

The agenda for the **Committee of the Whole (Development Services Committee – Medical Marijuana Land Use Workshop)** meeting to be held in the **Conference Room** of the Municipal Hall, 8645 Stave Lake Street, Mission, British Columbia on Wednesday, November 21, 2012, commencing at 2:00 p.m.

1. CALL TO ORDER

2. ADOPTION OF AGENDA

3. DEVELOPMENT SERVICES

(a) Medical Marijuana Land Use Workshop

- i. Presentation: Medical Marijuana Grow Operations - an RCMP Perspective (Konrad Goldbeck, Staff Sergeant Operations, RCMP) ---
- ii. Presentation: Commercial and Industrial Enforcement Process Overview (Mike Younie, Director of Development Services) ---
- iii. Presentation: Residential Options for Council Consideration (Barclay Pitkethly, Deputy Director of Development Services) ---
 - November 21, 2012 Staff Report from the Deputy Director of Development Services: Medical Marijuana Grow Operations Page 2
- iv. Council Discussion

4. ADJOURNMENT

File Category: ADM.BYL.BYL
File Folder: 5050-2009 Zoning Bylaw/3964-2007 Business Licence Bylaw

DATE: November 21, 2012
TO: Mayor and Council
FROM: Barclay Pitkethly, Deputy Director of Development Services
SUBJECT: **Medical Marijuana Grow Operations**
ATTACHMENT(S): Appendix 1 – Zoning Bylaw Definitions
Appendix 2 – Home Occupations
Appendix 3 – Business Licence Bylaw
Appendix 4 – Nuisance Abatement Bylaw

PURPOSE:

The purpose of this report is to outline options for Council's consideration regarding the regulation of legal medical marijuana grow operations within the residential areas of Mission. Council has already determined that resources should be allocated to enforcing the current zoning bylaw prohibition of agricultural activities within the industrial or commercial areas of Mission leaving only the residential and agricultural areas for which the use may be applied.

BACKGROUND:

At the October 1, 2012 regular meeting of Council, options to regulate legal medical marijuana grow operations were presented to Council; the report was deferred pending the scheduling of a Council workshop where Council could gain a better understanding of the breadth and depth of the subject matter.

DISCUSSION:

Four options were presented to Council at the October 1, 2012 meeting. The following is an update on the options presented including the pros and cons as well as the resourcing needed for each option.

In addition to the options presented, below are 'guiding principles' for which the options have been developed to assist Council to understand the rationale on which each option is based.

Guiding Principles:

1. Industrial and Commercial zoned properties – Not Permitted:
 - a. developed a procedure to promote conformity to the zoning bylaw
 - b. initiate a coordinated effort between Fire, Bylaws, Building - underway

2. Residential Properties
 - a. inside principal residence - no action
 - b. outside principal residence - deemed an "agriculture" use
 - c. must meet regulations of zone
 - d. cannot be considered a "Home Occupation"
3. Growing and cultivation of marijuana may be considered an **Agricultural Use** – where a municipality may regulate *where* you can grow but not *what* you can grow
4. Growing and cultivation of marijuana can pose risks to the natural environment, water, sanitary sewer and storm sewer systems and associated odours can be considered a nuisance if not managed properly

OPTIONS TO REGULATE LICENCED MEDICAL MARIJUANA USE

Option #1 – Prohibition

One option suggested in part by residents and businesses is to consider making the use illegal throughout the District of Mission. It is not in the District's power to make a use, which is deemed legal by the Federal Government, illegal in the District of Mission. This action, if initiated by the District of Mission, is considered unconstitutional according to the District's legal counsel.

Options #1 is not a recommended option for Council to pursue.

Option #2 – Maintain Status Quo

Option #2 is to do nothing with the existing bylaws and enforce the District's bylaws as written and interpreted. As the use is now considered a legal activity, the RCMP do not pursue any complaints regarding licenced marijuana grow operations if the property is shown to have a "licence to grow" as issued by the Federal Government via the Medical Marijuana Access Regulation (MMAR), except perhaps in cases where the number of plants far exceeds the permitted number.

Land Use: Currently, licenced medical marijuana grow operations may be regarded as a permitted agricultural use, with limits, in many zones within Mission, including all Rural, Rural Residential, Suburban and Urban areas. The effect of maintaining the status quo may be the negative impact on residential neighbourhoods, in particular where the operation is located within a principal dwelling, within all residential areas of Mission.

Regulations: No changes to existing bylaws or policies are required. The following compliance chart lists the various zones in the zoning bylaw, what the permitted uses are and highlights portions of the regulated use that are applicable to marijuana grow operations.

