THE CITY OF WINNIPEG

BY-LAW NO. 35/2004

A By-law of the City of Winnipeg to establish a system to regulate the condition and maintenance of vacant dwellings and non-residential buildings and to establish a process to take title to derelict buildings.

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

Short title

1. This By-law may be referred to as the "Vacant and Derelict Buildings By-law".

Definitions

2(1) In this By-law

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

"boarded", in relation to a building means a vacant building in which any door, window or other opening of the building has been covered for more than 7 days by affixing wood, metal or some other material over it to prevent entry.

"building" means any structure used or intended to be used to support or shelter any use or occupancy.

"enforcement officer" means an employee of the City who has been authorized to exercise some or all of the powers of enforcement under this By-law.

"fire protection system" includes any fire alarm system, sprinkler system or standpipe system or one or more private hydrants.

"multi-family residential building" means a building that has been designed or used for residential occupancy by more than two families.

"non-residential building" means a building that is not a residential building and includes buildings that have been designed or used for commercial or industrial occupancies.

"permit" means a boarded building permit provided for in this By-law.

"residential building" means a building that has been designed or used for residential occupancies by

(a) one or two families only; or

(b) one family together with some other occupancy.

"vacant" in relation to a building means a building that is not being used or occupied.

Clarification of "use" or "occupancy"
2(2) For the purposes of this By-law, a building is not being used or occupied solely by reason of

(a) individuals who are present in the building without the consent of the owner; or

(b) the existence of equipment or stock in trade within a building or the occasional operation of such equipment.

PART 1
VACANT BUILDINGS

Maintenance of vacant buildings
3(1) The owner of a vacant building must maintain it in compliance with the standards set out in Schedule "A".

Fire Safety Plan mandatory for non-residential and multi-family residential buildings
3(2) In addition to complying with the standards set out in Schedule "A", the owner of a non-residential and multi-family residential building must file with the Fire Prevention Branch of the City's Fire Paramedic Service a Fire Safety Plan within 60 days of the building becoming vacant.

Contents of Fire Safety Plan
3(3) A Fire Safety Plan required under subsection (2) must :

(a) describe the building, including details such as the square footage, number of stories, the basic floor plans for each floor and type of previous occupancies;

(b) identify the fire protection systems in the building as well as the location of fire department connections and hydrants;

(c) identify access routes and building openings for firefighters and their equipment and specific actions necessary to maintain such access;

(d) provide names and telephone numbers of persons responsible for the building or its maintenance, as well as contact names and numbers for emergency purposes; and

(e) specify the actions the owner proposes to take to ensure compliance with this By-law, other applicable by-laws and other applicable legislation or regulations;

Securing vacant buildings

4. The owner of a vacant building must ensure that the building is secure from unauthorized entry by complying with either Part I or Part II of Schedule "B".

Boarded building permit required

5(1) The owner of a boarded building must

(a) comply fully with Part II of Schedule "B"; and

(b) obtain a boarded building permit as provided for in this By-law.

Address for service

5(2) In order to obtain a permit, an owner must

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

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

Number of permits for residential buildings

6(1) Upon payment of the fee specified in this section, the owner of a vacant residential building may obtain a maximum of three permits for that building within a period of five years, each being valid for a period of six months after being issued.

Expiration of third permit within five years

6(2) Subject to section 15, after the expiration of the third permit issued for a vacant residential building within five years, the owner of the building must maintain it in compliance with Part I of Schedule "B".

Permit fees for residential buildings

6(3) The fees for a permit for a boarded residential building are 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

Permits for non-residential and multi-family residential buildings

7(1) Upon payment of the fee specified in this section, the owner of a non-residential or multi-family residential building may obtain an unlimited number of permits for that building, each being valid for a period of one year after being issued.

Permit fees for non-residential and multi-family residential buildings

7(2) The fees for a permit for a non-residential and multi-family residential building are established as follows:

First permit for a particular building	$200.00
Second permit for a particular building	$800.00
Third permit for a particular building	$1500.00
Fourth permit for a particular building	$3000.00

The fee for a fifth and each subsequent permit shall be $1500.00 more than the fee for the previous permit.

Enforcement officers

8. The Chief Administrative Officer and his or her delegates may conduct inspections and take steps to administer and enforce this by-law or remedy a contravention of this by-law in accordance with *The City of Winnipeg Charter* and, for those purposes, have the powers of a designated employee under *The City of Winnipeg Charter*.

