

# City of Niagara Falls

## BY-LAW NO. 2015-101

### **A by-law to prescribe standards for the maintenance and occupancy of property within the City of Niagara Falls.**

WHEREAS the Council of The Corporation of the City of Niagara Falls has in effect, an official plan enacted pursuant to the *Planning Act, R.S.O. 1990, c.P. 13*, as amended, that includes policies relating to the maintenance and *occupancy* of *property* within the City of Niagara Falls;

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 which has an Official Plan in effect that includes provisions relating to *property*, to prohibit the *occupancy* or use of *property* that does not conform with the standards and to require *property* that does not conform with standards or the site be cleared of all *buildings*, structures, debris or refuse and left in a graded and leveled condition;

AND WHEREAS Section 15.6(1) of the *Building Code Act 1992, S.O. 1992, c .23* as amended, provides for the establishment of a Property Standards committee;

AND WHEREAS Section 391 of the *Municipal Act, 2001, S.O. 2001, c .25* as amended, provides a municipality may pass by-laws imposing fees or charges on any class of *persons* for services or activities provided or done by or on behalf of it;

AND WHEREAS the Council of The Corporation of the City of Niagara Falls deems it desirable to enact such a by-law to establish standards for the *occupancy* and maintenance of certain *buildings* and properties, so that *Owners* and occupancies provide minimum standards for *persons* who may live at, attend or otherwise be affected by the conditions of the *buildings* and properties;

AND WHEREAS it is deemed necessary to enact a by-law prescribing minimum standards for the maintenance and *occupancy* of *property*, to adopt a set of administration procedures and to appoint a Property Standards committee;

AND WHEREAS Section 35.3 of the *Ontario Heritage Act, R.S.O. 1990, c. O.18* as amended, provides that Council may, by by-law, prescribe minimum standards for the maintenance of the *heritage attributes* of *property* that has been designated by the municipality or the Minister; and require *property* that has been designated and that does not comply with the standards to be *repaired* and maintained to conform with the standards;

AND WHEREAS Section 45.1 of the *Ontario Heritage Act, R.S.O. 1990, c. O.18* as amended, provides that Council may, by by-law, prescribe minimum standards for the maintenance of the *heritage attributes* of *property* situated in a designated heritage conservation district; and require *property* situated in a designated heritage conservation district that does not comply with the standards to be *repaired* and maintained to conform with the standards.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

## **SECTION 1      GENERAL PROVISIONS**

### **1.1      SHORT TITLE**

1.1.1      This by-law shall be known as the “Property Standards By-law”.

### **1.2      DEFINITIONS**

1.2.1      For the purpose of this by-law:

- (1)      “*accessory*” when used to describe a use, a *building* or a structure, means a use, a *building* or a structure that is incidental, subordinate and exclusively devoted to a main use, a *building* or a structure, located on the same lot therewith and which not used or intended for use as a human habitation;
- (2)      “*Act*” means the *Building Code Act 1992, S.O. 1992, c.23* as amended;
- (3)      “adequate” in respect to the provision of vital services at an occupied residential rental unit means that services are provided sufficient to allow for:
  - (a)      the refrigerating, freezing, preparing and cooking of food for human consumption;
  - (b)      the heating of the residential rental unit in accordance with the provisions of this by-law;
  - (c)      the washing of dishes and utensils used for food;
  - (d)      the operation of a toilet;
  - (e)      the cleansing and bathing of human beings; and
  - (f)      the lighting of the unit.
- (4)      “*basement*” means that portion of a *building* between two floor levels, which is below *grade*, but which has at least on half of its height from the finished floor to the finished ceiling above the average level of the adjoining ground and has a minimum height of 2.1m [6’-11”] over at least 75% of its *floor area*;
- (5)      “*bathroom*” means a room containing at least one toilet, one hand basin or lavatory and one bathtub or shower, or two rooms, which contain in total at least one toilet, one hand basin or lavatory and one bathtub or shower;
- (6)      “*bedroom*” means a *habitable room* used by *persons* for sleeping purposes;
- (7)      “*building*” means:
  - (a)      a structure occupying an area greater than then square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;

- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto;
  - (c) plumbing not located in a structure;
  - (d) a *sewage system*; or
  - (e) structures designated in the *Ontario Building Code*.
- (8) “*cellar*” means that portion of a *building* between two floor levels which is partially or completely below ground and which has more than one half of its height from the finished floor to the finished ceiling below finished *grade* and has a minimum height of 2.1m [6’-11”] over at least 75% of its *floor area*;
  - (9) “*Chief Building Official*” means the *Chief Building Official* of The Corporation of the City of Niagara Falls;
  - (10) “*City*” means the municipality of the City of Niagara Falls;
  - (11) “*Committee*” means the Property Standards Committee as established and continued by this by-law in accordance with Section 15.6 of the *Building Code Act 1992*, S.O. 1992, c .23, as amended;
  - (12) “*crawlspace*” means that portion of a *building* between two floor levels, or between a floor level and the ground, which has a height over more than 75% of its area less than 2.1m [6’-11”];
  - (13) “*dwelling unit*” means a suite operated as a housekeeping unit, used or intended to be used by one or more *persons* usually containing cooking, eating, living, sleeping and sanitary facilities and shall include a *building* that would be considered a *dwelling unit* except for its state or *repair*;
  - (14) “*exit*” means that part of a *means of egress*, including doorways, that leads from the *floor area* it serves to a separate *building*, an open public thoroughfare or an exterior open space protected from fire exposure from the *building* and having access to an open public thoroughfare.
  - (15) “*fire resistance rating*” means the time in minutes or hours that a material or assembly or materials will withstand the passage of flame and the transmission of heat when exposed to fire under specified conditions of test and performance criteria, or as determined by extension or interpretation of information derived from that test and performance as prescribed in the *Ontario Building Code*;
  - (16) “*floor area*” means the space on any *storey* of a *building* between exterior walls and required firewalls and includes the space occupied by interior walls and partitions, but does not include *exits* and vertical spaces that penetrate the *storey*;
  - (17) “*grade*” means the average level of proposed or finished *grade* adjoining a *building* at all exterior walls;

- (18) “*guard*” means a protective barrier with or without openings through it, that is around openings in floors or at the open sides of stairs, landings, balconies, mezzanines, galleries, raised walkways, or other locations to prevent accidental falls from one level to another;
- (19) “*habitable room*” means any room used or intended to be used for living, sleeping, cooking or eating purposes and without limiting the foregoing shall include den, library, sewing room, sunroom or recreational room or any combination thereof;
- (20) “*heating system*” means a device to convert fuel into energy and includes all components, controls, wiring, duct work, and piping required to be part of the device by the applicable standards referenced to in the *Ontario Building Code*;
- (21) “*Ontario Heritage Act*” means the *Ontario Heritage Act, R.S.O. 1990, c. O.18* as amended;
- (22) “*heritage attribute*” means:
- (a) the attribute(s) or feature(s) 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*, reason for designation or otherwise.
- (23) “*heritage property*” means any real property including all *buildings* and structures thereon, in the City of Niagara Falls that:
- (a) has been designated by the *City* under section 29 or by the Minister under 34.5 of the *Ontario Heritage Act*; or
  - (b) is located within a heritage conservation district that has been designated by the *City* under section 41 of the *Ontario Heritage Act*.

- (24) “*kitchen*” means a room equipped with a sink and equipped with electricity and necessary utilities suitable for the operation of a refrigerator and cooking stove;
- (25) “*landlord*” shall be as defined in the *Residential Tenancies Act S.O. 2006, Chapter 17* as amended from time to time and any successor legislation to that Act;
- (26) “*means of egress*” means a continuous, unobstructed path of travel provided by a doorway, hallway, corridor, exterior passageway, balcony, lobby, stair, ramp, or other facility or combination thereof provided for the escape of *persons* from a *building, dwelling unit, floor area*, contained open space or room to a public thoroughfare, street, lane, *yard* or other approved open space at *grade* level. Egress shall include *exits* and access to *exits* while elevators and windows which do not comply with the requirements of this by-law shall not be considered as acceptable *means of egress*;
- (27) “*multiple dwelling*” means a *building* containing three or more *dwelling units*;
- (28) “*non-habitable room*” means any room in a *dwelling unit* other than a *habitable room* and includes any *bathroom*, laundry, pantry, lobby, communicating corridor, stairway, closet, *crawlspace*, boiler room or other space for service and maintenance of the *dwelling unit* or the public use, or for access, or for vertical travel between *storeys* as well as *basements* and *cellars* or for the parts thereof which do not comply with the standards of fitness for occupancy as set out in this by-law;
- (29) “*non-residential property*” means a *building* or structure or part thereof of a *building* or structure not occupied or used in whole or in part for the purpose of human habitation and includes the lands and premises appurtenant thereto and all *accessory buildings, outbuildings, steps, walks, walkways, driveways, parking spaces* or erections thereon or therein, and includes vacant *non-residential property*;
- (30) “*occupancy*” means the use of intended use of a *building* or part thereof of a *building* for the shelter or support of *persons, animals* or property;
- (31) “*occupant*” means any *person* or *persons* over the age of 18 years in possession of the property;
- (32) “*occupied*” means the tenant is actively residing in the residential rental unit;
- (33) “*Officer*” means an *Officer* appointed by by-law and assigned the duties for enforcing and/or administering this by-law and shall also include a Building Inspector and the *Chief Building Official*;
- (34) “*Ontario Building Code*” means the regulation established through the *Act* and any amendments and/or alterations made under that *Act*;
- (35) “*Order*” means an *Order* made under the corresponding section(s) of this by-law;

- (36) “*Owner means*”
- (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 so receive the rent if such land or 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 the property;
- (37) “*person*” means and includes an individual, firm, corporation, association or partnership and includes an *occupant* or an *Owner* of a property;
- (38) “*potable water*” means water that is fit for human consumption;
- (39) “*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* and erections thereon whether heretofore or hereafter erected, and includes *vacant lands*. For the purpose of this by-law, *property* can be subdivided into the following categories;
- (a) *Non-residential property*;
  - (b) *Residential property*; or
  - (c) *Vacant lands*;
- (40) “*repair*” means the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a *property* conforms with the standard established in this by-law;
- (41) “*residential property*” means any *property* that is designated for use, is used or is capable of being used as a *dwelling unit* or group of *dwelling units* and includes any land or *buildings* that are appurtenant to such establishment including but not limited to all steps, walks, driveways, parking spaces and *yards*;
- (42) “*residential rental unit*” means a building or part thereof that is rented to leased as a dwelling unit;
- (43) “*room heater equipment*” means a supplemental heating device other than the required primary *heating system* used to heat any room or space;
- (44) “*sanitary sewage*” means:
- (a) Liquid or water borne waste:
    - (i) of industrial or commercial origin; or

- (ii) of domestic origin, including human body waste, toilet or other *bathroom* waste, and shower, tub, culinary, sink and laundry waste; or
  - (b) liquid or water borne waste discharged from a public pool to a drain.
- (45) “*sewage system*” means a public sewer or private sewage disposal system;
- (46) “*storey*” means that portion of a *building* which is situated between the top of any floor and the top of the floor next above it, and if there is no floor above it, that portion between the top of such floor and the ceiling above it;
- (47) “*supplier of vital service*” means a person who carries on the business of or whose business includes supplying a vital service to an end user, and includes:
  - (a) Niagara Peninsula Energy Inc. for the provision of electricity;
  - (b) Enbridge Inc. for the provision of natural gas; or
  - (c) The Corporation of the City of Niagara Falls for the provision of water.
- (48) “*system used for the distribution*” includes all parts of a system owned or supplied by a landlord and located in a building for the purpose of supplying and distributing a vital service to a residential rental unit;
- (49) “*tenancy agreement*” means an agreement between a tenant and a landlord for possession of a residential rental unit, whether written, oral or implied, and includes a licence to occupy the premises;
- (50) “*tenant*” includes a person who is lessee, occupant, sub-tenant, under-tenant, border, roomer, and lodger and the person’s assigns and legal representatives;
- (51) “*toilet room*” means a room containing a water closet or toilet;
- (52) “*vacant lands*” means *property* on which there are no *buildings* and / or having no established land uses;
- (53) “*vital service*” means fuel, electricity, gas, hot water, water and steam;
- (54) “*yard*” means land, other than publicly owned land, around and appurtenant to the whole or any part of a *building* or structure and used, intended to be used or capable of being used in connection therewith.

### 1.3 INTERPRETATION

- 1.3.1 In this by-law statutory references are to statutes of Ontario and the regulations made thereunder and shall be deemed to refer to such statutes and regulations as amended, consolidated, re-enacted and in force from time to time.

- 1.3.2 In this by-law the numbering system shall be referenced in accordance with the following:
- 1 ..... section
  - 1.1 ..... subsection
  - 1.1.1..... article
  - 1.1.1(1) ..... sentence
  - 1.1.1(1)(a)..... clause

- 1.3.3 This by-law shall be read with all changes of gender and number required by the context or circumstances.

