



DISTRICT OF PORT HARDY BYLAW 09-2012

A Bylaw to Regulate Vacant Properties

GIVEN THAT the District of Port Hardy wishes to regulate and impose requirements for the safeguarding and security of abandoned or unoccupied properties;

The Council of the District of Port Hardy in open meeting assembled, ENACTS as follows:

1. Title

- 1.1 This bylaw may be cited as the "District of Port Hardy Vacant Property Bylaw 09-2012".

2. Definitions

- 2.1 In this bylaw:

Abandoned Property means a building, structure or improvement which has remained unoccupied by its owner, tenant or other lawful occupier for a continuous period of over thirty (30) days;

Inspector means the person designated to act on behalf of the District to administer the building and plumbing regulations and includes:

- a) the Municipal Inspector;
- b) a Bylaw Officer;
- c) an officer, employee or representative of the District who is appointed under this bylaw;
- d) a peace officer; and
- e) the local assistant to the Fire Commissioner.

Owner has the same meaning as defined in the *Community Charter*.

Property means all real property, including but not limited to buildings, structures and improvements located on real property.

Undeveloped Property means real property that does not have any buildings, structures or improvements located on it.

Unoccupied means that:

- a) a building, structure or improvement is no longer used by the owner, tenant or other lawful occupier thereof for its accustomed and ordinary purpose for more than thirty days; and
- b) there is no apparent intention on the part of the owner, tenant or other lawful occupier to resume occupancy of that building, structure or improvement.

3. Securing Abandoned Property

- 3.1 The owner of property that is or will become abandoned property must ensure that the property is secured against unauthorized entry or occupation, vandalism or other intentional damage or fire hazard by doing one or more of the following:
 - a) affixing structural barriers to windows and other points of ingress using materials and installation that are effective in precluding easy entry;
 - b) installing security fencing or other perimeter barriers;
 - c) installing a security lighting system which does not impact neighbouring properties;
 - d) installing a security alarm system;
 - e) employing security or guard patrols on a frequent and periodic basis;
 - f) utilizing or installing other security measures or devices that are satisfactory to the Inspector.
- 3.2 The owner of abandoned property that has been damaged because of unauthorized entry or occupation must:
 - a) make the repairs that are necessary as a result of the damage; and
 - b) install or take one or more of the security measures described in section 3.1 for the purpose of securing the property against further unauthorized entry, occupation and damage.
- 3.3 The owner of abandoned property where filth, refuse, garbage or other miscellaneous materials have been dumped or stored must:
 - a) remove all materials that have been dumped or stored there; and
 - b) install or take one or more of the security measures described in section 3.1 for the purpose of securing the property against further dumping or storage of materials.
- 3.4 Where a vacant building or a building damaged by fire is boarded or required to be boarded:
 - a) boarding materials shall be installed and maintained in good order;
 - b) unless inherently resistant to deterioration, boarding materials shall be treated with a protective coating of paint or of equivalent weather-resistant material;
 - c) boarding materials shall be installed to exclude rain and wind from entering the building and to secure the building from unauthorized entry and shall be installed within the reveal of the opening frame or cladding, where feasible; and
 - d) boarding materials shall be selected, coated, coloured and installed to match surrounding door/window frames and exterior wall finishes.
- 3.5 Where a vacant building is unsecure from unauthorized entry to the extent that it cannot, in the opinion of an Inspector, be reasonably or effectively secured by boarding or other means of repair, the building shall be demolished.

4. Buildings Damaged by Fire

- 4.1 Every owner shall ensure that a building damaged by fire is secured against unauthorized entry within twenty-four (24) hours after release of the property by the authority having jurisdiction.
- 4.2 Notwithstanding section 4.1, where, in the opinion of the Fire Chief or an Inspector, a building damaged by fire is in a condition that presents an immediate hazard to public safety, the owner shall ensure that the building damaged by fire is secured against unauthorized entry forthwith after release of the property by the authority having jurisdiction.

