



CORPORATION OF THE CITY OF SUMMERSIDE

BYLAW NAME: VACANT BUILDING BYLAW

BYLAW #: CS-36

BE IT ENACTED by the Council of the City of Summerside as follows:

1. Title

- 1.1. This bylaw shall be known and cited as the “The Vacant Building Bylaw.”

2. Authority

- 2.1. Section 180 of the *Municipal Government Act*, RSPEI 1988, c M-12.1 authorizes council to enact bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of persons and property, nuisances, dangerous or unsightly property, as well as the regulation of real property maintenance.
- 2.2. Section 182 of the *Municipal Government Act*, RSPEI 1988, c M-12.1 authorizes council to regulate any activity over which it has jurisdiction and to provide a system of permits.

3. Application

- 3.1. This bylaw applies to all persons, properties, and premises in the City of Summerside.

4. Definitions

- 4.1. In this bylaw:

- (a) “Act” means the *Municipal Government Act*, RSPEI 1988, c M-12.1;
- (b) “City” means the City of Summerside;
- (c) “Council” means the Mayor and other members of the Council of the municipality;
- (d) “inspector” includes an Enforcement Officer, the Director of Fire Services, Director of Police Services, Building Officer, Director of Municipal Services, or their designates, who carry out the duties assigned by Chief Administrative Officer;
- (e) “owner” means the registered owner, occupant of, or person in charge of any real property;
- (f) “person” includes any individual, association, corporation, contractor, commission, public utility, firm, partnership or organization of any kind, and includes both principal and agent in an agency situation;
- (g) “premises” means any grounds, yards, or vacant lots;

- (h) "property" includes all or any part of lands, buildings, foundations, scaffolding, fences, excavations, depressions, drains, ditches, culverts, wells, or loose impediments;
- (i) "vacant building" means any building that has not been occupied, for at least ninety (90) days, by the owner or a person authorized by the owner.

5. Administration

- 5.1.** This Bylaw shall be administered and enforced by inspectors.
- 5.2.** Where an inspector determines that any building constitutes a vacant building, or that there has been any other contravention of this bylaw, the inspector may issue an order.
- 5.3.** An inspector is authorized to
 - (a) inspect any building or premises in the City for the purpose of enforcing this bylaw;
 - (b) remedy anything the inspector determines is in contravention of this bylaw;
 - (c) enforce any provision of this bylaw;
 - (d) require that anything be produced to assist in the inspection, remedy, enforcement or action;
 - (e) make copies of anything related to the inspection, remedy, enforcement or action; and
 - (f) do any other thing for the administration and enforcement of this bylaw which Council, by resolution, authorizes.
- 5.4.** An inspector acting under this bylaw shall display or produce, on request, identification and documentation showing that the person is authorized to carry out duties specified under this bylaw.
- 5.5.** Except in the case of an emergency or other extraordinary circumstances, where an inspector intends to take any action authorized by section 5.3 above, they shall give not less than 24 hours' notice to the owner or occupier of the property.
- 5.6.** An inspector acting under this bylaw shall not enter a dwelling without a warrant issued under the *Summary Proceedings Act* or an order issued under section 237 of the *Municipal Government Act* unless the occupant consents to the entry.
- 5.7.** An order shall be in the form included at Schedule "B" of this bylaw.

6. Vacant Buildings

- 6.1.** Every owner of a vacant building, including a building which is vacant on the day this provision comes into force, shall ensure that such vacant building is registered with the City in accordance with this bylaw and shall obtain a Vacant Building Permit.
- 6.2.** Every owner of a vacant building shall display, in a prominent place on the property on which such vacant building is located, a valid Vacant Building Permit issued by an inspector with respect to the vacant building;
- 6.3.** Every Vacant Building Permit expires

