



The Corporation of the District of North Cowichan

Controlled Substance Bylaw

BYLAW NO.3803

A Bylaw to Regulate, Prohibit and Impose Requirements Respecting Health and Safety on Property

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WHEREAS sections 8(1)(g), (h), (i) and (l) of the *Community Charter*, SBC 2003, c. 26 provide that Council may, by bylaw, regulate, prohibit and impose requirements in relation to the protection, promotion or preservation of the health or safety of persons or property in relation to matters referred to in section 63 [*protection of persons and property*]; the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [*nuisances, disturbances and other objectionable situations*]; public health; and buildings and other structures, respectively;

AND WHEREAS the Council of the Corporation of the District of North Cowichan wishes to enact a bylaw to regulate, prohibit and impose requirements respecting health and safety matters on property to ensure current or future Occupiers are not living under conditions that may pose a health risk to the persons;

AND WHEREAS structural alterations and the alteration of plumbing, heating, air conditioning, electrical wiring and equipment, gas piping and fittings, appliances and accessories, and the growth of mould and use or presence of toxic chemicals in buildings results in risks to the health and safety of occupiers, neighbours, emergency responders and inspectors;

AND WHEREAS properties used for the production of Controlled Substances are particularly susceptible to the above risks to health and safety;

AND WHEREAS inspection and bylaw enforcement with respect to properties used for the production of Controlled Substances present unique risks and costs to the Corporation of the District of North Cowichan and its staff or agents;

NOW THEREFORE, the Council of the Corporation of the District of North Cowichan enacts in open meeting as follows:

Part 1: Citation

1.1 This Bylaw may be cited as the "Controlled Substance Bylaw No. 3803, 2020".

Part 2: Severability

2.1 If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Bylaw.

Part 3: Definitions

3.1 In this Bylaw:

AUTHORIZED GROW OPERATION means a Parcel used for the cultivation, growth, storage or production of cannabis with the authority of a valid permit issued by the federal or provincial government agency having jurisdiction over the cultivation, growth, storage or production of cannabis or otherwise in accordance with the laws of Canada;

BUILDING means any structure or portion of a structure used or intended for supporting or sheltering any use or occupancy and, in the case of a Building with multiple units or occupancies, means any portion of a Building held or used as a separate unit;

BUILDING BYLAW means the Corporation of the District of North Cowichan Bylaw 3172, Building Bylaw 2003;

BUILDING CODE means the British Columbia Building Code;

BUILDING INSPECTOR means the person appointed as the District's Chief Building Inspector, and every inspector or safety officer appointed by the District, Province or Technical Safety BC to inspect buildings or structures, in relation to building, plumbing, gas or electrical standards or other components;

BYLAW ENFORCEMENT OFFICER means a person appointed by the District as a Bylaw Enforcement Officer;

CHIEF ADMINISTRATIVE OFFICER means the person appointed as the District's Chief Administrative Officer;

DISTRICT means the Corporation of the District of North Cowichan;

CONTROLLED SUBSTANCE means a "controlled substance" as defined and described in Schedules I, II, III, IV or V of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19;

COUNCIL means the Council of the District;

ELECTRICAL CODE means the British Columbia Electrical Code;

FIRE CHIEF means the person appointed to be the Fire Chief for North Cowichan and includes that person's delegate;

FIRE CODE means the British Columbia Fire Code;

DIRECTOR OF PLANNING AND BUILDING means the person appointed as the District's Director of Planning and Building and includes that person's delegate;

DIRECTOR OF ENGINEERING means the person appointed as the District's Director of Engineering and includes that person's delegate;

HAZARDOUS CONDITION means:

- (a) any real or potential risk of fire;
- (b) any real or potential risk to the health or safety of persons or property;
- (c) any Unauthorized Alteration; or
- (d) repairs needed to a Building in accordance with the Building Code or Fire Code;

HAZARDOUS CONDITION REQUIREMENT LIST means a list of Hazardous Conditions present on a Parcel, and any work required to address or remove those Hazardous Conditions, as prepared or compiled by the Building Inspector following an inspection or Special Safety Inspection, and which may be in the form of Schedule "A";

HAZARDOUS SUBSTANCE means a substance in a concentration in excess of that listed in WorkSafe BC's Table of Exposure Limits for Chemical and Biological Substances, as amended from time to time;

