
THE CORPORATION OF THE DISTRICT OF KENT

BYLAW NO. 1467

*"A bylaw to Regulate, Prohibit or Impose Requirements
Respecting Nuisances, Noxious or Offensive Trades, and Health and Safety Risks."*

WHEREAS under the authority of Section 8 of the *Community Charter* and Section 908 of the *Local Government Act*, Council may, by bylaw, regulate, prohibit and impose requirements to prevent and address nuisance, safety and health hazards resulting from noxious trades; and the unauthorized use or alteration of any building or infrastructure, equipment, appliances, wiring, piping, fittings, and metres for electricity, gas, plumbing, heating, air conditioning and similar systems are likely to compromise the integrity of the building, infrastructure and systems; may become a nuisance for neighbouring owners and occupants; and present serious danger to the safety and health of persons who may enter or occupy that property or nearby properties;

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

CITATION

1. This Bylaw may be cited as "Nuisances, Noxious or Offensive Trades, Health and Safety Bylaw No. 1467, 2010".

INTERPRETATION

2. In this Bylaw:

Amphetamines include dextroamphetamines and methamphetamines;

Alterations mean any changes made to the structural, mechanical or electrical components of residential premises for the purposes of a grow operation;

Building means any structure or construction for any use or occupancy;

Building Official means the chief building official for the District, and every building official appointed by the District to inspect buildings or structures in respect of, building, plumbing, gas or electrical standards;

CAO means the Chief Administrative Officer for the District or a person designated to act in his or her absence;

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 District’s Business License Bylaw, in force from time to time;

Controlled Substance Property means:

- (a) a property contaminated by chemical or biological materials used in or produced by the trade or manufacture of a Controlled Substance; or
- (b) a property modified to trade or manufacture a Controlled Substance; or
- (c) a property which has been used for the ingestion, use, sharing, sale, trade or barter of a Controlled Substance therein or thereon; and
- (d) 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 Council for the District;

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 Development Services, and any other persons designated by Council to act in the place of the Director;

District means the Corporation of the District of Kent;

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

Grow Operation means the cultivation of marijuana plants or mushrooms or the production of amphetamines;

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 need to the property;

arising or resulting from the use of contamination of a property as a Controlled Substance Property;

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 Agassiz Fire Department;
- (b) the Chief Building Official for the District, and every Building Official appointed by the District to inspect Buildings or Structures in respect of building, plumbing, gas or electrical standards;
- (c) the Director of Development Services;
- (d) the Director of Engineering Services;
- (e) bylaw enforcement officers and bylaw inspection officers;
- (f) the deputy of a person, officer or employee referred in paragraphs (a) to (d);
- (g) 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);

Owner includes the registered owner of residential premises and the lessee of Residential Premises;

Parcel includes land and any improvement comprised in 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 includes herbicides, fungicides, other substances used to control pests, plant regulators, defoliantes or desiccants;

Professional Cleaner means an individual or corporation experienced and qualified in removing contaminants from residential premises;

Re-occupancy Permit means permission or authorization in writing by the Building Official to re-occupy any building or part thereof in respect of which the Building Official has issued an order to cease occupancy because of a hazardous condition;

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

Service Costs means all direct and indirect costs incurred by the District in relation to inspecting a property used for a Grow Operation or Controlled Substance Property and addressing related safety, health and nuisance conditions, including costs and expenses incurred:

- (a) by the Royal Canadian Mounted Police;
- (b) by the Agassiz Fire Department;
- (c) for the services of any Building Official or Inspector;

- (d) for the services or any independent contractor, service provider, consultant or agent, including without limitation, a qualified electrical inspector, hazardous materials professional, professional engineer, health professional, legal counsel, security personnel, or person retained to carry out cleaning, repairs, alterations, installations, construction or demolition;
- (e) for salaries, including for overtime for related personnel;
- (f) for the dismantling, disassembly, removal, clean up, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with a Grow Operation or the use, trade, business or manufacture of any Controlled Substance, and for associated equipment, vehicles, facilities, materials and service professionals;
- (g) for the replacement of consumables used, or the replacement of equipment following exposure to contaminants;
- (h) for analysis of materials found at the property and health and safety conditions at the property; and
- (i) for associated administration and overhead costs and expenses in relation to regulating, inspecting and remedying non-compliant properties under this Bylaw;

