

TO: Chair and Members
PUBLIC SAFETY COMMITTEE

DATE: 2020 Jan 13

FROM: OIC BURNABY DETACHMENT

SUBJECT: CONTROLLED SUBSTANCE PROPERTY BYLAW

PURPOSE: To obtain Committee and Council support to create a bylaw to recover costs from property owners resulting from enforcement of illegal controlled substance and cannabis grow operations.

RECOMMENDATION:

1. **THAT** Public Safety Committee recommends Council support to create a bylaw for the recovery of costs from property owners for City services including the attendance of police, fire and other associated costs, should their property be used for controlled substance operation, production or illegal cannabis grow.
2. **THAT** Public Safety Committee recommends Council authorize staff to prepare a new controlled substance property bylaw as proposed in this report.

REPORT

1.0 INTRODUCTION

The emergence of fentanyl and other extremely dangerous concentrated opioids being used in street level drugs, has resulted in much more complex and costly enforcement and cleanup operations undertaken by municipalities. Individuals involved in the illicit drug trade such as dealers and producers give little to no consideration to not only their own personal safety, but also to those around them including the properties and neighborhoods they occupy. These significant public risks include, but are not limited to, the tremendous amount of dangerous contamination that often results from these operations.

These illicit substances are very difficult and dangerous to clean up completely, forcing authorities to use specialized cleaning contractors. Burnaby RCMP members have and continue to encounter these processing and lab sites as well as illegal cannabis grow operations which still occur and also require enforcement action and resulting costs similar to fentanyl and other illicit drugs.

The City of Burnaby currently does not have a bylaw compelling property owners to pay for costs associated to enforcement and remediation should their property be used for controlled substance production or illegal cannabis grow operation.

2.0 POLICY SECTION

Goal

- A Safe Community
 - Crime prevention and reduction
- A Thriving Organization
 - Financial viability

3.0 BACKGROUND

In recent years, several municipalities have adopted bylaws to recover municipal costs associated to enforcement action against properties due to the prevalence of illegal marihuana grow operations. As the enforcement actions and related clean-up costs for these properties are significant, these bylaws also included clauses for the municipalities to recover a portion of the policing costs (salaries, required materials and equipment) incurred during enforcement. These bylaws ensured owners were accountable for activity on their properties along with preventing *willful blindness*. These bylaws also sought to place the financial burden associated to these illegal operations on the individuals responsible, versus the municipal tax payers.

These same bylaws have also become applicable to properties that produce and/or process controlled substances such as fentanyl and carfentanil. The costs associated to the enforcement and clean-up of properties involved in these drugs is greatly exacerbated due to their extremely toxic nature. Investigations involving these controlled substance properties is time consuming and often requires a large police response. Often search warrants are required and streets, neighborhoods or buildings may need to be evacuated or cordoned off for extended periods of time.

The costs of securing, cleaning up and remediating properties, especially if located in a high rise building comprised of multiple units with common areas and HVAC systems that may be affected, often results in tens of thousands of dollars requiring the use of highly specialized professional contractors. In addition, it is mandatory for the Burnaby RCMP to engage the "E" Division Clandestine Lab Enforcement and Response Team (CLEAR) when illicit labs and dump sites are encountered. The CLEAR team is a group of police officers who have enhanced training and specialized equipment to identify, safely handle and transport highly toxic drugs. When the CLEAR team is not on shift and is called out to attend a scene, all associated overtime costs are born by Burnaby Detachment. These costs for cleanup and hours of investigation time are ultimately passed on to City taxpayers.

There are also risks associated to allowing occupancy of a remediated property without ensuring the property was cleaned properly once the authorities knew of the contamination. With no bylaw currently in place, it is difficult to ensure appropriate remediation has occurred and both current and future occupants will be safe. A bylaw could address this issue and provide for cost recovery for City services for inspections to ensure appropriate remediation has occurred.

3.1 File History in Burnaby

Historically, Burnaby RCMP has investigated drug processing sites and labs and the following table provides the associated costs and number of files for the past five years.

