

**Town of Yarmouth**  
**REGULATING VACANT & ABANDONED BUILDINGS BYLAW**

Bylaw Name: <b>Regulating Vacant &amp; Abandoned Buildings Bylaw</b>	
Bylaw No.: <b>TOY 35</b>	
Effective Date: <b>November 12<sup>th</sup>, 2009</b>	Amended Date: <b>January 14<sup>th</sup>, 2021</b>

**1.0 Short Title**

This bylaw shall be known as Bylaw No. 35 and may be cited as “The Vacant and Abandoned Building Bylaw”.

**2.0 Application**

This bylaw shall apply to all buildings within the Town of Yarmouth. This bylaw does not relieve an owner from compliance with all other Town ordinances, codes, regulations, and Provincial law.

**3.0 Definitions**

In this bylaw:

- 3.01** Definitions in the Building Code Act and the Building Code shall be used with respect to matters pertaining to buildings and which are undefined in the By-law.
- 3.02** Definitions in the Fire Protection and Prevention Act and the National Fire Code shall be used with respect to matters pertaining to fire prevention and fire safety and which are undefined in the By-law.
- 3.03** “Applicant” means the applicant for registration of a vacant building, being and owner or person who is an authorized agent for an owner.
- 3.04** “Boarded” or “Boarded up”, 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 seven (7) days by affixing wood, metal or some other material over it to prevent entry.
- 3.05** “Building” means any structure used or intended to be used to support or shelter any use or occupancy.
- 3.06** “Building damaged by fire” shall include a building partially or completely damaged by fire to the extent that it requires repairs to permit use or occupancy or requires demolition because it is unsafe.
- 3.07** “Building Official” means the authority having jurisdiction appointed pursuant to Section 5 of the Act;

- 3.08** “By-law Enforcement Officer” means a law enforcement employee of the Town with the authority to regulate and enforce the By-laws of the Town.
- 3.09** “Council” means the Council of the Corporation of the Town of Yarmouth.
- 3.10** “Fire Chief” means the Fire Chief of the Town or his or her designate who may include a Fire Inspection Officer.
- 3.11** “Inspector” means a person appointed by Council as an Inspector pursuant to the Building Code Act, or a person employed as a Town Building Official, Fire Inspection Officer, and the By-law Enforcement Officer.
- 3.12** “Owner” means the building or property owner or other person as they appear on the assessment roll under the land registration system or registry of deeds.
- 3.13** “Peace Officer” means a member of the Royal Canadian Mounted Police, a Police Officer appointed by a municipality, a Sheriff, a Deputy Sheriff or a member of the military police of the Canadian Armed Forces.
- 3.14** “Possessory lender” means a person firm, or corporation that has foreclosed on a mortgage on a property but may not have legal or equitable title.
- 3.15** “Register” (noun) mean the Town list of vacant buildings maintained by the By-law Enforcement Officer; register (verb) means to comply with the requirements of this By-law concerning registration of vacant buildings.
- 3.16** “Secure” means to maintain a building in a condition that reasonably prevents access to the interior of the building, or to the exterior of the building, if deemed unsafe by an inspector, and may include locking, infilling, sealing, or boarding of doors, windows or other openings in a wall or roof of a building, the installation of security measures/devices, warning signage, and may also include demolition.
- 3.17** “Structure” means anything constructed or erected, the use of which requires location on or attachment to the ground and includes buildings.
- 3.18** “Town” means the Corporation of the Town of Yarmouth.
- 3.19** “Vacant property” means an improved lot or parcel of real property with at least one (1) building or structure that is not currently occupied for a period in excess of thirty (30) days. A building that is not used by an owner, and includes a building damaged by fire, a building that is unoccupied by a human, not maintained, unsupervised, or appears abandoned in the opinion of an Inspector. A building or structure which remains furnished, has utilities connected or in use, and on property that is maintained while the owner is absent, shall not be considered vacant.
- 3.20** “Abandoned vacant property” means a residential, commercial or industrial structure if unoccupied continuously for thirty (30) days or more and meets any of the following criteria:

- a. It has not been legally occupied by a human for a residential structure.
- b. Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity.
- c. Has one (1) or more broken windows, or two (2) or more windows or doors boarded up or partially boarded, restricting ingress and egress through windows and/or doors, for at least thirty (30) days.
- d. Has water, sewer, or electric or any of the foregoing disconnected or not in use.
- e. Has not been maintained in compliance with ordinances of the Town that relate to residential structures and accessory structures, their occupancy or use.
- f. Is only partially completed and is not fit for human occupancy and/or there are no active Building Permits for the property that will resort in restoration of the premises, structure or building to a safe and habitable condition.
- g. Has property taxes in arrears for a period of time exceeded three hundred sixty-five (365) days.

