



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 155-2012

To establish a by-law regulating vacant buildings.

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, 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 Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that by-laws may be passed by a lower-tier municipality respecting the health, safety, and wellbeing of persons, and for the protection of persons and property;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a 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 it is the opinion of the Council of The Corporation of the City of Brampton that vacant buildings not secured against unauthorized entry may create a public nuisance by attracting vandals and creating fire and safety hazards, and it is the desire of the Council of The Corporation of the City of Brampton to regulate vacant buildings;

NOW THEREFORE the Council of The Corporation of the City of Brampton HEREBY ENACTS as follows:

SECTION 1 - SHORT TITLE

1.1 This by-law may be referred to as "The Vacant Building By-law".

SECTION 2 - SCOPE AND INTERPRETATION

- 2.1 The provisions of this by-law shall be applicable on all lands and properties within the geographical limits of the City of Brampton.
- 2.2 This by-law in no way limits or grants relief from the requirements of the *Building Code Act, 1992*, the Building Code, the *Fire Protection and Prevention Act, 1997*, or the Fire Code.
- 2.3 Wherever a word is used in this by-law with its first letter capitalized, the term is being used as it is defined in this by-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
- 2.4 References to items in the plural include the singular, as applicable.

SECTION 3 - DEFINITIONS

In this by-law,

- 3.1 Definitions in the *Building Code Act, 1992*, and the Building Code shall be used with respect to matters pertaining to buildings and which are undefined in this by-law.
- 3.2 Definitions in the *Fire Protection and Prevention Act, 1997*, and the Fire Code shall be used with respect to matter pertaining to fire prevention and fire safety and which are undefined in this by-law.
- 3.3 "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, or requires demolition because it is unsafe.
- 3.4 "*Building Code Act, 1992*" shall mean the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, and any successor legislation.
- 3.5 "Building Code" shall mean Ontario Regulation 350/06, as amended, and any successor regulation.
- 3.6 "Chief Building Official" shall mean the Chief Building Official of the City as defined in the *Building Code Act, 1992*.
- 3.7 "Council" shall mean the Council of The Corporation of the City of Brampton.
- 3.8 "City" shall mean The Corporation of the City of Brampton or the geographical area of the City of Brampton as the context requires.
- 3.9 "*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.
- 3.10 "Fire Code" shall mean Ontario Regulation 213/07, as amended, and any successor regulation.

- 3.11 "Chief Fire Official" shall mean the Chief Fire Official of the City or his/her designate who may include a Fire Prevention Officer.
- 3.12 "Officer" shall mean a person appointed by Council as an inspector pursuant to the *Building Code Act, 1992*, or a person employed as a Property Standards Officer, City Building Inspector, Chief Building Official, Chief Fire Official, Fire Prevention Officer, Division Chief of Fire Prevention, Assistant Division Chief of Fire Prevention, or a person delegated the authority of administration and enforcement of this by-law.
- 3.13 "*Municipal Act, 2001*" shall mean the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, and any successor legislation.
- 3.14 "*Ontario Heritage Act*" shall mean the *Ontario Heritage Act*, R.S.O. 1990, c.O.18 as amended, and any successor legislation.
- 3.15 "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 an agent, 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 installments 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;
 - g) an owner as defined by the *Condominium Act, 1998*, S.O. 1998, c. 19, as amended and any successor legislation; or
 - h) an owner as defined by the Ontario Fire Code, O. Reg. 213/07, as amended and any successor legislation.
- 3.16 "Vacant Building" shall mean a building that is or appears to be vacant, partially vacant, or unoccupied.

SECTION 4 - GENERAL PROVISIONS FOR VACANT BUILDINGS

- 4.1 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.
- 4.2 Where a Vacant Building has been vacant for at least sixty (60) consecutive 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, within the timeframe specified by the Officer:
- a) notify the Chief Fire Official in writing that the building is vacant;

