



## THE CORPORATION OF THE TOWN OF OAKVILLE

### BY-LAW NUMBER 2019-034

A by-law to regulate vacant buildings and vacant properties

**WHEREAS** sections 8, 9, and 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended (the “Municipal Act”) provides municipalities with broad powers, including the ability to pass by-laws that the municipality deems necessary or desirable for municipal purposes.

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

**WHEREAS** subsection 434.1 of the Municipal Act permits municipalities to provide for a system of administrative penalties;

**WHEREAS** the Municipal Act further authorizes the Town of Oakville, to, among other things, delegate its authority, impose fees or charges on persons for services or activities provided or done by or on behalf of it, and to provide for inspections and orders.

### COUNCIL ENACTS AS FOLLOWS:

#### 1. DEFINITIONS

##### 1.1 In this By-law:

“**Agriculture**” means lands used for arboriculture, horticulture and animal husbandry;

**“Building”** means a structure consisting of any combination of walls, roofs and floors, or a structural system serving the function thereof;

**“Dangerous Item”** means any item or items that may cause harm to persons or property and includes, but is not limited to, combustible materials, flammable liquids and any hazardous materials;

**“Director”** means the Town’s Director of Municipal Enforcement Services or his or her designate;

**“Farm”** means an agricultural operation as defined in the *Farming and Food Production Protection Act, 1998* and includes such an operation that is not carried out with the expectation of gain but otherwise meets the definition in that Act;

**“Hearing Officer”** means a Hearing Officer appointed pursuant to the Screening and Hearing Officer By-law 2015-091, as amended, or successor by-laws;

**“Officer”** means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers, and Halton Regional Police Officers;

**“Owner”** includes, but is not limited to:

- (a) the registered owner of a property;
- (b) the registered owner of the property on which a building is situated;
- (c) the owner of a building;
- (d) the person managing or receiving the rent of the property on which a building is situated, or of a building, 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;
- (e) a vendor of a building or property under an agreement for sale who has paid any municipal taxes on the building or property after the effective date of the agreement;
- (f) the person for the time-being receiving instalments of the purchase price if a building or property 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; and
- (h) an owner as defined by the Condominium Act, 1998;

**“Penalty Notice”** means a notice issued pursuant to Section 8 of this By-law;

**“Person”** means an individual, corporation, unincorporated association or partnership;

**“Rates and Fees Schedule”** means the current rates and fees schedule approved by Town Council as part of the annual budget approval process;

**“Screening Decision”** means a decision made by a Screening Officer;

**“Screening Officer”** means a Screening Officer appointed pursuant to Screening and Hearing Officer By-law 2015-091, as amended, or successor by-laws;

**“Structure”** means anything that is erected, built or constructed of parts joined together;

**“Town”** means the Corporation of the Town of Oakville.

**“Vacant Building”** means a building or a part of a building that is not being used or occupied for a period exceeding ninety (90) consecutive days, including days vacant prior to the passage of this By-law, but does not include:

- (a) a building where a use permitted under the Town’s zoning by-laws is occurring;
- (b) a building that is under construction or demolition with an open or active building permit;
- (c) an accessory building located on the same site as the main building if the main building is being used or occupied;
- (d) a building that meets all applicable codes, does not contribute to blight, is ready for occupancy and is actively being offered for sale, lease or rent; or
- (e) a building that is not a dwelling and is on a property used as a farm.

**“Vacant Property”** means real property that does not contain a building or structure, or part of a building or structure, and does not include a property that is used for agriculture.

## **2. EXEMPTION**

- 2.1 A vacant building or vacant property does not include a vacant building or vacant property that is owned by the Town, the Regional Municipality of Halton or the provincial or federal government.

