

VILLAGE OF ANMORE

BYLAW NO. 417-2007

A Bylaw to promote health and safety and prohibit or impose requirements respecting nuisances, noxious or offensive trades.

The Municipal Council of the Village of Anmore, in an open meeting assembled, enacts as follows:

WHEREAS the Council of the Village of Anmore deems it expedient to enact a bylaw to regulate, prohibit or impose requirements respecting nuisances, noxious or offensive trades, and health and safety matters.

AND WHEREAS the alteration of plumbing, heating, air conditioning, electrical wiring and equipment, gas piping and fittings, appliances and accessories in or on Controlled Substance Properties creates danger to occupiers and neighbours of Controlled Substance Properties and risks to the health and safety of the occupiers, neighbours and first responders;

AND WHEREAS Controlled Substance Properties that contravene applicable standards under the Building Code, British Columbia Fire Code, Health Act or other applicable enactments, including bylaw requirements of the Village, create risks to the health and safety of occupiers, and reduce the value of neighbouring properties;

NOW THEREFORE, the Council of the Village of Anmore enacts as follows:

1. CITATION

This Bylaw may be cited as the “Anmore Controlled Substance Nuisance Bylaw No. 417-2007”.

2. SEVERABILITY

If a portion of this Bylaw is held invalid, it shall be severed and the remainder of the Bylaw shall remain in effect.

3. DEFINITIONS

Amphetamines include dextroamphetamines and methamphetamines;

Alteration means any change made to the structural, mechanical or electrical components of a building that has not been made with a building permit under the authority of the Village’s Building Regulation Bylaw;

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

Building Code means the British Columbia Building Code 2006 as adopted by the Minister responsible under the *Community Charter*, as amended or re-enacted from time to time;

Building Inspector means the Building Inspector for the Village, and every building, plumbing, gas, or electrical standards inspector;

Controlled Substance means a “controlled substance” as defined and described in Schedules I, II or III of the *Controlled Drugs and Substances Act, 1996 c. 19*, as amended from time to time, but does not include a controlled substance permitted under that *Act*;

Controlled Substance Property means:

- a. a parcel contaminated by or that contains trace amounts of chemical or biological materials used in or produced by the trade or manufacturing of a controlled substance;
- b. a building or structure altered to manufacture, grow, store, sell, trade or barter a controlled substance; or
- c. a parcel which has been, or is being used for, the manufacturing, growing, storage, sale, trade or barter of a controlled substance therein or thereon, which does not meet applicable standards under the Building Code, British Columbia Fire Code, *Health Act* or other applicable enactments including any bylaw requirements of the Village, as amended from time to time;

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 the Sasamat Volunteer Fire Department and any person designated to act in the place of the Fire Chief;

Flammable and Combustible Liquid for the purposes of this Bylaw is as classified under the Fire Code (British Columbia), as amended from time to time;

Grow Operation means the cultivation of marijuana plants or mushrooms that are controlled substances or the production of amphetamines;

Hazardous Condition means:

- a. any real or potential risk of fire;
- b. any real or potential risk to the health and safety of persons or property;
- c. any unapproved or unauthorized building alteration; or
- d. any contraventions of the Building Code, British Columbia Fire Code, or *Health Act*, all as amended from time to time, or bylaws of the Village, on a controlled substance property;

Inspector means:

- a. the Fire Chief of the Sasamat Volunteer Fire Department; and
- b. the Building Inspector;

- c. a peace officer, including a member of the Royal Canadian Mounted Police;
- d. Bylaw Enforcement Officers;
- e. the deputy of a person, officer or employee referred in paragraphs (a) to (d);
- f. 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 lessee, licensee, tenant, caretaker, user or other occupier of a building or a part of a building, or the agent of the owner;

Parcel includes any improvement on the parcel;

Pesticide 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 or other substances used to control pests, and plant regulators, defoliant or desiccants;

Professional Cleaner means an individual or corporation experienced and qualified in removing from buildings - contaminants, including pesticides, fertilizers or chemicals used to manufacture amphetamines or grow controlled substances, moulds or fungi, as required under Sections 6.3 and 6.4;

