

VILLAGE OF BELCARRA

BYLAW No. 362, 2004

A Bylaw to Regulate, Prohibit or Impose Requirements Respecting Nuisances, Noxious or Offensive Trades, and Health and Safety Risks

The Council of the *Village of Belcarra* enacts as follows:

TITLE

1. This bylaw may be cited as “Grow Operation, Health, Nuisance and Safety Bylaw No 362, 2004”.

INTERPRETATION

2. In this bylaw

“**Amphetamines**” include dextroamphetamines and methamphetamines;

“**Alteration**” means any change made to the structural, mechanical or electrical components of a Controlled Substance Property;

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

“**Building Inspector**” means the building inspector for the Village, and every building inspector appointed by the Village to inspect buildings or structures in respect of **Building**, plumbing, gas or electrical standards;

“**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 “Village Business License Bylaw No. 227, 1995”;

“**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 *Village of Belcarra*

(e) a property which has been used for the cultivation of marijuana plants or mushrooms or the production of Amphetamines;

“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;

“Fire Chief” means the person who is appointed to be head of Sasamat Volunteer Fire Department and every person designated by fire department bylaw by name or otherwise to act in the place of the Fire Chief;

“Flammable and Combustible Liquid” for the purposes of this bylaw are as classified under the British Columbia Fire Code;

“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 needed to the Property;

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

“Inspector” means

- (a) the **Fire Chief**, and every person appointed by fire department bylaw or the **Fire Chief**, as applicable, to be an officer or employee of *Sasamat Volunteer Fire Department*;
- (b) the **Building Inspector** for the Village, and every **Building Inspector** appointed by the Village 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) the Municipality’s Administrator;
- (e) the Superintendent of Public Works;

- (f) bylaw enforcement officers and bylaw inspections officers;
- (g) the deputy of a person, officer or employee referred in paragraphs (a) to (e);
- (h) 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 (f);

“**Administrator**” means the Administrator of the *Village of Belcarra* and other persons designated by Council to act in the place of the Administrator;

“**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, defoliants or desiccants;

“**Professional Cleaner**” means an individual or corporation experienced and qualified in removing contaminants from **Residential Premises** and includes the **Owner**;

“**Re-occupancy Permit**” means permission or authorization in writing by the **Building Inspector** to re-occupy any **Building** or part thereof in respect of which the **Building Inspector** 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 *Royal Canadian Mounted Police*, the *Sasamat Volunteer Fire Department*, and the *Fraser Health Authority*, associated with the inspection and removal of the illegal activities, materials associated with illegal activities, and by-products resulting from illegal activities at a **Controlled Substance Property** and includes:

- (a) salaries and related personnel;
- (b) costs incurred for the dismantling, disassembly, removal, clean up, transportation, storage, and disposal of equipment, substances, materials and other paraphernalia associated with such use, trade, business or manufacture;
- (c) costs incurred from the replacement of consumables used, or the replacement of equipment following exposure to contaminants;
- (d) costs incurred as a result of the analysis of the materials found at the property and the health and safety conditions at the property;

“**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*, *Health Act* and other such regulations and bylaws within the Village;

“**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 premises, including **Residential Premises**.

BUILDING AND SAFETY STANDARDS

3. (a) No person may disconnect from an electrical or water distribution system a meter installed for the purpose of ascertaining consumption of electricity or water if the disconnection is for the purpose of preventing the electrical or water supplier from ascertaining consumption.
- (b) If, as a result of the use of a property as a **Controlled Substance Property**
- (i) the supply of electricity, water or natural gas to a property has been disconnected by the Village or any other lawful authority;
 - (ii) unauthorized **Alterations** or repairs have been made to structural, electrical, water or gas systems, equipment, appliances or other accessories of any kind; or
 - (iii) 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
- (iv) the owner or occupant has applied to a **Building Inspector** for a special safety inspection pursuant to this section;
 - (v) the property has been inspected by the **Building 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 Village’s bylaws and any provincial statute or regulation relating to building, electrical, water, health, gas, or fire safety as amended from time to time;
 - (vi) 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 Village’s bylaws and all provincial statutes and regulations;

- (vii) all of the work referred to in this section has been completed and inspected by the **Building Inspector** and all other lawful authorities having jurisdiction and the Property is in compliance with Village bylaws and all applicable provincial statutes and regulations, as amended from time to time; and
 - (viii) the owner or occupant has paid all fees imposed by Schedule “A” of this bylaw and other relevant Village bylaws in relation to the inspection of the property and the issuance of permits, and the **Building Inspector** has issued a **Re-Occupancy Permit** for the property.
- 4. No person may 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.
- 5. No person may store or use **Dangerous Goods** in a **Residential Building** or a **Residential Accessory Building** in quantities greater than permitted under the British Columbia Fire Code as amended from time to time.
- 6.
 - (a) No person may 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.
 - (b) No person may construct or install any obstruction of an exit or an access to an exist required under the British Columbia Building Code or other enactment, as amended from time to time, or remove fire stopping that is provided or required under an enactment to contain the spread of fire within a **Building**.
- 7.
 - (a) The **Building Inspector** may post a notice containing the words “Unsafe – Do Not Enter or Occupy” in a conspicuous place at the entrances of a **Controlled Substance Property**.
 - (b) No person may:
 - (i) interfere with or obstruct an **Inspector** from posting a notice referred to in paragraph (a) or
 - (ii) remove, alter, cover, or mutilate a notice posted under paragraph (a),except with the permission of an **Inspector**.

