

DISTRICT OF LAKE COUNTRY

BYLAW 728, 2009

CONSOLIDATED VERSION

(Includes amendment as of July 18, 2017)

This is a consolidated copy to be used for convenience only. Users are asked to refer to the Safe Premises Bylaw as amended from time to time to verify accuracy and completeness.

Amending Bylaw	Summary of Amendments	Adoption
988	<ul style="list-style-type: none">• Delete & replace Section 3) a) i)• Delete & replace Schedule A	January 17, 2017
1018	<ul style="list-style-type: none">• Delete & replace Section 3) a) i)• Delete & replace Schedule A <p><i>*See Report to Council of July 4, 2017</i></p>	July 18, 2017

DISTRICT OF LAKE COUNTRY

BYLAW 728

**A BYLAW TO REGULATE, PROHIBIT AND IMPOSE REQUIREMENTS RESPECTING HEALTH AND SAFETY
ON PROPERTY WITHIN THE DISTRICT OF LAKE COUNTRY**

WHEREAS the District of Lake Country wishes to enact a bylaw to regulate, prohibit and impose requirements respecting health and safety on property;

AND WHEREAS the alteration of plumbing, heating, air conditioning, electrical wiring and equipment, gas piping and fittings, appliances and accessories and the growth of mould and the use of toxic chemicals results in risks to the health and safety of occupiers and neighbours of property;

AND WHEREAS properties used for the cultivation of marijuana plants and the production of controlled substances, including amphetamines, are particularly susceptible to the above risks to health and safety;

AND WHEREAS inspection and bylaw enforcement with respect to properties used for the cultivation of marijuana plants and the production of controlled substances, including amphetamines, present unique risks and costs to the District and its staff:

NOW THEREFORE the Council of the District of Lake Country in open meeting assembled enacts as follows:

1) DEFINITIONS

In this bylaw, unless the context otherwise requires:

Amphetamines includes dextroamphetamines and methamphetamines;

Building is as defined in District of Lake Country Zoning Bylaw 561, 2007 as may be amended or replaced from time to time, and in the case of a building with multiple legal parcels, means any portion of a building held as a separate legal parcel, but may also include additional legal parcels in the same building that may reasonably be expected to be affected by a *hazardous condition* in another part of the building;

Building Bylaw means District of Lake Country Building Regulation Bylaw 435, 2002 as may be amended or replaced from time to time;

Building Code means the British Columbia Building Code, 2006 as adopted by the Minister pursuant to Section 692 (1) of the Local Government Act, as amended or re-enacted from time to time;

Building Official is as defined in the District of Lake Country Building Regulation Bylaw 435, 2002 as may be amended or replaced from time to time;

Controlled Substance is as defined and described in Schedules 1, 11 and 111 of the Controlled Drugs and Substances Act, 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 the Act or otherwise lawfully permitted;

Controlled Substance Property means a property which is used for:

- (a) the trade or manufacture of a controlled substance; or
- (b) the ingestion, use, sharing, sale, trade or barter of a controlled substance therein or thereon.

District means the District of Lake Country;

Dangerous Goods means those products or substances regulated by the Transportation of Dangerous Goods Act and its Regulations;

Fire Chief means the Fire Chief of the District of Lake Country or his/her designate;

Grow operation means the cultivation of marijuana plants or production of *controlled substances* including *amphetamines* on a parcel;

Hazardous Condition means a contravention of any regulation in Section 2 of this Bylaw;

Hazardous Conditions Requirements List means a list of *hazardous conditions* present on a parcel, and any work required to address or remove those *hazardous conditions*, prepared or compiled by a *Building Official* following an inspection or *special safety inspection*, and which may be in the form of Schedule B attached to this Bylaw;

Hazardous Substance means a substance listed in Schedule "E" of this Bylaw or as identified pursuant to the Fire Services Act, RSBC 1996, Chapter 144.

Inspector means a *Building Official*, the *Fire Chief*, a bylaw enforcement officer, a peace officer, or the deputy or designate of such a person.

