



Committee of the Whole

penticton.ca

Committee of the Whole
to be held at
City of Penticton, Council Chambers
171 Main Street, Penticton, B.C.

Tuesday, September 17, 2019
Recessed from the Regular Council Meeting at 1:00 p.m.

1. **Call Committee of the Whole to Order**
2. **Adoption of Agenda**
3. **Delegations and Staff Presentations:**
 - 3.1 Proclamation "Penticton Beer Week" October 19 – 26, 2019
Kim Lawton, Cannery Brewing 1-3
 - 3.2 Penticton as an Age Friendly City
Elmie Salltink and Mignonne Wood 4
 - 3.3 Community Active Support Table (CAST)
Supt. Ted De Jager, Detachment Commander and Debbie Scarborough, Chair, CAST 5-12
 - 3.4 Cannabis Retail Store Application – Request for Reconsideration
Dave Martyn, Starbuds 13
 - 3.5 Building and Property Compliance Overview
Ken Kunka, Acting Director of Development Services 14-29
 - 3.6 Budget Process Timeline Update
Jim Bauer, Chief Financial Officer 30
4. **Adjourn to Regular Meeting of Council**

Proclamation

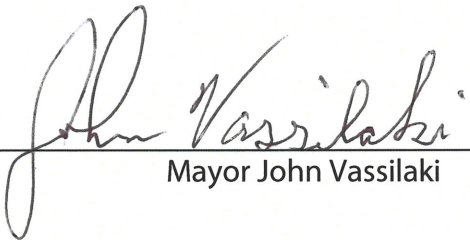
“Penticton Beer Week” October 19 - 26, 2019

WHEREAS: Penticton has a dynamic beer scene with some of BC’s oldest craft breweries and some of BC’s newest craft breweries; and

WHEREAS: Penticton is the home of the annual Okanagan Fest of Ale, one of BC’s premier and long-standing craft beer festivals, the annual Penticton Oktoberfest and the annual Penticton Beer Run;

AND WHEREAS: Penticton brewers all work together to highlight the Penticton Ale Trail and our vibrant and growing craft beer scene here in Penticton;

NOW, THEREFORE I, Mayor John Vassilaki, **DO HEREBY PROCLAIM** October 19-26, 2019 as **“Penticton Beer Week”** in the City of Penticton.

A handwritten signature in black ink, reading "John Vassilaki". Below the signature is a horizontal line, and under the line, the name "Mayor John Vassilaki" is printed in a standard black font.

Mayor John Vassilaki

Subject: Proclamation - Penticton Beer Week Oct. 19-26, 2019

Dear Mayor and Council -

On behalf of the 7 breweries in Penticton, we would like to make a request of you to proclaim October 19-26 as Penticton Beer Week. This will be the first annual Penticton Beer Week. It will include a celebration of Penticton's local craft beer industry. It will kick off on Saturday, October 19th with the annual Penticton Oktoberfest. There will be a number of craft beer related events at breweries and local restaurants around Penticton throughout the remainder of the week.

In addition, all 7 Penticton breweries will come together to make a special collaboration beer. This limited release beer will be launched in draft format at the breweries and local restaurants in Penticton and area during Penticton Beer Week. We will also package some of this beer into cans so that it can be sold at private liquor stores in Penticton and beyond. This limited release collaboration beer will also be a fundraiser beer, where a portion of the proceeds will be donated to a local non-profit/charity. Each year, the beneficiary will change.

It would be ideal if the proclamation could be made at the Sept. 17th Penticton City Council meeting, as we'll use this as a way to introduce and promote the first annual Penticton Beer Week. Given our proposed Penticton Beer Week is in October, it will provide exposure and opportunity to travel to Penticton during our shoulder season. We are working hard to promote our craft beer city as a year-round tourism destination, as all of our breweries are open all year long.

If you have any questions or would like any additional information, please let me know. We thank you, Mayor and Council for considering our request and we look forward to hearing back from you.

Thank you,
Kim Lawton
on behalf of
Bad Tattoo Brewing
Barley Mill Brew Pub
Cannery Brewing
Highway 97 Brewery
Neighbourhood Brewing
Slackwater Brewing
Tin Whistle Brewing
The Penticton Ale Trail

For more background on the Penticton craft beer scene, please find the following information:

There is a saying that it takes a lot of great craft beer to make fine wine. It is a natural fit then, that in the middle of wine country, Penticton also has a dynamic beer scene with six (soon to be seven) craft breweries. Penticton is also the home of the annual Okanagan Fest of Ale, one of BC's premier and long-standing craft beer festivals, the annual Penticton Oktoberfest and the annual Penticton Beer Run. In fact, craft beer has become so popular here that expedia.ca recognized Penticton as one of Canada's best beer towns. We have some of BC's oldest craft breweries and some of BC's newest craft breweries here in Penticton.

All of Penticton's craft beers are all natural, made fresh at the source, and often feature local ingredients and local destinations. Penticton's breweries all work together to highlight the Penticton Ale Trail, and our vibrant and growing craft beer scene here in Penticton.

