

A Bylaw to promote health and safety and prohibit or impose requirements respecting nuisances, noxious or offensive trades.

The Council of the Corporation of the City of Port Coquitlam enacts as follows:

Citation

1. This Bylaw may be cited for all purposes as “Controlled Substance Nuisance Bylaw, 2017, No. 3972”.

Definitions

2. In this Bylaw, unless the context otherwise requires, each of the following words has the meaning set out below:

Alteration means any change made to the structural, mechanical or electrical components of a Controlled Substance Property;

Building means any structure or construction for any use or occupancy;

Contaminant means an unwholesome or undesirable element which makes a Property unfit for habitation;

Controlled Substance means a controlled substance as defined and described in Schedules I, II, III, IV, V or VI of the *Controlled Drugs and Substances Act*, R.S.C. 1996, c.19, as amended, but does not include the trade or manufacture of a controlled substance for which a valid licence or permit has been issued pursuant to the *Controlled Drugs and Substances Act* or its associated Regulations;

Controlled Substance Property means a Property which has been or is being used for the manufacture, growing, storage, sale, trade or barter of a Controlled Substance, and includes:

- a) a Property on which a Hazardous Condition exists;
- b) a Property contaminated by or containing trace amounts of chemical or biological materials used in or produced by the trade or manufacture of a Controlled Substance;

- c) a Property altered to manufacture, grow, store, sell, trade or barter a Controlled Substance; or
- d) a Property for which a licence to produce marihuana for medical purposes has been issued by Health Canada and the said licence has been revoked or has expired;

Dangerous Goods means those products or substances regulated by the *Transportation of Dangerous Goods Act* and its Regulations, both as amended from time to time;

Hazardous Condition means any real or potential risk to health and safety of persons or property that arises from the use of a Property for the manufacture of a Controlled Substance or for the trade, use, sharing, storage, sale or barter of a Controlled Substance and includes without limitation:

- a) any real or potential risk of fire;
- b) any unapproved Building Alteration or other modifications made to a Property;
or
- c) any repairs needed to a Property;

Inspector means:

- a) the Manager of Building;
- b) the Manager of Bylaw Services;
- c) the Fire Chief;
- d) a Fire Inspector, Fire Prevention Officer or Captain/Protective Services;
- e) a Building Inspector;
- f) a Plumbing Inspector;
- g) a person designated by the City to inspect Buildings in respect of gas or electrical standards;
- h) a Bylaw Enforcement Officer;
- i) a Property Use Coordinator;
- j) a member of the Royal Canadian Mounted Police; or

k) the Assistant Manager of Bylaw Services;

Noxious or Offensive Trade includes a Controlled Substance Property;

Occupant means:

- a) a person residing on the Property;
- b) a person entitled to possession of the Property if there is no person residing on the Property; or
- c) a person who is a leaseholder of the Property;

and includes the agent of any such person;

Owner means a person who is the fee simple owner of the Property or has a life estate or registered leasehold interest in the Property and includes the agent of that person;

Professional Cleaner means a person experienced in removing Contaminants from a Property or who possesses a Building Services Worker Certificate, and who is trained in the Work Place Hazardous Materials Information System (WHMIS);

Property means a parcel of land, and includes, without limitation, any permanent or portable building or structure located on the parcel;

Provincial Code means the British Columbia Building Code as amended from time to time;

RCMP means the Royal Canadian Mounted Police;

Restoration Inspection means an inspection of a Controlled Substance Property by one or more Inspectors to determine whether the Hazardous Conditions or Building Alterations identified during a Safety Inspection have been corrected;

Safety Inspection means an inspection of a Property carried out by one or more Inspectors after the Property has been allowed to become a place for the manufacture, trade, use, sharing, storage, sale or barter of a Controlled Substance contrary to this Bylaw;

Service Costs means all direct and indirect costs incurred by the City for the dismantling and removal of materials, equipment and by-products from a Property used for a Controlled Substance, and includes without limitation:

- a) all costs, including salaries and other related personnel costs, including stand-by costs, incurred for dismantling, disassembly, removal, clean-up, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with such use, trade, business or manufacture;
- b) costs incurred to replace consumables, or to replace equipment following exposure to Contaminants;
- c) costs incurred as the result of the analysis of the materials found at the Property and the health and safety conditions at the Property;
- d) actual costs incurred for legal fees;

Utility means a lawful provider of an electrical, water or natural gas service from a distribution system to consumers.

