

**THE CORPORATION OF THE
TOWN OF PRESCOTT**

BY-LAW NO. 46-2021

**A BY-LAW TO ESTABLISH A SYSTEM OF REGISTERING AND MONITORING
VACANT BUILDINGS**

Being a by-law to establish a system of registering and monitoring vacant buildings.

WHEREAS Sections 8,9, and 10 of the *Municipal Act, 2001* authorizes the Town of Prescott to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5,6,8, and 10 of subsection 10(2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons, the protections of persons and property; and structures; and

WHEREAS this by-law is to be used in conjunction with other by-laws and all may apply depending on the condition of the property and or buildings upon the property; and

WHEREAS pursuant to Section 391 of the *Municipal Act* may impose fees or charges on persons for services provided on done by or on behalf of it.

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Town of Prescott enacts as follows:

DEFINITIONS

1.0 In this By-law

(a) "building" all or part of:

- (i) A structure occupying an area greater than 10 metres squared, consisting of a wall, roof and floor, or any of them, or a structure system serving the function thereof including all plumbing, works, fixtures, and service systems appurtenant thereto;
- (ii) Any structure regardless of area that contains plumbing, including the plumbing appurtenant thereto;
- (iii) Any suite or unit of a building that is meant for separate use and is, has or should be properly fire separated from the rest of the structure.

- (b) “By-law Officer” means an individual appointed and assigned by the Town of Prescott to administer and enforce this By-law.
- (c) “CAO” means the person occupying the office of Town’s Chief Administrative Officer or the person designated as such or successor.
- (d) “Corporation” means Corporation of the Town of Prescott and the geographic area in which it encompasses.
- (e) “Manager of Building and By-law Services” means the person occupying the office of, or the person designated as such, or successor.
- (f) “owner” includes, but is not limited to:
 - (i) the registered owner of the property on which the building is situated;
 - (ii) the person managing or receiving the rent or income for the property on which a building is situated or who would receive the rent or income if the property or building were let regardless of the actual receipt of the said rent or income;
 - (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 who has paid any installments under that agreement.
 - (iv) a lessee or occupant of a property on which a building is situated who under the terms of the lease is required to repair and maintain the building; or
 - (v) an owner as defined by the *Condominium Act, 1988*.
- (g) “person” includes but is not limited to an individual, sole proprietorship, partnership, association or corporation.
- (h) “property” means the land and the building upon which it is situated.
- (i) “unit” means a portion of a building that has been segregated for the purpose of inhabiting, renting, or leasing. Every building counts as at least one unit. For residential and multi-residential buildings, the number of units will be determined by the information that is on file with the Municipal Property Assessment Corporation (MPAC).
- (j) “Town” means Corporation of the Town of Prescott and the geographic area in which it encompasses.

2.0 In this By-law

- (a) A building or unit within the building will be deemed vacant in this by-law except as exempt under section 3, when the building or unit within the building does not appear to be in use and, without limiting this definition is deemed to be a building. The following may be used in determining if a building is vacant.
- (i) No or limited protection from entry of unauthorized persons.
 - (ii) Entry of rain, snow, vermin or birds into the interior of the building.
 - (iii) No services of one or more in relation to electricity, gas, or water being supplied to the building.
 - (iv) Any of the suites or units of the building have been deemed to have lost occupancy by either the *Building Code Act* or the *Fire Protection and Prevention Act*.
 - (v) If 25% of either windows or doors are found to be broken or boarded up regardless of size of the windows and doors.
 - (vi) Where the Town has good reason to believe that use of the building or unit from an occupancy standpoint has been vacant for 180 days or more.

3.0 Exceptions

- (a) A building will not be deemed vacant where the owner satisfies the Manager of Building and By-law Services (hereinafter referred to as Manager) that one or more of the following is occurring.
- (i) The structure is being used for a permitted use under the Town's Zoning By-law.
 - (ii) A building permit has been issued by the Town for construction or demolition and the permit is active. An active permit will be defined as either 100 hours of work during each 90 day period or a required building code related inspection has occurred for each 90 day period following the issuance of a permit.
 - (iii) The building is owned by the Corporation of the Town of Prescott.