Our Penticton Ale Trail video link is

here: https://www.youtube.com/watch?time_continue=1&v=dYy65ExvFno

Penticton was recently named as Canada's second best beer town, by [Expedia.ca](https://www.expedia.ca/travelblog/best-beer-towns-in-canada-2018/).

<https://www.expedia.ca/travelblog/best-beer-towns-in-canada-2018/>

Penticton was also recently named as the only Canadian city on the list of 10 best destinations for beer enthusiasts, by [askmen.com](https://www.askmen.com/fine_living/wine_dine_archive/best-destinations-for-beer-enthusiasts.html).

https://www.askmen.com/fine_living/wine_dine_archive/best-destinations-for-beer-enthusiasts.html

The Penticton Ale Trail is a finalist in the 2019 Penticton & Wine Country Chamber Business Excellence Awards in the tourism category.

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Kim Lawton
Marketing Director
Cannery Brewing

www.CanneryBrewing.com



Request to Appear as a Delegation

Preferred Council Meeting Date: September 17, 2019

Second choice(s): September 3, 2019

Subject matter: Penticton as an Age Friendly City

Name of person(s) making presentation:

Elmie Salltink & Mignonne Wood

Address: _____

Phone: _____

Email: _____

Please provide details of your presentation or request of Council here: (or provide a detailed attachment)

Cities around the country are being designated as "Age Friendly" communities. In an age friendly community, the policies, services and structures related to the physical and social environment are designed to help seniors "age actively", remain independent and stay involved in their communities. As Penticton has a large number of seniors, it only makes sense that our city should join the growing number of BC communities that are now recognized as "age friendly". Our presentation will outline the process that the city needs to follow in order to achieve the status of an "Age Friendly" community and, to offer our commitment in making this vision a reality.

Please note:

- This form and submissions will become part of the public record.
- The Mayor has the authority to determine if the subject matter warrants the delegation to appear before Council and may determine at which meeting.
- Please submit this completed form at your earliest convenience. Written Requests to Appear are to be received by the Corporate Officer, no later than noon Monday, one week prior to the Council meeting. Please include a copy of all materials that will be discussed.
- If you'd like to share a PowerPoint with Council, email it to the Corporate Officer by 9:30 a.m. Wednesday prior to the Council meeting to be included with the Agenda.
- We recommend you bring backup PowerPoint files with you on a memory stick.
- Delegations are limited to 5 minutes.

Corporate Office
Angie Collison, Corporate Officer
171 Main Street, Penticton, B.C., V2A 5A9

Phone: 250-490-2410
Fax: 250-490-2402
angie.collison@penticton.ca



Community Active Support Table

**Building Safety and Wellness in the
South Okanagan**

RCMP-GRC



ROYAL CANADIAN MOUNTED POLICE • GENDARMERIE ROYALE DU CANADA

Penticton South Okanagan Similkameen
Regional Detachment

Vulnerability vs Criminality



Penticton South Okanagan Similkameen
Regional Detachment





What is the Hub Approach

- **Community Mobilization**
 - Multi sector and collaborative mechanism to respond to acutely elevated risk
 - All parts of the CJS and social services contribute to the full spectrum of community safety.
- **Based on SMART/MAST**
 - Surrey
 - Prince Albert
 - Mission
- **Penticton Pilot is complete**



Why CAST



- Active support for the most vulnerable
- Over 60 percent of police CFS are non criminal:
 - poverty,
 - mental health,
 - addictions,
 - homelessness
- The model asserts that our communities do not have a policing problem but a marginalized people problem.
- To maintain safe communities we need more than just great policing — we need strong health care, education and social services working together.



The Pressures



- Increased Homelessness in South Okanagan
- Expectation of police to address homelessness/social chronic issues
- Other enforcement partners do not have the authority to confront social issues
- Vocal anti vulnerable sentiment/intolerance
- Housing crisis
- Opioid crisis
- Lack of understanding
- Lack of patience





Timeline

- **January/February 2018**
 - Present to Mayor and Council
 - Present to major Stakeholders
- **April to June 2018**
 - Present to community stakeholders
 - Approval in principle
 - Grant funding letter received
 - Introductory training sessions
- **August 2018**
 - Three day training session
 - Inaugural meetings
- **September 2019**
 - **Roll out to other communities**

Penticton South Okanagan Similkameen
Regional Detachment

RCMP-GRC





Implementation

- **Multi Agency approach**
 - Already had good relationships
 - Community buy in
- **Housing**
- **Understanding of responsibilities**
 - We cannot enforce our way out of this
 - Bylaws and private security
 - Charter of rights and freedoms
 - Multi government cooperation



Results



- Situation Table Running every week since August
- Co-chaired
- High level response from all community partners, NGOs, non-profits
- 60 situations and counting
- Completed six month review
- 85% connected
- Academic Review Required

Penticton South Okanagan Similkameen
Regional Detachment

RCMP-GRC





Request to Appear as a Delegation

Preferred Council Meeting Date: September 17, 2019

Second choice(s): October 1, 2019

Subject matter: Cannabis Retail Store Application - Reconsideration

Name of person(s) making presentation:

Dave Martyn

Address: 301-460 Doyle Avenue, Kelowna BC V1Y0C2

Phone: _____

Email: dave.martyn@starbuds.co

Please provide details of your presentation or request of Council here: (or provide a detailed attachment)

We'd like to ask council to reconsider the resolution that was passed on September 3 for the local government support of Starbuds (proposed cannabis retail) located at 2150 Main Street. We would like the opportunity to clarify the location of the proposed cannabis retail location and it's relation to surrounding cannabis retail locations currently approved by the City.

