

Authority: Item 16, Economic Development
and Planning Committee
Report 10-016(PED10204)
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Bill No. 221

CITY OF HAMILTON

BY-LAW NO. 10-221

PROPERTY STANDARDS BY-LAW

Being a by-law to prescribe standards for the maintenance and occupancy of property and to repeal By-law No. 03-117.

WHEREAS Council of the City of Hamilton deems it desirable to establish standards for the maintenance and occupancy of certain properties, so that owners and occupants provide minimum standards for persons who may live at, attend or otherwise be affected by the condition of the properties;

AND WHEREAS section 15.1(3) of the Building Code Act, 1992 authorizes the City of Hamilton to pass a by-law prescribing standards for the maintenance and occupancy of property;

AND WHEREAS section 15.6(1) of the Building Code Act, 1992 provides for the establishment of a Property Standards Committee;

AND WHEREAS Part XII of the Municipal Act, 2001 and section 15.5 of the Building Code Act, 1992 authorize the City of Hamilton to charge fees for services and activities carried out under this By-law;

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

SHORT TITLE

1. This By-law may be referred to as the "Property Standards By-law" or the "Hamilton Property Standards By-law".

DEFINITIONS AND INTERPRETATION

- 2(1) In this By-law:

"basement" means that portion of a building from a floor to the underside of a ceiling that is located partially or entirely below the adjacent finished ground level;

"building" means any structure used or intended to be used for supporting or sheltering any use or occupancy;

“**Building Code**” means the Building Code Act, 1992 and any regulations made under that Act;

“**City**” means the municipality the City of Hamilton or the geographic area of the City of Hamilton as the context requires;

“**Committee**” means the Property Standards Committee established under this By-law;

“**debris**” means the remains of anything broken or discarded;

“**Director**” means the City’s Director of Municipal Law Enforcement and his or her designate or successor;

“**domesticated mouse or rat**” means a mouse or rat:

- (a) kept as a pet by an occupant of a dwelling or dwelling unit, normally in an enclosed cage or container within the dwelling or dwelling unit;
- (b) cared for and fed by the occupant, which care includes clean up and removal of mouse or rat waste and soiled rodent bedding from the dwelling or dwelling unit and cage or container; and
- (c) kept in compliance with any applicable animal-control laws or bylaws.

“**dwelling**”, except in subsection 31(4) where it has the ordinary meaning given to the term, means a lodging house or residential care facility both as defined in the City’s zoning by-laws.

“**dwelling unit**” means a room or a suite of rooms used or intended to be used by one or more persons for the purposes of human habitation and to which an independent entrance is provided from outside the building or from a common interior hallway vestibule or stairway but does not include a room or a suite of rooms in a lodging house, long-term care facility, hospital, hotel or residential care facility all as defined in the City’s zoning by-laws;

“**farm**” means an agricultural operation as defined in the Farming and Food Production Protection Act, 1998 and includes such an operation that is not carried on with the expectation of gain but otherwise meets the definition in that Act;

“**guard**” means a protective barrier, with or without openings through it, that is around openings in floors or at the open sides of stairs, landings, balconies, mezzanines, galleries, raised walkways or other locations to prevent accidental falls from one level to another;

“**habitable room**” means a bedroom, living room, dining room, kitchen, family room, recreation room, basement, bath or shower room, toilet room, laundry room and any other room or space in a dwelling or dwelling unit used for living, eating or sleeping;

“heritage attribute” means, in relation to real property, and to buildings and structures on real property, an attribute of the property, building or structure that contributes to its cultural heritage value or interest and that is defined or described:

- (i) in a by-law designating a property passed under section 29, Part IV of the Ontario Heritage Act and identified as a heritage attribute, reason for designation or otherwise;
- (ii) in a Minister’s order made under section 34.5, Part IV of the Ontario Heritage Act and identified as a heritage attribute or otherwise;
- (iii) in a by-law designating a heritage conservation district passed under section 41, Part V of the Ontario Heritage Act and identified as a heritage attribute or otherwise;

in the supporting documentation required for a by-law designating a heritage conservation district, including but not limited to a heritage conservation district plan, assessment or inventory, and identified as a heritage attribute or otherwise;

“Medical Officer of Health” means the City’s Medical Officer of Health or his or her designate;

“occupant” means any person or persons over the age of 18 years in possession of a property;

“occupancy” means the use or intended use of a building or part thereof for the shelter or support of persons, animals or property;

“officer” means a person appointed by the City of Hamilton or assigned by the Director to enforce this By-law and, for the purposes of section 26, means a Public Health Inspector or any other person assigned or appointed by the Medical Officer of Health to enforce that section;

“owner” includes:

- (i) an owner in fee simple;
- (ii) the person for the time being, managing or receiving the rent of the property in connection with which the word is used whether on the person’s own account, or as agent or trustee of any other person, or who would receive the rent if the property were let;
- (iii) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;

“Part IV heritage property” means real property, including all buildings and structures thereon, which has been designated by the City of Hamilton or any of its former municipalities under section 29 of the Ontario Heritage Act, or which has been designated by the Minister under section 34.5 of the Ontario Heritage Act;

“Part V heritage property” means real property, including all buildings and structures thereon, located within a heritage conservation district, which has been designated by the City of Hamilton or any of its former municipalities under section 41 of the Ontario Heritage Act;

“pest” means any mouse, rat, bed bug, flea, wasp, hornet or cockroach, but does not include any domesticated mouse or rat;

“property” means a building or structure, or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile structures, mobile buildings, mobile homes, outbuildings, fences, retaining walls, and erections thereon, whether heretofore or hereafter erected, and also includes vacant property, a Part IV heritage property and a Part V heritage property;

“property standards order” means an order made under subsection 28(1) of this By-law;