- (a) on the fourth (4th) anniversary of the date on which a Vacant Building Permit was issued for a vacant building, if the registration is not renewed before its expiry;
 - (b) when the Vacant Building Permit is revoked under this bylaw;
 - (c) when the vacant building is sold or otherwise transferred to a new owner; or
 - (d) when an inspector is satisfied that the building is no longer vacant.
- 6.4.** To register a vacant building or to renew a registration for a vacant building and to obtain a Vacant Building Permit, the owner of the vacant building shall:
 - (a) complete and submit to the Building Officer an application in the form published by the Building Officer from time to time;
 - (b) submit the registration fee provided for in Schedule “D” hereto; and
 - (c) provide such floor plans, records and/or reports prepared by a qualified person as may be required by the Building Officer.
- 6.5.** On receipt of the materials and registration fee, the Building Officer may either issue a Vacant Building Permit or, if the application is incomplete, contains false or misleading information or registration fees are not paid, may refuse to issue the Vacant Building Permit until such time as the required information and/or fee is provided.
- 6.6.** Every owner of a vacant building shall notify the Building Officer of any change in circumstances relating to any information provided to the Building Officer under section 6.4 of this bylaw within ten (10) business days after the change occurs.
- 6.7.** The Building Officer may revoke a Vacant Building Permit issued if, in the opinion of the Building Officer, circumstances warrant such revocation.
- 6.8.** Every owner of a vacant building shall
 - (a) ensure that the building complies with all applicable statutes, regulations, and bylaws, including but not limited to the *Building Code Act*, and the *Fire Prevention Act*;
 - (b) ensure, prior to securing the vacant building in accordance with paragraph (c) below, that an inspection of the vacant building is conducted by both an inspector and an individual representing the Fire Department, and that all inspection fees provided for in Schedule “D” are paid;
 - (c) after the Vacant Building has been inspected and all orders issued pursuant to such inspections are complied with, secure the vacant building to prevent unauthorized access to the vacant building by:
 - A. having the doors and windows or other openings replaced or repaired and locked;
 - B. covering the doors and window or other openings with a solid wooden material;
 - C. securing the land on which the vacant building is located by a fence at least 1.5 meters in height; and
 - D. ensuring that all services to the vacant building, including but not limited to gas, water and electrical service, are shut off and/or

disconnected in accordance with procedures approved by the relevant service provider and to the satisfaction of the Building Officer; or

- E. a combination of all or any of the above if prior written approval is obtained from the Inspector, and

the owner shall ensure that all material used to secure a vacant building is properly maintained.

- (d) Satisfy the Building Officer that an individual retained by the owner attends at the property to monitor the condition of the vacant building at such intervals as may be required in writing by the Building Officer.

6.9. The owner of a vacant building may apply to the Building Officer for a temporary exemption, not to exceed six (6) months, from the boarding up requirements contained in section 6.8 above, and the Building Officer may grant such temporary exemption if they determine that it is in the public interest to do so.

6.10. Notwithstanding section 6.8 above, no owner of a vacant building shall board up a commercial storefront without first obtaining the approval of the Building Officer, which approval may be subject to such conditions as the Building Officer considers appropriate.

7. Order to Remedy Contravention

7.1. Where, in the opinion of an inspector, any vacant building does not meet the requirements of this bylaw, the inspector may issue an order requiring the person to

- (a) take such steps as are necessary to ensure that the vacant building is safe and secure; or
- (b) take any action or measure necessary to remedy the contravention of this bylaw and, if necessary, to prevent a re-occurrence of the contravention.

7.2. The order shall be issued to

- (a) the registered owner of the property; or
- (b) the occupier of the property.

7.3. The order may require the person to whom it is addressed, within a period of time specified in the order to

- (a) remedy the condition of the property in a manner and to the extent directed in the order;
- (b) obtain a Vacant Building Permit forthwith;
- (c) secure the vacant building in accordance with section 6 herein;
- (d) do any other thing to remedy a contravention of this bylaw; or
- (e) do all or any of the matters specified in clauses (a) to (d).

7.4. The order shall:

- (a) be in the form provided in Schedule “B” of this bylaw;

- (b) state in which respect(s) the vacant building does not meet the requirements of this bylaw or any other bylaw and what must be done to the property to bring it into compliance; and
- (c) state the date which the property shall be brought into compliance, which date is not to exceed thirty (30) days from the date the order is deemed to be served pursuant to section 7.6;
- (d) state that if the person does not comply with the order within the prescribed time frame, the municipality shall take the action or measure at the expense of the person.

7.5. The order shall be served on the person notified

- (a) by personal delivery thereof to that person;
- (b) by posting the order by registered mail with postage prepaid addressed to that person at the person's latest known address; or
- (c) where the address of that person is unknown, by posting the order in a conspicuous place on the property.

7.6. The date of the service of the order shall be

- (a) on the date of delivery where personal service is made;
- (b) on the date stated on the written acknowledgment of receipt where service by mail is made; or
- (c) on the date of the posting where posting is made on the property.

7.7. Proof of service of the order may be made by a certificate signed by the person serving the order setting forth the manner in which service was made and specifying the time of service.

