

City of Chilliwack

Bylaw No. 3988

A bylaw to provide for the regulation of vacant buildings

WHEREAS, the Council of the City of Chilliwack is desirous of maintaining an aesthetically pleasing appearance in the business community of this municipality;

AND WHEREAS Council is confident that in maintaining a high standard of appearance, development of this municipality will be enhanced;

AND WHEREAS Council deems it appropriate to require an owner of property to safeguard, secure and protect abandoned or unoccupied buildings from property damage, unauthorized entry or occupation for the protection of persons and property;

NOW THEREFORE the Council of the City of Chilliwack in open meeting assembled enacts as follows:

1. This Bylaw may be cited as **“Vacant Buildings Minimum Maintenance Standards Bylaw 2014, No. 3988”**.

INTERPRETATION

2. In this Bylaw:

“Building” means any structure or construction for any use or occupancy;

“Building Inspector” means the Chief Building Inspector for the City, and every Building inspector appointed by the City to inspect Buildings or structures in respect of Building, plumbing, gas or electrical standards and any individual designated by Council to act in the place of a Building Inspector;

“Bylaw Enforcement Officer” means a person appointed by Council as a Bylaw Enforcement Officer for the City of Chilliwack and includes a Traffic Warden and any individual designated by Council to act in the place of a Bylaw Enforcement Officer;

“Chief Building Official” means the person designated in or appointed to that position by the City, and any individual designated by Council to act in place of the Chief Building Official;

“Council” means the Council of the City of Chilliwack;

“Director” means the Director of Development and Regulatory Enforcement Services for the City of Chilliwack or any individual designated by Council to act in the place of the Director;

“Fire Chief” means the person who is appointed to be head of The Chilliwack Fire Department and every person designated by Council by name of office or otherwise to act in the place of the Fire Chief;

“Inspector” means

- (a) the Fire Chief, and every person appointed by Council or the Fire Chief, as applicable, to be an officer or employee of the Chilliwack Fire Department;
- (b) the Chief Building Official for the City, and every Building Inspector appointed by the City;
- (b) a Peace Officer, including a member of the Royal Canadian Mounted Police;
- (d) the Director of Development and Regulatory Enforcement Services;
- (e) the Director of Engineering and Planning;
- (f) Bylaw Enforcement Officers;
- (g) the deputy of a person, officer or employee referred to in paragraphs (a) to (e);
- (h) other persons designated by Council by name of office or otherwise to act in the place of the persons, officers or employees referred to in paragraphs (a) to (f);

“Multi-family residential” means a Building containing more than one residential occupancy, where each residential occupancy does not have more than one stove or other cooking facility;

“Owner” includes the registered owner of a property and includes an occupier or lessee of property or a Building on a property;

“Vacant” means a Building, including a portion of a Building or a unit within a Building, that is not occupied and that may also be unfinished, dilapidated, fire damaged, open to the elements, or capable of unauthorized entry, or that may endanger life or property.

REQUIREMENTS FOR VACANT BUILDINGS

3. Every Owner of a commercial, industrial or Multi-family residential Building in the City of Chilliwack shall maintain the Building in accordance with the requirements of this Bylaw.
4. No person shall allow a commercial, industrial, or Multi-family residential Building to stand Vacant for more than 60 days unless the Building is in compliance with Section 5 of this Bylaw or the vacancy is otherwise authorized under Section 6 of this Bylaw.
5. Except as authorized under Section 6 of this Bylaw, every Owner of real property that contains a commercial, industrial, or Multi-family residential Building that has been vacant for more than 60 days shall:

- (1) maintain the Building in compliance with the standards set out in Schedule “A” of this Bylaw;
- (2) secure the Building in compliance with the standards set out in Schedule “B” of this Bylaw; and,
- (3) within 30 days of an order by an Inspector, maintain \$2,000,000 in liability insurance and obtain a Vacant Building Regulation permit under Section 10 of this Bylaw.

