

BY – L A W N U M B E R 147-2011

A BY-LAW TO ESTABLISH STANDARDS FOR THE
MAINTENANCE AND OCCUPANCY OF ALL PROPERTY
IN THE CITY OF WINDSOR AND TO REPEAL BY-LAW
156-2005, AS AMENDED

Passed the 6th day of September, 2011

WHEREAS Section 15.1(3) of the *Building Code Act*, S.O. 1992, c. 23, as amended authorizes municipalities to enact by-laws prescribing standards for the maintenance and occupancy of all property within the municipality and for prohibiting the occupancy or use of such property that does not conform with the standards; and for requiring any property that does not conform with the standards to be repaired and maintained to conform with the standards as described herein or the site to be cleared of all buildings, structures, debris or refuse and the lands left in a graded and levelled condition;

AND WHEREAS the Official Plan for The Corporation of the City of Windsor includes provisions relating to property conditions as required by Section 15.1(3) of the *Building Code Act*, S. O. 1992, c. 23, as amended;

AND WHEREAS Section 391 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that Council may, by by-law, impose fees for services and activities provided or done by or on behalf of The Corporation of the City of Windsor;

AND WHEREAS Council passed Resolution M194-2011 at a meeting held August 8, 2011, authorizing the amendment of By-law 156-2005, as amended, which is a by-law to establish standards for the maintenance and occupancy of property in the City of Windsor;

AND WHEREAS it is deemed more expedient to repeal said by-law and replace it with a new consolidated document which incorporates the changes authorized in Resolution M194-2011;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

SECTION 1 SHORT TITLE

1.1 This by-law may be cited as the Property Standards By-law.

SECTION 2 DEFINITIONS

2.1 In this by-law:

ACCEPTABLE means:

- (a) accepted by the Chief Building Official of the Corporation with respect to matters under the Building Code; or
- (b) accepted by the Property Standards Officer with respect to the standards set out in this by-law.

ACCESSORY BUILDING means a subordinate building or structure on the same lot as the main building or a part of the main building, devoted exclusively to a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises.

ACT means the *Building Code Act*, S.O. 1992, c. 23, as amended or any successor thereof.

APPLIANCE means a device to convert fuel to energy and includes all components, controls, wiring and piping required as part of the device by the applicable standard referred to in the Building Code.

BARRIER-FREE means that a building and its facilities can be approached, entered and used by persons with physical or sensory disabilities.

BASEMENT means a storey, which is partially below grade, where the vertical distance from the grade to the floor is equal to or less than the vertical distance from the grade to the ceiling next above.

BUILDING means any structure used or intended to be used for supporting or sheltering any use or occupancy.

BUILDING CODE means the Regulations under the Act.

CELLAR means any part of a building where the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling above.

CHIEF BUILDING OFFICIAL means the Chief Building Official of the City or his/her designate.

CITY means The Corporation of the City of Windsor.

COUNCIL means the Council of the City.

CRAWLSPACE means an enclosed space between the undersides of a floor assembly and the ground cover directly below, with a clearance of less than 1.8 metres (5 feet 11 inches) in height.

DERELICT BUILDING shall mean:

- (a) a building which has been left vacant by the owner for a period of two years or more, or
- (b) a building damaged by fire, storm or other catastrophic event where, in the opinion of the Officer the building is beyond reasonable repair
(Derelict Building definition - added B/L 213-2011. Dec. 5/11)

DWELLING means a building or structure or part of a building or structure, occupied or capable of being occupied, in whole or in part for the purposes of human habitation, but does not include a hotel or motel.

DWELLING UNIT means a room or suite of rooms used by or designed to be used by one (1) or more individuals as an independent and separate housekeeping unit.

EXIT means that part of a means of egress that leads from the floor area it serves, including any doorway leading directly from a floor area to a public thoroughfare or to a suitable open space.

FLOOR AREA means the maximum area contained within the outside walls of a building or within the walls of a room, as the case may be.

GRADE means the average level of proposed or finished ground adjoining a building at all exterior walls.

GUARD means a protective barrier installed around openings in floor areas or on the open sides of a stairway, a landing, a balcony, a mezzanine, a gallery, a raised walkway, and other locations as required to prevent accidental falls from one level to another. Such barriers may or may not have openings through them.