Special Safety Inspection means an inspection coordinated with other such departments, jurisdictions, and contractors as is necessary to review hazardous conditions that may exist and to issue such orders as are applicable pursuant to the *British Columbia Building Code*, *British Columbia Fire Code*, *Public Health Act*, *Safety Standards Act* and other such regulations and bylaws within the District;

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

3. A person may not disconnect a meter installed for the purpose of ascertaining the consumption of electrical or water, except as authorized by B.C. Hydro, the District, or other lawful supplier of the electrical or water distribution system that provides service to the parcel.
4. If, as a result of the use of a property as a grow operation or a controlled substance property:
 - (a) the supply of electricity, water or natural gas to a property has been disconnected by the District or any other lawful authority;
 - (b) unauthorized alterations or repairs have been made to structural, electrical, water or gas systems, equipment, appliances or other accessories of any kind;
or

- (c) a hazardous condition exists on the property;

then the supply of electricity, water or natural gas must not be permanently reconnected and the property must not be occupied or used until:

- (d) the owner has applied to a Building Official for a Special Safety Inspection pursuant to this Section;
- (e) the property has been inspected by the Building Official 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 District's bylaws and any Provincial statute or regulation relating to building, electrical, water, health, gas, or fire safety as amended from time to time;
- (f) the owner has obtained all permits, approvals or authorizations required to carry out the work necessary to bring the property into compliance with the District's bylaws and all Provincial statutes and regulations;
- (g) all of the work referred to in this Section has been completed and inspected by the Building Official and all other lawful authorities having jurisdiction and the property is in compliance with the District's bylaws and all applicable Provincial statutes and regulations, as amended from time to time; and
- (h) the owner has paid all fees imposed by Schedule "A" of this Bylaw and other relevant District bylaws in relation to the inspection of the property and the issuance of permits, and the Building Official has issued a Re-Occupancy Permit for the property.

5. A person must not:

- (a) 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;
- (b) store or use dangerous goods in a residential premises or a residential accessory building in quantities greater than permitted under the *Fire Code* (British Columbia) as amended from time to time;
- (c) 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;
- (d) 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;
- (e) remove fire stopping that is provided or required under a safety enactment to contain the spread of fire within a building; or
- (f) undertake an alteration to a building for the purpose of establishing or operating a grow operation or controlled substance property.

6. If the Building Official considers that a building or structure used for a grow operation or a controlled substance property is unsafe to enter or occupy, he may post a noticed containing the words "UNSAFE – DO NOT ENTER OR OCCUPY" in a conspicuous place at any entrance, until such time as the unsafe conditions have been removed or remedied.
7. A person must not:
 - (a) interfere with or obstruct an Inspector from posting a notice referred to in this Bylaw; or
 - (b) remove, alter, cover, or mutilate a notice posted under this Bylaw except with the express permission of the Building Official, Fire Chief, Director or CAO.

HEALTH

8. A person must not cause, permit, suffer or allow a building to become subject to mould or fungus as a result of or arising from a grow operation or the production of amphetamines or other controlled substances in or about the building.

NUISANCES

9. No person may cause or permit:
 - (a) a nuisance as a result of the use or occupancy of a parcel;
 - (b) water, rubbish or unsightly matter to collect or accumulate in, on, under or around a parcel owned, used or occupied by the person, where "unsightly" has the meaning given by the Unsightly Premises Bylaw, in force from time to time, as amended or replaced.

NOXIOUS OR OFFENSIVE TRADES

10. No person may cause, permit, suffer or allow a grow operation in a residential premises or a residential accessory building.