Mould includes any mould or fungi, including mildew, mushrooms or yeast.

Mould Remediation Guidelines means s. 9.0 of the Canadian Construction Association's Standard Construction Document CCA 82- 2004: Mould Guidelines for the Canadian Construction Industry.

Owner means, in addition to the definition in the Community Charter, the lessee, licensee, tenant, caretaker, user or occupier of a building or a part of a building or the agent of the owner.

Qualified Environmental Professional means a person registered as a professional in engineering or architecture with expertise related to health, biology, or environmental science, and experienced and qualified in removing contaminants from *buildings*.

Registered owner means a person who is registered in the Land Title Office as the title holder of a parcel;

Residential premises means a building or part of a *building* on a parcel that is used or may be used as a residence, including any buildings that may be accessory to a residential use, including a garage or garden shed;

Special Safety Inspection means an inspection coordinated by a *Building Official* for the purposes of determining the presence of any *hazardous conditions* and may be conducted or coordinated with the RCMP and other authorities.

Unauthorized alteration means any change made to the structural, electrical, mechanical, or natural gas system of a *building* that requires a permit, but for which no permit has been issued pursuant to the *Building Bylaw*, and which results in an increased risk to health or safety on a parcel;

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

2) HAZARDOUS CONDITIONS

- a) No *owner* may occupy or permit the occupancy of a *building* where a meter installed for the purpose of ascertaining consumption of electricity, water or natural gas from an electrical, water or natural gas distribution system has been disconnected or bypassed, except where such disconnection has been specifically permitted or required by the *District*, a *utility*, or a government authority.
- b) No *owner* may occupy or permit the occupancy of a *building* where exhaust vents for hot water tanks or furnaces exhaust into or within a *building*.
- c) No *owner* may occupy or permit the occupancy of a *residential premises* where a *hazardous substance* is present inside the *building* in an amount that exceeds the limits set out for that *hazardous substance* in Schedule "E" of this Bylaw or as may be identified pursuant to the Fire Services Act RSBC 1996, Chapter 144.
- d) No *owner* may occupy or permit the occupancy of a *building* where:
 - i) an exit or access to an exit required under the *Building Code* is blocked or obstructed;
 - ii) fire stopping provided or required under the *Building Code* has been removed;
 - iii) the number of electrical circuits or connections to an electrical service exceeds the amount permitted under the Electrical Code or another enactment.
- e) No *owner* may occupy or permit the occupancy of a *residential premises* or a mixed use commercial *building* where there is a visible accumulation of *mould* on the interior of any

window, wall or other structural component of the *building*, or where air samples indicated a concentration of airborne *mould* levels in excess of 150 colony forming units per cubic metre of air (CFU/cubic metre).

- f) No *owner* may occupy or permit the occupancy of a *building* where there is an *unauthorized alteration*.
- g) 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, ingestion, use, sharing, sale, trade or barter of a *controlled substance*, or other *hazardous substance*.

3) HEALTH AND SAFETY REQUIREMENTS

- a) If an *unauthorized alteration* exists on a *building* with a *grow operation*, no *owner* may use or occupy or permit the occupancy of the building until:

Amended by Bylaws 988 & 1018

- i) The *owner* has paid the applicable fees as set out in the District Fees Bylaw, or under any other bylaw of the District, as amended from time to time;
 - ii) A *special safety inspection* of the *building* coordinated by the *Building Official* has been carried out;
 - iii) The *Building Official* has issued a *hazardous conditions requirements list* in the form of Schedule B attached to this Bylaw;
 - iv) The *owner* has obtained all building permits, approvals or authorizations required to carry out any work identified in the *hazardous conditions requirements list*;
 - v) The *Building Official* has inspected the *building* and determined that the work required in the *hazardous conditions requirements list* has been completed in accordance with all the requirements of this Bylaw, the *Building Bylaw*, the Building Code, the Fire Code and all other applicable enactments and that no *hazardous condition* remains in the building;
 - vi) The *Building Official* has removed any notices under Section 4 and issued a new occupancy permit for the *building* pursuant to the *Building Bylaw*.
- b) Where a *Building Official* has reasonable grounds to believe that a *hazardous condition* exists on a parcel which affects the structural integrity of a *building* on the parcel, the *Building Official* may include in the *hazardous conditions requirement list* a requirement that the *owner* must obtain a report from a *qualified environmental professional* certifying that the building is safe for occupancy and complies with the *Building Code*.
 - c) Where a *Building Official* has reasonable grounds to believe that a *hazardous condition* involving a *hazardous substance* or *mould* is found in a *building*, the *Building Official* may include in the *hazardous conditions requirement list* any or all of the following requirements:

