SUBJECT: Residential Care Facilities Review, Schedule 20, Licensing Code By-Law 07-170 SPH05032(e) - (City Wide)

RECOMMENDATION:

(a) That the Board of Health approve the proposed Residential Care Facilities (RCF) Schedule 20 of By-Law 07-170 draft amending By-law attached to Report SPH05032(e) as Appendix A;

(b) That the Board of Health approve the proposed Residential Care Facilities Guidelines as issued by the Medical Officer of Health and attached to Report SPH05032(e) as Appendix B;

(c) That Public Health Services staff continue to refer Residential Care Facilities issues outside of the scope of the By-Law, to the appropriate authority or community agency;

(d) That Public Health Services staff assume the enforcement for all provisions of Schedule 20 and the Residential Care Facilities Guidelines that are under the authority of the Medical Officer of Health;

(e) That the Licensing Section continue to enforce the licensing requirements of Schedule 20 that are not under the authority of the Medical Officer of Health and to assist with PHS enforcement when required.

(f) That the Board of Health approve the use of the City’s Fees and Charges By-law by Public Health Services staff for inspections resulting from non-compliance with the Residential Care Facilities Schedule 20;

(g) That Report SPH05032(e) be referred to the Committee of the Whole and that the Planning and Economic Development, Parking and By-law Services bring forward the amending by-law;
EXECUTIVE SUMMARY:

RCFs provide 24-hour supervision and guidance for individuals who are elderly, developmentally delayed or suffer from mental illness or brain injury. There are 97 RCFs within the City of Hamilton. RCFs are only one of a number of types of facilities offering supportive housing to individuals within the City of Hamilton. A descriptive inventory of other varieties of supportive housing is provided in Appendix C of this report.

In the City of Hamilton, PHS and the Licensing Section of the Planning and Economic Development Department are responsible for the inspection, enforcement and licensing of facilities regulated under Schedule 20.

The Community Services Department (CSD) has purchase of service agreements with 64 of the 97 licensed RCFs under the Homelessness Service Contract with the Ministry of Community and Social Services. Compliance with Schedule 20 is the foundation of the subsidy agreement. CSD staff work closely with PHS and Licensing Section staff to ensure compliance with the conditions of the subsidy agreement.

PHS staff carried out consultations with RCF stakeholders in the community from December 2007 - February 2009. The consultation process concluded with a special meeting of the Board of Health on February 4, 2009. At this meeting citizens, stakeholders and members of the Board of Health were provided the opportunity to provide feedback on the proposed amendments.

An independent consultant was engaged by PHS to analyze the feedback received from stakeholders during and subsequent to the Board of Health Meeting. The final report is included as Appendix D. Additional feedback from operators was also received by PHS. PHS considered the recommendations in the report as well the addition feedback
Changes to the draft amending by-law have been made based upon this information.

If the draft amending by-law is approved by the Board of Health, it will be forwarded to Committee of the Whole, as three Departments have an interest in Schedule 20, for consideration and then to Council to be passed.

**BACKGROUND:**

In March 2003 Report FCS03020/PD03029/SPH03001 requiring a review of Schedule 20 within two years was approved.

In June 2005 Report SPH05032 outlining a process for the review of Schedule 20 was approved.

In April 2006 Report SPH05032 (a) outlining a more focused consultation process was approved.

In February 2007 Report SPH05032 (b) deferring the review pending further information from the province which was anticipated to impact Schedule 20 was approved.

In May 2008, Information Report SPH05032 (c) summarized the status of the review.

In November 2008, Report SPH05032 (d) recommendations a) through d) were approved. These recommendations included: that the BoH receive the proposed draft amendments to Schedule 20, that PHS invite stakeholders to respond to the draft amendments in writing or in person at a public meeting, that the analysis of the stakeholder feedback be conducted by an outside consultant and that any feedback regarding RCFs and the City’s zoning by-laws be referred to the Planning and Economic Development Department.

On February 4, 2009 PHS conducted a special BOH meeting to receive public feedback on the draft amending by-law. A number of key areas of concern with Schedule 20 have been expressed by City staff, operators, tenants, community physicians, advocates and families.

In total, approximately 50 participants engaged in the consultation including members of the Board of Health, City of Hamilton staff, local agency representatives, RCF operators, and RCF tenants.

**Themes emerging from the consultation included:**

- A more thorough and consistent approach to enforcement is needed.

- Stakeholders would like to see a clear and transparent complaint process established. A complaint process that ensures the confidentiality of a complainant
is required along with a mechanism to ensure that all tenants are aware of how to report a complaint to PHS.

- Physicians identified concerns with the current assessment and opinion form as it requires a physician to assess the appropriateness of a care home in meeting client needs. A medical assessment of the client is more appropriate.

- Concerns were raised about the continued admission of wandering residents to locked units.

- Amendments to Schedule 20 are needed to ensure that individuals responsible for providing medications to tenants in RCFs have the appropriate training to do so. Strategies should be considered to ensure that the medications are provided in a safe manner.

- Tenants require a secure place to store personal belongings within the RCF. RCFs should provide tenants with a lockable space to store belongings.

- The Schedule does not address issues related to powers of attorney and alternate decision makers for care issues. Concerns were raised because the Schedule does not prohibit residential care operators from being a tenant’s alternate decision maker.

- The Schedule contains sections with wording with respect to care services that have been deemed unconstitutional by a Justice of the Peace.

- Concerns were raised with respect to costs associated with various aspects of the draft amending by-law. Concern was also expressed with respect to the current daily per diem rate offered to operators of subsidized homes.

**ANALYSIS/RATIONALE:**

The following changes are proposed in response to the issues raised during and subsequent to the stakeholder consultations:

**Enforcement Changes:**
Currently all enforcement activities are handled by Municipal Law Enforcement. In order to facilitate a more consistent and timely response, under the proposed draft by-law, PHS staff will be responsible for all enforcement activities related to the sections of Schedule 20 under the authority of the Medical Officer of Health. The Licensing Section will continue to enforce the Licensing requirements of Schedule 20 that are not under the authority of the Medical Officer of Health.

PHS has developed clear and concise policies to deal with issues of non-compliance. It is proposed that PHS utilize the City’s Fees and Charges By-law, in order to recover costs incurred as a result of repeat inspections related to chronic non-compliance with
Schedule 20. Frequent re-inspections have resulted from operator non-compliance with the Schedule 20. As part of the internal consultation process, Legal Services and the Licensing Section have recommended adoption of the reinspection fee to encourage compliance and ensure consistent enforcement.

**Complaint Process:**
All complaints about RCFs will now be received at 905-546-2063, the intake number for Infectious Disease and RCF program staff. Staff will receive and log the complaint then forward it to the appropriate department for follow up. All complaints regarding issues under the authority of the Medical Officer of Health will be followed-up with an inspection by the appropriate PHS staff with a report back to the complainant. All complaints pertaining to issues not under the authority of the Medical Officer of Health will be referred to the appropriate Department. All complaints will be considered confidential.

All RCFs will be required to post a sign indicating the telephone number to be used in order to report a complaint to PHS. The sign shall be posted in an area clearly visible to all tenants in the home.

**Assessment and Opinion:**
A physician opinion on placement is no longer required. An enhanced physician assessment form has been developed consistent with admission criteria outlined in Schedule 20 and the Guidelines. An operator, after considering the assessment provided by the physician, will be able to determine if the RCF is appropriate for the tenant.

**Secured/Locked Units:**
Changes have been proposed to Schedule 20 that will no longer allow RCFs to admit tenants who have a tendency to wander into secured/locked units. Tenants who have a tendency to wander require more care than can appropriately be provided by an RCF. Tenants such as these should be assessed by the Community Care Access Centre for appropriate care in an alternate category of facility. Operators are required to make reasonable efforts to transfer tenants who are currently housed in secured/locked units to more appropriate care facilities by the end of a 2 year period.

As of June 16, 2009, there were three RCFs in the City that had locked/secured units available for use. However, there were no tenants in these units identified as needing the care of a locked unit. Currently RCFs are using these units to house tenants appropriate for placement in an RCF. As a result there will be no impact to operators as a result of this recommendation.

**Provision of Medication:**
Suggested amendments to the Schedule and the Guidelines have been made to address the concerns with respect to provision of medication by RCF staff. All medications will be required to be provided to the tenant or RCF in a unit-dose dispensing system by the dispensing pharmacy.
All staff providing medication to tenants as part of their responsibilities will be required to attend an annual education session with respect to safe provision of medications. In the event that staff are responsible for providing controlled substances to tenants they are required to successfully complete a medication administration course for unregulated health care professionals in order to assume this responsibility.

An annual provision of medication education session for RCF staff will be provided by the RCF education committee in conjunction with a local pharmacy. There will be no charge to the operators or RCF staff who participate in this session. There is a cost for the two hours of time required to attend the session, however, this time can be counted towards the existing continuing education hours requirement which is continued by the draft amending by-law.

There will be a cost to operators in the event staff are required to participate in a medication administration course offered by an external institution such as a community college. All regulated health care workers and most personal service workers would already have such training. A medication administration course for unregulated health care workers such as health care aides and personal services workers is available in a variety of formats. One of the courses offered by a local agency is 3 days in duration. Courses of shorter duration and courses provided in a web based format are also available.

Securing Tenants’ Personal Property:
Suggested amendments to the Schedule address the security concerns of tenants. Each tenant will be provided with secure storage space, no less than 0.15 m$^3$ in size and accessible only to the tenant and the operator.

Concerns were expressed by operators with respect to the contents secured in these spaces. The amendment will allow for the operator to have access to the space.

There is a one time cost associated with this recommendation that will be realized by residential care facility operators. In the event that lockable storage space, such as a closet, is already available, no additional cost will be realized. In the event no such space is currently available, the cost will be approximately $120 per tenant in order to purchase a locking storage cabinet of the dimensions recommended. The total cost to the operator will depend upon the number of tenants in the facility.

Powers of Attorney and Alternate Decision Makers:
The power of attorney relationship is governed by the Substitute Decisions Act, 1992 which sets out what happens when a person has the capacity to grant a power of attorney and when they do not. This includes prescribing the role of the Public Guardian Trustee which may become an attorney under several differing scenarios.

The Board of Health does not have authority to interfere with this relationship. However, under S. 46(3) of the Act the operator and their employees are prohibited from being a tenant’s attorney for personal care. There is not such provision with respect to a tenant’s attorney for property, however, if in the course of
administering or enforcing Schedule 20 non-compliance with the Act was to come to the attention of City staff, they would report it to the proper authority.

Constitutional Appropriateness of Care Services wording:
The proposed amendments to the Schedule are designed to address the previous decision by the Justice of the Peace. The current draft Schedule and guidelines contain language consistent with that decision.

Nutrition:
Changes have been made to the Guidelines that will require RCF operators to follow the most recent edition of Canada's Food Guide. This will result in some changes being made to the menus developed by the operators and will allow for more appropriate menus specific to the age groups being served.

Guidelines Wording:
The majority of wording changes – i.e. changing from "should" to "shall" - in Schedule 20 and the Guidelines are for clarification purposes and will allow for more consistent enforcement and application of the documents by RCF operators.

Provincial Government Advocacy
Between January and March 2007, the Ontario government conducted a province-wide, 12-city public consultation tour on standards of care needed in the province’s retirement homes. The government heard from 800 seniors and their families, retirement home operators, seniors’ organizations, consumer advocates, municipal representatives, and other interested parties about how to make retirement homes better places to live. The consultation suggested the government establish mandatory province-wide standards and establish an agency to enforce the standards. To date no legislation has been passed that would regulate retirement homes in Ontario.

ALTERNATIVES FOR CONSIDERATION:
The Board of Health could direct staff to develop further amendments to the Schedule and/or Guidelines prior to implementation. In the event further amendments are made supplementary consultation with stakeholders will be necessary.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:
No new costs for Public Health Services.

POLICIES AFFECTING PROPOSAL:
Internal policies associated with the enforcement of the Schedule 20 By-Law will be revised to reflect the proposals as approved.
RELEVANT CONSULTATION:

- Members of the Board of Health
- Community Services
- Legal Services
- Planning and Economic Development
- Fire Department

Community Stakeholders including:

- Residential Care Facilities Operators
- Residential Care Facilities Tenants
- Community Physicians
- Ontario Residential Care Association
- Family members of Residential Care Facilities Tenants
- Residential Care Facilities Staff
- Community agencies
- McQueston Legal Residential Tenants Association

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The process to ensure inclusive consultation is in keeping with corporate values and the PHS Strategic plan.

Environmental Well-Being is enhanced. ☐ Yes ☑ No
Economic Well-Being is enhanced. ☑ Yes ☐ No
A comprehensive consultation approach is efficient and cost effective.

Does the option you are recommending create value across all three bottom lines?

☐ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?

☑ Yes ☐ No

The recommendations were developed in consultation and with the expertise of staff across the city departments.
CITY OF HAMILTON

BY-LAW NO.__________

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for the replacement of Schedule 20 of City of Hamilton By-law No. 07-170;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule 20 of By-law No. 07-170 is deleted and replaced with the new Schedule 20, entitled “Residential Care Facilities”, attached as Appendix A to this By-law.

