



Memorandum

Corporate By-law Number BL XX/2022

TO: Office of the City Clerk **FILE: XXXX-2022**

FROM: Gordon Stover
Development & Emergency Services - Licensing & Enforcement

DATE: xx/xx/2022 (*draft dated May 10/22*)

SUBJECT: BL XX/2022 – VACANT BUILDING SECURITY

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

By-law Description: A By-law to Monitor Vacant Building Security

Authorization: Committee of the Whole - xxxxx, xx, 2022

By-law Explanation: The purpose of this By-law is to ensure that vacant buildings are secured against unauthorized entry...

Schedules and Attachments:

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER BL XXX/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.

WHEREAS 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;

AND WHEREAS 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;

AND WHEREAS 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;

AND WHEREAS, 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;

AND WHEREAS, 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.

THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

1. **DEFINITIONS**

"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;

"City" shall mean The Corporation of the City of Thunder Bay and, where the context allows, shall include its agents and employees;

"Fire Chief" shall mean the Chief of the Thunder Bay Fire Department and shall include a delegate or delegates thereof;

"Fire Department" shall mean the City of Thunder Bay Fire Department;
"Manager" means the Manager of Licensing & Enforcement, or their designate.

"officer" shall mean the Fire Chief: a fire prevention officer, or a municipal law enforcement officer of the City;

"order" means a Work Order under section 12 of this By-law.

"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;

"secure(d) against unauthorized entry" may, at the discretion of the City, include boarding of a building;

"Standards By-law" means a By-law of the City that prescribes the standards for maintenance and occupancy

"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

"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, that has experienced access by unwanted persons but does not meet the definition of a vacant building and may include a newly or partially constructed building that is dormant or abandoned.

"vacant building" means a building that is neither owner-occupied or tenant-occupied through agreement for a period of ninety (90) days or more and shall include a partially vacant building

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.

“vermin” means mammals, birds or insects injurious to humans or physical property. Examples includes but not limited to: skunks, rats, termites, raccoons, bird infestations, poisonous insects, reptiles, moths, mice and other rodents.

2. REQUIREMENT TO REGISTER

- (1) 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
- (2) 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
- (3) Ensure any recommendations following the inspections are implemented and maintained thereafter; and
- (4) Renew such registration(s) annually and pay annual inspection fee(s); and
- (5) 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.
- (6) Notify the Manager, in writing, when the property is sold, by amending the registry to reflect such change; or
- (7) Notify the Manager, in writing, when the building is not longer requiring registration, when it is either reoccupied for use or demolished.

3. OWNER(S) RESPONSIBILITY

- (1) Every owner shall ensure that any vacant building is secured against unauthorized entry by persons or by birds, rodents and other vermin that may create a nuisance within the building, surrounding lands or neighborhood where the building is situated.
- (2) 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, by effectively preventing the entrance to it of all unauthorized persons.

- (3) The requirements set out in Section 2 or subsection 3 (1) above, 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 Building Permit, where on-site work is actively progressing under an approved plan.
- (4) Every owner shall, when required by the Fire Chief, remove and/or relocated all stored materials, as directed.

4. SECURING A VACANT BUILDING

For the purposes of section 3 (1) of this By-law, the owner of a vacant 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 (4 m) metres or one hundred fifty-six (156 in) inches, 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 Standards By-law, except where the owner expressly declares the state of the building is cannot economically be repaired to the standard 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, to prevent accidental or malicious damage to the building or adjoining property or premises;

- i) ensure that the property is kept free of rodents, vermin, birds infestations and other harmful pests and any conditions that would allow such pests to harbour in or about the building;
- j) Where the circumstances cannot reasonably allow the property owner to secure the building forthwith, the owner shall ensure that the property is monitored by a responsible person at all times until the building is adequately secured.

5. BOARDING/COVERING A VACANT BUILDING

If the normal locking of and other security measures for a building do not prevent entry, entry shall be prevented as follows:

- a) ensure all doors, windows or other openings are covered with a solid piece of plywood, or equivalent material that shall be securely fastened and tight fitting, watertight and shall a thickness not less than 12 millimetres; and
- b) 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 nail 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 or window frame; or
- c) 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.
- d) 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 detraction from the value of other properties in the immediate vicinity.

6. BUILDINGS DAMAGED BY FIRE

- (1) Every owner shall ensure that a building damaged by fire is secured against unauthorized entry, forthwith after the release of the relevant property by the authority having jurisdiction.
- (2) Where an owner has:

- (a) expressed an intention not to comply with the requirements of this By-law; and/or
 - (b) failed to secure a building damaged by fire when directed to do so, the City may cause the building damaged by fire to be secured against unauthorized entry.
- (3) Where a vacant 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.