“protective device” means any mechanical device designed for the purpose of inhibiting movement by latching or automatic engagement or in any other reasonable manner;

“repair” includes the provision of such facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a property conforms with the standards established in this By-law;

“retaining wall” means a wall that holds back soil or loose material to prevent it from assuming the natural angle of repose at locations where a change in ground elevation occurs;

“sanitary sewage” means liquid or water borne waste:

- (i) of industrial or commercial origin; or
- (ii) of domestic origin, including human body waste, toilet or other bathroom waste, and shower, tub, culinary, sink and laundry waste;

“sewage system” means:

- (i) the City’s system of storm sewers, sanitary sewers and combined sewers; or
- (ii) a private sewage disposal system approved by the City’s Chief Building Official or other responsible authority;

“storm water” means water that is discharged from a surface as a result of rainfall, snowmelt, snowfall or other precipitation;

“visual barrier” means a barrier that acts as a screen consisting of:

- (i) a wall or fence;
- (ii) a continuous planting of suitable and healthy trees or shrubs;
- (iii) an earth berm; or
- (iv) any combination of the above.

“waste” means a substance or material that is unusable or unwanted; and

“yard” means the land within the boundary lines of a property and not occupied by any principal building.

- 2(2) All measurements in this By-law are given the metric short form.

SCOPE

- 3(1) No person, being the owner or occupant of a property, shall fail to maintain the property in conformity with the standards required in this By-law.
- 3(2) The owner of any property which does not conform to the standards in this By-law shall repair and maintain the property to conform to the standards or shall clear the property of all buildings, structures or debris and shall leave the property in a graded and levelled condition, provided that no building or structure on a Part IV heritage property or a Part V heritage property shall be altered or cleared, including but not limited to removed, demolished or relocated, except in accordance with the Ontario Heritage Act.
- 3(3) This By-law does not apply so as to prevent a farm from carrying out a normal farm practice as provided for and defined under the Farming and Food Production Protection Act, 1998.

GENERAL STANDARDS FOR ALL DESIGNATED HERITAGE PROPERTIES

- 4(1) In addition to the standards, obligations and requirements that apply to all property under sections 5 through 27 both inclusive, all heritage attributes of Part IV heritage properties, including both interior and exterior heritage attributes, and all heritage attributes of Part V heritage properties shall be:
- (a) maintained so as to prevent deterioration; and
 - (b) repaired of any damage.
- 4(2) Subject to any applicable provisions of the Ontario Heritage Act:
- (a) where subsection 4(1) can be complied with by means of repair, despite any other provision to the contrary, the heritage attribute shall not be replaced and the repair shall be undertaken in a manner that minimizes damage to the heritage attribute;
 - (b) where subsection 4(1) cannot be complied with by means of repair, despite any other provision to the contrary, the heritage attribute shall be replaced with material of the same type as the original material and in keeping with the design, colour, texture and any other distinctive feature as the original material or in such a manner as to replicate the design, colour, texture and any other distinctive feature of the original material.

- 4(3)(a) In addition to the standards, obligations and requirements that apply to all property under sections 5 through 27 both inclusive, a part of a Part IV heritage property or a Part V heritage property, including but not limited to a roof, wall, floor, retaining wall or foundation, that supports or protects a heritage attribute and without which the heritage attribute may be at risk of deteriorating or being damaged shall be structurally sound and maintained so as to properly perform its intended function.
- (b) Paragraph 4(3)(a) shall be complied with in a manner that minimizes damage to the heritage attribute.

GENERAL STANDARDS FOR ALL PROPERTIES

- 5(1) Except as may otherwise be specified in the sections, the standards, obligations and requirements in sections 6 through 27 both inclusive apply to all property.
- 5(2) Every building shall be kept free of any condition which constitutes a health or safety hazard.
- 5(3) This By-law does not apply to matters which, in the opinion of the Director, are minor in nature.

VACANT AND/OR DAMAGED BUILDINGS

- 6(1) In addition to complying with all other applicable provisions of this By-law, the owner of building that is vacant or is damaged by accident, storm, fire, neglect or otherwise shall comply with this section.
- 6(2) Where any building is vacant or is damaged by accident, storm, fire, neglect or otherwise, the owner shall protect such building and adjoining properties against damage arising from the entry of unauthorized persons by closing and securing openings to the building.
- 6(3) For the purposes of subsection 6(2), doors, windows, hatches and other openings through which entry may be obtained are required to be maintained so as to properly perform their intended function and secured from unauthorized entry, or entry shall be prevented by closing and securing an opening with:
- (a) wood sheathing of at least 12.7 mm plywood which is weather resistant, completely covers the opening, and is securely fastened to the building;
 - (b) metal sheathing which is weather resistant, completely covers the opening, where possible, is installed within the reveal of the exterior cladding, and is securely fastened to the building; or
 - (c) brick or concrete block and mortar which completely covers the opening, and is securely fastened to the building.
- 6(4) The options available in 6(3) shall be considered progressively more secure with (c) being the most secure, and the minimum standard imposed by subsection 6(3) shall be considered not to include the use of a less secure option which has, more than once, failed to exclude unauthorized entry.

- 6(5) At any time where there are circumstances to support a more secure option, including an option that is more secure than those listed in subsection 6(3), the owner shall supply such more secure option as may be required by a property standards order.
- 6(6) The exterior walls and other surfaces of a building that is vacant or is damaged by accident, storm, fire, neglect or otherwise shall be maintained so as to properly perform their intended function.
- 6(7) Where a building remains vacant for a period of more than 90 days, the owner shall ensure that all utilities serving the building, which are not required for safety or security are properly disconnected or otherwise secured, to prevent accidental or malicious damage to the building or adjoining property.

