



**MERGED AGENDA
SPECIAL COUNCIL MEETING**

Thursday, September 26, 2024, 7:00 P.M.
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE
80 COMMERCIAL STREET, NANAIMO, BC

SCHEDULED RECESS AT 9:00 P.M.

Pages

1. **CALL THE MEETING TO ORDER:**
2. **INTRODUCTION OF LATE ITEMS:**
3. **APPROVAL OF THE AGENDA:**
4. **REPORTS:**

- a. 540 Haliburton Street - Remedial Action Requirement

6 - 10

To be introduced by David Laberge, Director, Public Safety.

Purpose: To inform Council that the building at 540 Haliburton Street is dilapidated and hazardous, and to recommend that a Remedial Action Requirement be issued to have the building structure assessed and remediated or to demolish.

Recommendation: That Council:

1. Declare that the building at 540 Haliburton Street is unsafe and creates hazardous conditions and is so dilapidated as to be offensive to the community.
2. Impose remedial action requirements in relation to the provisions of sections 72, 73 and 74 of the *Community Charter*.
3. Direct the remedial action requirements to include:
 - a. The owner must retain a qualified structural engineer who does not have an interest in the property to conduct a thorough assessment of the building. The assessment should determine whether the building is safe to remain as is.
 - b. If the structural assessment reveals significant safety issues, the owner must:

- i. Submit the findings to the City of Nanaimo Building Inspection Department for review, and,
 - ii. Submit a complete building permit application with all required documentation which includes a complete set of drawings which have been reviewed and approved by a structural engineer and a hazardous materials survey done by a registered environmental company in accordance with WorkSafeBC guidelines which details a scope of work to completely remediate all hazardous conditions and structural deficiencies, or,
 - iii. Obtain an approved permit and demolish the building.
- c. The structural assessment must be completed and submitted to the Building Inspection Department for review within 30 days from the date the remedial action requirement is imposed.
 - d. If the structural assessment reveals significant safety issues, a complete building permit or demolition permit application must be submitted within 60 days from the date the remedial action requirement is imposed.
 - e. The building or demolition permit must be picked up and paid within full within 14 days of issuance.
 - f. The scope of work set out in the building permit or building demolition must be completed within 90 days of the date the permit is issued.

4. Direct Staff to advise the owner that they may request Council reconsider the Remedial Action Requirement by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent.

5. Direct Staff or authorized agents to act in accordance with Section 17 of the *Community Charter* without further notice and at the owner's expense if the said remedial action is not undertaken within the timeline set out in the Council resolution.

b. Nuisance Property Abatement - 454 Watfield Avenue

11 - 12

To be introduced by David Laberge, Director, Public Safety.

Purpose: To inform Council of ongoing activities at 454 Watfield Avenue which substantially and unreasonably interfere with other persons' use and enjoyment of property resulting in repeated calls for bylaw, animal control and police services to abate nuisances.

Recommendation: That Council declare 454 Watfield Avenue a "Nuisance" pursuant to "Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250" and to authorize Staff to record and charge for municipal services including policing required to abate nuisance activity.

- c. Bylaw Contravention Notice - Construction Not Completed as per Conditions of Building Permit - 4470 Burma Road 13 - 14
- To be introduced by Darcy Fox, Manager, Building Inspections.
- Purpose: To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 4470 Burma Road.*
- Recommendation: That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 4470 Burma Road for construction not completed as per the conditions of the building permit.
- d. Bylaw Contravention Notice - Construction Not Completed as per Conditions of Building Permit - 477 Wallace Street 15 - 16
- To be introduced by Darcy Fox, Manager, Building Inspections.
- Purpose: To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 477 Wallace Street.*
- Recommendation: That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 477 Wallace Street for construction not completed as per the conditions of the building permit.
- e. Bylaw Contravention Notice - Construction Started Without a Building Permit - 1013 Bruce Avenue 17 - 18
- To be introduced by Darcy Fox, Manager, Building Inspections.
- Purpose: To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 1013 Bruce Avenue.*
- Recommendation: That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 1013 Bruce Avenue for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224".
- f. Bylaw Contravention Notice - Construction Started Without a Building Permit - 405 Prideaux Street 19 - 20
- To be introduced by Darcy Fox, Manager, Building Inspections.
- Purpose: To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 405 Prideaux Street.*
- Recommendation: That Council direct the Corporate Officer to file a Bylaw

Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 405 Prideaux Street for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”.

- g. Bylaw Contravention Notice - Construction Started Without a Building Permit - 5607 Big Bear Ridge 21 - 22

To be introduced by Darcy Fox, Manager, Building Inspections.

Purpose: To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 5607 Big Bear Ridge.

Recommendation: That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 5607 Big Bear Ridge for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”.

- h. Bylaw Contravention Notice - Construction Started Without a Building Permit - 6415 Invermere Road 23 - 24

To be introduced by Darcy Fox, Manager, Building Inspections.

Purpose: To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 6415 Invermere Road.

Recommendation: That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 6415 Invermere Road for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”.

- i. Bylaw Contravention Notice – Construction Started Without a Building Permit – 3860 Norwell Drive 25 - 26

To be introduced by Darcy Fox, Manager, Building Inspections.

Purpose: To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 3860 Norwell Drive.

Recommendation: That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 3860 Norwell Drive for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”.