Inspections of exterior of vacant building

9. An enforcement officer may enter onto land without notice to and without the consent of the owner in order to inspect a building that is boarded or appears to be vacant in order to determine

(a) whether the building is vacant; and

(b) whether the building complies with this by-law.

Annual interior inspections of vacant buildings

10(1) In addition to other interior inspections of a vacant building to enforce or administer this by-law, an enforcement officer may at least once each calendar year conduct an interior inspection of a vacant building after providing reasonable notice to the owner.

Fee for annual inspection

10(2) The City may charge a fee of $100.00 for an annual inspection of “residential building” and $500.00 for an annual inspection of a non-residential or multi-family residential building.

Issuance of orders
11(1) An order to remedy a contravention of this by-law must be issued in accordance with *The City of Winnipeg Charter*.

Order re. boarded building
11(2) Where a vacant building is boarded but lacks a permit, an enforcement officer may issue an order requiring the owner within 14 days either to obtain a permit or bring the building into compliance with Part I of Schedule "B".

Address for service
11(3) Where an address for service of an order, notice or some other document must be determined, one of the following shall be used:

(a) the address for service provided by the owner under section 5 of this by-law; or

(b) the address maintained by the tax collector for the purpose of issuing the tax notice for that property.

Securing vacant building
12(1) Whereas a vacant building that is not in compliance with section 4 of this By-law constitutes an emergency that affects the health or safety of persons and whereas it would be impractical or impossible to comply with the requirements for notice set out in *The City of Winnipeg Charter* before taking action to remedy the non-compliance, an enforcement officer is hereby authorized to take whatever actions and measures are necessary to meet the emergency and to eliminate or reduce its effects, including taking immediate action to secure a vacant building without first notifying or obtaining the consent of the owner of the vacant building so long as the owner is subsequently notified in accordance with subsection (3).

Entry prior to securing vacant building
12(2) Where an enforcement officer takes immediate action to secure a vacant building under subsection (1), he or she may enter the interior of the building without notice to the owner before securing the building to ensure that no individuals or animals would be trapped inside the building after it has been secured.

Notice to owner
12(3) Where an enforcement officer secures a vacant building under subsection (1), notice of such action shall be sent to the owner of the vacant building by ordinary mail forthwith.

Obligation of owner

12(4) Within 7 days of receiving notice under subsection (3), the owner of a vacant building must take any steps necessary to bring the building into compliance with section 4 of this By-law.

Appeal of order or decision

13. An appeal from an order or a decision made under this By-law may be made in accordance with *The City of Winnipeg Charter* to the Standing Policy Committee on Property and Development.

City does not require demolition permit

14. Where the City acts to bring a building into compliance with this By-law by demolishing it, no permit for the demolition under the Winnipeg Building By-law No. 4555/87 or the Demolition Permits in Residential Areas By-law No. 4665/87 is required.

Additional permit for residential building

15(1) An owner whose residential building has been issued three permits within a period of five years may apply to the Standing Policy Committee on Property and Development for an additional permit of up to one year at a fee of $2000.00.

Criteria for additional permit

15(2) In considering an application for an additional permit under subsection (1), the Standing Policy Committee on Property and Development must take into account

(a) the impact of the boarded building on adjacent buildings and the surrounding neighbourhood;

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

(c) the likelihood that the building will be re-occupied in the future.

Reduction of fee

16. Upon application by the owner, the Standing Policy Committee on Property and Development may reduce or waive any permit fee imposed under this by-law where the committee determines that

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

(b) continued boarding up of the building is justifiable, having regard to the factors set out in subsection (2); and

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

Penalty for non-compliance with order
17(1) Subject to subsection (2), the owner of a vacant building who fails to comply with this By-law or an order issued under this By-law is guilty of an offence and is subject to the following penalties:

(a) for a first offence, to a minimum fine of $500.00;

(b) for a second offence, to a minimum fine of $1,000.00;

(c) for a third and each subsequent offence, to a minimum fine of $2,000.00.

Penalty for failing to obtain permit
17(2) Notwithstanding subsection (1), the owner of a vacant building who lacks a valid permit for a boarded building is guilty of an offence and is subject to a minimum fine of $2,000.00.

Obligation to obtain permit
17(3) A conviction and payment of a fine under subsection (2) does not excuse a person from the obligation to obtain a permit for a boarded building.

