

PROPERTY MAINTENANCE

Chapter 665

**PROPERTY STANDARDS FOR
MAINTENANCE AND OCCUPANCY**

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665.37.1 Severability

WHEREAS the Official Plan enacted by the Council of the City of Kitchener includes provisions relating to conditions of maintenance and occupancy of property within the municipality.

Article 1
INTERPRETATION

665.1.1 Citation - Property Standards By-law

This Chapter may be cited as the “Property Standards By-law.”

665.1.2 Act - defined

“Act” means an enactment or statute of the Province of Ontario.

665.1.3 Boarder - defined

“boarder” means a person who is provided with meals, or room and meals, regularly in a boarding house in return for compensation.

665.1.4 Chief Official - defined

“Chief Official” means the Chief Building Official appointed under section 3 of the *Building Code Act, 1992*, c. 23 and having jurisdiction for the enforcement thereof. By-law 87-321, 23 November, 1987.

665.1.5 City - defined

“City” shall mean The Corporation of the City of Kitchener unless the context requires otherwise. By-law 2008-124, 23 June, 2008.

665.1.6 Code - defined

“Code” means a regulation of the Province of Ontario known,

- (a) with respect to matters relating to building, as the Building Code;
- (b) with respect to matters relating to electricity, as the Electrical Safety Code;
- (c) with respect to matters relating to fire, as the Fire Code; and
- (d) with respect to matters relating to plumbing, as the Plumbing Code.

665.1.7 Committee - defined

“Committee” means a Property Standards Committee established under this Chapter. By-law 87-321, 23 November, 1987.

665.1.8 Council - defined

“Council” shall mean the Council of the City. By-law 2008-124, 23 June, 2008.

665.1.9 Dwelling - defined

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

665.1.10 Dwelling unit - defined

“dwelling unit” means two or more rooms used or designed to be used by one or more individuals as an independent or self-contained domestic unit or housekeeping establishment.

665.1.11 Exterior property area - defined

“exterior property area” means the building lot excluding buildings. By-law 87-321, 23 November, 1987.

665.1.12 Fence - defined

“fence” means any 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. By-law 87-321, 23 November, 1987; By-law 88-228, 24 October, 1988.

665.1.13 Ground cover - defined

“ground cover” means organic or non-organic material applied to prevent soil erosion such as concrete, flagstone, gravel, asphalt, grass or other landscaping.

665.1.14 Habitable room - defined

“habitable room” means any room in a dwelling unit used or designed to be used for the purpose of living, sleeping, eating, cooking or preparation of food. By-law 87-321, 23 November, 1987.

665.1.15 Heritage attributes - defined

“heritage attributes” shall include all features of a heritage property that are of significant cultural heritage value or interest as set out:

- (a) in the City of Kitchener’s designating by-law or documentation supporting such by-law for property designated under Part IV of the *Ontario Heritage Act*;
- (b) in a Minister’s order made pursuant to Part IV of the *Ontario Heritage Act*;

- (c) in the City of Kitchener's designating by-law or Heritage Conservation District Study or Plan for property designated under Part V of the *Ontario Heritage Act*; or;
- (d) by Council upon consideration of the recommendation of a Heritage Planner and any comments that may be provided by the property owner, where the documents referred to in Section 665.1.15 (a), (b), and (c) do not specifically list the heritage property's features, attributes, or properties of significant cultural heritage value or interest.

665.1.16 Heritage Planner - defined

"Heritage Planner" shall mean the Coordinator, Cultural Heritage Planning or a Heritage Planner of the City of Kitchener.

665.1.17 Heritage property - defined

"heritage property" shall mean any property in the City of Kitchener that:

- (a) has been designated under section 29 or 34.5 of the *Ontario Heritage Act*; or
- (b) is a property of very high cultural heritage value or interest and is situated in a heritage conservation district designated under section 41 of the *Ontario Heritage Act*. By-law 2008-124, 23 June, 2008.

665.1.18 Non-habitable space - defined

"non-habitable space" means a bathroom, toilet room, water closet compartment, laundry, pantry, foyer, lobby, hall, corridor, stairway, passage-way, 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 Chapter.

665.1.19 Occupant - defined

"occupant" means any person or persons over the age of eighteen years in possession of the property.

665.1.20 Officer - defined

"Officer" means a Property Standards Officer who has been assigned by the Council the responsibility of administering and enforcing this Chapter. By-law 87-321, 23 November, 1987.

665.1.21 Ontario Heritage Act - defined

"Ontario Heritage Act" shall mean the *Ontario Heritage Act*, R.S.O. 1990, c. O.18 as amended. By-law 2008-124, 23 June, 2008.

665.1.22 Owner - defined

“owner” includes the person, for the time being, managing or receiving the rent of the land or premises in connection with which the word is used whether on the person’s own account or as an 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 or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of the property.