1. *Remove - Agenda Item 4(i) Bylaw Contravention Notice - Construction Started Without a Building Permit - 3860 Norwell Drive*

5. BYLAWS:

a. "Bylaw Notice Enforcement Amendment Bylaw 2024 No. 7159.21"

[Note: Bylaw to be provided on addendum should Council choose to provide three readings at the 2024-SEP-23 Regular Council Meeting.]

1. *Add - "Bylaw Notice Enforcement Amendment Bylaw 2024 No. 7159.21"*

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That "Bylaw Notice Enforcement Amendment Bylaw 2024 No. 7159.21" (to amend Schedules B and C – Registry Agreement to authorize the Cowichan Valley Regional District to participate in the City's Dispute Adjudication Registry System) be adopted.

6. **ADJOURNMENT:**

DATE OF MEETING SEPTEMBER 26, 2024

AUTHORED BY DAVID LABERGE, DIRECTOR PUBLIC SAFETY

SUBJECT 540 HALIBURTON STREET – REMEDIAL ACTION REQUIREMENT

OVERVIEW

Purpose of Report

To inform Council that the building at 540 Haliburton Street is dilapidated and hazardous, and to recommend that a Remedial Action Requirement be issued to have the building structure assessed and remediated or to demolish.

Recommendation

That Council:

1. Declare that the building at 540 Haliburton Street is unsafe and creates hazardous conditions and is so dilapidated as to be offensive to the community.
2. Impose remedial action requirements in relation to the provisions of sections 72, 73 and 74 of the Community Charter.
3. Direct the remedial action requirements to include:
 - a. The owner must retain a qualified structural engineer who does not have an interest in the property to conduct a thorough assessment of the building. The assessment should determine whether the building is safe to remain as is.
 - b. If the structural assessment reveals significant safety issues, the owner must:
 - i. Submit the findings to the City of Nanaimo Building Inspection Department for review, and,
 - ii. Submit a complete building permit application with all required documentation which includes a complete set of drawings which have been reviewed and approved by a structural engineer and a hazardous materials survey done by a registered environmental company in accordance with WorkSafeBC guidelines which details a scope of work to completely remediate all hazardous conditions and structural deficiencies, or,
 - iii. Obtain an approved permit and demolish the building.

- c. The structural assessment must be completed and submitted to the Building Inspection Department for review within 30 days from the date the remedial action requirement is imposed.
 - d. If the structural assessment reveals significant safety issues, a complete building permit or demolition permit application must be submitted within 60 days from the date the remedial action requirement is imposed.
 - e. The building or demolition permit must be picked up and paid within full within 14 days of issuance.
 - f. The scope of work set out in the building permit or building demolition must be completed within 90 days of the date the permit is issued.
4. Direct staff to advise the owner that they may request Council reconsider the Remedial Action Requirement by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent.
 5. Direct Staff or authorized agents to act in accordance with Section 17 of the Community Charter without further notice and at the owner's expense if the said remedial action is not undertaken within the timeline set out in the Council resolution.

BACKGROUND

The building at 540 Haliburton Street is the former Jolly Miner Hotel (also previously known as the Newport Bar and Grill). This is a two-storey structure that previously contained twenty (20) single-occupancy rooms upstairs, and a pub on the main. The pub ceased to operate in the 2010's after a significant flood caused by bursting pipes. It is now vacant, boarded and in dilapidated condition.

The property was designated as a nuisance on 2012-FEB-13. The Fire Department issued a Fire Order on 2013-OCT-30 and has attended 63 calls to this property. (45 medical aid, 2 burning complaints, 2 structure fires, 10 assistance, 2 alarms, 1 other fire, 1 motor vehicle incident) There was a structure fire on 2019-JUL-07, another fire on 2019-NOV-28, and evidence of other unreported fires around the building exterior. Deficient fire inspection reports were recorded in 2007, 2011, 2013, 2014, 2015, 2021 and 2023 to present.

The building was first inspected as vacant on 2017-JUN-20. Notice of bylaw contravention was registered on property title in December 2017 after it was determined that interior partition walls and plumbing had been moved without building permit or inspections in contravention of the Building Bylaw. The building condition has deteriorated over time and is a visual blight to the neighbourhood. It is frequently tagged with graffiti and vulnerable to intrusions and illegal occupancy by trespassers, which has raised the property for potential nuisance designation in the past.

Ownership of the building changed in August 2023, and the Fire Department issued a Fire Order requiring the remediation of fire hazards after it was determined that extensive demolition work was being undertaken in the interior without a permit. The Order required the re-securement of the building to prevent breaches and illegal trespass, to maintain perimeter security fencing and to contract regular security patrols. It further required a structural engineering report on the condition of the building.

The Building Department issued a 'Do Not Occupy' order on the building on 2024-FEB-23 citing concerns about the safety and structural integrity of the building and directed the owners to either hire a qualified structural engineer to conduct a thorough assessment of the building or to obtain a permit and demolish the building. The owners were informed that the matter would be forwarded to the bylaw department for enforcement if these requirements were not met by 2024-MAR-23.

The owners opted to demolish the building and a permit was issued 2024-APRIL-12 requiring that demolition was to commence within 30 days and be completed prior to 2024-JULY-15. No work was undertaken, and the permit expired. The owners were informed that City staff would recommend that Council impose a remedial action requirement to have the building demolished. They advised that it was their intention to renovate the building. It should be noted that the owners had applied to convert the building into residential apartments in November 2023 before the demolition permit was issued but canceled when they were advised that a development permit would be required.

