

The Corporation of The Town Of Essex

By-Law Number 936

Property standards for maintenance and occupancy - being a by-law to prescribe standards for the maintenance and occupancy of property within the Town of Essex, and prohibiting the occupancy or use of such property that does not conform to the standards; and for requiring property below the standards prescribed herein to be repaired and maintained to comply with the standards, or the lands thereof to be cleared of all buildings and structures and left in a graded and level condition.

Whereas under Section 15.1(3) of the Building Code Act, S.O. 1992, c.23, a by-law may be passed by Council of a municipality prescribing the standards for the maintenance and occupancy of property within the municipality provided the official plan for the municipality includes provisions relating to property conditions;

And Whereas the Official Plan for the Town of Essex includes provisions relating to property conditions;

And Whereas the Council of The Town of Essex is desirous of passing a by-law under Section 15.1(3) of the Building Code Act, S.O. 1992, c.23;

And Whereas Section 15.6(1) of the Building Code Act, S.O. 1992, c.23 requires that a by-law passed under Section 15.1(3) of the Building Code Act, S.O. 1992, c.23 shall provide for the establishment of a Property Standards Committee;

Now Therefore the Council of the Town of Essex hereby enacts the following:

1. That By-Law Number 191 and amendments thereto are hereby repealed.
2. That the Mayor and Clerk be directed to affix their signatures, on behalf of The Corporation of The Town of Essex, to Schedule "A" attached hereto.

Read a first, a second and a third time and finally passed this 16th day of February, 2009.

The Corporation of The Town Of Essex

Mayor

Clerk/Deputy Treasurer

The Corporation of The Town Of Essex

Schedule "A" By-Law Number 936

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Section 1 - General

1.1 Short Title

This By-Law may be called as the "Property Standards By-Law".

Section 2 - Definitions

2.1 Definitions

2.1.1 Act means an enactment or statute of the Province of Ontario.

2.1.2. Building means,

(a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto,

(b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto,

(c) plumbing not located in a structure,

(c.1) a sewage system, or

(d) structures designated in the building code;

2.1.3 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.

2.1.4 Chief Official means the Chief Building Official appointed under Section 3 of the Building Code Act, S.O. 1992, c.23, as amended, and having jurisdiction for the enforcement thereof.

2.1.5 Code means a regulation of the Province of Ontario known,

2.1.5.1 with respect to matters relating to building and plumbing as the Ontario Building Code;

2.1.5.2 with respect to matters relating to electricity, as the Electrical Safety Code;

2.1.5.3 respect to matters relating to fire, as the Fire Code.

2.1.6 Committee means a Property Standards Committee established under this by-law.

2.1.7 Commercial Motor Vehicle includes any commercial motor vehicle as defined in the Highway Traffic Act. (example Tractor-Trailer)

2.1.8 Commercial Trailer means a vehicle engaged in carrying or which is designed to carry goods, wares or merchandise and which is licensed as a commercial vehicle under the appropriate municipal or provincial laws or regulations;

2.1.9 Corporation means The Corporation of the Town of Essex.

2.1.10 Council means the Council of The Corporation of the Town of Essex.

2.1.11 Debris means refuse, waste, discarded materials or garbage of any kind whatsoever and includes, but is not limited to, whether of value or not:

(a) accumulations of litter, remains, rubbish, trash;

(b) weighty or bulky items such as appliances, furnaces, furnace pipes, pipe-fittings, water or fuel tanks placed in a condition or location where they cannot be used for their intended purposes;

(c) paper, cartons;

(d) dilapidated furniture;

(e) crockery, glass, cans, containers;

(f) garden refuse and trimmings that is not in a contained manner according to [Section 7.1](#).

(g) material from or for construction and demolition projects;

(h) domestic and industrial waste;

(i) dead or dying trees, branches, leaves or shrubs;

- (j) Inoperative motor vehicles;
- (k) Motor vehicle parts;
- (l) mechanical equipment or equipment parts placed in a condition or location where they cannot be used for their intended purposes;
- (m) earth or rock fill;
- (n) clothing or other household linens lying in an unprotected condition;
- (o) objects or conditions that may create a health, fire or accident hazard; and
- (p) animal feces

2.1.12 District means a zoning district set out in the zoning by-law(s) for the Town of Essex.

2.1.13 Dwelling means a building or part thereof, used or designed to be used as a residence and containing one or more dwelling units.

2.1.14 Dwelling Unit means two or more habitable rooms within a building in which sanitary facilities and a separate kitchen are provided and having a private entrance from outside the building from a common hallway or inside the building.

2.1.15 Exterior Property Area means the building lot excluding buildings.

2.1.16 Fence means any man made structure, wall or barrier, other than a building, erected at grade for the purpose of defining boundaries of property, separating open space, restricting ingress to or egress from property, providing security or protection to property or acting as a visual or acoustic screen.

2.1.17 Graffiti means one or more letters, symbols, or marks, howsoever made, that disfigures or defaces a property or object, but does not include a sign pursuant to the Town's sign by-laws or a mural, which has been authorized by the Town of Essex.

2.1.18 Ground Cover means organic or non-organic material applied to prevent soil erosion such as concrete, flagstone, gravel, asphalt, grass or other landscaping.

2.1.19 Guard means a protective barrier installed around openings in floor areas or on the open sides of a stairway, landing, a balcony, a mezzanine, a gallery, a raised walkway, and other locations as requires preventing accidental falls from one level to another. Such barriers may or may not have openings through them.

2.1.20 Habitable Room means any room in a dwelling or dwelling unit used or designed to be used for the purpose of living, sleeping, eating, cooking or preparation of food.

2.1.21 Inoperative Motor Vehicle means a motor vehicle which may not be lawfully operated upon a Highway pursuant to the Highway Traffic Act because of any of the following reasons: There is/are:

- 2.1.21.1** there is not in existence a currently validated permit for the vehicle;
- 2.1.21.2** where are not displayed on the vehicle, in the prescribed manner, number plates issued in accordance with the Highway Traffic Act showing the permit number issued for the vehicle;
- 2.1.21.3** there is not affixed to a number plate displayed on the vehicle evidence of the current validation of the permit; or
- 2.1.21.4** the vehicle is damaged to the extent that it cannot be driven, is in a wrecked or dismantled condition or has had its source of motive power removed.

2.1.22 Means of Egress means a doorway, hallway, corridor, exterior passageway or balcony, lobby, stair, ramp or other facility or combination thereof provided for the escape of persons from a building, dwelling unit, floor area, contained open space or room to a public thoroughfare, street, lane, yard or other approved open space at grade level. Egress includes exits and access to exits. Elevators and windows shall not be considered as means of egress.