2. All licences issued under Schedule 20 which are current and valid on the day this By-law comes into force shall be deemed to be:

   (a) current and valid under the new Schedule 20; and

   (b) subject to all of the applicable provisions of By-law No. 07-170 and the new Schedule 20, including but not limited to expiring and being renewable as though they had been issued under the new Schedule 20.

3. All residential care facility operators shall comply with paragraph 5(1)(d) of Schedule 20 attached as Appendix A by submitting a premises plan to the Issuer of Licences upon this By-law coming into force and, if a premises plan is not submitted, the Issuer of Licences may make a recommendation under section 14 of the General Provisions of By-law No. 07-170.
4. This By-law comes into force on the day it is passed.

PASSED this day of , 200 .

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MAYOR  CLERK
Appendix A

SCHEDULE 20

RESIDENTIAL CARE FACILITIES

PART I: INTERPRETATION

1. In this Schedule:

   (a) “activities of daily living” means the activities of an individual that maintain their sufficient nutrition, hygiene, warmth, rest and safety;

   (b) “additional care” means community services such as long term care services, or rehabilitative services that can be provided to a tenant either in the residential care facility or in the community;

   (c) “ambulatory” means in respect of an individual, that they are independently mobile, by mechanical or any other means, or with minimal assistance of another person;

   (d) “attic” means the space between the roof and the ceiling of the top storey of a residential care facility or between a dwarf wall and a sloping roof of a residential care facility, which is not finished in such a way as to provide suitable habitation for tenants;

   (e) “basement” means a storey of a residential care facility located below the first storey which is more than 50 per cent below grade or which is not finished in such a way as to provide suitable habitation for tenants;

   (f) “care services” means advice, information, or supervision provided to tenants in the activities of daily living and may also include:

      (i) periodic personal care, as required, such as the giving of medications, bathing assistance, assistance with feeding, incontinence care, dressing assistance, assistance with personal hygiene, and ambulatory assistance;

      (ii) provision of recreational or social activities, housekeeping, laundry services, and assistance with transportation;
(iii) personal emergency response services, including assistance in evacuating under emergency conditions due to mental limitations and/or developmental handicaps and limitations of the tenants;

(g) “drug” means any substance or mixture of substances manufactured, sold or represented for use in:

(i) the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof, in an individual; or

(ii) restoring, correcting or modifying of organic functions in an individual;

(h) “Guidelines” means the guidelines for the operation of facilities licensed under this Schedule, which the Medical Officer of Health is authorized to issue under subsection 57(a);

(i) “long term care facility” means a nursing home under the Nursing Homes Act, an approved charitable home for the aged under the Charitable Institutions Act or a home under the Homes for the Aged and Rest Homes Act provided that on the day the Long-Term Care Homes Act, 2007 comes into force, “long term care facility” means a place that is licensed under that Act;

(j) “Officer” means:

(i) a building inspector of the Building Division of the Planning and Economic Development Department;

(ii) an inspector of the Fire Department;

(iii) a public health inspector employed in the Public Health Services Department;

(iv) a registered nurse employed in the Public Health Services Department;

(v) an officer appointed by the Issuer of Licences.

(k) “operator” means a person licensed under this Schedule to operate a residential care facility;

(l) “physician” means a legally qualified medical practitioner;

(m) “prescribed”, when used with reference to a drug or mixture of drugs, means that a legally qualified medical practitioner or a dentist has directed the dispensing of the drug or mixture of drugs to a named
individual;

(n) “prescription drug” means a drug that may be dispensed by a pharmacist only upon the direction of a physician or dentist;

(o) “rehabilitative services” means services for a person with a physical, mental, or developmental handicap, and includes,

(i) homemaker services,

(ii) day care,

(iii) training and rehabilitation,

(iv) casework and counselling, and

(v) training in life skills;

(p) “residential care facility” means a residential complex that is 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, and the term “facility” has a corresponding meaning;

(q) “residential care facility information package” means an information package that contains the information required to contained in an information package under section 140 of the Residential Tenancies Act, 2006;

(r) “single facility incident” means a situation, or the likelihood of an impending situation, which could reasonably be expected to have an abnormal effect on the health, safety, welfare, or personal property of one or more tenants of a facility, and which, because of its nature or magnitude, requires a controlled and co-ordinated response by the operator;

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

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

(ii) is ambulatory; and
(iii) has decreased physical or mental functional ability;

and the term "tenant" has a corresponding meaning; and

(t) “volunteer” means a person, other than an operator or an employee, who, as part of an organized volunteer program, provides services or work at a residential care facility for no wage or salary.

PART II: LICENSING

GENERAL

2. No person shall operate a residential care facility without a licence.

3. A licence shall not be issued for a facility established after October 1, 1980, which is situated in a location where, at any hour, the noise level exceeds 58 decibels.

4. The authorized capacity of a facility, as determined by the Medical Officer of Health, and the provisions of the applicable zoning by-laws, shall be endorsed on the licence issued to the facility.

INFORMATION TO BE PROVIDED BY APPLICANT

5.(1) Every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall submit, before the licence may be issued:

(a) a signed form certifying that the applicant is at least eighteen years of age at the time of application;

(b) a copy of an Ontario Secondary School Graduation Diploma or evidence satisfactory to the Issuer of Licences of equivalent standing from the Ontario Ministry of Education and Training;

(c) evidence satisfactory to the Issuer of Licences of employment experience in work comparable to the administration of the facility which they propose to operate;

(d) a premises plan of the residential care facility showing all buildings or other structures, parking areas and walkways on the property where the residential care facility is located and all entrances/ exits, bedrooms, beds, clothes closets, dining areas, sitting rooms and toilet facilities, sitting rooms in the residential care facility; and
(e) a single facility incident plan satisfactory to the Medical Officer of Health which shall include the premises plan under paragraph (d).

(2) Paragraph (1)(b) does not apply to a person who was the holder of a licence to operate a residential care facility under a by-law of a former area municipality on July 10, 2001, the date that the City of Hamilton Licensing Code, By-law 01-156, came into force.

6. Every applicant for a licence or a licence renewal, in addition to complying with the General Provisions of this By-law, shall submit to the Issuer of Licences before the licence is issued or renewed, the following:

(a) upon applying for a licence and every third year thereafter, upon applying for a licence renewal, a certificate from the Electrical Safety Authority that the facility complies with the *Ontario Electrical Safety Code*;

(b) a certificate from the Medical Officer of Health, that the facility complies with the health and safety standards in this Schedule;

(c) a certificate from the insurer of the facility, that the insurance coverage required under subsection 12(i) of this Schedule is in effect for the facility; and

(d) documentation as required under section 14 as to the age and education of the operator’s employees.

7. Every applicant for a licence renewal, in addition to complying with the General Provisions of this By-law, shall submit to the Issuer of Licence before the licence is renewed an updated single facility incident plan satisfactory to the Medical Officer of Health.

8. Where the applicant for a licence or for a licence renewal is a corporation or a partnership, at least one officer or director of the corporation or one partner of the partnership shall submit, in respect of themselves, the certificates or other documents required to be submitted by an individual under the General Provisions of this By-law or under this Schedule.

9. Every operator shall advise the Issuer of Licences immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions of this By-law or this Schedule.

**EXPIRATION**

10. No licence issued under this Schedule is transferable.
11. Where:

(a) by a transfer of existing shares, by an issue of new or existing shares, or by some other means, the controlling interest in a corporation holding a licence is determined by the Issuer of Licences to have changed hands; or

(b) one or more partner in a partnership holding a licence is determined by the Issuer of Licences to have ceased to be a partner or the partnership is determined by the Issuer of Licences to have ceased to exist,

a licence issued under this Schedule shall be deemed to have expired.

PART III: OPERATOR

GENERAL

12. The operator shall:

(a) ensure that the 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 within the facility;

(i) for employees and volunteers; and

(ii) in a private setting for tenants of the facility;

(f) post in a conspicuous place in the facility:
Appendix A to SPH05032(e)

(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)(a);

(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;

(vi) a notice of the collection of personal information in a form approved by the Issuer of Licences which contains:

1. the legal authority for the collection of personal information about tenants and employees of the facility by Officers;

2. the principal purpose or purposes for which the personal information is intended to be used; and

3. the title, business address and business telephone number of an officer or employee of the City who can answer questions from individual tenants and employees of the facility about the collection of their personal information;

(g) comply with all applicable access to information and protection of privacy legislation;

(h) ensure that the authorized capacity of the facility is not exceeded; and

(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.

EMPLOYEES AND VOLUNTEERS
13.(1) The operator shall give every employee and volunteer a notice of the collection of information in a form approved by the Issuer of Licences and the Medical Officer of Health which describes the procedures under this Schedule for the collection of personal information about employees and volunteers, at the time when an individual commences employment or volunteering at the facility.

(2) The notice under subsection (1) shall also contain:

(a) the legal authority for the collection of personal information about employees or volunteers by Officers;

(b) the principal purpose or purposes for which the personal information is intended to be used; and

(c) the title, business address, and business telephone number of an officer or employee of the City who can answer questions from an employee of or a volunteer at the facility about the collection of the employee’s or volunteer’s personal information.

(3) Where the operator has not given an employee or volunteer a notice under subsection (1), the operator shall give the employee or volunteer a letter in a form approved by the Issuer of Licences and the Medical Officer of Health which contains the information set out in subsections (1) and (2), within seven days after being directed to do so by the Issuer of Licences.

(4) Notwithstanding subsection (1), the operator shall give a notice of the collection of personal information to an employee or volunteer within seven days after being directed to do so by an Officer.

14. The operator shall provide evidence satisfactory to the Issuer of Licences, within seven days after an employee commences employment, that the employee:

(a)(i) is sixteen years of age but less than eighteen years of age; or

(ii) eighteen years of age or older;

(b) if the employee is eighteen years of age or older;

(i) has an Ontario Secondary School Certificate, or equivalent standing; or

(ii) employment experience, satisfactory to the Issuer of Licences, in comparable work;
Appendix A to SPH05032(e)

(c) whose duties require communication with the tenants, is able to communicate clearly and effectively with the tenants.

15.(1) The operator shall provide evidence satisfactory to the Issuer of Licences within thirty days after an employee commences employment that the employee has successfully completed of the new staff in-service orientation training as described in the Guidelines.

(2) Where an employee’s duties involve the supervision of tenants, the operator shall provide evidence satisfactory to the Issuer of Licences within thirty days of each six month period after the employee commences employment that the employee has successfully completed at least five hours of continuing education as described in the Guidelines.

16. The operator shall provide evidence satisfactory to the Issuer of Licences, within seven days after an employee commences employment or a volunteer commences volunteering, that the employee or volunteer has had a negative TB test not more than thirty days before commencing employment or volunteering.

RESPONSIBILITY FOR OPERATION AND SUPERVISION

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

(2) The operator shall ensure that:

(a) 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); and

(b) 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.

OPERATIONS AND MAINTENANCE

Water Supply
18. The operator shall ensure that there is an adequate supply of potable and of hot water:

(a) which can provide at least 227.303 litres (50 gallons) for each tenant and employee, per day;

(b) of at least .362 kilograms pressure per square centimetre (8 pounds per square inch), when a fixture is in use; and

(c) for water serving all bath tubs, showers and hand basins used by tenants, of a temperature of not more than 49° Centigrade (120° Fahrenheit) and controlled by a device, inaccessible to the tenants, that regulates the temperature.

Bedrooms and Storage

19. The operator shall ensure that:

(a) a bedroom for a tenant or tenants in a facility established before October 1, 1980 provides a minimum of 16.8 cubic meters (600 cubic feet) of air space and 6.96 square meters (75 square feet) of floor space for each tenant;

(b) a bedroom for a tenant or tenants in a facility constructed, renovated, added to or altered on or after June 1, 1980 provides a minimum, exclusive of the space provided for built-in or portable clothes closets, of:

(i) 10.22 square meters (110 square feet) of floor space in a single-bed unit, provided that this area may be reduced to 9.30 square meters (100 square feet) where the facility provides a living room and one or more dining area;

(ii) 16.72 square meters (180 square feet) of floor space in a two-bed unit;

(iii) 25.08 square meters (270 square feet) of floor space in a three-bed unit;

(iv) 29.73 square meters (320 square feet) of floor space in a four-bed unit;

(c) a bedroom for more than one tenant shall be arranged so that all beds are at least .91 meters (3 feet) apart;

(d) a bedroom for one or more tenants:
Appendix A to SPH05032(e)

(i) has one or more windows to the outside that:

1. except where another means of ventilation is provided, can be opened to provide an open area of at least 5% of the floor area of the room;

2. is not less in total area than 10% of the floor area of the room; and

3. is screened from May 1 to October 31;

(ii) is not to be part of a lobby, hallway, passageway, closet, bathroom, stairway, basement, attic, kitchen, storage room, boiler room, laundry room, activity room utility room, chapel, sitting room, administrative office, or tenant examination room;

(e) a bedroom is provided with a door;

(f) every bed provided for a tenant of a facility is of a minimum width of 91.44 centimetres (36 inches);

(g) a bedroom in a facility in respect of which a licence was not issued under a by-law of a former area municipality on July 10, 2001, the date that the City of Hamilton Licensing Code, By-law 01-156, came into force, does not contain more than two beds;

(h) where more than one bed is located in a bedroom, a moveable partition is provided between the beds to ensure the privacy of each tenant, unless the tenants who occupy the bedroom jointly inform the operator that they do not require such a partition;

(i) sufficient clean towels, face cloths and bed linen are provided for use of the tenants of a facility, with a supply of such linen:

   (i) available at all times in the facility: and

   (ii) changed at least one a week;

(j) a clothes closet is provided for each tenant in their bedroom;

(k) secure storage space, no less than .15 m³ in size and accessible only to the tenant and the operator, is provided for each tenant; and
(l) a rack on which to hang towels and face cloths is provided for each tenant.

