



**Date:** 29/11/2018

## **AGENDA ITEM SUMMARY**

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**To:** Chair and Directors, Cariboo Regional District Board  
**And To:** John MacLean, Chief Administrative Officer  
**From:** Havan Surat, Manager of Development Services  
**Date of Meeting:** Cariboo Regional District Board\_Dec07\_2018  
**File:** 3370-01

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### **Short Summary:**

Cannabis Sales and Production in the Cariboo Regional District

### **Voting:**

Stakeholder Vote - Unweighted – All Electoral Areas

### **Memorandum:**

With the legalization of cannabis on October 17, 2018, staff prepared this report to take action on the next steps to address cannabis sales and production in Cariboo Regional District.

### **Background**

Earlier this year, the Board made the following resolution on cannabis:

That the following recommendation from the Committee of the Whole meeting, held February 15, 2018, be endorsed:

*That the Board hereby establishes a moratorium on the approval of any cannabis retail applications in the Cariboo Regional District, until such time as the provincial government provides clear rules for regional districts in this regard.*

This report provides recommendations related to developing new regulations in the Cariboo Regional District (CRD) for cannabis retail sales and production, based on recent updates from the Provincial Liquor and Cannabis Regulation Branch (LCRB) and Health Canada.

Background: In 2016, the Government of Canada announced that they would bring legislation forward to legalize recreational cannabis in the spring of 2017. Since this time, Bill C-45 (Cannabis Act) was introduced that sets out several objectives and identified the various jurisdictional aspects of cannabis legalization.

Cannabis is legal for medical purposes where prescribed and obtained through means outlined in the Marihuana Medical Access Regulations and Access to Cannabis for Medical Purposes Regulations. As of October 17, 2018, recreational cannabis is legal to the extent permitted under the Cannabis Act and other associated laws.

## **Timeline of Cannabis major developments**

Below is a timeline of major developments surrounding cannabis in Canada, BC and CRD:

**2001** - Marihuana Medical Access Regulations (MMAR) comes into force and permits use of marihuana for medical purposes.

**June 2013** - Marihuana for Medical Purposes Regulations (MMPR) creates conditions for commercial industry to produce and distribute marihuana for medical purposes. Personal cultivation is no longer permitted.

**May 2014** – CRD adopted Bylaws 4854 to 4859 to add medical marijuana operation definition and allow as permitted use in heavy industrial zoning districts in all zoning bylaws.

**June 2014** - BC Government issues letter to municipalities that medical marihuana production facilities should not be prohibited on ALR land.

**May 2015** - BC Government releases the Ministry of Agriculture Bylaw Standards for medical marihuana production that municipalities are urged to adopt and confirms that medical cannabis production is a permitted farm use and cannot be prohibited by local government.

**August 24, 2016** - New Access to Cannabis for Medical Purposes Regulation (ACMPR) comes into force (replacing MMPR) to address a Supreme Court decision that medical cannabis only from licensed producers is unconstitutional so personal cultivation is again permitted for medical purposes.

**April 13, 2017** - Government of Canada introduces legislation to legalize recreational cannabis with implementation expected July 2018.

**Feb. 5, 2018** - BC Government announces provincial regulations for recreational cannabis including that each municipality will be able to prohibit or regulate the retail sales of recreational cannabis and regulate public consumption.

**Feb. 15, 2018** – CRD Board puts a moratorium on all cannabis retail applications.

**June 19, 2018** - Cannabis Act passed through Senate. Legalization date set for October 17, 2018.

**July 13, 2018** - Provincial Government released a regulation for the protection of land in the ALR guides production by allowing Local Governments and First Nations to prohibit cannabis production unless it is grown in ways that preserves the productive capacity of agricultural land by limiting growing on concrete/cement based industrial-style cannabis bunkers.

**September 28, 2018** – BC Government released a newsletter to allow cannabis retail as only a standalone business including in all rural areas across the province.

**October 17, 2018** – Cannabis became legal in Canada.

## **Multi Jurisdictional Roles**

The BC Government has announced the provincial regulations for recreational cannabis, which give some latitude to local governments to craft their own regulations in preparation for legalization. The table below illustrates the different jurisdictional responsibilities for cannabis.