VACANT AND/OR DAMAGED DESIGNATED HERITAGE PROPERTIES

- 7(1) In addition to complying with all other applicable provisions of this By-law, the owner of building that is vacant or is damaged by accident, storm, fire, neglect or otherwise shall comply with this section.
- 7(2) Despite subsection 6(7), where a building on a Part IV heritage property or a Part V heritage property remains vacant for a period of more than 90 days, the owner shall ensure that appropriate utilities serving the building are connected as required to provide, maintain and monitor proper heating and ventilation to prevent damage caused to the building by fluctuating temperatures and humidity.
- 7(3) Despite subsections 6(3) and 6(4), where a building on a Part IV heritage property or a Part V heritage property is vacant or damaged by accident, storm, fire, neglect or otherwise, the owner shall protect the building against the risks described in subsection 6(2) and shall effectively prevent the entrance of all unauthorized person by closing and securing openings to the building with boarding:
 - (a) which completely covers the opening and is properly fitted in a watertight manner within the side jambs, the head jamb and the exterior bottom sill of the door or window opening so the exterior trim and cladding remains uncovered and undamaged by the boarding;
 - (b) on the window openings, which is painted a matte black to resemble window glass;
 - (c) on door openings, which is painted a colour that matches the colour of the original door;
 - (d) on an opening other than a window or door opening, which is painted or otherwise treated so that the colour matches the colour of the surrounding exterior of the building; and
 - (e) which is fastened securely with screws at least 50 mm in length and installed at appropriate intervals on centre.

- 7(4) Subject to any applicable provisions of the Ontario Heritage Act, the options available in 7(3) shall be considered progressively more secure with (e) being the most secure, and the minimum standard imposed by subsection 7(3) shall be considered not to include the use of a less secure option which has, more than once, failed to exclude unauthorized entry.
- 7(5) At any time where there are circumstances to support a more secure option, including an option beyond that is more secure than those listed in subsection 7(3), the owner shall supply such more secure option as may be required by a property standards order.
- 7(6) No window, door or other opening shall be closed or secured in accordance with subsection 7(3) with brick, concrete blocking or any other masonry units and mortar, except where required by a property standards order under subsection 7(4).

EXTERIOR OF BUILDINGS, STRUCTURES, FENCES AND RETAINING WALLS

All Exteriors

- 8(1) All exterior surfaces of a building, structure, fence or retaining wall, including a mobile structure or building, shall be of materials which resist deterioration by the weather or have resistant coatings applied to them, except that a farm building may have unprotected wood surfaces.
- 8(2) An exterior wall, chimney, roof or other parts of a building, structure, fence or retaining wall, including a mobile structure or building, shall be free from loose or insufficiently secured, rotten, warped or broken materials and objects and such material and objects shall be removed, repaired or replaced.

Exterior of a Building

- 8(3) The exterior of a building shall be:
- (a) maintained to prevent the entry of vermin and birds; and
 - (b) when opened or replaced during the course of alterations or renovations, shall be insulated in order to minimize heat loss, air infiltration and moisture condensation on the interior surfaces, in accordance with the Building Code.

Exterior Wall

- 8(4) An exterior wall and its components and attachments shall be:
- (a) maintained to prevent their deterioration by painting, restoring or repairing the walls, coping or flashing or by waterproofing the wall itself;
 - (b) repaired of vandalism or other damage including but not limited to broken windows.

Roof

- 8(5) A roof and its components and attachments including the fascia board, soffit, cornice and flashing shall be maintained to properly perform their intended functions including but not limited to being in a weather-tight condition able to prevent the leakage of water into the building;

DOORS, WINDOWS, ETC.

All Doors, Windows, Etc.

- 9(1) An exterior door, window, hatch or other opening and its frame shall be:
- (a) maintained to properly perform their intended functions including but not limited to being constructed to minimize drafts and heat losses through the infiltration of outside cold air; and
 - (b) repaired or replaced if damaged including but not limited to being rotted, missing weather-stripping, caulking or hardware or having broken glass.
- 9(2) A lock on a door, window, hatch or other opening that is designed to be unlocked with a key or combination shall be maintained so as to properly perform its intended function and repaired or replaced if damaged.

Doors

- 9(3) An exterior door or an entrance door to a dwelling, dwelling unit or a building containing more than 3 dwelling units shall have hardware so as to be capable of being locked from the outside and locked or otherwise secured from the inside.

Windows

- 9(4) An opening window shall have hardware so as to be capable of being locked or otherwise secured from the inside.
- 9(5) A window in a dwelling or a dwelling unit designed to be open shall be fitted with screens so as to prevent the entrance of insects and rodents and such screens shall be maintained so as to properly perform their intended function.
- 9(6)(a) Upon the written request of an occupant of a dwelling unit in which children under the age of 10 years are occupants, the owner of the dwelling unit shall subject to paragraph 9(6)(b), provide and install a protective device on any window that:
- (i) has a moveable sash; and
 - (ii) is more than 1.8 m above the adjacent finished ground level.
- (b) The protective device under paragraph 9(6)(a) shall be installed within 7 days of the delivery of the written request to the owner, the owner's agent or the building's manager or superintendent, provided that such person and the

occupant giving notice may agree that the protective device is not required on every such window that meets the requirements of paragraph 9(6)(a).

- (c) The protective device under paragraph 9(6)(a) shall be installed and secured in such a manner as to prevent opening of a window to any amount greater than 100 mm.
- (d) Where protective devices have not been installed on all of the windows of a dwelling unit that:
 - (i) have a moveable sash; and
 - (ii) are more than 1.8 m above the adjacent finished ground level,

the owner of the dwelling unit, if the owner is not an occupant of the dwelling unit, shall post or display a legible and clearly printed copy of subsection 9(6), conspicuously placed in the dwelling unit or the building containing the dwelling unit so as to be clearly visible to the occupants of the dwelling unit.