Prohibitions and Regulations

3.
 - 1) No Person, Owner or Occupant of Property shall cause, permit or allow any Property or part thereof to become or remain a place for the manufacture, trade, use, sharing, storage, sale or barter of a Controlled Substance.
 - 2) No Person, Owner or Occupant shall
 - a) cause, permit or allow water, rubbish or noxious or offensive material to collect or accumulate around any Property in connection with the manufacture, trade, use, sharing, storage, sale or barter of a Controlled Substance; or
 - b) store or use, or cause, suffer or permit the use or storage of Dangerous Goods in any Property in quantities greater than permitted under the British Columbia Fire Code.
 - 3) No Person other than a utility or a person to whom a disconnection or bypass permit required by the City has been issued shall:
 - a) disconnect, tamper with or bypass a meter installed for the purpose of ascertaining consumption of electricity, water or natural gas from an electrical, water or natural gas distribution system; or

- b) divert, or cause, suffer or permit the diversion of an electrical or water distribution system so that the consumption is not registered by a meter.
- 4) No Person shall use or alter, or cause, suffer or permit the use or alteration of the City's water distribution system for the purpose of cultivating or the manufacture of a Controlled Substance.
- 5) Every Person who removes, interferes with, alters or tampers with a water service that was discontinued under Section 4.4 and sealed by the City, commits an offence under this Bylaw.
- 6) No Person shall alter a structure or building in a way that facilitates the manufacture or growth of a Controlled Substance.
- 7) No Person shall construct or install, or cause, suffer or permit the construction or installation of a trap or other device which could cause death or bodily harm to a person entering in or on a Property.
- 8) No Person shall construct or install, or cause, suffer or permit the construction or installation of any obstruction of an exit or an access to an exit required under the British Columbia Building Code or other enactment.
- 9) No Person shall remove or cause, suffer or permit the removal of fire stopping that is provided or required under an enactment to contain the spread of fire within a Building.
- 10) No Person shall divert or install exhaust vents for hot water tanks or furnaces to exhaust into or within a building except by way of an exhaust vent constructed or installed in compliance with applicable provincial enactments and City bylaws.
- 11) No Person shall cause or permit a building to become subject to the growth of mould or fungus arising from or in relation to production of a Controlled Substance.
- 12) No Person shall cause, allow or permit in a building the manufacture, growing, storage, transfer or disposal of a substance that emits odours, fumes or particulate matter that disturbs the enjoyment, health, comfort or convenience of individuals.
- 13) The Owner or Occupant of every Property must insure, at all times, that:
 - a) water and electrical meters referred to in Section 3. 3(a) and installed on the Property remain properly connected to the electrical or water distribution systems and operate only for the purposes intended;

- b) exhaust vents of hot water tanks or furnaces referred to in Section 3. 10) are installed, operated and maintained in accordance with all applicable enactments including the Provincial Code;
 - c) the Property contains no Dangerous Goods referred to in Section 3. 2(b) in quantities greater than permitted under the British Columbia Fire Code;
 - d) no trap or other device referred to in Section 3. 7) is located or contained anywhere on the Property;
 - e) no obstruction of an exit or an access to an exit exists on the Property as referred to in Section 4. 8); and
 - f) fire stopping is not removed.
- 14) No Owner, Occupant or other person shall cause or permit:
- a) a nuisance as a result of the use or occupancy of any Controlled Substance Property;
 - b) water, rubbish or unsightly, noxious, offensive or unwholesome matter to collect or accumulate in, on, under or around a Controlled Substance Property owned, used or occupied by the person; or
 - c) the carrying on of a Noxious or Offensive Trade in or on any Controlled Substance Property, including but not limited to the production, storage, transfer or disposal of substances that emit offensive odours, fumes or particulate matter.
- 15) An Owner or Occupant of Property must ensure, at all times, that:
- a) no growth of mould or fungi, as referred to in Section 3.11 is present in, on or around the Property;
 - b) the use or occupancy of the Property does not cause a nuisance;
 - c) no accumulation of water, rubbish, noxious, offensive or unwholesome matter is permitted to collect or accumulate in, on, under or around the Property; and
 - d) the Property is not used for a Noxious or Offensive Trade.