**Table 1: Jurisdictional responsibilities\***

Activity	Responsible		
	Federal	Provincial	Municipal
Possession limits **	Yes	No	No
Trafficking	Yes	No	No
Advertisement & packaging **	Yes	No	No
Impaired driving	Yes	Yes	No
Medical cannabis	Yes	No	No
Seed-to-sale tracking system	Yes	No	No
Production (cultivation and processing)	Yes	No	No
Age limit (federal minimum) **	Yes	No	No
Public health	Yes	Yes	No
Education	Yes	Yes	Yes
Taxation	Yes	Yes	Yes
Home cultivation (growing plants at home) **	Yes	No	No
Workplace safety	No	Yes	No
Distribution and wholesaling	No	Yes	No
Retail model	No	Yes	No
Retail location and rules	No	Yes	Yes
Regulatory compliance	Yes	Yes	No

Activity	Responsible		
	Federal	Provincial	Municipal
Public consumption	No	Yes	Yes
Land use/zoning	No	No	Yes

\* Province of Alberta. Cannabis Legalization in Canada. <https://www.alberta.ca/cannabis-legalization-in-canada.aspx>

\*\*Provinces will have the ability to strengthen legislation for these areas under federal jurisdiction

### Federal Government Regulations for Recreational Cannabis

Upon the Cannabis Act and legalization of recreational cannabis that came into force in the fall of 2018, adults in Canada will be allowed to legally engage in the following activities:

- Purchase fresh or dried cannabis, cannabis oil, plants and seeds for cultivation from either a provincially or territorially regulated retailer, or where this option is not available, directly from a federally licensed producer;
- Possess up to 30 grams of dried legal cannabis or equivalent in public;
- Share up to 30 grams or equivalent of legal cannabis and legal cannabis products with other adults;
- Cultivate up to 4 plants in their own residence (4 plants total per household); and
- Alter cannabis at home in order to prepare varying types of cannabis products (e.g. edibles) for personal use provided that no dangerous organic solvents are used in the process.

The Government has also indicated that cannabis edible products and cannabis concentrates may be added to the list of products permitted for legal sale at some point in the future.

Unlike in the Access to Cannabis for Medical Purposes Regulations (ACMPR), individuals will not be able to transfer the cultivation of their four plant limit to other individuals. There is no height limit on cannabis plants grown at a personal residence. However, Provincial Governments can place further restrictions on personal cultivation of recreational cannabis, including quantity and height.

Source: <https://www.Canada.ca/en/services/health/campaigns/introductioncannabis-act-questions-answers.html>

### BC Government Regulations for Recreational Cannabis

The BC Government has introduced regulations concerning recreational cannabis. These include:

- Minimum age to possess, purchase and consume cannabis is 19 years old;
- Government-run wholesale distribution model through the BC Liquor Distribution Branch;

- Individuals will be able to purchase non-medical cannabis through privately run retail stores or government-operated retail stores and government online sales. The Liquor Distribution Branch will operate a new standalone network of public retail stores and the Liquor Control and Licensing Branch will oversee licensing of private stores and monitoring of the retail sector;
- Licensed retailers will not be permitted to sell cannabis in the same stores as liquor or tobacco;
- Cannabis transported in motor vehicles must be in a sealed package or inaccessible to occupants and use is prohibited for all occupants in vehicles;
- Non-medical cannabis will generally be allowed to be used in public spaces where tobacco smoking and vaping are permitted but will be banned from areas frequented by children including beaches, parks and playgrounds.
- Local governments will be able to set additional restrictions on places of use, as they do now for tobacco use;
- Landlords and strata councils will be able to restrict or prohibit non-medical cannabis smoking, vaping and personal cultivation at tenanted and strata properties;
- Adults will be permitted to grow up to four cannabis plants per household, but the plants must not be visible from public spaces off the property and home cultivation of non-medical cannabis is banned in dwellings used as daycares.

