

THE CORPORATION OF THE TOWN OF BLIND RIVER

BY-LAW NO. 21-30

Being a By-law to Regulate Vacant Buildings.

WHEREAS sections 8, 9, and 10 of the Municipal Act, 2001, c. 25 as amended (the Municipal Act, 2001) provides municipalities with broad powers, including the ability to pass by-laws that the municipality deems necessary or desirable for municipal purposes, and, in particular, paragraphs 5, 6, 8, and 10 of subsection 10(2) of the Municipal Act, 2001, authorize municipalities to pass by-laws respecting the economic, social, and environmental well-being of the municipality; the health and safety, and well-being of persons; the protection of persons and property; and structures.

AND WHEREAS section 128 of the Municipal Act, 2001 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 section 425 of the Municipal Act, 2001 authorizes municipalities to pass by-laws providing that a person who contravenes a by-law passed by the municipality under the Municipal Act, 2001 is guilty of an offence;

AND WHEREAS the Municipal Act, 2001 further permits municipalities to establish a system of fines for offences under a by-law of the municipality passed under that Act;

AND WHEREAS Section 446 of the Municipal Act, 2001, S.O.2001, Chapter 25, 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 of the Corporation of the Town of Blind River is of the opinion that vacant buildings that are not secured against unauthorized entry constitute public nuisances by attracting vandal's vermin and creating various fire and safety hazards;

AND WHEREAS the Council of the Corporation of the Town of Blind River ENACTS as follows:

SHORT TITLE

This By-law may be cited as the Vacant Lot By-law.

SCOPE

- i. The provisions of this By-law shall be applicable on all lands and properties within the limits of The Corporation of the Town of Blind River.
- ii. Nothing in this By-law shall be construed as limiting, restraining, superseding, impeding or otherwise conflicting with the authority of the Medical Officer of Health, the Fire Marshal, the Building Code Act, The Fire Protection and Prevention Act, or any Provincial or Federal Minister and his/her powers as set out in any Act, By-law or Regulation.

DEFINITIONS

Definitions in the Building Code Act, 1992, S. O. 1992, c. 23, as amended the Building Code shall be used with respect to matters pertaining to buildings unless otherwise defined in this By-law.

Definitions in the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended and the Fire Code shall be used with respect to matters pertaining to fire prevention and fire safety unless otherwise defined in the By-law.

“Building Code”, shall mean Ontario Regulation 332/12, as amended, and any successor regulation.

“Building Code Act”, 1992 shall mean Building Code Act, 1992, S.O. 1992, c. 23, as amended.

“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.

“Building” means all or part of:

- a. A structure occupying an area greater than ten (10) square metres consisting of a wall, roof and floor or any of them or 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 metres or less that contains plumbing, including the plumbing appurtenant thereto;

“Building Department” shall mean the Building Department of the Town;

“Blind River Fire Department” shall mean the fire department of the Town, known as Fire Services;

“Chief Building Official” shall mean the Chief Building Official (CBO) of the Town of Blind River and shall include a delegate or delegates thereof;

“Council” shall mean the Council for The Corporation of the Town of Blind River;

“Fire Chief” shall mean the Chief of the Blind River Fire Department or designate;

“Officer” shall mean the Chief Building Official, the Fire Chief, a Fire Prevention Officer, or a Municipal Law Enforcement Officer of the town;

“Owner” includes, but is not limited to:

- a) The registered owner of the Property on which the Building is situated;
- b) The owner of a Building;
- c) The person managing or receiving the rent for a Building, or the Property on which a Building is situated, or 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 Person receiving installments of the purchase price if a Building were sold under an agreement for sale;
- e) 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
- f) An owner as defined by the Condominium Act, 1998.

“Person” includes a corporation and its directors and officers, and the heirs, executors, assignees and administrators;

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

“Property” shall mean the lands on which a Building is situated and includes the Building;

“Town” shall mean the Corporation of the Town of Blind River and, where the context allows, shall include its agents and employees;

“Vacant Building” shall mean any Building that is or appears to be vacant, partially vacant, or unoccupied, or that, by reason of its unfinished or dilapidated condition, is open to the elements and in a state such that is little to no control over unauthorized entry, but does not include:

- a) A dwelling unit occupied by the owner on a seasonal basis but otherwise maintained throughout the year;
- b) A Building, except a dwelling unit, on Property used as a farm; or
- c) A Building that is owned by the Town

INSPECTION AND ENFORCEMENT POWERS

“Officer – enforcement authority

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

Inspection – at any reasonable time

Every officer may carry out an inspection to determine whether the provisions of this By-law are complied with in accordance with the Town’s Property Standards By-law.