There are no active applications for the property, and it is currently listed for sale. The building is showing significant deflection in the exterior walls, particularly on the south and east elevations directly adjacent to public sidewalks and is hazardous. Security fencing has been installed around the building which is encroaching on the sidewalk. Portions of the floor framing, exterior wall framing, demolition of interior partitions and removal of interior wall and ceiling finishes (without a permit) have all reduced the building's ability to resist lateral forces. |

DISCUSSION

| Pursuant to Section 72(1) of the *Community Charter*, Council may impose a remedial action requirement in relation to hazardous conditions. A remedial action requirement may require the owner to remove an unsafe structure, bring it up to a standard specified by bylaw, or otherwise deal with it in accordance with the direction of Council.

Council may also declare a building to be a nuisance and impose a remedial action requirement if it is considered so dilapidated or unclean as to be offensive to the community pursuant to Section 74 of the *Community Charter*. |

OPTIONS

- | 1. That Council
 1. Declare that the building is unsafe and creates hazardous conditions and is so dilapidated as to be offensive to the community.

2. Impose remedial action requirements in relation to the provisions of sections 72, 73 and 74 of the Community Charter.
 3. Direct the remedial action requirements to include:
 - a. The owner must retain a qualified structural engineer who does not have an interest in the property to conduct a thorough assessment of the building. The assessment should determine whether the building is safe to remain as is.
 - b. If the structural assessment reveals significant safety issues, the owner must:
 - i. Submit the findings to the City of Nanaimo Building Inspection Department for review, and,
 - ii. Submit a complete building permit application with all required documentation which includes a complete set of drawings which have been reviewed and approved by a structural engineer and a hazardous materials survey done by a registered environmental company in accordance with WorkSafeBC guidelines which details a scope of work to completely remediate all hazardous conditions and structural deficiencies, or,
 - iii. Obtain an approved permit and demolish the building.
 - c. The structural assessment must be completed and submitted to the Building Inspection Department for review within 30 days from the date the remedial action requirement is imposed.
 - d. If the structural assessment reveals significant safety issues, a complete building permit or demolition permit application must be submitted within 60 days from the date the remedial action requirement is imposed.
 - e. The building or demolition permit must be picked up and paid within full within 14 days of issuance.
 - f. The scope of work set out in the building permit or building demolition must be completed within 90 days of the date the permit is issued.
 4. Direct staff to advise the owner that they may request Council reconsider the Remedial Action Requirement by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent.
 5. Direct Staff or authorized agents to act in accordance with Section 17 of the Community Charter without further notice and at the owner's expense if the said remedial action is not undertaken within the timeline set out in the Council resolution.
2. That Council provide alternate direction. |

SUMMARY POINTS

- The building at 540 Haliburton Street has been vacant since 2017, is dilapidated and structurally unstable making it hazardous.
- A Do Not Occupy and Fire Order have been issued.
- A demolition permit was issued, but no work was completed. The property is now for sale.
- A remedial action requirement is recommended which would require that the building be structurally assessed and remediated or demolished.

Submitted by:

David LaBerge
Director, Public Safety

Concurrence by:

Darcy Fox
Manager, Building Inspections

Tim Doyle
Fire Chief

Richard Harding
General Manager, Community Services &
Deputy CAO

DATE OF MEETING SEPTEMBER 26, 2024
AUTHORED BY DAVID LABERGE, DIRECTOR PUBLIC SAFETY
SUBJECT **NUISANCE PROPERTY ABATEMENT – 454 WATFIELD AVENUE**

OVERVIEW

Purpose of Report

To inform Council of ongoing activities at 454 Watfield Avenue which substantially and unreasonably interfere with other persons' use and enjoyment of property resulting in repeated calls for bylaw, animal control and police services to abate nuisances.

Recommendation

That Council declare 454 Watfield Avenue a "Nuisance" pursuant to *Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250* and to authorize Staff to record and charge for municipal services including policing required to abate nuisance activity.

BACKGROUND

Nanaimo RCMP advise that twenty eight (28) calls for police service have been associated to the property at 454 Watfield Avenue since 2022-JUL-01, seven of which were nuisance-related. The details of these calls are egregious, with repeated incidents of large parties, intoxication, weapons and fighting resulting in arrests, injuries and substantial disruption to the neighbourhood.

The Bylaw department started receiving multiple complaints in August, 2020 from neighbours reporting that 454 Watfield Avenue had been a nuisance for more than a year with late night parties, music, fighting and people living in RV's parked on the property. Numerous contraventions of Property Maintenance and Standards Bylaw 2017 No. 7242 were found on the property including numerous derelict vehicles, discarded mattresses, garbage and graffiti. The residents ordered city staff to leave the property when inspections were conducted, and violently assaulted a bylaw officer resulting in injury and arrests. Recurring complaints regarding derelict vehicles, graffiti, accumulations of garbage, vermin, noise and persons living in RV's have been continuous in recent years.

The City Animal Control Contractor has attended to this property sixteen (16) times since 2020, with eleven (11) calls for dogs running at large, three (3) unlicensed dogs and complaints of barking, failing to remove excrement and aggressive dogs.

City Staff and contractors have protocols to have additional personnel when attending calls because the residents are aggressive and violent.

OPTIONS

1. That Council declare 454 Watfield Avenue a “Nuisance” pursuant to *Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250* and to authorize Staff to record and charge for municipal services including policing required to abate nuisance activity.

2. That Council provide alternate direction. |

SUMMARY POINTS

- The RCMP, Bylaw Department and Animal Control Service receive frequent complaints about nuisance activities at 454 Watfield Avenue.
- The peace and enjoyment of the neighbourhood is frequently disrupted by parties, fights, loud music and disturbances from persons living in the residence and in RV’s parked on the property.
- The residents are violent and aggressive and pose a hazard to City Staff.
- Nuisance property designation is recommended.