Please note:

- This form and submissions will become part of the public record.
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- Please submit this completed form at your earliest convenience. Written Requests to Appear are to be received by the Corporate Officer, no later than noon Monday, one week prior to the Council meeting. Please include a copy of all materials that will be discussed.
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Committee of the Whole Report

penticton.ca

Date: September 17, 2019
To: Donny van Dyk, Chief Administrative Officer
From: Ken Kunka, Acting Director of Development Services

File No: 3800-01

Subject: Building and Property Compliance Overview

Executive Summary

Over the next several months Building and Licensing and Bylaw Services staff will be bringing forward a number of requests for Council's consideration to seek closure of expired permits and bylaw enforcement matters and intend to provide the following information to clarify the steps involved in obtaining compliancy of City Building and Good Neighbour Bylaw regulations.

Following this overview staff will be providing for Council's consideration a Good Neighbor Bylaw Compliance Policy, which will establish a consistent decision making process for staff and ensure procedural fairness for enforcement of compliance matters.

Strategic priority objective

The following process for achieving compliancy for building and property related issues supports the City's Vision and Council priorities:

Community Safety: The City of Penticton will support a safe, secure and healthy community.

Community Design: The City of Penticton will attract, promote and support sustainable growth and development congruent with the community's vision for the future.

Background

The Building and Licensing departments are responsible for ensuring that all buildings constructed within the City, comply with the City's and Provincial Regulations Code and are safe for the use intended. The Bylaw Enforcement Department also deals with property compliance in issues related to unsightly, untidy or where a potential hazardous conditions exists. The City's goal is to achieve voluntary compliance of bylaws through education and communication.

The vast majority of the building and licensing processes are successfully carried out without the need for enforcement. But when required, staff endeavor to resolve building and property related concerns in a timely and pro-active matter, taking steps to work with property owners to first educate and engage escalating enforcement measures to seek compliance.

Staff are required to follow Section 16 of the Community Charter when entering a property or building. Staff attempt to achieve voluntary compliance whenever possible prior to escalating enforcement action. Voluntary compliance tools and actions may include one or more of the following:

- Education;
- Stop Work/No Occupancy notices;
- Letters, emails requesting corrections or permit closure;
- Fines (Bylaw Notice Enforcement Bylaw No. 2012-5037 & Municipal Ticketing Information Bylaw No. 2012-5021);
- Notice on Tax.

On October 2, 2018 Council supported Building Compliance Policy (Res 437/2018) which was created to provide a fair and consistent approach to obtain compliance with the Building Bylaw. The policy was established to guide staff in the decision making and apply procedural fairness for enforcement of compliance matters within the Building, Licensing & Bylaw Enforcement departments. (See Attachment A for Building Compliance Policy)

Where matters related to potential hazardous and nuisance concerns reach a state where they cannot be resolved through voluntary compliance, Provincial legislation provides tools for obtaining compliance. These tools include a notice on the property title (Section 57 of the Community Charter), remedial action of prosecution (injunctive) action.

Notice on Title (Section 57)

A Notice on Title is an enforcement tool used by local governments in British Columbia. It involves the local government placing a notice on the title of a property at the Land Title Office. Once in place, the notice will show up under the section on a title search entitled "Legal Notations". (See Section 57 Notice on Title - Community Charter – Attachment B)

A Notice on Title serves as notice to anyone searching the title of a property that the property in question may be in breach of local government building bylaw or the BC Building Codes. The Notice on Title itself does not disclose the details of any breach of bylaw or regulations, but rather, specifies that further information may be obtained from the local government office.

Council cannot delegate this responsibility to staff, however provisions under section 155 of the charter allow Council to delegate the authority to hold a hearing as well as the authority to make the final decision to a committee of council. The City currently does not have a committee of Council, which could allow for a more efficient process for the owner or staff in dealing with multiple Section 57 Notice requests.

When a Notice is placed on Title

A Notice on Title may be filed where the following conditions are observed:

- Construction has begun on a property without a valid building permit (Stop Work posted)
- Construction deficiencies noted during an inspection have not been corrected
- Covering construction without required inspections
- Modify construction in contravention of approved permits
- A permit has expired and the owner refuses to reapply for a new permit; or
- Any such circumstances as the Chief Building Inspector may deem necessary.

