

COMMITTEE OF THE WHOLE - SEPTEMBER 18, 2006

NOTIFICATION OF MARIJUANA GROW OPERATIONS PROTOCOL

Recommendation

Local and Regional Councillor Linda D. Jackson recommends that City of Vaughan staff prepare a report for the first Committee of the Whole meeting following the 2006 election, exploring the following:

- The impact on City of Vaughan as it relates to the remaining provisions of *Bill 128, Law Enforcement and Forfeited Property Management Statute Law Amendment Act, 2005*, passed by the Province of Ontario in August 2006,
- The impact on City of Vaughan as it relates to the amended *Municipal Act's* two new sections, 431.1 and 431.2, requiring a municipality to ensure that a building is inspected if the municipality is notified in writing by a police service that the building contained a marijuana grow operation,
- The responsibilities of Vaughan Fire & Rescue Services as it relates to the above,
- The municipality's economic/financial responsibilities as it relates to the above,
- The development of a process in which property owners are first required to obtain the necessary inspections and perform required mitigation measure before requesting a building inspector enter the premises, and
- Draft a Notification of Marijuana Grow Operation Protocol Agreement Between York Region Police and City of Vaughan.

Economic Impact

Any financial benefits/responsibilities are to be outlined in staff's report to Council at the first Committee of the Whole meeting following the 2006 election.

Purpose

To address the amendments and provisions of Bill 128 and the Municipal Act as outlined above as they relate to the City of Vaughan.

Background - Analysis and Options

The Ministry of Community Safety and Correctional Services (MCSCS) has previously stated that municipalities will not be compensated for their obligations under Bill 128. However, they can be compensated as victims, but only where it is related to a specific fact scenario. For example, if a building inspection is done on a grow operation and the Province forfeited that specific building, an argument can be made for compensation. In other words, if the additional costs incurred by the municipality can be tied to the unlawful activity leading to the forfeiture, the municipality is free to make a documented claim. Public bodies take compensation only after individual claims are satisfied.

Relationship to Vaughan Vision 2007

This report is consistent with the priorities previously set by Council.

Attachments

AMO communication dated September 14, 2006, No:06-012
Ministry of Community Safety and Correctional Services, Policing Services Division, TEMPLATE,
Notification of Marijuana Grow Operation Protocol Agreement Between Police Services
and Municipalities

Report prepared by:

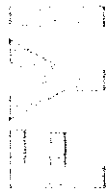
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Respectfully submitted,

Linda D. Jackson
Local and Regional Councillor



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MEMBER COMMUNICATION

FYI N°: 06-012

To the attention of the Clerk and Council
September 14, 2006

Province Finalizes Marijuana Grow Operation Notification Protocol Template

ISSUE: The Ministry of Community Safety and Correctional Services has finalized the Notification of Marijuana Grow Operation Protocol between Police Services and Municipalities.

BACKGROUND:

The Marijuana Grow Operation Notification Protocol is meant to help ensure municipalities are notified once police complete their investigation of a property formerly used a marijuana grow operation. This template, which can be found on the [Ministry website](#), is not mandatory but is meant as a guide to assist municipalities in developing their own agreements with police services.

The Province passed the remaining provisions of *Bill 128, Law Enforcement and Forfeited Property Management Statute Law Amendment Act, 2005*, in August 2006. Many provisions of the Act, such as those which increased fines for offences against the Ontario Fire Code, came into effect when the Bill received Royal Assent on December 15, 2005. Bill 128 also amended the *Municipal Act* by adding two new sections, 431.1 and 431.2, to require a municipality to ensure that a building is inspected if the municipality is notified in writing by a police service that the building contained a marijuana grow operation.

