



CONTROLLED SUBSTANCE PROPERTY BYLAW 5044-2009

A bylaw to promote health and safety and to impose requirements on altered or contaminated properties used as a *controlled substance property*.

THIS DOCUMENT HAS BEEN REPRODUCED FOR CONVENIENCE ONLY and is a consolidation of "District of Mission Controlled Substance Property Bylaw 5044-2009" with the following amending bylaws:

Bylaw Number	Date Adopted	Section Amended
5070-2009 (general fees and charges amending)	December 14, 2009	Schedule "A"

Individual copies of any of the above bylaws are available from the Corporate Administration Department of the District of Mission. For legal purposes, copies of the original bylaws should be obtained.

**DISTRICT OF MISSION
CONTROLLED SUBSTANCE PROPERTY BYLAW 5044-2009**

A bylaw to promote health and safety and to impose requirements on altered or contaminated properties used as a *controlled substance property*.

WHEREAS the Council of the District of Mission wishes to enact a bylaw to promote the health and safety of occupants of altered or contaminated properties and to impose requirements on those properties;

AND WHEREAS properties, including residential properties, used as a *controlled substance property* routinely contravene standards under the British Columbia Electrical Code, Building Code and Fire Code, the *Safety Standards Act*, the *Fire Services Act* or other applicable legislation, including bylaws of the District, and may present a significant risk to public safety;

NOW THEREFORE the Council of the District of Mission, in open meeting assembled, enacts as follows:

1. CITATION

This bylaw may be cited as “District of Mission Controlled Substance Property Bylaw 5044-2009”.

2. SEVERABILITY

- 2.1 The provisions of this bylaw are severable and the invalidity of any part of this bylaw shall not affect the validity of the remainder of the bylaw.
- 2.2 Schedule “A” is attached to and forms part of this bylaw.

3. DEFINITIONS

- 3.1 In this bylaw:

“alteration” or “altered” means any change made to a structural component or a mechanical system of a building without a permit issued by the authority having jurisdiction;

“building” means any building or structure used or intended to be used for supporting or sheltering any use or occupancy;

“Building Code” means the British Columbia Building Code, as amended from time to time;

“Building Inspector” means a person appointed by the District to inspect land or buildings for compliance with building legislation including but not limited to statutes, regulations and bylaws;

“clandestine drug lab” means real property used in whole or in part for the unlicensed manufacture of amphetamines, lysergic acid diethylamide (“LSD”), gamma hydroxybutyrate (“GHB”), crack cocaine, “ecstasy”, or marijuana oil or its

derivatives;

“Community Charter” means the *Community Charter, S.B.C. 2003, c. 26*;

“controlled substance” means a controlled substance as defined in Schedules I, II or III of the *Controlled Drugs and Substances Act, 1996 c. 19*, as amended from time to time, but does not include substances produced in a clandestine drug lab;

“*controlled substance property*” means real property:

- (a) used in whole or in part for the manufacture, growth, storage, sale, trade or barter of a controlled substance; or
- (b) contaminated by, or containing trace amounts of, chemical or biological materials used in the manufacture, growth or storage of a controlled substance;

and includes a marijuana grow operation and clandestine drug lab;

“Council” means the Council of the District of Mission;

“dangerous goods” means those goods regulated by the *Transportation of Dangerous Goods Act, 1992, c. 34*, and its Regulations as amended from time to time;

“District” means the District of Mission;

“Electrical Code” means the British Columbia Electrical Code, as amended from time to time;

“Engineers and Geoscientists Act” means the *British Columbia Engineers and Geoscientists Act, R.S.B.C. 1996, c. 116*;

“Fire Inspector” means the Fire Chief and every person appointed by the Fire Chief or by Council to be an officer or employee of the District’s Fire and Rescue Service and includes a Local Assistant to the Fire Commissioner authorized under the *Fire Services Act*,

“Fire Code” means the British Columbia Fire Code, as amended from time to time;

“Fire Services Act” means the *British Columbia Fire Services Act, R.S.B.C. 1996, c. 144*;

“hazardous condition” means:

- (a) any real or potential risk of fire, noxious fumes or gases, or explosion;
- (b) any real or potential risk to the health or safety of persons or property;
- (c) any unapproved or unauthorized building alteration; or
- (d) any contravention of the Electrical Code, Fire Code, Building Code, the *Safety Standards Act*, the *Fire Services Act*, or other applicable legislation, including bylaws of the District, all as amended from time to time;

“hygienist” means a person who is:

- (a) a certified industrial hygienist (CIH);
- (b) a registered occupational hygienist (ROH);
- (c) a registered professional biologist (R.P. Bio.); or
- (d) a Ph.D. mycologist;

and who carries, or is employed by a company that carries, environmental liability insurance in the minimum amount of \$1,000,000.00;

“Inspector” includes:

- (a) a Fire Inspector;
- (b) a Building Inspector;
- (c) the Manager of the Public Safety Inspection Team;
- (d) the Director of Engineering and Public Works;
- (e) a Bylaw Enforcement Officer;
- (f) other persons designated by Council by name of office or otherwise to act in the place of a person, officer or employee referred to in paragraphs (a) to (e);
- (g) a certified electrician acting as an Electrical Advisor for the District; and
- (h) a Safety Officer appointed under the *Safety Standards Act*;

“marijuana grow operation” means real property used in whole or in part for the growing or cultivating of marijuana;

“mechanical system” means a system installed to service a real property, including but not limited to, an electrical, heating, air conditioning, sewer, water and drainage system;

“occupancy” means the use or intended use of real property in whole or in part for the shelter or support of persons, animals or property;

“owner” includes any registered owner of real property and any lessee, licensee, tenant, caretaker, user or other occupier of the real property, or the agent of any owner;

“peace officer” means a member of the Mission, British Columbia detachment of the Royal Canadian Mounted Police;

“pesticide” means any chemical, substance or mixture used to destroy, prevent, repel or mitigate fungi or animal pests, or microorganisms such as bacteria or viruses, and includes plant regulators, defoliants, desiccants or herbicides, fungicides or other substances used to control pests;

“professional cleaner” means a person or company certified in removing moulds, fungi and contaminants, including pesticides, fertilizers or chemicals, from a building;

“public safety inspection” means the inspection of real property to determine:

(a) whether a hazardous condition exists under the Electrical Code, Fire Code, Building Code, the *Safety Standards Act*, the *Fire Services Act*, or other applicable legislation, including bylaws of the District, all as amended from time to time; and

(b) whether the real property is a *controlled substance property*;

and includes not more than two remediation inspections;

“real property” means a parcel of land and includes, without limitation, any permanent or portable building or structure located on the parcel, as well as any personal property, equipment or chattel located on the parcel, or on or within any permanent or portable building or structure on the parcel, and includes a parcel covered by a tenancy agreement;

“remediation inspection” means the inspection of real property to determine whether a hazardous condition identified as a result of a public safety inspection has been remedied;

“Residential Tenancy Act” means the *British Columbia Residential Tenancy Act*, S.B.C. 2002, c. 78;

“Safety Standards Act” means the *British Columbia Safety Standards Act* S.B.C. 2003, c. 39;

“service costs” means any direct or indirect costs incurred by the District during the inspection, investigation and remediation of real property used as a *controlled substance property* including:

(a) any inspections not included in Schedule “A”;

(b) the replacement of consumables including equipment exposed to a contaminant;

(c) the clean up, dismantling, removal, transportation, storage and disposal of equipment, substances or other materials on the real property;

(d) the analysis of a substance or material found at the real property, to determine health and safety conditions at the real property;

(e) the contracting of services, including but not limited to, an electrical advisor, an engineer, construction or demolition personnel, a health professional, a Safety Officer appointed under the *Safety Standards Act*, a hazardous materials professional or an animal control officer;

- (f) the cleaning, repairing or monitoring of the District's sanitary or storm sewers, water mains, roadways, sidewalks or other District property affected by the use; and
- (g) the administration of inspections and associated activities;

"tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and tenant respecting possession of real property;

"utility" means a lawful provider of an electrical, natural gas or water service from a distribution system.

4. PROHIBITIONS

- 4.1 A person, other than a utility or a person to whom a disconnection or bypass permit has been issued by a utility, must not cause, allow or permit a meter installed for the purpose of ascertaining consumption of electricity, water or natural gas from a utility to be disconnected, tampered with or bypassed.
- 4.2 Where the supply of electricity, natural gas or water to a real property has been disconnected by a utility or by the District under this bylaw, an owner must not cause, allow or permit the supply to be reconnected until the requirements of this bylaw and other applicable legislation have been met.
- 4.3 An owner must not cause, allow or permit a building to be altered for the purpose of manufacturing or growing a controlled substance, including but not limited to:
 - (a) the installation, alteration or disconnection of a supply of electricity, natural gas, propane, heating oil or water to the real property;
 - (b) the installation, alteration or disconnection of a mechanical system, or to any equipment or appliance connected to the mechanical system;
 - (c) the removal of fire stopping required under applicable legislation.
- 4.4 An owner must not cause, allow or permit in any building on real property:
 - (a) the storage or use of dangerous goods in quantities greater than that permitted under the Fire Code;
 - (b) any obstruction of an access or egress required under the Building Code or other applicable legislation; or
 - (c) the uncommon growth of mould, mildew or fungus.
- 4.5 A person must not:
 - (a) interfere with or obstruct the Building Inspector or Fire Inspector from posting a notice under section 5.2;
 - (b) remove, alter, cover or mutilate a notice posted under section 5.2.; or

- (c) enter or occupy any real property where a notice has been posted under section 5.2.

