vacating the Rental Unit at the time of Demolition or Conversion;
10. Proposal for assistance that is enhanced over that required by the *Residential Tenancies Act, 2006* for displaced tenants on vacating the Rental Unit at the time of Demolition or Conversion, including a right-of-return to a similar unit type, of similar size, of similar rent, of similar location, with similar amenities, as may be applicable in the circumstances;
11. Any additional information or documentation required to evaluate the application, as specified by the Commissioner of Community and Development; and,
12. The applicable fees.

The application process will determine the number of rental units that are protected under the By-law, the number of *affordable rental* units that are protected under the By-law, and the types of conditions that may be imposed on a Section 99.1 Permit, to allow for either the demolition or conversion of said units, including any *Tenant Assistant Package*. Applicants will be required to fill out a form that includes data on existing dwelling unit types and rents (Attachment A).

Section 99.1 Permits may be granted based on conditions to retain or replace the number of rental units, and the number of *affordable rental* units to be secured with be through an agreement registered on title.

Evaluation of Application

The Town's Planning Services department will evaluate applications, regardless of whether a planning application is also required for the proposed redevelopment of the site.

The evaluation process will rely on CMHC data for vacancy rates and existing rents to determine the circumstance in which the replacement or retention of rental units and affordable rental units will be required. This data will be updated yearly and contained in the application form.

The decision to approve applications that demolish / convert less than six rental units is delegated to the Commissioner of Community Development.

The decision to approve applications that demolish / convert six or more units is made by Council.

Process for Conversion

The following is a step-by-step process for the conversion of rental housing:

1. It is recommended that the applicant discuss their proposal with Planning Services Staff to be informed of Town's Rental Housing Protection By-law and Demolition Control By-law 2023-102 and the requirements to retain the present number of residential rental units and the present number of *affordable rental* units.
2. The applicant must complete and submit the Application Form to Planning Services Staff, which includes information on rental rates and number, type, and size of rental units, consultation with tenants and proof that tenants are aware of the application and their rights.

3. The Application is circulated for review to identify and confirm the number of units to be retained as rental and recommended terms.
4. The applicant will review the comments and confirm their proposal and acceptance of conditions.
5. Staff will prepare a report for Council (or delegated authority) for recommendation and includes any conditions for an approved permit.
6. Applicant and staff collaborate to clear conditions (i.e. Agreements to retain and/or provide *affordable rental* units executed, etc.)
7. Section 99.1 Permit issued by the Commissioner once all conditions have been satisfied and/or secured.

Process for Demolition

1. It is recommended that the applicant discuss their proposal with Planning Services Staff to be informed of Town's Rental Housing Protection By-law and Demolition Control By-law 2023-102 and the requirements to retain the present number of residential rental units and the present number of *affordable rental* units.
2. The applicant must complete and submit the Application Form to Planning Services Staff, which includes information on rental rates and number, type, and size of rental units, consultation with tenants and proof that tenants are aware of the application and their rights.
3. The Application is circulated for review to identify and confirm the number of units to be replaced as rental and recommended terms.
4. The applicant will review the comments and confirm their proposal and acceptance of conditions.

5. Staff will prepare a report for Council (or delegated authority) for recommendation and includes any conditions for an approved permit.
6. Applicant and staff collaborate to clear conditions (i.e. Agreements to replace *affordable rental* units executed, etc.)
7. Section 99.1 Permit issued by the Commissioner once all conditions satisfied and/or secured.

Notice and Communication Strategy

The applicant is required to provide proof of notice of the application to tenants/leaseholders 14 days after the application is deemed complete. To maximize communication opportunities of any proposed conversion or demolition, the following strategy shall be followed:

1. Notice shall consist of:
 - Signage in common areas such as the lobby and/or mail room that contains:
 - Purpose and effect of the proposal
 - Contact information for applicant and town staff
 - Date of information meeting for tenants/leaseholders
 - Distribution of letters to tenants/leaseholders containing:
 - Purpose and effect of the proposal
 - Contact information for applicant and town staff
 - Date of information meeting for tenants/leaseholders
2. The applicant shall conduct an information meeting for tenants/leaseholders virtually, on-site or in close proximity to the subject lands, or a combination thereof.

3. The applicant shall provide a minimum of 20 calendar days' notice of such meeting.
4. The applicant shall provide staff with the minutes of the information meeting, which shall include the number of tenant attendees, issues raised, and confirmation of the number of letter notices issued within seven calendar days of the meeting being held.
5. The Notice and Communication Strategy must be completed before the preparation of conditions.
6. The applicant may combine their Section 99.1 permit application meeting with a Public Information Meeting required by any *related applications* under the *Planning Act*, provided the Section 99.1 permit is to be submitted within 6 months of the meeting being held.

