

The Corporation of the City of Port Colborne

By-law _____

Being a by-law for prescribing standards
for the maintenance and occupancy of all property
within the City of Port Colborne, to provide for the
enforcement of the standards, and to
repeal By-law 4299/135/02 and all amendments thereto

Whereas Section 15.1(3) of the *Building Code Act 1992*, S.O. 1992, c .23 as amended, provides that, where a municipality has an Official Plan in effect that includes provisions relating to property conditions, a by-law may be passed by Council prescribing standards for the maintenance of property within the municipality and for prohibiting the occupancy or use of property that does not conform with the standards and requiring property that does not conform with standards be repaired and maintained to conform with the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in a graded and leveled condition;

And whereas such Official Plan provisions are in place in the City of Port Colborne;

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 Sections 35.3 and 45.1 of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18 as amended (the “OHA”) provide that where a by-law is passed under section 15.1 of the *Building Code Act 1992*, Council may, by by-law, prescribe minimum standards for the maintenance of the heritage attributes of properties that have been designate or properties situated within a heritage conservation district and require that designated properties or properties within a heritage conservation district to be *repaired* and maintained to conform with the standards;

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

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;

Now Therefore the Council of The Corporation of the City of Port Colborne enacts as

follows:

This by-law shall be comprised of EIGHT (8) parts containing various sections, namely:

PART 1	DEFINITIONS
PART 2	SHORT TITLE
PART 3	GENERAL STANDARDS FOR ALL PROPERTIES
PART 4	YARD STANDARDS
PART 5	BUILDING STANDARDS
PART 6	SPECIAL STANDARDS
PART 7	ADMINISTRATION AND ENFORCEMENT
PART 8	ENFORCEMENT AND ENACTMENT

PART 1 - DEFINITIONS

1. In this by-law:

"Accessory Building" means a detached building or structure not used for human habitation that is subordinate and ancillary to the lawful primary use of the main building or structure on a property;

"Act" means the *Building Code Act* 1992, S.O. 1992, c.23 as amended;

"Actively" when used in relation to restoration or repair means a continuous series of repairs or improvements occurring over a period of not more than 12 months;

"Approved" means acceptance by the Property Standards Officer;

"Basement" means that space of a building that is partly below grade, which has half or more of its height, measured from floor to ceiling, above the average exterior finished grade;

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

"Building" means a building as defined in the *Building Code Act*, S.O. 1992, any structure, whether temporary or permanent, used for or intended for supporting or sheltering any use or occupancy and shall include a tent, trailer, or carport;

"Cellar" means that space of a Building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the

average exterior finished grade;

"Chief Building Official" means the Chief Building Official of The Corporation of the City of Port Colborne:

"Committee" means the Property Standards Committee established by this By-law;

"Designated Property" means a property which has been designated as a property of significant cultural heritage value or interest under a by-law passed pursuant to the *Ontario Heritage Act R.S.O. 1990, c. O.18* as amended, or a property within a Heritage Conservation District as established pursuant to the *Ontario Heritage Act R.S.O. 1990, c. O.18*;

"Dwelling" means a Building or structure or part of a Building or structure, occupied or capable of being occupied, in whole or in part, for the purpose of human habitation;

"Dwelling Unit" means a room or a suite of rooms operated as a housekeeping unit, used or intended to be used as a domicile by one or more Persons and supporting general living conditions usually including cooking, eating, sleeping, and sanitary facilities;

"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;

"First Storey" means that part of a Building having a Floor Area closest to grade with a ceiling height of more than 1.8 metres (6 feet) above grade;

"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;

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

"Habitable Room" means any room in a Dwelling Unit that is designed, used or

intended to be used for living, cooking, sleeping or eating purposes;
“Heritage Attribute” is as defined by the *Ontario Heritage Act, R.S.O. 1990, c. O.18*;

“Infestation” means the presence of one rat or mouse, but does not include a domesticated mouse or rat, and in the case of insects, means the presence of one or more such insect, and in the case of wasps or hornets, includes the presence of any occupied nest interior or attached to the exterior of a structure;

“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;

“Manager” means the Manager of By-law Services appointed by by-law and assigned the responsibility for enforcing and administering this By-law and includes a building inspector and an Officer;

“Means of Egress” means a continuous, unobstructed path of travel provided by a doorway, hallway, corridor, exterior passageway, balcony, lobby, stair, ramp, or other Exit facility used for the escape of Persons from any point within a Building, a Floor Area, a room, or a contained open space to a public thoroughfare or an approved area of refuge usually located outside the building;

"Multiple Dwelling" means a Building containing three or more Dwelling Units;

"Municipal Clerk" shall mean the Clerk of the Corporation of the City of Port Colborne;

"Non-Residential Property" means a Building or structure, or part of a Building or structure not occupied in whole or in part for the purpose of human habitation and includes the lands and premises appurtenant and all of outbuildings, fences or erections thereon or therein;

"Occupant" means any Person or Persons over the age of eighteen years in possession of the property.

