

**By-Law Number 2015-XX****A By-Law to Amend By-Law Number 2005-100 "A By-law for Prescribing Standards for the Maintenance and Occupancy of Property within The City of Kingston"****Passed:** Meeting date, 2014

The Council of the Corporation of the City of Kingston hereby enacts as follows:

1. By-Law Number 2005-100 of The Corporation of The City of Kingston entitled "A By-Law For Prescribing Standards For The Maintenance And Occupancy Of Property Within The City of Kingston", is hereby amended as follows:
  - 1.1 The second "Whereas" clause is hereby amended by adding the words "as amended" thereto, and capitalizing the word "Standards", so it shall now read as follows:

**"And Whereas** Section 15.1 (3) of the *Building Code Act*, 1992, S.O. 1992, c.23 as amended provides that a by-law may be passed by the Council of a municipality prescribing the Standards for the Maintenance and occupancy of Property within the municipality provided the Official Plan for the municipality includes provisions relating to Property conditions;"
  - 1.2. The third "Whereas" clause is hereby amended by adding the words "S.O. 1992, c. 23 as amended" thereto, so it shall now read as follows:

**"And Whereas** the Council of The Corporation of the City of Kingston desires that a By-Law be enacted pursuant to Section 15.1 (3) of the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended within the limits of the City of Kingston,"
  - 1.3. Add one new "Whereas" clause after the third "Whereas" clause, which shall read as follows:

**"And Whereas** Sections 35.3 (1) and 45.1 (1) of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended provide that a By-Law may be passed by the Council of a municipality prescribing minimum Standards for the Maintenance of the Heritage Attributes of Designated Heritage Properties within the municipality, and requiring that Designated Heritage Properties that do not comply with those Standards be Repaired and Maintained to conform with those Standards;
  - 1.4 The fourth (now fifth) "Whereas" clause is hereby amended by adding the words "as amended" thereto, so it shall now read as follows:

**"And Whereas** Section 15.6 (1) of the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended requires that a By-Law passed under Section 15.1 (3) of the Act shall provide for the establishment of a property standards committee;"
  - 1.5. The fifth (now sixth) "Whereas" clause is hereby amended by deleting the words "the following" and adding the letter "a" and capitalizing the word "by-law",

“maintained”, “repaired”, and “property” so the fourth “Whereas” clause shall now read as follows:

**“And Whereas** the Council of The Corporation of the City of Kingston deems it desirable to enact and pass a By-Law for prescribing Standards for the Maintenance and occupancy of Property within the City of Kingston and prohibiting the use of such Property that does not conform to the Standards; and for requiring Property below the Standards herein to be Repaired and Maintained to comply with the Standards, or the land thereof to be cleared of all buildings or structures and left in a graded and level condition;”

- 1.6. Add a new “Whereas” clause after the sixth “Whereas” clause, which shall read as follows:

**“And Whereas** the Council of The Corporation of the City of Kingston deems it desirable to enact and pass a By-Law for prescribing the minimum Standards for the Maintenance of the Heritage Attributes of Designated Heritage Properties within the municipality;”

- 1.7. Section 1, the definition of “Accessory Building” is hereby amended by capitalizing the word “property”, so the definition of “Accessory Building” shall read as follows:

**““Accessory Building”** means a detached building, out-building or structure, the use of which is incidental to the primary use of the Property;”

- 1.8. Section 1 is hereby amended by adding a new definition, which shall read as follows:

**““Built Heritage Specialist”** means a person with heritage experience and who is a member of the Canadian Association of Heritage Professionals and/or a member of the Royal Architectural Institute of Canada;”

- 1.9. Section 1, the definition of “Committee” is hereby amended by adding the word “Appeals” before the word “Committee” as part of the defined term, and adding the phrase “1992, S.O. 1992, c.23 as amended” thereto, so the definition shall now read as follows:

**““Appeals Committee”** means the committee referred to in Section 15.6 of the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended to hear appeals of Property standards orders issued under this By-Law;”

- 1.10. Section 1, the definition of “Corporation” is hereby amended by deleting the word “Corporation” and adding the word “City”, so the definition shall now read as follows:

**““City”** means The Corporation of the City of Kingston;”

1.11. Section 1, the definition of “Character defining element” is hereby deleted in its entirety.

1.12. Section 1 is hereby amended by adding a new definition, which shall read as follows:

“**Crawl Space**” means an enclosed space between the underside of a floor assembly and the ground cover directly below, with a clearance less than 1800 mm in height.”

1.13. Section 1, the definition of “Designated Heritage Property” is hereby amended by adding the words “R.S.O. 1990, c. 23 as amended’ thereto, so that the definition shall now read as follows:

“**Designated Heritage Property**” means Property designated under Part IV or Part V under the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended;”

1.14. Section 1 is hereby amended by adding a new definition, which shall read as follows:

“**Designation By-Law**” means a By-Law enacted by City Council pursuant to Section 29 or Section 41 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended that identifies Property and/or a defined area or areas to be of cultural heritage value or interest.”

1.15. Section 1, the definition of “Dwelling” is hereby amended by adding the words “or intended to be used for” thereto, so the definition shall now read as follows:

“**Dwelling**” means a building or structure or part of a building or structure occupied or capable of being occupied in whole or in part or intended to be used for the purposes of human habitation;”

1.16. Section 1 is hereby amended by adding a new definition which shall read as follows:

“**Heritage Attributes**” shall have the meaning set out in the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended and for greater certainty means:

a) in relation to real Property, and to the buildings and structures on the real Property, the attributes of the Property, buildings and structures that contribute to their cultural heritage value or interest and that are defined, described or that can be reasonably inferred:

i) in a By-Law designating a Property passed under Section 29 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended and identified as heritage attributes, values, reasons for designation or otherwise;

- ii) in a Minister's order made under Section 34.5 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended and identified as heritage attributes, values, reasons for designation or otherwise;
  - iii) in a By-Law designating a heritage conservation district passed under Section 41 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended and identified as heritage attributes, values, reasons for designation or otherwise; or
  - iv) 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 heritage attributes, reasons for designation or otherwise;
- b) the elements, features, or building components that support or protect the Heritage Attributes, without which the Heritage Attributes may not be conserved, including but not limited to roofs, walls, floors, retaining walls, foundations and structural systems;”
- 1.17. Section 1 is hereby amended by adding a new definition which shall read as follows:
- ““Heritage Conservation District”** means a geographic district established under Part V of the *Ontario Heritage Act*, R.S.O.1990, c.O.18, as amended;”
- 1.18. Section 1 is hereby amended by adding a new definition which shall read as follows:
- ““Heritage Conservation District Plan”** means a plan adopted by Council under Part V of the *Ontario Heritage Act*, R.S.O.1990, c.O.18, as amended to provide direction in the preservation of the Heritage Attributes of a Heritage Conservation District;”
- 1.19. Section 1 is hereby amended by adding a new definition which shall read as follows:
- ““Listed Property”** means Property that City Council has determined to be of cultural heritage value or interest;”
- 1.20. Section 1, the definition for “Maintenance” which reads as follows, is hereby deleted in its entirety:
- ““Maintenance”** means routine, cyclical, non-destructive actions necessary to slow the deterioration of a historic place including but not limited to: periodic inspection; general Property cleanup; general gardening and repair of landscape features; replacement of broken glass in windows; replacement of asphalt shingles in a same or similar colour; re-pointing of areas under 1.5 square metres; and/or any work defined as maintenance within a Designating By-Law.”