Submitted by:

David LaBerge
Director, Public Safety |

Concurrence by:

Richard Harding
General Manager, Development Services &
Deputy CAO |

DATE OF MEETING September 26, 2024

AUTHORED BY DARCY FOX, MANAGER, BUILDING INSPECTIONS

SUBJECT BYLAW CONTRAVENTION NOTICE – CONSTRUCTION NOT COMPLETED AS PER CONDITIONS OF BUILDING PERMIT – 4470 BURMA ROAD

OVERVIEW

Purpose of Report

To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 4470 Burma Road.

Recommendation

That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 4470 Burma Road for construction not completed as per the conditions of the building permit.

BACKGROUND

All building permits issued by the City of Nanaimo are required to complete the terms and conditions outlined in each permit as regulated in the “Building Bylaw 2016 No. 7224” and enforced by the Building Inspections section.

When conditions of a building permit are not met, and deficiencies are still in place, a report is brought forward for a resolution of Council to file a Bylaw Contravention Notice on the property title under Section 57 of the *Community Charter*. The purpose of registering a Bylaw Contravention Notice on the title of the affected property is to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened. |

DISCUSSION

A building permit for reconstruction of a fire damaged single-family home and an addition of a new secondary suite was issued 2021-JUL-14. However, the permit has now expired with deficiencies remaining outstanding in contravention of the Building Bylaw. Correspondence was forwarded to the owner advising of the expiring permit and providing opportunity to rectify the outstanding deficiencies, but to date, the deficiencies have not been resolved.

Pursuant to Section 57 of the *Community Charter*, it is recommended that a notice be registered on the above-noted property title to reflect the work undertaken that does not meet the terms and conditions of the issued permits in contravention of “Building Bylaw 2016 No. 7224.”

Further to the registration of this notice, the matter will be forwarded to Bylaw Services for enforcement action to address safety issues.

SUMMARY POINTS

- Construction was not completed as per the conditions of the permit.
- The deadline to renew the permit has passed.
- Registration of a Bylaw Contravention Notice is required on the title of the affected property to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.
- Further to the registration of the notice, this matter will be referred to Bylaw Services for further enforcement.

Submitted by:

Darcy Fox
Manager, Building Inspections

Concurrence by:

Jeremy Holm
Director, Planning & Development

DATE OF MEETING September 26, 2024

AUTHORED BY DARCY FOX, MANAGER, BUILDING INSPECTIONS

SUBJECT BYLAW CONTRAVENTION NOTICE – CONSTRUCTION NOT COMPLETED AS PER CONDITIONS OF BUILDING PERMIT – 477 WALLACE STREET

OVERVIEW

Purpose of Report

To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 477 Wallace Street.

Recommendation

That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 477 Wallace Street for construction not completed as per the conditions of the building permit.

BACKGROUND

All building permits issued by the City of Nanaimo are required to complete the terms and conditions outlined in each permit as regulated in the “Building Bylaw 2016 No. 7224” and enforced by the Building Inspections section.

When conditions of a building permit are not met, and deficiencies are still in place, a report is brought forward for a resolution of Council to file a Bylaw Contravention Notice on the property title under Section 57 of the *Community Charter*. The purpose of registering a Bylaw Contravention Notice on the title of the affected property is to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.]

DISCUSSION

A building permit for the building owner’s portion of a future tenant improvement on a Commercial Rental Unit (Unit B) was issued 2016-FEB-15. Staff have been working with the property owner since 2018 to conclude the permit, however, the permit has expired with deficiencies remaining outstanding in contravention of the Building Bylaw. A follow-up inspection on 2024-MAR-20 revealed that the onsite scope of work has changed without the required revision to the building permit. Additional walls and plumbing fixtures have been installed without inspection. Correspondence was forwarded to the owner on several occasions advising of the expiring permit and providing opportunity to rectify the outstanding deficiencies, but to date, the deficiencies have not been resolved.

Pursuant to Section 57 of the *Community Charter*, it is recommended that a notice be registered on the above-noted property title to reflect the work undertaken that does not meet the terms and conditions of the issued permits in contravention of “Building Bylaw 2016 No. 7224.”

Further to the registration of this notice, the matter will be forwarded to Bylaw Services for enforcement action to address safety issues.

SUMMARY POINTS

- Construction was not completed as per the conditions of the permit.
- The deadline to renew the permit has passed.
- Registration of a Bylaw Contravention Notice is required on the title of the affected property to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.
- Further to the registration of the notice, this matter will be referred to Bylaw Services for further enforcement.

Submitted by:

Darcy Fox
Manager, Building Inspections

Concurrence by:

Jeremy Holm
Director, Planning & Development

DATE OF MEETING | September 26, 2024 |

AUTHORED BY | DARCY FOX, MANAGER, BUILDING INSPECTIONS |

SUBJECT | BYLAW CONTRAVENTION NOTICE - CONSTRUCTION STARTED WITHOUT A BUILDING PERMIT – 1013 BRUCE AVENUE |

OVERVIEW

Purpose of Report

To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 1013 Bruce Avenue. |

Recommendation

That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 1013 Bruce Avenue for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. |

BACKGROUND

Building regulations for the City of Nanaimo are outlined in the “Building Bylaw 2016 No. 7224” and are enforced by the Building Inspections section and where necessary, Bylaw Services.

