

REGIONAL DISTRICT OF NANAIMO

P O L I C Y

SUBJECT:	<i>Procedure for the Remediation of Contaminated Buildings (Grow Operations and Drug Labs)</i> (Building Inspection)	POLICY NO: B2.3 CROSS REF.:
EFFECTIVE DATE:	June 28, 2011	APPROVED BY: Board
REVISION DATE:		PAGE: 1 of 4

PURPOSE:

This policy is intended to provide procedures and legal authority to order the remediation of buildings that are believed to be contaminated by the presence of marijuana grow operations and drug labs. The intent is to ensure that these buildings are returned to a safe condition for human occupancy and use.

POLICY:

PART A REGIONAL DISTRICT PROCESS

1. Triggering notification and conditions:

When the RCMP informs the Regional District of Nanaimo (the “RDN”) that, in executing a search warrant, the RCMP has identified an illegal grow operation or drug lab at a particular property, RDN staff may attend and inspect the buildings and structures on that property to determine if any one or more of the following conditions on that property may require remediation under *Section 73(1) (a) and (b) of the *Community Charter* (CC):

- (a) anything, related to a building or structure, that is in or creates an **unsafe condition;
- (b) anything that contravenes the British Columbia Building Code (the “Code”) or a Regional District of Nanaimo bylaw regulating buildings (the “Bylaw”), such as, but not limited to;
 - a change in the occupancy (according to its classification under the Code) of a building or structure was made without a permit;
 - a change in occupancy that renders any previous building permit invalid;
 - work was performed without a permit required by the Bylaw;
 - work was done contrary to the standards prescribed in the Code or Bylaw.

* *Currently, a regional district does not have the authority to take remedial action under section 74 of the Community Charter with regard to declared nuisances; only municipalities have that authority.*

** *The focus of section 73(1) (a) and (b) is on Code and Building Bylaw matters. The Regional District’s jurisdiction does not extend to health safety issues governed by the Public Health Act and fire safety issues governed by the Fire Services Act (FSA). Those matters should be referred to the medical health officer and the BC Fire Commissioner respectively. The local assistant may be able to deal with some fire safety matters under the FSA.*

2. Legal grounds for remedial action

If any one or more of the conditions set out in section 1 above are determined to exist on the property, the RDN (under section 698(1) and (2) of the *Local Government Act* and section 73(1) (a), (b) and (2) of the *Community Charter*) may take the remedial action that, under Section 72 *Community Charter*, is applicable to the specific condition.

3. Procedural Steps

The RDN staff will take the following steps, after ***inspecting the property and documenting the condition(s) in detail:

- (1) Post a “Stop Work/Do Not Occupy” Notice at the entry to the building (no entry permitted).
- (2) Notify the owners, lessees, occupiers and registered charge holders (collectively, the “Owner”), the same persons required by CC sections 72(2) and 77 where the Board makes the order under CC section, of the following:
Order under Step (1) has been issued and posted:
 - reasons for the Order (Code or Bylaw contravention: unsafe structure or an unsafe condition in the structure);
 - what needs to be done to remediate the condition(s);
 - a deadline to contact RDN for arrangements to undertake remediation according to the Owner’s Responsibility under Part B below (include details in notice or attach this policy);
 - failure of the Owner to respond by the deadline will result in a report to the RDN Board recommending remedial action and note on title.
- (3) If Owner does not respond, notify them that a Report is being sent to the Board recommending remedial action and note on title. (****specify date, time, place when they may attend and address the Board).
- (4) Obtain the Board’s resolution authorizing staff to proceed with remedial action and Notice on Title.
- (5) Notify, as per section 77 of the *Community Charter*, same persons as in Step (2) that the Board has ordered remedial action.
- (6) Recommend to the Board to register a Notice against the property title as an interim measure until the remedial action process is completed (to give notice to prospective purchasers in case owner sells the property in the interim).
- (7) Reconsideration by the Board, if any, under section 78 of the *Community Charter*.
- (8) Cost recovery to be in accordance with section 80 of the *Community Charter*.