FIRE PROTECTION

11. If the Fire Chief apprehends that the conditions in or about a building present a serious risk of fire or explosion, an imminent and serious threat to life safety or property, or would increase an existing danger to life or property, the Fire Chief may:
 - (a) immediately take steps he considers advisable to reduce or remove the hazard or dangerous conditions;
 - (b) call on police, hazardous material professionals, and other persons with relevant competence or expertise to provide assistance;
 - (c) cause or direct the demolition of a building or part of a building if, in his opinion, it is necessary to prevent the spread of a fire or to prevent the loss of life, injury to persons, or substantial damage to other buildings or property; and

- (d) post a notice on an building or structure at or near the site of a fire or explosion hazard, warning that entry onto the property or occupancy of a building may be hazardous or is restricted or prohibited.
- (e) exercise some or all of the powers of the Fire Commissioner under Section 25 of the *Fire Services Act*, and for these purposes that Section applies.

12. Every owner of real property must undertake any action directed by the Fire Chief for the purpose of removing or reducing any thing or condition that the Fire Chief considers is a fire hazard or increases the danger of fire.

TENANCIES

13. Every owner of a residential premises or other premises that are subject to a Tenancy Agreement:

- (a) must inspect the residential premises at least once every three (3) months to ascertain whether this Bylaw has been contravened, and
- (b) who has knowledge of a contravention of this Bylaw, in relation to the residential premises or other premises, must:
 - (i) within 24 hours of the discovery of the contravention, deliver written notice to the District of the particulars of the contravention, and
 - (ii) subject to the *Residential Tenancy Act*, within two months of the delivery of the notice, take such action as may be necessary to bring the premises into compliance with this Bylaw.

REMEDATION REQUIREMENTS

14. If residential premises have been used for a grow operation, the owner of the residential premises must, within 60 days after the grow operation has been removed, subject to the *Residential Tenancy Act*:

- (a) either 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;
- (b) if the residential premises are heated by forced air heating, have all air ducts cleaned by a Professional Cleaner or by a duct cleaning company; and,
- (c) have all walls and ceilings in the residential premises cleaned and disinfected by a Professional Cleaner;

and the District may deliver to the owner of the residential premises a letter as prescribed in Schedule "D" of this Bylaw.

INSPECTION AND CERTIFICATION REQUIREMENT

15. After a Professional Cleaner has been engaged by the owner and has completed the requirements of Section 14, an individual or corporation certified by the Canadian Registration Board of Occupational Hygienists or the American Board of Industrial Hygiene must inspect the residential premises and provide written certification in the form set out in Schedule "C" of this Bylaw to the Director that the requirements of Section 14 have been satisfied and that the residential premises are substantially free of any pesticides or fertilizers and any toxic chemicals, moulds or fungi.

OCCUPANCY

16. After a grow operation has been removed from a residential premises and until the remedial measures prescribed by Section 14 of this Bylaw have been completed and written certification provided to the Director as required by Section 15, the residential premises must not be occupied by any person.
17. Before residential premises are re-occupied after removal of a grow operation, the owner must notify the prospective occupants in writing that a grow operation has been removed and that the requirements of this Bylaw have been met.

ALTERATIONS

18. If there has been an alteration to the residential premises, the residential premises must not be re-occupied after the removal of a grow operation until:
- (a) a Building Permit has been obtained for any existing alteration and proposed alteration work which requires a permit under the District's Building Regulation Bylaw, in force from time to time;
 - (b) the residential premises comply with the health and safety requirements of the *Building Code (British Columbia)*, the *Electrical Code (British Columbia)*, the *Safety Standards Act*, this Bylaw and all other health and safety requirements established by law; and
 - (c) the Building Official has confirmed that a satisfactory occupancy inspection of the residential premises by the District has been completed.

FEES

19. An owner of a parcel that is in contravention of this Bylaw must pay:
- (a) all the fees established in Schedule "A"; and
 - (b) all service costs incurred by the District.