- 1.21. Section 1, the definition for “Multiple Dwelling” is hereby amended by capitalizing the words “dwelling units”, so the definition shall now read as follows:

**“Multiple Dwelling”** means a building containing three or more Dwelling Units”

- 1.22. Section 1, the definition of “Multiple Use Building” is hereby amended by capitalizing the words “dwelling unit” and “non-residential property”, so the definition shall now read as follows:

**“Multiple Use Building”** means a building containing both a Dwelling Unit and a Non-Residential Property;”

- 1.23. Section 1, the definition of “Non-Habitable Room” is hereby amended by capitalizing the words “dwelling”, “dwelling unit”, “habitable room”, “bathroom” and “basement”, so the definition shall now read as follows:

**“Non-Habitable Room”** means any room in a Dwelling or Dwelling Unit other than a Habitable Room and includes Bathroom, boiler room, laundry, pantry, lobby, communicating corridor, stairway, closet, Basement, boiler room or other space for service and Maintenance of the Dwelling for public use, and for access to and vertical travel between storeys;”

- 1.24. Section 1, the definition of “Non-Residential Property” is hereby amended by adding the words “or part of a building or structure” thereto, so the definition shall now read as follows:

**“Non-Residential Property”** means a building or structure or part of a building or structure not occupied or capable of being occupied in whole or in part for the purposes of human habitation and includes the land and premises appurtenant thereto and all out-buildings, fences or erections thereon or therein;”

- 1.25. Section 1, the definition for “Occupant” is hereby amended by adding the words “over the age of 18 years” thereto, so the definition shall now read as follows:

**“Occupant”** means any person or persons over the age of 18 years who appears to be in possession of the Property;”

- 1.26. Section 1, the definition for “Officer” is hereby amended by removing the word “Corporation” therefrom and adding the words “City” and “his or her” thereto, and capitalizing the words “property”, “standards”, “officer”, “provincial”, “offences”, and “officer”, so that the definition shall now read as follows:

**“Officer”** means a Property Standards Officer and/or a Provincial Offences Officer of the City who has been assigned the responsibility of administering and enforcing this By-Law and includes the Chief Building Official or his or her designate;”

- 1.27. Section 1, the definition of “Owner” is hereby deleted in its entirety and replaced with the following, so that the definition shall now read as follows:

“**Owner**” means any person having control over any portion of the building or Property and includes:

- (a) the person for the time being managing or receiving the rent of the land or premises 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 such land and premises were let; and
- (b) 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;”

- 1.28. Section 1, the definition of “Person” is hereby deleted in its entirety and replaced with the following, so that the definition shall now read as follows:

“**Person**” means an individual, firm, corporation, association or partnership;”

- 1.29. Section 1, the definition of “Property” is hereby amended by adding the words “Listed Property and Designated Heritage Property” thereto, and capitalizing the words “vacant property”, so that the definition shall now read as follows:

“**Property**” means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, out-buildings, fences and erections thereon whether heretofore or hereafter erected and includes Vacant Property, Listed Property and Designated Heritage Property;”

- 1.30. Section 1, the definition of “Repair” is hereby deleted in its entirety and replaced with the following, so that the definition shall now read as follows:

“**Repair**” includes the provision of such facilities or the taking of any action as may be required so that the Property shall conform to the Standards established in this By-Law, including but not limited to restoring, renovating and mending as a result of decay, dilapidation, or partial destruction (as from fire);”

- 1.31. Section 1, the definition of “Residential Property” is hereby amended by deleting the word “dwelling” and adding the word “Property” thereto, and capitalizing the words “Property” and “Yards”, so that the definition shall now read follows:

“**Residential Property**” means any Property that is used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals, and includes any land or buildings that are appurtenant to such establishment and all steps, walks, driveways, parking spaces and fences associated with the Property or its Yard;”

- 1.32. Section 1, the definition of “Sign and Signs” is hereby deleted in its entirety and replaced with the following, so that the definition shall now read as follows:
- “**Sign**” means any surface upon which there is printed, projected or attached, any announcement, declaration or insignia used for direction, information, identification, advertisement, business promotion or promotion of products, activity or services, and includes a structure, whether in a fixed location or designed to be portable or capable of being relocated, or part thereof specifically designed for the foregoing uses, including but not limited to flags, banners, advertising devices, blimps, balloons and models.”
- 1.33. Section 1, the definition of “Standards” is hereby amended by capitalizing the word “property”, so that the definition shall now read as follows:
- “**Standards**” means the standards of physical condition and of occupancy prescribed for Property by this By-Law;”
- 1.34. Section 1, the definition of “Yard” is hereby amended by deleting the word “dwelling” therefrom and adding the words “Residential or Non-Residential Property” and “Property and also deleting therefrom “with the dwelling” and adding the words “in connection with the Property and includes a vacant lot”, so the definition shall now read as follows:
- “**Yard**” means the land, other than publicly owned land, around or appurtenant to the whole or any part of a Residential or Non-Residential Property and used or intended to be used or capable of being used in connection with the Property and includes a Vacant Lot.”
- 1.35. Section 2, subsection 2.1 is hereby amended by capitalizing the words “by-law”, “property” and “city”, so that subsection 2.1 shall now read as follows:
- “2.1 This By-Law shall apply to all Property within the limits of the City.”
- 1.36. Section 2, subsection 2.2 is hereby amended by capitalizing the word “properties”, so that subsection 2.2. shall now read as follows:
- “2.2 Notwithstanding Section 2.1, the following Properties are exempt from the requirements of this By-Law:”
- 1.37. Section 2, subsection 2.2.1 is hereby deleted in its entirety and replaced with the following, so that section 2.2.1 shall now read as follows:
- “2.2.1 Property owned by the City; and”
- 1.38. Section 2, subsection 2.2.2. is hereby amended by capitalizing the words “Farm” and “Buildings”, so that Section 2.2.2 shall now read as follows:
- “2.2.2. Farm Buildings and lands which are being used for agricultural and farm purposes and are located within an agricultural zone.”

1.39. Section 2 is hereby amended by add a new Section 2.3 which shall read as follows:

“2.3 Notwithstanding Section 2.2, Farm Buildings located on Designated Heritage Properties are subject to the requirements of Part 7 of this By-Law.”

1.40. Section 3, subsection 3.1 is hereby amended by deleting the word “is” therefrom adding the words “and the heritage staff of the Planning and Development Department are” thereto, so that subsection 3.1 shall now read as follows:

“3.1 The Planning, Building and Licensing Department are responsible for the administration and enforcement of this By-Law.”

1.41. Section 4, subsection 4.1 is hereby amended deleting the word “Corporation” therefrom and adding the word “City” thereto, and capitalizing the word “property”, so that subsection 4.1 shall now read as follows:

“4.1 General Standards set out in Section 4, the following regulations, shall apply to all Property within limits of the City.”

1.42. Section 4, subsection 4.2 is hereby amended deleting the word “Corporation” therefrom and adding the word “City” thereto, and capitalizing the words “repairs”, “maintenance”, “property” and “by-laws”, so that subsection 4.2 shall now read as follows:

“4.2 All work, Repairs and Maintenance of Property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship and shall conform to all other By-Laws of the City, codes and statutes as applicable.”

1.43. Section 4, subsections 4.6 and 4.7 are hereby amended by capitalizing the words “accessory” and “buildings”, and amending subsection 4.7 to include the words “in accordance with By-Law Number 2008-28, *‘A By-Law to Regulate the Use of Pesticides on Lawns Within the City of Kingston’*” after the words “necessary steps” so that subsections 4.6 and 4.7 shall now read as follows:

“4.6 Exteriors of Accessory Buildings shall be weather resistant. Where Accessory Buildings have been painted or otherwise treated, they shall be Maintained so as to be free of peeling paint or other coatings.

4.7 Where an Accessory Building, fence, retaining wall or the land may harbour an infestation of insects or rodents all necessary steps, in accordance with By-Law Number 2008-28, *‘A By-Law to Regulate the Use of Pesticides on Lawns Within the City of Kingston’*, shall be taken to eliminate the insects or rodents and to prevent their reappearance.”



- 1.44. Section 4, subsection 4.8 is hereby amended by capitalizing the word “owner” and “maintained”, so that subsection 4.8 shall now read as follows:

“4.8 All appliances, equipment, accessories and installations provided by the Owner shall be installed and Maintained in good repair and working order and used for their intended purposes.”

