

# Memo



**TO:** Chair, Committee of the Whole

**SUBJECT:** Required Remedial Action – 63 Cowichan Lake Road

**DATE:** March 10, 2023

**FROM:** Chief Administrative Officer

---

---

## BACKGROUND

With the public's growing concerns regarding the unsightliness of certain properties and their dilapidated condition, as well as concerns about public safety, staff have been directed to resolve these issues. Staff generally makes a concerted effort at seeking voluntary compliance from the property owners that are the subject of remedial orders. However, we must be cognizant that legislative parameters imposed by the Province must be adhered to.

One such property of concern is the property at 63 Cowichan Lake Road which is owned by Lake Service Garage Ltd., Inc. No.27850. Staff have at various times attempted to seek compliance but to no avail. The last written notice was provided to the owner dated December 2<sup>nd</sup>, 2022. Complaints have arisen on matters affecting the property, but the owner has proven recalcitrant and for that reason, direct Council action will be sought.

## COMMUNITY CHARTER

Legislative guidance is provided under Division 12 of the Community Charter and specifically under the following sections:

### **Municipal Action at defaulter's expense**

17. (1) The authority of a council under this or another Act to require that something be done includes the authority to direct that, if a person subject to the requirement fails to take the required action, the municipality may
  - (a) Fulfill the requirement at the expense of the person, and
  - (b) recover the costs incurred from that person as a debt.
- (2) Division 14 [*Recovery of Special Fees*] of Part 7 [*Municipal Revenue*] applies to an amount recoverable under subsection (1) that is incurred for work done or services provided in relation to land or improvements.

### **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*], or
  - (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**

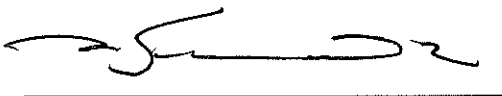
73. (1) Subject to subsection (2), a council may impose a remedial action requirement in relation to any of the following:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
  - (b) a natural or artificial opening in the ground, or a similar matter or thing;
  - (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.

**RECOMMENDATION**

The following process needs to occur:

- An on-site inspection of the property by the building and fire department, and if deemed appropriate by the RCMP;
- Staff reports with recommendations must follow, with the owner being provided an opportunity to undertake such remediation as is required;
- Should the owner fail to comply with the remedial requirements, council can declare the property as a nuisance and provide the Owner an opportunity to respond by requesting that council reconsider the Remedial Action Requirements; and failing a satisfactory response, the Town may take action in accordance with section 17 of the Community Charter and undertake any or all of the actions required by the Remedial Action requirement without further notice to and at the expense of the Owner.

Please note that council members should not separately deal with any owner on actions proposed by the Town against such owner.



---

Joseph A. Fernandez