665.1.23 Person - defined

“person” includes a person, firm, corporation, association or partnership.

665.1.24 Property - defined

“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, fences and erections thereon whether heretofore or hereafter erected and includes vacant property. By-law 87-321, 23 November, 1987.

665.1.25 Property of very high cultural heritage value or interest - defined

“property of very high cultural heritage value or interest” shall include:

- (a) heritage property referred to as a Group ‘A’ building or structure in either a heritage conservation district study or plan; and
- (b) heritage property located within a heritage conservation district and determined by Council upon consideration of the recommendation of a Heritage Planner and any comments that may be provided by the property owner to be: a particularly fine example of an architectural style, exhibiting unique qualities or details that make it a landmark, of an age that contributes to its heritage value, associated with a significant known historic event or person, or contributing to the streetscape because it is part of an unusual sequence, grouping, or situated in a unique location. By-law 2008-124, 23 June, 2008.

665.1.26 Repair - defined

“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 Chapter.

665.1.27 Roomer or lodger - defined

“roomer or lodger” means a person who is provided with a room or lodging without meals in a rooming or lodging house in return for rent.

665.1.28 Safe condition - defined

“safe condition” means a condition that does not pose or constitute 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.

665.1.29 Sign - defined

“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. By-law 87-321, 23 November, 1987.

665.1.30 Snow disposal site - defined

“snow disposal site” means only those lands on which snow is placed after being brought to the lot from another lot, and shall not include areas to which snow is moved to one portion of a lot after being cleared from the rest of the lot.

665.1.31 Snow storage site - defined

“snow storage site” means that portion of lands being used for the storage of snow that has been moved to one portion of a lot after being cleared from another portion or portions of a lot. By-law 2002-241, 9 December, 2002.

665.1.32 Vacant heritage property - defined

“vacant heritage property” shall include heritage property that is or appears to be vacant, partially vacant, or unoccupied for more than ninety days. By-law 2008-124, 23 June, 2008.

Article 2**STANDARDS - MAINTENANCE AND
OCCUPANCY****665.2.1 Minimum - adopted**

The standards for maintenance and occupancy of property set forth in Article 12 through Article 33, inclusive of this Chapter are hereby prescribed and adopted as the minimum standards for all property in the City. By-law 87-321, 23 November, 1987; By-law 2008-124, 23 June, 2008.

Article 3**REPAIR - MAINTENANCE****665.3.1 Duty - of owner**

All owners of property which is below the standards prescribed by this Chapter are required to repair and maintain such property to comply with the standards prescribed by this Chapter, except where a demolition permit, referred to in Section 665.35.1, has been obtained and remains in effect.

Article 4
ADMINISTRATION - ENFORCEMENT

665.4.1 Application of Chapter

Where a provision of this Chapter conflicts with the provisions of another By-law or Chapter in force in the City, the provisions which establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

665.4.2 Officers and Inspectors

The Council shall, by by-law, appoint a Property Standards Officer who shall be responsible for administering and enforcing the provisions of this Chapter. By-law 87-321, 23 November, 1987.

665.4.3 Inspectors - designated

The persons from time-to-time holding the position of Chief Building Official, Deputy Chief Building Official, Fire Prevention Officer, Building/Plumbing Inspector, Heritage Planner, Site Plan Co-ordinator and Site Plan Inspector in the City are hereby designated as Inspectors to assist the Property Standards Officer in the administration and enforcement of this Chapter. By-law 95-97, 19 June, 1995; By-law 2008-124, 23 June, 2008.

665.4.4 Right of entry - property inspection

For the purpose of enforcing this Chapter, but subject to Section 665.4.5, the Officer, Inspector or any other person acting under the instructions of the Officer may, at all reasonable times and upon producing proper identification, enter and inspect any property or premises to which this Chapter applies. By-law 87-321, 23 November, 1987.

665.4.5 Right of entry - dwelling - consent required - exception

An Officer, Inspector or any other person acting under the instructions of the Officer shall not enter any room or place actually used as a dwelling without the consent of the occupier unless:

- (a) a warrant issued under the *Building Code Act, 1992* has been obtained;
- (b) there is an immediate danger to the health or safety of any person and entry is necessary to terminate such danger; or
- (c) there has not been compliance with a final and binding order and entry is necessary to repair or demolish.

665.4.6 Inspection - non-conformity - order served

If, after inspection, the Officer is satisfied that, in some respect, a property does not conform to the standards prescribed herein, the Officer shall serve or cause to be served, subject to Section 665.4.8 and Section 665.4.9 below, an Order in such manner and upon such persons as stated herein.

