

City of Kitchener

Rental Replacement Guidelines



Table of Contents

PURPOSE	1
POLICY CONTEXT	1
AUTHORITY	1
ELIGIBILITY	1
DEMOLITION AND CONVERSION	2
EXAMPLES	4
Applicable Examples	4
Ineligible Examples	4
PROCESS	5
FOR PERMIT APPLICANTS	5
Application	5
Processing the Application	5
Compensation Obligations	6
Permanent Replacement Unit Obligations	8
Exceptions to Rental Replacement Obligations	8
FOR TENANTS	9

PURPOSE

The City of Kitchener's Rental Replacement By-Law is a tool designed to protect and preserve rental housing in Kitchener, provide stability and compensation to Tenants affected by development, and provide a path for development without displacement. The purpose of this document is to serve as a complement to the Rental Replacement By-law (By-Law 2024-132), by guiding Applicants through the application process for demolition or conversion of rental units. This document lays out an Applicant's obligations to provide compensation to Tenants and to construct replacement units, depending on the nature of the demolition or conversion proposal.*

POLICY CONTEXT

Kitchener's Rental Replacement By-law is a tool designed to provide stability and compensation to Tenants displaced by redevelopment and to create a transparent and predictable rental replacement permitting process that ensures that new development does not occur at the expense of existing rental housing. It balances the interrelated policy goals of creating new housing supply and preserving the health and diversity of the city's most affordable rental housing, its existing purpose-built rental housing stock.

The Rental Replacement By-law does not prevent large-scale redevelopment of existing rental housing properties, so long as compensation to Tenants and the replacement of rental units occurs. Under the Rental Replacement By-law, Tenants would be offered the choice of a replacement unit, a rent waiver or compensation, and replacement units would be required to be provided at affordable rents for 10 years. The Rental Replacement By-law disincentivizes proposals to redevelop existing rental properties without contributing substantially to housing supply.

AUTHORITY

The Rental Replacement By-law was approved under the authority of Section 99.1 of the *Municipal Act, 2001* on June 24, 2024 by Kitchener City Council. This allows the City to regulate the demolition and conversion of residential rental properties having six or more units. Applications to demolish or convert more than six dwelling units will require a Rental Replacement Permit. This by-law is consistent with City of Kitchener Official Plan policies and the Region of Waterloo Official Plan Policy 3.A.15, which prohibits demolitions and conversions if the supply of affordable rental housing is adversely affected.

ELIGIBILITY

The Rental Replacement By-Law establishes a permitting process under Section 99.1 of the Municipal Act and applies to a building or buildings with six or more existing rental units. An Applicant must receive approval of a Rental Replacement Permit if they are proposing a change to the building

* This guideline is specifically for the City of Kitchener Rental Replacement Permit process. For information on rental housing and general tenant information and Tenant rights, please see: <https://www.kitchener.ca/en/living-in-kitchener/renting-in-kitchener.aspx>

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

in a manner that requires *Planning Act* approval and will result in the demolition or conversion of rental units.

DEMOLITION AND CONVERSION

A demolition, as defined in the Rental Replacement By-law, means either extensive renovations affecting six or more rental units that require a *Planning Act* application and will result in the displacement of rental Tenants, or the *demolition* of a building containing rental units in its entirety. The *Planning Act* applications that will trigger a *Rental Replacement Permit* process for eligible buildings are Zoning By-Law, Official Plan Amendment, Site Plan Approval, and/or Demolition Control By-Law applications.

“Related Planning Application” means an application that provides for the demolition of Residential Rental Property or the conversion of Residential Rental Property to a purpose other than a Residential Rental Property, expressly or by necessary implication. This includes condominium approvals, Official Plan amendments, Zoning By-law amendments, minor variance applications, plans of subdivision, among others fully described in the definition section of the by-law.

Conversion occurs when an Applicant has submitted a *Planning Act* application to convert six or more residential rental units to non-rental use. In such cases, the application is subject to the *Rental Replacement By-Law*.

