



City of North Bay Report to Council

Report No: CSBU-2022-002

Date: February 8, 2022

Originator: Beverley Hillier

Business Unit:
Community Services

Department:
Planning & Building Department

Subject: Property Standards By-law, Clean Yard By-law and Vacant Buildings By-law

Closed Session: yes ☐ no ☒

Recommendation

That Council receive and refer Report to Council No. CSBU 2022-002 from Beverley Hillier dated February 8, 2022 to the Community Services Committee.

Background

City Council has identified that the clean-up of derelict and rundown properties in North Bay is a priority. Staff have reviewed and proposed various changes to the Property Standards By-law and Clean Yards By-law as summarized below. In addition, staff are proposing a new Vacant Buildings By-law which would provide additional authority to staff to deal with vacant buildings.

The goal and objective of the By-laws is to provide for more efficient options to see buildings and properties cleaned up and to encourage property owners to continue to invest in their buildings and properties.

Clean Yards By-law

Key revisions proposed:

- Revised to include all property within the City and not just residential property.
- Definitions elaborated to include items such as: animal excrement and human waste, stagnant water, dead/damaged/decayed trees, indoor furniture, further restriction for unlicensed/inoperable vehicles.
- Naturalized areas or landscaping may be permitted at the discretion of

the Officer.

- A landscaped buffer strip will be permitted for vacant lots.
- Section added for outside storage of refuse/compost/recyclable materials to address pest prevention and odours.
- Section added to address temporary storage of construction/building materials provided they are removed in a reasonable amount of time.
- Section added to address properties being left in an uncovered state (not covered by sod, seed, crop etc.).

Goals for changes:

- Definitions to mirror the Property Standards By-law.
- Faster enforcement approach for certain issues such as dead/damaged trees.
- Allows for faster more efficient enforcement on commercial properties.
- Gives By-law Enforcement Officers further tools/authority.
- Standard compliance time of 5 days has been removed and can now be adjusted to reflect the severity of the violation (ie: forthwith, 7 days, 14 days etc).

Property Standards By-law

Key revisions proposed:

- The section relating to Vacant Buildings was removed and a stand-alone by-law was created to effectively deal with the issue.
- The requirement for a "Notice of Non-Compliance" to be issued has been removed. This is not a legal requirement and can slow down the enforcement process.
- Section added to speak to the repairs/maintenance being "carried out in a manner and with the materials that are accepted as good workmanship in the trades concerned."
- Section added to deal with Air Quality and Mould (not relating to general maintenance and/or lifestyle).
- Added section relating to Temporary Storage and Unsightly Storage and Structures.
- Section added to deal with "abandoned, derelict, or otherwise unused" Swimming Pools/Hot Tubs that includes the fencing, gates, and appurtenances thereto.
- Additional requirements/section added to deal with Residential Rental Properties (subject to the tenants' responsibility for the ordinary cleanliness of the rental property).

Goals for changes:

- Refresh the By-law to bring it up to today's enforcement standard and best practices.
- Change outline and flow of by-law to include more plain language for easy reading and reference.

- Updates provide a more streamlined enforcement approach with removing the requirement for a notice of non-compliance to be issued (can be used at officer discretion). Reduces cost of registered mail/postage.
- The changes capture the issues that are most commonly called about (rental units, mould, air quality, drainage concerns).
- Unsafe Condition added for extenuating circumstances such as hoarding, people on roofs etc.
- Items removed or included in other by-laws where they are better suited (ie: clean yards, vacant buildings).

Vacant Buildings By-law

Building Services is responding to an increased number of concerns relating to vacant buildings that are found to be insecure against unauthorized entry. Currently these concerns are being addressed using the provisions of the Property Standards By-law. However, these regulations are rather rigid in terms of process and timelines, including the requirement to provide a mechanism for the property owner to appeal the requirements of a property standards order. This is not an effective course of enforcement for minor deficiencies such as property maintenance or when for public safety purposes a building needs to be secured forthwith.