Compliance Chart

Zone	Permitted Use	Regulations:
Rural	General Agriculture Greenhouse Hobby Greenhouse	may be Principal Use of property - as per definition limited to 2 buildings - total area: 150 sq.m. (1614 sq.ft.); 2.0 m (6.5 ft.) landscape buffer
Rural Residential	Small Scale Agriculture Hobby Greenhouse	Accessory Use - as per definition - lot must be .36 ha (.88 ac) limited to 2 buildings - total area: 70 sq.m. (750 sq.ft.); 2.0 m (6.5 ft.) landscape buffer
Suburban	Small Scale Agriculture Hobby Greenhouse	Accessory Use - as per definition - lot must be .36 ha (.88 ac) limited to 1 building - total area: 35 sq.m. (750 sq.ft.)
Urban Residential	Hobby Greenhouse	limited to 1 building - total area: 20 sq.m. (215 sq.ft.)
Residential Compact	Hobby Greenhouse	limited to 1 building - total area: 20 sq.m. (215 sq.ft.)
RT465	Hobby Greenhouse	limited to 1 building - total area: 20 sq.m. (215 sq.ft.)
RB558	Hobby Greenhouse	limited to 1 building - total area: 20 sq.m. (215 sq.ft.)
CCR	Hobby Greenhouse	limited to 1 building - total area: 20 sq.m. (215 sq.ft.)
I-5 - Zajac Ranch	Hobby Greenhouse	limited to 1 building - total area: 20 sq.m. (215 sq.ft.)

It should be noted that in addition to the above restrictions, setbacks for accessory buildings utilized for Agricultural purposes must also be adhered to.

Of interest is the relationship between the number of licensed plants and the space required to grow the plants. While there are many different ways to grow marijuana, it appears as though about 0.3 plants per square foot is a reasonable density for growing including storage requirements. Staff believes the largest personal use production licence for medical marijuana in Mission permits the storage of about 13kg of dried plant material and the production of 300 plants (2-3 crops per year likely). The space required for storage and growing would be about 1,000 square feet – significantly larger than the permitted hobby greenhouse size permitted under the zoning bylaw.

While staff does not definitively know the average number of plants permitted under a licence for personal production, a 215 square foot hobby greenhouse could allow approximately 65 plants to be grown at any given time (2-3 cycles per year) and meet associated drying and storage needs. Based on staff’s knowledge, 65 plants is a reasonable personal use amount and therefore no adjustment to the size restrictions of a hobby greenhouse is being recommended at this time. Under the zoning bylaw, a hobby greenhouse is classified as an accessory building and not one necessarily made out of glass. It would appear that a reasonable number of plants for personal use could be accommodated by the accessory building size regulations currently in the zoning bylaw within urban areas.

Resourcing: No additional staff resourcing or costs are associated with Option #2, however a shift in priorities for enforcement staff will need to be considered as grow operations move out from industrial and commercial to appropriately zoned areas. Enforcement of the District of Mission bylaws are on a complaint basis only and therefore will only be pursued when a complaint is received. After a complaint is received, the normal course aimed at achieving compliance will be required, including obtaining all necessary building permits to ensure construction or improvements to meet the BC Building Code.

Pros versus Cons:

Pros:	Cons:
<ul style="list-style-type: none"> • Cost to District is minimal. • Limited ability to grow outside of a principal dwelling. • No amendments to existing regulations are required. 	<ul style="list-style-type: none"> • Enforcement of use is complaint basis. • Grow operations are forced into homes. • Impact on residential urban neighbourhoods.

Considerations:

1. Licenced medical marijuana grow operations not located within a principal dwelling unit:
 - a. be interpreted and defined in the zoning bylaw as an Agriculture Use;
 - b. be an allowed use as defined within the zoning bylaw;
 - c. are required to provide a description of any and all emissions and discharges to air, sanitary sewer, storm sewer, streams, or ground water and how any potable water system will be protected
 - d. are required to produce the original MMAR licence, for which a copy will be made, indicating:

- i. the location for which the licence has been issued;
 - ii. the number of marijuana plants the licenced grower is allowed to grow;
 - iii. the amount of dried marijuana the licensee is allowed to store;
 - iv. the “production area”, whether indoors, outdoors, or a combination of the both, of the operation on the land; and
 - v. if required, the consent of the land owner;
- prior to issuance of any Building Permit or inspection by the District of Mission;
- e. are required to obtain a Building Permit to ensure BC Building Code compliance and Zoning Bylaw compliance and to ensure that the safety of the public is assured and any possible nuisances are mitigated.

Options 3 and 3a are similar but Option 3a further restricts the areas for which the use will be deemed legal by limiting the growing of licensed marijuana to properties designated rural or identified as being within the agricultural land reserve in the OCP.

Option #3 – Rural and Rural Residential zoned and designated properties only

Option #3 involves allowing licenced medical marijuana grow operations to be located on properties that are zoned Rural or Rural Residential in the zoning bylaw and designated Rural, Rural Residential or Agriculture Land Reserve in the Official Community Plan. The properties must meet both tests, zoned and designated accordingly. Because many properties within Rural or Rural Residential zoning are not designated as such, and are located within the urban area of Mission, it is important that the property meets both tests in order to manage the use as desired.

