SUBJECT: Amendments to the Property Standards By-law 03-117 to Reflect Current Waste Management Principles (PED09165(a)) (City Wide)

RECOMMENDATION:

(a) In accordance with the August 13, 2009 City Council direction the draft by-law attached as Appendix “A” to Report PED09165(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted.

(b) That the public consultation process for the proposed Property Standards By-Law amendments relating to the operation of garbage chutes in multi-residential buildings consist of:

   (i) a survey made available to the general public on the City’s Website and through hard copy at all Municipal Service Centres and various Community Centres.

   (ii) encouraging public participation in the survey through advertisements in local newspapers and direct mailings to various Tenant Organizations.

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

On June 16, 2009 the Economic Development and Planning Committee dealt with Report PED09165 (Amendments to the Property Standards By-law 03-117 to Reflect Current Waste Management Principles) attached hereto as Appendix “B” and approved the staff recommendations to:

- update the Property Standards By-law to recognize recyclable or compostable materials in accordance with the City’s Solid Waste Management Master Plan and Solid Waste Management By-law 09-067; and,

- to amend the by-law to allow more flexibility in waste removal and to recognize diversion efforts.

The matter was referred back to Committee by Council on June 24, 2009 and again approved upon reconsideration by the Economic Development and Planning Committee on August 9, 2009. On August 13, 2009, City Council approved the following:

(a) That the Property Standards By-law No. 03-117 be amended to support and align with the City’s Solid Waste Management Master Plan and the requirements of the City’s Solid Waste Management By-law 09-067, by updating the definitions and requirements for depositing and storing of waste and waste diversion.

(b) That the proposed amending by-law, attached as Appendix “A” to Report PED09165(a), which has been prepared in a form satisfactory to the City Solicitor be enacted.

(c) That the amendments relating to operation of garbage chutes in multi-residential buildings be referred back to staff for further consultation.

This report processes the by-law amendment as directed by City Council on August 13, 2009, and recommends a public consultation process for the proposed amendments relating to the operation of garbage chutes in multi-residential buildings.

BACKGROUND:

As outlined in report PED09165 (Amendments to the Property Standards By-law 03-117 to Reflect Current Waste Management Principles) attached hereto as Appendix “B”, the Property Standards By-law is currently outdated and needs to be amended to support and align with the City’s Solid Waste Management Master Plan and Solid Waste Management By-law 09-067. Also, the report also recommends amending the by-law to allow more flexibility in waste removal and to recognize diversion efforts because it currently requires the maintenance of “garbage chutes” or “garbage rooms” on every floor of a multiple dwelling, and does not allow for alternative arrangements which encourage waste diversion.
The report was approved by the Economic Development and Planning Committee on two occasions, but on August 13, 2009 City Council approved the recommendations except those related to the amendments relating to garbage chutes in multi-residential buildings which were be referred back to staff for further consultation.

In accordance with Council direction staff recommends that the draft by-law attached as Appendix “A” to this report be enacted. With respect to the public consultation for the proposed garbage chute amendments staff recommend a public consultation process consisting of:

- a survey made available to the general public on the City’s Website and through hard copy made at all Municipal Service Centres and various Community Centres; and,

- encouraging public participation in the survey through advertisements in local newspapers and direct mailings to various Tenant Organizations.

**ANALYSIS/RATIONALE:**

From time-to-time the Property Standards By-law requires updating, including changes to ensure it reflects and reinforces other City policies and by-laws. As waste management principles are continually evolving, the Property Standards By-law is currently outdated and needs to be amended to support and align with the City’s Solid Waste Management Master Plan and Solid Waste Management By-law 09-067.

With goals of promoting waste diversion and making diversion tools as accessible and convenient as possible for the residents of multiple dwellings, there is a need for a greater range of alternatives in the Property Standards By-law to accommodate waste management facilities, for example, when space is limited.

**ALTERNATIVES FOR CONSIDERATION:**

City Council could choose not to approve the amendments as in the attached Appendix “A” but then the Property Standards By-law Section 32 would not contain the correct definition of “waste” and would be disjointed from the definitions provided in Section 2 of the by-law.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Although Council authorized an amendment to the Property Standards By-law No. 03-117 on August 13, 2009, to update the definitions and requirements for depositing and storing of waste and waste diversion, City Clerk’s advised that another report to the Economic Development and Planning Committee is required.
POLICIES AFFECTING PROPOSAL:

N/A

RELEVANT CONSULTATION:

Legal Services was consulted in the preparation of this report.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes □ No

Efficient and effective waste management efforts are essential to promote and protect quality of life for residents.