Where construction has been undertaken without a building permit, and in violation of the Building Bylaw, a report is brought forward for a resolution of Council to file a Bylaw Contravention Notice on the property title under Section 57 of the *Community Charter*. The purpose of registering a Bylaw Contravention Notice on the title of the affected property is to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened. |

DISCUSSION

An inspection was completed on 2024-MAY-16 in response to a complaint received regarding illegal construction. The inspection confirmed that work was underway to construct an accessory building without a building permit. A Stop Work Order was posted on the jobsite and correspondence was forwarded to the owner advising that full deconstruction and removal was required. The deadline for removal was 2024-JUN-27. To date, the structure is still standing and no permit application has been received.

Pursuant to Section 57 of the *Community Charter*, it is recommended a notice be registered on the property title to reflect the work completed without a permit or inspections in contravention of “Building Bylaw 2016 No 7224”.

Further to the registration of this notice, this matter will be referred to Bylaw Services for removal enforcement. |

SUMMARY POINTS

- Construction requiring a building permit was undertaken without first obtaining a permit.
- The deadline to remove the accessory building has passed.
- Registration of a Bylaw Contravention Notice is required on the title of the affected property to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.
- Further to the registration of the notice, this matter will be referred to Bylaw Services for further enforcement.

Submitted by:

Darcy Fox
Manager, Building Inspections

Concurrence by:

Jeremy Holm
Director, Planning & Development

DATE OF MEETING | September 26, 2024 |

AUTHORED BY | DARCY FOX, MANAGER, BUILDING INSPECTIONS |

SUBJECT | BYLAW CONTRAVENTION NOTICE - CONSTRUCTION STARTED WITHOUT A BUILDING PERMIT – 405 PRIDEAUX STREET |

OVERVIEW

Purpose of Report

To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 405 Prideaux Street. |

Recommendation

That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 405 Prideaux Street for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. |

BACKGROUND

Building regulations for the City of Nanaimo are outlined in the “Building Bylaw 2016 No. 7224” and are enforced by the Building Inspections section and where necessary, Bylaw Services.

Where construction has been undertaken without a building permit, and in violation of the Building Bylaw, a report is brought forward for a resolution of Council to file a Bylaw Contravention Notice on the property title under Section 57 of the *Community Charter*. The purpose of registering a Bylaw Contravention Notice on the title of the affected property is to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened. |

DISCUSSION

An inspection was completed on 2024-JUN-12 in response to a complaint received regarding illegal construction. The inspection confirmed that reconstruction of the front entry stairs and rear porch and stairs was underway without a building permit. A Stop Work Order was posted on the jobsite and correspondence was forwarded to the owner advising that a building permit was required for the work. The deadline for a building permit application was 2024-AUG-19. To date, a building permit application has not been received.

Pursuant to Section 57 of the *Community Charter*, it is recommended a notice be registered on the property title to reflect the work completed without a permit or inspections in contravention of “Building Bylaw 2016 No 7224”.

Further to the registration of this notice, the matter will be forwarded to Bylaw Services for enforcement action to address safety issues.

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SUMMARY POINTS

- Construction requiring a building permit was undertaken without first obtaining a permit.
- The deadline to submit a building permit application has passed.
- Registration of a Bylaw Contravention Notice is required on the title of the affected property to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.
- Further to the registration of the notice, this matter will be referred to Bylaw Services for further enforcement.

Submitted by:

Darcy Fox
Manager, Building Inspections

Concurrence by:

Jeremy Holm
Director, Planning & Development

DATE OF MEETING | September 26, 2024 |

AUTHORED BY | DARCY FOX, MANAGER, BUILDING INSPECTIONS |

SUBJECT | BYLAW CONTRAVENTION NOTICE - CONSTRUCTION STARTED WITHOUT A BUILDING PERMIT – 5607 BIG BEAR RIDGE |

OVERVIEW

Purpose of Report

To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 5607 Big Bear Ridge. |

Recommendation

That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 5607 Big Bear Ridge for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. |

BACKGROUND

Building regulations for the City of Nanaimo are outlined in the “Building Bylaw 2016 No. 7224” and are enforced by the Building Inspections section and where necessary, Bylaw Services.

Where construction has been undertaken without a building permit, and in violation of the Building Bylaw, a report is brought forward for a resolution of Council to file a Bylaw Contravention Notice on the property title under Section 57 of the *Community Charter*. The purpose of registering a Bylaw Contravention Notice on the title of the affected property is to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened. |

DISCUSSION

An inspection was completed on 2024-MAR-27 in response to a complaint received regarding illegal construction. The inspection confirmed the construction of two connected sheds were underway. As the structures in their configuration were not permitted under the City of Nanaimo Zoning Bylaw, a deadline of 2024-MAY-22 was given for the structures to be removed or altered for compliance. An inspection 2024-MAY-22 confirmed that the structures are unchanged with the exception of the removal of the portion of the roof that connected them, and they are slightly farther apart. The location and height of the structures however are still in conflict with the Zoning Bylaw.

Pursuant to Section 57 of the *Community Charter*, it is recommended a notice be registered on the property title to reflect the work completed without a permit or inspections in contravention of “Building Bylaw 2016 No 7224”.

This matter will be forwarded to Bylaw Services for enforcement of Zoning Bylaw compliance. |

SUMMARY POINTS

- Construction requiring a building permit was undertaken without first obtaining a permit.
- The deadline to submit a building permit application or alter/remove the structures has passed.
- Registration of a Bylaw Contravention Notice is required on the title of the affected property to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.
- Further to the registration of the notice, this matter will be referred to Bylaw Services for further enforcement of Zoning Bylaw compliance.