- i) the *owner* must remove and dispose of all carpets and curtains in a *building*;
- ii) if a *building* is heated by forced air heating, the *owner* must have the furnace, all air ducts, main distribution ducts, venting and filtering cleaned under the supervision of a *qualified environmental professional*;
- iii) the *owner* must have all walls, floors and ceilings in the *building* replaced or cleaned and disinfected under the supervision of a *qualified environmental professional*;
- iv) the *owner* must have the *mould* removed in compliance with this Bylaw and in accordance with the *Mould Remediation Guidelines*;
- v) The *owner* must provide a certificate report in the form prescribed in Schedule C from a *qualified environmental professional* certifying that the *building* has been remediated in accordance with the *Mould Remediation Guidelines* and that the levels of *moulds* and *hazardous substances* are at safe levels for occupancy and meet the requirements of this Bylaw.

4) POWERS OF BUILDING OFFICIAL AND FIRE CHIEF

- a) Subject to s. 16 of the Community Charter, a *Building Official* may enter onto real property to:
 - i) inspect and determine whether there is compliance with regulations under this Bylaw;
 - ii) carry out a *special safety inspection*;
 - iii) take action authorized under Section 6 of this Bylaw.
- b) If a *Building Official* or the *Fire Chief* has reasonable grounds to believe that all or part of a *building* contains an *unauthorized alteration*, is a *controlled substance property* or contains a *hazardous substance* in an amount determined to create a *hazardous condition* the *Building Official* may post a notice in the form of Schedule D in a conspicuous place at the entrances of the parcel or a *building* on the parcel and deliver to the *owner* of the parcel a notice that the *building* is unsafe and that no person may enter or occupy the *building*.
- c) Any person who:
 - i) interferes with or obstructs the *Building Official* or *Fire Chief* from posting a notice under this Section;
 - ii) removes, alters, covers or mutilates a notice posted under this Section;
 - iii) occupies a *building* or *premises* prior to the *Building Official* having removed the notice posted under this Section, except with the prior written permission of the *Building Official*.

commits an offence under this Bylaw.

- d) Neither the removal of a notice posted under this Bylaw, 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 District, 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 applicable enactments, nor do they 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.
- e) It is the full and sole responsibility of the *owner* to carry out any work required pursuant to this Bylaw in compliance with this Bylaw and all other applicable codes, standards and enactments, including the *Building Code*.
- f) When a *qualified environmental professional* provides certification or other documentation to the *District* under this Bylaw that the work required by or contemplated by this Bylaw substantially conforms to the requirements of this Bylaw, the health and safety requirements of the *Building Code*, BC Electrical Code, BC Gas Code or any other health and safety requirements established by applicable enactments, the *District* may 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 notice.

5) DUTY OF REGISTERED OWNER

- a) Every registered *owner* of a parcel that contains a *residential premises* that is subject to a tenancy agreement and who is aware of or has attended the residential premises at a time when there is a contravention of this Bylaw must:
 - i) within 24 hours of the discovery of the contravention, deliver written notice to the *Building Official* of the particulars of the contravention; and
 - ii) take such action as may be necessary to bring the premises into compliance with this Bylaw.
- b) Where an *owner* inspects and reports a contravention under Section 5 (a) of this Bylaw that the *District* or its inspectors were unaware of, the Special Inspection Fee arising in respect of the contravention may be waived in respect of that *building*.

