

DATE OF MEETING OCTOBER 7, 2024
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SUBJECT VACANT BUILDINGS

OVERVIEW

Purpose of Report:

At the 17-JUN-2024 Regular Meeting, Council directed staff to provide a report regarding options for regulating vacant properties.

BACKGROUND

In a delegation before Council, the Newcastle Neighbourhood Association reported that derelict and poorly maintained vacant buildings in their neighbourhood negatively impact nearby residents and businesses. These properties are unused, visual blights and potential fire hazards that can influence perceptions of safety, inhibit neighborhood development and decrease property values. The delegation requested that Council consider new bylaw regulations that would require owners to regularly attend to their properties and to take measures to mitigate nuisances, prevent hazards and prevent unauthorized entry.

DISCUSSION

Municipal Authority to Impose Requirements in Relation to Nuisances

Municipalities have broad authority under the Community Charter to enhance the well-being of the community by regulating, prohibiting and imposing requirements in relation to nuisances, disturbances and objectionable situations (s. 64).

City of Nanaimo Property Maintenance and Standards Bylaw 2017 No. 7242 addresses conditions that negatively impact community enjoyment and potential neighborhood property values by targeting undesirable aesthetic conditions caused by accumulations of rubbish, construction waste or water, noxious weeds or graffiti. These regulations are closely aligned with authority provided by the Community Charter in a balanced way that does not impose potentially subjective aesthetic conditions and maintenance standards to properties. The property maintenance bylaw does not address aesthetic conditions or standard of maintenance of buildings.

Section 17 of the Community Charter provide local governments express statutory authority to fulfill requirements at the expense of a [bylaw] defaulter. If a property owner fails to take the

required action to clean up an unsightly property for example, the municipality may undertake the work at the owner's expense. Cost recovery measures will cover expenses for contracted services, but do not include City staff time required to conduct inspections, correspond with owners and to organize and supervise clean ups.

Building Code

Councils may only regulate buildings and structures in accordance with s. 53 of the Community Charter, which includes matters of health, safety or protection of persons or property. If the intention of securing vacant buildings is to protect property and persons, a cautious approach must be taken. Generally, aging buildings are not subject to current building code requirements and the (provincial) Building Act imposes restrictions on municipal regulation over building activities (s. 5(3)). Any matters regarding Building Code compliance must be determined by inspectors who are qualified building officials. Building department inspectors are fully tasked with duties relating to new construction and development.

Fire Safety

Councils may authorize the Fire Chief, by bylaw, to enter and inspect properties for fire safety, to take measures to prevent fires (including demolition of buildings to prevent the spreading of fire), and to require an owner to undertake any actions to remove or reduce any condition that is a fire hazard (s. 66).

City of Nanaimo Fire Protection and Life Safety Regulation Bylaw 2011 No. 7108 establishes regulations for the protection of persons and property in accordance with s. 66. The bylaw imposes requirements to secure premises that have been damaged by fire, and vacant buildings by boarding up, fencing or hiring security personnel. Owners are required to comply with directions from the Fire Department to secure vacant properties that pose a fire hazard, and the City can take necessary action to secure vacant properties at the owner's expense.

Building Codes and Fire Codes are companion document which deal with building safety. The Building Code generally applies at the time of construction or renovation, and the Fire Code generally applies to fire safety measures when a building is occupied, which is why vacant building regulations are included in Fire Bylaws.

Protection of persons and property from fire hazards is the pith and substance of municipal authority to regulate vacant buildings. The Union of BC Municipalities (UBCM) has presented resolutions to the provincial government on three occasions (2007, 2012, 2016) requesting amendments to the Community Charter to impose additional requirements on owners of property concerning the aesthetic condition of vacant buildings. On each occasion, the provincial government has responded that sufficient tools are available to municipalities to address these issues noting that a measured approach should be taken when imposing potentially subjective aesthetic standards to private property.

Vacant Building Registries

Some municipalities have adopted bylaws to establish a Vacant Building Registry which is a list of buildings which have been vacant for a certain period, and sets out requirements and processes including registration, owner's responsibilities, ongoing inspection by municipal staff, and penalties.

Whereas building and fire bylaws focus more on safety from building code and fire perspectives, registries are a process for ongoing monitoring of vacant properties.