EXEMPTIONS

6. No person shall allow a Building of industrial, commercial or Multi-family residential use to stand Vacant for more than 60 days unless the person is in compliance with section 5 of this Bylaw or one of the following applies:
 - (1) The Building is the subject of an active issued building permit for repair or rehabilitation, or a valid permit for demolition, and the Owner is progressing diligently to complete the repair or rehabilitation.
 - (2) The Building meets all applicable codes, is ready for occupancy and is actively being offered for sale, lease, or rent at fair market value. The Building is to be supplied with minimum utilities to maintain the proper functioning of the facilities as well as to prevent damage to mechanical and plumbing facilities from freezing. Commercial Buildings that are classified to have a fire alarm and/or fire suppression systems must maintain electrical and heating systems to maintain these life safety components. In addition, for all Buildings, the Owner must also ensure:
 - (a) that all combustible materials within a Vacant Building are removed to reduce any potential fire load;
 - (b) there is no illegal occupancy; and,
 - (c) there is no existence of rodents or any other potential health or safety risks to the community.
 - (3) The Inspector determines that the Building does not constitute a nuisance or hazardous condition requiring building permits for remedial work or demolition.

INSPECTIONS OF EXTERIOR OF VACANT BUILDINGS WITHOUT NOTICE

7. An Inspector may enter onto land without notice to and without the consent of the Owner in order to monitor a Building that is boarded or appears to be Vacant in order to determine:
 - (1) whether the Building is Vacant;
 - (2) whether a Vacant Building is to be secured; and
 - (3) whether the Building complies with this Bylaw.

OTHER INSPECTIONS

8. Without limiting the authority set out in Section 7, an Inspector is authorized to enter at all reasonable times on any property subject to this Bylaw, to ascertain whether any regulations or directions contained herein are being observed.

INSPECTOR MAY ISSUE ORDERS AND IMPOSE REQUIREMENTS

9. Where an Inspector reasonably believes any industrial, commercial or Multi-family residential Building on a property is Vacant, the Inspector may notify the Owner in writing and order the Owner to do one or more of the following:
- (1) apply for a Vacant Building Regulation permit;
 - (2) apply for a Building Permit to renovate a Building so that it is in a state of safe occupancy in that it complies with the City’s Building Regulation Bylaw, in force from time to time;
 - (3) retain a Professional Engineer licenced or registered to practice in British Columbia to perform a field evaluation of an existing Building and any required remedial work to make the structure safe for occupation or further inspections.
10. The Inspector’s powers under Section 9 are applicable notwithstanding the exemptions set out in Section 6 of this Bylaw where the Inspector reasonably believes any industrial, commercial, or Multi-family residential Building on a property is Vacant and constitutes a fire risk or creates a safety hazard.

VACANT BUILDING REGULATION PERMITS

11. In order to obtain a Vacant Building Regulation permit, an owner of a Building must:
- (1) Apply to the Chief Building Official for a special safety inspection within 30 days of receiving an order by the Inspector and pay the fee hereby imposed for such special safety inspection as specified in Schedule “C” of this Bylaw;
 - (2) Provide an address for service of notices and orders during the period that the permit is valid and thereafter, provide prompt notice of any change in the address given for service;
 - (3) Pay any application or permit fee as established within Schedule “C” of this Bylaw;
 - (4) Provide the Inspector with a copy of the certificate of insurance required in Section 5; and
 - (5) Ensure that all combustible materials within the Vacant Building are removed to reduce any potential fire load.
12. Upon completion of the requirements in Section 11, the Owner may obtain from the City a Vacant Building Regulation permit for a period of 24 months from the date it is issued. The permit is automatically transferred to the next Owner of the property but for clarity it retains its original expiry date.

13. An Owner must display a Vacant Building Regulation permit in a prominent location as determined by the Inspector.

PARTIAL REFUND OF FEE

14. The Owner of a Vacant Building Regulation permit is entitled to a partial refund of the permit fee, as set out in Schedule “C”, if the Building subject to the permit is remediated or demolished within the 6 months of registration. Any outstanding fees, utility charges or penalties imposed on the Owner pursuant to this or another Bylaw shall be deducted from any refund paid.