#### **1.4 APPLICATION**

- 1.4.1 Every *Owner* of *property* situated within the City of Niagara Falls shall maintain such *property* to the applicable minimum standards prescribed by this by-law.
- 1.4.2 The Property Standards set forth in Section 2 of this by-law are hereby prescribed as the general minimum standards for the maintenance and *occupancy* of *property*. Section 2 applies to all properties in the City of Niagara Falls, regardless of *property* type or use.
- 1.4.3 In addition to the maintenance standards prescribed in Section 2 of this by-law, the Property Standards set forth in Section 3 of this by-law are hereby prescribed as the maintenance and *occupancy* standards to be applied specifically to all residential properties in the City of Niagara Falls.
- 1.4.4 In addition to the maintenance standards prescribed in Section 2 of this by-law, the Property Standards set forth in Section 4 of this by-law are hereby prescribed as the maintenance and *occupancy* standards to be applied specifically to all *non-residential properties* in the City of Niagara Falls.
- 1.4.5 In addition to the maintenance standards prescribed in Sections 2, 3 and 4 of this by-law, the Property Standards set forth in Section 5 of this by-law are hereby prescribed as the maintenance and *occupancy* standards to be applied specifically to all *heritage property* in the City of Niagara Falls.
- 1.4.6 In addition to the maintenance standards prescribed in Sections 2, 3, and 4, and except for *property* subject to the provisions of Section 5 of this by-law, the Property Standards set forth in Section 6 of this by-law are hereby prescribed as the maintenance and *occupancy* standards to be applied specifically to all *vacant lands*, parking lots and demolitions in the City of Niagara Falls.
- 1.4.7 Where a *building* or *property* contains a mix or combination of uses as described above, the applicable standards as identified in this by-law shall apply in accordance with the section corresponding with the identified *occupancy* type.
- 1.4.8 Where references are made in this by-law to the *Ontario Building Code* and requirements or provisions therein, the regulation established in this by-law shall require conformance to the standard as set out in the *Ontario Building Code* for new



construction as of the date of any action taken by the *City* to enforce or administer this by-law, despite the age or installation date of the item being regulated.

## **SECTION 2      PROPERTY STANDARDS – ALL PROPERTIES**

### **2.1      MAINTENANCE OF YARDS AND EXTERIOR PATHS OF TRAVEL**

- 2.1.1 No *yard* shall contain dilapidated, collapsed or partially constructed structures which are not currently under construction.
- 2.1.2 A hard surface walk shall be provided from every *dwelling unit* to the street, or to a hard surfaced driveway that connects to the street.
- 2.1.3 Every *yard* shall be kept clear of dead, decayed or damaged trees
- 2.1.4 All trees or parts thereof that have expired shall be removed or maintained in a condition which is not hazardous to *persons* expected to be on or about the *property*.
- 2.1.5 All hedges and brush shall be kept trimmed so as not to encumber or encroach upon private walks, driveways and exterior *means of egress*
- 2.1.6 Where an outdoor swimming pool is present on any *property* and is determined by an *Officer* to be abandoned, the *Officer* may cause the *Owner* of the outdoor swimming pool to make *repairs* or other requirements necessary to maintain the pool in proper working condition or to remove the outdoor swimming pool from the *property*.

### **2.2      DRAINAGE**

- 2.2.1 All *yards* shall be provided and maintained with adequate surface water drainage, including suitable provisions for its disposal without causing erosion, so as to prevent recurrent ponding or the intrusion of water in any *basement, cellar* or *crawlspace*.
- 2.2.2 Roof drainage or discharge from a sump pump shall not be permitted to discharge to a sidewalk, stair, neighbouring *property*, street or sanitary sewer system.

### **2.3      RETAINING WALLS AND ACCESSORY STRUCTURES**

- 2.3.1 All retaining walls and *accessory buildings* shall be kept in good *repair* and free from health and safety hazards and shall be protected by paint, preservative or other weather resistant material.
- 2.3.2 Every retaining wall or part thereof shall be structurally sound and maintained in that condition so that it has sufficient capacity to resist safely and effectively all loads and the effects of loads and influences that may reasonably be expected, having regard to its expected use and service life.
- 2.3.3 Every retaining wall or *accessory building* not maintained in accordance with these standards shall be *repaired* or removed in accordance with the provisions of this by-law.

## 2.4 PEST PREVENTION

- 2.4.1 All *buildings* shall be kept free of conditions that would permit or cause an infestation of rodents, vermin and insects. Methods used for exterminating rodents, vermin or insects shall be in accordance with the provisions of the *Environmental Protect Act*, the *Pesticides Act* and any other applicable regulations, acts or municipal by-laws.
- 2.4.2 Windows used or required for ventilation and every opening in an exterior wall, floor, roof or foundation which could permit the entry of rodents, vermin and insects, shall be screened with wire mesh or such other material as will effectively exclude the same.
- 2.4.3 For the purpose of this subsection an infestation includes the presence of one rat or mouse, but excludes a domesticated mouse or rat and in the case of insects means the presence of a breeding population of insects, and in the case of wasps, hornets or bees includes the presence of any occupied nest on the interior or attached to the exterior of a *dwelling unit*.

## 2.5 STRUCTURAL SOUNDNESS

- 2.5.1 Every structural component in every *building* including but not limited to all studs, slabs, joists, rafters, trusses, joists, ties, sheathing, beams, and columns shall be of sound material and adequate for the load to which they are subject.
- 2.5.2 Every component that contributes to the structural stability of a *building* shall be maintained in a sound condition so as to:
- (1) be capable of sustaining safely its own weight and any additional load to which it normally may be subject;
  - (2) be capable of safely accommodating all normal structural movements without damage, decay or deterioration;
  - (3) prevent the entry of moisture that would contribute to damage, fungus, mold growth, decay or deterioration;
  - (4) be capable of safely and adequately performing its function subject to all reasonable serviceability requirements; and
  - (5) have a factor of safety as set out by the standards in the *Ontario Building Code*.
- 2.5.3 All exterior surfaces of *buildings*, structures and retaining walls including mobile structures and *buildings*, shall be of materials which resist deterioration by the weather or have resistance coating applied to them.
- 2.5.4 The exterior walls, chimneys, roofs and other parts of *buildings*, structures and retaining walls including mobile structures and *buildings* on the *property* shall be free from loose or insufficiently secured, rotten, warped or broken materials and objects. Such material and objects shall be removed, *repaired* or replaced.

## 2.6 FOUNDATIONS

- 2.6.1 The foundation walls and *basement, cellar* or *crawlspace* floors shall be maintained in good *repair* and be structurally sound.
- 2.6.2 Every *basement, cellar, and crawlspace* on a *property* shall be maintained in watertight conditions so as to prevent the leakage of water into the *building*.
- 2.6.3 Foundation walls of a *building* shall be maintained so as to prevent the entrance of insects, rodents and excessive moisture. Maintenance includes the shoring of walls to prevent settling, installing subsoil drains where necessary at the footings, grouting masonry cracks, dampproofing and waterproofing of walls, joints and floors.
- 2.6.4 Every *building*, unless of concrete slab-on-grade design, shall rest upon full foundation walls or piers, and all footings, foundation walls, and piers shall be of concrete, masonry, wood, steel or other material acceptable for construction under the standards set out in the *Ontario Building Code* and shall be sound, reasonably plumb, level and adequate to carry the loads imposed on them.

## 2.7 EXTERIOR WALLS

- 2.7.1 Exterior walls and their components shall be maintained so as to prevent their deterioration.
- 2.7.2 For purposes of compliance with article 2.7.1, walls shall be so maintained, by the painting, restoring, cladding with an exterior finish or by *repairing* of the walls, coping or flashing by the waterproofing of joints and the walls themselves.
- 2.7.3 Exteriors of *buildings* shall be:
- (1) kept weather resistant through the use of caulking and other appropriate weather resistant materials; and
  - (2) maintained to prevent their deterioration due to weather and rodents, insects or vermin and where necessary, shall be so maintained by the painting, restoring, or *repairing* of the walls, coping or flashing, by the waterproofing of joints and the walls themselves, by the installation of or *repairing* of weather tight finishing or the installation of termite shields if required.

- 2.7.4 Without limiting the generality of the foregoing, the weather tight finishing or an exterior wall shall include the following:
- (1) the application of a weather resistant material to all exterior wood and metal work;
  - (2) the restoring, *repairing* or replacing of the exterior wall, brick and mortar, stucco lathing and plaster, cladding, coping and flashing; and
  - (3) the waterproofing of the exterior walls and joints.
- 2.7.5 All exterior surfaces which have previously been covered with paint or other protective or decorative materials shall be maintained in good *repair* and the covering renewed when it becomes damaged or deteriorated.
- 2.7.6 All exterior flashing, ducts or other metal materials shall be kept free from rust by application of a suitable protective material such as paint, and shall be replaced when such application is impractical or ineffective.
- 2.7.7 Exterior walls and their components shall be *repaired* of vandalism or other damage, including defacements by paint, inscriptions or other markings as well as broken windows.
- 2.7.8 Exterior walls of a *building* or structure, and their components shall be maintained so as to be free of posters or advertisements;
- (1) which are for the giving of notice for an event that has already occurred, or where the message contained is not readable due to damage or deterioration to the poster or its content; or
  - (2) which is loosened, dislodged, torn or otherwise in a condition that may permit them to detach and become litter; or
  - (3) in accordance with the provisions of any municipal by-law regulating signage in the City of Niagara Falls.

## **2.8 ROOFS**

- 2.8.1 All roofs including the fascia board, soffit, cornice and flashings shall be maintained in a watertight condition to prevent leakage of water into the *building*, where necessary by the *repair* of roofs and flashing and application of waterproofed coatings or coverings without the use of tarping unless authorized by the *Chief Building Official*.
- 2.8.2 All roofs shall be maintained:
- (1) free from loose or unsecured objects or materials;
  - (2) free from excessive or dangerous accumulations of snow, ice or both;

- (3) in a water tight condition so as to prevent the leakage of water into the *building* or structure;
  - (4) free from conditions causing or contributing to leaks or being detrimental to the appearance of the *buildings*;
  - (5) so that any roof decks and related *guards* are in good *repair* and structurally sound; and
  - (6) free from all other safety, fire and health hazards.
- 2.8.3 All structural components of a roof shall provide adequate support for all design loads and form a suitable base for the roof covering, and where the roof is subjected to a load for which it may be inadequate, the roof shall be cleared of the load to prevent collapse or structural damage.
- 2.8.4 Eavestrough, downspouts, roof drains and rain water leaders shall be installed and maintained in good *repair* to be:
- (1) watertight and free from leaks;
  - (2) in good working order, and free from obstructions;
  - (3) in a stable condition and shall be securely fastened to the structure;
  - (4) kept free from rust by application of a suitable protective material such as paint, and shall be replaced when such application is impractical or ineffective;
  - (5) installed in a manner to discharge water onto the ground away from the *building*, sidewalks or stairs and so not to negatively affect neighbouring properties; and
  - (6) free from conditions which pose a health and safety hazard.

## **2.9 WALLS, CEILINGS AND FLOORS**

- 2.9.1 Every wall, ceiling and floor in a *building* shall be maintained so as to be easily cleaned and shall be maintained in good *repair* and free of holes, cracks, loose covering or other defects which may create an unsafe condition or would permit flame, excessive heat or water, to enter the adjacent spaces.
- 2.9.2 Finished flooring in *bathrooms*, *kitchens*, public entrance halls, laundry and general storage areas shall consist of resilient flooring, felted-synthetic-fibre floor coverings, concrete, terrazzo, ceramic tile, mastic or other types of flooring providing similar degrees of water resistance.
- 2.9.3 Every *basement*, *cellar* and *crawlspace* shall have a floor of suitable material to ensure water drainage and to *guard* against the entry to vermin and pests.
- 2.9.4 Where walls, floors or ceilings form part of an assembly having and / or requiring a rating against fire or smoke, they shall be maintained in such a manner to preserve

the *fire resistance rating* as established by the standards set out in the *Ontario Building Code*.

- 2.9.5 Every *building* shall be constructed or otherwise separated to prevent the passage of smoke, flames, fumes, and gases from that part of the *building* which is not used, designed or intended to be used for human habitation into other parts of the *building* used for habitation. Such separations shall conform with the standards as set out in the *Ontario Building Code*.
- 2.9.6 Where a wall, floor or ceiling assembly would be required, if it were newly constructed, to have a *fire resistance rating* in accordance with standards as set out in the *Ontario Building Code*, fire dampers shall be installed in any ducting which penetrates such an assembly in a manner that would maintain the standard for *fire resistance rating* of the subject assembly.
- 2.9.7 Any door installed in a wall assembly that would be required, if it were newly constructed, to have a *fire resistance rating* in accordance with the standards as set out in the *Ontario Building Code*, shall possess the stipulated fire protection rating as set in the standards established by the *Ontario Building Code* for doors installed in such assemblies.

## **2.10 DOORS AND WINDOWS**

- 2.10.1 Exterior doors, windows, skylights, doors, or hatchways including storm and screen doors and storm windows shall be maintained in good *repair* and weather tight and shall be free from:
- (1) rotten or defective members;
  - (2) defective hardware;
  - (3) torn or damaged screens;
  - (4) defective weatherstripping or caulking;
  - (5) defective storm or screen doors;
  - (6) defective frames, casings and sashes; and
  - (7) missing or broken glass.
- 2.10.2 All doors installed to *repair* or replace existing doors shall meet the provisions and standards as set out in the *Ontario Building Code*.
- 2.10.3 All exterior openings for doors and windows shall be fitted with suitable doors or windows, or shall be filled in with an assembly conforming with the requirements of the exterior wall in which the opening exists.
- 2.10.4 All doors, door frames, windows, window frames, sashes, casings, and associated caulking and weatherstripping that have been damaged or show evidence of rot or deterioration shall be sealed, *repaired*, replaced and / or painted.