"Officer" means a Municipal Law Enforcement Officer responsible for enforcing and administering this By-law and includes a building inspector

“*Ontario Building Code*” means the regulation established through the *Building Code Act, 1992, c.23* and any amendments and/or alterations made under that Act;

"Owner" includes:

- (a) the Person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the Person's own account or as agent or trustee of any other Person, or who would so receive the rent if such land and premises were let; and
- (b) a lessee or Occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.

"Person" means a natural Person, an individual, a firm, a corporation, an association or partnership and their heirs, executors, administrators, or other legal representative of a Person to whom the context can apply according to the law;

"Pest" means any rodent, insect, flea, wasp, hornet, cockroach but does not include any domesticated mouse or rat;

"Property" means a Building or structure or part of a Building or structure and includes the lands and premises appurtenant thereto and all mobile homes, mobile Buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;

"Repair" includes the provisions 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 standards established in this By-law;

"Residential Property" means any Property that is used or designed for use as a domestic establishment in which one or more Persons usually sleep and prepare and serve meals and includes any lands or Buildings that are appurtenant to such establishment and all stairways, walkways, driveways, parking spaces, and fences associated with the Dwelling or its Yard;

"Sewage" means the liquid waste from residential or other Buildings, including industrial establishments;

"Sewage System" means the municipal sanitary sewer system, or a private Sewage disposal system approved by the Medical Officer of Health but shall not include a system designed or intended strictly to handle ground water;

"Standards" means the standards of the physical condition and of occupancy prescribed for Property by this By-law;

"Tenant" includes a person who is a lessee, Occupant, sub-tenant, under tenant, border, roomer or lodger and included their successor and assigns;

"Vacant Building", has the meaning defined in the City of Port Colborne Vacant Building Registry By-law, as amended;

"Vacant Land" shall mean lands with no Buildings and/or having no land uses established;

"Yard" means the privately owned land around or appurtenant to the whole or any part of a residential or Non-Residential Property and used or capable of being used in connection with the Property;

"Zoning By-law" shall mean the City's Comprehensive Zoning By-law.

PART 2 – SHORT TITLE

2. This by-law may be cited and known as the "Property Standards By-law".

PART 3 – GENERAL STANDARDS FOR ALL PROPERTIES

- 3.1 The property Standards set out in this By-law are hereby prescribed as minimum Standards for the maintenance and occupancy of all properties within the City.
- 3.2 Every Owner of Property situated in the City shall maintain such Property to the applicable minimum Standards prescribed by this By-law.
- 3.3 All Repairs and maintenance as required by this By-law 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 *Ontario Building Code* or other such Codes or requirements where applicable.

PART 4 – YARD STANDARDS

TREES

4.1 Every person shall ensure that every Yard, including vacant Yards, be kept clean and free from:

4.1.1 Dead trees;

4.1.2 Damaged trees and their components;

4.1.3 Decayed trees; and

4.1.4 Diseased trees.

DEBRIS

4.2 Yards, parking lots, and Vacant Lands shall be kept clear and free from rubbish or other debris and from objects or conditions that might create a health, fire, accident hazard, or unsafe condition.

SEWAGE AND DRAINAGE

4.3 The water in any privately-owned swimming pool shall be kept clean and in a sanitary condition free from obnoxious odours and conditions likely to create a breeding environment for insects.

4.4 Sewage shall be discharged into the municipal sanitary sewer where such system exists, and where a municipal sanitary sewer system does not exist, Sewage shall be disposed of in a manner in accordance with the *Ontario Building Code* requirements for private on-site Sewage Systems.

4.5 Roof or sump drainage shall not be discharged onto sidewalks, stairs, or directly onto adjacent Property.

4.6 Where installed, eavestroughs and downspouts shall be maintained:

4.6.1 watertight and free from leaks;

4.6.2 in good working order, and free from any obstructions;

4.6.3 in a stable condition and shall be securely fashioned to the structure;
and

4.6.4 free from unsafe conditions.

- 4.7 All elements of the Sewage System, including but not limited to weeping tiles, septic beds, and septic tanks, shall be maintained in proper working order and drained, cleaned out, or replaced as required.

PARKING AREAS, WALKS AND DRIVEWAYS

- 4.8 All areas used for vehicular traffic and parking shall have a surface covering of asphalt, concrete, compacted stone, or gravel and shall be kept in good Repair free of dirt and litter.
- 4.9 Notwithstanding the foregoing, for non-residential properties which abut residential properties, all areas used for vehicular traffic and parking shall have a surface covering of asphalt, or similar hard surface.
- 4.10 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.
- 4.11 Steps, walks, driveways, parking spaces, and other similar areas shall be maintained so as to afford safe passage under normal use and weather conditions, day or night.

