

The Corporation of the Township of Southgate

By-law No. 2023-072

being a by-law to regulate vacant buildings within
the Township of Southgate

Whereas, the Municipal Act, 2001, S.O. 2001, c. 25, as amended, s. 8, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and

Whereas, the Municipal Act, 2001, S.O. 2001, c. 25, as amended, s. 9, provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority; and

Whereas, the Municipal Act, 2001, S.O. 2001, c. 25, as amended, s. 10, gives the municipality broad authority to pass by-laws respecting the health, safety, and well-being of persons; and

Whereas, the Municipal Act, 2001, S.O. 2001, c. 25, as amended, s. 128, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

Whereas, the Municipal Act, 2001, S.O. 2011, c. 25, as amended, s. 425 authorizes municipalities to pass by-laws providing that a person who contravenes a by-law passed by the municipality under the Municipal Act, 2001 is guilty of an offence; and

Whereas, the Council of The Corporation of the Township of Southgate is of the opinion that vacant buildings that are not secured against unauthorized entry constitute public nuisances,

Now therefore be it resolved that the Council of the Corporation of the Township of Southgate hereby enacts as follows:

Part 1 - Scope

- 1.1 The provisions of this By-law shall be applicable on all lands and properties within the limits of The Corporation of the Township of Southgate.
- 1.2 Nothing in this by-law shall be construed as limiting, restraining, superseding, impeding or otherwise conflicting with the authority of the Grey Bruce Medical Officer of Health, the Ontario Fire Marshal, the Building Code Act, the Fire Protection and Prevention Act, or any Provincial or Federal Minister powers as set out in any Act, By-law or regulation.

Part 2 – Interpretation

For the purposes of this by-law:

- 2.1 "**agent**" means a person who is authorized to act for another (the agent's principal) through employment, by contract or apparent authority.
- 2.2 "**Building Code**" shall mean Ontario Regulation 350/60, as amended, and any successor regulation.
- 2.3 "**Building Code Act**" shall mean the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, and any successor legislation.
- 2.4 "**building**" means all of part of:

- (i) A structure occupying an area greater than ten (10) square metres consisting of a wall, roof, and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto; or
 - (ii) a structure occupying an area of ten (10) square metres or less that contains plumbing, including plumbing appurtenant thereto.
- 2.5 **"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.
- 2.6 **"Building Department"** means the Building Department of the Township of Southgate.
- 2.7 **"Chief Building Official"** shall mean the Chief Building Official of the Township and shall include a delegate or delegates thereof.
- 2.8 **"Council"** shall mean the Council of the Corporation of the Township of Southgate.
- 2.9 **"Fire Chief"** shall mean the Fire Chief Official of the Township and shall include a delegate or delegates thereof.
- 2.10 **"Fire Code"** shall mean Ontario Regulation 213/07, as amended, and any successor regulation.
- 2.11 **"Fire Protection and Prevention Act"** shall mean the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as amended, and any successor legislation.
- 2.12 **"Officer"** means a Municipal By-law Enforcement Officer and shall include a delegate or delegates thereof.
- 2.13 **"Owner"** includes but is not limited to:
- (i) the registered owner of the Property on which the Building is situated; or
 - (ii) the owner of a Building; the Person managing or receiving the rent for a Building, or the Property on which a Building is situated, or who would receive the rent if the Property or Building were let, whether on the Person's own account or as agent or trustee or receiver of any other Person; or
 - (iii) a vendor of a Building under an agreement for sale who has paid any municipal taxes on the building after the effective date of the agreement; or
 - (iv) the Person receiving instalments of the purchase price if a Building were sold under an agreement for sale; or
 - (v) a lessee or occupant of the Property on which a Building is situated who, under the terms of a lease, is required to repair and maintain the Building; or
 - (vi) an owner as defined by the Condominium Act, 1998.
- 2.14 **"Person"** includes a corporation and its directors and officers, and the heirs, executors, assignees and administrators.
- 2.15 **"Property"** means the land on which a Building is situated and includes the Building.
- 2.16 **"Registration Fee"** shall have the meaning given to it in section 4.1 of this By-law.