The City of Penticton Good Neighbour Bylaw 2012-5030 is an example of a vacant building registration bylaw intended to target buildings that are dilapidated, unsafe, improperly secured and nuisances. Owners are required to maintain \$2 million in liability insurance and obtain a Vacant Building Registration permit which must be renewed annually at a steadily escalating rate. The building must be boarded and secured and maintained in accordance with a set standard. If the owner does not comply with the requirements, Council may order demolition. The City may also take direct remediation action to clean up or fix non-compliant buildings.

Vacant Building Registries are useful to monitor the number and status of vacant buildings in the community with an intention to reduce urban blight, and to provide clear expectations for owners to properly secure and maintain their properties. It should be noted that these processes are reactive and do not prevent buildings from becoming vacant. They require considerable municipal resources (administrative, legal, finance, enforcement) to maintain the registry and to enforce the bylaw.

Abandoned Properties Bylaws

Some BC Municipalities have enacted Abandoned Properties Bylaws to regulate and impose requirements for safeguarding and securing abandoned and unoccupied buildings. These bylaws require owners to secure buildings against unauthorized entry or occupation and remove fire hazards by boarding up, fencing or employing security patrols.

The regulations set out in Nanaimo's Fire Protection and Life Safety Regulation Bylaw are very similar to Abandoned Properties Bylaws in other municipalities including Victoria, Kelowna and Surrey, but enforcement approaches vary. In the City of Victoria, the bylaw department enforces Abandoned Properties Bylaw No. 08-058. Buildings are deemed to be abandoned after thirty (30) days of no-occupancy. Bylaw officers conduct regular inspections and issue Municipal Ticket Information (MTI) if buildings are not properly secured, with fines of \$2,000 for a first offence, and \$3,000 for subsequent offences. MTI's processes are expensive and resource intensive as they are prosecuted in Provincial Court, and more difficult to serve non-local property owners.

Like Vacant Building Registries, Abandoned Properties Bylaws require ongoing and proactive resource-intensive inspections and follow-up by municipal staff.

Remedial Action Requirements – Community Charter

Council may impose a remedial action requirement (RAR) in relation to a building or structure if it is a hazardous condition (s. 73) or a nuisance (s. 74) if it is so dilapidated or unclean as to be

offensive to the community. An RAR may require the owner to demolish a building, to bring it up to a standard specified by bylaw, or to otherwise deal with it in accordance with Council direction.

It should be noted that RAR's are not a tool to enforce an existing bylaw (such as a property maintenance bylaw), rather it is a standalone process to create, by Council resolution, a custom-made requirement to address the circumstances of a specific property.

The advantage of RAR's is that they are flexible, consider the unique circumstances of each property and provide owners opportunity to seek reconsideration before Council. However, the RAR process takes time, must be procedurally precise and may require legal injunction to enforce.

Nuisance Abatement

City of Nanaimo Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250 prohibits the use land in a manner as to cause a nuisance and requires owners to abate activities which cause a nuisance.

If a property is designated by Council to be a 'nuisance property', the City will impose the costs of abating by the RCMP, Fire Department or other City Staff. The rate per attendance is \$250 in addition to the cost of any contracted services.

Vacant buildings have been designated as nuisances, which result in direct action taken by city staff to secure buildings, remove trespassers and clean up unsightly conditions. The nuisance abatement bylaw can be strategically utilized to make owners accountable for conditions and activities on their properties.

Requirement to Post Owner-Information on Property

The delegation to Council referred to bylaws in Ontario which require owners to post contact information on vacant properties to enable neighbours to contact them directly regarding property concerns.

No such requirement has been found in the bylaws of BC municipalities that regulate abandoned properties. Typically, residents will report bylaw contraventions to the municipality who will in turn contact the property owner to impose remedial requirements.