5. Inspection and Notice

- 5.1 Subject to the requirements of section 16 of the *Community Charter*, an Inspector may enter property at any reasonable time and in a reasonable manner for the purpose of inspecting and determining whether:
 - a) the property is abandoned property;
 - b) the owner has fulfilled the requirements of sections 3 and 4; and
 - c) the owner has fulfilled the requirements of a notice under subsection 5.2.
- 5.2 An Inspector may notify an owner of the requirement to repair or secure property or to remove filth, refuse, garbage or other miscellaneous materials in accordance with section 3 if the Inspector determines that:
 - a) the property is abandoned property; or
 - b) the property is undeveloped property; or
 - c) the abandoned property has not been repaired or secured in accordance with section 3.
- 5.3 An owner who receives a notice under subsection 5.2 must fulfill the notice's requirements to complete work within ten (10) days of receiving the notice.
- 5.4 An owner who disputes the notice requirements may be required to obtain a report from a structural engineer attesting to the structural integrity and safety of the building. Such report shall be completed at the owner's expense.
- 5.5 Within fourteen (14) days of the service of a notice under subsection 5.2, an owner may request a hearing by District Council.
- 5.6 Upon the conclusion of a hearing under subsection 5.5, Council may:
 - a) confirm the requirements of the notice under subsection 5.2;
 - b) extend the time in which the owner must undertake the action required by the notice given under subsection 5.2; or
 - c) where Council determines it is appropriate to do so, vary the action required to be taken by the owner and establish time limits within which the person appealing must undertake the action.

- 5.7 A notice to complete work shall specify:
 - a) the municipal address of the property;
 - b) the contravention of the bylaw and its location;
 - c) the date of the inspection;
 - d) the work ordered to be completed;
 - e) the date by which the work must be done; and
 - f) the right to appeal the notice to Council.
- 5.8 Where an Inspector, in his sole discretion, determines that measures taken pursuant to a notice are insufficient, subsequent notices may be issued requiring additional measures to be taken by the owner.

6. Fees For Attendance

- 6.1 Immediately on receiving an invoice from the District, an owner must pay to the District all fees as set out in the District User Rates and Fees Bylaw for investigation and inspection of the owner's abandoned property by an Inspector, personnel of the District's Fire Department or other District personnel, if the abandoned property has not been secured in accordance with this bylaw.
- 6.2 A fee under subsection 6.1 that is unpaid on December 31 in the year in which it is imposed must be added to and collected in the same manner as the District's property taxes.

7. District Work If Owner Defaults

- 7.1 If the owner fails within ten (10) days to secure the abandoned property in compliance with a notice received from the Inspector pursuant to section 5.2, the District or its contractors, employees or agents may enter onto the property and perform the required work to secure the abandoned property in accordance with this bylaw.
- 7.2 If the owner is unable, or fails, to protect the health and safety of persons and property with respect to the abandoned property, then the District may order the owner to remove the abandoned property on thirty (30) days notice by the District. If the owner does not remove the abandoned property within thirty (3) days of receiving the order, the District or its contractors, employees or agents may enter onto the property and perform the required work to remove the abandoned property and the cost of such removal may be added to the property taxes for the property. The owner may seek a reconsideration by Council of the order requiring the removal of the abandoned property within thirty (3) days of receiving the order by delivering written notice to the Corporate Officer.
- 7.3 Immediately on receiving an invoice from the District, an owner to whom subsections 7.1 or 7.2 applies must reimburse the District for its expenses incurred as a result of work performed under those subsections plus a twenty (20) per cent administration fee.

7.4 An amount that is owed by an owner under subsections 7.1 or 7.2 and that is unpaid on December 31 in the year in which it is imposed must be added to and collected in the same manner as the District's property taxes.

8. Undeveloped Property

8.1 The owner of undeveloped property where filth, refuse, garbage or other miscellaneous materials have been dumped or stored shall abide by and be regulated by sections 5, 6 and 7 of this bylaw.

9. Inclusivity

9.1 In this bylaw, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.

10. Severability

10.1 If a court of competent jurisdiction declares any portion of this bylaw invalid, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

11. Contravention and Penalties

11.1 Every person who violates any of the provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw or who neglects or refrains from doing anything required to be done by any of the provisions of this bylaw shall be deemed to be guilty of an infraction hereof and shall be liable to the penalties imposed. Every continuing infraction shall be deemed to be a new and separate offence for each day during which the same shall continue.

11.2 Any person found guilty of an infraction of any of the provisions of this bylaw shall, upon summary conviction, be liable to a minimum fine of One Hundred Dollars (\$100), which shall be recoverable and enforceable upon summary conviction in the manner provided by the *Offence Act*.

Read a first time the 22nd day of May, 2012.

Read a second time the 22nd day of May, 2012.

Read a third time the 22nd day of May, 2012

Adopted the 12th day of June, 2012.

Original signed by:

Director of Corporate Services

Mayor

Certified to be a true copy of District of Port Hardy
Vacant Property Bylaw 09 - 2012

Director of Corporate Services