2.1.23 Medical Officer of Health means the Medical Officer of Health for the Windsor Essex County Health Unit.

2.1.24 Motor Vehicle includes an automobile, motorcycle, motor assisted bicycle unless otherwise indicated in this Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of this Act;

2.1.25 Neighbouring means the abutting properties around a subject property.

- 2.1.26 Non-Habitable Space** means a bathroom, toilet room, water closet compartment, laundry, pantry, foyer, lobby, hall, corridor, stairway, passageway, closet, storage room, boiler room, furnace room, accessory space for service, maintenance or access within a building or a room or space, which does not comply with the minimum standards for residential occupancy specified in this by-law.
- 2.1.27 Nuisance** means a condition or use of land, which unreasonably interferes with the lawful use of another person's land. It typically involves an injurious, offensive or objectionable condition. Examples include:
- 2.1.27.1** emissions of smoke, gas, fumes, dust, artificial light, water or sawdust;
 - 2.1.27.2** objectionable odours; or
 - 2.1.27.3** the unsightly storage of goods, wares, merchandise, debris or other material. For clarity, a condition or use of land in some situations can be considered a nuisance where in other situations the same condition or use of land is not considered a nuisance. Proximity to neighbouring land and/or particular uses of neighbouring land will have an impact on whether or not a certain condition or use of land constitutes a nuisance. Further, the context of the land in question can impact whether or not its condition or use is a nuisance. Persons living in urban areas must accept a certain level of disturbance as incident to life in an urban area without that disturbance being considered to be a nuisance.
- 2.1.28 Occupant** means any person or persons over the age of eighteen years in possession of the property.
- 2.1.29 Officer** means a property standards officer who has been assigned the responsibility of administering and enforcing this by-law.
- 2.1.30 Building Code Act** means the Building Code Act, S.O., 1992, c23, as amended.
- 2.1.31 Owner** means such persons or corporations that are the registered or beneficial holders of the title of the property and would include the person for the time being, who is managing or receiving the rent of the land or premises in connection with which the word is used, whether on his 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 shall also include a lessee of an occupant of the property who, under the terms of the lease, is required to repair and maintain the property in accordance with the standards for maintenance and occupancy of property.
- 2.1.32 Person** means a person, firm, corporation, association or partnership.
- 2.1.33 Plumbing** means drainage system, a venting system and a water system or parts thereof.
- 2.1.34 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, and erections thereon whether heretofore or hereafter erected, and includes vacant property, and is divided into:
- 2.1.34.1 Non-Habitable Room** means any room in a dwelling or dwelling unit other than a habitable room and includes a bathroom, toilet room, laundry, pantry, lobby, communicating corridor, stairway, closet, basement, boiler room, furnace room or other space used for service or maintenance or a dwelling or for access to and vertical between story's.
 - 2.1.34.2 Non-Residential Property** means a building or structure or part of a building or structure not occupied in whole or part for the purpose of human habitation, and includes the lands and premises appurtenant and all of the outbuildings, or erections thereon or therein.
 - 2.1.34.3 Residential Property** means that part of a property occupied or capable of being occupied for the purpose of human habitation and includes a dwelling unit.
- 2.1.35 Reference** means to any act or other statute or part thereof, regulation or other by-law will, unless otherwise specifically stated, be a reference to that statute, regulation or other by-law or the relevant part thereof, as the same may be amended, substituted, replaced or re-enacted from time to time.
- 2.1.36 Repair** includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in this by-law.
- 2.1.37 Safe Condition** means a condition that does not pose or constitutes an undue or unreasonable hazard or risk to life, limb or health of any person on or about the property, and includes a structurally sound condition.

- 2.1.38 Sign** means any device or notice, including its structure and other component parts, which is used or capable of being used to identify, describe, illustrate, advertise or direct attention to any person, business, service, commodity or use.
- 2.1.39 Standards** means the standards of physical condition and occupancy set out in this by-law.
- 2.1.40 Structure** means anything, including all component parts that is erected, built, constructed and affixed to or supported by the ground occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto includes;
- 2.1.40.1** plumbing not located in a structure;
- 2.1.40.2** a sewage system; or
- 2.1.40.3** structures designated in the Building Code Act.
- 2.1.40.4** Building Code Act, means the Building Code Act, S.O., 1992, c23, as amended.
- 2.1.41 Tenant** means a person paying rent for the temporary use or occupancy of land or buildings of another person and includes lessee, occupant, subtenant, under tenant, and his and their assigns and legal representatives.
- 2.1.42 Toilet room** means a room containing a water closet.
- 2.1.43 Town** means The Corporation of the Town of Essex.
- 2.1.44 Tractor-Trailer** means a combination of vehicles comprised as one semi-trailer used for carrying merchandise and one truck tractor used solely for supplying of power for propelling or hauling a semi-trailer.
- 2.1.45 Vacant Land** means property upon which there are no permanently affixed or supported structures of any kind other than a fence.
- 2.1.46 Yard** means the land other than publicly 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.

Section 3 - Standards Maintenance and Occupancy

3.1 Minimum adopted

The standards for maintenance and occupancy of property set forth in **Section 3 through Section 43** of this by-law are hereby prescribed and adopted as the minimum standards for all property in the Town of Essex.

Section 4 - Repair Maintenance

4.1 Duty of owner

All owners of property which is below the standards prescribed by this by-law are required to repair and maintain such property to comply with the standards prescribed by this By-law, except where a demolition permit, referred to in **Section 43**, has been obtained and remains in effect.

Section 5 - Exterior Property Areas

5.1 Exterior property areas

- 5.1.1 Exterior property areas shall be maintained in a neat, tidy and safe condition and so as not to detract from the neighbouring environment.
- 5.1.2 Yards, parking lots, vacant property and buildings shall be kept clean and free of litter, rubbish, debris, salvage, refuse, decaying or damaged trees, branches and limbs, objects or conditions that might create a health, fire, accident hazard or unsightly condition.
- 5.1.3 Grass, plantings and hedges shall be kept trimmed and neat. Every yard and vacant property shall be kept free from heavy undergrowth, excessive growth of grass, weeds and noxious plants in accordance with the Weed Control Act, R.S.O., 1990, Chapter W.5, and amendments thereto, and the regulations made hereunder.
- 5.1.4 Machinery, appliances, furniture, plumbing fixtures, vehicles, trailers or parts thereof, which are in a wrecked, discarded, dismantled, partially dismantled or abandoned condition, shall not be stored or allowed to remain in the yard, open area or on any vacant property.
- 5.1.5 Storage, salvage and scrap yards whether licensed or not, shall be effectively screened from all other property or streets by a solid line fence and materials of any kind stored or located

in such yards shall not be piled within three (3) feet of such fence unless the fence is capable of sustaining any horizontal load which may be imposed upon it by the stored materials.

