

**Authority:** Item 15, Economic Development  
and Planning Committee  
Report 010-001 (PDO02229(d))  
CM: January 27, 2010

**Bill No. 013.**

**CITY OF HAMILTON**

**BY-LAW NO. 10-013**

**To Amend: By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law No. 4513-99, the Town of Dundas Tree Protection By-law; By-law 4401-96, the City of Stoney Creek Tree By-law; By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth**

**WHEREAS** Council wishes to amend the appeal processes provided for in: By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law No. 4513-99, the Town of Dundas Tree Protection By-law; By-law No. 4401-96, the City of Stoney Creek Tree By-law; By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law;

**AND WHEREAS** the *City of Hamilton Act, 1999* did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is successor to the following former area municipalities: The Corporation of the Town of Ancaster, The Corporation of the Town of Dundas, The Corporation of the Town of Flamborough, The Corporation of the Township of Glanbrook, The Corporation of the City of Hamilton, and The Corporation of the City of Stoney Creek; and the successor the former Regional Municipality of Hamilton Wentworth;

**AND WHEREAS** the *City of Hamilton Act, 1999* provides that the by-laws of the former area municipalities and the former Regional Municipality of Hamilton Wentworth remain in force, in respect of the part of the municipal area to which they applied on

December 31, 2000, until they expire or are repealed or amended to provide otherwise;

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

**By-law No. 2000-118, the Town of Ancaster Tree Protection By-law**

1. Subsection 9.1 of By-law No. 2000-118 of the Town of Ancaster is deleted and replaced with following new subsection 9.1:

**9.1 APPEALS REGARDING PERMITS**

- 9.1.1 An appeal of the conditions imposed on a Permit or of a Permit refusal shall be conducted as set out in the Appeal Schedule attached to and forming part of this By-law.
2. By-law No. 2000-118 of the Town of Ancaster is amended by adding the Appeal Schedule, attached to this By-law as Schedule A.
3. Subsections 8.2 and 9.2 of By-law No. 2000-118 of the Town of Ancaster are deleted.
4. Sections 3 and 4 of Schedule "G" or By-law No. 2000-118 of the Town of Ancaster referring to an appeal are deleted.

**By-law No. 4513-99, the Town of Dundas Tree Protection By-law**

5. By-law No. 4513-99 of the Town of Dundas is amended by adding following new section 5a after section 5:

**5a. APPEALS**

An appeal of the conditions imposed on a permit or of a permit refusal shall be

conducted as set out in the Appeal Schedule attached to and forming part of this By-law.

6. By-law No. 4513-99 of the Town of Dundas is amended by adding the Appeal Schedule attached to this By-law as Schedule A.

**By-law No. 4401-96, the City of Stoney Creek Tree By-law**

7. Sections 22 and 23 of By-law No. 4401-96 of the City of Stoney Creek are deleted and replaced by the following new section:

**APPEAL TO THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE**

22. An appeal of the conditions imposed on a Permit or of a Permit refusal shall be conducted as set out in the Appeal Schedule attached to and forming part of this By-law.
8. By-law No. 4401-96 of the City of Stoney Creek is amended by adding the Appeal Schedule attached to this By-law as Schedule A.
9. Subsections 29(h) and (i) and section 33 and 34 of By-law No. 4401-96 of the City of Stoney Creek are deleted.
10. The third and fourth recitals of Schedule “E” of By-law No. 4401-96 of the City of Stoney Creek referring to an appeal are deleted.

**By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth**

11. Subsections 5(h) to (m) inclusive of By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth are deleted and replaced with the following new subsection:

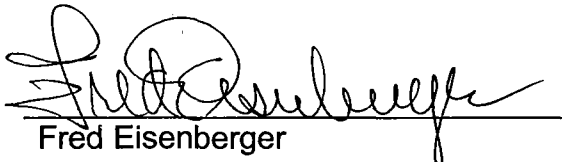
5(h) An appeal of a permit refusal shall be conducted as set out in the Appeal Schedule attached to and forming part of this By-law.

12. By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth is amended by adding the Appeal Schedule attached to this By-law as Schedule A. as schedule 'B'.

**General**

13. This By-law comes into force on the day it is passed.

**PASSED** this 27<sup>th</sup> day of January, 2010

  
Fred Eisenberger  
Mayor

  
Kevin C. Christenson  
City Clerk

Schedule A

**APPEAL SCHEDULE**

1. For the purposes of this Schedule:  
    “**applicant**” means an applicant for a permit under this By-law;  
    “**City**” means the City of Hamilton incorporated as of January 1, 2001 under the *City of Hamilton Act, 1999*;  
    “**Economic Development and Planning Committee**” means the City of Hamilton’s Economic Development and Planning Committee or any successor committee; and  
    “**permit**” means a permit under this By-law.
  
2. An applicant for a permit who does not agree with the conditions imposed in a permit or with the refusal of a permit may appeal by requesting a hearing before the Economic Development and Planning Committee which, in the place of City Council, shall hear the appeal.
  
3. A request for a hearing by an applicant under section 2 shall be in writing, accompanied by the applicable fee and delivered to the Clerk of Economic Development and Planning Committee within 20 days of the date the permit is refused. The applicant shall also include the grounds for their appeal.
  
4. Where a request for a hearing meeting the requirements of section 3 has been delivered to the Clerk of the Economic Development and Planning Committee, the hearing shall be scheduled before the Economic Development and Planning Committee and notice of the hearing date shall be given to the applicant who requested the hearing. The notice of hearing shall include:
  - (a) a statement of the time, date and purpose of the hearing; and
  - (b) a statement that if the applicant does not attend the hearing, the

Economic Development and Planning Committee may proceed in their absence without notice to them.

5. The notice of hearing under section 4 may be given by delivering it personally or by sending it by prepaid registered mail to the last known address of the applicant on file with the City. Service by registered mail shall be deemed to have taken place 5 business days after the date of mailing unless the person to whom it is being given establishes that they, acting in good faith, through absence, accident, illness or other cause beyond their control did not receive the notice of appeal until a later date.
6. The Economic Development and Planning Committee shall hold a hearing pursuant to the *Statutory Powers Procedure Act* at the time, date and place set out in the notice of hearing and the Economic Development and Planning Committee may recommend to Council that a permit be refused or issued or that a condition be confirmed, rescinded, varied or imposed on a permit.
7. The Economic Development and Planning Committee shall have regard to the following matters, where relevant, as may be raised at a hearing:
  - (a) this By-law and other applicable law;
  - (b) circumstances and facts raised by the evidence of the parties; and
  - (c) whether strict application of the provisions of the By-law in the context of the circumstances and facts raised by the evidence of the parties would result in unusual hardship for the applicant or be inconsistent with the general intent and purpose of this By-law.
8. The Economic Development and Planning Committee shall forward a report to City Council on its final decision arising from each hearing or opportunity for a hearing.
9. City Council, after considering a report of the Economic Development and Planning Committee, may refuse or issue a permit or confirm, rescind, vary or

impose a condition on a permit, all without a hearing, having regard to the matters considered by the Economic Development and Planning Committee,

this By-law and other applicable law.

10. After City Council has made a decision in respect of a report of the Economic Development and Planning Committee, notice of that decision shall be sent to the applicant by personal delivery or by registered mail to the last known address of the applicant on file with the City.