

MUNICIPALITY OF CHATHAM-KENT

By-law No. 46-2011

PROPERTY STANDARDS BY-LAW

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MUNICIPALITY OF CHATHAM-KENT

BY-LAW NUMBER 46-2011

Being a By-law for prescribing standards for the maintenance and occupancy of property within the Municipality of Chatham-Kent

WHEREAS Section 15.1(3) of the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, provides the Municipality of Chatham-Kent the authority to pass a by-law prescribing standards for the maintenance and occupancy of property within the municipality, provided, the official plan for the municipality includes provisions relating to property conditions;

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

AND WHEREAS it is deemed expedient to establish standards for the maintenance and occupancy of property in the Municipality of Chatham-Kent;

THEREFORE the Council of the Corporation of the Municipality of Chatham-Kent enacts as follows:

1.0 SHORT TITLE

1.1 This by-law shall be known as the "Property Standards By-law".

2.0 DEFINITIONS

2.1 For the purpose of this by-law:

"Accessory Building" means a detached building or structure, not used for human habitation, the use of which is incidental or subordinate to the lawful use of the property and which is located on the same lot;

"Agricultural Equipment" means implements and machinery commonly used for farming;

"Balustrade" means a row of balusters or spindles surmounted by a railing;

"Basement" means that portion of a building that has at least one-half of its height from finished floor to finished ceiling below the average adjacent finished grade.

"Bathroom" means a room containing at least a toilet, bathtub or shower, or two rooms that contain in total at least one toilet and one bathtub or shower;

"Bedroom" means a habitable room used for sleeping purposes;

"Building" means any structure used or intended for supporting any use or occupancy;

"Building Code" means the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, and includes the regulations made thereunder;

"Character-Defining Element" means the heritage attributes (principal features, characteristics, context and appearance) that contribute to the cultural heritage significance of a protected heritage property and which are identified in a designation by-law and/or within a heritage conservation district plan and guidelines;

"Chief Building Official" means the person Council has appointed as such pursuant to the Building Code;

"Committee" means a Property Standards Committee established under this by-law;

"Corporation" means The Corporation of the Municipality of Chatham-Kent;

"Council" means The Council of the Corporation of the Municipality of Chatham-Kent;

"Dwelling" includes any building, part of a building, tent, trailer, mobile home or other covering or structure, the whole or any portion of which is used or capable of being used for the purpose of human habitation;

"Dwelling Unit" means a room or a suite of rooms used or designed to be used by one or more individuals as an independent or self-contained domestic unit or housekeeping establishment capable of supporting general living conditions including cooking, eating, sleeping and sanitary facilities;

“Farm” means a parcel of land, including accessory buildings and structures located thereon, used for the raising of livestock, growing of field crops, berry crops, tree crops, flower gardening, nurseries, aviaries, apiaries or forestry and reforestation, including the sale of such produce or crops on the same parcel;

“Fire Code” means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended, and includes the regulations made thereunder;

“Habitable Room” means any room in a dwelling unit used or designated to be used for living, sleeping, cooking or eating purposes;

“Hazardous Building or Structure” means a building or structure, whether or not structurally unsafe within the meaning of the Building Code, that has sustained damage of any kind to the whole or any part of the building or structure by reason of fire, storm or other cause and the damage has not been repaired;

“Heating Appliance” means a device to convert fuel into heat energy and includes all components, controls, wiring, and piping required to be part of the device by the applicable standard referred to in the Building Code;

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

- (a) in a by-law designating a property approved under Section 29, Part IV of the *Ontario Heritage Act* and identified as a heritage attribute, reason for designation, or otherwise;
- (b) in a Minister’s Order made under Section 34.5, Part IV, of the *Ontario Heritage Act* and identified as a heritage attribute or otherwise;
- (c) in a by-law designating a heritage conservation district passed under Section 41, Part V of the *Ontario Heritage Act* and identified as a heritage attribute or otherwise;
- (d) 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 or otherwise.