The Corporate Officer will advise the property owner, by letter, that the matter will be taken to Council and will invite the owner to attend the meeting to discuss the issue. Should Council agree that there is a contravention, it may pass a resolution pursuant to Section 57 of the Community Charter. The resolution

would instruct the Corporate Officer to file a notice on title with the Land Title Office that violations exist on the property. The Land Title Office will make a notation on the property title that there is a bylaw contravention. Any individual requesting a Title Search will then be aware that there are building concerns.

Removal of a Notice on Title – Section 58 of the Community Charter

Where a notice has been registered on the property title and the property owner wishes to rectify the issues, the owner must apply in writing to the Chief Building Inspector requesting consideration for removal of the notice. Upon receipt of a written request, the Chief Building Inspector (Building and Permitting Manager) will review the records pertaining to the condition that gave rise to the filing of the notice to determine if the request is feasible (Refer to Section 58 in Attachment B).

If all requirements are met, including closure of all outstanding permits and fines, the Chief Building Inspector will notify the Corporate Officer to file for removal of Notice with Land Title Office.

Clean-up Orders under the Good Neighbour Bylaw

The Good Neighbour Bylaw (a property maintenance bylaw) authorizes the bylaw enforcement officer to issue an order requiring that the owner or other person responsible person bring their real property into compliance within a time directed by the bylaw enforcement officer. Typically a clean-up orders are issued for matters related to the collection of refuse on a property, rodent infestation, boarding a vacant derelict home or overgrown vegetation. After a 30 day notice period staff will take measures to engage the services of a contractor to rectify the non-compliant situation under a value of \$2500. Staff will follow the policies and procedures of existing departments including the Procurement Policy (ie. Ensuring contractors have adequate insurance coverage, business licence, etc).

In relation to clean-up orders made pursuant to a property maintenance bylaw, with respect to unsightly and untidy premises, this power is separate from the authority to impose a remedial action order under section 73 or 74 of the Community Charter, and to authorize municipal officers to carry out the terms of the order at the property owners expense.

Remedial Action Requirements

Where the structure or property is in a state of disrepair (hazard) or a nuisance to the surrounding community, action can be taken by the Municipality in the form of Remedial Action under Division 12 of the Community Charter (Attachment C). As per the Section 57 Notification process, Remedial Action hearing and owner appeal review cannot be delegated to staff and requires a resolution from Council or determination through a committee of Council.

Remedial action may be part of a Section 57 where there is a medium to high hazard and risk to life safety. Remedial action is also a tool to deal with other potentially unsafe or nuisance issues involving untidy and/or vacant derelict properties. The provisions of what constitutes a nuisance or hazardous condition are specifically outlined with the Community Charter (Division 12).

Where Council resolves to declare a building or property a hazard, notification to the land owner(s) is required much like a Section 57 process. Provisions for the owner to speak on the pending declaration and time frames are outlined in Sections 76 to 79 in Attachment C.

Examples of remedial action orders supported by Council are:

287 Bassett Street	Vacant fire damaged home	Declared nuisance & hazard	Demolished by owner
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555 Wade Ave E	Vacant derelict home & untidy property	Declared nuisance & hazard	Demolished by owner
2379 Wiltse Drive	Retaining wall built without permit	Section 57 and declared a hazard.	Removed and replaced by City (RFT)
93-3245 Paris St	Illegal addition & Fire damaged mobile home	Declared Nuisance and hazard.	Demolished by City
175 Cossar Ave	Vacant and rat infested	Declared nuisance and hazard	Demolished by owner
175 Brunswick	Vacant derelict house and untidy property	Declared a nuisance	Owner engaging demo application.

Further Injunctive Action

In addition to the Section 57 (Notice on Title) and or remedial action requirements, staff may also request Council to apply to the Supreme Court of British Columbia for an injunction or court order to enforce, prevent or restrain a bylaw contravention or contravention of local government legislation. These provisions are outlined within Section 274 of the Community Charter. (Attachment D)

Events that have required this additional enforcement measure have been for:

- owners failing to stop construction under a stop work notice or occupy or building without consent;
- multiple or foreign ownership where notification through the Section 57 and Remedial Action process has not confirmed;
- when the owner is deceased, is under the control of an estate executor or the property has defaulted back to the lender,
- non-compliant business operations to cease, or
- matters of significant financial requirements (removal of a vacant derelict building or vehicles) or sensitive nature (hoarding caused by mental illness), and
- where the owner has repeated reluctance or hostility to comply with city orders.

Financial implication

Beyond the many hours of staff resources required to seek compliance, further legal consultation and court costs can be incurred. The Building Compliance Policy was developed to ensure the most efficient steps to achieve voluntary compliance and ensuring a strong legal case is established for matters requiring adjudication of fines or court action, which maximizes staff resources and reduces potential court costs.

When an owner requests to remove a Notice on Title, additional permits or re-inspections fees are typically required, along with payment of any outstanding fines and a fee to remove notice from title (\$500.00).

Where Remedial Action is pursued, costs associated with on-site remedial works can be recouped on the property taxes under Section 80 of the Community Charter (Recovery of municipal costs through sale of property).