(The data does not include salary dollars paid to Burnaby RCMP Members and 2019 is YTD to Jul 17th)

Year	# Files CLEAR Team Assistance	Burnaby Costs
2019	1	7,456.00
2018	1	5,795.00
2017	3	39,688.70
2016	12	58,320.00
2015	8	18,577.75
Total	25	129,837.45

3.2 Comparison Bylaws of other LMD Municipalities

Neighboring municipalities have enacted bylaws enabling cost recovery for services related to the enforcement and remediation of illicit controlled substance operations. The bylaws enacted by these communities (attachment 1#) although having slightly varying authorities, essentially have the authority to recover costs related to City services enforcing and remediating these illicit properties. Some Bylaws go so far as to have a section regarding the notification of anyone who may occupy the property once the property has been remediated and the City has allowed occupancy.

Each of the comparable bylaws provides for invoicing the owner of the property for costs related to complying with the bylaw. Should the invoice remain unpaid by December 31 of the invoice year, the invoice amount is added to the property tax bill for the following year.

4.0 CONCLUSION

With the prevalence of fentanyl and opioids being at a crisis level, the discovery of processing and fentanyl production labs is becoming more common. Enforcement against

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these properties is complex as they are highly contaminated and expensive to remediate. It is recommended the City of Burnaby establish a bylaw to recover costs from property owners associated with policing, fire services, engineering, cleanup and any other costs for these properties. This in turn would serve as a deterrent to absentee landlords and ultimately place the financial burden to the appropriate individual(s).

It is proposed that under the new bylaw, property owners would be invoiced for any services provided shortly after the enforcement and remediation action is completed. If the charges remain unpaid on the 31st day of December in the year in which the expenses were incurred, the proposed bylaw would permit the costs to be added, and form part of, the taxes payable in respect of those properties, as taxes in arrears.

5.0 RECOMMENDATION

The Public Safety Committee recommends Council support to create a Bylaw for the recovery from property owners the costs City services including the attendance of police, fire and other associated costs should their property be used for controlled substance operation, production or illegal cannabis grow.

It is recommended that the Public Safety Committee recommend Council authorize City staff to prepare a new controlled substance property bylaw as proposed in this report.



Deanne Burleigh, C/Supt.
Officer in Charge
Burnaby Detachment

Copied to: City Manager
Director Public Safety & Community Services
Director Finance
Director Corporate Services
Fire Chief
City Solicitor

Attachment 1

City	Bylaw	Elements
Chilliwack	Nuisance, Noxious or Offensive Trades, Health and Safety Bylaw 2004, No 3044	<ul style="list-style-type: none"> • Compels owners to replace carpets, curtains and professionally clean all air ducts, walls, ceilings by a licensed cleaner within 30 days after a marihuana grow or lab was discovered in the property • Property must be inspected by the City before occupancy would be granted • Compels owners to pay for "service costs" including salaries and related personnel
Coquitlam	Controlled Substance Bylaw, 2007, No. 3833	<ul style="list-style-type: none"> • Prohibits the use of property for the manufacture, trade, use, sharing, sale or barter of controlled substances and to provide for the remediation of such property. • City can recover all costs incurred including RCMP as a result of enforcing the bylaw.
Port Coquitlam	Controlled Substance Nuisance Bylaw, 2017, No 3972	<ul style="list-style-type: none"> • Recovery of costs for the disassembly, removal, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with the manufacture, trade, use, sharing, sale or barter of a Controlled Substance on the property. • Specifically states "all costs incurred by the RCMP" are included.
Richmond	Property Maintenance & Repair Bylaw No. 7897	<ul style="list-style-type: none"> • Compels property owner to pay all City service costs incurred by, or on behalf of the City if the property was used for a grow operation or controlled substance. • Owners must, within 14 days dispose of all carpets and curtains in the building or have them professionally cleaned. • Owner must have all air ducts cleaned by a professional cleaner. • Specifies that before a building can be re-occupied after a grow operation, a certified inspection must be undertaken and prospective occupants advised.

<p>Surrey</p>	<p>Controlled Substance Property Bylaw, 2006, No.15820</p>	<ul style="list-style-type: none"> • Regulates, prohibits or impose requirements respecting controlled substance properties and properties used for the production of other substances. • Owners must, within 14 days, have professionally cleaned or replace carpets, blinds, ceiling, moisture barriers, etc. before re-occupancy. • Compels property owners to pay for “service costs” associated with a property that was producing a controlled substance, including costs incurred by the City’s Peace officers.
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