## **3. REGISTRATION**

- 3.1 Every owner of a vacant building or a vacant property shall register the vacant building or vacant property in accordance with this By-law.
- 3.2 To register or renew a registration, the owner of a vacant building or a vacant property shall:
- (a) submit a complete application to the Director containing such information as the Director may require, including the following:
    - (i) name, address and telephone number of the owner;
    - (ii) if the owner is a corporation, a copy of the incorporating documents and corporate number;
    - (iii) if the owner is a partnership, a list of names, date of birth and address of each partner;
    - (iv) secondary contact information of a person who is able to attend the vacant building or vacant property in person within twenty-four (24) hours' notice;
    - (v) contact information of a person or company responsible for the maintenance of the vacant building or vacant property;
    - (vi) a liability insurance certificate showing coverage of the vacant building or vacant property;
    - (vii) an inventory of any dangerous item(s) stored on site, if applicable.
  - (b) submit the registration fee as set out in the rates and fees schedule.

- 3.3 Registration fees are non-refundable and non-transferrable.
- 3.4 The Director shall refuse an application under subsection 3.2(a) of this By-law when the application is incomplete or contains false or misleading information.
- 3.5 Every registration expires:
- (a) on the 30th of September in each year, unless the registration is renewed in accordance with the provisions of this By-law;
  - (b) when the vacant building or vacant property is sold or otherwise transferred to a new owner.

#### **4. INSPECTIONS**

- 4.1 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) this By-law; or
  - (b) an order made under Section 7 this By-law.
- 4.2 An Officer may, for the purposes of the inspection under subsection 4.1:
- (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 in writing or otherwise as required by the Officer from any person concerning a matter related to the inspection; or
  - (d) 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.
- 4.3 It shall be an offence to obstruct or permit the obstruction of such inspections.

- 4.4 Where an Officer has reasonable grounds to believe that an offence has been committed by a person, the Officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

## **5. FEES AND CHARGES**

- 5.1 Council may, from time to time, impose fees and charges to recover costs in relation to the administration and enforcement of this By-law.

## **6. ADMINISTRATIVE PENALTIES**

- 6.1 Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice be liable to pay to the Town an administrative penalty in the amount of \$300.00 or as revised in the rates and fee schedule.
- 6.2 An Officer who finds or has any reasonable cause to believe that a person has contravened any provision of this By-law may issue a penalty notice addressed to the person.
- 6.3 The penalty notice shall be given to the person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:
- (a) date of the penalty notice;
  - (b) the penalty notice number;
  - (c) particulars of the contravention;
  - (d) the amount of the administrative penalty;
  - (e) information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and
  - (f) a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the person to the Town.
- 6.4 No Officer may accept payment of an administrative penalty.
- 6.5 Any person who is served a penalty notice may request a review by a Screening Officer within fifteen (15) days after the penalty notice date.

- 6.6 Any person may request that the Screening Officer extend the time to request a review within forty-five (45) days after the penalty notice date, failing which, the administrative penalty shall be deemed to be affirmed.
- 6.7 The Screening Officer may extend the time to request a review of the administrative penalty when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
- 6.8 On a review of the administrative penalty, the Screening Officer may affirm the administrative penalty, or may cancel, reduce or extend the time for payment of the administrative penalty, including any additional administrative fees, on the following grounds:
- (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
  - (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including any administrative fees, is necessary to reduce hardship.
- 6.9 Every person who has a review by the Screening Officer shall receive a screening decision.
- 6.10 Where the person fails to appear at the time and place scheduled for a review of the screening decision:
- (a) the person shall be deemed to have abandoned the review;
  - (b) the administrative penalty shall be deemed to be affirmed;
  - (c) the administrative penalty shall not be subject to review; and
  - (d) the person shall pay the applicable fee.
- 6.11 Any person who has received a screening decision may request a review of the screening decision by a Hearing Officer within fifteen (15) days after the screening decision was issued.
- 6.12 Any person may request that the Hearing Officer extend the time to request a review within forty-five (45) days after the screening decision was issued, at which time the screening decision shall be deemed to be affirmed.

