

To: COUNCIL
Meeting Date: 11/26/2024
Subject: Demolition Control By-law
Submitted By: Laura Dewar, Manager of Site Development & Special Projects
Prepared By: Nicole Goodbrand, MCIP, RPP, Senior Planner
Report No.: 24-117-CD
File No.: C11
Wards Affected: All Wards

RECOMMENDATION(S):

THAT Report 24-117-CD Demolition Control Bylaw be received;

AND THAT Cambridge Council approve the attached by-law designating the City of Cambridge as a demolition control area.

EXECUTIVE SUMMARY:

Purpose

This report informs Council on Demolition Control legislation and recommends approval of a new Demolition Control By-law.

Key Findings

A Demolition Control By-law:

- Can prevent the premature loss of housing stock;
- Require a replacement development be completed within a specified time following the demolition of the former residential building;
- Would not change any existing approval processes required under the Ontario Heritage Act; and
- Provide for penalties to those not conforming to the By-law to a maximum of \$50,000 per unit.

Financial Implications

The City will collect the same fees for demolition control applications as are collected for demolition permits. These fees have been included in the draft Fees & Charges By-law for approval with the 2025 budget.

STRATEGIC ALIGNMENT:

Strategic Action

Objective(s): VIBRANT NEIGHBOURHOOD - Promote, facilitate and participate in the development of safe and healthy neighbourhoods with a range of housing options

Strategic Action: Lay the foundation for future community-building

OR

Core Service

Program: Not Applicable

Core Service: Not Applicable

BACKGROUND:

Under the Ontario Building Code regulations, demolition permits are required for all buildings greater than 10 square metres (108 square feet), including accessory buildings. The only exception to this requirement is farm buildings located on a farm.

Under Section 33 of the Planning Act, municipalities are given the authority to designate areas of demolition control. The intent of this legislation is to provide municipal councils with control over the demolition of buildings containing one or more residential units and the ability to apply conditions related to replacement development. This replaces the requirement of a demolition permit under the Ontario Building Code.

ANALYSIS:

A Demolition Control By-law allows a municipality to:

- require a replacement development for all demolished residential buildings;
- limit the time gap between the demolition permit for a residential building and substantial completion of the replacement development to a maximum of 2 years;
- apply financial penalties for not meeting the substantial completion of the replacement development; and
- apply financial penalties for demolition of residential buildings without a permit.

Without demolition control, a municipality has no legislative authority to require a demolished residential building to be replaced with any new development. These properties are allowed to remain in a vacant state for any period of time. This can be problematic; properties left in a vacant state can reduce the value of surrounding properties, they are prone to property maintenance issues, they are prone to trespassing, vandalism and illegal dumping of waste, and they represent an erosion of the urban fabric and character of our community.

Between 2010 and 2018 (over an 8 year period) the City had a Demolition Control By-law in effect. During that time, a total of 40 residential properties were demolished with a demolition control permit. Replacement developments on these properties were required. Since the City repealed its Demolition Control By-law in 2018 (over a 7 year period), a total of 107 residential properties have been demolished without such controls. These statistics highlight the increase in the demolition of residential properties across the City, a result of the general increase in development over this period of time.

With a demolition control by-law, the City has a 30 day review period to approve or refuse an application to demolish a residential building. Under the Building Code, the City only has a 10 day review period. The primary benefit of this extended time frame is it allows Council to issue a Notice of Intention to Designate the building under the Heritage Act, if they wish. Once this Notice is issued:

- Any demolition permit or demolition control permit must be refused; and
- Any Demolition control permit already issued is voided.

The introduction of a Demolition Control By-law does not change the process or requirements to demolish a heritage building in any one of these categories. The only difference is that for a building containing dwelling units, a demolition control permit would be required from the Chief Planner (under the Planning Act), rather than a Demolition Permit from the Chief Building Official.

Exemptions

Residential buildings exempted from demolition control will include those:

- Necessary to complete a Capital Works Projects approved by City and/or Regional Council
- Wholly converted to a non-residential use in accordance with the provisions of the applicable City Zoning By-law and Regulations
- Found to be unsafe under the Building Code Act and an order has been issued

- Under an order from the Fire Protection and Prevention Act to be removed;
- Required to be removed to allow for environmental site remediation, as determined by a Record of Site Condition undertaken by a qualified professional, that has been accepted by the Ministry of the Environment
- Required to be removed to allow the division of the associated lands resulting from an approved plan of subdivision, plan of condominium, consent, and/ or part lot control; or
- Being relocated, substantially intact, to a location either within or outside of the City of Cambridge.

Instead, these residential properties will require a demolition permit through the Ontario Building Code.

Process

Through the City's Online Application Portal, applicants will be asked whether the building they are proposing to demolish contain residential dwelling units. If answered no, applicants will be directed to apply for a demolition permit through the Ontario Building Code. If answered yes, applicants will be directed to a demolition control process.

Staff will be confirming through the review of the application that:

- Utility sign-offs are completed;
- Necessary heritage approval is in place;
- Necessary site plan approval is in place; and
- A Building Permit has been applied for and is deemed zoning compliant;

prior to the issuance of a demolition control permit by the Chief Planner.

Under the administrative process for the demolition control by-law, in order to receive the demolition control permit, the building permit for the replacement development will only need to be applied for and deemed zoning compliant, but not necessarily issued. There may be circumstances in which a building permit cannot be issued until the original structure is demolished and therefore by only requiring the permit to be applied for and ready for issuance avoids this loop hole. There are sufficient controls (through the permit conditions and the requirement for site plan approval to be in place) to ensure the demolition is closely followed by the construction of the replacement development.

The municipality has 30 days to make a decision on a demolition control permit application. The applicant can appeal to the Ontario Land Tribunal:

- The conditions applied to a permit

- Refusal to issue a permit
- Failure to issue a permit within the 30 day time period.

