

**THE CORPORATION OF THE
CITY OF WHITE ROCK
BYLAW 2041**



A Bylaw to regulate, prohibit or impose requirements
respecting Controlled Substance Properties.

WHEREAS the Council of the Corporation of the City of White Rock deems it expedient to enact a bylaw to regulate, prohibit or impose requirements respecting Controlled Substance Properties;

AND WHEREAS the alteration of plumbing, heating, air conditioning, electrical wiring and equipment, gas piping and fittings, appliances and accessories in or on Controlled Substance Properties creates danger to occupiers and neighbours of Controlled Substance Properties and risks to the health and safety of the occupiers, neighbours and first responders; and

AND WHEREAS Controlled Substance Properties that contravene applicable standards under the Provincial Code, British Columbia Fire Code or other applicable enactments, including bylaw requirements of the City, create risks to the health and safety of occupiers, and reduce the value of neighbouring properties.

NOW, THEREFORE, under the statutory powers, including Sections 8(3) (g), (h) and (l) of the *Community Charter*, the Council of the Corporation of the City of White Rock in open meeting assembled hereby enacts as follows:

1. This Bylaw may be cited as “White Rock Controlled Substance Property Bylaw, 2014, No. 2041.”

2. **DEFINITIONS:**

In this Bylaw:

“**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.

“**Building Inspector**” means a person or persons employed by or under contract to the City to administer the City’s Building Bylaw and the Provincial Code.

“**Bylaw Enforcement Officer**” means a person or persons employed or under contract to the City to administer and regulate City bylaws.

“**Chief Constable**” means the Officer-in-Charge of the Police and his or her designate.

“**City**” means the Corporation of the City of White Rock.

“**Community Charter**” means the *Community Charter*, R.S.B.C., 2003, c. 26, as amended from time to time.

“**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 that is permitted under that Act.

“Controlled Substance Property” means

- 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 which has been or is being used for the manufacture, growing, storage, sale, trade or barter of a Controlled Substance, including a Property on which a person is authorized by the Health Canada to produce marijuana pursuant the Medical Marijuana Access Regulation, SOR 2001-227, or the Marijuana for Medical Purposes Regulation, SOR 2013-119.

“Dangerous Goods” means those products or substances regulated by the *Transportation of Dangerous Goods Act*, S.C. 1992, c. 34 and its Regulations, both as amended from time to time.

“Fire Chief” means the person appointed to that position for White Rock Fire Rescue or designate.

“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 Fire Chief or designate;
- b) a Building Inspector;
- c) a Bylaw Enforcement Officer;
- d) a member of the RCMP;
- e) a safety officer under the *Safety Standards Act*, S.B.C. 2003, c. 39; or
- f) a health inspector appointed by the local health authority.

“Noxious or Offensive Trade” includes the activities undertaken on a Controlled Substance Property.

“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 who possesses a Building Services Worker Certificate and 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.

“Qualified Professional” means an individual or corporation who

- a) is a certified industrial hygienist (CIH), a registered occupational hygienist (ROH), a registered professional biologist (R.P.Bio.), or a PhD. mycologist, and
- b) carries environmental liability insurance in the minimum amount of \$1,000,000.

“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 used 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 Controlled Substance Property, and includes the following:

- a) all costs, including wages 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) costs incurred in respect of the Property under a contract for services for an independent contractor or agent, including without limitation, a professional engineer, a consultant, a person retained to carry out construction or demolition, a health professional, an electrical inspector, or a hazardous materials professional;

- e) costs incurred by all peace officers acting on behalf of the City in the forensic investigation and inspection of the Property, securing of the Property, accompanying inspectors on or in the Property, or otherwise lawfully attending the Property; and
- f) actual costs incurred for legal fees incurred in connection with the Controlled Substance Property.

“Ticket” means a ticket in the form prescribed by Regulation in the Community Charter Regulation, B.C. Reg. 425/2003.

“Ticketing for Bylaw Offenses Bylaw” means the Ticketing for Bylaw Offenses Bylaw, 2011, No. 1929, as amended from time to time.

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

3. PROHIBITIONS AND REGULATIONS

3.1 No person 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.

3.2 No person 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.

3.3 No person other than a Utility or a person authorized by the Utility 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, water or natural gas distribution system so that the consumption is not registered by a meter.

3.4 No person shall use or alter, or cause, suffer or permit the use or alteration of the water distribution system for the purpose of cultivating or the manufacturing of a Controlled Substance.