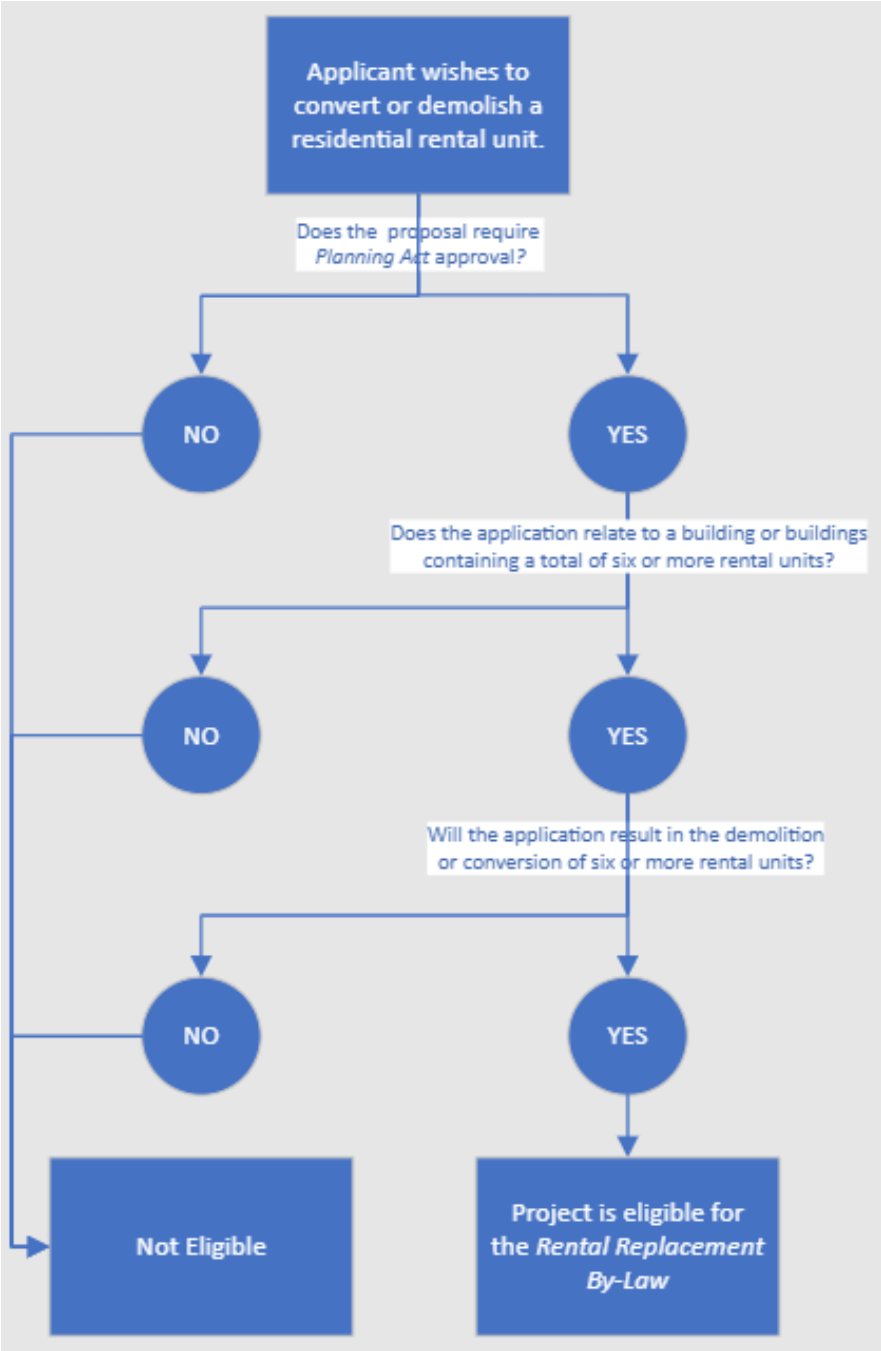
Applicants are not subject to the by-law if the proposal:

- Does not involve a *Planning Act* application
- Only involves permits under the *Building Code Act*
- Proposal is not within the Demolition Control Area
- Relates to a property containing fewer than six rental units

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

Figure 1 Eligibility Process Diagram



RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

EXAMPLES

The following are some examples of potential projects that would be subject to and exempt from the Rental Replacement By-Law.

