

THE CORPORATION OF THE DISTRICT OF SAANICH

BYLAW NO. 8624

**TO IMPOSE REQUIREMENTS ON OWNERS OF BUILDINGS CONTAINING
CLANDESTINE LABORATORIES**

The Municipal Council of The Corporation of the District of Saanich in open meeting assembled enacts as follows:

1. In this bylaw

“Amphetamines” include dextroamphetamines and methamphetamines;

“Building Inspector” means the Manager of Inspection Services for the Municipality, and every building inspector appointed by the Municipality to inspect buildings or Structures in respect of, building, plumbing, gas or electrical standards;

“Clandestine Laboratory” means a building or space within a building used for the growing , manufacture or production of Marihuana plants, Amphetamines or any other Controlled Substance;

“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 the Act or otherwise lawfully permitted under the Municipality’s Business Licence Bylaw, in force from time to time;

“Dangerous Goods” means those products or substances regulated by the *Transportation of Dangerous Goods Act* and its Regulations, both as amended from time to time;

“Director” means the Director of Planning and other persons designated by Council to act in the place of the Director;

“Environmental Inspector” means a person designated by the Director as a person duly qualified to carry out a health and safety inspection of Residential Premises in which a Clandestine Laboratory has operated;

“Fire Chief” means the person who is appointed to the head of the Saanich Fire Department and every person designated by Council by name of office or otherwise to act in the place of the Fire Chief;

“Hazardous Conditions” means:

- a) any real or potential risk of fire; or
- b) any real or potential risk to the health or safety of Persons or Property;
or
- c) any unapproved Building modifications made to the Property; or
- d) repairs needed to the Property;

arising or resulting from the use or contamination of a Property as a Clandestine Laboratory;

“Inspector” means

- a) the Fire Chief, and every person appointed by Council or the Fire Chief, as applicable, to be an officer or employee of the Saanich Fire Department;
- b) the Manager of Inspection Services for the Municipality, and every Building Inspector appointed by the Municipality to inspect Buildings or Structures in respect of building, plumbing, gas or electrical standards;
- c) a police officer;
- d) the Director of Planning;
- e) the Director of Engineering;
- f) bylaw enforcement officers;
- g) the deputy of a person, officer or employee referred in paragraphs (a) to (e);
- h) other persons designated by Council by name of office or otherwise to act in the place of persons, officers or employees referred to in paragraphs (a) to (f);

“Owner” includes the registered owner of Real Property and a lessee of Real Property;

“Parcel” includes land and any improvements located on a parcel;

“Pesticides” means a substance or mixture, including a chemical, used to destroy, prevent, repel or mitigate fungi or animal pests or micro-organisms such as bacteria or viruses, and include herbicides, fungicides, other substances used to control pests, plant regulators, defolianters or desiccants;

“Professional Cleaner” means an individual or corporation experienced and qualified in removing contaminants from Residential Premises;

“Residential Premises” means any Building or part of a Building which may lawfully be occupied as a dwelling unit by one or more persons;

“Structure” means an erection, repair, alteration, addition, demolition, excavation or other construction which supports a use or occupancy; and,

“Tenancy Agreement” means an agreement, whether written or oral, express or implied, having a predetermined expiry date or not, between a landlord and tenant respecting possession of premises, including Residential Premises.

BUILDING AND SAFETY STANDARDS

2. No person may disconnect from an electrical or water distribution system a meter installed for the purpose of ascertaining consumption of electricity or water if the disconnection is for the purpose of preventing the electrical or water supplier from ascertaining consumption.

ELECTRICAL INSPECTION

3. (1) If an Inspector determines that
 - (a) a building has been used as a Clandestine Laboratory, and,
 - (b) electrical fixtures or wiring have been installed or other alterations or additions to the electrical system have been carried out to provide electrical services to the Clandestine Laboratorythe Inspector may
 - (i) arrange for the building to be inspected by a qualified electrician or electrical inspector at the expense of the Owner, to determine whether the alteration or addition to the electrical system creates a risk of fire, electrocution or other Hazardous Condition;
 - (ii) upon receiving advice from such electrician or electrical inspector that a Hazardous Condition exists in the building, request BC Hydro to shut off electrical power to the building until such time as the electrical systems in the building have been rendered safe;
 - (iii) request that an electrical inspector from the Electrical Safety Branch of the Provincial Government inspect the property to determine whether any alterations must be made to the electrical system in the building.
4. In each case where BC Hydro shuts off power to the building pursuant to s. 3, the power supply shall not be reconnected until
 - (1) the Owner or occupier has completed any and all alterations to the electrical system in the building required by a qualified electrician,

electrical inspector or government electrical inspector pursuant to s. 3 of this bylaw in accordance with all applicable regulations, and

