

The Corporation of the Municipality of Brockton



By-Law 2019-0XX

Being a By-Law to Regulate Vacant Buildings Within the Municipality of Brockton.

Whereas the *Municipal Act, 2001, S.O. 2001, c 25, Section 5(1)*, as amended, provides that the powers of a municipal corporation are to be exercised by its council;

And Whereas the *Municipal Act, 2001, S.O. 2001, c 25, Section 5(3)*, as amended, provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9; shall be exercised by By-Law;

And Whereas the *Municipal Act, 2001, S.O. 2001, c 25, Section 11*, 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 the *Municipal Act, 2001, S.O. 2001, c 25, Section 8 and 9*, 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 the *Municipal Act, 2001, S.O. 2001, c. 25, Section 128*, 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 the *Municipal Act S.O. 2001, c 25, Section 446*, 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 the Council for The Corporation of the Municipality of Brockton 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;

Now Therefore the Council of the Corporation of the Municipality of Brockton **Enacts as Follows:**

1.0 Definitions:

1.1 The following definitions apply in this By-law:

"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;

"Building Code Act, 1992" shall mean the *Building Code Act, 1992, S.O. 1992, c. 23*, as amended, and any successor legislation;

"Building Code" shall mean Ontario Regulation 350/06, as amended, and any successor regulation;

“Chief Building Official” shall mean the Chief Building Official of the Municipality and shall include a delegate or delegates thereof;

“Fire Chief” shall mean the Fire Chief of the Municipality of Brockton and shall include a delegate or delegates thereof;

“Fire Protection and Prevention Act, 1997”, shall mean the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as amended, and any successor legislation;

“Fire Code” shall mean Ontario Regulation 213/07, as amended, and any successor regulation;

“Fire Department” shall mean the fire department of the Municipality;

“Municipality” shall mean The Corporation of the Municipality of Brockton and, where the context allows, shall include its agents and employees;

“officer” shall mean the Chief Building Official, the Fire Chief, a fire prevention inspector, or a municipal law enforcement officer of the Municipality;

“owner” shall include:

- a) the registered owner of the land on which the building is situated;
- b) the owner of a building;
- c) the person managing or receiving the rent of the land or the building, or who would receive the rent if the land and building were let, whether on the person’s own account or as agent or trustee or receiver of any other person;
- d) a vendor of the building under an agreement for sale who has paid any municipal taxes thereon after the effective date of the agreement;
- e) the person for the time being receiving instalments of the purchase price if the building were sold under an agreement for sale;
- f) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the building; and
- g) an owner as defined by the *Condominium Act 1998, S.O. 1998, c. 19*, as amended and any successor legislation.

“Planning Act” shall mean the *Planning Act, R.S.O. 1990, c. P.13*, as amended;

“vacant building” shall mean a building or part of a building that is not used by an owner or is not occupied by an owner.

2.0 Inspection and Enforcement Powers

2.1 Officer – enforcement authority

Every officer shall be authorized to enforce the provisions of this By-law.

2.2 Inspection – at any reasonable time

Every officer may carry out an inspection to determine whether the provisions of this By-Law are being complied with in accordance with the Municipality’s Inspections By-Law.

3.0 Vacant Buildings

3.1 Owner Responsibility – all vacant buildings

(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; and
- c) protect the vacant building against the risk of fire, accident or other danger.

3.2 Vacant Building – vacant at least 30 consecutive days

(2) Where a vacant building has been vacant for at least 30 consecutive calendar days, an 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 any one or more of the following:

- a) notify the Fire Department and the Chief Building Official in writing that the building is a vacant building;
- b) provide one set of as-built floor plans to the Fire Chief and one set of as-built floor plans to the Chief Building Official, if available;
- c) provide the Chief Building Official with a copy of the certificate of insurance required in paragraph 3.1(1)(b) above;
- d) ensure that all combustible materials within a vacant building are removed to reduce any potential fire load;
- e) install security measures or devices to the satisfaction to the Municipality, and such measures may include boarding of windows and doors, and may include inspections of a vacant building no less than on a weekly basis and maintenance of a written record of any such inspections including the date and time of the inspection; and
- f) do any work or repairs which in the opinion of the officer is necessary to secure a vacant building from unauthorized entry or protect a vacant building against the risk of fire, accident or other danger.

(3) Every owner of a vacant building shall comply with the written requirements of the officer in subsection 3.1(2) above.

3.3 Work Order– issued – officer discretion

An officer who believes that this By-law has been contravened may issue a work order requiring the owner to comply with this By-law.

