

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2285, 2003

A bylaw to prohibit the use of property for the trade, manufacture, ingestion, use, sharing, trade or barter of controlled substances

WHEREAS Section 725 of the *Local Government Act* R.S.B.C. 1996, c.323 authorizes Council, by bylaw, to:

1. prevent, abate and prohibit nuisances, and provide for the recovery of the cost of abatement of nuisances from the person causing the nuisance or other persons described in the bylaw;
2. prohibit the carrying on of a noxious or offensive trade, business or manufacture; and
3. effect compliance at the expense of any person who has failed to comply with the bylaw.

AND WHEREAS Council is further authorized by Section 694 of the *Local Government Act* R.S.B.C. 1996, c.323, by bylaw, to regulate, for the health, safety and protection of persons and property, the installation, alteration or repair of plumbing, heating, air conditioning, electrical wiring and equipment, gas or oil piping and fittings, appliances and accessories of every kind, and to require an occupancy permit before occupancy of a building or part of it after alteration or a change in occupancy;

AND WHEREAS unsightly conditions and the noxious or offensive trade and manufacture of controlled substances have been found to exist from place to place throughout the City and the existence of such conditions and manufacture is detrimental to the welfare of the residents of the City and contributes substantially to the deterioration of neighbourhoods and a reduction in property values;

AND WHEREAS the alteration of plumbing, heating, air conditioning, electrical wiring and equipment, gas or oil piping and fittings, appliances and accessories in buildings for the carrying on of the noxious and offensive trade and manufacture of controlled substances creates a danger to the health and safety of the residents of such buildings;

AND WHEREAS property used for the ingestion, use, sharing, sale, trade or barter of a controlled substance causes disturbance and inconvenience to the residents of neighbouring properties, creates risks to the health and safety of residents and reduces the value of neighbouring properties.

NOW THEREFORE the Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

1. This Bylaw may be cited for all purposes as **“Controlled Substance Property Bylaw No. 2285, 2003”**.
2. In this Bylaw:

“Controlled Substance” means a “controlled substance” as defined and described in Schedules I, II and III of the *Controlled Drugs and Substances Act*, 1996 c. 19, as may be amended from time to time, but does not include the trade or manufacture of a controlled substance that is permitted under that Act or otherwise lawfully permitted under the City’s Business License Bylaw.

“Hazardous Situation” includes any real or potential risk to the health or safety of persons or property arising or resulting from the use of a property for the trade or manufacture of a controlled substance or for the ingestion, use, sharing, sale, trade or barter of a controlled substance therein or thereon.

“Inspector” means the Director of Development Services , any Building Inspector for the City, or designate, the Royal Canadian Mounted Police, and the Courtenay Fire Department;

“Controlled Substance Property” means a property which is used for:

- (a) the trade or manufacture of a Controlled Substance; or
- (b) the ingestion, use, sharing, sale, trade or barter of a controlled substance therein or thereon;

“Occupant” includes:

- (a) a person residing on or in property;
- (b) the person entitled to the possession of property if there is no person residing on or in the property; and
- (c) a leaseholder;

and shall include the agent of any such person.

“Owner” means a person who has any right, title, estate or interest in property, other than that of an occupant, and shall include the agent of any such person.

“Person” includes natural persons of either sex, associations, corporations, bodies politic, co-partnerships, whether acting by themselves or by a servant, agent or employee, and the heirs, executors, administrators, successors and assigns or other legal representative of such persons.

“Property” means all real property, including, but not limited to, front yards, side yards, backyards, driveways, walkways, and sidewalks and shall include any building, structure, vehicle, chattel or fence located on such real property.

Prohibition of Controlled Substance Manufacture

3. No Person, Owner or Occupant of Property within the City of Courtenay shall cause, permit or allow any Property to become or remain a place for the trade, business or manufacture of a Controlled Substance.

Unsightly Premises Prohibited

4. No Person, Owner or Occupant shall cause, permit or allow water, rubbish or noxious, offensive or unsightly matter to collect or accumulate around any Property in connection with the manufacture, ingestion, use, sharing, sale, trade or barter of a Controlled Substance.

