

# Memo

**File:** 3010-01

**DATE:** April 11, 2019

**TO:** Advisory Planning Commission  
Puntledge – Black Creek (Electoral Area C)

**FROM:** Planning and Development Services Branch

**RE:** Background Information on Cannabis Cultivation

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This memo is for information purposes only. It is intended to provide the background regulatory context for files TUP 2C 18 and TUP 3C 18, both of which propose to temporarily add Cannabis Cultivation as a permitted use on the subject properties.

## Cannabis Act

Cannabis cultivation is regulated by the federal government under the *Cannabis Act* and its regulations. It allows Health Canada to issue licenses for the cultivation of non-medical cannabis under three categories: standard, micro, and nursery. A micro-cultivation license allows for a maximum surface area of 200 square metres in which all cannabis plants, including all the parts of the plants, must be contained. Additional area may be used for ancillary activities, such as drying. Alternatively, the standard cultivation license allows for any area over 200 square metres and the nursery cultivation license (for cultivating plants and seeds only and not obtaining dried or fresh cannabis) is limited to 50 square metres.

Regarding security requirements, the *Cannabis Regulations* require micro-cultivation licensed areas to have a physical barrier that prevents unauthorized access. Standard cultivation requires enhanced security measures, including visual recording devices and an intrusion detection system that must be monitored at all times.

Under the “Good Production Practices” section of the Cannabis Regulations: *“The building or part of the building where cannabis is produced, packaged, labelled and stored must be equipped with a system that filters air to prevent the escape of odours.”*

Section 7 of the regulations lists notification of the local government as a pre-licensing requirement. Because the Comox Valley Regional District Zoning Bylaw prohibits cannabis cultivation, approval of a Temporary Use Permit or a permanent rezoning of the property is required before the applicant can make application with Health Canada for the cannabis cultivation license.

## Official Community Plan

The Official Community Plan (OCP), Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, was adopted at a time when local government involvement in cannabis production was limited to ‘medical marijuana production facilities’ which is equivalent

to the new standard cultivation licence. It directs those facilities to locate in the Agricultural Areas (as they were formerly permitted in the Agricultural Land Reserve) or the Resource Areas (which are predominantly the forestry areas west of the Inland Highway) and lists numerous considerations to be reviewed in any application for such a facility. Information from the applicants has been guided by these OCP considerations for ‘medical marihuana production facilities’.

#### Zoning Bylaw

Section 302(2)(x) of the Zoning Bylaw, Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, prohibits “*cannabis production, or any component thereof*” in all zones, wherein “*cannabis production*” means “*the commercial production, cultivation...of cannabis or cannabis products under the Cannabis Act*”.

Furthermore, the Zoning Bylaw’s definition of agricultural use specifically excludes cannabis production. Section 316 of the Zoning Bylaw states that “*The establishment of cannabis production, or any component thereof, on non-ALR lands must not be permitted unless by a Temporary Use Permit or rezoning of the land, in accordance with Official Community Plan policies*”.

Sincerely,

***T. Trieu***

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch

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