

DISTRICT OF HOPE

CONTROLLED SUBSTANCE PROPERTY AMENDMENT BYLAW NO. 1151

(CONSOLIDATED TO MARCH 2008)

All persons making use of this consolidation are advised that it has no legislative sanction; that the amendments have been embodied for convenience of reference only, and that the original bylaw and all amending bylaws must be consulted for all purposes of interpreting and applying the law.

Any parts of the original bylaw or original bylaw as amended and schedules which have been repealed have not been included in this consolidation.

SCHEDULE OF AMENDMENTS

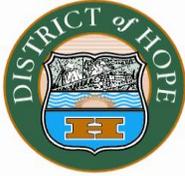
BYLAW	ADOPTED	AMENDMENT
1242	April 28, 2008	<p>Part II Definitions Repealed “No Occupancy Permit” replaced with “No Occupancy”</p> <p>Part VI, Section 12 Repealed “Revocation of Occupancy Permit”, Sections 12 through 17 and replaced with “Notice of No Occupancy”</p> <p>Part VII Repealed “Requirements for Re-Occupation” and replaced with “</p> <p>Part X Amended Schedules A & B</p>

**CONTROLLED SUBSTANCE PROPERTY
AMENDMENT BYLAW**

NO. 1151

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THE DISTRICT OF HOPE

BYLAW NO. 1151

A Bylaw to prohibit the use of Property for the cultivation, production, trade, use, sharing, sale or barter of Controlled Substances and to provide for the remediation of such Property

WHEREAS:

- A. Section 8 of the Community Charter, R.S.B.C. 2003, C.26, and amendments thereto, provides that a municipal council may by Bylaw:
- a) regulate, prohibit and impose requirements relating to the protection and enhancement of the well-being of its community in relation to nuisances, noxious or offensive materials, disturbances, and the carrying on of noxious or offensive business activity,
 - b) regulate, prohibit and impose requirements in relation to buildings and other structures, and
 - c) provide for the recovery of amounts incurred by the municipality to fulfil the requirements imposed by Bylaw under the Charter in the event of default by a person;
- B. Noxious or offensive business activities, have been found to exist within the District of Hope, and the existence of such activities are detrimental to the well-being of the District and its residents;
- C. Council for the District is concerned that the health and safety of persons who occupy buildings that have been unlawfully modified for the purpose of producing Controlled Substances may be endangered if those buildings are not determined to be free from hazards;
- D. Council for the District believes the owners and occupants, or either of them, of buildings that have been unlawfully modified for the purpose of producing Controlled Substances should be responsible for ensuring that any and all hazards have been removed;

NOW THEREFORE, Council for the District of Hope, in open meeting assembled, hereby enacts as follows:

The Preamble is and forms a part of this Bylaw.

PART I TITLE

1. This Bylaw may be cited as “Controlled Substance Property Bylaw, 2004, No. 1151”.

PART II – DEFINITIONS

2. In this Bylaw:

“**Building**” means any structure or construction for any use or occupancy;

“**Charter**” means the Community Charter, R.S.B.C., 2003, C.26, and amendments thereto;

“**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 contaminated by chemical or biological materials used in the trade, cultivation or production of a Controlled Substance, or
 - (b) a Property modified to trade, cultivate or produce a Controlled Substance, or
 - (c) a Property which has been used for the trade, cultivation, manufacturing, ingestion, use, sharing, sale, trade or barter of a Controlled Substance therein or thereon;
- and which no longer meets the applicable standards under the British Columbia Building Code, British Columbia Fire Code, Health Act or other applicable regulations, including any Bylaw requirements of the District;

“**Council**” means the elected municipal Council of the District of Hope;

“**District**” means the municipal corporation of the District of Hope;

“**Fire Services**” means the provision of District fire inspection, investigation, protection, suppression and other fire services required as a result of the use of a Property as a Controlled Substance Property;

“**Police Services**” means all District police services in relation to enforcement of this Bylaw, and in relation to the removal of all materials associated with use of a Property as a Controlled Substance Property;

“**Hazardous Condition**” includes any real or potential risk to the health or safety of persons or Property arising or resulting from the unlawful alteration or modification of a building for the purpose of cultivating or producing a Controlled Substance;

“**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 District of Hope Volunteer Fire Department;
- (b) any Building Inspector appointed by the District to inspect Buildings or structures in respect of Building, plumbing, gas or electrical standards;
- (c) a peace officer, including a member of the Royal Canadian Mounted Police;

- (d) Bylaw enforcement officers and Bylaw inspections officers;
- (e) the Deputy of a person, officer or employee referred to in paragraphs (a) to (d);
- (f) other persons designated by Council by name of office or otherwise to act in the place of the persons, officers or employees referred to in paragraphs (a) to (e);

“No Occupancy” means a notice in writing issued by the Inspector which indicates that a building, or part thereof, is not authorized for occupancy in the form of Schedule A (AM B#1242);

“Occupant” means:

- (a) a person residing on the Property,
 - (b) a person entitled to possession of the Property if there is no person residing on the Property, and
 - (c) a person who is the leaseholder of the Property, or
 - (d) any of them,
- and includes 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;

“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;

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

“Residential 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 Property containing a Residential Premises;

“Special Safety Inspection” means an inspection of a Property carried out by an Inspector(s) after the Property has been allowed to become a place used as a Controlled Substance Property contrary to this Bylaw;

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

“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 Property, excluding Residential Premises.