The Ministry of Community Safety and Correctional Services (MCSCS) has previously stated that municipalities will not be compensated for their obligations under Bill 128. However, they can be compensated as victims, but only where it is related to a specific fact scenario. For example, if a building inspection is done on a grow operation and the Province forfeited that specific building, an argument can be made for compensation. That is, if the additional costs incurred by the municipality can be tied to the unlawful activity leading to the forfeiture, the municipality is free to make a documented claim. Public bodies take compensation only after individual claims are satisfied.

The City of Toronto has developed a process in which property owners are first required to obtain the necessary inspections and perform required mitigation measures before requesting a building inspector enter the premises. This creative solution may help municipalities avoid the enormous equipment and personnel safety concerns that accompany this bill.

CONTACTS:

Those interested in more information are advised to contact Nadia Uddin, Standards Development Officer, Policing Standards Section, Ministry of Community Safety and Correctional Services at 416-212-3501 or nadia.uddin@jus.gov.on.ca

This information is available in the Policy Issues section of the AMO website at www.amo.on.ca



TEMPLATE

Notification Of Marijuana Grow Operation Protocol Agreement Between Police Services And Municipalities

STATEMENT OF PRINCIPLE

Marijuana grow operations (MGOs) pose a serious threat to the safety and security of municipalities throughout Ontario. The detection, investigation, dismantling, and return of premises to legitimate use is a complex undertaking requiring the cooperation of police and municipal officials. A coordinated approach to this problem will help ensure that the entire process is conducted in a safe and effective manner. The safety of the personnel involved in the process and that of the public is of paramount importance.

LEGISLATIVE REQUIREMENTS

The *Municipal Act, 2001* is amended by adding the following sections:

Inspection of buildings containing marijuana grow operations

431.1 (1) If the clerk of a local municipality is notified in writing by a police force that a building located on land in the local municipality contained a marijuana grow operation, the local municipality shall ensure that an inspection of the building is conducted within a reasonable time after the clerk has been notified.

Persons who may conduct inspection

- (2) An inspection referred to in subsection (1) may be conducted by,
- (a) a by-law enforcement officer of any municipality or of any local board of any municipality; or
 - (b) an officer, employee or agent of any municipality or of any local board of any municipality whose responsibilities include the enforcement of a by-law, an Act or a regulation under an Act.

Nature of inspection

- (3) The requirement in subsection (1) for an inspection is for an inspection that includes entering upon the land and into the building.

Powers to conduct inspection

- (4) The inspection shall be conducted pursuant to the powers of entry and inspection that the person conducting the inspection otherwise has under law, but only to the extent that the person conducting the inspection is able to do so.

Action to be taken

- (5) Upon conclusion of the inspection, the person who conducted the inspection shall take whatever actions he or she is authorized by law to take in order to make the building safe and otherwise protect the public.

Definition

- (6) In this section,

"police force" means a municipal police force, the Ontario Provincial Police or the Royal Canadian Mounted Police.

Where marijuana grow operation is in a lower-tier municipality

431.2 (1) If the clerk of a local municipality that is a lower-tier municipality is notified under subsection 431.1 (1) that a building located on land in the lower-tier municipality contained a marijuana grow operation, the lower-tier municipality shall, if in its opinion it is appropriate to do so, forward a copy of the notice referred to in subsection 431.1 (1) to the clerk of the upper-tier municipality of which the lower-tier municipality forms a part.

Same

- (2) Upon the clerk of the upper-tier municipality being notified under subsection (1), the obligation under subsection 431.1 (1) to ensure that an inspection of the building is conducted becomes the obligation of both the lower-tier municipality and the upper-tier municipality.

PURPOSE

The purpose of this protocol is to assist the police service and municipality to provide an effective and coordinated response when dealing with premises that have operated as a marijuana grow operation. This response will help to ensure that, once police identify a property as a marijuana grow operation, necessary steps are taken to have the building made safe for the public.

For the purposes of this protocol, municipality means a single-tier municipal government or an upper-tier and one or more lower-tier municipal governments.