- 2.17 **"Renewal Fee"** shall have the meaning given to it in section 4.2 of this By-law.
- 2.18 **"Township"** shall mean the Corporation of the Township of Southgate and, where context allows, shall include its agents and employees.
- 2.19 **"Vacant Building"** means any Building that is or appears to be vacant, partially vacant, or unoccupied, or that, by reason of its unfinished or dilapidated condition, is open to the elements and in a state such that there is little to no control over unauthorized entry, but does not include:
- (i) a dwelling unit occupied by the Owner on a seasonal basis but otherwise maintained throughout the year; or
 - (ii) a Building, except a dwelling unit, on property used as a farm; or
 - (iii) a Building that is owned by the Township.

Part 3 – Registration of Vacant Building(s)

- 3.1 Every Owner of a Vacant Building that has been vacant for sixty (60) consecutive days shall register the Vacant Building in accordance with this By-law.
- 3.2 A registration expires if one of the following occur:
- (i) On the one (1) year anniversary date of the date on which registration is issued, if the registration is not renewed before its expiry;
 - (ii) When the registration is revoked under this by-law;
 - (iii) When the Vacant Building is sold or otherwise transferred to a new Owner; or
 - (iv) When the Officer is satisfied, as set out in a written notice to the Owner of the Vacant Building, that the Building is no longer vacant.
- 3.3 To register a Vacant Building or to renew a registration, the Owner of a Vacant Building shall:
- (i) complete and submit to the Officer a completed and signed application form, which form shall be developed and maintained by the Township, for each Vacant Building proposed to be registered. The Officer may require additional information where they deem necessary; and
 - (ii) submit the Registration Fee or the Renewal Fee, as the case may be.
- 3.4 Every applicant and every Owner, as the case may be, shall ensure the information provided on the application form, or required by the Officer, is complete and accurate. It is the responsibility of the Owner to immediately notify the Officer in writing when any such information changes, or when there is a signed agreement for the sale of the Property or Vacant Building.
- 3.5 The Officer shall refuse an application for registration if, in the opinion of the Officer, the application is incomplete or contains false or misleading information.
- 3.6 Where a Property contains more than one Vacant Building, the Owner shall submit a separate application and registration or renewal fee for each Vacant

Building.

Part 4 – Fees

- 4.1 A Registration Fee of three hundred dollars (\$300) shall be submitted to the Township along with every application for registration of a Vacant Building.
- 4.2 Each year, following the year of registration of the Vacant Building, a Renewal Fee of six hundred dollars (\$600) shall be paid to the Township along with every application for renewal.
- 4.3 If there is more than one (1) Vacant Building on the same Property, the Owner shall submit the Registration Fee and Renewal Fee for each Vacant Building.

Part 5 – General Provisions for Vacant Buildings

- 5.1 Every owner of a vacant building shall:
 - (i) ensure that the Vacant Building is registered in accordance with this By-law; and
 - (ii) ensure that the Property complies with all applicable statutes, regulations and by- laws, including, but not limited to, the Building Code Act, 1992, the Fire Protection and Prevention Act, 1997 and the Township of Southgate Property Standards By-law; and
 - (iii) ensure that the Vacant Building is secured against unauthorized entry; and
 - (iv) maintain liability insurance on the Vacant Building; and
 - (v) protect the Vacant Building against the risk of fire, accident or other danger; and
 - (vi) provide to the Township a floor plan of the Vacant Building; and
 - (vii) provide to the Township an inventory of all combustible materials and flammable liquids stored on site.
- 5.2 Where a vacant building has been vacant for sixty (60) consecutive days, an Officer who reasonably believes that a vacant building poses a risk to safety may, in writing, require the owner of a vacant buildings to do anyone or more of the following, within the timeframe specified by the Officer:
 - (i) provide the Township with a copy of a report from a qualified person, or if deemed necessary by the Officer, from a Professional Engineer registered in Ontario, concerning the structural sufficiency of the Vacant Building or concerning any matter related to the Vacant Building; and
 - (ii) ensure that all combustible materials within a vacant building are removed to reduce any potential fire load to the satisfaction of the Fire Chief; and
 - (iii) install security measurers or devices to the satisfaction of the Officer, and such measures may include boarding of doors, windows, or other openings; and