The intent of this option is to utilize a team (minimum of two) of District personnel to ensure the building for which the use will be contained will meet the life safety standards of the BC Building Code and be properly ventilated and constructed to manage any noise, smell, or other nuisance that may cause discomfort to neighbouring properties.

Properties would be subject to yearly inspections, similar to commercial and industrial properties.

Additionally, and as opposed to how the original Controlled Substance Property Bylaw was enforced, properties would not be sought to be inspected, rather growers would need to comply with all of the District’s rules and regulations prior to the property being considered legal for the use it is intending. Failure to comply could result in compliance action against the property owner being initiated by the District for not being in compliance with the zoning bylaw.

Land Use: Rural and Rural Residential properties are typically larger lots and located outside of the urban areas of Mission. Because the lots are larger, 0.7 ha (1.73 ac), nuisances such as smell can be better managed and mitigated than if located within the urban area.

Regulations: Regulations within Zoning Bylaw 5050-2009 and the Nuisance Abatement Bylaw 5300-2012 will need to be amended and a possible new controlled substance property bylaw will need to be introduced to manage the use so that safety may be addressed in accordance to the BC Building Code, nuisance abatement for neighbouring property owners are addressed, and to provide ongoing compliance.

Resourcing: At this time, resourcing is not entirely known. It is anticipated however, that additional resourcing in terms of staffing and increased budgeting for legal counsel would be required.

Pros versus Cons:

Pros:	Cons:
<ul style="list-style-type: none"> • Manages use to rural areas of Mission. • Rural properties are typically larger and can accommodate such a use. 	<ul style="list-style-type: none"> • There are many properties zoned and designated. • Pushes use into mainly rural areas. • Additional enforcement and inspection resources may be required.

Considerations:

1. Licenced medical marijuana grow operations:

- a. be clearly defined in the zoning bylaw as an Agriculture Use;
- b. be an allowed use only on Rural and Rural Residential zoned properties that are designated Rural, Rural Residential or Agricultural Land Reserve within the OCP;
- c. are limited to an area similar to that used to define the home occupation regulations of Zoning Bylaw 5050-2009 which include restrictions on the type of emissions, traffic congestion, enclosure requirements, etc.
- d. are not located within a single family dwelling or within the building where the principal occupancy of the property is located;
- e. are required to provide a description of any and all emissions and discharges to air, sanitary sewer, storm sewer, streams, or ground water and how any potable water system will be protected;
- f. are required to produce the original MMAR licence, for which a copy will be made, indicating:
 - i. the location for which the licence has been issued;
 - ii. the number of marijuana plants the licenced grower is allowed to grow;
 - iii. the amount of dried marijuana the licensee is allowed to store;
 - iv. the “production area”, whether indoors, outdoors, or a combination of both, of the operation on the land; and
 - v. if required, the consent of the land owner;
 prior to issuance of any Building Permit or inspection by the District of Mission;
- g. are required to obtain a Building Permit to ensure BC Building Code compliance and Zoning Bylaw compliance and to ensure that the safety of the public is assured and any possible nuisances are mitigated; and
- h. are deemed a “controlled substance property” and are subject to yearly inspections with notification and fees to be collected as per a newly created controlled substance property bylaw.

Option #3a – Rural zoned and Rural or Agricultural Land Reserve designated properties only

This option would only allow a licenced medical marijuana grow operation to locate on Rural zoned properties with either Rural or Agricultural Land Reserve OCP designations.

Pros versus Cons:

Pros:	Cons:
<ul style="list-style-type: none"> • Gets use out of industrial and commercial areas. • Manages use to rural areas of Mission. • Rural properties are typically larger and can accommodate such a use. • Options to where the use will be regulated become increasingly limited. • Sends a message to the medical grow operation community. 	<ul style="list-style-type: none"> • Pushes use into rural farming and hobby farming areas. • Additional enforcement and inspection resources may be required.

Considerations:

1. Licenced medical marijuana grow operations:
 - a. be clearly defined in the zoning bylaw as an Agriculture Use;
 - b. be an allowed use only on Rural zoned properties that are designated Rural, or Agricultural Land Reserve within the OCP;
 - c. are limited to an area similar to that used to define the home occupation regulations of Zoning Bylaw 5050-2009;
 - d. are not located within a single family dwelling or within the building where the principal occupancy of the property is located;
 - e. are required to provide a description of any and all emissions and discharges to air, sanitary sewer, storm sewer, streams, or ground water; and how any potable water system will be protected;
 - f. are required to produce the original MMAR licence, for which a copy will be made, indicating:
 - i. the location for which the licence has been issued;
 - ii. the number of marijuana plants the licenced grower is allowed to grow;
 - iii. the amount of dried marijuana the licensee is allowed to store;
 - iv. the “production area”, whether indoors, outdoors, or a combination of the both, of the operation on the land; and
 - v. if required, the consent of the land owner;prior to issuance of any Building Permit or inspection by the District of Mission;
 - g. are required to obtain a Building Permit to ensure BC Building Code compliance and Zoning Bylaw compliance and to ensure that the safety of the public is assured and any possible nuisances are mitigated; and
 - h. are deemed a “controlled substance property” and are subject to yearly inspections with notification and fees to be collected as per a newly created controlled substance property bylaw.