PROTOCOL

Responsibilities of the Police Service

When an illicit marijuana growing operation has been discovered to be operating in a premise, building or structure on property within the jurisdiction of the municipality, the police service shall ensure:

1. An investigation is conducted into the illicit marijuana grow operation in accordance with the adequacy requirements in police operations as they pertain to drug investigations, the police service's Criminal Investigation Management Plan, if appropriate, and the police service's policies and procedures.
2. A notice is placed, consistent with Appendix II, on the principal entrance to the premises.
3. The clerk of the municipality is notified, in writing by fax or by email, consistent with the On-Site Report (Appendix I), upon the completion of the on-site phase of the police investigation.
4. Appropriate agencies/personnel necessary to the police investigation at the premises are contacted, this may include:
 - i) Hydro suppliers
 - ii) Fire services
 - iii) Children's Aid Society
 - iv) Immigration
5. A site is deemed suitable for inspection by persons other than police when:
 - a. The police investigation of the site premises and removal of marijuana plants is complete;
 - b. All hazards of which police are aware of, have been contained, dismantled and/or are listed on the Site Report and sent to the municipality; and
 - c. The notice has been affixed to the principle entrance of the premises indicating that a marijuana grow operation was dismantled and the premises may not be suitable for habitation/use until inspected by the municipality.

Responsibilities of the Municipality

When an illicit marijuana grow operation has been discovered to be operating in a premise, building or structure on property within the jurisdiction of the municipality, the municipality shall ensure:

1. The name of the registered owner of the property as contained in the records of the municipality is forwarded to the police.
2. Appropriate inspection measures are taken by municipal authorities within a reasonable time, to identify and list all hazards resulting from the marijuana grow operation.
3. Appropriate information received from the police is forwarded to the respective inspection agency/personnel.
4. Current contact information for the clerk of the municipality is provided to the police.
5. Subsequent investigations are conducted as required by legislation.
6. Police contact identified on the form is contacted to acknowledge receipt of police notification.

CONTACT INFORMATION

The clerk of the municipality:

Name:

Phone:

Fax/Email:

Police Service:

Name:

Phone:

Fax/Email:

THIS PROTOCOL HAS BEEN AGREED TO

DATED AT _____, this _____ day of _____, 2006.

Police Service
(name)
(address)

DATED AT _____, this _____ day of _____, 2006.

Municipality
(name)
(address)

APPENDIX I

POLICE NOTIFICATION of ILLICIT MARIJUANA GROW OPERATION

Please be advised that the _____ Police Service has investigated and dismantled an Illicit Marijuana Grow Operation at the under-mentioned location.

DATE	TIME	POLICE OCCURRENCE #

CONTACT INFORMATION		
Contact Person	Police Service	Address/Phone and Fax Number/Email Address
Municipality/County	Officer in Charge & Badge Number	Address/Phone Number/Email Address

SITE DETAILS		
Lot No./ Street	Town/Village	Postal Code
Urban	Rural	Industrial
PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF AVAILABLE:		
Registered Owner	Mortgagee	Length of Ownership/ Own/Lease/Rent
Realtor/Property Management	Insurer	Name on Rental/Lease Agreement

COMMENTS / HAZARDS IDENTIFIED*		
Hazard	Location	Comments
<input type="checkbox"/> Structural alteration/damage		
<input type="checkbox"/> Chemicals or fuels		
<input type="checkbox"/> Mould/Water Damage		
<input type="checkbox"/> Electrical Wiring/Fire Damage		
<input type="checkbox"/> Other:		

*Disclaimer: Police Services are not experts at identifying all hazards. This list is not exhaustive and hazards not identified here may exist.

APPENDIX II

Affix Police
Service Crest
Here

NOTICE

Occurrence # : _____

Date: _____

These premises _____

were investigated by the

_____ Police Service and
found to contain an illegal Marijuana Grow
Operation. As a result, the premises may
contain numerous hazards and may not be
fit for occupancy. The municipality of
_____ has been notified.