ACCESSORY BUILDINGS, AND OTHER STRUCTURES

- 4.12 Accessory buildings and other structures appurtenant to the Property shall be maintained in structurally sound condition and in good Repair.
- 4.13 Accessory buildings, and other structures shall be protected from deterioration by the application of appropriate weather resistant materials including paint or other suitable preservative and shall be of uniform colour unless the aesthetic characteristics of said structure are enhanced by the lack of such material.

PART 5- BUILDING STANDARDS

RESIDENTIAL BUILDINGS

- 5.1 Every Owner of a Building shall maintain every floor, wall, ceiling, and fixture under their control, including hallways, entrances, laundry rooms, utility rooms, and other common areas, in a clean, sanitary, and safe condition.

STRUCTURAL SOUNDNESS

- 5.2 Every part of a Building and every Accessory Building shall be maintained in a structurally sound condition so as to be capable of safely sustaining its own weight load and any additional load to which it may be subjected through normal use, having a factor of safety required by the *Ontario Building Code*.
- 5.3 Walls, roofs, and other exterior parts of a Building shall be free from loose or improperly secured objects or materials.
- 5.4 All overhang extensions including but not limited to canopies, marques, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good Repair and be properly anchored so as to be kept in sound condition.

WEATHER PROOFING

- 5.5 Every exposed ceiling or exterior wall of a residential Building when opened or replaced during the course of alterations or renovations shall be insulated, in order to minimize heat loss, air infiltration and moisture condensation on the interior surfaces, in accordance with the *Ontario Building Code*.

FOUNDATIONS

- 5.6 Foundation walls of all Buildings shall be maintained so as to prevent the entrance of insects, rodents and excessive moisture. Maintenance includes but is not limited to the shoring of the walls to prevent settling, installing sub soil drains, grouting masonry cracks, waterproofing walls, joints, and floors.
- 5.7 Every Building, except for slab on grade construction, shall be supported by foundation walls or piers that extend below the frost line, or to solid rock.

EXTERIOR WALLS

- 5.8 Exterior walls of Buildings and their components, including eaves, soffits, and fascia, shall be maintained in good Repair free from cracked, broken, or loose masonry, stucco, and other defective cladding or trim. Paint or other suitable preservative or coating must be applied and maintained so as to prevent deterioration due to weather conditions, insects, or other damage.
- 5.9 Exterior walls of all Buildings and their components shall be free of inappropriate signs, painted slogans, graffiti, and similar defacements.

WINDOWS AND DOORS

- 5.10 Windows, doors, skylights, and basement or Cellar hatchways shall be maintained in good Repair and good working order, weather tight, reasonably draught-free, to prevent heat loss and infiltration by the elements. Maintenance includes painting, replacing damaged doors, frames and other components, window frames, sashes and casings, replacement of non-serviceable hardware and reglazing where necessary. Where screening is provided on windows and doors it shall also be maintained in good Repair.
- 5.11 All windows, skylights, and basement or Cellar hatchways which are designed to be capable of opening and closing shall be maintained so that Occupants are capable of operating it without restriction.
- 5.12 Notwithstanding section 5.11, every window in a leased or rented Dwelling Unit that is 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 permit the passage of a 100 mm diameter (3.9 inches) sphere. Such safety device shall not prevent the window from being fully opened during an emergency situation by an adult without the use of tools.
- 5.13 In a Dwelling Unit, all windows and skylights that are intended to be opened and all exterior doors and hatchways shall have suitable hardware so as to allow locking or otherwise securing from inside the Dwelling Unit. At least one entrance door to a Dwelling Unit shall have suitable hardware so as to permit locking or securing from either inside or outside the Dwelling Unit.
- 5.14 Solid core doors shall be provided for all entrances to Dwellings and Dwelling Units.
- 5.15 In residential Buildings where there is a voice communication unit working in conjunction with a security locking and release system controlling a particular entrance door, the said system shall be maintained in good working order at all times.

ROOFS

- 5.16 Roofs of Buildings and their components shall be maintained in a weathertight condition, free from loose or unsecured objects or materials. Shingles or other coverings which exhibit excessive deterioration shall be replaced as required.
- 5.17 Accumulations of ice and/or snow shall be promptly removed from the roofs of Buildings and accessory Buildings which slope toward a highway or sidewalk or where such conditions could hinder the safe passage of the public.

- 5.18 Where eaves troughing or roof gutters are provided, they shall be kept in good Repair, free from obstructions or blockages and properly secured to the Building and appropriately sloped to allow for proper water drainage.