Controlled Substance Properties Prohibited

5. The use of any Property as a Controlled Substance Property is hereby deemed to constitute the carrying on of a noxious or offensive trade, business or manufacture, and no Person, Owner or Occupant shall cause, permit or allow any Property to become or remain a Controlled Substance Property.

Alteration, Repair and Reconnection of Electrical, Water or Gas Supply

6. If, as a result of the unlawful use of a Property for the trade, manufacture, ingestion, use, sharing, sale or barter of a Controlled Substance:
 - (a) the supply of electricity, water or natural gas to a Property has been disconnected by the City or any other lawful authority;
 - (b) unauthorized alterations or repairs have been made to electrical, water or gas systems, equipment, appliances or other accessories of any kind; or
 - (c) a Hazardous Situation or a potentially Hazardous Situation exists on the Property,

the supply of electricity, water or natural gas shall not be reconnected and the Property shall not be occupied until:

- (i) the Owner or Occupant has applied to the Director of Development Services for a special safety inspection pursuant to this section and has paid the fee hereby imposed for such special inspection and specified in Schedule “A” of this Bylaw;

- (ii) the Property has been inspected by the Inspector and all other lawful authorities having 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 statute or regulation relating to building, electrical, water, gas or fire safety;
- (iii) the Owner or Occupant has obtained all permits, approvals or authorizations required to carry out the work necessary to bring the Property into compliance with the City's bylaws and all Provincial statutes and regulations referred to in subsection(ii);
- (iv) all of the work referred to in subsection (iii) has been completed and inspected by the Inspector and all other lawful authorities having jurisdiction and the Property is now in compliance with the City's bylaws and all Provincial statutes and regulations referred to in subsection (ii); and
- (v) the Owner or Occupant has paid all fees imposed by this Bylaw and other relevant City Bylaws in relation to the inspection of Property and the issuance of permits, and the Inspector has issued an Occupancy Permit for the Property.

Non-Compliance

7. If an Owner or Occupant fails to comply with a written notice of the Inspector, the City, by its employees or other Persons, at a reasonable time and in a reasonable manner, may enter the Property and effect compliance at the expense of the Owner or Occupant who has failed to comply.

Extraordinary Costs

8. Every Person causing, permitting or allowing Property to become or remain a place for the trade, business or manufacture of a Controlled Substance shall, upon receipt of invoice, pay the service costs incurred by or on behalf of the Royal Canadian Mounted Police in the disassembly, removal, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with such trade, business or manufacture.
9. Every Person causing, permitting or allowing Property to become or remain a place for the trade, business or manufacture of a Controlled Substance shall, upon receipt of invoice, pay any and all response costs incurred by or on behalf of the Courtenay Fire Department associated with such trade, business or manufacture.

Costs Added to Taxes

10. In the event that a Person fails to pay the costs of compliance under Section 7 or a Person fails to pay extraordinary costs due and payable under Section 8 before the 31st day of December in the year that compliance was effected, the costs or extraordinary costs, as the case may be, shall be added to and form part of the taxes on the Property as taxes in arrears.

Offences and Penalties

11. Any Owner or Occupier who contravenes, suffers or permits any act or thing to be done in contravention of, or neglects to do so, refrains from doing anything required to be done pursuant to the provisions of this Bylaw or any notice issued under this Bylaw, commits an offence punishable on summary conviction, and shall be liable to a fine not exceeding the sum of \$5,000.00.
12. Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.
13. If any section, subsection, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not effect the validity of the remainder.
14. Prosecution of a Person pursuant to Section 10 of this Bylaw does not exempt or relieve the Person from the remediation provisions of Sections 7, 8 and 9 of this Bylaw.

Read a first time this 14th of April, 2003

Read a second time this 14th day of April, 2003

Read a third time this 14th day of April, 2003

Finally passed and adopted this 5th day of May, 2003

Mayor

Clerk

SCHEDULE "A"
(Permit and Inspection Fees and Charges)

1. For Special Inspection.....\$400.00
2. For each Inspection prior to issue of Occupancy Permit.....\$300.00
3. To Obtain Occupancy Permit \$250.00