## **2.11 STAIRS, BALCONIES, PORCHES AND OTHER PLATFORMS**

- 2.11.1 Every interior or exterior stair, porch, balcony or landing available for use shall be properly and safely anchored to their structural support and maintained in good *repair* so as to be free of holes, cracks or other defects constituting possible safety hazards. All treads, risers and / or supporting structure that show excessive wear, are broken, warped or loose, are rotten or deteriorated shall be *repaired* or replaced.
- 2.11.2 The slope of treads shall not exceed 1 in 50.
- 2.11.3 So as to provide protection against accident or injury; handrails, balustrades and *guards* shall be installed and maintained in good *repair* to the standard to which they were legally built or to the standard set out in the *Ontario Building Code* where so required at the discretion of the *Chief Building Official*.
- 2.11.4 Every porch, balcony, landing, raised floor, mezzanine, gallery, raised walkway or roof to which access is provided for other than maintenance purposes, shall be protected by *guards* on all open sides where the difference in elevation between adjacent walking surfaces exceeds 600mm [23"], and every exterior stair with more than three (3) risers shall be protected with *guards* on all open sides where the difference is elevation between the adjacent ground level and the stair exceeds 600mm [23"].
- 2.11.5 Except for existing *guards* that have been maintained in good condition and are minimum height of 900mm [33"], all *guards*, including those that are required to be replaced due to their deteriorated condition or to be installed to conform to article 3.2.1, shall be constructed to meet the standards as set out in the *Ontario Building Code* and all such *guards* shall be maintained in good *repair* at all times.

## **2.12 PLUMBING AND SEWAGE**

- 2.12.1 Where a plumbing system is installed it shall be maintained in good working order and free from leaks and defects.
- 2.12.2 Every plumbing fixture in a plumbing system shall be connected to a *sewage system* through water seal traps.
- 2.12.3 All water supply pipes and appurtenances thereto shall be protected from freezing.
- 2.12.4 *Sanitary sewage* shall be discharged into the municipal sanitary sewer where such a system is available, and where a municipal sanitary sewer is not available, the sewage shall be disposed of in a manner that meets the standards as set out in the *Ontario Building Code* for private on-site *sewage systems*.

## **2.13 ELECTRICAL AND LIGHTING**

- 2.13.1 In every *building*, electrical wiring, conduit, and all other systems or devices associated with the electrical services shall be in compliance with and maintained according to the regulations made by the Electrical Safety Authority pursuant to the *Electricity Act. S.O. 1998, c.15, as amended*.

2.13.2 All fuses, breakers, or circuits relate to the electrical system shall not be used in a manner that would exceed the limits established for the related device or system by the Electrical Safety Authority.

2.13.3 The interior and exterior lighting that is visible on the exterior of any *building* shall be placed and maintained, or have a barrier or shade placed and maintained so as to prevent or block direct illumination of the interior of a *dwelling unit* on adjacent *property* regardless of whether such *dwelling unit* has or may have interior window coverings except for:

- (1) lighting located by a road authority;
- (2) lighting located on *property* owned or occupied by a municipal, provincial or federal government or authority;
- (3) light fixtures used in conjunction with commercial, industrial, institutional, agricultural or recreational uses that shall to be turned off at any time the use is not actually being conducted, but may require the redirection, movement or the placing of shades or barriers to comply with the standards established in this subsection;
- (4) illuminated outdoor advertising signage that may be turned off at any time the business is not open to the public, but may require the redirection, movement or the placing of shades or barriers to comply with the standards established in this subsection; or
- (5) lighting fixtures used to illuminate any area for emergency, security or public safety purposes that may be turned off any time the illumination is unnecessary for the purposes, but may require the redirection, movement or the placing of shades or barriers to comply with the standards of this subsection.

2.13.4 If exterior lighting is provided for exterior steps, walks, loading docks, ramps, parking spaces, driveways and similar areas of a *yard* of a *property*, the exterior lighting and their supports and connections thereto shall be maintained and kept in a safe condition, in good *repair* and in good working order to provide adequate light.

2.13.5 Without limiting the generality of the foregoing, for the purposes of determining adequacy of lighting levels for compliance with this by-law, minimum lighting levels shall meet or exceed the levels listed below for the areas identified.

Room or Space	Minimum Illumination (lx)	Minimum Lighting Power Density (W/m <sup>2</sup> of floor area)
storage rooms and garages	50	5
service rooms and laundry areas	200	20
<i>bathrooms</i>	100	10



Room or Space	Minimum Illumination (lx)	Minimum Lighting Power Density (W/m <sup>2</sup> of floor area)
hallways, stairways, <i>exits</i> , public corridors and corridors providing access to <i>exit</i> for the public	50	5

## 2.14 HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS

2.14.1 Any heating, ventilation and/or air conditioning system and all associated mechanical equipment, piping, ducting and other *accessory* equipment to such systems shall be installed, operated and maintained:

- (1) in good working order;
- (2) to prevent the ingress of smoke or gases into the *building*;
- (3) free from any conditions that would cause any associated devices from generating noise levels beyond that of the acceptable standard in place when the unit was installed;
- (4) in a safe mechanical and / or electrical condition free from unsafe conditions; and
- (5) to meet the standards as set out in the *Ontario Building Code* and any other applicable standard or regulation.

2.14.2 A heating appliance shall not be located in corridors, hallways or other *means of egress*.

2.14.3 Except in the event of an emergency, no occupied *building* shall be equipped with *room heater equipment* as the primary source of heat.

2.14.4 No *room heater equipment* shall be placed:

- (1) so as to constitute a fire hazard to walls, window coverings or furniture;
- (2) so as to impede free movement of *persons* in the *dwelling unit*; and
- (3) in such location that nearby combustible materials or structural members exceed a safe temperature.

2.14.5 All heating and cooking apparatus or equipment involving combustion shall be properly connected, by rigid and permanently sealed connections:

- (1) to a chimney or flue which provides sufficient outlet for the escape of noxious gases; and
- (2) to the fuel supply line.

- 2.14.6 Any fuel burning heating equipment used in any *building* shall be properly vented to outside air by means of a Canadian Standards Association (CSA) approved or *Ontario Building Code* compliant smoke pipe, vent pipe or chimney.
- 2.14.7 Where a *heating system* or part thereof, or any auxiliary *heating system*, burns solid or liquid fuel, a place or receptacle for the storage of the fuel shall be provided and maintained in a convenient location and properly constructed so as to be free from fire, health and safety hazards.
- 2.14.8 Air conditioners shall be equipped with adequate devices for the prevention of condensation drainage on to entrance areas, sidewalks, pathways or public spaces.
- 2.14.9 Cooling water from water-cooled equipment shall not be discharged onto driveways, walkways or other areas used for pedestrian or vehicular traffic, or in such manner that it may cause damage to the walls, foundations or other parts of a *building*.
- 2.14.10 The discharge of cooling water from all water-cooled equipment shall be made to a proper drainage system and shall be connected in accordance with all applicable regulations or standards.

## **2.15 FIREPLACES AND CHIMNEYS**

- 2.15.1 Fireplaces and similar devices or appliances used or intended to be used for the burning of fuel, shall be connected to an approved chimney, smoke pipe, flue or gas vent and shall be installed so that combustible material and structural members in proximity to the unit are not heated beyond safe temperatures.
- 2.15.2 Fireplaces and similar devices or appliances used or intended to be used for the burning of fuel, shall be provided with and capable of drawing a sufficient amount of combustion air.
- 2.15.3 Any device identified in article 2.15.1, shall be installed in accordance with the provisions of the manufacturer's specifications and installation instructions and/or shall meet the standards as set out in the *Ontario Building Code* for newly installed / constructed fireplaces.
- 2.15.4 Every chimney, smoke pipe, flue and gas vent shall be installed and maintained in good condition so as to prevent the heating of adjacent combustible material or structural members beyond safe temperatures.

2.15.5 Every chimney, smoke pipe, flue and gas vent in use or available for use in any *building* shall be:

- (1) installed in accordance with the manufacturer's specifications;
- (2) installed and maintained to prevent the escape of smoke or gases into the *dwelling unit*;
- (3) free of obstructions;
- (4) free from open joints; and
- (5) in good *repair*.

## **2.16 VENTILATION**

2.16.1 Where a system of mechanical ventilation is provided, all components including but not limited to ducting, intake and exhaust shall be installed to meet the standards as set out in the *Ontario Building Code* and with good engineering practices.

## **2.17 SERVICE ROOMS**

2.17.1 Any space that contains a heating unit shall have natural or mechanical means of supplying air by ventilation ducts from the exterior in such quantities as required by the heating unit for combustion to maintain operation of the unit in accordance with the manufacturer's specifications.

2.17.2 In every *building* with a common *heating system*, such system shall be located in a separate room, having floors, walls, ceilings, and doors constructed with a *fire resistance rating* to meet the standards as set out in the *Ontario Building Code*.

2.17.3 Any service room that contains fuel burning appliances shall not be used for the storage of fuels or any other such material and shall be kept clear of all garbage, debris and rubbish.

## **2.18 BATHROOM OR TOILET ROOM FACILITIES**

2.18.1 All *bathrooms* and *toilet rooms* shall be fully enclosed and shall have a door capable of being closed so as to provide privacy for the *occupant* of the room.

2.18.2 A lavatory or hand wash basin shall be provided in the same room as each toilet or in an adjoining *bathroom* provided that a *kitchen* sink shall not be considered a hand wash basin for the purpose of this article.

## **2.19 KITCHEN FACILITIES**

2.19.1 Every *kitchen* shall be equipped with:

- (1) a *kitchen* sink that:
  - (a) is provided with a potable cold and hot water supply; and
  - (b) is maintained in a state of good *repair*.
- (2) when equipped with a refrigerator, cooking or other appliance, such appliance shall be maintained in good *repair* and good working order;
- (3) have a clear space above any exposed cooking surface of a cooking appliance of at least 0.6m [24"]; and
- (4) without effecting the requirements of sentence 3.9.2(3) or article 4.8.1, have space sufficient to accommodate a cooking range or countertop-cooking unit, beside or in the countertop and without placing the device in a doorway or *means of egress*.

## **2.20 MEANS OF EGRESS AND EXITS**

2.20.1 Every *building* shall have a safe, continuous and unobstructed passage from the interior of the *building* to the exterior at the street or *grade* level to meet the standards as set out in the *Ontario Building Code*.

2.20.2 Every *means of egress* and *exit* shall be maintained in good *repair* and free of objects, obstructions or conditions which may constitute a health or safety hazard.

## **2.21 ELEVATING DEVICES**

2.21.1 Where an elevating devices is provided the elevating device including; all parts, lighting fixtures, lamps, elevator buttons, floor indicators and ventilator fans shall be maintained in good *repair* and be operational.

2.21.2 Article 2.21.1 does not require the installation of an elevating device where one does not already exist but does require that any *building* currently possessing an elevating device continue to have such device maintained in accordance with the standards so provided.

2.21.3 All elevating devices shall be approved for use through the issuance of an Ontario Elevating Device Licence in accordance with the standards set out and administered by the *Technical Standards and Safety Act (TSSA)*.

### **SECTION 3      SUPPLEMENTAL STANDARDS – RESIDENTIAL PROPERTIES**

#### **3.1      DOORS AND WINDOWS**

- 3.1.1 In every *dwelling unit* at least one entrance door shall be capable of being locked from both the interior and exterior of the *dwelling unit* but readily openable from the interior of the *dwelling unit* without the use of keys or tools.
- 3.1.2 Notwithstanding the requirements of article 3.1.1, any exterior doors or windows intended to be opened shall be equipped with hardware capable of being locked or otherwise secured from the interior of the *building*, however they shall be capable of being readily opened from the interior without the use of keys.
- 3.1.3 In any *building* of a *multiple dwelling residential property* protection shall be provided at windows to minimize potential health and safety hazards in accordance with the following:
- (1) fixed windows within *dwelling units* that extend to less than 1m [3'-3"] from the floor shall be protected by a *guard* at least 1m [3'-3"] above the floor, or shall be designed to withstand the lateral design loads for balcony *guards* to meet the standards as set out in the *Ontario Building Code*.
  - (2) Except as provide for in sentence (4), in a *dwelling unit* any window located more than 2m [6'-7"] above *grade* that opens within 1.5m [4'-11"] of the floor shall be protected by:
  - (3) A *guard* meeting the standards as set out in the *Ontario Building Code*;
  - (4) A controlled sash operation to restrict, when engaged, the opening of the operable sash to not more than 0.1m [4"], and a heavy duty screen the standards for such screens as set out in the *Ontario Building Code*; or
  - (5) By an alternative device that does not reduce the degree of safety provided by clauses (a) or (b).
  - (6) Protection of a window need not be provided in a *dwelling unit* where an exterior balcony is constructed for the full length of a window.
  - (7) In any *multiple dwelling residential property building* where there is a voice communication unit which works in conjunction with a security locking and release system controlling a particular entrance area, they said system shall be maintained in good working order at all times.
- 3.1.4 Doors between a *dwelling unit* and public hallways and/or common spaces shall be installed to meet the standards for such doors as set out in the *Ontario Building Code*.
- 3.1.5 Every window in a *dwelling unit* designed to be opened shall be fitted with appropriate screens to prevent the ingress of rodents, vermin and insects and the screens shall be maintained in good *repair*.

