

## INSPECTION ORDER

Made under section 21 of the *Fire Protection and Prevention Act, 1997*

Hamilton Fire Department

Inspection Order Number: 30263

Hamilton Fire Department  
Fire Prevention Division  
55 King William Street  
Hamilton, ON L8R 1A2  
Phone: 905-546-2424 ext. 7785  
Email: sam.siegel@hamilton.ca



**This Order is issued to:** City of Hamilton

On November 28, 2023, I, S. Siegel, an Inspector under section 19(1) of the *Fire Protection and Prevention Act, 1997* inspected the following property Owned by you:

**Property Location:** 37 Market Street South  
City Of Hamilton (formerly the Town Of Dundas)

Based on this inspection:

**Measures necessary to ensure fire safety at this property are ordered under section 21(1)(g) of the *Fire Protection and Prevention Act, 1997*.**

The reasons for this Order and the action required by this Order are set out on the following pages. You must complete the action required by this Order by: **January 8, 2024.**

The municipal building department should be contacted to determine if a building permit is required before starting any work. Under section 22(2) of the *Fire Protection and Prevention Act, 1997*, repairs, alterations or installations carried out in compliance with this Order, will be deemed not to contravene the Building Code established under the *Building Code Act, 1992*.

Other information, including information about the right to request a review of this Order by any person who considers themselves aggrieved by this Order, is also provided.

Signed,

S. Siegel, Fire Inspector  
Inspector under section 19(1) of the *Fire Protection and Prevention Act, 1997*

A copy of this Order is provided to the Chief Building Official as required by section 22(3) of the *Fire Protection and Prevention Act, 1997*, for Orders requiring repairs, alterations or installations to a building, structure or premises.

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## PROPERTY DESCRIPTION:

This property is a single storey assembly occupancy used as a theatre for the performing arts. The building is equipped with a fire alarm system, emergency lighting and fire extinguishers. There is a lobby area outside the main auditorium and a small wood and paint area adjacent to the theatre.

## Reasons for Order and Action Required:

Item #	Reason and Action
1	<p><b>Fire Code Reference:</b> <b>Division B 2.2.3.2.(1)(c)</b> Closures in fire separations shall be maintained to ensure that they are operable at all times by making necessary adjustments and repairs to door hardware and accessories to ensure proper closing and latching.</p> <p><b>Reasons:</b> At the time of inspection, the 45-minute rated self-closing door between the wood/paint shop and the theatre had its self-closing device disconnected.</p> <p><b>Action Required:</b> Repair/replace door hardware to ensure proper closing and latching for the 45-minute rated self-closing door between the wood/paint shop and the theatre.</p>
2	<p><b>Fire Code Reference:</b> <b>Division B 2.2.3.3.</b> Closures in fire separations shall not be obstructed, blocked, wedged open, or altered in any way that would prevent the intended operation of the closure.</p> <p><b>Reasons:</b> At the time of inspection, the 45-minute rated self-closing door between the wood/paint shop and the theatre had weather stripping along the edge, preventing the door from latching properly. Additionally, the self-closing rated doors between the lobby and auditorium had kickdown door stops that were propping the doors open, as was also found between the exit hallway and the costume change room.</p> <p><b>Action Required:</b> Discontinue the practice of obstructing, blocking, wedging open or altering the following fire</p>

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	separation door(s) in any way that would prevent the door from closing: a) Doors between lobby and auditorium. b) Door between costume room and exit hallway.
3	<b>Fire Code Reference:</b> <b>Division B 2.7.1.7.(1)</b> Means of egress shall be maintained in good repair and free of obstructions.
	<b>Reasons:</b> At the time of inspection, multiple egress paths of travel and exit doors were blocked by items, including but not limited to stage props and furniture.
	<b>Action Required:</b> Remove all items presently obstructing the following means of egress and exits and maintain these free of obstructions: a) Coat hangars and shelf near exit door in lobby. b) Large wood table in lobby spanning across main path of travel. c) Exit door behind stage and path of travel to this exit blocked by stage props and chairs.
4	<b>Fire Code Reference:</b> <b>Division B 2.7.3.3.</b> (2) Emergency lighting unit equipment shall be inspected monthly to ensure that (a) the terminal connections are clean, free of corrosion and lubricated when necessary, (b) the terminal clamps are clean and tight as per manufacturer's specifications, (c) the electrolyte level and specific gravity are maintained as per manufacturer's specifications, and (d) the battery surface is kept clean and dry. (3) Emergency lighting unit equipment shall be tested (a) monthly to ensure that the emergency lights will function upon failure of the primary power supply, and (b) annually to ensure that the unit will provide emergency lighting for a duration equal to the design criteria under simulated power failure conditions. (4) After completion of the test required in Clause (3)(b), the charging conditions for voltage and current and the recovery period shall be tested to ensure that the charging system is in accordance with the manufacturer's specifications. (5) Except as provided in Sentences (1) to (4), emergency lights shall be inspected at intervals not greater than 12 months to ensure that they are functional.

