



Memorandum

Corporate By-law Number BL 96/2022

TO: Office of the City Clerk **FILE:**

FROM: Doug Vincent
Development & Emergency Services - Licensing & Enforcement

DATE: 08/16/2022

SUBJECT: BL 96/2022 – Vacant Building Security

MEETING DATE: City Council – 09/12/2022 (mm/dd/yyyy)

By-law Description: A By-law to authorize the City of Thunder Bay to require Owners of Vacant Buildings to register such buildings and to ensure they are secured against unauthorized entry and to provide authority to enter and authorize work to be undertaken in certain circumstances.

Authorization: Report R 106/2022 (Development & Emergency Services/Licensing & Enforcement) Committee of the Whole - July 25, 2022 and Memorandum from Doug Vincent relative to Referral of Report R 106/2022 (Development & Emergency Services/Licensing & Enforcement) Committee of the Whole August 22, 2022

By-law Explanation: The purpose of this By-law is to ensure that vacant buildings are secured against unauthorized entry and to provide authority to enter and authorize work to be undertaken in certain circumstances.

Schedules and Attachments:

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER BL 96/2022

A By-law to authorize the City of Thunder Bay to require Owners of Vacant Buildings to register such buildings and to ensure they are secured against unauthorized entry and to provide authority to enter and authorize work to be undertaken in certain circumstances.

Recitals:

1. The *Municipal Act*, 2001, S.O. 2001, c. 25, s. 8, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;
2. The *Municipal Act*, 2001, S. O. 2001, c. 25, s. 9, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;
3. The *Municipal Act*, 2001, S. O. 2001 c. 25, s. 10, gives the municipality broad authority to pass by-laws respecting the health, safety, and well-being of persons;
4. The *Municipal Act*, 2001, S. O. c. 25, s. 128, 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;
5. The Council of The Corporation of the City of Thunder Bay is of the opinion that vacant buildings that are not secured against unauthorized entry constitute public nuisances by attracting vandals and creating various safety hazards.

ACCORDINGLY, THE CORPORATION OF THE CITY OF THUNDER BAY
ENACTS AS FOLLOWS:

1. SHORT TITLE

That this By-law may be cited as the "Vacant Building Security By-law."

2. DEFINITIONS

- a) "Building Damaged by Fire" shall include a building partially or completely damaged by fire to the extent that it will not be inhabited until it has undergone repairs;
- b) "City" shall mean The Corporation of the City of Thunder Bay and, where the context allows, shall include its agents and employees;

- c) "Fire Chief" shall mean the Chief of the Thunder Bay Fire Department and shall include a delegate or delegates thereof;
- d) "Fire Department" shall mean the City of Thunder Bay Fire Department;
- e) "Hazard"- means Lands, Buildings, Structures, or materials that are in an Unsafe Condition, or is a source or a situation, with the potential for harm in terms of human injury or ill-health, damage to property, damage to the environment, risk of fire, or a combination of these and includes unsafe containers which have a closing or locking mechanism such that something or someone inside could be trapped and unable to be released without external assistance;
- f) "Land" - means property, whether or not it contains Buildings or Structures, and whether it is vacant or occupied. Reference to "Land" includes all Buildings and Structures, including fences, on the Land;
- g) "Manager" means the Manager of Licensing & Enforcement or their designates.
- h) "Municipal Standards By-law" means a By-law of the City that prescribes the standards for maintenance and occupancy of property and to prohibit occupancy and includes any amendments thereto and any successor by-laws;
- i) "Nuisance" – means any condition or use of Land which unreasonably interferes with the use and enjoyment of another person's Land. Examples include but are not limited to:
 - a) emissions of smoke, gas, fumes, dust, or sawdust;
 - b) objectionable odours; or
 - c) the unsightly storage of goods, wares, merchandise, debris or other material.
- j) "Officer" shall mean the Fire Chief, a fire prevention officer, police officer or a municipal law enforcement officer of the City;
- k) "Order" means a Work Order under this By-law;
- l) "Owner(s)" shall include the registered property owner or agent thereof: a person having or appearing to have beneficial ownership or care and control of the property and an owner as defined by the Building Code Act, 1992;
- m) "Property Entry By-law" means City of Thunder Bay By-law No. 075- 2011 and amendments thereto or successor thereof;
- n) "Registry" means a list of all properties in the City on which a vacant building is situated together with the following information with respect to those properties:
 - a) property address, or legal description if there is no municipal address;