- (2) the Owner has paid all fees payable pursuant to this bylaw in respect to the inspection of the electrical system in the building, including the invoice of any electrical inspector hired by the inspector to inspect the building under s. 3.
5. No person may divert or install exhaust vents of hot water tanks or furnaces to exhaust into or within the Building instead of by way of an exhaust vent constructed or installed in compliance with applicable enactments.
6. No person may store or use Dangerous Goods in or on Residential Premises or an accessory residential building in quantities greater than permitted under the *Fire Code (British Columbia)* as amended from time to time.
7. No person may construct or install in a building or Structure a trap or other device which could have the effect of causing death or bodily harm to a person entering the building or Structure, including an Inspector under this bylaw.
8. No person may construct or install any obstruction of an exit or an access to an exit required under the *Building Code (British Columbia)* or other enactment, as amended from time to time, or remove fire stopping that is provided or required under an enactment to contain the spread of fire within a Building.
9. The Building Inspector, Bylaw Enforcement Officer or Fire Chief may post a notice containing the words "Unsafe – Do not enter or occupy" in a conspicuous place at the entrances of a building containing a Clandestine Laboratory.
10. No person may:
 - (1) interfere with or obstruct an Inspector from posting a notice referred to in s. 9 or
 - (2) remove, alter, cover, or mutilate a notice posted under s. 9,except with the permission of an Inspector.

HEALTH

11. No person may cause or allow a building to become subject to the growth, on any portion of the building, of mould or fungus arising from or in relation to the operation of a Clandestine Laboratory in the building.

TENANCIES

12. Every Owner of Residential Premises or other premises that are subject to a Tenancy Agreement who has knowledge of a contravention of this bylaw, in relation to the Residential Premises or other premises, must within 24 hours of the discovery of the contravention, deliver written notice to the Municipality of the particulars of the contravention.

ENVIRONMENTAL ASSESSMENT AND REMEDIATION

13.
 - (1) In each case where the Saanich Police discover a Clandestine Laboratory operating in Residential Premises, the Police Officer in charge of the operation shall immediately notify the Manager of Inspection Services by giving written notice of the address of the property, names of the occupants and a description of the Clandestine Laboratory.
 - (2) Upon receiving such notice, the Manager of Inspection Services shall send a letter substantially in the form of Schedule "A" attached to this bylaw to the Owner of the Residential Premises on which the Clandestine Laboratory is located.
 - (3) The Owner of the Residential Premises used for a Clandestine Laboratory must within 7 days of receiving a letter from the Manager of Inspection Services, engage an Environmental Inspector to carry out an inspection of the Residential Premises to determine whether
 - (a) the operation of the Clandestine Laboratory has resulted in fungi or mould growing in the Residential Premises;
 - (b) conditions exist in the building presenting a risk to the health of occupants and whether it is necessary that the building be vacated pending remediation;
 - (c) the operation of the Clandestine Laboratory has caused rot or other damage to the building;
 - (d) furnishings, equipment or components of the building, including curtains, carpets, heating ducts, walls, ceilings, floors have been contaminated or damaged as a result of chemicals, emissions or other contaminants produced by the Clandestine Laboratory.
 - (4) The Environmental Inspector shall deliver an environmental inspection report to the Owner of the Residential Premises and the Manager of Inspection of Services containing the following:
 - (a) a report describing the condition of the Residential Premises;

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- (b) the presence of any Hazardous Conditions in the building;
 - (c) the repairs, remediation, cleaning or decontamination required to remedy any hazards, contamination or other impacts caused to the Residential Premises by the operation of a Clandestine Laboratory.
- (5) Without limiting the generality of the foregoing the report may include requirements to
- (i) remove and dispose of all carpets and curtains in the Residential Premises or have all carpets and curtains in the Residential Premises cleaned by a Professional Cleaner;
 - (ii) if the Residential Premises are heated by forced air heating, have all air ducts cleaned by a Professional Cleaner or a duct cleaning company;
 - (iii) have all walls and ceilings in the Residential Premises cleaned and disinfected by a Professional Cleaner.
- (6) If the environmental inspection report states that the Residential Premises are unsafe to occupy, the Owner shall not occupy the Residential Premises and shall take immediate steps to remove any tenant from the building pending remediation of the Hazardous Conditions.
- (7) The Owner shall within thirty days of receiving the environmental inspection report, or such other period of time as may be specified by the Manager of Inspection Services, complete all the repairs, remediation work, cleaning and decontamination of the Residential Premises specified in the environmental inspection report.
- (8) Following completion of the works required by the environmental inspection report, the Owner shall cause the Residential Premises to be re-inspected by the Environmental Inspector.
- (9) Following re-inspection by the Environmental Inspector the Environmental Inspector shall provide written certification in the form of Schedule "B" to the Manager of Inspection Services that the requirements of the environmental inspection report have been satisfied and that the Residential Premises are substantially free of any Pesticides, fertilizers, toxic chemicals, moulds, fungi or other harmful contaminants.