- 5.1.6 The owner of any property used for multiple dwelling, commercial, institutional or industrial purposes shall install and maintain around such property, suitable fences, hedges or screening where such property is used for the parking of vehicles of tenants, employees or customers, when used in the operation of equipment, when used for the storage of goods or when used for any purpose which may detract from the quiet enjoyment and good appearance of an abutting residential property.

5.2 Prohibited residential uses

- 5.2.1 The parking of commercial trailers is prohibited in residential zones/districts except that the owner or occupant of any lot, building or structure in any residential zone may park not more than one (1) commercial trailer in a private garage of which he/she is the owner or occupant, for the housing or storage of one (1) such commercial trailer.
- 5.2.2 The parking of commercial motor vehicles is prohibited in residential zones except that the owner or occupant of any lot, building or structure in any residential zone may park not more than one (1) home service truck only with a capacity not to exceed $\frac{3}{4}$ metric tonne on the premises; or may use any private garage of which he/she is the owner or occupant, for the housing or storage of one (1) such commercial motor vehicle, operated by his or herself, provided such use is for housing or storage only and such commercial motor vehicle is not used in connection with any business or other use on the premises which is prohibited by By-law in any such residential zone.

5.3 Removal required specific items

Without restricting the generality of [Section 4.1](#), such maintenance includes the removal of:

- 5.3.1 rubbish, garbage, waste, litter and debris;
- 5.3.2 injurious insects, termites, rodents, vermin and other pests;
- 5.3.3 trees, bushes and hedges, including any branches or limbs thereof, which are dead, decayed or damaged, and brush;
- 5.3.4 excessive growth of weeds, grass and bushes;
- 5.3.5 wrecked, dismantled, inoperative, discarded or unlicensed vehicles, trailers, machinery or parts thereof; and
- 5.3.6 dilapidated or collapsed buildings, structures or erections, and the filling in or protecting of any unprotected well.

5.4 Driveways, parking areas, paths and walkways

Driveways, parking areas, paths and walkways shall be installed and maintained in a safe condition with non-organic ground cover.

5.5 Outside Lighting fixtures and supports

Lighting fixtures and their supports shall be installed and maintained in a safe and structurally sound condition, and in good working order and in good repair and designed and/or positioned so as not to project light onto abutting properties or otherwise cause a nuisance.

5.6 Ground cover erosion control

Suitable ground cover shall be provided and maintained to prevent erosion of the soil and so as to be in harmony with the neighbouring environment. Where grass forms part of the ground cover, it shall be re-sodded or re-seeded as often as is required to maintain the grass in a living condition.

Section 6 – Garbage

6.1 Receptacles

Every property owner/tenant shall use receptacles to contain all garbage, rubbish and ashes. Receptacles shall be:

- 6.1.1 of watertight construction;
- 6.1.2 capable of being tightly closed;

- 6.1.3 maintained in a clean condition and;
- 6.1.4 made available for regular emptying or collecting.

Section 7 - Composting & Storage in The Yard

7.1 Composting Rules

All compost must be stored and kept in a yard neatly and in a contained manner so as not to allow offensive odours to affect the surrounding neighbourhood, or to attract vermin or other animals to the compost. Compost piles must be no larger than:

- 7.1.1 one (1 m³) cubic metre or three and one quarter (3.25 ft³) cubic feet in volume, and
- 7.1.2 one point eight (1.8 m) metres or five point nine (5.9 ft) feet in height.
- 7.1.3 Compost must be enclosed on all sides by concrete blocks or lumber, or be maintained within a two hundred and five (205 l) litre or forty-five (45 gal) gallon container, a metal frame building with a concrete floor, or a commercial plastic enclosed container designed for composting.

7.2 Improper Composting

- 7.2.1 It is an offence for an Owner of Land to undertake composting in a manner contrary to that set out in [Section 7.1](#).
- 7.2.2 It is an offence for an Occupant of Land to undertake composting in a manner contrary to that set out in [Section 7.1](#).

Section 8 – Sewage

- 8.1 Sewage or organic waste shall be discharged into the municipal sewage system or a septic tank system subject to the requirements of the Ontario Building Code, latest edition.
- 8.2 No sewage of any kind shall be discharged onto the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.

Section 9 - Trees, Hedges and Shrubs to be Kept Trimmed

- 9.1 The Owner of Land shall keep the hedges, shrubs, trees or similar growth upon the land trimmed so as not to interfere with the use of a Highway.
- 9.2 The Occupant of Land shall keep the hedges, shrubs, trees or similar growth upon the land trimmed so as not to interfere with the use of a Highway.

Section 10 - Grass To Be Kept Trimmed

- 10.1 The Owner of Land shall keep the grass and/or weeds upon the land trimmed so as not to exceed twenty centimetres (8 inches) in height.
- 10.2 The Occupant of Land shall keep the grass and/or weeds upon the land trimmed so as not to exceed twenty centimetres (8 inches) in height.

Section 11 – Grass, Trees, Bushes, Hedges, Landscaping

Grass, trees, bushes, hedges and other landscaping, non-organic ground cover and such other alternatives approved by the Officer, required as a condition of development or redevelopment of the site, shall be provided in living condition and maintained in a good state of repair and in good practice

Section 12 - Noxious Plants

All properties shall be kept free from noxious plants, including ragweed, poison ivy, poison oak and poison sumac and comply with the specifications of the Weed Control Act, R.S.O. 1990, chapter W.5, as amended, and regulations and by-laws established thereunder.

Section 13 - Firewood Storage

- 13.1 No firewood shall be stored in a residential yard that fronts on a municipal street, except for Lake front properties abutting Lake Erie. Firewood may be stored in a rear yard or side yard subject to the following conditions;

- 13.1.1 firewood stored in a side yard or rear yard shall be at least 0.6 metres (24 inches) from every property line;
- 13.1.2 no piece of firewood shall exceed 0.6 metres (24 inches) in length and all firewood shall be staked in an orderly pile;
- 13.1.3. on a property that is less than 0.4 hectares (1 acre) in area, no firewood pile(s) shall exceed 1.5 metres (59 inches) in height or cover an area larger than 6.0 metres square (64 square feet); and
- 13.1.4 on a property that is greater than 0.4 hectares (1 acre) in area, no firewood pile(s) shall exceed 1.5 metres (59 inches) in height or cover an area greater than 15 metres square (160 square feet).

Section 14 – Fences, Gates, Swimming Pools & Hot Tubs

- 14.1 Swimming pools, wading pools, ponds and any appurtenances, including fences and gates thereto, shall be maintained in good repair, free from leaks and free from health and safety hazards. This does not refer to Storm Water Management Ponds.