- 16) Every Owner of a Property which is occupied or used by persons other than the Owner who has knowledge of this Bylaw's contravention in relation to the Property, shall within 24 hours of the discovery of the contravention, deliver written notice to the City of the particulars of the contravention.

Right of Entry

4. 1) An Inspector has the right to enter upon any Property in accordance with the provisions of the *Community Charter* for the following purposes:
 - a) to inspect and determine whether all regulations, prohibitions and requirements under this Bylaw or other enactments are met in relation to any matter for which the Council, a municipal officer or employee, prohibit or impose requirements;
 - b) to execute any remedial action authorized by Council under this Bylaw;
 - c) to inspect, disconnect or remove a water service under the provisions of this Bylaw; and
 - d) where there is cause to believe that a Hazardous Condition may exist on the Property, to carry out a Safety Inspection.
- 2) No person shall interfere with or obstruct the entry of an Inspector into or onto any Property.
- 3) The Fire Chief may:
 - a) enter on real property and inspect premises for conditions that may cause a fire, increase the danger of a fire or increase the danger to persons or property from a fire;
 - b) take measures to prevent and suppress fires, including the demolition of buildings and other structures to prevent the spreading of fires;
 - c) order the owner of real property to undertake any actions directed by the Fire Chief for the purpose of removing or reducing anything or condition considered a fire hazard or increases the danger of fire;
 - d) order every occupier of a Controlled Substance Property to vacate the property until the Do Not Occupy notice is removed by the Fire Chief under the authority of this Bylaw;

- e) without limiting paragraphs (a) to (d), exercise the powers of the Fire Commissioner under Section 25 of the *Fire Services Act*, and for these purposes that Section applies.
- 4) The City may, on 24 hours written notice, or such other period of time as may be reasonable in the circumstances, discontinue water service to a Property if the water was, or is, used for the purposes of a Controlled Substance Property. The Owner and Occupant of such Property and any other person affected by the discontinuance of the water service will, upon written request, be provided with an opportunity to make representations to Council regarding such discontinuance.

Written Notice of Hazardous Condition

- 5. 1) An Inspector may issue a written notice to an Owner and, where applicable, an Occupant, to remedy any Hazardous Condition or any thing or condition that is not in compliance with this Bylaw that exists on the Property.
- 2) Where an Owner or Occupant, or both as the case may be, receives a written notice to remedy any Hazardous Condition or any thing or condition that is not in compliance with this Bylaw pursuant to section 5.1, he or she must comply with the notice within the time frame specified therein, and failure to do so shall constitute an offence under this Bylaw.

Notice on Title

- 6. 1) Where a Building Inspector acquires knowledge that a Hazardous Condition or other thing or condition existing on a property that is not in compliance with this Bylaw or the Provincial Code, he or she may initiate the filing of notice against the title of the property as provided by section 57 of the *Community Charter*.
- 2) The filing of notice against the title of a Controlled Substance Property is subject to the payment of fees prescribed in the Fees and Charges Bylaw.
- 3) When the conditions that gave rise to the filing of notice against the title of a Controlled Substance Property have been remedied, the Building Inspector shall cause the notice so filed to be removed from the title.

Posting of Notice on Property

- 7. 1) An Inspector may post a notice on any Property that has been used for the manufacture, trade, use, sharing, sale or barter of a Controlled Substance or that contains a Hazardous Condition or any thing or condition that is not in compliance with this Bylaw, advising of the requirements of this Bylaw.

- 2) After a notice referred to in section 7. 1) is posted, no person shall thereafter enter or occupy such Property, except as follows:
 - a) an Inspector, while exercising authority under this Bylaw;
 - b) a Professional Cleaner, while cleaning and disinfecting the Property;
 - c) a person certified by the Canadian Registration Board of Occupational Hygienists or the American Board of Industrial Hygiene, during an inspection under this Bylaw; and
 - d) a person who has applied for and received written permission from an Inspector.
- 3) No person shall:
 - a) interfere with or obstruct an Inspector from posting a notice referred to in section 7. 1); or
 - b) remove, alter, cover or mutilate a notice posted under section 7. 1).