OCCUPANCY

14. Before Residential Premises are re-occupied after removal of a Clandestine Laboratory, the Owner must notify the prospective occupants in writing that a

Clandestine Laboratory has been removed and that the requirements of this bylaw have been met.

FEE

15. The following fees apply under this bylaw:
- (1) each time an Inspector enters on a Parcel to carry out an inspection in the exercise of authority by the Municipality to regulate, prohibit or impose requirements under this bylaw, the Owner must pay the Municipality the administration and inspection fee stipulated in Schedule "C".

NOTICES AND INSPECTIONS

16. Subject to the *Community Charter*, an Inspector may enter on real property for the following purposes:
- (1) to inspect and determine whether all regulations, prohibitions and requirements under this bylaw or other enactments are being met in relation to any manner for which the Council, a municipal officer or employee or a person authorized by the Council has exercised authority under this or another act to regulate, prohibit or impose requirements;
 - (2) to take action authorized under s. 20 of this bylaw.
17. No person may interfere with an inspection or proposed inspection under s. 16 of this bylaw and no person shall remove or deface any notice posted under s. 9 of this bylaw.

OFFENCE AND PENALTY

18. Every person who contravenes any provision of this bylaw commits an offence punishable upon summary conviction and is liable to a fine not exceeding \$10,000.00.
19. If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

DEFAULT

20. If an Owner or occupier of real property fails to comply with a requirement of the Municipality under this bylaw or another enactment, the Municipality, within the time specified in the order or notice may enter the real property and take such action as may be required to correct the default, including to engage an Environmental Inspector or to remediate the real property or bring it up to a standard specified in an enactment, at the expense of the Owner or occupier who has failed to comply, and may recover the costs incurred as debt.
21. If the Owner or occupier has failed to pay the Municipality's costs of acting in default under s. 20 before the 31st day of December in the year that the correction of the default was effected, the costs will be added to and form part of the taxes payable on the property as taxes in arrears.

REMEDIAL ACTION

22. Division 12 of Part 3 of the *Community Charter* applies.

SEVERABILITY

23. If any provision of this bylaw is held to be invalid, it shall be severed and the remainder of the bylaw shall remain in effect.
24. This Bylaw may be cited for all purposes as the "**Controlled Substance Property Bylaw, 2005, No. 8624**".

Includes Bylaw Amendment No. 8829

SCHEDULE "A"

LETTER TO PROPERTY OWNER

Re: "Controlled Substance Property Bylaw, 2005, No. 8624"

This letter is to notify you that The Corporation of the District of Saanich "Controlled Substance Property Bylaw, 2005, No. 8624", in force from time to time, established regulations concerning the cleaning and remediation of Residential Premises that have been used for the operation of a Clandestine Laboratory.

The Municipality has been advised by the Saanich Police Department that the Residential Premises at [insert address] were in use as a Clandestine Laboratory, the apparatus of which has been removed by the police.

The Bylaw requires that you must, as the Owner of Residential Premises used for a Clandestine Laboratory within seven days of receiving this letter engage an Environmental Inspector to carry out an inspection of the premises to determine the extent of harmful impacts on the premises and provide a plan for remediation of the building. The bylaw further requires that you shall, within 30 days of receiving the environmental report or such other period of time as may be specified complete all the repairs, remediation work, cleaning and decontamination of the Residential Premises specified in the environmental inspection report.

I enclose a copy of the Bylaw for your reference. Please contact my office forthwith at (250) 475-1775 to discuss arrangements for engaging the Environmental Inspector.

SCHEDULE "B"

CERTIFICATION FORM

TO: The Corporation of the District of Saanich

FROM: [Insert name of Inspector]

RE: Residential Premises located at [insert address]

This is to certify that in accordance with s. 16 and 17 of the "Controlled Substance Property Bylaw, 2005, No. 8624", the professional identified in this certification:

- (1) meets the certification requirements for an Inspector under s. 17 of the Bylaw; and
- (2) has completed an inspection of the Residential Premises on _____; and
- (3) the Residential Premises are free of any Pesticides, fertilizers and toxic chemicals, moulds or fungi.

The undersigned professional may be contacted at: [insert business telephone number].

CERTIFIED AS OF _____ [insert date]

[insert name of Professional Cleaner]

Authorized Representative

SCHEDULE "C"

FEES

1. The following fees apply under this Bylaw:
 - (1) each time the Municipality enters on a Parcel to inspect, in the exercise of the Municipality's authority to regulate, prohibit or impose requirements under this Bylaw, the Owner must pay the Municipality an administration and inspection fee of \$50.00.