

THE TOWN OF COMOX

BYLAW NO. 1408

A Bylaw to prohibit the use of property for the manufacture, ingestion, use, sharing, sale, 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 with certain municipal bylaws 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 a permit before occupancy of a building or part of it after alteration or a change in occupancy;

AND WHEREAS unsightly conditions and trade and manufacture of controlled substances have been found to exist from place to place throughout the Town and the existence of such conditions and manufacture is detrimental to the welfare of the residents of the Town and contributes substantially to the deterioration of neighborhoods 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 trade and manufacture of controlled substances creates a danger to the health and safety of the residents of such buildings;

AND WHEREAS the use of property 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 Town of Comox in open meeting assembled enacts as follows:

1. This Bylaw may be cited for all purposes as “**Controlled Substance Property Bylaw No. 1408, 2003**”.
2. In this Bylaw:

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

“**Inspector**” means any Building Inspector for the Town, or that official’s designate, members of the Royal Canadian Mounted Police, and members of the Comox Fire Department;

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

- (a) the 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, and 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 or entities.

“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.

3. Prohibition of Controlled Substance Manufacture

No Person, Owner or Occupant of Property within the Town of Comox shall cause, permit or allow the Property to become or remain a Controlled Substance Property.

4. Unsightly Premises Prohibited

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.

5. Controlled Substance Properties Prohibited

The use of any Property as a Controlled Substance Property is deemed to constitute the carrying on of a nuisance, and 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.

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

If, in the course of the unlawful use of a Property as a Controlled Substance Property, unauthorized alterations or repairs have been made to electrical, water or gas systems, equipment, appliances or other building systems regulated by the B.C. Building Code, and as a result the supply of electricity, water or natural gas to the Property has been disconnected by the Town or any other lawful authority, the supply shall not be reconnected and the Property shall not be occupied until :

- (a) The Owner or Occupant has applied to the Inspector for a building inspection and building permit pursuant to this section and has paid the fee which is hereby imposed for such inspection and permit as specified in Schedule "A" of this Bylaw, and for that purpose the Owner or Occupant shall be deemed to be applying to change the use of the Property under s.1.14 of the Comox Building Bylaw, 2000;
- (b) 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 Town's bylaws and any Provincial statute or regulation relating to building, electrical, water, gas or fire safety;
- (c) The Owner or Occupant has obtained all further permits, approvals or authorizations required to carry out the work necessary to bring the Property into compliance with the Town's bylaws and all Provincial statutes and regulations referred to in subsection(b);
- (d) All of the work referred to in subsection (d) has been completed and inspected by the Inspector and all other lawful authorities having jurisdiction and the Property is in compliance with the Town's bylaws and all Provincial statutes and regulations referred to in subsection (b); and
- (e) The Owner or Occupant has paid all fees imposed by this Bylaw and other relevant Town Bylaws in relation to the inspection of the Property and the issuance of permits, and the Inspector has issued a building permit for the property under s.1.14 of the "Comox Building Bylaw 2000" as if the Owner or Occupant were changing the use of the Property.

7. Non-Compliance

If an Owner or Occupant fails to comply with a written notice of the Inspector, the Town, 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.

8. Extraordinary Policing Costs

Every Person causing, permitting or allowing Property to become or remain a Controlled Substance Property shall pay as a penalty, upon receipt of invoice in that regard, any 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, for which the Town is liable.

9. Extraordinary Fire Department Costs

Every Person causing, permitting or allowing Property to become or remain a Controlled Substance Property shall, upon receipt of invoice, pay any and all response costs incurred by or on behalf of the Comox Fire Department associated with such trade, business or manufacture, in accordance with Schedule B.

10. Costs Added to Taxes

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 9 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.

11. Offences and Penalties

- (a) Any Owner or Occupier who contravenes, suffers or permits any act or thing to be done in contravention of, or neglects to do or 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.
- (b) Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.
- (c) Prosecution of a Person pursuant to Section 11 of this Bylaw does not exempt or relieve the Person from the remedial provisions of Sections 7, 8 and 9 of this Bylaw.

12. Severability

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 affect the validity of the remainder.

READ A FIRST AND SECOND time this 15th day of October, 2003

READ A THIRD time this 5th day of November, 2003

ADOPTED ON this 19th day of November, 2003

“Dr. Jim Brass”

MAYOR

“Richard Kanigan”

CLERK

**BYLAW NO. 1408
SCHEDULE "A"**

BUILDING PERMIT AND INSPECTION FEES AND CHARGES

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| 1. To Obtain a Sec. 1.14 Building Permit | \$400.00 |
| 2. For each subsequent Inspection | \$300.00 |

FIRE DEPARTMENT CHARGES

Fire Engine and Crew: \$400.00 per hour (one-hour minimum)
(crew is 4 to 6 firefighters)

Rescue Truck and Crew: \$200.00 per hour (one-hour minimum)
(crew is 2 to 4 firefighters)

Hazardous Materials Unit: \$400.00 per hour (one-hour minimum)

Damaged items charged back at full replacement cost.

Consumable items charged back at full replacement cost.