

**TO:** Chair and Members of Regional Council

**SUBMITTED BY:**

Original Signed by 

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Kelly Denty, Executive Director Planning and Development

Original Signed by 

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Jacques Dubé, Chief Administrative Officer

**DATE:** August 9, 2021

**SUBJECT:** Demolition Permit Process Associated with Residential Tenancies

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## **INFORMATION REPORT**

### **ORIGIN**

On January 12, 2021, the following motion of Regional Council regarding Item 11.6.2 was put and passed:

*“THAT Halifax Regional Council request a staff report on a Bylaw for a Permit Process covering demolitions of buildings that include leased units to ensure demolition permits are not granted until such time as municipal staff are satisfied that the provincial Residential Tenancies eviction order process has reached its conclusion, including any appeals that are lawfully made by tenants.”*

### **LEGISLATIVE AUTHORITY**

*Building Code Act, R.S., c. 46*

7(1) The council of a municipality may pass by-laws not inconsistent with the Act or the regulations made by the Minister

(a) Prescribing permits or classes of permits for the purpose of this Act and the regulations including permits in respect of construction or demolition or any stage thereof,

*Nova Scotia Building Code Regulations, N.S. Reg. 148/2020*

By-law B-201, the *Building By-Law*

## **BACKGROUND**

Under the authority of the Nova Scotia *Building Code Act*, demolition permits in Halifax Regional Municipality are regulated under the *Nova Scotia Building Code Regulations* and the HRM By-law B-201, the *Building By-law*. Under these regulations, the authority to act on behalf of the municipality in ensuring compliance is the responsibility of the Authority Having Jurisdiction (AHJ) which is a Building Official appointed by Regional Council.

The requirements for a demolition permit are set forth in By-law B-201 such that for any permit approval, the AHJ may request any other information they determine is required to fully vet the application request. This could include such items as an Engineer's assessment and report, Location Certificates for existing buildings, proof of approval for use of a new building material in Canada or any additional information the Building Official as the AHJ deems necessary.

## **DISCUSSION**

Since demolition permits are already subject to the *Nova Scotia Building Code Regulations* and By-law B-201, there is no need to create a separate, new by-law governing that process.

In response to the Council motion, staff have determined that the request is best addressed through a change to the demolition permit approval process in conjunction with an amendment to By-law B-201, which is in the process of being updated to recommend revisions for regulatory and process efficiencies. These amendments are targeted to come forward to Council for approval in spring 2022.

The *Nova Scotia Building Code Regulations* gives the AHJ authority to request any information they deem necessary to assess an application for a demolition permit. In any case where the AHJ suspects there may be an occupant in a building for which a demolition permit is being sought, they may request an affidavit from the applicant stating that the building has been vacated of all residential tenancies in compliance with the *Nova Scotia Residential Tenancies Act* conforming to one or more of the following procedures:

- The tenants have provided written notice they are ending their tenancy and the date they indicated has passed;
- The tenant has been evicted through a Nova Scotia Tenancy Director's Order;
- A written mutual agreement has been entered into with the tenant that states the tenant is ending their tenancy and includes a documented move out date of which has passed; and/or
- A Nova Scotia Tenancy Director's Order was obtained, and endorsed as a Small Claims Court Order, providing vacant possession for the residential premise.

This requirement would not be necessary in all demolition permit applications; only in those cases where the AHJ determines it is necessary. As applications are typically filed months in advance of the actual demolition work, the affidavit would not be requested in the application stage, but rather at the permit issuance stage or at any time thereafter. For smaller buildings, the AHJ could choose to conduct an inspection to ensure there are no occupants in the building.

## **FINANCIAL IMPLICATIONS**

There are no financial implications. This process change can be achieved using existing resources and budgets. No additional staff will be required.

**COMMUNITY ENGAGEMENT**

Community engagement was not conducted in connection with this report.

**ATTACHMENTS**

No attachments.

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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