- b) provide the Chief Fire Official with a copy of a site location plan and floor plans of each storey of the Vacant Building, all drawn to scale and labeled to the satisfaction of the Chief Fire Official;
 - c) provide the Chief Fire Official with a copy of a report from a qualified person or, if deemed necessary by the Officer, from a Professional Engineer registered in Ontario, concerning the structural sufficiency of the Vacant Building, or concerning any matter related to the Vacant Building;
 - d) provide Enforcement and By-law Services with a copy of the certificate of insurance required in paragraph 4.1(b);
 - e) ensure that all combustible materials within a Vacant Building are removed to reduce any potential fire load, to the satisfaction of the Chief Fire Official;
 - f) install security measures or devices to the satisfaction of the Officer, and such measures may include boarding of doors, windows, or other openings; or
 - g) do any work or repairs which, in the opinion of the Officer, are necessary to secure a Vacant Building from unauthorized entry or protect a Vacant Building against the risk of fire, accident, or other danger.
- 4.3 Every Owner of a Vacant Building shall comply with the written requirements of the Officer in subsection 4.2 above, within the timeframe specified by the Officer.
- 4.4 Where a Vacant Building has been designated pursuant to the *Ontario Heritage Act*, it is the responsibility of the Owner to bring that information to the Officer's attention to ensure compliance with all other laws or by-laws respecting the property.
- 4.5 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 order;
 - b) boarding materials shall be installed to exclude precipitation and wind from entering the building, and to secure the building from unauthorized entry, and shall be installed within the reveal of the opening frame or cladding, where feasible;
 - c) unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint or equivalent weather resistant material; and
 - d) boarding materials shall be selected, coated, coloured, and installed to match surrounding door/window frames and exterior wall finishes.
- 4.6 Where a Vacant Building remains vacant for more than ninety (90) consecutive days, the Owner shall ensure that all utilities serving the building are properly disconnected, terminated, or capped, 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.
- 4.7 When openings in a Vacant Building previously boarded or secured become unsecured, such openings shall be secured again, using materials and fasteners of greater strength, installed in such a manner to deter their removal or destruction.

- 4.8 Where the security measures of a Vacant Building are frequently breached, in spite of repeated attempts to re-secure as described in subsection 4.7, fulltime security personnel shall be provided on site by the Owner.
- 4.9 An Officer may, in his/her discretion, accept alternative measures for temporary security, if an Owner can demonstrate that such measures provide a level of safety equivalent to that required by this by-law.

SECTION 5 - BUILDINGS DAMAGED BY FIRE

- 5.1 Every Owner of a Building Damaged By Fire shall immediately contact the Chief Fire Official, or a representative of Brampton Fire and Emergency Services at the scene of a fire, to inform them of the Owner's intention to comply with the requirements of this by-law.
- 5.2 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 Chief Fire Official has granted an extension, by the deadline given by the Chief Fire Official.
- 5.3 Notwithstanding subsection 5.2, where, in the opinion of the Chief Fire 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 subject building by the authority having jurisdiction.

SECTION 6 - ADMINISTRATION AND ENFORCEMENT

- 6.1 This by-law shall be administered and enforced by an Officer who is hereby authorized to enforce the provisions of this by-law.

SECTION 7 - RIGHT OF ENTRY

- 7.1 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- a) the provisions of this by-law;
 - b) a direction or order made under this by-law, the *Municipal Act, 2001*, or any other court order;
 - c) a condition of a permit issued under this by-law;
 - d) an order issued by an Officer to cease and discontinue the contravening activity; or
 - e) an order issued by an Officer to perform work to rectify the contravention.
- 7.2 For the purpose of the inspection, and Officer may:
- 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 from any person concerning a matter related to the inspection; and
- d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

- 7.3 The Officer shall have inspection powers described in Section 436 of the *Municipal Act, 2001*.
- 7.4 Notwithstanding subsection 7.2, the Officer shall not enter or remain in any room or place actually used as a dwelling unless the provisions of Section 437 of the *Municipal Act, 2001*, are complied with.
- 7.5 No person shall obstruct or hinder, or attempt to obstruct or hinder an Officer in the exercise of a power or the performance of a duty under this by-law.
- 7.6 No person shall refuse to produce any documents or things required by an Officer under this by-law, and every person shall assist any entry, inspection, examination, or inquiry by an Officer.
- 7.7 No person shall knowingly furnish false information to the City or an Officer with respect to this by-law.

SECTION 8 - ORDERS, REMEDIAL REPAIRS, AND COST RECOVERY

- 8.1 If an Officer who finds that a contravention of the by-law has occurred, an Officer may issue:
- a) an order requiring the Owner of the land, the occupier of the land, the contravenor or to any person who permitted or caused the contravention to cease and discontinue the activity within the time specified in the order;
 - b) an order requiring the Owner of the land, the occupier of the land, the contravenor or to any person who permitted or caused the contravention to do work to rectify the contravention within the time specified in the order; or
 - c) both an order to discontinue the activity and an order to rectify the contravention to the Owner of the land, the occupier of the land, the contravenor or to any person who permitted or caused the contravention.
- 8.2 Where the interior of a Vacant Building is considered unsafe by an Officer because the risk of accident or harm may be high for any person within the building, authorized or not, the Officer may provide in an order for the unsafe condition to be removed or discontinued, or any measure taken necessary to protect persons from the unsafe condition.
- 8.3 An order shall specify:
- a) the municipal address of the land on which the contravention occurred;
 - b) the reasonable particulars of the contravention adequate to identify the contravention of this by-law;
 - c) the date of the inspection;
 - d) the work ordered to be completed; and