HEALTH

- 8. No person may cause or allow a **Building** to become subject to the growth on any portion of the **Building** of mould or fungus arising from or in relation to the cultivation of marijuana plants or the production of **Amphetamines** in the **Building**.

NUISANCE

9. No person may cause or permit
- (a) a nuisance as a result of his or her 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 him or her, where “unsightly” has the meaning given by the “Village of Belcarra, Untidy and Unsightly Premises Bylaw No. 126, 1988”, as amended or replaced.

NOXIOUS OR OFFENSIVE TRADE

10. No person may cause or permit a noxious or offensive trade in premises including the production, storage, transfer or disposal of substances that emit offensive odours, fumes or particulate matter.

FIRE PROTECTION

11. The **Fire Chief** may
- (a) enter on real 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 fires;
 - (c) order an owner or occupier of real property to undertake any actions directed by the **Fire Chief** or other person authorized by the **Fire Chief** for the purpose of removing or reducing any thing or condition that person considers is a fire hazard or increases the danger of fire;
 - (d) 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** or occupier of real property must undertake any action directed by the **Fire Chief** or other person authorized by fire department bylaw to act in the place of the **Fire Chief** for the purpose of removing or reducing any thing or condition that the **Fire Chief** or the other authorized person considers is a fire hazard or increases the danger of fire.

TENANCIES

13. Every **Owner** of **Residential Premises** or other premises that are subject to a **Tenancy Agreement**:
- (a) must inspect the premises at least once every three 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 Village 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.

REMEDIATION REQUIREMENTS

14. If **Residential Premises** have been used as a Controlled Substance Property or for a **Grow Operation**, the **Owner** of the **Residential Premises** must, within 30 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 Village may deliver to the **Owner** and occupier of the **Residential Premises** a letter in the form of Schedule D.

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 of Schedule C to the Administrator 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 Controlled Substance and/or **Grow Operation** has been removed from **Residential Premises** and until the remedial measures prescribed by Section 14 of this bylaw have been completed and written certification has been provided to the as required by Section 15, the **Residential Premises** must not be occupied by any person.

17. Before **Residential Premises** are reoccupied after removal of a Controlled Substance and/or a **Grow Operation**, the **Owner** must notify the prospective occupants in writing that a Controlled Substance and/or 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 Controlled Substance and/or 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 Village's building regulation bylaw,
 - (b) the **Residential Premises** comply with the health and safety requirements of the British Columbia *Building Code*, the *BC Electrical Code*, this bylaw and all other health and safety requirements established bylaw, and
 - (c) the **Director** has confirmed that a satisfactory occupancy inspection of the **Residential Premises** by the Village's Building Department has been completed.

FEE

19. The following fees apply under this bylaw:
- (a) each time an **Inspector** enters on a **Parcel** to carry out an inspection in the exercise of authority by the Village to regulate, prohibit or impose requirements under this bylaw or another enactment, the **Owner** must pay the Village the administration and inspection fee stipulated in Schedule A;
 - (b) an administration and inspection fee stipulated in Schedule A must be paid to the Village before confirmation is provided under Section 18(c).
 - (c) for a special safety inspection, paid prior to inspection, the **Owner** or occupier must pay the Village the fee stipulated in Schedule A;
 - (d) for each inspection prior to issuance of a **Re-occupancy Permit**, the **Owner** or occupier must pay the Village the **Re-occupancy Permit** fee stipulated in Schedule A;
 - (e) to obtain a **Re-occupancy Permit**, the **Owner** must pay the Village the fee stipulated in Schedule A;
 - (f) every **Owner** whose real property is used as a **Controlled Substance Property** must pay the Village all **Service Costs** incurred by or on behalf of the Village.

NOTICES AND INSPECTIONS

20. Subject to the *Community Charter*, an **Inspector** may enter on real property for the following purposes:
 - (a) to inspect and determine whether all regulations, prohibitions and requirements under this bylaw 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 Sections 25 and 26 of this bylaw;
 - (c) to inspect or to disconnect or remove a water service under Sections 3 or 28 of this bylaw.
21. The Administrator or a person acting under the direction of the Administrator may post a notice in the form of Schedule B on any **Residential Premises** which have been used for a **Grow Operation or is a Controlled Substance Property**, 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.

OFFENCE AND PENALTY

23. 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.
24. If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

DEFAULT

25. If an **Owner** or occupier of real property fails to comply with a requirement of the Village under this bylaw or another enactment, the Village, within the time specified in the order or notice may enter the real property and take such action as may be required to correct the default, including to remediate the real property or bring it up to a standard specified in an enactment, at the expense of the **Owner** or occupier who has failed to comply, and may recover the costs incurred as debt.
26. If the **Owner** or occupier has failed to pay the Village's costs of acting in default under Section 25 before the 31st day of December in the year that the correction of the default was effected, the costs must be added to and form part of the taxable payable on the property as taxes in arrears.