6) OFFENCE AND PENALTY

- a) Every person who contravenes any provisions of this Bylaw commits an offence punishable upon summary conviction and is liable to a fine not less than \$5,000 and not exceeding \$10,000.
- b) If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

5) SEVERANCE

If a section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, it shall be severed and such decision shall not affect the validity of the remaining portions of this bylaw.

6) SCHEDULES

The following Schedules "A" through "E" are attached hereto and form part of this bylaw:

Schedule A	Fees
Schedule B	Hazardous Conditions Requirements List
Schedule C	Certification Form
Schedule D	Notice
Schedule E	Hazardous Substances

9) CITATION

This bylaw may be cited for all purposes as the "Safe Premises Bylaw 728, 2009".

READ A FIRST TIME this 27th day of October, 2009
READ A SECOND TIME this 27th day of October, 2009
READ A THIRD TIME this 27th day of October, 2009

SECOND AND THIRD READINGS RESCINDED this 15th day of December, 2009.

READ A SECOND TIME AS AMENDED this 15th day of December, 2009.
READ A THIRD TIME AS AMENDED this 15th day of December, 2009

Certified correct at third reading.

December 16, 2009
Dated at Lake Country, B.C.

Original signed by Hazel Christy
Clerk

RECEIVED the approval of the Ministry of Health this 22nd day of January, 2010.

ADOPTED this 2nd day of February, 2010

Original signed by James Baker
Mayor

Original signed by Hazel Christy
Clerk

I hereby certify the foregoing to be a true and correct copy of the bylaw cited as "Safe Premises Bylaw 728, 2009" adopted by Council on the 2nd day of February, 2010.

Date at Lake Country, BC

Clerk

Schedule A deleted and replaced by Bylaws 988 & 1018

SCHEDULE "A"

Fees

1. At the time of application, the applicant will pay all fees as set out in the District Fees Bylaw, or under any other bylaw of the District, as amended from time to time.
2. For clarification, the fees required under this bylaw are exclusive of all additional fees which may be charged by lawful authorities having jurisdiction over the supply of electricity, water, natural gas or any other service providers in respect to inspections for compliance with health and safety requirements which such authorities conduct.

SCHEDULE "B"**Hazardous Conditions Requirements List**

Re: _____ [Property Address] (the "Property")

Pursuant to the District of Lake Country's "Safe Premises Bylaw 728, 2009" a *special safety inspection* has been carried out on the above Property, and the Property has been posted with a Notice that it may not be occupied due to *hazardous conditions* and *unauthorized alterations* on the Property.

No person is permitted to occupy the Property until this Notice has been removed. If you wish to reoccupy the Property, you are required to perform the following works, and provide the following certifications, as indicated:

- Building Permit application as required for renovations
- Provide evidence from the following utility providers that the Property has been properly connected to the following utilities:
 - Gas
 - Water
 - Electricity
- Vent all furnace/hot water tank/gas appliances in accordance with the *BC Electrical Code* or *BC Gas Code*, as applicable
- Provide/Restore all egress points as required under the *Building Code*
- Provide/Restore all fire stopping materials as required under the *Building Code*
- Bring all electrical panels and circuits up to standards in the *BC Electrical Code*
- Provide a report from a *qualified environmental professional* certifying that the building is safe for occupancy
- Remove and dispose of all carpets and curtains
- Have the furnace, all air ducts, main distribution ducts, venting, and filtering cleaned by a duct cleaning company under the supervision of a *qualified environmental professional*
- Have all walls, floors and ceilings in the building replaced or cleaned and disinfected and approved by a *qualified environmental professional*
- Have *mould* removed in compliance with the Bylaw, and in accordance with the Mould Remediation Guidelines, being s. 9.0 of the Canadian Construction Association's Standard Construction Document CCA 82-2004: *Mould Guidelines for the Canadian Construction Industry*.

