

## REPORT

### COMMUNITY SERVICES COMMITTEE

MEETING DATE: SEPTEMBER 16, 2019

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**FROM:** Municipal Enforcement Services

**DATE:** August 23, 2019

**SUBJECT:** Maintenance of Vacant Properties By-law 2019-034

**LOCATION:** Town wide

**WARD:** Town wide

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#### RECOMMENDATION:

1. That the report on Maintenance of Vacant Properties from Municipal Enforcement Services department dated August 23, 2019, be received;
2. That the fees listed in Appendix B to the report from the Municipal Enforcement Services department, dated August 23, 2019, be approved effective immediately, and such fees be included in the 2019 Rates and Fees schedules; and
3. That the updated Administrative Monetary Penalties procedure be received by Council, attached as Appendix D to the report from the Municipal Enforcement Services department, dated August 23, 2019.

#### KEY FACTS:

The following are key points for consideration with respect to this report:

- A draft vacant properties by-law was presented to Council on June 10, 2019 – Council directed staff to gather further public input and return in September.
- Public Consultation was held on July 31, 2019.
- Staff have developed a progressive enforcement option, including escalating fees and penalties, that responds to issues related to vacant properties and other continuing violations.
- Although not recommended, a vacant building/property by-law has also been prepared for consideration.

#### BACKGROUND:

On Monday, November 3, 2014, Town Council approved the following recommendation:

“That staff be requested to report back to Council on what options are available to ensure vacant properties are kept in good repair, and possible actions that

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the town could take to encourage timely development, including but not limited to:

1. registration of vacant buildings;
2. vacant building fees that escalate over the length of time that the property remains vacant; and
3. regular (quarterly) inspections of vacant buildings by By-law staff, with a fee charged to the owner of the property on a cost recovery basis, to ensure property standards are being met and action taken.”

At the Planning and Development Council meeting on Monday, June 10, 2019, Town Council approved the following recommendation:

“That By-law 2019-034, a by-law to prescribe standards for the maintenance of vacant properties within the Town of Oakville, be referred back to staff for further public consultation, and to report back at the September 16, 2019 Community Services Committee meeting”

#### **COMMENT/OPTIONS:**

As a result of direction provided by Council on June 10, 2019, staff have reviewed options to deal with impacts of vacant properties. During the review, it was identified that the benefits of a vacant property by-law are mostly in the form of information – a list of vacant properties which could facilitate more timely resolution of any problems associated with vacant properties. While requirements for insurance provide nearby residents reassurance that there is recourse should they or their property be negatively impacted by the vacant property – it was also noted that the registration process can be onerous and most property owners want to protect themselves with appropriate insurance.

Staff also reviewed concerns raised by seasonal property occupation or “snowbirds”. Factoring seasonal use of a property into enforcement requirements creates a loophole in any vacant property by-law rendering it nearly unenforceable. Should a vacant property owner declare themselves a seasonal user, enforcement staff would have to disprove the statement – which would take resources far above those currently available. If the by-law were to include a longer period before a property was considered vacant (addressing snowbirds timelines) staff would again be required to prove there was no use of the property within that period. This would require ongoing surveillance and long-term investigations that would again require resources far above those currently in place. Even if the time period is at 90 days this is still onerous on staff resources to enforce. As a result, a registry by-law for vacant properties is unlikely to result in voluntary compliance and will introduce significant enforcement pressures with little benefit.

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A better course of action is to enhance progressive enforcement options available to officers. Currently, response to verified violations results in the issuance of orders and/or penalties which are of a static value. Staff believe that escalating penalties and fees can more effectively be used to encourage owners to comply. Progressive enforcement is based on seeking ongoing compliance by reasonably escalating tools of enforcement over time – this includes the issuance of penalties and fees. It must be considered that penalties created by the town cannot be punitive – which limits the overall value of any one penalty. It should also be noted that as a final step in progressive enforcement staff can summons a violator to court. This process is significantly longer than the issuance of penalties and fees but can result in more significant fines – specifically if a pattern of non-compliance, in the face of progressive enforcement, can be shown.

