

Attachment D

Division 12 of Part 3 of the 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*], 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.

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 action 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*].

[Contents](#) | [Part 1](#) | [Part 2](#) | [Part 3](#) | [Part 4](#) | [Part 5](#) | [Part 6](#) | [Part 7](#) | [Part 8](#) | [Part 9](#) | [Schedule](#)