7. INSPECTION AND ENFORCEMENT POWERS

- (1) Every officer shall be authorized to enforce the provisions of this By-law.
- (2) 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.
- (3) Every officer may require information from any person concerning a matter related to the inspection.
- (4) 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.
- (5) 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.

8. 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.

9. FEE FOR REGISTRATION, RENEWALS, ANNUAL INSPECTIONS

The Corporation may charge a fees for registering a vacant building and then any subsequent inspections of vacant buildings, as stipulated in the City's User Fee By-law.

10. ORDERS/ENFORCEMENT

- (1) An officer who believes a building to be a vacant building, may make an order requiring the building to be secured against unauthorized entry.
- (2) An officer who believes a building, to be an unoccupied building that requires it be secured, may make an order requiring the building to be secured against unauthorized entry.
- (3) An officer who believes a building to be a vacant building, may make an order to the owner, requiring them to make application and register the vacant building.
- (4) An officer may set out particulars in an order, different that those set out in the by-law on the acceptable method(s) of securing the vacant building, where previous attempts to effectively secure the building were unsuccessful.
- (5) 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, as set out in the order.
- (6) 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.
- (7) Except where an unacceptable safety risk is found, an order shall set out the deadline by which the vacant building must be secured. The owner shall have a minimum of two business days to secure the vacant building if the order is hand delivered to the owner. The owner shall have a minimum of five business days to secure the vacant building if the order is only posted.
- (8) Where an owner:
 - (a) indicates an intention not to comply with the order; or
 - (b) fails to secure the building to the satisfaction of the City by the deadline set out in the order; the City may cause the building to be secured against unauthorized entry.
- (9) Where, in the 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 the 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 subject property or hand delivered to the owner in a reasonable time thereafter.

- (10) Notwithstanding a building may meet the definition of a vacant building under this by-law, nothing in this by-law prevents an order to repair or demolish the vacant building being issued under the City's Standards By-law, for the same vacant building, and any such order shall have paramountcy over the provisions in this by-law, to the extent of the conflict within

11. OBSTRUCTION PROHIBITED

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 an Officer direction, that includes request for access to enter and inspect any property or structure thereon, except those actual areas used as a dwelling unit.

12. WORK ORDER

- (1) 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.
- (2) An order under section 12 of this by-law shall set out:
- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - b) the work or remedial action required to be done and the date by which the work or remedial action must be done.
- (4) An order under section 12 of this by-law 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.
- (5) Any person who fails to comply with an order issued under section 12 of this by-law, is guilty of an offence.

13. SERVICE OF NOTICES/ORDERS

- (1) 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;
- (2) 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 that apparent age of eighteen years; or

- (3) An order may be sent registered mail to the last known address supplied to the corporation's tax office and shall be deemed to be delivered on the fifth (5th) day after the date mailed; or
- (4) 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.

14. REMEDIAL ACTION

- (1) If a person fails to do a 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 may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll for the property and collecting them in the same manner as property taxes.
- (2) The costs outlined in section 14 of this By-law shall include any fees and charges imposed by the City in accordance with this By-law, in relation to the matters identified in the By-law.

15. GENERAL PROVISIONS

- (1) Where an officer finds that measures taken pursuant to an order have been insufficient to keep a vacant building secured against unauthorized entry, subsequent orders may be issued requiring additional measures to be taken by the owner.
- (2) It is an offence for any person to remove or tear down or interfere with any Notice or Order posted on the property, except by the owner or agent thereof, of the property posted.
- (3) Every owner shall comply with an order to secure a vacant building against unauthorized entry.
- (4) 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;
- (5) 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;
- (6) It is an offence to fail to update the registry to reflect a change or ownership of a registered property;

(7) It is an offence to properly secure a building that is vacant or unoccupied, so as to prevent unauthorized entry to anyone other than the owner or a tenant within the meaning of a tenancy;

(8) It is an offence for anyone to obstruct, or attempt obstruct an officer in the course of their duties;

16. OFFENCE

Any person who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended from time to time, or any successor thereof.

17. PENALTIES

(1) 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, and all contraventions of this by-law are designated as continuing offences for each day they continue.

(2) 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.

(3) 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.

(4) 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).

18. ADDITIONAL COURT ORDER

Additionally, section 431 of the Municipal Act allows, if any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the

by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,

(a) prohibiting the continuation or repetition of the offence by the person convicted.

14. 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.

14. EFFECT

This by-law shall come into force and effect on the date of its final passing.

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

Mayor

Clerk