



**The Corporation of the City of St. Catharines
CITY COUNCIL AGENDA
Regular, Monday, August 10, 2020
Electronic Participation, 6:00 PM**

This Meeting of Regular Council will be held through Electronic Participation in accordance with Bill 187, the Municipal Emergency Act, which was passed by the Province of Ontario on March 19, 2020.

This Meeting may be viewed online at www.stcatharines.ca/youtube

Public Comments: The public may submit comments regarding agenda matters to the Office of the City Clerk by contacting clerks@stcatharines.ca by Monday, August 10, 2020 before Noon. Comments submitted will be considered as public information and entered into public record.

Electronic Delegations: Those wishing to speak to an item on the agenda must complete the [City's Electronic Delegation Form](#) by Sunday, August 9, 2020 before 11:59 p.m. and attend a test session with City staff on Monday, August 10, 2020 at 10 a.m.

His Worship Mayor Walter Sendzik takes the Chair and opens the meeting

- 1. Mayor's Report**
- 2. Adoption of the Agendas**
- 3. Declarations of Interest**
- 4. Adoption of the Minutes (Council and General Committee)**
 - 4.1 Regular Meeting of Council, Minutes of [July 27, 2020](#)
 - 4.2 General Committee, Minutes of [July 27, 2020](#)
- 5. Resolve into General Committee**

Council will proceed to General Committee Agenda Item 1 - Motion to Move Reports on Consent
- 6. Public Meetings Pursuant to Public Notice By-Law**
 - 6.1 Legal and Clerks Services, Legal Services
A By-law to Prohibit the Use of Certain Lands for the Disposal of Waste and Establish Maintenance Standards

- 6.2 Legal and Clerks Services, Legal Services
A By-law Providing Powers of Entry for the Purpose of Inspection

7. Special Presentations

8. Resolve into General Committee

Council will proceed to General Committee Agenda Item 3 - Discussion Reports

9. Motion Arising from In-Camera Session

10. Motion to Ratify Forthwith Recommendations

11. Motions

11.1 Reconsideration of the previously decided By-law regarding the Subdivision Agreement with respect to 39 Bromley Drive

Delegations by the following individuals will precede discussion of the motion:

- Linda Crouch
- Shelley Hernder
- Tom Richardson
- Thomas Hanrahan
- Kevin Bacchus

Councillor Phillips will present the following motion:

That Council reconsider the following by-law, which was considered by Council and passed on May 6, 2020 (Council Agenda Item 16.1, By-law 2020-61):

"A By-law to authorize a Subdivision Agreement with 2201023 Ontario Inc. (One reading - with respect to 39 Bromley Drive. Delegation By-law No. 2004-277, as amended.) File: 60.46.99"

Should the Reconsideration Motion be approved, Councillor Phillips will present the following motion:

WHEREAS on May 6, 2020, pursuant to Section 51(58) of the Planning Act, Council granted final approval of the plan of subdivision for lands at 39 Bromley Drive by virtue of the passage of By-law 2020-61; and

WHEREAS pursuant to Section 51(59) of the Planning Act, Council may withdraw its final approval of the plan of subdivision, provided the plan of subdivision has not been registered within 30 days of final approval being granted; and

WHEREAS the 30 days referred to in Section 51(59) of the Planning Act lapsed on June 5, 2020 and the plan of subdivision has not yet been registered; and

WHEREAS if Council withdraws final approval of the plan of subdivision under Section 51(59) of the Planning Act, Section 51(44) of the Planning Act grants Council the authority to withdraw the draft plan approval or to change conditions of draft plan of subdivision approval prior to the final plan approval of the plan; and

WHEREAS recent resident(s) concerns have arisen regarding the validity of the environmental impact assessment and traffic impact assessment completed in support of this plan of subdivision, given ten years has lapsed since their completion, which concerns Council would like staff to review; and

WHEREAS should Council withdraw its final approval of the plan of subdivision for 39 Bromley Drive, draft plan approval will lapse on August 22, 2020; and

WHEREAS extension of draft plan of subdivision approval for a period of less than two years is a Council authority delegated to the Director of Planning and Building Services;

THEREFORE BE IT RESOLVED that Council hereby firstly, withdraws final approval of the plan of subdivision for 39 Bromley Drive in accordance with Section 51(59) of the Planning Act AND secondly, directs the Director of Planning and Building Services to extend the draft plan of subdivision approval for 39 Bromley Drive beyond August 22 2020 for an appropriate period of time to permit staff to review the conditions of draft plan of subdivision approval, specifically as it relates whether an updated traffic impact assessment and updated environmental site assessment are warranted, pursuant to resident concerns, AND thirdly, to report back to Council accordingly.