NOTICES AND INSPECTIONS

- 20.** An Inspector or Building Official may, in accordance with the *Community Charter* enter on real property for the following purposes:
- (a) to inspect and determine whether all regulations, prohibitions and requirements under this Bylaw, the *Safety Standards Act*, 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;
 - (b) to take action authorized under Section 23 of this Bylaw; or
 - (c) to inspect or to disconnect or remove a water service under Sections 3 or 25 of this Bylaw.
- 21.** The Building Official or a person acting under the direction of the Building Official may post a notice in the form of Schedule "B" on any residential premises which have been used for a grow operation, advising of the regulations in this Bylaw.
- 22.** No person may interfere with an inspection or proposed inspection under Section 20 of this Bylaw and no person shall remove or deface any notice posted under Section 21 of this Bylaw.

REMEDIAL ACTION

- 23.** If an owner of a parcel that is the subject of a notice or order under this Bylaw or another enactment fails to carry out and complete the requirements of the District within the time specified in the notice or order, the District may enter the property and fulfill the requirements at the expense of the owner, cause the property to be brought into compliance with this Bylaw, and recover any and all costs incurred, as a debt owing to the District.

DISTRICT COST RECOVERY

- 24.** Any fees, service costs, or remedial action debts owing to the District under this Bylaw, if not paid in full by December 31st of the year in which they were incurred, are deemed to be taxes in arrears and may be collected by the District in the same manner as for property taxes.

DISCONTINUANCE OF SERVICE

- 25.** If an Inspector determines that water services provided to a parcel by the District is being used for or in relation to a grow operation, the District may discontinue the water service within fourteen (14) days or a later time period, until such time as the property is brought into compliance, subject to the following:

- (a) Written notice of the intended discontinuance is delivered to the owner at least fourteen (14) days before the next regularly scheduled meeting of Council, advising of the reason and intended date of discontinuance and of an opportunity to make representations to Council at that meeting; and
- (b) The person has been given an opportunity to be heard by the Council on the matter as set out in the notice, and Council decides, having regard to all the circumstances, that the water service should continue or that the discontinuance be effected at a later date.

OFFENCE AND PENALTY

26. 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.

27. If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

SEVERABILITY

28. If any section, subsection, sentence, clause or phrase of this Bylaw is, for any reason, held invalid by the decision of any court or competent jurisdiction, the invalid portion shall be severed and the decision that is invalid shall not affect the validity of the remainder of this Bylaw.

REPEAL

29. "Nuisance, Noxious or Offensive Trades, Health and Safety Bylaw No. 1324, 2005" and amendments thereto are hereby repealed.

READ A FIRST TIME this 25th day of October, 2010.

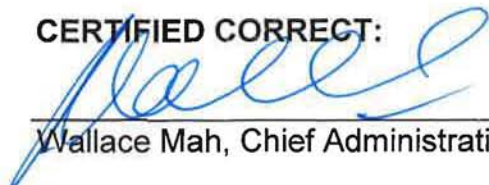
READ A SECOND TIME this 25th day of October, 2010.

READ A THIRD TIME this 25th day of October, 2010.

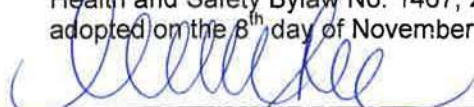
FINALLY PASSED AND ADOPTED this 8th day of November, 2010.