Section 15 - Stagnant Water

- 15.1 All swimming pools, wading pools and hot tubs shall be kept clean of stagnant water and any such areas that are unkept or unused shall be drained of all water found therein. This does not refer to Storm Water Management Ponds.

Section 16 - Graffiti Removal

- 16.1 All property, including but not limited to, buildings, structures, fences or other objects shall be kept clean and free of graffiti at all times.

Section 17 – Future Reference

- 17.1 Intentionally deleted for future reference.

Section 18 - Sensor Activated Lighting

- 18.1 Sensor activated lighting shall not be triggered by activity off the property.

Section 19 - Fences

19.1 Erection maintenance standards

- 19.1.1 A fence on a property or separating adjoining properties shall be erected and maintained:
 - 9.1.1.1 in good repair;
 - 9.1.1.2 in a safe and structurally sound condition;
 - 9.1.1.3 reasonably plumb; and
 - 9.1.1.4 unless inherently resistant to deterioration, with a protective coating of paint or equivalent weather-resistant material.

Section 20 - Signs

20.1 Installation maintenance standards

- 20.1.1 A sign and any supporting structure shall be installed and maintained:
 - 20.1.1.1 In conformance with the requirements of the Town of Essex Sign By-Law No. 355 (or as amended);
 - 20.1.1.2 in good repair and without any visible deterioration when viewed from any other than the property on which the sign is situated;
 - 20.1.1.3 in a safe and structurally sound condition; and
 - 20.1.1.4 in a reasonably vertical plane unless otherwise approved by the Town of Essex.

20.2 Unused not cared for discarded

- 20.2.1 A sign face area that is unused, not cared for or discarded shall be removed from the property or shall be stored within a building.

Section 21 - Retaining Walls

21.1 Maintenance safe, structurally sound

21.1.1 A retaining wall shall be maintained in good repair and in a safe and structurally sound condition.

21.2 Maintenance Standards

Without restricting the generality of [Section 21.1.1](#), such maintenance includes:

21.2.1 redesigning, repairing or replacing of all deteriorated, damaged, misaligned or missing portions of the wall and any railings or guards appurtenant thereto;

21.2.2 installing subsoil drains where required to maintain the stability of the wall;

21.2.3 grouting masonry cracks; and

21.2.4 applying to all exposed metal or wooden components, unless inherently resistant to deterioration, a protective coating of paint or equivalent weather-resistant material.

Section 22 - Gantries Towers, Masts – Antennae, Oil Pumps & Tanks

22.1 Maintenance standards

22.1.1 Gantries, towers, masts, antennae and structures of similar character shall be maintained:

22.1.2 reasonably plumb;

22.1.3 in good repair;

22.1.4 in a safe and structurally sound condition; and

22.1.5 in a relatively rust-free condition.

Section 23 - Structural Capacity

23.1 Building to sustain own weight

23.1.1 A building, or any part thereof, shall be capable of sustaining its own weight together with the loads that may be applied thereto by reason of its use and occupancy, by natural causes, such as snow and wind and all other causes set out in the Ontario Building Code.

23.2 Safety factor standards

23.2.1 The factor of safety specified in the Ontario Building Code is the minimum standard, which is to be met without exceeding soil capacity and the maximum differential or other settlement specified in the Ontario Building Code.

23.3 Structurally sound condition when deemed

23.3.1 When a building or part thereof or any other structure meets the standard set out above, it shall be deemed to be in a structurally sound condition.

Section 24 - Unsafe Conditions

24.1 Abatement removal

24.1.1 Unsafe conditions in a building or on a property shall be abated, rectified or eliminated.

24.2 Abatement removal standards

Without limiting the generality of [Section 24.1](#), resolution of an unsafe condition may include:

24.2.1 the provision, maintenance or repair of:

24.2.1.2 fire and gas separations and fire protection;

24.2.1.3 early warning, fire extinguishing and fire fighting equipment and devices;

- 24.2.1.4 smoke control measures appropriate for the use and occupancy of the building, floor area, suite of rooms or space, and for the existing construction and building services; and exit and emergency lighting.
- 24.2.1.5 the proper handling, storage and discharge of flammable liquids, dangerous chemicals and other dangerous materials;
- 24.2.1.6 the proper storage of combustible materials so as to minimize spread of fire and permit effective fire control;
- 24.2.1.7 the control of hazardous industrial processes and operations and the prevention of explosion
- 24.2.1.8 the removal of garbage and refuse;
- 24.2.1.9 the removal or extermination of pests such as rodents, vermin and injurious insects, including termites and cockroaches; and
- 24.2.1.10 the elimination of any conditions which pose or constitute an undue or unreasonable hazard or risk to life, limb or health of any person in the building or on or about the property.

Section 25 - Foundations, Walls, Columns and Beams

25.1 Maintenance safe structurally sound

- 25.1.1 The foundations, walls, columns and beams of a building shall be maintained in good repair and in a safe and structurally sound condition.

25.2 Maintenance standards

Without restricting the generality of [Section 25.1](#), such maintenance includes:

- 25.2.1 repairing or replacing decayed, damaged, weakened or missing foundations, walls, columns and beams along with any components, claddings, finishes and trims forming a part thereof;
- 25.2.2 extending the foundation walls below grade or regrading to provide adequate frost cover;
- 25.2.3 shoring, jacking up or underpinning of foundations where necessary;
- 25.2.4 repairing or replacing decayed, damaged, weakened or missing sills, piers, posts or other supports;
- 25.2.5 making sills, piers, posts or other wooden supports, repaired or replaced at or in ground, insect proof;
- 25.2.6 grouting, caulking or other waterproofing of cracks and joints in foundations and walls;
- 25.2.7 keeping all walls free from holes and loose or unsecured objects or materials; and
- 25.2.8 carrying out such other work as may be necessary to overcome any settlement or sagging which unsightly or otherwise detracts from the neighbouring environment.

Section 26 - Doors, Windows, Shutters and Hatchways

26.1 Maintenance good working order & repair

- 26.1.1 All doors, windows (including storm and screen windows), shutters, hatchways and other exterior openings in a building shall be maintained in good working order and good repair, in a safe condition and, except for screen windows, reasonably weather-tight and draft free.

26.2 Maintenance standard

Without restricting the generality of [Section 26.1](#), such maintenance includes:

- 26.2.1 repairing, refitting or replacing decayed, damaged, defective or missing doors, windows, frames, sashes, casings, shutters, hatchways or screens;
- 26.2.2 keeping glazed doors, windows and other transparent surfaces reasonably clean so as to permit unimpeded visibility and unrestricted passage of light;
- 26.2.3 re-glazing, or refitting with transparent glass or other material or, where permitted, with a translucent substitute;

26.2.4 repairing or replacing defective, damaged or missing hardware and locking devices; and

26.2.5 weather-stripping and caulking of doors and windows.