7.8. A certificate made under subsection 7.7

- (a) shall be in the form provided at Schedule "C" of this bylaw;
- (b) is proof of the signature of the person certifying; and
- (c) is proof that the person named in the order received notice of the matters referred to in the order.

7.9. An order continues in force for a period of twelve months from the date on which it is served on the person to whom it is addressed and, if that person permits the property that is the subject of the order to revert to a state contrary to this bylaw while the order is in force, the person shall be deemed to have failed to comply with the order and it may be enforced against the person accordingly, but without prejudice to the issue of a new order in respect of that property.

7.10. An inspector may extend the time for compliance with any order issued pursuant to this part, provided there is evidence of intent to comply with any such order and reasonable cause exists to prevent immediate compliance.

7.11. Any extension of the time for compliance under subsection 7.10 will not extend the time for filing an appeal under section 8.

8. Appeals

- 8.1.** A person to whom an order is issued may, within fourteen (14) days from the date of service, appeal the order by filing a notice of appeal with the Chief Administrative Officer.
- 8.2.** The notice of appeal filed under this section shall be in writing, on a form attached hereto as Schedule "A", and shall state the grounds for the appeal, the relief sought and the name and address of the person making the appeal.
- 8.3.** The Chief Administrative Officer shall forthwith deliver the notice of appeal and any supporting documentation to the Council and the inspector who issued the order.
- 8.4.** Upon Council's receipt of the notice of appeal, Council shall:
- (a) determine a date, place and time for a hearing of the matter, which hearing shall take place not less than seven (7) days, and not more than thirty (30) days from the date of Council's receipt of the notice of appeal;
 - (b) advise the owner in writing of the date, place and time of the hearing; and
 - (c) provide the owner with a copy of any materials relied upon by the inspector to justify the issuance of the order.
- 8.5.** Council shall preside at the hearing and has the right to decide any matter of procedure not otherwise provided in this bylaw.
- 8.6.** The owner shall be permitted to make submissions, adduce evidence, and question the inspector at the hearing.
- 8.7.** After the hearing, the Council may, by resolution,
- (a) confirm the order;
 - (b) vary the terms of the order;
 - (c) substitute its own order for the order reviewed; or
 - (d) rescind the order.
- 8.8.** Council shall include in the recitals of the resolution referred to in subsection 8.7 brief written reasons for its decision.
- 8.9.** Council shall provide a certified copy of the resolution to the person making the appeal.
- 8.10.** Council's decision in the matter is final and there shall be no further right to appeal an order issued under this bylaw.

9. Failure to Comply with Order

- 9.1.** Where a person on whom an order has been served fails to comply with the order or an order of the Council made under section 8, the inspector may carry out the directives contained in the order and charge the costs of the work done to the person to whom the order was issued and the person so charged is personally liable therefore; neither the City, the Council nor the inspector is personally liable for any action taken under this section, nor for the costs of any goods, materials or labour incurred in exercising powers vested in the inspector under this section.

10. Order for Costs of Remediation

- 10.1.** The Council hereby authorizes an inspector to issue an order for the costs of carrying out the work done under section 9 against the person to whom the order was issued and the order for costs shall be served in the manner provided in section 7.
- 10.2.** The cost incurred by the City to remedy a contravention of an order shall include an additional administrative fee of 25% of the costs incurred to a maximum fee of \$750.
- 10.3.** An order for the costs of remediation made under subsection 10.1 may be filed with the Registrar of the Supreme Court at any time following thirty days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment.
- 10.4.** An order for the costs of remediation made under subsection 10.1 shall also constitute a lien on the property which shall have priority over every claim, privilege, or encumbrance of any person except the Crown.

11. Offences and Penalties

- 11.1.** Any person who prevents or obstructs or attempts to prevent or obstruct an inspector from carrying out their duties under this bylaw is guilty of an offence and liable on summary conviction to a fine of not less than \$100 and not more than \$1,000.
- 11.2.** Any owner, if that person is an individual, who fails to obtain a Vacant Building Permit as required under this bylaw shall be guilty of an offence and liable on summary conviction to a fine of not less than \$3,000 and not more than \$5,000.
- 11.3.** Any owner, if that person is a corporation, who fails to obtain a Vacant Building Permit as required under this bylaw shall be guilty of an offence and liable on summary conviction to a fine of not less than \$5,000 and not more than \$10,000.
- 11.4.** Where a contravention of this bylaw continues for more than one day, the person responsible for the contravention is guilty of a separate offence for each day or part of a day on which the contravention occurs and shall be liable to a fine of \$1,000 for each day or part day on which the contravention occurs after the first day.
- 11.5.** The court may, in addition to any other penalty imposed, order the person to comply with this bylaw.

