

Being a By-law to establish the permitting and regulation of vacant buildings and land within the City Of Oshawa.

Whereas under the provisions of subsection 11(2) of the Municipal Act, 2001, S.O. 2002, c. 25 (the “Municipal Act, 2001”), by-laws may be passed by lower-tier municipalities respecting services and things that the municipality is authorized to provide under subsection 11(1) of the Municipal Act, 2001, including services and things considered necessary and desirable for the public; and,

Whereas subsection 151(6) of the Municipal Act, 2001 allows a municipality to provide for a system of licences, including permits, with respect to any activity, matter, or thing which may be imposed under section 11 of the Municipal Act, 2001; and,

Whereas section 391 of the Municipal Act, 2001 authorizes municipalities to impose fees or charges on persons for services or activities provided by the municipality; and,

Whereas the Council of the Corporation of The City of Oshawa (“City Council”) deems that vacant buildings and land are, or could become, a health and safety hazard or public nuisance; and,

Whereas City Council deems it desirable to regulate vacant buildings and land through a permit system.

Therefore it is enacted as a by-law of The Corporation of the City of Oshawa as follows:

1. Title

1.1 The short title of this By-law is the “Vacant Building and Land Registry By-law”.

2. Definitions

2.1 In this By-law:

“**Accessory**” has the meaning as defined in the City of Oshawa Zoning By-law 60-94, as amended;

“**Agricultural Use**” means a lands zoned for Agricultural Use under the City of Oshawa Zoning By-law 60-94, as amended;

“**Building**” has the meaning as defined in the City of Oshawa Zoning By-law 60-94, as amended;

“**Building Code Act**” means the Building Code Act, 1992, S.O. 1992, c. 23, as amended and any successor thereof, and includes any regulations passed under it;

“**City**” means the Corporation of the City of Oshawa;

“**Director**” means the City’s Director of Municipal Law Enforcement and Licensing Services, or their delegate;

“**General Fees and Charges By-law**” means the City of Oshawa By-law 13-2003, as amended;

“**Greenspace**” means lands zoned as an Open Space Zone under the City of Oshawa Zoning By-law 60-94, as amended, without Buildings or Structures;

“**Municipal Act, 2001**” means the Municipal Act, 2001, S.O. 2002, c. 25, as amended, or any successor thereof, and includes any regulations passed under it;

“**Officer**” has the meaning as defined in the City of Oshawa Inspection By-law 64-2008, as amended;

“**Ontario Building Code**” means Ontario Regulation 332/12: Building Code, made under the Building Code Act, 1992, S.O. 1992, c.23, as amended, or any successor thereof;

“Order” means any Order issued by an Officer or Director respecting the contravention of a by-law enacted by the City of Oshawa;

“Owner” includes:

- a) the Person for the time being managing or receiving the rent of the Property, whether on the Person’s own account or as agent of the trustee of any other Person, or who would so receive the rent if the Property was being leased and/or rented;
- b) a lessee or Occupant of the Property who, under the terms of a lease, is required to Repair and maintain the Property in accordance with the Standards;
- c) the registered Owner of the Property; or
- d) a mortgagee in possession of the Property.

“Permit” means a valid Permit issued by the City for a Vacant Property under this By-law;

“Permit Holder” means the Owner of a Property that is the subject of a Permit;

“Person” means an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and the heirs, executors or legal representatives of the Person, or any combination thereof, to whom the context can apply according to law;

“Principal Residence” means:

- a) the residential unit that is owned or rented by a Person, alone or with others, where the Person is ordinarily resident and makes their home and conducts their daily affairs, including, without limitation, paying bills and receiving documentation related identification, taxation and insurance purposes, driver’s licences, income tax returns, medical plan documentation, vehicle registration and voter registration, or similar information; and,
- b) where the Person has no other Property designated as such within the City of Oshawa or any other jurisdiction;

“Property” means a Building or structure or part of a Building or structure, and includes the lands and premises appurtenant thereto, and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon, whether heretofore or hereafter erected, and includes abandoned Property.

