**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**

*Parking and By-law Services Division*

| TO: | Chair and Members  
Planning Committee | WARD(S) AFFECTED: CITY WIDE |
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<td>COMMITTEE DATE:</td>
<td>September 20, 2011</td>
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<td>SUBJECT/REPORT NO:</td>
<td>Housekeeping and Technical Amendments to the Fence By-law, Licensing By-law, Yard Maintenance By-law, Sign By-law and Vacant Building By-law (PED10063(d)) (City Wide)</td>
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| SUBMITTED BY: | Tim McCabe  
General Manager  
Planning and Economic Development  
Department | PREPARED BY: |
| | Vincent Ormond 905-546-2424 ext 1358 | |
| SIGNATURE: | | |

**RECOMMENDATION**

(a) That the technical and housekeeping changes, as detailed in the proposed amending by-law attached as Appendix A to Report PED10063(d), for the following By-laws be approved:

(i) Fence By-law No. 10-142;
(ii) Licensing By-law No. 07-170;
(iii) Yard Maintenance By-law No. 10-118;
(iv) Sign By-law No. 10-197; and,
(v) Vacant Building By-law 10-260;

(b) That the amending By-law attached as Appendix ‘A’ to Report PED10063(d), which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.

*Alternatives for Consideration – N/A*
EXECUTIVE SUMMARY

This Report recommends amending the Yard Maintenance, Vacant Building, Fence, and Licensing By-laws to ensure that failure to comply with an order issued under these By-laws is an offence. It also recommends updates to the Vacant Building, Fence, Licensing and Sign By-laws. The changes are required to maintain the effectiveness of the By-laws and to clarify, for the courts, staff, and the public, the purpose of the By-laws as intended when originally approved by Council.

The changes being recommended are:

(i) increasing the maximum height of a “directional sign” from 1.0m to 1.5m in the Sign By-law to enhance vehicular and pedestrian safety;
(ii) clarifying and removing duplicate language from the Licensing By-law;
(iii) ensuring that failure to register a vacant building in accordance with the Vacant Building Registry By-law is an offence;
(iv) clarifying the application of the Fence By-law when there is overlap with other By-laws, such as Zoning or Pool Enclosure By-laws; and,
(v) amending the wording in the Fence By-law, Licensing By-law, Yard Maintenance By-law, and Vacant Building By-law ensuring that failure to comply with an order issued under these By-laws is an offence.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing/Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

As part of continuous improvement efforts, staff work to improve enforcement, including updating various By-laws to address specific municipal needs identified by Council, Committees, staff, and the public while maintaining the By-laws’ original intent and their effectiveness.

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Legal Services, Building Services and Public Works (Traffic) were consulted in the preparation of this Report.
ANALYSIS / RATIONALE FOR RECOMMENDATION

The changes recommended in this Report are minor in nature, and do not in any way circumvent the By-laws' intent as originally approved and enacted by Council. The following is the list of changes:

- Sign By-law - maintain the size of a ‘directional sign’ but allow the maximum height to be increased from 1.0m to 1.5m to improve location options for safety and to prevent damage to signs by allowing for more appropriate placements to aid motorists. This height conforms to the current maximum sign area of 0.5m²;

- Fence By-law - clarify application of the Fence By-law when there is overlap with other By-laws, such as Zoning or Pool Enclosure By-laws;

- Licensing By-law – removal of duplicate information from Schedule 25 (taxicabs) that is also in the By-law’s General Provisions and updating language relating to reasons to refuse a licence. There is no change to the reasons for refusal but the language about fine payment has been improved and some of the terms updated;

- Vacant Building By-law – update the regulations section to include a provision that it is an offence to fail to register a vacant building at any time. This ensures that the time to lay a charge does not expire when registration does not occur within the prescribed deadline;

- Fence By-law, Licensing By-law, Yard Maintenance By-law, and Vacant Building By-law - amend wording to ensure that failure to comply with an order issued under these By-laws is an offence. Some of the words in this standard provision had been transposed, possibly leading to confusion.

ALTERNATIVES FOR CONSIDERATION

N/A

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
Healthy Community

- An efficient and effective By-law Enforcement Program is critical to Community quality of life and public safety.