4.0 Registration

- (a) Every owner of a vacant building or vacant unit shall register the vacancy with

the Manager within 180 days of the building or unit commences to be vacant.

- (b) Every registration will expire and is to be renewed under the following:
 - (i) The annual anniversary of the date of the original registration of vacancy.
 - (ii) Within 30 days after a vacant building or unit is sold or transferred to a new owner.
- (c) To register or renew a registration the owner of the vacant building or unit shall:
 - (i) Complete and submit to the Town an application containing such information as may be required by the Manager.
 - (ii) Submit the registration Fee as provided in "Schedule A".
- (d) To remove a vacant building or unit from the registration list, the owner or new owner shall notify the Manager of any changes that would be a cause to remove the building from the registry. Any fee reimbursements will be limited to within 15 days of the written notification of occupancy regardless of when the change occurred.
- (e) The Manager may refuse a notification of change when the notification contains false or misleading information.

5.0 Regulations

- (a) Every owner of a vacant building or unit shall ensure that the vacant building is registered in accordance with this By-law.
- (b) Ensure that the property complies with all applicable statutes, regulations, and Municipal By-laws.
- (c) Post at minimum at least one sign in all commercial or industrial buildings that bears the words for emergencies, information, or inquiries a contact person or organization containing a name, phone number, and email information. This shall be placed in black letters on a white background. This sign will be at least as large as a ledger sheet (28 cm by 43 cm), with lettering being at least 2.5 cm high and readable. This sign will be placed in an accessible location and will be replaced at the direction of the Manager as needed within 14 days of notice.
- (d) Satisfy the Manager that the property will be attended and or monitored for building condition. The maximum time between visits shall be 14 calendar days unless the Manager by notice requires more frequent visits or if the owner has been granted a longer interval by the Manager for a specific period or reason.

- (e) Every owner shall provide a report from a qualified individual as to the condition of the building, when served notice by the Manager that such a report is required, and will be provided within 30 days of that notice.

6.0 ADMINISTRATION AND ENFORCEMENT

- (a) The Manager 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 under this By-law.
- (b) Registration, and other fees under this By-law shall be as approved by Council and amended by Council as required and shall be included in this By-law under Schedule "A".
- (c) A By-law Officer (hereinafter referred to as Officer) may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (i) This By-law
 - (ii) A direction or order made under this By-law or
 - (iii) An order made under Section 431 of the *Municipal Act, 2001*
 - (iv) Court order
- (d) An Officer may for the purposes of an inspection 6.0 (c):
 - (i) Require the production for inspection documents or things relevant to the inspection.
 - (ii) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts.
 - (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.
- (e) Any costs incurred by the Town in exercising its authority to inspect under section 6.0 (d) including but not limited to the costs of any examination, test or sample, or photograph necessary for the purposes of the inspection shall be paid

by the owner of the property where the inspection took place.

- (f) An Officer, when prevented from inspecting, may issue an order to comply and recoup costs and fees for said action under Section 431 of the *Municipal Act* and listed in "Schedule B" of this By-law.
- (g) An Officer will undertake an inspection pursuant to an order by a provincial judge or justice of the peace under section 438 of the *Municipal Act* where the Officer has been prevented or is likely to be prevented from carrying out an inspection under 6.0 (c) or (d).
- (h) Any orders or penalties set out under this By-law shall contain:
 - (i) Reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred.
 - (ii) The dates or dates by which there must be compliance with the order.
 - (iii) Orders may be issued once the Officer is satisfied that a contravention of the By-law has or continues to occur.
- (i) Orders in relation to this By-law shall be deemed served after 5 business days from the date of mailing or emailing to the last known address on file by the Officer to the owner of the property where the contravention of this By-law is occurring.
 - (i) Orders may be served upon either others affected by the orders or other owners as determined by the Officer and Town.
 - (ii) Orders may be served and deemed served after 5 business days when the order has been placed in a conspicuous place upon the property and building where the contravention is occurring.
- (j) Where an owner does not comply with an order or direction under this By-law, the Manager with assistance by others as needed, may carry out such direction or order at the owner's expense.
- (k) The Town will recover any costs incurred under section 6.0 (j) by adding said costs to the property tax roll and collecting them in the same manner as property taxes and such costs will be subject to an interest rate of 1.25% per month commencing on the day the Municipality incurred the costs and ending on the day the costs and interest incurred are paid in full.
- (l) The Manager is authorized to give immediate effect to any direction or order where the costs of carrying out the action does not exceed \$10,000.00. Where the