VENTILATION

10(1) Natural or mechanical ventilation of a room or space in a building shall be Building Code compliant and maintained so as to properly perform its intended function.

10(2) A vent shall be designed and maintained to prevent the entry of rain, snow and vermin.

STRUCTURES, FOUNDATIONS AND BASEMENTS

Structures

11(1) Every part of a property shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any additional weight that may be put on it through normal or permitted use, and having a factor of safety as required by the Building Code.

Foundations and Basements

11(2) A foundation wall or a basement or crawl space floor shall be maintained so as to properly perform its intended function.

Foundations

11(3) Every building, unless of concrete slab-on-grade design, shall be upon either full foundation walls or piers, and all footings, foundation walls, and piers shall be of concrete, masonry, or other material acceptable for construction under the provisions of the Building Code and shall be sound, reasonably plumb, and adequate to carry the loads imposed on them.

Basements

- 11(4) A basement or crawl space shall be maintained in a watertight condition so as to prevent the leakage of water into the building.

STAIRWAYS, LANDINGS, BALCONIES, PORCHES, ETC.

Means of Access or Egress

- 12(1) An exterior or interior stairway, landing, balcony, porch, ramp or other means of access or egress shall be maintained so as to be free of holes, cracks and other defects which may constitute a possible safety hazard.

All Exterior Stairways, Landings, Balconies and Porches

- 12(2) An exterior stairway, landing, balcony, porch or ramp shall be kept free of furniture or appliances, except for outdoor furniture on an exterior balcony or porch.

Treads and Risers

- 12(3) A tread or riser of an exterior or interior stairway that shows excessive wear or is broken, warped or loose and all supporting structural members that are rotted or deteriorated shall be repaired or replaced.

Guards, Handrails and Partial or Short Walls

- 12(4)(a) An exterior stairway with more than 3 risers and less than 7 risers or an interior stairway in a dwelling or dwelling unit with more than 2 risers shall have at least one handrail sufficient to prevent an accidental fall and such handrail shall be repaired or replaced if damaged.
- (b) Despite paragraph 12(4)(a), an exterior stairway with more than 3 risers and less than 7 risers may have a partial or short wall, on either side sufficient to prevent an accidental fall off the side of the exterior stairway and such partial or short walls shall be repaired or replaced if damaged.
- (c) Where access is provided for other than maintenance purposes:
- (i) an exterior stairway with more than 6 risers; or
 - (ii) a landing, porch, balcony, mezzanine, gallery, raised walkway or roof,
- with a difference in elevation at any point from the adjacent finished ground or a floor of more than 600 mm shall be protected by Building Code compliant guards on all open sides sufficient to prevent an accidental fall.

INTERIOR STRUCTURAL COMPONENTS, FLOORS, CEILINGS AND WALLS

Structural Components

13(1) In every building all structural components including but not limited to all joists, beams, studding, and roof rafters, shall be of sound material and adequate for the load to which they are subjected.

Floors, Ceilings and Walls

13(2) A floor, ceiling or wall shall be:

- (a) kept free from water penetration and from dampness arising from the entrance of moisture through an exterior wall or roof or through a basement or crawl space; and
- (b) maintained in a condition free from mould or from conditions that may cause mould to accumulate.

Floors

13(3) A basement shall have a floor of concrete, or other material acceptable under the Building Code, to ensure water drainage and to guard against the entry of vermin.

13(4) A floor shall be smooth and level and maintained so as to be free of all loose, warped, protruding, broken or rotted boards that may create an unsafe condition or surface.

13(5) Where a floor has been covered with a sheet or vinyl floor covering or other flooring that has become worn or torn so that it retains dirt or may create an unsafe condition, the sheet or vinyl floor covering or other flooring shall be repaired or replaced.

13(6) A bathroom, kitchen, laundry or shower room shall have a floor covering of water-resistant material.

Ceilings and Walls

13(7) A wall or ceiling shall be maintained in a condition free from holes, open cracks, loose coverings or other substantial defects.

PLUMBING SYSTEMS

Plumbing Systems and Fixtures

14(1) The plumbing system and every plumbing fixture in a building shall be maintained so as to properly perform its intended function and free from leaks and defects.

14(2) All piping used to supply or drain water and all appurtenances thereto shall be protected from freezing.

14(3) A plumbing fixture connected to the sewage system shall be connected through a water seal trap.

- 14(4) Sanitary sewage shall be discharged into the City sanitary sewer system where such a system exists, and elsewhere sanitary sewage shall be disposed of in a manner in accordance with the Building Code requirements for on-site sewage systems.

Hot and Cold Water

- 14(5) A building to which water is available under pressure through piping shall be provided with:
- (a) piping for hot water, at a temperature of not less than 43° C, and cold water connected to every kitchen, bath or shower room, or laundry room plumbing fixture; and
 - (b) piping for cold water connected to every toilet and hose bib.

Dwellings and Dwelling Units

- 14(6) A dwelling or dwelling unit shall be provided with an approved supply of potable water from at least one of the following sources:
- (a) the City water system;
 - (b) a communal water system; or
 - (c) a private source.
- 14(7)(a) A lodging house shall contain at least the following working plumbing fixtures:
- (i) a hand wash basin;
 - (ii) a toilet; and
 - (iii) a bathtub or shower.
- (b) A residential care facility or a dwelling unit shall contain at least the following working plumbing fixtures:
- (i) a kitchen sink;
 - (ii) a toilet;
 - (iii) a hand wash basin; and
 - (iv) a bathtub or shower.