5. POWERS OF INSPECTORS

5.1 An Inspector may enter on real property to:

- (a) deliver a form of notice under this bylaw, including posting a notice in a conspicuous place on the real property;
- (b) carry out a public safety inspection or remediation inspection; and
- (c) attend at the real property from time to time during the course of remediation work required under this bylaw to ascertain whether the work is taking place and to monitor any work being done.

5.2 Where a Building Inspector or Fire Inspector has reason to believe that a real property contains a hazardous condition or is a *controlled substance property*, including being informed by a peace officer, and where:

- (a) the Fire Inspector has ordered every occupier of the real property to vacate;
- (b) Council has ordered every occupier of the real property to vacate under the *Community Charter*; or
- (c) an owner has delivered written notice to the District under section 6.2,

he or she may post a notice in a conspicuous place anywhere on the real property prohibiting any person from entering or occupying the real property.

5.3 Where a real property is the subject of a notice posted under section 5.2 and the owner complies with the requirements of this bylaw and other applicable legislation, the Building Inspector or Fire Inspector shall remove the notice.

5.4 The Fire Inspector may:

- (a) enter on real property and inspect it 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 action for the purpose of removing or reducing any thing or condition that the Fire Inspector considers is a fire hazard or increases the danger of a fire;
- (d) request that a utility discontinue electrical service to a real property if the Fire Inspector determines that the condition of the electrical system on the real property constitutes an imminent fire hazard; and

without limiting paragraphs (a) to (d), exercise the powers of the Fire Commissioner under sections 21 and 25(1) to (4) of the *Fire Services Act*.

- 5.5 Where an Inspector has reason to believe that a real property is a *controlled substance property* he or she may require the owner to clean, disinfect, remove, replace or otherwise remediate any surface, object or thing which in the opinion of the Inspector is contaminated, including but not limited to:
- (a) ceilings, walls and floors, including insulation;
 - (b) carpets, rugs, curtains, drapes and wall coverings; and
 - (c) the furnace, including all air ducts, main distribution ducts, venting, and filtering.
- 5.6 Any work required under section 5.5 must be performed by a professional cleaner and inspected by a hygienist who must provide written certification that the real property is substantially free of any pesticides, fertilizers, toxic chemical contamination, moulds or fungi.
- 5.7 Where the Building Inspector has reason to believe that the water supply on a real property is or may be contaminated he or she may:
- (a) post a notice subject to the *Community Charter* in a conspicuous place anywhere on the real property ordering the disconnection of the water service;
 - (b) require that the water be tested by a hygienist to determine if contaminants are present and if so, which contaminants are present; and
 - (c) require the chlorination or flushing of water lines on the real property.
- 5.8 The Inspector may, having regard to the amount and complexity of remediation work required under this bylaw, grant a reasonable extension of time to complete any work.

6. DUTIES OF OWNERS

- 6.1 Every owner of real property that is subject to a tenancy agreement must inspect the real property at least once every three consecutive calendar months to determine whether the property is a *controlled substance property* or contains a hazardous condition.
- 6.2 Where an owner believes there is a contravention of this bylaw after an inspection under section 6.1, the owner must:
- (a) within 24 hours of the determination, deliver written notice to the District of the particulars of the contravention; and
 - (b) subject to the *Residential Tenancy Act*, within two months of the delivery of the notice, take such action as may be necessary to bring the real property into compliance with this bylaw.

- 6.3 Where a *controlled substance property* has been remediated and may be re-occupied, the owner must notify any occupant in writing prior to occupancy that the real property was used as a *controlled substance property*.
- 6.4 Every owner of real property must undertake any action directed by the Fire Inspector for the purpose of removing or reducing any thing or condition that the Fire Inspector considers is a fire hazard or increases the danger of fire.
- 6.5 Where occupancy of a real property has been prohibited under section 5.2, an owner must not cause, allow or permit the real property to be used or occupied until:
- (a) a public safety inspection has been carried out under section 5.1;
 - (b) the owner has carried out or caused to be carried out, the work required under this bylaw and other applicable legislation including:
 - (i) obtaining any permit, approval or authorization necessary to carry out the work;
 - (ii) submitting to the District any written certification or other documentation required; and
 - (iii) paying all service costs, inspection fees, permit fees and other applicable fees; and
 - (c) the Building Inspector or Fire Inspector has removed any notice posted under section 5.2.