665.4.7 Order - served - conditions

No Order shall be served or caused to be served unless the prudent property owner, having full and proper knowledge of the building trades, would consider the property to be below a standard prescribed herein to the degree sufficient to make repair advisable.

665.4.8 Order - how served - to whom

The Order shall be served upon the owner and any mortgagee shown by the records of the proper land registry office:

- (a) personally;
- (b) by prepaid registered mail to the last known address of the owner deemed to have been received five days after mailing;
- (c) by posting it on the property; or
- (d) otherwise as may come to the attention of the owner and any mortgagee.

665.4.9 Order - served - additional persons affected

The Order may be served in accordance with Sections 665.4.8 (a) through 665.4.8 (d), inclusive, upon any person, in addition to the owner, who is affected by it.

665.4.10 Order - content

An Order issued under Section 665.4.6 shall state as follows:

- (a) the municipal address or the legal description of the subject property;
- (b) reasonable particulars of the repairs to be effected or a statement requiring the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;
- (c) a reasonable period in which there must be compliance with the terms and conditions of the Order and note that, if such repair or clearance is not so done within the time specified in the Order, the City may carry out the repair or clearance at the expense of the owner; and
- (d) the final date for giving notice of appeal from the Order.

665.4.11 Order - registered against title

An Order issued under Section 665.4.6 may be registered in the proper land registry office against the title of the subject property and, upon such registration, any person acquiring any interest in the lands 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 665.4.8.

665.4.12 Compliance with order - certificate registered

When the requirements of an Order which has been registered on title have been satisfied, the City Clerk shall forthwith register in the proper land registry office a certificate indicating that such requirements have been satisfied which shall operate as a discharge thereof.

665.4.13 Repairs - acceptable - good workmanship

All repairs to any property shall be made in a manner that is accepted as good workmanship in the respective building trades concerned and with materials that are suitable and sufficient for the purpose. By-law 98-176, 16 November, 1998.

Article 5**PROPERTY STANDARDS COMMITTEE****665.5.1 Established - composition**

There shall be and is hereby established, a Property Standards Committee of at least three persons who either reside, work or own property in the City to be appointed by Council every two years. By-law 2004-263, 13 December, 2004.

665.5.2 Chairman - appointment

The Committee shall appoint one of their number as Chairman and, when the Chairman is absent through illness or otherwise, the Committee may appoint another member to act as Chairman *pro-tempore*.

665.5.3 Secretary - appointment

The Committee shall appoint a Secretary for the Committee who shall keep on file minutes and records of all applications and decisions thereon.

665.5.4 Quorum

A majority of the Committee constitutes a quorum and the Committee may adopt its own rules of procedure but, before hearing an appeal under Section 665.6.2, shall give notice or direct that notice be given of such hearing to such persons as the Committee considers should receive such notice.

Article 6**APPEAL TO PROPERTY STANDARDS COMMITTEE****665.6.1 Appeal notice - by registered mail**

When an owner or occupant upon whom an Order of the Officer has been served is not satisfied with the terms or conditions of the Order, the owner or occupant may appeal to the Committee by sending notice of appeal by registered mail to the Secretary of the Committee within fourteen days after service of the Order and, if no appeal is taken, the Order shall be deemed to have been confirmed.

665.6.2 Committee - powers on appeal

Where an appeal has been taken, the Committee shall hear the appeal and shall have all the powers and functions of the Officer and may confirm the Order to demolish or repair or may modify or quash it or may extend the time for complying with the Order provided that, in the opinion of the Committee, the general intent and purpose of this Chapter and of the Official Plan are maintained. By-law 87-321, 23 November, 1987.

Article 7**APPEAL TO DISTRICT JUDGE****665.7.1 Notice - to City Clerk**

The City or an owner or occupant or person affected by a decision under Section 665.6.2 may appeal to a judge of Ontario Court (General Division) by notifying the City Clerk in writing and applying to the Ontario Court (General Division) for an appointment within fourteen days after the sending of a copy of the decision. By-law 98-176, 16 November, 1998.

665.7.2 Appointment - of hearing - by judge

The judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in the appointment may direct that it shall be served upon such persons and in such manner as the judge prescribes.

665.7.3 Appointment - service

The appointment shall be served in the manner prescribed.

665.7.4 Judge - powers on appeal

The judge, on such appeal, has the same power and functions as the Committee.

Article 8**ORDER - STATUS****665.8.1 Final and binding**

The order, as deemed to have been confirmed pursuant to Section 665.6.1 or as confirmed or modified by the Committee pursuant to Section 665.6.2 or, in the event of an appeal to the judge pursuant to Section 665.7.1, as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the Order. By-law 87-321, 23 November, 1987.