#### **4.0 Purpose**

The purpose of this By-law is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighbourhood integrity, avoiding the creation of maintenance of nuisances and to ensure the safe and sanitary maintenance of dwellings. It is the intent of this By-law to address homes and buildings that have become vacant, abandoned, or otherwise unsupervised and thereby have a negative impact on surrounding properties and neighbourhoods. Vacant and abandoned homes create increased instances of unsecured or open doors and windows, broken water pipes, flooded basements, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal properties and causes deterioration in neighbourhoods and residential areas. It is important for the Town to be able to contact owners of vacant properties for property maintenance, utility shutoff, fire safety and police reasons.

#### **5.0 General Provisions for Vacant Buildings**

##### **5.1** Every owner of a vacant building shall:

- a. ensure that the vacant building is secured against unauthorized entry;
- b. provide inspection/monitoring of the vacant building no less than on a monthly basis by a person or company familiar and qualified with matters pertaining to the By-law;
- c. protect the vacant building against the risk of fire, accident or other danger; and,
- d. register the vacant building in accordance with section 9.

**5.2** Where a vacant building has been vacant for at least thirty (30) consecutive days, an inspector who reasonably believes that a vacant building poses a risk to safety may, in writing, require the owner of a vacant building to do any one (1) or more of the following, with the timeframe specified by the Inspector:

- a. provide the Building Official with a copy of floor plans for each story of the vacant building, all drawn to scale and labeled, to the satisfaction of the Building Official;
  - b. provide the Building Official with a copy of a report by a qualified person or, if deemed necessary by the Inspector, from a Professional Engineer registered in Nova Scotia, concerning the structural sufficiency of the vacant building, or concerning any matter related to the vacant building.
  - c. ensure excessive combustible materials within a vacant building are removed to reduce potential fire load, to the satisfaction of the Fire Chief;
  - d. install security measures or devices to the satisfaction of the Inspector, and such measures may include boarding of doors, windows, or other openings;
  - e. maintain and provide the Building Official with a copy of a written record/log of any such inspections required in paragraph 5.1(c), including the date and time of the inspection, and the contact information for the person performing the inspection; and
  - f. do any work or repairs which, in the opinion of the Inspector, are necessary to secure a vacant building from unauthorized entry or protect a vacant building against risk of fire, accident or other danger.
- 5.3** Every owner of a vacant building shall comply with the written requirements of the Inspector in subsection 5.2 above, within the timeframe specified.
- 5.4** Where a vacant building is also a building that is included in the register of property situated in the town that is of cultural heritage value or interest or has been so designated to the Nova Scotia Heritage Act, it is the responsibility of the owner to bring the inclusion of the heritage designation to the Inspector's attention, to ensure compliance with all other laws or By-laws respecting the property.
- 5.5** Where a vacant building or damaged building by fire is boarded up or required to be boarded:
- a. boarding materials shall be installed and maintained in good order;
  - b. unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint or of equivalent weather-resistant material;
  - c. boarding materials shall be installed to exclude rain and wind from entering the building and to secure the building from unauthorized entry, and shall be installed within the reveal of the opening frame or cladding, where feasible;
  - d. boarding materials shall be selected, coated, coloured and installed to match surrounding door/window frames and exterior wall finishes; and,
  - e. the remainder of the building and property must be maintained so as not to be "dangerous or unsightly" pursuant to section 344 of the *Municipal Government Act*.
- 5.6** Where a vacant building remains vacant for more than sixty (60) consecutive days, the owner shall ensure that all utilities serving the building are properly disconnected, terminated, or

capped, unless such utilities are necessary for the safety or security of the vacant building, or unless such utilities are otherwise required by law to remain connected.