- (iv) do any work or repairs which, in the opinion of the Officer, are necessary to secure a vacant building from unauthorized entry or protect a vacant building against the risk of fire, accident or other damage.
- 5.3 Every Owner of a Building Damaged by fire shall immediately notify the Chief Fire Official for the Township, or a representative of the Fire Department for the Township and shall ensure that the building damaged by Fire is secured against unauthorized entry within twenty- four (24) hours of regaining access to the Property by the authority having jurisdiction over the site.
- 5.4 Where a Vacant Building or Building is damaged by Fire is boarded or is required to be boarded:
- (i) boarding materials shall be installed and maintained in good order; and
 - (ii) boarding materials shall be installed to exclude precipitation 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 of cladding, where feasible; and
 - (iii) unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint or equivalent weather resistant material; and
 - (iv) boarding materials shall be selected, coated, coloured, and installed to match surrounding door/window frames and exterior wall finishes.
- 5.5 Where a Vacant Building remains vacant for more than ninety (90) consecutive days, the Owner shall ensure that all utilities servicing the Vacant Building are properly disconnected, shut off, capped, or terminated unless said utilities are necessary for the safety or security of the Vacant Building or required by law to remain connected.
- 5.6 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.
- 5.7 Where a Vacant Building has been designated or registered under the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended, it shall be the responsibility of the Owner to notify the Township of said designation or registration and provide the Township with all relevant information pertaining to the designation or registration of the Vacant Building, to ensure compliance with all other laws or by-laws pertaining to the Building.

Part 6 – Administration and Enforcement

- 6.1 The Building and/or By-Law Department is authorized to administer and enforce this By-law including, but not limited, to prescribing the format and content of any forms or other documents required pursuant to this By-law.
- 6.2 One or more Officers may enter a Property during regular business hours for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (i) The by-law; and/or
 - (ii) A direction or order made under this by-law.

- 6.3 For the purposes of an inspection under Section 6.2 an Officer may;
- (i) require the production of documents or things relevant to the inspection;
 - (ii) remove documents or things relevant to the inspection for the purpose of making copies or extracts, which shall be returned within forty-eight (48) hours after removal;
 - (iii) require information in writing, or otherwise as required by the Officer, from any Person concerning a matter related to the inspection; or
 - (iv) alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 6.4 No person shall obstruct the Officer from inspecting the Property or Building or both, or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of the inspection.
- 6.5 Any cost incurred by the Township in exercising its authority to inspect pursuant to this By-law, including, but not limited to, the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the Owner of the Building where the inspection takes place.
- 6.6 An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under Section 438 of the Municipal Act, 2001, where they have been prevented or are likely to be prevented from carrying out an inspection under Sections 6.2 and 6.3 of this By-law.
- 6.7 Where, in the reasonable opinion of the Officer, allowing a Vacant Building to remain unsecured for even a short period of time presents an unacceptable safety risk, the Township may cause said Vacant Building to be secured against unauthorized entry and no prior notice or order to the Owner shall be required. Notice of the action taken in these circumstances shall be posted at the Property or sent by regular mail to the Owner of the Property or Building or both, as the case may be, in a reasonable time thereafter.