Example projects subject to the Rental Replacement By-law

Large Scale Redevelopment

An Applicant is proposing to demolish a small apartment complex containing 10 residential units and replace it with a multi-unit residential building containing 245 condominium units.

Lodging House Conversion

An Applicant is proposing to purchase and renovate a large home containing eight Dwelling Rooms and converting it to a single-detached home.

Apartment Building Retrofit

An Applicant has purchased an 80-unit rental apartment building constructed in the 1970's and is proposing to consolidate the units into 40 larger rental units.

Example projects exempt from the Rental Replacement By-law

Apartment Building Renovation

An Applicant has submitted applications to the Provincial Landlord and Tenant Board to evict all the tenants of a 16-unit apartment building to perform renovations that require vacancy.

Damage Restoration

An Applicant has submitted a Demolition Control Permit application to restore water damage to four apartments and has submitted applications to evict the Tenants to perform necessary repairs.

Purchaser Vacancy Agreement

A dwelling unit containing six tenants who are all signed onto the same lease agreement has been purchased. The purchaser has placed a condition of vacancy on the purchase agreement and

Exception: Application or Registration of a Draft Plan of Condominium

Developers will often get approval of a Draft Plan of Condominium for a new development, even though the development is intended to stay as purpose built rental. For the purposes of this by-law, the application or registration of a draft plan of condominium for an unbuilt development does not constitute 'displacement' in and of itself if displacement is understood as involving the ending of the tenancy of a dwelling unit initiated by the owner of the unit, rather than the tenant themselves.

In this sense, a draft plan of condominium does not, to use the language of the by-law, result in displacement "whether expressly or by necessary implication".

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

the new owner has submitted the necessary paperwork to evict under the *Residential Tenancies Act*.

PROCESS

FOR PERMIT APPLICANTS

An application to demolish or convert residential rental properties where there are six or more dwelling units will trigger the need for a Rental Replacement permitting process.

Application

The application form can be found on the City's Rental Housing Protection website: www.kitchener.ca/rentalreplacement. As outlined under s. 8 of the Rental Replacement By-law, applications for the demolition or conversion of rental units shall include the following information:

- description of the proposed Demolition or Conversion;
- the number of existing Dwelling Units and/or Lodging Units;
- the number of existing and proposed Rental Units by unit type, including number of bedrooms and floor area;
- the rents roll(s) including utilities for the Residential Rental Property, categorized by unit type;
- a list containing the names and mailing addresses of the Tenants of the Residential Rental Property proposed for Demolition or Conversion;
- identification of any Related Planning Applications;
- where applicable, a proposal for the replacement or retention of the Rental Units proposed for Demolition or Conversion;
- a proposal for Tenant engagement by the Applicant, including consultation and education;
- any additional information or documentation required to evaluate the application, as specified by the Director; and
- the applicable fees.

The application process will determine the number of units that are protected under the By-law, and the types of conditions that may be imposed on a Rental Replacement Permit. Rental Replacement Permits may be granted based on conditions to retain or replace affordable rental units to be secured by an agreement registered on title.

Processing the Application

Staff will process *Rental Replacement Permits* concurrently with *Related Planning Applications*. The procedure will generally encompass the following steps:

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

1. The application is reviewed by staff to ensure all prescribed information and the required fee has been provided. Within thirty (30) days of the receipt of an application the *Applicant* will be notified in writing of outstanding information required to process the application.
2. Staff will prepare a *Tenant* Information Package to be distributed both directly in hard copy to *Tenants* by the *Applicant* to their physical dwelling unit and sent by mail to *Tenants* by City staff. The *Tenant* Information Package will contain a description of all the *Tenant*'s options for compensation as outlined in the Rental Replacement By-law.
3. Staff will work with the *Applicant* and affected *Tenants* to execute mutually agreeable *Tenant Compensation Agreements*, which will detail the form of compensation to be provided to the *Tenant*. The *Applicant* is responsible for providing copies of these agreements to the City.
4. Upon receipt and review of the documentation listed in this s. 8 of the by-law, Staff will prepare a report containing a recommendation of whether to approve or deny the permit application based on the requirements of the By-Law, and any conditions of approval, if required.
5. If recommended for approval, the Director will approve a *Rental Replacement Permit*. The Director may refer an application to City Council for a decision if, in the Director's opinion, the application should be considered by Council with a Related Planning Application, or if in the opinion of the Director, the application requires Council consideration. If a decision regarding an application has been referred to Council by the Director under section 25 of this By-law, the Director shall submit a report respecting the application to Council.

Compensation Obligations

The nature of the application and tenant choices will determine what forms of compensation are required. *Tenant Compensation Agreements* outline mutually agreeable compensation terms, and shall include the following:

- a. In the case of Rent Waiver compensation:
 - i. A *Tenant Compensation Agreement* signed by the *Tenant* and *Applicant* showing the selected form of compensation and acknowledging that the *Tenant* will not pay the *Applicant* any rent for a twelve-month period starting the first day of the month after the agreement is signed, and that the *Tenant* will vacate the property at the end of that 12-month period. The agreement will also outline the *Applicants* obligation to provide a lump-sum financial payment as compensation for costs related to the *Tenant*'s relocation.
 - ii. An *N11 Agreement to End the Tenancy* form signed by the *Tenant* and the *Applicant* indicating a mutually agreed upon end of tenancy date equal to that contained in the *Tenant* Compensation Agreement.

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

- iii. Documentation of the transfer of the lump-sum compensation for moving costs to the *Tenant*.
- b. In the case of Rent Payout compensation:
 - i. A signed *Tenant Compensation Agreement*, signed by the *Tenant* and the *Applicant*, showing the selected form of compensation, and acknowledging that the *Tenant* will be financially compensated with a sum equal to ten times the amount of rent indicated on the rent roll submitted by the *Applicant*. The agreement will also state that the *Tenant* agrees to vacate the property before the last day of the second complete month following the signing of the agreement. The agreement will also outline the *Applicants* obligation to provide a lump-sum payment as compensation for costs related to the *Tenant's* relocation.
 - ii. An *N11 Agreement to End the Tenancy* form signed by the *Tenant* and the *Applicant* indicating a mutually agreed upon end of tenancy date equal to that contained in the *Tenant Compensation Agreement*.
 - iii. Documentation of the transfer of the financial compensation, or 'rent payout, described above to the affected *Tenant*.
 - iv. Documentation of the transfer of the lump-sum compensation for moving costs to the *Tenant*.
- c. In the case of a Temporary Replacement Unit compensation:
 - i. *Tenant Compensation Agreement*, signed by the *Tenant* and the *Applicant*, showing the selected form of compensation, and acknowledging that the *Applicant* will secure and sublease a comparable *Rental Unit* for the *Tenant* for a period of either 10 years or until the permanent rental replacement unit is completed. The agreement will indicate that the unit will be rented at the same rate as listed in the rent roll provided as part of this application, and that in all other respects, the rental agreement will be subject to the terms and conditions of the *Residential Tenancies Act*. The agreement will also outline the *Applicant's* obligation to provide a lump-sum payment as compensation for costs related to the *Tenant's* relocation.
 - ii. An *N11 Agreement to End the Tenancy* form signed by the *Tenant* and the *Applicant* indicating a mutually agreed upon end of tenancy date equal to that contained in the *Tenant Compensation Agreement*.
 - iii. Copies of the lease agreement between the *Applicant* and a third party securing the lease of a comparable *Rental Unit*, and a copy of the sublease agreement for that unit between the *Tenant* and the *Applicant* indicating a rent equal that the *Tenant* is paying in their existing *Rental Unit*.