REMEDIAL ACTION

27. Division 12 of Point 3 of the *Community Charter* applies.

DISCONTINUANCE OF SERVICE

28. The Village may discontinue providing water service to a Controlled Substance Property if the water is being used for or in relation to a Controlled Substance and/or a **Grow Operation** on the real property, subject to the requirements that the Village must

- (a) give the **Owner** and occupier of the real property 7 days' written notice of an opportunity to make representations to Council with respect to the proposed discontinuance of the water service, and
- (b) after the persons affected have had an opportunity to make representations to Council, the Village must give the **Owner** and occupier 7 days' written notice of any proposed discontinuance of the water service.

SEVERABILITY

29. If any provision of this bylaw is held to be invalid, it shall be severed and the remainder of the bylaw shall remain in effect.

READ A FIRST TIME this 19th day of July, 2004.

READ A SECOND TIME this 19th day of July, 2004.

READ A THIRD TIME this 19th day of July, 2004.

NOTICE given under Section 59 of the *Community Charter* this 21st day and 25th day of August 2004.

OPPORTUNITY for representations to Council provided under Section 59 of the *Community Charter* up to the 30th day of August 2004.

ADOPTED this 13th day of September 2004.

Mayor

Clerk

This is certified to be a true copy
of Bylaw No. 362 , 2004

Administrator

SCHEDULE A

FEES

The following fees apply under this bylaw:

- (a) each time the Village enters on a **Parcel** to inspect in the exercise of the Village's authority to regulate, prohibit or impose requirements under this bylaw or another enactment, the **Owner** must pay the Village an administration and inspection fee of:
 - (i) \$500.00;
 - (ii) an additional \$2,500.00 for a subsequent inspection undertaken if the **Owner** or occupier has failed to undertake action ordered by the **Fire Chief**, the Village or a person authorized under the bylaw to order the action;
- (b) before confirmation is provided under Section 18(c) the **Owner** must pay to the Village
 - (i) \$500.00 for the first inspection;
 - (ii) \$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 his or her own architect for that purpose.
- (c) for a special safety inspection paid prior to inspection - \$400.00.
- (d) for each inspection prior to issuance of a **Re-occupancy Permit** - \$300.00.
- (e) to obtain **Re-occupancy Permit** - \$250.00.

SCHEDULE B

NOTICE

TAKE NOTICE THAT these **Residential Premises** have been used as a marijuana grow operation [or an amphetamine production operation].

Pursuant to Village of Belcarra “Grow Operation Health, Nuisance and Safety Bylaw, No 362, 2004”, no person may occupy these premises until cleaning and remediation have been completed in accordance with that bylaw and the Administrator of Building Permits and Inspections 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 [insert name and telephone number of appropriate Village official].

Administrator
Village of Belcarra

SCHEDULE C

CERTIFICATION FORM

TO: The Village of Belcarra
FROM: [insert name of professional cleaner]
RE: **Residential Premises** at [insert address]

This is to certify that in accordance with Section 14 and 15 of “Grow Operation Health, Nuisance and Safety Bylaw No 362, 2004” professional identified in this certification:

- (a) meets the requirements for a professional inspector under Section 15 of the bylaw;
and
- (b) has completed an inspection of the **Residential Premises** on _____;
and
- (c) 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 inspector]

Authorized Representative

SCHEDULE D**LETTER TO PROPERTY OWNER**

Re: Grow Operation Health, Nuisance and Safety Bylaw No. 362, 2004

This letter is to notify you that the *Village of Belcarra's* "Grow Operation Health, Nuisance and Safety Bylaw No. 362, 2004" establishes regulations concerning the cleaning and remediation of **Residential Premises** that have been used for marijuana grow operations or amphetamine production.

The Village has been advised by the Royal Canadian Mounted Police that the **Residential Premises** at [insert address] were in use as grow operation [or amphetamine production operation] which has been removed by the police.

The bylaw requires that within 14 days, all carpets and curtains in the premises must be removed or cleaned, any forced air heating ducts in the premises must be cleaned, and all walls and ceilings must be cleaned and disinfected. That work must be carried out by a **Professional Cleaner** with experience in removing contaminants from **Residential Premises**. The **Professional Cleaner** must hold a licence to carry on business in the *Village of Belcarra*.

After the cleaning is completed, a qualified professional must certify that the premises are free from **Pesticides**, fertilizer, toxic moulds, chemicals and fungus.

Until the cleaning and certification have been completed, Section 16 of the bylaw prohibits occupancy by any person. Before occupancy, you are required to notify prospective occupants that the requirements of the bylaw have been satisfied.

We enclose a copy of the bylaw for your reference. If you have any questions concerning the regulations in the bylaw, please call the Village Building Department at [604-937-4100].