[Addenda]

11.2 Long-Term Care Homes

Councillor Sorrento will present the following motion:

WHEREAS many seniors in residing in local long term care facilities are residents of St. Catharines; and

WHEREAS the COVID-19 pandemic has demonstrated a need for additional support; and

WHEREAS subsequent outbreaks and a second wave of COVID-19 is a real possibility recurring in long term care homes;

THEREFORE BE IT RESOLVED that City Council support the current provincial review of the long term care system that will hopefully identify further changes to protect and to serve residents; and

BE IT FURTHER RESOLVED that City Council encourage the Ministry of Long Term Care to provide a minimum of 4 hours of direct care per day per resident in long term care homes; and

BE IT FURTHER RESOLVED that City Council encourage the Ministry of Long Term Care to support mandatory testing for all staff providing services to seniors in assisted living, life lease or retirement housing workplaces; and

BE IT FURTHER RESOLVED that City Council supports the Ministry of Long Term Care to build new long term care beds; and

BE IT FURTHER RESOLVED that City Council appeal to the Federal and Provincial Governments to provide funding as quickly as possible for additional personal support workers, nurses and PPE costs associated with the COVID-19 pandemic and increase staffing to adequate levels in long term care homes to sufficient capacity to provide care; and

BE IT FURTHER RESOLVED that this resolution be forwarded to all local area municipalities; all Niagara MPPs and MPs; the Honourable Patty Hajdu, Minister of Health; the Honourable Christine Elliott, Minister of Health; and the Honourable Merrilee Fullerton, Minister of Long-Term Care.

[Addenda]

11.3 Support to the City of Toronto in their Legal Challenge of the Amendments made under Bill 184, Section 83

Councillor Townsend will present the following motion:

WHEREAS the COVID-19 pandemic has caused much financial strain to residents of St. Catharines; and

WHEREAS many residents without income supports face the reality of evictions under the July 26, 2020 amendment of Provincial Bill 184 Section 83; and

WHEREAS Section 83 of Bill 184 states:

“Refusal for certain arrears of rent”

If a hearing is held in respect of an application under section 69 for an order evicting a tenant based on arrears of rent arising in whole or in part during the period beginning on March 17, 2020 and ending on the prescribed date, in determining whether to exercise its powers under subsection the Board shall consider whether the

landlord has attempted to negotiate an agreement with the tenant including terms of payment for the tenant's arrears; and

WHEREAS the City Council of Toronto voted 22-2 in support of a legal challenge of Bill 184 Section 83;

THEREFORE BE IT RESOLVED that the City of St. Catharines, City Council show support to the City of Toronto in their legal challenge of the amendments made under Bill 184, Section 83; and

BE IT FURTHER RESOLVED that this resolution be provided to the Premier's Office; the Honourable Steve Clark, Minister of Municipal Affairs and Housing; and Niagara MPPs and MPs; and

BE IT FURTHER RESOLVED that a copy of this resolution be circulated to all Ontario municipalities requesting their support.

[Addenda]

12. Call for Notices of Motion

13. Report Requests

13.1 Support Programs for Musicians and Live Music Venues

Councillor Porter will request the following report:

That staff be directed to investigate and report back by Q4 2020 on support programs for musicians and live music venues, including but not limited to property tax relief or rebate programs for live performance venues.

14. By-laws

14.1 Reading of By-Laws

15. Agencies, Boards, Committee Reports

15.1 Minutes to Receive:

- Equity and Inclusion Advisory Committee, minutes of [July 22, 2020](#) (Draft)
- Fallen Firefighters Memorial Task Force, minutes of [July 7, 2020](#) (Draft)
- LGBTQ2+Advisory Committee, minutes of [July 21, 2020](#) (Draft)
- Neil Peart Commemorative Task Force, minutes of [July 24, 2020](#) (Draft)
- St. Catharines Heritage Advisory Committee, minutes of [July 23, 2020](#) (Draft)

[Addenda]