- 5.7** Where openings in a vacant building, previously boarded or secured, become unsecured, such openings shall be secured again, using materials and fasteners of greater strength, installed in such a manner to deter their destruction or removal.
- 5.8** Where a vacant building is unsecure from unauthorized entry to the extent that it cannot, in the opinion of an Inspector, be reasonably or effectively secured by boarding or other means of repair, the building shall be considered for demolition.
- 5.9** Where the security measures of a vacant building are frequently breached, in spite of repeated attempts to re-secure as described in subsection 5.7, the building shall be considered for demolition, or full-time security personnel shall be provided on site by the owner.
- 5.10** An Inspector may accept alternative measures for temporary security which may include fencing or full-time security personnel, if an owner can demonstrate such measures provide a level of safety to that required by this By-law.

## **6.0 Buildings Damaged by Fire**

- 6.1** Every owner of a building damaged by fire shall immediately contact the Fire Chief or a representative of Town of Yarmouth Fire Department at the scene of a fire, to inform them of the owner's intention to comply with the requirements of this By-law.
- 6.2** Every owner shall ensure that a building damaged by fire is secured against unauthorized entry within twenty-four (24) hours after release of the property by the authority having jurisdiction or, if the Fire Chief has granted an extension, by the deadline given by the Fire Chief.
- 6.3** Notwithstanding Section 6.2, where, in the opinion of the Fire Chief or the Building Official, a building damaged by fire is in a condition that presents an immediate hazard to public safety, the owner shall ensure that the building damaged by fire is secured against unauthorized entry forthwith after release of the relevant building by the authority having jurisdiction.

## **7.0 Inspection Requirements Foreclosure**

Any possessory lender under a note secure by a mortgage or any person, firm, or corporation holding a mortgage on a property who has filed a complaint for foreclosure by judicial action or is publishing a notice of foreclosure by advertisement, shall within five (5) days of either filing the complaint or publishing the notice, inspect the subject property of the foreclosure proceedings. If the property is vacant or shows evidence of either being abandoned or vacant, the property shall forthwith be registered with the Town within ten (10) days pursuant to this By-law and be subject to all provisions of this By-law, including but not

limited to, obtaining a safety and maintenance inspection pursuant to subsection 5.2. There vacant property shall thereafter be inspected by the owner or legal agent at least monthly until any right of the lender of party holding a mortgage shall undertake all reasonable and necessary steps to continue utility service to the vacant property in order to avoid sump pump failure, back-up, broken pipes, or other damage to the property.

## **8.0 Registration of Abandoned and Vacant Properties**

**8.1** Owners and possessory lenders of any mortgage on vacant property, jointly and severally, shall be responsible for registering such properties compliant with this Bylaw.

**8.2** Registration requirements do not preclude the town from taking action pursuant to any applicable federal or provincial law or ordinance of the town, or to issue notices and orders as may apply under other ordinances of the town. Fees shall be charged to defray the Town's cost of registering such properties, as shall be determined and established periodically by Council with Council approval of those fees confirmed by resolution.

## **9.0 Registration Information**

**9.1** For each abandoned and/or vacant structure as defined in this By-law an owner of such a property shall register with the Town providing the following information (Appendix A – Vacant Property Registration Form):

- a. The property civic address, parcel identification number, date property became vacant, type of structure and number of units in the building.
- b. The legal name of each owner, or mortgage holder.
- c. Address and contact information of persons referred to in subsection (9.1.c).
- d. Address and contact information of an agent or representative, authorized by the owner to handle the affairs for the property and to act as the person for notification.
- e. Expected amount of time the property is expected to remain unused, reason for non-use and description for all plans for restoration, repair, reuse, maintenance, and/or continuation of utility operation.
- f. If the property is in Foreclosure and when the Redemption Period ends.
- g. Such additional information as may be required as set forth in any registration form approved by the Town's Chief Administrative Officer.
- h. If at any time the information contained in the owner registration is no longer valid, the owner has ten (10) days to file a new form containing valid, current information. There shall be no fee to update an existing registered owners' current information.
- i. Once a vacant or abandoned vacant property has been properly registered by the owner, such registration shall be valid and effective for a period not to exceed three-hundred and sixty-five (365) days, and shall be renewed annually thereafter until a certificate of occupancy has been issued by the Building Official.

