

## **Addressing Vacant Building in Greater Sudbury: Review of By-law 2011-277 the Property Standards By-law for Greater Sudbury**

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### **Report Summary**

This report and presentation provides recommendations regarding a function path to addressing Vacant Building in Greater Sudbury as requested by City Council resolutions CC2024-60, CC2024-61 and CC2024-62.

### **Resolution**

#### **Resolution 1:**

THAT the City of Greater Sudbury directs staff to prepare a By-law to amend User Fee By-law 2023-58, By-law 2023-68, By-law 2011-277, and all other applicable By-laws to implement the recommended changes as outlined in the report entitled “Addressing Vacant Buildings in Greater Sudbury: Review of By-law 2011-277 the Property Standards By-law for Greater Sudbury” from the General Manager of Growth and Infrastructure presented at the City Council meeting on September 17, 2024.

#### **Resolution 2:**

THAT the City of Greater Sudbury directs staff to bring forward a draft Vacant Building Registry By-law, which would include financial and staffing requirements for implementation, administration, and enforcement as a business case during the 2025 budget deliberations as outlined in the report entitled “Addressing Vacant Buildings in Greater Sudbury: Review of By-law 2011-277 the Property Standards By-law for Greater Sudbury” from the General Manager of Growth and Infrastructure presented at the City Council meeting on September 17, 2024.

### **Relationship to the Strategic Plan, Health Impact Assessment and Climate Action Plans**

The information in this report supports Council’s Strategic Plan by reflecting Council’s desire for residents to have access to safe, affordable, attainable, and suitable housing options in the City of Greater Sudbury. The CEEP aims to achieve energy efficiency and reduce emissions, redevelopment of vacant and derelict buildings will result in a more energy-efficient building stock.

## Financial Implications

If approved, the 2025 User Fee Bylaw will reflect the adjusted rate and the 2025 budget would reflect the anticipated increase in User Fee revenue of \$87,000. The costs associated with the implementation of a Vacant Building Registry Bylaw will be described in a later report but is estimated at approximately \$177,000 - \$250,000 annually.

## Background

On March 19, 2024, City Council passed resolutions:

**CC2024-60** directing staff to bring forward a report in Q3 2024 to review the effectiveness of Vacant Building By-laws and Vacant Building Registries in Ontario municipalities as outlined in the report titled “Derelict Building Regulatory Framework Review”, from the General Manager of Growth & Infrastructure, presented at the City Council meeting on March 19, 2024. AND THAT the report includes information regarding any City owned properties that are derelict.

**CC2024-61** directing staff to review language in the current Development Charges By-law 2019-100 to extend the redevelopment period to encourage the demolition of derelict buildings and provide sufficient time to encourage redevelopment as outlined in the report titled “Derelict Building Regulatory Framework Review”, from the General Manager of Growth & Infrastructure, presented at the City Council meeting on March 19, 2024

**CC2024-62** directing staff to review the Property Standards By-law 2007-109 and bring forward a report in Q3 2024 recommending amendments that would be appropriate to the level of service required to enforce standards for vacant derelict properties and add specific provisions for heritage-designated properties as outlined in the report entitled “Derelict Building Regulatory Framework Review”, from the General Manager of Growth & Infrastructure, presented at the City Council meeting on March 19, 2024

### Development

With the desire to reduce vacant derelict buildings in Greater Sudbury, there are several recommendations to inform this report. A review of the effectiveness of vacant building registry by-laws in other Ontario municipalities, a review of existing by-laws and enforcement practices with relevant departments. In addition, consultation was completed with the City of St. Catherines on the experience of adopting a Vacant Building Registry By-law.

### Current State

Staff reviewed case logs from the internal CRM enterprise system between January 1 – December 31, 2023, under previous cases and from January 1 and June 30, 2024, under a “vacant building” case type, to determine the level of impact of vacant derelict buildings in Greater Sudbury. Table 1 below illustrates staff findings on the number of properties with vacant derelict buildings being monitored and managed through the By-law Enforcement.