Submitted by:

Darcy Fox
Manager, Building Inspections

Concurrence by:

Jeremy Holm
Director, Planning & Development

DATE OF MEETING | September 26, 2024 |

AUTHORED BY | DARCY FOX, MANAGER, BUILDING INSPECTIONS |

SUBJECT | BYLAW CONTRAVENTION NOTICE - CONSTRUCTION STARTED WITHOUT A BUILDING PERMIT – 6415 INVERMERE ROAD |

OVERVIEW

Purpose of Report

To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 6415 Invermere Road. |

Recommendation

That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 6415 Invermere Road for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. |

BACKGROUND

Building regulations for the City of Nanaimo are outlined in the “Building Bylaw 2016 No. 7224” and are enforced by the Building Inspections section and where necessary, Bylaw Services.

Where construction has been undertaken without a building permit, and in violation of the Building Bylaw, a report is brought forward for a resolution of Council to file a Bylaw Contravention Notice on the property title under Section 57 of the *Community Charter*. The purpose of registering a Bylaw Contravention Notice on the title of the affected property is to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened. |

DISCUSSION

An inspection was completed on 2023-APR-12 in response to a complaint received regarding illegal construction. The inspection confirmed that an accessory building had been constructed over a shipping container on the steep slope portion of the property. A Stop Work Order was posted on the jobsite and correspondence was forwarded to the owner. The construction is located within Development Permit Area 6: Steep Slope Development and has a covenant on title restricting construction on a portion of the lot. As the accessory building is not permitted in this portion of the lot, a deadline of 2023-SEP-12 was given to remove the structure. An inspection 2023-SEP-12 confirmed that the structure was still in place.

Pursuant to Section 57 of the *Community Charter*, it is recommended a notice be registered on the property title to reflect the work completed without a permit or inspections in contravention of “Building Bylaw 2016 No 7224”.

This matter will be referred to Bylaw Services for further enforcement. |

SUMMARY POINTS

- Construction requiring a building permit was undertaken without first obtaining a permit.
- The construction is located within Development Permit Area 6: Steep Slope Development and has a covenant on title restricting construction on a portion of the lot.
- The deadline to remove the structure has passed.
- Registration of a Bylaw Contravention Notice is required on the title of the affected property to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.
- Further to the registration of the notice, this matter will be referred to Bylaw Services for further enforcement.

Submitted by:

Darcy Fox
Manager, Building Inspections

Concurrence by:

Jeremy Holm
Director, Planning & Development

DATE OF MEETING | September 26, 2024 |

AUTHORED BY | DARCY FOX, MANAGER, BUILDING INSPECTIONS |

SUBJECT | BYLAW CONTRAVENTION NOTICE - CONSTRUCTION STARTED WITHOUT A BUILDING PERMIT – 3860 NORWELL DRIVE |

OVERVIEW

Purpose of Report

To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 3860 Norwell Drive. |

Recommendation

That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 3860 Norwell Drive for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. |

BACKGROUND

Building regulations for the City of Nanaimo are outlined in the “Building Bylaw 2016 No. 7224” and are enforced by the Building Inspections section and where necessary, Bylaw Services.

Where construction has been undertaken without a building permit, and in violation of the Building Bylaw, a report is brought forward for a resolution of Council to file a Bylaw Contravention Notice on the property title under Section 57 of the *Community Charter*. The purpose of registering a Bylaw Contravention Notice on the title of the affected property is to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened. |

DISCUSSION

An inspection was completed on 2024-MAY-29 in response to a complaint received regarding illegal construction. The inspection confirmed that construction was underway for an accessory building and adjoining deck without a building permit. The construction is within the 15m setback from the wetland boundary of Long Lake and is in contravention of the Zoning Bylaw (including Development Permit Area 1). A Stop Work Order was posted on the jobsite and correspondence was forwarded to the owner advising that complete deconstruction and removal was required by 2024-AUG-08. An inspector returned to the site on 2024-AUG-08 and confirmed no changes have taken place.

Pursuant to Section 57 of the *Community Charter*, it is recommended a notice be registered on the property title to reflect the work completed without a permit or inspections in contravention of “Building Bylaw 2016 No 7224”.

As the construction is within the setbacks and is in contravention of the Zoning Bylaw, this matter will be forwarded to Bylaw Services for enforcement action. |

SUMMARY POINTS

- Construction requiring a building permit was undertaken without first obtaining a permit.
- The construction is within the 15m setback from the wetland boundary of Long Lake and is in contravention of the Zoning Bylaw (including Development Permit Area 1).
- The deadline to remove the construction has passed.
- Registration of a Bylaw Contravention Notice is required on the title of the affected property to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.
- Further to the registration of the notice, this matter will be referred to Bylaw Services for further enforcement.

Submitted by:

Darcy Fox
Manager, Building Inspections

Concurrence by:

Jeremy Holm
Director, Planning & Development

CITY OF NANAIMO

BYLAW NO. 7159.21

A BYLAW TO AMEND THE CITY OF NANAIMO “BYLAW NOTICE ENFORCEMENT
BYLAW 2012 NO. 7159”

That Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS
FOLLOWS:

1. Title

This Bylaw may be cited as “BYLAW NOTICE ENFORCEMENT AMENDMENT BYLAW
2024 NO. 7159.21”

2. Amendments

“BYLAW NOTICE ENFORCEMENT BYLAW 2012 NO. 7159” is hereby amended as
follows:

- 2.1 By deleting Schedules “B” and “C” in their entirety and replacing them with
Schedules “B” and “C” attached to and forming part of this Bylaw.