Article 9
POWER OF CORPORATION
TO REPAIR OR DEMOLISH

665.9.1 Authority - no liability power

If the owner or occupant of any property fails to demolish the property or to repair in accordance with an Order as confirmed or modified, the City, in addition to all other remedies, shall:

- (a) have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time-to-time to enter in and upon the property;
- (b) not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the City under the provisions of this Section; and
- (c) have a lien on the property for any amount expended by or on behalf of the City under the authority of this Section and such amount shall be deemed to be municipal real property taxes and may be added by the City Clerk to the collector's roll and collected in the same manner and with the same priorities as municipal real property taxes. By-law 87-321, 23 November, 1987; By-law 98-176, 16 November, 1998.

Article 10
CERTIFICATE OF COMPLIANCE

665.10.1 Issue - fee payable

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 Chapter, and where it is issued at the request of the owner, the fee payable therefor by the owner to the City shall be in an amount as prescribed by Council from time to time.

Article 11
SIGN - NOTICE - PLACARD

665.11.1 Removal - prohibited

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

Article 12
EXTERIOR PROPERTY AREAS

665.12.1 Safe condition - environment protected

Exterior property areas shall be maintained in a safe condition and so as not to detract from the neighbouring environment.

665.12.2 Removal - required - specific items

Without restricting the generality of Section 665.12.1, such maintenance includes the removal of:

- (a) rubbish, garbage, waste, litter and debris;
- (b) injurious insects, termites, rodents, vermin and other pests;
- (c) trees, bushes and hedges, including any branches or limbs thereof, which are dead, decayed or damaged, and brush;
- (d) noxious weeds pursuant to the *Weed Control Act* and any excessive growth of other weeds, grass and bushes;
- (e) wrecked, dismantled, inoperative, discarded or unlicensed vehicles, trailers, machinery or parts thereof, except in an establishment licensed or authorized to conduct a salvage, wrecking or repair business and then only if such establishment conforms with any relevant by-laws, Chapters or statutes; and
- (f) dilapidated or collapsed buildings, structures or erections, and the filling in or protecting of any unprotected well.

665.12.3 Driveways - parking areas - paths - walkways

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

665.12.4 Lighting fixtures - supports

Lighting fixtures and their supports shall be installed and maintained in a safe and structurally sound condition and in working order and good repair.

665.12.5 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 resodded or reseeded as often as is required to maintain the grass in a living condition. In no event shall resodding or reseeded be required more than once in any given year.

665.12.6 Grass - trees - bushes - hedges - landscaping

Grass, trees, bushes, hedges and other landscaping, non-organic ground cover and site facilities, required as a condition of development or redevelopment of the site shall be provided and maintained in living condition or in a good state of repair. The Officer may accept alternatives provided the intent of the original conditions of approval are maintained. By-law 87-321, 23 November, 1987.

665.12.7 Swimming pools - wading pools - hot tubs - ponds

- (a) All swimming pools, hot tubs, wading pools and artificial ponds, including all accessories or appurtenances thereto:
 - (i) shall be maintained in good repair, free from leaks and safe from health and safety hazards; and
 - (ii) shall be kept free of water that is malodorous or that provides a breeding place for mosquitoes, including that which may accumulate on or below a pool cover.
- (b) All swimming pools, hot tubs, wading pools and artificial ponds, including all accessories or appurtenances thereto that are abandoned, derelict or otherwise unused, shall be drained and removed or filled in and the property left in a graded and levelled condition.
- (c) For the purposes of Section 665.12.7.(b), “abandoned, derelict or otherwise unused” shall include but not be limited to any swimming pool, hot tub, or wading pool that has not been opened and treated with appropriate chemicals and operated with a functional water filtration system for a period exceeding two years. By-law 2006-101, 8 May, 2006.

665.12.8 Snow disposal - storage site - maintained

A property owner shall cause any snow disposal site or a snow storage site on that property to be:

- (a) maintained so as not to cause a safety hazard on the property; and
- (b) maintained in such a manner and location on a property so as to prevent a safety concern, flooding, erosion and other nuisance to neighbouring private or public lands. By-law 2002-241, 9 December, 2002.

**Article 13
FENCES**

665.13.1 Erection - maintenance - standards

A fence on a property or separating adjoining properties shall be erected and maintained:

- (a) in compliance with the requirements of the City's Fence By-law [Kitchener Municipal Code, Chapter 630];
- (b) in good repair;
- (c) in a safe and structurally sound condition;
- (d) reasonably plumb, unless specifically designed to be other than vertical; and
- (e) unless inherently resistant to deterioration, with a protective coating of paint or equivalent weather-resistant material.

**Article 14
SIGNS**

665.14.1 Installation - maintenance - standards

A sign and any structure therefor shall be installed and maintained:

- (a) in conformance with the requirements of the City's Sign By-law [Kitchener Municipal Code, Chapter 680].
- (b) in good repair and without any visible deterioration when viewed from any property other than the property on which the sign is situated;
- (c) in a safe and structurally sound condition; and
- (d) in a reasonably vertical plan unless otherwise approved by the City.

