

CITY OF DUNCAN

BYLAW NO. 3196

A Bylaw to Regulate and Impose Requirements Respecting the Remediation of Real Property and Premises Damaged Through the Production, Trade, or Storage of Controlled Substances

The Council of the City of Duncan ENACTS AS FOLLOWS:

PART 1 - TITLE

This Bylaw may be cited as the “*Controlled Substances Property Remediation Bylaw No.3196, 2019.*”

PART 2 - DEFINITIONS

Building Inspector	means a <i>Person</i> appointed as such by the <i>City Council</i> and includes the authorized representatives of the <i>Building Inspector</i> .
Bylaw Enforcement Officer	means a <i>Person</i> appointed as such by the <i>City Council</i> for the purpose of enforcing its bylaws.
Certified Professional	means any <i>Person</i> qualified in removing building contaminates as authorized in writing by the <i>Director</i> .
City	means the City of Duncan.
Controlled Substance	means: <ul style="list-style-type: none">a) a Controlled Substance as defined and described in Schedules I, II, and III of the <i>Controlled Drugs and Substances Act</i>, as amended from time to time, but does not include the lawful ingestion, use, sharing, sale, barter, storage, trade, or manufacture of a Controlled Substance, which is permitted under the <i>Controlled Drugs and Substances Act</i>; orb) Cannabis, as defined and described in Schedule I of the <i>Cannabis Act</i>, as amended from time to time, but not including the lawful ingestion, use, sharing, sale, barter, storage, trade, or manufacture of Cannabis which is permitted under the <i>Cannabis Act</i>.
Controlled Substance Property	means a <i>Property</i> which is used for the unlawful sale, barter, storage, trade, or manufacture of a <i>Controlled Substance</i> .
Director	means the <i>Person</i> appointed by Council as the Director of Corporate Services, or his or her Deputy as appointed by <i>City Council</i> .
Fire Chief	means the <i>Person</i> who is appointed by the <i>City Council</i> to be the head of the <i>City's</i> Fire Department and includes that <i>Person's</i> delegate.
Hazardous Conditions	includes any: <ul style="list-style-type: none">a) real or potential risk of fire; orb) real or potential risk to the safety of <i>Persons</i> or <i>Property</i> arising or resulting from use of a <i>Property</i> as a <i>Controlled Substance Property</i> , including unauthorized alteration to the life-safety systems of a building.

Hazardous Condition Requirement List	means a notice provided to an <i>Owner</i> or <i>Occupier</i> , which may be in the form of Schedule A ^{A+} , that details the <i>Hazardous Conditions</i> present on a <i>Controlled Substance Property</i> and requires the <i>Owner</i> or <i>Occupier</i> to take the steps indicated on the form to address or remove those <i>Hazardous Conditions</i> .
Hazardous Substance	means: <ul style="list-style-type: none">a) a substance in a concentration in excess of that listed in WorkSafe BC's Table of Exposure Limits for Chemical and Biological Substances, as amended from time to time; orb) any <i>Controlled Substances</i>, including any of the following substances or their analogues:<ul style="list-style-type: none">i) amphetamines;ii) cocaine;iii) heroin;iv) gamma hydroxybutyrate;v) fentanyl; orvi) methylenedioxy-methylamphetamine.
Letter of Certification	means a letter signed by a <i>Certified Professional</i> responsible for the preparation of the <i>Remedial Action Report</i> for that <i>Property</i> certifying that the <i>Property</i> does not contain <i>Hazardous Conditions</i> .
Local Assistant to the Fire Commissioner	has the same meaning as in the <i>Fire Services Act</i> .
Occupier	has the same meaning as in the <i>Community Charter</i> .
Owner	has the same meaning as in the <i>Community Charter</i> .
Person	has the same meaning as in the <i>Interpretation Act</i> .
Professional Engineer	means an individual registered as a Professional Engineer in good standing under the <i>Engineers and Geoscientists Act</i> .
Property	means real property and improvements, including but not limited to, buildings and structures located on the real property.
Re-Occupancy Certificate	means written authorization from the <i>Building Inspector</i> to re-occupy a building or part of a building following an order to cease occupancy because of <i>Hazardous Conditions</i> .
Remedial Action Report	means a written report prepared and duly executed by a <i>Certified Professional</i> which describes all elements of the course of action recommended by the <i>Certified Professional</i> to eliminate such <i>Hazardous Conditions</i> listed in the <i>Hazardous Conditions Requirement List</i> .
Special Safety Inspection	means an inspection for the purpose of determining whether any <i>Hazardous Conditions</i> are present on a <i>Property</i> .