PASSED FIRST READING: 2024-SEP-23
PASSED SECOND READING: 2024-SEP-23
PASSED THIRD READING: 2024-SEP-23
ADOPTED: _____

MAYOR

CORPORATE OFFICER

SCHEDULE “B”

NANAIMO BYLAW NOTICE DISPUTE ADJUDICATION

REGISTRY AGREEMENT

This Agreement dated _____ day of _____, 2024 (the “Agreement”).

BETWEEN:

CITY OF NANAIMO, 455 Wallace Street, Nanaimo, BC V9R 5J6

(“Nanaimo”)

AND:

CITY OF DUNCAN, 200 Craig Street, Duncan, BC V9L 1W3

(“Duncan”)

AND:

CITY OF PARKSVILLE, Box 1390, 100 Jensen Avenue East, Parksville, BC V9P 2H3

(“Parksville”)

AND:

DISTRICT OF TOFINO, PO Box 9, 121 – 3rd Street, Tofino, BC V0R 2Z0

(“Tofino”)

AND:

THE VILLAGE OF PORT CLEMENTS, PO Box 198, 36 Cedar Avenue West, Port Clements, BC V0T 1R0

(“Port Clements”)

AND:

THE REGIONAL DISTRICT OF NANAIMO, 6300 Hammond Bay Road, Nanaimo, BC V9T 6N2

("Regional District of Nanaimo")

AND:

THE REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT, 3008 Fifth Avenue, Port Alberni, BC V9Y 2E3

("Regional District of Alberni-Clayoquot")

AND:

THE CITY OF PORT ALBERNI, 4850 Argyle Street, Port Alberni, BC V9Y 1V8

("Port Alberni")

AND:

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN, 7030 Trans Canada Highway, Box 278, Duncan, BC V9L 3X4

("North Cowichan")

AND:

THE COWICHAN VALLEY REGIONAL DISTRICT, 175 Ingram Street, Duncan, BC V9L 1N8

("CVRD")

ADDITIONAL LOCAL GOVERNMENTS (to be included in Schedule A, without further modification of this Agreement)

(the "Parties")

WHEREAS:

1. The *Local Government Bylaw Notice Enforcement Act* (the "Act") provides that a local government may, by bylaw, deal with a bylaw contravention by Bylaw Notice in accordance with the *Act*;
2. The *Act* also provides that two or more local governments may enter into an agreement adopted, by bylaw, by each local government that is party to it;
3. The Parties wish to:
 - (a) Share the costs of a bylaw notice Dispute Adjudication Registry System ("DARS");
and

(b) Enter an agreement to establish DARS, and to provide for the sharing of costs.

NOW THEREFORE in consideration of the mutual promises contained herein, the Parties agree as follows:

INTRODUCTORY PROVISIONS

1. Definitions

1.1 In this Agreement, the following definitions apply:

“Act”	Means the <i>Local Government Bylaw Enforcement Act</i> .
“Adjudication Fee”	Means the sum of \$25.00 payable to the applicable Party should the disputant be unsuccessful in the dispute adjudication.
“Agreement”	Means this Agreement.
“Authorizing Bylaw”	Means a bylaw adopted by each Party for the purposes of section 2 of the <i>Act</i> (application of the <i>Act</i>).
“Bylaw Adjudication Clerk”	Means a person who facilitates a hearing and assists the adjudicator.
“Bylaw Notice”	Has the same meaning as in the <i>Act</i> .
“Consult”	Means to contact the Screening Officer via telephone, email, regular mail, or in-person for the purpose of obtaining information.
“Disputant”	Has the same meaning as in the Regulation.
“Dispute Adjudication Registry System” or “DARS”	Means a system established in accordance with the <i>Act</i> that provides for the hearing and determination of disputes in respect of whether: a) a contravention in a Bylaw Notice occurred as alleged; or b) the terms and conditions of a compliance agreement were observed or performed.
“Host Municipality”	Means the City of Nanaimo.
“Parties”	Means all of Nanaimo, Duncan, Parksville, Tofino, Port Clements or any additional local governments that may be added later in Schedule A
“Party”	Means any one of Nanaimo, Duncan, Parksville, Tofino, Port Clements or any additional local governments that may be added later in Schedule A
“Regulation”	Means the Bylaw Notice Enforcement Regulation.
“Roster Organization”	Has the same meaning as the Regulation.
“Screening Officer”	Has the same meaning as in the <i>Act</i> .
“Terms”	Means the terms of this Agreement as set out herein.

2. Establishment of DARS

2.1 Subject to the *Act* and to the adoption of the Authorizing Bylaws, the Parties agree that DARS is hereby established.

ADJUDICATION

3. Screening Officer

3.1 The Parties agree that where a Screening Officer position has been established by a Party in accordance with the *Act*, a Bylaw Notice must be reviewed by that

Screening Officer in that local government before a dispute adjudication may be scheduled. If a Disputant Consults a Screening Officer of the Host Municipality, a fee will be assessed under Schedule B.

4. Dispute Adjudication Registry System

- 4.1 The Parties agree that a DARS will be established as a function to manage disputes heard by an adjudicator who is selected by a Roster Organization in accordance with the Regulation.
- 4.2 The Parties agree that Nanaimo will enter into a contract with a designated Roster Organization for the purpose of providing dispute adjudication services to DARS.

