

THE CORPORATION OF THE CITY OF WELLAND

BY-LAW NUMBER 2025- 58

**BEING A BY-LAW FOR REGISTRATION OF VACANT
BUILDINGS (THE 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 10 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 their/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 an 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.
- 3.5. "By-law Enforcement Officer" means a person appointed by the City of Welland for the purposes of enforcement of its By-laws.
- 3.6. "Chief Building Official" means the person appointed by the City Council to such position pursuant to the Building Code Act or their designate who may include a Building Inspector or Plans Examiner.
- 3.7. "City" means The Corporation of the City of Welland.
- 3.8. "Council" means the Council of the Corporation of the City of Welland.
- 3.9. "Director of Planning and Development Services" means the City's Director of Planning and Development Services or their designate.
- 3.10. "Farm" means an agricultural, aquacultural, horticultural or silvicultural operation;
- 3.11. "Fire Chief" means the Fire Chief of the City or their designate who may include a Fire Prevention Officer, the Chief Fire Prevention Officer or suppression staff.
- 3.12. "Owner" means the registered Owner of the property on which a Building is situated according to the last revised assessment roll.
- 3.13. "Penalty Notice" means a penalty notice as defined in City of Welland Administrative Penalty By-law for Non Parking Related Offences 2019-134, as amended.
- 3.14. "Person" includes, but is not limited to, an individual, sole proprietorship, partnership, association or corporation.
- 3.15. "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 a By-law Enforcement 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.
- 3.16. "Vacant Building" means a building or a part of a building that does not appear to be in use and, without limiting this definition, shall include a building, that in the opinion of the By-law Enforcement Officer:
- a) is not protected from the entry of unauthorized Persons;
 - b) is not protected from the entry of rain, snow, vermin or birds into the interior of the building;
 - c) where the supply of any one or more of the electricity, gas or water utilities serving the Building is discontinued or disconnected;
 - d) where one or more of the electricity, gas or water utilities serving the Building is not being used; or
 - e) where 25% or more of the door and window openings to the building are partially or completely boarded up (for example, if there are 8 door and window openings to a building and 2 or more of the door and window openings are partially or completely boarded up, no matter what the size of each door or window opening).
- A Vacant Building does not include:
- a) a building where a use permitted under the City's zoning by-laws is occurring;
 - b) a building with an open or active building permit that is under construction or demolition;

- 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;
- f) a building that is occupied by the owner, or a person authorized by the owner, on a seasonal basis; or
- g) a building that is owned or controlled by the Federal, Provincial, Regional or Municipal government.

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 bi-weekly basis by a person or company familiar and qualified with matters pertaining to this By-law and shall provide date and time stamped photographic evidence of each inspection to the By-law Enforcement Officer;
 - d) protect the Vacant Building against the risk of fire, accident or other danger;
 - e) register the Vacant Building in accordance with section 6;
 - f) maintain the Vacant Building free from garbage, rubbish and debris; and
 - g) ensure that all combustible materials within a Vacant Building are removed to reduce any potential fire load, to the satisfaction of the Fire Chief.
- 4.2. A By-law Enforcement 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 anyone or more of the following, within the timeframe specified by the By-law Enforcement Officer:
 - a) provide the By-law Enforcement Officer 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 By-law Enforcement Officer;
 - b) provide the By-law Enforcement Officer with a copy of a report from a Professional Engineer registered in Ontario, concerning the structural sufficiency of the Vacant Building, or concerning any matter related to the Vacant Building; or
 - c) install security measures or devices to the satisfaction of the By-law Enforcement Officer, and such measures may include boarding of doors, windows, or other openings.
- 4.3. Every owner of a Vacant Building shall comply with the written requirements of the By-law Enforcement 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 By-law Enforcement 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;
 - d) boarding materials shall be selected, coated, coloured and installed to match surrounding door/window frames and exterior wall finishes; and
 - e) boarding materials shall be at least 12.7 mm (0.5 in) weatherproof sheet plywood.
- 4.6. Where a Vacant Building remains vacant for more than thirty (30) 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 the security measures of a Vacant Building are frequently breeched, in spite of repeated attempts to re-secure as described in subsection 4.7, full time security personnel shall be provided on-site by the owner.
- 4.9. Where the owner fails to provide full time security personnel, the By-law Enforcement Officer may, in addition to any other action, hire full time security personnel at the owners expense and may recover the costs in accordance with Section 446 of the Municipal Act, as amended. The City's rights pursuant to this section are in addition to the penalty provisions.
- 4.10. Where a Vacant Building is unsecure from unauthorized entry to the extent that it cannot, in the opinion of a By-law Enforcement Officer, be reasonably or effectively secured by boarding or other means of repair, the building shall be demolished.
- 4.11. A By-law Enforcement 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 as soon as practicable after a structure 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 immediately after the release of the property by the authority having jurisdiction and to the satisfaction of the Fire Chief.