The concerns arising around vacant buildings are typically situations where an officer needs to take action within a relatively short timeline. Therefore, the current mandated property standards enforcement process is not effective in these circumstances. In addition, many of these properties remain vacant for such an extended period of time that they have become derelict and uninhabitable. This poses an increased risk to public safety and is susceptible to events such as fire, vandalism, and graffiti. The longer a building remains vacant and exposed to the elements the more complaints and concerns are raised by citizens.

Monitoring of vacant buildings once boarded up is an onerous task and there are complexities associated with these types of buildings. These buildings are often breached and occupied by squatters. Issues associated with unauthorized occupancy include drug activity and property damage. These buildings are often breached by the vulnerable sectors who are seeking shelter which poses a safety risk to them as utilities are often shut off which leaves them to start small fires for warmth or food.

The deteriorating condition of these buildings often affects their structural integrity and air quality which makes them unfit for habitation. As such, staff is proposing that the enforcement relating to vacant buildings is moved from the property standards by-law process to a stand-alone by-law. This would allow officers more flexibility in determining the appropriate level of response based on the individual circumstances at the time and to drive property owners to take action on these properties by demolishing them or returning them to acceptable standards where they are fit for habitation.

The components of the by-law would provide for:

- The requirement that a property owner ensures that any vacant building under their control is secured against unauthorized entry at all times.
- An officer who finds a vacant building that is insecure against unauthorized entry may: provide the property owner with a relatively short period of time to secure the building, failing which the officer may take action to ensure that the building is secured or where warranted, the officer can act immediately to ensure that the building is secured.
- Any costs incurred by the City to undertake any actions to secure a vacant building, are recoverable through applying the costs to the tax roll for the subject property.
- Require the owner to keep the property clear of all garbage and debris.
- Require that all water, electrical and gas services are turned off.
- Maintain liability insurance of \$2 million dollars.
- Ensure property is adequately monitored.
- Require every owner of a vacant building, which has been vacant for at least 30 consecutive days, to register the building with the City and pay the applicable fee.
- Institute a maximum vacancy of 365 days. After the 365 day period the property shall be demolished or returned to acceptable standards in compliance with the Property Standards By-law and be fit for habitation.

Registry:

Building Services will maintain a Vacant Buildings Registry of all buildings that have remained vacant for a period exceeding 30 days. The property owner can proactively submit a registry application along with the applicable fee. The purpose of the registry is to actively monitor vacant buildings to encourage them to be brought up to appropriate standards and occupied or to be removed.

Once the registration is received an officer will ensure that the property is adequately secured and in compliance with the Vacant Buildings By-law, at which time the property will be added to the Vacant Buildings Registry for a period not exceeding 365 days or until which time the property is demolished or returned to a habitable state.

If the property is not brought into compliance with the Vacant Buildings By-law after the 365-day period an officer may issue an Order directing the owner to demolish the building pursuant to the Property Standards procedures included in the Vacant Buildings By-law. Where the owner does not comply with an Order, and subject to procedural requirements of the *Building Code Act, 1992* relating to Property Standards appeals being fulfilled, the City may cause the vacant building to be demolished at the owner's expense.

In addition, if a vacant building poses a risk to public safety due to a state of

being insecure where it cannot reasonably be secured by boarding or other means of repair, or where the security measures of the vacant building are frequently breached in spite of repeated attempts to re-secure it, an officer may issue an Order directing the owner to demolish the building, pursuant to the Unsafe Building procedures in the *Building Code Act, 1992*, which are also reflected in the Vacant Buildings By-law. Where the owner does not comply with such an Order within the time provided in the Order, the City may cause the vacant building to be demolished at the owner's expense.

Financial/Legal Implications

To offset the cost of providing services, municipalities have the authority under Section 391(1) of the Municipal Act to impose a fee or charge on individuals. In most cases an individual receives a direct benefit from a service however in the case of the aforementioned by-laws the imposed fee or charge is to gain compliance. Increasingly municipalities are looking at user fees to help offset the impact of municipal services on property taxes.

The Municipal Act and case law requires that there be a nexus or connection between the fee charged and the costs incurred so that the fee is revenue neutral (over the long term). In situations in which there is also a community benefit associated with providing the service, the fee charged may be less than the full cost recovery rate and a portion of the cost is funded by the general tax levy.

