

UNOFFICIAL CONSOLIDATION

CITY OF BURNABY

BYLAW NO. 14393

A BYLAW in respect to
controlled substance properties

(Consolidated for convenience with Bylaw 14491)

The Council of the City of Burnaby ENACTS as follows:

PART 1: CITATION

- 1.1 This Bylaw may be cited as **BURNABY CONTROLLED SUBSTANCE PROPERTY BYLAW 2021**.

PART 2: INTERPRETATION

- 2.1 In this Bylaw,

“**controlled substance**” means:

- (a) 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, but does not include the trade or manufacture of a controlled substance for which a valid licence or permit has been issued pursuant to the *Controlled Drugs and Substance Act*, R.S.C 1996 c.19, or its associated regulations, as such Act and regulations may be amended or replaced from time to time; and
- (b) “cannabis” as defined in the *Cannabis Act*, S.C. 2018, c. 16, but does not include the possession, production, sale or distribution of cannabis authorized pursuant to the *Cannabis Act*, S.C. 2018, c. 16, or *Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, or their associated regulations, as such Acts and regulations may be amended or replaced from time to time

“**City**” means the City of Burnaby

“**hazardous situation**” is any real or potential risk to persons or property that arises or results from the use of a **property** for the manufacture, trade, storage, sale or barter of a **controlled substance**

“**inspector**” means:

- (a) the Director Public Safety and Community Services;
- (b) the Chief Licence Inspector and Licence Inspectors;
- (c) the Chief Building Inspector and every employee or agent authorized by the

City to conduct inspections in respect of building, plumbing, electrical or gas standards;

- (d) Property Use Coordinators;
- (e) Bylaw Enforcement Officers;
- (f) any Firefighter or Fire Prevention Inspector;
- (g) Environmental Services Officer; and
- (h) other officers, employees, contractors and persons acting on behalf of the **City** for the purpose of enforcement of this Bylaw

“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 a leaseholder of the **property**, or
- (d) any of them

“owner” means any person shown on title at the Land Title Office as the registered owner of the **property** or has a life estate or registered leasehold interest in the **property** and includes the agent of that person

“person” includes a corporation, partnership or party, and the legal or personal or other legal representative of a person to whom the context may apply under this Bylaw

“police” means the Royal Canadian Mounted Police, Burnaby Detachment

“property” means all real property and includes, without limitation, front yards, side yards, rear yards, landscaped areas, parking and loading areas, driveways and walkways, , as well as any permanent or portable building or structure, vehicle, equipment or chattel located on the real property

PART 3: PROHIBITIONS

3.1 No **owner** or **occupant** of **property** shall cause, permit or allow:

- (a) any **property** to become or remain a place for the manufacture, trade, storage, sale or barter of a **controlled substance**;
- (b) water, rubbish, noxious, offensive or unsightly material to collect or accumulate in or around any **property** in connection with the trade, manufacture, storing, sale or barter of a **controlled substance**;
- (c) a structure or building to be altered in a way that facilitates the manufacture or growth of a **controlled substance**;
- (d) a building to become subject to the growth of mould or fungus arising from or in

relation to the trade, use, manufacture, storing, sale or barter of a **controlled substance**;

(e) a **hazardous situation** to exist or remain on the **property**.

