

The Corporation of the City of Port Colborne

By-law No. \_\_\_\_\_

Being a By-law to Require the Registration of Vacant Buildings

Whereas sections 8 and 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended (the "Act") authorize a municipality to pass By-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6, 8 and 10 of subsection 10(2) authorize By-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; the protection of persons and property; and structures;

And whereas the Act further authorizes a municipality to prohibit and regulate with respect to matters that, in the opinion of its Council, are or could become public nuisance; to delegate its authority; to impose fees or charges on persons for services or activities provided or done by or on behalf of it; to provide for inspections and inspection orders; and to make orders to discontinue activity or to do work;

And whereas Council deems it necessary and in the public interest to enact a by-law to identify and regulate vacant buildings within the municipality;

Now therefore the Council of the Corporation of the City of Port Colborne enacts as follows:

**SHORT TITLE**

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

**DEFINITIONS**

2. In this By-law:

"Building" means all or part of:

- (a) a structure occupying an area greater than 10 m<sup>2</sup> 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 10 m<sup>2</sup> or less that contains plumbing, including the plumbing appurtenant thereto;

"City" means the corporate municipality of the City of Port Colborne or the geographic area of the City of Port Colborne as the context requires;

"Farm" means an agricultural, aquacultural, horticultural or silvicultural operation;

"Manager" means the City's Manager of By-law Services responsible for the administration and enforcement of building maintenance standards and their designate or successor;

"Officer" means an individual appointed by the City or assigned by the Manager to enforce this By-law;

"Owner" includes:

- (a) the registered Owner of the Property on which a Building is situated;
- (b) the Owner of a Building; the Person managing or receiving the rent of a Building or the Property on which a Building is situated; or

- (c) who would receive the rent if the Property or Building were let, whether on the Person's own account; or
- (d) as agent or trustee or receiver of any other Person;
- (e) a vendor of a Building under an agreement for sale who has paid any municipal taxes on the Building after the effective date of the agreement;
- (f) the Person for the time being receiving instalments of the purchase price if a Building were sold under an agreement for sale;
- (g) 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; or
- (h) an Owner as defined by the *Condominium Act, 1998, S.O. 1998, c. 19*;

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

"Property" means the land on which a Building is situated;

- 2.1 In this By-law, subject to subsections 2.2 and 2.3, "Vacant Building", means a Building that does not appear to be in use and, without limiting this definition, shall include a building, that in the opinion of the Manager:
  - 2.1.1 is not protected from the entry of unauthorized Persons;
  - 2.1.2 is not protected from the entry of rain, snow, vermin or birds into the interior of the Building;
  - 2.1.3 where the supply of any one or more of the electricity, gas or water utilities serving the Building is discontinued or disconnected;
  - 2.1.4 where one or more of the electricity, gas or water utilities serving the Building is not being used;
  - 2.1.5 if the Building contains 1, 2 or 3 dwellings, where one or more dwellings are not fit for an individual or individuals to live in in accordance with the *Building Code Act, 1992, S.O. 1992, c. 23* and its regulations (the "*Building Code Act*"), the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4* and its regulations (the "*Fire Protection and Prevention Act*"), the City Property Standards By-law, or any other applicable statute, regulation, or by-law;
  - 2.1.6 where 25% or more of the door and window openings to the Building are partially or completely boarded up (for example, if there are 8 door and window openings to a Building and 2 or more of the door and window openings are partially or completely boarded up, no matter what the size of each door or window opening); or
  - 2.1.7 where an Application for Rebate of Property Taxes for the entire Building has been submitted to the City's Tax Section.
- 2.2 A Vacant Building does not include a Building where the Owner satisfies the Manager that:
  - 2.2.1 a use permitted under the City's Zoning By-law is occurring;
  - 2.2.2 a permit has been issued by the City for construction or demolition of the Building and construction or demolition work has been actively undertaken for at least 40 hours during each 90-day period following

the issuance of the permit;

2.2.3 the Building is not a dwelling and is on Property used as a Farm; or

2.2.4 the Building is occupied by the Owner, or a Person authorized by the Owner, on a seasonal basis.

2.3 A Vacant Building does not include a building that is owned or controlled by the federal, provincial, regional or City government.

## REGISTRATION

3. Every Owner of a Vacant Building shall register the Vacant Building with the Director within 30 days of the date the Vacant Building becomes vacant.

4. Every registration expires:

4.1 on the one-year anniversary date of the date a Vacant Building is registered if the registration is not renewed before its expiry;

4.2 when the registration is revoked under this By-law;

4.3 when the Vacant Building is sold or otherwise transferred to a new Owner;

4.4 when the Manager is satisfied, as set out in a written notice from the Director to the Owner of the Vacant Building, that the building is no longer vacant.