With the introduction of the revised by-laws staff have a detailed costing analysis to determine the full cost of providing and upholding the aforementioned by-laws. The full cost recovery rates were then used as a benchmark against which new fees were established.

Schedule A of the City of North Bay User Fee By-Law 2019-07, sets out the fees that the Building Department charge. For clarity, Schedule A charges are in relation to non-building code fees and charges and will be amended to add the following.

Vacant Buildings By-law:

Registry fee *	\$200
Stand by fee**	78 x # of Hours on Standby

*Registry fee includes tasks that are defined for the average application which includes such tasks as: receipt of application, review, processing, inspections, notices, orders, monitoring, communications and inspections

**Stand by fee is intended to be charged for the actual time spent in organizing, documenting and supervising work outside of the registry fee.

Benchmarking of this by-law was conducted with the following Municipalities who had a similar by-law.

	City of Brantford	City of Hamilton	Town of Aurora	City of Welland
Registration Fee	\$250	\$1,115	Registration Fee \$175-300 (based on zoning of property)	\$200
Inspection Fee	\$600	\$729.20	\$110/hr	\$282.00 Work carried out plus \$94/per hour for anything in excess of 2 hours

Further amendments to Schedule A of By-law 2019-07 are required to capture the costs of enforcing the Property Standards By-law and the Clean Yard By-Law.

	Property Standards By-Law	Clean Yard By-Law
Inspection fee	\$175	\$110
Standby Fee	78 x # of Hours on Standby	78 x # of Hours on Standby
Appeal of Property Standards Order the Property Standards Committee	\$230	
Certificate of Compliance	\$120	\$120

Note: fees include tasks that are defined for the average application.

Benchmarking of these by-laws was conducted with the following Municipalities.

	Huntsville		Sudbury		Waterloo	
	Property Standards	Clean Yard	Property Standards	Clean Yard	Property Standards	Clean Yard
Inspection Fee	\$75		\$65	\$65	\$88.08	\$88.08
Standby Fee					\$88.08	\$88.08
File Management Fee	\$150					

Appeal Fee			\$112		\$170	
Certificate of Compliance	\$75				\$49.50-84.25	\$49.50-84.25
Recovery method		25% of cost of work				

Corporate Strategic Plan

- | | |
|---|---|
| <input checked="" type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input checked="" type="checkbox"/> Affordable Balanced Growth | <input checked="" type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

- Foster the creation of a community with a positive environment that instills pride and confidence and supports a resilient diversified and inclusive economy.
- Provide smart, cost effective services and programs to residents and businesses.
- Utilize resources and partnerships to beautify and enhance the appearance of the City.
- Ensure the efficient and effective operations of the City, with particular consideration to the impact of decisions on the property tax rate.

Options Analysis

Option 1:

- 1) That Council adopt the Property Standards By-law, Clean Yards By-law and Vacant Buildings By-law as detailed in Report to Council No. CSBU 2022-02 from Beverley Hillier dated February 1, 2022; and
- 2) That Council amend Schedule "A" to User Fee By-law 2019-07 to include new fees for the Property Standards By-law, Clean Yards By-law and Vacant Buildings By-law as detailed in Report to Council No. CSBU 2022-002 from Beverley Hillier dated February 1, 2022;add public meeting

Option 2:

That City Council not adopt the Property Standards By-law, Clean Yards By-law or Vacant Buildings By-law.

This option is not recommended as the proposed new by-laws will provide efficiencies in enforcement and provide additional enforcement tools related to vacant and derelict buildings.

Recommended Option

Option 1 is the recommended option.

Respectfully submitted,

Name: Beverley Hillier, MCIP, RPP

Title: Manager, Planning & Building Services

I concur with this report and recommendation

Name Ian Kilgour, MCIP, RPP

Title: Director, Community Development and Growth

Name Margaret Karpenko, CPA, CMA

Title: Chief Financial Officer /Treasurer

Name Christina A. (Tina) Robertson

Title: Assistant City Solicitor/City Prosecutor

Name David Euler, P.Eng., PMP

Title: Chief Administrative Officer

Personnel designated for continuance:

Beverley Hillier, MCIP, RPP

Manager, Planning & Building Services