- b) the name of the owner(s);
- c) current mailing address and telephone number of the owner(s);
- d) the name of a secondary contact person should the owner be unreachable;
- e) current mailing address and telephone number of the secondary contact person;
- f) immediate past use of the property;
- g) any relevant known risks or information for emergency service providers; and
- h) whether or not a fire safety plan exists for the property in accordance with the Fire Protection and Prevention Act, 1997, and the location of that plan if it exists

o) "Safe condition"- means a condition that does not pose or constitute an undue or unreasonable hazard or risk to life, limb, or health of any person on or about the property, and includes a structurally sound condition;

p) "Secure(d) Against Unauthorized Entry" may, at the discretion of the City, includes the boarding of a building opening or other methods to prevent entry;

q) "Unoccupied Building" means, for the purposes of this By-law, any building that is not occupied by the owner or tenant under a tenancy agreement and has been accessed by unwanted persons, but does not meet the definition of a vacant building, and may include a newly or partially constructed building that is or appears to be actively used for a legitimate purpose or appears dormant or abandoned.

r) "Unsafe Condition"- is a descriptive phrase for Land, Buildings, Structures, or material that are in a condition or state of repair that causes a hazard to life, limb, or health of any person authorized or expected to be on or near the Land in question.

s) "Vacant Building" means a building that is neither owner-occupied or tenant-occupied through an agreement, for a period of ninety (90) days or more and shall include a partially vacant buildings and a vacant or partially vacant building that is occupied by unauthorized persons but does not include a new building that has not yet obtained an occupancy permit.

t) "Vermin" means mammals, birds, or insects injurious to humans or physical property. Examples includes but are not limited to: skunks, rats, termites, raccoons, bird infestations, poisonous insects, reptiles, mice, squirrels and other rodents.

3. REQUIREMENT TO REGISTER

Every Owner of a Vacant Building shall register the building(s), in writing, on the appropriate form, with the Manager as soon as it becomes vacant; and

- a) Provide access for a registration inspection, as requested, to document existing conditions and ensure any required Fire Department and Property Standards

concerns are addressed; and

- b) Ensure any recommendations following the inspections are implemented and maintained thereafter; and
- c) Renew such registration(s) annually and pay annual inspection fee(s); and
- d) Keep the City advised of changes in the current mailing address and phone/e-mail contacts and update alternate contacts within 30 days of such change to ensure contact is possible in urgent situations and that the registry is maintained accurately; and.
- e) Notify the Manager, in writing, when the property is sold by amending the registry to reflect such change; or
- f) Notify the Manager, in writing, when the building is no longer requiring registration because it is either reoccupied for use or demolished.

4. OWNER(S) RESPONSIBILITY

- a) Every Owner shall ensure that any Vacant Building is secured against unauthorized entry by persons, birds, rodents, and other vermin that may create a nuisance within the building, surrounding lands, or neighbourhood where the building is situated.
- b) Every Owner shall ensure that any Unoccupied Building is secured against unauthorized entry by persons, birds, rodents, and other vermin that may create a nuisance within the building, surrounding lands, or neighbourhood where the building is situated.
- c) Every Owner shall ensure that any Vacant or Unoccupied Building shall be maintained it in a safe condition and not allow an Unsafe Condition or Hazard to develop.
- d) Every Owner of a Vacant or Unoccupied Building, where an Unsafe Condition or a Hazard is detected or reported, shall immediately take all measures required to abate the Unsafe Condition or Hazard within the building and surrounding Land
- e) Every Owner of any Unoccupied Building or Vacant Building, including vacant property appurtenant thereto, shall protect the building or property against the risk of fire, accident, or other danger including effectively preventing the entrance to it of all unauthorized persons.
- f) The requirements set out in Section 4, does not apply to a building, or portion thereof, that is under construction within an active development or redevelopment site, and under the authority of a building permit, where on-site work is actively

progressing under an approved plan.