**Table 1**

Year	Total Cases Reported	Total Actual Properties with Vacant Derelict Buildings	Total Repeat Cases from the previous year	Total of Cases Investigated & Closed
2024 YTD	120	29	6	14
2023	145	45	unknown	16

To determine the scale of impact, staff reviewed statistical reports from the Municipal Property Assessment Corporation (MPAC) on registered properties and calculated the percentage of vacant derelict buildings to the total number of registered properties in Greater Sudbury. Table 2 illustrates staff findings.

**Table 2**

Assessed Properties	Total Number	Number of Vacant Derelict Buildings	Percentage of Properties Impacted
Residential	58,720	22	0.0003%
ICI	7,168	7	0.0009%
Total	65,888	29	0.0004%

### Effectiveness of Vacant Building Registries

For municipalities struggling with the monitoring and management of vacant and derelict buildings, a Vacant Building Registry By-law would put in place a comprehensive and consistent process for monitoring properties to protect against continued deterioration and, discouraging building owners from allowing their buildings to remain vacant for extended periods of time. In consultation with other Ontario municipalities:

#### **Vacant building registries are described as being effective for:**

- Identification and Accountability – Creating a measured understanding of the number and location of vacant buildings and ensuring that owners are held accountable for maintenance of those properties. Greater Sudbury currently addresses this through CRM case management and penalties and orders issued through the Property Standards Bylaw.
- Safety – Improving safety for first responders in identifying building conditions and reducing the likelihood of arson. Greater Sudbury currently manages this through the joint-inspection efforts of By-law & Building Services and Greater Sudbury Fire Services.
- Property Value Protection – Ensuring properties are maintained helps to protect surrounding property values by reducing urban blight.

#### **Vacant building registries are described as being challenging for:**

- Revenue Generation – Fees collected from property owners for registration don't fully fund code enforcement and may force the municipality to be reliant on alternative penalty fee structures to ensure the program is self-sustaining.

Some of the municipalities regulating vacant buildings are enforcing such bylaws through an Administrative Monetary Penalty System (AMPS) while others use the conventional provincial offence court system. An AMPS system is an alternative to the provincial offence court system which the province has permitted municipalities to implement for certain offences typically dealt with through the courts. Instead of issuing charges which can be challenged before the Provincial Offence Court municipalities issues administrative penalties which can be appealed under the AMPS structure. While AMPS lend themselves to a slightly more rapid resolution of appeals, they require municipalities to incur substantial costs to establish and operate the infrastructure required to oversee the process.

### Municipal Impact

To determine the municipality's level of contribution, staff took review of the total number of vacant assets held under municipal ownership. Findings indicate that the number of vacant assets held by the municipality is a low contributor, with most assets in good order and pending council decision for future planning. Table 3 below illustrates these findings.

**Table 3**

Municipal Asset	Size	Date Built	Asset Status	Budget & Future Planning
Capreol Ski Chalet	576 sq. ft	1990-01-01	Vacant Not Derelict	No Operational Budget – Not Maintained – No Planned Use
Little Britain Tot Lot Field House	817 sq. ft	1985-01-01	Vacant Not Derelict	2023 Operational Budget \$986.84 for Maintenance

Moonlight Beach – Forestry Storage Building	875 sq. ft	1985-01-01	Vacant Not Derelict	No Operational Budget – Not Maintained – No Planned Use
Welcome Centre Highway 17 East	350 sq. ft	1995-01-01	Vacant Not Derelict	No Operational Budget – Not Maintained – No Planned Use
Whitefish Public Works Garage	3249 sq.ft.	1955-01-01	Vacant Derelict	Under Depot Master Plan – Building to be Demolished

### Continuous Improvement

As part of stakeholder engagement outlined in the report entitled “Derelict Building Regulatory Framework Review” presented to council March 19, 2024, staff noted that the timeline allocated for redevelopment was a barrier to addressing vacant buildings through demolition. On June 25, 2024, council approved the new Development Charges By-law 2024-105 which included the extension of the redevelopment period to 10 years and maintaining a portion of the development charges credit in years 6 through 10, to encourage the demolition of vacant buildings and support redevelopment of the property.