- 1.45. Section 4, subsection 4.14 is hereby amended by removing the word “and” after the word “weather” therefrom and adding the words “and vegetative covering” after the word “insects” thereto, and capitalizing the word “maintained” and “repairing”, so that subsection 4.14 shall now read as follows:

“4.14 Exterior walls of buildings and their components including soffit and fascia shall be Maintained so as to prevent their deterioration due to weather, insects, and vegetative covering, and shall be so Maintained by painting, restoring, or Repairing the walls’ coping or flashing and by waterproofing of joints.”

- 1.46. Section 4, subsection 4.16 is hereby amended by removing the word “and” after the word “rodents”, and adding the words “and roots” after the word “moisture”, and capitalizing the word “maintained” so that subsection 4.16 shall now read as follows:

“4.16 Foundation walls of a building shall be Maintained so as to prevent the entrance of insects, rodents, moisture and roots. Maintenance includes shoring of the walls, installing sub-soil drains at the footings, grouting masonry cracks, parging, damp proofing and waterproofing walls and joints and using other suitable means of Maintenance.”

- 1.47. Section 4 is hereby amended by capitalizing the word “maintained” and by adding a new subsection 4.20 which shall read as follows, and renumber the remaining sections accordingly:

**“Landscaping, etc.**

4.20 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 undertaken and Maintained so as to ensure continuous compliance with the City requirements.”

- 1.48. Section 4, subsections 4.37 and 4.38 (formerly 4.36 and 4.37) are hereby amended by capitalizing the word “repaired”, so that subsections 4.37 and 4.38 shall now read as follows:

“4.37 Improperly secured objects and materials shall be either removed, Repaired or replaced.

4.38 Materials which have been damaged or show evidence of rot or other deterioration shall be Repaired or replaced.”

- 1.49. Section 4, subsection 4.40 (formerly 4.39) is hereby amended by capitalizing the words “bathroom”, “toilet room”, and “maintained” so that subsection 4.40 shall now read as follows:
- “4.40 The floor of every kitchen or area where food or drink is prepared and every Bathroom floor and every Toilet Room floor, where the toilet is in a separate room, shall be Maintained so as to be impervious to water and so as to permit cleaning.”
- 1.50. Section 4, subsection 4.42.5 (formerly 4.41.5) is hereby amended by deleting the word “decayed” therefrom, so that subsection 4.42.5 shall now read as follows:
- “4.42.5 dead or damaged trees and branches thereof by removal;”
- 1.51. Section 4, subsection 4.42 is hereby amended by adding a new section 4.42.11, which shall read as follows:
- “4.42.11. dog faeces or other animal faeces”
- 1.52. Section 4, subsection 4.44 (formerly 4.43) is hereby amended by capitalizing the word “dwelling”, so that subsection 4.44 shall read as follows:
- “4.44 Furniture outside of a Dwelling that becomes dilapidated shall be disposed of.”
- 1.53. Section 4, subsection 4.46 (formerly 4.45) is hereby amended by capitalizing the words “maintenance” and “property”, so that subsection 4.46 shall now read as follows:
- “4.46 If a building is vacant, all water and electrical power shall be turned off other than that required for security and Maintenance of the Property.”
- 1.54. Section 4, subsection 4.47 (formerly 4.46) is hereby amended by capitalizing the words “owner”, “vacant”, “property” and “by-law”, so that subsection 4.47 shall now read as follows:
- “4.47 The Owner of Vacant Property shall Maintain the Property in accordance with this By-Law or demolish such buildings and the site left in a graded and level condition in compliance with other parts of this By-Law.”
- 1.55. Section 4 is hereby amended by adding new subsections 4.48 and 4.49 following subsection 4.47, which shall read as follows, and renumber the remaining sections accordingly:
- “4.48 Notwithstanding Section 4.47, Vacant Property that is located on Designated Heritage Property is subject to the requirements of Part 7 of this By-Law.
- 4.49 Notwithstanding Section 4.47, Vacant Property that is located on Listed Property is subject to the requirements of Section 7.6 of this By-Law.”

1.56. The following sections are hereby deleted in their entirety:

**“Properties Protected under the Part IV and Part V of the *Ontario Heritage Act***

4.50 In addition to the minimum standards for the maintenance and occupancy of a Property in the City as set out in this By-law, the owner or occupant of a protected heritage Property shall:

- a) Maintain, conserve, and protect the character defining elements as identified within the Property’s Designation By-law and/or as identified within a Heritage Conservation District Plan to Maintain the heritage character, visual, and structural integrity of any and all buildings, structures, or constructions located on the real Property.
- b) Maintain the Property in a manner that will ensure the protection and conservation of the character defining elements.

**Altering Designated Heritage Properties**

4.51 Despite any other provision of this By-law or the Building Code Act, 1992, no protected heritage Property shall be altered except as maintenance pursuant to this by-law or pursuant to approval requirements under the Ontario Heritage Act.

**Repair of Character Defining Elements**

4.52 Despite any other provision in this By-law, where a character defining elements of a designated heritage Property can be repaired, the character defining element shall not be replaced and shall be repaired as follows:

- a) In a manner that minimizes damage to the character defining element based upon recognized national and international best practices.
- b) In a manner that Maintains the design, colour, texture, grain, or other distinctive feature of the character defining element.
- c) Using the same material as the original and in keeping with the design, colour, texture, grain, and any other distinctive features of the original; and
- d) Where the same types of material as the original are no

longer available, using alternative materials that replicate the design, colour, texture, grain, or other distinctive feature, and appearance of the original material.

**Replacement of Character Defining Elements**

4.53 Despite any other provision in this By-law, where a character defining element of a designated heritage Property cannot be repaired as determined by a built heritage specialist who is a member of the Canadian Association of Heritage Professionals and/or a member of the Royal Architectural Institute of Canada with heritage experience, the character defining element shall be replaced as follows:

- a) Using the same types of material as the original;
- b) Where the same types of material as the original are no longer available, using alternative materials that replicate the design, colour, texture, grain, or other distinctive feature, and appearance of the original material;
- c) In such a manner as to replicate the design, colour, texture, grain, and other distinctive feature and appearance of the character defining element; and
- d) The removal of the original material shall be documented by photographs, to-scale drawings, and/or any means identified by heritage staff.

**Vacant and Damaged Designated Heritage Properties**

- 4.54 a) Despite any other provision of this By-law or the *Building Code Act*, 1992, where a designated heritage Property is vacant, the owner shall ensure that appropriate utilities serving the Property are connected, as required, in order to provide, Maintain, and to monitor proper heat and ventilation to prevent damage to the character defining elements caused by environmental conditions.
- b) The owner shall protect the Property against risk of fire, storm, inclement weather, neglect, intentional damage, or damage by other causes by effectively preventing entrance to it of all animals and unauthorized persons, and by closing and securing openings to any structures with boarding. The boarding shall be installed in such a way that minimizes damage to any character defining elements, is reversible, and minimizes visual impact.

- c) No opening shall be secured by brick or masonry held in place by mortar unless approved by Council.
- d) If not already in place, an exterior lighting fixture shall be installed and/or Maintained in the front porch, veranda, or area adjacent to the front entrance of the building or structure, and must be activated by motion sensors, and shall Maintain an average level of illumination of at least 50 lux at ground level.

**Enhanced Standards**

4.55 In the event the policies relating to a designated heritage Property, and any other provision of this By-law, create enhanced standards not in contradiction with the *Building Code Act*, 1992, the provision that establishes the highest standard for the protection of the character defining elements shall prevail.”

1.57. Section 5, subsection 5.1 is hereby amended by adding the words “Part 4 of the By-Law” thereto and capitalizing the words “residential properties”, so that subsection 5.1 shall now read as follows:

“5.1 In addition to all General Standards set out in Part 4 of this By-Law, the following regulations shall apply to all Residential Properties.”

1.58. Section 5, subsection 5.2 is hereby amended by removing the words “where provided” therefrom, and capitalizing the term “maintained”, so that subsection 5.2 shall now read as follows:

“5.2 Amenities such as mail boxes and storage facilities shall be properly Maintained.”

