

CITY OF WEST KELOWNA

BYLAW NO. 0192

A BYLAW TO REGULATE VACANT AND ABANDONED BUILDINGS

WHEREAS the Council of the City of West Kelowna may by bylaw, regulate, prohibit and impose requirements in relation to buildings and other structures; and

WHEREAS the Council deems it appropriate to require property owners to safeguard, secure and protect vacant and abandoned buildings from property damage, unauthorized entry or occupation for the protection of persons and property;

THEREFORE BE IT RESOLVED that the Council of the City of West Kelowna in open meeting assembled hereby enacts as follows:

1. **Title**

This Bylaw may be cited as the "CITY OF WEST KELOWNA VACANT AND ABANDONED BUILDINGS BYLAW NO. 0192, 2015."

2. **Definitions**

In this Bylaw,

Building means any structure used or intended for supporting or sheltering any use or occupancy;

Building Inspector means individual(s) designated by the City as a Building Inspector;

Bylaw Enforcement Officer means individual(s) appointed as a Bylaw Enforcement Officer for the City of West Kelowna.

City means the City of West Kelowna

Council means the Council of the City of West Kelowna

Fire Chief means the person who is appointed as head of West Kelowna Fire Rescue or his designate.

Inspector means and includes:

- a) Fire Chief
- b) Building Inspector
- c) Peace Officer, including a member of the Royal Canadian Mounted Police
- d) Bylaw Enforcement Officer

Owner means and includes:

- 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 were sold under an agreement for the sale; and
- f) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the building.

Vacant and Abandoned means any building, unit within a building, or portion of a building that is not occupied and that may also be unfinished or dilapidated, fire damaged, open to the elements, capable of unauthorized entry, or that may endanger life or property.

3. **Requirements for Vacant and Abandoned Buildings**

- 3.1 Every owner of a building in the City of West Kelowna shall maintain the building in accordance with the requirements of this Bylaw.
- 3.2 No person shall allow a building to stand vacant and abandoned for more than 30 consecutive days unless the building is in compliance with Section 3.3 of this Bylaw or the vacancy is otherwise authorized under Section 4 of this Bylaw.
- 3.3 Except as authorized under Section 4 of this Bylaw, every Owner of real property that contains a building that has been vacant and abandoned for more than 30 consecutive days must:
 - a) Secure the building in compliance with the standards set out in Schedule "A", attached to and forming part of this Bylaw; and
 - b) Maintain the building in compliance with the standards set out in Schedule "B", attached to and forming part of this Bylaw; and
 - c) Within 30 days of an Order by an Inspector, maintain \$2,000,000 in liability insurance and obtain a Vacant and Abandoned Building Regulation Permit.

4. **Exemptions**

- 4.1 No person shall allow a building to stand vacant and abandoned for more than 30 days unless the person is in compliance with Section 3.3 of this Bylaw or one of the following applies:
 - a) The building is the subject of an active building permit for repair, rehabilitation, or demolition, and the owner is progressing diligently to complete the repair, rehabilitation, or demolition; and, the owner is complying with the Maintenance Standards required under Schedule "B" of this Bylaw while the building is being repaired, rehabilitated or demolished.
 - b) The building meets all applicable codes, is ready for occupancy and is actively being offered for sale, lease, or rent at fair market value. The building is to be supplied with minimum utilities to maintain the proper functioning of the facilities as well as to prevent damage to mechanical and plumbing facilities from freezing. Any buildings that are classified to have a fire alarm and/or fire suppression systems must maintain electrical and heating systems to maintain these life safety components. In addition, the owner must also ensure:

- i) that all combustible materials within a vacant and abandoned building are removed to reduce any potential fire load; and
 - ii) there is no illegal occupancy; and
 - iii) there is no existence of rodents or any other potential health or safety risks to the municipality.
- c) The Inspector determines that the building does not constitute a nuisance or hazardous condition requiring building permits for remedial work or demolition.

5. Inspections of the Exterior of Vacant and Abandoned Buildings Without Notice

- 5.1 An Inspector may enter onto land without notice and without the consent of the owner in order to monitor a building that is boarded or appears to be vacant and abandoned in order to determine:
- a) whether the building is vacant and abandoned; and
 - b) whether a vacant and abandoned building is to be secured; and
 - c) whether the building complies with this Bylaw.

6. Other Inspections

- 6.1 Without limiting the authority set out in Section 5, an Inspector is authorized to enter at all reasonable times on any property subject to this Bylaw, to ascertain whether any regulations or directions contained herein are being observed.