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

Service Fees means fees imposed under Section 8.2 and Schedule A in respect of all direct and indirect costs incurred by the Village in relation to the inspection, investigation or remediation of a parcel that contains or contained a grow operation, and for removal of a grow operation, materials associated with a grow operation or by-products resulting from a grow operation, and includes:

- a. administration and overhead associated with the inspection and removal;
- b. costs incurred for the lawful 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 for the analysis of the materials found at the property and the health and safety conditions at the property;
- e. costs incurred in respect of the property under a contract for services for an independent contractor or agent, including without limitation a

professional engineer, a consultant, a person to carry out construction or demolition, a health professional, or a hazardous materials professional;

- f. costs incurred by the Royal Canadian Mounted Police for the forensic investigation and inspection of the property, securing of the property, accompanying Inspectors on or in the property, or otherwise lawfully attending at the property;
- g. costs incurred by the Sasamat Volunteer Fire Department to inspect the property, take any action under Section 5.2, or respond to a fire caused by
 - (i) an alteration made in relation to a grow operation, or
 - (ii) the manufacture or growth of a controlled substance;
- h. costs incurred for cleaning, maintaining or repairing the Village's storm sewers, water mains, roadways, sidewalks or other Village property in relation to impacts of a grow operation.

Special Safety Inspection means an inspection coordinated with other such departments, jurisdictions, and contractors as is necessary to ascertain hazardous conditions or enactment contraventions that may exist under the Building Code, British Columbia Fire Code, *Health Act*, bylaws of the Village and other enactments;

Structure means an erection, addition, demolition, excavation or other construction;

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;

Utility means a lawful provider of an electrical, water or natural gas service from a distribution system to consumers.

4. BUILDING, HEALTH, SAFETY, NUISANCE AND NOXIOUS TRADE REGULATIONS

4.1 A person, other than a utility or upon issuance of the required permit, must not disconnect or bypass a meter installed for the purpose of ascertaining consumption of electricity, water or natural gas from an electrical, water or natural gas distribution system.

4.2 If as a result of the use of a parcel as a controlled substance property:

- a. the supply of electricity, water or natural gas to the parcel has been disconnected by the Village, a utility, any other lawful authority, or any person;
- b. alterations or repairs have been made to structural, electrical, water or natural gas systems, equipment, appliances or other accessories of any kind on the parcel; or
- c. a hazardous condition exists on the parcel, then

a person must not reconnect the supply of electricity, water or natural gas and, subject to the *Residential Tenancy Act*, a person must not use or occupy the parcel, until paragraphs (a) to (f) of Section 4.3 have been complied with.

4.3 Without limiting Section 4.2, a person must not use or occupy a parcel described in Section 4.2 until in respect of the parcel:

- a. a special safety inspection of the parcel coordinated by the Building Inspector has been carried out under Section 5.6.
- b. the owner has:
 - (i) obtained all permits, approvals or authorizations required to carry out, and
 - (ii) has carried out or caused to be carried out, the work necessary to bring the parcel into compliance with this Bylaw and other applicable bylaws and applicable provincial enactments, as amended from time to time;
- c. remedial measures prescribed by Section 6.3 of this Bylaw have been completed and written certification has been provided to the Building Inspector under Section 6.4;
- d. if required under an enactment, including the Village's Building Bylaw, the owner has retained a professional engineer holding a valid licence under the *Engineers and Geoscientists Act* and the professional engineer has certified in writing that the building safety requirements required under applicable enactments have been complied with;
- e. the owner has paid all service fees and other fees imposed under this Bylaw and other relevant Village bylaws in relation to the inspection of the property and the issuance of permits, and
- f. the Building Inspector has removed the "Do not occupy" order posted under Section 5.1.

4.4 A person must not alter a structure or building in a way that facilitates the manufacture or growth of a controlled substance or for the purpose of establishing or operating a grow operation.

4.5 A person must not divert or install exhaust vents for hot water tanks or furnaces to exhaust into or within a building except by way of an exhaust vent constructed or installed in compliance with applicable provincial and Village enactments.