Conditions

The town (Council or the Commissioner) may impose conditions with the approval of a Section 99.1 Permit. A full list of items that can be conditioned is included in the By-law, Part 12 Section (D).

Following the submission of the Application, the decision regarding the replacement or retention of *purpose-built rental* is at the discretion of the town, with the following situations being the benchmark for consideration:

- The Town's vacancy rate is less than 3% (current vacancy rate is 1.6%; subject to change annually by CMHC); or,
- Existing rents for the units proposed to be converted or demolished are less than the affordable rate of 1.8 times *average market rent* (see table below for rents by unit type).

When neither of the above situations is present, a Section 99.1 Permit for demolition or conversion will be issued without conditions for replacement or retention of the rental units.

However, when vacancy rates are below a balanced market threshold of 3% and/or rent levels are below 1.8 times the *average market rent*, a Section 99.1 Permit for demolition or conversion may be issued subject to appropriate conditions for replacement or retention of rental units to be secured by an agreement registered on title.

In neither case should the proposed demolition or conversion result in a decrease in the 3% threshold and/or rent levels are below 1.8 times the average market rent.

Conditions for the replacement or retention of rental units to be imposed by the town are exclusively listed in Section 12 (D) of the By-law, and may also include, but are not limited to:

- The replacement of rental or *affordable rental* units on or off site, or a combination thereof;
- Site or building improvements for the betterment of existing or retained tenants;
- Financial compensation for displaced and/or evicted tenants;
- Provision for new rental units off site and within the neighbourhood of the impacted rental units;
- A specific term for which the rental units and rates are required to be provided; and/or
- Cash-in-lieu, where a cash-in-lieu reserve is available.

Additional public consultation may be required for each Application, depending on the complexity of the proposal, which may include information for existing tenants, as well as abutting properties in accordance with *Planning Act* requirements.

Tenant Assistance Package

Under Section 52(1) of the *Residential Tenancies Act* for rental units being converted or demolished within developments having five units more, the affected tenants are entitled to three months rent or an alternative unit acceptable to the tenant as compensation.

Section III Part 12 (D) (8) of the Town's By-law 2023-102 provides for additional tenant assistance beyond what is prescribed by the *Residential Tenancies Act*, as noted above, through a *Tenant Assistance Package (TAP)*.

The purpose of the *TAP* is to mitigate the negative financial and disruptive impacts on existing rental tenants/leaseholders from any proposed conversion or demolition of existing rental units.

The *TAP* is additional to the landlord's obligations under the *Residential Tenancies Act* and can be included as a condition of approval for the conversion or demolition of existing rental units and would be included within any agreement required to issue the Section 99.1 Permit, including any *related applications*. The *TAP* will specify the arrangements agreed to by the landowner and the Town and may include the provision of:

- financial compensation for moving and disruption, such as first and last months rent at *affordable market rates*;
- financial compensation for temporary relocation during development;
- maintenance of existing rental rates for a period of 10 years (subject to annual increases no greater than any maximum Guideline Increase set by the Minister under the *Residential Tenancies Act, 2006*); and/or
- the provision of new units within a plan of condominium at *affordable rental rates*;

Transition

Where a related Site Plan Application, under the *Planning Act*, was submitted to the Town as of July 10, 2023, conditions of a Section 99.1 Permit may be scoped commensurate to the status of the site plan application provided the following criteria is met, up to and including no conditions:

1. The site plan application did not already provide for replacement of rental units as of July 10, 2023; and,
2. Less than 6 existing rental units were occupied as of July 10, 2023.

Definitions

Affordable rental or Affordable rent – affordable to low and moderate income households or less than 1.8 times the *average market rent*.

Average Market Rent - in respect of a Rental Unit, means rent that is at or below the average market rent by type of unit in the Town of Oakville as established annually by the Canada Mortgage Housing Corporation (CMHC) and published in the Region of Halton's Annual Housing Report for the calendar year concerned.

Purpose-built rental – more than one dwelling unit on a single lot all of which have never been within a registered plan of condominium and where neither unit(s) have been owned individually.

Related Applications – Development or building applications submitted to a municipal or other public authority for the proposal under the *Planning Act*, *Building Code Act*, *Conservation Authorities Act*, or other applicable development or building legislation.

Tenant Assistance Package – Compensation provided to any existing leaseholder(s) to mitigate the negative financial and disruptive impacts.