Environmental Well-Being is enhanced. ☑ Yes □ No

Efficient and effective waste management efforts are essential to promote and protect quality of life for residents.

Economic Well-Being is enhanced. ☑ Yes □ No

Efficient and effective waste management efforts are essential to promote and protect quality of life for residents.

Does the option you are recommending create value across all three bottom lines? ☑ Yes □ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes □ No

The Property Standards By-law if amended, will allow for more efficient and effective use of Enforcement staff’s time

MBH/CV/dt
Attachs. (2)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Property Standards By-Law No. 03-117

WHEREAS By-law No. 03-117, as amended by By-law No. 04-280 and By-law No. 04-281, provides for property standards and Council deems it necessary to make certain amendments to the By-law:

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Section 2 of By-law No. 03-117 is amended by deleting paragraph 2(1)(g) and replacing it with the following the new paragraph:

   (g) “debris” means the remains of anything broken or destroyed;

2. Section 2 of By-law No. 03-117 is amended by adding the following paragraph immediately after paragraph 2(1)(jj):

   (kk) “waste” means a substance or material that is unusable or unwanted and includes but is not limited to wrecked, decayed, dilapidated, or inoperative vehicles or machinery, and parts of such vehicles of machinery.

3. Section 13 of By-law No. 03-117 is deleted and replaced with the following new section:

   DEBRIS AND WASTE
13(1) Every property shall be kept free from debris and waste and from objects or conditions that might create a health, fire or accident hazard or an unsafe condition.

13(2) Every building shall be provided with sufficient proper containers to contain all debris and waste which accumulates on the property, and such debris and waste shall be placed for collection in proper containers in compliance with applicable laws and by-laws, and not allowed to accumulate for longer than ten days.

13(3) Every unenclosed porch or unenclosed balcony, and every exterior or interior hallway, stairway and common area shall be kept free of debris, waste, furniture or appliances, except furniture which is outdoor grade or made weather and water resistant may be placed for use on balconies or porches.

13(4) Containers for debris and waste shall be:

(a) made of watertight construction

(b) provided with a tight-fitting cover, which may be removed only when the container is empty or is being actively loaded;

(c) maintained in good condition without holes or spillage; and

(d) closed, or emptied, rinsed and cleaned when not in use, to prevent the escape of offensive odour, debris or waste.

13(5) Plastic bags shall be considered acceptable containers under subsection (4) above provided they are:

(a) adequately secured so as to prevent spillage;

(b) not stored outdoors unless protected from access by animals or vermin; and

(c) otherwise are maintained in compliance with subsection (4) above.

13(6) Paper receptacles are not acceptable under this section, except only where they are placed inside other compliant containers or are placed out for collection in compliance with applicable collection by-laws.

13(7) Where commercial or on site debris or waste containers are visible from a public street or land, or the subject site abuts residential properties, the area where the containers are stored shall be enclosed on all sides by wall or solid fence not less than 1.8 meters (6 feet) high, such wall or
fence containing an adequate door or gate to allow for the removal of debris or waste.

13(8) Where an exterior bulk or roll-off container disposal system is used, it shall:

(a) be equipped with covers or similar devices which shall be readily operable but not left open except when actively being loaded;

(b) be large enough to contain all debris or waste generated between collections by the occupants served;

(c) not be loaded beyond the top of the container.

13(9) Containers for debris and waste including but not limited to containers for recyclable materials, organic waste and garbage shall not be stored in a front or side yard, except:

(a) proper containers may be placed out for collection, provided they are placed out in the time and manner that is in compliance with all applicable by-laws; and

(b) commercial properties that maintain receptacles for use by the public entering the property may have containers in the front yard, if they are regularly emptied into proper containers or receptacles and any spillage is removed.

4. Subsection 19(1) of By-law No. 03-117 is deleted and replaced with the following new subsection:

19(1) Yards shall be kept clean and free from debris, waste and from objects or conditions that might create a health, fire or accident hazard or an unsafe condition.

5. Section 32 of By-law No. 03-117 is deleted and replaced with the following new section:

WASTE DISPOSAL

32.(1) Subject to subsections (2) and (3) below, every waste chute and every waste storage room in a multiple dwelling shall be kept in use and maintained in operation at all times.

(2) No owner of a multiple dwelling or occupant thereof shall disconnect, shut
off, remove, otherwise discontinue, or cause or permit the disconnection, shutting-off, removal, or discontinuance of any waste chute or any waste storage room except when such action is necessary in order to safely make repairs, replacements or alterations thereto, and then only during the reasonable minimum time that such action is necessary.