- g) Every Owner shall, when required by the Fire Chief, shall remove and/or relocated all stored materials, as directed.

5. SECURING A VACANT OR UNOCCUPIED BUILDING

For the purposes of section 4 of this By-law, the Owner of a Vacant Building or Unoccupied Building shall:

- a) keep all exterior doors to the building operational, so as to fit tightly within their frames when closed;
- b) keep all exterior doors to the building locked so as to prevent unauthorized entry;
- c) keep all windows on the building properly glazed and in good repair;
- d) keep all windows on the building either permanently sealed or locked so as to prevent unauthorized entry;
- e) keep all windows, doors, basement and attic hatchways and their frames maintained to completely exclude rain or snow, and to substantially exclude wind from entering the building;
- f) render all floors above the first floor inaccessible to unauthorized entry by raising fire escapes to a height of at least four metres (4 m) or one hundred fifty-six inches (156 in), or guarding them in some other manner, that has been submitted in writing and approved by an Officer;
- g) maintain the building in compliance with the City's Municipal Standards By-law, except where the Owner expressly declares in writing that the state of the building is such that it cannot economically be repaired to the required standards and should be demolished;
- h) ensure that all utilities serving the building which are not required for safety or security are properly disconnected or otherwise secured;
- i) ensure that the property is kept free of infestations of rodents, vermin, birds, and other harmful pests and not permit any conditions to arise or continue that would allow such pests to harbour in or about the building;
- j) Where the circumstances cannot reasonably allow the Owner to immediately secure the building forthwith, and a Hazard or Unsafe Condition exists or likely to develop, the Owner shall ensure that the property is monitored by a responsible person at all times to prevent the entry of unauthorized persons, until the building is adequately secured.

6. SECURING/COVERING A VACANT OR UNOCCUPIED BUILDING

- a) If the normal locking of normal access points and other security measures for a building do not prevent entry, entry shall be prevented as follows:
- i. ensure all doors, windows, or other openings are covered with a solid piece of plywood, or an equivalent material, that shall be securely fastened and tight fitting, watertight, and shall be of a thickness of not less than 12 millimetres; and
 - ii. 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 frame, 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
 - iii. By blocking up all window, doors, and other openings in the building that provide a means of entry with bricks or masonry units held in place by mortar.
- b) All materials used for securing Unoccupied and Vacant Buildings shall be covered and maintained with a preservative that is reasonably compatible in colour with the exterior finish of the building in a manner so as to minimize detracting from the value of other properties in the immediate vicinity.

7. BUILDINGS DAMAGED BY FIRE

- a) Every Owner shall ensure that a Building Damaged by Fire, or relevant portion of a building that was damaged by fire, is secured against unauthorized entry forthwith, after the release of the relevant property by the authority having jurisdiction.
- b) Where an Owner has:
- i. expressed an intention not to comply with the requirements of this By-law; or
 - ii. does not comply with the requirements of this By-law; or
 - iii. fails to secure a Building Damaged by Fire when directed to do so;
 - iv. is unresponsive to messages or uncontactable to the City's attempts to notify,

the City may cause the Building Damaged by Fire, or portions thereof, to be secured against unauthorized entry

- c) Where a Vacant Building, Unoccupied Building or a Building Damaged by Fire is boarded, or required to be boarded, the boarding materials shall be installed and maintained in good repair and, unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint or equivalent weather-resistant material.

8. INSPECTION AND ENFORCEMENT POWERS

- a) Every Officer shall be authorized to enforce the provisions of this By-law.
- b) Every Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether the provisions of this By-law are being complied with.
- c) Every Officer may require information from any person concerning a matter related to the inspection.
- d) Every Officer may, in writing, extend any of the time frames for compliance in this By-law where it is reasonable in the circumstances to do so.
- e) Officers may also rely on the authorities, if required, of the City's Property Entry By-law and any other authorizing by-law or statute.

9. ANNUAL INTERIOR INSPECTIONS

In addition to any other inspections of a Vacant Building as required or permitted under this By-law or any applicable legislation, a Municipal Law Enforcement Officer may, at least once each calendar year, conduct an interior inspection of a building on a vacated property after providing reasonable notice to the Owner.