DARS OPERATIONS

5. Location

- 5.1 DARS will be located in the Service and Resource Center, City of Nanaimo, 411 Dunsmuir Street, Nanaimo, BC V9R 5J6

6. Services Provided

- 6.1 Nanaimo will provide all administrative services required by DARS, including:
 - (a) providing the venue and facilities to hear dispute adjudications in accordance with the *Act*;
 - (b) submitting requests to the Roster Organization for the assignment of an adjudicator;
 - (c) providing a Bylaw Adjudication Clerk on each hearing date to facilitate and support the hearing and the adjudicator;
 - (d) providing venue security;
 - (e) providing for the collection of Adjudication Fees and any penalties payable to a Party for a bylaw contravention;
 - (f) obtaining legal advice and services to ensure this DARS is operating pursuant to the *Act*.
 - (g) Issuing cheques to the applicable Party for penalty amounts collected with the Bylaw Notice number(s); and
 - (h) Issuing invoices to the applicable Party in accordance with Schedule B.
- 6.2 Despite section 6.1(e), the collection of penalties will be the responsibility of the applicable Party if not collected by DARS immediately following the adjudication.

7. Payments and Disbursements

- 7.1 The Parties agree to pay the City of Nanaimo proportionate costs of the fees charged by the Roster Organization. Amounts owing are to be calculated based

on the Fee Schedule at Schedule B and in accordance with the Municipality Rate Schedule at Schedule C.

- 7.2 Nanaimo will issue an invoice to the applicable Party within 30 days of the service being rendered. Amounts owing are due and payable within 30 days of receipt of the invoice.
- 7.3 For certainty, the Parties agree that hearing costs relating to witnesses, screening officers, bylaw enforcement officers or prosecuting lawyers will be borne by the Party that issued the Bylaw Notice and not by DARS.

GENERAL PROVISIONS

8. Amendments

- 8.1 The Parties may, in good faith, negotiate amendments to this Agreement upon request of any Party. All amendments will be in writing, approved by a two-thirds majority of the Parties by response letter only and listed as an itemized Amendment as Schedule D.

9. Dispute Resolution

- 9.1 If a dispute arises under this Agreement and is not resolved by the Parties within 60 days, it will be settled by final and binding arbitration conducted under the *Commercial Arbitration Act of British Columbia*.

10. Term

- 10.1 This Agreement comes into effect upon adoption of the authorizing bylaws and continues in effect until December 31, 2025. With the consent of a two-thirds majority of the Parties, the effect of this agreement can be extended until a new agreement is in place or until December 31st, 2026, whichever comes first. Any Party may withdraw from this Agreement upon 30 days' written notice to the other Parties.

11. Execution of Agreement

- 11.1 This Agreement may be executed in counterparts through original copies, facsimile copies, or by email PDF copies. Each counterpart will be deemed to be an original that, together with the other counterparts, constitutes one agreement having the same effect as if the Parties had signed the same document.

IN WITNESS WHEREOF all Parties have executed this Agreement on the date first above written.

THE CITY OF Nanaimo

Mayor

Corporate Officer

THE CITY OF Parksville

Mayor

Corporate Officer

THE REGIONAL DISTRICT OF Nanaimo

Chair

Corporate Officer

THE CITY OF Port Alberni

Chair

Corporate Officer

THE City of Duncan

Mayor

Corporate Officer

THE DISTRICT OF Tofino

Mayor

Corporate Officer

THE VILLAGE OF Port Clements

Mayor

Corporate Officer

**THE REGIONAL DISTRICT OF ALBERNI
CLAYOQUOT**

Chair

Corporate Officer

THE DISTRICT OF North Cowichan

THE COWICHAN VALLEY REGIONAL DISTRICT

Chair

Chair

Corporate Officer

Corporate Officer

(FEES)

DARS will operate under the following cost recovery fees:

SUBJECT

FEE

Hearing	\$25.00 per bylaw notice dispute resulting in a hearing
Screening Officer from Host Municipality	\$25.00 per bylaw notice Consult if Disputant contacts Screening Officer from Host Municipality
Adjudicator Cost	Apportioned amongst attending Parties at scheduled hearing proportionate to use as determined by the Screening Officer
Security	\$25.00 per bylaw notice hearing per attending Party
Maintenance and Hospitality	\$15.00 per bylaw notice hearing per attending Party
½ Day Hearings	\$400.00 charged in addition to Adjudicator Cost where a single dispute on a bylaw notice hearing ranges between 1-3 hours
Full Day Hearings	\$800.00 charged in addition to Adjudicator Cost where a single dispute on a bylaw notice hearing exceeds 3 hours
Annual Membership Fee—Fee Level 1	\$100.00
Annual Membership Fee—Fee Level 2	\$200.00
Annual Membership Fee—Fee Level 3	\$300.00

(ADDITIONAL LOCAL GOVERNMENTS)

The following local governments have been added as parties to this Agreement as additional local governments:

Local Government	Date Joined	Fee Level
Cowichan Valley Regional District		3

SCHEDULE C (MUNICIPALITY RATES)

This is the rate schedule for the following parties:

LEVEL	MUNICIPALITIES
Level 1	Village of Port Clements
Level 2	City of Duncan City of Parksville District of Tofino City of Port Alberni Regional District of Alberni Clayoquot
Level 3	Corporation of the District of North Cowichan City of Nanaimo Regional District of Nanaimo Cowichan Valley Regional District