WALLS, CEILINGS AND FLOORS

- 5.19 Every wall, ceiling and floor in a Building 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.
- 5.20 Every floor in a Building 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 accident or allow the entrance of rodents and other vermin or insects.
- 5.21 Every floor in a bathroom, Toilet Room, shower room, laundry room and kitchen shall be maintained so as to be impervious to water and readily cleaned.

STAIRS, PORCHES, AND BALCONIES

- 5.22 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 accident hazards.
- 5.23 Existing stair treads or risers that show excessive wear or are broken, warped or loose and any supporting structural members that are rotted or deteriorated shall be Repaired or replaced.

GUARDRAILS AND BALUSTRADES

- 5.24 All Guards, guardrails and balustrade shall be installed and maintained in good Repair. All landings, porches and balconies shall be constructed and maintained in accordance with the Ontario Building Code.

KITCHENS

- 5.25 Every Dwelling shall contain a Kitchen equipped with:
- 5.25.1 a sink that is served with hot and cold running water and is surrounded by surfaces impervious to grease and water;

- 5.25.2 hot water shall be supplied at a temperature of not less than 43 degrees Celsius (110° F) and not more than 46 degrees Celsius (120° F);
- 5.25.3 suitable storage area;
- 5.25.4 a counter or work area, exclusive of the sink, and covered with a material that is impervious to moisture and grease and is easily cleanable; and
- 5.25.5 a space provided for cooking and refrigeration appliances including the suitable electrical or gas connections.

TOILET AND BATHROOM FACILITIES

- 5.26 Every Dwelling Unit shall contain a bathroom consisting of at least one fully operational water closet, wash basin, and bathtub or suitable shower unit. Every wash basin and bathtub or shower shall have 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° F) and not more than 46 degrees Celsius (120 F). Every water closet shall have a suitable supply of running water.
- 5.27 Every required bathroom or toilet room shall be accessible from within the Dwelling Unit and shall be fully enclosed and provided with a door.
- 5.28 Where toilet or bathroom facilities are shared by Tenants 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 said facilities.

PLUMBING

- 5.29 Every Dwelling Unit shall be provided with an adequate supply of potable running water from a source approved by the Medical Officer of Health.
- 5.30 All plumbing, including drains, water supply pipes, water closets, and other plumbing fixtures shall be maintained in good working condition free of leaks and defects, and all water pipes and appurtenances thereto shall be protected from freezing.
- 5.31 All plumbing fixtures shall be connected to the Sewage System through water seal traps.
- 5.32 Every fixture shall be of such materials, construction and design as will ensure that the exposed surface of all parts are hard, smooth, impervious to hot and

cold water, readily accessible for cleansing and free from blemishes, cracks, stains, extreme corrosion, or other defects that may harbor germs or impede thorough cleansing.

ELECTRICAL SERVICE

- 5.33 Every Dwelling and Dwelling Unit shall be wired for electricity and shall be connected to an approved electrical supply system.
- 5.34 The electrical wiring, fixtures, switches, receptacles, and appliances located or used in Dwellings, Dwelling Units, accessory buildings, and all non-residential Buildings shall be installed and maintained in good working Order so as not to cause fire or electrical shock hazards.
- 5.35 All electrical services shall conform to all applicable regulations of the *Electricity Act 1998, S.O. 1998 c. 15* and the *Ontario Electrical Safety Code, Ontario Regulation 164/99* or its successor legislation.
- 5.36 Every habitable room in a Dwelling shall have at least one electrical duplex outlet for each 11.1 square metre (120 square feet) of floor space and for each additional 9.3 square metres (100 square feet) of Floor Area a second duplex outlet shall be provided. Extension cords shall not be used on a permanent basis.
- 5.37 Every bathroom, toilet room, Kitchen, laundry room, furnace room, basement, Cellar and non-habitable work or storage room shall be provided with a permanent light fixture.
- 5.38 Lighting fixtures and appliances installed throughout a Dwelling Unit, including stairways, corridors, passageways, garages, and basements shall provide sufficient illumination so as to avoid health or accident hazards in normal use.

HEATING, HEATING SYSTEMS, CHIMNEYS AND VENTS

- 5.39 Every Dwelling Unit and Building containing a residential Dwelling Unit shall be provided with suitable heating facilities capable of maintaining an indoor ambient temperature of 20° Celsius (68° F.) in the occupied Dwelling Units. The heating system shall be maintained in good working condition and be capable of safely heating the individual Dwelling Units to the required standard on request of the Dwelling Unit's Tenant.
- 5.40 Where the temperature level cannot be controlled by the Tenant, the Owner

shall provide an approved secondary heat source under the Tenant's control, which is capable of producing and maintaining the ambient temperature of 20° Celsius (68°F) within the Dwelling Unit.

