

CITY OF PORT MOODY

BYLAW NO. 2523

A BYLAW TO PROHIBIT THE USE OF PROPERTY FOR THE TRADE, MANUFACTURE, INGESTION, USE, SHARING, 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 and neighbours 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 Municipal Council of the City of Port Moody, in open meeting assembled, enacts as follows:

1. TITLE

This Bylaw may be cited for all purposes as “Controlled Substance Property Bylaw No. 2523.”

2. DEFINITIONS

In this Bylaw,

- 2.1 “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**.
- 2.2 “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.
- 2.3 “Inspector”** means the Manager of Bylaws Building and Licensing, or designate;
- 2.3 “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;

2. DEFINITIONS (Continued)

2.4 “Occupant” includes:

- (a) a **Person** residing on or in the **Property**;
- (b) the **Person** entitled to the possession of **Property** if there is no **Person** residing on or in the **Property**; and
- (c) a **Person** who is a leaseholder of the **Property**;

and shall include the agent of any such **Person**.

2.5 “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**.

2.6 “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.

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

2.8 “City” means the City of Port Moody.

3. PROHIBITION OF CONTROLLED SUBSTANCE MANUFACTURE

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

4. UNSIGHTLY PREMISE PROHIBITED

4.1 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

- 5.1 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**.

6. ALTERATION, REPAIR AND RECONNECTION OF ELECTRICAL, WATER OR GAS SUPPLY

- 6.1 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; or
 - (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**;

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

- (1) the **Owner** or **Occupant** has applied to the **Inspector** for a special safety inspection pursuant to this Section and has paid the fee hereby imposed for such special inspection as specified in the Fees and Charges Bylaw No. 2502;
- (2) 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;

6. ALTERATION, REPAIR AND RECONNECTION OF ELECTRICAL, WATER OR GAS SUPPLY (Continued)

- (3) 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 (2);
- (4) all of the work referred to in Subsection (3) 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 (2); and
- (5) 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**.

7. NON-COMPLIANCE

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

8. EXTRAORDINARY COSTS

- 8.1 Every **Owner** 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 Port Moody Police Department in the disassembly, removal, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with such trade, business or manufacture.

9. COSTS ADDED TO TAXES

- 9.1** In the event that a **Person** fails to pay the costs of compliance under Section 7, or those 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.

10. OFFENCES AND PENALTIES

- 10.1** Any **Owner** or **Occupant** who contravenes, suffers or permits any act or thing to be done in contravention of, or neglects 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.
- 10.2** Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.
- 10.3** 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.

11. SEVERABILITY

- 11.1** 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.

READ FOR A FIRST TIME the 23rd of July, 2002.

READ FOR A SECOND TIME the 23rd of July, 2002.

READ FOR A THIRD TIME the 23rd of July, 2002.

ADOPTED the 8th day of October, 2002.

MAYOR

CITY CLERK