Given the limited number of lots and land available, Option #3a is one option that Council may prefer.

Option #4 – Industrial zoned properties

Option #4 is to regulate licenced medical marijuana grow operation within industrial lands only. While this option may be preferred from the growers, it does not meet the needs of the community’s overall objectives in terms of the Employment Land Strategy or the Official Community Plan, nor does it make economic sense from a municipal perspective. It is anticipated that only businesses catering to the medical marijuana growing community would locate to Mission if industrial areas became legal grow operations. Legitimate business have already expressed concern to the District regarding the number of illegal licenced medical marijuana grow operations that have set up in Mission’s industrial areas.

Given the vocalization of Mission’s Chamber of Commerce, regulating licenced medical marijuana

grow operations on industrial lands is not a recommended option for Council to pursue. A variant on this option would be to investigate the potential to develop a subdivision that would only permit licensed medical marijuana grow operations and could be developed on industrial or agricultural lands where no impact to neighbouring residents or businesses would occur.

FINANCIAL IMPLICATIONS:

Until Council directs staff to undertake action to enforce existing bylaws, implement new bylaws or change and add clarity to existing bylaws, no financial implications are expected.

COMMUNICATION:

Once Council has resolved to pursue a particular option with respect to regulating medical marijuana grow operations in compliance with Zoning Bylaw 5050-2009, staff will communicate the decision to stakeholders using the City Page, website, press release and front counter inquiries.

Staff will develop a follow-up report with assistance from the District’s legal counsel with recommendations to amend the District’s current bylaws and regulations. One such change will likely be required to the Nuisance Abatement Bylaw to ensure odour issues can be managed. It is expected that this would come forward to Council as soon as possible, with an expected date for introduction of amending bylaws to be at the first meeting in December. This report will also include an approach to dealing with any known non-compliance operations.

SUMMARY AND CONCLUSION

Council resolved to complete a workshop to gain a better understanding of the issues associated with medical marijuana grow operations. Several options have been proposed to regulate these operations under the existing zoning bylaw. Amendments to various bylaws and policies may be required depending on what option is chosen. A follow-up report after the workshop will be delivered to Council that recommends any required changes to existing bylaws and policies as well as an approach to resolving any non-compliant situations that arise as a result of any Council decision.

SIGN-OFFS:



Barclay Pitkethly,
Deputy Director of Development Services



Reviewed by:
Mike Younie, Director of Development Services

Comment from Chief Administrative Officer
Reviewed.

Appendix 1 Zoning Bylaw 5050-2009 Definitions

Agriculture, General means providing for the growing, rearing, and harvesting of agricultural products and includes the preliminary grading of land for agricultural products grown, harvested or reared on that land.

And includes:

- “hobby kennel” as defined in the District of Mission Kennel Bylaw 2788-1994, and the keeping of:

- bees
- cattle (limited to 1 animal per .36 ha (.88 ac) of Lot Area)
- horses (limited to 1 animal per .36 ha (.88 ac) of Lot Area), and
- chicken hens (limited to 1 bird per 375 sq m of Lot Area), and

Excludes:

- mushroom growing, and the keeping of:

- swine,
- rabbits,
- mink,
- all other fowl, excluding chicken hens, and
- feed lots.

Agriculture, Small Scale means providing for the growing, rearing, and harvesting of agricultural products and includes the preliminary grading of land for agricultural products grown, harvested or reared on that land.

And includes:

- “hobby kennel” as defined in the District of Mission Kennel Bylaw 2788-1994, and the keeping of:

- bees
- cattle (limited to 1 animal per .36 ha (.88 ac) of Lot Area)
- horses (limited to 1 animal per .36 ha (.88 ac) of Lot Area), and
- chicken hens (limited to 1 bird per 375 sq m of Lot Area), and

Excludes:

- mushroom growing, and the keeping of:

- swine,
- rabbits,
- mink,
- all other fowl, excluding chicken hens, and
- feed lots.

Greenhouse; means a Building made mainly of glass or plastic in which the temperature and humidity can be regulated for the cultivation of plants; excludes cultivation of mushrooms.

Hobby Greenhouse means an Accessory Building for the cultivation of plants, including for food production.