KITCHENS AND BATH OR SHOWER ROOMS AND TOILET ROOMS

Kitchens

15(1) A kitchen shall contain:

- (a) a sink serviced with potable running water and a splash back which are water and grease resistant;
- (b) a work surface of at least .74 m², which is impervious to grease and water;
- (c) storage facilities for food, dishes and cooking utensils having an interior capacity of at least .8 m³, of sufficient strength that they will not collapse, tip or, if fastened to a wall, become detached when filled; and
- (d) space sufficient to accommodate a cooking range or countertop cooking unit and refrigerator without placing such cooking range, countertop cooking unit or refrigerator in a location that provides access to or egress from the kitchen.

Bath or Shower Rooms and Toilet Rooms

15(2) The floor and the walls to a minimum height of 0.9 m above the floor or bathtub of every bath or shower room and toilet room shall be water-resistant and readily cleaned.

15(3) Every bath or shower room and toilet room shall:

- (a) be located within and accessible from the interior of the building;
- (b) be fully enclosed, having a door capable of being closed so as to provide privacy for the occupant;
- (c) have a permanently installed working artificial lighting fixture; and
- (d) be maintained so as to properly perform its intended function.

15(4) A hand wash basin shall be located in the same room as each toilet or in an adjoining bath or shower room, provided that no sink in a kitchen shall be considered a hand wash basin for the purposes of this subsection.

15(5) No toilet or urinal shall be located within a habitable room except a bath or shower room, toilet room or other habitable room not used frequently or for extended periods for living, eating or sleeping.

Dwellings and Dwelling Units

15(6)(a) A lodging house shall contain a bath or shower room and a toilet room.

- (b) A residential care facility or a dwelling unit shall contain a kitchen, bath or shower room and a toilet room.

HEATING SYSTEMS

Heating Systems

- 16(1) A heating system shall be installed that is capable of supplying during normal hours of occupancy of the building sufficient heat to maintain a temperature of not less than 20° C measured at 1.5 m above floor level and 1 m from exterior walls in all habitable rooms not including a habitable room not used frequently or for extended periods for living, eating or sleeping.
- 16(2) A heating system shall be operated and maintained:
- (a) so as to properly perform its intended function;
 - (b) free from unsafe conditions.
- 16(3) No furnace or boiler shall be located in a hallway or other means of access or egress.
- 16(4) Except in the event of an emergency, no occupied building shall be equipped with portable heating equipment as the primary source of heat.
- 16(5) A heating system that is designed to burn solid or liquid fuel shall be provided with a properly constructed and located receptacle for fuel storage or a place for fuel storage so as to be free from fire or accident hazard.

Chimneys, Flues and Vent Pipes

- 16(6) A chimney, flue or vent pipe shall be maintained so as to prevent gases from leaking into a building and maintenance shall include cleaning obstructions, filling open joints and repairing masonry.
- 16(7) Fuel burning appliances or equipment used in a building shall be properly vented to the outside air by means of a Canadian Standards Association approved or Building Code or Gas Utilization Code compliant chimney, flue or vent pipe.

ELECTRICAL SERVICES

- 17(1) An electrical service shall comply with the Ontario Electrical Safety Code as enforced by the Electrical Safety Authority.

LANDSCAPING, ETC.

- 18(1) Where landscaping, parking areas, walkways, steps, hedges, trees, fences, curbs, or similar changes to a property have been required by the City as a condition of development or redevelopment, such works shall be repaired and maintained so as to ensure continuous compliance with the City requirements.

LIGHTING

- 19(1) A stairway, exterior exit and entrance doorway, bath or shower room, toilet room, kitchen, corridor, basement, laundry room and utility room in a building shall have

permanently installed working lighting that shall be maintained so as to properly perform its intended function.

- 19(2) A hallway, stairway, common area and underground parking area shall be illuminated so as to provide safe passage.
- 19(3) Lighting, including flood lighting, required as a condition of site development or redevelopment, shall be maintained so as to properly perform its intended function and in accordance with the recommended horizontal illuminance as set out under the I.E.S. Lighting Handbook (2000) as amended or replaced from time to time.
- 19(4) Subject to subsection 19(5), outdoor lighting and indoor lighting that can be seen outdoors shall be placed and maintained, or have a barrier placed and maintained, so as to prevent or block direct illumination of the interior of a dwelling or dwelling unit on adjoining property regardless of whether such dwelling or dwelling unit has or may have shades, drapes or other interior window coverings.
- 19(5) Subsection 19(4) does not:
- (a) apply to lighting located by a road authority;
 - (b) apply to property owned or occupied by a municipal, provincial or federal government or authority;
 - (c) require lighting used in conjunction with commercial, industrial, institutional, agricultural or recreational uses to be turned off at any time when the use is actually occurring, but may require the re-direction re-location or the placing of a barrier to comply with subsection 19(4);
 - (d) require lighting used to illuminate any area for emergency, security or public safety purposes to be turned off any time the illumination is necessary for those purposes, but may require the re-direction, re-location or the placing of a barrier to comply with subsection 19(4).

SWIMMING POOLS, TREES, WALKWAYS, PARKING LOTS, ETC.

Swimming Pools

- 20(1) The water in a privately owned swimming pool shall be kept clean and in a sanitary condition free from obnoxious odours.

Trees

- 20(2) A tree or part of a tree that is dead or damaged shall be:
- (a) removed; or
 - (b) maintained in a condition which is not hazardous to persons or property.

Walkways, Parking Lots, Etc.

