REFERENCE FILE NOS. GF-1 (VOL. 20) AND EX (VOL. 14)

THE CITY OF WINNIPEG

BY-LAW NO. 7983/2002

A By-law of THE CITY OF WINNIPEG to establish a system to regulate the condition and maintenance of vacant dwellings.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Short title

1 This By-law may be referred to as "The Vacant Dwellings By-law."

Definitions

2 In this By-law

"areaway" has the same meaning as in The Winnipeg Building By-law.

"boarded dwelling" means a vacant dwelling in which some or all of the windows and doors have been covered for more than 7 days by affixing wood, metal or some other substance over them so as to prevent entry.

"Committee" means the Standing Policy Committee on Property and Development.

"designated officer" means the Zoning and Permits Administrator of the City of Winnipeg or designate.

"dwelling" includes a building, part of a building, trailer, mobile home or other covering structure, the whole or any portion of which has been used, is being used or is designed to be used to for the purposes of human habitation, together with the land and premises appurtenant thereto and all outbuildings, accessory buildings, fences or structures thereon or therein and every dwelling unit within the dwelling.

"enforcement officer" means a City employee who has been authorized by the Chief Administrative Officer pursuant to this By-law to exercise some or all of the powers of enforcement under this By-law.

"fire protection system" includes a fire alarm system or a smoke alarm system.

"fire alarm system" means an early warning system consisting of interconnected devices such as a control unit, manually activated signalling boxes, heat detectors and smoke detectors and audible signal appliances operating in a coordinated manner.

"owner" means the registered owner of a property.

"permit" means a Boarding Permit issued under this By-law.

"smoke alarm system" means an early warning system consisting primarily of smoke alarms installed and interconnected so that the activation of any smoke alarm will sound a similar signal in each of the interconnected devices, but which may also utilize heat detectors and audible signal appliances.

"vacant dwelling" means a dwelling in which no human is residing with the consent of the owner.

Requirements for all vacant dwellings

3 (1) The owner of a vacant dwelling must ensure that the dwelling is in compliance with the requirements of Schedule "A" to this By-law.

Choice between securing or boarding-up

(2) The owner of a vacant dwelling must ensure that the dwelling is secure from unauthorized entry by complying either with section 4 or section 5 of this By-law.

Securing a vacant dwelling from unauthorized entry

4 An owner of a vacant dwelling may make the dwelling secure from unauthorized entry by ensuring that:

(a) every exterior door to the dwelling is operational, fits tightly within its frame when closed and is locked so as to prevent entry;

(b) all windows are either permanently sealed or locked so as to prevent entry;

(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 structure;

(d) every window is kept in good repair, and properly glazed.

Requirements for boarded dwellings

5 (1) An owner of a vacant building may make the dwelling secure by:

(a) in addition with complying with the requirements set out in Schedule A, complying with the requirements set out in Schedule B; and

(b) obtaining a Permit.

Boarded Building Permit

(2) Upon payment of the relevant fee as set out in subsection (4) and upon the owner providing the information set out in subsection (5), the Designated Officer must issue an initial permit to an owner of a vacant building permitting the dwelling to be boarded for up to six months and may issue up to two additional permits for a particular dwelling within five years of a first permit being issued. In issuing second and third permits within a five year period for a particular building, the Designated Officer may take into account compliance with this By-law by the owner or owners of the building during the effective period of previous permits.

Permit fees

(3) The fees for permits with respect to a particular dwelling are hereby established as follows:

First Permit within a five year period	$10.00
Second Permit within a five year period	$200.00
Third Permit within a five year period	$800.00

Address for service

(4) The owner of a vacant dwelling must:

(a) at the time of applying for a permit, provide an address for personal service of notices and orders during the time that the permit is valid; and

(b) provide prompt notice of any change in the address given for service.

Appointment of enforcement officers

6 The Chief Administrative Officer may in writing authorize City employees to exercise some or all of the powers of enforcement under this By-law.

Entry to vacant dwellings

7 (1) An enforcement officer may, at all reasonable times and with the consent of the owner and upon displaying an identification card, enter a dwelling to determine whether it complies with this By-law.

Warrant for entry to vacant buildings

(2) In the absence of the owner's consent, an enforcement officer may apply to a justice for a warrant to enter a dwelling to determine whether it complies with this By-law.

