

Authority: Licensing and Standards Committee Item 15.1,
as adopted by City of Toronto Council on July 15, 16 and 17, 2008
Enacted by Council: January 27, 2010

CITY OF TORONTO

BY-LAW No. 124-2010

To adopt a new City of Toronto Municipal Code Chapter 632, Property, Vacant or Hazardous, and to repeal Article II, Dangerous Trees of Chapter 331, Trees, of the former City of Toronto Municipal Code.

WHEREAS under subsection 8(2) of the *City of Toronto Act, 2006* (the "Act"), the City may pass by-laws respecting: the economic, social and environmental well-being of the City; the health, safety and well-being of persons; the protection of persons and property, including consumer protection; and structures, including fences and signs; and

WHEREAS under its general powers under sections 7 and 8, the interpretation provision in subsection 6(2) and the exemptions in subsection 12(5) of the Act, the City may, without complying with the procedural requirements that apply to a specific power under another Act, pass by-laws: respecting fences and standards to prevent entry into vacant buildings (as defined in the *Building Code Act*); and requiring owners or persons in charge of any premises to remove decayed, damaged or dangerous trees or branches that pose a danger to persons or property, and

WHEREAS under section 105.1 of the Act, the City has special powers of entry and remediation in the case of a tree that appears in the opinion of the City to be in a condition creating an immediate danger to persons and property; and

WHEREAS under subsection 3(1) of the Act, "land" is defined to include buildings; and

WHEREAS under subsection 376(1) of the Act, the City may pass by-laws providing that the City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under the Act, and a direction or order of the City made under a by-law passed under the Act are being complied with; and

WHEREAS under section 386 of the Act, if the City has authority by by-law or otherwise under an Act to direct or require a person to do a matter or thing, the City may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and the City may recover the costs of doing it by action, or the costs may be added to the tax roll and collected in the same manner as property taxes; and

WHEREAS under section 366 of the Act, the City may pass by-laws providing that a person who contravenes a by-law of the City passed under this Act is guilty of an offence, and under section 370 may establish a system of fines for offences; and

WHEREAS under subsections 384(3) and 385(4) of the Act, a by-law under section 366 may also provide that a person who contravenes an order (to discontinue the contravening activity) under subsection 384(1) or a (work) order under subsection 385(1) is guilty of an offence; and

WHEREAS the Integrated By-law Enforcement initiative is being implemented; and

WHEREAS under § 169-26 of Municipal Code Chapter 169, Officials, City, the City Solicitor is authorized to process by-laws if there is an error in the reference to the by-law that should be amended and, in consultation with the City Clerk, to make technical amendments;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 632

The City of Toronto Municipal Code is amended by adding the following chapter:

Chapter 632

PROPERTY, VACANT OR HAZARDOUS

**ARTICLE I
General**

§ 632-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

OFFICER:

- A. A City employee whose duties include the enforcement of this chapter; and
- B. For the purposes of the enforcement of § 632-5, includes the General Manager of Parks, Forestry and Recreation, the City Forester and a person who holds the position of Urban Forestry Supervisor, Urban Forestry Co-ordinator, Urban Forestry Planner, Urban Forestry Planning Assistant, Urban Forestry Manager, Arborist Inspector and Arborist Foreperson.

OWNER — Includes:

- A. 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 agent or trustee of any other person, or who would receive the rent if the land and premises were let; and
- B. A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property.

PROPERTY — 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.

§ 632-2. Higher standard.

If there is a conflict between a provision in this chapter and a provision of any other City by-law, the provision that establishes the highest standard to protect the health, safety and welfare of the general public prevails.

**ARTICLE II
Vacant Buildings**

§ 632-3. Vacant buildings.

A. As used in this section, the following term shall have the meanings indicated:

BUILDING — A building as defined in the *Building Code Act, 1992* [This meaning is noted as follows, for reference purposes only:

(1) **BUILDING:**

- (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;]

HERITAGE ATTRIBUTES — The same meaning as in § 629-43 of Municipal Code Chapter 629, Property Standards.

HERITAGE BUILDING — A building that is a Part IV heritage property or a Part V heritage property, as defined in § 629-43 of Municipal Code Chapter 629, Property Standards.

B. The owner of an unoccupied building shall protect the building against the risk of fire, accident or other danger, by effectively preventing the entrance to it of all unauthorized persons.

- C. If the normal locking of and other security measures for a building do not prevent entry, entry shall be prevented as follows:
- (1) By covering all windows, doors and other openings in the building that provide a means of entry with plywood or an equivalent material that shall be securely fastened and tight fitting, and shall:
 - (a) Have a thickness not less than 12 millimetres;
 - (b) Be fixed, if covering a wooden door or window frame, by steel wire nails of not less than 50 millimetres in length and, if covering a metallic door or window frames, by self-tapping screws not less than 38 millimetres in length, and the nails or screws shall be spaced at intervals of not more than 150 millimetres over the entire length of each vertical and horizontal portion of each door or window frame; or
 - (2) By blocking up all windows, doors and other openings in the building that provide a means of entry with bricks or masonry units held in place by mortar.
- D. All materials used for securing unoccupied buildings shall be covered and maintained with a preservative that is reasonably compatible in colour with the exterior finish of the building.
- E. Where a building remains vacant for a period of 90 days or more, the owner shall ensure that all utilities serving the building are properly disconnected or otherwise secured to prevent accidental or malicious damage to the property or adjoining premises.
- F. If an unoccupied building is a heritage building:
- (1) Despite Subsections C and E, the standards in § 629-48 of Municipal Code Chapter 629, Property Standards, apply with necessary modifications to the heritage building; and
 - (2) If there is a conflict between the standards in this section and any other provision of this chapter or of any other City by-law, the provision that establishes the highest standard for the protection of the heritage attributes of the heritage building shall prevail.