“Hoarding” means a temporary fence or similar structure used to enclose a property or part thereof which is or intended to be under development, construction or repair;

“Lot” means a parcel of land the boundaries of which are defined in the last registered instrument by which legal or equitable title to the said parcel was lawfully and effectively conveyed;

“Lux” means a unit of illumination equal to the direct illumination on a surface that is everywhere 1 m. from a uniform point source of one candle intensity or equal to one lumen per sq. m.;

“Maintenance” means the preservation and keeping in repair of a property;

“Maintenance (Heritage)” means the preservation and keeping in repair of a Heritage Property and considers routine, cyclical, non-destructive actions, necessary to slow the deterioration of a Heritage Property. Maintenance includes the following actions: periodic inspection; property cleanup; gardening and repair of landscape features; replacement of glass in broken windows; minor exterior repairs (including replacement of individual asphalt shingles where there is little or no change in colour or design); repointing areas of wall space under 1.5 sq. m.; and/or any work defined as maintenance within a designated by-law or in a heritage conservation district plan;

“Mobile Home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer, tent trailer or trailer otherwise designed;

“Multiple Dwelling” means a building lawfully containing three or more dwelling units;

“Multiple Use Building” means a building lawfully containing both a dwelling unit and a non-residential use;

“Municipal Heritage Committee” means a Committee of Council formed under the provisions of the *Ontario Heritage Act*.

“Non-habitable Space” means any room or space in a dwelling or dwelling unit other than a habitable room and includes a bathroom, pantry, lobby, corridor, stairway, closet, storage room, cellar, furnace room, garage, or space for service and maintenance, or space which does not comply with the minimum standards for residential occupancy;

“Non-residential Property” means a building or structure not occupied or capable of being occupied in whole or in part for the purpose of human habitation and includes those lands and premises appurtenant thereto;

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

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

“Owner” includes the person for the time being managing or receiving the rent of land or premises in connection with which the word “owner” is used whether on his own account or as agent or trustee of any person, or would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of the lease is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property in accordance with the standards of this by-law, and the person designated as owner on the assessment roll of the municipality;

“Part IV Heritage Property” means real property, including all buildings and structures thereon, which has been designated by the Municipality of Chatham-Kent under Section 29 of the *Ontario Heritage Act* or which has been designated by the Minister under Section 35.4 of the *Ontario Heritage Act*.

“Part V Heritage Property” means real property, including all buildings and structures thereon, located within a heritage conservation district which has been designated by the Municipality of Chatham-Kent under Section 41 of the *Ontario Heritage Act*.

“Person” includes a firm, association, trust, bureau or partnership;

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

“Property Standards Officer” means a person designated as such by a resolution or bylaw of Council;

“Repair” means the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in this by-law;

“Sewage” means liquid or water borne waste of industrial, commercial or domestic origin, including human body waste, toilet or bathroom waste, shower, tub, culinary, sink or laundry waste, but does not include storm water;

“Sewage System” means the municipal sewer system if one is available, and if not, an approved private sewage disposal system as defined by the Building Code;

“Standards” means the standards prescribed in this by-law;

“Storm Water” means water that is discharged from a surface as a result of rainfall, snowmelt or snowfall;

“Unsafe Condition” means a condition that poses or constitutes a fire hazard or a hazard or risk to life, limb or health of any person;

“Waste Disposal Site” means a parcel of land on which domestic waste is disposed of and which is authorized on that land by a by-law of the Corporation;

“Yard” means the land within the boundary lines of the lot and not occupied by the principal building.

3.0 GENERAL STANDARDS FOR ALL PROPERTY

3.1 All repairs 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 new construction or repairs shall conform to the requirements of the Building Code and Fire Code.

Yards

3.2 Every owner of residential property shall keep their yard, including vacant lots clean and free from:

- i) rubbish, debris, garbage or conditions that may create an unsafe condition;

- ii) junk and refuse of any kind except in an establishment licensed or authorized to conduct and operate such a business, and then only in an arrangement such as to prevent an unsafe or unsightly condition. This subsection shall not apply to agricultural farm equipment, a permitted automobile sales and service establishment or a salvage yard;
- iii) dilapidated, collapsed or partially constructed structures which are not currently under construction.