Penalty for failing to pay inspection fee
17(4) Notwithstanding subsection (1), the owner of a vacant building who fails to pay an inspection fee under section 10 is guilty of an offence and is subject to a minimum fine in the amount of double the applicable fee.

PART 2
DERELICT BUILDINGS

Definitions
18. In this Part,

"derelict property" has the same meaning as in section 190 of *The City of Winnipeg Charter*.

"designated employee" means the Chief Administrative Officer, the Director of Planning, Property and Development and the Fire Paramedic Chief.

Preliminary derelict building order
19(1) Where

(a) the registered owner of a derelict property has been found guilty of contravening this by-law; and

(b) an enforcement officer certifies by statutory declaration in the form set out in Schedule "C" of this By-law that the property continues to be in contravention of this by-law

a designated employee may issue a preliminary derelict building order in the form set out in Schedule "D" of this by-law.

Service of preliminary derelict building order
19(2) A preliminary derelict building order must be filed with the land titles office and served in accordance with *The City of Winnipeg Charter*.

Appeal of preliminary derelict building order
19(3) An appeal of a preliminary derelict building order may be made to the Standing Policy Committee on Property and Development by filing a written appeal with the City Clerk within 31 days after the order has been served or is deemed to have been served on the owner of the property.

Application for derelict building certificate
20(1) Where

(a) a preliminary derelict building order has been issued in respect of a particular property;

(b) the time period for provided in the preliminary derelict building order for bringing the property into compliance with a derelict building by-law has expired; and

(c) the time within which an appeal against the order may be taken has expired or, if any appeal against the order has been taken, the appeal has been decided and the decision

(i) confirms the order, or

(ii) varies the order, but the person has not complied with the order as varied;

a designated employee may apply to the Standing Policy Committee on Property and Development for a derelict building certificate in accordance with The City of Winnipeg Charter.

Notice to owner
20(2) A designated employee shall provide notice of the application under subsection (1) to the owner of the derelict building in the manner provided under section 117 of *The City of Winnipeg Charter*.

Issuance of derelict building certificate
20(3) The Standing Policy Committee on Property and Development may issue a derelict building certificate in compliance with *The City of Winnipeg Charter* if

(a) there is evidence that the property continues to be a derelict property; and

(b) in the opinion of the Committee, there is a satisfactory plan for redeveloping the property.

Application for title
21. After waiting thirty days following the issuance of a derelict building certificate by the Standing Policy Committee on Property and Development, a designated employee may apply to the district registrar for a certificate of title to the property to be issued in the name of the City of Winnipeg in accordance with *The City of Winnipeg Charter*.

PART 3
MISCELLANEOUS

Consequential amendment of the Winnipeg Building By-law
22. Subsection 12.3 of The Winnipeg Building By-law No. 4555/87 is hereby repealed.

Schedules part of By-law
23. Schedules “A”, “B”, “C” and “D form part of this By-law.

Vacant Dwellings By-law repealed
24. The Vacant Dwellings By-law No. 7983/2002 is hereby repealed.

Effective Date

25. This by-law shall come into force and effect as of July 1, 2004.

DONE AND PASSED, in Council assembled, this day of , 2004.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Planning,
Property and Development

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services

SCHEDULE "A"

MAINTENANCE STANDARDS FOR VACANT BUILDINGS

The owner of a vacant building must maintain it in compliance with the following standards:

Exterior walls

1(1) The exterior of every building must be constructed, repaired and maintained in a manner that

(a) ensures the integrity of the building envelope to protect the building from the weather and from infestations of insects, rodents and other pests, and

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

1(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 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 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 building must be free of graffiti; and

(h) loose material must be removed from exterior walls, doors and window openings.

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 building; 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(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 accumulations of snow or ice or both that are likely to fall on passersby or are likely to result in the collapse of the roof, must be removed from the roof of a building or an accessory building;

Foundations, walls and floors

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

3(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 building 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.

Porches and stairs

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

4(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 to the point where it creates a hazard;

(b) wooden or metal 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.

5(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.

5(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.

5(4) Exterior fire escapes must be maintained in good repair and free of obstructions.

Floors

6(1) Every floor must be maintained:

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

(b) free of holes or cracks and other defects that may be a fire, health or other hazard.

6(2) Any vertical opening on a floor, including service spaces, chutes, air vents and elevator shafts, must be covered or barricaded in a manner that prevents accident or injury.