- 5.41 Every non-residential Building shall maintain suitable heating facilities to sustain an indoor ambient temperature in accordance with the requirements of the *Occupational Health and Safety Act R.S.O. 1990 c. O.1*.
- 5.42 All fuel burning appliances, equipment, and accessories in all Buildings shall be installed and maintained to the Standards provided by the applicable provincial legislation.
- 5.43 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 to be free from fire or accident hazards.
- 5.44 All fuel burning appliances, equipment, and accessories in all Buildings shall be properly vented to the outside air by means of a smoke-pipe, vent pipe, chimney flue, or other approved method.
- 5.45 Every chimney, smoke-pipe, flue, and vent shall be installed and maintained in good Repair so as to prevent the expelled smoke, fumes or gases from entering a Dwelling Unit. Maintenance includes the removal of all obstructions, sealing open joints, and the Repair of loose or broken masonry units.
- 5.46 Every chimney, smoke-pipe, flue, and vent shall be installed and maintained in good condition so as to prevent the heating of adjacent combustible material or structural members to unsafe temperatures.
- 5.47 Every Dwelling shall be so constructed or 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 *Ontario Building Code*.

EGRESS

- 5.48 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.

NATURAL LIGHT

- 5.49 Every Habitable Room except a Kitchen or bathroom shall have a window or windows, skylights or translucent panels facing directly or indirectly to an outside space and admits as much natural light equal to not less than ten percent of the Floor Area Floor Area for living and dining rooms and five percent of the Floor Area for Bedrooms and other finished rooms.
- 5.50 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* for industrial and commercial properties. However, lighting shall not be positioned so as to cause any impairment of use or enjoyment of neighbouring properties.

VENTILATION

- 5.51 Every Habitable Room in a Dwelling Unit, as well as Kitchens or bathrooms shall have openings for ventilation providing an unobstructed free flow of air of at least 0.28 square metres (3 square feet), or an approved system of mechanical ventilation such that it provides hourly air exchanges.
- 5.52 All systems of mechanical ventilation shall be maintained in good working Order.
- 5.53 All enclosed areas including Basements, Cellars, crawl spaces, and attics or roof spaces shall be adequately ventilated so as to prevent the buildup of dampness and mould within the unit.
- 5.54 All structural elements of a Dwelling exhibiting signs of mould shall be properly cleaned and, where necessary, replaced to eliminate the presence of the mould.

ELEVATING DEVICES

- 5.55 Elevators and other elevating devices including all mechanical and electrical equipment, lighting fixtures, lamps, control buttons, floor indicators, ventilation fans, and emergency communication systems shall be operational and maintained in good condition.

DISCONNECTED UTILITIES

- 5.56 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.

OCCUPANCY STANDARDS

- 5.57 The number of Occupants residing on a permanent basis in an individual Dwelling Unit shall not exceed one Person for every 9 square metres of habitable Floor Area. For the purpose of computing habitable Floor Area, any area with the minimum ceiling height less than 2.1 metres shall not be considered as habitable.
- 5.58 No room shall be used for sleeping purposes unless it has a minimum width of 2 metres and a Floor Area of at least 7 square metres. A room used for sleeping purposes by two or more Persons shall have a Floor Area of at least 4 square metres per Person.
- 5.59 Any basement or portion thereof, used as a Dwelling Unit shall conform to the following requirements:
- 5.59.1 each Habitable Room shall comply with all the requirements set out in this by-law;
 - 5.59.2 floors and walls shall be constructed so as to be damp proof and impervious to water leakage;
 - 5.59.3 each habitable room shall be separated from the fuel fired heating unit or other similarly hazardous equipment by a suitable fire separation and approved under the *Ontario Building Code*; and
 - 5.59.4 access to each habitable room shall be gained without passage through a furnace room, boiler room, or storage room.

PEST PREVENTION

- 5.60 Buildings shall be kept free of infestation by Pests.
- 5.61 Where a Pest Infestation is apparent, methods used for exterminating such

pests shall be in accordance with the provisions of the *Pesticides Act R. S.O. 1990, c. P.11* and the responsibility for such extermination shall rest with the Owner of the Property unless otherwise stipulated in the lease or rental agreement.

- 5.62 Openings, including windows, that might permit the entry of Pests shall be appropriately screened or sealed.