Sewage and Drainage

- 3.3 Yards shall be maintained so as to:
- i) ensure that storm water is drained from the yard so as to prevent recurrent or excessive ponding or the entrance of water into a basement;
 - ii) ensure that no roof drainage is discharged onto sidewalks, stairs or neighbouring property, nor on any surface within the road allowance; and
 - iii) ensure that sewage is discharged into a sewage system.

Parking Areas, Walks and Driveways

- 3.4 All areas used for vehicular traffic and parking shall have a surface covering of asphalt, concrete, or compacted stone or gravel and shall be kept in good repair.
- 3.5 Steps, walks, driveways, parking spaces and other similar areas shall be maintained so as to afford safe passage under normal use and weather conditions.

Garbage Disposal

- 3.6 All garbage, refuse, and ashes shall be promptly placed in a suitable container and made available for removal in accordance with the Corporation's garbage collection by-law.

Compost Heaps

- 3.7 The occupant of a residential property may provide for a compost heap, provided that the compost pile covers an area no larger than 1 sq. m. (10.76 sq. ft.), is no more than 1.8 m. (6 ft.) in height and is enclosed on all sides by concrete block or lumber or is in a container, or an enclosed commercial plastic container designed for composting.

4.0 RESIDENTIAL STANDARDS

General Conditions

- 4.1 Every owner of a residential property shall:
- i) maintain their property and every part thereof, in a clean, sanitary and safe condition;
 - ii) maintain every floor, wall, ceiling and fixture, including hallways, entrances, laundry rooms, utility rooms, and other common areas in a clean, sanitary and safe condition;
 - iii) not allow accumulation or storage of garbage, refuse, appliances or furniture in a means of egress.

Pest Prevention

- 4.2 Dwellings shall be kept free from rodents, vermin and insects at all times. Methods used for exterminating such pests shall be in accordance with the provisions of the *Pesticides Act*, R.S.O.1990, c.P.11, as amended.
- 4.3 Openings, including windows, that might permit the entry of rodents, insects, vermin or other pests shall be appropriately screened or sealed.

Structural Soundness

- 4.4 A building, or any part thereof, shall be capable of sustaining its own weight together with the loads that may be applied thereto by reason of its use and occupancy, natural causes as set out in the Building Code.
- 4.5 If the Chief Building Official deems it necessary for the structural capacity of a building or any part thereof to be proven to meet the minimum standard, he may require, and the owner of the building shall submit, a report prepared, sealed and signed by a professional engineer who is qualified in the field and licensed by the Professional Engineers of Ontario, attesting to the structural capacity and soundness of the building or any part thereof.

Foundations

- 4.6 Foundation walls of a dwelling shall be maintained so as to prevent the entrance of insects, rodents and excessive moisture. Required maintenance may include the shoring of the walls to prevent settling, installing sub soil drains, at footings, grouting masonry cracks, damp-proofing and waterproofing walls, joints and floors.

Exterior Surfaces

- 4.7 Exterior surfaces of a dwelling and their components, including soffit and fascia, shall be maintained in good repair free from cracked, broken or loose masonry units, stucco or other defective cladding or trim. Paint or some other suitable preservative coating shall be applied and maintained so as to prevent deterioration due to weather conditions, insects or other damage.
- 4.8 Walls, roofs and other exterior parts of a building shall be free from loose or improperly secured objects or materials.
- 4.9 Exterior walls of a dwelling and their components shall be free of unauthorized signs, graffiti and similar defacements.
- 4.10 Appropriate measures shall be taken to remove any markings, stains or other defacement, occurring on an exposed exterior surface and to restore same, as nearly as possible, to their appearance before the markings, stains or defacement occurred.

Windows and Doors

- 4.11 The owner shall ensure that exterior windows, doors and hatchways are maintained in good repair so as to prevent the entrance of wind or rain into the building.
- 4.12 Rotted, ill-fitting or damaged doors, door frames, window frames, sashes and casings shall be renewed or replaced. Defective window hardware, weather stripping and broken window glass shall be replaced.
- 4.13 In a dwelling unit, all windows that are intended to be opened and all exterior doors shall have suitable hardware so as to allow locking or otherwise securing from inside the dwelling unit.
- 4.14 Every window in a dwelling unit located above the first storey of a multiple dwelling shall be equipped with an approved safety device that would prevent any part of the window from opening greater than would be permitted by the Building Code.