Walls and ceilings

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

Fire protection systems

8(1) Unless a fire protection system has been decommissioned by permission of the Chief of the Fire Paramedic Service, it must be maintained in an operational condition.

8(2) Unless a fire alarm system has been decommissioned by permission of the Chief of the Fire Paramedic Service, it must be connected to an approved fire signal receiving centre in compliance with Can/ULC-S561-03, adopted and published by the Underwriters' Laboratories of Canada, so as to notify the Fire Department of a fire alarm activation in the building.

Yards

9(1) Yards surrounding a vacant building 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 building;

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

9(2) Without restricting the general obligation under subsection (1), yards surrounding a vacant building 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.

9(3) Plants and vegetation in yards surrounding vacant buildings must be kept trimmed.

9(4) Yards surrounding vacant buildings 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 building must be afforded by way of a walk or driveway.

10(2) Every walk or driveway and parking space on the property on which a vacant building is located 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 on the property on which a vacant building is located must be kept:

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

(b) in good repair.

Storage of combustible material

12(1) Unless approved in writing by an enforcement officer,

(a) combustible materials; or

(b) flammable or combustible liquids or gases;

must not be stored within a vacant building.

12(2) An enforcement officer may approve the storage of combustible materials or flammable or combustible liquids or gases pursuant to subsection (1) where they can be stored without unduly increasing the likelihood that

(a) a fire will start;

(b) a fire will spread; or

(c) the safety of individuals, including fire fighters, will be jeopardized.

SCHEDULE "B"

SECURITY REQUIREMENTS FOR BOARDED-UP BUILDINGS

The owner of a vacant building must comply with either Part I or Part II of this Schedule.

PART I

In order to comply with Part I of this Schedule, the owner of a vacant building must ensure that

(a) all exterior doors to the dwelling are operational, fit tightly within their frames when closed and are 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 building; and

(d) all windows are in good repair, and properly glazed.

PART II

In order to comply with Part II of this Schedule, the owner of a vacant building must ensure that:

(a) all doors, windows and other openings at the basement and first floor levels are 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) all doors, windows and other openings above the first floor are 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 is 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) all floors above the first floor are 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 enforcement officer;

(e) all areaways are adequately secured either by:

(i) filling them with concrete or unshrinkable fill; or

(ii) covering opening to them with a metal plate of at least 8 millimeters thick and securing it so as to prevent it from shifting;

(f) electricity, natural gas and water are not be cut off where they are necessary to maintain fire protection systems or fire alarms; and

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

SCHEDULE "C"

STATUTORY DECLARATION

RE: (legal description of property)

I, _____, an Enforcement Officer employed by the City of Winnipeg and charged with the enforcement of The Vacant Buildings By-law No. _____,

MAKE OATH AND SAY

that I have inspected the above-noted property, commonly known as _____ _____ (address) in the City of Winnipeg on _____ _____ (date) and I hereby certify that it continues to be in contravention of the Vacant Buildings By-law No. _____ in the following respects:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Sworn or affirmed before me this _____day)
)
of _____ in the year 200__ , in the)
)
City of Winnipeg in the Province of Manitoba.)

_____
A (Commissioner of Oaths / Notary Public)
in and for the Province of Manitoba.

My commission expires on _____.

SCHEDULE "D"

PRELIMINARY DERELICT

PROPERTY ORDER

RE: (legal description of property)

WHEREAS the registered owner of the above-noted property has been found guilty of contravening a derelict building by-law and _____, an enforcement officer with authority to enforce the Vacant Building By-law, has certified by statutory declaration that the property continues to be contravention of the derelict building by-law

THEREFORE, take notice that

The above-noted property is a derelict property as defined in *The City of Winnipeg Charter* and the Vacant Buildings By-law No. _____.

The above-noted property may be transferred to the City of Winnipeg if it is not brought into compliance with the Vacant Buildings By-law No. _____ within 60 days after this Order has been served on you.

You have a right to appeal this Order to the Standing Policy Committee on Property and Development. Your appeal must be in writing and must be received by the Office of the City Clerk, Council Building, 510 Main Street, Winnipeg, Manitoba, R3B 1B9 within 31 days after this Order has been served on you.

If you have any questions concerning this Order or the consequences of failing to bring the property into compliance with the Vacant Buildings By-law No. _____, please contact _____ at 986-_____ .

_____ _____

Designated Employee Date