665.14.2 Unused - not cared for - discarded

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

**Article 15
RETAINING WALLS**

665.15.1 Maintenance - safe - structurally sound

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

665.15.2 Maintenance - standards

Without restricting the generality of Section 665.15.1, such maintenance includes:

- (a) redesigning, repairing or replacing of all deteriorated, damaged, misaligned or missing portions of the wall and any railings or guards appurtenant thereto;
- (b) installing subsoil drains where required to maintain the stability of the wall;
- (c) grouting masonry cracks; and
- (d) applying to all exposed metal or wooden components, unless inherently resistant to deterioration, a protective coating of paint or equivalent weather-resistant material.

Article 16**GANTRIES - TOWERS - MASTS - ANTENNAE****665.16.1 Maintenance - standards**

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

- (a) reasonably plumb, unless specifically designed to be other than vertical;
- (b) in good repair;
- (c) in a safe and structurally sound condition; and
- (d) in a relatively rust-free condition.

Article 17**STRUCTURAL CAPACITY****665.17.1 Building - to sustain - own weight**

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, natural causes such as snow and wind and all other causes set out in the Building Code.

665.17.2 Safety factor - standards

The factor of safety specified in the 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 Building Code.

665.17.3 Structurally sound condition - when deemed

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.

665.17.4 Report - professional engineer - when required

If the Chief Official is not satisfied that the structural capacity of a building or any part thereof meets the minimum standard, he may require, to establish structural capacity, the submission of a report, prepared, sealed and signed by a professional engineer who is qualified in the field and licensed by the *Association of Professional Engineers of Ontario*. By-law 87-321, 23 November, 1987.

665.17.5 Building - no substantial progress - time limit - remedy

Where, in the opinion of the City's Director of Enforcement or designate, there has been no substantial progress on the construction or demolition of a building, structure, or portion(s) thereof for a period of more than one year, such building, structure, or portion(s) thereof shall be:

- (a) removed in accordance with any relevant by-laws and legislation; or
- (b) finished:
 - (i) in a manner accepted as good workmanship in the respective building trades concerned;
 - (ii) with materials suitable and sufficient for the purpose;
 - (iii) in accordance with the intended use of the building or structure; and
 - (iv) in compliance with any relevant by-laws and legislation. By-law 2009-101, 29 June, 2009; By-law 2009-142, 2 November 2009.

Article 18 UNSAFE CONDITIONS

665.18.1 Abatement - removal

Unsafe conditions in a building or on a property shall be abated or removed.

665.18.2 Abatement - removal - statutory

Where there is a condition in a building or on the property which is unsafe, the Building Code, the Fire Code and the City's Building By-law [Kitchener Municipal Code, Chapter 710] shall apply to the extent necessary to abate or remove the unsafe condition. By-law 87-321, 23 November, 1987.

665.18.3 Abatement - removal - standards

Without limiting the generality of Section 665.18.2, abatement or removal of an unsafe condition may include:

- (a) the provision, maintenance or repair of:
 - (i) fire and gas separations and fire protection;
 - (ii) early warning, fire extinguishing and fire fighting equipment and devices;
 - (iii) 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
 - (iv) exit and emergency lighting;
- (b) the proper handling, storage and discharge of flammable liquids, dangerous chemicals and other dangerous materials;
- (c) the proper storage of combustible materials so as to minimize spread of fire and permit effective fire control;
- (d) the control of hazardous industrial processes and operations and the prevention of explosion;

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- (e) the removal of garbage and refuse;
- (f) the removal or extermination of pests such as rodents, vermin and injurious insects, including termites and cockroaches; and
- (g) 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. By-law 87-321, 23 November, 1987; By-law 88-228, 24 October, 1988.

665.18.4 Lease - notice - to tenants - safety devices

The owner shall notify all tenants by provision incorporated in their lease of the availability of safe devices for windows with movable sash and for balcony doors so as to prevent risk of accident to small children and, at the request of an occupant, shall install, maintain or repair such devices in a manner to prevent small children from opening a door or window to beyond four inches.

Article 19

FOUNDATIONS - WALLS - COLUMNS - BEAMS

665.19.1 Maintenance - safe - structurally sound

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

665.19.2 Maintenance - standards

Without restricting the generality of Section 665.19.1, such maintenance includes:

- (a) 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;
- (b) extending the foundation walls below grade or regrading to provide adequate frost cover;
- (c) shoring, jacking-up or underpinning of foundations where necessary;
- (d) repairing or replacing decayed, damaged, weakened or missing sills, piers, posts or other supports;
- (e) making sills, piers, posts or other wooden supports, repaired or replaced at or in ground, insect proof;
- (f) grouting, caulking or other waterproofing of cracks and joints in foundations and walls;

- (g) keeping all walls free from holes and loose or unsecured objects or materials; and
- (h) carrying out such other work as may be necessary to overcome any settlement or sagging which is detrimental to the appearance of the building or detracts from the neighbouring environment.