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	<p>(6) Where emergency power for the lights referred to in Sentence (5) is provided from a system of batteries, the batteries shall be inspected and tested in accordance with the procedures set out in Sentences (2) to (4).</p> <p><b>Division B 1.1.1.2.(3)</b> Any appliance, device or component of a device that does not operate or appear to operate as intended when checked, inspected or tested as required by this Code shall be repaired or replaced if the failure or malfunctioning of the appliance, device or component would adversely affect fire or life safety.</p> <p><b>Reasons:</b> At the time of inspection there were no monthly or annual emergency lighting test records on site.</p> <p><b>Action Required:</b> Test and inspect the building's emergency lighting unit equipment in accordance with the manufacturer's specifications and instructions and in accordance with 2.7.3.3.(1)-(6) of the Ontario Fire Code. This will require the emergency lighting unit equipment to be: a) tested and inspected annually as described in the above regulations b) tested and inspected monthly as described in the above regulations.</p> <p>Any deficiencies noted as a result of the check, inspection or test as required above, shall be corrected to ensure the appliance, system or device operates as intended. When a test, corrective measure or operational procedure is conducted, a written record shall be prepared noting what was done and the date and time it was done.</p> <p>Refer to Item 6, for details on retaining written test records.</p>
5	<p><b>Fire Code Reference:</b> <b>Division B 6.3.2.2.</b></p> <p>(1) Except as provided in Sentence (2), a fire alarm system, with or without voice communication capability, shall be inspected and tested in conformance with CAN/ULC-S536, "Inspection and Testing of Fire Alarm Systems".</p> <p>(2) Despite Clause 5.7.4.1.6. of CAN/ULC-S536, "Inspection and Testing of Fire Alarm Systems", a UL listed smoke detector sensitivity instrument may be used to conduct annual sensitivity testing of smoke detectors.</p> <p>(4) A record of each device, component and circuit of the fire alarm system that is inspected and tested in accordance with Sentence (1) shall</p> <ul style="list-style-type: none"><li>(a) indicate whether the device, component or circuit is in proper working order, and</li><li>(b) be kept in accordance with Subsection 1.1.2.</li></ul>

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	<p>(5) Where a fire alarm system is monitored to transmit a signal to the fire department, the owner shall record whether all signals from the tests conducted in Sentence (1), or other events, are received by the monitoring station, and records shall be kept in accordance with Subsection 1.1.2.</p> <p><b>Division B 1.1.1.2.(3)</b> Any appliance, device or component of a device that does not operate or appear to operate as intended when checked, inspected or tested as required by this Code shall be repaired or replaced if the failure or malfunctioning of the appliance, device or component would adversely affect fire or life safety.</p> <p><b>Reasons:</b> At the time of inspection there were no monthly or annual fire alarm system test records on site.</p> <p><b>Action Required:</b> Test and inspect the building's fire alarm system in accordance with Article 6.3.2.2. of the Ontario Fire Code which references CAN/ULC Standard S536-04, "Inspection and Testing of Fire Alarm Systems". This will require:</p> <ul style="list-style-type: none"><li>a) A complete test and inspection of the building's fire alarm system now and annually hereafter</li><li>b) A monthly test now and monthly hereafter and the daily check as described in the above regulations.</li></ul> <p>Any deficiencies noted as a result of the check, inspection or test as required above, shall be corrected to ensure the appliance, system or device operates as intended. When a test, corrective measure or operational procedure is conducted, a written record shall be prepared noting what was done and the date and time it was done.</p> <p>Be advised that in accordance with Subsection 1.2.1. of Division C, it is your responsibility as owner to confirm that persons performing work on your fire alarm system shall have either successfully completed a fire alarm training program acceptable to the Fire Marshal or are supervised by a technician that has met these requirements. (see enclosed Appendix Y5 for your information / assistance) Written records of all annual tests <u>must contain the certification #</u> of the person supervising or conducting the test.</p> <p>Refer to Item 6, for details on retaining written test records.</p>
<b>6</b>	<p><b>Fire Code Reference:</b> <b>Division B 1.1.2.1.(1)</b> If this Code requires tests and corrective measures or operational procedures to be carried out, records shall be made noting what was done and the date and time it was done.</p> <p><b>Division B 1.1.2.1.(2)</b></p>

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If this Code requires an inspection to be conducted in a supported group living residence or an intensive support residence regulated under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*, a written record shall be made noting what was inspected and the date and time of the inspection.