From the Calls to Action brought forward from the Future Ready Development Services Committee report dated May 1, 2024, Building Services has created a Building Code Enforcement Officer role to manage the enforcement, charging and prosecution of property owners who are, or remain, non-compliant with matters under the Building Code Act, Ontario Building Code, Ontario Fire Code, Planning Act, Zoning Act By-law, and other municipal By-laws.

### Recommendations

Recommendations in this report are divided into three strategies that align with the resolutions of council.

#### **1. Strategy 1 – Strengthening Language and Procedure to Enforce Compliance.**

Ensuring that property owners adequately address vacant derelict buildings requires the language in the By-law to establish standards that are enforceable and definitive.

Recommendations under this strategy include the addition of definitions, provisions, and penalty language to the current Property Standards By-law and changes to internal process to monitor properties. Recommended amendments can be found in Appendix “A”. Strengthening of the by-law and changes to internal processes is recommended since they require no additional funding and can be done with current resources without impact to current service levels.

#### **2. Strategy 2 – Implementation of a Vacant Building Registry Bylaw**

A Vacant Building Registry By-law would put in place a comprehensive and consistent process for monitoring vacant buildings and engage enforcement tools to protect them against continued deterioration and a means of discouraging building owners from allowing their building to remain vacant for extended periods of time.

Recommendations under this strategy include the use of the City’s Pronto system to establish a registry and reporting system to provide accurate property enforcement records associated with vacant buildings. Use of the Pronto system for this strategy would allow property owners to register and report compliance through registered accounts and provide enforcement officers with the ability to impose immediate penalties where required.

However, with the integration of the By-law division to Accela and online payment not planned for review before Q2 2025, this strategy is not recommended without approval of additional budget of approximately \$177,000-\$250,000 annually. Considerations include onboarding technology and increased staff resources to meet the level of proactive enforcement desired which cannot be achieved under current resources without impact to current service levels. If Council would like to proceed on this path, a business case will be presented as part of the 2025 Budget deliberations. The business case will include a draft Vacant Building Registry By-law and all requirements to implement, administer, and enforce the by-law. Upon approval of the business case, the

changes to the Accela system (Pronto) would be ready by approximately July of 2025.

### **3. Strategy 3 – Increasing Penalties and Charges to Support Level of Service Required**

Ensuring that vacant derelict buildings are adequately addressed by increasing penalties means that staff can apply penalties or charges where necessary and support enforcement through User Fees, and Part 1 & Part 3 of the Provincial Offences Act

Recommendations under this strategy include,

1. Increasing the User Fee for a Property Owner that is in default of a Compliance Date for any Issued Notice of Non-conformity or Order to Comply or for Remedial Action resulting from Non-compliance with any Issued Notice of Non-conformity or Order to Comply to \$500. (Previously \$230) This increase provides an opportunity to address specific offences for violations that may require immediate enforcement and would support a more proactive level of enforcement. The proposed fee is in alignment with many other municipalities for this level of enforcement. Based on 2023 data, 2025 budget would reflect the anticipated increase in User Fee revenue of \$87,000.
2. Adding Ontario Building Code Act (the Act) Liable Offenses Fines with penalties ranging from \$25,000 - \$50,000 for an individual and \$50,000 - \$100,000 for a corporation convicted of an offense under the Act. Adding this language provides opportunities to address conviction of charges under Part 3 of the Provincial Offences Act based on the severity of the violation or repeated behaviour. The recommended language is consistent with many other municipalities that have included it in their respective property standards by-laws and vacant building by-laws.
3. Establish and add set fines to the Property Standards By-law. Set fines provide an opportunity to address specific offences for violations that may require immediate enforcement resulting from the severity, the impact on the community or the fact it is repeated behavior. Greater Sudbury currently applies set fines under the Clearing of Yards By-law and the Animal Control By-law so this action would be consistent with previous council decisions.