Dining Area

20. The operator shall ensure that one or more dining areas is provided, with a minimum floor space of 1.85 square meters (20 square feet) per tenant and capable of accommodating at least one half of the authorized capacity of the facility at one time.

Sitting Rooms

21. The operator shall ensure that:

(a) one or more sitting rooms is provided within each facility;

(b) the minimum total space for a sitting room shall be the greater of:

(i) an area equal to 1.39 square meters (15 square feet) of floor space for each tenant; or

(ii) 11.148 square meters (120 square feet).

Toilet Facilities

22. The operator shall ensure that:

(a) a toilet room or bathroom are not within, or open directly into, any dining room, kitchen, pantry, food preparation room, or storage room;

(b) a toilet is not located within a bedroom;

(c) toilet facilities are provided in at least the following ratios:

(i) for an authorized capacity of four to seven tenants: one wash basin, one flush toilet, and one bath tub or shower;

(ii) for an authorized capacity of a fraction of seven tenants beyond the first seven: one wash basin and one flush toilet; and
(iii) for an authorized capacity of each additional seven tenants beyond the first seven: one wash basin, one flush toilet, and one bath tub or shower;

(d) a bathroom, toilet, or shower room is provided with a door and a lock which is of a type that can be readily released from the outside in case of an emergency;

(e) one bathroom toilet and shower room shall be of a type that is suitable for use by persons confined to wheelchairs, where one or more such persons have been admitted to the facility as tenants;

(f) the bottom of each bath tub is furnished with non-skid material; and

(g) each bath tub and each toilet is furnished with at least one grab bar or similar device of a type that will ensure the safety of tenants.

Waste

23. The operator shall ensure that waste is stored in receptacles which are:

   (i) insect and rodent-proof;

   (ii) water-tight;

   (iii) provided with a tight-fitting cover; and

   (iv) kept clean.

Lighting

24. The operator shall ensure that lighting of the exterior and interior of the facility complies with ANSI/IESNA RP-28-07 (the “Recommended Practice for Lighting and the Visual Environment for Senior Living” approved by the Illuminating Engineering Society of North America) as amended or replaced from time to time.

Ventilation

25. The operator shall ensure that every room shall be adequately ventilated by natural or mechanical means
and shall be so designed and installed that it meets the applicable requirements of the Ontario Building Code.

**Ramps and Stairways**

26. The operator shall ensure that guard, handrail and slip-resistance requirements for ramps and stairways shall be so designed and installed that they meet the applicable requirements of the Ontario Building Code.

**Floors**

27. The operator shall ensure that non-skid finishes and coverings are installed on every floor.

**Balconies**

28. The operator shall ensure that balustrades for balconies shall be so designed and installed that they meet the applicable requirements of the Ontario Building Code.

**Construction and Zoning**

29. The operator shall ensure that:

   (a) no construction, renovation, addition or alteration of a facility is carried out, except in compliance with this Schedule, ANSI/IESNA RP-28-07 as amended or replaced from time to time, the Ontario Building Code, the Ontario Fire Code, and under a valid building permit; and

   (a) the applicable zoning by-laws are complied with.

30. The operator:

   (a) shall submit to the Issuer of Licences an operational plan, addressing the operation of their facility during construction, renovation, addition or alteration, a minimum of 90 days before commencing such construction, renovation, addition or alteration; and

   (b) shall not commence construction, renovation, addition or alteration of a facility until the Issuer of Licences has given them written approval of the operational plan submitted under subsection (a).

**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*.

**PART IV: ADMISSION OF TENANTS**

32.(1) The operator shall give every individual a notice of the collection of personal information in a form approved by the Issuer of Licences and the Medical Officer of Health which describes the procedures under this Schedule for the collection of personal information about tenants before obtaining an assessment of the individual under section 33.

(2) The notice under subsection (1) shall also contain:

(a) the legal authority for the collection of personal information about tenants by inspectors;

(b) the principal purpose or purposes for which the personal information is intended to be used; and

(c) the title, business address, and business telephone number of an officer or employee of the City who can answer questions from a tenant of the facility about the collection of his or her personal information.

(3) Where the operator has not given a individual the notice under subsection (1) and the individual has been admitted as a tenant, the operator shall give the individual a letter in a form approved by the Issuer of Licences and the Medical Officer of Health, which contains the information set out in subsections (1) and
(2), within seven days after being directed to do so by the Issuer of Licences.

(4) Notwithstanding subsection (1), the operator shall give a notice of the collection of personal information to a tenant within seven days after being directed to do so by a registered nurse employed in the Public Health Services Department.

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.

(2) An operator shall determine on the basis of the assessment referred to in subsection (1), and the criteria for admission set forth in the Guidelines, whether the level of care services which is provided in the home is adequate to meet the individual’s needs in relation to the activities of daily living.

34. An operator shall not admit an individual as a tenant who is not ambulatory, who for the protection of themselves or others requires placement in a locked unit or who requires a level of care services which the operator is not authorized to provide in the facility, except in accordance with the Guidelines.

35. An operator shall not admit an individual as a tenant without:

(a) their consent; or

(b) the consent in writing of their next-of-kin, or attorney for personal care, as the case may be, if the individual has been declared mentally or physically incapable of giving consent.

36. The operator shall enter into a written tenancy agreement with each individual who is admitted as a tenant of the facility and shall give each such individual a residential care facility information package prior to entering into the tenancy agreement.

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.

46. The operator or the employee designated under paragraph 17(2)(a), shall inform the tenant, as soon as possible, of the provisions of section 148 of the *Residential Tenancies Act, 2006* and may arrange for the transfer of the tenant:

(a) to a long term care facility or other appropriate living arrangement, with the agreement of the tenant, where an operator is informed by:

(i) a community care access centre that a tenant of a facility is eligible for admission to a long term care facility;

(ii) the tenant’s physician or the Medical Officer of Health, that the tenant no longer requires the
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level of care services which the facility is authorized to provide; or

(iii) the tenant’s physician or the Medical Officer of Health, that the tenant requires a level of care services that the operator is not authorized to provide; or

(b) to a long term care facility, with the agreement of the tenant, where a tenant requires placement in a locked unit for the protection of themselves or others.

47. Where a facility has a locked unit the operator shall:
(a) ensure that none of the facility’s tenants who are not in the locked unit are moved into it;
(b) make every reasonable attempt to transfer tenants in the locked unit to a long term care facility and to close the locked unit no more than two years from [the date of passage of this Schedule].

48.(1) Where a tenant is transferred from a residential care facility to a long term care facility or to another facility licensed under this By-law, the operator shall request the tenant, or, if they are unable to act, their next-of-kin or attorney for personal care, to complete an authorization in Form 1 for the release of information pertaining to the tenant to the long term care facility or other licensed residential care facility.

(2) Where a tenant is transferred from a residential care facility to another facility licensed under this By-law, or to a hospital, the operator shall complete a transfer in Form 2.

PART VI: RECORDS AND REPORTS

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;
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(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;

(i) a residential care facility information package;

(j) particulars of each accident suffered by the tenant while in the facility; and

(k) any completed Form 1, Form 2 or Form 3.

50. The operator shall make a record in Form 3 of every occurrence with respect to a tenant of assault, injury or of death that has been reported to coroner, and shall place the completed Form 3 in the tenant’s file and keep it available for inspection by the Medical Officer of Health.

51. The operator shall ensure that any document or other record of any kind which contains personal information about a tenant, other than the personal information described in subsections 49(1) and (2) and section 50, is maintained in a file which is separate from the file which is maintained pursuant to subsection 49(2) or any other provisions of this Schedule or the Guidelines.

52. The operator shall ensure that any document or other record of any kind which contains personal information about the performance of duties by an employee of their facility, other than personal information described in sections 14, 15 and 16 and subsections 12(f), is maintained in a file which is separate from the file which is maintained pursuant to the provisions of this Schedule or the Guidelines.

53. The operator shall ensure that documents or records which are kept pursuant to this Schedule or the Guidelines are kept for at least one year after the tenant, employee or volunteer ceases to be a tenant, employee or volunteer respectively.
PART VII: INSPECTION AND ENFORCEMENT

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).

(2) The Medical Officer of Health or a member of a regulated health profession authorized by them, at all reasonable times, may inspect the file of any tenant required by subsection 49(2).

55. The operator shall allow the Medical Officer of Health or a member of a regulated health profession authorized by them, as often as they deem reasonably necessary, to make inspections of the facility and its operation in order to determine compliance with this Schedule.

56. The Medical Officer of Health, the Issuer of Licences, the General Manager of Planning and Development and the Chief Fire Prevention Officer are authorized to enforce the provisions of this Schedule which are within their respective jurisdiction, and to serve such notices and make and serve such orders as may be necessary to ensure compliance by the operator.

57. The Medical Officer of Health may:

   (a) issue Guidelines for the operation of facilities licensed under this By-Law, including any matters relating to the health, safety, and well-being of the tenants of a facility, and shall provide a copy of any such Guidelines and any subsequent additions or revisions to the operator of each facility licensed under this By-Law;

   (b) prescribe the format and content of any forms or other documents required under this Schedule;

   (c) designate the referring agencies which may employ a member of a regulated health profession for the purposes of making an assessment under subsection 33(1) and making a determination under subsection 45(1).
INTRODUCTION

This document contains the Guidelines as issued by the Medical Officer of Health under the City of Hamilton Licensing Code, Schedule 20 - Residential Care Facilities.

The Guidelines are defined in Schedule 20 as “guidelines for the operation of facilities licensed under this Schedule, which the Medical Officer of Health is authorized to issue under subsection 57(a).”

Subsection 57(a) states “The Medical Officer of Health may issue Guidelines for the operation of facilities licensed under this By-law, including any matters relating to the health, safety, and well-being of the tenants of a facility, and shall provide a copy of any such Guidelines and any subsequent additions or revisions to the operator of each facility licensed under this By-law.”

This document is set up with the Schedule 20 standard at the beginning of each Part and the Guideline relating to the standard directly beneath. Some of the Guidelines have an Appendix containing additional information specific to the Guideline. These Appendices are found at the end of the document.

For further information on the Guidelines, contact the Public Health Services Department, Infectious Diseases Program at (905) 546-2063 during business hours (Monday to Friday, 8:30 a.m. to 4:30 p.m.).
PART II: LICENSING

Section 5 - Single Facility Incident Plan

The operator shall prepare a single facility incident plan, including a premises plan, satisfactory to the Medical Officer of Health, which shall be submitted to the Issuer of Licences and to the Medical Officer of Health before a licence is issued. A copy of the single facility incident plan shall be kept in the facility, in a readily accessible location. The single facility incident plan shall be updated annually.

- In Schedule 20, a “single facility incident” means a situation, or likelihood of an impending situation, which could reasonably be expected to have an abnormal effect on the health, safety, welfare, or personal property of one or more tenants of a facility, and which, because of its nature or magnitude, requires a controlled and co-ordinated response by the operator.

- A plan for responding to a single facility incident where tenants need to be removed for any length of time shall be prepared and followed. Examples of a single facility incident would be removal in case of a fire, flood or lack of hydro and/or heat. An updated single facility incident plan shall be submitted by the operator to the Issuer of Licenses and the Medical Officer of Health upon renewal of their licence.

- See Appendix “A” for additional guidelines on how to prepare a single facility incident plan.

- A nurse inspector will assess single facility incident plans.

- A copy of the single facility incident plan shall be kept in an easy to reach place.

- The operator, employees and tenants shall review the single facility incident plan two times a year.
PART III: OPERATOR

Section 15 – In-Service Orientation Training and Continuing Education

The operator shall ensure that employees have successfully completed a new staff in-service orientation training.

Every employee whose duties involve the supervision of tenants shall participate in continuing education to a minimum of five hours within each consecutive six months.

- In-service orientation training shall include a thorough review of the Schedule 20 requirements as well as the Guidelines. The employee must fully understand their role as an employee in a residential care facility.

