

**The Corporation of the City of Pembroke**

**By-law Number 2024-63**

**A By-law to regulate Vacant Buildings within the City of Pembroke**

**Whereas** Section 10(2) of the Municipal Act, S.O. 2001, c.25, as amended, states a single-tier municipality may pass by-laws related to the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons as well as the protection of persons and property; and structures;

**Whereas** Section 128 of the Municipal Act, S.O. 2001, C.25, 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;

**Whereas** the Municipal Council of The Corporation of the City of Pembroke 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 Municipal Council of the Corporation of the City of Pembroke enacts as follows:

**PART 1**  
**DEFINITIONS**

In this By-law:

“Building” shall mean all or part of:

(a) a structure occupying an area greater than 15 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 15 m<sup>2</sup> or less that contains plumbing, including the plumbing appurtenant thereto;

“Building Code Act” shall mean the Building Code Act, 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 Administrative Officer” shall mean the officer or his or her designate appointed by Council as the Chief Administrative Officer for the City of Pembroke;

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

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

“Director” shall mean the Director of Planning, Building and By-law Enforcement as appointed by Council for the City of Pembroke;

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

“Fire Protection and Prevention Act”, 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;

"Pembroke Fire Department" shall mean the fire department of the City, known as Fire Services;

"Officer" shall mean the Chief Administrative Officer, Director of Planning, Building and By-law Enforcement, Chief Building Official, the Fire Chief, a fire prevention inspector, a municipal by-law enforcement officer or any other staff as appointed or assigned by the Chief Administrative Officer of the City;

"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 installments of the purchase price if the building was sold under an agreement for sale;
- (f) 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
- (g) an owner as defined by the Condominium Act 1998, S.O. 1998, c. 19, as amended and any successor legislation.

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

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

"Property" shall mean the land on which a building is situated and includes the building;

"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.

## **PART 2** **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 at any reasonable time to determine whether the provisions of this By-law are being complied with in accordance with this by-law.

## **PART 3** **VACANT BUILDINGS**

**3.1** In this By-law "vacant building", subject to subsections 3(2) and 3(3), means a building that does not appear to be in use and, without limiting this definition and in the opinion of the Director, is deemed to be a building:

- (a) that is not protected from the entry of unauthorized persons;

- (b) that is not protected from the entry of rain, snow, vermin or birds into the interior of the building;
- (c) where the supply of any one or more of the electricity, gas or water utilities serving the building is discontinued or disconnected;
- (d) if the building contains 1, 2 or 3 dwellings, and is not fit for an individual or individuals to live in;
- (e) where 25% or more of the door and window openings to the building are partially or completely boarded up; or
- (f) where an Application for Rebate of Property Taxes for the entire building has been submitted to the City's Tax Section.

3.2 A vacant building does not include a building where the owner satisfies the Director that:

- (a) a use permitted under the City's Zoning By-law is occurring;
- (b) 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; or
- (c) the building is occupied by the owner, or a person authorized by the owner, on a seasonal basis.

3.3 A vacant building does not include a building that is owned or controlled by the federal, provincial or City government.

3.4 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;
- (c) protect the vacant building against the risk of fire, accident or other danger;
- (d) register their vacant building with the City; and shall pay a one-time administrative fee as well as the annual renewal fee if the building remains vacant;
- (e) shall provide updated contact information annually or upon change of ownership;
- (f) shall monitor the vacant building twice a month or more frequently as required by the City; and
- (g) shall submit reports with respect to the condition of the vacant building as required by the City.

3.5 Where a vacant building has been vacant for at least 30 consecutive days, an Officer who reasonably believes that a vacant building poses a risk to safety or is a public nuisance or could become a public nuisance may in writing require the owner of a vacant building to do any one or more of the following:

- (a) notify the Pembroke Fire Department and the Chief Building Official in writing that the building is a vacant building;
- (b) provide one set of floor plans (showing the current floor configuration) to the Fire Chief and one set of floor plans (showing the current floor configuration) to the Chief Building Official;
- (c) provide the Chief Building Official with a copy of the certificate of insurance required in paragraph 3.4(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 City, and such measures may include boarding of windows and doors, and include inspections of the vacant building twice a month and maintenance of a written record of any such inspections including the date and time of the inspection;
- (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; and
- (g) provide the Officer with the phone number and mailing address for the owner or their agent, and any other contact information the Officer reasonably requires.

3.6 Every owner of a vacant building shall comply with the written requirements of the Officer in subsection 3.5 above.

#### **PART 4 REGISTRATION**

4.1 Every owner of a vacant building shall register the vacant building with an Officer within 30 days of the date the vacant building commences to be vacant and pay the applicable fee.

4.2 Every registration expires:

- (a) on the one-year anniversary date of the date on which it is issued if the registration is not renewed before its expiry;
- (b) when the registration is revoked under this By-law;
- (c) when the vacant building is sold or otherwise transferred to a new owner;
- (d) when the Officer is satisfied, as set out in a written notice from the Officer to the owner of the vacant building, that the building is no longer vacant.

4.3 To register or to renew a registration, the owner of a vacant building shall:

- (a) complete and submit to the Officer an application containing such information as the Officer may require;
- (b) submit the one-time registration fee per vacant property as stated in the City's Fees and Charges By-law;
- (c) pay annual renewal fee per vacant property as stated in the City's Fees and Charges By-law.

4.4 Every owner of a vacant building shall notify the Director of any change in circumstances in connection with information given to the Director under section 4.3 within 10 business days after the change occurs.

4.5 The Director shall refuse an application under section 4.4 when the application is, in the opinion of the Director, incomplete or contains false or misleading information.