Procedure to inspect interior of boarded dwellings

8 (1) An enforcement officer may enter a boarded dwelling and conduct an inspection of its interior after sending notice of the date and time of the inspection by ordinary mail to the owner of the boarded dwelling at the address for service provided under section 5 or, if no permit has been obtained or no address has been provided, to the mailing address on the tax roll for the property at least 10 days prior to the inspection.

Objection to interior inspection of boarded dwelling

(2) An owner who objects to an inspection of a boarded dwelling may, at least two days prior to the scheduled inspection, provide details of his or her objections to the scheduled inspection to the Director of Planning, Property and Development of the City of Winnipeg who, after considering the objections presented by the owner, may allow the inspection to take place as scheduled or may require the inspection to be rescheduled or cancelled.

Compliance orders

9 (1) Where a dwelling does not meet the requirements of this By-law, an enforcement official may issue an order requiring the owner to comply with the requirements of this By-law and the order shall:

(a) specify the points of non-compliance with this By-law;

(b) set out a date by which the dwelling must be brought into compliance with this By-law;

(c) include a statement that a failure to comply prior to the date specified could result in steps being taken or authorized by the City at the owner's expense to bring the dwelling into compliance;

(d) provide details concerning the owner's right of appeal from the order, including the manner in which an appeal must be filed and the time within which it must be filed.

Order where no permit

(2) Where a dwelling is boarded but lacks a permit, an enforcement officer may issue an order requiring the owner within 14 days either obtain a permit or to bring the dwelling into compliance with section 4 of this By-law.

City's action where non-compliance

(3) Where the owner fails to comply with an order given under subsection (1) or (2) and fails to appeal the order successfully, the Director of Planning, Property and Development may take steps to

(a) bring the dwelling into compliance with this By-law or

(b) have the dwelling demolished

and may add the costs of either action to the real property taxes on the property.

Service of order

(4) Subject to subsection (5), an order made under this section may be served on the owner

(a) personally or by mail in a manner that provides an acknowledgement of receipt; or

(b) if the owner cannot be served by one of the methods described in clause (a) after a reasonable effort has been made, by sending a copy of it to the address provided by the owner for service under section 5 of this By-law or, if no permit has been obtained or no address has been provided, the mailing address on the tax roll for the property.

Demolition

(5) The Director of Planning, Property and Development must not demolish a dwelling pursuant to subsection (3) unless the owner has been served:

(a) personally; or

(b) in compliance with an order of substitutional service issued by the Court of Queen's Bench

with a notice stating that, unless the dwelling is brought into compliance with the requirements of this By-law by the date specified on the notice, the dwelling may be demolished at the owner's expense.

No demolition permit necessary

(6) Where the Director of Planning, Property and Development takes steps to have a dwelling demolished under subsection (3), no permit for the demolition under By-law No. 4665/87 is required.

Appeal of order

10 (1) An owner may appeal

(i) a decision of the Designated Officer not to issue a second or third permit under subsection 5(3); or

(ii) an order issued under subsections 8(1) or 8(2)

to the Committee.

Additional permit

(2) An owner who has obtained three permits within a period of five years may apply to the Committee and the Committee may grant an additional permit of up to one year at a fee of $2,000.00.

Criteria for granting additional permit

(3) In considering an application for an additional permit under subsection (2), the Committee must take into account

(a) the impact of the boarding-up on adjacent dwellings and the surrounding neighbourhood;

(b) the owner's plans to bring the dwelling into compliance and maintain it in compliance with this By-law and other By-laws;

(c) the likelihood that the dwelling will be occupied in the future.

Reduction of fee

(4) The Committee may reduce or waive any permit fee imposed under this By-law where the Committee is convinced that

(a) the owner of a vacant building is taking all reasonable steps to ensure the occupancy of a vacant dwelling, including rehabilitating the dwelling, where this is required;

(b) continued boarding-up of the dwelling is justifiable, having regard to the factors set out in subsection (3);

(c) waiving or reducing the permit fee will significantly assist in the rehabilitation or occupancy of the dwelling.

Offence and penalty for failing to comply with by-law

11 (1) An owner of a vacant dwelling who fails to comply with this By-law is guilty of an offence and is subject on summary conviction to the following penalties:

(a) for a first offence, to a fine of not less than $500.00;

(b) for a second offence, to a fine of not less than $1,000.00;

(c) for a third or each subsequent offence, to a fine of not less than $2,000.00.