- 3.1.6 Except as required by article 3.12.1, the minimum window glass area for rooms in *dwelling units* shall conform with the following table:

**Minimum Unobstructed Glass Area**

Location	With No Electric Light	With Electric Light
laundry, <i>basement</i> recreation room, unfinished <i>basement</i>	4% of area served	windows not required
<i>bathroom, toilet room</i>	0.37m <sup>2</sup> [4ft <sup>2</sup> ]	windows not required
<i>kitchen</i>	10% of area served	windows not required
Living room and dining room	10% of area served	10% of area served
<i>bedroom</i> and other finished rooms not mentioned above	5% of area served	5% of area served

**3.2 STAIRS, BALCONIES, PORCHES AND OTHER PLATFORMS**

- 3.2.1 Handrails shall be installed and maintained in good *repair* on all stairs within *dwelling units* that have more than two (2) risers and on all other stairs having more than three (3) risers.
- 3.2.2 Handrails shall be located between 810mm [32"] and 920mm [36"] measured vertically above a line drawn through the outside edges of stair nosings.
- 3.2.3 Handrails shall be provided on both sides of stairs where the width of the stairs is greater than 1100mm [43"].
- 3.2.4 Risers within any one flight of stairs shall have a uniform height with a maximum tolerance of:
- (1) 5mm [3/16"] between adjacent treads or landings; and
  - (2) 10mm [3/8"] between the tallest and shortest risers in a flight.
- 3.2.5 Notwithstanding the provisions of article 3.2.4, where the top or bottom riser in a stair adjoins a sloping finished walking surface such as a garage floor, driveway or sidewalk, the height of the riser across the stair shall vary by not more than 1 in 12.
- 3.2.6 Treads shall have uniform run with a maximum tolerance of:
- (1) 5mm [3/16"] between adjacent treads; and
  - (2) 10mm [3/8"] between the deepest and shallowest treads in a flight.
- 3.2.7 Every *multiple dwelling residential building* shall have all unenclosed balconies, porches, interior or exterior hallways, stairways or common areas kept free of garbage, debris, furniture or appliances, except that outdoor furniture is permitted on a balcony or porch.

### 3.3 PLUMBING AND SEWAGE

- 3.3.1 Every *dwelling unit* shall be provided with an approved supply of *potable water* from at least one of the following sources in accordance with the *Clean Water Act*:
- (1) a municipal drinking water system;
  - (2) a communal drinking water system; or
  - (3) a private water source.
- 3.3.2 Every *dwelling unit* shall be provided with a sanitary drainage system that is connected to:
- (1) a public sanitary sewer; or
  - (2) a private sewage disposal system.
- 3.3.3 Where a public sanitary sewer connection is available for use by the *property*, a private sewage disposal system shall be prohibited from use and connection to the public sanitary sewer must be made.
- 3.3.4 Every *dwelling unit* shall contain plumbing fixtures in good *repair* and in operative condition, consisting of a minimum of:
- (1) one (1) *kitchen* sink;
  - (2) one (1) water closet;
  - (3) one (1) hand wash basin; and
  - (4) one (1) bathtub or shower.
- 3.3.5 Every sink, wash basin, lavatory, bathtub or shower required by this by-law to be installed and maintained in a *dwelling unit* shall have an adequate supply of both hot and cold water with a flow and pressure sufficient for the intended use of the fixture.
- 3.3.6 Every toilet required by this by-law to be installed and maintained in a *dwelling unit* shall have an adequate supply of cold water.
- 3.3.7 The maximum temperature of hot water supplied to any plumbing fixture, except for installed dishwashers and clothes washers, in any *dwelling unit* shall be 49°C [120°F].
- 3.3.8 A toilet or urinal shall not be located within a *dwelling unit* in a room used for:
- (1) the preparation, cooking, storing or consumption of food; or
  - (2) sleeping purposes.

### 3.4 ELECTRICAL AND LIGHTING

3.4.1 Where electrical services are available, every *dwelling unit* shall be:

- (1) connected to an approved electrical supply system; and
- (2) wired to receive electricity.

3.4.2 Every *habitable room* in a *dwelling unit* shall have at least one electrical duplex receptacle for each 11.1 m<sup>2</sup> of floor space and one additional duplex receptacle for each additional 9.3 m<sup>2</sup> of *floor area*.

3.4.3 Every *dwelling unit* shall be equipped with an illuminating device capable of providing an adequate level of illumination in every *bathroom*, laundry room, hallway, stairway, service room.

3.4.4 Every *dwelling unit* shall be equipped with an illuminating device capable of providing a level of illumination of 10 lx for every exterior entrance doorway.

### 3.5 HEATING AND COOLING SYSTEMS

3.5.1 Every *dwelling unit* shall be provided with a *heating system* capable of continuously maintaining an indoor air temperature of not less than:

- (1) 22°C [72°F] in all *habitable rooms* and interior living spaces (excluding attached garages);
- (2) 22°C [72°F] in unfinished *basement* spaces; and
- (3) 15°C [59°F] in heated *crawlspaces*.

3.5.2 The indoor air temperatures specified in article 3.5.1 are to be maintained between the 15<sup>th</sup> day of September of one year and the 31<sup>st</sup> day of May the following year, unless otherwise specified by the *Chief Building Official*.

3.5.3 For the purpose of article 3.5.1, heat shall be provided and maintained so that the room temperature at 1.5m [5'] above the floor and 1m [39"] from the exterior walls in all *habitable rooms* and in any area intended for use by *occupants* including *bathrooms*, *toilet rooms*, laundry rooms but excluding unheated spaces such as enclosed porches, sunrooms and garages, is the minimum specified temperature.

### 3.6 VENTILATION

3.6.1 In every *dwelling unit*, all *habitable rooms*, *bathrooms* and *toilet rooms* shall have adequate ventilation, either by natural or mechanical means to the standards set out in the *Ontario Building Code*.

3.6.2 Every *basement*, *cellar* and unheated *crawlspace* shall have venting provided to a size greater than or equal to 0.2% of the *floor area* served.



- 3.6.3 Every attic shall have venting provided to a size greater than or equal to 0.3% of the insulation ceiling area served.
- 3.6.4 Venting provided to comply with the requirements of articles 3.6.2 and 3.6.3 shall be designed and maintained to prevent the ingress of snow, rain, rodents, vermin and insects.

### **3.7 BATHROOM AND TOILET ROOM FACILITIES**

- 3.7.1 The wall finish in every *bathroom* shall be water resistant in specified areas to minimum heights as follows:
- (1) 1.8m [5'-11"] above the floor in a shower stall;
  - (2) 1.2m [3'-11"] above the rims of bathtubs equipped with showers; and
  - (3) 0.4m [15 ¾"] above the rims of bathtubs not equipped with showers.
- 3.7.2 All *bathrooms* and *toilet rooms* shall be located within and accessible from within the *dwelling unit* and all *bathrooms* and *toilet rooms* shall be maintained in a good state of *repair*.
- 3.7.3 Where a *dwelling unit* contains rooms intended to be used in conjunction with a rooming house or lodging house, the *occupants* may share a single *bathroom* provided that:
- (1) Not more than nine (9) person occupy the *dwelling unit*;
  - (2) For each additional nine (9) *persons* or part thereof, there shall be an additional toilet, hand wash basin, bathtub or shower; and
  - (3) Access to the *bathroom* can be gained without passing through:
  - (4) a *habitable room* of another *dwelling unit*; or
  - (5) an open area, which is not normally heated during the period of the year which heat is required by article 2.15.3 of this by-law.

### **3.8 KITCHEN FACILITIES**

- 3.8.1 Every *dwelling unit* shall be provided with a *kitchen*.
- 3.8.2 Every *kitchen* shall contain an area equipped with:
- (1) be equipped with a source of energy and necessary utility outlets suitable for the operation of a refrigerator and a cooking appliance;
  - (2) have a work surface of at least 0.74m<sup>2</sup> [5ft<sup>2</sup>] which is impervious to water and grease and is easily cleanable;

- (3) have cupboards, pantry or storage space for the storage of food, dishes, and cooking utensils, having an interior capacity of at least 0.8m<sup>3</sup> [30ft<sup>3</sup>], of sufficient design that when loaded the cupboards and pantry will not collapse, and secured in such a manner that when loaded they will not tip or become detached from the wall to which they cupboards or pantry may be otherwise secured; and
- (4) a hood fan ventilator located above the cooking surface of a cooking apparatus.

### **3.9 BEDROOM FACILITIES**

- 3.9.1 Except as provided in articles 3.9.2 and 3.9.3, *bedrooms* in *dwelling units* shall have an area not less than 7m<sup>2</sup> [75ft<sup>2</sup>] where built-in cabinets are not provided and not less than 6m<sup>2</sup> [65ft<sup>2</sup>] where built-in cabinets are provided.
- 3.9.2 Except as provided in article 3.9.3, at least one *bedroom* in every *dwelling unit* shall have an area of not less than 9.8m<sup>2</sup> [105ft<sup>2</sup>] where built-in cabinets are not provided and not less than 8.8m<sup>2</sup> [95ft<sup>2</sup>] where built-in cabinets are provided.
- 3.9.3 *Bedroom* spaces in combination with other spaces in *dwelling units* shall have an area not less than 4.2m<sup>2</sup> [45ft<sup>2</sup>].

### **3.10 GARAGES**

- 3.10.1 Every garage attached to a *dwelling unit* shall be so maintained as to prevent gas, fumes and carbon monoxide from entering the area of the *dwelling unit*.
- 3.10.2 Gas proofing of the garage is to be done to the standards as set out in the *Ontario Building Code*.

### **3.11 ACCESS TO ENCLOSED SPACES**

- 3.11.1 An access opening no less than 0.55m [22"] by 0.7m [28"] shall be provided to every *crawlspace* or other enclosed space, and every attic and roof space exceeding 0.6m [2'] in height.

### **3.12 MEANS OF EGRESS AND EXITS**

- 3.12.1 Except where a door on the same floor level as any *bedroom* provides direct access to the exterior, every floor level containing a *bedroom* in a *dwelling unit* shall be provided with at least one (1) outside window that,
  - (1) is openable from the interior without the use of tools;
  - (2) provides an individual, unobstructed open portion having a minimum area of 0.35m<sup>2</sup> [3.8 ft<sup>2</sup>] with no dimension less than 0.38m [15".];
  - (3) maintains the required opening described in sentence (2) without the need for additional support;

- (4) when a sliding window is used to provide glazing area in conformance with article 3.2.6, the minimum dimension described in sentence (2) shall apply to the openable portion of the window; and
- (5) where a window required by article 3.1.6 opens into a window well, a clearance of not less than 0.55m [21"] shall be provided in front of the window and any protective enclosure installed over the window well shall be openable from the inside without the use of keys, tools, or special knowledge or opening the mechanism.

3.12.2 In every *multiple dwelling residential property building* exits and means of egress shall be provided to the standards as set out in the *Ontario Building Code*.

### **3.13 OCCUPANCY STANDARDS**

- 3.13.1 No *person* shall use or permit the use of a *non-habitable room* for use as a *habitable room*.
- 3.13.2 Every living room, dining room, or *kitchen* of a *dwelling unit* shall have a clear ceiling height of 2.3m [7'-7"] over at least 75% of the required *floor area* with a clear height of 2.1m [6'-11"] at any point over the required area.
- 3.13.3 Every *bedroom* of a *dwelling unit* shall have a clear ceiling height of 2.3m [7'-7"] over at least 50% of the required *floor area* or a height of 2.1m [6'-11"] over all of the required *floor area*. Any part of the floor having a clear height of less than 1.4m [4'-7"] shall not be considered in computing the required *floor area*.
- 3.13.4 Every *bathroom* or *toilet room* shall have a clear ceiling height of 2.1m [6'-11"] in any area where a *person* would normally be in a standing position.
- 3.13.5 Every passage, hall, main entrance vestibule or other finished rooms other than those in *basements* or those specified in articles 3.13.2, 3.13.3, or 3.13.4 shall have a clear ceiling height of 2.1m [6'-11"].
- 3.13.6 The number of *occupants* of a *dwelling unit* residing on a long term basis in an individual *dwelling unit* shall not exceed 2 *persons* for every *bedroom*.
- 3.13.7 In a *dwelling unit*, a hallway, passage way or vestibule shall not be classified as a *habitable room* nor can it be used as a *bedroom*.

### **3.14 ELEVATING DEVICES**

- 3.14.1 A *multiple dwelling residential property building* that is more than three *storeys* but not more than six *storeys* in *building* height and which has an elevating device for the use of the *occupants* shall have at least one elevating device operable except for such reasonable time as may be required for *repair* or replacement.
- 3.14.2 A *multiple dwelling residential property building* which has an elevator or elevators in accordance with the standards established by the *Ontario Building Code* for the use

of *occupants* shall have all elevators maintained and operable except for such reasonable times as may be required for *repair* or replacement.