Where injunctive action occurs, full costs associated to legal matters can be awarded to the City but it is traditionally only a percentage of the total legal costs typically awarded, which is at the discretion of the judge and case by case dependent.

Failure for the City to follow appropriate protocols regarding remedial actions, where costs have been associated and charged to owner or structures removed, can be challenged through the courts and full compensation sought. Thus, staff are required to ensure policies and procedures are thoroughly followed and documented to reduce financial implications.

Attachments

Attachment A – Council Policy – Building Compliance Policy

Attachment B – Community Charter Section 57 and 58

Attachment C – Community Charter Division 12 – Remedial Action Requirements

Attachment D - Community Charter - Section 274 - Enforcement by Civil Proceedings

Respectfully submitted,



Ken Kunka, ASCT RBO
Acting Director of Development Services

Concurrence

Acting DS Director <i>KK</i>	Supervisor of Bylaw Enforcement <i>J.S. Siebert</i>	Chief Administrative Officer DyD
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**Attachment A
Building Compliance Policy**



Council Policy



Approval date: October 2, 2018

Resolution No. 437/2018

Subject: Building Compliance Policy

A. PURPOSE

The objective of the Building Compliance Policy is to implement a fair and consistent approach to obtain compliance with the Building Bylaw. The policy will guide staff in the decision making and apply procedural fairness for enforcement and compliance matters within the Building & Licensing Department.

B. POLICY ADMINISTRATION

The Manager of the Building & Licensing Department is to administer this policy.

C. LEGISLATION

This policy applies to all Building & Licensing Department compliance and enforcement actions where the City of Penticton has a regulatory responsibility under federal, provincial and local law including, but not all, of the following:

*British Columbia Building Code
Local Government Act
Community Charter*

*Building Bylaw No. 2018-01
City of Penticton Bylaws*

D. GOAL

The City's goal is to achieve voluntary compliance of bylaws through education and communication. Legislation provides tools when compliance is not achieved.

The City of Penticton, like most municipalities, does not have the resources to actively review or inspect properties on a regular basis to determine compliance with the Building Bylaw. As a result, the City relies primarily on public complaints to identify potential violations.

The Building & Licensing Department will use discretion on a case-by-case basis to evaluate contraventions and take reasonable steps to investigate breaches in accordance with this policy and other operating guidelines.

City of Penticton staff are not required to report observed non-compliance violations unless it is:

- during regular work hours;
- within that employees' scope of duty; and
- where the breach violation poses a risk to public health and safety.

E. COMPLAINT

A valid complaint to investigate a violation of the Building Bylaw requires the following:

- In writing/email or reviewed via the Bylaw Intaker or those that identify immediate health & safety concerns;
- Include the name, address, phone number, and email address of the complainant;
- Address of the offending property; and
- Details of the alleged violation.

Staff are to advise the complainant that the City has received the information and provide the staff member investigating the complaint. The complainant may follow up with staff to inquire as to status or outcome of the investigation.

Anonymous, verbal, frivolous, vexatious or incomplete complaints may not be accepted. Every effort will be made to protect the confidentiality of the complainants. However, a complainant may be identified if the issue proceeds to adjudication, court or divulged due to the Freedom of Information processes.

F. COMPLIANCE AND ENFORCEMENT

The City of Penticton administers statutory responsibility in a transparent and fair manner for the health, safety and protection of people or property.

While encouraging compliance with the Building Bylaw, staff safety is paramount. Staff members are to cease investigation and remove themselves from the situation as best as possible if being verbally or physically threatened and advise the Manager of the Building & Licensing Department and/or Human Resources.

1. Priority

Staff will assess the priority of the violation using, but not limited to, the following criteria:

- Potential risk to public health and safety;
- Magnitude, nature, and duration of the contravention;
- History of non-compliance on the property or alleged offender;
- Potential impact on the community, environment, or structure;
- Legal precedents and statutory timeframes;
- Resources available to resolve or remediate the violation;
- Potential costs and liability associated with enforcement action;
- Likelihood of achieving desired results;
- Sufficient evidence to prove non-compliance;
- Reasonable use of City of Penticton's Resources;
- The legal capacity of the alleged offender.

Staff will prioritize the violations into three levels: low priority, medium priority, and high priority.

- Low Priority: Contravention(s) unlikely to cause health and safety issues;

- Medium Priority: Contravention(s) with potential to cause health and safety issues; or
- High Priority: Contravention(s) likely or known to cause health and safety issues.

2. Investigation

The Property Use and Licenses Inspector or other staff will assess and prioritize a valid complaint to determine compliance with City bylaws. The investigation may include a review of the bylaw, property file, contacting the complainant, contacting the alleged offender, and conducting a site inspection. If a violation is identified, the alleged offender will be advised to resolve the violation. If further action is required to resolve the violation, a file is to be created to track the violation, assessment, enforcement, and outcome.

An investigation undertaken by the Property Use and Licenses Inspector will be assessed on a case-by-case basis and actioned according to the Building Bylaw Compliance Matrix (included as Appendix A of this policy).

