

THE CORPORATION OF THE CITY OF CORNWALL

By-law # 2014-109

A By-law to Regulate Vacant Buildings in the City of Cornwall

Whereas, the Council of the Corporation of City of Cornwall deems it necessary to regulate the maintenance of vacant buildings in the City in order to protect the health and safety of its residents and visitors and to ensure that the City remains an attractive place to live, work and play; and

Whereas, Sections 8, 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act*"), authorize a municipality to pass of by-laws respecting the health, safety and well-being of persons and the protection of persons and property;

Now therefore be it resolved that the Corporation of the City of Cornwall enacts as follows:

1. Short Title

This By-law may be referred to as the "Vacant Building By-law."

2. Definitions

For the purposes of this By-law:

2.1 "**Board Up**" or "**Boarding Up**" means installing wood sheathing or boards in all Building openings to prevent access by unauthorized persons, wild life and rodents.

2.2 "Building" means all or part of:

a. a structure occupying an area greater than ten (10) square meters consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto; or

b. a structure occupying an area of ten (10) square meters or less that contains plumbing, including the plumbing appurtenant thereto;

2.3 "**Chief Building Official**" means the Chief Building Official appointed by City

Council pursuant to the Building Code Act S.O. 1992, c. 23

2.4 "**City**" means the municipality of the City of Cornwall or the geographic area under the jurisdiction of the City of Cornwall as the context requires;

2.5 "**Commercial Storefront**" means any transparent or partly transparent window, façade or public entryway in a commercial establishment, fronting on a street and visible to customers, neighboring merchants and/or residents;

2.6 "**Farm**" means an agricultural operation as defined in the Farming and Food Production and Protection Act, 1998, S. O. 1998, C. 1 and includes such an operation that is not carried with the expectation of gain but otherwise meets the definition in that act;

2.7 "**Notice of Registration**" means a Notice of Registration issued by the Chief Building Official pursuant to Section 4.2 of this By-law;

2.8 "**Officer**" means an individual appointed by the City of Cornwall or assigned by the Supervisor to enforce this By-law;

2.9 "**Owner**" includes, but is not limited to:

- a. the registered owner of a Property;
- b. the owner of a Building;
- c. the person managing or receiving the rent of a Property on which a Building is situated or of a Building who would receive the rent if the Property or Building were let, whether on the person's own account or as agent or trustee or receiver of any other person;
- d. a lessee or occupant of the Property on which a Building is situated who, under the terms of a lease, is required to repair and maintain the Building; and
- e. an owner as defined by the Condominium Act, 1998 S.O. 1998, C. 19, as amended;

2.01 "**Order**" means an Order issued under this By-law;

2.11 "**Person**" includes, but is not limited to, an individual, sole proprietorship, partnership, association or corporation;

2.12 "**Property**" means land on which a Building is situated and includes the Building;

2.13 "**Supervisor**" means either the City's Supervisor of Municipal Law

Enforcement or the Chief Building Official;

2.14 **“Vacant Building”** means any Building that has not been occupied, for at least sixty (60) days, by the Owner of the Building or a person authorized by the Owner and that, by reason of its damaged, dilapidated and/or unfinished condition, is open to the elements or is in a state such that there is no control over unauthorized entry to the Building.

3. Registration

3.1 Every Owner of a Vacant Building shall ensure that such Vacant Building is registered with the City in accordance with this By-law.

3.2 Every Owner of a Vacant Building shall display, in a prominent place on the Property on which such Vacant Building is located, a valid Notice of Registration, issued by the Chief Building Official with respect to the Vacant Building.

3.3 Every Notice of Registration expires:

- a. on the fourth (4th) anniversary of the date on which a Notice of Registration was issued for a Vacant Building, if the registration is not renewed before its expiry; or
- b. when the Notice of Registration is revoked under this By-law; or
- c. when the Vacant Building is sold or otherwise transferred to a new Owner; or
- d. when the Chief Building Official is satisfied that a Building is no longer vacant.