Appendix 2 Home Occupations

A. General Regulations

1. Where permitted in this Zoning Bylaw as an *Accessory Use*, *Home Occupations* shall adhere to the following regulations:
 - a. *Home Occupations* shall be entirely enclosed within a *Building*.
 - b. No more than two (2) *Home Occupations* shall be permitted on any *Lot*.
 - c. In *Multiple Unit Residential Buildings* or *Mobile Home Parks*, *Home Occupations* shall be entirely enclosed within the *Dwelling Unit* to which they are accessory and shall not occupy more than 20% of the *Floor Area* of the *Dwelling Unit* in which it is being conducted or 15 sq m (161 sq ft), whichever is less.
 - d. In the RURAL area, where the *Lot Area* is 1.8 ha (4.4 ac) or more, *Home Occupations* shall not occupy more than 186.0 sq m (2,002 sq ft).
 - e. In the SUBURBAN and RURAL RESIDENTIAL areas where the Lot contains less than 1.8 ha (4.4 ac) *Home Occupations* shall not occupy more than 140 sq m (1,500 sq ft).
 - f. In all other URBAN areas, *Home Occupations* shall not occupy more than 56 sq m (603 sq ft) of *Floor Area* of a *Single Family Dwellings* or a *Duplex*.
 - g. *Home Occupations* shall not involve the external storage or display of materials or finished products associated with the *Home Occupation Use*.
 - h. *Home Occupations* on any one *Lot* shall be limited to a maximum of 10 patrons or students assembled at one time.
 - i. Retail sales of any goods shall be limited to a *Floor Space* of not more than 10 sq m (108 sq ft) provided the sale of any retail good is clearly an *Accessory Use* to the *Home Occupation* on the Lot.

B. Prohibited Uses

1. Home Occupations shall not include:
 - a. Occupations that discharge or emit odorous, noxious or toxic matters or vapours, heat, glare, noise or radiation, or recurrently generated ground vibrations;
 - b. Occupations that result in traffic congestion, electrical interference, fire hazard or health hazards;
 - c. The salvage, repair, maintenance or sales of *motor vehicles* or *motor vehicle* engines or parts;
 - d. Involve the use of a *Motor Vehicle* exceeding 4,500 kg (9,920 lbs) licensed gross vehicle weight unless such *Motor Vehicle* is completely enclosed within a *Building* except within the RURAL AREA or the RURAL RESIDENTIAL AREA; or

- e. Involve the use of more than one commercial *Motor Vehicle* unless such *Motor Vehicle* is completely enclosed within a *Building* except within the RURAL AREA, SUBURBAN AREA or the RURAL RESIDENTIAL AREA.

C. Parking

1. *Home Occupations* shall provide one parking space for each non-resident employee working at such facility.
2. A minimum of 2 *Off Street Parking* spaces are required for *Home Occupation* uses involving patrons, students and/or a *Child Care Centre*.

D. Employees

1. In the RURAL area, where the LOT contains 1.8 ha (4.4 ac) or more, *Home Occupations* shall have a maximum of 5 employees including not more than 4 non-resident employees.
2. In the RURAL, RURAL RESIDENTIAL or the SUBURBAN area, where the *Lot* contains less than 1.8 ha (4.4 ac), *Home Occupations* shall have a maximum of 4 employees, including not more than 3 non-resident employees.
3. In all other URBAN areas, *Home Occupations* shall have a maximum of 3 employees including not more than 2 non-resident employees.
4. Where the employees of a *Home Occupation* do not conduct their occupation on the subject property, there shall be no restrictions on the number of employees.

E. Bed and Breakfast Operation Regulations

1. In addition to other *Home Occupation* regulations, *Bed and Breakfast* operations shall comply with the following conditions:
 - a. Limited to residential land uses, including *Single Family Dwelling* and *Duplex*, and shall be contained entirely within a *Principal Building*.
 - b. Limited to not more than three (3) rental bedrooms accommodating not more than six (6) persons at any one time.
 - c. In addition to the Off-Street Parking requirements for the *Principal Use* itself, as stipulated in Section 109 - Off-Street Parking Regulations, one (1) additional Off-Street Parking space per every 2 guest rooms shall be required for a Bed and Breakfast operation.
 - d. All parking of vehicles must be accommodated on the *Lot* containing the *Bed and Breakfast* operation.
 - e. A *Bed and Breakfast* is prohibited in a Mobile Home Park or any other *Multiple Unit Residential Building*, except a *Duplex*.

F. Child Care Centre Regulations

- a. Where a *Home Occupation* is a *Child Care Centre*, the use shall be limited to not more than 8 children.
- b. Notwithstanding Section 107, Part A.1.c to A.1.f., where a *Child Care Centre* is located on a *Lot*, the *Use* shall not occupy more than 140 sq m (1,500 sq ft) of *Floor Space*.