7. Inspector May Issue Orders and Impose Requirements

- 7.1 Where an Inspector reasonably believes any building on a property is vacant and abandoned for more than 30 consecutive days, the Inspector will notify the owner in writing and order the owner to do one or more of the following:
- a) apply for a Vacant and Abandoned Building Regulation Permit;
 - b) apply for a Building Permit to demolish or to renovate a building so that it is in a state of safe occupancy in that it complies with the City's Building Regulation Bylaw; further, the owner may be required to retain a Professional Engineer licenced or registered to practice in British Columbia to perform a field evaluation of an existing building and any required remedial work to make the structure safe for occupation or further inspections.
- 7.2 The Inspector's powers under Section 7.1 are applicable notwithstanding the exemptions set out in Section 4 of this Bylaw where the Inspector reasonably believes any building on a property is vacant and abandoned and constitutes a fire risk or a safety hazard.

8. Vacant and Abandoned Building Regulation Permit

- 8.1 In order to obtain a Vacant and Abandoned Building Regulation Permit, an owner of a building must:
- a) apply to the Building Inspector for an inspection within 30 days of receiving an Order by the Inspector and pay the fee imposed for an inspection as specified in the Fees and Charges Bylaw; and
 - b) provide an address for service of notices and Orders during the period that the Permit is valid and thereafter, provide prompt notice of any change in the address given for service; and
 - c) pay the permit fee as established within the Fees and Charges Bylaw; and

- d) provide the Inspector with a copy of the Certificate of Insurance required in Section 3.3; and
 - e) ensure that all combustible materials within the vacant and abandoned building are removed to reduce any potential fire load.
- 8.2 Upon completion of the requirements in Section 8.1, the owner may obtain from the City, a Vacant and Abandoned Building Regulation Permit for a period of 12 months from the date it is issued. The Permit is automatically transferred to the next Owner of the property but for clarity, it retains its original expiry date.
- 8.3 An owner must display a Vacant and Abandoned Building Regulation Permit in a prominent location as determined by the Inspector.
9. **Partial Refund of Fees**
- 9.1 The owner holding a Vacant and Abandoned Building Regulation Permit is entitled to a partial refund of the permit fee, as set out in the Fees and Charges Bylaw, if the building, subject to the permit, is remediated or demolished within 6 months of registration. Any outstanding fees, utility charges or penalties imposed on the owner pursuant to this or another Bylaw shall be deducted from any refund paid.
10. **Monitoring Inspections Following Issuance of a Vacant and Abandoned Building Regulation Permit**
- 10.1 Every owner with a Vacant and Abandoned Building Regulation Permit shall allow for entry of an Inspector, at least every 90 days, into a vacant and abandoned building for the purposes of ensuring:
- a) the building is secured against unauthorized entry as per Schedule “A” of this Bylaw; and
 - b) the building is maintained as per Schedule “B” of this Bylaw; and
 - c) that all combustible materials within a vacant and abandoned building are removed to reduce any potential fire load; and
 - d) there is no illegal occupancy; and
 - e) there is no existence of rodents or any other potential health or safety risks to the City.
- 10.2 Once a Vacant and Abandoned Building Regulation Permit has been issued, no additional or subsequent Vacant and Abandoned Building Regulation Permit may be issued in respect of the Building until and unless Council has approved an additional Permit to be issued under Section 11.
11. **Council May Order Additional Permit to be Issued**
- 11.1 Upon application by an owner in possession of a valid Vacant and Abandoned Building Regulation Permit and payment of any outstanding fees or penalties, Council may direct an additional Vacant and Abandoned Building Regulation Permit be issued in respect of the building, that is effective upon the expiry of the original Vacant and Abandoned Building Regulation Permit.
- 11.2 In determining whether to approve an additional Permit, Council must take into account:
- a) whether the building creates a hazard or nuisance to adjacent buildings, the property, and the surrounding neighbourhood; and
 - b) the viability and credibility of the owner’s plans to bring the building into compliance and maintain it thereafter in compliance with this Bylaw and other Bylaws; and

- c) the likelihood that the building will be re-occupied or demolished in the future; and
- d) the owner's record of compliance or non-compliance with this Bylaw and other Bylaws of the City.

11.3 In approving the issuance of an additional Vacant and Abandoned Building Regulation Permit, Council may impose any terms and conditions it considers reasonable. The Permit will be valid for up to 12 months.

11.4 An additional permit issued under Section 11.2 is conditional upon payment as described in the Fees and Charges Bylaw, including payment for any additional inspections that Council has deemed necessary.

12. **Additional Compliance Orders**

12.1 If, in the opinion of the Inspector, an owner of the building fails to comply with a requirement of this Bylaw, the Inspector may issue a written Order requiring that the owner bring the building into compliance with the provisions of this Bylaw within such time as the Inspector considers appropriate in the circumstances.