1.59. Section 5, subsection 5.3 is hereby amended by capitalizing the words “crawl space” and “habitable room”, so that subsection 5.3 shall now read as follows:

“5.3 Use of a Crawl Space as a Habitable Room is prohibited”

1.60. Section 5, subsection 5.4 is hereby amended by capitalizing the words “basement”, “dwelling” “cellar” and “unit”, so that subsection 5.4 shall now read as follows:

“5.4 Any Basement or Cellar used as a Dwelling Unit shall have the following requirements:”

1.61. Section 5, subsection 5.4.3 is hereby amended by capitalizing the words “dwelling unit”, so that subsection 5.4.3 shall now read as follows:

“5.4.3 Service rooms shall be separated from the remainder of the Dwelling Unit by a suitable fire separation; and”

- 1.62. Section 5, subsection 5.4.4 is hereby amended by capitalizing the words “habitable room”, so that subsection 5.4.4. shall now read as follows:

“5.4.4 access to each Habitable Room shall be gained without passage through a service room.”

- 1.63. Section 5, subsection 5.5 is hereby amended by capitalizing the words “residential property”, so that subsection 5.5 shall now read as follows:

“5.5 The Occupant of a Residential Property may provide for a compost heap or bin in accordance with the health regulations, provided that the compost pile is no larger than one square metre (10 sq. ft.) and 1.8 metres (6 ft.) in height and is enclosed on all sides by concrete block, or lumber, or in a metal frame building with a concrete floor, or in a commercial plastic enclosed container designed for composting.”

- 1.64. Section 5, subsection 5.6 is hereby amended by capitalizing the word “yard”, so that subsection 5.6 shall now read as follows:

“5.6 Compost heaps or bins shall not be placed in the front Yard or exterior side Yards.”

- 1.65. Section 5, subsection 5.8 is hereby amended by capitalizing the words “person”, “persons” “owner” and “repair” so that subsection 5.8 shall now read as follows:

“5.8 No Owner of residential buildings or any Person or Persons acting on behalf of such Owner shall disconnect or cause to be disconnected any service or utility supplying heat, electricity, gas, refrigeration or water to a dwelling unit occupied by a tenant or lessee, except for such reasonable period of time as may be necessary for the purpose of Repairing, replacing or otherwise altering said service or utility.”

- 1.66. Section 5, subsection 5.9 is hereby amended by capitalizing the words “cellar”, “maintained” and “repair” so that subsection 5.9 shall now read as follows:

“5.9 Windows, skylights, doors and basement or Cellar hatchways shall be Maintained in good Repair, weather tight and reasonably draft-free. Maintenance includes painting, replacing damaged doors, door frames and their components, window frames, sashes and casing, replacing non-serviceable hardware, weather-stripping and re-glazing.”

- 1.67. Section 5, subsection 5.10 is hereby amended by capitalizing the words “dwelling unit”, so that subsection 5.10 shall now read as follows:

“5.10 In a Dwelling Unit all windows and skylights intended to be opened and all exterior doors shall have hardware so as to be capable of being locked or

otherwise secured from inside the Dwelling Unit without the use of keys or tools.”

- 1.68. Section 5, subsection 5.11 is hereby amended by capitalizing the words “maintained” and “repair”, so that subsection 5.11 shall now read as follows:
- “5.11 Where storm windows and doors are installed in a dwelling that shall be Maintained in good Repair.”
- 1.69. Section 5, subsection 5.12 is hereby amended by capitalizing the words “maintained” and repair”, so that subsection 5.12 shall now read as follows:
- “5.12 All shutters on windows shall be Maintained in good Repair, including painting, replacing or other suitable means to prevent deterioration due to weather and insects.”
- 1.70. Section 5, subsection 5.14 is hereby amended by capitalizing the words “dwelling unit” and “repair” so that subsection 5.14 shall now read as follows:
- “5.14 All windows and skylights in a Dwelling Unit that are capable of being opened shall be fitted and equipped with screens that are Maintained in good Repair and free from defects and missing components.”
- 1.71. Section 5, subsection 5.16 is hereby amended by capitalizing the words “dwelling unit”, so that subsection 5.16 shall now read as follows:
- “5.16 At least one entrance door in every Dwelling Unit shall have hardware so as to be capable of being locked from both inside and outside the Dwelling Unit.”
- 1.72. Section 5, subsection 5.17 is hereby amended by capitalizing the words “maintained” and “dwelling unit” so that subsection 5.17 shall now read as follows:
- “5.17 Solid Core, hollow metal, or insulated steel doors shall be installed and Maintained for the entrances of Dwelling Units and hallways.”
- 1.73. Section 5, subsection 5.18 is hereby amended by capitalizing the words “dwelling” and “dwelling unit”, so that subsection 5.18 shall now read as follows:
- “5.18 Every Dwelling and each Dwelling Unit within it shall have a continuous and unobstructed passage from the interior of the Dwelling Unit and the Dwelling to the outside of the Dwelling at street or grade level.”
- 1.74. Section 5, subsection 5.20 is hereby amended by capitalizing the word “maintained”, so that subsection 5.20 shall now read as follows:
- “5.20 When a second means of egress requires a person or persons to travel across a roof top to reach a fire escape or a second stairwell, then a

walkway complete with railing must be installed and Maintained across said roof tops.”

- 1.75. Section 5, subsection 5.21 is hereby amended by capitalizing the words “dwelling unit”, so that subsection 5.21 shall now read as follows:

“5.21 Every Dwelling Unit shall be wired for and provided with electricity.”

- 1.76. Section 5, subsection 5.22 is hereby amended by capitalizing the words “maintained property”, so that subsection 5.22 shall now read as follows:

“5.22 Elevators intended for use by tenants shall be properly Maintained and kept in operation.”

- 1.77. Section 5, subsection 5.23 is hereby amended by capitalizing the words “dwelling unit” and “maintained”, so that subsection 5.23 shall now read as follows:

“5.23 In apartment buildings where a voice communication system exists and or where a security locking and release system for the entrance is provided and is controlled from each Dwelling Unit such systems shall be Maintained in good Repair.”

- 1.78. Section 5, subsection 5.24 is hereby amended by capitalizing the words “habitable room” and “dwelling”, so that subsection 5.24 shall now read as follows:

“5.24 Every Habitable Room in a Dwelling shall have at least one electrical duplex outlet for each 11.15 square metres (120 square feet ) of floor space, for each additional 10 square metres (100 square feet) of floor space a second duplex outlet shall be provided.”

- 1.79. Section 5, subsection 5.26 is hereby amended by capitalizing the word “maintained”, so that subsection 5.26 shall now read as follows:

“5.25 All electrical services shall conform to and be Maintained to the regulations set by statute.”

- 1.80. Section 5, subsection 5.27 and 5.27.1 are hereby amended by capitalizing the words “dwelling unit” and “property”, so that subsections 5.27 and 5.27.1 shall now read as follows:

“5.27 Every Owner shall provide, install, and maintain contact information in a common area in case of an emergency on a 24 hour basis where an authorized person responsible for the Property can be reached.”

“5.27.1 In buildings having more than one Dwelling Unit, each Dwelling Unit door connected to interior common space, hallways, exits, etc. shall have the unit number posted on or beside the door and be installed in a manner and size that can be easily seen by visitors, service persons and emergency response personnel.”