- In Schedule 20, “continuing education” means a course, lecture, seminar or other professional activity in which an employee participates that meets the requirements, for example with respect to subject matter, of this Guideline.

- Employees who supervise tenants shall have at least five hours of education in a six month period. Continuing education hours are to be recorded as completed on an ongoing basis.

- Employees shall take continuing education in a subject matter relating to care services given in the facility, such as nutrition, medication, contagious diseases, medical and mental health conditions, community resources, the Residential Tenancies Act, 2006, etc.

- Employees shall be trained in how to give first aid treatment.
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- A nurse inspector may ask that the operator or an employee take education in specific areas where there is a need to do so, for example, when the facility has started a new medication system and employees need to learn more about it.

- The Residential Care Facilities Education Committee (RCFEC) plans education sessions for employees of residential care facilities. The RCFEC is made up of members from the Public Health Services Department, Community Services Department, residential care facilities, St. Joseph’s Hospital Mountain Site Education Services and the Canadian Mental Health Association. If you are interested in becoming an RCFEC member or would like information on the Committee, please contact Public Health Services at (905) 546-2063 during business hours (Monday to Friday, 8:30 a.m. to 4:30 p.m.).

- The RCFEC plans monthly sessions on topics related to issues that Committee members and residential care facilities employees have identified. Notices are sent out prior to the session with all the details. Employees of residential care facilities are encouraged to attend these sessions.

- Continuing education hours may be earned by:
  1. reading material; for example, a professional article
  2. watching or listening to information; for example, watching an educational video or listening to educational cassettes or CDs. You can obtain such material from community agencies, libraries, and pharmacies, etc.
  3. attending workshops, education sessions or professional conferences, etc.
  4. attending education sessions planned by the RCFEC

- An up-to-date record of an employee’s continuing education hours, including date, topic and time of education, shall be kept and signed by the operator and
the employee. If an employee has proof of continuing education, for example, a certificate, then the operator shall include a copy in the record.
Section 17 – Operation of Residential Care Facility and Supervision of Tenants

The operator shall ensure that, at all times, a qualified employee has been designated as the person responsible for the operation of the facility and either the operator or a qualified employee is present at the facility with the primary duty of supervising the tenants.

- The operator or at least one employee over the age of eighteen shall be on duty at all times.

- Enough employees shall be on duty to meet all tenants’ care needs. Recommendations may be made by a nurse inspector about the number of hours worked in a row by an employee and the number of employees on duty each shift. For example, it may be recommended that no employee work more than 12 hours in a row and that 2 employees be on duty for the night shift. The recommendations made by a nurse inspector shall be followed.

- All employees whose primary duty is the supervision of the tenants shall be familiar with Schedule 20 and the Guidelines.

- The name of the operator or employee who has the primary duty of supervising the tenants shall be posted for tenants to see during his/her shift.
PART IV: ADMISSION OF TENANTS

Sections 33 and 34 - Assessment

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.

An operator shall determine on the basis of the assessment and the criteria for admission set forth in the Guidelines, whether the level of care services which is provided in the home is adequate to meet the individual’s needs in relation to the activities of daily living.

An operator shall not admit an individual as a tenant who is not ambulatory who for the protection or themselves or others requires placement in a locked unit or who requires a level of care services which the operator is not authorized to provide in the facility, except in accordance with the Guidelines.


- The up-to-date assessment shall be obtained from member of one of the following disciplines regulated under the Regulated Health Professions Act, 1991: medicine, nursing, physiotherapy, or occupational therapy.

- In the case of the individual being referred on an emergency basis by an emergency service - for example, by the Crisis Outreach and Support Team (COAST) - the up-to-date assessment shall be obtained within one week of placement.

- A “referring agency” includes, but is not limited to, a hospital, a community agency, or a private clinic.
The regulated health professional employed by a referring agency or the physician completing the assessment shall have specific knowledge of the individual's care needs.
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SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

An assessment shall be done not more than thirty days before the tenant is accepted into the facility. It shall include information on the mental and physical function of the individual in regards to activities of daily living. In Schedule 20, "activities of daily living" means activities of an individual that maintain his/her sufficient nutrition, hygiene, warmth, rest and safety. See Appendix “B” for a sample assessment form.

- The assessment referred to in subsection 33(1) shall be reviewed to determine if it is appropriate to place an individual the residential care facility.

- In addition to reviewing the assessment, the following criteria for admission shall be considered:

1. Will the individual receive the necessary care services? In Schedule 20, “care services” means providing advice, information, or supervision to tenants in activities of daily living. This includes giving help at times with medications, bathing, feeding, dressing, incontinence care, mobility, and personal emergency care. A tenant may also need to have housekeeping, laundry services and assistance with transportation.

2. Is the individual ambulatory? In Schedule 20, “ambulatory” means that an individual is independently mobile, by mechanical or any other means, or with the minimal assistance of another person. For example, an individual in a wheelchair must be able to move in the wheelchair on his/her own and must be able to move from a bed to a wheelchair on his/her own or with little help.

- An individual who is admitted to a residential care facility for the purpose of receiving respite care, is deemed to be a tenant for the purposes of Schedule 20 and is subject to the admission criteria.
An individual who has episodes of confusion causing him/her to wander shall not be admitted. Instead, the individual shall be referred to a facility offering a higher level of care.
Section 35 - Consent for Admission

An individual shall not be admitted as a tenant in a facility without:

(a) his/her consent; or

(b) the consent in writing of his/her next-of-kin, or attorney for personal care, as the case may be, if the person has been declared mentally or physically incapable of giving consent.

- An individual must chose to move into a facility of his/her own free will.

- If the individual has been declared mentally or physically incapable of giving consent or the operator believes that the individual is not able to consent to the admission, then the next of kin or attorney for personal care shall consent in writing to the individual being admitted.

- The consent shall be signed, dated and placed on the tenant's file.
Section 36 - Tenancy Agreement

The operator shall enter into a written tenancy agreement with each individual who is admitted as a tenant of the facility and shall give each such individual a residential care facility information package prior to entering into the tenancy agreement.

- The tenancy agreement shall include:
  - all ongoing care services and meals that the tenant agrees to pay for and the cost of each;
  - a statement that the tenant has the right to cancel the agreement within five days and to discuss the agreement with anyone;
  - how much the tenant will pay in rent and how often the payments will occur, for example, weekly, monthly or otherwise;
  - the term of agreement which may be fixed term or monthly/weekly/etc.;
  - the cost of optional services; and
  - a residential care facility information package.

- The tenancy agreement may include anything else the tenant and operator agree to, for example:
  - house rules;
  - limits on roommates or subletting; and
  - permission for the operator to enter to clean, make repairs, or check on the tenant's condition.

- The tenant’s permission for the operator to enter to check on his/her condition, may be revoked at any time on written notice to the operator.
Either the tenant or the operator may terminate the tenancy in accordance with the Residential Tenancy Act, 2006 and each has the rights and obligations set out in that Act and any other relevant legislation.

The tenant shall be made aware that he/she has the right to consult with someone about the tenancy agreement.

Each tenant shall be given a residential care facility information package. A residential care facility information package tells the tenant:

- what kind of rental units are available and how much each costs;
- the kinds of care, services and meals that are available and how much each costs;
- the lowest number of employees that must work in the facility at any one time;
- the qualifications of the employees;
- what optional services are available, and how much they cost;
- whether there is a personal emergency response system such as a call bell, and how it works; and
- whether or not complaints can be made to the operator and if they can be made then how to do so.
PART V: Care Services

Section 37 - Care Services

*The operator shall provide care services to each tenant in a facility in accordance with the Guidelines issued by the Medical Officer of Health.*

- In Schedule 20, “care services” means advice, information, or supervision provided to tenants in the activities of daily living and may also include:
  
  (i) periodic personal care, as required, such as the giving of medications, bathing assistance, assistance with feeding, incontinence care, dressing assistance, assistance with personal hygiene, and ambulatory assistance;

  (ii) provision of recreational or social activities, housekeeping, laundry services, and assistance with transportation;

  (iii) personal emergency response services, including assistance in evacuating under emergency conditions due to mental limitations and/or developmental handicaps and limitations of the tenants.

- A nurse inspector may review a tenant’s physical and mental health condition and care services provided to the tenant. This includes discussions with the operator, employees and/or the tenant in addition to an assessment of the tenant’s s. 49(2) file.

- A nurse inspector shall be consulted for suggestions for follow up with care if needed.

- Sufficient care services shall be provided to meet the care needs of a tenant, with consideration being given to input from the tenant.
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- Enough appropriately trained employees shall be on duty to provide care services to tenants.

- Recreational activities shall be provided for tenants with a list of activities posted for each tenant to see. Recreational activities may include a variety of planned activities such as movie nights, card or board games, crafts and offsite activities like swimming, picnics, walks, etc.

- Tenants shall be encouraged to take part in activities and a note shall be made on the tenant’s file about any activities in which the tenant is involved in. If a tenant refuses to take part in any activities, a note shall be made on the tenant’s including the reason why.

- A plan shall be in place to deal with tenant’s physical or mental health emergencies and crises that occur in the facility.

- All employees shall know how to deal with physical or mental health emergencies and crises in the facility; for example, by calling 911, contacting the Crisis Outreach and Support Team (COAST) or reporting communicable diseases. The operator shall make sure all employees receive appropriate training with respect to the facility’s emergency/crisis plan.

- Employees shall keep a daily written record of important information about a tenant to be passed on to other employees, such as a change in physical or mental health, a medication change, a tenant’s absence from the facility, a referral to COAST, etc.
Section 38 - Storage and Availability of Prescription Drugs

The operator shall make sure 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;
(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.

- A safe medication system, developed in consultation with a tenant's pharmacist(s), shall be used ensuring a tenant receives his/her medication(s) as ordered by his/her physician(s). The operator or employee responsible for the medication shall know how the medication system works.

- All prescription medications must be made available in a unit-dose medication dispensing system. A unit-dose medication dispensing system allows each dose of medication to be available as a single dose only to the tenant for whom it is prescribed. A dosette box is not an acceptable unit-dose system.

- All prescription drugs shall be kept in one or more locked cabinets.

- Medications that need to be kept in a refrigerator - for example, insulin - shall be kept in a locked box in the refrigerator.

- Medications kept with the tenant for immediate use shall be kept where the tenant can easily reach them but away from other tenants.

- Employees shall be well-trained in giving medications safely and properly, what the medication is used for, and how the medication is to be stored. Pharmacists shall be consulted with as required for direction.
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

- All medications shall be made available to a tenant only under the direction of the
  his/her physician.

- The operator or an employee shall watch to make sure that a tenant has taken
  his/her medication. If a tenant does not take his/her medication, a note shall be
  made in the tenant’s file, or on a medication record sheet. The reason for the
  tenant not taking his/her medication should also be noted.

- The tenant’s physician shall be notified if the tenant does not take his/her
  medication.

- A tenant may need medication by needle, for example, insulin. The operator shall
  make sure that a registered nurse determines that the operator or non-
  professional employee is allowed to be trained to give the insulin.
Section 39 - Self-Medication

The operator shall allow self-medication by the tenants of a facility under specified conditions set forth in the Guidelines issued by the Medical Officer of Health.

☐ If a tenant asks to take, order, and/or store his/her own medications:

1. A note shall be requested from the tenant's physician that says that the tenant is able to take his/her own medications. This note should be updated if there is a change in a tenant's physical or mental health affecting the tenant's ability to take his/her own medications.

2. The tenant shall keep the medication in a locked box in his/her room. A tenant with a private room may choose not to keep his/her medications in a locked box, but they shall be kept where the tenant can easily reach them but away from other tenants. The tenant shall keep his/her room door locked at all times if not present in the room.

3. The tenant's ability shall be monitored to ensure that the tenant is taking his/her medications.
Section 40 – Controlled Substances Prescribed on an "as needed"/PRN Basis

If a tenant is prescribed a drug that is a controlled substance as defined in the Controlled Drugs and Substances Act (Canada) on an "as needed"/PRN basis 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.

If prescribed medications include controlled substances as defined in the Controlled Drugs and Substances Act (Canada), prescribed on an "as needed"/PRN basis the operator must complete a medication course. An acceptable course would be one offered to personal service workers through an educational facility. This course should provide the underpinning knowledge required for Residential care workers to:

(1) Support tenants who are self-medicating
(2) Administer medication within their care setting

A medication management course should include information such as:

- Types of medicines
- Maintaining medication records
- Collection, storage, disposal medicines
- Safe handling of medicines
- Supporting self-administration
- Administration of medicines
- Reporting mistakes, recognising and reporting changes
Section 41 - Nutrition

*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 issued by the Medical Officer of Health.*

- Three meals (breakfast, lunch, and dinner) shall be served to tenants daily.
- Snacks and fluids shall be available between meals and in the evening.
- The total amount of food served during meals and snacks shall provide each tenant with at least the minimum number of servings from each of the four food groups of Canada's Food Guide (Appendix “C”).
- Meals and snacks shall provide an appropriate energy intake to maintain each tenant’s weight within a healthy weight range.
- Menus shall be written, dated and posted in advance of the current week for tenants to see and kept on file for at least one month after being served. The total number of servings of each food group served daily shall be included.
- Changes to a meal shall be marked on the posted menu prior to when the meal is served.
- Menus shall reflect the recommendations of Canada’s Food Guide (Appendix “C”) regarding serving sizes, the age appropriate number of Food Guide Servings per day from each food group, and how to make each Food Guide Serving count.
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

- Tenants shall be consulted when menus are planned to ensure acceptability. Alternative healthy food choices should be made available. All food served should be culturally appropriate.