Appendix 3 Business Licence Bylaw

A bylaw respecting the Licensing of Businesses

The Council of the District of Mission, in opening meeting assembled, ENACTS AS FOLLOWS:

Title

5118-2010-3964(4) 1.1 This Bylaw may be cited as "District of Mission Business Licence Bylaw 3964-2007".

Interpretation

5118-2010-3964(4) In this Bylaw:

5118-2010-3964(4) "*business*" means

Each legal entity or *person* that actively carries on *business* within the *District* of Mission, as a sole proprietor, a corporation or a partner (each partner is a separate legal entity not the *partnership* itself) is deemed to be a distinct *business*. *Businesses* are verifiable in that each legal entity carrying on *business* is required to file a tax return in regards to their *business* activities. A business includes any of the following activities:

4076-2008-3964(2)
5118-2010-3964(4) carrying on a commercial or industrial activity or undertaking of any kind, or providing professional, *personal* or other services for purpose of gain or profit, providing any other services in exchange for money or other consideration, including non-profit services and/or businesses classified in Schedule "A",

5118-2010-3964(4) but does not include an activity carried out on or by either the Federal or Provincial governments including corporations or agencies owned by them, or by any public transit authority.

"*District*" means the District of Mission;

"*Licence Inspector*" means the Manager of Inspection Services for the *District* of Mission and any *person* appointed from time to time by the *Licence Inspector* or *persons* employed by the *District* as *Licence Inspector*;

"*non-resident business*" means a *business*, other than a *resident-business*, carried on in the *District* or with respect to which any work or service is performed in the *District*;

"*person*" includes a corporation, *partner* or party, and the *personal* or legal representatives of a *person* to whom the context can apply according to law;

"*partnership*" is the relation which subsists between *persons* carrying on *business* in common with a view of profit;

"*resident-business*" means a *business* carried on, in or from a premises or other place located within the *District*.

5118-2010-3964(4) "*seasonal business*" means a business that is operated during a limited time frame of 6 months or less and that involves work that occurs during a season that is favourable to the business

Application

- 3.1 Except as provided in section 3.2, no *person* shall carry on any *business* within the *District* unless that *person* is the holder of a valid and subsisting licence issued under the provisions of this bylaw for the *business* so carried on.
- 3.2 The following non-*resident businesses* are not required to hold a licence:
- (a) a *person* practising a profession governed by a special Act unless that *person* regularly and generally carries on *business* in the *District*;
 - a wholesaler, manufacturer or processor who is only in the *business* of offering for sale and delivering it to merchants for resale by them in the ordinary course of their *business*;
 - a retailer who only delivers commodities sold by them in the ordinary course of *business* and pick-up commodities being returned or exchanged;
 - owners or operators of taxicabs who only discharge passengers in the *District* from outside its boundaries; and
 - owners or operators of carriers, other than taxicabs, who pick up passengers or chattels in the *District* for discharging or delivery outside the *District* or discharge or deliver in the *District* passengers or chattels picked up outside the *District*.

Licence Inspector

- 4.1 The Licence *Inspector* may:
- (a) enter any real property or other place at any reasonable time for the purpose of ascertaining whether the regulations and provisions of this bylaw are being complied with;
 - (b) grant, issue or transfer a licence if satisfied that the *person* for which application pertains has complied or is in process of complying with a bylaw or bylaws of the *District* regulating building, land use, health, fire, environmental and *business*;
 - (c) renew a licence, unless aware at the time of the renewal that the licensee or premises from which the *business* is operated is no longer in compliance with the provisions of this bylaw;
 - (d) impose terms and conditions in respect to the issuance, transfer, renewal or reinstatement of a licence under this bylaw and require the licensee to provide evidence to the satisfaction of the *Licence Inspector* of compliance with such terms or conditions;
 - (e) suspend or cancel a licence for reasonable cause, including where a licensee
 1. has failed to comply with a term or condition of the licence,
 2. or the licensee's premises ceases to comply with a bylaw regulating building, land use, health, fire, environmental or *business*,

3. is convicted of an offence under an Act or bylaw in respect of the *business* for which the licence has been issued or with respect the premises named in the licence,
4. is deemed, under the *Offence Act*, to have pleaded guilty to an offence under a bylaw in respect of the *business* or with respect to the premises named in the licence;

refuse a licence where satisfied that the applicant or the premises named in the application are not in compliance with this bylaw, provided reason is given to the applicant for such refusal.

- 4.2 Where an applicant has been refused a licence or a licence is suspended under section 4.1. the *Licence Inspector* shall notify the applicant or the licensee affected by the decision of their right to have the matter reconsidered by Council. The obligation under this section is satisfied if a reasonable effort is made by the *Licence Inspector* to notify the applicant or licensee affected, either in *person* or by telephone or by mailing, delivering or by posting the notification at the address or place named on the application or licence.