- 1.81. Section 5, subsection 5.28 is hereby amended by capitalizing the words “dwelling” and “dwelling unit”, so that subsection 5.28 shall now read as follows:
- “5.28 Every Dwelling and every Dwelling Unit within the Dwelling shall have such receptacles as may be necessary to contain all garbage and rubbish.”
- 1.82. Section 5, subsection 5.29.4 is hereby amended by capitalizing the word “maintained”, so that subsection 5.29.4 shall now read as follows:
- “5.29.4 Maintained in a clean and sanitary condition; and”
- 1.83. Section 5, subsection 5.29.5 is hereby amended by capitalizing the word “yard”, so that subsection 5.29.5 shall now read as follows:
- “5.29.5 Located in the rear Yard of the building but shall not be placed within 3.05 metres (10’) vertically or horizontally of any opening in the structure.”
- 1.84. Section 5, subsection 5.30 is hereby amended by capitalizing the word “dwelling” and the word “maintained” so that subsection 5.30 shall now read as follows:
- “5.30 Multiple Dwellings that do not have interior garbage rooms shall have Maintained and installed a receptacle large enough to contain all garbage and rubbish.”
- 1.85. Section 5, subsection 5.34 is hereby amended by capitalizing the word “maintained” so that subsection 5.34 shall now read as follows:
- “5.34 Receptacles shall be acceptable plastic bags or containers made of watertight construction provided with a tight fitting cover and Maintained in a clean state.”
- 1.86. Section 5, subsection 5.35 is hereby amended by capitalizing the word “repairs” so that subsection 5.35 shall now read as follows:
- “5.35 Where Repairs or cleanup require the use of bins, these bins shall be emptied when materials or debris reach the top of the bin or when odours are offensive and may be a health hazard.”
- 1.87. Section 5, subsection 5.38 is hereby amended by capitalizing the words “residential”, “property” and “maintain” and by removing the words “tenant” and “lessee” so that subsection 5.38 shall now read as follows:
- “5.38 Every Occupant of a Residential Property shall Maintain the Property or part thereof and the land which they occupy or control, in a clean, sanitary and safe condition and shall dispose of garbage and debris on a regular basis in accordance with municipal by-laws.”

- 1.88. Section 5, subsection 5.39 is hereby amended by capitalizing the words “occupant”, “residential”, “property, and “maintain” and by removing the words “tenant” and “lessee” so that subsection 5.39 shall now read as follows:

“5.39 Every Occupant of a Residential Property shall Maintain every floor, wall, ceiling and fixture, under their control, including hallways, entrances, laundry rooms, utility rooms and other common areas, in a clean, sanitary and safe condition.”

- 1.89. Section 5, subsection 5.41 is hereby amended by capitalizing the words “dwelling unit” and “maintaining”, so that subsection 5.41 shall now read as follows:

“5.41 Every Dwelling Unit shall be provided with a heating system capable of Maintaining a minimum temperature of 21.1°C (70°F).”

- 1.90. Section 5, subsection 5.42 is hereby amended by capitalizing the words “maintaining”, so that subsection 5.42 shall now read as follows:

“5.42 All common areas or internal entranceways shall be provided with heating systems capable of Maintaining a minimum temperature of not less than 18 degrees C (65 degrees F).”

- 1.91. Section 5, subsection 5.44 is hereby amended by capitalizing the word “dwelling”, so that subsection 5.44 shall now read as follows:

“5.44 Every building or part of a building which is rented or leased as Dwelling or living accommodation and which, as between the tenant or lessee and the landlord, is normally heated by or at the expense of the landlord shall, between the 15th day of September in each year and the 1st day of June of the following year, be provided with adequate and suitable heat by or at the expense of the landlord; and for the purposes of this by-law, “adequate and suitable heat” means that the minimum temperature of the air in the accommodation which is available to the tenant or lessee is 21.1°C (70° F).”

- 1.92. Section 5, subsection 5.47 is hereby amended by capitalizing the words “dwelling unit”, and “maintaining”, so that subsection 5.47 shall now read as follows:

“5.47 The heating system shall be Maintained in good working condition so as to be capable of heating the Dwelling safely to the standard required by this By-Law.”

- 1.93. Section 5, subsection 5.49, first sentence, is hereby amended by capitalizing the word “maintaining”, so that subsection 5.49, first sentence shall now read as follows:

“5.49 In every room in which meals can be prepared, or are prepared, there shall be installed and Maintained;”

- 1.94. Section 5, subsection 5.50 is hereby amended by capitalizing the words “Habitable Room”, so that subsection 5.50 shall now read as follows:
- “5.50 Every Habitable Room except a kitchen shall have a window or windows, skylights, translucent panels or glass area of an outside door that faces directly to outside space and admits as much natural light as would be transmitted through clear glass equal in area to five per cent of the floor area of the room.”
- 1.95. Section 5, subsection 5.51, is hereby amended by capitalizing the word “dwellings”, so that subsection 5.51 shall now read as follows:
- “5.51 Public halls, common rooms, stairs, exit stairwells, porches and verandas in multiple Dwellings shall be lighted to provide a minimum level of illumination, meaning illumination of at least 50 lux (4.6 foot candle power) at all times of the day and night.”
- 1.96. Section 5, subsection 5.53 is hereby amended by capitalizing the word “maintained”, so that subsection 5.53 shall now read as follows:
- “5.53 Lighting equipment shall be provided installed and Maintained throughout to provide sufficient illumination.”
- 1.97. Section 5, subsection 5.54 is hereby amended by capitalizing the words “bathroom”, “toilet room”, “cellar” and “basement”, so that subsection 5.54 shall now read as follows:
- “5.54 Every Bathroom, Toilet Room, laundry room, furnace room, Basement, Cellar or non-habitable work room and kitchen shall be provided with a permanent electrical light fixture.”
- 1.98. Section 5, subsection 5.55 is hereby deleted in its entirety and replaced with the following, so that subsection 5.55 shall now read as follows:
- “5.55 The number of Occupants residing on a permanent basis in an individual Dwelling Unit shall not exceed the maximum occupant load as prescribed by the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended.”
- 1.99. Section 5, subsection 5.57 is hereby amended by capitalizing the words “dwelling”, “maintained”, and “sewerage system” so that subsection 5.57 shall now read as follows:
- “5.57 All plumbing, including every drain, water pipe, water closet and other plumbing fixtures in a Dwelling and every connecting line to the Sewerage System shall be Maintained in good working order and free from leaks or defects, and all water pipes and appurtenances thereto shall be protected from freezing.”
- 1.100. Section 5, subsection 5.58 is hereby amended by capitalizing the words “sewerage system”, so that subsection 5.58 shall now read as follows:

“5.58 All plumbing fixtures shall be connected to the Sewerage System through water seal traps.”

1.101. Section 5, subsection 5.59 is hereby amended by capitalizing the word “dwelling”, so that subsection 5.59 shall now read as follows:

“5.59 Every Dwelling shall be provided with an adequate supply of potable running water from a source approved by the Medical Officer of Health.”

1.102. Section 5, subsection 5.60 is hereby amended by capitalizing the words “dwellings” and “sewerage system”, so that subsection 5.60 shall now read as follows:

“5.60 All Dwellings shall have the sanitary facilities connected to a Sewerage System.”

1.103. Section 5, subsection 5.62 is hereby amended by capitalizing the word “adequate”, so that subsection 5.62 shall now read as follows:

“5.62 Every wash basin, bathtub and shower shall have an Adequate supply of hot and cold running water and every water closet shall have an Adequate supply of running water.”

1.104 Section 5, subsection 5.63 is hereby amended by capitalizing the words “dwelling unit”, so that subsection 5.63 shall now read as follows:

“5.63 Every Dwelling Unit (except as otherwise provided) shall contain toilet and bathroom plumbing fixtures consisting of at least one water closet, one wash basin and one bathtub or shower.”

1.105. Section 5, subsection 5.65 is hereby amended by capitalizing the words “bathrooms”, “toilet rooms”, “dwelling unit”, “occupants”, “dwelling units” and “habitable rooms”, so that subsection 5.65 shall now read as follows:

“5.65 All Bathrooms and Toilet Rooms shall be located within and accessible from within the Dwelling Unit except that the Occupants of two Dwelling Units each containing not more than two Habitable Rooms may share toilet and bathroom facilities provided that access to the said toilet and bathroom facilities can be gained without going through rooms of either or another Dwelling Unit or outside of the building.”

1.106. Section 5, subsection 5.66 is hereby amended by capitalizing the words “bathrooms” and “toilet rooms”, so that subsection 5.66 shall now read as follows:

“5.66 All Bathrooms and Toilet Rooms shall be fully enclosed.”