- 3.14.3 In the event of a conflict with the *Elevating Devices Act, R.S.O. 1990, c. E. 8*, the regulations passed under such act, both as amended, or an *Order* issued under that Act, the *Act*, regulation or *Order* prevails over this by-law to the extent of the conflict.

### **3.15 GARBAGE DISPOSAL**

- 3.15.1 No *Owner* of a *multiple dwelling residential property* or an *occupant* thereof shall disconnect, shut off, remove or otherwise discontinue, or cause or permit the disconnection, shutting off, removal or discontinuance of any garbage and refuse chute, garbage and refuse storage room, or exterior garbage and refuse storage container except when such action is necessary in order to safely make *repairs*, replacements or alterations thereto, and then only during the reasonable minimum time that such action is necessary.

- 3.15.2 Where it is not practical to maintain garbage chutes operational because compactors are not able to be installed, the garbage and refuse chutes need not be maintained operational at all times if an alternate method readily accessible to all *occupants* is provided and maintained as follows:

- (1) a garbage storage area is provided on each floor of the *building*;
- (2) the *occupants* are not required to deliver garbage to the ground floor, *basement* or parking lot of the *building*; and
- (3) the *Owner* of the *building* provides a daily collection procedure from each floor and delivers the garbage to appropriate receptacles.

## **SECTION 4 SUPPLEMENTAL STANDARDS – NON-RESIDENTIAL PROPERTIES**

### **4.1 MAINTENANCE OF WALKS**

- 4.1.1 Steps, walks, and similar areas of the *yard* shall have a stable, dust free surface and shall be maintained so as to afford safe passage, under use and weather conditions.

### **4.2 SIGNS**

- 4.2.1 All signs and billboards shall be maintained in good *repair*. Any sign which is excessively weathered or faded and those upon which the paint has been excessively peeled or cracked shall, with their supporting members, be removed or put into a good state of *repair*.

### **4.3 EXTERIOR FEATURES**

- 4.3.1 All canopies, marquees, awnings, stairways, fire escapes, stand pipes, exhaust ducts and similar overhead extensions which may be affixed or adjacent to an exterior wall shall be:

- (1) maintained in good *repair*;
- (2) properly anchored to the *building* and constructed to meet the standards for such extensions as set out in *Ontario Building Code*; and
- (3) protected from the elements and against decay and rust by the periodic application of a weather resistance coating such as paint or other protective treatment.

#### **4.4 ELECTRICAL AND LIGHTING**

- 4.4.1 In addition to the requirements of article 2.13.1, all *non-residential buildings* shall be connected to an electrical supply system that is adequate to supply the necessary electrical power for the intended use and shall be available at all times during the *occupancy* of the *building*.

#### **4.5 HEATING AND COOLING SYSTEMS**

- 4.5.1 Any *non-residential building*, except for those of industrial *occupancy*, shall be provided with a *heating system* capable of continuously maintaining an indoor air temperature of not less than 21°C [70°F] during normal working hours.
- 4.5.2 For the purpose of article 4.5.1, heat shall be provided and maintained so that the room temperature at 1.5m [5'] above the floor and 1m [39"] from the exterior walls in all rooms and spaces as described and in any area intended for use by *occupants* including *bathrooms* but excluding unheated spaces such as enclosed vestibules, storage rooms and garages, is the minimum specified temperature.
- 4.5.3 Where combustible materials are stored in a *basement*, the fuel-burning *heating system* shall be enclosed in accordance with article 4.5.4.
- 4.5.4 Where a fire separation would be required by the standards set out in the *Ontario Building Code*, the fuel burning central *heating system* shall be enclosed and or separated from the rest of the *building* which it serves by assemblies including but not limited to walls, floors, ceiling and doors with a *fire resistance rating* of not less than those identified in the standards as set out in the *Ontario Building Code*.

## 4.6 VENTILATION

- 4.6.1 Every room in which people work shall be provided with an opening or openings for natural ventilation that shall:
- (1) have a minimum aggregate unobstructed free *floor area* of 0.28m<sup>2</sup> [3ft<sup>2</sup>]; and
  - (2) be located in an exterior wall or roof.
- 4.6.2 The opening for ventilation required by Article 4.6.1, may be omitted where a system of mechanical ventilation capable of exchanging the volume of air in the area served once every hour is provided for the space.
- 4.6.3 Every *basement, cellar* or unheated *crawlspace* shall be adequately vented to the outside by means of openings with an area of not less than 1% of the area served for *basements* and *cellars*, and 0.9m<sup>2</sup> [1ft<sup>2</sup>] for unheated *crawlspace* areas.
- 4.6.4 An opening required in article 4.6.3 shall be screened to prevent the entry of insects, rodents or vermin.
- 4.6.5 An opening for ventilation required in article 4.6.3, may be omitted where a system of mechanical ventilation capable of exchanging the volume of air in the area served once every hour is provided for the space.

## 4.7 BATHROOM OR TOILET ROOM FACILITIES

- 4.7.1 The wall and ceiling finish in every *bathroom* or *toilet room* shall be provided with a smooth surface and where paint is used as the surface finish, it shall be maintained as is necessary for cleanliness.
- 4.7.2 Every *bathroom* or *toilet room* shall be naturally vented to the outside by means of openings with an area of not less than 0.9m<sup>2</sup> [1ft<sup>2</sup>].
- 4.7.3 An opening for ventilation required in article 4.7.2, may be omitted where a system of mechanical ventilation exhausting the air to the exterior of the *building* is provided.
- 4.7.4 Where mechanical ventilation is provided to satisfy the requirement of article 4.7.2, the provisions of article 2.16.1 shall apply.

## 4.8 KITCHEN FACILITIES

- 4.8.1 Where a *kitchen* is provided it shall contain an area equipped with appropriate cupboards, pantry or storage space for the storage of food, dishes, and cooking utensils, of sufficient design that when loaded the cupboards and pantry will not collapse, and secured in such a manner that when loaded they will not tip or become detached from the wall to which they cupboards or pantry may be otherwise secured.

## **SECTION 5      SUPPLEMENTAL STANDARDS – HERITAGE PROPERTY**

### **5.1      MINIMUM MAINTENANCE STANDARDS**

5.1.1 In addition to the minimum standards for the maintenance and *occupancy of property* in the *City* as set out in this by-law, the *Owner* or *occupant* of any *heritage property* shall:

- (1) maintain, preserve and protect the *heritage attributes* so as to maintain the heritage character, visual and structural heritage integrity of the *building* or structure; and
- (2) maintain the *property* in a manner that will ensure the protection and preservation of the *heritage attributes* and values

5.1.2 The minimum maintenance standards as set out above for *heritage property* shall also apply to 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.

### **5.2      REPAIR AND REPLACEMENT OF HERITAGE ATTRIBUTES**

5.2.1 Despite any other provision of this by-law, where a *heritage attribute* of a *heritage property* can be *repaired*, the *heritage attribute* shall not be replaced and shall be *repaired*:

- (1) in a manner that minimizes damage to the heritage values and attributes;
- (2) in a manner and technique that maintains the design, colour, texture, grain or other distinctive features of the *heritage attribute*;
- (3) using the same types of material as the original and in keeping with the design, colour, texture, grain and any other distinctive features of the original; and
- (4) 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 features and appearance of the original material.

5.2.2 Despite any other provision of this by-law, where a *heritage attribute* of a *heritage property* cannot be *repaired*, the *heritage attribute* shall be replaced:

- (1) using the same types of material as the original;
- (2) where the same types of material as the original are no longer available, using alternative materials that replicated the design, colour, texture, grain or other distinctive features and appearance of the original material; and
- (3) in such a manner as to replicate the design, colour, texture, grain and other distinctive features and appearance of the *heritage attribute*.

### 5.3 CLEARING AND LEVELLING OF HERITAGE PROPERTIES

- 5.3.1 Despite any other provision of this by-law, or the *Act*, no *building* or structure identified as a *heritage property* may be altered or cleared, including but not limited to removed, demolished or relocated except in accordance with the *Ontario Heritage Act*.

### 5.4 VACANT HERITAGE PROPERTIES

- 5.4.1 Notwithstanding the requirements of article 6.2.2, the *Owner* of a vacant *heritage property* shall protect the *building* and *property* against the risk of fire, storm, neglect, intentional damage or damage by other causes by effectively preventing the entrance to it of all animals and unauthorized *persons* and by closing and securing openings to the *building* with boarding:

- (1) installed from the exterior and properly fitted in a watertight manner to fit within the side jambs, head jamb and the exterior bottom sill of the door or window so that any exterior trim remains uncovered by the boarding;
- (2) using boards at least 19mm [3/4"] weatherproofed sheet plywood or metal secured with nails or screws in a manner that minimizes damage to the *heritage attributes* or secured using long carriage bolts anchored into horizontal wooden bracing on the inside face of the windows where the opening is not impeded by existing glazing;
- (3) in the case of window openings, all boards used shall be painted in a manner to reflect the panes of glass, window frames and muntins that were or are found on the window that is being boarded over. The panes of glass shall be painted in matte black and the window frames and muntins shall be painted in a colour that matches that of the original window;
- (4) in the case of door openings, all boards used shall be painted in a manner to reflect the panes of glass, frames and muntins that were or are found on the door that is being boarded over. The panes of glass shall be painted in matte black and the frames and muntins shall be painted in a colour that matches that of the original door;
- (5) all boards 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;
- (6) all boards shall be maintained in good *repair*.

- 5.4.2 Subject to any applicable provisions of the *Ontario Heritage Act*, where the minimum standard imposed by article 5.4.1 has, more than once, failed to exclude unauthorized entry, and further where the *Owner's* control, attendance or lack of security measures to protect the *heritage property* suggests that a more secure option be used, the *Owner* shall supply such measures, including improved security of closures, as may be required by the *Chief Building Official* or an *Officer*.



- 5.4.3 Notwithstanding the requirements of sentences 6.2.2(4) and (5), no window, door or other opening on a *heritage property* shall be secured by brick or masonry units held in place by mortar unless required by the *Chief Building Official*.
- 5.4.4 The exterior shall be maintained in order to prevent moisture penetration and damage from the elements that may have adverse impact on any *heritage attributes*.
- 5.4.5 Notwithstanding the requirements of article 6.2.5, where a *heritage property* remains vacant for a period of ninety (90) days or more, the *Owner* shall maintain appropriate and necessary utilities to serve the *building* and to provide proper equipment and appliances installed as required to provide, maintain and monitor proper heating and ventilation to prevent damage to the *heritage attributes* caused by environmental conditions.
- 5.4.6 An exterior light fixture shall be installed and/or maintained at all exterior entrances to the *building* and must be kept on a time so that the light will turn on no later than 7:00pm of one day and remain on until 7:00am of the following day and shall maintain an average level of illumination of at least 50 lx.

## 5.5 CONFLICT

- 5.5.1 In the event of a conflict between the provisions of this subsection regarding *heritage property* and any other provision of this by-law or the *Ontario Building Code*, the provision that establishes the highest standard for the protection of the *heritage attribute* shall prevail.

## **SECTION 6      SUPPLEMENTAL STANDARDS – ALL PROPERTIES**

### **6.1 MAINTENANCE OF YARDS, PARKING LOTS AND VACANT LANDS**

- 6.1.1 The warehousing or storage of material or operative equipment that is required for the continuing operation of an industrial or commercial aspect of the *property* shall be maintained in a neat and orderly fashion so as not to create a fire or accident hazard and shall be arranged in such a manner to provide unobstructed access for emergency vehicles. Where conditions are such that a neat and orderly fashion is achieved but is still offensive to view, the offensive area shall be suitably enclosed by a visual barrier of not less than 1.8m [5'-11"] in height and maintained in good *repair*.
- 6.1.2 Any well, cistern, cesspool, privy vault, pit or excavation shall be permanently sealed or secured by a fence, cover or netting, unless it is in active use in which event it shall be secured by fencing and warning signs until the use has ceased, where upon they shall be sealed or secured as required.
- 6.1.3 Septic Tanks, holding tanks, field beds, tile beds and dry wells shall be maintained to the standards established in the *Ontario Building Code* for such systems.
- 6.1.4 Where it is intended to discontinue the use and to decommission tanks or dry wells, they shall be pumped dry and the contents disposed of at a suitable disposal site. The tanks or dry wells may be broken up and buried, cavities shall be filled with sand or another suitable material and the ground graded to match existing *grades*.

Existing *building* drains not being reused shall be removed from the foundation wall and the foundation wall shall be *repaired* and made impervious to water.