16. Adjournment



Corporate Report City Council

Report from: Legal and Clerks Services, Legal Services

Report Date: July 28, 2020 **Meeting Date:** August 10, 2020

Report Number: LCS-113-2020 **File:** 68.81.1, 56.49.1

Subject: A By-law to Prohibit the Use of Certain Lands for the Disposal of Waste and Establish Maintenance Standards

Strategic Pillar:

Recommendation

That Council approve the draft by-law attached as Appendix 1 to Report LCS-113-2020 regarding a by-law to prohibit the use of certain lands for the disposal of waste and establish maintenance standards; and

That the City Solicitor be directed to prepare the necessary by-law. FORTHWITH

Background

It has been almost two decades since the City's Waste By-law was enacted. In response to environmental and community needs, a more current and purposefully defined by-law has been drafted to repeal and replace the current waste by-law.

The newly proposed by-law has been updated and expanded to more broadly include important considerations integral to preserving and protecting local urban and rural landscapes – ultimately enhancing the health, wellbeing and safety of city residents.

The newly proposed waste by-law aligns with municipal best practices for addressing the accumulation, storage and disposal of waste and clearly establishes maintenance standards for both residential and commercial properties within the city.

In addition, the by-law outlines procedures for complaints, inspections and enforcement in the event of non-compliance.

Report

A substantive review of the current waste by-law has been conducted in collaboration between staff in Planning and Building Services and Legal and Clerks Services.

Highlights of Updates & Key Considerations

- The proposed by-law includes more extensive and refined definitions, which will allow the City to take more prescriptive and effective enforcement measures in the event of activities that contravene the by-law.
- Application and administration sections of the by-law have been added and specific exemptions, such public use and proper industrial use, have been updated.
- The enforcement sections of the by-law have been updated to better capture notice requirements and the remedies available for the City in the event of non-compliance, including cost recovery options for the City.
- With the aid of a best practice review from similar municipalities, staff have crafted a comprehensive and clearly defined by-law that is current and relevant to the unique environmental circumstances that commonly occur within the city.

The enactment of the proposed by-law would safeguard the health and safety of city residents through proactive and responsive environmental protection measures and enhance the beautification of our community today, and for generations to come.

It is therefore recommended that the City repeals the current waste by-law and replaces it with the proposed new and expanded by-law.

Notice was provided to the public in accordance with Public Notice By-law 2007-310.

Financial Implications

There are no financial implications associated with this report.

Prepared and submitted by

Sandor Csanyi
Assistant City Solicitor II

Approved by

Heather A. Salter
Director of Legal and Clerks Services / City Solicitor

Appendices

1. Appendix 1 - Draft Waste By-law

CITY OF ST. CATHARINES
BY-LAW NO. _____

A By-law to prohibit the use of certain lands for the disposal of waste and establish standards respecting their maintenance.

WHEREAS pursuant to the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

AND WHEREAS the Council of the Corporation of the City of St. Catharines deems refuse, waste, loose rubbish and debris on lands and unkempt yards a nuisance that could create a health and safety hazard for the public;

NOW THEREFORE the Council of the Corporation of the City of St. Catharines enacts as follows:

1. DEFINITIONS

“Bulky Items” means items that do not fit in a residual waste bag including, but not limited to, dilapidated furniture, rugs, carpets, sofas, mattresses, barbecues, small appliances, audio-visual equipment, computers and related components, radios, amplifying devices, television sets, microwave ovens, and any parts of such things.

“City” means the Corporation of the City of St. Catharines.

“Council” means the Council of the Corporation of the City of St. Catharines.

“Director” means the City’s Director of Planning and Development Services or his or her designate.

“Deposit” means throw, place or set down.

“Derelict Vehicle” means a used Vehicle or the body or chassis of a used Vehicle that:

- a) Is not in an operating condition and is rusted, wrecked or partly wrecked or is dismantled or partly dismantled; or
- b) Does not have affixed to it a license plate with a current permit validation as required under the Highway Traffic Act, R.S.O.1990,c.H .8.