PART 4: INSPECTIONS AND REMEDIATION

- 4.1 An **inspector** may enter upon any **property** for the purpose of inspecting the **property** and determining whether the **property** is being used for the manufacture, trade, storage, sale or barter of a **controlled substance**, contains a **hazardous situation** or is otherwise not in compliance with this Bylaw, or to determine compliance with a written order issued pursuant to section 4.2 of this Bylaw.
- 4.2 An **inspector** may issue a written order to an **owner** and, where applicable, an **occupant**, to remedy any **hazardous situation** or anything or condition that is not in compliance with this Bylaw that exists on the **property**.
- 4.3 Where an **owner** or **occupant**, or both as the case may be, receives a written order to remedy any **hazardous situation** or anything or condition that is not in compliance with this Bylaw, the **owner** or **occupant** must comply with the order within the time frame specified in the order.
- 4.4 An **inspector** may post a notice on any **property** that has been used for the manufacture, trade, storage, sale or barter of a **controlled substance** or that contains a **hazardous situation** or anything or condition that is not in compliance with this Bylaw, advising of the requirements of this Bylaw.
- 4.5 If an **owner** or **occupant** of **property**:
- (a) is required to remedy any **hazardous situation** or anything or condition that is not in compliance with this Bylaw pursuant to a order given under this Bylaw and fails to comply within the time specified in such order;
 - (b) is required to carry out remedial work on the **property** pursuant to this Bylaw and fails to comply within the time specified; or
 - (c) violates any section of this Bylaw,
- the **City** may, but is not obligated to, by its employees, agents or other persons with whom it contracts or by members of the **police**, enter onto the **property** for purposes of fulfilling the **owner's** or **occupant's** requirements under this Bylaw, including any written order issued pursuant to section 4.2 of this Bylaw, at the **owner's** or **occupant's** expense.

PART 5: FEES AND COSTS

5.1 An **owner** or **occupant** of a **property** shall pay to the City the following fees and costs:

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- (a) all costs incurred by the **City** or by the **police** in the response, disassembly, removal, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with the manufacture, trade, storage, sale or barter of a **controlled substance** on or in respect of the **property**,
- (b) any inspection of the **property** pursuant to section 4.1 of this **Bylaw**;
- (c) any costs incurred by the **City** pursuant to section 4.5 of this **Bylaw**,

in accordance with the rates set out in the Burnaby Consolidated Fees and Charges Bylaw. (BYLAW NO. 14491)

5.2 The **City** will invoice the **owner** or **occupant** of a **property** for all fees and costs imposed pursuant to section 5.1 of this Bylaw and the **owner** or **occupant** must pay such invoice upon receipt of the same.

5.3 The **City** may recover all fees and costs imposed under this Bylaw from the **owner** or **occupant** as a debt, and in the event that the **owner** or **occupant** fails to pay such fees and costs before December 31 in the year in which the invoice was issued, such fees and costs shall be added to and form part of the taxes payable in respect of the **property** as taxes in arrears as of January 1 of the next year.

PART 8: OFFENCES AND PENALTIES

- 6.1 Every **person** who violates any of the provisions of this **Bylaw** or who suffers or permits any act or thing to be done in contravention of any of the provisions of this **Bylaw**, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this **Bylaw**, or who does any act, or who violates any of the provisions of this **Bylaw**, is guilty of an offence and is liable, on summary conviction, to a fine of not less than five thousand dollars (\$5,000.00) and not more than fifty thousand dollars (\$50,000.00).
- 6.2 If an offence continues for more than one day, a separate offence occurs on each day or part of a day, and separate fines may be issued for each day or part of a day in respect of which the offence occurs or continues.
- 6.3 Any **person** who contravenes any provision of this **Bylaw** is liable to the **City** for and must indemnify the **City** from all costs, expenses, damages and injuries resulting from the contravention. This does not in any way limit any other provision or any other remedy the **City** may have under this **Bylaw** or otherwise at law.
- 6.4 A violation of any of the provisions identified in this **Bylaw** shall result in liability for penalties and late payment amounts established in Schedule A of BURNABY BYLAW NOTICE ENFORCEMENT BYLAW, 2009, and be subject to the procedures, restrictions, limits, obligations and rights established in BURNABY BYLAW NOTICE ENFORCEMENT BYLAW, 2009 and the *Local Government Bylaw Notice Enforcement Act*

PART 7: SEVERABILITY

7.1 If a portion of this **Bylaw** is held invalid by a Court of competent jurisdiction, the invalid portion must be severed and the remainder of this **Bylaw** is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Read a first time this 8th day of November, 2021

Read a second time this 8th day of November, 2021

Read a third time this 8th day of November, 2021

Reconsidered and adopted this 22nd day of November, 2021

MAYOR

CLERK

SCHEDULE “A”

Repealed. (BYLAW 14491)