HABITABLE ROOM means any room in a dwelling unit used or capable of being used for living, sleeping, cooking or eating purposes.

HERITAGE ATTRIBUTES means;

- (a) The attributes or features of property, buildings or structures that contribute to the property's cultural heritage value or interest that are defined or described or that can be reasonably inferred:
 - i. In a by-law designating a property passed under section 29 of the *Ontario Heritage Act* 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* 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* 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 including, roofs, walls, floors, retaining walls, foundations and independent interior structures and structural systems that hold up, support or protect the heritage values and attributes and without which the heritage values and attributes may be at risk.

(heritage attributes definition- added B/L 213-2011, Dec. 5/11)

HERITAGE PROPERTY means real property, and includes all buildings and structures thereon, in the City that:

- (a) Has been designated by the City under section 29 of the *Ontario Heritage Act* or by the appropriate Minister under section 34.5 of the *Ontario Heritage Act*, or,
- (b) Is within a heritage conservation district pursuant to Part V of the *Ontario Heritage Act*."

(heritage property definition - added B/L 213-2011, Dec. 5/11)

MAINTAIN means to keep all property in a condition that is in compliance with this By-law.

MEANS OF EGRESS means a continuous path of travel provided by a doorway, hallway, corridor, exterior passageway, balcony, lobby, stair, ramp or other egress facility or combination thereof for the escape of persons from any point in a building floor area, room or contained open space to a public thoroughfare or other suitable open space, and includes exit and access to exits.

NON-RESIDENTIAL PROPERTY means a building or structure or part of a building or structure not occupied in whole or in part for the purpose of human habitation, and includes the lands and premises appurtenant thereto and all outbuilding fences or erections thereon or therein.

OCCUPANT means any person or persons over the age of eighteen years in possession of the property.

OFFICER means a Property Standards Officer who has been assigned the responsibility of administering and enforcing by-laws passed under Section 15.1 of the Act.

ONTARIO BUILDING CODE means the regulations made under section 34 of the Act.

ONTARIO HERITAGE ACT means the *Ontario Heritage Act*, R.S.O. 1990, c. 0.18 as amended. (added – B/L 213-2011, Dec. 5/11)

OWNER includes the registered owner and 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 shall also include 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 of this by-law.

PARKING AREA means an area, other than an outdoor storage yard, which is capable of being maintained for the parking of five (5) or more operable motor vehicles and shall include all parking spaces, access areas, collector aisles and manoeuvring aisles.

PART IV HERITAGE PROPERTY means property designated under section 29 or 34.5 of the *Ontario Heritage Act* (added B/L 213-2011, Dec. 5/11)

PART V HERITAGE PROPERTY, means property designated under section 41 of the *Ontario Heritage Act*. (added B/L 213-2011, Dec. 5/11)

PERSON includes any individual, an owner, occupant, agent, contractor, tenant, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau or mortgagee.

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, outbuildings, retaining walls, fences and erections thereon, whether heretofore or hereafter erected, and includes vacant property.

REPAIR includes the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that the property conforms to the standards established in this by-law.

RESIDENTIAL PROPERTY means a building or structure or part of a building or structure 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 the land and premises appurtenant thereto and all mobile buildings or structures, outbuildings, retaining walls, fences and erections thereon, whether heretofore or hereafter erected.

SERVICE ROOM means a room provided in a building to contain equipment associated with building services.

SEWAGE means any liquid waste containing animal, vegetable or mineral matter in suspension or solution, but does not include storm water.

SEWAGE SYSTEM means the City of Windsor's system of storm sewers, sanitary sewers and combined sewers, or a private sewage disposal system approved by the Chief Building Official within the City of Windsor.

STOREY means that portion of a building between any floor, and the floor, ceiling, or roof next above. Any portion of a building which is partly below grade shall be deemed to be a storey if the vertical distance from the finished grade to the floor is equal to or less than the vertical distance from the finished grade to the ceiling next above. Any portion of a storey exceeding four (4) metres (13 feet, 1 inch) in height shall be deemed to be an additional storey.

STORM WATER means discharge from a surface as a result of rainfall, snow melt and snow fall.

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- 4.2.1 The owner of every non residential vacant building shall keep the property free of conditions that promote the infestation of birds at all times.