Staff are required to follow Section 16 of the *Community Charter* when entering a property or building. Staff will attempt to achieve voluntarily compliance whenever possible prior to recommending to place a note against land title (Section 57 of *Community Charter*), remedial action or prosecution action. Voluntary compliance tools and actions may include one or more of the following:

- Education;
- Stop Work/No Occupancy notices;
- Letter, emails requesting remediation;
- Fines;
- Notice on Tax.

3. Closing the Investigation

The Manager of the Building & Licensing Department has the ability to close the investigation at any time. The Property Use and Licenses Inspector may close the investigation file using the most appropriate action based on this policy and the Building Bylaw Compliance Matrix using one or more of the following enforcement options:

- No action is required;
- Referral to another agency/government;
- Formal warning;
- Voluntary compliance tools and actions.

Where the investigation file is not closed, the unauthorized activity has not ceased, and voluntary compliance is not achievable, the Property Use and Licenses Inspector will write a report advising the

Manager of the Building & Licensing Department of the file and will provide options for consideration using one or more of the following enforcement options:

- Note against land title (Section 57);
- Remedial Action;
- And/or Prosecution.

4. Specific Building Issues

The concerns listed below will be addressed as follows:

a. *Complaint of Unauthorized Suite:*

Upon receipt of a valid complaint, the Property Use and Licenses Inspector is to make contact with property owner and request an inspection. After inspection is completed and the unauthorized suite has been confirmed, the property owner will be requested to either decommission the suite or obtain permit to authorize the suite.

b. *Expired Building Permit:*

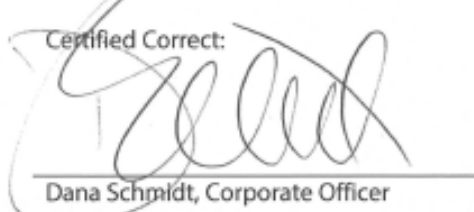
As per the Building Bylaw, every permit expires. The Bylaw further provides that the works shall cease and construction removed if the permit expires unless a new application or an extension is made within the allotted time.

A Building Official may assess missing documentation, inspections or other requirements such as the likelihood of satisfactorily achieving completion. After assessing the information, the Building Official may retire the permit without further enforcement or forward the expired permit file to the Property Use and Licenses Inspector to attempt to obtain compliance. The Property Use and Licenses Inspector will consider the information as a valid complaint and begin an investigation.

c. *Complaint of Occupancy Without Approval:*

As per the Building Bylaw, a person must not occupy or permit the occupancy of any building or structure without approval. Upon receipt of a valid complaint, the Property Use and Licenses Inspector will make contact with property owner and request an inspection. After inspection is completed and Occupancy has been confirmed, the property owner will be fined and increased enforcement may begin.

Certified Correct:



A handwritten signature in black ink, appearing to read 'Dana Schmidt', is written over a horizontal line. The signature is stylized and cursive.

Dana Schmidt, Corporate Officer

Appendix A

Building Bylaw Compliance Matrix

Escalation of Enforcement Action 

COMPLAINT Forwarded to Property Use & Licence Inspector	Review	First Contact	Second Contact	Third Contact	Fine(s)	Notice on Tax	Further Escalation
	<i>i.e. Verify information, create file</i>	<i>i.e. Phone, email, letter, site visit</i>	<i>i.e. Site visit, verify breach, collect evidence, post notices</i>	<i>i.e. Phone, email, letter, site</i>	<i>i.e. Bylaw Offence Notice, Municipal Ticket</i>	<i>Collections Services Department</i>	<i>i.e. Recommend Notice on Title, Remedial Action, Court Action</i>
Low Priority	✓	✓	✓	✓	⚠	✗	✗
Medium Priority	✓	✓	✓	✓	✓	⚠	✗
High Priority	✓	✓	✓	✓	✓	✓	⚠

✓ = Proceed

⚠ = Continue if warranted

✗ = Stop/Do not proceed without direction from Supervisor

Attachment B
Community Charter – Section 57 and 58

Note against land title that building regulations contravened

57 (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector:

(a) observes a condition, with respect to land or a building or other structure, that the inspector considers

(i) results from the contravention of, or is in contravention of,

(A) a municipal bylaw,

(B) a Provincial building regulation, or any other enactment that relates to the construction or safety of buildings or other structures, and

(ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or

(b) discovers that:

(i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and

(ii) the permit was not obtained or the inspection not satisfactorily completed.

(2) A recommendation under subsection (1) must be given in writing to the corporate officer, who must

(a) give notice to the registered owner of the land to which the recommendation relates, and

(b) after notice under paragraph (a), place the matter before the council.

(3) After providing the building inspector and the owner an opportunity to be heard, the council may confirm the recommendations of the building inspector and pass a resolution directing the corporate officer to file a notice in the land title office stating that

(a) a resolution relating to that land has been made under this section, and

(b) further information about it may be inspected at the municipal hall.

(4) The corporate officer must ensure that all records are available for the purpose of subsection (3) (b).