Roofs

- 4.15 A roof including the fascia board, soffit, cornice and flashing shall be maintained in a watertight condition.
- 4.16 Where eavestrough and roof gutters are provided they shall be kept in good repair and free from obstructions and shall be properly secured to the building.

Walls, Ceilings and Floors

- 4.17 Every wall, ceiling and floor in a dwelling shall be maintained so as to provide a continuous surface free of holes, cracks, loose coverings or other defects. Walls surrounding showers and bathtubs shall be impervious to water.
- 4.18 Every floor in a dwelling shall be reasonably smooth and level and maintained so as to be free of loose, warped, protruding, broken, or rotted boards or other material that might cause an unsafe condition or allow the entrance of rodents and other vermin or insects.
- 4.19 Every floor in a bathroom, kitchen, and laundry room shall be maintained so as to be impervious to water.

Stairs, Porches and Balconies

- 4.20 Inside and outside stairs, porches, balconies and landings shall be maintained so as to be free of holes, cracks and other defects that may constitute an unsafe condition. Existing stair treads or risers that are broken, warped or loose and any supporting structural members that are rotted or deteriorated shall be repaired or replaced.
- 4.21 Outside stairs, porches, balconies and landings shall be protected from deterioration by the use of paint or other suitable protective material.

Guards and Handrails

- 4.22 A guard, handrail or banister shall be installed so as to prevent accident or injury as required by

the Building Code. A handrail shall be installed and maintained in good repair in all stairwells. Guards shall be installed and maintained in good repair around all landings, porches and balconies. Guards, handrail or banister shall be constructed and maintained rigid in nature and to withstand the loads to which they are subject to, due to intense use.

- 4.23 Outside guards, handrails or banisters shall be protected from deterioration by the use of paint or other suitable protective material.

Kitchens

- 4.24 Every self-contained dwelling unit shall contain a kitchen area equipped with a sink, served with hot and cold water, storage facilities, counter top work area and space for a stove and refrigerator.
- 4.25 Every kitchen shall have provided an adequate and approved gas, electrical or other fuel supply for cooking purposes.
- 4.26 There shall be at least 76 cm. (30 in.) clear space above any exposed cooking surface.
- 4.27 A splash back or counter top having an impervious surface shall be provided around a kitchen sink.

Bathroom and Toilet Facilities

- 4.28 Every dwelling unit shall contain a bathroom consisting of at least one fully operational toilet, lavatory and bathtub or suitable shower unit. Every lavatory and bathtub or shower shall have an adequate supply of hot and cold running water. Every toilet shall have suitable supply of running water.
- 4.29 Every required bathroom shall be accessible from within the dwelling unit and shall be fully enclosed and provided with a door capable of being locked so as to allow privacy for the person using the room.
- 4.30 Where bathroom facilities are shared by occupants of residential accommodation, other than self-contained dwelling units, an appropriate entrance shall be provided from a common passageway, hallway, corridor or other common space to the room or rooms containing the facilities.

Plumbing

- 4.31 Each lavatory, bathtub or shower and one kitchen sink shall be equipped with an adequate supply of hot and cold running water. Hot water shall be supplied at a temperature of not less than 43 degrees Celsius (110 degrees Fahrenheit).
- 4.32 Every dwelling unit shall be provided with an adequate supply of potable running water.
- 4.33 All plumbing, including drains, water supply pipes, toilets and other plumbing fixtures shall be maintained in good condition free of leaks or defects and all water pipes and appurtenances thereto shall be kept from freezing.
- 4.34 All plumbing fixtures shall be connected to the sewage system through water seal traps.