INSPECTOR means:

- (a) the Fire Chief;
- (b) the Manager of Fire and Bylaw Services;
- (c) the Chief Building Inspector;
- (d) a Building and Plumbing Inspector;
- (e) the Director of Planning and Building;
- (f) the Director of Engineering;
- (g) the Manager of Operations;
- (h) a Bylaw Enforcement Officer; or
- (i) the deputy of any person, officer or employee referred to in paragraphs (a) to (j);

MANAGER OF FIRE AND BYLAW SERVICES means the person appointed as the District's Manager of Fire and Bylaw Services and includes that person's delegate;

MANAGER OF OPERATIONS means the person appointed as the District's Manager of Operations and includes that person's delegate;

MOULD REMEDIATION GUIDELINES means s.9.0 of the Canadian Construction Association's Standard Construction Document CCA 82-2004: *Mould Guidelines for the Canadian Construction Industry*;

OCCUPIER means a person occupying a property within the District and includes the registered Owner of the property where the Owner is the person occupying or where the property is unoccupied;

OWNER includes the registered owner in fee simple of real property and those persons defined as "owner" in the *Community Charter*;

PARCEL includes land and any improvements located thereon;

QUALIFIED CONTRACTOR means an individual or a corporation certified by the Institute of Inspection Cleaning and Restoration Certification or other qualified professionals as approved by the District;

QUALIFIED ENVIRONMENTAL PROFESSIONAL means an individual or corporation certified by the Canadian Board of Registered Occupational Hygienists or the American Board of Industrial Hygiene or other qualified professionals as approved by the District;

REMEDIATION ACTION PLAN means the plan prepared by the Qualified Environmental Professional under Part 6.3 of this Bylaw;

SPECIAL SAFETY INSPECTION means an inspection coordinated by the Inspector with any municipal departments, provincial or federal authorities, and independent professionals or contractors as may be necessary for the purpose of determining the presence of any Hazardous Conditions on a Parcel;

UNAUTHORIZED ALTERATION means any change made to the structural, gas, plumbing, ventilation, mechanical, electrical, or other components of a Building that requires a permit, but for which no permit has been issued pursuant to the Building Bylaw or another enactment;

UNAUTHORIZED DRUG PRODUCTION FACILITY means a Parcel used for the cultivation, growth, storage or production of a Controlled Substance without authority of a valid permit issued by the federal or provincial government agency having jurisdiction over the Controlled Substance(s) being cultivated, grown, stored or produced;

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

- 3.2 All references to a bylaw or enactment in this Bylaw refer to that bylaw or enactment as amended or replaced from time to time.

Part 4: General Prohibitions

4.1 No person may:

- (a) disconnect or bypass a meter installed for the purpose of measuring consumption of electricity, water or natural gas from an electrical, water or natural gas distribution system, except where such disconnection or bypass has been specifically permitted or required by the District, the applicable Utility, or a government authority;
- (b) divert or install exhaust vents from clothes dryers, hot water tanks, furnaces, or fireplaces so that they exhaust into or within a Building;
- (c) construct or install any obstruction of an exit or access to an exit required under the Building Code;
- (d) alter an electrical system without a permit and approval from the British Columbia Safety Authority;
- (e) bring in or allow a Hazardous Substance to accumulate on any Parcel or in any Building;
- (f) undertake an Unauthorized Alteration to a Building;
- (g) use water from the District's water distribution system in an Unauthorized Drug Production Facility;
- (h) cause or permit a Building to become subject to a visible accumulation of mould on the interior of any window, interior wall or other structural component of the Building that an Inspector considers may pose a risk to the health of present or future occupants;
- (i) interfere with or obstruct the Building Inspector, the Fire Chief, the Director of Engineering, or the Manager of Operations from posting a notice referred to in Part 6.4 or Part 8;
- (j) interfere or obstruct the entry of an Inspector;
- (k) remove, alter, cover or mutilate a notice posted under Part 6.4 or Part 8; or
- (l) use or occupy a Parcel until the Building Inspector or Fire Chief has removed the notice posted under Part 6.4.