- The operator shall provide special diets and nutritional supplements upon direction of a tenant’s physician or registered dietitian and menus and meals shall be adapted as required.

- Tenants requiring dietary guidelines/intervention - for example, special diets to address food allergies, significant weight loss, etc. - shall have access to a registered dietitian for nutrition counseling through Community Care Access Centre (CCAC), local hospital outpatient clinics or other resources.

- A copy of Canada’s Food Guide shall be posted in the kitchen.

- Canada’s Food Guide and additional nutrition and menu planning information are available from Public Health Services, Nutrition and Physical Activity Consumer Advice Line at (905) 546-3630.

- A facility shall have an adequate supply of perishable foods to meet the needs of the tenants for at least a 24-hour period and an adequate supply of non-perishable foods to meet the needs of the tenants for at least a three-day period.

- All food shall be stored in accordance to the requirements of Ontario Regulation 562 as amended by Ontario Regulation 586/99 under the Health Protection and Promotion Act. Additional information is available from Public Health Services, Health Protection Division at (905) 546-2063.

- The operator shall participate in an annual menu planning session offered by the Residential Care Facilities Education Committee.
Section 42 – Infection Control

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

TUBERCULOSIS SCREENING REQUIREMENTS

- **Regarding tuberculosis screening for employees and volunteers:**
  - All current employees/volunteers – current employees/volunteers that have not previously had a documented two-step Tuberculin skin test (TST) upon starting employment shall have this done. If an employee/volunteer has a documented previous positive TST, then he/she shall be referred to a physician.
  - For new employees/volunteers – each new employee/volunteer shall receive and provide documentation of a two-step TST or single-step TST (for individuals who have never had a TST before, a two-step TST is required, for those who have had a two-step previously, a single TST is required) within one month of starting employment. If an employee/volunteer has a documented previous positive TST, then he/she shall be referred to a physician.
  - The TST results are recorded in writing in millimetres of induration.
  - An employee/volunteer is referred to a physician for chest x-ray to rule out active disease if:
    1. The TST is positive (see Appendix “I”);
    2. The employee/volunteer has a previous documented positive TST; or
    3. The employee/volunteer has a history of TB disease.
  - Yearly skin testing is not necessary.
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

- Testing thereafter shall occur as required by the Medical Officer of Health - for example, in the event of an active case of TB in the facility or increasing rates of TB in the community.

- **Regarding tuberculosis screening of tenants:**
  - Each tenant upon admission shall receive a TST. If tenant has a documented positive TST, he/she is to be referred to a physician.
  - The TST shall be a two-step or one-step test as indicated (see section above).
  - The TST shall be given within two (2) weeks of admission unless a tenant is to reside in the RCF for a period less than two weeks.
  - The tenant shall be referred to a physician to rule out active disease if:
    1. The TST is positive (see Appendix “I”),
    2. The tenant has a previous documented positive TST, or
    3. The tenant has a history of TB disease
  - A TST is not needed for:
    1. Tenants with a documented TST within one year prior to admission.
    2. Tenants who move from place to place but have a documented TST within one year prior to admission.
  - Yearly testing is not necessary.
    - Testing thereafter shall occur as required by the Medical Officer of Health (for example, in the event of an active case of TB in the facility or increasing rates of TB in the community).

Note: Please refer to Appendix “I” for additional TB information

- **Immunizations:**
  - All employees and tenants should have an annual influenza vaccination.
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

- Tenants 65 years of age and over should strongly consider having a pneumococcal vaccination once only. If a tenant thinks that he/she may have already had a pneumococcal vaccination but there is no record thereof, it is recommended that the tenant be immunized again (once only) as long as at least two years have elapsed.

- All employees and tenants should be up to date regarding immunizations according to the Canadian Immunization schedule (for example, tetanus, diphtheria)

☐ Reporting requirements and outbreak control measures, operators and employees shall:
  - Be familiar with the diseases that must be reported- see attached list (Appendix “D”).
  - Immediately report any suspected or diagnosed communicable diseases to Public Health Services, Infectious Disease Control Program, at (905)546-2063.

References:
Section 43 - Medical Care

Each tenant of a facility or his/her next-of-kin, or attorney for personal care, as the case may be, shall retain a physician to attend to the.

Where the tenant, his/her next-of-kin, or attorney for personal care is unable to do so, the operator shall make arrangements for a physician to provide emergency medical care to the tenant.

- Each tenant shall have a physician.
- The physician's name and telephone number shall be placed in the tenant's section 49(2) file.
- The operator shall arrange for the physician to give emergency medical care if the tenant, next of kin, or legal representative is not able to do so. For immediate, life threatening situations, 911 shall be called. Calling a tenant's physician will cause unnecessary delay in the provision of emergency care.
Section 44 – Medical Care (continued)

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.

- A tenant's physician or a regulated health professional shall be allowed into a facility to give him/her health care.

- What is a “reasonable time” shall be interpreted in accordance with the importance of the health care to be given – the more important the health care, the more expansive the interpretation.

- The arrangements of a tenant's physician for “after hours” care shall be known and shall be used when the tenant's physician is not available.
Section 45 - Additional Care

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.

In ensuring that additional care services are provided, 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. The plan 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.

- Extra care shall be given to the tenant if the physician, the operator, the Medical Officer of Health, or a regulated health professional employed by a referring agency is of the opinion that it is needed and the tenant, their next-of-kin, or attorney for personal care has not arranged for such additional care.

- When a tenant has special needs, these shall be discussed with the tenant, the tenant's next of kin, and the tenant's community worker (social worker from a
psychiatric agency, a nurse from CCAC) about what needs are to be included in the tenant’s care plan to meet the special needs.

- The tenant’s care plan shall list any special needs of the tenant. For services given, the plan should state the reason why the service is being given, details of what the extra service is, who will provide the service and how often the service will be provided.

- Enough employees shall be on duty to provide additional care services arranged for by the operator and the employees shall be trained to provide these care services.

- If a tenant appears to need more care services than what the operator is allowed to give:
  1. The tenant’s physician shall be requested to provide an updated medical assessment.
  2. The tenant, next of kin, or attorney for personal care, as the case may be, shall be consulted about contacting the Community Care Access Center (CCAC) for extra help with care and/or to have an assessment for placement into another type of facility.
  3. The tenancy agreement shall be amended to include any additional care services.

- A follow-up will be done by a nurse inspector using a checklist (Checklist to Determine Tenants Level of Care Services, Appendix “E”) that includes the above issues. The checklist should be signed by the operator or employee and the nurse inspector. A copy of the checklist shall be placed in the tenant’s file.
In Schedule 20, "rehabilitative services" means services for an individual with a physical, mental, or developmental handicap, and includes:

(a) homemaker services;
(b) day care;
(c) training and rehabilitation;
(d) casework and counseling; and
(e) training in life skills.

Where rehabilitative services from part of a tenant's care plan, the plan shall include goals for rehabilitation and the tenant shall be helped to meet these goals – for example, helped to get meals ready, do laundry, carry out household chores or taking his/her medication(s).
Sections 46 and 48 - Tenant Moving Out of Residential Care Facility

The operator or the employee designated under paragraph 17(2)(a), shall inform the tenant, as soon as possible, of the provisions of section 148 of the Residential Tenancies Act, 2006 and may arrange for the transfer of the tenant:

(a) to a long term care facility or other appropriate living arrangement, with the agreement of the tenant, where an operator is informed by:
(i) a community care access centre that a tenant of a facility is eligible for admission to a long term care facility;
(ii) the tenant’s physician or the Medical Officer of Health, that the tenant no longer requires the level of care services which the facility is authorized to provide; or
(iii) the tenant’s physician or the Medical Officer of Health, that the tenant requires a level of care services that the operator is not authorized to provide; or

(b) to a long term care facility, with the agreement of the tenant, where a tenant requires placement in a locked unit for the protection of themselves or others.

Where a tenant is transferred from a residential care facility to a long term care facility or to another facility licensed under this By-law, the operator shall request the tenant, or, if they are unable to act, their next-of-kin or attorney for personal care, to complete an authorization in Form 1 for the release of information pertaining to the tenant to the long term care facility, hospital or other licensed residential care facility.

Where a tenant is transferred from a residential care facility to another facility licensed under this By-law, or to a hospital, the operator shall complete a transfer in Form 2.

☐ A tenant may no longer need to live in a residential care facility because he/she can live on his/her own. Alternatively, because of changes in physical or mental health, a tenant may need to go to a facility that provides a higher level of care such as a nursing home.
If the tenant needs to move to a facility that provides a higher level of care, the tenant, the next of kin or attorney for personal care, as the case may be, shall be consulted regarding a referral to CCAC.

If a tenant who needs to move is not willing to, under the Residential Tenancy Act, 2006 the operator may apply for an order to terminate the tenancy agreement from the Landlord and Tenant Board. The operator would have to prove to the Board that other appropriate accommodation is available for the tenant, and that the operator is not able to meet the tenant’s care needs in the facility, even with additional care services.

When an operator is told that a tenant will be moving out of the facility, the operator shall, as soon as possible, to the tenant about the provisions of Residential Tenancy Act, 2006. The operator may arrange for the move if the tenant agrees.

Where a tenant is transferred from a residential care facility to a long term care facility or to another facility licenced under this By-law, the tenant, or the next of kin or attorney for personal care, as the case may be, shall sign a “Release of Information Form” (Form 1, Appendix “H”).

Where a tenant is transferred from a residential care facility to another facility licensed under this By-law, or to a hospital, a “Transfer Sheet” (Form 2, Appendix “G”) shall be be completed. the operator shall complete a transfer in Form 2.

Forms 1 and 2 should be used when a tenant is sent to a Long Term Care Facility, to another Residential Care Facility, or to a hospital.
- Completed Forms 1 and 2 shall be placed in a tenant's s. 49(2) file.
PART VI: RECORDS AND REPORTS

Section 49 - Alphabetical List and Tenant's File;

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

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 as available and staff notes;
(i) a residential care facility information package; and
(j) particulars of each accident suffered by the tenant or death of a tenant while in the facility;
(k) Forms 1, 2 and 3 (where used).

Each tenant shall be informed that his/her records will be reviewed by a nurse inspector employed by the City of Hamilton's Public Health Services Department.

Any known allergies suffered by the tenant should be clearly written on a tenant's file.
Written results and the date of TB tests/chest x-rays should be placed in a tenant's file.
Section 50 - Occurrence Report (Form 3)

The operator shall make a record in Form 3 of every occurrence with respect to a tenant of assault, injury or of death that has been reported to coroner, and shall place the completed Form 3 in the tenant's file and keep it available for inspection by the Medical Officer of Health.

- A “Report of Occurrence of Assault or Injury” (Form 3, Appendix “H”) shall be completed for any assault or injury to a tenant or death or a tenant reported to the coroner that happens on the facility property.

- For an assault between or amongst tenants, a Form 3 (Appendix “H”) shall be completed for each for the tenant, including assaulting and assaulted tenants.

- A Form 3 (Appendix “H”) shall be completed for any death resulting from an accident or unknown reasons, or due to a contagious disease that has been reported to the Office of the Coroner.

- Completed Form 3s shall be placed in a tenant’s s. 49(2) file.
APPENDIX “A”

ADDITIONAL GUIDELINES FOR PREPARING A “SINGLE FACILITY INCIDENT PLAN”

- A single facility incident plan shall be a plan like the fire protocol that the operator follows for a fire in the facility.

- A copy of an up-to-date premises plan shall be included with the single facility incident plan.

- All operators and employees shall be familiar with the details of the single facility incident plan.

- Alternative housing and transportation for tenants to such alternative housing shall be arranged ahead of time by the operator and/or the person responsible for the operation of the facility in case tenants need to be removed. The operator and/or person in charge may call the Public Health Services Department at (905) 546-2063 for available supports.

- All paper records that are important for the active care of the tenant shall be easy to move in the case of an evacuation. Examples of information that should be kept on paper record are: name of tenant, date of birth, personal physician, brief medical history, allergies, list of current medications, next of kin/power of attorney for personal care, and special physical and health needs. If a facility keeps electronic records, they should be copied on an ongoing basis and stored away from the facility in either electronic or paper copy in order to facilitate access.
Emergency packs containing items for person care, such as a toothbrush, deodorant, a comb, soap, etc., shall be prepared ahead of time for each tenant and removed with the tenants.

