

Staff Report



To	City Council
Service Area	Infrastructure, Development and Environment Services
Date	Wednesday, March 20, 2024
Subject	Demolition Control By-law Review

Recommendation

1. That the Demolition Control Discussion Paper, as included in Attachment-1, be received.
 2. That By-law (2024)-20923, as shown in Attachment-2 of Report 2024-124, being a by-law to designate the entirety of the City of Guelph as a demolition control area, be approved.
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Executive Summary

Purpose of Report

The purpose of this report is to present the findings from the Demolition Control Discussion Paper and for Council to review a new Demolition Control By-law.

Key Findings

In Ontario, demolition control is a Provincially-regulated process which imposes significant prescriptions on what municipalities can and cannot do as part of a demolition permit application. Staff are reviewing the Demolition Control By-law to ensure that the by-law follows [Section 33 of the Planning Act](#). This also includes reviewing whether the City of Guelph's Demolition Control By-law is in conformity with other legislation such as the Ontario Heritage Act, the Building Code Act, and the Municipal Act. Finally, staff have considered best practices from other comparator municipalities in Ontario.

The Demolition Control Discussion Paper, included as Attachment-1 of this Report, provides an overview of what demolition control is and what municipalities can and cannot regulate regarding demolition. This review incorporates an analysis of the following six common issues surrounding demolition: notice requirements, heritage, property standards, demolition control conditions, the private tree protection by-law, and housing stock.

Considering these issues and the demolition control by-laws from other comparator municipalities, staff are recommending a new Demolition Control By-law. An updated Demolition Control By-law can be an effective tool in preventing the premature loss of housing stock, especially as the City of Guelph tackles challenges with maintaining availability of ownership and purpose-built rental housing.

Strategic Plan Alignment

This report aligns with the Future Guelph Strategic Plan theme of City Building and the objective of improving housing supply by assisting with the retention of our existing housing stock. Demolition control can play a role in preventing premature demolition or the loss of dwelling units without a replacement building.

Future Guelph Theme

City Building

Future Guelph Objectives

City Building: Improve housing supply

Financial Implications

Demolition permits have existing building permit fees through the Building By-law (2015)-19985, as amended. These fees will continue to be applicable.

Report

Background

The City of Guelph's current Demolition Control By-law (By-law Number (1988) – 12922) came into force and effect on July 18, 1988. This by-law designates the entirety of the City of Guelph as an area subject to demolition control. Demolition control permits municipalities to prevent demolition unless an applicant has applied for and received a demolition permit. It is the appropriate time to initiate a review and update of the City's Demolition Control By-law given the amount of time passed since the last demolition control by-law review was undertaken, changes to provincial legislation and policies, and ongoing work to address the housing crisis.

As part of the Discussion Paper, included as Attachment-1, City staff have reviewed current legislative requirements, comparator municipalities, and City priorities regarding demolition.

Provisions of Demolition Control

Section 33 of the Planning Act, 1990 permits a municipality to designate an area of the City as a demolition control area by by-law such that a residential property cannot be demolished until a demolition permit has been issued. This area can be the entirety of the municipality or a specific area.

Demolition control gives staff an opportunity to obtain necessary information, such as the number of units and whether the residential property is being replaced. Staff can also ensure that the demolition is following the appropriate requirements.

This section of the Planning Act defines two key terms that apply to demolition control: "dwelling unit" and "residential property".

- "Dwelling Unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;
- "Residential Property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building.

These definitions are required in a demolition control by-law to specify what buildings can and cannot be subject to demolition control. Buildings that do not contain dwelling units are not subject to demolition control.

For a demolition control by-law to be in place, Section 33 of the Planning Act also requires a property standards by-law under Section 15.1 of the Building Code Act, 1992 to be in force in a municipality. The area subject to demolition control is the same area that is subject to the property standards by-law.

When a demolition permit is applied for, Council or their delegate may issue the permit or refuse to issue the permit. If the permit application is refused or a decision is not made within thirty days of the application, the applicant can appeal to the Ontario Land Tribunal (OLT). However, if a building permit has been issued to erect a new building on the site of the residential property to be demolished, the Planning Act states that Council or their delegate shall issue a demolition permit. Under these types of applications, Council or their delegate may include the condition that the applicant construct and substantially complete the new building by at least two years from the date of the demolition.

If the applicant fails to complete the new building within the time specified, municipalities are permitted to place a lien on the property of \$20,000.00 or less for each dwelling unit within the residential property to be demolished. If the applicant is not satisfied with the time requirement condition, they may appeal to the OLT for a variation of the condition. If the applicant does not consider it possible to complete the new building within the time specified on the permit or if the permit holder believes that it is no longer economically feasible to construct the new building, the applicant may apply to Council or their delegate for relief, which can include an extension of the completion date. Applicants are required to apply for relief not less than sixty days before the time specified in the permit for the completion of the new building. Council or their delegate can also decide to extend the date specified on the permit at any time. The applicant may appeal the decision for relief to the OLT.

Any person who demolishes a residential property without obtaining a demolition permit is liable for a fine of not more than \$50,000.00 for each dwelling unit contained in the residential property.

Section 33 of the Planning Act does not stipulate notice requirements, occupancy of residential property as the demolition process unfolds, or what can be mandated with the building materials from a demolition.

Further information on the provisions of demolition control and how they relate to these issues can be found in the Demolition Control Discussion Paper, included as Attachment-1.

Recommendations

Staff are seeking approval of the Demolition Control By-law, included as Attachment-2 of this Report.

Staff are of the opinion that the following revisions and additions should be made to the Demolition Control By-law:

- New definitions for demolition and renovation.

- A new condition that may be imposed to require the preparation and submission of building permit plans for a new building on the same site for any demolition permit application.
- Clearly exempting demolition control in the following instances:
 - When the demolition is considered a renovation, as defined;
 - If the Residential Property has been found to be unsafe under the Building Code Act;
 - An order to remove the Residential Property has been issued under Section 15 of the Fire Protection and Prevention Act, 1997;
 - If the Residential Property is part of a public works project; and
 - If the Residential Property has other health and safety concerns.
- Updating the offence charge to the maximum allowable of \$50,000.00 per Dwelling Unit in the Residential Property to be demolished.
- Continuing to delegate approval authority to the General Manager of Planning and Building Services.

City staff will also continue to enforce the applicable Private Tree Protection By-law. These additions will strengthen demolition control in the City of Guelph while being flexible enough to ensure that demolition control does not impede new development unnecessarily. Demolition control continues to be an important tool to preserve the city of Guelph's existing housing stock as we tackle challenges with the availability of housing. Full justification for these changes and additions can be found in Attachment-1.

Financial Implications

Demolition permits have existing building permit fees through the Building By-law (2015)-19985, as amended. These fees will continue to be applicable.

Consultations and Engagement

Planning and Building Services staff were consulted on this report, the Demolition Control Discussion Paper, and By-law (2024) – 20923, being the Demolition Control By-law. As the recommended Demolition Control By-law follows the Planning Act, public consultation was not completed as part of the Demolition Control By-law review.

Attachments

Attachment-1 Demolition Control Discussion Paper

Attachment-2 By-law (2024) – 20923 Demolition Control By-law

Attachment-3 Review of Demolition Control By-law Council Planning Presentation

Departmental Approval

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