“Domestic Waste” means any article, thing, matter or any effluent which in whole or in part or fragments belong to or are associated with a house or household or concerning or relating to the home or family that appears to be Waste material, including, but not limited to the following classes of material:

- (a) Accumulations, deposits, leavings, litter remains, rubbish, trash, food waste;
- (b) Animal hides, bones, and carcasses or any part thereof;
- (c) Ashes;
- (d) Bulky Items;
- (e) Crockery;
- (f) Derelict Vehicles and Vehicle parts and accessories;
- (g) Furnaces, furnace parts, ducting, pipes, fittings to pipes, water or fuel tanks, plumbing fixtures;
- (h) Hazardous Materials;
- (i) Inoperative Machinery;

- (j) Paper, paper products, paper cartons, fabrics or carpets;
- (k) Recyclable Materials;
- (l) Refuse;
- (m) Residual Waste;
- (n) Rotting vegetable matter, or rotting animal matter, unless it is contained in an appropriate composting container;
- (o) Sewage;
- (p) Sharps;
- (q) White Goods or any part thereof;
- (r) Wood Waste; and
- (s) Yard Waste.

“Dwelling Unit” means a unit consisting of one or more rooms, which unit contains toilet and cooking facilities and is designed for use as a single housekeeping establishment.

“Hazardous Materials” means:

- a) Explosive waste, including, wastes that may also produce deadly fumes or vapours when exposed to air or mixed with other materials, and wastes such as aerosol cans (full or partially full) and propane cylinders and tanks;
- b) Flammable waste, including, but not limited to, gasoline, motor oil, barbecue starter fluid, paint thinner, and finger-nail polish and remover;

- c) Toxic waste including, but not limited to, wastes that are poisonous or lethal if swallowed or inhaled, paint (full or partially full cans), pesticides, motor oil, over-the-counter and prescription medicine and household cleaners;
- d) Corrosive waste including, but not limited to, batteries (household and automotive), drain opener, oven cleaner, acid, and photographic solution;
- e) Bio-medical waste including, but not limited to, Sharps, hypodermic needles, syringes, and medical dressings/bandages or any material that comes in contact with bodily fluids;
- f) Hazardous waste, as defined in Ontario Regulation 347, “General – Waste Management”, R.R.O. 1990, as amended, to the Environmental Protection Act, R.S.O. 1990, c. E19, as amended; and
- g) PCB waste as defined in Ontario Regulation 362, “Waste Management – PCB’s”, R.R.O. 1990, as amended, to the Environmental Protection Act, R.S.O. 1990, c. E19, as amended.

“Highway” has the same meaning as defined under the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended.

“Industrial and Commercial Waste” means any article, thing, matter, or effluent which in whole or in part or fragments belong to or are associated with industry or commerce or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupation that appears to be Waste material, including, but not limited to the following classes of material:

- (a) Agricultural, animal, vegetable, paper, lumber, wood, ashes, mineral, metal, plastic, or chemical products, or any part thereof, whether or not the products

- are manufactured or otherwise produced;
- (b) Accumulation of broken concrete, asphalt pavement, brick pavers and side walk slabs;
 - (c) Bones, feathers, hides, animal feces, parts of carcasses other than those arising from industrial or agricultural businesses legally operating on the land;
 - (d) Containers or pallets of any size, type or composition;
 - (e) Derelict Vehicles and Vehicle parts and accessories;
 - (f) Hazardous Materials;
 - (g) Inoperative Machinery;
 - (h) Material resulting from or as part of construction, repair or renovation, and demolition projects;
 - (i) Piping, tubing, conduits, cable and fittings or other accessories or adjuncts to the piping, tubing, conduits or cable;
 - (j) Refuse;
 - (k) Rubble, inert fill;
 - (l) Sewage; and
 - (m) Wood Waste.

“Inoperative Machinery” means such items that are unable to operate as a result of being dismantled, partially dismantled, wrecked or incomplete, discarded or abandoned, including things with missing parts, wheels, tires, engine(s), drivetrain, body components or windows, such as bicycles, lawnmowers, trailers, boats, and mechanical tools.

“Multi-Residential Complex” means an apartment building, condominium complex, townhouse complex, co-op complex or other similar residential complex containing three or more self-contained Dwelling Units.

“Occupant” has the same meaning as “occupier” as defined in the Occupiers' Liability Act, R.S.O. 1990, c. O.2 including any Owner, lessee, tenant, agent, authorized employee or Person otherwise in care and control of any Property.

“Officer” means a by-law enforcement officer and property standards officer employed by the City.

“Owner” means a Person that is the registered owner of a Property.

“Person” means an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau or agency.

“Property” means any land or premises that is within the jurisdiction of the City.

“Recyclable Material” means any material or waste designated under a waste collection contract entered into between the Region and a contractor, mandated under Ontario Regulation 101/94, “Recycling and Composting of Municipal Waste”, R.R.O. 1990, as amended, to the Environmental Protection Act, R.S.O. 1990, c. E19, as amended, or designated by the Region as a waste or material to be collected separately from other waste, for the purpose of recycling.