10. FEE FOR REGISTRATION, RENEWALS, ANNUAL INSPECTIONS

The City may charge fees for registration of a Vacant Building and any subsequent inspections of Vacant Buildings or Unoccupied Building and such fees shall be in accordance with the City's User Fee By-law as amended from time to time and any successor by-laws.

11. ORDERS/ENFORCEMENT

- a) An Officer who believes a building to be a Vacant Building, may make an Order requiring the building to be secured against unauthorized entry.
- b) An Officer who believes a building to be an Unoccupied Building that requires securing may make an Order requiring the building to be secured against unauthorized entry.
- c) An Officer who believes a building to be a Vacant Building may make an Order to the Owner requiring the Owner to make application and register the Vacant

Building or provide proof of active occupancy at all times relevant.

- d) An Officer may specify in an Order a prescribed a method of securing a Vacant Building different than the methods set out in this By-law, where a previous attempt to effectively secure the building was unsuccessful.
- e) An Officer, in an Order, may require the Owner to conduct routine and regular inspections of the property to ensure the property is secure and to maintain a record of those inspections in a manner set out in the Order.
- f) Where a specific method of securing the property, such as boarding in part or in whole, is required to ensure that the vacant property remains secured against unauthorized entry, the Order shall state this requirement.
- g) Except where an Unsafe Condition or Hazard exists, an Order shall set out the deadline by which the Vacant Building or Unoccupied Building must be secured. The Owner shall have a minimum of two business days to secure the Vacant Building or Unoccupied Building if the Order is hand delivered or electronically communicated to the Owner. The Owner shall have a minimum of five (5) business days to secure the Vacant Building or Unoccupied Building if the Order is only posted.
- h) Where an Owner:
 - i. indicates an intention not to comply with the Order; or
 - ii. does not comply with the requirements of this By-law or the Order;
or
 - iii. is unresponsive to messages or uncontactable to the City's attempts to notify; or
 - iv. fails to secure the building to the satisfaction of the City by the deadline set out in the Order;

the City may cause the Vacant Building or Unoccupied Building to be secured against unauthorized entry at the expense of the Owner.

- i) Where, in the opinion of the Officer an unsafe Condition or Hazard exists at a Vacant Building or Unoccupied Building, the Officer may cause the building to be secured against unauthorized entry without prior to a notice or Order being issued. Notice of the action taken in these circumstances shall be posted at the subject property and then sent to to the Owner at the address provided and shall include an invoice for the amount owing for the City's actions.
- j) Notwithstanding, that a building may meet the definitions of a Vacant Building or Unoccupied Building under this By-Law, included a building that is registered

under this By-law, nothing in this By-law prevents an Order to repair or demolish the Vacant Building or Unoccupied Building from being issued under the City's Municipal Standards For Property By-law for the same Vacant Building or Unoccupied Building.

- k) Any such Order issued under the Municipal Standards for Property By-law shall have paramountcy over the provisions in this By-Law, to the extent of any conflict between them.

12. OBSTRUCTION PROHIBITED

- a) No person, including the Owner, shall impede, interfere with, or obstruct an Officer in the execution of their duties and the inspection of property required under the By-law by doing any act or refusing any Officer direction including request for access to enter and inspect any property or structure thereon except those actual areas used as a dwelling unit.
- b) No person shall obstruct an Officer by providing false or misleading information.
- c) It is an Offence to obstruct an Officer in the discharge of their duties.

13. WORK ORDER

- a) Where the Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened this By-law to do work to correct the contravention.
- b) An Order shall set out:
 - i. reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - ii. the work or remedial action required to be done and the date by which the work or remedial action must be done.
- c) An Order may require work or remedial action to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.
- d) Any person who fails to comply with an Order issued under this By-law, is guilty of an offence.