Remediation Requirements

8. 1) Where a Safety Inspection confirms that a Property was used as a Controlled Substance Property, the Owner of the Property must, within 30 days of receiving a written notice from the Inspector:
 - a) engage a Professional Cleaner to clean and disinfect the Property;
 - b) provide written certification to the City from an individual or corporation certified by the Canadian Registration Board of Occupational Hygienists or the American Board of Industrial Hygiene, confirming that, upon inspection:
 - i) the requirements of Section 8.1(a) have been satisfied; and
 - ii) the Property is substantially free of any Contaminants, mould or fungi.
- 2) If a Property is used as a Controlled Substance Property and
 - a) the supply of electricity, water or natural gas to the Property is disconnected by the City or any other lawful authority; or

- b) unauthorized Alterations or repairs are made to structural, electrical, water or gas systems, equipment, appliances or other accessories of any kind; or
- c) a Hazardous Condition exists on the Property;

then the supply of electricity, water or natural gas must not be permanently reconnected and the Property must not be occupied or used until:

- i) the Owner or Occupant has applied to an Inspector for a Restoration Inspection and has paid the prescribed Restoration Inspection fee;
- ii) the Property has been inspected by one or more Inspectors and all other lawful authorities with jurisdiction over the supply of electricity, water or natural gas, for compliance with all health and safety requirements of the City's bylaws and any provincial statutes or regulations relating to Building, electrical, water, health, gas or fire safety, as amended from time to time;
- iii) the Owner or Occupant has obtained all permits, approvals or authorizations required to carry out the work necessary to bring the Property into compliance with the City's bylaws and all applicable provincial statutes and regulations, as amended from time to time;
- iv) if required under an enactment, including the City's Building Bylaw, the owner has retained a professional engineer holding a valid licence under the *Engineers and Geoscientists Act* and the professional engineer has certified in writing that the building safety requirements required under applicable enactments have been complied with;
- v) all of the work referred to in this section has been completed and inspected by one or more Inspectors and all other lawful authorities with jurisdiction, and the Property is in compliance with the City's bylaws and all applicable Provincial statutes and regulations, as amended from time to time;
- vi) the Owner has complied with the Provincial *Contaminated Sites Regulation* by filing the required site profile;

- vii) the Owner or Occupant has paid all fees imposed under this Bylaw and prescribed in the Fees and Charges Bylaw and all other relevant City Bylaws relating to the inspection of the Property and the issuance of permits; and
 - viii) an Inspector has rescinded a Do Not Occupy notice issued to the Property.
- 3) Where the City carries out a Safety Inspection or provides a service to Property under this Bylaw, the Owner or Occupant of such Property shall pay the applicable fees prescribed by the Fees and Charges Bylaw.
- 4) An Owner or Occupant of a Controlled Substance Property shall pay to the City, in addition to the service fees prescribed by the Fees and Charges Bylaw, any additional Service Costs incurred by or on behalf of the City.
- 5) Despite Sections 8. 3) and 8. 4), if an Owner of a Property reports a contravention under Section 3. 16 of this Bylaw, the Safety Inspection Fee and the Reinspection Fee arising in respect of the contravention are waived in respect of that incident.
- 6) Section 8.5 does not apply if the Owner discovers the contravention after the RCMP or an Inspector first discovers the contravention.
- 7) Should an Owner fail to attend at the Property to provide access to an Inspector on the date and at the time of that inspection, the City may apply for an entry warrant in order to authorize a Safety Inspection of the Property.
- 8) Any remediation required to be done on the Property pursuant this Bylaw shall be completed within 60 days of the date of occurrence of the latest of the events described in 8.2 (c), provided however, that where an Inspector is satisfied that an Owner and Occupant, or either of them, is diligently proceeding with the work required pursuant to section 8. 2) of this Bylaw, the Inspector may grant an extension of time that is, in the opinion of the Inspector, reasonably sufficient to complete the remediation work required.
- 9) Before a Building is re-occupied after remediation of a Controlled Substance Property, the Owner must notify the prospective Occupants in writing that the Property had been a Controlled Substance Property and that the requirements of this Bylaw have been satisfied.