- e) the date by which the work must be done.
- 8.4 An order under this by-law shall be served on the Owner of the land, the occupier of the land, the contravenor or to any person who permitted or caused the contravention, as applicable.
- 8.5 An order required to be served under this by-law may be served personally or by registered mail sent to the last known address of the person upon whom the order is to be served or to that person's agent for service.
- 8.6 If the order is to be served by registered mail, the service shall be deemed to have been made on the fifth (5th) day after the day of mailing unless the person to whom the order is given or that person's agent of service established that, acting in good faith, through absence, accident, illness, or other unintentional cause the order was not received until a later date.
- 8.7 If the order cannot be served personally, by registered mail or by service on the person's agent for service, an officer may post a copy of the order in a conspicuous place on the land and may enter on the land for this purpose. The posting of the order shall be deemed to be sufficient service of the order under this by-law
- 8.8 Where an Officer, in his/her discretion, determines that measures taken pursuant to an order are insufficient, subsequent orders may be issued requiring additional measures to be taken by the Owner.
- 8.9 Every person to whom an order is issued under this by-law shall comply with the order.
- 8.10 In the event that an order is issued and not complied within the timeframe specified in the order, an Officer, employee, agent or contractor, may enter upon the land and remove such things or carry out the work required to comply with the order, and may recover the costs in accordance with Section 446 of the *Municipal Act, 2001*, as amended.
- 8.11 Where, in the reasonable opinion of the Officer, allowing a Vacant Building to remain unsecured presents an unacceptable health or safety risk, the City may cause the building to be secured against unauthorized entry, or repaired by whatever means necessary to remove the unacceptable risk, and no prior notice or order to the Owner shall be required. Notice of the action taken in these circumstances shall be given to the Owner in accordance with subsection 8.5 of this by-law in a reasonable time thereafter.
- 8.12 Anything done or removed by an Officer, employee, agent or contractor, to comply with this by-law, an order, or notice may be removed from the property and forthwith destroyed, or otherwise disposed of by the Officer, employee, agent or contractor.
- 8.13 Where the City 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, which costs may be added to the

tax roll of the subject property and collected in the same manner as property taxes.

- 8.14 If the Owner fails to pay the cost of the work done by the City under this by-law within thirty (30) calendar days of issuance of an invoice by the City, the costs may be added to the tax roll of the subject property and collected in the same manner as property taxes.

SECTION 9 - OFFENCES AND PENALTIES

- 9.1 Every person who contravenes any provision of this by-law is guilty of an offence.
- 9.2 Every person who contravenes an order made under this by-law is guilty of an offence.
- 9.3 Every director or officer of a corporation who knowingly concurs in the contravention of any provision of this by-law by the corporation is guilty of an offence.
- 9.4 A person who is convicted of an offence is liable:
- a) on a first offence, to a fine of not less than \$250.00 and to a fine of not more than \$50,000.00; and
 - b) on a second and each subsequent offence, to a fine of not less than \$500.00 to a fine of not more than \$100,000.00.
- 9.5 Every person who fails to comply with an order made by an Officer or who permits or causes contravention of any provision of this by-law is guilty of an offence, and on conviction, is liable to a fine of not less than \$500.00 and to a fine of not more than \$10,000.00 per day for each day or part of a day that the offence continues after the time given for complying with the order has expired or that the offence is permitted or caused to be continued.
- 9.6 A person who is convicted of multiple offences is liable for each offence included in the multiple offence, to a fine of not less than \$500.00 and to a fine of not more than \$10,000.00.

SECTION 10 - VALIDITY

- 10.1 Should any section, clause or provision of this by-law be held by a court of competent jurisdiction to be invalid, the validity of the remainder of the by-law shall not be affected.


SECTION 11 - EFFECTIVE DATE


- 11.1 This by-law shall come into force and take effect on the date of passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN
COUNCIL THIS *28th* DAY OF *June*, 2012.


Approved as
to form:

28 05 12


SUSAN FENNELL - MAYOR


PETER FAY - CLERK

Approved as to Content:


Michael Won, Director, Development Engineering Services