3.5 Every person who removes, interferes with, alters or tampers with a water service that was discontinued under Section 4.4 and sealed by the water utility, commits an offence under this Bylaw.

- 3.6 No person shall alter a structure or building in a way that facilitates the manufacture or growth of a Controlled Substance or for the purpose of establishing or operating a grow operation or clandestine drug lab.
- 3.7 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.
- 3.8 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 Provincial Code or other enactment.
- 3.9 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.
- 3.10 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.
- 3.11 No person shall cause or permit a Building to become subject to the growth of mould or fungus arising from or in relation to a Controlled Substance.
- 3.12 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.
- 3.13 No 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.
- 3.14 Every Owner of a Property which is occupied or used by persons other than the Owner who has knowledge of contravention of this Bylaw 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.

4. 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 or a person authorized by the Council exercised authority under this or another bylaw to regulate, 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; or
 - d) to carry out a Safety Inspection where an Inspector or the Fire Chief considers that a Hazardous Condition may exist on the Property.
- 4.2 No person shall interfere with or obstruct the entry of an Inspector into or onto any Property.
- 4.3 The Fire Chief may:
- a) enter on 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 Property to undertake any actions directed by the Fire Chief for the purpose of removing or reducing any thing or condition that the Fire Chief considers is 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 posted by the Fire Chief under the authority of this Bylaw has been removed by the Building Inspector or the Fire Chief; and
 - 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.
- 4.4 The City may, on 24 hours written notice, or such other period of time as may be reasonable in the circumstances, request the water Utility to discontinue water service to a Property if the water was, or is, used for the purposes of a Controlled Substance Property. The Owner 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.
- 5. 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 anything or condition that is not in compliance with this Bylaw that exists on the Property.

- 5.2 Where an Owner or Occupant, or both as the case may be, receives a written notice to remedy any Hazardous Condition or anything or condition that is not in compliance with this Bylaw pursuant to section 3, 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.

6. NOTICE ON TITLE

- 6.0 Where a Building Inspector acquires knowledge that a Hazardous Condition or other thing or condition that is not in compliance with this Bylaw or the Provincial Code exists on a Property, he or she may initiate the filing of notice against the title of the Property as provided by section 57 of the *Community Charter*.
- 6.1 The filing of notice against the title of a Controlled Substance Property is subject to the payment of fees prescribed in Schedule A.
- 6.2 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.

7. 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 anything or condition that is not in compliance with this Bylaw, advising of the requirements of this Bylaw.
- 7.2 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 Qualified Professional, during an inspection under this Bylaw; and
 - d) a person who has applied for and received written permission from an Inspector.
- 7.3 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.

8. 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, including, but not limited to:
 - i) removing and disposing of all carpets and curtains in the Building;
 - ii) if the Building is heated by forced air heating, having the furnace, all air ducts, main distribution ducts, venting, and filtering cleaned by a professional cleaner or by a duct cleaning company; and
 - iii) having all walls, floors, ceilings, countertops and cabinets in the Building replaced or cleaned and disinfected by a professional cleaner.
- b) provide written certification to the City from a Qualified Professional, 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.

8.2 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;
- 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 applies to an Inspector for a Restoration Inspection and pays the Restoration Inspection fee prescribed in Schedule "A";
- ii) the Property is 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;
- iii) the Owner has obtained all permits, approvals or authorizations required to carry out, and has carried out or caused to be carried out, the work necessary to bring the Property into compliance with the City's bylaws and all applicable provincial statutes and regulations;
- iv) if so required under any enactment, 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 is completed and inspected by one or more Inspectors and all other lawful authorities with jurisdiction, and the Property complies with the City's bylaws and all

applicable provincial statutes and regulations;

vi) the Owner pays all fees imposed under this Bylaw and all other relevant City Bylaws relating to the inspection of the Property and the issuance of permits; and

vii) an Inspector rescinds a Do Not Occupy notice issued to the Property.

8.3 Where the City carries out a Safety Inspection or provides a service to Property under this Bylaw, the Owner of such Property shall pay the applicable fees prescribed by Schedule "A" of this Bylaw.

8.4 An Owner of a Controlled Substance Property shall pay to the City, in addition to all other fees payable under Schedule "A" all Service Costs incurred by or on behalf of the City, except that an Owner may, within 30 days of receipt of an invoice demanding payment of the Service Costs, require that Council reconsider the requirement to pay, or the amount of the Service Costs, at which time the Owner shall be given an opportunity to be heard by Council.