Electrical Service

- 4.35 Every dwelling and dwelling unit shall be wired for electricity and shall be connected to an approved electrical supply system.
- 4.36 The electrical wiring, fixture, switches, receptacles, and appliances located or used in dwellings, dwelling units and accessory buildings shall be installed and maintained in good working order so as not to cause fire or electrical shock hazards. All electrical services shall conform to the regulations established by the *Power Corporation Act*, R.S.O. 1990, c.P.18, as amended.
- 4.37 Every bathroom, kitchen, laundry room, furnace room, basement and non-habitable room or storage area shall be provided with permanent light fixtures.
- 4.38 Lighting fixtures and appliances installed throughout a dwelling unit, including hallways, stairways, corridors, passageways, garages and basements, shall provide sufficient illumination so as to avoid an unsafe condition in normal use.

Heating, Heating Systems, Chimneys and Vents

- 4.39 Every dwelling and building containing a residential dwelling unit or units shall be provided with suitable heating facilities capable of maintaining an indoor ambient temperature of 21 degrees Celsius (70 degrees Fahrenheit) in occupied dwelling units. The heating system shall be maintained in good working condition so as to be capable of safely heating the individual dwelling unit to the required standard.

- 4.40 All fuel burning appliances, equipment and accessories in a dwelling shall be installed and maintained to the standards provided by the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16, as amended, and the applicable regulations thereunder or other applicable legislation.
- 4.41 Where a heating system or part thereof requires solid or liquid fuel to operate, a place or receptacle for such fuel shall be provided and maintained in a safe condition and in a convenient location so as not to create an unsafe condition.
- 4.42 Every dwelling shall be so constructed or otherwise separated to prevent the passage of smoke, fumes, and gases from that part of the dwelling which is not used, designed or intended to be used for human habitation into other parts of the dwelling used for habitation. Such separations shall conform to the Building Code and Fire Code.
- 4.43 All fuel burning appliances, equipment, and accessories in a dwelling unit shall be properly vented to the outside air by means of a smoke-pipe, vent pipe, chimney flue or other approved method.
- 4.44 Every chimney, smoke-pipe, flue and vent shall be maintained in good repair so as to prevent smoke, fumes or gases from entering a dwelling unit. Maintenance shall include the removal of all obstructions, sealing open joints, and the repair of loose or broken masonry units.
- 4.45 Every chimney, smoke-pipe, flue and vent shall be maintained in good condition so as to prevent the heating of adjacent combustible material or structural members to unsafe temperatures.

Fire Escapes, Alarms and Detectors

- 4.46 All fire escapes, alarms and detectors shall conform to the requirements of the Building Code and the Fire code.
- 4.47 Buildings using a fire escape as a secondary means of egress shall keep the escape in good condition, free from obstructions and easily reachable through an operable window or door.

Egress

- 4.48 Every dwelling and each dwelling unit contained therein shall have a safe, continuous and unobstructed passage from the interior of the dwelling and the dwelling unit to the outside at street or grade level.

Lighting

- 4.49 Every habitable room, except for a kitchen or bathroom shall have a window or windows, skylights or translucent panels that face directly to the outside with an unobstructed light transmitting area of not less than 10% of the floor area of such rooms where practicable. The glass area of a sash door may be considered as a portion of the required window.
- 4.50 All public hallways and stairs in multiple dwellings shall be illuminated at all times so as to provide safe passage.

Ventilation

- 4.51 Every habitable room in a dwelling unit and every bathroom shall have openings for ventilation providing an unobstructed free flow of air as required by the Building Code.
- 4.52 All systems for mechanical ventilation shall be maintained in good working order.
- 4.53 All enclosed areas including basements, crawl spaces and attics or roof spaces shall be adequately ventilated.

Disconnected Utilities

- 4.54 Owners of residential buildings or any person or persons acting on behalf of such owner shall not disconnect or cause to be disconnected any service or utility supplying heat, electricity, gas, refrigeration or water to any residential unit or building occupied by a tenant or lessee except for such reasonable period of time as may be necessary for the purpose of repairing, replacing or otherwise altering said service or utility.

