

**THE CORPORATION OF THE CITY OF WELLAND**

**BY-LAW NUMBER 2011-64**

**BEING A BY-LAW FOR REGISTRATION OF VACANT BUILDINGS (VACANT BUILDING REGISTRY BY-LAW)**

WHEREAS Section 11 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that By-laws may be passed by a lower-tier municipality respecting the health, safety and well-being of persons, and for the protection of persons and property;

AND WHEREAS Sections 8 and 9 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides for the interpretation and scope of by-law making powers, including providing for a system of licenses (including permits, approvals and registrations), for the regulated matter;

AND WHEREAS Section 128 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS Section 446 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that where a municipality has the authority by any Act or By-law to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do so, the matter or thing shall be done at the person's expense and the municipality may recover the costs of doing the matter or thing from the person required to do it, by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS it is the opinion of the Council of the Corporation of the City of Welland that vacant buildings are, or could become, public nuisances, and it is desire of the Council of the Corporation of the City of Welland to regulate vacant buildings;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

**SECTION 1 SHORT TITLE**

1.1. This By-law may be cited as the "Vacant Building Registry By-law".

**SECTION 2 SCOPE**

2.1. The provisions of this By-law shall be applicable on all lands and properties within the limits of The Corporation of the City of Welland.

2.2. Nothing in this By-law shall be construed as limiting, restraining, superseding, impeding or otherwise conflicting with the authority of the Medical Officer of Health, the Fire Marshal, the Building Code Act, the Fire Protection and Prevention Act, or any Provincial or Federal Minister and his/her powers as set out in any Act, By-law or regulation.

**SECTION 3 DEFINITIONS**

3.1. Definitions in the Building Code Act and the Building Code shall be used with respect to matters pertaining to buildings and which are undefined in this By-law.

3.2. Definitions in the Fire Protection and Prevention Act and the Fire Code shall be used with respect to matters pertaining to fire prevention and fire safety and which are undefined in this By-law.

3.3. "Applicant" means the applicant for registration of a vacant building, being an owner or person who is authorized agent for an owner.

3.4. "Building damaged by fire" shall include a building partially or completely damaged by fire to the extent that it requires repairs to permit use or occupancy, or requires demolition because it is unsafe.



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- 3.5. "City" means The Corporation of the City of Welland.
- 3.6. "Council" means the Council of the Corporation of the City of Welland.
- 3.7. "Fire Chief" means the Fire Chief of the City or his or her designate who may include a Fire Prevention Officer or the Director of Fire Prevention.
- 3.8. "General Manager" means the City's General Manager of Infrastructure and Development Services or his or her designate.
- 3.9. "Officer" means a person appointed by the City of Welland or assigned by the General Manager to enforce this by-law.
- 3.10. "Owner" means the building or property owner or other person in control of, or who has an interest, as an owner or tenant, in the building or property upon which the subject vacant building is located, and includes a lessee who, under the terms of a lease or agreement, is required to repair or maintain the building.
- 3.11. "Penalty Notice" means a penalty notice as defined in City of Welland Administrative Penalty By-law for Non Parking Related Offences 2019-134.
- 3.12. "Register" (noun) means the City list of vacant buildings maintained by the General Manager; register (verb) means to comply with the requirements of this By-law concerning registration of vacant buildings.
- 3.13. "Secure" means to maintain a building in a condition that reasonably prevents access to the interior of the building, or to the exterior of the building, if deemed unsafe by an Officer, and may include locking, infilling, sealing, or boarding of doors, windows or other openings in a wall or roof of a building, the installation of security measures/devices, warning signage, and may also include demolition.
- 3.14. "Vacant building" means a building or a part of a building that is not being used or occupied for a period exceeding ninety (90) consecutive days, including days vacant prior to the passage of this By-law, but does not include:
- (a) a building where a use permitted under the City's zoning by-laws is occurring;
  - (b) a building that is under construction or demolition with an open or active building permit;
  - (c) an accessory building located on the same site as the main building if the main building is being used or occupied;
  - (d) a building that meets all applicable codes, does not contribute to blight, is ready for occupancy and is actively being offered for sale, lease or rent;
  - (e) a building that is not a dwelling and is on a property used as a farm; or
  - (f) a building that is occupied on a seasonal basis by an Owner or person authorized by the Owner.