Application for a Licence

5118-2010-3964(4)

- 5.1 Every application for a licence or application for the transfer of an existing licence shall be made to the *District* on the application form provided for that purpose.”
- 5.2 Every applicant shall make a true and correct statement on the application form disclosing the nature and character of the *business* to be carried on, the name, address and telephone number of the owner, the applicant and the *business*, and such other required information.

Licence Fees and Licence Period

- 6.1 No licence shall be granted, issued, transferred or renewed to a *person* until that *person* has paid to the *District* the prescribed fee for the classification of business set out in Schedule “A”.
- 6.2 Every licence issued pursuant to this bylaw shall terminate on the 31st day of December in the year of issuance.
- 6.3 No pro rata reduction of the licence fee shall be made for a *person* who becomes liable to be licenced after the commencement of the licence period; except that the licence fee shall be reduced by one-half for a *person* who becomes liable to be licenced after the 30th day of September in any year.

Form and Transfer of Licence

- 7.1 In the event of a change of ownership of the *business* for which such licence is issued, the new owner shall apply for a new licence.
- 7.2 No *person* to whom a licence has been issued under this bylaw shall change the location of the premises named on the licence without first making application to the *Licence Inspector* for a new licence or transfer of the existing licence and being granted it.

7.3 No *person* shall carry on a *business* at any premises or location other than that specified in that *person's* licence.

7.4 For the purpose of this bylaw, where a *person* carries on a *business* from more than one premises in the *District* each *business* location shall be deemed to be a separate *business*.

Posting of Licence

8.1 Every *person* issued a licence to carry on a *resident-business* shall keep the same posted in a conspicuous place on the *business* premises named in the licence.

Offences and Penalties

9.1 Every *person* who violates any of the provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention 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 is guilty of an offence, and, each day that violation is caused or allowed to continue shall constitute a separate offence.

9.2 Every *person* who commits an offence under this bylaw shall be liable upon summary conviction to a penalty of not less than \$250.00 and not more than \$5000.00 plus the costs.

5118-2010-3964(4)

9.3 Except for seasonal business, if a licensee continues to carry on *business* within the *District* of Mission and does not renew and pay for their licence prior to February 1st of each licence period (January 1st to December 31st), a late payment fee calculated at 25% of their annual licence fee as specified in Schedule "A" attached hereto will be applied.

5118-2010-3964(4)

9.4 Except for seasonal business, if a licensee continues to carry on *business* within the *District* of Mission and does not renew and pay for their licence prior to March 1st of each licence period (January 1st to December 31st), a late payment fee calculated at 50% of their annual license fee as specified in Schedule "A" attached hereto will be applied.

The "*District* of Mission *Business* Licence Bylaw No. 1728–1987" and all amendments thereto, are hereby repealed.

This Bylaw shall come into force and be of full effect and be binding on all *persons* from the date of its adoption.

READ A FIRST TIME this 16th day of April, 2007

READ A SECOND TIME this 16th day of April, 2007

READ A THIRD TIME this 16th day of April, 2007

RECONSIDERED AND FINALLY ADOPTED this 7th day of May, 2007

original signed by Mayor James Atebe
MAYOR

original signed by Dennis Clark
DIRECTOR OF CORPORATE
ADMINISTRATION

Appendix 4 Nuisance Abatement Bylaw 5300-2012

A Bylaw to regulate, abate and prohibit nuisances and
provide for the cost recover of abatement nuisances

WHEREAS under sections 8 and 64 of the *Community Charter*, Council may, by bylaw, regulate, prohibit and impose requirements in relation to nuisances;

AND WHEREAS under sections 17 and 194 of the Community Charter Council may impose costs and recover the costs of taking action in the event of a default by a person who fails to take action as Council directs.

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

Title

1. This Bylaw may be cited for all purposes as the "District of Mission Nuisance Abatement Bylaw No. 5300-2012".

Interpretation

2. In this Bylaw, unless the context otherwise requires:

"**District**" means the District of Mission;

"**Nuisance**" means an activity which substantially and unreasonably interferes with a person's use and enjoyment of a public area or of land he or she occupies or which causes injury to the health, comfort or convenience of an occupier of land and, if it does so, without limiting the generality of the foregoing, may include, an activity such as a noisy party, a group of people making noise, loud music, car racing, revving engines, yelling, shouting, screaming, fighting, littering and trespassing.

Prohibition

3. No person shall cause a nuisance or permit the land he or she owns or occupies to be used so as to cause a nuisance.

Nuisance Abatement

4.(1) A person who causes a nuisance or permits the land he or she owns or occupies to be used so as to cause a nuisance, shall abate or cause to be abated an activity which causes a nuisance.