- 6.1.5 Areas used for vehicular traffic, parking and other similar uses or areas shall be paved with bituminous asphalt, concrete or an equivalent surfacing or shall be surfaced with crushed stone or other suitable and reasonably dust free substance and shall be maintained in good *repair*.
- 6.1.6 All *Non-residential* use or multiple *occupancy* Residential use properties that are accessed by the general public shall have:
- (1) all ramps and access routes leading to parking garages kept free from ice and snow;
  - (2) mechanical de-icing equipment for ramps and access routes, where provided, maintained in operational conditions at all times; and
  - (3) all walks, ramps and access routes to and from the *building* kept free from ice and snow and other hazards at all times.
- 6.1.7 All surfaces of crushed stone shall be maintained free of dust and from spillover onto adjacent sidewalks and other vegetative surfaces.
- 6.1.8 No fill shall be allowed to remain in an unlevelled state on any *property* for longer than seven days, unless the *property* is:
- (1) a construction site for which a *building* permit is in effect;
  - (2) a *property* being subdivided under subdivision agreement with the *City*; or
  - (3) *property* upon which material is being stored with the approval of the Director of Municipal Works or the Regional Municipality of Niagara in connection with a public works project.
- 6.1.9 No fill shall be left in an uncovered state (not covered by sod, seed or agricultural crop) on any *property* for longer than thirty (30) days unless the *property* is:
- (1) a construction site for which a *building* permit is in effect;
  - (2) a *property* being subdivided under subdivision agreement with the *City*; or
  - (3) *property* being actively farmed.

## **6.2 VACANT BUILDINGS**

- 6.2.1 Where any *building* is vacant or unoccupied, the *Owner* shall protect such *building* against the risk of accidental or intentional damage to the *property*, or such damage as may be caused to other properties, arising from the entry of unauthorized *persons* to the *building*, be effectively preventing entrance by unauthorized *persons*.

- 6.2.2 For the purpose of this subsection, doors, windows, hatches and any other such opening through which entry may be gained are required to be kept in good *repair* and secured from unauthorized entry, or entry shall be prevented by closing and securing each opening with:
- (1) boarding which completely covers the opening with at least 13mm [1/2"] weatherproofed sheet plywood securely fastened to the *building*;
  - (2) rigid composite panels securely fastened to the *building*;
  - (3) sheathing boards installed within the reveal of the exterior cladding and securely fastened to the *building*;
  - (4) brick and mortar securely fastened to the *building*; or
  - (5) concrete blocking and mortar securely fastened to the *building*.
- 6.2.3 The materials identified in article 6.2.2 shall be of a colour compatible to the surrounding façade.
- 6.2.4 The available options presented in article 6.2.2, shall be considered progressively more secure with sentence (5) being the most secure, and the minimum standard imposed by article 6.2.2 shall be considered not to include the use of a less secure option which has, more than once, failed to deny unauthorized entry, and further, where the *Owner's* control, attendance or lack of security measures to protect the *property* suggest a more secure option be used, then the *Owner* shall supply such measure including such improved security of closures as may be necessary beyond the options presented in article 6.2.2.
- 6.2.5 Where a *building* remains vacant for a period of time greater than ninety (90) days, the *Owner* shall ensure that all utilities serving the *building*, which are not required for the safety and security or maintenance thereof, are properly disconnected or otherwise secured, to prevent accidental or malicious damage to the *building* or adjacent *property*.

### **6.3 DAMAGED BUILDINGS**

- 6.3.1 Where a *building* is damaged by accident, storm, fire, neglect, intentional damage, other causes or considered unsafe under the provisions of the *Act*,
- (1) the *Owner* shall demolish or *repair* the *building* within sixty (60) days or a reasonable time arranged for and approved by the *Chief Building Official*.
  - (2) immediate steps shall be taken to prevent or remove any condition which might endanger *persons* on or near the *property* and the *building* or structure shall be properly supported and barricaded until the necessary demolition or *repair* can be carried out;
  - (3) defacement by smoke or by other causes on the exterior wall and surface of the *building* or structure or of the remaining parts of the *building* or structure, shall be removed and the defaced areas refinished with the care, skill and

quality acceptable in the trades concerned and with materials suitable and sufficient for the purpose.

- (4) the *Owner* shall protect the *building* against further risk or further damage, accident or other danger, and shall effectively prevent entrance thereto by all unauthorized *persons* by closing and securing each opening to the *building* in accordance with the requirements of articles 6.2.2, 6.2.3 and 6.2.4;
- (5) in the event of fire or explosion, damaged or partially burnt material shall be removed from the premises, except that such material may be temporarily stored within the barricaded damaged *building* or structure, provided that such storage does not exceed ninety (90) days; and
- (6) all utilities serving the *building* including but not limited to water, gas and hydro which are not required for the safety or security thereof, are required to be properly disconnected or otherwise secured, to prevent accidental or malicious damage to the *building* or adjacent *property*.

6.3.2 In the event that the *building* or structure is beyond reasonable *repair*, the land shall be cleared of debris and remains and shall be left in a graded, level and safe condition without unreasonable delay. For the purpose of this article, it shall be the responsibility of the *Owner* of the *property* to demonstrate the state of reasonable *repair* to the satisfaction of the *Chief Building Official*.

6.3.3 Where an *Owner* chooses to retain a *building* or portion thereof that has been damaged in whole or in part by the circumstances identified in article 6.3.1, the *Owner* shall:

- (1) provide, at the sole expense of the *Owner*, documentation prepared by a professional engineer who is licensed in the province of Ontario, indicating:
  - (a) that the structural stability of the remaining *building*, or portion thereof, is sufficient to support the required forces which it may be subject to; and
  - (b) that the remaining *building* or portion thereof is suitable for reuse and any new reconstruction necessary to restore or replace the *building* that was damaged.
- (2) protect the remaining *building*, or portion thereof to the satisfaction of the *Chief Building Official*, to prevent further damage or deterioration which may be caused from being exposed to the elements; and
- (3) secure the *building* or portion thereof to prevent entrance thereto by all unauthorized *persons* by closing and securing each opening to the *building* in accordance with the requirements of articles 6.2.2, 6.2.3 and 6.2.4.

6.3.4 Where an *Owner* chooses to retain a *building* or portion thereof in accordance with the provisions of article 6.3.3 in a vacant condition, the *occupancy* of the *building* may be restricted or denied completely by the *Chief Building Official*.

- 6.3.5 Exterior walls, roofs and other parts of a *building* shall be free of objects and materials which may create an unsafe condition. Such objects or materials shall be removed, *repaired* or replaced so as to remove the unsafe condition.
- 6.3.6 Where a *building* located in the Tourist Core as defined in Schedule 'B' to this by-law, is damaged in whole or in part by the circumstances identified in article 6.3.1, the *Owner* shall install hoarding along the full length of all sides of the site adjacent to a public thoroughfare or street within thirty (30) days of the event, unless the *building* is demolished and the site is graded and cleared.
- 6.3.7 The hoarding required by article 6.3.6 shall be:
- (1) constructed to a minimum height of 2.4m [8'];
  - (2) built of wood construction with solid panel boarding of at least 13mm [1/2"] weatherproofed sheet plywood securely fastened to the hoarding to completely cover any access or view of the site;
  - (3) be securely fastened to the ground; and
  - (4) be maintained so as to be free of posters or advertisements in accordance with the provisions of article 2.7.7 for exterior walls.

#### **6.4 DEMOLITIONS**

- 6.4.1 Where any *building*, *accessory building* or other structure is demolished, the *property* shall be cleared of all rubbish, waste, debris, refuse, masonry, concrete, lumber and the site left in a graded and leveled condition.
- 6.4.2 Where any *building*, *accessory building* or other structure is demolished in part and it is the wish of the *Owner* to retain any portion of the existing *building* or structure for future reuse, the *Owner* shall:
- (1) provide, at the sole expense of the *Owner*, documentation prepared by a professional engineer who is licensed in the province of Ontario, indicating:
    - (a) that the structural stability of the remaining *building*, or portion thereof, is sufficient to support the required forces which it may be subject to; and
    - (b) that the remaining *building* or portion thereof is suitable for reuse and any new reconstruction necessary to restore or replace the *building* that was damaged.
  - (2) protect the remaining *building*, or portion thereof to the satisfaction of the *Chief Building Official*, to prevent further damage or deterioration which may be caused from being exposed to the elements; and
  - (3) secure the *building* or portion thereof to prevent entrance thereto by all unauthorized *persons* by closing and securing each opening to the *building* in accordance with the requirements of articles 6.2.2, 6.2.3 and 6.2.4.

- 6.4.3 Where any *building*, *accessory building* or other structure is being demolished, every precaution shall be taken to protect the adjoining properties and members of the public. The precautions to be taken include but are not limited to, the erection of fences, barricades, covered walkways and any other means of protection necessary for the protection of the adjoining *property* and members of the public.
- 6.4.4 Prior to demolishing any *building*, other than farm *buildings*, a demolition permit must first be obtained from the *City* in accordance with the provisions of the *Ontario Building Code* despite the fact that the demolition may be required in response to an *Order* issued by the *City*.

## **SECTION 7      VITAL SERVICES**

### **7.1      APPLICATION**

- 7.1.1 The regulations and standards set forth in this section are applicable to all buildings or parts thereof in the *City* that contain one or more residential rental units in which at least one residential unit is occupied.
- 7.1.2 This section shall apply despite any dispute between the landlord and the tenant, so long as the residential rental unit is legally occupied by the tenant.
- 7.1.3 Notwithstanding the provisions of article 7.1.1, this section with respect to the provision of vital services shall not apply to a landlord in respect of a residential rental unit and vital service to the extent that the tenant has as a part of a tenancy agreement expressly agreed to obtain and maintain the supply of vital service.
- 7.1.4 Any agreed upon terms in the tenancy agreement described in article 7.1.3 does not relieve the landlord from complying with all other provisions of this by-law for the maintenance of the property or the provision, maintenance and/or repair of any system used for the distribution of a vital service.

### **7.2      LANDLORD RESPONSIBILITIES**

- 7.2.1 Every landlord shall provide adequate vital services to each of the landlord's occupied residential rental units, and no landlord shall cease to provide a vital service for a residential rental unit if it is occupied by the tenant.
- 7.2.2 Article 7.2.1 does not apply for the cessation of a vital service when necessary to alter or repair the residential rental unit however such cessation shall only be for the minimum period of time necessary to effect the alteration or repair.
- 7.2.3 A landlord shall be deemed to have caused the cessation of a vital service at a residential rental unit, if the landlord is obliged by the tenancy agreement to pay the supplier for vital service and fails to do so and, as a result of the non-payment, the vital service is no longer provided at the residential rental unit.

### **7.3 SUPPLIER OF VITAL SERVICE RESPONSIBILITIES**

- 7.3.1 Every supplier of vital service shall provide notice in accordance with this by-law if a vital service is to be disconnected or discontinued at a residential rental unit to which this by-law applies because the landlord has either breached a contract with the supplier for the supply of the vital service or the landlord has requested the service be disconnected or discontinued.
- 7.3.2 The notice of disconnection shall be given in writing to the Chief Building Official, the tenant, and to the landlord at least fifteen (15) business days before the supplier ceases to provide the vital service and shall contain the following:
- (1) the name, address, telephone number, and email address of a suitable contact of the supplier of vital service;
  - (2) the type of vital service being supplied;
  - (3) the name, address and telephone number of the landlord with whom the supplier of vital service has a contract for the supply of the vital service and the name of the registered owner if not the same as the landlord;
  - (4) the municipal address of the building at which the vital service is being supplied;
  - (5) the nature of the landlord's breach of contract with the supplier of vital service;
  - (6) the date and time when the supplier will cease to provide the vital service, and
  - (7) the name, address, telephone number, and email of a contact at the supplier of the vital service who may be contacted to receive direction to arrange for reconnection.
- 7.3.3 Every supplier of vital service who disconnects or discontinues the vital service at a building or residential rental unit to which this by-law applies and does not provide the required notice as provided in article 7.3.2 shall promptly restore the vital service at the building when directed to do so by the Chief Building Official until such time as the required notice can be provided.

## **SECTION 8 ENFORCEMENT AND INSPECTION**

### **8.1 OFFICERS**

- 8.1.1 The *Chief Building Official* appointed pursuant to the *Act*, is hereby assigned the responsibility of administering and enforcing this by-law and the Council of the City of Niagara Falls shall appoint *Officers* responsible for the enforcement of this by-law.
- 8.1.2 *Persons* appointed or assigned for the purposes of enforcing or administering this by-law are *Officers*, and have the authority to carry out the duties assigned to *Officers* under this by-law and the *Act*, and may enforce the provisions of this by-law and the applicable sections of the *Act*.

- 8.1.3 An *Officer* is hereby authorized to give immediate effect to any *Order* that is confirmed or modified as final and binding under the applicable section of the *Act* so as to provide for:
- (1) *repair* of the element or *property*; or
  - (2) clearing of all *buildings*, structures or debris from the site and the leaving of the site in a graded and leveled condition, under the provisions of the Procurement Policy.
- 8.1.4 Where approved by the *Chief Building Official*, an *Officer* may permit the maintenance of *property* to alternate standards required by any provisions of this by-law.
- 8.1.5 The alternate standards referenced in article 8.1.4 shall be in accordance with the general purpose and intent of this by-law and they shall have the same effect and force as standards required by any provision of this by-law.
- 8.1.6 Upon completion of the work, *repairs* or demolition by or on behalf of the City of Niagara Falls, the City of Niagara Falls shall have a lien on the land for the amount spent on the *repair* or demolition, and the amount shall be deemed to be municipal real taxes and may be added by the Treasurer of the City of Niagara Falls to the tax roll and collected in the same manner and with the same priority as municipal real property taxes as provide for by the statute.