**Division B 1.1.2.1.(3)**

The written records described in Sentences (1) and (2) shall be retained at the building premises for examination by the Chief Fire Official.

**Division B 1.1.2.2.(1)**

Subject to Sentence (2), the original or a copy of any record required by this Code shall be retained at the building to which the record relates

- (a) for a period of at least two years after being prepared, and
- (b) so that at least the most recent and the immediately preceding record of a given test or inspection are retained.

**Reasons:**

At the time of inspection, there were no monthly or annual fire alarm or emergency lighting test records on site.

**Action Required:**

- a) Keep a written record available of tests required as referenced in Items 4 and 5. These records are to include corrective measures taken and are to be kept for a period of two (2) years after they are made:
  - i) Written records shall be retained so that the most recent and the immediately preceding records are available.
- b) The original or a copy of these test records is to be retained at the building for examination by the Chief Fire Official.

**NOTE:** A failure to conduct and keep records on site of the weekly, monthly and yearly testing of your building's life safety equipment/systems, presently and in the future, will result in an immediate charge for failing to comply with O.Reg. 213/07, as amended. Contact the Inspector who issued the Order to make arrangements for inspection of the test records.

***If work is not completed on the date(s) specified requiring a further re-inspection(s), each additional re-inspection(s) would be subject to a \$81.05 fee in accordance with City of Hamilton By-law 02-284, "By-law to Establish Fees for Fire Prevention and Suppression Services".***

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## COMPLIANCE WITH ORDER:

The owner and/or occupant named on page 1 of this Order is responsible for compliance with this Order.

Under section 30 of the *Fire Protection and Prevention Act, 1997*, a person who fails to comply with an Order is guilty of an offence and, on conviction, is subject to a fine of up to \$20,000 for each day during which the non-compliance continues. A conviction or payment of the fine does not relieve the person from complying with the Order.

Compliance with this Order does not relieve the owner and/or occupant from compliance with other Fire Code requirements not referenced in this Order or with other applicable law such as the *Building Code Act, 1992* or the *Planning Act*.

## Service Information:

Served by: S. Siegel

Signature:  \_\_\_\_\_

This Order is served to each owner and/or occupant named on page 1 of this Order.

### Service to Owner and/or Occupant Named in Order:

City of Hamilton

Date: December 6, 2023

Owner  Occupant

Manner of service:

Personal  Regular letter mail  Email  Fax  Other [ \_\_\_\_\_ ]

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ADDITIONAL PERSONS SERVED:

A copy of this Order may be served to additional persons.

**Service to:**

City Clerk – City of Hamilton

Date: December 6, 2023

Director/Officer of Corporation

Other [REDACTED]

Manner of service:

Personal

Regular letter mail

Email

Fax

Other [REDACTED]



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## RIGHT TO REQUEST A REVIEW OF THIS ORDER:

Any person who is aggrieved by this Order may make a request to the Fire Marshal for a review of the Order. For more information, see Part VI of the *Fire Protection and Prevention Act, 1997*.

### Important Information:

- A request to the Fire Marshal for a review of this Order must be made in writing and received by the Fire Marshal within **15 calendar days** after the Order is served.
- If you miss this deadline or if you need more time to make this request, you may apply to the Fire Marshal for an extension. Your application for an extension must be received by the Fire Marshal within **30 calendar days** after the Order is served. You must provide reasons why you need more time to request a review of this Order.
- You are not required to comply with this Order while it is under review by the Fire Marshal until a decision is issued, however, there may be exceptions where necessary for public safety.
- Following a review of this Order, the Fire Marshal may confirm, amend or rescind the Order, or may make a new Order. The Fire Marshal may also refuse to consider your request and refer the matter directly to the Fire Safety Commission. The Fire Marshal is not required to hold a hearing when conducting a review.

### Instructions:

- A request to the Fire Marshal for a review of an Order, or an application to extend the time for requesting a review, may be made online at:  
[www.ontario.ca/firemarshal](http://www.ontario.ca/firemarshal)
  - Select 'Orders / Fire Marshal Reviews'.
  - Complete the online application form and upload a copy of the Order as an attachment.
- Alternatively, these requests may be made by either email, fax, or mail at:
  - Email: [OFMEMReviews@ontario.ca](mailto:OFMEMReviews@ontario.ca)
  - Fax: 416-628-3739
  - Mail: Fire Marshal – REVIEWS  
Office of the Fire Marshal and Emergency Management  
25 Morton Shulman Avenue, 2nd Floor, Toronto, ON M3M 0B1
  - Contact the Office of the Fire Marshal and Emergency Management at 647-329-1100 to obtain a copy of the "Application for a Fire Marshal Review of an Order" form.
  - Complete and submit the form together with a full copy of the Order.