Offence and penalty for failing to obtain boarding-up permit

(2) Notwithstanding subsection (1), an owner who lacks a valid permit for a boarded dwelling commits an offence punishable upon summary conviction to a fine of no less than $2000.00.

Obligation to obtain permit

(3) A conviction under subsection (2) does not excuse an owner from the obligation to obtain a permit for a boarded dwelling.

Directors and officers of corporations liable

(4) Where a corporation is guilty of violating this by-law, a director or officer of the corporation who authorized, permitted or acquiesced in the violation is also guilty of an offence and is liable to punishment under subsections (1) and (2).

Consequential amendment of The Winnipeg Building By-law

12 The Winnipeg Building By-law is amended by adding the following after subsection 12.7:

12.8 Subsections 12.2 and 12.4 do not apply to dwellings as defined in the Vacant Dwellings By-law.

DONE AND PASSED, in Council assembled, this day of , 2002.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Planning, Property and
Development Department

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services
File No. P.3.17

SCHEDULE “A”

Requirements For Vacant Dwellings

The owner of a vacant dwelling must ensure that the dwelling meets the following requirements:

Exterior walls

1 (1) The exterior of every dwelling must be constructed, repaired and maintained in order to

(a) ensure the integrity of the building envelope to protect the dwelling from the weather and from infestations of pests, and

(b) prevent a substantial depreciation in property values in the immediate neighbourhood.

(2) Without restricting the general obligation set out in subsection (1)

(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 admit insects, rodents or other pests to the interior of the wall or the interior of the dwelling;

(d) exterior wood surfaces must be adequately protected against deterioration by the periodic application of paint, stain or other protective coating;

(e) no more than 25% percent 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 dwelling must be free of graffiti.

Roofs

2 (1) Roofs must be constructed and maintained so as to prevent

(a) rainwater or melting snow falling on the roof from entering the dwelling; and

(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.

(2) Without restricting the general obligation set out in subsection (1)

(a) all roofs, including facia boards, soffits, cornices, flashing, eavestroughing and downspouts must be maintained in a watertight condition;

(b) roof drainage must be controlled in order to eliminate or minimize runoff to neighbouring properties that

(i) accumulates or causes ground erosion;

(ii) causes dampness in the walls, ceilings or floors of any portion of any neighbouring building;

(iii) accumulates on sidewalks or stairs in a manner so as to create a hazardous condition;

(c) loose or unsecured objects and materials, including dangerous accumulations of snow or ice or both, must be removed from the roof of a dwelling or an accessory dwelling;

Foundations

3 (1) Every foundation wall forming part of a dwelling must be structurally sound and maintained in a condition so as to prevent undue settlement of the dwelling and prevent the entrance of moisture, insects, rodents or pests.

(2) Without restricting the general obligation set out in subsection (1)

(a) Basement walls and floors must be constructed of masonry, concrete, preserved wood or other material impervious to external moisture;

(b) Floors must be so constructed as to effectively drain all water into a catch basin which shall be connected to a sewerage system, or a subsurface water drainage system;

(c) Every part of a dwelling shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any normal load to which it may be subjected.

(d) Materials that have been damaged, or show evidence of rot or other deterioration must be repaired or replaced.

(e) Dwellings on a surface foundation must maintain structural soundness and must not contain broken or rotted beams or joists.

Porches and stairs

4 (1) Every porch and stairway within, on or attached to a dwelling must be maintained in good repair so as to afford safe passage under normal use and weather conditions.

(2) Without restricting the general obligation set out in subsection (1)

(a) component parts of a porch or stairway must not be broken, loose, rotted, warped, out-of-plumb, off-level or out of alignment;

(b) exterior steps must be protected against deterioration by the application of appropriate protective coating.

Guards, balustrades and handrails

5 (1) Every exterior or interior stair that has more than two risers must have the sides of the stair, the landing and the floor level around the stairwell enclosed by walls or protected by balustrades, except that a stair to an unfinished basement may have one unprotected side.

(2) Every exterior landing or porch more than 900 millimetres above the adjacent grade and every balcony, mezzanine, gallery, raised walkway and roof to which access is provided for other than maintenance purposes, shall be protected by balustrades or guards on all open sides.