Source: <https://www2.gov.bc.ca/gov/content/safetv/public-safety/cannabis>

### **B.C. Cannabis Private Retail Licensing**

The Liquor and Cannabis Regulation Branch, LCRB (formerly the Liquor Control and Distribution Branch) will be responsible for the wholesale distribution of cannabis. This will also include responsibility for licensing and monitoring the retail sector using a mixed public/private model. Retailers will have to abide by rules that are similar for alcohol sales. LCRB has decided to allow non-medical cannabis retail as only standalone business stores.

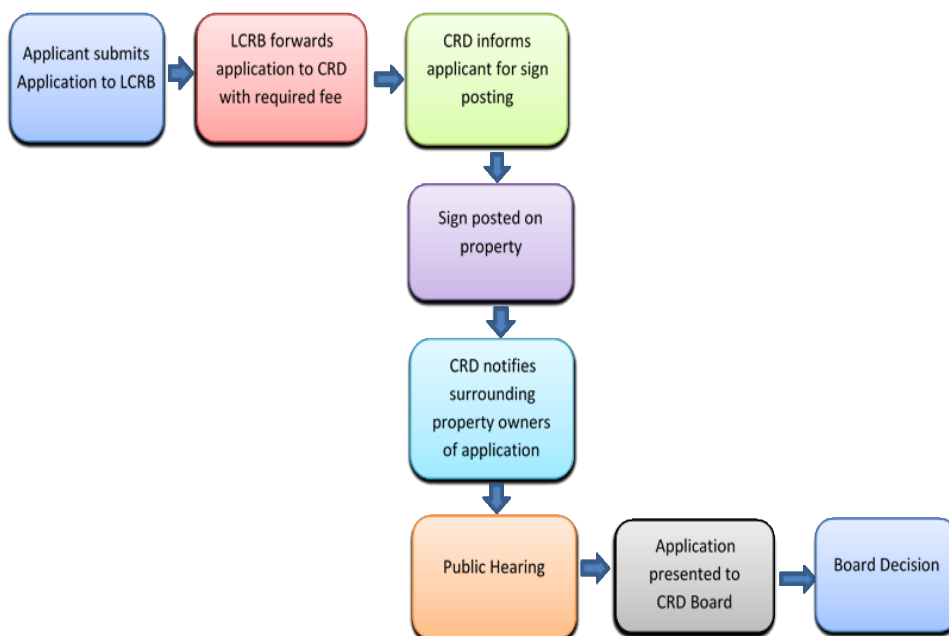
For local governments where a retail store licence is sought and may affect nearby residents, the following comments and recommendations must be provided:

- Comments are provided in writing;
- Written comments include views of the local government on the general impact on the community, including views of the residents;
- Information about how the views of the residents were gathered; and
- Indicate whether the application should be approved or rejected and reasons for the recommendation.

### **Local Government Process on Retail Store Applications**

The process involved for the local jurisdiction in providing a recommendation on a cannabis retail license application to LCRB is most similar to a liquor license application. The following steps are involved in evaluating the proposal:

1. Applicant submits a complete application to LCRB which then will be forwarded to the Cariboo Regional District Development Services Department with the required fee.
2. The applicant will receive a letter informing them of the sign specifications that must be posted on the property.
3. The applicant will verify that the sign has been posted on the property by supplying the Cariboo Regional District with two photographs, one showing the location of the sign and the second close enough to read the sign.
4. The Cariboo Regional District will notify the neighboring property owners of the application by mail and will schedule a public meeting as required.
5. The Cariboo Regional District will notify the applicant, advertise and seek comments from the public for the application and if required will advertise for the public meeting or hearing in two consecutive issues of a local newspaper.
6. The public meeting may be held and the comments of the public gathered.
7. Staff at the Cariboo Regional District will prepare and provide a summary report of the application to the Directors of the Regional Board and the applicant will be advised as to when the application will be considered.
8. The Cariboo Regional District Board will pass a resolution regarding the application. A copy of the resolution will be provided to the applicant and the LCRB.



