

TOWN OF DIGBY

Vacant Building By-law 2013 - 01

Pursuant to Section 171 and 172 of the Municipal Government Act, BE IT ENACTED
by the Council of the Town of Digby as follows:

1. (1) This By-law shall be known as the Vacant Building By-law. It shall apply to all vacant buildings within the Town of Digby.
- (2) Where a provision of this By-law conflicts with the provision of another By-law in force within the Town, the provision that establishes the higher standards to protect the health, safety, and welfare of the general public shall prevail.

DEFINITIONS

2. (1) Unless otherwise defined herein, definitions contained in the *Nova Scotia Building Code Act, Nova Scotia Building Code Regulations, The Municipal Government Act, The Town of Digby Land Use Bylaw, Town of Digby Minimum Housing and Maintenance Standards Bylaw* and the *National Building Code* also apply to this By-law.
- (2) In this By-law
 - (a) "Administrator" means the person appointed by the Town to be the Dangerous or Unsightly Premises Administrator or their designate.
 - (b) "Building", for the purposes of this by-law, means any structure having a roof supported by columns or walls and used, or intended to be used to support or shelter any use or occupancy.
 - (c) "Boarding Permit", means a Boarding Up permit provided for in this Bylaw. (d) "Council", means the Council for the Town of Digby.
 - (e) "Inspector", means the person appointed by the Town to be the Building Inspector or their designate.
 - (f) "Town", means the Town of Digby.
 - (g) "Order to Comply", means a notice to the owner of a building to correct any violations of this bylaw.
 - (h) "Owner", includes any one or combination of the following as defined in the *Municipal Government Act*:

- (i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or building,
 - (ii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building, in the absence of proof to the contrary, the person assessed for the property.
- (i) "Provincial Building Code", means the National Building Code as adopted pursuant to the Nova Scotia Building Code Regulations including amendments as may be made from time to time.
- U) "Vacant", in relation to a building means a building that is not being used or occupied for a period exceeding 28 days.

For the purposes of this Bylaw, a building is not being used or occupied solely by reason of:

- (i) Individuals who are present in the building without the consent of the owner; or
- (ii) The existence of equipment or stock in trade within a building or the occasional operation of such equipment, excluding a warehousing operation for which a development permit has been issued.

GENERAL DUTIES AND OBLIGATIONS

3. (1) The owner of a vacant building must ensure that the building is secure from unauthorized entry at all times.
- (2) The owner of a vacant building must ensure that the building is maintained so as not to be dangerous or unsightly, as defined in the *Municipal Government Act*.

FOUNDATIONS AND EXTERIOR WALLS / YARDS OF VACANT BUILDINGS

4. (1) The components of every exterior wall of a vacant building shall be maintained, weather tight, free from loose or unsecured objects and materials, prevent the entrance of insects and animals and prevent deterioration due to weather, insects, birds or animals.
- (2) All foundation supports forming part of a vacant building shall be maintained in good repair so as to prevent settlement of the building.
- (3) Vacant buildings shall be kept free of rodents and vermin at all times. Methods used for exterminating such pests shall be in accordance with the provisions of the *Pest Control Products (Nova Scotia) Act*.
- (4) All yards shall be kept clean and free of all debris, tall grass and weeds.

BOARDED UP VACANT BUILDING PERMIT REQUIRED

5. (1) The owner of a vacant building must obtain a Boarding Up permit prior to boarding up of the building.
- (2) For clarification purposes, please note that there is no requirement to board up a vacant building provided all other relevant provisions of this bylaw are satisfied.

(3) Permit Requirements:

- (a) A Boarding Up permit shall be valid for a maximum of fourteen days.
 - (b) A second Boarding Up permit may be issued by the Administrator within a calendar year provided a request is received in writing from the owner.
 - (c) The third or any subsequent Boarding Up permits within a single calendar year require the approval of the Director of Planning and Development.
- (4) Notwithstanding Section 4 (1) of this Bylaw, a building may be boarded up at the discretion of the Town of Digby Fire Chief or his designate without first obtaining a permit. Upon notification of the Fire Chief that the said building is no longer required to be boarded up for the purposes of the Town of Digby Fire Department and if the building is to remain boarded up, a permit will be required.