When the operator and/or the person responsible for the operation of the facility becomes aware that an evacuation is needed, he/she shall make sure that all employees and tenants know that they must leave.

Operators and employees shall know if tenants need extra help with special needs during their removal from the facility.

All employees on duty shall help tenants to leave the facility, providing extra help with special needs as required.

Next of kin shall be informed about the removal of a tenant from the facility and the name and address of the location to which the tenant has been moved.

The operator and/or the person responsible for the operation of the facility shall call the Public Health Services Department, at (905) 546-2063 during business hours and at (905) 546-CITY ext. 2489 after business hours, to report any single facility incident.

After a single facility incident, the Health Protection Division of the Public Health Services Department (public health inspectors) will assess the facility to determine if it is safe for the tenants to return.
APPENDIX “B”

Sample Assessment Form

Name of Tenant __________________________________________

Address ________________________________ Phone ____________

Date of Birth _______________________

Allergies ________________________ Language Spoken _______________________

Personal Physician _____________ Telephone ______________________

Brief Medical History:
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

Diagnoses:

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

Medications Currently Prescribed:
_________________________________________________________________

Significant recent mental or physical changes/incidents/hospitalizations:
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

TB skin test (must be completed within 14 days of admission)
Date 1st ________ 2nd __________ Results: 1st ________ 2nd __________

If TB test positive, result of chest x-ray and doctor’s assessment:
_________________________________________________________________

Date of Chest x-ray: _____________________________

Additional Care: Yes _____ No _________
Describe:
_________________________________________________________________

Tenant is able to self-medicate Yes ________ No ___________
## CITY OF HAMILTON LICENSING CODE – SCHEDULE 20 – RESIDENTIAL CARE FACILITIES GUIDELINES

Please complete the following with respect to this client:

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<tr>
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<th>Yes</th>
<th>No</th>
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<tbody>
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<td>Wanders</td>
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</tr>
<tr>
<td>Fully Ambulatory</td>
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<td>If no ambulatory with aids?</td>
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<tr>
<td>Ambulatory with aids</td>
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<tr>
<td>Bladder Incontinence and tenant unable to independently manage incontinence</td>
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<tr>
<td>Frequent Bowel Incontinence and tenant unable to independently manage incontinence</td>
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<td>Able to eat independently</td>
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<td>Able to maintain hygiene independently</td>
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<td>Able to dress independently</td>
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<td>Oriented to person, place and time</td>
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<td>Confusion</td>
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<td>Agitation</td>
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<tr>
<td>Aggression</td>
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</tbody>
</table>

Date Completed ____________________________
Physician/Health care Professional’s name ____________________________________________
Signature ____________________________________________

**RCF Operator:**

If the healthcare professional who completed this form selected any of the shaded boxes above this individual requires more care than you are authorized to provide as a residential care facility. This individual shall not be admitted as a tenant to a residential care facility.
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

APPENDIX “C”

CANADA’S FOOD GUIDE
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

APPENDIX “D”

REPORTABLE DISEASES
APPENDIX “E”

CHECKLIST TO DETERMINE SERVICES FOR TENANT’S SPECIAL NEEDS

NAME OF TENANT: ________________________________
DATE OF BIRTH: ________________________________
NAME OF HOME: ________________________________

CHECK THE FOLLOWING:

1. Referral to CCAC for placement assessment:
   Yes ☐ No ☐
   If yes, date of assessment ________________________________
   Result of assessment ______________________________________

2. Referral to CCAC Services for additional care:
   Yes ☐ No ☐
   If yes, see plan to meet special needs

3. Dr.’s opinion note provided:
   Yes ☐ No ☐
   (To be updated as care needs change)

4. Residential Care Facility Information Package/Tenancy Agreement:
   Yes ☐ No ☐

5. Written plan to meet special needs:
   Yes ☐ No ☐

6. Qualifications and number of care staff on duty to meet special needs:
   ___________________________________________________
   ___________________________________________________
   ___________________________________________________
   ___________________________________________________
   ___________________________________________________
   ___________________________________________________
   ___________________________________________________

Added Comments: _______________________________________
   ___________________________________________________
   ___________________________________________________
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

Signature of Nurse Inspector: ______________________ Date: ______________________
Signature of Operator: ______________________ Date: ______________________

copy of form to be left with operator
APPENDIX "F"

FORM 1: RELEASE OF INFORMATION FORM

CITY OF HAMILTON
CITY OF HAMILTON LICENSING CODE, 2001
Schedule 20

RESIDENTIAL CARE FACILITIES
FORM 1

AUTHORIZATION FOR RELEASE OF INFORMATION

I, ____________________________________________,
(print name of tenant, or next-of-kin, or attorney for personal care)

                     give permission to
                     ____________________________________________
(print name of residential care facility or operator)

to release information concerning the tenant named below, including medical records and other personal information, which is in the custody of the above-named residential care facility or of the operator of such facility, to:

                     ____________________________________________
(print name of long term care facility or other licensed residential care facility to which the tenant is being transferred)

I understand that this information is being released for the purpose of enabling ______________
(print name of residential care facility or other licensed residential care facility to which the tenant is being transferred)

I ______________ to obtain
(print name of tenant)

admission to the long term care facility or other licensed residential care facility indicated above.

____________________________________  ________________________________
(Signature of Witness)    (Signature of tenant, next-of-kin, or Attorney for Personal Care)

____________________________________  ________________________________
(Date)                     (State relationship to Tenant, if next-of-kin)
Purpose

The purpose of the authorization for release of information is to ensure that the tenant is in agreement to the release of his/her medical records and/or information in the event of a transfer. This information would be provided to another home care operator and/or other health care facility in liaison with the appropriate Health and Social Service Agencies.

A Form 14 is the designated consistent form for the release of records from a psychiatric facility as provided in the regulations of the Mental Health Act and would pertain to any residents whose primary diagnosis is psychiatric.

Completion Procedure

a) The operator/employee must complete the form and ensure that among the information to be included, the identity of the facility in possession of the clinical records and also to whom and/or what facility the information is made available.

b) The operator/employee will advise the tenant of the purpose of the form and request his/her signature.

c) In the event that another individual (i.e., substitute decision-maker or public guardian or trustee) signs on behalf of the tenant, he/she must do so in accordance with the wishes of the tenant.

d) The witness who signs must not be the owner/operator of the facility - must be witnessed by another person (i.e., guardian, legal representatives, or employee).
APPENDIX “G”

TRANSFER SHEET

CITY OF HAMILTON
CITY OF HAMILTON LICENSING CODE, 2001
Schedule 20

RESIDENTIAL CARE FACILITIES
Form 2

TRANSFER SHEET

RESIDENTIAL CARE FACILITY INFORMATION:

Name: ________________________________
Address: ________________________________
Telephone: ________________________________

TEENANT INFORMATION:

Name: ________________________________
Health Card Number: ________________________________
Family Dr.: ________________________________ Telephone: ________________________________
Specialist: ________________________________ Telephone: ________________________________

BRIEF MEDICAL HISTORY:

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

NEXT OF KIN:

Name: ________________________________
Relationship: ________________________________
Address: ________________________________
Telephone: ________________________________

COMMUNITY WORKER:

Name: ________________________________
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

Agency: ____________________________ Telephone# __________________

TRANSFER INFORMATION:
Transfer To: ___________________________ Transfer From: ___________________________
Date & Time: ___________________________ Date & Time: ___________________________
Reason for Transfer: ___________________________

Physical Functioning: Independent ☐ Requires assistance ☐
Specify: ___________________________

Mental Health:
Oriented to person, place, time: yes ☐ no ☐ Specify: ___________________________
Confusion: never ☐ sometimes ☐ frequently ☐
Aggression/Agitation: never ☐ sometimes ☐ frequently ☐
Diet ☐ ☐ ☐
Date and result of most recent TB skin test ☐ chest x-ray: ☐ ☐
TB Test Date: 1st ☐ 2nd ☐ TB test result: 1st ☐ 2nd ☐
Chest X-ray Date: ___________________________ Chest X-ray Result: ___________________________

ADDITIONAL INFORMATION: (Pertinent to follow-up care of tenant e.g., medication changes, lab tests, diagnoses, follow-up plan, etc.)

____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

Medication List attached: Yes ☐ No ☐

ALLERGIES:
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

SIGNATURE OF OPERATOR/MANAGER: ________________________________

NOTES:

1. Sending facility to keep original form.

2. Receiving facility to keep copy of form.
APPENDIX “H”

REPORT OF OCCURRENCE OF ASSAULT OR INJURY OR DEATH

CITY OF HAMILTON
CITY OF HAMILTON LICENSING CODE, 2001
Schedule 20

RESIDENTIAL CARE FACILITIES
Form 3

REPORT OF OCCURRENCE OF ASSAULT, INJURY or DEATH

1. Name of Residential Care Facility: ________________________________

2. Address: ______________________________________________________

3. Date of Occurrence: ____________________________________________

4. Time of Occurrence: ______ a.m. ___________________________ p.m.

5. Name of tenant: _______________________________________________

   Date of Birth (yyyy/mm/dd): _______________ Male _____ Female _____

   Date of Admission: _____________________________________________

6. Name of Person/s who discovered or observed occurrence: ________________

7. Brief description of occurrence: ___________________________________

     _____________________________________________________________

8. Type of injury sustained, if any: _________________________________

     _____________________________________________________________

9. Was first aid given? yes _____ no _____ describe____________________

    _____________________________________________________________

10. Was 911 called? yes _____ no _____ Time 911 called _______________

11. Was tenant sent to hospital? yes _____ no ______
CITY OF HAMILTON LICENSING CODE –
SCHEDULE 20 – RESIDENTIAL CARE FACILITIES
GUIDELINES

12. Name of hospital: _________________________________________________________

13. Was physician notified? yes ___ no ___

14. Time when physician notified: ___________ a.m. ___________ p.m.

15. Name of physician: _______________________________________________________

16. Physician Notified By: ____________________________________________________

For Physician Use Only

17. Attending physician’s name: ______________________________________________

   Comments:_________________________________________________________________

   __________________________________________________________________________

   __________________________________________________________________________

   __________________________________________________________________________

   __________________________________________________________________________

18. Signature of attending physician: ___________________________________________

19. Were relatives or friends of tenant notified? yes ___ no ___

20. What action have you taken to prevent this occurrence from happening again? _______

   __________________________________________________________________________

   __________________________________________________________________________

If tenant died:

21. Was coroner notified? yes ______ no ______

22. Date coroner notified ________________

23. Time coroner notified ______ a.m. ______ p.m.

24. Signature of Person Completing Form: _______________________________________

25. Signature of Operator/Manager: ____________________________________________

NOTES:

1. Place original form in Tenant’s File.
2. Give copy to Physician.
APPENDIX “I”

ADDITIONAL TB INFORMATION

- Tuberculosis (TB) screening is a method used to identify people who may have TB infection and/or disease. At present, the TB skin test (TST) is the most reliable screening tool. A two-step TST is given to people who have never had a TST in order to obtain an accurate baseline reading. A two-step TST means giving one TST followed by another TST 7 to 28 days later. Future TST done following the documented two-step TST should only be a single TST. If a person has a documented previous positive result then no TST is needed; these individuals must be assessed by a physician.