- 9.2** Notwithstanding subsection 7.1, every owner of a vacant building last used as a marijuana grow operation, shall register the building in accordance with this section.
- 9.3** A registration expires:
- a. when the registration is revoked by the By-law Enforcement Officer for reason of false, incomplete, or misleading information;
  - b. when the vacant building is sold or otherwise transferred to a new owner;
  - c. when the By-law Enforcement Officer is satisfied, that the building is no longer vacant.

### **Application Requirements**

- 9.4** Every applicant to register a vacant building shall submit to the By-law Enforcement Officer, a completed and signed application form, such form developed from time to time, and maintained by the By-law Enforcement Officer, for each vacant building proposed to be registered. The By-law Enforcement Officer may require additional information where he/she deems necessary.
- 9.5** A vacant building shall not be registered unless the information required on the application form, or required by the By-law Enforcement Officer, is complete and correct.

### **Town Inspection Requirements**

- 9.6** Every applicant shall make arrangement for inspection of a vacant building by the Building Inspector within two weeks of registration, and every six (6) months thereafter, or as otherwise directed in writing to the Building Inspector.

### **Fees**

- 9.7** There shall be no fees for the initial registration of a vacant building.
- 9.8** Inspection fees shall be determined by Town Inspectors, after inspection, in accordance with the Town Fees and Charges By-law, and shall be applicable where a vacant building is not in compliance with this By-law, in the opinion of an Inspector.
- 9.9** Every owner shall pay the fees determined in subsection 9.8, which become due and payable upon written notification by an Inspector, or upon issuance of an invoice by the Town.

### **10.0 Administration, Enforcement and Right of Access**

- 10.1** This By-law shall be administered and enforced by an Inspector who is hereby authorized to enforce the provisions of the By-law.
- 10.2** An Inspector may enter upon and within, and inspect any land, property, building or structure at any time to determine if any section of this By-law is complied with, or to determine if any direction, notice or order issued pursuant to this By-law or Municipal Act, or any court has been complied with, or to perform any remedial work authorized in Section 11 of this Bylaw.

**10.3** Assistance by Peace Officers

When an inspection or other action pursuant to this By-law is to be completed by the Building Inspector (or a person designated by the Building Inspector to complete actions pursuant to this By-law), the Inspector (or delegate) may enlist the assistance of a Peace Officer to aid them in completion of their duties.

- a. At the request of the Building Inspector or delegate, all Peace Officers are authorized to assist the Inspector or delegate in carrying out the provisions of this Bylaw;
- b. It is the duty of Peace Officers to serve any process issued out of any court;
- c. Under the direction of the Building Inspector or delegate pursuant to this By-law, Peace Officers are authorized to enter on or into any property for the purpose of keeping the peace and remain on or in said property for the duration of said inspection or action being completed.

**10.4** Notwithstanding subsection 10.2, the Inspector shall not enter or remain in any room or place actually used as a dwelling unless the entry is made in daylight hours with the time of entry given to the occupier within twenty-four (24) hours, as amended

**10.5** Where an owner is in contravention of any provision of this By-law, an Inspector, in addition to any action, may send a notice, in the form of a letter or email to the owner, describing the contravention.

**10.6** Any notice, order or direction given under this By-law may be given personally to the person to whom it is directed, or may be mailed by ordinary or registered mail, or by hand delivery to the mailing address of the owner of the property upon which the vacant building is located, according to the last revised assessment roll of the property which does not comply with this By-law, or may be posted on the subject vacant building and any such delivery or posting shall be deemed good and sufficient service.

**10.7** No person shall obstruct or hinder, or attempt, an Inspector, in the exercise of a power or the performance of a duty under this By-law.

**10.8** No person shall refuse to produce any documents or things required by an Inspector under this Bylaw, and every person shall assist any entry, inspection, examination or inquiry by an Inspector.