**SECTION 4 GENERAL PROVISIONS FOR VACANT BUILDINGS**

- 4.1. Every owner of a vacant building shall:
- a) ensure that the vacant building is secured against unauthorized entry;
  - b) maintain liability insurance on the vacant building;
  - c) provide inspection/monitoring of the vacant building no less than on a monthly basis by a person or company familiar and qualified with matters pertaining to this By-law;
  - d) protect the vacant building against the risk of fire, accident or other danger; and
  - e) register the vacant building in accordance with section 6.
- 4.2. Where a vacant building has been vacant for at least 30 consecutive days, an Officer who reasonably believes that a vacant building poses a risk to safety may,



in writing, require the owner of a vacant building to do any one or more of the following, within the timeframe specified by the Officer:

- a) provide the General Manager with a copy of a site location plan and floor plans of each storey of the vacant building, all drawn to scale and labeled to the satisfaction of the General Manager;
- b) provide the General Manager with a copy of a report from a qualified person or, if deemed necessary by the Officer, from a Professional Engineer registered in Ontario, concerning the structural sufficiency of the vacant building, or concerning any matter related to the vacant building;
- c) provide the General Manager with a copy of the certificate of the insurance required in paragraph 4.1.(b);
- d) ensure that all combustible materials within a vacant building are removed to reduce any potential fire load, to the satisfaction of the Fire Chief;
- e) install security measures or devices to the satisfaction of the Officer, and such measures may include boarding of doors, windows, or other openings;
- f) maintain and provide the General Manager with a copy of a written record/log of any such inspections required in paragraph 4.1.(c), including the date and time of the inspection, and the contact information for the person performing the inspection; and
- g) do any work or repairs which, in the opinion of the Officer, are necessary to secure a vacant building from unauthorized entry or protect a vacant building against the risk of fire, accident or other danger.

- 4.3. Every owner of a vacant building shall comply with the written requirements of the Officer in subsection 4.2 above, within the timeframe specified.
- 4.4. Where a vacant building is also a building that is included in the register of property situated in the municipality that is of cultural heritage value or interest or has been so designated pursuant to the *Ontario Heritage Act*, it is the responsibility of the owner to bring the inclusion or heritage designation to the Officer's attention, to ensure compliance with all other laws or By-laws respecting the property.
- 4.5. Where a vacant building or building damaged by fire is boarded or required to be boarded:
  - a) boarding materials shall be installed and maintained in good order;
  - b) unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint or of equivalent weather-resistant material;
  - c) boarding materials shall be installed to exclude rain and wind from entering the building and to secure the building from unauthorized entry, and shall be installed within the reveal of the opening frame or cladding, where feasible; and
  - d) boarding materials shall be selected, coated, coloured and installed to match surrounding door/window frames and exterior wall finishes.
- 4.6. Where a vacant building remains vacant for more than sixty consecutive days, the owner shall ensure that all utilities serving the building are properly disconnected, terminated, or capped, unless such utilities are necessary for the safety or security of the vacant building, or unless such utilities are otherwise required by law to remain connected.
- 4.7. Where openings in a vacant building, previously boarded or secured, become unsecured, such openings shall be secured again, using materials and fasteners of greater strength, installed in such a manner to deter their destruction or removal.



- 4.8. Where a vacant building is unsecure from unauthorized entry to the extent that it cannot, in the opinion of an Officer, be reasonably or effectively secured by boarding or other means of repair, the building shall be demolished.
- 4.9. Where the security measures of a vacant building are frequently breeched, in spite of repeated attempts to re-secure as described in subsection 4.7, the building shall be demolished, or full time security personnel be shall provide on-site by the owner.
- 4.10. An Officer may accept alternative measures for temporary security which may include fencing or full time security personnel, if an owner can demonstrate such measures provide a level of safety equivalent to that required by this By-law.

**SECTION 5 BUILDING DAMAGED BY FIRE**

- 5.1. Every owner of a building damaged by fire shall immediately contact the Fire Chief, or a representative of Welland Fire and Emergency Services at the scene of a fire, to inform them of the owner's intention to comply with the requirements of this By-law.
- 5.2. Every owner shall ensure that a building damaged by fire is secured against unauthorized entry within twenty-four hours after release of the property by the authority having jurisdiction or, if the Fire Chief has granted an extension, by the deadline given by the Fire Chief.
- 5.3. Notwithstanding Section 5.2, where, in the opinion of the Fire Chief or the General Manager, a building damaged by fire is in a condition that presents an immediate hazard to public safety, the owner shall ensure that the building damaged by fire is secured against unauthorized entry forthwith after release of the relevant building by the authority having jurisdiction.

