

BYLAW 25-10

BEING A BYLAW OF THE TOWN OF OKOTOKS IN THE PROVINCE OF ALBERTA REGARDING CONTROLLED SUBSTANCE PROPERTIES IN THE TOWN OF OKOTOKS

WHEREAS Section 7 of the Municipal Government Act, RSA 2000 c. M-26, provides that a municipal council may pass bylaws for municipal purposes respecting the following matters:

To Prohibit the Use of Property for the Manufacture, Trade, Use, Sharing, Sale or Barter of Controlled Substances relative to:

- a) the safety, health and welfare of people and the protection of people and property; and
- b) nuisances, including unsightly property; and

WHEREAS Council is further authorized to regulate, prohibit and impose requirements in relation to buildings and other structures for the health, safety and protection of persons and property, and to require an occupancy permit before occupancy of a building, or part of it, or after any alteration or change in occupancy; and

WHEREAS unsightly conditions, noxious or offensive business activities and the manufacture of controlled substances have been found to exist from place to place throughout the municipality, and the existence of such conditions and manufacture is detrimental to the welfare of the residents of the municipality and contributes substantially to the deterioration of the 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 manufacture, trade, use, sharing, sale or barter of controlled substances 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 Council of the Town of Okotoks enacts as follows:

1. SHORT TITLE

This Bylaw may be known as "The Controlled Substance Property Bylaw".

2. DEFINITIONS

In this Bylaw, unless the context otherwise requires:

- 2.1 "Alteration" means any change made to the structural, mechanical or electrical components of a Controlled Substance Property.
- 2.2 "Controlled Substance" means 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, 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 provincial or federal legislation regarding same.
- 2.3 "Controlled Substance Property" means:
- a) a property on which a Hazardous Situation exists;
 - b) a property contaminated by or containing trace amounts of chemical or biological materials used in or produced by the trade or manufacture of a controlled substance;
 - c) a property altered for the purposes of growing, storing, selling, trading or bartering of a controlled substance; or
 - d) a property which has been or is being used for the purposes of manufacturing, growing, storing, selling, trading or bartering of a controlled substance.
- 2.4 "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 manufacture of a controlled substance or for the trade, use, sharing, sale or barter of a controlled substance therein or thereon, and includes, without limitation:
- a) any real or potential risk of fire;
 - b) any unapproved alteration to a building or structure; or
 - c) any repairs required to a property.
- 2.5 "Inspector" means:
- a) the Bylaw Enforcement Officer for the Town of Okotoks;
 - b) the Fire Chief for the Town of Okotoks, or his designate;
 - c) a member of the Royal Canadian Mounted Police;

- d) a person designated by the Town of Okotoks to inspect buildings in respect of building, gas and/or electrical standards;

or such other person appointed by the Municipal Manager as an Inspector for the purposes of this Bylaw.

2.6 "Noxious or offensive trade" means the production, use, transfer, storage and disposal of substances on or within properties within the Town of Okotoks that emit offensive odors, fumes, particulate matter or noises into or onto surrounding properties, but does not include the production, use, transfer, storage and disposal of substances that emit offensive odors, fumes, particulate matter or noises into or onto surrounding properties where those emissions are permitted under federal or provincial legislation or the bylaws of the Town of Okotoks.

2.7 "Occupant" includes:

- a) a person residing on or in the property;
- b) a person entitled to the possession of the property if there is no person residing on or in the property; and
- c) shall include the agent of any such person.

2.8 "Owner" means:

- a) a person who is registered under the *Land Titles Act* as the owner of a parcel of land, or
- b) a person who is recorded as the owner of a property on the tax assessment roll of the Town of Okotoks, or
- c) a person who has purchased or otherwise acquired a parcel of land, whether he has purchased or otherwise acquired the land directly from the owner or from another purchaser, and has not yet become the registered owner thereof; or
- d) a person holding himself out as the person having the powers and authority of ownership of a property or premises or who for the time being exercises the powers and authority of ownerships; or
- e) a person controlling a property or premises under construction, or
- f) a person who is the occupant of a property or premises pursuant to a rental or lease agreement, license or permit;

2.9 "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.