26.3 Opening ventilation illumination protection

26.3.1 When an exterior opening is used or required for ventilation or illumination and is not required to be protected by a door, window or similar closure, it shall be protected with:

26.3.1.1 wire mesh screening, metal grills, or other equivalent durable material; or

26.3.1.2 other protection so as to effectively prevent the entry of rodents or vermin.

Section 27 - Stairs, Floors, Landings , Verandahs, Porches, Decks, Loading Docks and Balconies

27.1 Maintenance safe structurally sound

27.1.1 Every stair, floor, landing, verandah, porch, deck, loading dock, balcony along with any guard, balustrade, railing, screen or other appurtenance attached thereto shall be maintained in good repair and in a safe and structurally sound condition.

27.2 Maintenance standards

27.2.1 Without restricting the generality of Section 27.1, such maintenance includes:

27.2.1.1 repairing or replacing floors, treads or risers that show excessive wear or are broken, warped, loose, depressed, protruding or otherwise defective or missing;

27.2.1.1 repairing, replacing or supporting structural members that are decayed, damaged, weakened, loose or missing; and

27.2.1.3 providing, in accordance with the Ontario Building Code, repairing or replacing balustrades, guards and railings.

27.3 Vacant unoccupied building exemption conditions

27.3.1 Stairs, floors, landings, verandahs, porches, decks, loading docks, balconies and every appurtenance attached thereto within the exterior walls of a vacant or unoccupied building are exempt from the requirements of Sections 27.1 and 27.2 provided that Section 43 of this by-law is adhered to.

Section 28 - Roofs and Roof Structures

28.1 Maintenance safe structurally sound

Every roof, including chimneys, stacks, masts, lightning arrestors, antennae and other roof structures shall be maintained in good repair and in a safe and structurally sound condition.

28.2 Maintenance standards

Without restricting the generality of Section 28.1, such maintenance includes:

28.2.1 removal of loose, unsecured or rusted objects or materials;

28.2.2 removal of dangerous accumulations of snow or ice;

28.2.3 keeping roofs and chimneys weather-tight and free from leaks; and

28.2.4 keeping all roof related structures reasonably plumb unless specifically designed to be other than vertical.

Section 29 - Exterior Surfaces

29.1 Paint weather-resistant material required

Every exterior surface, not inherently resistant to deterioration, on a building or any part thereof or appurtenance thereto shall be maintained, without visible deterioration, with a protective coating of paint or equivalent weather-resistant material.

29.2 Damage by fire or other causes, repair, demolition

A building or portion thereof, damaged by fire or other causes, shall be repaired to its original condition and as may otherwise be required by this by-law, or the building shall be demolished or the damaged portion removed and the property left in a graded and level condition.

29.3 Repairs standards

Without restricting the generality of [Section 29.1 and 29.2](#), such repairs shall include:

- 29.3.1 abating any unsafe condition; and
- 29.3.2 refinishing so as to be in harmony with adjoining undamaged surfaces.

29.4 Vacant unoccupied building exception

Nothing in this section shall be construed as restricting any door, window or other opening in the exterior of a vacant or unoccupied building from being protected by preventing entry thereto for such time as a building remains vacant or unoccupied, as is required by [Sections 42 & 43](#) of this by-law.

Section 30 - Interior Surfaces

30.1 Maintenance standards

Interior building surfaces shall be maintained:

- 30.1.1 in good repair, free from mould, holes, loose boards and broken, torn, damaged, decayed or missing materials;
- 30.1.2 in a safe condition; and
- 30.1.3 so as to possess the fire resistant properties required by the Building and Fire Codes.

Section 31 - Elevators and Elevating Devices

31.1 Maintenance standards

Elevators, dumbwaiters, hoists, escalators, incline lifts and other elevating devices shall be installed and maintained:

- 31.1.1 In accordance with the requirements of the Elevating Service Act and any regulations made thereunder;
- 31.1.2 in good working order and good repair; and
- 31.1.3 in a safe condition.

Section 32 - Ventilation Systems

32.1 Provision maintenance standards

Ventilation, as required by the Ontario Building and Fire Codes, shall be provided to and maintained in all rooms and spaces within a building so as to prevent accumulations of heat, dust, fumes, gases, including carbon monoxide, vapours and other contaminants, which may create a fire, explosion, toxic hazard or health hazard.

32.2 Cleaning maintenance standards

Ventilation systems shall be cleaned regularly and installed, used and maintained:

- 32.2.1 In conformance with the requirements of the Ontario Building and Fire Codes;
- 32.2.2 in good working condition and good repair; and
- 32.2.3 in a safe condition.

Section 33 - Heating and Mechanical Systems

33.1 Provision heat standards

All buildings shall contain a heating system capable of supplying, and distributing sufficient heat to maintain a minimum ambient air temperature of 20 degrees Celsius (68 degrees Fahrenheit).

33.2 Space not normally heated exception

The heating system and temperature required need not be provided for spaces not normally heated.

33.3 Hot water adequate supply required

An adequate supply of hot water with a temperature range from 45 to 49 degrees Celsius (113 to 120 degrees Fahrenheit) shall be provided and maintained in all dwelling units.

33.4 Maintenance standards

The heating system and hot water system required and other mechanical systems shall be provided, maintained and operated:

33.4.1 In accordance with the respective requirements of the Ontario Building/Fire Codes and any regulations thereunder;

33.4.1.1 in good working order and good repair; and

33.4.1.2 in a safe condition.

Section 34 - Electrical Systems

34.1 Connection with electrical supply system

A dwelling unit and, where required by the Ontario Building or Electrical Safety Codes, a building shall be connected to an electrical supply system and shall be wired to receive electricity.

34.2 Connection system standards

34.2.1 The connection to the building and the system of circuits and outlets distributing the electrical supply within the building shall provide adequate capacity for the use and intended use of the building and such connections, circuits, wiring and outlets along with any fuses, circuit breakers and other appurtenances thereto shall be installed and maintained:

34.2.1.1 in compliance with the respective requirements of the Electrical Safety, Building and Fire Codes;

34.2.1.2 in good working order and good repair; and

34.2.1.3 in a safe condition.

Section 35 - Drainage Plumbing Systems

35.1 Provision maintenance standards

Drainage and plumbing systems on a property shall be provided, installed and maintained:

35.1.1 In compliance with the requirements of the Ontario Building, Environmental Protection Act and any regulation thereunder;

35.1.2 in good working order and good repair; and

35.1.3 in a safe condition.