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

- iv. Documentation of the transfer of the lump-sum compensation for moving costs to the *Tenant*.

Permanent Replacement Unit Obligations

The applicant’s development proposal is required to replace every occupied residential dwelling unit or dwelling room being converted or demolished in the buildings subject to the Rental Replacement Permit application. The applicant is required to provide permanent replacement units to replace any units in their existing building that have been vacant for a period of six months or less.

These units are in turn required to be rented for a period of 10 years at a rent not-exceeding Private Apartment Average Market Rents (AMR) in the City of Kitchener for units of equivalent size, as shown in the Primary Rental Market Statistics from the CMHC’s most recent Rental Market Survey. Average rents as of the most recent survey in October 2023 are as follows:

Private Average Market Rent, City of Kitchener, Oct 2023	
Bachelor	\$1,117
1 Bedroom	\$1,322
2 Bedroom	\$1,594
3 Bedroom +	\$1,779

Figure 2 Kitchener Average Market Rents

Upon completion of the permanent replacement building the applicant is required to submit documentation showing that the obligation to rent replacement units at an affordable rate has been secured on title. The applicant will also have to show documentation that a ‘no dealings’ clause has been placed on the property, thus allowing the City of Kitchener to confirm that units have been rented at an affordable rate before transfer of ownership is permitted.

Exceptions to Rental Replacement Obligations

Should an application for a Rental Replacement Permit relate to a proposed development with no residential component, applicants are required to pay a cash in lieu fee equivalent for demolished or converted rental units. The fee is calculated as the sum of the difference between AMR and the monthly ODSP shelter allowance for the ten years that the rental unit would be required to be maintained as affordable. Examples based on the current AMR and current ODSP shelter allowance rates can be found in Figure 3, below.

Unit Size	AMR	ODSP Shelter Allowance	Monthly Difference	Total Cash in Lieu Fee
Bach	\$1,117	\$556	\$561	\$67,320
1 Bed	\$1,322	\$556	\$766	\$91,920

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

2 Bed	\$1,594	\$875	\$719	\$86,280
3 Bed	\$1,779	\$947	\$832	\$99,840

Figure 3 Cash in Lieu Requirements for Vacant Units

For units created because of the construction of a new addition, or the use of previously non-residential space, no compensation is required. Compensation is also not required for existing unoccupied rental units that are subdivided into multiple units.

FOR TENANTS

When your building is subject to a development application and your home is one of six or more rental units that will be affected by the development application, you are entitled to compensation under the *Rental Replacement By-law*.

When a landlord or building owner applies for City approval to redevelop the building you are living in, they are also required to apply for a *Rental Replacement Permit*. When they apply for a permit, they will be required to provide you with information about your entitlements under this by-law.

Landlords are required by this by-law to provide displaced tenants with the option of three forms of compensation. This compensation is beyond the protections offered by the *Residential Tenancies Act* and the Landlord Tenant Board. In exchange for the compensation offered, you are required to vacate the rental unit on a mutually agreed-upon date. The compensation options are as follows:

- 1. Rent Waiver:** You are permitted to remain in your unit for one year and do not have to pay rent during this period. This choice allows you to find appropriate alternate housing and allocate the money you would have otherwise spent on rent toward other priorities.

The one-year period begins the month after you sign a Tenant Compensation Agreement. So, if you sign an agreement on April 15, you will not be required to pay rent from May 1 for a period of twelve months. After twelve months you will be required to vacate the unit.
- 2. Rent Payout:** You agree to receive a sum equal to ten times your monthly rent in exchange for vacating the unit two full calendar months after the signing of a Tenant Compensation Agreement. You do not have to pay rent for the two months you live in your unit.
- 3. Temporary Replacement Unit:** The applicant for the *Rental Replacement Permit* finds and leases a rental unit for you to occupy during the construction or renovation of the building you live in. The replacement unit will be subleased to you at the same cost as your original apartment, must be similar to the size of the apartment you currently occupy, and must have access to similar amenities.