Article 20

DOORS - WINDOWS - SHUTTERS - HATCHWAYS

665.20.1 Maintenance - good working order - repair

The 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 weathertight and draft free.

665.20.2 Maintenance - standard

Without restricting the generality of Section 665.20.1, such maintenance includes:

- (a) repairing, refitting or replacing decayed, damaged, defective or missing doors, windows, frames, sashes, casings, shutters, hatchways or screens;
- (b) keeping glazed doors, windows and other transparent surfaces reasonably clean so as to permit unimpeded visibility and unrestricted passage of light;
- (c) reglazing, or refitting with transparent glass or other material or, where permitted, with a translucent substitute;
- (d) repairing or replacing defective, damaged or missing hardware and locking devices; and
- (e) weatherstripping and caulking of doors and windows.

665.20.3 Opening - ventilation - illumination - protection

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:

- (a) wire mesh screening, metal grills, or other equivalent durable material; or
- (b) other protection so as to effectively prevent the entry of rodents or vermin.

Article 21**STAIRS - FLOORS - LANDINGS - VERANDAHS PORCHES -
DECKS - LOADING DOCKS - BALCONIES****665.21.1 Maintenance - safe - structurally sound**

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.

665.21.2 Maintenance - standards

Without restricting the generality of Section 665.21.1, such maintenance includes:

- (a) repairing or replacing floors, treads or risers that show excessive wear or are broken, warped, loose, depressed, protruding or otherwise defective or missing;
- (b) repairing, replacing or supporting structural members that are decayed, damaged, weakened, loose or missing; and
- (c) providing, in accordance with the Building Code, repairing or replacing balustrades, guards and railings. By-law 87-321, 23 November, 1987.

665.21.3 Vacant - unoccupied building - exemption - conditions

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 665.21.1 and 665.21.2 provided that the Kitchener Municipal Code, Chapter 694 - Vacant Buildings - Secured is adhered to. By-law 87-321, 23 November, 1987; By-law 2008-124, 23 June, 2008.

Article 22**ROOFS - ROOF STRUCTURES****665.22.1 Maintenance - safe - structurally sound**

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

665.22.2 Maintenance - standards

Without restricting the generality of Section 665.22.1, such maintenance includes:

- (a) removal of loose, unsecured or rusted objects or materials;
- (b) removal of dangerous accumulations of snow or ice;

- (c) keeping roofs and chimneys weathertight and free from leaks; and
- (d) keeping all roof-related structures reasonably plumb unless specifically designed to be other than vertical.

Article 23
EXTERIOR SURFACES

665.23.1 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.

665.23.2 Markings - stains - other defacements - removal

Appropriate measures shall be taken to remove any markings, stains or other defacement, occurring on an exposed exterior surface which detracts from the neighbouring environment, or, where necessary, to restore same as nearly as possible to their appearance before the markings, stains or defacement occurred.

665.23.3 Damage - fire - 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 Chapter, or the building shall be demolished or the damaged portion removed and the property left in a graded and level condition.

665.23.4 Repairs - standards

Without restricting the generality of Sections 665.23.1, 665.23.2 and 665.23.3, such repairs shall include:

- (a) abating any unsafe condition; and
- (b) refinishing so as to be in harmony with adjoining undamaged surfaces. By-law 87-321, 23 November, 1987.

665.23.5 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 Kitchener Municipal Code, Chapter 694 - Vacant Buildings - Secured. By-law 87-321, 23 November, 1987; By-law 2008-124, 23 June, 2008.

Article 24
INTERIOR SURFACES - FINISHES

665.24.1 Maintenance - standards

Interior surfaces and finishes of walls and ceilings shall be maintained:

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

Article 25
ELEVATORS - ELEVATING DEVICES

665.25.1 Maintenance - standards

Elevators, dumb-waiters, hoists, escalators, incline lifts and other elevating devices shall be installed and maintained:

- (a) in accordance with the requirements of the *Elevating Service Act* and any regulations made thereunder;
- (b) in good working order and good repair; and
- (c) in a safe condition.

Article 26
VENTILATION SYSTEMS

665.26.1 Provision - maintenance - standards

Ventilation, as required by the 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.

665.26.2 Cleaning - maintenance - standards

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

- (a) in conformance with the requirements of the Building and Fire Codes;
- (b) in good working condition and good repair; and
- (c) in a safe condition. By-law 87-321, 23 November, 1987.