**SECTION 6 REGISTRATION OF VACANT BUILDING**

- 6.1. Every owner of a vacant building, (except a vacant farm building), which has been vacant for at least ninety consecutive days, including days vacant prior to passage of this By-law, shall register the building in accordance with this section.
- 6.2. A registration expires:
- a) when the registration is revoked by the General Manager for reason of false, incomplete, or misleading information;
  - b) when the vacant building is sold or otherwise transferred to a new owner;
  - c) when the General Manager is satisfied, that the building is no longer vacant.

Application Requirements

- 6.3. Every applicant to register a vacant building shall submit to the General Manager, a completed and signed application form, such form developed from time to time, and maintained by the General Manager, for each vacant building proposed to be registered. The General Manager may require additional information where he/she deems necessary.
- 6.4. A vacant building shall not be registered unless the information required on the application form, or by the General Manager, is complete and correct.
- 6.5. Every applicant and every owner shall ensure the information provided on the application form, or required by the General Manager, is complete and correct, and is maintained current, after registration. It is the responsibility of the owner to immediately notify the General Manager in writing, when any such information changes, or when there is a signed agreement for sale of the property or building.

City Inspection Requirements

- 6.6. Every applicant shall make arrangements for inspection of a vacant building by Officers within two weeks of registration, and every six months thereafter, or as otherwise directed in writing by an Officer.



Fees

- 6.7. Fees for initial registration of a vacant building shall be levied in accordance with Schedule 'A' to this By-law.
- 6.8. Inspection fees shall be determined by Officers, after inspection, in accordance with Schedule "A" and the City Fees and Charges By-law, and shall be applicable where a vacant building is not in compliance with this By-law, in the opinion of an Officer.
- 6.9. Every owner shall pay the fees determined in subsection 6.8, which become due and payable upon written notification by an Officer, or upon issuance of an invoice by the City.
- 6.10. Where an owner is in default of payment of fees for more than thirty calendar days after due, the City may add the cost to the tax roll of the subject property and collect the amount in the same manner as property taxes.

**SECTION 7 ADMINISTRATION ENFORCEMENT AND RIGHT OF ACCESS**

- 7.1. This By-law shall be administered and enforced by an Officer who is hereby authorized to enforce the provisions of this By-law.
- 7.2. An Officer may enter upon and within, and inspect any land, property, building or structure at any time to determine if any section of this By-law is complied with, or to determine if any direction, notice or order issued pursuant to this By-law or the Municipal Act, or any court has been complied with, or to perform any remedial work authorized in section 8 of this By-law.
- 7.3. Notwithstanding subsection 7.2, the Officer shall not enter or remain in any room or place actually used as a dwelling unless the provisions of Section 437 of the Municipal Act, 2001, as amended are complied with.
- 7.4. The Officer shall have inspection powers described in Section 436 of the Municipal Act, 2001, as amended.
- 7.5. Where an owner is in contravention of any provision of this By-law, an Officer, in addition to any other action, may send a notice, in the form of a letter or email, to the owner, describing the contravention.
- 7.6. Any notice, order or direction given under this By-law may be given personally to the person to whom it is directed, or may be mailed by ordinary or registered mail, or by hand delivery to the mailing address of the owner of the property upon which the vacant building is located, according to the last revised Assessment Roll of the property which does not comply with this By-law, or may be posted on the subject vacant building and any such delivery or posting shall be deemed good and sufficient service.
- 7.7. No person shall obstruct or hinder, or attempt to obstruct or hinder, an Officer, in the exercise of a power or the performance of a duty under this By-law.
- 7.8. No person shall refuse to produce any documents or things required by an Officer under this By-law, and every person shall assist any entry, inspection, examination, or inquiry by an Officer.
- 7.9. No person shall knowingly furnish false information to the City or an Officer with respect to this By-law.