Part 5: Powers of Inspectors

5.1 Subject to the provisions of the *Community Charter*, an Inspector may enter onto a Parcel, including the interior of a Building, in order to:

- (a) inspect and determine whether all regulations, prohibitions and requirements under this Bylaw are being met;
- (b) coordinate and carry out a Special Safety Inspection under Part 6 of this Bylaw;
- (c) inspect, disconnect or remove a water service connection pursuant to Part 8 of this Bylaw; or
- (d) take action authorized under Part 12 of this Bylaw.

Part 6: Special Safety Inspections

6.1 Where:

- (a) an Inspector has reasonable grounds to believe that a Hazardous Condition exists on a Parcel, or
- (b) a Parcel was used for the purpose of carrying on an Unauthorized Drug Production Facility, or
- (c) a Parcel that was used for the purpose of carrying on an Authorized Grow Operation ceases to be used for that purpose

the Inspector may require the Owner to undertake a Special Safety Inspection.

6.2 Where a Building Inspector has reasonable grounds to believe that a Hazardous Condition exists on a Parcel which affects the structural integrity of a Building on the Parcel, the Inspector may include in the Hazardous Condition Requirement List a requirement that the Owner must obtain a report from a qualified professional engineer certifying that the Building is safe for occupancy and complies with the Building Code.

6.3 Where the Inspector has reasonable grounds to believe that a Hazardous Condition existing on a Parcel results from a Hazardous Substance or mould which the Inspector considers may pose a risk to the health of present or future occupants, the Inspector may include in the Hazardous Condition Requirement List any or all of the following requirements:

- (a) that the Owner must retain a Qualified Environmental Professional to carry out an assessment of all Hazardous Conditions on the Parcel, including but not limited to the presence of Hazardous Substances and mould, and provide a Remediation Action Plan in response to those Hazardous Conditions which must be prepared before any articles or materials have been removed from the Parcel and no actions may be taken that might prevent a comprehensive assessment of potential Hazardous Conditions on the Parcel;
- (b) that the Owner must retain a Qualified Contractor to carry out all remedial measures identified in the Remediation Action Plan;
- (c) that the Owner must retain a Qualified Environmental Professional to verify that all remedial measures identified in the Remediation Action Plan have been completed and the Parcel is safe to re-occupy; and
- (d) that the Owner must provide a certificate in the form prescribed in Schedule "B" from a Qualified Environmental Professional certifying that the Parcel has been remediated in accordance with the Remediation Action Plan and that the Parcel meets the requirements of this Bylaw and is safe to re-occupy.

6.4 If the Building Inspector or Fire Chief has reasonable grounds to believe that a Hazardous Condition exists on a Parcel that may pose a risk to the health of present or future occupants, the Building Inspector or Fire Chief may post a notice in the form of Schedule "C" to this Bylaw in a conspicuous place at the entrances to that Parcel, and deliver to the

Owner a notice that the Parcel is unsafe and that no person shall enter or occupy the Parcel.

Part 7: Requirements for Re-Occupancy

- 7.1 Where the Inspector has required the Owner to undertake a Special Safety Inspection under Part 6.1, no person may enter or occupy the Parcel subject to such inspection requirement until:
- (a) a Special Safety Inspection of the Parcel has been conducted and the Building Inspector has issued a Hazardous Condition Requirement List;
 - (b) the Owner has obtained all permits, approvals or authorizations required to carry out any work identified in the Hazardous Condition Requirement List;
 - (c) the Owner has carried out or caused to be carried out all work identified in the Hazardous Condition Requirement List;
 - (d) the Building Inspector has inspected the Parcel and determined that the work required in the Hazardous Condition Requirement List has been completed in accordance with all requirements of this Bylaw, the Building Bylaw, the Building Code, the Fire Code and all other applicable enactments and that no apparent Hazardous Condition remains in, on or at the Parcel;
 - (e) the Inspector has removed any notices under Part 6.4 of this Bylaw and, where necessary, has issued a new occupancy permit for the Building pursuant to the Building Bylaw; and
 - (f) the Owner has paid all fees imposed by *Fees and Charges Bylaw No. 3784, 2020*, as amended or replaced from time to time.