ARTICLE III

Hazardous Property

§ 632-4. Fencing of hazardous property.

- A. The owner or occupant of a property shall erect and maintain fencing to prevent access to the property, if any part of the property is in a condition that poses an immediate danger to the health or safety of any person.
- B. Temporary fencing may be erected for the purpose of Subsection A, if authorized by the Chief Building Official or an officer.

- C. An authorization to erect temporary fencing is granted on the condition that, if the dangerous condition of the property is not terminated by remedial repairs or other work, the temporary fencing shall be replaced with a permanent fence when an officer directs replacement.
- D. In determining whether to direct replacement of temporary fencing under Subsection C, an officer shall consider, among other factors, whether remedial repairs or other work is proceeding expeditiously, whether temporary fencing is being adequately maintained and whether the health and safety standard in Subsection A might be compromised without a permanent fence.
- E. Temporary fencing shall be erected in a good, workmanlike manner and shall consist of steel "T" posts spaced at not more than 1.2 metre centres and embedded at least 600 millimetres into the ground with 38 millimetre plastic mesh fencing at least 1.2 metres high that is securely fastened to the posts at 200 millimetre centres and horizontally secured at the top and bottom by an eleven-gauge steel lacing cable threaded through the mesh and looped and fastened to each post, or any other fence acceptable to an officer.

§ 632-5. Removal of dangerous trees or branches.

The owner or person in charge of a property upon which a tree is located shall remove any decayed, damaged or dangerous tree or branch that poses a danger to persons or property.

**ARTICLE IV
Enforcement**

§ 632-6. Inspection under power of entry.

- A. An officer and, if applicable to his or her duties or responsibilities, another employee or agent of the City, may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (1) This chapter;
 - (2) A direction or order of the City made under this chapter or the *City of Toronto Act, 2006* respecting compliance with this chapter; or
 - (3) An order made by a court under section 372 of the *City of Toronto Act, 2006* prohibiting the continuation or repetition of a contravention of this chapter.
- B. A person carrying out an inspection under Subsection A may:
 - (1) Require the production for inspection of documents or things relevant to the inspection;
 - (2) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

- (3) Require information from any person concerning a matter related to the inspection; and
- (4) Alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

§ 632-7. Orders to comply.

- A. An officer who finds a contravention of this chapter may make one or more orders requiring:
 - (1) The contravening activity to be discontinued (under section 384 of the *City of Toronto Act, 2006*); or
 - (2) Work to be done to correct the contravention (under section 385 of the *City of Toronto Act, 2006*).
- B. The order may be served personally on the person to whom it is directed or by registered mail to the last known address of that person and, where the order is served by mail, the service shall be deemed to have been made on the third day after the day of mailing.
- C. If there is evidence that the occupant of the property is not the registered property owner, the notice shall be served on both the registered property owner and the occupant of the property.
- D. If the address of the owner is unknown or the City is unable to effect service on the owner or occupant under Subsection B, a placard stating the terms of the order and placed in a conspicuous place upon land on or near the property shall be deemed to be sufficient service on the owner.
- E. If the delay necessary to serve an order under the preceding subsections would result in an immediate danger to the health or safety of any person, the order may be served personally on the person to whom it is directed or by a placard stating the terms of the order and placed in a conspicuous place upon land on or near the property.

§ 632-8. Remedial action.

If a person fails to comply with an order to do work to correct a contravention of this chapter, the officer, or persons acting upon his or her instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the person's expense.

§ 632-9. Offences.

- A. Every person who contravenes a provision of this chapter is guilty of an offence, and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence.

- B. Every person who contravenes an order under subsection 384(1) or 385(1) of the *City of Toronto Act, 2006* is guilty of an offence.

§ 632-10. Penalties.

- A. A person who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence.
- B. If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$100,000 and not as provided in Subsection A.

2. Repeal; transition.

- A. Except for the purposes of Subsections B and C, Article II, Dangerous Trees of Chapter 331, Trees, of the former City of Toronto Municipal Code is repealed.
- B. Article II of Chapter 331 continues to apply for purposes of any notice given under the article until the work required by the notice is completed or any enforcement proceedings in respect of the notice have been concluded.
- C. Where a person is alleged to have contravened Article II of Chapter 331 before the date this by-law comes into force, Article II of Chapter 331 continues to apply for purposes of any enforcement proceedings brought against the person until the proceedings have been concluded.

ENACTED AND PASSED this 27th day of January, A.D. 2010.

SANDRA BUSSIN,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)