(3) All guards, handrails and balustrades shall be maintained in good repair and firmly attached so as to provide reasonable protection against accident and injury.

Floors

6. Every floor must be maintained:

(a) free of loose, warped, protruding or rotting floors boards;

(b) free of wide holes or cracks;

(c) free of other defects that may be a fire, health or other hazard.

Walls and ceilings

7. Every wall and ceiling in a dwelling shall be maintained in safe condition and free from loose plaster and other hazards.

Fire protection systems

8 (1) All existing fire protection systems must be maintained in an operational condition to the satisfaction of an enforcement officer and must be connected to a central monitoring system.

(2) All existing sprinkler and standpipe systems in vacant apartment buildings must be maintained in an operational condition to the satisfaction of an enforcement officer.

(3) Combustible materials may not be stored in a vacant dwelling.

Yards

9 (1) Yards surrounding a vacant dwelling must be maintained so as to prevent

(a) the depreciation of property values in the immediate neighbourhood as a result of the vacancy of the dwelling;

(b) drainage of water that negatively affects neighbouring properties or creates hazardous conditions.

(2) Without restricting the general obligation under subsection (1), yards surrounding a vacant dwelling must be maintained so as to prevent the accumulation of:

(a) rubbish, garbage, junk and other debris;

(b) wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any parts thereof;

(c) objects and conditions, including holes and excavations, that pose health, fire or accident hazards.

(3) Plants and vegetation in yards surrounding vacant dwellings must be kept trimmed.

(4) Yards surrounding vacant dwellings must be:

(a) covered with sufficient ground cover to prevent erosion; and

(b) graded in such a manner so as to prevent:

(i) excessive or reoccurring ponding of water; or

(ii) excessive dampness from occurring in buildings on or adjacent to the yard; or

(iii) any hazardous condition from being created on any private or public walkway.

Walks and driveways

10 (1) Access from a public street to the principal entrance of every vacant dwelling must be afforded by way of a walk or driveway.

(2) Every walk or driveway and parking space must be surfaced with stone, asphalt, concrete or other material capable of providing a hard surface and must be maintained and cleared of snow so as to afford safe passage under normal use and weather conditions.

Fences and accessory buildings

11. All fences and all accessory buildings must be kept:

(a) weather resistant by the application of appropriate materials, including paint or preservatives; and

(b) in good repair.

SCHEDULE “B”

Requirements for boarded-up buildings

In order to comply with section 5, the owner of a boarded-up dwelling must ensure that the dwelling meets the following requirements:

(a) Boarded-up doors, windows and other openings at the basement and first floor levels must be covered with a solid piece of plywood, at least 11 millimeters thick and secured with screws or coated nails at least 50 millimeters in length, spaced not more than 150 millimeters on centre.

(b) Doors, windows and other openings above the first floor must be covered with a solid piece of plywood, at least 8 millimeters thick, adequately secured with nails or screws at least 50 millimeters in length, spaced not more than 150 millimeters on centre.

(c) Where plywood is applied to openings, it must be installed from the exterior, fitted within the frames in a watertight manner, and protected from the elements with paint or preservatives in a manner that does not detract from the value of other properties in the immediate vicinity.

(d) Exterior access to floors above the first floor, including fire escapes and ladders, must be rendered inaccessible by removing them to a height of at least four meters or guarded in some other manner acceptable to an enforcement officer.

(e) Openings to areaways must be adequately secured and protected by one of the following methods:

(i) covered by a metal plate of at least 8 millimeters thick and secured so as to prevent it from shifting;

(ii) filled with concrete or unshrinkable fill.

(f) Loose material on the exterior of a building must be removed and any condition which is or may become dangerous must be eliminated.

(g) Electricity, natural gas and water must not be cut off where they are necessary to maintain fire protection systems or fire alarms.

(h) Where they are not necessary to maintain fire protection systems or fire alarms, electricity, natural gas and water may be cut off in a manner satisfactory to an enforcement officer.

(i) Any doors, windows or other openings that are not boarded-up must be secured in a watertight condition.

(j) Hard-wired fixed-temperature heat detectors must be installed on the ceiling of every storey in conformance with installation instructions must be maintained in an operable condition and must be connected to a central monitoring service.