(5) If the registrar of land titles receives a notice under subsection (3) and payment of the prescribed fee, the registrar must make a note of the filing against the title to the land that is affected by the notice.

(6) The note of a filing of a notice under this section is extinguished when a new title to the land is issued as a result of the deposit of a plan of subdivision or a strata plan.

(7) In the event of any omission, mistake or misfeasance by the registrar or an employee of the registrar in relation to the making of a note of the filing under subsection (5), or a cancellation under section 58, after the notice is received by the land title office,

(a) the registrar is not liable and neither the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,

(a.1) the assurance fund or the Land Title and Survey Authority of British Columbia as a nominal defendant is not liable under Part 19.1 of the [Land Title Act](#), and

(b) the assurance fund or the minister charged with the administration of the [Land Title Act](#) as a nominal defendant is not liable under Part 20 of the [Land Title Act](#).

(8)Neither the building inspector nor the municipality is liable for damage of any kind for the doing of anything, or the failure to do anything, under this section or section 58 that would have, but for this subsection, constituted a breach of duty to any person.

(9)The authority under this section is in addition to any other action that a building inspector is authorized to take in respect of a matter referred to in subsection (1).

Cancellation of note against land title

58 (1)On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57 (3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.

(2)An owner of land with respect to which a notice has been filed under section 57 (3), may apply to the council for a resolution that the note be cancelled.

(3)After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.

(4)If a resolution has been passed under subsection (3), the corporate officer must file a cancellation notice in the land title office and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.

(5)If the council does not pass a resolution under subsection (3), the owner may apply to the Supreme Court and notify the municipality to attend before the court to show cause why the note should not be cancelled.

(6)On an application under subsection (5), after reviewing any evidence that the owner and the municipality may adduce, the court may make an order directing the registrar to cancel the note made under section 57 (5) and, on receiving the order, the registrar of land titles must cancel the note accordingly

Attachment C

Community Charter – Division 12 Remedial Action Requirements

Council may impose remedial action requirements

- 72** (1) A council may impose remedial action requirements in relation to
- (a) matters or things referred to in section 73 [*hazardous conditions*],
 - (b) matters or things referred to in section 74 [*declared nuisances*], (c) circumstances referred to in section 75 [*harm to drainage or dike*].
- (2) In the case of matters or things referred to in section 73 or 74, a remedial action requirement
- (a) may be imposed on one or more of
 - (i) the owner or lessee of the matter or thing, and
 - (ii) the owner or occupier of the land on which it is located, and
 - (b) may require the person to
 - (i) remove or demolish the matter or thing,
 - (ii) fill it in, cover it over or alter it,
 - (iii) bring it up to a standard specified by bylaw, or
 - (iv) otherwise deal with it in accordance with the directions of council or a person authorized by council.
- (3) In the case of circumstances referred to in section 75, a remedial action requirement
- (a) may be imposed on the person referred to in that section, and
 - (b) may require the person to undertake restoration work in accordance with the directions of council or a person authorized by council.

Hazardous conditions

- 73** (1) Subject to subsection (2), a council may impose a remedial action requirement in relation to any of the following:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
 - (b) a natural or artificial opening in the ground, or a similar matter or thing;
 - (c) a tree;
 - (d) wires, cables, or similar matters or things, that are on, in, over, under or along a highway;
 - (e) matters or things that are attached to a structure, erection or other matter or thing referred to in paragraph (a) that is on, in, over, under or along a highway.
- (2) A council may only impose the remedial action requirement if
- (a) the council considers that the matter or thing is in or creates an unsafe condition, or
 - (b) the matter or thing contravenes the Provincial building regulations or a bylaw under section 8 (3) (l) [*spheres of authority — buildings and other structures*] or Division 8 [*Building Regulation*] of this Part.

Declared nuisances

- 74** (1) A council may declare that any of the following is a nuisance and may impose a remedial action requirement in relation to the declared nuisance:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
 - (b) a natural or artificial opening in the ground, or a similar matter or thing;
 - (c) a drain, ditch, watercourse, pond, surface water, or a similar matter or thing;
 - (d) a matter or thing that is in or about any matter or thing referred to in paragraphs (a) to (c).

(2) Subsection (1) also applies in relation to a thing that council considers is so dilapidated or unclean as to be offensive to the community.

Harm to drainage or dike

75 A council may impose a remedial action requirement if a person has

- (a) obstructed, filled up or damaged a ditch, drain, creek or watercourse that was constructed or improved under this Act or the [Local Government Act](#), or
- (b) damaged or destroyed a dike or other drainage or reclamation work connected with it.

Time limit for compliance

76 (1) The resolution imposing a remedial action requirement must specify the time by which the required action must be completed.

(2) Subject to section 79 [*shorter time limits in urgent circumstances*], the time specified under subsection (1) must not be earlier than 30 days after notice under section 77 (1) [*notice to affected persons*] is sent to the person subject to the remedial action requirement.

(3) The council may extend the time for completing the required action even though the time limit previously established has expired.