12.2 Notice of an Order issued under Section 12.1 of this Bylaw must state:

- a) the civic address of the subject property; and
- b) the legal description of the subject property; and
- c) the particulars of the non-compliance with this Bylaw to be remedied; and
- d) that the non-compliance with this Bylaw must be remedied within 14 days of the date of delivery of the Order, or a shorter time period if the Inspector determines it is reasonable and necessary; and
- e) that if the owner or occupant fails to comply with the Order, the City may, without further notice, proceed to carry out the work required, and the cost of such work will be added to the taxes of the real property, and the owner or occupant or both may be subject to prosecution for an offence under this Bylaw.

13. **Notice by the City**

13.1 The Inspector may serve any notice or Order under this Bylaw as follows:

- a) by registered mail addressed to the owner as recorded in the property records of the City; or
- b) by hand-delivering it to the owner of the real property that is subject to the notice; or
- c) if the Inspector is unable to effect notice pursuant to either (a) or (b) above, by posting it on a conspicuous place on the real property that is the subject of the notice and the notice shall then be deemed to be validly and effectively served for the purposes of this Bylaw at the expiration of 5 days immediately following the date the notice was posted.

13.2 Service of any notice or Order under this Bylaw will be considered sufficient if a copy of the notice or Order is provided as set out in Section 13.1 of this Bylaw and no liability or responsibility other than that set out in accordance with this Bylaw rests with the City to prove delivery of the notice.

14. **City May Carry-Out Work Required**

14.1 If an owner fails to comply with an Inspector's compliance Order within the time period specified in the notice, the City, by its workers or others, may at all reasonable times and in a reasonable manner, enter the property and bring about such compliance at the cost

of the defaulting owner. Costs by the City to achieve compliance with the Bylaw may include, but are not limited to, administrative costs, costs to attend property by City employees or its contractors, and the costs of removal, clean-up and disposal.

- 14.2 If an owner defaults in paying the cost referred to in Section 14.1 to the City within 30 days after receipt of a demand for payment from the City, the City may either recover from the owner, in any court of competent jurisdiction, the cost as a debt due to the City, or direct that the amount of the cost be added to the real property tax roll as a charge imposed in respect of work or service provided to the real property of the owner and be collected in the same manner as property taxes.

15. **Remedial Action Requirements**

- 15.1 Without limiting the foregoing, if at any time Council determines that the vacant and abandoned building is a nuisance or creates a hazard, Council may impose a remedial action requirement in accordance with Division 12 of Part 3 of the *Community Charter*, which may include, in part, a requirement that the owner demolish the vacant and abandoned building. The Owner may seek reconsideration by Council of a remedial action requirement within 14 days of receiving the Order by delivering written notice to the City.

- 15.2 Notice of a remedial action requirement must be provided in accordance with Section 77 of the *Community Charter*.

16. **Offence**

- 16.1 Every person who violates a provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention of or in violation of any provision of this Bylaw, or who neglects to or refrains from doing anything required to be done by any provision of this Bylaw, is guilty of an offence against this Bylaw and is liable to the penalties imposed under this Bylaw.

- 16.2 Each day that a violation continues to exist may be deemed to be a separate offence against this Bylaw.

- 16.3 Every person who commits an offence against this Bylaw is liable, on summary conviction, to a penalty of not more than \$10,000.00.

17. **Severability**

- 17.1 If any section, subsection, clause, sub-clause or phrase of this Bylaw is for any reason held to be invalid, unlawful or unenforceable by the decision of any Court of competent jurisdiction, that section, subsection, clause, sub-clause or phrase shall be struck from the Bylaw and its severance shall not affect the validity of the remaining portions of this Bylaw.

READ A FIRST TIME THIS 29TH DAY OF SEPTEMBER, 2015
READ A SECOND AND THIRD TIME THIS 26TH DAY OF APRIL, 2016
ADOPTED THIS 10TH DAY OF MAY, 2016

'Doug Findlater'

M A Y O R

'Tracey Batten'

CITY CLERK

Schedule "A" of Bylaw No. 0192

The owner of a vacant and abandoned building must comply with either Part 1 or Part 2 of this Schedule "A" as follows:

Part 1:

1. In order to comply with Part 1 of Schedule "A", the owner of a vacant and abandoned building must ensure that:
 - a) all exterior doors to the vacant and abandoned building are operational, fit tightly within their frames when closed, and are locked so as to prevent entry; and
 - b) all windows are either permanently sealed or locked so as to prevent entry; and
 - c) all windows, doors, basement and attic hatchways and their frames are so constructed and maintained to completely exclude rain and substantially exclude wind from entering the building; and
 - d) all windows are in good repair and properly glazed.