- Positive TST:

<table>
<thead>
<tr>
<th>TST Reaction Size (mm induration)</th>
<th>Situation in Which Reaction is Considered Positive</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-4</td>
<td>HIV infection with immune suppression AND the expected likelihood of TB infection is high (e.g. patient is from a population with a high prevalence of TB infection, is a close contact of an active contagious case, or has an abnormal chest x-ray)</td>
</tr>
<tr>
<td>5-9</td>
<td>HIV infection Close contact of active contagious case Children suspected of having TB disease Abnormal chest x-ray with fibronodular disease Other immune suppression: TNF-alpha inhibitors, chemotherapy</td>
</tr>
<tr>
<td>≥10</td>
<td>All others</td>
</tr>
</tbody>
</table>

Taken from Canadian TB Standards, 6th Edition

- A chest x-ray should not be used as a substitute for a TST. Research shows that a chest x-ray is not a useful method of detecting tuberculosis infection. Chest x-rays do not guarantee early identification of tuberculosis. In some cases, an infected individual will develop a cough and produce infectious sputum before infection is seen on an x-ray.
Why is the TB skin test needed? Doing a skin test is important for two reasons: it provides a baseline, which is needed to guide post-exposure case management; and, it helps to make sure that new employees/tenants do not put colleagues or tenants at risk in the event that he/she has TB disease.
## Appendix C: Summary of Care Housing in Hamilton

<table>
<thead>
<tr>
<th>Type of Housing</th>
<th>Legislation</th>
<th>Inspections</th>
<th>Licensed (Federal, Provincial or Municipal)</th>
<th>Funding (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home for Special Care</td>
<td>Homes for Special Care Act R.S.O. 1990</td>
<td>Ministry of Community and Social Services; Public Health Inspectors (Food only if 10 or more residents)</td>
<td>Provincial</td>
<td>Some (geared to income)</td>
</tr>
<tr>
<td>Group Homes</td>
<td>The following may have involvement in group homes:  - The Ministry of Health  - The Ministry of Community and Social Services  - The Ministry of Children and Youth Services  - The Ministry of Correctional Services  - The Correctional Service of Canada  - The Ministry of the Attorney General</td>
<td>Public Health Inspection (Food only if 10 or more residents)</td>
<td>Provincial (The MoHLTC will respond to complaints only). Ontario Residential Care Association (ORCA) sets standards of care for retirement homes.</td>
<td>N/A</td>
</tr>
<tr>
<td>Nursing Homes</td>
<td>Nursing Homes Act, R.S.O. 1990</td>
<td>Ministry of Health and Long Term Care (MoHLTC); Public Health Inspectors (Food/Tobacco only)</td>
<td>Provincial</td>
<td>N/A</td>
</tr>
<tr>
<td>1. Homes for the Aged 2. Rest Homes 3. Retirement Home</td>
<td>1. Must comply with zoning By-Law No. 05-200. 2. Homes for the Aged and Rest Homes Act R.S.O. 1990</td>
<td>Ministry of Health and Long Term Care (MoHLTC); Public Health Inspectors (Food/Tobacco only)</td>
<td>Provincial (The MoHLTC will respond to complaints only). Ontario Residential Care Association (ORCA) sets standards of care for retirement homes.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

*Disclaimer: As this chart is a summary pieced together from various agencies that may have overlapping jurisdictions and legislation, it represents, to our best knowledge, our current understanding of care type homes in Hamilton and may not be complete.*
Residential Care Facilities Review:
Analysis of Stakeholder and Citizen Feedback
Prepared by Susan Goodman, Policy Planning Plus Inc. – March 2009

In November 2008, when City of Hamilton staff presented the Board of Health with a draft of proposed amendments to the by-law regulating Residential Care Facilities (RCFs), it was recommended that an analysis of stakeholder and citizen feedback be conducted by an outside consultant. The City subsequently commissioned consultant Susan Goodman of Policy Planning Plus Inc. to conduct this analysis. This report presents the results of this analysis. It summarizes the feedback received, highlights the key concerns raised by each stakeholder and identifies the key issues that emerged in this process.

Background
Residential Care Facilities provide 24-hour supervision and guidance for individuals who are elderly, developmentally delayed or suffer from mental illness or brain injury. In the City of Hamilton, Public Health Services and the Planning and Economic Development Department are responsible for the inspection, enforcement and licensing of facilities regulated under Schedule 20 of the City of Hamilton Licensing Code By-law.

Public health staff undertook a consultation with residential care facility stakeholders in the community from December 2007- February 2008. In total, approximately 81 participants engaged in the consultation including 6 City of Hamilton staff, 10 local agency representatives, 18 residential care facility operators, 4 ex-tenants, 3 current tenants, 1- parent of a tenant, 38 physicians, and 1 provincial organization. The key issues raised during the consultation period included concerns with the scope of the by-law, application of enforcement, the need for a complaint process and the need for changes to the physician assessment process.

Public Health Services, in consultation with Planning and Economic Development, Community Services, Legal Services and Fire Prevention, drafted amendments based on these consultation outcomes. Stakeholders and citizens were then invited to respond to the proposed draft amendments and guidelines in writing and/or in-person at a special meeting of Board of Health held on February 4, 2009.

Presentations to the Board of Health, February 4, 2009
The meeting was attended by about 50 stakeholders and citizens, two of whom made presentations, copies of which were provided to Board members prior to the meeting. Some of the issues raised in these presentations were discussed at the meeting by Board members and city staff, both before and after the formal presentations were heard. Other issues of interest to
citizens and stakeholders were also raised in questions posed by Board members to city staff. In order to provide a full account of the issues and concerns raised through the feedback process, it is, therefore, necessary to report on the comments and questions of Board members, as well as stakeholders. To provide further context, it also makes sense to record how staff members responded to these comments and questions.

**City staff presentation and discussion**

Before hearing the stakeholders’ presentations at the February 4 meeting, the Board of Health heard from Robert Hall, director of the health protection division of public health services, which is responsible for carrying out inspections of residential care facilities.

Mr. Hall provided an overview of changes proposed in the by-law. He began by noting that second level lodging homes and retirement homes are all examples of Residential Care Facilities (RCFs), outlining the types of care provided in these facilities. He observed that there are no provincial regulations relating to retirement homes, so it is necessary for the city of Hamilton to provide such legislation to establish standards of care for homes within the city.

In summarizing the public consultation process to date, Mr. Hall said invitations were sent to all the RCF operators and tenants. There was consultation with local family physicians as some concerns had been raised with respect to the tenant assessment process, he said, identifying the following themes that have emerged from the consultations to date:

- The need for consistent application of enforcement
- The need for a complaint process
- Accountability
- Clear language needed to allow for consistent enforcement
- Tenant assessment forms require revision

Mr. Hall outlined proposed changes in the by-law, including:

- Strengthening enforcement practices and accountability. Public Health Services is to assume enforcement of parts of the by-law under the authority of the Medical Officer of Health. This will allow for one city department to follow up on issues of non-compliance. This will result in a more consistent approach to enforcement and the wording of the by-law has been changed to allow for enforcement – by changing words such as “should” and “recommend” to “shall”.
- Public Health Services will use the city’s Fees and Charges by-law. This will mean that, if an inspection results in a re-inspection, a charge could be levied against the owner of the property.
• Changes to the tenant assessment form to allow physicians to provide an assessment of the tenant rather than the RCF – responding to concerns raised by family physicians that it is not possible for them to assess a facility as a whole, while they are able to assess individual tenants.

With regard to the complaint process, Mr. Hall noted that tenants have strongly encouraged the city to develop a formal complaint process that is transparent and supportive to tenants, and does not force the tenants to face off with an individual or organization in a position of power. At present, he said, tenants, families and supporters fear that challenging unacceptable practices will result in a tenant being told to leave an RCF.

“This is a process rather than a by-law item,” Mr. Hall told the Board. “It’s difficult for us to put in wording for a process, but the process that we’ll bring forward will allow the residents and tenants of RCFs to have a confidential complaint process.”

In outlining next steps, Mr. Hall said city staff want to be able to draft proposed amendments based on comments from Board of Health members and the public, with final recommendations to be delivered to the Board of Health, after which a draft of the amended version Schedule 20 of the by-law will be presented at the Planning and Economic Development committee and then to City Council.

Councillor Brad Clark asked how the city will ensure that individuals handing out prescription drugs are qualified to do so. He said he was concerned that people not capable of managing their own prescription drugs may receive their daily doses from an unqualified individual. Dr. Julie Emili, associate medical officer of health, responded by observing that someone not capable of self-medicating may be more appropriately placed in long-term care, rather than an RCF. However, she agreed that city staff would consider what measures could be put in place to ensure that medications are dispensed safely, during the interim period while arrangements are being considered and made for transfer to another level of care.

On this issue, Councillor Terry Whitehead observed that people with literacy or language problems may require help with their medications, even though they do not have any special needs that would require their placement in a higher level of care.

Councillor Clark also raised concerns about provisions in the Schedule relating to powers of attorney and alternate decision makers. He noted that the Schedule does not prohibit a RCF from being an alternate decision-maker, which he said could involve a conflict of interest. City staff indicated that there are legal limits on how much the city can interfere with an individual’s right to choose. Councillor Clark suggested that a requirement that there be an individual
advocate to help people make such choices. City staff agreed to look into what could be done within the city’s legal authority.

With regard to the confidential complaint process, Councillor Whitehead asked what protection staff members of an RCF would have if they were to report infractions. City staff indicated that complaints will be taken anonymously and remain anonymous.

Board members also questioned staff about the right of city inspectors to enter RCFs. Staff members indicated that the wording of the Schedule provides that right though there may be situations where tenants refuse entry to their rooms, in which case the Residential Tenancy Act would apply and inspectors would need to take further steps in order to gain entry.

**Stakeholders’ Presentations**

The two stakeholders who made presentations at the meeting were: Kim Janjic, Director, Lakeview Retirement Centre, Inc. and Lance Dingman, chairman of the Coalition of Residential Care Facilities Tenants and Housing Help Centre.

**Lakeview Retirement Centre**

Ms. Janjic outlined some legal concerns with regards to the privacy of personal medical information. These concerns were focused on two sections of the draft Schedule:

- **Section 46. (2)** – requiring the operator to maintain a separate file for each tenant containing information that will include “a brief medical history of the tenant, in respect of the care services provided by the operator under the tenancy agreement or any additional care services made available by the operator, 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.”

- **Section 50 (2)** – “The Medical Officer of Health or a member of a regulated health profession authorized by them, at all reasonable times, may inspect the file of any tenant required by subsection 46(2).”

However, Ms. Janjic told the Board that she does not believe the City has the legal authority to inspect these files. She referred to a February 28, 2006, ruling by Justice of the Peace W. Casey rendering the equivalent sections of the existing by-law unconstitutional and *ultra vires*. “It appears that the City has continued to rely upon and resort to sections of a bylaw that are in the same language as has been ruled unconstitutional under the Charter of Rights and Freedoms,” Ms. Janjic told the committee.
Ms. Janjic noted that the Ontario Residential Care Association (ORCA), a self-regulatory provincial organization that sets standards, inspects and accredits retirement homes, attempted several years ago to have Retirement Homes licensed separately from the city-subsidized Second Level Lodging Homes. “This issue is one of the problems that have arisen from the standardized licensing process,” she said.

Following Ms. Janjic’s presentation, Councillor Terry Whitehead asked her why residential facilities would “buck at” the city seeking access to information for the purpose of protecting “the most frail in our society.” Ms. Janjic responded, “We don’t feel our residents are frail just because they’re elderly. They are quite independent. Many of them are driving and going to Florida. They can administer their own medications in quite a few instances. And they are the ones that asked us not to open the medical files to the city. We were just advocating for them.”

Lisa Pasternak, senior solicitor, legal services for the City of Hamilton, told the Board that the proposed amendments to the Schedule are designed to address the concerns of the court decision cited by Ms. Janjic. She said language in the proposed amendments now specifies that tenants’ files include information necessary to determining the level of care services provided.

Coalition of Residential Care Facilities Tenants

Mr. Dingman explained that the coalition is a group of tenants, ex-tenants, and supporters who advocate for the rights of Residential Care Facilities tenants and the improvement of RCF standards in Hamilton. He said coalition members are concerned that the draft by-law “ignores important tenants’ concerns that were mentioned repeatedly in the community consultation.” These include concerns about enforcement and a confidential complaint process, as well as a call for places where tenants can securely store their belongings.

With regard to the complaint process, Mr. Dingman made the following submissions:

i. Tenants need a clear and responsive complaint process to deal with two kinds of difficulties they face: obstacles in obtaining information about their rights and responsibilities; and concerns about medical or personal security issues. Furthermore, tenants are vulnerable because there is a power imbalance between them and owner/operators.

ii. During the consultation on the proposed amendments, coalition members argued that they need a mandatory confidential process for rapid response to tenants complaints and that this process should be handled by the city, not the operators themselves. There should be a clearly displayed poster in each facility providing a phone number for tenants to call if they have concerns about their facility.
Tenants were dismayed to find that such a complaint process was not spelled out in the draft Schedule. “The coalition feels that the current draft is clearly ignoring a community recommendation made in the public consultation.”

The new Schedule must define clearly who will deal with and how to deal with the different kinds of complaints. Tenants have to know whom to call, where to go when they have concerns.

With regard to inspection and enforcement, his submissions were:

i. Tenants sometimes don’t get the service they are supposed to get on matters such as telephones, partitions in rooms, food and personal care. It often seems that the current Schedule 20 is not being enforced.

ii. During the consultation on the amendments, coalition members argued that there should be clear steps to improve the inspection process and enforcement.

iii. The new draft Schedule 20 doesn’t provide enough clarity with regard to when and how enforcement will occur.

iv. The by-law should specify how often inspections will take place. The city should take a proactive approach to inspections and enforcement, as tenants are in a vulnerable position and should not be expected to step up and identify concerns.

v. Are there currently enough nurse inspectors to allow regular inspections? If not, will additional resources be found?

vi. The current draft does not adequately respond to community recommendations with regard to enforcement.

With regard to secure storage for tenants, his submissions were:

i. Having a place to securely store belonging has been highlighted by tenants as being a crucial concern. It is very stressful not knowing your belongings are safe.

ii. During the 2007/2008 consultation process, coalition members recommended a provision that lockable storage space be available for all tenants living in residential care facilities.

iii. Coalition members are very concerned that the draft amendment doesn’t recommend lockers.

iv. Lockable storage units need to be provided for all tenants. These should be large enough to accommodate, shoes, coats, personal items, money, etc. They should be installed in bedrooms, with locker provide for each bed/tenant.

In conclusion, Mr. Dingman asked that the City not accept the current draft. “This draft does not adequately reflect the concerns of tenants who live in residential care facilities. In addition,
the coalition asks the City to make plans to assess the implementation and effectiveness of the new by-law on the operation of residential care facilities.”