## **Cannabis Production in the ALR**

The Agricultural Land Commission (ALC) has released an information bulletin on August 15, 2018 to allow lawful production of cannabis that can be produced outdoors in a field or indoors inside a structure and is considered as a designated farm use. Therefore, producing cannabis on the ALR in the manner described in section 2(2.5) of the ALR Regulation does not require a non-farm use application to the Agricultural Land Commission. Under the ALC Act, Section 20, “Soil” means material native to the property, not material brought onto the property for the purpose of creating the base or for any other purpose. If imported onto the property, the material is “fill”, the placement of which requires a non-farm use application.

## **ALR Regulatory Change**

Cannabis production is a ‘designated farm use’ that local governments cannot prohibit, if grown lawfully:

- In an open field
- In a structure that is entirely soil based
- In a structure that was either fully constructed or under construction prior to July 13, 2018 for the purpose of growing crops inside it.

Staff anticipate a limited uptake of the above form of cannabis cultivation on ALR lands, due to the restricted form of production. Most modern cannabis production and cultivation facilities utilize a highly controlled indoor environment, which would not be permitted in the ALR. A non-farm use application would be required for any cannabis land uses beyond those listed above.

## **Local Government Role in Cultivation**

Local governments can have an important role to play in the regulatory framework related to cannabis production. However, local government bylaws may not prohibit the lawful production of cannabis in the ALR if it is produced as described in section 2(2.5) of the ALR Regulation. Local governments also play a role when non-farm use applications related to cannabis production and associated activities are made to the Agricultural Land Commission.

## **Staff Recommendation**

Due to the changing nature in federal and provincial regulations related to cannabis and this being a testing period for many local jurisdictions, planning staff support the development of a policy instead of a formal zoning bylaw amendment to address cannabis sales in the CRD. The policy will provide the Board guidance and elucidate to potential applicants the processing expectations when considering cannabis retail sales or cannabis production and cultivation land uses. Each application would be assessed on a case-by-case basis, including an opportunity for individual public comment process.

By undertaking a policy process and administering applications on a case-by-case basis, it will allow CRD staff and Board increased control over the location and approval of recreational cannabis related land uses. As the nascent recreational cannabis industry matures, land use regulators across the province will eventually gain a greater understanding of the true impacts of the industry, at which time comprehensive zoning bylaw amendments may be more appropriate for the CRD.

Legal opinion recommended that staff develop few housekeeping amendments related to cannabis uses to the zoning bylaws in conjunction with a policy. These bylaw amendments are required to insert a few cannabis related definitions into the bylaw. The intent of these amendments would be to specifically identify (primarily through the use of definitions) the cannabis-related uses that would not

be permitted under the current zoning but could be permitted through site-specific rezoning applications (e.g. cultivation, production, sale).

### **Cannabis Policy Regulations Overview**

Recommended considerations are outlined below, based on regulations from other rural jurisdictions. Further research during policy development would refine these proposed regulations and provide a more in-depth comparison to other jurisdictions.

- Cannabis retail sales are allowed only in commercial zones where liquor sales are permitted.
- Cannabis retail store application process will follow the same process as liquor application process that engages the public consultation and formal Board resolution.
- Minimum distance is 300 metres from schools, daycares and 500 metres from another cannabis retail operation.
- Only one cannabis retail is allowed per lot.
- Cannabis cultivation is only allowed in ALR lands within the regional district
- Production of recreational cannabis is allowed in heavy industrial zones.

### **Attachments:**

2018-Fall-CPL-Webinar2-Oct31-Slides.pdf

### **Financial Implications:**

N/A

### **Policy Implications:**

This item requests new policy development.

### **Alignment with Strategic Plan:**

- Ensuring Sufficient and Sustainable Funding
- Building on our Relationships
- Providing Cost Effective High Quality Services
- Focusing on Being Well Governed

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### **CAO Comments:**

I concur with this recommendation. I believe we can go slowly on this issue, and in fact that this would be the best choice.

### **Options:**

- 1) Endorse recommendation
- 2) Receipt and other action
- 3) Defer

### **Recommendation:**

That the agenda item summary from Havan Surat, Manager of Development Services, dated November 29, 2018, regarding Cannabis sales and production in the CRD, be received. Further,



that staff be directed to develop a policy in conjunction with necessary bylaw amendments to address cannabis sales and production in the regional district.