“Structure” means has the meaning as defined in the City of Oshawa Zoning By-law 60-94, as amended;

“Vacant Building” means an entire Building that is or appears to be vacant, partially vacant, or unoccupied, or that, by reason of its unfinished or dilapidated condition appears to be in a state such that there is little or no control over unauthorized entry;

“Vacant Land” means lands, other than Greenspace or a legally authorized parking lot, with no Buildings and not devoted to the practice of farming;

“Vacant Property” means a Vacant Building or Vacant Land;

3. General

3.1 No Owner of a Vacant Property shall fail to obtain a Permit under this By-law:

- a) Within 30 days of the Property becoming vacant; or
- b) when Ordered to obtain a Permit by the Director.

3.2 A Building shall be presumed to be vacant for thirty (30) days if, based on visual inspections of the exterior over that period:

- a) it appears to be vacant, partially vacant, or unoccupied; or
- b) by reason of its unfinished or dilapidated condition appears to be in a state such that there is little or no control over unauthorized entry.

3.3 Notwithstanding subsection 3.2, any Owner may rebut the presumption of vacancy by presenting evidence that the Building or land is in use, on a balance of probabilities and to the satisfaction of the Officer or Director.

3.4 No Owner of a Vacant Property shall fail to hold a Permit under this By-law for the period of vacancy.

- 3.5 For the purposes of subsection 3.4, the period of vacancy shall commence on the day the Property becomes vacant and shall end:
- a) on the date of issuance of an occupancy permit issued under the Ontario Building Code; or
 - b) on the date determined by the Director, based on evidence that the Building or the land is in use.
- 3.6 The Permit Holder shall notify the Director in writing when the Property has been occupied and provide evidence satisfactory to the Director that the conditions of subsection 3.5 have been met.
- 3.7 The Permit Holder shall notify the Director in writing if the Property is sold.
- 3.8 A Permit issued under this By-law is valid only for the Person, time period, and municipal address that is indicated on the Permit.
- 3.9 Every Permit Holder shall comply with this By-law and with any conditions specified in the Permit.

4. Exemptions

- 4.1 The following Properties are exempt from this By-law:
- a) A Property that is the Principal Residence of the Owner or a lawful occupant, to the satisfaction of the Director;
 - b) A Property zoned for Agricultural Use;
 - c) Greenspace;
 - d) Lands located on a plan of subdivision that are reserved as future school sites or park locations;
 - e) Property owned, managed or leased by the City; or
 - f) Property where an application for a registered plan of subdivision has been approved by the City.
- 4.2 Owners of Vacant Properties are temporarily exempt from the requirements of this By-law under the following conditions:
- a) When a Building has become vacant due to the Owner being in care in a hospital, hospice, long-term care facility, assisted living residence, or home for special care, and such Building was the Principal Residence of the Owner immediately prior to being in care, for a maximum of one (1) year following the commencement of vacancy; or
 - b) When a Building or land has become vacant due to the death of the Owner, the Owner's authorized representative shall be exempt for a maximum period of one (1) year following the commencement of vacancy.
- 4.3 The Director may grant an exemption to an Owner where the Director is satisfied that the granting of the exemption would maintain the general intent and purpose of this By-law.
- 4.4 The Director may impose such conditions as the Director determines are appropriate in relation to an exemption granted by the Director pursuant to subsection 4.3.
- 4.5 A decision of the Director respecting an exemption pursuant to subsection 4.3 including any condition imposed pursuant to subsection 4.4 is final.

5. Application

- 5.1 An application for a Permit shall provide the Director with the following:

- a) A completed application, in a form satisfactory to the Director, including such information and documents as the Director may require for purposes of this By-law; and
- b) Payment in full of all applicable fees specified in the General Fees and Charges By-law.

5.2 The Director is authorized to receive and consider applications for Permits, to conduct all investigations necessary to ensure that a Permit is issued in accordance with this By-law, and to issue a Permit in accordance with this By-law.

5.3 The Director may refuse to issue a Permit if the application requirements in subsection 5.1 have not been met.

5.4 The Director may refuse to issue a Permit to any Person or Owner who has a record of any unpaid fees or penalties with the City of Oshawa including unpaid fines for convictions under the Provincial Offences Act, R.S.O. 1990, c. P.33.