MONITORING INSPECTIONS FOLLOWING ISSUANCE OF A VBR PERMIT

15. Every owner with a Vacant Building Regulation permit shall allow for entry of an Inspector no less than once a month into a Vacant Building for the purposes of ensuring:
- (1) the Building is maintained as per Schedule “A” of this Bylaw;
 - (2) the Building is secured against unauthorized entry as per Schedule “B” of this Bylaw; and,
 - (3) to ensure:
 - (a) that all combustible materials within a Vacant Building are removed to reduce any potential fire load;
 - (b) there is no illegal occupancy; and,
 - (c) there is no existence of rodents or any other potential health or safety risks to the community.
16. Once a Vacant Building Regulation permit has been issued, no additional or subsequent permit may be issued in respect to the Building until and unless Council has approved an additional permit to be issued under Section 18.

COUNCIL MAY ORDER ADDITIONAL PERMIT TO BE ISSUED

17. Upon application by an Owner in possession of a valid Vacant Building Regulation permit and payment of any outstanding fees or penalties, Council may direct the Director to issue an additional Vacant Building Regulation permit in respect of the Building that is effective upon the expiry of the original Vacant Building Regulation permit.
18. In determining whether to approve an additional permit, Council must take into account:
- (1) whether the Building creates a hazard or nuisance to adjacent Buildings, the property, and the surrounding neighbourhood;
 - (2) the viability and credibility of the Owner’s plans to bring the Building into compliance and maintain it thereafter in compliance with this Bylaw and other Bylaws;
 - (3) the likelihood that the Building will be re-occupied or demolished in the future; and,

- (4) the Owner’s record of compliance or non-compliance with this Bylaw and other Bylaws of the City and the subject property and elsewhere.
19. In approving the issuance of an additional Vacant Building Regulation permit, Council may impose any terms and conditions it considers reasonable. The permit will be valid for 12 months and may be cancelled by the Inspector if the Inspector reasonably concludes that the conditions imposed on it have not been met or have been breached.
20. An additional permit issued under Section 18 is conditional upon payment as described in Schedule “C” of this Bylaw, including payment for any additional inspections that Council has deemed necessary.

ADDITIONAL COMPLIANCE ORDERS

21. If, in the opinion of the Inspector, an Owner of real property fails to comply with a requirement of this Bylaw, the Inspector may issue a written order requiring that the Owner bring the real property into compliance with the provisions of this Bylaw within such time as the Inspector considers appropriate in the circumstances.
22. Notice of an order issued under Section 21 of this Bylaw must state:
 - (1) the civic address of the subject real property;
 - (2) the legal description of the subject real property;
 - (3) the particulars of the non-compliance with this Bylaw to be remedied;
 - (4) that the non-compliance with this Bylaw must be remedied within 14 days of the date of delivery of the order, or a shorter time period if the Inspector determines it is reasonable and necessary;
 - (5) that if the Owner or occupant fails to comply with the order, the City may, without further notice, proceed to carry out the work required, and the cost of such work will be added to the taxes of the real property, and the Owner or occupant or both may be subject to prosecution for an offence under this Bylaw.

NOTICE BY THE CITY

23. The Inspector may serve any notice or order under this Bylaw as follows:
 - (1) by registered mail addressed to the Owner as recorded in the property records of the City,
 - (2) by hand-delivering it to the Owner of the real property that is subject to the notice; or,
 - (3) if the Inspector is unable to effect notice pursuant to either (a) or (b) above, by posting it on a conspicuous place on the real property that is the subject of the notice and the notice shall then be deemed to be validly and effectively served for the purposes of this Bylaw at the expiration of 5 days immediately following the date the notice was so posted.

24. Service of any notice or order under this Bylaw will be considered sufficient if a copy of the notice or order is provided as set out in Section 23 of this Bylaw and no liability or responsibility other than that set out in accordance with this Bylaw rests with the City to prove delivery of the notice.