5. To register or to renew a registration, every Owner of a Vacant Building shall:

5.1 complete and submit to the Manager an application containing such information as the Manager may require, and

5.2 submit the applicable fees and charges as required by City's Rates Fees and Charges By-law.

6. Every Owner of a Vacant Building shall notify the Manager of any change in circumstances in connection with information given to the Manager in relation to a registration within 10 business days after the change occurs.

7. The Manager shall refuse an application under section 6 when the application is, in the opinion of the Manager, incomplete or contains false or misleading information.

## REGULATIONS

8. Every Owner of a Vacant Building shall:

8.1 ensure that the Vacant Building is registered in accordance with this By-law;

8.2 ensure that the Property complies with all applicable statutes, regulations and By-laws, including but not limited to the *Building Code Act*, the *Fire Protection and Prevention Act*, and any City By-law which regulate property or building maintenance standards;

8.3 satisfy the Manager that an individual retained by the Owner attends at the Property to monitor the building condition a minimum of once every 2 weeks or more frequently as required in writing by the Manager; and

8.4 where required by the Manager, provide a report from a qualified individual as to the condition of the building as required in writing by the Manager.

## ADMINISTRATION AND ENFORCEMENT

9. The Manager is authorized to administer and enforce this By-law including but not

limited to prescribing the format and content of any forms or other documents required under this By-law.

10. An Officer acting under this By-law or any Person acting under the direction of an Officer may at any reasonable time, and upon producing proper identification, enter upon any Property without a warrant for the purpose of inspecting whether any building on the Property complies with the provisions of the by-law.
11. Any cost incurred by the City in exercising its authority to inspect a Property or building, vacant or otherwise, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the Owner of the Property where the inspection takes place.
12. If an Officer is satisfied that a contravention of this by-law has occurred, the Officer may make an order requiring the person who contravened the by-law, or who caused or permitted the contravention or the Owner of the Property on which the contravention occurred to discontinue the contravening activity.
13. An order under section 12 shall set out:
  - 13.1 reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and
  - 13.2 the date or dates by which there must be compliance with the order.
14. If an officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who committed the contravention or who caused or permitted the contravention or the owner of the property on which the contravention occurred to do work to correct the contravention.
15. An order under section 14 shall set out:
  - 15.1 reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred;
  - 15.2 the work to be completed; and
  - 15.3 the date or dates by which the work must be completed.
16. An order to discontinue contravening activity made under Section 12 or an order to do work made under Section 14 may be served personally or by registered mail to the last known address of:
  - 16.1 the owner of the property where the contravention occurred; and
  - 16.2 such other persons affected by it as the officer making the order determines.
17. In addition to service given in accordance with section 16, an order to discontinue contravening activity made under section 12 or an order to do work made under section 14 may be served by an officer placing a placard containing the order in a conspicuous place on the property where the contravention occurred.
18. Where service cannot be given in accordance with section 16, sufficient service is deemed to have taken place when given in accordance with section 17.
19. Where a person does not comply with a direction, or a requirement under this By-law to do a matter or thing, the Manager, with such assistance by others as may be required, may carry out such direction, order, or requirement at the person's expense.

20. The City may recover the costs of doing a matter or thing under section 19 by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an interest rate of 15 per cent per year commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
21. The Manager is authorized to give immediate effect to any direction, order, or requirement where the costs of carrying out the direction, order or requirement do not exceed \$10,000, and where the costs do exceed \$10,000, as the City's Council may authorize.
22. Every Person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to a fine, and such other penalties, as provided for in *the Provincial Offences Act, R.S.O. 1990, c. P.33* and the *Municipal Act, 2001, S.O. 2001, c. 25*.
23. A contravention of the requirements of this by-law is deemed to be a continuing offence on each day or part of a day that the contravention continues.
24. An Officer who finds that a Person has contravened any provision of this By-law may issue a penalty notice pursuant to the City's Non-Parking AMPS By-law.
25. A director or Officer of a corporation who knowingly concurs in the contravention of this by-law by the corporation is guilty of an offence and, upon conviction, is subject to the fines as set out City's Rates, Fees, and Charges by-law.
26. Where a Person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

## **GENERAL PROVISIONS**

27. If a court of competent jurisdiction declares any provision or provisions of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.

## **ENACTMENT**

28. This By-law comes into force on the date of its passing.

Enacted and passed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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William C. Steele  
Mayor

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Saima Tufail  
Acting City Clerk