Article 27
HEATING AND MECHANICAL SYSTEMS

665.27.1 Provision - heat - standards

A heating system shall be provided in all buildings capable of supplying, during normal hours of occupancy, sufficient heat to maintain a minimum air temperature of 21 degrees Celsius (70 degrees Fahrenheit) at the outside design temperature specified in the Building Code.

665.27.2 Space - not normally heated - exception

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

665.27.3 Hot water - adequate supply - required

An adequate supply of hot water with a temperature range from 60 to 73.8 degrees Celsius (140 to 165 degrees Fahrenheit) shall be provided and maintained in all dwelling units.

665.27.4 Maintenance - standards

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

- (a) in accordance with the respective requirements of the Building, Plumbing and Fire Codes and the *Energy Act* and any regulations thereunder;
- (b) in good working order and good repair; and
- (c) in a safe condition. By-law 91-149, 25 March, 1991.

Article 28
ELECTRICAL SYSTEMS

665.28.1 Connection - with electrical supply system

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

665.28.2 Connection - system - standards

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:

- (a) in compliance with the respective requirements of the Electrical Safety, Building and Fire Codes;

- (b) in good working order and good repair; and
- (c) in a safe condition.

**Article 29
DRAINAGE - PLUMBING SYSTEMS**

665.29.1 Provision - maintenance - standards

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

- (a) in compliance with the requirements of the Building and Plumbing Codes, the *Environmental Protection Act* and any regulation thereunder and the City's Plumbing and Drainage By-law [Kitchener Municipal Code, Chapter 660];
- (b) in good working order and good repair; and
- (c) in a safe condition.

665.29.2 Eavestrough - gutters - downpipes - standards

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

665.29.3 Downpipe - sump pump - grading - standards

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

**Article 30
REFUSE DISPOSAL**

665.30.1 Design - installation - maintenance - standards

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

665.30.2 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.

665.30.3 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, odour free and in good working order and good repair.

Article 31**RECREATIONAL FACILITIES****665.31.1 Installation - maintenance - safe - continuous use**

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

665.31.2 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.

Article 32**RESIDENTIAL OCCUPANCY****665.32.1 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.

665.32.2 Boarders - roomers - lodgers - limitation

The number of live-in boarders, roomers or lodgers accommodated in a dwelling unit shall not exceed one per 9.29 square metres of floor area (100 sq feet) in habitable rooms.

665.32.3 Habitable room - low ceiling - excluded

For the purpose of computing the floor area of a habitable room, no floor area under a ceiling height which is less than 2.13 metres (7 feet) shall be counted except for a bedroom which complies with the provisions as set out in Sections 665.32.4 and 665.32.5.

665.32.4 Bedroom - width - area - minimum

No room in any dwelling unit shall be used as a bedroom or for sleeping purposes by a boarder, roomer or lodger unless it has a minimum width of 1.98 metres (6.5 feet) and a minimum floor area of 5.57 square metres (60 square feet) plus an additional minimum floor area of 3.72 square metres (40 square feet) for each additional person using the room for such purposes.

665.32.5 Bedroom - ceiling height - minimum

For the purpose of computing the minimum floor area required for a bedroom, at least 50 percent thereof shall have a ceiling height of not less than 2.13 metres (7 feet) and no floor area under a ceiling height which is less than 1.37 metres (4.5 feet) shall be counted.

665.32.6 Bathroom - three-piece - for each group

At least one three-piece bathroom shall be provided and maintained for each group of six live-in boarders, roomers or lodgers accommodated in a dwelling unit. By-law 87-321, 23 November, 1987.

665.32.7 Dwelling - use - occupancy - standards

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

- (a) 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;
- (b) every habitable room, except a kitchen, contains one or more windows or skylight that:
 - (i) open directly to the outside air; and
 - (ii) have a total light transmitting area and openable ventilation area of not less than that required by the Building Code;
- (c) all windows and skylights are:
 - (i) glazed or fitted with an appropriate transparent material;
 - (ii) provided with hardware and locking devices;
 - (iii) maintained in good working order and good repair; and
 - (iv) if required for ventilating purposes, capable of being easily opened and closed at all times;
- (d) a heating system is provided, as required by this Chapter, and, unless otherwise acceptable to the occupant, operated so as to maintain a minimum air temperature of 21 degrees Celsius (70 degrees Fahrenheit);
- (e) an adequate and safe supply of potable water is provided and maintained at all times;
- (f) 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; and

- (g) toilet, washing and other sanitary facilities are provided and maintained in accordance with the Building and Plumbing Codes. By-law 87-321, 23 November, 1987; By-law 98-176, 16 November, 1998.

665.32.8 Insulation - standards

Dwellings shall be insulated to minimize heat loss, air infiltration and moisture condensation on the interior surfaces of walls, ceilings and floors as required by the Building Code or other repairs shall be effected which the Officer deems to be equivalent.