4. (2) The District may, by its employees, contractors and agents, abate or cause to be abated an activity which causes a nuisance if the person who caused the nuisance or permitted the land that he or she owned or occupied to be used so as to cause a nuisance failed to comply with a direction from Council to abate the nuisance.

Cost Imposition

5. The District may impose the costs of abating a nuisance on one or more of the following:
- (1) a person causing the nuisance;
 - (2) the occupier of land from which the nuisance emanates; and
 - (3) the owner of land from which the nuisance emanates.

Collection

6. The District may recover the costs imposed under section 5 in accordance with:
- (a) section 231 of the *Community Charter* as a debt due and recoverable in a court of competent jurisdiction; or
 - (b) section 258 of the *Community Charter* as property taxes.

Costs

7. The costs recoverable for nuisance abatement shall be those set out in Schedules "A" and "B" to this Bylaw. Schedules "A" and "B" form a part of this Bylaw and are enforceable in the same manner as this Bylaw.

Offences

8. A person who contravenes, violates or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or who fails to do anything required by this Bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000.00 and not less than \$200.00, the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* or the *Offence Act* (British Columbia). Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate and distinct offence.

Severability

9. Each section of this Bylaw shall be severable. If any provision of this Bylaw is held to be illegal or invalid by a court of competent jurisdiction, the provision may be severed and the illegality or invalidity shall not affect the validity of the remainder of this Bylaw.

READ A FIRST TIME this 4th day of June, 2012

READ A SECOND TIME this 4th day of June, 2012

READ A THIRD TIME this 4th day of June, 2012

THIRD READING RESCINDED this 18th day of June, 2012

READ A THIRD TIME AS AMENDED this 18th day of June, 2012

ADOPTED this 3rd day of July, 2012

WALTER (TED) ADLEM, MAYOR

PAUL GIPPS, DEPUTY CHIEF
ADMINISTRATIVE OFFICER

SCHEDULE "A"

The costs referred to in section 7 of this Bylaw are to be determined in part by multiplying the following hourly rates for any of the following individuals involved in the abatement of a nuisance by the time spent by those individuals in the abatement of the nuisance and if there is more than one individual the amounts for each individual are added together to determine the cost imposed under this Schedule "A".

The following hourly rates apply for every hour or 1/4 hour portion thereof which any of the following District employees, RCMP or Fire/Rescue Personnel use to deal with the abatement of a nuisance and depending upon the day of the week, the time of day or the holiday status of when such services are required, the hourly rate may be increased by one and a half or two times.

District Employees	Hourly Rate (with overhead) Rounded to Nearest Dollar
Manager of Inspection Services	\$78.00
Senior Bylaw Enforcement Officer	\$ 55.00
Bylaw Enforcement Officer	\$ 50.00
Senior Building/Licence Inspector	\$ 65.00
Building Inspector III	\$ 55.00
Operations Manager	\$ 86.00
Foreman III	\$ 56.00
Water/Sewer Operator	\$ 52.00
Labourer III	\$ 40.00
Equipment Operator IV	\$ 45.00

RCMP	Hourly Rate in Dollars
Inspector	\$ 58.34
Staff Sergeant	\$ 49.44
Sergeant	\$ 45.36
Corporal	\$ 41.61
Constable	\$ 38.00

Fire/Rescue	Hourly Rate (with overhead) Rounded to Nearest Dollar
Fire Chief	\$ 98.00
Assistant Fire Chief	\$ 84.00
Fire Prevention Officer	\$ 61.00
Fire Inspector	\$ 54.00
Captain - Suppression	\$ 66.00
Fire Fighter	\$ 53.00

SCHEDULE "B"

The costs referred to in section 7 of this Bylaw are to be determined in part by multiplying the following hourly rates for any equipment or vehicles used by the District in abating a nuisance by the time spent using the equipment or vehicles. If there is more than one piece of equipment or vehicle used in the nuisance abatement then the amounts for each are added together to determine the cost imposed under this Schedule "B".

The following hourly rates apply for every hour or 1/4 hour portion thereof where any of the following equipment and vehicles are used by District employees, RCMP or Fire/Rescue personnel to deal with the abatement of a nuisance and depending upon the day of the week, the time of day or the holiday status of when such services are required, the hourly rate may be increased by one and a half or two times.

Equipment and Vehicles	Hourly Rate in Dollars
District Car	\$ 3.97
District Truck - Light	\$ 7.10
District Truck - Service	\$ 7.10
District Vehicle - Other	\$ 6.19
Fire Truck - Rescue	\$242.10
Fire Truck - Pumper	\$225.00
Fire Truck - Aerial	\$414.88
Fire Truck - Tanker	\$241.38
Fire Vehicle, Inspector	\$ 7.50
RCMP Vehicles	\$ 20.00

For any work carried out by a contractor of the District to abate a nuisance on behalf of the District the costs imposed will be the actual cost of the contract plus 10% of the contract value.