“Refuse” means any article, thing, matter, substance or effluent that is or appears to be:

- (a) Cast aside, discharged or abandoned;
- (b) Discarded from its usual and intended use;
- (c) Used up in whole or in part or is expended or worn out in whole or in part;
- (d) Domestic Waste or Industrial and Commercial Waste, whether it is commercially saleable or recyclable or not.

“Region” means the Regional Municipality of Niagara.

“Sewage” means any liquid waste containing human, vegetable, or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm run-off.

“Sharps” means needles, broken glass, nails, spikes, or other objects with a blade or point and includes medical or veterinary implements and equipment intended to be sharp for the purpose of cutting or piercing.

“Unsafe Condition” means any condition that could cause undue hazard to the health or safety of any Person, authorized or unauthorized on or about a Property.

“Vehicle” includes a motor vehicle, trailer, boat, motorized snow vehicle and any mechanical equipment designed to be drawn, propelled or driven by any type of power, including muscular power.

“Waste” means Domestic Waste, and Industrial and Commercial Waste.

“Waste Receptacle” means any receptacle used to store waste including residual waste bags, garbage cans and bins, recycling boxes, yard waste receptacles, composting containers, or green bins.

“White Goods” means disconnected refrigerators, freezers, microwaves, air conditions, stoves, washers, dryers, dishwashers, hot water tanks, metal bathtubs, metal sinks, metal shower enclosures, oil tanks, or any part or parts of such things.

“Wood Waste” means wood scraps, including painted, treated, and coated wood from wood work residues, interior doors and household furniture, but does not include wood or wood scraps generated from construction demolition, renovation or commercial purposes.

“Yard” means land that is not a Highway, including vacant lots or any part of a lot, which is not beneath a building and for the purpose of this by-law includes unenclosed decks, unenclosed porches, balconies, patios, unenclosed carports and unenclosed garages accessory to a residential use.

“Yard Waste” includes, but is not limited to Christmas trees, leaves, roots, weeds, hedge, and shrub trimmings or cuttings, splinters or rags, brush cuttings, broken or torn bits of twigs and branches, and pumpkins, but shall exclude sod, soil, grass clippings and stacked firewood for use in a fireplace on the Property.

2. ADMINISTRATION OF BY-LAW

2.1 Administration. This by-law shall be administered by the Director.

3. APPLICATION OF BY-LAW

3.1 Jurisdiction. This by-law shall apply to all Property within the geographic boundaries of the City.

3.2 Public Use Exemption. Any Property whose primary purpose is to provide public services and goods, including those lands in ownership, care and control of the City, Region, school boards thereof, and government owned utilities, is exempt from the application of this by-law.

3.3 Exemption for Proper Industrial Use. On lands zoned employment under the City's Zoning By-law No. 2013-283, and used for industrial purposes, equipment and materials directly related to the industrial use of the land may be stored on the land by the Owner or Occupant in a tidy and organized fashion and, and if ordered by the Director, the equipment and materials shall be screened from view to the satisfaction of the Director.

4. REGULATIONS

4.1 General

4.1.1 Waste. Every Owner or Occupant of Property shall keep such land clean of Waste.

4.1.2 Unsafe Condition. Every Owner or Occupant of Property shall keep such land free of an Unsafe Condition.

4.1.3 Compliance Exemption. A Person does not breach section 4.1.1 merely by storing, preparing or placing items in accordance with this by-law, or out for collection by the Region in accordance with any applicable by-law pertaining to the collection of Waste, such as the Region's By-law No. 2017-56, or any applicable provincial or federal law.

4.2 Natural Maintenance

4.2.1 Yard Conditions. Every Owner or Occupant of Property shall ensure that the Yard is kept free of dead, decayed or damaged trees or other natural growth, and the branches or limbs thereof which create an unsafe or unsightly condition.

4.2.2 Hedges and Landscaping. Every Owner or Occupant of Property shall ensure that the hedges, plantings, trees and other landscaping on the property shall be maintained in a healthy condition, acceptable to the Officer.

4.2.3 Trees and Landscaping. Every Owner or Occupant of Property shall ensure that all dead, diseased or decaying hedges, plantings, trees, or other landscaping which may be a hazard in the opinion of the Officer, shall be removed or returned to a healthy condition.