## **8.2 RIGHT TO ENTER**

- 8.2.1 By way of this by-law being in effect under Section 15.1 of the *Act*, an *Officer* acting under the by-law or any *person* acting under his or her instructions may at any reasonable time, and upon producing proper identification, enter upon any *property* without a warrant for the purpose of inspecting the *property* to determine:
- (1) whether the *property* conforms with the standards prescribed in this by-law; or
  - (2) whether an *Order* made under this by-law has been complied with.
- 8.2.2 Notwithstanding the above, an *Officer* shall not enter or remain in any room or place actually used as a *dwelling unit* unless:
- (1) the consent of the *occupant* is obtained, first having informed the *occupant* that the right of entry may be refused and entry made only under the authority of a warrant is issued under the *Act*;
  - (2) the delay necessary to obtain a warrant or the consent of the *occupant* would result in an immediate danger to the health and safety of any *person*;
  - (3) a warrant issued under the *Act* is obtained; or
  - (4) the entry is necessary to *repair* or demolish the *property* in accordance with an *Order* issued under this by-law and the *Officer*, within a reasonable time



before entering the room or place, serves the occupier with the notice of the *Officer's* intention to enter the room or place.

### 8.3 INSPECTION

- 8.3.1 For the purposes of an inspection under the provisions of this by-law, an *Officer* and any *person* acting under the *Officer's* instructions may:
- (1) require the production for inspection of documents or things, including drawings or specifications that may be relevant to the *property* or any part thereof;
  - (2) inspect and remove documents or things relevant to the *property* or part thereof for the purpose of making copies or extracts;
  - (3) require information from any *person* concerning a matter related to a *property* or part thereof;
  - (4) be accompanied by a person who has special or expert knowledge in relation to a *property* or part thereof;
  - (5) alone or in conjunction with a *person* possessing special expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection; and
  - (6) *Order* the *Owner* of the *property* to take and supply at the *Owners* expense such tests and samples as are specified.
- 8.3.2 The *Officer* shall divide any sample taken under article 8.3.1 into two parts and deliver one part to the *person* from whom the sample was taken, if the *person* so requests at the time the sample is taken and provides the necessary facilities.
- 8.3.3 If an *Officer* takes a sample under article 8.3.1 and has not divided the sample into two parts, a copy of any report on the sample shall be given to the *person* from whom the sample was taken.
- 8.3.4 An *Officer* shall provide a receipt for any document or thing removed under sentence 8.3.1(2) and shall promptly return them after the copies or extracts are made.
- 8.3.5 Copies of or extracts from documents and things removed under sentence 8.3.1(2) which are certified as being true copies of or extracts from the originals by the *person* who made them are admissible in evidence to the same extent as and have the same evidentially value as the originals.
- 8.3.6 If in the opinion of the *Officer* there is doubt as to the structural adequacy or condition of a *building* or structure or parts thereof, the *Officer* may alone or in conjunction with a *person* possessing special or expert knowledge make examinations or take tests, samples or photographs necessary for the purposes of the examination and may *Order* that such *building* or structure or parts thereof be examined and a written report addressing the structural adequacy of the *building* or

component in question be prepared by a professional engineer, licensed to practice in Ontario.

- 8.3.7 The examination and testing of any *building* or structure or parts thereof required by article 8.3.6 shall be conducted in a manner acceptable to the *Officer* and the *Officer* may *Order* the examination and testing to be at the *Owner's* expense.
- 8.3.8 If the *Owner* or agent retains the professional engineer to prepare the written report in accordance with article 8.3.6, the *Owner* shall submit the report to the *Officer* for evaluation and review.
- 8.3.9 All details, drawings and specifications pertaining to all temporary shoring and other work deemed necessary by the professional engineer, shall be included with the report referred to in article 8.3.6.
- 8.3.10 On completion of any work required in the report prepared by the professional engineer, the professional engineer shall submit to the *Officer* a further report, signed and sealed by the professional engineer, confirming that all of the work has been satisfactorily completed as required by the first report.

#### **8.4 ORDERS**

- 8.4.1 If after inspection an *Officer* is satisfied that in some respect the materials forming part of the *building*, structure or *property* are damaged, decayed, deteriorated or do not conform with the standards set out in this by-law, they may issue an *Order* to the *Owner* and such other *persons* affected by it as the *Officer* determines and a copy of the *Order* may be posted on the *property* to require that the materials or conditions be *repaired* or replaced in a workman like manner acceptable to the *Officer*;
- 8.4.2 An *Order* under this by-law shall:
  - (1) state the municipal address of the legal description of the *property*;
  - (2) give reasonable particulars of the *repairs* to be made or stating that the site is to be cleared of all *buildings*, structure, debris, or refuse and left in a graded and leveled condition;
  - (3) indicate the time for complying with the terms and conditions of the *Order* and give notice that, if the *repair* or clearance is not carried out within that time, the City of Niagara Falls may carry out the *repair* or clearance at the *Owner's* expense;
  - (4) indicate the final date for giving notice of appeal from the *Order*; and
  - (5) be served or caused to be served on the *Owner* of the *property* and such other *persons* affected by the *Order* as the *Officer* determines:
    - (a) by personal service; or
    - (b) by prepaid registered mail sent to the last known address of the *person* to whom notice is to be given or to that *person's* agent for service.

- 8.4.3 An *Order* served by registered mail shall be deemed to have been served on the 5th day after the date of mailing.
- 8.4.4 The *Officer* shall in addition to service set out in sentence 8.4.2(5), post a copy of the *Order* in a conspicuous place on the *property*.
- 8.4.5 No *person* shall remove, pull down, obstruct the visibility of or deface the *Order* placed in accordance with article 8.4.4, unless authorized by the *Officer*.
- 8.4.6 If the *Officer* is unable to effect service under article 8.4.2, they shall place a placard containing the terms of the *Order* in a conspicuous place on the *property* and the placing of the placard shall be deemed as sufficient service of the *Order* on the *Owner* or other *persons*.
- 8.4.7 The *Officer* may grant extensions of time for compliance with any *Order* issued pursuant to the applicable section of the *Act*, beyond the time limited in such *Order* in any case where:
- (1) valid reasons exist in the opinion of the *Officer* for the extension; and
  - (2) apart from such reasons, the *Officer* is satisfied that the *Order* will be complied with.
- 8.4.8 Where, because of non-conformity to the applicable standards prescribed by this by-law, the *occupancy* or use of any *property* in the City of Niagara Falls is, in the opinion of the *Officer*, hazardous to the *occupants* or the public, such *occupancy* or use is prohibited until the *property* is brought into conformity with the applicable standards.

## **8.5 APPEAL OF AN ORDER**

- 8.5.1 An *Owner* or *occupant* who has been served with an *Order* made under this by-law, and who is not satisfied with the terms or conditions of the *Order*, may appeal to the Property Standards Committee by sending a notice of appeal by registered mail to the Secretary of the *Committee* within fourteen (14) days after being served with the *Order*.
- 8.5.2 The Notice of Appeal shall be accompanied by the prescribed fee required in the applicable schedule to this by-law in the form of a certified cheque, money order or cash.
- 8.5.3 An *Order* that is not appealed within the time referenced in article 8.5.1 is deemed to be confirmed.
- 8.5.4 If an appeal is taken, the *Committee* shall hear the appeal and shall have all the powers and functions of the *Officer* who made the *Order* and may:
- (1) confirm, modify or rescind the *Order* to demolish or *repair*, or

- (2) extend the time for complying with the *Order* if, in the opinion of the *Committee*, the general intent and purpose of this by-law and of the Official Plan or policy statement are maintained.
- 8.5.5 A copy of the decision of the *Committee* shall be sent to the *Owner*, *occupants* and all other *persons* to whom the *Order* has been served in accordance with sentence 8.4.2(5) by prepaid registered mail within fourteen (14) days of the decision.
- 8.5.6 The municipality in which the *property* is situate or any *Owner* or *occupant* or *person* affected by a decision under article 8.5.4 may appeal to a Judge of the Superior Court of Justice by notifying the Clerk of the Corporation of the City of Niagara Falls in writing and by applying to the Superior Court of Justice for an appointment within fourteen (14) days after sending of a copy of the decision.
- 8.5.7 A Judge of the Superior Court of Justice shall appoint, in writing, a time and place for the hearing of the appeal and may direct in the appointment the manner in which and upon whom the appointment is to be served.
- 8.5.8 On the appeal, the Judge has the same powers and functions of the *Committee*.
- 8.5.9 An *Order* that is deemed to be confirmed or modified by the *Committee* or Judge, shall be final and binding upon the *Owner* and *occupant* who shall carry out the *repair* or demolition within the time and in the manner specified in the *Order*.

## **8.6 PROPERTY STANDARDS COMMITTEE**

- 8.6.1 A *Committee* to be known as the Property Standards Committee of the City of Niagara Falls is hereby established.
- 8.6.2 The Property Standards Committee for the City of Niagara Falls shall consist of not less than three (3) citizens at large to be appointed by Council, with a term to coincide with Council. The members of the *Committee* shall hold office until their successors have been appointed. Any vacancy on the *Committee* shall be filled forthwith.
- 8.6.3 The members of the *Committee* shall elect a Chair from among themselves, when the Chair is absent through illness or otherwise, the *Committee* may appoint another member as Acting Chair.
- 8.6.4 A majority of the members constitutes a quorum for transacting the business of the *Committee*.
- 8.6.5 Any member of the *Committee* may administer oaths.
- 8.6.6 The *City* shall provide a Secretary for the *Committee* who shall keep on file the records of all official business of the *Committee*, including records of all applications and minutes of all decisions respecting those applications.
- 8.6.7 The Secretary as identified above in article 8.6.6, shall keep on file minutes and records of all applications and the decisions thereon and of all other official business

of the *Committee* and Section 74 of the *Municipal Act, R.S.O. 1990, c.M.45*, as amended, applies with necessary modifications to such documents.

- 8.6.8 The *Committee* may adopt its own rules of procedure, but before hearing an appeal under subsection 8.5, the *Committee* shall give notice or direct that notice be given of such hearing to such *person* as the *Committee* considers advisable.
- 8.6.9 Members of the *Committee* shall be paid such compensation as the Council of the City of Niagara Falls may provide by resolution from time to time.

## **8.7 REGISTRATION OF AN ORDER**

- 8.7.1 An *Order* that a *property* does not conform with any standards of this by-law may be registered in the Land Registry or Land Titles Office and, upon such registration, any *person* acquiring any interest in the land subsequent to the registration of the *Order* shall be deemed to have been served with the *Order* on the day which the *Order* was served.
- 8.7.2 Where the *Chief Building Official* or an *Officer* determines there is compliance under this by-law with an *Order* issued, the Clerk of the City of Niagara Falls shall forthwith register in the Land Registry or Land Titles Office, a certification that such requirements have been satisfied, which shall operate as a discharge of such *Order*.
- 8.7.3 Notwithstanding article 8.7.2, no discharge of an *Order* shall be registered by the *Officer* until such time as an *Owner* has paid the *City* the prescribed fee required in the applicable schedule to this by-law in the form of a certified cheque or money order.

## **8.8 COMPLIANCE ORDERS AND CERTIFICATES OF COMPLIANCE**

- 8.8.1 The *Owner* or *occupant* of a *property* shall:
- (1) comply with all standards prescribed in this by-law;
  - (2) comply with any final and binding *Order* of the *Officer*;
  - (3) produce documents or things requested by the *Officer* for inspection as relevant to the *property* or any part thereof, allow the removal of such documents or things for the purpose of making copies, provide information or assist in the collection of information from other *persons* concerning, a matter related to the *property* or part thereof, allow entry by the *Officer* or such *persons* as needed to carry out an inspection or test or in aid thereof, permit examination, tests, sampling or photographs necessary for the purpose of an inspection or in aid thereof, and provide at their expense when requested, tests and samples as are specified in an *Order*, all as may aid or assist in the carrying out of an inspection and determination of compliance with this by-law and the relevant portions of the *Act*; and
  - (4) ensure, that in complying under this by-law, and in carrying out work required under an *Order* or other obligation under this by-law, that the *property* and

activities shall be kept and carried out in a condition and manner that avoids conditions dangerous to the *Owner*, *occupants* or visitors to the *property* or which put at risk of injury or health such *persons* and giving adequate warning where such risks cannot be avoided so as to allow such *person* to avoid the danger or risks.

- 8.8.2 A *person* affected by a Property Standards *Order* may seek to have compliance with an outstanding *Order* determined by supplying such proof as may allow compliance to be determined or permit or arrange for an inspection of the *property* by an *Officer*, and shall be liable to pay any applicable fees, charges or expenses.
- 8.8.3 Where the proof submitted to comply with article 8.8.2 is insufficient for the *Officer* to determine the compliance of the *property* with the *Order* or part thereof, the *person* shall, subject to the *Ontario Building Code*, permit or arrange for a reasonable and timely inspection by the *Officer* to determine compliance or that the proof submitted confirms compliance.
- 8.8.4 Any *property Owner* may make an application to the City of Niagara Falls for a certificate of compliance by completing and signing an application on the form available at the offices of the *Chief Building Official* and paying the applicable fee.
- 8.8.5 Where a Property Standards *Order* has been registered, an *Owner* or *occupant* may apply for an inspection of the *property* in respect of the *Order* and shall pay the fee prescribed in the applicable schedule to this by-law in the form of a certified cheque, money order or cash at the time of application, which fee includes the registration or a discharge where compliance with the *Order* is found.