**SECTION 9 OFFENCES AND PENALTIES**

- 8.1. Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice be liable to pay to the City an administrative penalty in the amount of \$400.00 or as revised in the Fees and Charges by-law.

An Officer who finds or has any reasonable cause to believe that a person has contravened any provision of this By-law may issue a penalty notice addressed to the person.



An Officer who believes that this By-law has been contravened may issue a work order directing compliance with this By-law, and may require the work specified in the order to be carried out immediately, or within the time specified in the work order.

- 8.2. A work order may contain requirements recommended by the Fire Chief or other agency that may provide emergency services or hydro or natural gas utility services to the building location, necessary for the safety of its employees.
- 8.3. Where the interior of a vacant building is considered unsafe by an Officer because the risk of accident or harm may be high for any person within the building, authorized or not, the Officer may provide in a work order for the unsafe condition to be removed, or any measure taken necessary to protect persons from the unsafe condition.
- 8.4. A work order shall specify:
- a) the municipal address of the vacant building;
  - b) the contravention of the By-law, and its location;
  - c) the date of the inspection;
  - d) the work ordered to be completed; and
  - e) the date by which the work must be done.
- 8.5. Where an Officer, in his or her sole discretion, determines that measures taken pursuant to a work order are insufficient, subsequent work orders may be issued requiring additional measures to be taken by the owner.
- 8.6. In the event that an owner expresses the intention not to comply with a work order, or a work order is issued and not complied within the timeframe specified in the work order, an Officer, the City, including its employees, agent or contractor, may enter upon the land and remove such things or carry out the work required to comply with the work order, and may recover the costs in accordance with Section 446 of the Municipal Act, as amended.
- 8.7. Where, in the reasonable opinion of the officer, allowing a vacant building to remain unsecured for even a short period of time presents an unacceptable health or safety risk, the City may cause the building to be secured against unauthorized entry, or repaired by whatever means necessary to remove the unacceptable risk, and no prior notice or order to the owner shall be required. Notice of the action taken in these circumstances shall be given to the owner in accordance with subsection 7.6 of this By-law in a reasonable time thereafter.
- 8.8. Anything done or removed by an Officer, the City, its employees, agent or contractor, to comply with this By-law, a work order, or notice, may be deposited elsewhere on the property on which the vacant building is located, or may be removed from the property and forthwith destroyed, or otherwise disposed of by the City, its employees, agent or contractor.
- 8.9. Where the City does or causes work to be done on a vacant building or a building damaged by fire to comply with this By-law, such work shall be done at the expense of the owner.
- 8.10. If the owner fails to pay the cost of the work done by the City under this By-law within thirty calendar days of issuance of an invoice by the City, the costs may be added to the tax roll of the subject property and collected in the same manner as property taxes.

## **SECTION 9 OFFENCES AND PENALTIES**

- 9.1. A person is guilty of an offence if the person,
- a) fails to comply with an order, notice, direction, or other requirement under this By-law, or
  - b) contravenes this By-law.
- 9.2. A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence.

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- 9.3. A person who is convicted of an offence under this By-law is liable to a fine of not more than \$25,000 for a first offence, and to a fine of not more than \$50,000 for a subsequent offence, where there has been a previous conviction under this By-law.
- 9.4. A person who is convicted of a continuing offence under this By-law is liable to a fine of not more than \$5,000 for each day or part of a day that the offence continues.

**SECTION 10 VALIDITY**

- 10.1. Should any section, clause or provision of this By-law be held by a court of competent jurisdiction to be invalid, the validity of the remainder of the By-law shall not be affected.

**SECTION 11 EFFECTIVE DATE**

- 11.1. This By-law shall come into force and take effect on the date of passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS  
21<sup>ST</sup> DAY OF JANUARY, 2020.

MAYOR

  
CITY CLERK

THE CORPORATION OF THE CITY OF WELLAND

VACANT BUILDING REGISTRY BY-LAW 2011-64

SCHEDULE "A" - FEE SCHEDULE

Account #	Description	HST	Fee
20-525-00000-340010	Vacant Building Registry Fee – initial registration	INCL. HST	\$200.00
20-525-00000-340010	Vacant Building – inspection fee	INCL. HST	\$282.00
20-525-00000-320640	Work Carried out by City – per event	INCL. HST	\$282.00 plus \$94.00 per hour for administration work in excess of 2 hours