Part 8: Discontinuation of Water Service

- 8.1 The District may discontinue providing water service to a Parcel if such water is being used for or in relation to an Unauthorized Drug Production Facility, provided that:
- (a) the District gives all Owners and Occupiers of the Parcel connected to the water service 7 days written notice of an opportunity to make written representations to Council with respect to the proposed discontinuance of water service; and
 - (b) after the persons affected have had an opportunity to make representations to Council, the District must give the Owner and Occupier of the Parcel an additional 7 days written notice of the discontinuance of the water service.
- 8.2 Despite anything in this Bylaw, where the Director of Engineering or the Manager of Operations reasonably considers that there is a risk of backflow or contamination to the District's water distribution system from a Parcel, and there is no apparent mechanism to prevent that backflow or contamination, then:
- (a) the Director of Engineering or the Manager of Operations may post a notice in the form of Schedule "D" to this Bylaw in a conspicuous place at the entrance to that Parcel;

- (b) the District may discontinue the provision of water to the Parcel immediately, until such time as a mechanism to prevent backflow and contamination is installed, inspected by a certified backflow tester, and approved by the District; and
- (c) the Owner may make representations to Council in connection with the discontinuance of the provision of water hereunder at the next regularly scheduled meeting of Council.

8.3 Where a Parcel has multiple residential dwellings that are connected to the same water service as an Unauthorized Drug Production Facility, water service to that Parcel shall not be discontinued due to the use of the part of the Parcel as an Unauthorized Drug Production Facility.

Part 9: Owner Obligations Respecting Tenancies

9.1 Every Owner of a Parcel or Building that has been rented or leased to or is occupied by a third party and who becomes aware of a contravention of this Bylaw upon that Parcel or in that Building must:

- (a) within 24 hours of the discovery of this contravention, deliver written notice to the Building Inspector of the particulars of the contravention; and
- (b) within 60 days of the delivery of the notice, take such action as may be necessary to bring the Parcel or Building into compliance with this Bylaw.

9.2 Where an Owner of a Parcel or Building has delivered a notice to end tenancy to a tenant living in a dwelling being used in contravention of this Bylaw and where that notice to end tenancy has been disputed by the tenant, the Owner of the Parcel or Building may make written representation to Council to request an extension under subsection 9.1(b).

Part 10: Owner's Responsibility

10.1 No action of the District, including without limitation:

- (a) the removal of a notice posted under this Bylaw;
- (b) the issuance of an approval under this Bylaw;
- (c) the acceptance or review of plans, drawings or specifications or supporting documents submitted under this Bylaw; or
- (d) any inspections made by or on behalf of the District

will in any way relieve the Owner from full and complete responsibility to perform work required or contemplated under this Bylaw or the Building Code and all other applicable enactments, nor do they 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.

- 10.2 It is the full and complete responsibility of the Owner to carry out any work required pursuant to this Bylaw in compliance with this Bylaw and all other applicable codes, standards and enactments, including the Building Code.
- 10.3 When a Qualified Environmental Professional, engineer, or architect provides certification or other documentation to the District under this Bylaw that work required by or contemplated by this Bylaw substantially conforms to the requirements of this Bylaw, the health and safety requirements of the Building Code, Electrical Code, Fire Code, or any other health and safety requirements established by applicable enactments, the District may rely completely on this documentation as evidence of conformity with those requirements.

Part 11: Offence and Penalty

- 11.1 Any person who:
- (a) contravenes or violates any provision of this Bylaw;
 - (b) allows any act or thing to be done in contravention or violation of this Bylaw;
 - (c) fails or neglects to do anything required to be done by this Bylaw; or
 - (d) makes any false or misleading statement, commits an offence, and where the offence is a continuing one, each day the offence is continued constitutes a separate offence.
- 11.2 Upon being convicted of an offence under this Bylaw, a person shall be liable to pay a fine of not less than \$5,000 and not more than \$10,000.

Part 12: Failure to Comply

- 12.1 If an Owner or Occupier of a Parcel fails to comply with a requirement of the District under this Bylaw or another safety enactment, the District may, within the time specified in the order or notice, enter on the Parcel and take such action as may be required to correct the default, including to remediate the Parcel or to have the Parcel attain a standard specified in any safety enactment, at the expense of the Owner or Occupier who has failed to comply, and may recover the costs incurred as a debt.
- 12.2 If the Owner has failed to pay the cost to the District incurred under Part 12.1 before the 31st day of December in the year that the corrective action was taken, the service costs must be added to and form part of the taxes payable on the property as taxes in arrears.

