

Authority: Item 10, Economic Development
and Planning Committee
Report; 09-018 (PED09258)
CM: September 30, 2009

Bill No. 208

CITY OF HAMILTON

BY-LAW NO. 09-208

To Enact a Demolition Control Area By-law and to Repeal and Replace By-law No. 08-226 Entitled “Demolition Control”

WHEREAS section 33 of the Planning Act, R.S.O. 1990, c. P.13, provides that Council of the City of Hamilton may by by-law designate any area within the City of Hamilton as a demolition control area when a property standards by-law under section 15.1 of the Building Code Act, 1992, S.O. 1992, c. 23, is in force in the City of Hamilton;

AND WHEREAS Property Standards By-law No. 03-117 was enacted on May 14, 2003 and is in force in the City of Hamilton;

AND WHEREAS no person shall demolish the whole or any part of any residential property in a demolition control area unless the person has been issued a demolition permit by the Council of the City of Hamilton;

AND WHEREAS under subsections 33(3) and 33(6) of the *Planning Act*, R.S.O. 1990, c. P.13, the Council of the City of Hamilton is the decision-maker in respect of consenting to the demolition of a residential property in an area of demolition control;

AND WHEREAS under sections 9 and 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25, in accordance with section 23.1 of the *Municipal Act, 2001*, the powers of a municipality under that or any other Act may be delegated to a person or a body subject to the restrictions set in sections 23.2 to 23.5, inclusive, of the *Municipal Act, 2001*;

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

1. In this By-law:

“Chief Building Official” means the City’s Chief Building Official and includes the City’s Deputy Chief Building Officials as directed by the Chief Building Official or in his/her absence;

“City” means the geographical area of the City of Hamilton or the municipal corporation as the context requires;

“Council” means the City’s Council;

“dwelling unit” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals; and

“residential property” means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building or a building used as a lodging house, residential care facility, retirement home, long term care facility or hotel as defined under the City’s zoning by-laws.

Demolition Control Area

2. All of the lands within the boundaries of the City are designated as a demolition control area.

3. This By-law does not apply when:

(a) the demolition of a part of the residential property does not reduce the number of dwelling units;

(b) the residential property is owned by the City and the demolition is required for the imminent implementation of a City capital works project previously approved by Council, except if the residential property is designated under the Ontario Heritage Act;

(c) the residential property is a mobile home;

(d) the owner of the residential property has entered into a demolition agreement with City;

- (e) the residential property is exempted under any federal or provincial statute or regulation; or
- (f) the residential building has been found to be unsafe under section 15.9 of the Building Code Act, 1992 and an order has been issued under that section.

Delegation of Authority

- 4. Council delegates to the Chief Building Official power with respect to the issuing of demolition permits for routine applications which was given to Council under subsections 33(3) and 33(6) of the *Planning Act*.
- 5. For the purposes of section 4, “routine applications” include, but are not limited to, an application to demolish a residential building:
 - in an established neighbourhood when the standard conditions in section 6 would apply;
 - to facilitate a development under an approved site plan or approved draft plan of subdivision;
 - in a zone that does not permit a residential use;
 - when another non-residential use is permitted;
 - to facilitate land assembly for future development;
 - in the Rural Area when abutting lands would not be impacted.
- 6. A demolition permit issued by the Chief Building Official under section 4 may be subject to the following conditions:
 - (a) that the applicant for the demolition permit has applied for and received a building permit for a replacement building on the property;
 - (b) that the said building permit specifies that if the replacement building is not erected within two years of the demolition of the existing building on the property, the City be paid the sum of \$20,000 which sum:
 - (i) the City Clerk is authorized to enter on the collector’s roll and collect in like manner as municipal taxes; and
 - (ii) is a lien or charge on the property until paid; and
 - (c) that the applicant for the demolition permit has registered on title to the property notice of conditions (a) and (b) in a form satisfactory to the Chief Building Official and the City Solicitor.
- 7. The delegated power under section 4 does not include the power to:
 - (a) refuse to issue a demolition permit and where the Chief Building Official would refuse to issue a demolition permit, he/she shall so

advise Council which retains all power with respect to issuing or refusing to issue that demolition permit;

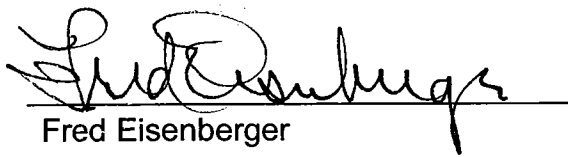
- (b) attach conditions as set out in section 6 to a demolition permit with which an owner of residential property is not in agreement and where this is the case, the Chief Building Official shall so advise Council which retains all power with respect to issuing or refusing to issue the demolition permit; or
- (c) issue or refuse to issue a demolition permit for a building designated under the Ontario Heritage Act.

8. The Chief Building Official is authorized to undertake all acts necessary to carry out the delegated power under section 4, including the authority to sign any required documents.

Title, Repeal and Effective Date

9. This By-law may be cited as the "Hamilton Demolition Control Area By-law" or the "Demolition Control Area By-law".
10. By-law 08-226 is repealed as of the day on which this By-law comes into force.
11. This By-law comes into force on the date of its passing.

PASSED and ENACTED this 30th day of September, 2009.



Fred Eisenberger
Mayor



Kevin C. Christenson
City Clerk