(3) Where it is not practical to maintain waste chutes operational, because compactors are not able to be installed in place of incinerators, the waste chutes need not be maintained operational at all times if any alternate method readily accessible to all occupants is provided and maintained as follows:

(a) a waste storage area is provided on each floor of the building;
(b) the occupants are not required to deliver waste to the ground floor, basement or parking lot of the building; and
(c) the owner of the building provides a daily collection procedure from each floor and delivers the waste to the containers as required by subsection 13(4) and 13(5).

COMPOSTING

32(6) A residential property may provide for not more than two compost heaps, provided the piles are located in the rear yard and each is no larger than one meter square (10.76 square feet), no higher than 1.8 meters (6 feet), and are each enclosed on all sides by concrete blocks, a lumber structure, a metal frame, or a commercial plastic compost container.

6. This By-law shall come into force on the date of its passing.

PASSED this day of , 20 .

________________________________________________________________________
MAYOR                                                                   CLERK
SUBJECT: Amendments to the Property Standards By-law 03-117 to Reflect Current Waste Management Principles (PED09165) (City Wide)

RECOMMENDATION:

(a) That the Property Standards By-law No. 03-117 be amended to support and align with the City's Solid Waste Management Master Plan and the requirements of the City’s Solid Waste Management By-law 09-067, by updating the definitions and requirements for depositing and storing of waste and waste diversion.

(b) That the proposed amending by-law, attached as Appendix “A” to Report PED09165, which has been prepared in a form satisfactory to the City Solicitor be enacted.

EXECUTIVE SUMMARY:

Waste Management principles (removal, recycling and composting) are continually evolving in an effort to reduce the effect on human health and the environment. As a result, the City’s Property Standards By-law, which prescribes standards for the maintenance and occupancy of property, is currently out-of-date.
SUBJECT: Amendments to the Property Standards By-law 03-117 to Reflect Current Waste Management Principles (PED09165) (City Wide) Page 2 of 3

This report recommends that the Property Standards By-law be updated in order to support and align with the City’s Solid Waste Management Master Plan and Solid Waste Management By-law 09-067.

BACKGROUND:

Waste Management’s principles are continually evolving and the term “waste” as it applies to waste management is now much more defined; it includes recyclable materials, organic waste and garbage which are to be collected and disposed of separately to maximize waste diversion. The Property Standards By-law definition of “waste” is all encompassing and needs to be updated to recognize recyclable or compostable materials in accordance with the Solid Waste Management Master Plan and Solid Waste Management By-law 09-067.

In addition, the Property Standards By-law requires the maintenance of “garbage chutes” or “garbage rooms” on every floor of multiple dwellings, and does not allow for alternative arrangements nor does it encourage waste diversion. This report also recommends amending the by-law to allow more flexibility in waste removal and to recognize diversion efforts.

ANALYSIS/RATIONALE:

From time to time the Property Standards By-law requires updating, including changes to ensure it reflects and reinforces other City policies and by-laws. As waste management principles are continually evolving, the Property Standards By-law is currently outdated and needs to be amended to support and align with the City’s Solid Waste Management Master Plan and Solid Waste Management By-law 09-067.

With goals of promoting waste diversion and making diversion tools as accessible and convenient as possible for the residents of multiple dwellings, there is a need for a greater range of alternatives in the Property Standards By-law to accommodate waste management facilities, for example, when space is limited.

ALTERNATIVES FOR CONSIDERATION:

City Council could choose not to approve the amendments but the Property Standards By-law would remain out-of-date, and would not align with the City’s current waste management principles.
SUBJECT: Amendments to the Property Standards By-law 03-117 to Reflect Current Waste Management Principles (PED09165) (City Wide)

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Legal Implications:

Source separation programs for recycling are now mandated under Ontario Regulation 103/94 and enforced under the City Solid Waste Management By-law.

POLICIES AFFECTING PROPOSAL:

N/A

RELEVANT CONSULTATION:

Legal Services Division of Corporate Services and the Waste Management Division of Public Works were consulted in the preparation of this report.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

Efficient and effective waste management efforts are essential to promote and protect quality of life for residents.

Environmental Well-Being is enhanced. ☑ Yes ☐ No

Efficient and effective waste management efforts are essential to promote and protect quality of life for residents.

Economic Well-Being is enhanced. ☑ Yes ☐ No

Efficient and effective waste management efforts are essential to promote and protect quality of life for residents.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No

The Property Standards By-law if amended, will allow for more efficient and effective use of enforcement staff’s time.

MBH/CV/dt - Attach. (1)