5.0 VACANT LANDS AND BUILDINGS

- 5.1 All repairs 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 new construction or repairs shall conform to the Building Code as amended.
- 5.2 Vacant land shall be maintained to the standards as described in Section 2.2 of this by-law.
- 5.3 Vacant land shall be graded, filled or otherwise drained so as to prevent recurrent ponding of water on said lot or neighbouring property.

- 5.4 Vacant buildings shall be kept cleared of all garbage, rubbish and debris and shall have all water, electrical and gas services turned off except for those services that are required for the security and maintenance of the property.
- 5.5 The owner of a vacant building shall board up the building to the satisfaction of the Property Standards Officer by covering all openings through which entry may be obtained. The boarding shall consist of at least 12.7mm. (0.5 in.) weatherproof sheet plywood securely fastened to the building and painted a colour compatible with the surrounding walls.
- 5.6 Buildings boarded up more than 6 months shall be either restored to conform with the standards of this by-law or where deemed necessary by the Chief Building Official, will be ordered to be demolished in accordance with this by-law.

6.0 NON-RESIDENTIAL PROPERTY STANDARDS

- 6.1 All repairs 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 new construction or repairs shall conform to the Building Code, as amended.

Yards

- 6.2 Every owner of non-residential property shall maintain their property to the standards as described in Section 2.2 of this by-law.
- 6.3 Every owner of non-residential property where the warehousing or storage of material or operative equipment that is required for the continuing operation of the industrial or commercial aspect of the property shall maintain their property in a neat and orderly fashion so as not to create an unsafe condition and shall provide unobstructed access for emergency vehicles. Where conditions are such that in the opinion of the Chief Building Official, an area is offensive to view, the offensive area shall be suitably enclosed by a solid wall or a painted board or metal fence and maintained in good repair in accordance with the Corporation's Fence By-law.

Parking Areas and Driveways

- 6.4 All areas used for vehicular traffic and parking shall have a surface covering of asphalt, concrete or compacted stone or gravel and shall be kept in good repair. Notwithstanding the foregoing, on non-residential properties that abut residential properties all areas used for vehicular traffic and parking shall have a surface covering of asphalt or similar hard surface or shall be treated to prevent dust.
- 6.5 All areas used for vehicular traffic, parking spaces and other similar areas shall be maintained so as to afford safe passage under normal use and weather conditions.

Structural Soundness

- 6.6 A building, or any part thereof, shall be capable of sustaining its own weight together with the loads that may be applied thereto by reason of its use and occupancy, natural causes as set out in the Building Code.
- 6.7 If the Chief Building Official deems it necessary that the structural capacity of a building or any part thereof be proven to meet the minimum standard, he may require, and the owner of the building shall submit, a report, prepared, sealed and signed by a professional engineer who is qualified in the field and licensed by the Professional Engineers of Ontario, attesting to the structural capacity and soundness of the building or any part thereof.

Exterior Walls

- 6.8 Exterior walls of a building or a structure and their components, including soffit, fascia, windows and doors, shall be maintained in good repair free from cracked, broken or loose masonry units, stucco, or other defective cladding, or trim. Paint or some other suitable preservative or coating must be applied and maintained so as to prevent deterioration due to weather conditions, insects or other damage.

Guards and Handrails

- 6.9 A guard shall be installed and maintained in good repair on the open side of any stairway or ramp, as required by the Building Code.
- 6.10 A handrail shall be installed and maintained in good repair in all stairwells.
- 6.11 Guards shall be installed and maintained in good repair around all landings, porches and balconies.
- 6.12 Guardrails, handrails and banisters shall be constructed and maintained rigid in nature and to withstand the loads to which they are subject to, due to the intended use.

Lighting

6.13 All non-residential establishments shall install and maintain sufficient windows, skylights, and lighting fixtures necessary for the safety of all persons attending the premises or as may be required by the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1, as amended, for industrial and commercial properties.