35.2 Eavestrough gutters downpipes standards

Where water runoff from roof surface is discharged by way of eaves troughs or roof gutters and downpipes, they shall be installed and maintained in good working order and maintained in good repair, watertight and free from leaks and in a safe condition.

35.3 Downpipe sump pump grading standards

Downpipes, sump pump and discharge lines shall be designed, provided and maintained so as to discharge water runoff away from the building and to prevent flooding, erosion and other nuisance to neighbouring properties.

Section 36 - Refuse Disposal Facilities

36.1 Design installation maintenance standards

All refuse disposal facilities shall be designed, installed and maintained as required by the Ontario Building Code and any applicable by-law.

36.2 Containers receptacles external screened covered

External containers and receptacles, where permitted, shall be screened from the view of neighbouring properties and shall be provided with covers so that any material contained therein shall not be exposed to view or to rodents, vermin, insects or other pests. Such covers shall be provided at all times, except when the containers or receptacles are actually being filled or emptied.

36.3 Garbage chutes rooms containers standards

Garbage chutes, disposal rooms, containers and receptacles shall be washed down, disinfected and maintained as is necessary to be clean, odor free and in good working order and good repair.

Section 37 - Recreational Facilities

37.1 Installation maintenance safe continuous use

Recreational areas, structures, rooms and other facilities required by the Town of Essex for the indoor and outdoor use of the occupants of a building shall be provided, installed, repaired and cleaned as is necessary in order to maintain them in a safe condition and available for use on a continuous basis at all reasonable hours.

37.2 Equipment recreational standards

Equipment meeting the recreational needs of the occupants of the building shall be provided and maintained in such facilities in good working order, in good repair and in a safe condition.

Section 38 - Residential Occupancy

38.1 Non-habitable space use prohibited

No person shall use or cause or permit to be used non-habitable space for the purpose of a habitable room unless such room satisfies all applicable provisions of the Ontario Building Code for occupancy.

38.2 Dwelling use occupancy standards

38.2.1 No portion of a dwelling shall be used for residential occupancy unless:

38.2.1.1 the floors, walls and ceilings within a building and the exterior walls, roofs and any openings therein are watertight and reasonably free from dampness and drafts;

38.2.1.2 every habitable room, except a kitchen, contains one or more windows or skylight that:

38.2.1.2.1 open directly to the outside air; and

38.2.1.2.2 have a total light transmitting area and openable ventilation area of not less than that required by the Ontario Building Code.

38.2.1.3 All windows and skylights are:

38.2.1.3.1 glazed or fitted with an appropriate transparent material;

38.2.1.3.2 provided with hardware and locking devices;

38.2.1.3.3 maintained in good working order and good repair; and

38.2.1.3.4 if required for ventilating purposes, capable of being easily opened and closed at all times.

- 38.2.1.3.5 the heating system is capable of maintaining a minimum air temperature of 21 degrees Celsius (70 degrees Fahrenheit), unless otherwise acceptable to the occupant;
- 38.2.1.3.6 an adequate and safe supply of potable water is provided and maintained at all times;
- 38.2.1.3.7 an adequate supply of hot water with a temperature range from 60 to 78.3 Celsius (140 to 165 degrees Fahrenheit) is provided and maintained at all times;
- 38.2.1.3.8 toilet, washing and other sanitary facilities are provided and maintained in accordance with the Ontario Building Code; and
- 38.2.1.3.9 it is insulated to minimize heat loss, air infiltration and moisture condensation on the interior surfaces of walls, ceilings and floors as required by the Ontario Building Code or other repairs shall be affected which the Officer deems to be equivalent.

Section 39 - Egress

39.1 Continuous unobstructed from interior

Every dwelling shall have safe, continuous and unobstructed passage or means of egress from the interior of each dwelling unit contained therein to the exterior of the dwelling at or near street or grade level.

39.2 Second means of egress where required

Except as provided in [Section 39.3](#), every dwelling, containing dwelling units located above or below the ground floor or the first floor above the ground floor, shall provide a second means of egress from such dwelling units to the exterior of the dwelling to grade or ground level.

39.3 Second means of egress where not required

A second means of egress shall not be required from any dwelling unit having a separate or self-contained means of egress to the exterior of the dwelling at or near grade level.

39.4 Enclosed through another unit prohibited

A required means of egress shall not pass through an attached or built-in garage or an enclosed part of another dwelling unit.

Section 40 - Multiple Occupancy Buildings

40.1 Garages, walkways and access lanes

Light fixtures shall be installed and maintained to illuminate the steps, walkways, driveways and parking areas of a yard to afford safe passage.

40.2 Storage Garages

All storage garages shall have lighting fixtures maintained in a good working condition, and

- 40.2.1 shall be illuminated by natural means where available, and by an adequate number of light fixtures, or the painting of walls, columns and ceilings white in colour, or any combination thereof so as to maintain an average level of illumination of at least fifty lux (4.6 foot candles);
- 40.2.2 shall have a level of illumination at any location on the floor of not less than eleven lux (1 foot candle);
- 40.2.3 shall have all ventilation systems maintained in a good working condition;
- 40.2.4 shall have all emergency exit routes and doors maintained in a good working condition and free from all obstructions;
- 40.2.5 shall have all exit signs provided and maintained in accordance with the requirements of the Ontario Building Code and Fire Code;
- 40.2.6 shall have all floor drains in good working condition and free from all obstructions.

40.3 Refuse disposal

Multiple occupancy residential buildings shall provide sufficient rooms with containers and receptacles to safely contain all garbage, rubbish, ashes, waste and other refuse, which shall not be allowed to accumulate but which shall be removed or made available for removal in accordance with all applicable by-laws.

40.4 Refuse facility design and installation

The facilities required by Section 6 shall be designed and installed as required by the Ontario Building Code.

Section 41 - Vacant Property

41.1 Protection, fire accident damage, other dangers

The owner of any vacant or unoccupied building shall protect such building against the risk of fire, accident, damage or other danger thereto or to adjoining premises by effectively preventing the entry thereto by all unauthorized persons.

41.2 Protection standards

Without restricting the generality of [Section 41.1](#), protection may include the boarding up with:

- 41.2.1 tight fitting plywood;
- 41.2.2 rigid, composite panels; or
- 41.2.3 sheathing boards installed within the reveal of the exterior cladding and securely fastened to every doorway, window or wall opening that constitutes a means of access or hazard.

41.3 Boarding installation maintenance

All such boarding shall be installed and maintained in good repair and, unless inherently resistant to deterioration, with a protective coating of paint or equivalent weather-resistant material.