PART 3 – DECLARATIONS

3.1 The use of a *Property* as a *Controlled Substance Property* is a nuisance.

PART 4 – INSPECTIONS

- 4.1 Where a *Building Inspector* or *Bylaw Enforcement Officer* has reasonable grounds to believe that a *Hazardous Condition* exists on a *Property*, the *Bylaw Enforcement Officer* or *Building Inspector* may enter that *Property* in accordance with the *Community Charter* to conduct a *Special Safety Inspection*.
- 4.2 Where a *Building Inspector* has reasonable grounds to believe that a *Hazardous Condition* exists on a *Property* which affects the structural integrity of a building or structure on the *Property*, the *Building Inspector* may require the *Owner* or *Occupier* to obtain a report from a *Professional Engineer* certifying that the *Property* is in compliance with the life safety requirements under the *Fire Services Act*, *BC Building Code*, and any other applicable enactments, and that it is safe for occupancy.
- 4.3 Where the *Building Inspector* or *Bylaw Enforcement Officer* has reasonable grounds to believe that a *Hazardous Condition* existing on a *Property* results from a *Hazardous Substance* or mould, the *Building Inspector* may require the *Owner* or *Occupier* to retain a *Certified Professional* to carry out an assessment of all *Hazardous Conditions* or mould on the *Property*.
- 4.4 If the *Building Inspector*, *Local Assistant to the Fire Commissioner*, or *Fire Chief* has reasonable grounds to believe that a *Hazardous Condition* exists on a *Property* which renders the *Property* unsafe for occupation, the *Building Inspector*, *Local Assistant to the Fire Commissioner*, or *Fire Chief* may order that no *Person* shall occupy the *Property* and when making such an order will:
- a) post a Cease Occupancy Notice in the form of Schedule 9B+ of this bylaw in a conspicuous place at the entrances to that *Property*; and
 - b) deliver to the *Owner* and *Occupier*, by registered mail, a notice that the *Property* is unsafe and that no *Person* shall enter or occupy the *Property*, with such delivery deemed effective once the notice has been mailed, regardless of whether the *Person* accepts or rejects the delivery.
- 4.5 If the *Fire Chief* or *Local Assistant to the Fire Commissioner* has reasonable grounds to believe that a *Hazardous Condition* exists on a *Controlled Substance Property*, that *Person* may:
- a) enter on the *Controlled Substance Property* and inspect premises for conditions that may cause a fire, increase the danger of a fire or increase the danger to *Persons* or property from a fire;
 - b) take measures to prevent and suppress fires, including the demolition of buildings and other structures to prevent the spreading of fire;
 - c) require the *Owner* or *Occupier* of that *Property* to undertake any actions directed by the *Fire Chief* or *Local Assistant to the Fire Commissioner* for the purpose of removing or reducing any thing or condition the *Fire Chief* or *Local Assistant to the Fire Commissioner* considers is a fire hazard or increases the danger of fire; and
 - d) exercise any of the powers of the fire commissioner under section 25 of the *Fire Services Act*.