8.5 Despite Section 8.4, if any Owner or their agent reports a contravention under Section 3.14 of this Bylaw, the Safety Inspection Fee arising in respect of the contravention is waived in respect of that incident

8.6 Section 8.5 does not apply if the Owner or their agent discovers the contravention after the RCMP or an Inspector first discovers the contravention.

8.7 Should the Owner or their agent fail to attend at the Property to provide access to an Inspector on the date and at the time of that inspection, the Safety Inspection Fee remains payable and is non-refundable.

8.8 Any remediation required to be done on the Property pursuant to Section 8.2 of this Bylaw must be completed within 60 days of the date of occurrence of the latest of the events described in sections (i) through (vii), provided, however, that where an Inspector is satisfied that an Owner 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 Inspector's opinion, acting reasonably, sufficient to complete the remediation work required.

8.9 All requirements of Section 8.2 must be completed within 60 days of the receipt by the City of the certification referred to in Section 8.1(b).

8.10 Where, within the time periods specified in this Bylaw:

a) the certification required under Section 8.1(b) is not received; or

b) the work required in Section 8.2 is not completed to the satisfaction of the City,

and where, having regard to the particular nature and scope of the work to be carried out, the Building Inspector considers that additional time is required to properly complete such work, the Building Inspector may authorize an extension of 30 days to complete the work, upon payment of the fee prescribed in Schedule "A".

9. 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 Building Code, this Bylaw or any other applicable codes standards or enactments have been complied with.

10. FAILURE TO COMPLY

10.1 Pursuant to the authority granted to the City by the *Community Charter*, if an Owner of Property:

a) is required to remedy any Hazardous Condition or anything 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 5.1 or section 5.2 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 3.14 of this Bylaw,

then the City may, but is not obligated to, 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.

10.2 If the City exercises its right to enter and effect compliance pursuant to section 10.1, it will invoice the Owner for all Service Costs and the Owner must, upon receipt of that invoice from the City, pay the same immediately.

10.3 In the event that an Owner fails to pay the costs for which he or she is responsible under this Bylaw before the 31st day of December in the year in which the compliance was effected and the invoice issued, the *Community Charter* provides that such costs will be then be deemed to be taxes in arrears on the Property.

11. 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 in a prosecution under the Offence Act and is liable to a maximum fine of up to \$10,000.00 and imprisonment for not more than six months.

- 11.2 If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.
- 11.3 The City may enforce the provisions of this Bylaw through the issuance of a ticket under the Ticketing for Bylaw Offenses Bylaw.


12. SEVERABILITY:

- 12.1 If any portion of this Bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed portion.

RECEIVED FIRST READING on the	24 th	day of	February, 2014
RECEIVED SECOND READING on the	24 th	day of	February, 2014
RECEIVED THIRD READING on the	24 th	day of	February, 2014
RECONSIDERED AND FINALLY ADOPTED on the	10 th	day of	March, 2014



MAYOR



CITY CLERK

SCHEDULE A

“White Rock Controlled Substance Property Bylaw, 2014, No. 2041.”

Service Fees

The following fees are associated and may be payable under this Bylaw:

1. Inspection

- a. Safety Inspection: \$1300.00
- b. Reposting a Do Not Occupy notice: \$180.00
- c. Restoration Inspection, which includes not more than one follow-up inspection to be paid prior to inspection: \$600.00
- d. Each additional Restoration Inspection before removal of a Do Not Occupy notice: \$250.00
- e. Registering a Land Title Notice under section 57 of the *Community Charter*: actual cost incurred including staff wages

2. Fire Services

- a. Engines - \$550.00 per hour, per engine
- b. Aerial Devices - \$1200.00 per hour, per device
- c. Squad - \$450.00 per hour, per vehicle
- d. MoCom - \$250.00 per hour

3. Police (RCMP)

Fees in relation to police are the actual cost on an hourly basis as set out in the applicable service contract.

4. Other Service Fees

The actual cost of any other service fees incurred.

5. Administration and Overhead Fee

- a. An additional administration and overhead fee of 15% on all fees assessed under this Bylaw.

6. Payment

Fees within this bylaw are due and payable within 30 days of receiving invoice from the City

An invoice that is overdue as of the 31st day of December will, as provided by the *Community Charter*, be deemed to be taxes in arrears on the Property.