Example of Impacts of Escalating Penalties and Fees					
	Cost Recovery Fee	Penalty	Clean-up Cost*	Administration Fees	Total Cost to Violator
First Violation	\$100	\$300	\$755	\$50	\$1205
Second Violation	\$250	\$400	\$755	\$50	\$1455
Third Violation	\$500	\$500	\$755	\$50	\$1805
Ongoing	\$500	\$500	\$755	\$50	\$1805

\*clean-up cost shown is the average cost charged by contractors hired to effect lot maintenance and property standards orders – used for information purposes only and varies from order to order depending on work to be completed and time of year

The above chart provides examples of how progressive enforcement can work. Not all cases will result in both fee and penalty – officers will continue to use judgement and follow progressive enforcement guidelines when dealing with individual investigations.

Staff have included an update to the Administrative Monetary Penalties Procedure attached as Appendix D to add escalating administrative penalties.

### **Vacant Property By-law (not recommended)**

Although not recommended, a vacant property registry by-law could supplement the town's property standards and lot maintenance by-laws by adding requirements for vacant property owners to register their property. Registration requirements would include primary and secondary contact information and proof of insurance.

#### **Requirements**

The owner of a building/property that has not been used or occupied for a period exceeding ninety (90) consecutive days would be required to:

- Register vacant property/building

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- Ensure current contact information is provided
- Provide secondary contact information
- Provide proof of insurance

The proposed vacant property registration fee does not include corporate overhead and would not be based on a cost recovery model. A minimal \$44 fee would be charged for registering the property and would allow the owner to leave the property vacant – although properly maintained – at any time within one year. Owners would be required to renew their registration annually if they anticipate leaving the property unoccupied for a period exceeding ninety 90 consecutive days in any year. Owners failing to register their vacant property could face fines if evidence were available to support the charge. If approved, escalating fees and penalties would be applicable to violators.

In order to make the by-law enforceable it would have to apply to all vacant properties, i.e. cannot exempt “snowbirds” for the reasons noted above.

If Council would like to approve the vacant Property Registry By-law attached as Appendix A, staff have provided an alternate resolution to the one provided.

1. That By-law 2019-034, a by-law to prescribe standards for registering vacant properties within the Town of Oakville, attached as Appendix A to the report from the Municipal Enforcement Services department, dated August 23, 2019 be passed; and
2. That the fees listed in Appendix B and Appendix C to the report from the Municipal Enforcement Services department, dated August 23, 2019, be approved effective immediately, and such fees be included in the 2019 Rates and Fees schedules.

#### **Recommended Fees for Progressive Enforcement (Recommended)**

Properties that continue to be owned by the same owner and receive second and subsequent Penalty Notices over any period of time would continue to escalate through progressive enforcement steps and once at the highest level would remain at that level. Officers would have the discretion to add or remove fees dependent on the circumstances related to each investigation. The progressive enforcement procedure will be updated to include escalating fees and penalties.

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Fee Description	Unit of Measure	Proposed Fee
Administrative Penalty First Offence	Per Event	\$300
Administrative Penalty Second Offence	Per Event	\$400
Administrative Penalty Third and Subsequent Offences	Per Event	\$500
Order Fee	Per Event	\$100
Second Order Fee	Per Event	\$250
Third and Subsequent Order Fee	Per Event	\$500

### **Summary**

Staff believe that a vacant property by-law will not significantly improve the ability to deal quickly and effectively with vacant buildings/properties. Instead, the use of escalating fees and penalties for vacant buildings/properties and other ongoing issues would be a more effective way to globally promote compliance.

### **CONSIDERATIONS:**

#### **(A) PUBLIC**

Public consultation was held on April 3, 2019 and July 31, 2019

Notice of this report was provided to all active Residents Associations and those who provided their email at the open house. An advertisement was placed in the Oakville Beaver on September 5, 2019 and on the town's website notifying residents of the proposed by-law.

#### **(B) FINANCIAL**

A fee review was conducted with the assistance of the finance department. The registry fee is not based on a full cost recovery model.

#### **(C) IMPACT ON OTHER DEPARTMENTS & USERS**

There is no impact on other department at this time.

#### **(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- continuously improve our programs and services
- provide outstanding service to our residents and businesses
- be accountable in everything we do
- be the most livable town in Canada

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**(E) COMMUNITY SUSTAINABILITY**

Ensuring that that staff have progressive enforcement options to promote compliance with town by-laws will improve neighborhood cohesion and protect the character and stability of neighborhoods. The social, economic and cultural pillars of sustainability are addressed.

**APPENDICES:**

Appendix A – Vacant Property Registry By-law 2019-034  
Appendix B – Progressive Enforcement Fees  
Appendix C – Vacant Property Registry Fee  
Appendix D – Updated Administrative Monetary Penalties Procedure

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