SECTION 6 REGISTRATION OF VACANT BUILDING

- 6.1. Every owner of a Vacant Building shall register the Vacant Building within thirty (30) days of the date of the Vacant Building becomes vacant.
- 6.2. Every applicant to register a Vacant Building shall submit, to the satisfaction of the Director of Planning and Development Services, the following:
- a) the fully and correctly completed Vacant Building Registry application form;

- b) the application fee, the by-law inspection fee, the fire inspection fee and the building review fee as set out in the City of Welland Fees and Charges By-law, as amended;
- c) a certificate of liability insurance which confirms that the Applicant has in place at the time of application, liability insurance of not less than two million dollars per occurrence;
- d) a report from a Professional Engineer registered in Ontario, concerning the structural sufficiency of the Vacant Building, or concerning any matter related to the Vacant Building, to the satisfaction of the Chief Building Official. The report shall be dated within one (1) year of the application date; and
- e) Any other information required by the By-law Enforcement Officer, the Fire Chief, the Chief Building Official or the Director of Planning and Development Services.

6.3. A Vacant Building shall not be registered unless the information required on the application form, or by the Director of Planning and Development Services, is complete and correct.

6.4. Every applicant and every owner shall ensure the information provided on the application form, or required by the Director of Planning and Development Services, is complete and correct, and is maintained current, after registration. It is the responsibility of the owner to immediately notify the Director of Planning and Development Services in writing, when any such information changes, or when there is a signed agreement for sale of the property or building.

SECTION 7 INSPECTIONS

7.1. Upon receipt of a completed Vacant Building Registry application form, and all accompanying documentation and the required fees, the City shall schedule an inspection of the Vacant Building, at a reasonable time. The inspection shall include the By-law Enforcement Officer and the Fire Chief. The Fire Chief shall be in attendance to preplan the site in the event of an emergency and to determine compliance with fire related provisions of this By-law.

7.2. Upon receipt of a completed renewal application form, and all accompanying documentation and the required fees, the City shall schedule an inspection of the Vacant Building, at a reasonable time. The inspection shall include the By-law Enforcement Officer and the Fire Chief. The Fire Chief shall be in attendance to preplan the site in the event of an emergency and to determine compliance with fire related provisions of this By-law.

7.3. The inspection fees provided for in Sections 6.2 b) and 9.1 b) allow for only one (1) inspection. If additional inspections are required or if the owner or applicant fail to attend a scheduled inspection additional inspection fees in accordance with the City of Welland Fees and Charges By-law are required to be paid.

SECTION 8 TERM OF VACANT BUILDING REGISTRATION

8.1. A registration expires:

- a) on the one-year anniversary date of the date on which it is issued if the registration is not renewed before its expiry;
- b) when the registration is revoked by the By-law Enforcement Officer for reason of false, incomplete, or misleading information;
- c) when the Vacant Building is sold or otherwise transferred to a new owner; or
- d) when the By-law Enforcement Officer is satisfied, that the building is no longer vacant.

SECTION 9 REGISTRATION RENEWAL

9.1. Every application for renewal of a Vacant Building Registration under this By-law, shall be made in a form satisfactory to the By-law Enforcement Officer and shall include:

- a) the fully and correctly completed renewal application form, if applicable;
- b) the application renewal fee, the by-law inspection fee, the fire inspection fee and the building review fee as set out in the City of Welland Fees and Charges By-law, as amended;
- c) Updated certificate of liability insurance which confirms that the Applicant has in place at the time of application, liability insurance of not less than two million dollars per occurrence;
- d) provide a report from a Professional Engineer registered in Ontario, concerning the structural sufficiency of the Vacant Building, or concerning any matter related to the Vacant Building in accordance with the schedule below:

Age of Vacant Building	Frequency of Report
0 – 20	Every 5 years
20 - 50	Every 3 years
50 - 75	Every 2 years
75 +	Every year

Any structural deficiencies with the Vacant Building shall be outlined in the report and a plan for remediation shall be provided; and

- e) Any other information required by the By-law Enforcement Officer, the Fire Chief, the Chief Building Official or the Director of Planning and Development Services.

SECTION 10 ORDER

10.1. Where a By-law Enforcement Officer is satisfied that an owner has failed to comply with any provision of this By-law, the By-law Enforcement Officer may issue an order requiring the owner to correct the contravention.

10.2. An order may contain requirements recommended by the Fire Chief, Chief Building Official or any 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.

10.3. Where the interior of a Vacant Building is considered unsafe by a By-law Enforcement Officer because the risk of accident or harm may be high for any person within the building, authorized or not, the By-law Enforcement Officer may provide in an order for the unsafe condition to be removed, or any measure taken necessary to protect persons from the unsafe condition.

10.4. An order shall set out:

- a) the municipal address and/or legal description of the Vacant Building;
- b) the reasonable particulars of the contravention adequate to identify the contravention; and
- c) the date by which there must be compliance with the order.