If a unit being offered to you does not meet your needs or differs significantly in size or amenities, you are allowed to request an alternative unit. If a comparable unit in the existing building is available at the time of the application, that unit will be considered sufficient to satisfy the applicant’s obligations under these guidelines. The City is the final arbiter of the

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

whether units offered by the applicant are sufficiently comparable, and of whether the applicant has made a good-faith effort to locate a comparable unit. Should no replacement unit be agreed upon, the City can compel tenants to choose one of the alternative compensation options.

The applicant is required to maintain their sublease agreement with you for the duration of the renovations or construction occurring on the site of your original unit, and to offer you the first right of refusal for a comparable unit in the renovated or new structure at the same rent as you are paying at the time of its completion. The sublease agreement and lease agreement for the permanent replacement unit will still be subject to the terms of the Residential Tenancies Act, including provisions related to annual rent increases.

When you have decided on a preferred form of compensation, you, the applicant, and the City will sign a Tenant Compensation Agreement that lays out the obligations detailed above. Under this agreement you will also be provided with a one-time payment of \$700, the estimated equivalent cost of two professional movers for a four-hour period. Moving costs will be paid at the time of the signing of the Tenant Compensation Agreement.

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

Example Agreement



Tenant Compensation Agreement

Form City of Kitchener, Development and Housing Approvals Division
200 King St W, 5TH fl.
Kitchener ON N2G 4G7
Office: 519-741-2312
Building Email: planning.applications@kitchener.ca

Project Address: _____
Dwelling Unit: _____
Primary Occupant: _____
Other Occupants: _____

Where an application is made for a Rental Replacement Permit under section 99.1 of the *Municipal Act*, the application shall be accompanied by

- a) agreements between the primary occupant of each unit subject to demolition or conversion describing the tenants chosen form of compensation and signed by the tenant and the applicant and
- b) be accompanied by satisfactory proof that arrangements, financial or otherwise, have been made to the satisfaction of the Director of Development and Housing Approvals, to fulfill the applicant's obligations for tenant compensation.

In signing this form, the applicant and primary occupant agree that a form of compensation has been chosen and fulfilled by the applicant.

Of the three compensation options outlined in the Rental Replacement By-Law and further described in the Rental Replacement Guidelines, the primary occupant has chosen the following form of compensation, and the applicant has fully satisfied the terms of that compensation:

- Rent Waiver
- Rent Payout
- Rental Replacement Unit

Applicant's Name: _____
Applicant's Signature: _____
Date: _____

Primary Occupant's Name _____
Primary Occupant's Signature _____
Date: _____

RENTAL REPLACEMENT BY-LAW

Guidelines for Application Review

Example *Tenant Information Package*

ATTENTION TENANTS OF

enter address here

The owner of your building has applied to redevelop this property. If your unit is affected by this proposal, **you have options.**

The City of Kitchener’s Rental Replacement By-law gives you the choice of three compensation options if you will be required to move.

- 1. Rent Waiver:** Remain in your unit for one-year. During this time, you are not required to pay rent. This option gives you the chance to find appropriate alternate housing and to use the money you would have otherwise spent on rent towards other priorities.
- 2. Rent Payout:** You agree to receive a sum equal to ten times your monthly rent in exchange for vacating the unit two full calendar months after the signing of a Tenant Compensation Agreement. You are not required to pay rent for the two months during which you may remain living in your unit.
- 3. Temporary Replacement Unit:** The applicant for the *Rental Replacement Permit* finds and leases a rental unit for you to occupy during the construction or renovation of the building you live in. The replacement unit will be subleased to you at the same cost as your original apartment and must be a similar size as the unit you currently occupy and have access to similar amenities.

What happens next?

- You will be contacted by your landlord to choose a form of compensation.
- You, the landlord, and the City of Kitchener, will sign an agreement confirming your choice, when you must leave your unit, and that you’ll receive moving costs to help with the transition.

Please read the attached guidelines for more information. You can contact us with questions at planning.applications@kitchener.ca