## **8.9 POWER OF MUNICIPALITY TO REPAIR OR DEMOLISH**

- 8.9.1 If the *Owner* or *occupant* of a *property* fails to *repair* or to demolish the *property* in accordance with an *Order* as confirmed or modified, the City of Niagara Falls, in addition to all other remedies:
- (1) may *repair* or demolish the *property*;
  - (2) may clear the site of all *buildings*, structures, debris or refuse and leave the site in a graded and leveled condition;
  - (3) may make the site safe or impede entry by erecting fences, barricades or barriers; and
  - (4) may cause a prosecution to be brought against any *person* who is in breach of such an *Order* and upon conviction, such *person* shall forfeit and pay at the discretion of the convicting Provincial Judge or Justice of the Peace acting within their territorial jurisdiction, a penalty in accordance with the provision of Section 36 of the *Act*;
- 8.9.2 Where an *Order* of an *Officer* that has become final and binding has not been complied with and the *City* makes efforts to proceed to cause the *property* to be *repaired* or demolished in accordance with the *Order* in addition to all other remedies, the following shall apply:

- (1) for this purpose may enter in and upon the *property* at any reasonable time without a warrant, with its employees and agents, in *Order* to demolish or *repair* the *property* accordingly; and
- (2) neither the *City* or a *person* acting on its behalf shall be liable to compensate the *Owner, occupant* or any other *person* by reason of anything done by or on behalf of the *City* in the reasonable exercise of its powers under this by-law.

8.9.3 Where the *City* demolishes or *repairs* a *property* pursuant to article 8.9.1, the *City* shall have a lien on the land for the amount spent on the *repair* or demolition under article 6.9.1 and the amount shall be deemed to be municipal real taxes and may be added by the Clerk to the collector's roll, and be collected in the same manner, and with the same priorities, as municipal real *property* taxes.

## **8.10 EMERGENCY ORDERS AND POWERS**

8.10.1 Despite any other provision of this by-law, if upon inspection of a *property* the *Officer* is satisfied that there is a non-conformity with the standards prescribed in this by-law to such extent as to pose an immediate danger to the health or safety of any *person*, the *Officer* may make an *Emergency Order* containing particulars of the non-conformity and requiring remedial *repairs* or other work to be carried out forthwith to terminate the danger.

8.10.2 After making an *Emergency Order* under article 6.10.1, the *Officer* may, either before or after the *Order* is served, take or cause to be taken any measures the *Officer* considers necessary to terminate the danger, and for this purpose, the municipality has the right, through its employees and agents at any time, to enter in and upon the *property* without a warrant.

8.10.3 The *Officer*, the *City* or anyone acting on behalf of the municipality is not liable to compensate the *Owner, occupant* or any other *person* by reason of anything done by or behalf of the *City* in the reasonable exercise of its powers under article 8.10.2.

8.10.4 Where the *Emergency Order* made in accordance with article 8.10.1 was not served before measures were taken to terminate the danger, the *Officer* shall as soon as is practical after the measures have been taken, serve copies of the *Order* in accordance with sentence 8.4.2(5) on, the *Owner* of the *property* and such other *persons* affected thereby as the *Officer* determines and each copy of the *Order* shall have attached to it a statement by the *Officer* describing the measures taken by the *City* and providing details of the amount expended in taking the measures.

8.10.5 Where the *Emergency Order* was served before the measures were taken, the *Officer* shall as soon as is practicable after the measures have been taken, serve a copy of the statement mentioned in article 8.10.4, in accordance with sentence 8.4.2(5) on, the *Owner* of the *property* and all such other *persons* affected thereby as the *Officer* determines.

8.10.6 As soon as is practicable after the provisions of article 8.10.4 or 8.10.5, have been complied with, the *Officer* shall apply to a Judge of Ontario Court (General Division) for an *Order* confirming the *Emergency Order* made under article 6.10.1 and the Judge shall hold a hearing for the purpose.

- 8.10.7 The Judge of the Ontario Court (General Division) in disposing of an application brought under article 8.10.6 of this by-law shall:
- (1) confirm, modify or rescind the *Order*; and
  - (2) determine whether the amount spent on measures to terminate the danger may be recovered in whole, or in part or not at all and the disposition of the Judge is final.
- 8.10.8 The amount determined by the Judge to be recoverable pursuant to article 6.10.7 shall be a lien on the land and shall be deemed to be municipal real *property* taxes, and may be added by the Clerk to the collector's roll, and be collected in the same manner, and with the same priorities, as municipal real taxes.

## **SECTION 9      OFFENCES AND PENALTIES**

### **9.1 OBLIGATIONS AND PROHIBITIONS**

- 9.1.1 No *Owner* or *occupant* of *property* shall use, occupy, allow, permit or acquiesce in the use or occupation of the *property* unless such *property* conforms to the standards prescribed in this by-law.
- 9.1.2 No *person*, being the *Owner*, tenant or *occupant* of a *property*, shall fail to maintain the *property* in conformity with the standards required by this by-law.
- 9.1.3 No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an *Officer* or a person acting under their instructions in the exercise of a power or the performance of a duty under this by-law.
- 9.1.4 A refusal of consent to enter or remain in a place actually used as a dwelling is not hindering or obstructing within the meaning of article 8.1.3 unless the *Officer* is acting under a warrant or an *Emergency Order* made pursuant to subsection 7.10.
- 9.1.5 Every *person* shall assist any entry, inspection, examination, testing or inquiry by an *Officer* in the exercise of a power or performance of a duty under this by-law.
- 9.1.6 No *person* shall neglect or refuse:
- (1) to produce any documents, drawings, specifications or things required by an *Officer*; and
  - (2) to provide any information required by an *Officer*.
- 9.1.7 A *person* is guilty of an offence if the *person*:
- (1) contravenes any section of this by-law; or
  - (2) fails to comply with an *Order* that is final and binding under this by-law.
- 9.1.8 Every director or *Officer* of a corporation who contravenes article 9.1.7 is guilty of an offence.



- 9.1.9 Where any *property* with the City of Niagara Falls does not conform to the applicable standards set forth in this by-law, the *Owner* of the *property* shall:
- (1) *repair* and thereafter maintain such *property* to conform to such standards; or
  - (2) where conformity to such standards cannot be effected by *repair*, clear the site of all *buildings*, structures, debris and refuse not in conformity, and leave such area of the site in a graded and leveled condition.
- 9.1.10 All *repair* and maintenance of *property* shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. All construction, *repair*, renovation or demolition shall conform to the requirements of the *Ontario Building Code* and is subject to the requirements for all applicable permits.

## **9.2 PENALTIES**

- 9.2.1 Subject to articles 9.2.2 and 9.2.3, every *person* who contravenes any provision of this by-law is guilty of an offence and is liable upon conviction to a penalty in accordance with the *Provincial Offences Act*.
- 9.2.2 Every *person* who fails to comply with an *Order* issued under this by-law which is final and binding is guilty of an offence and upon conviction shall be liable to a fine of not more than \$50,000 for the first offence and to a fine of not more than \$100,000 for a subsequent offence.
- 9.2.3 If a corporation is convicted of the offence of failing to comply with an *Order* issued under this by-law, the maximum penalty that may be imposed on the corporation is \$100,000 for a first offence and \$200,000 for any subsequent offence.

## **SECTION 10 ADMINISTRATION**

### **10.1 VALIDITY**

- 10.1.1 Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public by ensuring a minimum standard for maintenance and *occupancy* is maintained.
- 10.1.2 Where a provision of this by-law conflicts with the provision of another by-law, Act, or Regulation in force within the City of Niagara Falls, the provisions that establish the higher standards to protect the health and safety of *persons* shall prevail.

### **10.2 TRANSITION PROVISIONS**

- 10.2.1 After the date of the passing of this by-law, those by-laws identified under subsection 9.4 shall apply only to those properties in which an *Order* to Comply 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 with respect to such *Order*, including any demolition, clearance, or *repair* carried out by the City of Niagara Falls shall have been concluded.

10.2.2 In the recovery or enforcement of penalties and forfeitures incurred, or in any other proceeding in relation to matters in respect of a Property Standards by-law of any former area municipality, including the predecessor to by-laws mentioned in subsection 9.4, the process may be continued and carried out under this by-law.

**10.3 FEES**

10.3.1 Any fee required by or described in this by-law shall be as set out in Schedule “A” to this by-law.

**10.4 BY-LAWS TO BE REPEALED**

10.4.1 By-laws No. 98-50, 99-152 and 2000-91 are hereby repealed.

**10.5 DATE OF ENACTMENT**

10.5.1 This by-law shall come into force and effect on September 1, 2015.

Passed this twenty-fifth day of August, 2015.

.....  
DEAN IORFIDA, CITY CLERK

.....  
JAMES M. DIODATI, MAYOR

First Reading: August 25, 2015  
Second Reading: August 25, 2015  
Third Reading: August 25, 2015

**'SCHEDULE A'**

to By-Law 2015-101

**FEES**

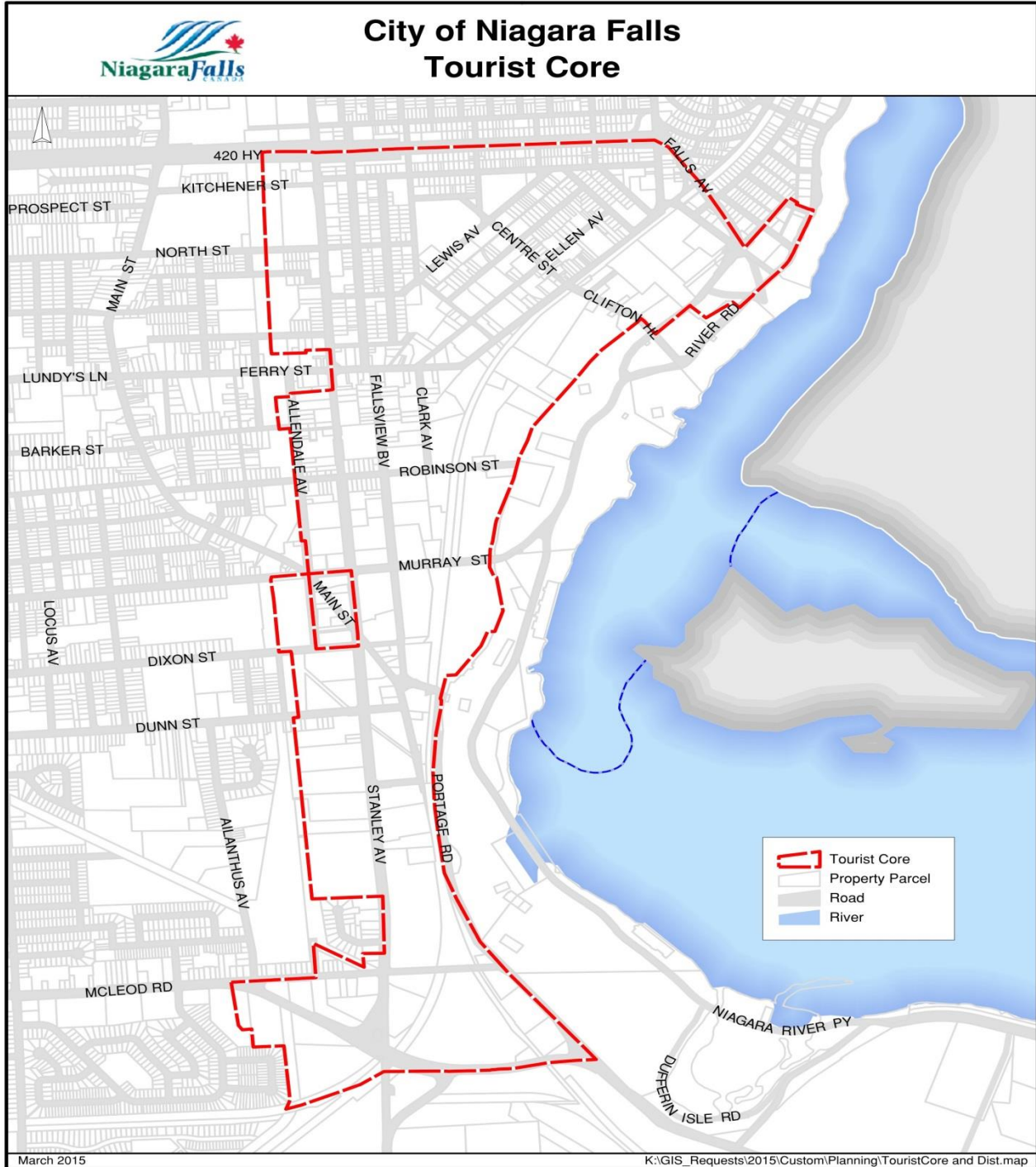
The identified items below shall be subject to the following fees:

- (1) Certificate of Compliance .....\$150.00
- (2) Discharge of an Order registered on title .....\$450.00
- (3) File Notice of Appeal .....\$500.00

**'SCHEDULE B'**

to By-Law 2015-101

**TOURIST CORE**



The tourist core area shall be the area referenced on the map below.