4. Application & Renewals

4.1 To register a Vacant Building or to renew a registration for a Vacant Building, the Owner of the Vacant Building shall:

- a. complete and submit to the supervisor an application in the form prescribed by the Chief Building Official from time to time;
- b. submit the registration fee provided for in Schedule “A” hereto; and,
- c. provide such floor plans, records and/or reports prepared by a qualified person as may be required by the Chief Building Official.

4.2 On receipt of the materials and registration fee described in Section 4.1 above and, in the case of a Vacant Building containing a Commercial Storefront, on receipt of the Consultation Report described in Section 8.2 below, the Chief Building Official may either issue a Notice of Registration or, if the application is incomplete, contains false or misleading information or registration fees are not paid, may refuse to issue the Notice of Registration until the such time as the required information and/or fee is provided.

4.3 Every owner of a Vacant Building shall notify the Chief Building Official of any change in circumstances relating to any information provided to the Chief Building Official under section 4.1 of this By-law within ten (10) business days after the change occurs.

5. Revocation

The Chief Building Official may revoke a Notice of Registration issued in accordance with Section 4.2 above if, in the opinion of the Chief Building Official, circumstances, including but not limited to a change in circumstances reported in accordance with Section 4.3 of this By-law, warrant such revocation.

6. Maintenance of Vacant Buildings

6.1 Every owner of a Vacant Building shall:

- a. ensure that the Building complies with all applicable statutes, regulations and by-laws, including but not limited to the Building Code Act, 1992, the Fire Protection and Prevention Act, 1997, the Property Standards By-law and the Yard Maintenance By-law of the City of Cornwall; and,
- b. satisfy the Supervisor that an individual retained by the Owner attends at the Property to monitor the condition of the Vacant Building a minimum of once every two (2) weeks or more frequently as required in writing by the Supervisor.

7. Boarding Up

7.1 In addition to the requirements of Section 6.1 above, no Owner of a Vacant Building shall fail to Board Up the Vacant Building to the satisfaction of the Chief Building Official and in accordance with the following requirements:

- a. Prior to Boarding-Up, the Owner shall ensure that:
 - i. An inspection of the Vacant Building is conducted by both a building

inspector representing the City of Cornwall and the Fire Department, all inspection fees provided for in Schedule "A" are paid and all orders issued pursuant to such inspections are complied with;

ii. All combustible waste and stored materials are removed from the Vacant Building and disposed of to the satisfaction of the Fire Department;

iii. All services to the Vacant Building, including but not limited to gas, water and electrical service, are shut off and/or disconnected in accordance with procedures approved by the relevant service provider and to the satisfaction of the Chief Building Official;

iv. No humans, wildlife or rodents are occupying interior spaces and cavities in the Vacant Building, including, but not limited to, crawl spaces, basements, attics and soffits; and,

b. When undertaking Boarding-Up, the Owner shall ensure that the wood sheathing is:

i. Firmly secured to all external openings including those located on all floor levels and any other openings that may allow access to the interior;

ii. Secured with tamper-proof fittings;

iii. Weather-proofed using water resistant paint or similar finishing; and,

iv. Painted in colours comparable with the surrounding walls and so as to be esthetically pleasing.

7.2 The Owner of a Vacant Building may apply to the Chief Building Official for a temporary exemption, not to exceed six (6) months, from the Boarding-up requirements contained in Section 7.1 above and the Chief Building Official may grant such temporary exemption if he or she determines that it is in the public interest to do so.

8. Commercial Storefronts

8.1 Notwithstanding Section 7.1 above, no Owner of a Vacant Building shall Board-Up a Commercial Storefront without first obtaining the approval of the Chief Building Official, which approval may be subject to such conditions as the Chief Building Official deems appropriate in the circumstances.