4.6 A person must not store or use dangerous goods in a building in quantities greater than permitted under the British Columbia Fire Code, as amended from time to time.

4.7 A person must not:

- a. construct or install any obstruction of an exit or an access to an exit required under the Building Code or other enactment, as amended from time to time; or
 - b. remove fire stopping provided or required under an enactment, as amended from time to time, to contain the spread of fire within a building.
- 4.8 A person must not cause or allow a building to become subject to the growth of mould or fungus arising from or in relation to a grow operation in the building.
- 4.9 A person must not cause, allow or permit:
- a. a nuisance as a result of his or her use of 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.
- 4.10 A person must not cause, allow or permit in a building the manufacture, growing, storage, transfer or disposal of a substance that emits odours, fumes or particulate matter that disturbs the enjoyment, comfort or convenience of individuals.
- 4.11 A person must not:
- a. interfere with or obstruct a Building Inspector or the Fire Chief from posting a notice referred to in Section 5.1; or
 - b. remove, alter, cover or mutilate a notice posted under Section 5.1, except with the prior written permission of the Building Inspector or Fire Chief, as applicable.

5. POWERS OF A BUILDING INSPECTOR, FIRE CHIEF AND INSPECTORS

- 5.1 If
- a. the Building Inspector or Fire Chief has reason to believe that all or part of a parcel is a controlled substance property, including by being so informed by a peace officer, including a member of the Royal Canadian Mounted Police;
 - b. the Fire Chief has ordered every occupier of a controlled substance property to vacate;
 - c. Council has ordered every occupier of the controlled substance property to vacate under the *Community Charter*; or
 - d. an owner has delivered a written notice to the Building Inspector under Section 6.1;

the Building Inspector or Fire Chief may post a notice in a form and with the content prepared by the Chief Administrative Officer and filed with the Manager of Corporate Services in a conspicuous place at the entrances of the parcel and deliver to the owner of

the parcel a notice that the parcel is unsafe and that no person shall enter or occupy the parcel.

5.2 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 the owner of real property to undertake any actions directed 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. order every occupier of a controlled substance property to vacate the property until the "Do not occupy" notice posted by the Fire Chief under Section 5.1 has been removed by the Building Inspector under this Bylaw;
- e. without limiting paragraphs (a) to (d), exercise the powers of the Fire Commissioner under Section 25 of the *Fire Services Act*, and for these purposes that Section applies.

5.3 Subject to the *Community Charter*, an Inspector may enter on real property to:

- a. 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 carry out a special safety inspection under Section 5.6;
- c. take action authorized under Sections 9.1 and 9.2 of this Bylaw; or
- d. inspect or to disconnect or remove a water service under Section 10.1 of this Bylaw.

5.4 Subject to Section 7.2, and the *Community Charter*, the Building Inspector or an Inspector may attend at the parcel from time to time during the course of work required by, or contemplated under, this Bylaw to ascertain that the work required of the owner is taking place and to monitor the work done by the owner.

5.5 The Building Inspector may, on behalf of the Village:

- a. acknowledge receipt of evidence from the owner of completion of work referred to in Section 4.3, 6.3 and 6.4;
- b. receive the written certification, documents and fees referred to in Section 4.3 and 6.4.

5.6 If a Parcel has been posted with a notice under Section 5.1, the Building Inspector may

- a. coordinate a special safety inspection of the controlled substance property; and
- b. deliver to the owner of the parcel a letter in the form and with the content prepared by the Chief Administrative Officer and filed with the Manager of Corporate Services.

5.7 When an owner has complied with the requirements listed in paragraphs (a) to (e) of Section 4.3, the Building Inspector must remove the “Do not occupy” notice posted under Section 5.1.

6. DUTY OF OWNER

6.1 Every registered owner or their agent, of a building or structure that is subject to a Tenancy Agreement who has inspected the premises at a time when there is a contravention of this Bylaw, in relation to the premises, building or structure, must:

- a. within 48 hours of the discovery of the contravention, deliver written notice to the Building Inspector of the particulars of the contravention by the registered owner or their agent, and
- b. 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.