- 20(3) The principal entrance of a building shall be accessed by a walkway leading to a road allowance or another hard-surfaced area, such as a driveway, leading to a road allowance.
- 20(4) Concrete wheel stops shall be installed where parking spaces are adjacent to a property line to protect fences and adjoining properties from damage.
- 20(5) An area used for vehicle traffic or parking shall be paved with bituminous, concrete or equivalent surfacing or surfaced with crushed stone or other suitable and reasonably dust-free substance, and shall be maintained so as to properly perform its intended function.
- 20(6) The surfaces of walkways, driveways, parking lots and similar areas of a yard shall be maintained so as to afford safe passage under their normal use.
- 20(7) Crushed stone surfaces shall be maintained free of dust and spillover onto sidewalks or grass surfaces.

STORM WATER, ETC.

- 21(1) Storm water including storm water discharged from a roof shall be drained from a yard so as to eliminate recurrent standing water or surface ponding, and such drainage shall:
 - (a) be directed or limited so as to prevent erosion or other damage to an adjoining property;
 - (b) shall not be permitted on a sidewalk, road allowance or stairway.
- 21(2) Discharge from a sump pump or an air conditioner shall not be permitted to discharge on adjoining property, a sidewalk, road allowance or stairway.
- 21(3) An eavestrough or downspout shall be maintained:
 - (a) watertight and free from leaks;
 - (b) free from any obstructions;
 - (c) in a stable condition, securely fastened to the building or structure it drains; and
 - (d) so as to properly perform its intended function.

FENCES, BARRIERS AND RETAINING WALLS

- 22(1) A fence, barrier, including a visual barrier, or retaining wall shall be maintained so as to properly perform its intended function.
- 22(2)(a) The owner of a property with a building containing 3 or more dwelling units, used as a dwelling or used for commercial, institutional or industrial purposes shall install and maintain a visual barrier between their property and an adjoining property where their property is used for:

- (i) the parking, access or egress of vehicles by tenants, employees or customers;
 - (ii) the operation of equipment;
 - (iii) the storage of goods; or
 - (iv) an exterior bulk or roll-off container disposal system.
- (b) A visual barrier under paragraph 22(2)(a) shall be:
- (i) required for the uses listed in subparagraphs 22(2)(a)(i), (ii), (iii) and (iv) to the extent that the uses can be seen from the finished ground level of the adjoining property;
 - (ii) not less than 1.2 m in height for the uses listed in subparagraphs 22(2)(a)(i), (ii) and (iii);
 - (iii) not less than 2 m in height for the use listed in subparagraph 22(2)(a)(iv).
- (c) For the purposes of this subsection "adjoining property" means a property that:
- (i) contains at least one dwelling unit; and
 - (ii) is not used for a commercial, institutional or industrial purpose, except if such purpose is a home business as defined in the City's zoning by-laws.
- (d) No visual barrier under paragraph 22(2)(a) shall be required within 3 m of a front property line or in contravention of any other applicable by-law.
- 22(3)(a) Despite subsection 22(2), the owner of a property used for a salvage business shall install and maintain a visual barrier between any outdoor area used for their salvage business and all adjoining properties including all adjoining road allowance.
- (b) A visual barrier under paragraph 22(3)(a) shall be not less than 2 m in height.
- (c) All material related to the use of a property as a salvage business that is not located indoors shall be:
- (i) enclosed within the visual barrier under paragraph 22(3)(a);
 - (ii) located not less than 1 m from the visual barrier under paragraph 22(3)(a); and
 - (iii) where located between 1 m and 5 m from the visual barrier under paragraph 22(3)(a), no higher than the visual barrier.
- (d) All activity related to the use of a property as a salvage business that is not located indoors shall be enclosed within the visual barrier under paragraph 22(3)(a).
- (e) Any opening required in the visual barrier under paragraph 22(3)(a) for ingress or egress shall be covered by a gate that:

- (i) is the same height as the visual barrier;
 - (ii) does not open over a traveled portion of road allowance including a sidewalk;
and
 - (iii) is kept clear of obstructions so that the gate may be opened fully at any time.
- (f) No visual barrier under paragraph 22(3)(a) shall be in contravention of any other applicable by-law.

22(4) Where a zoning by-law, site plan or subdivision agreement entered into under the Planning Act requires a visual barrier, the requirement in such zoning by-law, site plan or subdivision agreement prevails in the event of a conflict with subsections 21(2) or 21(3).

GARAGES

23(1) A garage shall be so maintained as to prevent gas fumes and carbon monoxide from entering a dwelling or a dwelling unit.

WASTE DISPOSAL

24(1) A waste storage area, including a waste chute, shall be kept clean and in a sanitary condition free from obnoxious odours.

24(2) Subject to subsection 24(3), a waste chute in a building containing 3 or more dwelling units shall be maintained in operation at all times.

24(3) A waste chute in a building containing 3 or more dwelling units shall not be closed to use except when:

- (a) such action is necessary in order to safely make repairs, replacements or alterations, and then only during the reasonable minimum time that such action is necessary; or
- (b)(i) the owner provides a waste storage area on each floor of the building and daily collection of waste from such waste storage areas; and
- (ii) the occupants are not required to deliver waste to the ground floor, basement or parking lot of the building.

ELEVATORS

25(1) An elevator shall comply with the Technical Standards and Safety Act, 2000 and its regulations as enforced by the Technical Standards and Safety Authority.

PESTS

26(1) A dwelling or a dwelling unit shall be kept free of infestation by pests.

- 26(2) The owner of a property located within the urban boundary of the City as defined in the Official Plan or Official Plans for the City shall keep the property free of infestation by pests.
- 26(3) For the purposes of subsections 26(1) and 26(2), an “infestation” includes the presence of one rat or mouse, and in the case of bed bugs, fleas, wasps, hornets or cockroaches means the presence of more than one such insect, and in the case of wasps or hornets includes the presence of any occupied nest inside or attached to the exterior of a building, structure or other erection.