12. Exemptions

- 12.1.** An owner is not required to obtain a Vacant Building Permit for the following:
 - (a) a vacant building for which the owner holds a valid demolition permit granted by the Building Officer, provided that the demolition occurs within six (6) months of issuance of the demolition permit;
 - (b) a vacant building which is occupied by the owner, or a person authorized by the owner, on a seasonal basis; and
 - (c) a vacant building, other than a dwelling, on property used as a farm.

13. Limitation of Liability

- 13.1.** The City, Council, inspectors, and persons acting under their instructions, or under the authority of this bylaw are not personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done in the exercise or purported exercise of any powers given by this bylaw.

14. Enforcement

- 14.1.** In addition to any matter authorized in this bylaw, this bylaw may be enforced, and any breach thereof may be restrained by application by the Council to the Supreme Court of Prince Edward Island in accordance with the *Municipal Government Act* or any successor legislation.

15. Severability / Conflicts

- 15.1.** It is the intention of Council that each separate provision of this bylaw shall be deemed independent from all other provisions of this bylaw, such that if any provision of this bylaw is declared invalid, all other provisions of this bylaw shall remain valid and enforceable.
- 15.2.** In the event of a conflict between this bylaw and the provision of any other enactment, the most stringent requirement shall apply.

16. Evidence

- 16.1.** A copy of any writing, paper or document filed in the Court, or any statement containing any information from the records of the Department of the Minister appointed pursuant to the provision of the *Real Property Assessment Act*, RSPEI 1988, c R-4, shall be received in evidence in Court without proof of signature and is *prima facie* evidence of the facts contained therein as to the name of the owner of the real property and the corresponding civic address.

17. Transitional Provision

- 17.1.** An owner of a building which constitutes a vacant building on the day this bylaw comes into force shall have sixty (60) days from the day this bylaw comes into force to bring the vacant building into compliance.

18. Effective Date

- 18.1.** This Vacant Building Bylaw, Bylaw Number CS-36, shall be effective on the date of approval and adoption by Council.

First Reading

This Vacant Building Bylaw, Bylaw #CS-36, was read a first time at the Council meeting held on the 16th day of May, 2022.

This Vacant Building Bylaw, Bylaw #CS-36, was approved by a majority of Council members present at the Council meeting held on the 16th day of May, 2022.

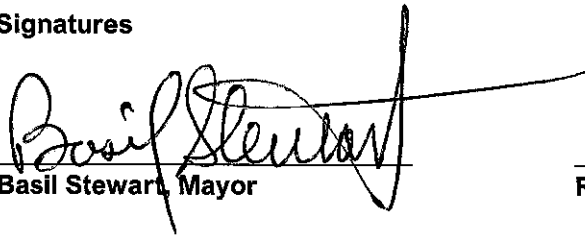
Second Reading

This Vacant Building Bylaw, Bylaw #CS-36, was read a second time at the Council meeting held on the 20th day of June, 2022.

This Vacant Building Bylaw, Bylaw #CS-36, was approved by a majority of Council members present at the Council meeting held on the 20th day of June, 2022.

Approval and Adoption by Council

This Vacant Building Bylaw, Bylaw #CS-36, was adopted by a majority of Council members present at the Council meeting held on the 20th day of June, 2022.

Signatures
Basil Stewart, Mayor
Rob Philpott, Chief Administrative Officer

This Vacant Building Bylaw adopted by the Council of the City of Summerside on the 20th day of June, 2022 is certified to be a true copy.


Rob Philpott, Chief Administrative Officer

Date June 23rd, 2022



CORPORATION OF THE CITY OF SUMMERSIDE

SCHEDULE: Schedule "A"
BYLAW NAME: Vacant Building Bylaw
BYLAW #: # CS-36

This Schedule establishes the form to be used for filing an appeal pursuant to Section 8 of the Vacant Building Bylaw.