Notice to affected persons

77 (1) Notice of a remedial action requirement must be given by personal service or by registered mail to

- (a) the person subject to the requirement, and
- (b) the owner of the land where the required action is to be carried out.

(2) In addition, notice of the remedial action requirement must be mailed to

- (a) each holder of a registered charge in relation to the property whose name is included on the assessment roll, at the address set out in that assessment roll and to any later address known to the corporate officer, and
- (b) any other person who is an occupier of that land.

(3) A notice under this section must advise

- (a) that the person subject to the requirement, or the owner of the land where the required action is to be carried out, may request a reconsideration by council in accordance with section 78 [*person affected may request reconsideration*], and
- (b) that, if the action required by the remedial action requirement is not completed by the date specified for compliance, the municipality may take action in accordance with section 17 [*municipal acti'n at defaulter's expense*] at the expense of the person subject to the requirement.

Person affected may request reconsideration by council

78 (1) A person who is required to be given notice under section 77 (1) [*notice to affected persons*] may request that the council reconsider the remedial action requirement.

(2) Subject to section 79 [*shorter time limits in urgent circumstances*], a request under subsection (1) must be made by written notice provided within 14 days of the date on which the notice under section 77 (1) was sent or a longer period permitted by council.

- (3) If the council receives a notice that complies with subsection (2), it must provide the person with an opportunity to make representations to the council.
- (4) After providing the opportunity referred to in subsection (3), the council may confirm, amend or cancel the remedial action requirement.
- (5) Notice of a decision under subsection (4) must be provided in accordance with section 77 (1) and (2) *[notice to affected persons]*.

Shorter time limits in urgent circumstances

79 If the council considers that there is a significant risk to health or safety if action is not taken earlier, the resolution imposing the remedial action requirement may

- (a) set a time limit under section 76 *[time limit for compliance]* that is shorter than the minimum otherwise applicable under subsection (2) of that section, and
- (b) set a time limit for giving notice under section 78 *[persons affected may request reconsideration]* that is shorter than the limit otherwise applicable under subsection (2) of that section.

Recovery of municipal costs through sale of property

80 (1) This section applies to remedial action requirements in relation to the following:

- (a) matters or things referred to in section 73 (1) (a) *[unsafe and non-complying structures]*;
- (b) matters or things referred to in section 74 (1) (a) *[nuisances in relation to structures]*;
- (c) matters or things referred to in section 74 (1) (d) *[nuisances in relation to things in or near structures]* that are in or about a matter or thing referred to in section 74 (1) (a).

(2) Subject to this section, if a remedial action requirement has not been satisfied by the date specified for compliance, the municipality may sell the matter or thing in relation to which the requirement was imposed or any part or material of it.

(3) The earliest date on which the municipality may sell property referred to in subsection (2) is the later of

- (a) the date specified for compliance, and
- (b) 60 days after the notice under section 77 (1) *[notice to affected persons]* is given.

(4) If a municipality sells property under this section, it

- (a) may retain from the proceeds
 - (i) the costs incurred by the municipality in carrying out the sale, and
 - (ii) if applicable, the costs incurred by the municipality in exercising its power under section 17 *[municipal actions at defaulter's expense]* that have not yet been paid by the person subject to the requirement, and
- (b) must pay the remainder of the proceeds to the owner or other person lawfully entitled.

(5) For certainty, the authority under this section is in addition to that provided by section 17 *[municipal action at defaulter's expense]*

Attachment D
Division 4 — Enforcement by Civil Proceedings

Actions by municipality

274 (1) A municipality may, by a proceeding brought in Supreme Court, enforce, or prevent or restrain the contravention of,

- (a) a bylaw or resolution of the council under this Act or any other Act, or
- (b) a provision of this Act or the Local Government Act or a regulation under those Acts.

(2) For a civil proceeding referred to in subsection (1), or relating to any damage to or interference with a highway in the municipality,

- (a) the proceeding may be brought by the municipality in its own name,
- (b) it is not necessary that the Provincial government, the Attorney General or an officer of the Provincial government be a plaintiff in the proceeding, and
- (c) the municipality must serve a copy of the originating documents on the Attorney General
 - (i) before the end of the period prescribed by the Supreme Court Civil Rules for filing a response to civil claim by the defendant, or
 - (ii) within a further time that may be allowed by the court.

(3) The authority under subsection (1) is in addition to any other remedy or penalty provided under this Act or the Local Government Act and may be exercised whether or not a penalty has been imposed for the contravention.

2020 – 2024 Five Year Financial Plan

Key Dates

Sept 17, 2019	Highlight Key Dates and Council Input Process
October 1, 2019	Notice of Motions Introduced by Council
October 15, 2019	Council Votes on Notice of Motions (if any)
November 28, 2019	Business planning and budget documents publicly available on City of Penticton website
December 2-5, 2019	Community Engagement Sessions (location and times to be determined)
December 10-12, 2019	Special Council Meetings – Budget Deliberations
January 2020	First, second and third reading to “2020-2024 Five Year Financial Plan Bylaw”
January 2020	Adopt “2020-2024 Five Year Financial Plan Bylaw”