PART 5 – REMEDIATION REQUIREMENTS

- 5.1 If the *Director* has reasonable grounds to believe a *Property* is a *Controlled Substance Property*, the *Director* may deliver to the *Owner* or *Occupier* of that *Property* a *Hazardous Condition Requirement List* and require the *Owner* or *Occupier* to take any of the steps in the *Hazardous Condition Requirement List*.
- 5.2 The *Owner* or *Occupier* of the *Property* shall, within thirty (30) days of the delivery of the *Hazardous Condition Requirement List* from the *Director*, deliver to the *Director* a *Remedial Action Report*.
- 5.3 Within sixty (60) days of the delivery to the *Director* of the *Remedial Action Report*, the *Owner* or *Occupier* of such *Property* who has been delivered a *Hazardous Conditions Requirement List* shall:
- a) complete, or cause to be completed, all elements of the *Remedial Action Report* prepared for that *Property*; and
 - b) deliver to the *Director* a *Letter of Certification*, duly executed by the *Certified Professional* responsible for the preparation of the *Remedial Action Report* for that *Property*.
- 5.4 If, as a result of the unlawful use of a *Property* as a *Controlled Substance Property*:
- a) the supply of electricity, water, or natural gas to a *Property* has been disconnected by the *City* or any other lawful authority;
 - b) unauthorized alterations or repairs have been made to electrical, water, or natural gas systems, equipment, appliances, or other accessories of any kind; or
 - c) a *Hazardous Condition* exists on the *Property*;

the *Building Inspector* may advise WorkSafe BC and any *Person* with an interest in the *Property* which is registered on the title to the *Property*, of the unlawful use of the *Property*, and the supply of water, electricity, or natural gas shall not be reconnected and the *Property* shall not be occupied until:

- i) the *Owner* or *Occupier* has:
 - a. 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 enactments relating to building, electrical, water, natural gas, or fire safety;
 - b. applied in writing to the *Building Inspector* for a *Special Safety Inspection*;
 - c. has paid the fee imposed for such *Special Safety Inspection* as specified in the *City's* Fees and Charges Bylaw, as amended from time to time; and

- ii) the *Property* has been:
 - a. inspected by all lawful authorities having jurisdiction over the supply of water, electricity, and natural gas; and
 - b. determined by said lawful authorities to comply with all health and safety requirements of the *City's* bylaws, and all Provincial enactments relating to building, electrical, water, gas, and fire safety;
- iii) the *Director* is satisfied that all the work referred to in the *Hazardous Condition Requirement List* has been completed, inspected, and approved by the *Building Inspector* and all other lawful authorities having jurisdiction over such work;
- iv) the *Owner* or *Occupier* has paid all fees imposed by the *City's* Fees and Charges Bylaw in relation to the inspection of the *Property* and the issuance of permits; and
- v) the *Building Inspector* has issued a *Re-Occupancy Certificate* for the *Property*.

5.5 If a *Cease Occupancy Notice* in the form of Schedule 9B+ to this bylaw has been posted on a *Property*, no *Person* shall occupy the *Property* until:

- a) the *Director* provides the *Owner* or *Occupier* of the *Property* with written acknowledgement of receipt of a *Letter of Certification*, which is satisfactory to the *Director*; and
- b) the *Building Inspector* has issued a *Re-Occupancy Certificate*.

5.6 If an *Owner* or *Occupier* fails to comply with a requirement of the *City* under this bylaw, the *City*, by its employees or agents, at a reasonable time and in a reasonable manner, may enter the *Property* and effect compliance with the requirements of this bylaw at the expense of the *Person* who has failed to comply, and may recover the costs of doing so as a debt owed to the *City*.

5.7 Every *Owner* causing, permitting, or allowing *Property* to become or remain a *Controlled Substance Property* shall pay the service costs incurred directly or indirectly by the *City* in the inspection, investigation, remediation, disassembly, removal, transportation, storage, and disposal of equipment, substances, materials, and other paraphernalia associated with the sharing, trade, business, or manufacture of a *Controlled Substance*.

5.8 If an *Owner* fails to pay the amount charged under section 5.6 or 5.7 or both, before the 31st day of December in the calendar year in which the costs were incurred, the amount shall be added to and form part of the taxes on the *Property* as taxes in arrears.