PART 6 - SPECIAL STANDARDS

VACANT BUILDINGS, DAMAGED BUILDINGS, FIRE DAMAGED BUILDINGS and HERITAGE BUILDINGS

- 6.1 Every person shall ensure that Vacant Buildings be kept cleared of all garbage, rubbish and debris.
- 6.2 Where a Vacant Building is unoccupied, or has been damaged by accident, storm, neglect or other causes, every Owner shall prevent entry by unauthorized persons to the satisfaction of the Officer to ensure that the Vacant Building and surrounding properties are protected against the risk of accidental or intentional damage, that may arise from the entry of unauthorized persons to the Vacant Building.
- 6.3 For the purpose of section 6.2, doors, windows, hatches and other openings through which entry to a Vacant Building may be gained shall be kept in good Repair and secured from unauthorized entry by closing and securing the openings any of the following ways:
- 6.3.1 boarding which completely covers the opening with at least 12.7mm (0.5 in.) weatherproofed sheet plywood securely fastened to the building from the outside;
 - 6.3.2 rigid composite panels, securely fastened to the building exterior;
 - 6.3.3 sheathing boards installed within the reveal of the exterior cladding and securely fastened to the building;
 - 6.3.4 brick and mortar securely fastened to the building;
 - 6.3.5 concrete blocking and mortar securely fastened to the Building; or
 - 6.3.6 any other security measures as prescribed by the Fire Chief.
- 6.4 The options listed in section 6.3 shall be considered progressively more secure.

- 6.5 It shall be the Officer's discretion to determine the minimum level of security required.
- 6.6 Where it has been shown that a proper level of security has not been achieved, or the Owner's control, attendance, or lack of security measures to protect the Vacant Building suggests a more secure option be used, the Officer may Order the Owner to supply more stringent security measures as may be necessary beyond the options listed in subsection. 6.3
- 6.7 Where a building remains vacant for a period of more than ninety (90) days, or in the opinion of the Officer further measures are required, the Officer shall ensure that all utilities serving the building, which are not required for the safety or security thereof, are properly disconnected or otherwise secured, to prevent accidental or malicious damage to the building or adjacent Property.
- 6.8 Where a Vacant Building is not maintained in accordance with these Standards it shall be demolished and removed from the Property and the land left in a graded and level condition.
- 6.9 All work under Part 6 of this by-law shall be done in compliance with the *Ontario Building Code*, other applicable codes, and by-laws, including but not limiting the generality of the foregoing, in compliance with the requirement for obtaining building or demolition permits, and with the by-laws applicable to demolition and clearing of Property.

DAMAGED BUILDINGS

- 6.10 Where a building is damaged by accident, storm, fire, neglect, or other causes including intentional damage, every Owner shall repair or demolish the building within 30 days or a reasonable time arranged with the City.
- 6.11 Where a building is damaged by accident, storm, fire, neglect, or other causes including intentional damage, immediate steps shall be taken to prevent or remove a 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.
- 6.12 Where a building is damaged by accident, storm, fire, neglect, or other causes including intentional damage, every 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 the progressive manner described in section 6.3.
- 6.13 In the event that the building or structure is beyond repair, the land shall be cleared of debris and remains and shall be left in a graded, level, and safe condition without

reasonable delay.

- 6.14 Every Owner shall ensure that the exterior walls 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 create a safe condition.
- 6.15 Any such work required under this By-law shall be done in compliance with the *Ontario Building Code*, other applicable Codes, and by-laws, including but not limited to the generality of the foregoing, in compliance with the requirement for obtaining building or demolition permits, and with the by-laws applicable to demolition and clearing of property.

FIRE DAMAGED BUILDINGS

- 6.16 Fire damaged buildings shall be kept clear of all garbage, refuse, and debris and shall have all water, electrical and gas services turned off except those services that are required for the security and maintenance of the Property.
- 6.17 Every Owner of a fire damaged building shall restore the building to meet the requirements of this by-law pertaining to damaged buildings and the *Ontario Building Code*.
- 6.18 When a fire-damaged building or part is occupied again for other than the purpose of Repair, the condition of the building and Property shall be brought into compliance with all applicable sections of this by-law and the *Ontario Building Code* prior to such occupancy.
- 6.19 Every person shall ensure that the exterior walls and other surfaces of the building have smoke damage or other defacement removed and the surfaces refinished.

HERITAGE PROPERTIES

- 6.20 Despite any other provision of this By-law or the *Building Code Act, 1992, S.O. 1992, c.23*, no heritage property shall be altered except pursuant to the approval requirements under the *Ontario Heritage Act, R.S.O. 1990, c. O.18*.
- 6.21 In addition to the minimum standards set out in this by-law, the Owner of a Heritage Property shall:
 - 6.21.1 maintain the Heritage Property and the components of the Heritage Property that hold up, support, or protect the Heritage Attributes in a manner that will ensure their conservation;
 - 6.21.2 repair a Heritage Attribute of a Heritage Property where it can be repaired, rather than replace the Heritage Attribute. All work

undertaken shall be:

- 6.21.2.1 in a manner that minimizes damage to heritage attributes; and
 - 6.21.2.2 in a manner that maintains the design, colour, texture, grain, or other distinctive features of the heritage property;
 - 6.21.2.3 where a Heritage Attribute is too severely deteriorated to repair, and where sufficient physical evidence exists, replace the heritage attribute using the same material as the original, where available, in keeping with the design, colour, texture, grain and any other distinctive features of the original to the satisfaction of the Heritage Committee, and the approval of City Council.
- 6.22 Where a heritage property remains vacant for a period of 90 days or is vacant as a result of any damage, the Owner shall protect the Heritage Attributes and elements supporting the Heritage Attributes against any existing risk, or further risks of fire, storm, neglect, intentional damage or damage by other causes.
- 6.23 If there is a conflict between this section and any other provisions of this By-law or any other by-law of the City, the provision that establishes the highest standard for the protection of Heritage Attributes shall prevail to the satisfaction of the Chief Building Official.

PART 7- ADMINISTRATION AND ENFORCEMENT

GENERAL

- 7.1 This By-law shall apply to all properties within the limits of the City.
- 7.2 The Manager of By-law Services is hereby assigned the responsibility of administering and enforcing this By-law.
- 7.3 Persons appointed or assigned for the purpose of enforcing or administering this By-law are property standards Officers and have the authority to carry out the duties assigned to Officers under this By-law and the *Building Code Act, 1992*, S.O. 1992, c.23, and may enforce the provisions of this By-law and the applicable

sections of the *Building Code Act, 1992, S.O. 1992, c.23*.

- 7.4 An Officer is hereby authorized to give immediate effect to any Order that is confirmed or modified as final or binding under Section 15.3(7) of the *Building Code Act, 1992, S.O. 1992, c.23*, so far as to provide for:
- 7.4.1 repair of the Property; or
 - 7.4.2 clearing of all buildings, structures or debris from the site and the leaving of the site in a graded and leveled condition.
- 7.5 Where approved by the Manager an Officer may permit the maintenance of property to alternate standards required by any provision of this By-law.
- 7.6 The alternative standards shall be in accordance with the general purpose and intent of this By-law.
- 7.7 Where alternative standards are permitted, they shall have the same effect and force as the standards required by any provision of this By-law.

RIGHT TO ENTER AND INSPECT

- 7.8 An Officer or any person acting under their instructions, may at any reasonable time, and upon producing proper identification, enter upon any property without a warrant for the purposes of inspecting a property to determine:
- 7.8.1 whether the property conforms with the standards prescribed in this By-law; or
 - 7.8.2 whether an Order made under this By-law has been complied with.
- 7.9 Notwithstanding the above, an Officer shall not enter or remain in any room or place used as a dwelling unless:
- 7.9.1 the consent of the occupier is obtained, first having informed the occupier that the right of entry may be refused, and entry made only under the authority of a warrant issued under the *Building Code Act, 1992, S.O. 1992, c.23*;
 - 7.9.2 the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health and

safety of any person;

7.9.3 a warrant issued under the *Building Code Act, 1992, S.O. 1992, c.23* is obtained; or

7.9.4 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.

ORDER REQUIRING COMPLIANCE

7.10 If, after inspection, an Officer is satisfied that in some respect the Property does not conform with the Standards, they may issue an Order to the Owner and such other Persons affected by it as the property standards Officer determines and a copy of the Order may be posted on the Property.

7.11 An Order under this by-law shall:

7.11.1 state the municipal address or the legal description of the Property;

7.11.2 give reasonable particulars of the Repairs to be made or stating that the site is to be cleared of all Buildings, structures, debris, or refuse and left in a graded and leveled condition;

7.11.3 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 municipality may carry out the Repair or clearance at the Owner's expense.

7.11.4 indicate the final date for giving notice of appeal from the Order; and

7.11.5 be served or caused to be served,

7.11.5.1 by Personal service; or

7.11.5.2 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.

7.12 If the Officer is unable to effect service under Section 7.11.5, 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.

- 7.13 Despite any other provisions of this by-law, if upon inspection of a Property, the Officer is satisfied there is non-conformity with the Standards prescribed herein 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 remedial Repairs or other necessary work to be carried out forthwith to terminate the danger in accordance with Section 15.7 of the *Building Code Act, 1992, S.O. 1992, c.23*.

APPEAL OF AN ORDER

- 7.14 An Owner 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 Appeals and Property Standards Committee by sending a notice of appeal by registered mail to the staff liaison of the Committee within 14 days after being served with the Order.
- 7.15 An Order that is not appealed within the prescribed time is deemed to be confirmed.
- 7.16 If an appeal is taken, section 15.3 of the *Building Code Act, 1992, S.O. 1992, c.23*, the City of Port Colborne Procedural By-law, and the City of Port Colborne Appeals and Property Standards Committee Terms of Reference shall apply to all Appeal proceedings.