CITY MAY CARRY OUT WORK REQUIRED

25. If an Owner fails to comply with an Inspector’s compliance order within the time period specified in such notice, the City, by its workers or others, may at all reasonable times and in a reasonable manner, enter the real property and bring about such compliance at the cost of the defaulting Owner. Such costs shall consist of all costs and expenses incurred by the City to achieve compliance with this Bylaw including, without limitation, administrative costs, costs to attend property by City employees or its contractors and the costs of removal, clean up and disposal.
26. If an Owner defaults in paying the cost referred to in Section 25 to the City within 30 days after receipt of a demand for payment from the City, the City may either recover from the Owner, in any court of competent jurisdiction, the cost as a debt due to the City, or direct that the amount of the cost be added to the real property tax roll as a charge imposed in respect of work or service provided to the real property of the Owner and be collected in the same manner as property taxes.

REMEDIAL ACTION REQUIREMENTS

27. Without limiting the foregoing, if at any time Council determines that the Vacant Building is a nuisance or creates a hazard, Council may impose a remedial action requirement in accordance with Division 12 of Part 3 of the *Community Charter*, which may include, in part, a requirement that the Owner demolish the Vacant Building. The Owner may seek reconsideration by Council of a remedial action requirement within 14 days of receiving the order by delivering written notice to the City.
28. Notice of a remedial action requirement must be provided in accordance with Section 77 of the *Community Charter*.

RECOVERY OF CITY COSTS THROUGH SALE OF PROPERTY

29. In accordance with Section 80 of the *Community Charter*, if remedial action requirements have not been satisfied by the date specified for compliance, the City may sell the matter or thing in relation to which the requirement was imposed or any part or material of it.

OFFENCE

30. Every person who violates a provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention of or in violation of any provision of this Bylaw, or who neglects to or refrains from doing anything required to be done by any provision of this Bylaw, is guilty of an offence against this Bylaw and is liable to the penalties imposed under this Bylaw.

31. Each day that a violation continues to exist may be deemed to be a separate offence against this Bylaw.
32. Every person who commits an offence against this Bylaw is liable, on summary conviction, to a penalty of not more than \$10,000.00.

Received first reading on the 18th day of February, 2014.
Received second reading on the 1st day of April, 2014.
Received third reading on the 1st day of April, 2014.
Finally passed and adopted on the 15th day of April, 2014.

“Sharon Gaetz”

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Mayor

“Janice McMurray”

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Deputy City Clerk

SCHEDULE ‘A’

The Owner of a Vacant Building of industrial, commercial or Multi-family residential use must comply with the following maintenance standards of this Schedule.

EXTERIOR WALLS

The exterior of every Building must be constructed, repaired and maintained in a manner that:

1. Ensures the integrity of the Building envelope to protect the Building from the weather and from infestations of insects, rodents and other pests; and,
2. Prevents a substantial depreciation in property values in the immediate neighbourhood.
3. Without restricting the general obligation as set out in Subsection (1):
 - (1) All exterior surfaces must consist of materials that provide adequate protection from the weather;
 - (2) All exterior walls and their components, including coping and flashing, must be maintained in good repair;
 - (3) All exterior walls must be free of holes, breaks, loose or rotting boards or timbers and any other condition which might permit the entry of insects, rodents or other pests to the interior of the wall or the interior of the Building;
 - (4) Exterior wood surfaces must be adequately protected against deterioration by the application of paint, stain or other protective coating;
 - (5) No more than 25% percent of any painted area of any exterior wall may be blistered, cracked, flaked, scaled, or chalked away;
 - (6) The mortar of any masonry or stone exterior wall may not be loose or dislodged.
 - (7) The exterior of every Building must be free of graffiti; and,
 - (8) Loose material must be removed from exterior walls, doors and window openings.

ROOFS

4. Roofs must be constructed and maintained so as to prevent:
 - (1) Rainwater or melting snow falling on the roof from entering the Building;
 - (2) Rainwater or melting snow falling on the roof from negatively affecting neighbouring Buildings or properties; and,
 - (3) Objects and materials from falling from the roof.