PART 6 – OFFENCES AND PENALTIES

- 6.1 No *Person* shall interfere with a *Special Safety Inspection* or proposed *Special Safety Inspection*.
- 6.2 No *Person* shall remove, alter, cover, mutilate, or deface a *Cease Occupancy Notice* which has been posted on a *Property* under section 4.4.
- 6.3 No *Person* shall cause, permit, or allow any *Property* to become or remain a *Controlled Substance Property*.
- 6.4 Any *Person* who violates any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of any provision of this bylaw, or neglects to do or refrains from doing anything required to be done pursuant to any provision of this bylaw, commits an offence punishable on summary conviction and shall be liable to a fine of not less than \$500 and not more than \$10,000, together with the costs of the prosecution, and any other remedy available under the *Community Charter* or the *Offence Act*.
- 6.5 Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.
- 6.6 Prosecution of a *Person* for one or more contraventions of this bylaw does not exempt or relieve the *Person* from any other duty or obligation under this bylaw.

PART 7 – SEVERABILITY

- 7.1 If any part of this bylaw is for any reason held invalid by any court of competent jurisdiction, the invalid portion shall be severed and the severance shall not affect the validity of the remainder of the bylaw.

PASSED FIRST READING 17-JUNE-2019.
PASSED SECOND READING 17-JUNE-2019.
PASSED THIRD READING 17-JUNE-2019.

ADOPTED JULY 15, 2019

Michelle Staples,
Mayor

Paige MacWilliam,
Director of Corporate Services

Schedule "A"



Hazardous Condition Requirement List

Address: _____ (the *Property*)

To: _____ (the *Occupier* or *Owner*)

Pursuant to the City of Duncan Controlled Substances Property Bylaw No. 3196, 2019 (the *Bylaw*) the City has determined that *Hazardous Conditions* exist on the *Property*.

You are required to perform the following works, and provide the following information and certifications, as indicated:

- Provide evidence from the relevant utility provider that the *Property* has been properly connected to the following utilities:
 - natural gas;
 - electricity.
- Provide evidence that all furnace/hot water tank/gas appliances have been vented in accordance with the applicable code.
- Provide a report from a *Certified Professional* certifying that any *Hazardous Substances* or mould on the *Property* have been removed.
- Provide a report from a licensed electrical contractor certifying that all electrical panels and circuits have been brought up to standards as required by the *British Columbia Safety Authority*.
- Provide a report from a registered *Professional Engineer* certifying that the *Property* is compliant with the life safety requirements under the *Fire Services Act, BC Building Code*, and any other applicable enactments, and that it is safe for occupancy.
- Provide a *Letter of Certification*, in the form prescribed by the *City*, from a *Certified Professional*, that the *Property* has been remediated.
- Obtain approval from the *City* prior to performing any of the above works that may require a permit under the *City's* bylaws.
- A Cease Occupancy Notice has been issued, no *Person* is permitted to enter or occupy the *Property* until the above requirements above have been completed, and the *Building Inspector* has re-inspected the *Property*, authorized the removal of the Cease Occupancy Notice, and issued a *Re-Occupancy Certificate*.

We enclose a copy of the Controlled Substance Bylaw No. 3196 for your reference. If you have any questions concerning the regulations in the bylaw, please call the *City's Building Inspector* at 250-746-6126.

Building Inspector
City of Duncan

Schedule "B"

Cease Occupancy Notice



DO NOT ENTER
OR OCCUPY

Re: _____ (the ~~%~~*Property*).

TAKE NOTICE THAT these premises have been found to be in a *hazardous condition* which render the *Property* unsafe for occupation.

Pursuant to the City of Duncan's Controlled Substances Property Bylaw No. 3196, 2019, no person may enter or occupy this *Property* until cleaning, remediation and/or repairs have been completed in compliance with that Bylaw and the *Building Inspector* has confirmed that a satisfactory occupancy inspection has been completed and has issued a *Re-Occupancy Certificate*.

It is an offence to remove or deface this notice.

Any inquiries should be directed to the *Building Inspector* at 250-746-6126.

Date

Building Inspector