3.4 Work Order – set out method(s) of compliance

A work order shall set out:

- a) the municipal address of the vacant building;
- b) the contraventions of this By-law;
- c) the date of the inspection;
- d) the work to be done to comply with the By-law; and
- e) the date by which the work must be done, which date shall not be sooner than 48 hours after the work order is given.

3.5 Work Order – how given

The work order may be given personally to the person to whom it is directed or it may be posted at the site of the vacant building.

3.6 Owner – compliance

Every owner shall comply with a work order.

3.7 Owner – non-compliance – done by the Municipality

Where an owner:

- a) expresses an intention not to comply with the work order; or
- b) fails to comply with the work order to the satisfaction of the Municipality by the deadline set out in the order;

the Municipality may take any action the Municipality deems necessary to secure or repair a vacant building in accordance with this By-law.

3.8 Safety risk – premises secured by Municipality – without notice

Where, in the reasonable opinion of the officer, allowing a vacant building to remain unsecured for even a short period of time presents an unacceptable safety risk, the Municipality 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 within five (5) days after taking any remedial steps.

3.9 Measures insufficient – additional requirements

Where an officer in his or her sole discretion determines that measures taken pursuant to a work order are insufficient, subsequent work orders may be issued requiring additional measures to be taken by the owner.

4.0 Buildings Damaged by Fire

4.1 Owner to contact Fire Department – intention to comply

Every owner of a building damaged by fire shall immediately contact the Fire Chief, or a representative of the Fire Department at the scene of a fire, to inform them of the owner's intention to comply with the requirements of this By-law.

4.2 Compliance by owner – within twenty-four hours

Every owner shall ensure that a building damaged by fire is secured against unauthorized entry within twenty four (24) hours after release of the property by the authority having jurisdiction or, if the Fire Chief has granted an extension, by the deadline given by the Fire Chief.

4.3 Hazard – public safety – building secured immediately

Notwithstanding Section 4.2, where, in the opinion of the Fire Chief or the Chief Building Official, a building damaged by fire is in a condition that presents an immediate hazard to public safety, the owner shall ensure that the building damaged by fire is secured against unauthorized entry forthwith after release of the relevant property by the authority having jurisdiction.

4.4 Owner – non-compliance - done by Municipality

Where an owner has:

- a) expressed an intention not to comply with the requirements of this By-law; or
- b) failed to secure a building damaged by fire within the relevant time outlined in this By-law;

the Municipality may cause the building damaged by fire to be secured against unauthorized entry.

5.0 Cost Recovery

The fees associated with cost recovery shall be in accordance with the Municipality of Brockton's current Fees and Charges By-Law.

5.1 Work done by Municipality – owner's expense

Where the Municipality 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.

5.2 Non-payment by owner – collected as property taxes

If the owner fails to pay the cost of work done by the Municipality under this Bylaw within thirty days, the amount shall be added to the tax roll of the subject property and collected in the same manner as property taxes.

5.3 If the owner does not comply with this By-Law, and the Fire Department is dispatched to the property the Municipality of Brockton shall recover the costs for the fire response services.

6.0 General Provisions

6.1 Application – all buildings

This By-law shall apply to all buildings in the municipality.

6.2 Ontario Heritage Act – designated properties

Where a vacant building or a building damaged by fire 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 on the

register or the heritage designation of the building to the officer’s attention, to ensure compliance with all other laws, by-laws or easements respecting the property, and to request any necessary extensions of time.

6.3 Boarding materials – painted – maintained

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 repair;
- b) unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint of equivalent weather-resistant material which is colour- coordinated to the exterior finish of the building; and
- c) boarding materials shall be installed to exclude rain and wind from entering the building and to secure the building from unauthorized entry.

6.4 Utilities - disconnected

Where a vacant building remains vacant for more than sixty consecutive days, the owner shall ensure that all utilities serving the building are properly disconnected or otherwise secured to prevent damage to the building or adjacent property, 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.

6.5 Building Code and Fire Code – applicable

Nothing in this bylaw shall be deemed to grant relief from the requirements of the *Building Code Act, 1992*, the Building Code, the *Fire Protection and Prevention Act, 1997*, or the Fire Code.

7.0 Exemptions

7.1 Fine – for contravention

Every person who contravenes any provision of this bylaw is guilty of an offence and is liable, upon conviction, to a fine not exceeding Five Thousand Dollars (\$5,000) per day for every day the offence occurs or continues.

7.2 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 the 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.

8.0 That this By-Law shall come into effect upon final passage.

9.0 This By-Law may be cited as the “Vacant Buildings By-Law”.

Read, Enacted, Signed and Sealed this 15th day of October, 2019.

Mayor – Chris Peabody

Clerk – Fiona Hamilton