5. Without restricting the general obligation as set out in Subsection (1):
- (1) Roofs, including fascia boards, soffits, cornices, flashing, eaves troughing and downspouts must be maintained in a watertight condition.
 - (2) Roof drainage must be controlled in order to eliminate or minimize runoff to neighbouring properties that:
 - (a) accumulates or causes ground erosion;
 - (b) causes dampness in the walls, ceilings or floors of any portion of any neighbouring Building; and,
 - (c) accumulates on sidewalks or stairs in a manner so as to create a hazardous condition.
 - (2) Loose or unsecured objects and materials, including accumulations of snow or ice or both that are likely to fall on passersby or are likely to result in the collapse of the roof, must be removed from the roof of a Building or an accessory Building.

FIRE PROTECTION SYSTEMS

6. Unless a fire protection system has been decommissioned by permission of the Fire Chief, it must be maintained in an operational condition.
7. Unless a fire alarm system has been decommissioned by permission of the Fire Chief, it must be connected to an approved fire signal receiving centre in compliance with Can/ULC-S561, adopted and published by the Underwriters’ Laboratories of Canada, so as to notify the Fire Department of fire alarm activation in the Building.

SCHEDULE ‘B’

The Owner of a Vacant Building of industrial, commercial or Multi-family residential use must comply with either Part 1 or Part 2 of this Schedule, as follows:

1. In order to comply with Part 1 of this Schedule, the Owner of a Vacant Building must ensure that:
 - (1) All exterior doors to the Vacant Building are operational, fit tightly within their frames when closed and are locked so as to prevent entry;
 - (2) All windows are either permanently sealed or locked so as to prevent entry;
 - (3) All windows, doors, basement and attic hatchways and their frames are so constructed and maintained to completely exclude rain and substantially exclude wind from entering the Building; and,
 - (4) All windows are in good repair, and properly glazed.

2. In order to comply with Part 2 of this Schedule, the Owner of a Vacant Building must ensure that the following requirements are met:
 - (1) All doors, windows and other openings, other than the principal entrance at the basement and main (first) floor levels must be covered in compliance with this Part with a solid piece of plywood, at least 11 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre.
 - (2) The principal entrance must be covered in compliance with this Part with a solid piece of plywood, at least 11 millimeters thick, adequately secured with screws at least 50 millimeters in length, spaced not more than 150 millimeters on centre.
 - (3) Windows, doors and other openings at the second floor level must be covered in compliance with this Part with a solid piece of plywood, at least 9.5 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre.
 - (4) Windows, doors and other openings at the third floor level or higher must be either:
 - (a) Secured in accordance with Part 1 of this Schedule; or
 - (b) Covered in compliance with this Part with a solid piece of plywood, at least 8 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre.
 - (5) Windows, doors and other openings at the third floor level or higher may be secured from inside the Building; plywood applied to all other openings must be secured from the exterior.

- (6) Plywood applied to openings must be installed and maintained in a way that is weather-tight and must be protected from the elements with at least two coats of paint, which is of a colour compatible with the exterior colour of the Building. A hole must be cut in the plywood just large enough for the door hardware to protrude.
- (7) All floors above the first floor must be rendered inaccessible to entry by raising fire escapes and ladders to a height of at least four meters or guarding them in some other manner acceptable to an Enforcement Officer.
- (8) All stair or window wells must be adequately secured either by:
 - (a) Filling them with concrete or unshrinkable fill; or
 - (b) Covering opening to them with a metal plate at least 8 millimeters thick and securing it so as to prevent it from shifting.
- (9) Electricity, natural gas and water must not be cut off if they are necessary to maintain fire protection systems or fire alarms.
- (10) Where they are not necessary to maintain fire protection systems or fire alarms, electricity, natural gas and water must not be cut off except in a manner satisfactory to an Inspector.

SCHEDULE ‘C’

VACANT BUILDING REGULATION PERMIT FEES

Fee for special safety inspection prior to regulation permit	\$ 500.00
Fee for other inspections by an Inspector	\$ 130.00
Fee for Vacant Building Regulation Permit (24 months maximum) for each Vacant Building	\$3,500.00
Fee for additional Vacant Building Regulation Permit (12 month maximum)	\$1,500.00

Attendance by City of Chilliwack Fire Department: actual costs incurred by the City for labour, materials and equipment

Refunds

75% of the Vacant Building Regulation Permit Fee may be refunded if it is remediated or demolished within 6 months of the date of the permit.