Part 2:

1. In order to comply with Part 2 of Schedule "A", the owner of a vacant and abandoned building must ensure that the following requirements are met:
 - a) all doors, windows and other openings, other than the principal entrance at the basement and main (first) floor levels must be covered with a solid piece of plywood, at least 11 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre;
 - b) the principal entrance must be covered with a solid piece of plywood, at least 11 millimeters thick, adequately secured with screws at least 50 millimeters in length, spaced not more than 150 millimeters on centre;
 - c) windows, doors and other openings at the second floor level must be covered with a solid piece of plywood, at least 9.5 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre;
 - d) windows, doors and other openings at the third floor level or higher must be either:
 - i) secured in accordance with Part 1 of Schedule "A"; or
 - ii) covered with a solid piece of plywood, at least 8 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre;
 - e) windows, doors and other openings at the third floor level or higher may be secured from inside the building; plywood applied to all other openings must be secured from the exterior;
 - f) plywood applied to openings must be installed and maintained in a way that is weather-tight and must be protected from the elements with at least two coats of paint, which is of a colour compatible with the exterior colour of the building. A hole must be cut in the plywood just large enough for the door hardware to protrude;

- g) all floors above the first floor must be rendered inaccessible to entry by raising fire escapes and ladders to a height of at least four meters or guarding them in some other manner acceptable to an Inspector;
- h) all stair or window wells must be adequately secured either by:
 - i) filling them with concrete or unshrinkable fill; or
 - ii) covering the opening to them with a metal plate at least 8 millimeters thick and securing it so as to prevent it from shifting;
- i) electricity, natural gas and water must not be cut off if they are necessary to maintain fire protection systems or fire alarms;
- j) where they are not necessary to maintain fire protection systems or fire alarms, electricity, natural gas and water must not be cut off except in a manner satisfactory to an Inspector.

Schedule "B" of Bylaw No. 0192

The Owner of a vacant and abandoned building must comply with the following maintenance standards of this Schedule "B".

1. The exterior of every building must be constructed, repaired and maintained in a manner that:
 - i) ensures the integrity of the building envelope to safeguard, secure and protect the building from unauthorized entry or occupation, property damage, the weather, and from infestations of insects, rodents and other pests;
 - ii) prevents a substantial depreciation in property values in the immediate neighbourhood.

EXTERIOR WALLS

2.
 - a) All exterior surfaces must consist of materials that provide adequate protection from the weather;
 - b) all exterior walls and their components, including coping and flashing, must be maintained in good repair;
 - c) all exterior walls must be free of holes, breaks, loose or rotting boards or timbers and any other condition which might permit the entry of insects, rodents or other pests to the interior of the wall or the interior of the building;
 - d) exterior wood surfaces must be adequately protected against deterioration by the application of paint, stain or other protective coating;
 - e) no more than 25% of any painted area of any exterior wall may be blistered, cracked, flaked, scaled, or chalked away;
 - f) the mortar of any masonry or stone exterior wall may not be loose or dislodged;
 - g) the exterior of every building must be free of graffiti;
 - h) loose material must be removed from exterior walls, doors, and window openings.

ROOFS

3. Roofs must be constructed and maintained so as to prevent:
 - a) rainwater or melting snow falling on the roof from entering the building;
 - b) rainwater or melting snow falling on the roof from negatively affecting neighbouring buildings or properties;
 - c) objects and materials from falling from the roof.
4. Roofs, including fascia boards, soffits, cornices, flashing, eavestroughing, and downspouts must be maintained in a watertight condition.
5. Roof drainage must be controlled in order to eliminate or minimize runoff to neighbouring properties that:
 - a) accumulates or causes ground erosion;
 - b) causes dampness in the walls, ceilings or floors of any portion of any neighbouring building; and
 - c) accumulates on sidewalks or stairs in a manner so as to create a hazardous condition.

6. Loose or unsecured objects and materials, including accumulations of snow or ice or both that are likely to fall on passerby or are likely to result in the collapse of the roof, must be removed from the roof of a building or an accessory building.

FIRE PROTECTION SYSTEMS

7. Unless a fire protection system has been decommissioned by permission of the Fire Chief, it must be maintained in an operational condition.
8. Unless a fire alarm system has been decommissioned by permission of the Fire Chief, it must be connected to an approved fire signal receiving centre in compliance with Can/ULC-S561, adopted and published by the Underwriters' Laboratories of Canada, so as to notify the Fire Department of fire alarm activation in the building.