

DATE OF MEETING MARCH 21, 2022

AUTHORED BY DAVID LABERGE, MANAGER, BYLAW SERVICES

**SUBJECT ILLEGAL STRUCTURE, SHIPPING CONTAINER, HOME BASED BUSINESS REGULATIONS CONTRAVENTION – 6630 VALLEY VIEW DRIVE**

## **OVERVIEW**

### **Purpose of Report**

To obtain Council authorization to enforce the provisions of the Community Charter related to contraventions of Zoning Bylaw 4500. |

### **Recommendation**

That Council:

1. issue a Remedial Action Order for bylaw contraventions at 6630 Valley View Drive pursuant to Sections 72, 73 and 74 of the *Community Charter*;
2. direct Staff or its authorized agents to take action 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 30 days of Council's resolution; and,
3. direct that the remedial action consist of removing unpermitted structures and shipping containers.

## **BACKGROUND**

A home-based automotive repair business is operated on the property at 6630 Valley View Drive, which is zoned R1 Single Dwelling Residential. The City of Nanaimo has received complaints that the business is operated from a make-shift accessory building which is comprised of a metal and fabric roof constructed between two metal shipping containers ('Sea Cans') open to the front, and enclosed by a wood frame wall to the rear. The building has a concrete slab floor with a vehicle hoist installed for use for vehicle repairs. The business creates considerable noise and vehicle traffic which disturbs the peace and enjoyment of the neighbourhood.

A building inspector attended to the property on 2021-OCT-06 and issued a 'Stop Work' Order on the structure, as it had been constructed without a building permit and did not meet British Columbia Building Code requirements.

A bylaw officer spoke to the property owner on 2021-OCT-07, and directed the removal of the unlawful structure and one of the two shipping containers. (There was an active building permit on the property for an unrelated structure, and one shipping container was permitted during the period of construction). The owner gave assurances that the items would be removed.

A letter was sent to the owners on 2021-OCT-15 confirming the requirement that one of the two shipping containers be removed.

A follow-up inspection was conducted on 2021-NOV-09 and both containers were still in place. A bylaw offence notice was issued on 2021-NOV-30 for exceeding the number of permitted containers.

Further complaints were received from the community that the automotive repair business was generating excessive noise as work was not being completed in an enclosed building as required by zoning regulations, as well as complaints of excessive vehicle traffic.

On 2021-DEC-02, the Business Licensing department notified the property owners by letter that all vehicles under repair must be wholly contained within a permanent structure and not stored outside of a building in accordance with s. 6.20 of the Home Based Business Regulations (Zoning Bylaw). This letter was hand-delivered to the owners.

The property was inspected again on 2022-JAN-19 and it was observed that the rear wooden wall had been removed from the structure, but the shipping containers and roof span were still present, and the automotive repair business was still operating.

## **DISCUSSION**

There are multiple owners of the property at 6630 Valley View Drive, and at least one of these owners has an interest in the adjacent property at 6626 Valley View Drive. The City is currently investigating unrelated disturbance and zoning complaints at the adjacent property. The cumulative activities between these properties is substantially disrupting the peace and enjoyment of the neighbourhood.

The specific bylaw contraventions occurring at 6630 Valley View Drive include:

- Exceeding permitted number of shipping containers: 6.2.1.6 Zoning Bylaw No. 4500.
- Occupy / use structure without occupancy permit: 6.2 Building Bylaw 2016 No. 7224.
- Vehicle and equipment not contained in building: 6.20.7 Zoning Bylaw No. 4500.
- Construct without permit: 6.1 Building Bylaw 2016 No. 7224.
- Fail to comply with licence terms and conditions: 3.3 Business Licence Bylaw 2021 No 7318.

Council may impose a remedial action requirement in relation to a building or other structure if it creates an unsafe condition or contravenes Provincial building regulations or a building bylaw.

The property owners have been informed and aware of the zoning and bylaw contraventions and have not removed the illegal structure or shipping container, and continue to operate an automotive repair business in an open structure contrary to Home Based Business Regulations.

Further to any remedial action that Council may authorize, the City Licence Inspector, in accordance with Section 11.2 of the Business Licence Bylaw, has the authority to suspend or cancel a business licence for reasonable cause including, but not limited to, failure to comply with a term or condition of a business licence or failure to comply with any other City bylaw. It is under this authority that the business licence for the business operating as *Ray's Garage* will be suspended until such time that the business complies to the Home Based Business Regulations, particularly in relation to being wholly contained within a permanent structure.

As per Section 11.3, the Licence Inspector will advise the business operator of the suspension as well as his right to appeal the Licence Inspector's decision and request Council's reconsideration at a meeting to be determined by the Corporate Officer.

The property owners are aware that these activities are substantially impacting the peace and enjoyment of the neighbourhood.

## **OPTIONS**

1. That Council:
  1. issue a Remedial Action Order for bylaw contraventions at 6630 Valley View Drive pursuant to Sections 72, 73 and 74 of the *Community Charter*;
  2. direct Staff or its authorized agents to take action 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 30 days of Council's resolution; and,
  3. direct that the remedial action consist of removing unpermitted structures and shipping containers.
    - The advantage of this option is that enforcement action is necessary to bring the property into compliance with zoning and building regulations, and to prevent activities which are disturbing the community.
    - Disadvantages: None identified.
    - Financial Implications: The property owner is liable for any expenses arising from a remedial action order.
2. That Council take no action.
3. That Council provide alternative direction.

## **SUMMARY POINTS**

- A home-based automotive repair business is operating out of an illegal makeshift open structure at 6630 Valley View Drive.
- The structure was constructed without a permit and cannot be made legal.
- The number of shipping containers stored on the property exceed Zoning regulations.
- Home Based Business Regulations require the business to operate within a wholly contained permanent building.
- Activities on the property are substantially interfering with the peace and enjoyment of the neighbourhood.

**ATTACHMENTS:**

ATTACHMENT A: Photographs of structure. |

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**Concurrence by:**

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