*** No inspection fees for initial attendance at property prior to Step 1.

**** Although the *Community Charter* does not mention giving these persons the opportunity to be heard by the Board before the Board passes its resolution authorizing remedial action, the common law *Rules of Procedural Fairness* requires the opportunity be given. Therefore, the notice should contain that information. If the recommendation includes a Notice on title, the provisions of CC section 57 for notice must be complied with. Both can be dealt with at the same time.

PART B PROPERTY OWNER'S RESPONSIBILITY

1. Owners must not handle or remove hazardous materials

Illegal marijuana grow operations and drug labs can be extremely dangerous to handle and must be removed by trained and properly equipped HAZMAT officials working under the authority of the federal authorities having jurisdiction. The RDN will not require property owners and occupiers to undertake this work themselves or contract out the work without complying with the requirements of this policy.

2. Building must be vacated and secured

After the initial removal of drug lab and growing equipment by the enforcement authorities, the building must be vacated and secured by the property owner.

3. Building and occupancy permits required

No remediation or other work shall commence prior to the issuance of a Building Permit by the RDN. The building shall not be occupied until remediation has been completed in accordance with this policy and an occupancy permit has been issued by the RDN.

4. Environmental assessment

The property owner must arrange for an environmental assessment of the building interior by a consultant (see Part C - Consultant) qualified in mould abatement and building remediation resulting from illegal marijuana grow operations and drug labs.

5. Qualified contractor

Under the direction of the consultant, the property owner will contact a qualified contractor to provide a "scope of work" for the remediation process or, if the damage to the building is minimal, the property owner may provide the "scope of work".

PART C CONSULTANT

1. Resume

The Consultant must provide the Regional District with a resume identifying education, qualifications and experience in mould abatement and building remediation, and references for previous work.

2. Letter of supervision

When the initial environmental assessment of the building is completed, the consultant will provide the property owner with a "letter of supervision". The letter must indicate the findings of the assessment, identify the persons qualified to perform the work, confirm his/her agreement with the scope of work if compiled by another person and outline all work being performed by the consultant, including supervision of the contractors work.

3. Scope of work

The "scope of work" may be compiled by the consultant, the authorized contractor or the property owner. If the scope of work is being undertaken by the contractor or property owner, the consultant:

- must state in their letter of supervision that they have reviewed the "scope of work" and agree with it or have it amended, and;
- confirm that the remediation conforms to the current edition of Health Canada's standard: Fungal Contamination in Public Buildings. (i.e. up to 150 CFU/m³ is acceptable if there is a mixture of species reflective of outdoor air spores).

4. Letter of Completion

When the remediation is completed, the consultant must provide a Letter of Completion that indicates compliance with the Scope of Work has been attained. The letter must contain a summary of remedial work performed at the site and a final summary of the analytical results. The Letter of Completion must also state that the Regional District of Nanaimo can rely on the Report for making any decisions pertaining to the remediation of the building and that any reoccurrence of an amplification site for mould spores or contamination has been eliminated.

PART D CONTRACTOR

1. Resume

The Contractor must provide the Regional District with a resume identifying qualifications and experience in mould abatement and building remediation and references regarding previous work.

2. Supervision

The Contractor must work under the supervision of the consultant during the project.

3. Scope of work

The Contractor may define the “scope of work” for the property owner, if agreed to by the Consultant.

PART E REQUIREMENTS FOR BUILDING PERMIT APPLICATION

The applicant must provide the following:

1. A floor plan of each floor of the building with all rooms and spaces labeled or numbered.
2. A Scope of Work indicating the work to be undertaken in each room of the building.
3. A Letter of Supervision of the work from a recognized consultant.

PART F FINAL APPROVAL

The property owner must request final inspection from the Building Inspector when the work is complete. The consultant’s Letter of Completion is also required for the final inspection.