1.107. Section 5, subsection 5.68 is hereby amended by capitalizing the words “dwelling”, so that subsection 5.68 shall now read as follows:

“5.68 Every Dwelling shall have at least one sink in addition to a kitchen sink.”

1.108. Section 5, subsection 5.69 is hereby amended by capitalizing the words “dwelling unit”, so that subsection 5.69 shall now read as follows:

“5.69 Every Dwelling Unit shall be provided with hot and cold running water.”

1.109. Section 5, subsection 5.70 is hereby amended by capitalizing the words “habitable room”, so that subsection 5.70 shall now read as follows:

“5.70 Every Habitable Room except living rooms and dining rooms shall have an opening or openings for ventilation providing an unobstructed free-flow area of at least 0.28 square meters (3 square feet) or an approved system of mechanical ventilation such that the air is changed once every hour.”

1.110. Section 5, subsection 5.71 is hereby amended by capitalizing the words “basements”, “cellar”, “crawl spaces” and “adequately” so that subsection 5.71 shall now read as follows:

“5.71 All enclosed spaces including Basements, Cellars, attics or roof spaces, and Crawl Spaces shall be Adequately vented.”

1.111. Section 5, subsection 5.72.1 is hereby amended by capitalizing the word “adequately”, so that subsection 5.72.1 shall now read as follows:

“7.72.1 Adequately screened with durable material; and”

1.112. Section 5, subsection 5.74 is hereby amended by capitalizing the words “bathroom” “toilet room”, and “maintained” so that subsection 5.74 shall now read as follows:

“5.74 Every Bathroom or Toilet Room shall have an opening or openings for ventilation providing an unobstructed free-flow area of at least 0.09 square metres (1 square foot), or an equivalent such as an electric fan and a duct which shall terminate outside, shall be provided, installed and Maintained.”

1.113. Section 5, subsection 5.76 is hereby amended by capitalizing the words “dwelling” and “maintained” so that subsection 5.76 shall now read as follows:

“5.76 Every floor, wall and ceiling in a Dwelling shall be Maintained in a clean, sanitary condition.”

1.114. Section 5, subsection 5.77 is hereby amended by capitalizing the words “dwelling” and “maintained”, so that subsection 5.77 shall now read as follows:

“5.77 Every floor in a Dwelling shall be acceptably level and be Maintained so as to be...”

1.115. Section 5, subsection 5.78 is hereby amended by capitalizing the words “basement”, “cellar”, “crawl space” and “maintained” so that subsection 5.78 shall now read as follows:

“5.78 Floors above an unheated space or a non-insulated Basement, Cellar, or Crawl Space shall have existing insulation Maintained.”

1.116. Section 5, subsection 5.79 is hereby amended by capitalizing the word “maintained” and “repaired” so that subsection 5.79 shall now read as follows:

“5.79 Where necessary, interior walls shall have baseboards that shall be Maintained in good Repair and tight fitting so as to prevent the accumulation of dust and garbage.”

1.117. Section 5, subsection 5.80 is hereby amended by capitalizing the word “bathroom” and adding the words “water proof and floors shall be ” after the word “be” so that subsection 5.80 shall now read as follows:

“5.80 All Bathroom walls surrounding bathtubs and showers shall be water proof and floors shall be water resistant.”

1.118. Section 6, subsection 6.1 is hereby amended by capitalizing the words “non-residential properties”, so that subsection 6.1 shall now read as follows:

“6.1 In addition to all General Standards set out in Section 4, the following regulations shall apply to all Non-Residential Properties.”

1.119. Section 6, subsection 6.2 is hereby amended by capitalizing the word “maintained” so that subsection 6.2 shall now read as follows:

“Every floor shall be smooth and level, unless otherwise designed, and Maintained so as to be free of cracks, holes and protrusions in concrete floors, also free of all loose, warped, protruding broken or rotten boards that might cause an accident or allow dirt to accumulate.”

1.120. Section 6, subsection 6.3 is hereby deleted in its entirety and replaced with the following, so that subsection 6.3 shall now read as follows:

“6.3 All defective floor boards shall be replaced and where floor covering has become worn or torn, the floor covering shall be Repaired, replaced or removed.”

1.121. Section 6, subsection 6.5 is hereby amended by capitalizing the word “yard” so that subsection 6.5 shall now read as follows:

“6.5 Receptacles shall be covered at all times and shall be located in the rear Yard, when space can accommodate them, or otherwise in a side Yard, but in any event, these receptacles shall not be located in a front Yard.”

1.122. Section 6, subsection 6.8.1 is hereby amended by capitalizing the word “adequate” so that subsection 6.8.1 shall now read as follows:

“6.8.1 Such wall or fence shall contain an Adequate door or gate to allow for the removal of the garbage; and”

1.123. Section 6, subsection 6.8.2 is hereby amended by capitalizing the words “maintained” and “repair” so that subsection 6.8.2 shall now read as follows:

“6.8.2 All walls and fences and the doors or gates contained therein shall be Maintained in good Repair.”

1.124. Section 6, subsection 6.9 is hereby amended by capitalizing the words “sewerage system” and “maintained”, so that subsection 6.9 shall now read as follows:

“6.9 All plumbing, drain pipes, water pipes and plumbing fixtures in every building and every connection line to the Sewerage System shall be Maintained in good working order and free from leaks and defects and all water pipes and appurtenances thereto shall be protected from freezing.”

1.125. Section 6, subsection 6.10 is hereby amended by capitalizing the words “sewerage system”, so that subsection 6.10 shall now read as follows:

“6.10 All waste pipes shall be connected to the Sewerage System through water seal traps.”

1.126. Section 7, as described below, is hereby deleted in its entirety

“7. **Procedures:**

7.1 Administration and Enforcement shall be as provided in the Building Code Act

**Property Standards Committee**

7.2 There shall be and is hereby established a Property Standards Committee of no less than three members, in accordance with the Building Code Act as amended, reference 15.6(6), who shall be appointed by By-Law to hear appeals to this by-law.”

1.127. Add a new Section 7, which shall read as follows, capitalizing the term “maintenance” and renumbering the remaining sections accordingly:

“7. **Additional Standards For All Designated Heritage Properties**

**Definitions**

7.1 Despite any other provisions of this By-Law, in this Part, “**Maintenance**” means routine, cyclical, non-destructive actions necessary to slow the deterioration of a Designated Heritage Property including the following: periodical inspection; Property

cleanup; gardening and repair of landscape features; replacement of broken glass in windows; minor exterior repairs, including replacement of individual asphalt shingles where there is little or no change in colour or design; repainting where there is little or no change in colour; re-pointing areas of wall space under 1.5 square metres; caulking and weatherproofing; and any other work defined as maintenance in a Designation By-Law, a Minister's Order made pursuant to Section 34.5 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended, or as otherwise defined in By-Law 2013-141, the Procedural By-Law for Heritage, as amended."

### **General**

- 7.2 In addition to the minimum Standards for the Maintenance and occupancy of Property set out elsewhere in this By-Law, the Owner or Occupant of Designated Heritage Property shall:
- (a) Maintain, preserve, and protect the Heritage Attributes so as to Maintain the heritage character, visual, and structural integrity of any and all buildings, structures, or constructions located on the Property;
  - (b) Maintain the Property in a manner that will ensure the protection and preservation of the Heritage Attributes; and
  - (c) Comply with the provisions of By-Law 2013-141, the Procedural By-Law for Heritage, as amended, including obtaining a heritage permit, if required.

### **Alterations to Designated Heritage Properties**

- 7.3 Despite any other provision of this By-Law or the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended, no Designated Heritage Property shall be altered except as Maintenance pursuant to this By-Law or pursuant to the approval requirements under the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended and By-Law 2013-141, the Procedural By-Law for Heritage, as amended.