Once a permit has been issued, the applicant may request the Chief Planner approve an extension of time to complete the replacement development.

The demolition control by-law will come into effect and an administrative process will be implemented once the Fees and Charges By-law has been updated to include applicable demolition control permit fees.

Vacant Residential Buildings

A demolition control by-law can only require a plan (confirmed through a building permit or planning application) for the future of a residential site before demolition; it can not force a property owner to keep a building tenanted or occupied. It also is not the tool to ensure the maintenance of a residential structure. In the Planning Act, the ability to implement a Demolition Control By-law is tied to the existence of a property standards by-law. The intention of maintaining both by-laws is to ensure properties are being adequately maintained and managed to positively contribute to the community while also providing safe and habitable residential structures that are not being demolished prematurely. Complaints related to vacant and/or unoccupied residential properties are handled by By-law Enforcement.

EXISTING POLICY / BY-LAW(S):

There is currently no existing by-law that designates a Demolition Control Area, however, there were two previous iterations of a Demolition Control By-law (by-laws 159-10 and 112-13) which were repealed in 2018 by By-law 151-18.

Planning Act, R.S.O. 1990, c. P.13 (“Planning Act”)

Section 33 of the Planning Act allow a municipality to enactment a Demolition Control by-law to establish a demolition control area provided the area is also subject to a property standards by-law. Within this area, a demolition control permit must be issued to demolish a residential building, provided that a building permit for a replacement development has been applied for and deemed zoning compliant. The Demolition Control Permit can include special conditions related to the timing of the replacement development.

Failure to substantially complete the replacement development within a specified timeframe could result in the municipality placing a lien on the property of \$20,000.00 or less for each dwelling unit within the residential property demolished. The charge is to be collected as municipal property taxes.

Through the enactment of the Demolition Control By-law, municipalities may apply a

fine for demolishing a residential property without a demolition control permit. This fine can be as much as \$50,000.00 for each dwelling unit within the residential property demolished.

Ontario Heritage Act, R.S.O. 1990, c. O.18 (“Heritage Act”)

In Ontario, properties can be designated under Part IV of the Heritage Act, as a property of cultural heritage value or interest or under Part V, as a property within a Heritage Conservation District. They can also be a property of interest listed on the City’s Heritage Register, or a property of interest not listed on the City’s Heritage Register.

Under the current process to secure approval to demolish a heritage building in one of these categories, all heritage requirements must be satisfied first (including completion of a Heritage Impact Assessment, issuance of a heritage permit and/or a Council resolution) before the Chief Building Official would issue a Demolition Permit. For designated properties, Council has 60 days to decide whether to issue a Heritage Permit and for listed properties Council has 30 days to decide on a resolution. During this review period, for any residential properties that is not listed or designated under the Heritage Act, Council can decide to issue a Notice of Intention to Designate the building under the Heritage Act. Once this Notice is issued:

- Any demolition permit or demolition control permit must be refused; and
- Any demolition permit or demolition control permit already issued is voided.

It is important to note that the introduction of a demolition control by-law does not introduce any new heritage approval processes that are not already in place and legislated under the Heritage Act prior to the issuance of a demolition permit.

FINANCIAL IMPACT:

Enacting a Demolition Control By-law will require property owners to maintain a residential building until plans for a replacement development are in place. This prevents premature vacant properties and loss of housing stock. Property values and tax assessment are upheld for a longer time period, which financially benefits the City. There will be a fee charged for demolition control permits to address the use of resources in processing the permit and to mirror the fee applied to demolition permits issued through the Building division. Any applicable new fees will be added to the Fees & Charges By-law for approval with the 2025 budget. The demolition control by-law will come into effect and an administrative process will be implemented once the Fees and Charges By-law has been updated to include applicable demolition control permit fees.

PUBLIC VALUE:

Sustainability:

This project will support sustainability by supporting maximum utilization of existing housing stock prior to the thoughtful replacement of those residential uses.

Leadership:

The proposed by-law will restrict the premature removal of viable residential structures and positively contribute to available housing stock in the community throughout the lifecycle of a site under redevelopment.

ADVISORY COMMITTEE INPUT:

Advisory Committees Consulted:

Not Applicable.

PUBLIC INPUT:

There was no public input sought in the preparation of this recommendation report. However, the agenda and staff recommendation report were posted to the City's website in advance of the Council Meeting. The public may submit written comments in advance of the meeting or make a presentation at the meeting for Council consideration.

INTERNAL / EXTERNAL CONSULTATION:

As part of the by-law review process, staff consulted with internal staff from various departments via hosting discussions and circulating the draft by-law to gain feedback in preparing the final by-law which is a part of this report.

These internal staff members provide valuable input in the integration of the planning process as identified through the Planning Act and the building process as identified through the Ontario Building Code, as well as the role of demolition control in heritage preservation.

CONCLUSION:

Based on the information above, Planning staff recommend the enactment of a new Demolition Control By-law contained in Appendix A to this report. The by-law and approval process to review applications and issue demolition control permits will control the premature removal of housing stock, and ensure appropriate conditions for replacement development and penalties for unauthorized demolition are enforceable. Should Council adopt the by-law as recommended in this report, staff will move forward with the development and launch of the demolition control process.

REPORT IMPACTS:

Agreement: **No**

By-law: **Yes**

Budget Amendment: **No**

Policy: **No**

APPROVALS:

This report has gone through the appropriate workflow and has been reviewed and or approved by the following as required:

Director

Deputy City Manager

Chief Financial Officer

City Solicitor

City Manager

ATTACHMENTS:

1. 24-117-CD Appendix A – Being a by-law to designate the City of Cambridge as an area of demolition control