6. Conditions

6.1 The Director is authorized at any time to impose conditions on a Permit, including but not limited to conditions related to the health, safety and well-being of persons, the protection of persons or property, and the control of noise or other nuisances.

6.2 A condition imposed under subsection 6.1 shall be indicated in writing to the Permit Holder on the Permit. Notwithstanding the foregoing, a letter from the Director advising the Permit Holder of conditions on the Property shall form part of the Permit as if the conditions were listed on the Permit itself.

7. Issuance

7.1 A Permit issued under this By-law shall be in a form satisfactory to the Director.

7.2 A Permit issued under this By-law is valid for a period not exceeding one (1) year from the date of issuance.

8. Revocation

8.1 In addition to any other penalty under this By-law, the Director may at any time revoke without notice a Permit under this By-law if:

- a) the Permit was issued or renewed due to a technical or clerical error; or
- b) the Permit Holder provided incorrect, false, or misleading information to the Director.

8.2 In the case of a revocation pursuant to subsection 8.1, the Director shall immediately provide notice in writing of the revocation with reasons to the Permit Holder at the address provided in the Permit application.

9. Renewal and Replacement

9.1 A Permit Holder may renew a Permit prior to the expiry date by applying in the same manner as if it was an original application made under this By-law.

9.2 A Permit Holder may receive a replacement copy of their Permit by submitting a written request to the Director and paying the fee prescribed in the General Fees and Charges By-law.

10. General Requirements

10.1 No Person shall give or furnish false, incorrect and misleading information for the purposes of obtaining a Permit under this By-law.

- 10.2 No Person shall publish or cause to be published any representation that they are the holder of a valid Permit if they do not hold a valid Permit under this By-law.
- 10.3 No Permit Holder shall fail to notify the Director in writing of any change in any of the information provided with or contained in an application for a Permit within seven (7) days of the change.
- 10.4 No Permit Holder shall alter, erase or modify the Permit, or allow the alteration, erasing or modification of the Permit.
- 10.5 Every Permit Holder shall be governed by this By-law and comply with all other municipal by-laws and provincial and federal statutes and regulations.

11. Permit Holder Obligations

- 11.1 No Permit Holder shall fail to attend a Vacant Property at least once every fourteen (14) days, or as otherwise directed by the Director, for the purposes of identifying and remediating any violations of municipal by-laws on the Property.
- 11.2 No Permit Holder shall fail to maintain a log of activities required under subsection 11.1, including the date the Property was visited and any remedial action undertaken.
- 11.3 No Permit Holder shall fail to produce the log required under subsections 11.1 and 11.2 to an Officer upon request.
- 11.4 No Permit Holder shall fail to maintain the municipal address of the Property on the Vacant Property, in a manner that is viewable to the public.
- 11.5 No Permit Holder shall fail to notify the Director of any existing conditions on the Property which may pose a hazard to visitors, service or utility providers, first responders, or any other Person on the Vacant Property.
- 11.6 No Permit Holder shall fail to provide the notice required under subsection 11.5 to the Director within twenty-four (24) hours after the Permit Holder becomes aware of the hazardous condition.
- 11.7 No Permit Holder shall fail to secure any Vacant Building, Accessory or Vacant Land, or any portion thereof, against unauthorized entry, to the satisfaction and sole discretion of the Director.

12. Contact Notice

- 12.1 No Permit Holder of a Vacant Property shall fail to post a Contact Notice in the manner prescribed by the Director.
- 12.2 Every Permit Holder shall ensure that the Contact Notice required under subsection 12.1 conforms to the specification and placement prescribed in the Permit.
- 12.3 Every Permit Holder shall ensure that the phone number listed on the Contact Notice required under subsection 12.1 is in service, up to date, and actively monitored.