### **Repair of Heritage Attributes**

- 7.4 Despite any other provision in this By-Law, where a Heritage Attribute of a Designated Heritage Property can be Repaired, the Heritage Attribute shall not be replaced and shall be Repaired:
- (a) In a manner that minimizes damage to the Heritage Attribute based upon recognized national and international best practices;
  - (b) In a manner that Maintains the design, colour, texture, grain, or other distinctive feature of the Heritage Attribute;



- (c) Using the same material as the original and in keeping with the design, colour, texture, grain, and any other distinctive features of the original; and
- (d) Where the same types of material as the original are no longer available, City-approved alternative materials that replicate the design, colour, texture, grain, or other distinctive feature, and appearance of the original material may be used in accordance with By-Law 2013-141, the Procedural By-Law for Heritage, as amended.

### **Replacement of Heritage Attributes**

7.5 Despite any other provision in this By-Law, where a Built Heritage Specialist determines that a Heritage Attribute of a Designated Heritage Property cannot be repaired the Heritage Attribute shall be replaced:

- (a) Using the same types of material as the original;
- (b) Where the same types of material as the original are no longer available, City-approved alternative materials that replicate the design, colour, texture, grain, or other distinctive features and appearance of the original material may be used, in accordance with By-Law 2013-141, the Procedural By-Law for Heritage, as amended;
- (c) In such a manner as to replicate the design, colour, texture, grain, and other distinctive features and appearance of the Heritage Attribute; and
- (d) The removal of the original material shall be documented by photographs, to-scale drawings, and/or any means identified by heritage staff.

### **Clearing and Leveling of Designated Heritage Properties**

7.6 Despite any other provision of this By-Law or the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended, no building or structure located on Designated Heritage Property or on Listed Property may be altered, demolished, removed, or relocated except in accordance with the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended and By-Law 2013-141, the Procedural By-Law for Heritage, as amended.

### **Vacant Designated Heritage Properties**

7.7 Despite any other provision of this By-Law or the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended, where a Designated Heritage Property is vacant, the Owner shall ensure that appropriate utilities serving the Property are connected, as required, in order to provide,

Maintain, and to monitor proper heat and ventilation to prevent damage to the Heritage Attributes.

- 7.8 The Owner shall protect the Property against risk of fire, storm, inclement weather, neglect, intentional damage, or damage by other causes by effectively preventing entrance to it of all animals and unauthorized persons, and by closing and securing openings to any structures with boarding. The boarding shall be installed in such a way that minimizes damage to any Heritage Attribute, is reversible, and minimizes visual impact.
- 7.9 If not already in place, an exterior lighting fixture shall be installed and/or Maintained in the front porch, veranda, or area adjacent to the front entrance of the building or structure, and must be activated by motion sensors, and shall maintain an average level of illumination of at least 50 lux at ground level.

**Conflict**

- 7.10 If there is a conflict between this Part and any other provision of this By-Law or any other City By-Law, the provision that establishes the highest standard for the protection of Heritage Attributes shall prevail.”

1.128. Section 8 is hereby deleted, and shall read as follows:

**“8. Property Standards Order**

- 8.1 An Officer who determines that a Property does not confirm with any of the Standards prescribed in this By-law may issue an order pursuant to Section 15.2 of the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended.
- 8.2 In accordance with Section 15.4 of the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended, if an order made pursuant to Section 8.1 of this By-law is not complied with in accordance with the order as deemed confirmed or as confirmed or modified by the Appeals Committee or a judge, the City may cause the Property to be Repaired or demolished accordingly.
- 8.3 The remedial work necessary to meet the requirements of this By-law may be undertaken by the City and the Owner will be responsible for the payment of the cost of such work, including an administrative fee as set out in By-law 2005-10, with the cost added to their municipal tax bill.”

1.129. Section 9 is hereby deleted and replaced as follows:

**“9 Procedures**

- 9.1 Administration and Enforcement shall be as provided in the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended.
- 9.2 After the date of passing of this By-Law, the Property Standards Committee, established under Section 5.12 of City of Kingston By-Law 7514 continues as the Appeals Committee, the terms and conditions of which are set out in City of Kingston Committee By-Law 2010-205, as amended from time to time.
- 9.3 In accordance with the provisions of Section 15.3 of the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended, an Owner or Occupant who has been served with an order made pursuant to Section 8.1 of this By-Law and who is not satisfied with the terms or conditions of the order may appeal to the Appeals Committee by sending a notice of appeal by registered mail together with the required administrative fee, as set out in By-Law 2005-10, within 14 days after being served with the order.”

1.130. Section 10 is hereby deleted, and replaced as follows:

**“10. Offence and Penalty Provisions**

- 10.1 Any Property that does not meet the Standards set out in this By-Law shall be Repaired and Maintained to comply with the Standards of this By-Law.
- 10.2 Any Person who fails to comply with an order issued under this By-Law is guilty of an offence and upon conviction is subject to a penalty as provided by the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended.
- 10.3 If this By-Law is contravened and a conviction entered, the Court in which the conviction was entered or any Court of competent jurisdiction may, in addition to any other remedy, and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.”

1.131. Add a new Section 11, which shall read as follows:

**“11. Validity**

- 11.1 If a Court of competent jurisdiction declares any provision, or any part of a provision, of this By-Law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-Law that each and every provision of this By-Law authorized by law be applied

and enforced in accordance with its terms to the extent possible according to law.

- 11.2 Where a provision of this By-Law conflicts with the provision of another By-Law in force in the City, the provisions that establish the higher Standards to protect the health, safety and welfare of the general public prevails.”

1.132. Add a new Section 12, which shall read as follows:

**“12. Commencement**

12.1 This By-Law shall come into force and take effect on the date of its passing.

12.2 After the date of passing of this By-Law, By-Law 8597 continues to apply to Properties in respect of which an order has been issued prior to the date of passing of this By-Law, and then only to such properties until such time as the work required by such order has been completed or any enforcement proceedings in respect of such order, including demolition and Repair by the City, have been concluded.”

2. This By-Law shall come into force and take effect on the date of its passing.

Given First and Second Readings Month XX, 2014

Given Third Reading and Passed Month XX, 2014

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**John Bolognone**  
**City Clerk**

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**Bryan Paterson**  
**Mayor**



<b>Policy Name:</b>	<b>Park Refreshment Vehicle Policy</b>
<b>Administrator:</b>	<b>Director, Recreation and Leisure Services</b>
<b>Approval Date:</b>	
<b>Effective Date:</b>	<b>January 1, 2016</b>
<b>Next Review Date:</b>	
<b>Approval Authority:</b>	<b>City Council</b>

### **1. Policy Statement**

The Park Refreshment Vehicle Policy identifies the need for a variety of food vendors in parks and gives priority to vendors who provide healthy, local and/or certified organic food options, use sustainable business practices and follow accessibility standards.

### **2. Purpose**

The purpose of this policy is to provide a process for Refreshment Vehicles to operate in municipal parks. It establishes a fair and transparent process for awarding annual and monthly park permits for this purpose. This policy promotes and gives priority to food vendors who provide healthy, local and/or certified organic food options, use sustainable business practices and follow accessibility standards. This policy supports the Kingston Sustainability Plan theme S03 Food and Nutrition to “improve access to healthy food choices” and to “promote the consumption of locally grown food through food markets”.

### **3. Definitions**

**Annual Refreshment Vehicle Permit:** means an annual permit issued by the City for the purposes of operating a Refreshment Vehicle in a designated park from January 1 to December 31, in a location as approved by this policy. The annual permit will be offered to the same Operator for three consecutive years, at which time it will be available to other Operators through the process of this policy.

**Certified Organic Food:** means products must be certified by a Certification Body accredited under the Canada Organic Regime.

**City:** means the Corporation of the City of Kingston.

**Food Location:** means a location that is designated by the City for the purposes of operating a Refreshment Vehicle in a park, in a location as approved as part of this policy.

**Healthy Food Location:** means a location that is designated by the City for the purpose of operating a Refreshment Vehicle in a park, in a location as approved, and is reserved for Refreshment Vehicles that most closely meet the healthy food criteria as part of the application process.