REGISTRATION OF AN ORDER

- 7.17 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.
- 7.18 Where the Manager of By-law Services or an Officer determines there is compliance under this by-law with an order issued, the Clerk of the Municipality shall forthwith cause the Order to be registered in the Land Registry or Land Titles Office, a certificate that such requirements have been satisfied, which shall operate

as a discharge of such order.

POWER OF THE MUNICIPALITY TO REPAIR OR DEMOLISH

7.19 If the Owner of a Property fails to Repair or to demolish the Property in accordance with an Order as confirmed or modified, the City, in addition to all other remedies:

7.19.1 may Repair or demolish the Property;

7.19.2 may clear the site of all Buildings, structures, debris or refuse and leave the site in a graded and leveled condition; or

7.19.3 may make the site safe or impede entry by erecting fences, barricades or barriers;

7.19.4 shall not be liable to compensate such Owners, Occupants or another Person having interest in the Property by reason of anything done by or on behalf of the City in a reasonable exercise of its power under the provisions of this Part;

7.19.5 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 *Building Code Act, 1992, S.O. 1992, c.23*.

7.19.6 shall have a lien on the land for the amount spent on the Repairs or demolition; and

7.19.7 the amount shall be deemed to be municipal real taxes and shall be added to the collector's roll and collected in the same manner and with the same priorities as municipal real Property taxes.

7.20 For the purposes of Section 7.19, Officers and agents employed by the City may from time to time enter in and upon the Property.

PART 8- ENFORCEMENT AND ENACTMENT

PROHIBITION

8.1 No Owner of a Property shall use, occupy, allow, permit, or acquire in the use or occupation of the Property unless such Property conforms to the standards prescribed in this By-law.

- 8.2 No Person, being the Owner of a Property, shall fail to maintain the *Property* in conformity with the standards required in this By-law.
- 8.3 The Owner of a Property which does not conform to the standards in this By-law shall repair and maintain the Property to conform to the standards or shall clear the Property of all buildings, structures, debris or refuse and shall leave the Property in a graded, level condition.

RESPONSIBILITIES AND COMPLIANCE WITH ORDERS

- 8.4 The Owner of a Property shall:

- 8.4.1 comply with all standards prescribed in this by-law;
- 8.4.2 comply with any final and binding Order of the Officer;
- 8.4.3 produce documents or things requested by the inspector 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 inspector or such persons as need to carry out an inspection or test or in aid thereof, permit examination, tests, sampling or photographs necessary for the purposes 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 *Building Code Act, 1992, S.O. 1992, c.23*; and
- 8.4.4 ensure, that in complying under this by-law, and in carrying out work required under an order or other obligation under the 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 so avoided so as to allow such person to avoid the danger or risks.

PENALTIES

- 8.5 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*.

- 8.6 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 is liable upon conviction to a penalty in accordance with section 36(3) of the *Building Code Act, 1992, S.O. 1992, c.23*.
- 8.7 Every corporation who fails to comply with an Order issued under this By-law which is final and binding is guilty of an offence and is liable upon conviction to a penalty in accordance with section 36(4) of the *Building Code Act, 1992, S.O. 1992, c.23*.
- 8.8 This By-law is designated as a by-law to which the Administrative (Non-Parking) Penalty By-Law applies. Any Person who contravenes any of the provisions of this By-law, when given a Penalty Notice in accordance with the City's Administrative (Non-Parking) Penalty By-Law, is liable to pay the City an administrative penalty in the amount specified in the City's Administrative (Non-Parking) Penalty By-Law, as amended from time-to-time.

FEES

- 8.9 The Fees related to the administration of this by-law are as set out in the Fees and Charges By-law, as amended from time to time.

VALIDITY

- 8.10 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 the maintenance and occupancy of Property is maintained.
- 8.11 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.

TRANSITIONAL PROVISION

- 8.12 After the passing of this By-law, By-law 4299/135/02, as amended, shall apply only to those properties in respect of which an Order has been issued prior to the date of passing of this By-law, and then only to the said properties until such time as all matters relating to such Order has been completed or any enforcement proceedings in respect of such Order, including demolition and Repair by the Municipality, have been concluded.

EFFECTIVE DATE OF BY-LAW

- 8.13 This By-law shall come into force and effect upon the date of its final passage.

REPEAL OF EXISTING BY-LAW

- 8.14 Subject to the provisions of Section 8.12, By-law 4299/135/02 and its amendments are hereby repealed.

Enacted and passed this _____ day of _____, 2024

William C. Steele
Mayor

Saima Tufail
Acting City Clerk