APPENDICES / SCHEDULES

Appendix “A” to Report PED10063(d) – Amending By-law

VO/dt
CITY OF HAMILTON

BY-LAW NO. __________

To Amend:

By-law No. 10-142, a By-law to Regulate Fences;
By-law No. 07-170, a By-law to License and Regulate Various Businesses;
By-law No. 10-118, a By-law to regulate Exterior Property Maintenance
By-law No. 10-197, a By-law to Regulate Signs; and
By-law No. 10-260, a By-law to Regulate Vacant Buildings

WHEREAS Council of the City of Hamilton enacted a by-law to regulate fences being City of Hamilton By-law No. 10-142, a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170, a by-law to regulate exterior property maintenance being City of Hamilton by-law No. 10-118, a by-law to regulate signs, being City of Hamilton By-law No. 10-197; and a by-law to regulate vacant building, being City of Hamilton By-law No. 10-260;

AND WHEREAS this By-law provides for various housekeeping and technical amendments to City of Hamilton By-laws Nos. 10-142, 07-170, 10-118, 10-197 and 10-260;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
By-law No. 10-142, Fence By-law

1. Subsection 5(1) of By-law No. 10-142 is deleted and replaced by the following new subsection 5(1):

5(1) Despite any provision of this By-law, in the event of conflict between this By-law and:

(a) an agreement entered into with the City under sections 41 or 51 of the Planning Act or any plan approved by the City, the agreement entered into with the City under sections 41 or 51 of the Planning Act or any plan approved by the City prevails over this By-law to the extent of the conflict;

(b) a City zoning by-law, the City zoning by-law prevails over this By-law to the extent of the conflict; or

(c) The Swimming Pool Enclosure By-law, The Swimming Pool Enclosure By-law prevails over this By-law to the extent of the conflict,

but in all other respects, this By-law applies.

2. Subsection 6(15) of By-law No. 10-142 is amended by deleting the words “is, upon conviction, guilty of an offence and” and replacing them with “is guilty of an offence and upon conviction”.

By-law No. 07-170, Licensing By-law

3. Paragraph 12(1)(b) of the General Provisions of By-law No. 07-170 is deleted and replaced with the following new paragraph 12(1)(b):

(b) refuse to issue the licence where:

(i) the requirements for the applicant or applicable licence under this By-law, including those imposed by any Schedule, or conditions to be met, are not met;

(ii) the application contains false or misleading information;

(iii) any fees under the User Fees and Charges By-law owed by
the applicant with respect to the carrying of the business have not been paid;

(iv) any fines for a conviction under the Provincial Offences Act owed by the applicant have not been paid;

(v) any prohibition or other court orders made upon a conviction of the applicant have not been complied with;

4. Subsections 27(1) and (2) of the General Provisions of By-law No. 07-170 are amended by deleting the words "is upon conviction guilty of an offence and" and replacing them with "is guilty of an offence and upon conviction".

5. Sections 71 to 80, both inclusive, of Schedule 25 of By-law No. 07-170 are deleted.

By-law No. 10-118, Yard Maintenance By-law

6. Subsection 10(15) of By-law No. 10-118 is amended by deleting the words by deleting the words “is, upon conviction, guilty of an offence and” and replacing them with “is guilty of an offence and upon conviction”.

By-law No. 10-197, Sign By-law

7. Subclause 5.11.2(e)(ii)2 of By-law No. 10-197 is amended by deleting “1 m” and replacing it with “1.5 m”.

8. Section 7.1 of By-law No. 10-197 is amended by adding the words “or fails to comply with an order made under this By-law” after “any provision of this By-law”.

By-law No. 10-260, Vacant Building By-law
9. Section 9 of By-law No. 10-260 is amended by adding the following new subsection 9(a) and relettering the subsequent subsections accordingly:

(a) "ensure that the vacant building is registered in accordance with this By-law;"

10. Section 26 of By-law No. 10-260 is amended by deleting the words "is, upon conviction, guilty of an offence and" and replacing them with "or fails to comply with an order made under this By-law is guilty of an offence and upon conviction".

11. This By-law comes into force on the day it is passed.

PASSED this day of , 2011.

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R. Bratina     R. Caterini
MAYOR     CITY CLERK