

BY-LAW NUMBER 4-2016

OF

THE CORPORATION OF THE CITY OF BRANTFORD

*Being A By-law to Regulate Vacant Buildings
within the City of Brantford.*

WHEREAS sections 8, 9, and 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended (the "*Municipal Act, 2001*") provides municipalities with broad powers, including the ability to pass by-laws that the municipality deems necessary or desirable for municipal purposes, and, in particular, paragraphs 5, 6, 8, and 10 of subsection 10(2) of the *Municipal Act, 2001*, authorize municipalities to pass by-laws respecting the economic, social, and environmental well-being of the municipality; the health, safety, and well-being of persons; the protection of persons and property; and structures.

AND WHEREAS section 128 of the *Municipal Act, 2001* 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 425 of the *Municipal Act, 2001* authorizes municipalities to pass by-laws providing that a person who contravenes a by-law passed by the municipality under the *Municipal Act, 2001* is guilty of an offence;

AND WHEREAS the *Municipal Act, 2001* further permits municipalities to establish a system of fines for offences under a by-law of the municipality passed under that Act;

AND WHEREAS the Council of The Corporation of the City of Brantford is of the opinion that vacant buildings that are not secured against unauthorized entry constitute public nuisances by attracting vandals and creating various fire and safety hazards;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF BRANTFORD ENACTS AS FOLLOWS:

PART 1 – SHORT TITLE

1.1 This By-law may be referred to as the Vacant Buildings Registry By-law.

PART 2 – INTERPRETATION

For the purposes of this By-law:

- 2.1 Definitions in the *Building Code Act, 1992*, S. O. 1992, c. 23, as amended and the Building Code shall be used with respect to matters pertaining to buildings unless otherwise defined in this By-law.
- 2.2 Definitions in the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, and the Fire Code shall be used with respect to matters pertaining to fire prevention and fire safety unless otherwise defined in this By-law.
- 2.3 “Building Code” shall mean Ontario Regulation 332/12, as amended, and any successor regulation;
- 2.4 “*Building Code Act, 1992*” shall mean *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;
- 2.5 “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.
- 2.6 “Building” means all or part of:
 - (i) a structure occupying an area greater than ten (10) 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; or
 - (ii) a structure occupying an area of ten (10) square metres or less that contains plumbing, including the plumbing appurtenant thereto;
- 2.7 “Building Department” means the Building Department of the City;
- 2.8 “City” means The Corporation of the City of Brantford and, where context allows, shall include its agents and employees;
- 2.9 “City of Brantford” means the geographic region known as the City of Brantford, within the Province of Ontario;
- 2.10 “Council” shall mean the Council for The Corporation of the City of Brantford;
- 2.11 “Officer” means a Municipal Law Enforcement Officer/Property Standards Officer of the City;

2.12 "Owner" includes, but is not limited to:

- (i) the registered owner of the Property on which the Building is situated;
- (ii) the owner of a Building;
- (iii) the Person managing or receiving the rent for a Building, or the Property on which a Building is situated, or who would receive the rent if the Property or Building were let, whether on the Person's own account or as agent or trustee or receiver of any other Person;
- (iv) a vendor of a Building under an agreement for sale who has paid any municipal taxes on the building after the effective date of the agreement;
- (v) the Person receiving instalments of the purchase price if a Building were sold under an agreement for sale;
- (vi) a lessee or occupant of the Property on which a Building is situated who, under the terms of a lease, is required to repair and maintain the Building; and
- (vii) an owner as defined by the *Condominium Act, 1998*;

2.13 "Person" includes a corporation and its directors and officers, and the heirs, executors, assignees and administrators;

2.14 "Property" means the land on which a Building is situated and includes the Building;

2.15 "Registration Fee" shall have the meaning given to it in section 9.1 of this By-law;

2.16 "Renewal Fee" shall have the meaning given to it in section 9.2 of this By-law; and

2.17 "Vacant Building" means any Building that is or appears to be vacant, partially vacant, or unoccupied, or that, by reason of its unfinished or dilapidated condition, is open to the elements and in a state such that there is little to no control over unauthorized entry, but does not include:

- (i) a dwelling unit occupied by the Owner on a seasonal basis but otherwise maintained throughout the year;
- (ii) a Building, except a dwelling unit, on Property used as a farm; or
- (iii) a Building that is owned by the City.