“The City has to take a proactive approach with regard inspections and enforcement,“ Mr. Dingman added.

Following Mr. Dingman’s presentation, Mayor Fred Eisenberger asked city staff whether all the issues that had been raised would be addressed in the report to the Planning and Development committee. Mr. Hall said staff will certainly try to address all the issues. However, he noted that certain issues are "not doable within the by-law." For example, the process for complaints is not something that can be put in the by-law but is something that city staff can improve upon and make the tenants and coalition aware of these improvements. Other things, such as a staff recommendation on security lockers will be brought back to the Board.

Councillor Whitehead asked why the complaint process could not be spelled out in a schedule attached to the by-law. Ms. Pasternak said legal staff could look at how things could be incorporated. She said there is a separation between what are essentially operational decisions as opposed to Schedule 20 of the by-law which imposes obligations on the operators. But, for example, the posting of the phone number for complaints is something that could be incorporated into the by-law.

Councillor Whitehead asked whether concerns about secure storage could be addressed. Staff members agreed to look at incorporating these concerns in the by-law in some way, though there are concerns about space in some of the homes and it is also important to ensure that locked storage units would not be portable and therefore insecure.

Councillor Clark also asked that staff explore the possibility of a residential tenants’ advocate. Mr. Hall noted that tenants of RCFs are protected under the Landlord and Tenant Act and the inspection nurses do help tenants who have complaints, though they are obviously not experts on tenants’ legal rights. He said city staff would like to bring back a recommendation on how they could assist further on these issues.

Councillor Brian McHattie asked Mr. Dingman if the coalition members were satisfied with the proposal for a single number to call to lodge complaints. Mr. Dingman observed that he has in the past had occasion to call the city on various matters and “It’s taken a long time to get through.”

City staff indicated that they can improve on the complaint process they have in place. Michelle Baird of the Health Protection division said complaints are kept completely confidential and followed up within 24-hours or sooner if they involve matters of some urgency. She said a future staff report will include a recommendation that signs be posted in all
facilities to ensure that tenants know how to get in touch with public health services. Board members suggested that goal of responding within 24-hours should be incorporated in a written policy and included in the signs to be posted in the facilities.

Additional Feedback
After the February 4 meeting, the city received two additional submissions from stakeholders who said they did not get an opportunity to make presentations at the meeting. These were from Roy Bennett, operator of Sunrise Lodge, regional director of the Ontario Homes for Special Needs Association (OHSNA) and an unnamed RCF owner, whose brief was submitted by Mr. Bennett.

OHSNA submission
According to Mr. Bennett, neither he nor the OHSNA, which has 700 members throughout Ontario, was informed of the proposed by-law changes until January 9, 2009, when he was invited to give feedback. He was not aware of the earlier consultation process and is asking the city to provide him with the names and addresses of the 18 homes that did participate. He states that he and a number of other operators attended the February 4 meeting, but they were not given an opportunity to present their feedback.

Mr. Bennett’s submission raises the following concerns:

1. The by-law imposes additional costs on the operator:
   a. For a premises plan
   b. For a certificate from the Electrical Safety Authority of Ontario
   c. If additional care is recommended for the resident, the operator is required to make this available

2. With regard to the tenancy agreement (Section 35):
   a. Tenants will have the right to cancel operators’ permission to enter their rooms, even though they could be destroying property or taking drug overdoses.

3. With regard to inspections:
   a. Too much authority is given to health inspectors, who could decide on staffing ratios, causing additional expense for operators
   b. Nurse inspectors have too much power and may make arbitrary or biased decisions
   c. The by-law should rely on a list of standards developed by the OHSNA and adopted by the provincial government
   d. The by-law should have an appeal process

4. With regard to re-inspection fees
   a. No information has been provided as to what these fees are and under what conditions they will be implemented
b. Hamilton is the only municipality that charges operators for inspections or re-inspections

5. With regard to the complaint process:
   a. The process should be fair and transparent
   b. RCF operators are professionals and should be treated as such
   c. Operators should receive a signed copy of the complaint, have reasonable time to respond in writing and the opportunity to meet to discuss the complaint before a decision is made
   d. This will avoid frivolous complaints

Mr. Bennett requested a meeting at which association members could discuss these and other concerns with the proponents of the Schedule 20 amendments.

The current $46.82 per diem should be re-evaluated and increased, according to Mr. Bennett, for the following reasons:

- The per diem covers basic services, yet RCF residents include people with chronic mental health conditions and behavioural disorders, who might otherwise end up living on the streets
- Operators are facing cost pressures from new fees and increased costs for insurance, wages, taxes, hydro and other utilities
- In order to get electrical safety authority certificates, some homes face rewiring costs of up to $8,000
- Low government funding makes it impossible for homes to pay staff adequately for the quality of care they provide

Submission from unnamed operator
The operator states that his purpose is to explain what an RCF really is and what kind of clientele it deals with. He says his parents bought an RCF in the 1970s so he has more than 35 years of experience “living, breathing and running an RCF.” His submission makes the following observations:

1. RCFs provide 24-hour supervision for people with psychiatric disorders, ensuring they do not put themselves and others in danger
2. Residents are provided with three balanced meals and two snacks every day
3. Staff ensure that residents take their prescribed medication, administering it from trays provided by pharmacies with no possibility that any mistake could be made.
4. RCFs assist residents with personal care, providing them with laundry services and personal care products
5. RCFs do provide secure storage areas for residents’ belongings, but staff need to have access to these to clean them and ensure that they are not contain anything harmful or illegal.

6. RCF owners closely monitor residents’ health and ensure that all medical appointments are kept.

7. Potentially violent and difficult residents are provided with a safe, stable, homey and respectful environment.

8. Owners are not paid in advance (unlike any other landlord) and risk losing their per diem if a resident leaves without giving proper notice.

9. The $46.82 per diem is no more than some non-profit organizations receive for providing homeless people with a mattress on the floor over night. It has not been increased substantially to offset increases in food, staff, property tax and utilities. It should be increased to a minimum of $65 a day to stay current with these costs.

Key issues
Most of the feedback from stakeholders and citizens focused on a few key issues. The following is a brief summary and analysis of these.

Access to medical records
Issue: One operator questions the city’s legal authority to access residents’ medical files on the basis of a 2006 Justice of the Peace’s ruling that the by-law was unconstitutional under the Charter of Rights and Freedoms. City legal staff members maintain, however, that this concern is addressed in the new draft of Schedule 20 which contains language specifying that the files include information necessary in determining the level of care provided.

Analysis: While the legal issue is one that only lawyers or courts can address and resolve, the underlying concern appears to be that residents are afraid that the confidentiality and privacy of their medical information could be violated.

The complaints process
Issue: Tenants are concerned that the by-law does not provide enough details on the mechanisms for a confidential complaint process. City staff members maintain that this is not something that can be specified in the by-law that sets out the legal obligations of the operator, but an operational matter that can be specified in City policies. City staff note, however, that it may be possible to stipulate in the by-law that operators must display posters informing residents of the confidential complaints number that they can call.
Some operators, on the other hand, are concerned that a confidential process could be abused with frivolous or malicious complaints. They propose that they should receive copies of signed written complaints.

**Analysis:** Apart from the suggestion that operators be required to post information about the complaint process, the concerns raised appear to relate more to operational procedures and policy, than to the wording of Schedule 20 of the by-law. Tenants and operators have conflicting views on how complaints should be handled. All appeared to agree, however, that a complaint process should be in place. The key issue is whether the process can be trusted and free of abuse from both perspectives.

**Inspections and enforcement**

**Issue:** Tenants are concerned that the Schedule 20 does not specify how often inspections will take place and how the by-law will be enforced. They are also worried that there will not be enough nurse inspectors to carry out regular inspections. Operators are concerned that nurse inspectors have too much power and may make arbitrary decisions.

**Analysis:** This may also be more an issue for City operational procedures and policies than for a by-law which sets out operators’ responsibilities. Again, the fundamental issue is that tenants are afraid the process will not be strong enough to protect them.

**Secure lockers**

**Issue:** Tenants feel strongly that they should have secure lockers where they can lock away their valuables. They are concerned that this is not stipulated in the by-law. Owners and operators are concerned that this could be impractical and maintain that they should have access to lockers to clean them and ensure they contain nothing illegal or hazardous.

**Analysis:** Tenants and operators have conflicting opinions on this issue. The tenants are concerned about privacy, dignity and protection of personal property. Owners are concerned about safety and liability in the event of abuse or aberrant behaviour.

**Costs**

**Issue:** Operators are concerned that various aspects of the by-law will impose additional expenses on them. These include the costs of a premises plan, an electrical certificate and re-inspection fees.

**Analysis:** An underlying concern on the part of operators is that their per diem is too low and does not reflect the level of care they provide.

**Process**

**Issue:** Some of the operators present at the February 4 meeting complained that they had not been adequately informed about the process to date and were not given an opportunity to speak at the meeting.
**Analysis:** Those who made this complaint were given an opportunity to make submissions after the meeting and two submissions were received. This may have resolved their concerns with regard to the process.

**Conclusion**

Although there were few formal submissions from stakeholders, the fact that there were about 50 people in attendance at the February 4 Board of Health meeting indicates that this is a matter of keen interest to many people. One submission made at the meeting was on behalf of a broad coalition of tenants. Operators who were present at the meeting subsequently indicated that they had wanted to speak, but didn’t get a chance. They were given an opportunity to make further submissions and two briefs were subsequently submitted, one of them on behalf of a provincial association of special needs homes. It is therefore reasonable to assume that issues of concern to both tenants and owners were fully aired and that the submissions that the city did receive reflected widely held opinions and concerns.

An important consideration that underlies the concerns of both owners and tenants is the fact that RCFs house a wide-range of people needing very different levels of care, including those who are quite competent and independent, as well as some who are severely challenged. A large part of the feedback from both tenants and operators was dedicated to explaining the difficulties and vulnerabilities experienced by those living in or running an RCF.

There are clear difference of opinion between operators and tenants on issues such as inspections, enforcement and the complaint process. Most of the concerns and conflicting opinions, however, do not relate directly to the provisions of the by-law so much as to the processes, policies and procedures that the City will follow in implementing it. And the concerns relate more to what people fear might happen – or might not happen – rather than to any specific policies that have been put forward at this time. Simply put, tenants are afraid that their rights will not be protected and operators are afraid that they may be vulnerable to harassment and abuse.

Clearly it is up to the City to find a fair middle-path in ensuring that the by-law is enforced consistently and that standards of care are preserved in a way that respects the rights of tenants and protects the vulnerable, while remaining aware and considerate of operators’ concerns and circumstances. Using the updated by-law to regulate RCFs fairly and sensibly should go a long way towards allaying the fears that lie behind many of the stakeholders’ concerns.
February 26, 2009

All Ontario Municipalities

Re: Regulation and Provision of Resources to Monitor Retirement Homes

The following resolution #2009-55 was passed by Council of the City of Greater Sudbury on February 11, 2009:

WHEREAS in 2001 the Mayor and Council’s Roundtable on Seniors’ Issues recognized the need to regulate rest and retirement homes;

AND WHEREAS a working group of the Mayor and Council’s Roundtable on Seniors’ Issues was established in September 2001 and since that time the working group has gathered information and feedback from municipal officials and received input from privately owned retirement homes, advisory groups, residents and families;

AND WHEREAS the 2006 Ontario budget stated “the Government will continue to improve efficiency and accountability by engaging in formal consultations in 2006/2007, through the Ontario’s Seniors’ Secretariat, with the goal of establishing a new regulatory framework for strengthening standards of care in Ontario’s retirement homes”;

AND WHEREAS the Assistant Deputy Minister, Mr. Geoff Quirt, met with the Mayor and Council’s Roundtable on Seniors’ Issues in 2006;

AND WHEREAS the findings of the consultation which were distributed in April 2007 recommended the need to regulate retirement homes;

AND WHEREAS to date it appears that the Provincial Government has made no progress in implementing legislation to address this need;

AND WHEREAS there have been recent incidents that have resulted in residents of retirement homes being placed in life threatening situations such as a recent fire in Orillia that resulted in the unfortunate death and hospitalization of many residents

THEREFORE BE IT RESOLVED THAT the Council of the City of Greater Sudbury lobby all Ontario municipalities to have the Ontario provincial government take immediate action and pass the legislation that will regulate and provide resources to monitor all retirement homes and provide a safe home environment to those seniors who are most vulnerable;
AND THAT this resolution be forwarded to The Honourable Rick Bartolucci, M.P.P., Minister of Community Safety and Correctional Services.

Yours truly

Anne Haché

Angie Haché
City Clerk

cc: Councillor Ted Callaghan, Co-Chair, Mayor and Council’s Advisory Panel on Seniors’ Issues
Anadel Hastie, Co-Chair, Mayor and Council’s Advisory Panel on Seniors’ Issues
G. Forget-Rose, Community Development Co-ordinator