costs do exceed \$10,000.00 the Chief Administrative Officer (hereinafter referred to as CAO) may authorize.

- (m) Every owner who contravenes any provision of this By-law and every director or Officer of a corporation who knowingly concurs in the owner corporations contravention of the provisions, may be subject to answering to the Administrative Municipal Penalty By-law in regards to fees and costs as outlined in Schedule "B" or subject to Ontario Court proceedings where upon guilty of an offence is liable on first conviction to a fine of not more than \$10,000 and on any subsequent offences conviction to a fine of not more than \$25,000.00. Where the conviction is registered to a Corporation, the maximum fine of an initial offence is \$50,000.00 and subsequent offences convictions is \$100,000.00.

Where a person or an owner corporation has been convicted of an offence, the Municipality will request that the court in addition to any other remedy or penalty imposed by this By-law make an order prohibiting the continuation or repetition of the offence that resulted in the conviction

7.0 GENERAL PROVISIONS

- (a) All measurements in this By-law are in metric.
- (b) If a court or a competent jurisdiction declares any provision or provisions of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.
- (c) Registration of properties and adherence to this By-law shall commence on the date the By-law comes into effect.

READ AND PASSED, SIGNED AND SEALED THE 1st DAY OF NOVEMBER, 2021.

Mayor

Clerk

Schedule "A"

1. For the purposes of this By-Law, Column 2 in the following table lists the provisions in the By-Law identified in the Schedule, or as amended.
2. Column 3 in the following table sets out the short form wording of the fee of the designated provisions listed in Column 2.
3. Column 4 in the following table sets out the Administrative Fee amount that is payable for the designated provisions listed in Column 2.

Administrative Fees for Vacant Building Registry under By-Law 46-2021

Item	Designated Provisions	Short Form Wording	Amount
1	2	3	4
1	4.0	Monthly fee charged in 6 month increments for registering or renewal of a vacant building or vacant unit within a building to a maximum of three units per building.	\$75.00 per month \$450 per six months

Schedule “B”

1. For the purposes of this By-Law, Column 2 in the following table lists the provisions in the By-Law identified in the Schedule, or as amended.
2. Column 3 in the following table sets out the short form wording to be used in a Penalty Notice for the contravention of the designated provisions listed in Column 2.
3. Column 4 in the following table sets out the Administrative Monetary Penalty amount that is payable for contraventions of the designated provisions listed in Column 2.
4. Column 5 and Column 6 in the following table sets out the Administrative Monetary Penalty amount that is payable for each subsequent contravention of the designated provisions listed in Column 2.

Administrative Monetary Penalties for Vacant Building Registry under By-Law 46-2021

Item 1	Designated Provisions 2	Short Form Wording 3	AMP Amount 4	AMP Second Offence (<1 year) 5	AMP Subsequent Offence (< 2 years) 6
1	4.0 (a)	Failure to register as required	\$75.00	\$175.00	\$425.00
2	4.0 (b)	Failure to re-register as required	\$75.00	\$175.00	\$425.00
3	5.0 (c)	Failing to post signage as required	\$75.00	\$175.00	\$425.00
4	5.0 (d)	Failing to monitor property as required.	\$75.00	\$175.00	\$425.00
5	6.0 (c-g)	Failure to allow or preventing inspection as required.	\$150.00	\$375.00	\$775.00
6	6.0 (j)	Failure to comply with an order or direction.	\$150.00	\$375.00	\$775.00

AMP = Administrative Monetary Penalty