VACANT BUILDING CONDITION

6. (1) Windows, exterior doors, skylights, and basement or cellar hatchways shall be maintained in good repair and be weather tight.
- (2) The interior side of any windows shall not be directly covered with paper, cloth, plastic or other such material unless written permission is granted by the Administrator.
- (3) The sightline into a vacant building through any street facing ground floor window shall be blocked by a decorated panel not more than 2 meters from the interior side of the window. The design of such panel shall be approved by the Administrator.
- (4) Exterior stairs, porches, balconies and landings shall be maintained in good repair so as to be free of holes, cracks, and other defects which may constitute accident hazards.

INSPECTIONS

7. (1) The Administrator may, for the purpose of ensuring compliance with this Part, enter in or upon any land or premises at any reasonable time without a warrant.
- (2) Except in an emergency, the Administrator shall not enter any room or place actually being used as a dwelling without the consent of the occupier unless the entry is made in daylight hours and written notice of the time of entry has been given to the occupier at least twenty four hours in advance.
- (3) If a person refuses to allow the Administrator to exercise, or attempts to interfere or interferes with the administrator in the exercise of a power pursuant to this Act, the administrator may apply to a judge of the Supreme Court of Nova Scotia for an order to allow the administrator entry to the building and an order restraining a person from further interference. *1998, c.18, s. 352.*

ORDERS BY THE ADMINISTRATOR

8. If after an inspection, the Administrator is satisfied that in some respect, the building does not conform to the standards prescribed in this By-law the Administrator shall serve or cause to be served by personal delivery or registered mail to the owner(s) of the property, an Order to Comply.
 - (1) Every Order to Comply shall contain:
 - (a) the standards with which the building does not comply;
 - (b) actions to be taken in order to bring the building into compliance with the standards;
 - (c) the date after which the building will be subject to a re-inspection to ascertain compliance with the Order;
 - (d) the action that will be taken against the owner, should the building not comply to the prescribed standards at the time of the re-inspection; and
 - (e) Where an Order has been served upon an owner, and the owner provides the Inspector with a schedule outlining specific time frames within which the work specified in the Order will be completed, the Inspector may accept or amend the schedule at which time the schedule will become a part of the Order
 - (2) Where an owner fails to comply with the requirements of an Order within the time frame stipulated therein, the Administrator, his designate or contractors may enter upon the property without warrant or other legal process and carry out the work, specified in the Order.
 - (3) Where the Town carries out the work specified in the Order, the Town may charge and collect the costs thereof either from the owner or as a first lien on the property affected.

TRANSITION PROVISIONS

9. Upon the adoption of this Bylaw, owners of vacant buildings which are currently boarded up will have 60 days to obtain the necessary permit.

PENALTY

10. (1) Every person who contravenes any provision of this By-law is guilty of an offence and shall be liable, upon summary conviction, to a penalty not less than One Hundred Dollars (\$100.00) and not exceeding Five Thousand Dollars (\$5,000.00) and in default of payment to imprisonment for a period not exceeding ninety (90) days.

- (2) In any prosecution or proceeding in respect to any contravention of, or failure to comply with any provision of this By-law, which contravention or failure of compliance continues from day to day, the Court or Judge before whom the matter of such contravention or failure of compliance is heard, may, in addition to the penalty imposed for such contravention or failure, impose a further penalty not exceeding one hundred dollars or in default of payment ten (10) days imprisonment, for each day during which such contravention or failure has been continued.
- (3) In addition to any other remedy open to law, the judge may:
- (a) make an Order restraining the continuance of repetition of any such contravention or failure;
 - (b) make an Order directing the removal or destruction of any building or structure or part thereof so contravening or failing to comply, or in respect of which any such contravention or failure has taken place, and that upon failure to comply with such Order, the Inspector may remove, repair or destroy such building or part thereof at the expense of the owner;
 - (c) make such other Order as is required to enforce the provisions of this By-law, and the recovery of the expense of any such removal, repair or destruction by the Inspector, as to the Court or Judge seems fit.

Clerk's Annotation For Official By-Law Book

Date of first reading: 06 May 2013

Date of advertisement of Notice of Intent to Consider: 23 May 2013

Date of second reading: 03 June 2013

*Date of advertisement of Passage of By-Law: 06 June 2013

Date of mailing to Minister a certified copy of By-Law: 25 June 2013

I certify that this **VACANT BUILDING BY-LAW** was adopted by Council and published as indicated above.

Clerk

Date

* Effective Date of the By-Law unless otherwise specified in the text of the By-Law