Lorne Fisher, Mayor

CERTIFIED CORRECT:


Wallace Mah, Chief Administrative Officer

CERTIFIED A TRUE AND CORRECT COPY
of "Nuisances, Noxious or Offensive Trades,
Health and Safety Bylaw No. 1467, 2010"
adopted on the 8th day of November, 2010


Clair Lee, Director of Corporate Services

SCHEDULE "A"**FEES**

The following fees apply under this Bylaw:

- (1) Each time the District enters on a parcel to inspect, in the exercise of the District's authority to regulate, prohibit or impose requirements under this Bylaw or another enactment, the owner must pay the District an administration and inspection fee of:
 - (a) \$400.00; and
 - (b) an additional \$400.00 for a subsequent inspection undertaken if the owner has failed to undertake action ordered by the Fire Chief, the District or a person authorized under the Bylaw to order the action;
- (2) Before confirmation is provided under Section 18(c) the owner must pay to the District:
 - (a) \$400.00 for an occupancy inspection; or
 - (b) \$2,500.00 for an inspection with an architect or professional engineer to certify that the subject building may be occupied under applicable enactments, if the owner has not first engaged their own architect for that purpose.
- (3) For a Special Safety Inspection paid prior to inspection \$3500.00
- (4) For each inspection prior to issuance of a Re-occupancy Permit \$400.00
- (5) To obtain Re-occupancy Permit \$250.00
- (6) Shutting off water service \$100.00
- (7) Re-connecting a water service \$100.00
- (8) Re-inspecting and re-sealing a water service after alteration or tampering \$400.00
- (9) All legal fees Actual Cost

SCHEDULE "B"

NOTICE

TAKE NOTICE THAT these residential premises have been used as a marijuana grow operation [or an amphetamine production operation].

Pursuant to the District of Kent's "Nuisances, Noxious or Offensive Trades, Health and Safety Bylaw No. 1467, 2010", no person may occupy these premises until cleaning and remediation have been completed in accordance with that Bylaw and the Building Official 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 Development Services at 604-796-2235.

Building Official
District of Kent

SCHEDULE "C"**CERTIFICATION FORM**

TO: The District of Kent

FROM: [insert name of inspector]

RE: Residential Premises located at [insert civic address]

This is to certify that in accordance with Sections 14 and 15 of "Nuisances, Noxious or Offensive Trades, Health and Safety Bylaw No. 1467, 2010", the Professional identified in this certification:

- (1) meets the certification requirements pursuant to Section 15 of the Bylaw; and
- (2) has completed an inspection of the residential premises at _____; 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]

Authorized Representative

SCHEDULE "D"**LETTER TO PROPERTY OWNER**

Re: **"Nuisances, Noxious or Offensive Trades, Health and Safety Bylaw No. 1467, 2010"**

This letter is to notify you that the District of Kent's **"Nuisances, Noxious or Offensive Trades, Health and Safety Bylaw No. 1467, 2010"**, in force from time to time, establishes regulations concerning the cleaning and remediation of buildings that have been used for marijuana grow operations or amphetamine production.

The District has been advised by the Royal Canadian Mounted Police that the building at [insert civic address] was in use as a Controlled Substance Property, the apparatus of which has been removed by the police on [insert date].

In accordance with Section 14 of the Bylaw, within 60 days, all carpets and curtains in the premises must be removed or cleaned; any forced air heating ducts in the building must be cleaned; and all walls and ceilings within the building must be cleaned and disinfected. The aforementioned work must be carried out by a Professional Cleaner with experience in removing contaminants from buildings. In addition, the Professional Cleaner is required to hold a valid licence to carry on business in the District.

Once the cleaning is completed, a qualified professional must certify, in the form prescribed in Schedule "C" of the Bylaw, that the building is free from pesticides, fertilizer, toxic moulds, chemicals and fungus. Until payment of all required fees and fines are made and the cleaning and certification completed, Sections 4(h) and 16 of the Bylaw prohibits occupancy by any person. Prior to occupancy, you are required to notify prospective occupants that the requirements of the Bylaw have been satisfied.

If the District does not receive a response to this notice by [insert date], it will be recommended to Council that staff proceed with the process of filing a Notice on Title pursuant to Section 57 of the *Community Charter*. A copy of the Bylaw is enclosed for your reference. If you have any questions concerning the regulations within the Bylaw, please contact the undersigned or [name of director], Director of Development Services at 604-796-2235.

Sincerely,

[name of building official]
Building Official