41.4 Utilities disconnection security

Where a building remains vacant or unoccupied for a period of more than 90 days, the owner shall ensure that all utilities serving the building, that are not required for the safety or security thereof, are properly disconnected or otherwise secured to prevent risk of fire, accident, damage or other danger to the property or adjoining premises.

Section 42 - Vacant Lands and Buildings

42.1 Vacant lands

- 42.1.1 All repairs and maintenance of property 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 Act where applicable.
- 42.1.2 Vacant land shall be maintained to the standards as described in [Section 5](#), of this bylaw.
- 42.1.3 Vacant land shall be graded, filled or otherwise drained so as to prevent recurrent ponding of water.

42.2 Vacant buildings

- 42.2.1 Vacant buildings shall be kept cleared of all garbage, rubbish and debris and shall have all water, electrical and gas services turned off except for those services that are required for the security and maintenance of the property.
- 42.2.2 The owner or agent of a vacant building shall board up the building to the satisfaction of the Property Standards Officer. At a minimum, the owner or agent of a vacant building shall cover all openings through which entry may be obtained with at least 12.7mm (0.5inch) weatherproof sheet plywood securely fastened and painted colour compatible with the surrounding walls without restricting the provisions contained in Section 41.

Section 43 - Demolition

43.1 Permit required posting

No person shall commence, conduct or permit to be commenced or conducted any work in the nature of demolition or removal of a building or part thereof, unless they obtain a permit therefore from the Chief Official in compliance with the Building Code Act and post such permit in a prominent position on the demolition site.

43.2 Walls remaining structurally sound weather-tight

The owner of any building or part thereof being demolished shall leave any remaining wall or walls (including any former party wall or walls, whether separately or jointly owned) structurally sound, weather-tight, in a safe condition and in conformity with the standards in the Ontario Building Code.

43.3 Site cleared cleaned maintained

43.3.1 Upon completion of demolition, the entire site shall be cleared and cleaned of all construction materials, building fixtures and contents and debris, left free from holes or excavations and provided and maintained with a suitable ground cover satisfactory to the Officer.

Section 44 - Enforcement and Administration

44.1 Inspection of property

An Officer (subject to clause 44.43 hereof) may, upon producing proper identification, enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine:

44.1.1 whether the property conforms with the standards prescribed in this by-law; or

44.1.2 whether an order made under [Section 44.2](#) has been complied with.

44.2 Contents of order

An Officer who finds that a property does not conform with any of the standards prescribed in this by-law may make an order:

44.2.1 stating the municipal address or the legal description of the property;

44.2.2 giving 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;

44.2.3 indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the Town of Essex may carry out the repair or clearance at the owner's expense; and

44.2.4 indicating the final date for giving notice of appeal from the order.

44.3 Service and posting of order

44.3.1 The order shall be served on the owner of the property and such other persons affected by it as the Officer determines and a copy of the order may be posted on the property.

44.4 Removal prohibited

44.4.1 Where any sign, notice, order or placard has been placed on any premises pursuant to this by-law, no person shall remove such sign, notice or placard from the premises without the authority of the Officer.

44.5 Registration of order

44.5.1 The order may be registered in the proper land registry 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 on which the order was served under section 44.3.1 and, when the requirements of the order have been satisfied, the Clerk of the Town shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order.

44.6 Property standards committee establishment

44.6.1 There shall be and hereby established, a Property Standards Committee of at least three (3) ratepayers of the Town of Essex to be appointed for a three (3) year term.

44.7 Filling of vacancies

44.7.1 The Council of the Town of Essex shall forthwith fill any vacancy that occurs in the membership of the Committee.

44.8 Compensation

44.8.1 The members of the Committee shall be paid such compensation as the Council may provide.

44.9 Chair

44.9.1 The members shall elect a chair from among themselves; when the chair is absent through illness or otherwise, the Committee may appoint another member as acting chair.

44.10 Quorum

44.10.1 A majority of the members constitutes a quorum for transacting the Committee's business.

44.11 Secretary

44.11.1 The members shall provide for a secretary for the Committee.

44.12 Rules of procedure and oaths

44.12.1 The Committee may, subject to [Section 44.13](#), adopt its own rules of procedure and any member may administer oaths.

44.13 Where committee required to give notice

44.13.1 The Committee shall give notice or direct that notice be given of the hearing of an appeal to such persons, as the Committee considers advisable.

44.14 Appeal of order

44.14.1 An owner or occupant who has been served with an order made under [Section 44.2](#) and who is not satisfied with the terms or conditions of the order may appeal to the Committee by sending a notice of appeal by registered mail to the Secretary of the Committee within 14 days after being served with the order.

44.15 Confirmation of order

44.15.1 An order that is not appealed within the time referred to in [Section 44.14.1](#) shall be deemed to be confirmed.

44.16 Powers of committee on appeal

44.16.1 If an appeal is taken, the Committee has all the powers and functions of the officer who made the order and the Committee may do any of the following things if, in the Committee's opinion, doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement;

44.16.1.1 confirm, modify or rescind the order to demolish or repair;

44.16.1.2 extend the time for complying with the order if, in the Committee's opinion, the general intent and purpose of the by-law and of the Official Plan are maintained.

44.17 Appeal to Ontario Court

44.17.1 The Town in which the property is situate or any owner or occupant or person affected by a decision under [Section 44.16](#) may appeal to the Ontario Superior Court of Justice by notifying the Clerk of the Town of Essex in writing and by applying to the Ontario Superior Court of Justice for an appointment within 14 days after the sending of a copy of the decision.

44.18 Appointment

44.18.1 The Ontario Superior Court of Justice shall appoint, in writing, a time and place for the hearing of the appeal and may direct in the appointment the manner in which and upon whom the appointment is to be served.

44.19 Judge's powers

44.19.1 On the appeal, the judge has the same powers and functions as the Committee.

44.20 Effect of decisions

44.20.1 An order that is deemed to be confirmed under [Section 44.15](#) or that is confirmed or modified by the Committee under [Section 44.16](#) or a judge under [Section 44.19](#), as the case may be, shall be final and binding upon the owner and occupant who shall carry out the repair or demolition within the time and in the manner specified in the order

44.21 Power of Town of Essex

44.21.1 If an order of an Officer is not complied with in accordance with the order as deemed confirmed or as confirmed or modified by the Committee or a judge, the Town of Essex may cause the property to be repaired or demolished accordingly.

44.22 Warrantless entry

44.22.1 For the purpose of [Section 44.21](#), employees or agents of the Town of Essex may enter the property at any reasonable time without a warrant in order to repair or demolish the property.

44.23 No liability

44.23.1 A municipal corporation or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the Town of Essex in the reasonable exercise of its powers under [Section 44.21.1](#).