6.2 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 or the other authorized person considers is a fire hazard or increases the danger of fire.

6.3 If a Building has been used for a grow operation, the owner of the building must, within fourteen (14) days after delivery by the Village of a letter under Section 5.6(b) subject to the *Residential Tenancy Act*:

- a. remove and dispose of all carpets and curtains in the Building;
- b. if the building is heated by forced air heating, have the furnace, all air ducts, main distribution ducts, venting, and filtering cleaned by a professional cleaner or by a duct cleaning company; and
- c. have all walls, floors and ceilings in the building replaced or cleaned and disinfected by a professional cleaner.

6.4 After a professional cleaner has been engaged by the owner and has completed requirements of Section 6.3 an individual or corporation certified by the Canadian Registration Board of Occupational Hygienists or the American Board of Industrial Hygiene must inspect the building and provide written certification, in the form and with the content prepared by the Chief Administrative Officer and filed with the Manager of Corporate Services, to the Building Inspector that the requirements of Section 6.3 have been satisfied and the building is substantially free of any pesticides, fertilizers, toxic chemical contamination, moulds or fungi, prior to the occupancy or re-occupancy of the building, and United States standard S-500, as amended from time to time, applies to mould removal.

- 6.5 Before a building is 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.
- 6.6 Neither the removal of a “Do not occupy” order posted under Section 5.1 nor the issuance of a Building Permit under this Bylaw nor the acceptance or review of plans, drawings or specifications or supporting documents, or any inspections made by or on behalf of the Village, will in any way relieve the Owner from full and sole responsibility to perform work required or contemplated under this Bylaw or the Building Code and all other codes, standards and applicable enactments, as amended from time to time.
- 6.7 It is the full and sole responsibility of the owner (and where the owner is acting through a representative, the representative) to carry out the work in respect of which a permit was issued or which is required prior to removal of a “Do not occupy” order posted under Section 5.1 in compliance with this Bylaw and all other applicable codes, standards and enactments, including the Building Code, as amended from time to time.

7. VILLAGE RELIANCE

- 7.1 Neither the issuance of a Building Permit nor a removal of a “Do not occupy” order posted under Section 5.1 under this bylaw nor the acceptance or review of plans, drawings or specifications or supporting documents nor any inspections made by or on behalf of the Village constitute in any way a representation, warranty, assurance or statement that the Building Code, this Bylaw or any other applicable codes standards or enactments have been complied with.
- 7.2 When a professional engineer, architect or other person provides certification or other documentation to the Village under this Bylaw that the work required by or contemplated by this Bylaw substantially conforms to the requirements of this Bylaw and that the Building complies with the health and safety requirements of the Building Code, BC Electrical Code, this Bylaw and all other health and safety requirements established by applicable enactments, as amended from time to time and as applicable, the Village will rely solely on the documentation as evidence of conformity with these requirements and not on its receipt of plans, monitoring of the work, acknowledgement of completion, or removal of a “Do Not Occupy” notice under Section 5.7.

8. FEES

- 8.1 The following fees apply under this Bylaw:
- a. each time one or more Inspectors 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, or to attend at the parcel under Sections 5.3, 5.4 or 5.6, the owner must pay the Village, the administration and inspection fee stipulated in Schedule A;
 - b. for a special safety inspection, the owner or occupier must prior to inspection, pay the Village the fee stipulated in Schedule A.
- 8.2 Without limiting Section 8.1, every owner whose parcel is used, as a controlled substance property must pay the Village all service fees incurred by or on behalf of the Village in respect of the parcel.

- 8.3 a. Despite Section 8.2, if any registered owner or their agent reports a contravention under Section 6.1 (a) of this Bylaw, service fees arising in respect of the contravention, with the exception of inspection fees, are waived in respect of that incident.
- b. Paragraph A does not apply if the registered owner or their agent discovers the contravention after the RCMP first discovers the contravention.