- Provide a certificate report in the form prescribed in Schedule C of the Bylaw, from a *qualified environmental professional* certifying that the property has been remediated in accordance with the *Mould Remediation Guidelines* and meets the standards of this Bylaw for the removal of substantially all *moulds* and/or *hazardous substances*

You are required to obtain *building* permits from the *District* prior to performing any of the above works that may require a permit under the *District's Building Bylaw*.

Until the above requirements above have been completed, and the *Building Official* has re-inspected the Property and removed the Notice, the Bylaw prohibits occupancy of the Property by any person.

We enclose a copy of the Bylaw for your reference. If you have any questions concerning the regulations in the Bylaw, please call the *District's* Building Inspection Department at (250) 766 -6676.

SCHEDULE "C"

Certification Form

TO:	The District of Lake Country	
FROM:	[insert name of <i>qualified environmental professional</i>]	
RE:	residential premises located at [insert address]	
This is to certify that in accordance with "Safe Premises Bylaw 728, 2009", the professional identified in this certification:		
	(1)	Is a <i>qualified environmental professional</i> under the Safe Premises Bylaw, with the following degrees, qualifications, and professional affiliations: [insert degrees, qualifications, certifications and professional affiliations] _____; and
	(2)	Has completed an inspection of the residential premises on _____[Date]; and
	(3)	The residential premises have been remediated in accordance with the <i>Mould Remediation Guidelines</i> and all hazardous substances, moulds or fungi, are now within safe levels for occupancy, and are in accordance with the "Safe Premises Bylaw 728, 2009" .
The undersigned professional may be contacted at: [insert business telephone number].		
CERTIFIED AS OF _____ [insert date]		
[Insert signature of <i>qualified environmental professional</i>]		

SCHEDULE "D"

Notice

TAKE NOTICE THAT these premises have been found to contain unauthorized alterations and are in a hazardous condition.

Pursuant to the District of Lake Country's "Safe Premises Bylaw 728, 2009", no person may occupy these premises until cleaning and/or repairs have been completed in accordance with that Bylaw and the Building Official has confirmed that a satisfactory occupancy inspection has been completed.

It is an offence to remove or deface this notice.

Any inquiries should be directed to the Building Official at (250) 766-5650.

Chief Building Inspector
District of Lake Country

SCHEDULE "E"**Hazardous Substances**

Hazardous Substance	Maximum Stored in Container designed for storage of that substance	Maximum ppm in air
Acetic Acid	0.5 Litres	10 ppm
Acetone	1.0 Litres	250 ppm
Ammonia Solution (>50% ammonia)	0.0 Litres	25 ppm
Ammonia Solution (35%-50%)	0.125 Litres	25 ppm
Ammonia Solution (10%-35%)	5.0 Litres	25 ppm
Ammonia, Anhydrous	0.0 Litres	25 ppm
Carbon Monoxide	0.0 Litres	25 ppm
Chloroform	5.0 Litres	2 ppm
Ethanol	1.0 Litres	1000 ppm
Ethyl Ether	0.0 Litres	400 ppm
Hexane	1.0 Litres	20 ppm
Hydrochloric Acid	1.0 Litres	2 ppm
Iodine Azid (Dry)	0.0 Litres/Kilograms	0 ppm
Iodine Monochloride	1.0 Kilograms	0.1 ppm
Iodine Pentafluoride	0.0 Kilograms	0.1 ppm
Isopropyl Alcohol	1.0 Litres	220 ppm
Methanol	1.0 Litres	200 ppm
Methylamine, Anhydrous	0.125 Litres	5 ppm
Methylamine, Aqueous Solution	1.0 Litres	5 ppm
Methylamine Dinitramine	0.0 Litres	0 ppm
Methylamine Perchlorate (dry)	0.0 Litres/Kilograms	0 ppm
Methyl Ethyl Ketone	1.0 Litres	50 ppm
Nitroethane	5.0 Litres	100 ppm
Phosphine	0.0 Litres	0.3 ppm
Propane	1.0 Litres	1000 ppm
Thionyl Chloride	0.0 Litres	1 ppm
Toluene	1.0 Litres	20 ppm
Xylene	1.0 Litres	100 ppm