Staff would recommend amendments to the Property Standards By-law to establish definitive fees structures. This strategy can be completed with no impact to budget under current resources and without impact on current service levels.

### **Conclusion**

Through the review of By-laws 2011-177 and 2023-68 there are presented opportunities to address and encourage the management of vacant buildings through the enhancement of provisions, the sensible increase of administrative fees, and a focused view of heritage-designated properties. Strengthening the current Property Standards By-law and affecting process changes to support the amendments requires no additional funding and can be done with current resources without impact on current service levels.

The implementation of the Building Services Code Enforcement Officer role serves to support these amendments through an increased number of charges under the Provincial Offences Act given to property owners that continue to be non-compliant with property standards for vacant derelict buildings. Using performance measures, Building Services can monitor the level of effectiveness for matters administered through the Provincial Offences Court.

Implementation of a Vacant Building Registry Bylaw to specifically address the management of the current limited number of vacant or vacant and derelict buildings, is not recommended at this time given the additional cost to support onboarding technology and resources required to address the costs of level of administration and enforcement required.

While AMPS do lend themselves to a slightly more rapid resolution of appeals, they require municipalities to incur substantial costs to establish and operate the infrastructure required to oversee the process. Additional staffing is required to administer the penalties and collection, manage records and schedule matters being screened or appealed. Software to manage AMPS must be acquired, licensed, and maintained as the existing provincial offence court systems may not be used. Additional costs must also be incurred to engage staff or independent contractors to perform the duties of screening officers (first level of appeal) and hearing officers (second level of appeal). For clarity, implementation of AMPS still requires the municipality to continue with the administration of the Provincial Offences Court as many offences cannot proceed through AMPS.

Those municipalities using AMPS for vacant properties had already implemented that system for other offences such as parking offences and other municipal bylaws as the resources required to manage AMPS are significant. Many municipalities in southern Ontario that have implemented AMPS have done so because of a shortage of court resources in their area leading to court matters being dismissed for delay under the Charter of Rights and Freedoms.

The City has not implemented AMPS to date as it has not, and does not currently face the same shortage of court resources being experienced in many other municipalities. The City does not have a significant backlog of matters in the court system. There is capacity to process and prosecute necessary charges under property standards and other property related bylaws. Repeat offenders would see higher fines requested from the court by city prosecutors and there is the ability for enforcement staff to issue multiple charges in the absence of compliance with bylaws. At this time the implementation of AMPS is not recommended given the additional costs that would have to be incurred and the availability of court resources to prosecute matters in our area.

### **Next Steps**

Staff will prepare a By-law to amend the User Fee By-law 2023-58, and Property Standards By-law 2011-277, and all other applicable By-laws to implement the recommended changes and continue to monitor the current number of reported vacant derelict properties and continue to assist property owners in addressing this issue.

Staff will prepare a business case that will be presented as part of the 2025 Budget deliberations. The business case would include financial and staffing requirements for implementation, administration, and enforcement of a Vacant Building Registry By-law.

Staff will prepare a list of set fines to be brought forward for review to the Ontario Court of Justice and report back to council on approved fines in a later report.

### **Resources Cited**

1. City of Greater Sudbury Property Standards [By-law 2011-277](#)
2. [City of St. Catherine's Vacant Building Registry](#)
3. [City of St. Catherine's Administrative Monetary Penalties](#)
4. [City of Ottawa Vacant Building Registry](#)
5. [City of Greater Sudbury User Fee By-law 2023-68](#)
6. Ontario Heritage Act, [RSO 1990, c O.18](#)
7. Ontario Building Code Act, 1992 ([The Act](#))
8. Municipal Property Assessment Corporation (MPAC) Assessment Data