**10.9** No person shall knowingly furnish false information to the Town or an Inspector with respect to the Bylaw.

**11.0 Orders, Remedial Repair and Cost Recovery**

**11.01** An Inspector who believes that this By-law has been contravened may issue a work order directing compliance with this By-law and may require the work specified in the order to be carried out immediately, or within the time specified in the work order.



- 11.02** A work order may contain requirements recommended by the Fire Chief or other agency that may provide emergency services or hydro or utility services to the building location, necessary for the safety of its employees.
- 11.03** Where the interior of a vacant building is considered unsafe by an Inspector because of risk of accident or harm may be high for any person within the building, authorized or not, the Inspector may provide in a work order for the unsafe condition to be removed, or any measure taken necessary to protect persons from the unsafe condition.
- 11.04** A work order shall specify:
- a. the municipal address of the vacant building;
  - b. the contravention of the By-law, and its location;
  - c. the date of the inspection;
  - d. the work ordered to be completed; and
  - e. the date by which the work must be done.
- 11.05** Where an Inspector, in his or her sole discretion, determines that measures taken pursuant to a work order are insufficient, subsequent work orders may be issued requiring additional measures to be taken by the owner.
- 11.06** In the event an owner expresses the intention not to comply with a work order, or a work order is issued and not complied within the timeframe specified in the work order, an Inspector, the Town, including its employees, agent, contractor, may enter upon the land and remove such things or carry out the work required to comply with the work order, and may recover the costs in accordance with Section 507 of the Municipal Act. as amended.
- 11.07** Where, in reasonable opinion of the officer, allowing a vacant building to remain unsecured for even a short period of time presents an unacceptable health and safety risk, the Town may cause the building to be secured against unauthorized entry, or repaired by whatever means necessary to remove the unacceptable risk, and no prior notices or order to the owner shall be required. Notice of the action taken in these circumstances shall be given to the owner in accordance with subsection 11.6 of this Bylaw in a reasonable time thereafter.
- 11.08** Anything done or removed by an Inspector, the Town, its employees, agent or contractor, to comply with this By-law, a work order, or notice, may be deposited elsewhere on the property in which the vacant building is located, or may be removed from the property and forthwith destroyed, or otherwise disposed of by the Town, its employees, agent or contractor.
- 11.09** Where the Town does or causes work to be done on a vacant building or a building damaged by fire to comply with this By-law, such work shall be done at the expense of the owner.
- 11.10** If the owner fails to pay the cost of the work done by the Town under this By-law an invoice shall be immediately issued by the Town for payment, or the costs may be added to the tax roll of the subject property and collected in the same manner as property taxes.

**12.0 Offences and Penalties**

- 12.1** A person is guilty of an offence if the person,
  - a. fails to comply with an order, notice, direction, or other requirement under this Bylaw, or
  - b. contravenes this Bylaw.
  
- 12.2** A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence.
  
- 12.3** Any person found to be in violation of this By-law shall be liable, upon conviction, to a fine of not less than One Thousand Dollars (\$1,000.00), and not more than Ten Thousand Dollars (\$10,000.00).
  
- 12.4** In the case of a violation of this Bylaw of a continuing nature, in addition to any other remedy and to any other penalty imposed, Town Council may direct the Clerk to apply to a Judge of the Supreme Court, by way of notice of action for an injunction.

<b>Clerk’s Annotation for Official Bylaw Book</b>	
Date of Adoption: November 12 <sup>th</sup> , 2009	
Date of Approval of Amended Bylaw: July 14 <sup>th</sup> , 2016 – Published: July 19 <sup>th</sup> , 2016	
Date of Approval of Amended Bylaw: January 14 <sup>th</sup> , 2021	
I certify that this ‘Regulating Vacant & Abandoned Buildings Bylaw’ was adopted by Council as indicated above.	
Town Clerk:	Date:

**Amended**

Date of First Reading	December 10 <sup>th</sup> , 2020
Notice of Intent to Consider	December 30 <sup>th</sup> , 2020 & December 6 <sup>th</sup> , 2021
Date of Second Reading	January 14 <sup>th</sup> , 2021
Date of Publication	January 27 <sup>th</sup> , 2021