8.2 In addition to Section 8.1 above and the requirements of Sections 4.1, in connection with the registration or renewal of a registration for a Vacant Building containing a Commercial Storefront, the Owner of such Vacant Building shall

consult with representatives of the Business Improvement Area in which such Vacant Building is located (the "BIA") to identify opportunities for streetscape improvements involving the use of the Commercial Storefront by the BIA. Within ten (10) days of such consultation, the BIA and the Owner shall submit a report to the Chief Building Official summarizing the outcome of the consultation (a "Consultation Report").

9. Exemptions

9.1 The provisions of this By-law shall apply to every Vacant Building in the City except for:

- a. A Vacant Building for which the Owner holds a valid demolition permit granted by the Chief Building Official, provided that the demolition occurs within six (6) months of issuance of the demolition permit;
- b. A Vacant Building which is occupied by the Owner, or a person authorized by the Owner, on a seasonal basis;
- c. A Vacant Building, other than a dwelling, on Property used as a Farm; and,
- d. A Vacant Building which is owned by the City.

9.2 In addition to the foregoing, an Owner of a Vacant Building may apply to the Chief Building Official to exempt a Vacant Building from the application of this By-law, for a period not to exceed one (1) year and the Chief Building Official may, in his or her sole discretion, grant such an exemption if he or she determines that it is in the public interest to do so.

10. Entry and Inspections

10.1 An Officer may enter into any Vacant Building or upon any Property where a Vacant Building is located to conduct inspections for the purposes of determining whether:

- a. the provisions of this By-law are being complied with; or
- b. any Order issued pursuant to this By-law is being complied with.

10.2 An Officer may, for the purposes of an inspection under section 10.1,

- a. require the production for inspection of documents or things relevant to the inspection;

- b. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c. require information in writing or otherwise as required by the Officer from any person concerning a matter related to the inspection; or,
- d. 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.

10.3 Any cost incurred by the City in exercising its authority to inspect under Sections 10.1 and 10.2, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be the responsibility of the Owner and shall be invoiced to the Owner by the City.

11. Order to Comply

11.1 An Officer, upon finding a contravention of this By-law, may issue an Order to the Owner:

- a. requiring the Owner to discontinue the activity that contravenes the By-law; and/or;
- b. requiring the Owner to bring a Vacant Building into compliance with this By-law.

11.2 An Order issued pursuant to subsection 11.1 may require work to be done even though the facts that constitute the contravention of this By-law were present before this By-law came into force.

11.3 An Order issued pursuant to this By-law shall set out:

- a. the legal and civic address (if available) of the Vacant Building; the nature of the contravention of this By-law;
- b. a description of the activity which must be discontinued and/or the work required to be undertaken in order to remedy the contravention of this By-law; and,
- c. a deadline by which the contravention of this By-law is to be remedied, if applicable.

11.4 An Order may be served:

- a. upon the Owner personally; or
- b. by registered mail sent to the last known address of the Owner in accordance with the information contained in the latest tax roll maintained by the City; or
- c. by placing the Order on the Vacant Building, or the Property on which the Vacant Building is located, in a prominent place.

12. Default

12.1 Where an Order has been served in accordance with 11.4, and the requirements of the Order have not been complied with within the time specified in the Order, the City may cause the work specified in the Order to be done at the expense of the Owner, including undertaking the Boarding-Up of a Vacant Building.

12.2 In addition to any other remedy and to any penalty available under this or any other by-law or legislation, the City may recover 100% of all costs incurred by the City to remedy any contravention of this By-law together with:

- a. an administrative fee of 25% of such costs with a minimum fee of \$100.00 and a maximum fee of \$600.00
- b. a re-inspection fee of \$500

all of which shall be due within thirty (30) days from the date of an invoice delivered by the City to the Owner, either by delivering it personally or by registered mail to the last known address of the Owner in accordance with the information contained in the latest tax roll maintained by the City.

12.3 The Supervisor is authorized to give immediate effect to any direction, order or requirement where the cost of carrying out the direction, order or requirement do not exceed \$5,000 and, where the costs do exceed \$5,000, as the City's Council may authorize.