OCCUPANCY STANDARDS

- 27(1) No room or space within a building shall be used for a purpose that is not compliant with the Building Code and applicable zoning by-laws.
- 27(2) A living room, dining room, kitchen, and bedroom shall have a minimum room height of not less than;
- (a) 1.9 m over the required floor area and in any location that would normally be used as a means of egress; or
 - (b) 2 meters over at least 50% of the required floor area,
- provided that any part of the floor having a clear height of less than 1.4 m shall not be considered in computing the required floor area.
- 27(3) A bedroom for one person shall have a floor area of at least 5.6 m² and a bedroom for two or more persons shall have a floor area of at least 3.3 m² per person, calculated by the measurement of such bedroom from the inside faces of its walls, exclusive of the floor area of any closet or other storage space and subject to subsection 27(4) below.
- 27(4) A bedroom shall have a minimum width of 1.8 m.

PROPERTY STANDARDS ORDER

- 28(1) If, after inspection, an officer is satisfied that in some respect the property does not conform with the standards prescribed in this By-law, he or she may issue an order and such order shall be served on the owner of the property and may be served on such other persons affected by it as the officer determines and a copy of the order may be posted on the property.
- 28(2) The order referred to in subsection 28(1) shall:
- (a) state the municipal address or the legal description of the property;
 - (b) give reasonable particulars of the repairs to be made or state that the property is to be cleared of all buildings, structures or debris and left in a graded and levelled condition, provided that no order in respect of a Part IV heritage property or a Part V heritage property shall state that any building or structure is to be altered or cleared, including but not limited to removed, demolished or relocated;

- (c) indicate the time for complying with the terms and conditions of the order and give notice that, if the repair or clearance is not carried out within that time, the municipality may carry out the repair or clearance at the owner's expense;
 - (d) indicate the final date for giving notice of appeal from the order; and
 - (e) be served or caused to be served:
 - (i) by personal service; or
 - (ii) by prepaid registered mail sent to the last known address of the person to whom notice is to be given or to that person's agent for service.
- 28(3) For the purposes of paragraph 28(2)(e)(ii), "last known address" of the owner includes but is not limited to the address provided to the City for the payment of property taxes for the property or the address for service on the title document for the property.

APPEAL OF A PROPERTY STANDARDS ORDER

- 29(1) An owner or occupant who has been served with a property standards order and who is not satisfied with the terms or conditions of the order may appeal to the Committee by sending a notice of appeal, including grounds for the appeal and the applicable fee as set out in the User Fees and Charges By-law, by registered mail to the secretary of the Committee within 14 days after being served with the order.
- 29(2) A property standards order that is not appealed within the time referred to in subsection 29(1) is deemed to be confirmed.
- 29(3) If an appeal is taken, the Committee shall hear the appeal and shall have all the powers and functions of the officer who made the property standards order and may,
- (a) confirm, modify or rescind the order to demolish or repair;
 - (b) extend the time for complying with the order,
- if, in the Committee's opinion, the general intent and purpose of this By-law are maintained.
- 29(4)(a) For the purposes of this By-law, where any portion of a fence or retaining wall:
- (i) does not conform to the standards under this By-law; and
 - (ii) is located touching or on the property line between adjoining properties at the adjacent finished ground level,
- that portion of the fence or retaining wall is deemed to be owned in equal shares by the owners of the adjoining properties.
- (b) Where available, the most recent survey obtained under subsection 31(5) in accordance with the Surveys Act showing a fence or retaining wall shall be deemed to be conclusive evidence of the location of the fence or retaining wall.

- (c) Despite paragraphs 29(4)(a) and (b), where provision is made for ownership of or responsibility for a fence or retaining wall that touches or is on the property line between adjoining properties under a City by-law other than this By-law or under any other City Council approved document, then that provision applies for the purposes of this By-law.
 - (d) In this subsection, “for the purposes of this By-law” includes but is not limited to for the purposes of a hearing before and decision of the Committee under section 29 and for the purposes of a determination of the amount of a lien under subsection 30(8).
- 29(5) The City or an owner or occupant or person affected by a decision under subsection 29(3) may appeal to a Judge of the Superior Court of Justice, who has the same powers and functions as the Committee, by notifying the City Clerk in writing and by applying to the Superior Court of Justice for an appointment within 14 days after the sending of a copy of the decision.
- 29(6) A property standards order that is deemed to be confirmed or modified by the Committee or Judge, shall be final and binding upon the owner and occupant who shall carry out the repair or demolition within the time and in the manner specified in the order.

COMPLIANCE

- 30(1) An owner or occupant of a property shall:
- (a) comply with all standards prescribed in this By-law;
 - (b) comply with a property standards order or any other order made under this By-law;
 - (c) ensure that compliance with this By-law is carried out in a manner that avoids conditions dangerous to the owner, occupants or visitors to the property or that adequate warning is given where such dangerous conditions are unavoidable.

Offences and Fines

- 30(2) Subject to subsection 30(3), a person who fails to comply with a property standards order which is final and binding, any other order, a direction or a requirement made under this By-law is guilty of an offence and upon conviction shall be liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for any subsequent offence.
- 30(3) If a corporation is convicted of failing to comply with a property standards order which is final and binding, any other order, a direction or a requirement made under this By-law, the maximum penalty that may be imposed on the corporation is \$100,000 for a first offence and \$200,000 for any subsequent offence.

Power of City to Repair or Demolish

- 30(4) If the owner or occupant of a property fails to comply with a final and binding property standards order, the City may cause the property to be repaired or demolished in accordance with such order.