13. Insurance

- 13.1 No Permit Holder shall fail to maintain insurance as required under this By-law.
- 13.2 No Permit Holder shall fail to keep the insurance policy required under this By-law in force for the period for which the Permit is in effect, inclusive of any renewal period.
- 13.3 Every Permit Holder shall have and maintain third party liability insurance that includes the following:

- a) Coverage for the Vacant Property that is the subject matter of the Permit, and any structures on the Vacant Land;
 - b) A limit of liability of not less than two million dollars (\$2,000,000.00) inclusive per occurrence for personal injury, bodily injury, death, and damage to property, including loss of use thereof; and
 - c) Identifies the Property as vacant.
- 13.4 An insurance policy required under this By-law shall include a provision that the City of Oshawa will be notified with no less than fifteen (15) days written notice of any cancellation, where available.
- 13.5 An insurance policy required under this By-law shall name the City of Oshawa as additional insured if required as a condition of the Permit.
- 13.6 Any lapse in maintaining the insurance coverage required in this By-law invalidates any Permit issued under this By-law.
- 13.7 The insurance provided in accordance with subsection 13.1 shall be to the satisfaction of the Director.

14. Order

- 14.1 Where an Officer is satisfied that an Owner has failed to comply with any provision of this By-law, the Officer may make an Order requiring the Owner to do work to correct the contravention.
- 14.2 An Order shall set out:
- a) reasonable particulars of the contravention adequate to identify the contravention; and
 - b) the work to be done and the date by which the work must be done.
- 14.3 Each Owner who contravenes an Order is guilty of an offence.
- 14.4 Despite any other provision of this By-law, the Director may rescind an Order at any time.

15. Administrative Penalties

- 15.1 No Owner shall fail to comply with any provision of this By-law.
- 15.2 No Owner shall fail to comply with an Order used pursuant to this By-law.
- 15.3 Administrative Penalty Process By-law 63-2013 applies to each administrative penalty issues pursuant to this By-law.
- 15.4 Each Owner who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 63-2013, be liable to pay to the City an administrative penalty. If a Person receives a penalty notice in accordance with the City's Administrative Penalty Process By-law for a contravention of this By-law, and the Person has not received a penalty notice for the same contravention within one (1) calendar year or less, the Person shall be liable to pay to the City a tier one (1) administrative penalty amount for that contravention in the amount of \$250. If a Person receives an additional penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier one (1) administrative penalty amount, the Person shall be liable to pay to the City a tier two (2) administrative penalty amount for that contravention in the amount of \$350. If the Person receives a subsequent penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier two (2) administrative penalty amount, the Person shall be liable to pay to the City a tier three (3) administrative penalty amount for that contravention in the amount of \$450. If the Person receives any subsequent penalty notices for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier three (3) administrative penalty amount, the Person shall be liable to pay to the City a tier three (3) administrative penalty amount for that offence in the amount of \$450.

16. Offences

- 16.1 An Owner who contravenes a provision of this By-law is guilty of an offence and on conviction liable to a fine of not more than \$25,000.00.
- 16.2 Prosecution under this By-law shall not preclude any other legal actions required to recover damages required to repair, replace or restore damaged real or personal property, as the case may be.

17. Notice

- 17.1 Any Order, notice or document respecting this By-law may be given in writing in any of the following ways and is effective:
 - a) on the date a copy is personally delivered to the Owner to whom it is addressed;
 - b) on the third (3rd) day after a copy is sent by regular mail or by registered mail to the Owner's last known address;
 - c) upon confirmation of the successful transmission of a copy by facsimile transmission to the Owner's last known facsimile transmission number;
 - d) upon sending a copy by e-mail transmission to the Owner's last known e-mail address; or
 - e) upon a copy being posted on the door of any Building or structure on the Owner's Lot or, where no Building or structure exists, on a stake erected by the Officer on the Owner's Lot.

18. Compliance with Other By-Laws and Regulations

- 18.1 This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.
- 18.2 If there is a conflict between a provision of this By-law and a provision of any other City By-law, the provision that establishes the higher standard shall apply.

19. Severability

- 19.1 If one or more provisions of this By-law, as amended, are found to be invalid, illegal, inoperative, unenforceable or void by any court or tribunal of competent jurisdiction, in whole or in part, or in the particular circumstances, the remaining terms and provisions of the By-law shall be deemed to be severable from the part so found and shall remain in full force and effect.

20. Effective Date

- 20.1 This By-law is in effect on the date of its passing.

By-law passed this twenty-ninth day of January, 2024.