12.4 Amounts invoiced in accordance with Sections 10.3 or 12.2 of this By-law shall be subject to 1.25% interest per month on the outstanding amount following the date the amounts are due.

12.5 All costs, including any fees or interest thereon, to be paid to the City in accordance with this By-law, may be added to the tax roll for any Property owned by Owner of the Vacant Building with respect to which the costs were incurred and collected in the same manner as municipal taxes.

13. Emergency

13.1 Notwithstanding anything to the contrary in this By-law, if in the opinion of the Supervisor, the nature of the contravention of this By-law is such that there is an imminent risk to persons or property, the City may cause the contravention to be removed or remedied without notice to the Owner of Vacant Building where such contravention has occurred.

13.2 Where the City acts pursuant to Section 13.1 of this By-law, it shall, as soon as possible thereafter, provide the Owner Vacant Building where such action has been taken, with a statement of work completed to remove or remedy the contravention and may recover its costs in accordance with Sections 12.2, 12.3, 12.4 and 12.5 of this By-law.

14. Offences

14.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence.

14.2 Every person who fails to comply with an Order is guilty of an offence.

14.3 Every person who hinders or obstructs, or attempts to hinder or obstruct, an Officer, or any person acting under the direction of the City, in the enforcement or attempted enforcement of this By-law is guilty of an offence.

14.4 Every person who furnishes false or misleading information to the Supervisor in connection with the registration of a Vacant Building in accordance with this By-law is guilty of an offence.

15. Penalties

15.1 Any person who is convicted of an offence under this By-law, is liable to the following fines:

a. on first conviction a maximum fine of seven thousand five hundred dollars (\$7,500); and,

b. on any subsequent conviction, a maximum fine of fifteen thousand dollars (\$15,000).

15.2 Notwithstanding Section 15.1 above, any corporation who is convicted of an offence under this By-law, is liable to the following fines:

a. on first conviction, a maximum fine of twenty five thousand dollars (\$25,000); and,

b. on any subsequent conviction, a maximum fine of fifty thousand dollars (\$50,000).

15.3 Upon registering a conviction for the contravention of any provision of this By-law, 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 directing that the Vacant Building which was the subject of the conviction be brought into compliance with the By-law and prohibiting the continuation or repetition of the offence by the person convicted.

16. Ultra Vires

Should any sections of this By-law be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

17. Conflicts

In the event of a conflict between the provisions of this By-law and the provisions of the Building Code Act, 1992, the Fire Protection and Prevention Act, 1997, the Property Standards By-law and/or the Yard Maintenance By-law of the City of Cornwall, the most restrictive requirement of any of the said legislation or by-laws shall apply.

18. Transition Repeal

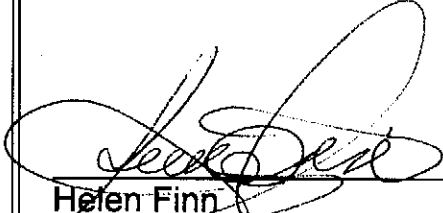
18.1 Boarding-Up By-law #168-2001 and amending By-law #2013-109 are repealed on the date of the passing of this By-law.

18.2 Notwithstanding Section 19 of this By-law, an Owner of Building which constitutes a Vacant Building on the day that this By-law comes into force shall have sixty (60) days from the day that this By-law comes into force to bring such Vacant Building into compliance with this By-law.

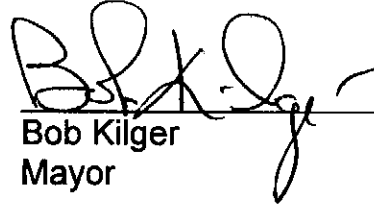
19. Effective Date

19.1 This By-law shall come into force and effect on the day of its passing.

Read, signed and sealed in Open Council this 23rd day of June, 2014.



Helen Finn
City Clerk



Bob Kilger
Mayor