- 2.10 "Property" means all property, including but not limited to, front yards, side yards, backyards, driveways, walkways and sidewalks and shall include any building, structure, vehicle, chattel or fence located on such real property.

3. PROHIBITIONS AND REGULATIONS

- 3.1 No person, Owner or Occupant of property shall cause, permit or allow any property to become or remain a place for the manufacture, trade, use, sharing, sale or barter of a controlled substance.
- 3.2 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, trade, use, sharing, sale or barter of a controlled substance.
- 3.3 No person, unless authorized by the appropriate utility company or by the Town of Okotoks, shall:
- a) disconnect, tamper with or bypass a meter installed for the purposes of ascertaining consumption of electricity, water or natural gas from a distribution system; or
 - b) divert, or cause, suffer or permit the diversion of any electrical, gas or water distribution system so that consumption is not registered by a meter.
- 3.4 No person shall use or alter, or cause, suffer or permit the use or alteration of the Town's water distribution system for the purpose of cultivating or the manufacture of a Controlled Substance.
- 3.5 Every person who removes, interferes with, alters or tampers with a water service that has been discontinued under the terms of this Bylaw commits an offence under this Bylaw.
- 3.6 No person shall alter a structure or building in any way that facilitates the manufacture or growth of a Controlled Substance or for the purpose of establishing or operating a grow operation or clandestine drug lab.
- 3.7 No person shall construct or install, or cause, suffer or permit the construction or installation of a trap or other device which could cause death or bodily harm to a person entering in or on the property.
- 3.8 No person shall construct or install, or cause, suffer or permit the construction or installation of any obstruction of an exit or an access to an exit required by law.
- 3.9 No person shall remove or cause, suffer or permit to be removed fire stopping that is provided or required under an enactment to contain the spread of fire within a building.
- 3.10 No person shall 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 enactments and Town bylaws.

3.11 No person shall cause or permit a building to become subject to the growth of mould or fungus arising from or in relation to a Controlled Substance.

3.12 No person shall 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, health, comfort or convenience of individuals within the Town of Okotoks.

3.13 The Owner or Occupant of a property must ensure, at all times, that:

- a) water, gas and electrical meters installed on the property remain properly connected to the distribution systems and operate only for the purposes intended, unless disconnected by a person authorized by the utility company or the Town of Okotoks, as the case may be;
- b) exhaust vents or hot water tanks or furnaces on the property are installed, operated and maintained in accordance with all applicable enactments;
- c) no trap referred to in Section 3.7 or obstruction referred to in Section 3.8 is located or contained anywhere on the property; and
- d) no fire stopping is removed from the property contrary to Section 3.9.

3.14 An Owner or Occupant of a property must ensure, at all times, that:

- a) no growth of mould or fungi, as referred to in Section 3.11, is present in, on or around the property;
- b) the use or occupancy of the property does not cause a nuisance;
- c) no accumulation of water, rubbish, noxious, offensive or unwholesome matter is permitted to collect or accumulate in, on, under or around the property; and
- d) the Property is not used for a noxious or offensive trade, including a Controlled Substance Property.

3.15 Every Owner of a property which is occupied or used by persons other than the Owner who has knowledge of this Bylaw's contravention in relation to the property, shall within 24 hours of the discovery of the contravention, deliver written notice to the Town of the particulars of the contravention.

4. INSPECTION AND NOTICE

4.1 An inspector has the right to enter upon any property in accordance with the provisions of section 542 of the Municipal Government Act for the purposes of inspecting and determining whether all regulations, prohibitions, and requirements under this Bylaw are met.

- 4.2 An inspector may issue a notice pursuant to Section 545 of the Municipal Government Act to an Owner or Occupant to remedy any hazardous situation or a potentially hazardous situation that exists on the property or thing or condition that is not in compliance with this Bylaw.
- 4.3 An Owner or Occupant who receives a notice to remedy any hazardous situation, potentially hazardous situation, thing or condition must comply with that notice within twenty-one days, or such greater period as the inspector may consider necessary in the circumstances.
- 4.4 The Town may, on 24 hours written notice to an Owner, and where applicable, the Occupant; discontinue water service to the property if the water was, or is, used for the purposes of a Controlled Substance Property. The Owner and Occupant of such property and any other person affected by the discontinuance of the water service, will, upon written request, be provided with an opportunity to make representations to Council regarding such discontinuance.