44.24 Municipal lien

44.24.1 The Town of Essex shall have a lien on the land for the amount spent on the repair or demolition under [Section 44.21.1](#) and the amount shall be deemed to be municipal real property taxes and may be added by the Clerk of the Town of Essex to the collector's roll and collected in the same manner and with the same priorities as municipal real property taxes.

44.25 Certificate of compliance

44.25.1 An Officer who, after inspecting a property, is of the opinion that the property is in compliance with the standards established in this by-law may issue a certificate of compliance to the owner.

44.26 Request for certificate

44.26.1 An Officer shall issue a certificate to an owner who requests one and who pays the fee set by the Council of the Town of Essex in which the property is located.

44.27 Fee for certificate

44.27.1 A Council of a Town of Essex may set a fee for the issuance of a certificate.

44.28 Emergency order

44.28.1 If upon inspection of a property the Officer is satisfied that there is non-conformity with the standards in a by-law 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 requiring remedial repairs or other work to be carried out immediately to terminate the danger.

44.29 Service of emergency order

44.29.1 The order shall be served on the owner of the property and such other persons affected thereby as the Officer determines and a copy shall be posted on the property.

44.30 Emergency powers

44.30.1 After making an order under [Section 44.28](#), the Officer may, either before or after the order is served, take any measures necessary to terminate the danger and, for this purpose, the Town of Essex may, through its employees and agents, at any time enter upon the property in respect of which the order was made without a warrant.

44.31 No liability

44.31.1 A municipal corporation or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the Town of Essex in the reasonable exercise of its powers under [Section 44.30](#).

44.32 Service

44.32.1 If the order was not served before measures were taken to terminate the danger, the Officer shall serve copies of the order in accordance with [Section 44.29](#) as soon as practicable after the measures have been taken, and each copy of the order shall have attached to it a statement by the Officer describing the measures taken by the Town of Essex and providing details of the amount expended in taking the measures.

44.33 Service of statement

44.33.1 If the order was served before the measures were taken, the Officer shall serve a copy of the statement mentioned in [Section 44.32](#) in accordance with [Section 44.29](#) as soon as practicable after the measures have been taken.

44.34 Application to court

44.34.1 As soon as practicable after the requirements of [Section 44.32](#) or [Section 44.33](#) have been complied with, the Officer shall apply to a judge of the Ontario Superior Court of Justice for an order confirming the order made under [Section 44.28.1](#) and the judge shall hold a hearing for that purpose.

44.35 Powers of judge

44.35.1 The judge in disposing of an application under [Section 44.34](#) shall:

- 44.35.1.1 confirm, modify or rescind the order; and
- 44.35.1.2 determine whether the amount spent on measures to terminate the danger may be recovered in whole, in part or not at all.

44.36 Order final

44.36.1 The disposition under [Section 44.35](#) is final.

44.37 Municipal lien

44.37.1 The amount determined by the judge to be recoverable shall be a lien on the land and shall be deemed to be municipal real property taxes and may be added by the Clerk of the Town of Essex to the collector's roll and collected in the same manner and with the same priorities as municipal real property taxes.

44.38 Inspection powers of Officer

44.38.1 For the purposes of an inspection under this by-law, an Officer may,

- 44.38.1.1 require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the property or any part thereof;
- 44.38.1.2 inspect and remove documents or things relevant to the property or part thereof for the purpose of making copies or extracts;
- 44.38.1.3 require information from any person concerning a matter related to a property or part thereof;
- 44.38.1.4 be accompanied by a person who has special or expert knowledge in relation to a property or part thereof;
- 44.38.1.5 alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and

44.38.1.6 order the owner of the property to take and supply at the owner's expense such tests and samples as are specified in the order.

44.39 Samples

44.39.1 The Officer shall divide the sample taken under [Section 44.38.1.5](#) into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

44.40 Same

44.40.1 If an Officer takes a sample under [clause 44.38.1.5](#) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.

44.41 Receipt

44.41.1 An Officer shall provide a receipt for any document or thing removed under [clause 44.38](#) and shall promptly return them after the copies or extracts are made.

44.42 Evidence

44.42.1 Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as and have the same evidentiary value as the originals.

44.43 Entry to dwellings

44.43.1 An inspector or Officer shall not enter or remain in any room or place actually being used as a dwelling unless;

44.43.1.1 the consent of the occupier is obtained, the occupier first having been informed 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;

44.43.1.2 the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health or safety of any person;

44.43.1.3 the entry is necessary to terminate a danger under [Section 44.28 or 44.30](#);

44.43.1.4 the requirements of [Section 44.20](#) are met and the entry is necessary to remove a building or to remove an unsafe condition under or to repair or demolish under [Section 44.22](#).

44.43.1.5 a warrant issued under the Building Code Act, 1992.

44.44 Notice

44.44.1 Within a reasonable time before entering the room or place for a purpose described in [clause 44.29, 44.43.1.4](#), the inspector or Officer shall serve the occupier with notice of his or her intention to enter it.

44.45 Issue fee payable

44.45.1 Where an inspection of a property has taken place following a complaint, the Officer may, or on the request of an owner shall, issue to the owner a Certificate of Compliance if, the Officer is satisfied the matter complained of has been remedied in order to comply with the standards of this by-law, and where it is issued at the request of the owner, the fee payable therefore by the owner to the Town of Essex shall be in an amount as prescribed by Council from time to time.

Section 45 - Penalty Provisions

45.1 Contravention offence

45.1.1 Every person who contravenes any provision of this by-law is guilty of an offence.

45.2 Fine for contravention owner

45.2.1 An owner is liable, upon conviction, to a fine or not more than Fifty Thousand Dollars (\$50,000) for a first offence and to a fine of not more than One Hundred Thousand Dollars (\$100,000) for a subsequent offence.

45.3 Fine for contravention corporation

45.3.1 Notwithstanding [Section 45.2.1](#), a corporation is liable, upon conviction to a fine of not more than One Hundred Thousand Dollars (\$100,000) for a first offence and to a fine of not more than Two Hundred Thousand Dollars (\$200,000) for a subsequent offence.

Section 46 - Severability

46.1 Severability

46.1.1 It is hereby declared that each and every of the foregoing provisions of this by-law is severable and that, if any provisions of this by-law should, for any reason, be declared invalid by any Court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

Section 47 - Repeal

47.1 By-Laws – previous

47.1.1 By-Law No. 191 and any other by-law or portions of by-law, to the extent that it is inconsistent with the provisions of this by-law, are hereby repealed.

47.2 Effective Date

47.2.1 This By-Law shall come into force and take effect on the day of the passing hereof.