DUTIES OF OWNER

Every Owner of a Vacant Building shall:

- 5.1 Ensure that the Property 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 and Property Standards By-laws;
- 5.2 Ensure that that Vacant Building is secured against unauthorized entry;
- 5.3 Maintain liability insurance on the Vacant Building;
- 5.4 Provide inspection/monitoring of the Vacant Building no less than on a monthly basis by a person or company familiar and qualified with matters pertaining to this By-law;
- 5.5 Protect the Vacant Building against the risk of fire, accident or other danger;
- 5.6 Where a Vacant Building or Building damaged by fire is boarded or required to be boarded:
 - i. Boarding materials shall be installed and maintained in good order;
 - ii. 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 of cladding, where feasible;
 - iii. Unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint or equivalent weather resistant material; and
 - iv. Boarding materials shall be selected, coated, coloured, and installed to match surrounding door/window frames and exterior wall finishes.
- 5.7 Where a Vacant Building has been designated or registered under the Ontario Heritage Act, R.S.O. 1990, c. o.18, as amended, it shall be the

- responsibility of the Owner to notify the Town of said designation or registration and provide the Town with all relevant information pertaining to the designation or registration of the Vacant Building, to ensure compliance with all other laws or By-laws pertaining to the Building.
- 5.8 Where a Vacant Building remains vacant for more than ninety (90) consecutive days, the Owner shall ensure that all utilities servicing the Vacant Building are properly disconnected, shut off, capped, or terminated, as the case may be, unless said utilities are necessary for the safety or security of the vacant Building or required by law to remain connected.
- 5.9 Every Owner of a Building Damaged by Fire shall ensure that the Building is secured against unauthorized entry within twenty-four (24) hours of regaining access to the Property by the authority having jurisdiction over the site.

ADMINISTRATION AND ENFORCEMENT

- 6.1 The Protective Services Department 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 pursuant to this By-law.
- 6.2 One or more Officers may enter a Property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- i. This By-law;
 - ii. A direction or order under this By-law.
- 6.3 For the purposes of an inspection under Section 6.2 an Officer May:
- i. Require the production of documents or things relevant to the inspection;
 - ii. Remove documents or things relevant to the inspection for the purpose of making copies or extracts, which shall be returned within (48) hours after removal;
 - iii. Require information in writing, or otherwise as required by the Officer, from any Person concerning a matter related to the inspection; or
 - iv. 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.
- 6.4 No person shall obstruct the Officer from inspecting the Property or Building or both, or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of the inspection;

- 6.5 Any cost incurred by the Town in exercising its authority to inspect pursuant to this By-law, including, but not limited to, of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the Owner of the Building where the inspection takes place.
- 6.6 An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under Section 438 of the Municipal Act, 2001, where he or she has been prevented from carrying out an inspection under Section 6.2 and 6.3 of this Bylaw.
- 6.7 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 Town may cause the Vacant 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 Property or sent by regular mail to the Owner of the Property or Building or both, as case may be, in a reasonable time thereafter.

ORDER

- 7.1 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 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.
- 7.2 An Order under Section 7.1 shall set out:
- i. Reasonable particulars of the contravention sufficient to identify the contravention and the location of the Property on which the contravention occurred; and,
 - ii. The dates by which there must be compliance with the order.
- 7.3 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 contravened the By-law, 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.
- 7.4 An order under Section 7.3 shall set out:
- i. Reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred;

- ii. The work to be completed; and,
- iii. The date or dates by which the work must be completed.

7.5 Where a Person does not comply with a direction, an order, or a requirement under this By-law to do a matter or thing, the Officer, with such assistance by others as may be required, may carry out such direction, order, or requirement at the Person's expense.

7.6 The Town may recover the costs of doing a matter or thing under 7.5 by action and collecting them in like manner as property taxes and such costs shall include interest rate of 15 percent (15%) per year commencing on the day the Town incurs the costs and ending on the day the costs, including all applicable interest, are paid in full.

SERVICE

- 8.1 An order to discontinue contravening activity made under Section 7.1, or an order to do work made under Section 7.3, may be served personally or by registered mail to the last known address of;
- i. The Owner of the Property where the contravention occurred; and,
 - ii. Such other Person affected by it as the Officer making the order determines.

Service by registered mail shall be deemed to have taken place five (5) business days after the date of mailing.

8.2 In addition to service given in accordance with Section 8.1, an order to discontinue contravening activity made under Section 7.1, or an order to do work made under Section 7.3, may be served by an Officer placing a placard containing the order in a conspicuous place on the property where the contravention occurred.

8.3 Where service cannot be given in accordance with Section 8.1, sufficient service shall be deemed to have taken place when given in accordance with Section 8.2.

PENALTY

- 9.1 Every Person who contravenes any provision of this By-law is, upon conviction, guilty of an offence and is liable:
- i. On a first conviction, to a fine of not more than ten thousand dollars (\$10,000); and,
 - ii. On any subsequent conviction, to a fine of not more than twenty five thousand dollars (\$25,000).

- 9.2 Despite Section 9.1, where the person convicted is a corporation:
- i. The maximum fine in subsection 9.1 i. shall be fifty thousand dollars (\$50,000); and,
 - ii. The maximum fine in Subsection 9.1 ii. Shall be one hundred thousand dollars (\$100,000).
- 9.3 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

- 10.1 Any section of this By-law, or any part thereof, that is found by a court of competent jurisdiction to be invalid shall be severable, and the remainder of the By-law shall continue to be valid.
- 10.2 In this By-law, unless the context otherwise requires words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the convers of the foregoing also applies where the context so requires.


ENACTMENT

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

PASSED IN OPEN COUNCIL THIS 7th DAY OF JUNE, 2021.



Mayor



CAO/Clerk

CERTIFICATION BY THE CLERK:

I, K. Scott, CAO/Clerk of the Corporation of the Town of Blind River, do hereby certify that the above is a true certified copy of By-Law No. 21-30 which was passed in Open Council on the 7th day of June, 2021.

K. Scott