PART III - PROHIBITION

3. No person, Owner or Occupant of Property may cause, permit or allow water, rubbish or noxious or offensive material to collect or accumulate in, on, under or around any Property in connection with the use of Controlled Substance Property.

4. No person, Owner or Occupant may cause, permit or allow a nuisance to exist in or about that Owner of Occupant's Property as a result of the use of that Property as a Controlled Substance Property.
5. No Person, Owner or Occupant may carry on any noxious or offensive business activity in or around a Controlled Substance Property.
6. No person, owner or occupant of a controlled substance property may cause or permit any hazardous conditions to be created or to exist on that property.

PART IV – TENANCIES

7. Subject to the provisions of the *Residential Tenancy Act*, every owner of Property that is subject to a Residential Tenancy Agreement must inspect the Residential Premises and accessory Buildings at least once every two (2) months to ascertain whether this Bylaw has been contravened.
8. Every owner of Property that is subject to a Tenancy Agreement or Residential Tenancy Agreement who has knowledge of a contravention of this Bylaw, in relation to the Property, must within twenty-four (24) hours of the discovery of the contravention, deliver written notice to the District of the particulars of the contravention.

PART V - RIGHT OF INSPECTION

9. An Inspector has the right to enter upon any Property in accordance with the provisions of the Charter for the purposes of inspecting the Property and determining whether all regulations, prohibitions and requirements under this Bylaw are being met.
10. No person shall, unless authorized by an Inspector, alter, deface, cover, remove or in any way tamper with any notice posted upon or affixed to a building or Property pursuant to this Bylaw.
11. No person shall obstruct the entry on Property of an Inspector or other authorized official of the District of Hope in the administration of this Bylaw.

PART VI – NOTICE OF NO OCCUPANCY (AM B#1242)

12. Where an Inspector finds that a Hazardous Condition or other thing or condition that is not in compliance with this Bylaw exists on a Property, the Inspector may post a notice of No Occupancy for that Property. The Inspector must provide written notice of a No Occupancy in the form of Schedule B, including particulars of the Hazardous Condition or other thing or condition that exists on the Property and is not in compliance with this Bylaw, by posting a notice to that effect on the Property and mailing a copy of the notice to the Owner's address as shown in the District's Property tax records. (AM B#1242)
13. An Owner or Occupant of Property may not use any water supplied to that Property from the District Water System for the production of a Controlled Substance. (AM B#1242)
14. An Owner or Occupant of Property that is connected to the water service operated by the District of Hope must comply with all applicable District requirements as a condition of their use of the District Water Service. (AM B#1242)

15. The District may disconnect the supply of water to a Property upon posting a No Occupancy notice under this Bylaw, or upon the Inspector finding that the Property is or has been used as a Controlled Substance Property. (AM B#1242)
16. The Owner or Occupant of Property for which a No Occupancy notice has been posted may request reconsideration by Council of the decision to post a No Occupancy under section 12, by delivering a written request for reconsideration to the Chief Administrative Officer for the District within fourteen (14) days of the mailing of the notice pursuant to Section 12. The request must set out the Owner's reasons for the request for reconsideration. The Council will provide written reasons for its decision on the request for reconsideration and that decision will be final. (AM B#1242)
17. The Owner or Occupant of Property who has received notice of disconnection of the supply water to that Property under section 15 of this Bylaw may request reconsideration of that decision by Council by delivering a written request for reconsideration to the Chief Administrative Officer for the District within 14 days of the mailing of the notice under section 15. The request must set out the Owner's or Occupant's reasons for the request for reconsideration. Council will provide written reasons for its decision in the request for reconsideration, and that decision will be final. (AM B#1242)

PART VII - REQUIREMENTS FOR RE-OCCUPATION (AM B#1242)

18. If, as a result of the use of the Property as a Controlled Substance Property, any one or more of the following has occurred: (AM B#1242)
 - (a) the supply of electricity, water or natural gas to the Property has been disconnected by the District or other lawful authority;
 - (b) alterations or repairs have been made to the plumbing, electrical, heating, water or gas systems, Building structure, equipment, appliances or other accessories of any kind on the Property without the Owner or Occupant obtaining and complying with any and all permits for such work required by any federal, provincial or municipal statute, regulation or Bylaw;
 - (c) a Hazardous Condition exists on the Property;

and a No Occupancy has been posted for the Property in accordance with Section 12, then the Owner and any Occupant must ensure that the Property is not occupied or used for any purpose until:

- (d) any Hazardous Condition on the Property has been remedied, and
- (e) the Owner or Occupant has applied to the District for and passed a Special Safety Inspection of the Property, and
- (f) the Property has been inspected and approved for occupancy by all other lawful authorities having jurisdiction over the supply of electricity, water or natural gas to the Property for compliance with all health and safety requirements of the District's Bylaws and any applicable federal or provincial statutes or regulations relating to Building, electrical, water, gas or fire safety, and
- (g) the Owner, or the Occupant if acting as the Owner's agent, has obtained and complied with all permits, approvals or authorizations required to carry out the work

necessary to bring the Property into compliance with all applicable federal, provincial and municipal statutes, regulations and Bylaws;

- (h) the Owner has paid all fees imposed under this bylaw, and other relevant bylaws in relation to the inspection of the property and issuance of permits; and
 - (i) The No Occupancy notice has been removed by the Inspector.
19. The fee for each Special Safety Inspection or any inspection required pursuant to Section 18(e) shall be in accordance with the current District of Hope Fees and Charges Bylaw, and all amendments made thereto. The fee is non-refundable should the applicant for a Special Safety Inspection fail to attend at the Property to provide access to the same to the Inspector(s) on the date and at the time of that inspection. (AM B#1242)

PART VIII - SERVICE COSTS

20. Every Owner causing, permitting or allowing Property to become or remain a Controlled Substance Property, and in relation to which Property the District provides Fire Services or Police Services, shall, upon receipt of invoice, pay the fees for those services calculated in accordance with current “District of Hope Fees and Charges” (AM B#1242)
21. In the event an Owner fails to pay the fees for which that Owner is responsible under sections 19 and/or 20 by December 31st of the year in which the fees become due and payable, those fees shall be deemed to be taxes in arrears for that Property.

PART IX – OFFENCES AND PENALTIES

22. Any person who contravenes any provision of this Bylaw commits an offence punishable upon summary conviction and is liable to a fine not less than the sum of \$1,000.00, and not exceeding the sum of \$10,000.00, and possible imprisonment of not more than six (6) months.
23. In the event of a continuing offence, the fines levied in accordance with Section 22 shall be applied for each day that the offence continues.

PART X - SCHEDULES (AM B#1242)

24. The following scheduled attached to and form part of this bylaw:
- (a) Schedule A – Notice of no occupancy and notice to remedy hazardous conditions.
 - (b) Schedule B – Letter to property owner and notice to remedy hazardous conditions.

PART XI - SEVERABILITY

25. If any section, subsection, clause or phrase of this Bylaw is, for any reason, held to be invalid by a court of competent jurisdiction, it will be deemed to be severed and the remainder of the Bylaw will remain valid and enforceable in accordance with its terms.

Read a first time by the Municipal Council of the District of Hope the 9th day of August, 2004

Read a second time by the Municipal Council of the District of Hope the 14th day of March, 2005

A Public Information Meeting was held the 26th day of April, 2005

Read a third time by the Municipal Council of the District of Hope the 3rd day of May, 2005

Reconsidered, finally passed and adopted by the Municipal Council of the District of Hope the 9th day of May, 2005

“Wilfried Vicktor”

Mayor

“Wayne Thiessen”

Chief Administrative Officer

NOTICE OF NO OCCUPANCY

[INSERT DATE]

TAKE NOTICE THAT THIS PROPERTY, LEGALLY DESCRIBED AS:

[Insert Legal Description]

has been used as a Controlled Substance Property as defined in the District of Hope Controlled Substance Property Bylaw, 2004, No. 1151.

Pursuant to Part VI of the District of Hope Controlled Substance Property Bylaw, 2004, No.1151, no person may occupy or otherwise use this Property until the following remediation work is completed and passes a Special Safety Inspection:

[Insert Hazardous Conditions and Remediation Work Required].

The above referenced remediation work must be completed no later than [Insert Date].

IT IS AN OFFENCE TO REMOVE OR DEFACE THIS NOTICE.

Any inquiries regarding this Notice should be directed to the District of Hope Building Department at 604-869-5671.

[Insert Inspector Name], Inspector
District of Hope

**LETTER TO PROPERTY OWNER OR OCCUPANT WHEN NO OCCUPANCY IS
POSTED AND HAZARDOUS CONDITION(S) REQUIRE REMEDIATION**

[Insert Date]

[Insert Property Owner/Occupant]

[Insert Address]

[Insert Property Owner/Occupant]:

Re: District of Hope Controlled Substance Property Bylaw, 2004, No. 1151

This letter is to notify you that the District of Hope has determined that [in the case of an owner: “your property”] [in the case of an occupant: “the property you are occupying”], legally described as [Insert Legal Description] has or is being used as a Controlled Substance Property and contains hazardous conditions as defined by the District of Hope Controlled Substance Property Bylaw, 2004, No.1151.

Be advised that no person may occupy or otherwise use this property and you and all other occupants must immediately vacate the property. Occupancy will not be permitted until the following remediation work is completed and all other remediation conditions of the Controlled Substance Property Bylaw are completed and the Property passes a Special Safety Inspection:

[Insert Hazardous Conditions and Remediation Work Required].

The above referenced remediation work must be completed no later than [Insert Date].

We enclose a copy of the Bylaw for your reference. If you have any questions concerning the regulations in the Bylaw, or require further information, please call the District of Hope Building Department at 604-869-5671.

[Insert Name], Inspector
District of Hope