4.3 White Goods and Bulky Items Safety

4.3.1 Safety. If a large appliance is not being used for its manufactured purpose or is being set out for collection by the City, or is being set out in a Yard pending collection by the City, the door shall be removed or secured in such a way as to prevent the door from being shut so as to prevent any individual from being trapped in such an appliance.

4.4 Abutting Untravelled Portions of Highways

4.4.1 Maintenance. Every Owner or Occupant of Property shall ensure that the untravelled portion of the Highway abutting the property be kept free of Refuse.

4.5 Vehicles and Inoperative Machinery

4.5.1 Storing of Derelict Vehicles. Every Owner or Occupant shall keep their land clean and free of Derelict Vehicles

4.5.2 Yard and Storage. The restriction in section 4.5.1 shall not apply to a Derelict Vehicle that is wholly contained within a building.

4.5.4 Agricultural Exemption. Notwithstanding the provisions of this by-law, Derelict Vehicles, Vehicle parts and accessories, and Inoperative Machinery may be stored on an “agricultural operation”, as defined under the Farming and Food Protection Act, S.O. 1998, c.1, as amended, provided that:

- a) Such material is screened from view from any land zoned residential in the City’s City’s Zoning By-law No. 2013-283, or all public Highways within 152.4 metres (500 feet); and
- b) The material is used for replacement parts, vehicles or materials as part of the agricultural operation.

4.7 Storage and Containers

4.7.1 Containers. No Person shall store Waste, except in Waste Receptacles placed in a location which is in accordance with the City's Zoning By-law No. 2013-283.

4.7.2 Determination by Director. The Director may determine where Waste Receptacles shall be located and his or her determination shall be final.

4.7.3 Duty to Supply Containers. It shall be the duty of the Owner of a Multi-Residential Complex or commercial and industrial complex to supply and maintain a sufficient number of Waste Receptacles and other such equipment as may be necessary for the orderly disposal of Waste. The Landlord for such complexes shall provide a common place where the Waste Receptacles shall be properly stored and available for the Occupant's use in order to facilitate collection.

5. ENFORCEMENT

5.1 Notice. The Director or an Officer may, by order sent by registered mail to the Owner or Occupant of the Property, or by regular mail or by personal service, or by placing a placard containing the terms of the order in a conspicuous place on the property (and the placing of the placard shall be deemed to be sufficient service) require the Owner or Occupant within the time specified in the order to do any one or combination of the following:

- (a) To clean, clear or remove from the land or structure, Refuse and Waste material of any kind;
- (b) To cease using the land or structure for the dumping or disposing of, Refuse and Waste material of any kind;
- (c) To cover over, screen, shield or enclose the Refuse in the manner prescribed by the Director; or

(d) To remove any composting container, or compost, that is not found to be maintained in a clean and sanitary condition to the satisfaction of the Director or Officer.

(e) To do anything that the Director or an Officer may deem necessary.

5.2 Identification. Every order shall identify the Property, and the specific area on the property that is in contravention of this by-law.

5.3 Last Known Address. Every order to an Owner or Occupant shall be sent to the address shown on the last revised assessment roll or to the last known address.

5.4 Effective Date. Every order sent by registered mail shall be deemed to be served on the fifth day after the day of mailing.

5.5 Continuing Offence. Failure to comply with the requirements set out in an order is deemed to be a continuing offence on each day or part of a day that the order is not complied with.

5.6 Inspection. Subject to any applicable law, the Director or an Officer, along with any Person necessary to assist the Director or Officer with their duties, may, at any reasonable time, enter and inspect any Property for the purpose of determining whether the Property is in compliance with any section of this by-law.

5.7 Obstruction of Duties. No Person shall hinder or obstruct the Director or an Officer, who is carrying out an inspection of the Property for the purpose of enforcing this by-law, nor shall any Person hinder or obstruct any employee or agent of the City directed to carry out work to bring the Property into compliance with any section of this by-law.

5.8 Remedy. Where the Owner or Occupant is in default of doing the matter or thing required to be done in an order under this by-law, the Director or an Officer may direct an

agent or employee to do anything or combination of things that is necessary to bring the Property into compliance with any section of this by-law, including:

- (a) Clean or clear up the Property;
- (b) Remove Refuse;
- (c) Cover over, screen, shield or enclose Refuse or Waste;
- (d) Remove Derelict Vehicles from the Property;
- (e) Clear the Property from objects or conditions that might create an Unsafe Condition; or
- (f) Take any action the Director or Officer deems necessary to bring the property into compliance with this by-law.

