





Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 9, 2024
<b>SUBJECT/REPORT NO:</b>	Summary of the Demolition Control Area By-law No. 22-101 and the Non-Delegated Demolition Process (PED24075(a)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Alissa Golden (905) 546-2424 Ext. 1202 Jorge Caetano (905) 546-2424 Ext. 3931
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	
<b>SUBMITTED BY:</b>	Bob Nuttall Acting Director, Building and Chief Building Official Planning and Economic Development Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

At its meeting on May 8, 2024, Council passed the following motion as part of Item 5 of Planning Committee Report 24-006:

“WHEREAS a qualified and professional opinion on demolition permit decisions would assist Council in assessing demolition applications.

THEREFORE, BE IT RESOLVED:

- (a) That staff be directed to implement the requirement for the preparation of a staff report with recommendations for the issuance of demolition permits in the City of Hamilton;

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

- (b) That staff review the demolition permitting by-law for options to allow for staff to approve demolition of vacant structures under their existing delegated authority, where the structure is vacant, and development is pending but prior to the issuance of a building permit.”

This Report provides background on the existing Demolition Control Area By-law No. 22-101, including its provisions for delegating authority of the Chief Building Official to issue demolition permits and the City’s process for bringing forward demolition permits to Planning Committee for consideration that cannot be delegated to the Chief Building Official under the By-law.

## **INFORMATION**

On April 27, 2022, Council passed By-law No. 22-101 (attached as Appendix “A” to Report PED24075(a)), updating the City’s Demolition Control Area By-law and process to improve the administration of permits to demolish residential property. These updates redefined the scope of the delegated authority of the Chief Building Official to issue demolition permits to prevent the premature demolition of residential property by ensuring that redevelopment is imminent.

Demolition control applications where no redevelopment is proposed in the short-term are intended to be considered at Council by way of a staff report to Planning Committee to provide a greater degree of transparency in the process. The redefined scope of delegated authority was anticipated to increase the number of applications that require a staff report to Council for undelegated approval by 22 per year, or an average of one or two reports a month. Since the updated Demolition Control Area By-law was passed in April 2022, Building Division staff have brought forward two reports to Planning Committee for undelegated demolition control permits. In addition, Councillors have brought forward 20 motions for approval of demolition control permits at the request of applicants.

While it is Council’s prerogative to bring forward these types of motions for addressing undelegated demolitions, Building staff will now provide clearer direction to applicants in situations when they cannot demonstrate compliance with the Demolition Control Area By-law. The applicant will be advised that they must indicate why they cannot comply and outline the reasons why they are unable to comply. Staff will then prepare a report with a recommendation on whether the application should be approved for consideration by Planning Committee and final decision by Council.

For a full background on the process for updating the By-law, please refer to staff Report PED22093.

### **What is Demolition Control?**

- Demolition control, as enabled under Section 33 of the *Planning Act*, prevents the demolition of “residential property” without Council approval.
- Residential property is defined as a building that contains one or more dwelling units.
- The intent of demolition control is to retain housing stock, maintain the integrity of neighbourhoods, prevent the premature loss of dwelling units and the creation of vacant land, retain existing dwelling units until new uses have been considered, and prevent the premature loss of municipal assessment.
- Council can delegate its authority to issue demolition control permits to staff (Chief Building Official), but not to refuse them.

### **When can the Chief Building Official issue approval of demolition control permits under the delegated authority of Council?**

- When redevelopment of the residential property is imminent, including where:
  - The erection of a new building is proposed, and the owner has entered into the standard conditions for rebuilding;
  - Final Site Plan Control approval has been granted;
  - Draft Plan of Subdivision approval has been granted, including registration of the associated Subdivision Agreement and the preliminary grading and servicing conditions have been satisfied; and,
  - Demolition is required as a condition of approval of a Consent to Sever application.
- When a residential property has been severely damaged by fire or natural disaster and a professional engineer has recommended demolition.

### **Are there any exemptions to the Demolition Control Area By-law?**

- When demolition does not reduce the number of dwelling units.
- When demolition is required for the implementation of Council-approved City capital works projects and the property is not protected under the *Ontario Heritage Act*.
- When a building has been found to be unsafe and is subject to an order to demolish under the *Building Code Act* without an option to repair.

### **Background on the 2022 Update to the Demolition Control Area By-law**

The request for a review and update of the City’s demolition control process was a result of the demolition of the historic Brandon House, a pre-Confederation stone building that was located at 462 Wilson Street East in Ancaster. Its demolition was

permitted under the former Demolition Control Area By-law No. 09-208, which delegated Council's authority to the Chief Building Official to approve a permit to demolish a residential property when another non-residential use is permitted on the property or when land was being assembled to facilitate a future development, and when all other building permit conditions were met. In 2020, the community expressed concern for a perceived lack of transparency in the demolition process, the premature demolition of historic buildings not yet protected under the *Ontario Heritage Act* and associated creation of vacant lots leading to a perceived devaluing of property and other property standards issues.

As part of the process of updating the Demolition Control Area By-law, an inter-divisional staff working group was formed, including the Building, Planning, and Tourism and Culture Divisions of the Planning and Economic Development Department, as well as Legal Services staff from Corporate Services. Stakeholder consultation included the Development Industry Liaison Group, the Hamilton Municipal Heritage Committee, and the Ancaster Village Heritage Community Group, who originally delegated to Council requesting an update to the Demolition Control process. Staff conducted a review of best practices related to demolition control from comparable municipalities across Ontario, including Brantford, Kitchener, London, Ottawa, and Waterloo.

The Building Division administers the demolition control process.

#### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24075(a) – By-law No. 22-101

AG/JC:sd