#### **PART 5 REGULATIONS**

5.1 Every owner of a vacant building shall:

- (a) ensure that the vacant building is registered in accordance with this By-law;
- (b) 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;

- (c) satisfy the Officer that an individual retained by the owner attends at the property to monitor the building condition a minimum of twice a month or more frequently as required in writing by the Officer; and
- (d) provide a report from a qualified individual as to the condition of the building as required in writing by the Officer.

## **PART 6 ADMINISTRATION AND ENFORCEMENT**

- 6.1 The Chief Administrative Officer 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.
- 6.2 Registration and other fees under this By-law shall be as approved by Council from time to time and included in the City Fees and Charges By-law.
- 6.3 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.
- 6.4 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.
- 6.5 An order under Section 6.4 shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred;
  - (b) the work to be completed; and
  - (c) the date or dates by which the work must be completed.
- 6.6 An order to do work made under Section 6.4 may be served personally or by registered mail to the last known address of:
  - (a) the owner of the property where the contravention occurred; and
  - (b) such other persons affected by it as the officer making the order determines.
- 6.7 In addition to service given in accordance with section 6.6, an order to do work made under Section 6.4 may be served by an Officer placing a placard containing the order in a conspicuous place on the property where the contravention occurred.
- 6.8 Where service cannot be given in accordance with Section 6.6, sufficient service is deemed to have taken place when given in accordance with Section 6.7.
- 6.9 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 Director, with such assistance by others as may be required, may carry out such direction, order or requirement at the person's expense.

## **SECTION 7 FAILURE TO COMPLY AND COST RECOVERY**

- 7.1 Where a person defaults in complying with a direction, requirement or order under this By-law to do a matter or thing, the Chief Administrative Officer may cause an Officer or agent on behalf of the City, with such assistance from others as may

be required, to enter the land on which the contravention occurred at any reasonable time, and to carry out such direction, requirement or order at the person's expense.

7.2 The City may recover the costs from the person directed, required or ordered to do a matter or thing under this section, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

7.3 The amount of the City's costs incurred to the date payment is made in full, constitutes a lien upon the land, upon the registration of a notice of lien upon the land.

## **SECTION 8 PENALTY AND ENFORCEMENT**

8.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

8.2 a) Every person or director or officer of a corporation shall comply with an order, direction, registration or other requirement made under this By-law;

b) No person shall obstruct or attempt to obstruct an officer, or any person acting under an officer's instructions, in the lawful exercise of a power granted to him/her or them by this by-law;

8.3 All offences provided for in this by-law are designated as continuing offences as provided for in Subsection 429(2)(a) of the Municipal Act, 2001, S.O. 2001, c.25.

8.4 Any proceeding alleging an offence may be commenced pursuant to the Provincial Offences Act, or any successful legislation by:

a) Filing a certificate of offence alleging the offence in the office of the court;

b) Laying an information; or

c) Any other means of commencing a proceeding that may be permitted in law from time to time by the Province of Ontario.

8.5 Where a proceeding is commenced by filing a certificate of offence alleging the offence in the office of the court, a person or corporation who is convicted of an offence is liable, for each day or part of a day that the offence continues, to the fine or penalties as set out in Schedule "A" of this by-law.

8.6 Where a proceeding is commenced by laying an information or any other means of commencing a proceeding that may be permitted in law from time to time by the Province of Ontario,

8.7 Any person who contravenes any provision of this By-law, or an officer or director of a corporation, who knowingly concurs in such a contravention by the corporation, is guilty of an offence and upon conviction is liable to a fine or penalty as follows:

(a) for a first offence, a maximum of \$5,000;

(b) for a second offence, a maximum of \$10,000; and

(c) for a third offence or subsequent offence, a maximum of \$20,000.

8.8 Any person who contravenes any order made under this by-law, or an officer or director of a corporation who knowingly concurs in such a contravention by the corporation, is guilty of a continuing offence and upon conviction is liable to a daily fine or penalty to a maximum of \$10,000 for each day or part of a day that the offence continues, and despite Section 8.7 the total of all the daily fines imposed for an offence is not limited by the maximums listed in Section 8.7.

## **SECTION 9 CONFLICT AND SEVERABILITY**

9.1 Subject to Section 9.2, where a provision of this By-law conflicts with the provision of any other By-law of the City or any applicable government regulation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

9.2 Notwithstanding Section 9.1, and despite Section 35 of the Building Code Act, 1992, if there is a conflict between the Building Code under the Building Code Act, 1992 and this By-law, the Building Code prevails.

9.3 Should a court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force and effect, the provision, or part, is deemed severable from this By-law and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

## **SECTION 10 ENACTMENT**

10.1 This By-law shall come into force and take effect upon the date of the final passing thereof.

**Passed and enacted this 19<sup>th</sup> Day of November, 2024.**



Ron Gervais

Mayor



Victoria Charbonneau

Clerk

**City of Pembroke**

**By-law Number 2024-63 – Schedule “A” – Set Fines**

**Prescribing Standards for the Vacant Building By-law  
Within the City of Pembroke  
Part 1 Provincial Offences Act**

<b>Item</b>	<b>Column 1 – Short Form Wording</b>	<b>Column 2 – Provision Creating or Defining Offence</b>	<b>Column 3 – Set Fine</b>
1	Fails to comply with an order, direction, registration or other requirement	s. 8.2 (a)	\$850.00
2	Obstructs or Attempts to Obstruct an Officer	s. 8.2 (b)	\$500.00

Note: The penalty provision for the offences indicated above is Section 8 of City of Pembroke's By-law 2024-63 and Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33.