5. NON-COMPLIANCE AND REMEDIATION

- 5.1 If an Owner or Occupant fails to comply with a written notice of the inspector within the time specified in the notice, the municipality may, pursuant to the provisions of Section 549 of the Municipal Government Act:
- a) by its employees or other persons, at a reasonable time and in a reasonable manner, enter the property and effect compliance with this Bylaw and all other applicable regulations at the expense of the Owner or Occupant who has failed to comply. Such costs shall be recoverable by the municipality as a debt and in the manner provided by the Municipal Government Act;
 - b) discontinue providing a municipal utility or other service to the property; or
 - c) exercise both of the remedies provided for in subsections (a) and (b).
- 5.2 An Owner or Occupant subject to discontinuation or disconnection of a service will be provided a fourteen-day period to make written representation to Council prior to discontinuation or disconnection of service. If the Owner or Occupant makes written representation within the time prescribed, the service shall not be discontinued or disconnected until Council has considered the representation made by the Owner or Occupant.
- 5.3 If, as a result of the use of property for the manufacture, trade, 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 municipality or any other lawful authority; or
 - b) alterations or repairs have been made to plumbing, electrical, water or gas systems, building structure, equipment, appliances or other

accessories of any kind without the Owner or Occupant obtaining all permits required for such work; 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:

- d) any hazardous situation or a potentially hazardous situation existing on the property has been remedied;
- e) the Owner or Occupant has applied to the inspector for a special safety inspection pursuant to this section and has paid the fee of \$525.00 for such special inspection in addition to applicable building permit fees;
- f) 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 municipality's bylaws and any Provincial statute or regulation relating to building, electrical, water, gas or fire safety;
- g) 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 municipality bylaws and all Provincial statutes and regulations referred to in subsection (f); and
- h) the Owner or Occupant has paid all fees imposed by this Bylaw and other relevant municipal bylaws in relation to the inspection of the property and the issuance of permits, and has received an occupancy permit relating to the alterations or repairs undertaken on the property.

An occupancy permit can only be issued when all other aspects of this Bylaw have been complied with.

- 5.4 Every Owner or Occupant causing, permitting or allowing property to become or remain a place for the manufacture, trade, use, sharing, sale or barter of a controlled substance shall, upon receipt of an invoice, pay the service costs incurred by, or on behalf of, the municipality in the issuance of a search warrant or in the disassembly, removal, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with such trade, business or manufacture.
- 5.5 In the event that a person fails to pay the costs for which they are responsible under this Bylaw before the 31st day of December in the year that they became responsible for such costs, the costs shall be added to and form part of the taxes on the property as taxes in arrears.

6. OFFENCE AND PENALTIES

- 6.1 Any person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a fine of not less than FIVE HUNDRED DOLLARS (\$500.00) and not more than TEN THOUSAND DOLLARS (\$10,000.00) or in default of payment of the fine to imprisonment for a period not exceeding one (1) year, or to both fine and imprisonment in such amounts.
- 6.2 Where an offence is a continuing offence, each day that the offense is continued shall constitute a separate and distinct offence.
- 6.3 Prosecution of a person pursuant to this Bylaw does not exempt or relieve the person from the remediation provisions of this Bylaw.

7. SEVERABILITY

- 7.1 It is the intention of Council that each separate provision of this Bylaw shall be deemed independent of all other provisions herein and it is the further intention of Council that if any provision of this Bylaw is declared invalid, all other provisions hereof shall remain valid and enforceable.
- 7.2 Whenever the singular and masculine gender is used in this Bylaw, the same shall include the plural, feminine and neuter gender whenever the context so requires.

This Bylaw shall come into full force and effect upon third and final reading.

READ A FIRST TIME this 27th day of September, 2010.

READ A SECOND TIME this 14th day of March, 2011.

READ A THIRD TIME AND PASSED this 28th day of March, 2011.



Mayor



Municipal Secretary