10.5. Any order issued under this by-law may be given by ordinary mail, registered mail, courier or hand delivered to the address of the owner according to the last revised assessment roll of the subject property or the order may be posted at the subject property, and such service shall be deemed good and sufficient service.

10.6. Every owner shall comply with any order issued under the authority of this by-law.

- 10.7. Every owner who contravenes an order is guilty of an offence.
- 10.8. Where the owner is in default of an order, the By-law Enforcement Officer may, without notice and in addition to any other action, cause the work to be done at the owners expense. Without limitation, the City, its employees, agent or contractor may enter upon the land and remove such things or carry out the work required to make the property comply with the order, and may recover the costs in accordance with Section 446 of the Municipal Act, as amended. The City's rights pursuant to this section are in addition to the penalty provisions.
- 10.9. Where, in the reasonable opinion of the By-law Enforcement 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 10.5 of this By-law in a reasonable time thereafter.
- 10.10. Anything done or removed by a By-law Enforcement Officer, the City, its employees, agent or contractor, to comply with this By-law, an 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.
- 10.11. 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 and may recover the costs in accordance with Section 446 of the Municipal Act, as amended. The City's rights pursuant to this section are in addition to the penalty provisions.
- 10.12. If the owner fails to pay the cost of the work done by the City under this By-law within thirty (30) 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 11 ADMINISTRATION ENFORCEMENT AND RIGHT OF ACCESS

- 11.1. This By-law shall be administered and enforced by the City, the By-law Enforcement Officer, the Fire Chief, the Chief Building Official or anyone appointed or otherwise delegated the authority of administration and enforcement.
- 11.2. A By-law Enforcement Officer, Fire Chief or Chief Building Official 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 by this By-law.
- 11.3. Notwithstanding subsection 11.2, the By-law Enforcement Officer, Fire Chief or Chief Building Official 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.
- 11.4. A By-law Enforcement Officer may, for the purposes of the inspection under section 11.2, 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.
- 11.5. Any cost incurred by the City in exercising its authority to inspect under section 11.2, including but not limited to the cost of examination, test, sample or photograph necessary for the inspection, shall be paid by the owner of the property where the inspection takes place.
- 11.6. Where an owner is in default of payment of fees for more than thirty (30) calendar days, 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.

- 11.7. The By-law Enforcement Officer shall have inspection powers described in Section 436 of the Municipal Act, 2001, as amended.
- 11.8. Any written notice issued under this by-law may be given by ordinary mail, registered mail, courier or hand delivered to the address of the owner according to the last revised assessment roll of the subject property or the notice may be posted at the subject property, and such service shall be deemed good and sufficient service.
- 11.9. No person shall obstruct or hinder, or attempt to obstruct or hinder, a By-law Enforcement Officer, the Fire Chief or the Chief Building Official in the exercise of a power or the performance of a duty under this By-law.
- 11.10. No person shall refuse to produce any documents or things required by a By-law Enforcement Officer, the Fire Chief or Chief Building Official under this By-law, and every person shall assist any entry, inspection, examination, or inquiry by a By-law Enforcement Officer, the Fire Chief or Chief Building Official.
- 11.11. No person shall knowingly furnish false information to the City or a By-law Enforcement Officer, the Fire Chief or Chief Building Official with respect to this By-law.

SECTION 12 OFFENCES AND PENALTIES

- 12.1. Any person who contravenes any provision of this By-law is guilty of an offence.
- 12.2. A person convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part III of the Provincial Offences Act, R.S.O. 1990, c. P. 33, is liable to a fine of no more than Ten Thousand Dollars (\$10,000.00).
- 12.3. 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.
- 12.4. Administrative Penalty By-law 2019-134, as amended applies to each administrative penalty issued pursuant to this By-law.
- 12.5. Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty By-law 2019-134, as amended, be liable to pay to the City an administrative penalty in accordance with the penalties set out in Schedule "A" attached.
- 12.6. A contravention of the requirements set out in this By-law is deemed to be a continuing offence on each day or part of a day that the contravention continues.

SECTION 13 VALIDITY

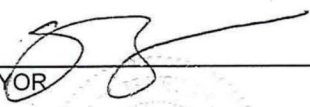
- 13.1 It is hereby declared that notwithstanding that any part of this By-law, or parts thereof, may be found by any Court of law to be invalid or beyond the power of Council to enact such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent there from and enacted as such.

SECTION 14 TRANSITION, REPEAL, FORCE AND EFFECT

- 14.1. All prosecutions and other enforcement processes commenced under By-law 2011-64, as amended, which have not been completed on the day this By-law comes into force shall be completed under By-law 2011-64, as amended, as if it had not been repealed.
- 14.2. By-law 2011-64, as amended, is repealed as of the day this By-law comes into force and effect.

14.3. 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
6TH DAY OF **MAY, 2025.**


MAYOR


CITY CLERK