6.14 Lighting shall not be positioned so as to cause any impairment of use or enjoyment of neighbouring properties.

7.0 PROPERTIES PROTECTED UNDER THE ONTARIO HERITAGE ACT

7.1 In addition to the minimum standards for the maintenance and occupancy of a property in the Municipality as set out in this by-law, the owner or occupant of a protected heritage property shall:

- i) maintain, preserve, and protect the character-defining elements as identified with the property's designation by-law and/or as identified within a heritage conservation district plan to maintain the heritage character, visual, and structural integrity of any and all buildings, structures, or constructions located on the real property.
- ii) maintain the property in a manner that will ensure the protection and preservation of the heritage values and attributes.

Repair of Character-Defining Elements

7.2 Despite any other provisions in this by-law, where a character-defining element of a designated heritage property can be repaired, the character-defining element shall not be replaced and shall be repaired as follows:

- i) in a manner that minimizes damage to the character-defining element;
- ii) in a manner that maintains the design, colour, texture, grain, or other distinctive feature of the character-defining element;
- iii) using the same material as the original and in keeping with the design, colour, texture, grain, and any other distinctive features of the original; and
- iv) where the same types of material as the original are no longer available, using alternative materials that replicate the design, colour, texture, grain, or other distinctive feature, and appearance of the original material.

Replacement of Character-Defining Elements

7.3 Despite any other provision in this by-law, where a character-defining element of a designated heritage property cannot be repaired (as determined by a built heritage specialist), the character-defining element shall be replaced as follows:

- i) using the same types of material as the original;
- ii) where the same types of material as the original are no longer available, using alternative materials that replicate the design, colour, texture, grain, or other distinctive feature, and appearance of the original material;
- iii) in such a manner as to replicate the design, colour, texture, grain, and other distinctive features and appearance of the character-defining element; and
- iv) the removal of the original material shall be documented by photographs, to-scale drawings, and/or any means identified by the Municipal Heritage Committee.

Altering Designated Heritage Properties

7.4 Despite any other provision of this by-law or the *Building Code Act, 1992*, no protected heritage property shall be altered, exempting works classified as maintenance and/or when approval is granted under the *Ontario Heritage Act*.

Delegated Authority for Approvals

7.5 Approval for works under property standards order that comply with the before mentioned provisions are delegated to Municipal Heritage Committee.

7.6 Works which are not classified as maintenance shall require the submission of an application under the *Ontario Heritage Act*.

Vacant and Damaged Designated Heritage Properties

- 7.7 Despite any other provisions of this by-law or the *Building Code Act, 1992*, where a designated heritage property remains vacant for a period of 60 days or more, the owner shall ensure that appropriate utilities servicing the property are connected, as required, in order to provide, maintain, and to monitor heat and ventilation to prevent damage to the character-defining elements caused by environmental conditions.
- 7.8 The owner shall protect the property against risk of fire, storm, neglect, intentional damage, or damage by other causes by effectively preventing entrance to it of all animals and unauthorized persons, and by closing and securing openings to any structures with boarding. This boarding must completely cover all openings, and be properly fitted in a watertight manner with the side jams, the head jam, and the exterior bottom sill of the opening so that any exterior trim and cladding remains uncovered and undamaged by the boarding. The boarding shall be installed in such a way that minimizes damage to any character-defining elements, is reversible, and minimized visual impact.
- 7.9 No opening shall be secured by brick or masonry held in place by mortar unless agreed to by Municipal Heritage Committee.
- 7.10 If not already in place, an exterior lighting fixture shall be installed and/or maintained in the front porch, veranda, or area adjacent to the front entrance of the building or structure, and must be activated by motion sensors, and shall maintain an average level of illumination of at least 50 lux.

Conflict

- 7.11 In the event of a conflict between the policies relating to designated heritage property, and any other provision of this by-law or the *Building Code Act, 1992*, the provision that establishes the highest standard for the protection of the character-defining elements shall prevail.

8.0 PROPERTY STANDARDS COMMITTEE

- 8.1 For the purposes of this by-law, there is hereby established a Property Standards Committee that shall be composed of not fewer than three members appointed by resolution or by-law of Council.

Term of Office

- 8.2 The members of the Property Standards Committee shall remain in office at the pleasure of Council.

Filling of Vacancies

- 8.3 Council shall forthwith fill any vacancy that occurs in the membership of the Committee.