7. DISTRICT RELIANCE

- 7.1 Where an owner is required to perform work under this bylaw, neither:
- (a) the issuance of a building permit;
 - (b) the removal of a notice posted under section 5.2,
 - (c) the acceptance or review of plans, drawings or specifications or supporting documents; or
 - (d) any inspections or monitoring of work;
- by or on behalf of the District constitutes in any way a warranty, assurance or statement of compliance with this bylaw or any other applicable code, standard or legislation.
- 7.2 Where a professional engineer, architect or other person provides certification or other documentation to the District that:
- (a) work performed as a requirement under this bylaw substantially conforms to this bylaw or any other applicable legislation; or

- (b) a building complies with the requirements of the Building Code, *Safety Standards Act*, District bylaws or other applicable legislation;

the District may rely solely on that certification or other documentation as evidence of conformity with these requirements.

8. FEES AND SERVICE COSTS

- 8.1 Where a public safety inspection is conducted on a *controlled substance property* the owner must pay the District the fees and service costs set out in Schedule "A" 1.1 and 2.2, and payment must be made prior to the first remediation inspection being conducted.
- 8.2 Where a remediation inspection is required which is not included as part of the public safety inspection, the owner must pay the District the fee set out in Schedule "A" 1.2, and the fee must be paid prior to the inspection being conducted.
- 8.3 In addition to any fee payable under this section, the owner of a *controlled substance property* must pay the District the service costs set out in Schedule "A" 2.1.
- 8.4 Where water service is shut off, reconnected or otherwise serviced under this bylaw, the owner must pay the District the applicable fees set out in Schedule "A" 1.3 to 1.5.
- 8.5 Notwithstanding section 8.1, if any owner reports to the District that real property owned by him or her is a *controlled substance property*, prior to the District or a peace officer identifying the real property as such, only the service costs set out in Schedule "A" 2, shall be payable to the District.

9. DEFAULT

- 9.1 If an owner fails to comply with a requirement under this bylaw or other applicable legislation, the District, by its officers, employees or agents may enter on the real property and take such action as may be required to correct the default, including to remediate the real property or bring it up to a standard specified in the bylaw or applicable legislation, at the expense of the owner, and may recover the costs incurred as a debt.
- 9.2 If the owner has failed to pay any fee or cost imposed or incurred under this bylaw before the 31st day of December in the year the fee or cost was imposed or incurred, the amount payable may be added to and form part of the taxes payable on the real property as taxes in arrears.

10. OFFENCES AND PENALTIES

- 10.1 Every person who contravenes any provision of this bylaw commits an offence punishable upon summary conviction and is liable to a fine not exceeding \$10,000.00.
- 10.2 If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

11. REPEAL

11.1 District of Mission Controlled Substance Property Bylaw 4040-2008 is hereby repealed.

READ A FIRST TIME this 6th day of July, 2009

READ A SECOND TIME this 6th day of July, 2009

READ A THIRD TIME this 6th day of July, 2009

ADOPTED this 20th day of July, 2009

(original signed by James Atebe)
JAMES ATEBE, MAYOR

(original signed by Dennis Clark)
DENNIS CLARK, DIRECTOR OF
CORPORATE ADMINISTRATION

SCHEDULE "A"

1. FEES

The following fees apply under this bylaw:

	2010 Rate	2011 Rate
1. Public Safety Inspection: includes the initial public safety inspection and not more than two remediation inspections. The fee must be paid prior to the first remediation inspection.	\$4,900.00	\$4,900.00
2. Additional Remediation Inspection: for each additional remediation inspection required after the two remediation inspections included in the public safety inspection. The fee must be paid prior to each inspection.	\$250.00	\$250.00
3. Shutting off a water service	\$100.00	\$100.00
4. Re-connecting a water service	\$100.00	\$100.00
5. Re-inspecting and re-sealing a water distribution system	\$500.00	\$500.00

2. SERVICE COSTS

The following service costs apply under this bylaw:

1. Items defined in section 3.1 (a) through (f) of this bylaw	At cost	At cost
2. Administration as defined in section 3.1 (g) of this bylaw	\$300.00	\$300.00