14. SERVICE OF NOTICES/ORDERS

- a) An Order to secure a Vacant Building against unauthorized entry may be hand delivered to the Owner or posted at the site of the Vacant Building;
- b) An Order may be delivered in person to an Owner or occupant at the address of lands that are subject of the Order or left with an inmate therein that is over the apparent age of eighteen years; or

- c) An order may be sent via e-mail or text to an e-mail address or phone number that has been supplied for a communication purpose and will be deemed served only when such e-mail or text is acknowledged as being received and is not an auto-reply; or
- d) An Order may be sent registered mail to the last known address supplied to the City's tax office and shall be deemed to be delivered on the fifth (5th) day after the date mailed; or
- e) An Order may be posted in a conspicuous place on the property or placed in any open mail receptacle in proximity to the main entrance and shall be deemed to be delivered on the seventh (7th) day after being affixed/deposited.

15. REMEDIAL ACTION

- a) If a person fails to do any matter or thing as directed or required by this By-law, including to comply with an Order under this By-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person(s) expense. The City will invoice the Owner of all costs owing for actions taken by the City, but in default of receiving full payment of the invoice, the City may recover the costs of doing a matter or thing from the person directed or required to do it by instituting legal action or by adding the costs to the tax roll for the property and collecting them in the same manner as property taxes.
- b) The costs incurred by the City to take corrective actions on behalf of the Owner, as authorized by this By-law, shall include any fees and charges authorized by the City in accordance with the User Fee By-law in relation to the matters identified in the By-law.

16. GENERAL PROVISIONS

- a) Where an Officer finds that measures taken pursuant to an Order have been insufficient to keep a Vacant Building or Unoccupied Building secured against unauthorized entry, subsequent Orders may be issued requiring additional measures to be taken by the Owner.
- b) It is an offence for any person other than the Owner to remove, tear down, or interfere with any notice or Order posted on the property.
- c) Every Owner shall comply with an Order to secure a Vacant Building or Unoccupied Building against unauthorized entry.
- d) It is an offence for an Owner to fail to apply to register every Vacant Building or renew a registration as required under this By-law;

- e) It is an offence to provide false, inaccurate, or misleading contact information as required for initial registration, changes in registration, or at renewal of same;
- f) It is an offence to fail to update the Registry to reflect a change in ownership of a registered property;
- g) It is an offence to fail to properly secure a building that is Vacant Building or Unoccupied Building so as to prevent unauthorized entry to anyone other than the Owner or authorized persons.

17. OFFENCE

Any person who fails to comply with any of the requirements of this By-law is guilty of an offence and shall upon conviction be liable to a penalty as set out in Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended from time to time, or any successor thereof.

18. PENALTIES

- a) Any person who contravenes a provision of this By-law is also subject to a system of fines set out in section 429 of the Municipal Act, 2001, any and all contraventions of this By-law are designated as continuing offences for each day they continue.
- b) Every person who is convicted of an offence is liable to a minimum fine of three hundred dollars (\$300.00) and a maximum fine of five thousand dollars (\$5,000.00) for the first offence and a maximum fine of ten thousand dollars (\$10,000.00) for any subsequent conviction under the By-law to the maximum prescribed in the Municipal Act 2001.
- c) In addition to the fine amounts set out in section 17(2), for each day or part of a day that an offence continues, the minimum fine shall be three hundred dollars (\$300) per day or part day for the first conviction, but the total of all daily fines shall not exceed five thousand dollars (\$5,000) for the first conviction where the convictions are registered to a person that is not a corporation.
- d) Where a corporation is convicted of a second and subsequent conviction, the minimum fine shall not be less than five thousand dollars (\$5,000) for each subsequent conviction to a maximum fine of one hundred thousand dollars (\$100,000).
- e) In addition to any monetary penalty any court of competent jurisdiction may, pursuant to section 431 of the Municipal Act, issue an order prohibiting the continuation or repetition of the offence by the person convicted.

19. SEVERABILITY

Each and every of the provisions of this By-law is severable and if any provision of this By-law should for any reason be declared invalid by any court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

20. CONFLICTS

Where a provision of this Chapter conflicts with the provisions of another Bylaw, Act, or Regulation in force within the municipality, the provision, which establishes the hher standards to protect the health, safety, and welfare of the occupants and the general public or where it gives greater effect to the purpose of this by-law, it shall prevail.

21. EFFECT

This by-law shall come into force and effect on the date it is passed.

Enacted and passed this 12th day of September, A.D. 2022 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Bill Mauro

Mayor

Krista Power

City Clerk