PART 3 – REGISTRATION OF VACANT BUILDING

- 3.1 Every Owner of a Vacant Building that has been vacant for at least sixty (60) consecutive days shall register the Vacant Building in accordance with this By-law.
- 3.2 A registration expires:
- (i) on the one (1) year anniversary date of the date on which it is issued, if the registration is not renewed before its expiry;
 - (ii) when the registration is revoked under this By-law;
 - (iii) when the Vacant Building is sold or otherwise transferred to a new Owner; or
 - (iv) when the Officer is satisfied, as set out in a written notice to the Owner of the Vacant Building, that the Building is no longer vacant.
- 3.3 To register a Vacant Building or to renew a registration, the Owner of a Vacant Building shall:
- (i) complete and submit to the Officer a completed and signed application form, which form shall be developed and maintained by the City, for each Vacant Building proposed to be registered. The Officer may require additional information where he/she deems necessary; and
 - (ii) submit the Registration Fee or the Renewal Fee, as the case may be.
- 3.4 Every applicant and every Owner, as the case may be, shall ensure the information provided on the application form, or required by the Officer, is complete and accurate. It is the responsibility of the Owner to immediately notify the Officer in writing when any such information changes, or when there is a signed agreement for the sale of the Property or Vacant Building.
- 3.5 The Officer shall refuse an application for registration if, in his or her opinion, the application is incomplete or contains false or misleading information.
- 3.6 Where a Property contains more than one Vacant Building, the Owner shall submit a separate application for each Vacant Building.

PART 4 – DUTIES OF OWNER

- 4.1 Every Owner of a Vacant Building shall:
- (i) ensure that the Vacant Building is registered in accordance with this By-law;

- (ii) ensure that the Property complies with all applicable statutes, regulations and by-laws, including, but not limited to, the *Building Code Act, 1992*, the *Fire Protection and Prevention Act, 1997* and the Property Standards By-law;
- (iii) ensure that the Vacant Building is secured against unauthorized entry;
- (iv) maintain liability insurance on the Vacant Building;
- (v) 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;
- (vi) protect the Vacant Building against the risk of fire, accident or other danger;
- (vii) provide to the City a floor plan of the Vacant Building;
- (viii) provide to the City an inventory of all combustible materials and flammable liquids stored on site, and;
- (ix) 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. boarding materials shall be installed to exclude precipitation 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 of cladding, where feasible;
 - c. unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint or equivalent weather resistant material; and
 - d. boarding materials shall be selected, coated, coloured, and installed to match surrounding door/window frames and exterior wall finishes.

4.2 Where a Vacant Building has been designated or registered under the *Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended*, it shall be the responsibility of the Owner to notify the City of said designation or registration and provide the City with all relevant information pertaining to the designation or registration of the Vacant Building, to ensure compliance with all other laws or by-laws pertaining to the Building.

4.3 Where a Vacant Building remains vacant for more than ninety (90) consecutive days, the Owner shall ensure that all utilities servicing the Vacant Building are properly disconnected, shut off, capped, or terminated, as the case may be, unless said utilities are necessary for the safety or security of the Vacant Building or required by law to remain connected.

- 4.4 Every Owner of a Building Damaged By Fire shall immediately notify the Chief Fire Official for the City, or a representative of the Fire Department for the City, and shall ensure that the Building Damaged By Fire is secured against unauthorized entry within twenty-four (24) hours of regaining access to the Property by the authority having jurisdiction over the site.

PART 5 – ADMINISTRATION AND ENFORCEMENT

- 5.1 The Building Department is authorized to administer and enforce this By-law including, but not limited, to prescribing the format and content of any forms or other documents required pursuant to this By-law.
- 5.2 One or more Officers may enter a Property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (i) this By-law;
 - (ii) a direction or order made under this By-law.
- 5.3 For the purposes of an inspection under Section 5.2, an Officer may:
- (i) require the production of documents or things relevant to the inspection;
 - (ii) remove documents or things relevant to the inspection for the purpose of making copies or extracts, which shall be returned within forty-eight (48) hours after removal;
 - (iii) require information in writing, or otherwise as required by the Officer, from any Person concerning a matter related to the inspection; or
 - (iv) alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 5.4 No person shall obstruct the Officer from inspecting the Property or Building or both, or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of the inspection.
- 5.5 Any cost incurred by the City in exercising its authority to inspect pursuant to this By-law, including, but not limited to, the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the Owner of the Building where the inspection takes place.
- 5.6 An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under Section 438 of the *Municipal Act, 2001*, where he or she has

been prevented or is likely to be prevented from carrying out an inspection under Sections 5.2 and 5.3 of this By-law.