- 6.13 The Hearing Officer may extend the time to request a review of the screening decision when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
- 6.14 The person shall be issued or served notice of the date, time and place of the review by the Hearing Officer.
- 6.15 On a review of the screening decision, the Hearing Officer may affirm the screening decision, or may cancel, reduce or extend the time for payment of the administrative penalty, including any administrative fees, on the following grounds:
- (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
  - (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including additional administrative fees, is necessary to reduce hardship.
- 6.16 Where a person fails to request a review of the screening decision or extension of time before the Hearing Officer in accordance with this By-law:
- (a) the person shall be deemed to have waived the right to a hearing;
  - (b) the screening decision and the administrative penalty shall be deemed to be affirmed; and
  - (c) the screening decision and the administrative penalty shall not be subject to any further review.
- 6.17 Where a person fails to appear at the time and place scheduled for a review by the Hearing Officer:
- (a) the person shall be deemed to have abandoned the hearing;
  - (b) the screening decision and administrative penalty shall be deemed to be affirmed;
  - (c) the screening decision and administrative penalty and associated fees shall not be the subject of any further review; and
  - (d) the person shall pay to the Town a fee in the amount of one hundred dollars (\$100.00) or as revised in the rates and fee schedule.



- 6.18 Where an administrative penalty and any applicable administrative fees are not paid within fifteen (15) days after the date that it becomes due and payable, each person to whom the penalty notice was issued or served shall pay to the Town a fee in the amount of fifty dollars (\$50.00) or as revised in the rates and fee schedule.
- 6.19 A Hearing Officer shall not make any decision respecting a review of the screening decision unless the Hearing Officer has given the person and the Town an opportunity to be heard.
- 6.20 The decision of a Hearing Officer shall be final and is not subject to appeal or further review.
- 6.21 The Screening Officer and the Hearing Officer have no jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.

## **7. ORDER**

- 7.1 Where the Director or an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Director or Officer may serve an order on the person contravening the By-law, or who caused or permitted the contravention, setting out the reasonable particulars of the contravention and directing:
- (a) compliance within a specified timeframe; and
  - (b) any work that is required to be done.
- 7.2 Any person who contravenes an order under this By-law is guilty of an offence.

## **8. SERVICE and NOTICE**

- 8.1 Any penalty notice, order or any other notice pursuant to this By-law may be given in writing in any of the following ways and is effective:
- (a) on the date on which a copy is delivered to whom it is addressed;
  - (b) on the fifth (5<sup>th</sup>) day after a copy is sent by mail to the person's last known address;
  - (c) on the date on which a copy is posted on the property;

- (d) upon the conclusion of the transmission of a copy by facsimile transmission to the person's last known facsimile transmission number; or
- (e) upon the sending of a copy by e-mail transmission to the person's last known e-mail address.

## **9. OFFENCES & PENALTIES**

- 9.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence and pursuant to section 429 of the Municipal Act all contraventions of this By-law are designated as continuing offences.
- 9.2 Every person, excluding a corporation, who is convicted of an offence, is liable to a minimum fine of Three Hundred (\$300.00) and a maximum fine of Twenty-Five Thousand Dollars (\$25,000.00) for a first offence and a maximum fine of Fifty Thousand Dollars (\$50,000.00) for a subsequent offence.
- 9.3 Every corporation who is convicted of an offence is liable to a maximum fine of Fifty Thousand Dollars (\$50,000.00) for the first offence and One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence.
- 9.4 In addition to the fine amounts set out in sections 9(2) and 9(3) of this By-law, for each day or part of a day that an offence continues, the minimum fine shall be Three Hundred (\$300.00) and the maximum fine shall be Ten Thousand Dollars (\$10,000.00). The total of all daily fines for the offence is not limited to One Hundred Thousand Dollars (\$100,000.00).

## **10. SEVERABILITY**

- 10.1 In the event any provisions of this By-law are deemed invalid or void, either in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

## **11. SHORT TITLE**

- 11.1 This By-law may be referred to as the "Vacant Building and Vacant Property Registry By-law".

## **12. ENACTMENT**

- 12.1 This By-law comes into force on January 1, 2020.

PASSED this 23<sup>rd</sup> day of September, 2019

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MAYOR

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CLERK