9. DEFAULT

- 9.1 If an owner of a parcel fails to comply with a requirement of the Village under this Bylaw or another enactment, the Village, by its officers, employees or agents within the time specified in the order or notice, may enter on the parcel and take such action as may be required to correct the default, including to remediate the parcel 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.
- 9.2 If the owner has failed to pay the Village's costs of acting in default under Section 9.1 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 taxes payable on the property as taxes in arrears.

10. DISCONTINUANCE OF SERVICE

- 10.1 The Village may discontinue providing water service to a parcel if the water is being used for or in relation to a grow operation on the parcel, if the Village first:
- a. gives the registered owner and any occupier of the parcel at least 24 hours written notice, including by posting a notice prominently on the parcel; and
- b. provides in the notice that the registered owner and any occupier have an opportunity to make representations to the Inspector stated in the notice, within the written notice time period, as set in 10.1 (a).

11. OFFENCE AND PENALTY

- 11.1 Every person who contravenes any provisions of this Bylaw commits an offence punishable upon summary conviction and is liable to a fine not exceeding \$10,000.00.
- 11.2 If an offence is a continuing offence, each day that the offence is continued or allowed to continue constitutes a separate and distinct offence.

12. DELEGATION

- 12.1 Council delegates to the Chief Administrative Officer the preparation of the notice, letter and certificate referred to in sections 5.1, 5.6 and 6.4 respectively.

13. SCHEDULES

Schedule A Fees

READ a first time this 27th day of March , 2007

READ a second time this 23rd day of May , 2007

READ a third time this 23rd day of May , 2007

RECONSIDERED AND FINALLY PASSED AND ADOPTED this 19th day of
June . 2007

“H. Weinberg”

MAYOR

“K. Cobb”

MANAGER OF CORPORATE SERVICES

BYLAW NO. 417-2007

SCHEDULE A

"Anmore Controlled Substance Nuisance Bylaw No. 417-2007"

Service Fees

1. Inspection

Each time the Village by its officers, employees, Police Department, contractors, or agents 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 or to attend at the parcel under Section 5.4, the owner must pay the Village a fee of:

- a. \$500.00 per inspection;
- b. an additional \$500.00 for a subsequent inspection undertaken if the owner or occupier has failed to undertake action ordered by the Fire Chief, the Council or a person authorized under the Bylaw to order the action;
- c. \$500.00 for a special safety inspection with Inspectors.

2. Fire Services

- a. Engines \$210.00 per hour, per engine + \$2.00 per km.
- b. Rescue vehicles \$180.00 per hour, per vehicle + \$2.00 per km.
- c. Tanker Truck \$150.00 per hour, per vehicle + \$2.00 per km.
- d. Special operations trailers \$ per hour, per trailer
- e. Duty Chiefs and vehicles \$ per hour, vehicle

3. Police (RCMP)

- a. Police Officer (RCMP) Services
 - (i) Dismantling
 - Regular Hours \$52.00 per hour, per member
 - 1.5 Overtime \$78.00 per hour, per member
 - 2.0 Overtime \$104.00 per hour, per member

3. Police (RCMP)

- a. Police Officer (RCMP) Services Cont'd
 - (ii) Drug Disposal
 - Regular Hours \$52.00 per hour, per member
 - 1.5 Overtime \$78.00 per hour, per member
 - 2.0 Overtime \$104.00 per hour, per member
- b. Police (RCMP) Exhibit Custodian
 - (i) Drug Disposal
 - Regular Hours \$28.00 per hour, per member
 - Overtime Hours \$56.00 per hour, per member
 - (ii) Equipment Disposal
 - Regular Hours \$28.00 per hour, per member
 - Overtime Hours \$56.00 per hour, per member

4. Building Inspector

- Regular Hours \$35.00 per hour
- Call Out \$70.00 per hour

5. Bylaw Officer

- Regular Hours \$66.28 per hour
- Call Out \$132.56 per hour

6. Other Service Fees

The actual cost of any other service fees incurred.

7. Administration and Overhead fee

An additional administration and overhead fee of 15% of items (1) to (6).