5.9 Disposition. Where any of the matters or things are removed in accordance with section 5.8, the matters or things may be immediately disposed of.

5.10 Recovery of costs. The City shall recover the costs in doing a matter or thing referred to in section 5.8 by action, or in like manner as municipal taxes from the person named in the order. The costs include interest calculated at a rate of 15 percent, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including interest, are paid in full. The amount of costs, including interest, constitutes a lien on the land upon the registration in the land registry of an order of lien. The lien shall be in respect of all costs that are payable at the time the order is registered plus interest accrued at the rate of 15 percent to the date the payment is made in full.

6. OFFENCES

6.1 Penalties. Every Person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33 and the Municipal Act, 2001, S.O. 2001, c. 25.

6.2 Director or officer of corporation. A director or officer of a corporation who knowingly concurs in the contravention of this by-law by the corporation is guilty of an offence and, upon conviction, is subject to the fines as set out in this by-law.

7. MISCELLANEOUS

7.1 Gender and Number. In this by-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

7.3 And/Or. The word “and” is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required as the case may be. The word “or” is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word “or” may also be an inclusive conjunction having the same meaning as the word “and”.

7.4 Severability. If any or part of a provision of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative on particular circumstances, the balance of this by-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

7.5 Compliance with other by-laws. This by-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations. If there

is a conflict between a provision of this by-law and a provision of any other City by-law, the provision that establishes the higher standard shall apply.

7.6 Repeal.

That By-law No. 2001 – 409, as amended by By-law No. 2002 – 12 and 2012 – 81 be and the same are hereby repealed.

7.7 Effective date.

This by-law comes into force and effect on _____.

Read and passed this _____ day of _____ 2020.

CLERK

MAYOR



Corporate Report City Council

Report from: Legal and Clerks Services, Legal Services

Report Date: July 23, 2020 **Meeting Date:** August 10, 2020

Report Number: LCS-112-2020 **File:** 56.49.1, 68.13.1

Subject: A By-law Providing Powers of Entry for the Purpose of Inspection

Strategic Pillar:

Recommendation

That Council approve the draft by-law attached as Appendix 1 to Report LCS-112-2020 regarding a by-law providing powers of entry for the purpose of inspection; and

That the City Solicitor be directed to prepare the necessary by-law. FORTHWITH

Background

The City currently does not have a comprehensive by-law that provides to the City powers of entry on land and into a building for the purpose of inspection. As a result, the City may only rely on authority to carry out inspections as prescribed in a specific by-law, legislation or consent by the property owner. The Ontario *Building Code Act* and *Fire Protection and Prevention Act* are examples of legislation that provide for powers of entry for inspection.

Report

Pursuant to section 436 of the *Municipal Act*, 2001 municipalities may pass by-laws permitting entry on land for purposes of carrying out an inspection to determine compliance with municipal by-laws, directions, orders, licence conditions and court orders. The City must pass a by-law granting itself the powers outlined in the section to have such powers.

The City has not yet passed a general by-law under section 436 to grant itself a power to enter property for inspections and many of the City's regulatory by-laws pre-date section 436 of the Act and do not include this language. It is therefore recommended that the City create a universal by-law that would confer the right and legislative authority to enforcement officers to enter premises in order to inspect compliance with all other City by-laws, subject to some conditions and statutory restrictions.

The proposed by-law aligns with municipal best practices. The following municipalities have also enacted by-laws providing staff with powers of entry for the purposes of inspections: Oshawa, Guelph, London, Armour, Magnetawan, Uxbridge and New Tecumseth.

Ultimately, an all-encompassing inspection by-law would allow for a more effective and efficient coordination of enforcement activities and inspections as well as provide substantial improvements in achieving compliance and assistance in prosecution matters pertaining to City by-laws.

Notice was provided to the public in accordance with Public Notice By-law 2007-310.

Financial Implications

There are no financial implications associated with this report.

Prepared and submitted by

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Assistant City Solicitor II

Approved by

Heather A. Salter
Director of Legal and Clerks Services / City Solicitor

Appendices

1. Appendix 1 - Draft Inspection By-law

CITY OF ST. CATHARINES

BYLAW NO. _____

A By-law providing powers of entry for the purpose of inspection.