**Article 33
EGRESS**

665.33.1 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. By-law 87-321, 23 November, 1987.

665.33.2 Second - means of egress - where required

Except as provided in Section 665.33.3, every dwelling, containing dwelling units located other than on 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 at or near grade level. By-law 87-321, 23 November, 1987; By-law 91-149, 25 March, 1991.

665.33.3 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.

665.33.4 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. By-law 87-321, 23 November 1987.

Article 34
VACANT HERITAGE PROPERTY

665.34.1 Construction - requirements - consent required

All work performed in accordance with the requirements of this Article must comply with all other relevant by-laws and legislation including the *Ontario Heritage Act*. Written consent from Council of the City of Kitchener or its delegate shall be required before any work impacting the heritage attributes of a property is performed, even when such work is ordered or required by the provisions of this Chapter.

665.34.2 Protection - repair - owner - occupant requirement

Every owner and occupant of vacant heritage property shall, in addition to complying with the other requirements of this Chapter, maintain and repair the heritage property as necessary to protect and prevent deterioration of its heritage attributes.

665.34.3 Other security measures - required

In addition to meeting all other requirements of this Chapter, every owner of vacant heritage property shall ensure that the following measures are taken with respect to that building or structure:

- (a) that in order to minimize the potential of deterioration of heritage attributes, the building or structure shall be boarded up to prevent the entrance of unauthorized persons, damage from natural elements, or the infestation of pests. The boarding shall comply with the following requirements:
 - (i) all boards used in the boarding shall be installed from the exterior and shall be properly fitted in a watertight manner to fit within the side jambs, head jamb and the exterior bottom sill of the door or window so that any exterior trim remains uncovered by the boarding;
 - (ii) all boards shall be at least 12.7mm (0.5 in.) weatherproofed sheet plywood secured with nails or screws at least 50 millimetres (2 inches) in length and spaced not more than 150 millimetres (6 inches) on centre;
 - (iii) all boards shall be painted or otherwise treated so that the colour blends with the exterior of the building or structure; and
 - (iv) all boards shall be installed and maintained in good repair;

- (b) The exterior shall be maintained in order to prevent moisture penetration and damage from the elements that may have an adverse impact on the heritage attributes;
- (c) appropriate utilities serving the building shall be connected and used to provide, maintain, and monitor proper heating to facilitate conservation of the heritage attributes through the prevention of negative effects associated with freeze-thaw cycles;
- (d) appropriate ventilation shall be provided to prevent damage to the heritage attributes that may be caused by humidity; and
- (e) in order to deter vandals and thus protect the building or structure containing heritage attributes from vandalism or the setting of fires, appropriate security lighting must be installed and maintained on the exterior of the building or structure.

665.34.4 Exemption - to security measures

Where an owner satisfies an Officer that a vacant heritage property is not intended to remain vacant for a period exceeding six months, the Officer may, in his/her sole discretion, exempt an owner from complying with any of the requirements of this Article or allow the owner to take alternative measures for the protection of the heritage attributes in place of any of the requirements of this Article.

665.34.5 Exemption - removal - authority

Where an Officer has granted an exemption or has approved alternative measures for compliance with this Article, such exemption or approval may be withdrawn at any time upon ten days notice to the owner if an Officer is of the opinion that the vacant heritage property is likely to remain vacant for a longer period than originally anticipated or if, in the sole discretion of an Officer, the heritage attributes are not being adequately protected by the measures being taken. By-law 2008-124, 23 June, 2008.

**Article 35
PROPERTY STANDARDS**

665.35.1 Walls - remaining - structurally sound - weathertight

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, weathertight, in a safe condition and in conformity with the standards in the Building Code.

665.35.2 Site - cleared - cleaned - maintained

Upon completion of demolition, the entire site shall be cleared and cleaned of all debris, left free from holes or excavations and provided and maintained with a suitable ground cover. By-law 87-321, 23 November, 1987.

**Article 36
ENFORCEMENT**

665.36.1 Contravention - offence

Every person who contravenes any provision of this Chapter is guilty of an offence.

665.36.2 Fine - for contravention - owner

An owner is liable, upon conviction, to a fine or not more than Twenty-Five Thousand Dollars (\$25,000) for a first offence and to a fine of not more than Fifty Thousand Dollars (\$50,000) for a subsequent offence.

665.36.3 Fine - for contravention - corporation

Notwithstanding Section 665.36.2, a corporation is liable, upon conviction to a fine of 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.

**Article 37
SEVERABILITY**

665.37.1 Severability

It is hereby declared that each and every of the foregoing provisions of this Chapter is severable and that, if any provisions of this Chapter 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. By-law 87-321, 23 November, 1987.