City Reliance

9. 1) Neither the issuance of a Building Permit nor a removal of a Do Not Occupy notice posted under the authority of this Bylaw nor the acceptance or review of plans, drawings or specifications or supporting documents nor any inspections made by or on behalf of the City constitute in any way a representation, warranty, assurance or statement that the BC Building Code, this Bylaw or any other applicable codes standards or enactments have been complied with.
- 2) When a professional engineer, architect or other person provides certification or other documentation to the City under this Bylaw that the work required by or contemplated by this Bylaw substantially conforms to the requirements of this Bylaw and that the Building complies with the health and safety requirements of the BC Building Code, BC Electrical Code, this Bylaw and all other health and safety requirements established by applicable enactments, as amended from time to time and as applicable, the City will rely solely on the documentation as evidence of conformity with these requirements and not on its receipt of plans, monitoring of the work, acknowledgement of completion, or removal of a Do Not Occupy notice.

Failure to Comply

10. 1) Pursuant to the authority granted to the City by the *Community Charter*, if an Owner or Occupant of Property:
- a) is required to remedy any Hazardous Condition or any thing or condition that is not in compliance with this Bylaw or the Provincial Code that exists on the Property pursuant to a notice given under section 6.1 of this Bylaw and fails to comply within the time specified in such notice;
- b) is required to carry out remedial work on the Property pursuant to section 8.2 of this Bylaw and fails to comply within the time specified in section 8.8 of this Bylaw; or
- c) violates any part of sections 3.1 to 3.16 of this Bylaw;

the City may, by its employees, agents or other persons with whom it contracts or by members of the RCMP, enter onto the Property for purposes of fulfilling the Owner's or Occupant's requirements under this Bylaw at the Owner's or Occupant's expense and may recover all Service Costs incurred as a debt, including, without limitation, all costs incurred by the RCMP in the disassembly, removal, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with the manufacture, trade, use, sharing, storage, sale or barter of a Controlled Substance on the Property.

- 2) If the City exercises its right to enter and effect compliance pursuant to section 10. 1), it will invoice the Owner or Occupant for all Service Costs.
- 3) In the event that an Owner or Occupant fails to pay the Service Costs for which he or she has been invoiced, the Service Costs may be transferred to property tax roll as taxes in arrears on the 31st day of December in any year in which the invoice remains outstanding.

Offences and Penalties

- 11.**
- 1) Every person who contravenes any provision of this Bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any provision of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any provision of this Bylaw, commits an offence punishable upon conviction in a prosecution under the *Offence Act* and is liable to a maximum fine of \$10,000.00.
 - 2) If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.
 - 3) The provisions of this Bylaw may be enforced through the issuance of a ticket under the Ticket Information Utilization Bylaw or the Bylaw Notice Enforcement Bylaw.

Appeal

- 12.**
- 1) An Owner of a Controlled Substance Property, an authorized agent of the Owner, or the registered mortgagee of the Property may appeal the requirements imposed under this Bylaw to the Council by delivering written notice of the appeal to the Corporate Officer by no later than 30 days after receipt of an invoice for service charges assessed under this Bylaw.
 - 2) A written appeal made pursuant to section 12.1 shall specify:
 - a) the nature of the appeal;
 - b) the grounds for the appeal; and
 - c) the relief sought by the appellant.
 - 3) Upon receipt of a written appeal the Corporate Officer shall cause the matter to be placed on the agenda of the Council for a hearing.

- 4) After hearing from the appellant, the Council shall reconsider the matter and render a decision, either at the same Council meeting or at a subsequent Council meeting.

Severability

13. If any section, subsection, clause or phrase of this Bylaw is for any reason held to be invalid by a court of competent jurisdiction, it will be deemed to be severed and the remainder of the Bylaw will remain valid and enforceable in accordance with its terms.

Repeal

14. Controlled Substance Nuisance Bylaw, 2007, No. 3602, and any related amendments are hereby repealed.

Read a first time by the Municipal Council this 28th day of February, 2017.

Read a second time by the Municipal Council this 28th day of February, 2017.

Read a third time by the Municipal Council this 28th day of February, 2017.

Certified in accordance with the Bylaw authorizing the revision.

Adopted by the Municipal Council of the Corporation of the City of Port Coquitlam this 14th day of March, 2017.

Mayor

Assistant Corporate Officer