**Local Food:** means the food originated within a 100 kilometre radius of the place where it was sold by the operator.

## Exhibit A

Monthly Refreshment Vehicle Permit: means a monthly permit issued by the City for the purposes of operating a Refreshment Vehicle in a designated park in a location as approved.

Operator: means a person who, alone or with others, operates, manages, supervises, runs or controls the Refreshment Vehicle or prepares, offers, sells or otherwise makes available food for consumption.

Park: means any land owned, leased or controlled by the City, designated or used as parkland or as a trail, including gardens, playgrounds, sports fields or beach areas.

Permit Holder: means any person or organization that holds a permit of any kind for use of parks with the City.

Refreshment Vehicle: means the same as defined in schedule R-1 of Licensing By-Law Number 2006-213, as amended.

Special Event: means but is not limited to a festival, procession, march, drill, parade or other organized event.

### **4. Persons Affected**

This policy applies to Refreshment Vehicle Operators.

### **5. Policy Applications**

- 5.1. In accordance with section 13 of By-Law Number 2009-76, as amended, the City may authorize, by permit, the use of all or a portion of a park or park building subject to such terms and conditions as the City may consider reasonable for any person to sell, or offer for sale, expose or advertise for sale any food or drink, newspaper, magazine or publication, goods, wares or merchandise, art, skill or service.
- 5.2. The City will designate and make available specific locations in its parks for the operation of Refreshment Vehicles from January 1<sup>st</sup> to December 31<sup>st</sup> annually.
- 5.3. The City will issue annual and monthly park permits for the operation of Refreshment Vehicles.
- 5.4. The City will make available designated Healthy Food Locations
- 5.5. The City will advertise these locations to the public as they become available 45 days prior to the application due date.

### **6. Process for Approving Applications**

- 6.1. Applicants must apply to be considered for annual Refreshment Vehicle Permits. Monthly permit applicants may apply at any time to be considered for any remaining or available locations.

## Exhibit A

6.2. The City will approve completed applications using a scoring system that will be based on the following criteria:

- i. Healthy food options
- ii. Local food options
- iii. Certified Organic food options
- iv. Sustainable business practices and/or environmental contributions
- v. Accessibility considerations

6.3. The City reserves the right to manage the types of Refreshment Vehicles located in each park to ensure food variety and that priority is given to Operators who most closely meet the criteria.

6.4. Designated Healthy Food Locations are reserved for Refreshment Vehicles that most closely meet the criteria of the healthy food options, as outlined in the application.

6.5. The City shall notify Annual Refreshment Vehicle Permit applicants regarding the status of their application.

6.6. The City shall notify Monthly Refreshment Vehicle Permit applicants regarding the status of their application within 2 weeks of receipt of application.

6.7. Refreshment Vehicle Operators will sign and submit an agreement satisfactory to the City before a Park permit will be issued.

## **7. Fees and Payment**

7.1. All user fees, equipment and service fees are subject to the provisions of the City's Fees and Charges By-Law Number 2005-10, as amended.

7.2. A deposit must be submitted at the time of application.

7.3. An administration charge will be levied for any payments returned as non-sufficient funds.

7.4. A fee will be charged for use of utilities at any location that offers this service.

## **8. Insurance**

8.1. The Permit Holder must maintain a certificate of Commercial General Liability and Automobile Liability insurance of no less than \$5,000,000 each. The Commercial General Liability coverage must indicate that the City has been added as an additional insured on the policy. Evidence of this insurance must be provided to the City.

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8.2. The Permit Holder must agree to indemnify and hold the Corporation of the City of Kingston harmless from and against any liability, loss, claims, costs and expenses, including legal fees, occasioned wholly or in part by negligence or acts of omissions during the use of the park or facility.

8.3. The City reserves the right solely, at its discretion, to set higher insurance limits and/or require additional coverage.

### **9. Additional Information Required**

9.1. Before the final permit will be issued the following information must be submitted with the application:

- i. Contact name, including phone number and email (if available) of Permit Holder(s).
- ii. Insurance Certificate.
- iii. Payment of applicable fee(s).
- iv. The full amount of any outstanding amounts owed to the City as a result of a previous permit.
- v. Copies of valid applicable Federal, Provincial and Municipal licenses, inspection certificates and reports.

9.2. The permit must be posted and in view at all times during operating hours.

### **10. Permits**

10.1. In accordance with section 17 of By-Law Number 2009-76, as amended, the City may attach such terms and conditions to a permit as deemed necessary to ensure public safety, protect City property or maintain the enjoyment of the Park for the public, which shall include identification of:

- i. Permit Holder whether an individual, individuals or corporation.
- ii. Permitted use.
- iii. Applicable fee.
- iv. Confirmation of payment of applicable insurance.
- v. Time and date of permitted use.
- vi. Place of permitted use.

10.2. No permit shall be issued without the payment of the applicable fee as well as compliance with all the requirements of By-Law Number 2009-76 and all applicable By-Laws and policies of the City.



## Exhibit A

- 10.3. Permits or designated locations are not transferable and cannot be subleased.
- 10.4. The exact location of each site will be determined by staff with the Operator before the permit will be issued.

### **11. Special Events**

- 11.1. Park permits for Refreshment Vehicle operations during a Special Event shall be administered through the City's Special Events Policy.
- 11.2. A Special Event Permit Holder has the authority to charge a fee to the Refreshment Vehicle Operator.
- 11.3. A Special Event Permit Holder may receive approval by the City to relocate or expand the number of Refreshment Vehicles in order to accommodate those in attendance or any other need the City deems necessary.
- 11.4. In the event that a Special Event is relocated or expanded, the Refreshment Vehicle Permit Holder of the current location will have first right of refusal of any subsequent locations for the same dates and Special Event. Any remaining spots will be offered to all other Refreshment Vehicle Permit applicants and will be awarded based on the nature of the event, and any other criteria that is established by the event organizer in conjunction with the City.
- 11.5. The City may suspend or cancel a permit during a Special Event. The City reserves the right to relocate and/or remove the Refreshment Vehicle without being in contravention of this policy and to accommodate a Special Event.
- 11.6. The City will provide notice to the Permit Holder if a permit must be suspended or cancelled or if the Refreshment Vehicle must be relocated as a result of a Special Event.
- 11.7. The City reserves the right to establish Refreshment Vehicle locations in all parks or recreation facilities during special events or for any other reason it deems necessary.

### **12. Cancellation and Refunds**

- 12.1. The City reserves the right to cancel or revoke any permit:
  - i. When a park or facility is needed for an event of municipal significance.
  - ii. In order to ensure public safety.

## Exhibit A

- iii. If, in the sole opinion of the City, the Permit Holder fails to comply with the requirements of the permit or any other provision of By-Law Number 2009-76 or for any other reason that the City deems appropriate.
  - iv. If, in the sole opinion of the City, the Permit Holder does not operate at their location during what the City deems to be appropriate and acceptable hours.
  - v. right to cancel for any other reason the City should determine
- 12.2. Refunds will be considered and pro-rated, if applicable, when relocation is not possible.

### **13. Other Requirements**

- 13.1. All signage must meet the provisions of the City's Sign By-Law 2009-140. All signage must be professionally printed. Hand written signs are not permitted.
- 13.2. The exterior appearance of the Refreshment Vehicle must in accordance with the application as approved. Its size and appearance must be approved by the City.
- 13.3. Permit Holders must provide their own garbage, recycling and organics bins and all waste must be removed by the Operator at least daily and throughout the day if required.
- 13.4. Refreshment Vehicles or equipment are not permitted to sell from more than the approved designated location.
- 13.5. Portable generators shall be permitted with approval by the City.
- 13.6. Refreshment Vehicles shall not remain on location before or after approved business hours or overnight.
- 13.7. Repair to any grassed area that is required as the result of the sales at Refreshment Vehicles will be the responsibility of the Permit Holder.
- 13.8. Physical constraints in a Park may not accommodate all types of Refreshment Vehicles.
- 13.9. Where the City of Kingston provides or facilitates concession services in a park or recreation facilities additional conditions may apply.