WHEREAS pursuant to the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. CATHARINES enacts as follows:

DEFINITIONS

1. In this By-law:

a) The definition of “Building” includes

- i. any structure consisting of a roof supported by walls or columns which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment and includes a carport;
- ii. its meaning as defined in any other City by-law; and
- iii. to the extent that there is a conflict between the definition of Building as defined in this by-law and its definition under any other City By-law to which this by-law is being applied to, it shall take on the meaning as provided for in the latter.

b) “By-law” means a by-law passed by Council pursuant to the Municipal Act;

c) “City” means The Corporation of the City of St. Catharines;

d) “Council” means the City’s Council;

e) “Dwelling” means any room, place or part of a Building actually being used as a dwelling by an individual;

f) “Manager” means the City’s Manager of Plans Examination, Director of Planning and Building Services, Director of Municipal Works, or any designate thereof;

g) “Municipal Act” means the Municipal Act, 2001, S.O. 2001, c. 25, as from time to time amended;

- h) "Officer" means each of
 - i. the Manager;
 - ii. a Municipal Law Enforcement Officer appointed by Council or by the Manager to enforce a By-law or a direction or order of the City made under the Municipal Act or made under a By-law; and
 - iii. a police officer employed by a municipal police force or by the Ontario Provincial Police; and
- i) "Provincial Offences Act" means the Provincial Offences Act, R.S.O. 1990, c. P.33, as from time to time amended.

POWER OF ENTRY RE INSPECTION

- 2. Subject to section 3, an Officer may enter on land and into a Building at any reasonable time for the purpose of carrying out an inspection to determine whether or not any of the following are being complied with:
 - a) A By-law;
 - b) A direction or order of the City made under the Municipal Act, including orders pursuant to sections 444 through 446 of the Municipal Act, or made under a By-law;
 - c) A condition of a license issued under a By-law; or
 - d) An order made under section 431 of the Municipal Act.

RESTRICTIONS

- 3. An Officer exercising a power of entry shall:
 - a) Follow the conditions regarding the exercise of a power of entry of a municipality under section 435 of the Municipal Act; and
 - b) Not enter or remain in a Dwelling except pursuant to section 437 of the Municipal Act.

INSPECTION POWERS

- 4. An Officer exercising a power of entry may:
 - a) Require the production for inspection of documents or things relevant to the inspection;

- b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) Require information from any person concerning a matter related to the inspection; and alone or in conjunction with a person who, in the Officer's opinion, possesses special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

OFFENCE

- 5. A person is guilty of an offence in each of the following circumstances:
 - a) The person refuses or neglects to produce for inspection any document or thing required by an Officer pursuant to section 4(a); or
 - b) The person refuses or neglects to provide information required by an Officer pursuant to section 4(c).
 - c) Subject to section 426 of the Municipal Act, the person hinders or obstructs, or attempts to hinder or obstruct, any person who is exercising a power or performing a duty under the Municipal Act or under this by-law.
- 6. Every director or officer of a corporation who knowingly concurs in the contravention of this by-law by the corporation is guilty of an offence.
- 7. Every Person who contravenes any provision of this By-law is, upon conviction, guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act and the Municipal Act.

INSPECTION PURSUANT TO ORDER

- 8. An Officer may enter on land and into a Building at any reasonable time for the purpose of carrying out an inspection pursuant to an order issued under section 438(2) of the Municipal Act.

MISCELLANEOUS

- 9. Subject to section 9, this By-law prevails to the extent of any conflict between this By-law and any other by-law of the City.
- 10. This By-law does not restrict the City's or an Officer's rights conferred by the Municipal Act or any other Act or regulation respecting entry to Buildings, Dwellings or Lots.

Read and passed this day of 2020.

CLERK

MAYOR



By-laws to be considered Monday, August 10, 2020

- (a) A By-law to prohibit the use of certain lands for the disposal of waste and establish standards respecting their maintenance. (One reading - with respect to new Waste By-law. To be considered at Council, August 10, 2020.)
- (b) A By-law providing powers of entry for the purpose of inspection. (One reading - with respect to powers of entry for the purposes of inspections. To be considered at Council, August 10, 2020.)
- (c) A By-law to confirm the proceedings of council at its meeting held on the 10th day of August 2020. (One reading - with respect to confirming the proceedings of the meeting held on August 10, 2020.)