Part 13: Schedules

- 13.1 The following schedules are included in and form part of this Bylaw:
- Schedule "A" – Hazardous Condition Requirement List
 - Schedule "B" – Certification Form
 - Schedule "C" – Do Not Enter or Occupy Notice
 - Schedule "D" – Water Shut-Off Notice

Part 14: Repeal

14.1 District Bylaw 3246, Nuisance (Controlled Substance) Bylaw, 2006, is hereby repealed.

READ a first time on December 2, 2020

READ a second time on December 2, 2020

READ a third time on December 2, 2020

North Cowichan consulted with Medical Health Officer on December 23, 2020

THIRD reading was rescinded on April 21, 2021

READ a third time as amended on April 21, 2021

DEPOSITED WITH THE MINISTER OF HEALTH on April 26, 2021

ADOPTED on May 5, 2021

CORPORATE OFFICER

PRESIDING MEMBER

SCHEDULE A
Hazardous Condition Requirement List

Re: _____(the "Property")

Pursuant to the _____Bylaw No. _____, 2020 (the "Bylaw") a Special Safety Inspection has been carried out on the above Property, and the Property has been posted with a Notice that it may not be entered or occupied due to hazardous conditions and/or unauthorized alterations on the Property.

No person is permitted to enter or occupy the Property until this Notice has been removed. If you wish to reoccupy the Property, you are required to perform the following works, and provide the following certifications, as indicated:

- Provide evidence from the following utility providers that the Property has been properly connected to the following utilities:
- Gas;
- Water; and
- Electricity;
- Vent all furnace/hot water tank/gas appliances in accordance with the applicable code;
- Provide/Restore all items as required under the Building Code and identified by the Building Inspector;
- Bring all electrical panels and circuits up to standards as required by the British Columbia Safety Authority;
- Provide a report from a qualified professional engineer certifying that the building is safe for occupancy and complies with the Building Code;
- Provide a certificate report in the form prescribed in Schedule "B" of the Bylaw, from a Qualified Environmental Professional, certifying that the Property has been remediated; and
- You are required to obtain an approval from the District prior to performing any of the above works that may require a permit under the District's Bylaws.

Until the above requirements above have been completed, and the Building Inspector has re-inspected the Property and removed the Notice, the Bylaw prohibits occupancy of the Property by any person.

We enclose a copy of the Bylaw for your reference. If you have any questions concerning the regulations in the Bylaw, please call the District's Chief Building Inspector at (250) ____-____.

SCHEDULE C

MUNICIPALITY OF NORTH COWICHAN

Planning & Building Department

[Address]

Phone: (250) ____ - ____

Fire & Bylaw Services

[Address]

Phone: (250) ____ - ____

DO NOT ENTER OR OCCUPY

Property Location: _____

TAKE NOTICE THAT these premises have been found to contain unauthorized alterations and/or are in a hazardous condition.

Pursuant to _____ Bylaw No. _____, 2020, no person may enter or occupy these premises until cleaning, remediation and/or repairs have been completed in compliance with that Bylaw and the Building Inspector has confirmed that a satisfactory occupancy inspection has been completed.

It is an offence to remove or deface this notice.

Any inquiries should be directed to the Chief Building Inspector at (250) ____ - ____ or Fire Chief at (250) ____ - ____.

Date

Chief Building Inspector and/or Fire Chief

SCHEDULE D

MUNICIPALITY OF NORTH COWICHAN

Engineering Department
[Address]
Phone: (250) ____ - ____

Operations Department
[Address]
Phone: (250) ____ - ____

WATER SERVICE SHUT OFF NOTICE

Property Location: _____

TAKE NOTICE THAT these premises have been reasonably considered to have a risk of backflow or contamination to the District’s water distribution system from an Unauthorized Drug Production facility. Pursuant to _____ Bylaw No. _____, 2020, the District has discontinued the provision of water to this parcel. No person may occupy these premises until cleaning, remediation and/or repairs have been completed in compliance with that Bylaw and the Building Inspector has confirmed that a satisfactory occupancy inspection has been completed.

It is an offence to remove or deface this notice.

Any inquiries should be directed to the Director of Engineering or the Manager of Operations at (250) ____ - ____ . .

Date

Director of Engineering / Manager of Operations