- 30(5) The City or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection 30(4).
- 30(6) Despite subsection 30(4), no building or structure on a Part IV heritage property or a Part V heritage property may be altered or cleared, including but not limited to removed, demolished or relocated, except in accordance with the Ontario Heritage Act.
- 30(7) Where the cost of doing the work necessary for compliance with the property standards order under subsection 30(4):
- (a) does not exceed \$20,000, the Director is authorized to carry out the work;
 - (b) does exceed \$20,000, the Director shall seek authorization from City Council to carry out the work.
- 30(8) Upon completion of the work necessary for compliance with the property standards order under subsection 30(4), the City shall have a lien on the property for the amount spent on the repair or demolition and the amount shall have priority lien status as described in section 1 of the Municipal Act, 2001 which, amongst other things, means the amount may be added to the tax roll for the property and collected in the same manner as property taxes.

Certificate of Compliance

- 30(9) When, after an inspection, an officer is of an opinion that a property is in compliance with this By-law:
- (a) an owner of the property shall; or
 - (b) any other person may,

be issued a certificate of compliance upon submitting a completed application form and paying the applicable fee as set out in the User Fees and Charges By-law.

Registration of Property Standards Order

- 30(10) A final and binding property standards order may be registered in the land registry office on title to the property to which it applies and, upon such registration, any person acquiring any interest in the property subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served under section 28.
- 30(11) Where an officer determines there is compliance under this By-law with a property standards order issued and registered on the title to a property, the Director on behalf of the City Clerk shall forthwith register in the land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of such order.
- 30(12) An owner or occupant may apply for a discharge of a property standards order issued and registered on title to a property by submitting a completed application form and paying the applicable fee as set out in the User Fees and Charges By-law and where,

upon inspection of the property by an officer, compliance with the order is found, the discharge shall be registered by the Director on behalf of the City Clerk.

ADMINISTRATION AND ENFORCEMENT

Director and Officers

- 31(1) The Director is assigned the responsibility of administering and enforcing this By-law and the applicable provisions of the Building Code and may assign duties to such persons as necessary to carry out administration and enforcement of this By-law and the applicable provisions of the Building Code.
- 31(2) Persons appointed or assigned the responsibility of administering or enforcing this By-law and the applicable provisions of the Building Code are officers, and have the authority to carry out such responsibilities.

Rights To Enter And To Inspect

- 31(3) An officer acting under this By-law may, at any reasonable time and upon producing proper identification, enter upon a property without a warrant for the purpose of inspecting the property to determine:
 - (a) whether the property conforms with the standards prescribed in this By-law, or
 - (b) whether a property standards order has been complied with.
- 31(4) Despite subsections 31(3), an officer shall not enter or remain in any room or place actually used as a dwelling unless:
 - (a) the consent of the occupant is obtained, the occupant first having been informed that the right of entry may be refused and entry made only under the authority of a warrant issued under the Building Code;
 - (b) a warrant issued under the Building Code is obtained;
 - (c) the delay necessary to obtain the consent of the occupant or a warrant would result in immediate danger to the health or safety of any person;
 - (d) the entry is necessary to terminate a danger under subsection 15.7(3) of the Building Code; or
 - (e) the entry is necessary to repair or demolish under subsection 30(4) and, within a reasonable time before entering the room or place to be repaired or demolished, the officer serves the occupant with notice of his or her intention to enter it.
- 31(5) For the purposes of an inspection under subsection 31(3), an officer may,
 - (a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the property or any part thereof;
 - (b) inspect and remove documents or things relevant to the property or part thereof for the purpose of making copies or extracts;

- (c) require information from any person concerning a matter related to a property or part thereof;
 - (d) be accompanied by a person who has special or expert knowledge in relation to a property or part thereof;
 - (e) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and
 - (f) order the owner of the property to take and supply at the owner's expense such tests and samples as are specified in the order.
- 31(6) Any cost incurred by the City in exercising its authority to inspect under paragraph 31(5) including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the owner or occupant of the property where the inspection takes place.
- 31(7) An employee or agent of the City may enter property at any reasonable time without a warrant for the purposes of causing the property to be repaired or demolished pursuant to s. 30(4) in accordance with a final and binding property standards order.

Property Standards Committee

- 31(8) A Committee to be known as the Property Standards Committee of the City of Hamilton is established.
- 31(9) The Committee shall consist of 5 residents of, or property owners in the City, to be appointed by Council with a 4-year term, or such shorter term as may be determined by Council.
- 31(10) Despite subsection 31(9), a member of the Committee shall hold office until his or her successor has been appointed.
- 31(11) Any vacancy on the Committee shall be filled forthwith.

SEVERANCE AND CONFLICT

- 32(1) If a court of competent jurisdiction declares any provision or provisions of this By-law invalid, such provision or provisions are deemed to be severable and it is the intention of Council that the remainder of the By-law shall continue to be in force
- 32(2) Where a provision of this By-law conflicts with the provision of another by-law, Act or regulation in force within the City, the provision that establishes the higher standard to protect the health and safety of persons prevails.

ORDERS, PROCEEDINGS AND OTHER ACTIONS CONTINUED

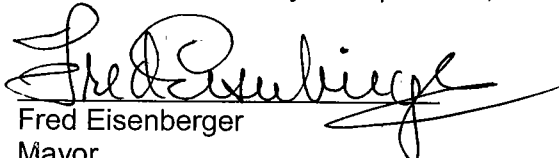
- 33(1) Any order issued, proceeding being conducted or other action being carried out under By-law No. 03-117 shall be deemed to continue under this By-law, and any reference to By-law No. 03-117 in such order, proceeding or other action shall be deemed to refer to this By-law.


REPEAL AND COMING INTO FORCE

34(1) By-law No. 03-117 is repealed as of the day on which this By-law comes into force.

34(2) This By-law comes into force on the date of its passing.

PASSED this 15th day of September, 2010.


Fred Eisenberger
Mayor


Rose Cateni
City Clerk