Compensation

- 8.4 The members of the Committee shall be paid such compensation as the Council may provide by resolution.

Chair

- 8.5 The members 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".

Quorum

- 8.6 A simple majority of the members constitutes a quorum for transacting the Committee's business.

Secretary

- 8.7 The Corporation shall provide a secretary for the Committee.

Duty of Secretary

- 8.8 The secretary 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, and the *Municipal Act* applies with necessary modifications to the minutes and records.

Rules of Procedure and Oaths

- 8.9 The Committee may adopt its own rules or procedure and any member may administer oaths.

Where Committee Required to Give Notice

- 8.10 The Committee shall give notice or direct that notice be given of the hearing of an appeal to such persons as the Committee considers advisable.

9.0 ENFORCEMENT

- 9.1 This by-law shall be enforced by the Chief Building Official.
- 9.2 A Property Standards Officer is hereby authorized to give immediate effect to any order that is confirmed or modified as final and binding under section 15.3(7) of the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, so as to provide for:
- i) repair of the property; or
 - ii) clearing of all buildings, structures or debris from the site and the leaving of the site in a graded and levelled condition, where the cost of doing the work does not exceed \$50,000.
- 9.3 Subject to the provisions relating to Part IV or Part V Heritage Properties contained in this by-law, if upon inspection of a property the Property Standards Officer is satisfied that there is non-conformity with the standards 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 Order containing particulars of the non-conformity and requiring immediate remedial repairs or clearing of all buildings, structures or debris from the site leaving the site in a graded and levelled condition to terminate the danger.
- 9.4 Where the cost of doing the work exceeds \$50,000; the Chief Building Official shall seek the authorization from Council to carry out the requirements of the order.
- 9.5 Upon completion of the work, the Corporation shall have a lien on the land for the amount spent on repair or demolition. The amount shall be deemed to be municipal real property taxes and may be added by the clerk of the Corporation to the collector's roll and collected in the same manner and with the same priorities as municipal real property taxes.
- 9.6 Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than five thousand dollars (\$5,000), exclusive of the costs and every such fine is recoverable under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

10.0 STANDARDS

- 10.1 The standards for the maintenance and occupancy of property set out in this by-law are prescribed and adopted as the minimum standards for all property in the Municipality of Chatham-Kent.

11.0 CERTIFICATE OF COMPLIANCE

- 11.1 Following the inspection of property, the Property Standards Officer may, or upon the request of the owner, shall issue to the owner a certificate of compliance if, in the Property Standards Officer's opinion, the property is in compliance with the standards set out in this by-law.

12.0 COMPLIANCE

- 12.1 All owners or occupants of property shall comply with the standards prescribed in this by-law and any Property Standards Order as confirmed or modified.
- 12.2 All property within the municipality that does not conform with the standards contained in this by-law shall be repaired and maintained to conform with the standards or that the site be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition.
- 12.3 All repairs and maintenance of property shall be carried out with suitable and sufficient materials in a manner acceptable to the Property Standards Officer, and in a good and workmanlike manner for the trades concerned.
- 12.4 All new construction or repairs shall conform to the Building Code and any other applicable legislation.

13.0 VALIDITY AND SEVERABILITY

- 13.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law, and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.
- 13.2 Where a provision of this by-law conflicts with the provision of another by-law in force within the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

14.0 REPEAL AND TRANSITION

- 14.1 Except as provided by Section 14.2 hereof, the Corporation of the Municipality of Chatham-Kent By-law No. 221-2003 and By-law No. 21-2008 are hereby repealed.
- 14.2 Notwithstanding Section 14.1 hereof, the provisions of the by-law, as amended, referenced in Section 14.1 shall continue to apply to any properties in respect of which an Order has been given under the said By-law until such Order has been completed or any enforcement proceeding in respect of such an Order has been concluded.

15.0 EFFECTIVE DATE

- 15.1 This by-law shall come into force on the day of the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME this 28TH day of March, 2011.

ORIGINAL SIGNED BY:

MAYOR – Randy R. Hope

ORIGINAL SIGNED BY:

CLERK – Judy Smith