



INFORMATION BRIEFING NOTE

Date: August 28, 2019
Prepared For: Kaye Krishna, Deputy Minister of Municipal Affairs and Housing
Title: Remediation of Grow-Ops
Issue: Building standards of homes previously used for production of cannabis.

SUMMARY:

- **Legal home-grown cannabis that is limited to four plants and relies on common home gardening practice is not considered to pose a health and safety risk. The use of industrial lights, hydroponic equipment, or fertilizers in a home may create a health or safety risk and falls outside the assumptions of building and safety standards.**
- **Buildings that require remediation or renovations after legal or illegal cannabis cultivation are required to be repaired in compliance with the BC Building Code as well as gas and electrical safety regulations.**
- **There is no provincial standard or guideline to assess the condition of a damaged building to determine if remediation work is required.**
- **Local governments have the authority to enforce the BC Building Code for renovations of existing buildings. In addition, local governments across the province have adopted local bylaws to address public safety inspection and remediation of residential drug cultivation.**

BACKGROUND:

On October 17, 2018, non-medical cannabis was legalized under the federal *Cannabis Act*. Section 14 (1)(i) of the provincial *Cannabis Control and Licensing Act* permits possession of cannabis produced from or that is growing as a plant in accordance with that Act's requirements for personal growing of cannabis. BC's Ministry of Public Safety and Solicitor General is leading BC's response to federal cannabis legalization and has established a Cannabis Legalization and Regulation Secretariat.

Under the *Cannabis Control and Licensing Act*, a resident in a dwelling unit, is permitted to grow four cannabis plants. No more than 4 plants may be grown in any dwelling unit. Local and Indigenous government can also further restrict growing non-medical cannabis at home under existing powers to establish bylaws, but may not prohibit growing completely.

The BC Building Code establishes minimum standards for the design and construction of new buildings, as well as the alteration, repair or demolition of existing buildings. However, there is no standard or guideline in British Columbia to assess the condition of a damaged building to determine if remediation work is required.

Local governments have the authority to enforce relevant parts of the BC Building Code at the time of renovations, and to provide local oversight to ensure that the building meets minimum health and safety requirements.



In addition to BC Building Code requirements, local governments across the province have adopted local bylaws to address the public safety inspection and remediation of residential drug cultivation. To do so, local governments rely on their general authorities under local government legislation, for example, the authority to deal with nuisances or to address public health and safety issues. While many of these bylaws contain similar provisions, including prohibitions, remediation requirements, and penalties, some have incorporated unique components.

Examples include:

- Among others, the District of Kent, and cities of Abbotsford, Chilliwack, Delta, New Westminster, Port Coquitlam, Surrey, and White Rock all have bylaws that are intended to address the damage and health concerns associated with residential drug production.
- The City of Chilliwack and District of Kent have nearly identical bylaws, both of which outline the responsibility of residential property owners to inspect premises subject to a tenancy agreement at least once every three months. These bylaws also outline the duty to report the discovery of an illegal residential grow operations within 24 hours to the city and require that homeowners take necessary actions to bring the property into bylaw compliance within two months.
- The cities of Abbotsford, Surrey, and White Rock each have a professional cleaning requirement and require written proof from a certified individual to ensure that the building is free of pesticides, fertilizers, toxic chemical contamination, moulds, or fungi.

In summary, these tools available to local governments have been effective in addressing concerns with respect to remediations of residential drug cultivations.

Risks of *illegal* home cultivation or the use of industrial equipment or fertilizers for legal home cultivation include:

- mould in buildings because of inadequate ventilation and moisture management;
- improper electrical installation and associated fire hazards;
- hazards related to the use of pesticides and fertilizers; and,
- break-ins and thefts.

Changes to the *Residential Tenancy Act* and *Manufactured Home Park Tenancy Act* around growing and smoking of recreational cannabis came into force when non-medical cannabis was legalized:

- Existing tenancy agreements are deemed to include a “no-grow” clause.
- All existing agreements are considered to include a term prohibiting growing of cannabis (meaning to cultivate, propagate, or harvest” in or on the residential rental property, or the common areas of a manufactured home park and outdoor areas of a manufactured home site unless:
 - the tenant is authorized under applicable federal law to grow medical cannabis, and
 - the tenant is in compliance with the requirements under the law; or
 - the tenancy agreement specifically allows growing.

The *Residential Tenancy Act* currently allows landlords to identify terms in the rental agreement that restrict certain behaviours (e.g. no smoking, no pets). The *Residential Tenancy Act* also allows landlords to evict tenants for cause. Cause includes things such as: causing damage to the landlord’s property, putting the landlord’s property at significant risk.



No changes are required for the *Strata Property Act*. Strata corporations already have the ability, by a three-quarter vote of owners, to pass a strata bylaw to limit or ban smoking; including smoking within strata lots and to address other cannabis-related activity, such as vaping. Strata corporations can also address cannabis smoking through existing “nuisance” bylaws.

The *Homeowner Protection Act* and its Regulations require that all new homes constructed must be covered by home warranty insurance. Warranty is attached to the home, not to the owner of the home. The New Homes Registry provides information to citizens whether a newly constructed home has home warranty insurance and the name of the warranty provider, or whether the home was built by an owner builder. A private members bill introduced in May 2019 has tasked the New Homes Registry, with developing remediation standards for homes formerly used as grow operations. The New Homes Registry is not intended to act as a warranty itself.

BC’s Ministry of Environment and Climate Change Strategy has air quality regulations, legislation and programs to assist local governments with managing outdoor air quality.

DISCUSSION:

The risks associated with legal home cultivation of cannabis are not considered significant, unless industrial practices, equipment, or fertilizers are used. The BC Building Code adequately addresses the risks related to smoking, as well as conventional home cultivation of plants. However, industrial equipment or materials such as high-intensity lighting, hydroponic equipment, or fertilizers may exceed the design assumptions of the BC Building Code and may present a health and safety risk as a result.

At this time, no changes are being considered by the BC Building Code to address this possible risk posed by activities that are illegal or fall outside the typical use of a home. New requirements may create unreasonable costs and have limited benefit to most occupants.

A unique remediation code for illegal growing operations is unnecessary, as remediation to a building that was once used for illicit activity is required to comply with the BC Building Code and other provincial regulations related to electrical and gas safety.

A standardized method for assessing the condition of damaged buildings, to determine if remedial work is required, would likely address some of the potential risks associated with cannabis cultivation. Planned work on existing secondary suites in fall 2019 will explore the merits of a life and safety assessment standard for existing buildings that is relevant to the issue of grow-op remediation.

In summary, current provincial and local approaches are considered adequate to address the identified concerns.

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DATE APPROVED:

August 28, 2019



BRIEFING NOTE FOR INFORMATION

Date: August 29, 2019

Prepared For: Kaye Krishna, Deputy Minister

Title: Emergency Management B.C.'s (EMBC) Emergency Program Act (EPA) 'Modernization'

Issue: EMBC is expected to provide an overview of the EPA modernization process and proposed policy direction on several key issues of interest to the Ministry of Municipal Affairs and Housing (MAH) and local governments.

Briefing: Emergency Management BC on September 3, 2019

BACKGROUND:

The existing EPA dates back to 1983 and focuses on the Province and 'local authorities', and their roles and responsibilities related to preparing and implementing emergency management plans, states of emergency and financial matters.^{s.13; s.14}

s.13; s.14

s.13

DISCUSSION:

UBCM Engagement

EMBC has been engaging with a small UBCM advisory committee (the Flood and Wildfire Advisory Committee) comprised of local government elected officials and senior staff from various communities)

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