4.3 ADDITIONAL REQUIREMENTS FOR RESIDENTIAL VACANT BUILDINGS

- 4.3.1 Despite any other provision of this bylaw, where a vacant residential property can be repaired, the building shall be repaired:
- (a) As soon as is possible in a manner consistent with other parts of this bylaw; and,
 - (b) Maintained in a manner so as not to become, in the opinion of the Officer, a nuisance.

4.4 CLEARING AND LEVELING OF RESIDENTIAL VACANT BUILDINGS

Despite any other provision of this bylaw an Officer may issue an order directing the owner to demolish a derelict or vacant building.

PART 5: (Part 5 added – B/L 213-2011, Dec. 5/11)

SUPPLEMENTARY STANDARDS FOR HERITAGE PROPERTIES

5.1. GENERAL

- 5.1.1 In addition to the minimum standards for the maintenance and occupancy of property set out elsewhere in this bylaw, the owner of a Part IV or Part V Heritage Property shall:
- (a) Maintain, preserve and protect the attributes of the Part IV or Part V Heritage Property so as to maintain its heritage character as well as its visual and structural heritage integrity;
 - (b) Maintain the Part IV or Part V Heritage Property in a manner that will ensure the protection and preservation of its heritage values and attributes; and,
 - (c) Obtain a heritage permit from Council or where applicable Council's designate prior to performing work or causing work to be performed under this section of the bylaw.

5.2 REPAIR OF HERITAGE ATTRIBUTES

- 5.2.1 Despite any other provision of this bylaw, where a heritage attribute of a Part IV or Part V Heritage Property can be repaired, the heritage attribute shall be replaced and shall be repaired:
- (a) In such a manner that minimizes damage to the heritage values and attributes and maintains the design, colour, texture, grain or other distinctive features of the heritage attribute;
 - (b) Using the same types of material as the original and in keeping with the design, colour, texture, grain or other distinctive features of the original; and,

- (c) Where the same types of materials as the original are no longer available, alternative types of material that replicate the design, colour, texture, grain or other distinctive features and appearance of the original material may be used if approved by Council or where applicable their designate.

5.3 REPLACEMENT OF HERITAGE ATTRIBUTES

5.3.1 Despite any other provision in this bylaw, where a heritage attribute of a Part IV or V Heritage Property cannot be repaired, the heritage attribute shall be replaced:

- (a) In such a manner as to replace the design, colour, texture, grain or other distinctive features and appearances of the heritage attribute, using the same types of materials as the original; and,
- (b) Where the same of materials as the original are no longer available, alternative types of materials that replicate the design, colour, texture, grain or other distinctive features of the original materials may be used.

5.4 CLEARING AND LEVELING OF HERITAGE PROPERTIES

Despite any other provision of this bylaw or the Act, no building or structure located on a Part IV or Part V Heritage Property may be altered, demolished, removed or relocated except in accordance with the *Ontario Heritage Act*.

5.5 VACANT HERITAGE PROPERTIES

5.5.1 Notwithstanding Part 4 of this bylaw:

- (a) Where a Part IV or Part V Heritage Property remains vacant for a period of 90 days or more, the owner shall ensure that appropriate utilities serving the building are connected as required in order to provide, maintain and monitor proper heating and ventilation to prevent damage to the heritage attributes.
- (b) The owner of a vacant Part IV or Part V Heritage Property shall protect the building and property against the risk of fire, storm, neglect, intentional damage or other damage by other causes by effectively preventing the entrance of the elements, unauthorized persons or the infestation of pests by boarding up and securing any openings to the building in the following manner:
 - (i) all boards shall be installed from the exterior and shall be fitted in a watertight manner and so that all exterior trim and cladding remains uncovered and undamaged by the boarding;
 - (ii) all boards shall be fastened securely in a manner that minimizes damage to the heritage attributes;
 - (iii) all boards shall be painted in a manner to reflect panes of glass, frames and mullions that were to be found on the opening that is being boarded over or the panes of glass shall be painted in matt black and the window frames and mullions shall be painted in a colour that of the original opening; and,

- (iv) all boards used for boarding and securing openings not located in a window or door opening shall be painted or otherwise treated so that the colour blends with the exterior of the building or structure.”