- 5.7 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 safety risk, the City may cause said Vacant Building to be secured against unauthorized entry and no prior notice or order to the Owner shall be required. Notice of the action taken in these circumstances shall be posted at the Property or sent by regular mail to the Owner of the Property or Building or both, as the case may be, in a reasonable time thereafter.

PART 6 – ORDER

- 6.1 If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the By-law, or who caused or permitted the contravention, or the Owner of the Property on which the contravention occurred, to discontinue the contravening activity.
- 6.2 An order under Section 6.1 shall set out:
- (a) reasonable particulars of the contravention sufficient to identify the contravention and the location of the Property on which the contravention occurred; and,
 - (b) the date or dates by which there must be compliance with the order.
- 6.3 If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the Person who contravened the By-law, or who caused or permitted the contravention, or the Owner of the Property on which the contravention occurred, to do work to correct the contravention.
- 6.4 An order under Section 6.3 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the Property on which the contravention occurred;
 - (b) the work to be completed; and,
 - (c) the date or dates by which the work must be completed.
- 6.5 Where a Person does not comply with a direction, an order, or a requirement under this By-law to do a matter or thing, the Officer, with such assistance by others as may be required, may carry out such direction, order, or requirement at the Person's expense.
- 6.6 The City may recover the costs of doing a matter or thing under Section 6.5 by action and collecting them in like manner as property taxes and such costs shall include an interest rate of 15 percent (15%) per year commencing on the day the City incurs the costs and ending on the day the costs, including all applicable interest, are paid in full.

PART 7 – SERVICE

- 7.1 An order to discontinue contravening activity made under Section 6.1, or an order to do work made under Section 6.3, may be served personally or by registered mail to the last known address of:
- (a) the Owner of the Property where the contravention occurred; and,
 - (b) such other Persons affected by it as the Officer making the order determines.
- Service by registered mail shall be deemed to have taken place five (5) business days after the date of mailing.
- 7.2 In addition to service given in accordance with Section 7.1, an order to discontinue contravening activity made under Section 6.1, or an order to do work made under Section 6.3, may be served by an Officer placing a placard containing the order in a conspicuous place on the Property where the contravention occurred.
- 7.3 Where service cannot be given in accordance with Section 7.1, sufficient service shall be deemed to have taken place when given in accordance with Section 7.2.

PART 8 – PENALTY

- 8.1 Every Person who contravenes any provision of this By-law is, upon conviction, guilty of an offence and is liable:
- (i) on a first conviction, to a fine of not more than ten thousand dollars (\$10,000); and,
 - (ii) on any subsequent conviction, to a fine of not more than twenty five thousand dollars (\$25,000).
- 8.2 Despite Section 8.1, where the Person convicted is a corporation:
- (i) the maximum fine in Subsection 8.1(i) shall be fifty thousand dollars (\$50,000); and,
 - (ii) the maximum fine in Subsection 8.1(ii) shall be one hundred thousand dollars (\$100,000).
- 8.3 Where a Person has been convicted of an offence, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

PART 9 – FEES

- 9.1 A one-time Registration Fee of two hundred and seventy dollars (\$270) shall be submitted to the City along with every application for registration of a Vacant Building.
- 9.2 Each year following the year of registration of the Vacant Building, a Renewal Fee of six hundred dollars (\$600) shall be paid to the City along with every application for renewal.
- 9.3 If there is more than one (1) Vacant Building on the same Property, the Owner shall submit the Registration Fee and Renewal Fee, as the case may be, for each Vacant Building.

PART 10 – GENERAL PROVISIONS

- 10.1 Any section of this By-law, or any part thereof, that is found by a court of competent jurisdiction to be invalid shall be severable, and the remainder of the By-law shall continue to be valid.
- 10.2 In this By-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context so requires.

PART 11 – ENACTMENT

- 11.1 This By-law comes into force on the date of its passing.

READ A FIRST TIME: January 26, 2016
READ A SECOND TIME: January 26, 2016
PASSED: January 26, 2016

MAYOR

DEPUTY CITY CLERK