

# THE CORPORATION OF DELTA

## BYLAW NO. 6200

*A Bylaw to Prohibit the Use of Property for the Manufacture, Trade, Use, Sharing, Sale or Barter of Controlled Substances.*

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**WHEREAS** the *Community Charter* as amended, provides that a municipal council may by bylaw:

- a) regulate, prohibit and impose requirements for protecting and enhancing the well being of the community relating to nuisances, disturbances and other noxious or offensive business activities;
- b) provide for the recovery of costs incurred by the municipality in effecting compliance at the expense of a person who has failed to comply with the bylaw

**AND WHEREAS** Council is further authorized by the *Community Charter* 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 Municipal Council of The Corporation of Delta, in open meeting assembled, enacts as follows:

## PART 1 – INTRODUCTORY PROVISIONS

### 1. Title

This Bylaw may be cited as "**Delta Controlled Substance Property Bylaw No. 6200, 2004.**"

### 2. Definitions

In this bylaw, unless the context otherwise requires:

- 2.1 “**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 licensed under Delta’s Business License Bylaw.
- 2.2 “**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.
- 2.3 “**Inspector**” means the Manager of Buildings and Licenses, any Bylaw Inspector or Building Inspector employed by The Corporation of Delta, and any members of the Delta Police Department or the Delta Fire Department.
- 2.4 “**Noxious or offensive trade**” means the production, use, transfer, storage and disposal of substances on or within properties within The Corporation of Delta 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 Corporation of Delta.
- 2.5 “**Occupancy permit**” means an occupancy permit as referenced in the *Delta Building/Plumbing Bylaw No. 6060, 2002*.
- 2.6 “**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. a *person* who is a leaseholder of the *property*.

and shall include the agent of any such person.

- 2.7 “**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.
- 2.8 “**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.

## **PART 2 – PROHIBITION**

### **3. Prohibition of Controlled Substance Manufacture**

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*.

### **4. Accumulation**

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*.

## **PART 3 – INSPECTION AND NOTICE**

### **5. Notice**

An *inspector* may issue a notice to an *owner or occupant* to remedy any *hazardous situation* or a potentially *hazardous situation* that exists on the *property* or any thing or condition that is not in compliance with this Bylaw.

### **6. Compliance with Notice**

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.

## PART 4 – NON-COMPLIANCE AND REMEDIATION

### 7. Non-Compliance

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:

- 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 *Community Charter*;
- 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).

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*.

### 8. Remediation Inspection

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.

## 9. **Other Costs**

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.

## 10. **Costs Added to Taxes**

In the event that a person fails to pay the costs for which they are responsible under this Bylaw before the 31<sup>st</sup> 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.

## PART 5 – OFFENCE AND PENALTIES

### 11. Offences and Penalties

Any *owner* or *occupant* who contravenes, suffers or permits any act or thing to be done in contravention of, or neglects or refrains from doing anything required to be done pursuant to the provisions of this bylaw, or any notice issued under this bylaw, commits an offense punishable on summary conviction, and shall, in addition to any other provision of this Bylaw, be liable to a fine not exceeding the sum of \$5,000.00.

Where an offense is a continuing offense, each day that the offense is continued shall constitute a separate and distinct offence.

Prosecution of a person pursuant to this bylaw does not exempt or relieve the person from the remediation provisions of this bylaw.

## PART 6 – GENERAL PROVISIONS

### 12. Severability

If any section, subsection, clause or phrase of this bylaw is, for any reason, held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not effect the validity of the remainder.

READ A FIRST TIME the **9<sup>th</sup>** day of **February, 2004.**

READ A SECOND TIME the **9<sup>th</sup>** day of **February, 2004.**

READ A THIRD TIME the **9<sup>th</sup>** day of **February, 2004.**

FINALLY CONSIDERED AND ADOPTED the **23<sup>rd</sup>** day of **February, 2004.**

"Lois E. Jackson"

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Lois E. Jackson  
Mayor

"Gil Mervyn"

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Gil Mervyn  
Municipal Clerk

THE CORPORATION OF DELTA

**“Delta  
Controlled Substance Property  
Bylaw No. 6200, 2004”**

February 23, 2004

**THIS REPRINT IS FOR CONVENIENCE  
AND REFERENCE PURPOSES ONLY.** If there is  
any discrepancy between this reprint and the  
original Bylaw, the original Bylaw No. 6200 is correct.  
For confirmation of the exact terms of the Bylaw, you must  
consult the original Bylaw.

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