Part 7 – Order

- 7.1 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer shall make an order requiring the person who contravened the By-law, or who caused or permitted the contravention, or the Owner of the Property on which the contravention occurred, to discontinue the contravening activity.
- 7.2 An order under Section 7.1 shall set out:
- (i) reasonable particulars of the contravention sufficient to identify the contravention and the location of the Property on which the contravention occurred; and
 - (ii) the date or dates by which there must be compliance with the order.
- 7.3 If an Officer is satisfied that a contravention of this By-law has occurred, they may make an order requiring the Person who contravened the By-law, or who caused or permitted the contravention, or the Owner of the Property on which the contravention occurred, to do work to correct the contravention.
- 7.4 An order under Section 7.3 shall set out:

- (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the Property on which the contravention occurred;
- (ii) the work to be completed; and
- (iii) the date or dates by which the work must be completed.

7.5 Where a Person does not comply with a direction, an order, or a requirement under this By-law to do a matter or thing, the Officer, with such assistance by others as may be required, may carry out such direction, order, or requirement at the Person's expense.

Part 8 – Service

8.1 An order to discontinue contravening activity made under Section 7.1, or an order to do work made under Section 7.3, may be served personally or by registered mail to the last known address of:

- (i) the Owner of the Property where the contravention occurred; and
- (ii) such other Persons affected by it as the Officer making the order determines.

Service by registered mail shall be deemed to have taken place five (5) business days after the date of mailing.

8.2 In addition to service given in accordance with Section 8.1, an order to discontinue contravening activity made under Section 7.1, or an order to do work made under Section 7.3, may be served by an Officer placing a placard containing the order in a conspicuous place on the Property where the contravention occurred.

8.3 Where service cannot be given in accordance with Section 8.1, sufficient service shall be deemed to have taken place when given in accordance with Section 8.2.

Part 9 – Remedial Action and Cost Recovery

9.1 Wherever this by-law or an order issued under this by-law directs or requires any matter or thing to be done by any person within a specified time period, in default of it being done by the person directed or required to do it, the action may be taken under the direction of an Officer of the Township at that person's expense and the Township may recover the costs incurred through a legal action or by recovering the costs in the same manner as property taxes and such costs shall include interest, commencing on the day the Township incurs the costs and ending on the day the costs, including all applicable interest, are paid in full.

9.2 For the purposes of taking remedial action under subsection 9.1, the Township, its staff and/or its agents may enter, at any reasonable time, upon any lands on which a default to carry out a required thing or matter occurred.

Part 10 – Penalty

10.1 Every Person who contravenes any provision of this By-law is, upon conviction, guilty of an offence and is liable:

- (i) on a first conviction, to a fine of not more than ten thousand dollars (\$10,000); and
- (ii) on any subsequent conviction, to a fine of not more than twenty-five thousand dollars (\$25,000).

10.2 Despite Section 10.1, where the Person convicted is a corporation:

- (i) the maximum fine in Subsection 10.1(i) shall be fifty thousand dollars (\$50,000); and
- (ii) the maximum fine in Subsection 10.1(ii) shall be one hundred thousand dollars (\$100,000).

10.3 Where a Person has been convicted of an offence, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

Part 11 – Indemnity

11.1 An Owner of a Vacant Building, regardless of whether compliant with the provisions of this by-law, shall be deemed to undertake to, and shall, save harmless and indemnify the Township, its officers, employees, servants or agents from any claims associated with any injury, loss or damage to any person or property, that occurs within a Vacant Building or as a result of a Building being a Vacant Building.

Part 12 – General Provisions

12.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid or to be of no force and effect, it is the intention of the Town in enacting this by-law that such provision or part of a provision shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this by-law.

12.2 This By-law shall be referred to as the “Vacant Building By-law”.

Part 13 – Enactment

13.1 This By-law comes into force and effect on its date of passing thereof.

Read a first, second and third time and finally passed this 2nd day of August 2023.

Original Signed By

Mayor Brian Milne

Original Signed By

Clerk Lindsey Green