Vacant Building Requirements in other BC Municipalities					
Municipality	Bylaw	Definition	Requirement	Enforced by	Fees
Victoria	Abandoned Properties	Unoccupied for 30+ days	Secure against unauthorized entry, ongoing inspections	Bylaws, Building	Inspection fees
Surrey	Abandoned Properties	Unoccupied 30+ days in 45-day period	Secure against unauthorized entry	Fire, Building, Bylaws	Inspection fees
Kelowna	Fire Bylaw	Inhabited by squatters, services disconnected	Free of litter & combustible material, securement, fire systems operational	Fire	Cost recovery
Penticton	Good Neighbour	Unoccupied 45+ days in 60-day period	Liability insurance, maintenance standards, securement standards, vacant building registration, demolition if nuisance or hazard	Bylaws	Registration & inspection fees
Prince George	Property Maintenance	Not occupied or used for approved purpose	Secure against unauthorized entry	Bylaws	Admin charges to secure building
Vancouver	Fire Bylaw	Vacant and showing signs of disrepair	Secure against unauthorized entry, removal of combustible materials, natural gas supply to be disconnected	Fire	Fines for unsecure buildings
Abbotsford	Fire Bylaw	Not occupied & utilities disconnected	Secure against unauthorized entry, removal of fire hazards	Fire	Cost recovery
Chilliwack	Vacant Building	Unoccupied 60+ days	Secure against unauthorized entry, maintenance standards, liability insurance, vacant building permits, compliance orders	Fire, Building, Bylaws	Inspection fees & vacant building permit fees
Coquitlam	Fire Bylaw	Unoccupied for 30+ days, services disconnected	Secure against unauthorized entry	Fire	Cost recovery

CONCLUSION

Options for Council's Consideration

Option #1 – Maintain Existing Regulations

The Fire Protection and Life Safety Bylaw provides the Fire Department with broad authority to inspect vacant buildings, to impose requirements to secure premises that have been damaged by fire and vacant buildings, to maintain and protect properties from fire hazards, and to make specific orders to address fire hazards.

The Property Maintenance and Standards Bylaw addresses unsightly conditions on properties but does not impose aesthetic requirements on buildings and structures other than graffiti removal.

The Nuisance Abatement and Cost Recovery Bylaw can be utilized to impose costs to the property owner if police or City resources are required to abate nuisance activities which occur on abandoned properties. This may include nuisances arising from unauthorized occupancies in a vacant building.

Council may impose Remedial Action Requirements that are specific to the circumstances if a vacant building is hazardous or a nuisance.

These processes provide a flexible range of solutions that can be tailored appropriately to vacant properties that become problematic to the community without imposing resource-intensive registries and on-going inspections on all buildings that are unused.

Option #2 – Introduce a Vacant Building Registry Program

In addition to existing regulations established for vacant properties, additional requirements may be imposed to encourage occupancy, sale or demolition of vacant buildings. Such considerations would include:

- The requirement to register a vacant building.
 - Registration to include an annual fee which escalates.
 - Additional fees for inspection and re-inspection.
 - May require standards for maintenance and securement.
- Requirement to keep the property free from infestation.
- Requirement for property owners to inspect regularly (and to maintain records of inspections).

A Vacant Building Registry Program would require additional staff resources for implementation, registration and inspection functions. The regulations would be applicable to all vacant buildings regardless of whether there are undesirable impacts to area residents or businesses.

Option #3 – Strengthen Vacant Building Regulation

Fire Protection and Life Safety Regulation Bylaw No. 7108 requires a property owner to secure a vacant building or structure if directed by the Fire Department in circumstances where there is a fire hazard or is being used or occupied in a manner that poses a fire hazard.

Vacant and abandoned buildings could be further regulated, either within the Fire Bylaw or a separate Vacant Building Bylaw which may include:

- Definition of a Vacant Building (may include one or more of):
 - Has remained unoccupied for a continuous period of 30 days
 - Services have been intentionally disconnected
 - Demolition permit has been applied for
- Duties of Owner:
 - Securement against unauthorized entry or occupation, vandalism, intentional damage or fire hazard
 - Maintenance in compliance with minimum standards
 - Regular inspection

- Maintain liability insurance
- Obtaining a vacant building permit
- Maintain fire protection systems
- Inspections by the City:
 - Authority for City inspectors to enter land without notice and without consent of the owner to monitor a building that is boarded or appears to be vacant and abandoned to determine:
 - Whether the building is vacant and abandoned; and
 - Requires securement; and
 - Is following bylaw regulations.
- Permitting and Fees
 - Vacant building permit
 - Fee for inspections
 - Fee discounts if remediated or demolished within 6 months of permit issuance

Additional staff resources would be required for registration, inspection and enforcement, and the regulations would be applicable to all vacant buildings regardless of whether there are undesirable impacts to area residents or businesses.

SUMMARY POINTS

- Council has directed Staff to provide options to regulate vacant buildings
- Vacant buildings are currently regulated in the Fire Protection Bylaw. Property maintenance and nuisance abatement bylaws and remedial action requirements may also be applicable.
- Options include to maintain status quo, to introduce a vacant building registry program, or to strengthen vacant building regulation through amendments to the Fire Bylaw or a separate Vacant Building Bylaw.

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