CORPORATION OF THE CITY OF SUMMERSIDE

NOTICE OF APPEAL

(pursuant to Section 8 of the *Vacant Building Bylaw*)

CONTACT INFORMATION	
Last Name:	First Name:
Company Name (if applicable):	
Email Address:	
Telephone Number:	
Mailing Address:	

APPEAL INFORMATION
List the reasons for your appeal (if more space is provided, kindly fill out a separate sheet and attach it to this form. If you intend to rely on any documents, including photographs, videos, or witness statements, kindly attach them to this form as well):

RELIEF SOUGHT
List or describe the relief sought (if more space is required, kindly fill out a separate sheet and attach it to this form):

DECLARATION	
I solemnly declare that all the statements and the information provided, are true, correct and complete. By signing this form, I consent to the collection of my personal information:	
Signature of Appellant:	Date:
In accordance with the <i>Freedom of Information and Protection of Privacy Act</i> , some of the information collected herein may be available to the public.	



CORPORATION OF THE CITY OF SUMMERSIDE

SCHEDULE: Schedule "B"
BYLAW NAME: Vacant Building Bylaw
BYLAW #: # CS-36

This Schedule establishes the form to be used for an order issued pursuant to the Vacant Building Bylaw.



CORPORATION OF THE CITY OF SUMMERSIDE

ORDER

(Issued pursuant to the *Vacant Building Bylaw*)

TO: _____

of _____.

WHEREAS an inspection of real property designated as Parcel No. _____ located at _____, in Summerside, Prince Edward Island, has been made by an inspector having authority under Bylaw # CS-36 the *Vacant Building Bylaw*,

AND WHEREAS the said inspector considers the property to be in contravention of the said *Vacant Building Bylaw* in the following respect:

THEREFORE, YOU ARE HEREBY ORDERED TO: _____

YOU ARE REQUIRED TO COMPLY with this Order within _____ days of the date of service of this Order.

IF YOU FAIL TO COMPLY WITH THIS ORDER within the time frame provided above, the City shall take the action or measure required to bring the property into compliance, and any costs of expenses incurred shall be a debt owing by you to the City and a lien against the property.

Dated this _____ day of _____, 20____

INSPECTOR

THIS ORDER MAY BE APPEALED TO COUNCIL PURSUANT TO SECTION 8 OF THE *VACANT BUILDING BYLAW* BY FILING A NOTICE OF APPEAL WITH THE CHIEF ADMINISTRATIVE OFFICER OF THE CITY OF SUMMERSIDE WITHIN FOURTEEN (14) DAYS OF THE DATE OF THE SERVICE OF THIS ORDER.



CORPORATION OF THE CITY OF SUMMERSIDE

SCHEDULE: Schedule "C"

BYLAW NAME: Vacant Building Bylaw

BYLAW #: # CS-36

This Schedule establishes the form to be used for the certificate referenced in Section 7 of the Vacant Building Bylaw.



CORPORATION OF THE CITY OF SUMMERSIDE

CERTIFICATE OF SERVICE

(pursuant to subsection 7.7 of the *Vacant Building Bylaw*)

I, _____, of

_____, Prince Edward Island,
declare that I did serve an Order issued pursuant to the *Vacant Building Bylaw*, a true copy of which is annexed
hereto in the manner indicated below:

- () By personal delivery to the person to whom it is directed,
- () By posting the Order by Registered Mail with postage prepaid addressed to the latest known address of
the person to whom it is addressed, or
- () By posting the Order in a conspicuous place on the property that is the subject of the Order,

on _____, the _____ day of _____, 20____, at the hour
of _____ in the _____ noon at Summerside, in Prince County, Province of Prince Edward Island.

DATED this _____ day of _____, 20_____.



CORPORATION OF THE CITY OF SUMMERSIDE

SCHEDULE: Schedule "D"
BYLAW NAME: Vacant Building Bylaw
BYLAW #: # CS-36

This Schedule enumerates the fees to be imposed pursuant to the Vacant Building Bylaw.

Vacant Building Permit Fees (Years 1-4)	All Buildings
Year 1	\$520.00
Year 2	\$520.00
Year 3	\$520.00
Year 4	\$520.00
Sub-Total of Fees due at time of Registration NOTE: The above fee may be partially refunded on a pro-rated basis, upon re-establishing occupancy. See Refund Schedule Below.	\$2,080.00
Administration – File set-up	\$140.00
Pre-board-up Fire Inspection	\$150.00
Pre-board-up Building Inspection	\$115.00
Total of Fees due at time of Registration	\$2,485.00

NOTE: Miscellaneous Inspection Fee	\$115.00
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Refund Schedule	All Buildings
Re-occupy During First Year	\$1,560.00 refund
Re-occupy During Second Year	\$1,040.00 refund
Re-occupy During Third Year	\$520.00 refund
Re-occupy During the First Six Months of the Fourth Year	\$275.00 refund